

Attachment 1
to
Petition for Rules Changes Based on 1st Substitute Senate Bill 108

R746. Public Service Commission, Administration.

R746-240. Telecommunication Service Rules.

R746-240-1. General Provisions.

A. Authorization--The Utah Public Utility Code Sections 54-1-1, 54-4-4, 54-4-7, 54-4-8, and 54-4-14.

B. Title--These rules shall be known and may be cited as the Utah Service Rules for Telecommunication Corporations.

C. Purpose--The purpose of these rules is to establish and enforce uniform telecommunications service practices and procedures governing eligibility, deposits, account billing, termination and deferred payment agreements.

D. Objective--The objective of these rules is to assure the adequate provision of residential and business telecommunications service, to restrict unreasonable termination of or refusal to provide residential and business telecommunications service, to provide functional alternatives to termination or refusal to provide residential or business telecommunications service, and to establish and enforce fair and equitable procedures governing eligibility, deposits, account billing, termination and deferred payment agreements.

E. Nondiscrimination--Telecommunications service shall be provided to qualified persons without regard to employment, occupation, race, handicap, creed, sex, national origin, marital status, or number of dependents.

F. Requirement of Good Faith--Every agreement or obligation within these rules imposes an obligation of good faith, honest, and fair dealings in its performance and enforcement.

G. Application of Rules--These telecommunications service rules shall apply to each telecommunications corporation operating within Utah under the jurisdiction of the Public Service Commission.

1. A telecommunications corporation may petition the Commission for an exemption from specified portions of these rules in accordance with R746-100-~~16~~,15, Deviation from Rules.

2. The adoption of these rules by the Commission shall in no way preclude it from altering or amending a specific rule pursuant to applicable statutory procedures.

H. Customer's Statement of Rights and Responsibilities--When telecommunications service is extended to an account holder, and annually thereafter, a local exchange carrier shall provide a copy of the "Customer's Statement of Rights and Responsibilities" as approved by the Public Service Commission. This statement shall be a single page document. It shall be prominently displayed in each customer service center.

R746-240-3. Deposits and Eligibility for Service.

A. Deposits and Guarantees--

1. Telecommunications corporations not subject to pricing flexibility pursuant to section 54-8b-2.3 shall have Commission approved tariffs on file relating to their security deposits and third party guarantor polices and procedures. Telecommunications corporations subject to pricing flexibility shall include any terms and conditions relating to their security deposits and third party guarantor policies and procedures in their price lists.

2. Simple interest shall accrue on a deposit and shall be paid at the time the deposit is either refunded or applied to the customer's final bill for service. The interest rate used by a telecommunications corporation shall be set by the Commission.

B. Eligibility for Service--

1. Telecommunications service is to be conditioned upon payment of deposits, when required, and of the outstanding debts for past telecommunications service which are owed by the applicant to that telecommunications corporation, subject to Section R746-240-7 Review and Resolution of Disputes, and Section R746-240-8, Formal Agency Proceedings Based Upon Complaint Review. That service may be denied when unsafe conditions exist, when the applicant has given false information in applying for telecommunications service, or when the applicant has tampered with the telecommunications corporation's lines, equipment, or other properties.

2. When an applicant is unable to pay an outstanding debt in full, service may be provided upon execution of a deferred payment agreement as set forth in Section R746-240-5, Deferred Payment Agreement.

3. An applicant is ineligible for service if at the time of application, the applicant is cohabiting with a delinquent account holder, previously terminated for non-payment, and the applicant and the delinquent account holder received the telecommunications corporation's service, whether the service was received at the applicant's present address or another address.

R746-240-4. Account Billing.

A. Billing Procedures--

1. Bills to account holders for telecommunications services shall be issued on a monthly basis and shall be typed or machine printed.

B. Periodic Billing Statement--

1. Except in the case of telecommunications service which is deemed to be uncollectible or with respect to which collection or termination procedures have been instituted, a telecommunications corporation shall mail or deliver to the account holder, for each billing cycle at the end of which there is an outstanding balance for current service, a statement which the account holder may retain, setting forth each of the following disclosures to the extent applicable:

a. the outstanding balance in the account at the beginning of the current billing cycle using a term such as "previous balance";

b. the amount of the charges debited to the account during the current billing cycle using a term such as "current service";

c. the amount of the payments made to the account from the previous billing cycle using a term, such as "payments";

d. the amount of the late payment charges debited to the account during the current billing cycle using a term, such as "late charge";

e. a listing of the closing date of the current billing cycle and the outstanding balance in the account on that date using a term, such as "amount due";

f. a listing of the statement, or payment, due date;

g. a listing of the date by which payment of the new balance must be made to avoid assessment of a late charge;

h. a statement that a late charge, expressed in annual percentage rate or periodic rate, may be assessed against the account for late payment;

i. a statement such as: “If you have questions about this bill, please call the company at-- phone #”.

C. Late Charge--

1. A late payment charge of a periodic rate as established by the Commission may be assessed against an unpaid balance pursuant to specific tariffs approved by the Commission- [for telecommunications corporations not subject to pricing flexibility pursuant to Section 54-8b-2.3](#). Late payment charges shall not apply if payment is made before the next bill is rendered by the telecommunications corporation. [A late payment charge may be assessed against an unpaid balance pursuant to terms and conditions in price lists of telecommunications corporations subject to pricing flexibility](#).

2. No other charge, whether described as a finance charge, service charge, discount, net or gross charge may be applied to an account for failure to pay an outstanding bill by the statement due date. This subsection does not apply to reconnection charges or return check service charges.

D. Statement Due Date--An account holder shall have not less than 20 days from the bill date to pay the new balance, which date shall be the statement due date.

E. Disputed Bill--

1. In the event of a dispute between the account holder and the telecommunications corporation respecting a bill, the telecommunications corporation may require the account holder to pay the undisputed portion of the bill to avoid discontinuance of service for nonpayment. The telecommunications corporation shall make an investigation as may be appropriate to the particular case, and report the result thereof to the account holder. In the event the dispute is not reconciled, the telecommunications corporation shall advise the account holder that he may make application to the Division of Public Utilities for review and disposition of the matter per Section R746-240-7, Review and Resolution of Disputes.

2. Inaccurately billed service--When the billings for telecommunications services have not been accurately determined because of the telecommunications corporation’s omission or negligence, the telecommunications corporation shall offer and enter into reasonable payment arrangements when the amount owed by the customer exceeds \$25 and when the period over which the underbilling accumulated exceeds one month. When a telecommunications corporation overbills a customer for telecommunications service, the telecommunications corporation shall offer the account holder a credit on future bills or a refund if requested by the account holder.

3. Interruption of service--In the event the account holder’s service is interrupted, other than by the negligence or the willful act of the account holder, and it remains out of service for a specified number of hours, after being reported or found by the telecommunications corporation to be out of order, credit adjustments shall be made to the account holder’s billing. The specified number of hours, which can be either 24 or 48, and the adjustment methods will be as shown in the tariffs of each telecommunications corporation and approved by the Commission [for telecommunications corporations that are not subject to pricing flexibility pursuant to Section 54-8b-2.3 or in the price lists of each telecommunications corporation that is subject to pricing flexibility](#).

R746-240-7. Review and Resolution of Disputes.

A. Informal Review--A person who is unable to resolve a dispute with a telecommunications corporation concerning a matter subject to Public Service Commission

jurisdiction may obtain informal review of the dispute by a designated employee within the Division of Public Utilities. Upon receipt of a request for informal review, the Division employee shall, within one business day, notify the telecommunications corporation that an informal complaint has been filed. Absent unusual circumstances, the telecommunications corporation shall attempt to resolve the complaint within five business days. In no circumstance shall the telecommunications corporation fail to respond to the informal complaint within five business days. The response shall advise the complainant and the Division employee regarding the results of the telecommunications corporation's investigation and a proposed solution to the dispute or provide a timetable to complete any investigation and propose a solution. The telecommunications corporation shall make reasonable efforts to complete any investigation and resolve the dispute within 30 calendar days. A proposed solution may be that the telecommunications corporation requests that the informal complaint be dismissed if, in good faith, it believes the complaint is without merit. The telecommunications corporation shall inform the Division employee of the telecommunications corporation's response to the complaint, the proposed solution and the complainant's acceptance or rejection of the proposed solution and shall keep the Division employee informed as to the progress made with respect to the resolution and final disposition of the informal complaint. If, after 30 calendar days from the ~~receipt~~receipt of a request for informal review, the Division employee has received no information that the complainant has accepted a proposed solution or otherwise completely resolved the complaint with the telecommunications corporations, the complaint shall be presumed to be unresolved.

B. Mediation--If the telecommunications corporation or the complainant determines that they cannot resolve the dispute by themselves, ~~with~~either of them may request that the Division attempt to mediate the dispute. When a mediation request is made, the Division employee shall inform the ~~other~~other party within five business days of the mediation request. The other party shall either accept or reject the mediation request within ten business days after the date of the mediation request, and so advise the mediation requesting party and the Division employee. If mediation is accepted by both parties or the complaint continues to be unresolved 30 calendar days after receipt, the Division employee shall further investigate and evaluate the dispute, considering both the customer's complaint and the telecommunications corporation's response, their past efforts to resolve the dispute, and try to mediate a resolution between the complainant and the telecommunications corporation. Mediation efforts may continue for 30 days or until the Division employee informs the parties that the Division has determined that mediation is not likely to result in a mutually acceptable resolution, whichever is shorter.

C. Division Access to Information During Informal Review or Mediation--The telecommunications corporation and the complainant shall provide documents, data or other information requested by the Division, to evaluate the complaint within five business days of the Division's request, if ~~reasonable~~reasonably possible or as expeditiously as possible if they cannot be provided within five business days.

D. Commission Review--If the telecommunications corporation has proposed that the complaint be dismissed from informal review for lack of merit and the Division concurs in the disposition, if either party has rejected mediation or if mediation efforts are unsuccessful and the Division has not been able to assist the parties in reaching a mutually accepted resolution of the informal dispute, or the dispute is otherwise unresolved between the parties, the Division in all cases shall inform the complainant of the right to petition the Commission for a review of the dispute, and shall make available to the complainant a standardized complaint form with

instructions approved by the Commission. The Division itself may petition the Commission for review of a dispute in any case which the Division determines appropriate. While a complainant is proceeding with an informal review or mediation by the Division or a Commission review of a dispute, no termination of telecommunications service shall be permitted, if amounts not disputed are paid when due, subject to the telecommunications corporation's right to terminate service pursuant to R746-240-6(D), Termination Without Notice.

R746-340. Service Quality for Telecommunications Corporations.

R746-340-1. General.

A. Application of Rules -- These rules promulgated herein shall apply to each telephone corporation, as defined in Subsection 54-8b-2(16).

1. These rules govern the furnishing of communications services and facilities to the public by a telecommunications corporation subject to the jurisdiction of the Commission. The purpose of these rules is to establish reasonable service standards to the end that adequate and satisfactory service will be rendered to the public.

2. The adoption of these rules by the Commission shall in no way preclude it from altering or amending its rules pursuant to applicable statutory procedures, nor shall the adoption of these rules preclude the Commission from granting temporary exemptions to rules in exceptional cases as provided in R746-100-~~16~~,15, Deviation from Rules.

B. Definitions -- In the interpretation of these rules, the following definitions shall apply:

1. "Allowed Service Disruption Event" -- an event when a telecommunications corporation is prevented from providing adequate service due to:

a. A customer's act;
b. A customer's failure to act;
c. A governmental agency's delay in granting a right-of-way or other required permit;
d. A disaster or an act of nature that would not have been reasonably anticipated and prepared for by the telecommunications corporation;

e. A disaster of sufficient intensity to give rise to an emergency being declared by state government~~;~~;

f. A work stoppage, which shall include a grace period of six weeks following return to work~~;~~;

g. A cable cut outside the telecommunications corporation's control affecting more than 20 pairs~~;~~;

h. A public calling event, busy calling or dial tone loss due to mass calling or dial-up event~~;~~;

i. Negligent or willful misconduct by customers or third parties including outages originating from the introduction of a virus onto the telecommunications corporation's network or acts of terrorism.

2. "Central Office" -- A building that contains the necessary telecommunications equipment and operating arrangements for switching, connecting, and inter-connecting the required local, interoffice, and interexchange services for the general public.

3. "Central Office Area" -- A geographic area served by a central office.

4. "CFR" means the Code of Federal Regulations, 2000 edition.

5. "Choke Network Trunk Groups" -- A network with special trunking and special prefixes in place to manage the use of mass-calling-numbers.

6. "Commission" -- Public Service Commission of Utah.

7. "Commitment" -- A promise by a telecommunications corporation to a customer specifying a date and time to provide a service.

8. "Customer" -- A person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency, provided with telecommunications services by a telecommunications corporation.

9. Customer trouble reports include:

a. "Trouble Report" -- A customer report attributable to the malfunction of a

telecommunications corporation's facilities and includes repeat trouble reports.

b. "Out of Service Trouble Report" -- A report used when a customer reports there is neither incoming nor outgoing telecommunications capability.

c. "Repeat Trouble Report" -- A report received on a customer access line within 30 days of a closed trouble report.

10. "Exchange" -- A unit established by a telecommunications corporation for the administration of telecommunication services in a specified geographic area. It may consist of one or more central office areas together with associated outside plant facilities used in furnishing telecommunications services in that area.

11. "Exchange Service Area" -- The geographical territory served by an exchange.

12. "Held Order" -- A request for basic exchange line service delayed beyond the initial commitment date due to a lack of facilities which the telecommunications corporation is responsible for providing.

13. "Interconnection Trunk Group" -- Connects the telecommunications corporation's central office or wire center with ~~an other~~another telecommunications corporation's facilities.

14. "Local Access Line" -- A facility, totally within one central office area, providing a telecommunications connection between a customer's service location and the serving central office.

15. "Out of Service" -- When there exists neither incoming nor outgoing telecommunication capability.

16. "Party Line Service" -- A grade of local exchange service which provides for more than one customer to be served by the same local access line.

17. "Price List" -- The terms and conditions upon which public telecommunications services are offered that is filed by a telecommunications corporation that is subject to pricing flexibility pursuant to Section 54-8b-2.3.

~~17.~~18. "Tariff" -- A portion or the entire body of rates, tolls, rentals, charges, classifications and rules, filed by the telecommunications corporation and approved by the Commission.

~~18.~~19. "Telecommunications Corporation" -- A "telephone corporation" as defined in Section 54-2-1(~~24~~23).

~~19.~~20. "Voice Grade Service" -- Service that at a minimum, includes:

- a. providing access to E911, which identifies the exact location of the emergency caller;
- b. Two-way communications with a clear voice each way;
- c. Ability to place and receive calls; and
- d. Voice band between 300 HZ and 3000 HZ.

~~20.~~21. "Wire Center" -- The building in which one or more local switching systems are installed and where the outside cable plant is connected to the central office equipment.

R746-340-8. End User Service Standards for Incumbent Telecommunications Corporations with 30,000 or More Access Lines in Utah, ~~Not Subject to Sufficient Competition.~~

Except, after public notice and hearing, as ordered by the Commission upon finding that sufficient competition exists in a defined geographic area to waive one or more of the following standards and rely upon market operations to ensure adequate end user service quality, each incumbent telecommunications corporation with 30,000 or more access lines in Utah shall

comply with the following service standards with respect to ~~tariffed~~ public telecommunications services: offered pursuant to tariff on January 1, 2005. An incumbent telecommunications corporation subject to Rule 746-340-8 will be subject to 54-7-25 penalties for the failure to comply with any of these service standards for any time period greater than three consecutive months, unless the Commission determines, pursuant to a request for agency action by an interested person and proceedings thereon, that the corporation's failure(s) to comply with these standards warrant imposition of such penalties for a shorter time period.

A. Installations -- Excluding documented Allowed Service Disruption events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. install ~~90 percent of all new, transfer, and change orders within three business days or on the customer requested due dates, whichever is later, on a wire center basis. Beginning July 2001, install~~ 95 percent of all new, transfer, and change orders within three business days or on the customer-requested due dates, whichever is later, on a wire center basis;

2. allow no more than ~~five held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis for all areas not previously exempted under this rule. Beginning January 1, 2002, allow no more than~~ four held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis for all areas not previously exempted under this rule;

3. meet 90 percent of all new, transfer and change order installation commitments, excluding customer trouble reports, within seven days of initial installation, on a wire center basis, unless the customer requests a later date; and

4. automatically credit \$10 to a residential customer, \$40 to a small business customer, for missing an installation commitment.

B. Repairs -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. ~~Repair 80 percent of all out-of-service troubles within one business day, on a wire center basis. Beginning July 1, 2001,~~ repair 85 percent of all out-of-service troubles within one business day, on a wire center basis;

2. repair 90 percent of all troubles within two business days, on a wire center basis; and

3. automatically credit \$10 to a residential customer, \$40 to a small business customer, for missing a repair commitment.

4. Trouble reports received after 4:00 p.m. Monday through Friday are deemed received at 8:00 a.m. on the following business day.

C. Billing Requirements -- Excluding documented Allowed Service Disruption events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. correct a billing error upon receiving a customer request by correcting the error on the customers account within one week.

2. Maintain and provide to the Division of Public Utilities upon request, evidence documenting its activities, the purposes, dates, volumes, and times of those activities in:

a. making billing corrections within one week, and

b. investigating to determine whether or how to make billing corrections.

D. Disconnection of Service Requirements -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. disconnect a customer for nonpayment no earlier than the disconnect date listed on the telecommunications corporation's disconnect notice to the customer; and

2. maintain and provide to the Division of Public Utilities upon request, evidence

documenting its activities and the dates of those activities when disconnecting customers no earlier than the disconnect dates specified on their disconnect notices; and disconnecting only those customers eligible to be disconnected.

E. Incoming Repair and Business Office Calls -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

~~1. assure that incoming repair and business office calls experience no more than a 120-second time in queue on average;~~

~~2. beginning January 1, 2001 through July 7, 2001, assure that incoming repair and business office calls experience no more than a 45-second time in queue on average; and 3. beginning July 8, 2001,~~ assure incoming repair and business office calls experience no more than a 35-second time in queue on average.

R746-347. Extended Area Service (EAS).

R746-347-1. Purpose and Authority.

A. Authorization -- This rule is adopted under authority of Sections 54-3-3 and 54-8b-11.

B. Title -- This rule shall be known and may be cited as the "EAS Rule."

C. Scope and Applicability -- This rule shall supersede all criteria and procedures for establishment and restructuring of EAS previously in effect. This rule applies to the establishment or restructuring of EAS or expanded EAS by incumbent telephone corporations; not subject to pricing flexibility pursuant to section 54-8b-2.3. Establishment or restructuring of EAS or expanded EAS by incumbent telephone corporations subject to pricing flexibility shall be in accordance with any requirements of section 54-8b-2.3. Provisions of this rule requiring provision of information to the Division of Public Utilities or the Commission apply to all providers of public telecommunications services.

R746-347-2. Definitions.

A. "Committee" -- Committee of Consumer Services

B. "Division" -- Division of Public Utilities

~~A.~~ C. "Extended Area Service" (EAS) -- A local exchange public telecommunications service that enlarges the toll-free calling area to include two or more local exchange areas for which pre-EAS calls incurred long distance charges. A larger local calling area may result in an increase in the separately itemized EAS rate that local exchange carriers charge for local telephone service.

~~B.~~ D. "Local Calling Area" -- An area encompassing one or more local exchange areas between which public telecommunication services are furnished by the local exchange carrier in accordance with its local exchange service tariffs, without message telephone service or toll charges.

~~C.~~ E. "Local Exchange Area" -- A geographic area used by a local exchange carrier to furnish and administer telecommunication services in accordance with its local exchange service tariffs. It may consist of one or more contiguous central offices serving areas as further defined in R746-340-1.

~~D. "Committee" -- Committee of Consumer Services~~

~~E. "Division" -- Division of Public Utilities~~

R746-349. Competitive Entry and Reporting Requirements.

R746-349-4. Reporting Requirements.

A. When a telecommunications corporation files a request for negotiation with another telecommunications corporation for interconnection, unbundling or resale, the requesting telecommunications corporation shall file a copy of the request with the Commission.

B. Each certificated telecommunications corporation shall file an updated chart of accounts by March 31, of each year.

C. Each certificated telecommunications corporation with facilities located in Utah shall maintain network route maps that include all areas where the corporation is providing or offering to provide service in Utah. These maps will, at a minimum, include central office locations, types of switches, hub locations, ring configurations, and facility routes, accompanied by detailed written explanations. These route maps will be provided to the Division or the Commission upon request.

D. Each certificated telecommunications corporation shall file a map with the Division that identifies the areas within the state where the corporation is offering service. The map should separately identify areas being served primarily through resale and by facilities owned by the carrier. This map shall be updated within 10 days after changes to the service territory occur. The map shall be made available for public inspection.

E. At least five days before offering any telecommunications service through pricing flexibility, a telecommunications corporation shall file with the Commission a price list or the prices, terms, and conditions of a competitive contract. Each filing [may be made electronically and](#) shall:

1. describe the public telecommunications services being offered;
2. set forth the terms and conditions upon which the public telecommunications service is being offered;
3. list the prices to be charged for the telecommunications service or the basis on which the service will be priced; and
4. be made available to the public through the Division.

F. The certificated CLEC shall file an annual report with the Division on or before March 31 for the preceding year, unless the CLEC requests and obtains an extension from the Commission. The annual report shall contain the following information, unless specific forms are provided by the Division:

1. annual revenues from operations attributable to Utah by major service categories. That information would be provided on a "Total Utah" and "Utah Intrastate" basis. "Total Utah" will consist of the total of interstate and intrastate revenues. "Utah Intrastate" will reflect only revenues derived from intrastate tariffs, price lists, or contracts. Both Total Utah and Utah Intrastate revenues shall be reported according to at least the following classes of service:

- a. private line and special access,
 - b. business local exchange,
 - c. residential local exchange,
 - d. measured interexchange,
 - e. vertical services,
 - f. business local exchange, residential local exchange and vertical service revenue will be reported by geographic area, to the extent feasible;
2. annual expenses and estimated taxes attributed to operations in Utah;
 3. year-end balances by account for property, plant, equipment, annual depreciation, and

accumulated depreciation for telecommunications investment in Utah. The actual depreciation rates which were applied in developing the annual and accumulated depreciation figures shall also be shown;

4. financial statements prepared in accordance with GAAP. These financial statements shall, at a minimum, include an income statement, balance sheet and statement of cash flows and include a letter from management attesting to their accuracy, integrity and objectivity and that the statements follow GAAP;

5. list of services offered to customers and the geographic areas in which those services are offered. This list shall be current and shall be updated whenever a new service is offered or a new area is served;

6. number of access lines in service by geographic area, segregated between business and residential customers;

7. number of messages and minutes of services for measured services billed to end users;

8. list of officers and responsible contact personnel updated annually;

9. a report of gross revenue on a form supplied by the Division. This report shall be used in calculating the Public Utility Regulation Fee owed by the CLEC.

G. The annual report and the report of gross revenue filed by a CLEC shall be considered protected documents under the Government Records Access Management Act. The CLEC shall prominently mark in red each report with the word "Confidential."

~~R746-349-6. Price Floor.~~

~~— A. Incumbent local exchange carriers shall be prepared to demonstrate to the Commission compliance with 54-8b-3.3(3) for any telecommunications service or offering under the following conditions:~~

~~— 1. the incumbent local exchange carrier introduces a new service either by tariff or price list;~~

~~— 2. the incumbent local exchange carrier files tariffs or a price list that reduces rates;~~

~~— 3. upon petition by any person; or~~

~~— 4. if requested by the Commission or the Division.~~

~~— B. Each incumbent local exchange carrier shall file a detailed description of the methods used to comply with 54-8b-3.3(3).~~

R746-349-7. CLEC and ILEC Subject to Pricing Flexibility Exemptions.

A. Unless otherwise ordered by the Commission either in the CLEC's or ILEC's certificate proceeding or in a proceeding instituted by the Commission or other party, a CLEC or ILEC subject to pricing flexibility pursuant to section 54-8b-2.3 is exempt from the following statutes and rules. All other rules of the Commission and all other duties of public utilities not specifically exempted by these rules apply to a ~~new entrant~~ CLEC or ILEC subject to pricing flexibility pursuant to section 54-8b-2.3. All powers of the Commission not specifically altered by these rules apply to a CLEC ~~;~~ or ILEC subject to pricing flexibility pursuant to section 54-8b-2.3.

1. Exemptions from Title 54:

54-3-8, 54-3-19 -- Prohibitions of discrimination

54-7-12 -- Rate increases or decreases

54-4-21 -- Establishment of property values

54-4-24 -- Depreciation rates

54-4-26 -- Approval of expenditures

2. Exemptions from Commission rules:

R746-340-2 (D) -- Uniform System of Accounts (47 CFR 32)

R746-340-2 (E) (1) -- Tariff filings required

R746-340-2 (E) (2) -- Exchange Maps

R746-341 -- Lifeline [\(CLEC only\)](#)

R746-344 -- Rate case filing requirements

R746-401 -- Reporting of construction, acquisition and disposition of assets

R746-405 -- Tariff formats

R746-600 -- Accounting for post-retirement benefits

3. The CLEC will be exempted from the Lifeline rule, R746-341, only until the Commission establishes Lifeline rules that may include the CLEC or until the CLEC begins to provide residential local exchange service. [The ILEC will not be exempted from the Lifeline rule.](#)

~~R746-351. Pricing Flexibility.~~

~~R746-351-1. Purpose and Authority.~~

~~———— This rule establishes a procedure by which the pricing flexibility granted to an incumbent telephone corporation under Section 54-8b-2.3(2)(b) becomes effective.~~

~~R746-351-2. Definitions.~~

~~———— A. “Competitive Local Exchange Carrier” (CLEC) means a provider of public telecommunications services certificated by the Commission pursuant to 54-8b-2.1, other than an ILEC.~~

~~———— B. “Incumbent Local Exchange Carrier” (ILEC) means an incumbent telephone corporation as defined under Section 54-8b-2(4).~~

~~———— C. “Substitute or Substitutable Service” means a service offered by a CLEC that is an economic alternative in terms of quality, quantity, and price to that provided by the ILEC.~~

~~R746-351-3. Grant of Pricing Flexibility.~~

~~———— A. Procedure — The Commission shall grant pricing flexibility to an ILEC in an independent proceeding brought by the ILEC, or in the certification proceeding for a CLEC for the same or substitutable services offered by the ILEC in the same geographic area served by both the CLEC and the ILEC. In granting pricing flexibility to an ILEC, the Commission shall:~~

~~———— 1. define the geographic area in which pricing flexibility can become available to the ILEC; and~~

~~———— 2. list the public telecommunications services the ILEC is authorized to price flexibly.~~

~~———— B. Grant Effectiveness — A grant of pricing flexibility by the Commission to an ILEC does not become effective except as provided in Section R746-351-4.~~

~~R746-351-4. Effectiveness of Pricing Flexibility.~~

~~———— A. ILEC Petition — Pricing flexibility granted to an ILEC does not become effective until all of the conditions specified in Section 54-8b-2.3(2)(b)(iii) have been satisfied. The ILEC shall:~~

~~———— 1. Identify:~~

~~———— a. the CLEC and the docket in which pricing flexibility was granted to the ILEC;~~

~~———— b. the defined geographic area identified by the Commission, pursuant to R746-351-3(A)(1), in which pricing flexibility is to become effective for the ILEC;~~

~~———— c. the public telecommunications services being provided by the CLEC in the defined geographic area; and~~

~~———— d. The specific ILEC services, from the list of the public telecommunications services identified by the Commission pursuant to R746-351-3(A)(2), to be priced flexibly by the ILEC in the defined geographic area that are the same or substitutable for the public telecommunications services provided by the CLEC in the defined geographic area; and~~

~~———— 2. Certify that:~~

~~———— a. the CLEC has begun providing the identified public telecommunications services in the defined geographic area;~~

~~———— b. the ILEC has allowed the CLEC to interconnect with the essential facilities and to purchase the essential services of the ILEC in accordance with the terms of an agreement approved by the Commission; and~~

~~———— c. the ILEC is in compliance with the applicable rules and orders of the Commission~~

~~adopted or issued under Section 54-8b-2.2; and~~

~~3. Include:~~

~~a. a proposed price list or competitive contract for the service or group of services to be pricing flexibility; and~~

~~b. evidence which demonstrates that the prices to be offered by the ILEC under the proposed price list or competitive contract are in compliance with Section 54-8b-3.3.~~

~~B. Notice—The ILEC shall serve notice of the request on:~~

~~1. all parties in the original proceeding in which the ILEC was granted pricing flexibility; and~~

~~2. all other certificated providers of public telecommunications services in the defined geographic area.~~

~~3. The notice shall include information on the time periods for responses and Commission action as provided in R746-351-4(C).~~

~~C. Time Frame—Within 15 days after service of the notice of the request under this rule, the Commission shall grant, deny or determine whether a hearing is necessary to consider the request. Interested persons shall file responses to the request within 10 days after service of the notice of request.~~

~~D. Ruling—The Commission shall issue a ruling determining the ILEC's compliance with Section 54-8b-2.3(2) and whether ILEC pricing flexibility is effective:~~

~~1. within 14 days after the Commission grants or denies a request, if there is no hearing on the request; or~~

~~2. if the Commission holds a hearing on the request, within 14 days after the conclusion of the hearing.~~

~~R746-352. Price Cap Regulation.~~

~~R746-352-1. Purpose.~~

~~———— This rule establishes a framework and procedures for price regulation under Subsection 54-8b-2.4(5)(a).~~

~~R746-352-2. Objectives of Price Cap Regulation.~~

~~———— A. Maximum Average Prices — To alter maximum average prices for tariffed services based upon inflation, industry cost trends, and exogenous factors.~~

~~———— B. Price Protection — Provide price protection to customers who lack competitive choices.~~

~~———— C. Movement of Prices — Foster the movement of prices toward cost and the removal of subsidies in the existing price structure of telephone corporations so as to encourage competition for all telecommunications services.~~

~~———— D. Regulatory Burdens — Minimize regulatory burdens by establishing a relatively simple, administratively efficient, and understandable regulatory system.~~

~~R746-352-3. Price Cap Adjustment Formula.~~

~~———— A. For Telephone Corporations Subject to Section 54-8b-2.4 — For telephone corporations subject to Section 54-8b-2.4, the following price cap adjustment formula shall be used to obtain a Price Cap Index: the Price Cap Index for the current year, or $PCI_{(t)}$, shall equal the product of the following two values: the Price Cap Index of the previous year, or $PCI_{(t-1)}$, multiplied by one plus the sum of a measure of inflation, I, minus a productivity factor, X, plus or minus an exogenous factor, Z, minus a service quality adjustment factor, Q. $PCI_{(t)} = PCI_{(t-1)}$ multiplied by $(1 + (I - X + / - Z - Q))$.~~

~~———— 1. The Price Cap Index for the current year, $PCI_{(t)}$, shall be used as the 54-8b-2.4 price cap index, calculated annually, above which the weighted index of the average prices for the telephone corporation's services in a given price cap basket may not rise.~~

~~———— 2. The inflation measure, I, equals a measure of economy wide inflation rates the determination of which is described in R746-352-4(A).~~

~~———— 3. The productivity factor, X, equals a productivity factor, or "X-factor," designed to capture the effects of changes in productivity and input prices for the telecommunications industry versus the respective changes in those elements for the economy as a whole, the determination of which is described in R746-352-4(B).~~

~~———— 4. The exogenous factor, Z, equals potential adjustments to reflect or offset certain external or exogenous factors (positive and negative), the determination of which is described in R746-352-4(C).~~

~~———— 5. The service quality factor, Q, equals potential adjustments to reflect the telephone corporation's service quality performance in accordance with standards set forth in R746-352-4(D), the determination of which is described in R746-352-4(D).~~

~~———— 6. In determining the Price Cap Index, the values for I, X, Z, and Q shall be expressed in decimal, rather than direct percentage, form.~~

~~R746-352-4. Price Cap Adjustment Formula Components.~~

~~———— A. Inflation Measure, I — The Inflation Measure, I, to be used for the price cap adjustment in a given year is the annual percentage change in the Chain-weighted GDP-PI as published by the United States Department of Commerce Bureau of Economic Analysis for the~~

~~12-month period ending September 30 of the previous calendar year.~~

~~B. Productivity Factor, X—The Productivity Factor, X, shall measure the amount by which the change in local exchange carrier, or LEC, productivity differs from the change in productivity for the United States economy as a whole plus the amount by which the change in input prices for the United States economy as a whole differs from the change in LEC input prices:~~

~~1. The following formula shall be used to calculate the productivity factor: The value for X shall equal the sum of two values. The first value shall equal the difference between a minuend representing the percent change in historical total factor productivity of local exchange carriers less a subtrahend representing the percent change in historical total factor productivity of the entire United States economy. The second value shall equal the difference between a minuend representing the percent change in the historical input prices of goods and services used to produce output of the entire United States economy less a subtrahend representing the percent change in the historical input prices of goods and services used to produce output of local exchange carriers:~~

~~$$X = (\% \text{Change TFP}_{\text{LEC}} - \% \text{Change TFP}_{\text{US}}) + (\% \text{Change IP}_{\text{US}} - \% \text{Change IP}_{\text{LEC}}),$$
 where~~

~~— TFP_{LEC} equals the historical total factor productivity of local exchange carriers.~~

~~— TFP_{US} equals the historical total factor productivity of the entire United States economy.~~

~~— IP_{LEC} equals the historical input prices of goods and services used to produce output of local exchange carriers.~~

~~— IP_{US} equals the historical input prices of goods and services used to produce output of the entire United States economy.~~

~~2. The productivity factor to be used in calculating the maximum prices for tariffed public telecommunication services pursuant to Subsection 54-8b-2.4(5) shall be 6.2 percent for at least the first year in which the index is in effect. At the end of the first year, a change in the factor percentage shall be considered by the Commission upon a request for change in the productivity factor, X.~~

~~a. Notwithstanding the provisions of Paragraph B.1., parties may present and the Commission may, at its discretion, rely on other methods of determining X. Any party presenting an alternative method shall have the burden to demonstrate that the alternative method is a substantially equivalent measure of X. The alternative method of determining X shall be submitted to and approved by the Commission by December 31 of the prior year for it to be used in any year's April 15 Price Cap Compliance Filing, submitted by a telephone company pursuant to R746-352-7.~~

~~C. Exogenous Factor, Z—The exogenous factor, Z, shall represent events whose cost or revenue consequences are of a material nature which would not otherwise be captured in the inflation measure, I, or the productivity factor, X. One factor which the Commission may consider in evaluating whether to treat an event as exogenous is how comparable firms whose prices are not subject to regulatory control would or would not change their prices to reflect the event.~~

~~1. Exogenous events may include:~~

~~a. Any removal of subsidies in the existing price structure of the telephone corporation required by federal or state law or approved by the Commission;~~

~~b. The impact of alteration in asset lives to better reflect changes in the economic lives of plant and equipment approved by the Commission consistent with Section 54-7-12.1;~~

~~c. Commission approved or adopted changes based upon changes in rules of the Federal~~

~~Communications Commission, including rules with regard to the separation of interstate and intrastate revenues, expenses, or investments;~~

~~——— d. Changes in tax rates applied to the telephone corporation;~~

~~——— e. Any other change external to the business operations of the telephone corporation resulting from: (a) accounting rules adopted by the Financial Accounting Standards Board and approved by the Commission; or (b) laws or rules enacted or adopted by a governmental entity having jurisdiction; and~~

~~——— f. Any other extraordinary events not reasonably foreseeable as of April 30, 1997.~~

~~——— 2. The Z factor shall be calculated as the financial impact of the event(s) on intrastate tariffed services divided by intrastate revenues from tariffed services. The financial impact shall be net of any effects on costs or revenues that are incorporated in the inflation measure, I, or productivity factor, X.~~

~~——— 3. In the interest of rate rebalancing so as to move prices towards cost and eliminate subsidies, the Commission may direct that the incremental value(s) of Z for one or more baskets may be positive while the offsetting incremental value(s) of Z for the other baskets may be negative.~~

~~——— D. Service Quality Factor, Q — The service quality factor, Q shall set a value to reflect the telephone corporation's service quality.~~

~~——— 1. A service quality measure shall be established using two installation wire center standards, three repair wire center standards, and one statewide held order standard. Performance against the standards shall be measured monthly.~~

~~——— 2. The six standards are as follows:~~

~~——— a. Meet at least 90 percent of installation appointments, excluding customer trouble reports within seven days of initial installation, on a wire center basis.~~

~~——— b. Install at least 90 percent of any new, transfer, and change orders within three business days or on the customer requested due dates, whichever is later, on a wire center basis. After December 31, 2000, install 95 percent within three business days or on the customer requested due dates, whichever is later, on a wire center basis.~~

~~——— c. Allow no more than five held orders per 1000 new, transfer, and change orders on a statewide basis. After December 31, 2001, allow no more than four held orders per 1000 new, transfer, and change orders on a statewide basis.~~

~~——— d. Repair at least 80 percent of all out-of-service troubles within one business day on a wire center basis. After December 31, 2000, repair 85 percent of all out-of-service troubles within one business day on a wire center basis.~~

~~——— e. Repair at least 90 percent of all troubles within two business days on a wire center basis.~~

~~——— f. Meet at least 90 percent of repair commitments on a wire center basis.~~

~~——— 3. The service quality factor, Q, for the current year shall be calculated as follows:~~

~~——— a. The service quality measure for a year shall be determined by summing the service failure values occurring during the year. Missing a standard for any four consecutive months constitutes a service failure.~~

~~——— b. Each service failure of a wire center standard shall be given a value of 0.0002 for each wire center in which a service failure occurs.~~

~~——— c. Each service failure of the statewide held order standard shall be given a value of .002.~~

~~——— 4. Limitations on service quality factor adjustments.~~

~~——— a. Inadequate service quality results during the first year that a service quality factor~~

~~adjustment is made may produce a Q factor value of no more than an initial, threshold value of 0.05. However, upon request of an interested person, the Commission may determine that service quality failures warrant an additional service quality adjustment, up to the full service quality adjustment dictated by the service failures occurring during the year.~~

~~b. If the number of service failures during any year causes the initial Q factor threshold in that year to be achieved, then the Commission shall have the discretion to increase the initial threshold value for the subsequent year by the value of 0.05 or multiple thereof. The Commission may, after improved service quality and subsequent to a petition and order thereon, reduce the Q factor initial threshold value to be used thereafter by the affected telephone company by a value of 0.05 or multiple thereof.~~

~~c. The service quality factor, Q, shall begin being applied in the year 2002 price cap adjustment, based on 2001 service quality data.~~

~~5. Exemptions to Service Quality Standards.~~

~~a. Exemptions to service quality standards shall be granted for events that the telephone corporation substantiates were beyond its control. It shall be the telephone corporation's responsibility to separately document the cause, the duration and the magnitude of those occurrences.~~

~~b. Exemptions are defined as events wherein the telecommunications corporation proves it was unable to meet service standards because of:~~

~~(1) A customer's act;~~

~~(2) A customer's failure to act;~~

~~(3) A government agency's delay in granting a right of way or other required permit;~~

~~(4) A disaster or an act of nature that would not normally have been anticipated and prepared for by the telecommunications corporation;~~

~~(5) In the case of a work stoppage, the telephone corporation shall have a grace period of six weeks following return to work to comply with service quality standards;~~

~~(6) Any disaster or event of sufficient intensity to give rise to an emergency being declared by state government;~~

~~(7) A cable cut outside the telephone corporation's control affecting more than 20 pairs; and~~

~~(8) A public calling event, busy calling or dial tone loss due to mass calling or dial-up event.~~

~~c. A telephone corporation may petition the Commission for longer installation and repair interval standards in wire centers serving remote geographic areas with relatively few customers.~~

~~R746-352-5. Service Baskets.~~

~~A. Service Baskets—The telephone corporation's tariffed services having similar characteristics shall be grouped in the following four baskets. These baskets are designed to allow development of different price indices for different groups of services, to limit a telephone corporation's ability to shift cost recovery from one major customer or service class to another, and to afford the company a reasonable amount of flexibility to adjust its prices to respond to changing market conditions. As used in this rule, "service" may include service or individual rate elements. They are:~~

~~1. Basket 1: Tariffed Residential Basic Exchange Services, Residential Extended Area Service (EAS), Caller ID Blocking, and per Call Blocking. Residential Basic Exchange Services~~

consist of local access services and local usage services.

~~2. Basket 2: Tariffed business exchange services, consisting of business exchange access lines, flat and measured local usage, PBX trunks, hunting, Direct Inward Dialing (DID), and EAS associated with the foregoing business services.~~

~~3. Basket 3: Tariffed intrastate switched access services.~~

~~4. Basket 4: All tariffed services that have not otherwise been placed into Baskets 1, 2, or 3.~~

~~R746-352-6. Indexing, Pricing Rules and Permitted Rate Adjustments.~~

~~A. Index Based Price Cap Adjustment—A Price Cap Index, PCI, and an Actual Price Index, API, shall apply separately to each of the four Baskets, unless otherwise ordered by the Commission.~~

~~B. Base Year for Calculating Beginning of Price Regulation—The base year is the year from which indexing begins, such as the year at which both the Price Cap Index and the Actual Price Index are initialized at a value of 100.~~

~~1. The base year for which the Price Cap Index and Actual Price Index will be valued at 100 is 1999.~~

~~C. Re-initializing the Price Index to Eliminate the Prior Year's Service Quality Adjustment—Before calculating the price index for a new year, the previous year's PCI shall be elevated by the amount that it had been depressed, if at all, by that year's service quality adjustment.~~

~~D. Adjustment When a Basket Contains Services Priced Below the Price Floor Established in 54-8b-3.3(3)—If the price cap index for a basket, $PCI_{(t)}$, as normally calculated, is less than either the prior year's price cap index, $PCI_{(t-1)}$, or 100, then the $PCI_{(t)}$ shall be recalculated as the product of the following three values: the price cap index of the previous year, or $PCI_{(t-1)}$, multiplied by one plus the sum of the measure of inflation, I , minus the productivity factor, X , plus or minus the exogenous factor, Z , minus the service quality adjustment, Q , $(1+(I X +/- Z Q))$, multiplied by an Adjustment Factor, $A_{(t)}$, where the Adjustment Factor equals a fraction expressed with a numerator of the revenues associated with services in the basket priced above cost pursuant to Section 54-8b-2.4(5)(c) and a denominator of the total revenues associated with all services of the basket. $PCI_{(t)} = PCI_{(t-1)}$ times $(1+(I X +/- Z Q))$ times $A_{(t)}$.~~

~~E. Permissible Variances in Service Pricing Controlled by an Actual Price Index—~~

~~1. Subject to the limitations contained in this rule, the price for a service in a basket may vary from the price that would be dictated by application of the price cap index where additional, off-setting price change variances are made for another service or services in the basket as measured by an Actual Price Index, API, for that basket.~~

~~2. The Actual Price Index, API, is a means to permit comparison of the telephone corporation's price levels to the PCI, by expressing actual prices in terms of indexed values. An API shall be calculated for each Basket on the basis of the revenue-weighted average change in the telephone corporation's prices for all services included in that Basket between the current year, period t , and the previous year, period $(t-1)$. The API is an index of the telephone corporation's actual prices and thus may reflect additional rate decreases or foregone rate increases voluntarily made by the telephone corporation over time. As actual prices change, the API will be changed to reflect upward and downward price movements.~~

~~F. Limitations on Service Basket Indices and Individual Service Prices—~~

~~1. The Actual Price Index, API, for each service basket cannot exceed the PCI applicable to the service basket.~~

~~2. The prices of individual services within a service basket are subject to the following limitations:~~

~~a. Unless otherwise approved by the Commission, the price for any service in any basket may not be increased in any one year by more than the net of the PCI for that year plus ten percent.~~

~~b. Apart from increases which occur in conjunction with Commission approved rate rebalancing where there are offsetting rate reductions, or absent a superceding public interest determination, services for which a price reduction would be contrary to 54-8b-2.4(5)(c) may have their prices elevated cumulatively only to the degree that the price cap indices associated with their respective services' baskets exceed 100.~~

~~c. The tariff price of each service must remain above its price floor in accordance with 54-8b-3.3(3).~~

~~d. Provided that these pricing limitations are met, the telephone corporation may adjust the prices for services in any basket in conjunction with the Annual Price Cap Compliance Filing, or at any other time. Price changes proposed by the telephone corporation shall be filed with the Commission at least 30 days prior to their proposed effective date and shall be accompanied with supporting information showing that the proposed price changes are in compliance with this rule and any statutory limitations.~~

~~3. Rate Rebalancing.~~

~~a. The Commission may, as consistent with the public interest, direct that the telephone corporation rebalance rates, or the telephone corporation may petition for the authority to rebalance rates. That rebalancing, which would be separate from the impacts of any required price indexed-based rate adjustments, must be revenue neutral, assuming no sales quantity changes and may be accomplished both within and across service baskets. Once implemented, the telephone corporation may then rely on the Commission approved rebalanced rates as its effective rates for its Annual Price Cap Compliance filing and any subsequent proposed rate changes.~~

~~b. In addition to the preceding rate rebalancings, the Commission may direct the telephone corporation to make revenue neutral adjustments to rates in Basket 3 services, with offsetting adjustments to the PCI's in other baskets as required, to be consistent with interstate policy as set by the Federal Communications Commission, to the extent that the Commission determines that consistency is in the public interest.~~

~~4. All tariff changes will be subject to the approval of the Commission pursuant to 54-3-2 and 54-3-3.~~

~~R746-352-7. Price Cap Adjustments, Indices and Other Filings.~~

~~A. Index-based Price Cap and Rate Adjustments — By April 15 of each year, the telephone corporation shall make a Price Cap Compliance Filing with the Commission. The Commission shall approve, suspend, or reject the Price Cap Compliance Filing within 45 days of that filing. Interested persons shall have 30 days from the filing date to file comments based upon a review of the telephone corporation's filing to determine whether the corporation's proposed updated price cap indices, measures, supporting evidence and any proposed rate changes are consistent with this rule. Any rate changes proposed with the Price Cap Compliance Filing shall be reviewed and will become effective on July 1, unless the Commission approves an~~

~~achievable, different effective date. The Price Cap Compliance Filing will include at a minimum:~~

~~1. Data showing the Chain-weighted GDP-PI for the preceding 12 months ended September 30 and the Chain-weighted GDP-PI percentage change for that 12-month period;~~

~~2. Calculations of the PCI updated as required for any new X-factor and any inflation-I-measure adjustments to reflect the percentage change in the Chain-weighted GDP-PI, any exogenous Z-factor adjustments that have been expressly approved by the Commission by December 31 of the preceding year pursuant to paragraph B below, and any service quality Q-factor adjustments, together with updated API calculations;~~

~~a. For each basket, the incumbent telephone corporation must show a complete price-out using the end-of-year quantities or sales levels of services in the basket. The price-out will sum the quantities multiplied by existing prices and proposed prices for each tariffed service, to obtain the total existing revenues and proposed revenues for tariffed services.~~

~~3. Tariff pages to reflect any proposed changes in tariff rates;~~

~~4. Schedules showing the changes in the tariffed rates;~~

~~B. Filings to Support Proposed Exogenous Adjustments — The telephone corporation and any interested person may file any proposed Z-factor treatment of an exogenous event within 90 days of the date on which the effects of that event are known and measurable. The Commission shall review those filings and issue a written decision accepting or rejecting the proposed Z-factor adjustment and associated value for use in conjunction with this rule within 60 days of the filing. The telephone corporation may request assigning the financial impact of the exogenous adjustment to specific baskets:~~

~~1. As a part of its filing, the moving party or parties will submit the following:~~

~~a. A description of the matter proposed for treatment as an exogenous event and a demonstration that it satisfies the definition of an exogenous event set forth in R746-352-4(C); and~~

~~b. Data that describes and quantifies the estimated financial impact to the intrastate tariffed services of the telephone corporation;~~

~~C. Exogenous Factors — Exogenous factors that have been submitted to the Commission and approved by December 31 of each year will be aggregated and included in the price cap filing on April 15 of the following year. Exogenous factors shall be exclusive of any adjustments already incorporated in the Chain-weighted GDP-PI or the X factor.~~

~~D. Compliance Filing Requirements — Below Cap Rate Changes — The telephone corporation may adjust its rates at any time during the year, through a “below cap” compliance filing. In this type of filing, the telephone corporation must demonstrate that its cumulative proposed rate changes will still satisfy the prevailing basket-specific PCIs for that year, in addition to all other requirements or limitations of this rule. In order to satisfy this requirement, the telephone corporation must submit the following to the Commission:~~

~~1. Service Baskets. The telephone corporation must provide a calculation of the actual price cap index, API, for each basket. For each price basket, the telephone corporation must show the price-out described in R746-352-7(A)(2)(a).~~

~~2. Demonstration of Compliance with R746-352. The telephone corporation must show that the proposed rate changes will comply with the provisions set forth in R746-352-6 and 7.~~

~~3. Tariff Pages to Reflect Revised Rates in Each of the Service Baskets. The telephone corporation must provide copies of the affected tariff pages that will reflect the proposed revised rates in each of the service baskets.~~

~~4. Description of Proposed Changes to Rates in Each Rate Filing. Additionally, the telephone corporation must provide a brief narrative description that summarizes its proposed rate changes.~~

R746-356. Intrastate (IntraLATA) Equal Access To Toll Calling Services By Telecommunications Carriers.

R746-356-2. Definitions.

For purposes of these rules, the following terms shall bear the associated meanings. All other terms are as defined in Section 54-8b.

A. “Bona Fide Request” -- A written request submitted by a telecommunications corporation or common carrier certified by the Commission or the FCC for intraLATA or intraLATA equal access service in an exchange or exchanges of a LEC.

B. “CCS” -- Committee of Consumer Services.

C. “Division” – Division of Public Utilities.

~~B.~~D. “Equal Access” -- Dialing arrangements and other service characteristics provided by a LEC to other carriers that are equivalent in type and quality to that provided by the LEC, or designated contract carrier, for its provision of intraLATA toll service.

~~E.~~ “Presubscription” -- A process that allows customers to preselect the carrier that has equal access services for providing toll calls through the use of 1+ or 0+ without dialing a multi-digit access code.

~~F.~~ “Presubscribed Interexchange Carrier”(PIC) -- The certified telecommunications carrier a customer selects to provide 1+ or 0+ toll service, without the use of access codes, following equal access presubscription implementation.

~~G.~~ “2-PIC” -- The equal access presubscription option that affords customers the opportunity to select one certified telecommunications carrier for all interLATA 1+ or ~~0~~0+ toll calls and, at the customer’s option, to select another certified telecommunications carrier for all intraLATA 1+ or ~~0~~0+ toll calls.

R746-356-3. Equal Access Implementation.

A. Implementation -- LECs shall proceed to implement intraLATA equal access, using the 2-PIC method, in accordance with the following criteria:

~~1. US West Communications and all LECs that now provide, through the LEC, subsidiary or affiliate company, interLATA toll services to Utah customers, and which provide interLATA equal access to any telecommunications carrier, including a LEC subsidiary or affiliate, shall file~~Any LEC that has an equal access implementation plan ~~with the approved by the Commission within 30 days after the effective date of these rules.~~

~~a. The plan shall include a cutover target date(s) that is no later than: seven months after the effective date of these rules, or in the case of US West Communications, the date on which US West implements in-region interLATA services by the authority of the FCC, whichever date is earlier.~~

~~b. Telecommunications carriers requiring intraLATA equal access from a LEC must file a bona fide request with the LEC within 30 days after receiving the implementation plan, with copies of the request being mailed to the Commission, the Division, and the CCS. c. If no bona fide requests are received for~~ shall comply with and maintain equal access ~~at one~~in accordance with its approved plan as amended or ~~more exchanges, the implementation plan and target date for these exchanges can, upon~~modified with Commission approval, ~~be deferred to a future date.~~

2. ~~A~~Any LEC that does not ~~meet~~have equal access implementation plan approved by the ~~criteria of R746-356-3(A)(1),~~Commission will respond to a bona fide request, or on its own initiative, by filing an implementation plan with the Commission within 30 days.

a. The target date for implementation shall be no later than seven months from the date

of receipt of the bona fide request.

b. Copies of the plan shall be mailed to the requesting telecommunications carrier, all other carriers subscribing to the LEC's interLATA equal access service, the Commission, and the Division.

3. A LEC can request a temporary waiver of the requirement to implement intraLATA equal access for one or more of its exchange areas, when it can prove that it does not have the technical or economic abilities to provide intraLATA equal access service.

a. The Commission, after notice and opportunity for hearing, may grant a waiver upon a showing of a lack of technical or economic ability.

b. When a LEC receives a waiver it shall implement interLATA and IntraLATA equal access, ~~no later than December 31, 2001, unless a later~~ by the date ~~has been~~ established in the Commission waiver.

B. Approval of Equal Access Plans -- The Commission will assign each LEC equal access plan a docket number and issue a notice of the proceeding to all parties on its telecommunications list.

1. The Commission shall approve each plan within 45 days of the filed date, unless hearings are required to approve the implementation plan.

2. The plan target date(s) will be automatically extended by the number of days in excess of 45 required to finally approve a plan.

C. Exemption of Toll Services -- A LEC shall continue to provide retail toll services as a carrier of last resort for its own certified territory, or as a PIC for its own certified territory, until an order of exemption is issued by the Commission.

D. Continued Services -- LECs will continue to provide services for customer dialed number protocols 0-, Nil, 411,611, 911, and 976. These numbers are not equal access and call routing will continue to be processed unchanged by the LEC following the implementation of intraLATA equal access. Calls using customer dialed protocols, such as 500, 700, 800, 900, 10356, and 101356X, are not subject to presubscription and they will continue to be routed to the appropriate non-equal access carrier.

E. Routing Interface Signaling -- All carriers shall establish uniform end-to-end message routing interface signaling that includes at least the carrier identification code (CIC), originating line or trunk telephone number, and terminating line or trunk telephone number. This requirement is to permit direct billing to the responsible carrier(s) for use of the switched access network elements provided by other carriers.

R746-356-4. Equal Access Implementation Plans.

A. Criteria -- An intraLATA equal access implementation plan filed with the Commission, with a copy to the Division, shall include at least the following:

1. the planned individual central office or exchange cutover dates;
2. a schedule of any planned hardware and software upgrades required;
3. estimated investments and expenses for the planned upgrades;
4. estimated internal training expenses;
5. estimated cutover expenses;
6. estimated administrative expenses for preparing and filing tariffs or price lists;
7. estimated order processing expenses;
8. estimated customer notification and education expenses;
9. the computations of its estimated proposed equal access recovery charges; and

10. a copy of the work papers used to calculate the information required by R746-356-4(A)(3) through (9).

B. Service of Plans -- Copies of the plan shall be served on the Division ~~of Public Utilities (Division)~~, ~~Committee of Consumer Services (CCS)~~, and all telecommunications carriers that then subscribe to interLATA equal access from the LEC.

C. Status Reports -- In the Commission approval of a plan, the Commission shall establish the LEC's reporting requirements for reporting implementation progress, with a final report filed after implementation.

R746-356-8. Equal Access Implementation Cost Recovery Procedure.

A. Recovery of Waived PIC Charges -- The LEC shall bill each equal access telecommunications carrier for the presubscription PIC charges waived by R746-356-7(C) or (D).

B. Recovery of Expenses -- Any recovery of recurring and one-time expenses incurred for the provision of intraLATA equal access shall be through a separate, temporary equal access recovery charge (EARC) element in a LEC's switched access and toll tariffs or price lists. These expenses may include:

1. the incremental additional expenses related directly to the provision of hardware and software investments not required to upgrade the switching capabilities of each central office absent the provision of the intraLATA equal access;

2. expenses for the incremental additional training of customer contact personnel in the additional processing of intraLATA presubscription requests;

3. expenses related directly to the preparation, reproduction and mailing of the customer educational materials and equal access notifications;

4. expenses related directly to the preparation, reproduction and filings of the intraLATA equal access tariffs or price lists;

5. expenses for the Utah portion of the incremental additional software programming of the billing programs that would not be required absent the Utah intraLATA equal access; and

6. expenses for the Utah portion of the incremental additional software programming of the business office support systems that would not be required absent the Utah intraLATA equal access.

C. Recovery Timing -- Expenses for intraLATA equal access implementation developed from items shown in R746-356-8(B) shall be subject to approval by the Commission. The EARC shall be assessed to estimated monthly intraLATA originating switched access minutes and monthly originating LEC toll minutes of use, over a three-year period for ~~US West~~ Qwest Corporation, and over a two-year period for all other LECs.

D. True-Up --

1. For each applicable year, the EARC will be trued-up and changed based on the actual incurred expenses, the actual originating intraLATA switched access minutes billed to each PIC, and the intraLATA toll minutes billed by the LEC.

2. The true-ups shall result in an annual payment by the LEC to each participating equal access carrier for excess payments, or an annual bill from the LEC to each participating equal access carrier for any under-payments.

3. The true-ups should result in an annual inter-company payment process based on the proportional intraLATA switched access minutes previously billed to each carrier and the intraLATA toll minutes billed by the LEC.

4. The LEC and an equal access carrier may agree to alternative compensation arrangements in lieu of an annual payment.

R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-2. Definitions.

A. Affordable Base Rate (ABR) -- means the monthly per line retail rates, charges or fees for basic telecommunications service which the Commission determines to be just, reasonable, and affordable for a designated support area. The Affordable Base Rate shall be established by the Commission. The Affordable Base Rate does not include the applicable USF retail surcharge, municipal franchise fees, taxes, and other incidental surcharges.

B. Average Revenue Per Line -- means the average revenue for each access line computed by dividing the sum of all revenue derived from a telecommunications corporation's provision of public telecommunications services, including, but not limited to, revenues received from the provision of services in both the interstate and intrastate jurisdictions, whether designated "retail",² "wholesale", or some other categorization, all revenues derived from providing network elements, services, functionalities, etc. required under the Federal Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 or the Utah Telecommunications Reform Act, Laws of Utah 1995, Chapter 269, all support funds received from the Federal Universal Service Support Fund, and each and every other revenue source or support or funding mechanism used to assist in recovering the costs of providing public telecommunications services in a designated support area by that telecommunications corporation's number of access lines in the designated support area.

C. Basic Telecommunications Service -- means a local exchange service consisting of access to the public switched network; touch-tone, or its functional equivalent; local flat-rated, unlimited usage, exclusive of extended area service; single-party service with telephone number listed free in directories that are received free; access to operator services; access to directory assistance, lifeline and telephone relay assistance; access to 911 and E911 emergency services; access to long-distance carriers; access to toll limitation services; and other services as may be determined by the Commission.

D. Designated Support Area -- means the geographic area used to determine USF support distributions. A designated support area, or "support area," need not be the same as a USF proxy model's geographic unit. The Commission will determine the appropriate designated support areas for determining USF support requirements. Unless otherwise specified by the Commission, the designated support area for a rate-of-return regulated incumbent telephone corporation shall be its entire certificated service territory located in the State of Utah.

E. Facilities-Based Provider -- means a telecommunications corporation that uses its own facilities, a combination of its own facilities and essential facilities or unbundled network elements obtained from another telecommunications corporation, or a telecommunications corporation which solely uses essential facilities or unbundled network elements obtained from another telecommunications corporation to provide public telecommunications services.

F. Geographic Unit -- means the geographic area used by a USF proxy cost model for calculating costs of public telecommunications services. The Commission will determine the appropriate geographic area to be used in determining public telecommunications service costs.

G. Net Fund Distributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues collected by that company, when the former amount is greater than the latter amount.

H. Net Fund Contributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the latter amount is greater than the former amount.

I. Trust Fund -- means the Trust Fund established by 54-8b-12.

J. USF Proxy Model Costs -- means the total, jurisdictionally unseparated, cost estimate for public telecommunications services, in a geographic unit, based on the forward-looking, economic cost proxy model(s) chosen by the Commission. The level of geographic cost disaggregation to be used for purposes of assessing the need for and the level of USF support within a geographic unit will be determined by the Commission. These models shall be provided by the Commission by January 2, 2001.

K. Universal Service Fund (USF or fund) -- means the Universal Public Telecommunications Service Support Fund established by 54-8b-15 and set forth by this rule.

R746-360-6. Eligibility for Fund Distributions.

A. Qualification --

1. To qualify to receive USF support funds, a telecommunications corporation shall be designated an "eligible telecommunications carrier," pursuant to 47 U.S.C. Section 214(e), and shall be in compliance with Commission orders and rules. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

2. Additional qualification criteria for Incumbent telephone corporations - In addition to the qualification criteria of R746-360-6A.1.,

a. Non-rate-of-return Incumbent telephone corporations, [except Incumbent telephone corporations subject to pricing flexibility pursuant to Section 54-8b-2.3](#), shall make Commission approved, aggregate rate reductions for public telecommunications services, provided in the State of Utah, equal to each incremental increase in USF distribution amounts received after December 1, 1999.

b. Rate-of-return Incumbent telephone corporations shall complete a Commission review of their revenue requirement and public telecommunications services' rate structure prior to any change in their USF distribution which differs from a prior USF distribution, beginning with the USF distribution for December, 1999.

B. Rate Ceiling -- To be eligible, a telecommunications corporation may not charge retail rates in excess of the Commission determined Affordable Base Rates for basic telecommunications service or vary from the terms and conditions determined by the Commission for other telecommunications services for which it receives Universal Service Fund support.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

R746-360-8. Calculation of Fund Distributions in Rate-of-Return Incumbent Telephone Corporation Territories.

A. Determination of Support Amounts --

1. Incumbent telephone corporation - Monies from the fund will equal the numerical difference between the Incumbent telephone corporation's total embedded costs of providing

public telecommunications services, for a designated support area, less the product of the Incumbent telephone corporation's Average Revenue Per Line, for the designated support area, times the Incumbent telephone corporation's active access lines in the designated support area.

2. Telecommunications corporations other than ~~incumbent~~Incumbent telephone corporations - Monies from the fund will equal the respective Incumbent telephone corporation's average access line support amount for the designated support area, determined by dividing the Incumbent telephone corporation's USF monies for the designated support area by the Incumbent telephone corporation's active access lines in the designated support area, times the eligible telecommunications corporation's number of active access lines in the designated support area.

B. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission-approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

C. Exemptions -- Telecommunications corporations may petition to receive an exemption for any provision of this rule or to receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

R746-405. Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities.

R746-405-1. General Provisions.

A. Scope--The following rules for electricity, gas, telephone, and water utilities are designed to provide for:

1. the general form and construction of tariffs required by law to be filed with the Commission and open for public inspection,
2. the procedures for filing and publishing tariffs in Utah, and
3. the particular circumstances and procedures under which utilities may depart from their filed and effective tariffs.

B. Applicability--These rules apply to and govern utilities of the classes herein named, whether they begin service before or after the effective date of these rules, but they shall not affect a right or duty arising out of an existing rule or order in conflict herewith. The rules apply only to new tariff filings, and do not require the modification of tariffs which are effective on the date the rules are adopted. Each utility shall have on file with the Commission its current tariff. Each utility shall abide by the tariff as filed and approved by the Commission. The Commission at any time may direct utilities to make revisions or filings of their tariffs or a part thereof to bring them into compliance. [These rules do not apply to a telecommunications corporation subject to pricing flexibility pursuant to Section 54-8b-2.3.](#)

C. Definitions--

1. "Commission" means the Public Service Commission of Utah.
2. "Effective Date" means the date on which the rates, charges, rules and classifications stated in the tariff sheets first become effective, except as otherwise provided by statute. This date, in accordance with the statutory notice period, shall not be less than the 30th calendar day after the filed date, without the prior approval of the Commission. Unless otherwise authorized, rates shall be made effective for service rendered on or after the effective date.
3. "Filed Date" of tariff sheets submitted to the Commission for filing is the date the tariff sheets are date-stamped at the Commission's Salt Lake City office.
4. "Tariff" means the entire body of rates, tolls, rentals, charges classifications and rules collectively enforced by the utility, although the book or volumes incorporating the same may consist of one or more sheets applicable to distinct service classifications.
5. "Tariff Sheet" means the individual sheets of the volume constituting the entire tariff of a utility and includes the title page, preliminary statement, table of contents, service area maps, rates schedules and rules.
6. "Utility" means a gas, electric, telecommunications, water or heat corporation as defined in Section 54-2-1.

D. Separate Utility Services--

1. Utilities engaged in rendering two or more classes of utility services, such as both gas and electric services, shall file with the Commission a separate tariff covering each class of utility service rendered.
2. Utilities planning to jointly provide utility service shall designate one utility to file a joint tariff for the service with the other utility or utilities filing a concurrence with the joint tariff.

E. Withdrawal of Service--No utility of a class specified herein shall, without prior approval of the Commission, withdraw from public service entirely or in any portion of the territory served.

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