

CSPA as the Commission has reserved to itself (Toledo initial comments at 5). Many commenters recommend expanding the slamming provisions to include all local exchange services.

The Commission determines that the guidelines concerning customer education and prohibitions on deceptive marketing practices should be adopted. Contrary to the arguments set forth by the ILECs on customer education and marketing, we believe that these are perhaps the most important consumer provisions within these guidelines. As all parties, acknowledge, including the ILECs, it is the consumers who should benefit from basic local exchange service competition. To the extent that all LECs clearly and accurately inform customers of their respective service offerings and point out, where appropriate, customers' options, the Commission has no reason to require pre-approval before certain marketing and customer education material is utilized. However, past experiences have taught us that it would be unwise to merely allow the companies to compete for customers and market services without some level of regulatory review. As a result of competition in the interexchange market, Ohioans have been subjected to a host of deceptive marketing practices, including slamming. According to records maintained by our consumer services department, complaints to our Public Information Center (PIC) hotline on these matters have increased from 375 slamming contacts in 1993 to 1398 contacts in 1995. Moreover, in the first five months of 1996, our PIC hotline has logged 993 contacts concerning slamming. Following some reasonable period under which we are operating in a competitive market, the Commission may reevaluate the rationale for this requirement and, should conditions warrant, revise or remove it accordingly.

We also acknowledge that the CSPA specifically exempts transactions between public utilities and its customers from its provisions. Thus, we decline to adopt OCC's proposal to simply write the CSPA into these guidelines. However, we agree with the staff proposal to apply certain particular principles embodied within the CSPA to transactions between public utilities and its customers for the same reasons which justify our continued review of customer notices and educational materials. In fact, in this new regulatory environment, it is imperative that consumers have even more protection from the potential abuses of competitive entities than under traditional regulation because under traditional regulation it was clear to consumers who they had a complaint against whereas in a competitive environment it may not be as clear. Finally, we agree with the consumer interests who posit that public utilities were exempted from the CSPA due to the extent of regulation applied by this Commission over utility practices. With adoption of these guidelines, however, the regulatory paradigm is changing. We do think it appropriate that the Commission, rather than common pleas and municipal courts throughout the state, remain the forum for adjudication of these disputes. The Commission's expertise in this area make it better equipped at this time to address these claims. Commission jurisdiction will benefit carriers and consumers alike and will avoid inconsistent rulings throughout the state.

As a final matter, we find that it is appropriate to make a modification to the staff's slamming proposal. The guidelines, as revised, highlight that a customer whose telecommunications carrier has been switched without the appropriate authorization may file a complaint under Section 4905.26, Revised Code, with the Commission. This is in no way a modification of, but rather an affirmation of, the rights already afforded end users pursuant to Section 4905.26, Revised Code.

XIX. REGULATORY OVERSIGHT

By this section, staff set forth the Commission's obligations to ensure that the regulatory framework for competing LECs encourages the establishment of a healthy competitive market while safeguarding the public interest as set forth in Section 4927.02, Revised Code. According to the staff proposal, the Commission reserves its right to impose alternative requirements upon certified providers. In addition, the Commission recognizes that it is Commission policy to monitor and to relieve, whenever appropriate, ILECs from certain regulatory requirements to the extent that those requirements place unreasonable obligations upon ILECs. Therefore, no later than three years after adoption, the Commission shall review on an ILEC-specific basis the continuing appropriateness of these guidelines. Should an ILEC desire to be relieved of certain regulatory obligations prior to the Commission's review, it may request relief pursuant to Sections 4927.03 or 4927.04, Revised Code. As a final matter, the guidelines set forth a streamlined formal complaint process, under Section 4905.26, Revised Code, for resolving disputes among carriers.

The ILECs (both LLECs and SLECs) commenting on this section primarily argue that the Commission's guidelines should reflect on the service being provided and not upon the entity providing the service. In addition, the competitive milestones suggested by staff, according to the ILEC respondents, place an undue burden on the incumbent local exchange providers. ALLTEL and Ameritech also propose striking the dispute resolution forum as having no legal standing or enforcement capabilities (ALLTEL initial comments at 29; Ameritech initial comments at 126). The NECs and OCC opine that staff's proposed competitive milestones are inadequate. In support of this position, AT&T points out that the FCC did not relax regulation on it until its share of the competitive toll market had dropped to 58 percent (AT&T initial comments, Appendix A, Part 2 at 56). Regarding a dispute resolution forum, OCC asserts that negotiation is preferable to litigation and, therefore, negotiation should be attempted prior to resorting to a Section 4905.26, Revised Code, complaint proceeding. However, to make this option more effective, the Commission needs to commit to resolving carrier-to-carrier disputes within a reasonable time frame (MFS initial comments at 56-57). OCC also notes that a similar expedited complaint process should be available to consumers as well as carriers (OCC initial comments at 92).

The Commission notes that we have already dismissed the arguments raised by the ILECs that the Commission must require symmetric regulation of carriers with vastly different market shares and control of bottleneck facilities. Those arguments

need not be restated here except to reaffirm our position that we will continue to monitor and reevaluate, where appropriate, alternative requirements upon any LEC (ILEC or NEC) abusing the guidelines addressed herein.

Attachment A to Appendix A (LRSIC)

Appended as an attachment to the staff's proposed guidelines was a discussion of the factors associated with performing LRSIC studies as well as a definition of terms utilized. While several commenters note that the staff's proposal represents a decent starting point in defining the factors associated with LRSIC studies, numerous comments and suggested edits were submitted to the staff's proposal. For example, the OCTA was concerned that the guidelines, as proposed, permit the ILECs to make a large number of arbitrary decisions in the process of developing a LRSIC study. To solve this concern, the OCTA recommends that the Commission identify a "task force" charged with monitoring the inputs into ILEC LRSIC studies. In addition, periodic studies addressing all services are necessary in order to ensure accuracy of any LRSIC study according to OCTA. The OCTA also notes that, of greater methodological concern, is the use of historical and current costs, data, and technologies in the development of a LRSIC study. The OCTA points out that the staff's proposal is inconsistent in this area. While not disputing the factors staff proposes to be included in a LRSIC study, Cincinnati Bell proposes a number of specific definitional edits to the staff's LRSIC attachment.

The Commission finds that clarification of this section of the proposal is appropriate. First, we would note that the purpose for including this detailed explanation of LRSIC studies is to provide a framework for LECs to use in creation of their own company-specific LRSIC studies. These guidelines represent the manner in which staff recommends providers conduct LRSIC studies. This does not mean, however, that a LRSIC study which varies from these guidelines and which is appropriately justified by the company submitting the study will not be given appropriate consideration by the Commission and its staff because we recognize that company and product-specific factors may warrant a deviation from the proposal. We do go on record, however, that we will look more carefully at the inputs into all LRSIC studies by permitting only inclusion of costs properly allocable to the intrastate telephone service operations as opposed to those more appropriately allocated to advanced video or related services. We also will more closely scrutinize the type of costs included. As a final matter, we make clear that LRSIC is a pricing tool primarily to be used to establish price floors. If the ILEC chooses to price at LRSIC, however, does not automatically establish a right for that ILEC to recover the difference between LRSIC and the fully embedded cost (including an allocation of joint and common costs) from other monopoly services. The merits of such recovery is open to considerable debate and will be carefully scrutinized before we authorize an increase in monopoly basic exchange rates.

Having thoroughly considered OCTA's proposal³⁹ that the Commission establish a task force to monitor the inputs into ILEC LRSIC studies, the Commission finds such recommendation to be unnecessary. Currently, when an ILEC submits a LRSIC study, the staff performs an in-depth review of the methodology and inputs used in creating the study. The staff then formulates a recommendation for the Commission to consider. Parties which may be affected by the ILECs proposal are given an opportunity to object to the ILEC's proposal either by filing an objection if it is a new service or by filing a complaint if it is an established service. It is unclear from the OCTA's comments whether the recommended task force would replace the role of the Commission's staff or whether it would represent an additional layer of approvals an ILEC would have to obtain prior to receiving approval of its LRSIC study. In any event, we do not agree with the implication that staff is not equipped to properly review these ILEC LRSIC studies. OCTA's comments also suggest that the proposed task force would be empowered to review the ILEC inputs which we interpret to mean actual costs. To the extent this task force is comprised of the ILEC's competitors, there would certainly arise a justified concern regarding the provision of confidential, proprietary, or trade secret information to this task force without appropriate protection. For these reasons, OCTA's proposal on this issue is rejected.

We also note that Cincinnati Bell raises some legitimate concerns and proposes some specific language to correct particular provisions of the LRSIC attachment. Many of these proposed revisions are designed to correct the inconsistency between staff's proposal that LRSIC studies should be based on forward-looking factors and specific sections which referred to using historical-type data. We agree with Cincinnati Bell that this inconsistency needs to be clarified and have made the appropriate revisions to require that, subject to the caveats listed previously in this opinion and in the guidelines, the data inputs must be based upon forward-looking information.

TRANSITION:

To provide for an orderly transition over to the local competition guidelines, the Commission concludes that the guidelines should become effective on August 15, 1996, and all certified local exchange carriers and current applicants should be automatically transitioned over to the guideline procedures as of that date. All pending NEC applications and NEC applications filed between the issuance of this Finding and Order and August 15, 1996, will be processed using the procedures currently in place at the time of this order. While these applications would not be subject to the 60-day automatic time frame, so as not to delay NECs from entering the local market, we will continue to process and approve applications pursuant to the current procedures. We are committed to reviewing the applications currently pending on an expedited basis by

³⁹ This concept was not well developed in OCTA's comments.

significantly reducing the time frames in place, especially for those cases that are not contested. For those cases that are contested, the Commission will consider such actions as limiting discovery time frames as well as narrowing the scope of discovery and limiting testimony. Any case which is filed prior to August 15, 1996, and is still pending as of August 15, 1996, and would appropriately be subject to an automatic time frame under the local competition guidelines, will automatically be converted over to the automatic approval process and will be treated as if the filing were made on August 15, 1996. Any pending NEC applications for which there is no automatic time frame established in the guidelines will be handled according to the procedures deemed appropriate by the Commission. In order to clarify the actual results of this transition procedure, the Commission will issue a procedural entry prior to the effective date of the guidelines for those NEC applications pending at that time.

The first filing of any type made by NECs on or after August 15, 1996, must include a completed Registration Form (See Attachment B to Appendix A) and the exhibits required for that type of case. For any application which is filed pursuant to an automatic time frame established in these guidelines, the automatic time frame will not begin to run until the appropriate Registration Form is filed.

CONCLUSION:

In light of the enactment of the 1996 Act, dramatic changes are occurring in the local exchange market which warrant a reevaluation of this Commission's traditional regulatory practices concerning the provision of basic local exchange services. The regulatory principles outlined above and in the attached Appendix A, represent, in this Commission's view, the appropriate guidelines by which to regulate those segments of the competitive marketplace while still affording us the ability to safeguard the public interest. The principles addressed herein will not only foster a competitive local exchange environment, but will also afford the Commission the ability to monitor the effectiveness of competition as well as the ability to redress problems with this model should any arise.

ORDER:

It is, therefore,

ORDERED, That, in accordance with the above findings, it is in the public interest to adopt, and as a result we hereby adopt, a new regulatory framework for the provision, within Ohio, of competitive local exchange telecommunication services, as set forth in Appendix A to this Finding and Order. It is, further,

ORDERED, That ILECs resubmit tariffs within 60 days of this Finding and Order which remove all restrictions on resale of services except as specifically noted otherwise in this Finding and Order. It is, further,

ORDERED, That the ILECs submit for Commission approval the revisions to ORP/SCO discussed in this Finding and Order and in Appendix A. It is, further,

ORDERED, That any telephone company currently offering basic local exchange service, who has not yet been certified to do so, shall file an application for certification pursuant to the attached guidelines. It is, further,

ORDERED, That all ILECs and NECs shall comply with this order and the attached guidelines. It is, further,

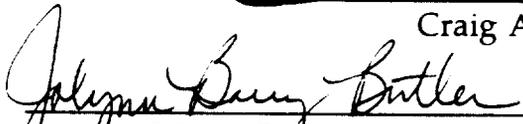
ORDERED, That the effective date of the guidelines shall be August 15, 1996. It is, further,

ORDERED, That copies of this Finding and Order be served upon all local exchange telephone companies, interexchange carriers, radio common carriers, cellular carriers, and competitive access providers operating in this state; all former and current RRJ applicants; The Ohio Telephone Association; The Office of the Consumers' Counsel; the Association of Township Trustees; County Commissioners Association; Ohio Chamber of Commerce; Ohio Farm Bureau; Ohio Council of Retail Merchants; Ohio Municipal League; the cities of Cleveland, Columbus, Cincinnati, Delaware, Dublin, Upper Arlington, Westerville, Worthington, and the Village of Powell; Ohio Cable Telecommunications Association; Appalachian People's Action Coalition; Telecommunications Resellers Association; Ashtabula County Telephone Coalition; Ohio Direct Communications, Inc. and Ridgefield Homes, Inc.; National Emergency Number Association; United States Department of Defense and all other Federal Executive Agencies; Ohio State Legislative Committee of the American Association of Retired Persons; Competitive Telecommunications Association; Ohio Domestic Violence Network; Westside Cellular Inc. dba Cellnet of Ohio, Inc.; Edgemont Neighborhood Coalition; all other persons or entities who have filed pleadings in this docket; all person or entities who have filed pleadings in Case No. 95-790-TP-COI; all applicants for authority to provide local exchange service; and upon all other interested persons of record.

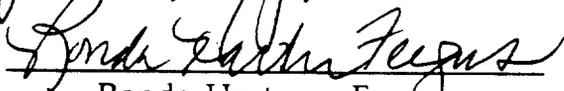
THE PUBLIC UTILITIES COMMISSION OF OHIO



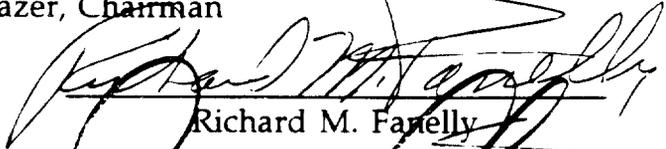
Craig A. Glazer, Chairman



Jolynn Barry Butler



Ronda Hartman Fergus



Richard M. Fanelly



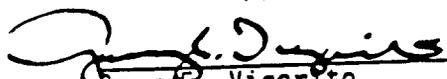
David W. Johnson

JRJ/gm

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A True Copy



Gary E. Vigorito
Secretary

LOCAL SERVICE GUIDELINES

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LOCAL SERVICE GUIDELINES**I. REFERENCE SECTION****A. As used within this document, these terms denote the following:****1. Basic Local Exchange Services**

Means the end user and carrier access to and usage of telephone company-provided facilities that enable customers, over a local exchange telephone company network operated within a local service area, to originate and receive voice grade, data, or image communications and to access interexchange or other networks. Resellers and/or rebillers of basic local exchange service are local exchange carrier's since they provide basic local exchange services consistent with this definition.

2. Dialing Parity

Means a condition in which an entity that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customers' designation between or among telecommunications service providers (including such local exchange carrier).

3. Exchange

Means a geographical service area established by an incumbent local exchange carrier and approved by the Commission, which usually embraces a city, town, or village and a designated surrounding or adjacent area. It typically encompasses one or more central offices, together with the associated plant used in furnishing telecommunications service to the general public. There are currently 748 exchanges in the state.

4. Exchange Access

Means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

5. Facilities-Based Local Exchange Carrier

Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation that owns, operates, manages, or controls plant or equipment through which it provides basic local exchange service to consumers on a common carrier basis.

6. Incumbent Local Exchange Carrier (ILEC)

Means, with respect to an area, the local exchange carrier that: (a) on the date of enactment of the Telecommunications Act of 1996 (1996 Act), provided basic local exchange service in such area; and (b) (i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to Section 69.601(b) of the Federal Communication Commission's (FCC's) regulations (47 C.F.R. 69.601(b)); or (ii) is a person or entity that, on or after such date of enactment, became a successor or assignee of a member described in clause (i). Incumbent local exchange carriers will be referred to as ILECs throughout this document.

7. InterLATA Service

Means telecommunications between a point located in a local access and transport area and a point located outside such area.

8. Local Exchange Carrier (LEC)

Means any facilities-based and nonfacilities-based, ILECs and NECs which provide basic local exchange services to consumers on a common carrier basis. Such term does not include an entity insofar as such entity is engaged in the provision of a commercial mobile service under Section 47 U.S.C. 332(C), except to the extent that the FCC finds that such service should be included in the definition of such term.

9. Long Run Service Incremental Cost (LRSIC)

For LRSIC definition, see Attachment A to Appendix A.

10. Network Element

Means the facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility

or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

11. New Entrant Carrier (NEC)

Means a local exchange carrier that:

- a. (i) On the date of enactment of the 1996 Act, did not provide basic local exchange service and (ii) was not deemed to be a member of the exchange carrier association pursuant to Section 69.601(B) of the FCC's regulations (47 C.F.R. 69.601(B)); or
- b. Is not a person or entity that, on or after such date of enactment, became a successor or assign of such a local exchange carrier.

12. Nonfacilities-Based Local Exchange Carrier

Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation that does not own, operate, manage, or control plant or equipment but that is in the business of reselling basic local exchange service to consumers on a common carrier basis.

13. Number Portability

Means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

14. Rural Local Exchange Carrier (RLEC)

Means a local exchange carrier operating entity to the extent that such entity:

- a. Provides common carrier service to any local exchange carrier study area that does not include either:
 - i. Any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

- ii. Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;
- b. Provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;
- c. Provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or
- d. Has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the 1996 Act.

15. Telecommunications Carrier

Shall have the same meaning as a telephone company as defined in Section 4905.03(A)(2), Revised Code.

B. Acronyms

As used within this document, the following acronyms denote:

1996 ACT	The Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151, et seq.
564	Case No. 89-564-TP-COI
944	Case No. 86-944-TP-COI
1144	Case No. 89-1144-TP-COI
ABN	Application to Abandon Service
ACE	Application for a Certificate
AEC	Application to Establish, Revise, or Cancel a Contract
AIN	Advanced Intelligent Network
ANI	Automatic Number Identification
ARB	Application for Arbitration
ATA	Application for Tariff Amendment
AOS	Alternative Operator Services
CABS	Carrier Access Billing System
CARE	Customer Account Record Entry
CCLC	Carrier Common Line Charge
CBG	Census Block Group
COMMISSION	The Public Utilities Commission Of Ohio
COI	Commission Inquiry
CPNI	Customer Proprietary Network Information
CTS	Competitive Telecommunication Service Providers as defined in Case No. 89-563-TP-COI

DID	Direct Inward Dialing
EAS	Extended Area Service
FCC	Federal Communications Commission
FGD	Feature Group D
HCS	High Cost Support
ILEC	Incumbent Local Exchange Carrier
IN	Intelligent Network
IXC	Interexchange Carrier
LEC	Local Exchange Carrier Refers to both ILECs and NECs
LERG	Local Exchange Routing Guide
LOA	Letter of Agency
LRN	Location Routing Number
LRSIC	Long Run Service Incremental Costs
MOU	Minutes of Use
MPB	Meet Point Billing
MTS	Message Toll Service
MTSS	Minimum Telephone Service Standards as contained in Chapter 4901:1-5, Ohio Administrative Code, and applicable Commission decisions as may be amended or redefined.
NEC	New Entrant Carrier
OCC	The Office of the Consumers' Counsel
ORP/SCO	Originating Responsibility Plan/Secondary Carrier Option
PEC	Primary Exchange Carrier as defined in Case No. 83-464-TP-COI
PIC	Prescribed Interexchange Carrier
RCF	Remote Call Forwarding
RFP	Request For Proposal
RIC	Residual Interconnection Charge
RLEC	Rural Local Exchange Carrier
ROE	Return On Equity
SEC	Secondary Exchange Carrier as defined in Case No. 83-464-TP-COI
SCA/TSA	Service Connection Assistance/Telephone Service Assistance
TAP	Tariff Application Period
TIC	Total Incremental Cost
TPM	Telecommunications Performance Measurement Database
USF	Universal Service Fund
USOA	Uniform System of Accounts

II. CERTIFICATION ISSUES

A. Jurisdiction

1. Scope

Each facilities-based and nonfacilities-based entity engaged in the business of providing local exchange service to, from, through, or in Ohio as a common carrier shall be considered a LEC subject to Commission jurisdiction.

2. Waivers

a. Nothing contained within these guidelines and procedures shall preclude the Commission from waiving any provision in this document for good cause shown or upon its own motion.

b. RLEC Exemptions

i. Until it receives a bona fide request for interconnection, services, or network elements, an RLEC is exempt only from those portions of these guidelines which are part of Section 251(c) of the 1996 Act.

ii. Notwithstanding Section II.A.2.b.i., above, each RLEC which seeks an exemption under Section 251 of the 1996 Act or which seeks a waiver of these guidelines, must submit a plan to the Commission, for the Commission's review and approval as to how it is preparing for the introduction of local competition in its service area. The plan must be filed within one year from the date the Commission adopts these guidelines or within 60 days of the receipt of a bona fide request, whichever is earlier. This plan must include, at a minimum, the following:

a. How its plan will benefit the public interest;

b. What steps it intends to take to prepare for the competitive entry of other LECs in its serving area. This should be presented in the form of a plan which specifies milestones and a timeline;

- c. A timetable and outline of information to be included in progress reports to be submitted to the Commission regarding preparations for competitive entry;
 - d. Any other information in support of its request, including but not limited to: economic burden; technical feasibility; and impact on universal service; and
 - e. All plans must be supported by adequate documentation of the items set forth in this Section.
- iii. Unless the Commission finds it otherwise appropriate, an RLEC that obtains a waiver from any of these guidelines will remain under the regulatory framework (i.e., ILECs who seek approval and who are granted approval by the Commission for an alternative regulation plan and ILECs who currently have alternative regulation plans will be regulated under their Commission approved plans, small ILECs will continue to be regulated under 564, and an ILEC under traditional regulation will be regulated as such with its competitive services regulated under 944 and 1144) it was subject to prior to the Commission's adoption of these guidelines. The automatic time frames included within these local competition guidelines shall not apply to its filings unless and until it no longer has a waiver from any of these guidelines, except as provided in Section VI.L. of these guidelines.

c. RLEC's Receiving Bona Fide Requests

- i. A person making a bona fide request of an RLEC for interconnection services or network elements shall submit a notice of its request to the Chief of the Telecommunications Division of the Commission.
- ii. Upon receipt by the Commission of a notice of a bona fide request to an RLEC for interconnection, services, or network elements, the Commission shall initiate a COI and conduct an inquiry within 120 days.
- iii. If the Commission finds that the termination of the RLEC's waiver is not unduly economically burdensome, is technically feasible, and is consistent with universal service principles, the termination of the waiver will be

ordered within 120 days after the Commission receives notice of the request. The Commission will establish an implementation schedule in these instances.

- iv. The Commission will consider whether the termination of the RLEC's waiver would result in undue economic burden, is not technically feasible, or does not comport with universal service principles, and will issue an order outlining its findings. In reaching its decision, the Commission will take into consideration the plan filed by the RLEC as required in Section II.A.2.b.ii., above, as well as the progress attained by the RLEC in reaching its milestones in a timely manner.

d. Rural Carrier Exemptions

- i. Each rural carrier which seeks an exemption under Section 251 of the 1996 Act or which seeks a waiver of these guidelines must submit a plan to the Commission for the Commission's review and approval, as to how it is preparing for the introduction of local competition in its service area. For rural carriers that are also RLECs, the plan must be filed within one year from the date the Commission adopts these guidelines or 60 days after the receipt of a bona fide request, whichever is earlier. For rural carriers that are not also RLECs, the plan must be filed within 180 days from the date the Commission adopts these guidelines, or 30 days after the receipt of a bona fide request, whichever is earlier. This plan must include, at a minimum, the following:
 - a. How its plan will benefit the public interest;
 - b. What steps it intends to take to prepare for the competitive entry of other LECs in its serving area. This should be presented in the form of a plan which specifies milestones and a timeline;
 - c. A timetable and outline of information to be included in progress reports to be submitted to the Commission regarding preparations for competitive entry; and

- d. Any other information in support of its plan, including, but not limited to: economic burden; technical feasibility; and impact on universal service.
- ii. Upon a petition from a rural carrier for a suspension or modification of the application of a requirement or requirements of these guidelines, the Commission shall act within 180 days after receiving such petition. Pending such action, the Commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier. The Commission may also consider such request in the context of filings pursuant to Section 4905.24, 4927.03, and/or 4927.04, Revised Code.
- iii. In considering a petition from a rural carrier for any type of exemption, the Commission will consider if it:
 - a. Is necessary in order:
 - i. To avoid a significant adverse economic impact on users of telecommunications services generally;
 - ii. To avoid imposing a requirement that is unduly economically burdensome; or
 - iii. To avoid imposing a requirement that is technically infeasible.
 - b. Is consistent with the public interest, convenience, and necessity.

In reaching its decision, the Commission will take into consideration the plan filed by the rural carrier as required in Section II.A.2.d.i., above, as well as the progress attained by the rural carrier in reaching its milestones in a timely manner. The Commission reserves the right to modify or reject any such waiver request.

- iv. Unless the Commission finds it otherwise appropriate, a rural carrier that obtains a waiver from these guidelines will remain under the regulations regulatory framework (i.e., ILECs who seek approval and who are granted

approval by the Commission for an alternative regulation plan and ILECs who currently have alternative regulation plans will be regulated under their Commission approved plans, small ILECs will continue to be regulated under 564, and an ILEC under traditional regulation will be regulated as such with its competitive services regulated under 944 and 1144.) it was subject to prior to the Commission's adoption of these guidelines. The automatic time frames included within these local competition guidelines shall not apply to its filings unless and until it no longer has a waiver from these guidelines, except as provided in Section VI.L. of these guidelines.

- e. Any LEC seeking a waiver(s) pursuant to Section 251 of the 1996 Act, or which seeks a waiver(s) of these guidelines, shall specify the period of time for which it seeks such waiver(s), and a detailed justification therefor.

3. Rules and Regulations

- a. Except as indicated in these guidelines, requirements placed on the ILECs by the Ohio Administrative Code and the Ohio Revised Code will apply to the NECs unless modified through an appropriate regulatory proceeding. To the extent they do not conflict with the provisions set forth herein, Commission requirements and policies will apply to the operations of the NECs. Examples of such requirements and policies include, but are not limited to, MTSS, lifeline services (SCA/TSA), discounts for persons with communications disabilities, blocking of 976 services, disconnection of local service rules, 9-1-1 service, privacy and number disclosure requirements, and provisions involving customer-owned, coin-operated telephones. In addition, the requirements imposed on AOS providers in Case Nos. 88-560-TP-COI and 563 shall be applicable to NECs.

b. Minimum Service Requirements

The MTSS, as these currently exist and as may be modified by this Commission, apply to all LECs. LECs may seek waivers or modifications of a particular MTSS based upon their own unique circumstances. The Commission shall have the ultimate authority to rule on all waiver requests.

4. ILECs cannot also be NECs within their current serving areas. A separate NEC affiliate to the ILEC may be established to compete in other ILEC serving areas. These NEC affiliates are subject to the affiliate transaction guidelines embodied in Commission decisions regarding United Telephone Long Distance (Case No. 86-2173-TP-ACE), Ameritech Advanced Data Services, Inc. (Case No. 93-1081-TP-UNC), and in 563, as subsequently amended or supplemented, and any other requirements imposed by the Commission. NECs affiliate with ILECs must seek separate certification to provide service in other ILEC serving areas. Any ILEC that obtains a waiver pursuant to Section II.A.2.b or d of these guidelines shall not be permitted to have an affiliated NEC until such waiver is no longer in effect. Depending on the type of waiver obtained by an ILEC pursuant to Section II.A.2.a., the Commission will make a case-by-case determination as to whether that ILEC may have an affiliated NEC.

B. Nature of Certification Process

1. Minimum Requirements

NECs which are affiliated with ILECs and are seeking authority to offer local exchange services, and other NECs, shall file with the Commission a completed Registration Form as set forth in Attachment B to these guidelines, along with an application for a certificate (ACE) addressing, at a minimum, the following items:

- a. Certificate of good standing or certificate to operate as an out-of-state entity and, if applicable, fictitious name authorization;
- b. List of officers and directors;
- c. Full address and telephone number;
- d. Proposed end user and carrier-to-carrier tariffs, if applicable, including a full description of proposed services and operations (proposed tariff may be illustrative), as well as all relevant terms and conditions, to be supplemented with actual tariffs following the establishment of interconnection terms and conditions but prior to the availability of such services and operations;
- e. Description of initial serving area and local calling area, along with maps depicting the areas;

- f. Verification of compliance with any applicable affiliate transaction requirements;
- g. Documentation attesting to the applicant's financial viability including, at a minimum, a pro forma INCOME statement and a balance sheet;
- h. Verification that the applicant will maintain accounting records pursuant to Part 64 of the FCC's rules, the USOA, and any other rules or regulations promulgated by the FCC or this Commission;
- i. Documentation attesting to the applicant's technical expertise relative to the proposed service offering(s);
- j. Documentation indicating the applicant's corporate structure and ownership;
- k. Information pertaining to any similar operations provided by the applicant in other states;
- l. Affidavits from two officers certifying the validity of the above information, as well as its intent to fully comply with these guidelines; and
- m. Any waivers sought by the applicant.

2. Additional Requirements

Nothing precludes the staff or the Commission from requiring additional information, nor does the promulgation of these guidelines limit the Commission's ability to modify these filing requirements in the future.

3. Accounting Standards

Accounting records are required to be maintained in accordance with the USOA for local telephony operations by all LECS. NECs may utilize Class B USOA accounts.

4. Certification Process

NEC certification applications shall follow a streamlined regulatory process as follows:

- a. A NEC's certification application shall be docketed with the Commission and subject to an automatic 60-day approval procedure.
- b. 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 30 days after the application is docketed. The applicant shall respond to any motion to intervene with 10 days after the filing of the motion.
- c. Absent full or partial suspension, the application shall become effective 61 days after filing.

5. Conditions of Approval

It is the applicant's responsibility to satisfy the Commission that the requirements of Section 4905.24, Revised Code, have been met. Section 4905.24, 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. Such determination shall include a review of the applicant's financial, managerial, and technical ability to provide the proposed service.

6. Hearing

In addition to these minimum guidelines, a hearing may be ordered.

C. Serving Area

1. Definition

Serving area is defined as the geographic area in which a provider of local services provides originating service to any customer upon request.

2. Self-Definition

NECs will be permitted to self-define the area in which they will serve customers.

3. Expansion of NEC Serving Area

A NEC seeking to expand its serving area beyond that which was previously authorized must file with the Commission a completed Registration Form, as set forth in Attachment B to these guidelines, along with an application to amend its certificate (AAC). Such an application must include a detailed description of the proposed new serving area and supporting documentation indicating that the applicant is technically, financially, and managerially able to conduct operations on an expanded basis.

NEC applications seeking to expand an authorized service area shall follow a streamlined regulatory process as follows:

- a. Such filing shall be docketed with the Commission and subject to an automatic 30-day approval procedure.
- b. 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 15 days after the application is docketed. The applicant shall respond to any motion to intervene within 7 days after the filing of the motion.
- c. Absent full or partial suspension, the application shall become effective 31 days after filing.

D. Local Calling Area

1. Definition

Local calling area is the geographic area in which an end user may originate a call without incurring a toll charge.

2. Local Calling Areas

NECs may establish their own local calling areas. NECs may change their local calling areas, once established, by filing an updated map with the Commission in the carrier's TRF docket which accurately depicts the revised local calling area.

E. Maps

LECs must maintain up-to-date maps in their TRF dockets which clearly delineate both their serving areas and local calling areas.

F. Abandonment Proceedings

No LEC may abandon its facilities or the services provided thereby absent Commission approval. Applications seeking permission to abandon facilities or services will be governed by Sections 4905.20 and 4905.21, Revised Code. A LEC seeking to abandon facilities or services must file with the Commission a completed Registration Form, as set forth in Attachment B to these guidelines, along with an application to abandon (ABN). Guidelines regarding the withdrawal of individual services are set forth in Section VI.D. of these guidelines.

III. INTERCONNECTION

The term interconnection as used in these guidelines refers to the facilities and equipment physically linking two networks at the first point of interface between the networks of different carriers.

A. Interconnection Obligation

1. Each LEC has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.
2. Each LEC shall make available interconnection to other LECs upon receipt of a bona fide request for interconnection, unless a waiver of this requirement is ordered by the Commission.
3. All LECs shall have the duty to negotiate in good faith the terms and conditions of the interconnection agreements.

B. Interconnection Standards

1. Each LEC shall provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the LEC's network, for the transmission and routing of local exchange service and exchange access services.
2. All LECs shall provide interconnection to requesting carriers at any technically feasible point within the carrier's network, with quality

at least equal to that provided by that LEC to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection. Interconnection can take place at the tandem office, at the end office, or at any technically feasible point, including meet point arrangements. Any carrier requesting interconnection to the existing network shall do so via Feature Group D (FGD) type interconnection. Interconnecting carriers may use one-way trunks or two-way trunks to interconnect for traffic transport and termination.

3. If collocation is the requested form of interconnection, a LEC shall provide physical collocation of equipment necessary for interconnection or access to unbundled network elements at its premises. A LEC shall provide virtual collocation if, upon demonstration by that LEC, the Commission determines that physical collocation is not practical for technical reasons, or because of space limitations. Such determination shall be performed on an individual central office basis. Similarly, virtual collocation shall be provided if requested by the interconnecting carrier. Collocation, physical and virtual, shall be provided pursuant to rates, terms, and conditions that are just, reasonable, and nondiscriminatory.
4. Interconnection rates, terms, and conditions shall be established through negotiation between LECs upon receipt of a bona fide request for interconnection or through arbitration. Such arrangements shall be reviewed and approved by the Commission pursuant to Section III.D. of these guidelines and Case No. 96-463-TP-UNC. In addition, interconnection rates, terms, and conditions may be established through tariffs approved by the Commission. The Commission, at its discretion, may require the filing of tariffs establishing interconnection rates, terms, and conditions.
5. ILEC interconnection rates established under Section III.D.3. and III.E., shall be established pursuant to Section V.B. of these guidelines. A NEC may mirror the interconnection rates of the ILEC with which it is interconnecting, or establish its own interconnection rates pursuant to Section V.B. of these guidelines.

C. Bona Fide Request For Interconnection

A bona fide request for interconnection shall be in writing and shall detail the specifics of the request. A bona fide request for interconnection

submitted by any telecommunications carrier, pursuant to Section 251 of the 1996 Act, shall include, at a minimum, the following, as applicable:

1. The technical description of the requested meet point(s) or, in the alternative, the requested point(s) of collocation (e.g., the end office, tandem, etc.);
2. For each collocation point: a forecast of DS-1 and DS-3 cross connects required during the term of the agreement; the requested interface format (electrical vs. optical); the type of collocation (physical or virtual) requested; and, if physical collocation is requested, the amount of partitioned space required, as well as DC power and environmental requirements;
3. For each meet point, a detailed technical description of the requested interface equipment must be provided;
4. The requested reciprocal compensation arrangement for transport and termination of local traffic;
5. A technical description of any required unbundled network elements;
6. Any requested access to the poles, ducts, conduits, and rights-of-way owned or controlled by the providing carrier;
7. Any requested white pages directory listings for the customer of the requesting carrier's telephone exchange service;
8. Any requested access to 9-1-1, E-9-1-1, directory assistance, operator call completion service, and any required dialing parity capability;
9. Any requested telephone numbers for the assignment to the requesting LEC's local exchange service customers;
10. The requested method(s) of interim number portability capability, until long-term number portability is available;
11. An itemized list of the required telecommunications services to be offered for resale by the providing carrier, and required operational support systems associated with the resale of these telecommunications services;