

G. Resellers' Customer Information

AT&T takes the position that wholesale carriers should compensate resellers for use of their listing data (other than for inclusion in directories), including directory assistance whenever wholesale carriers receive compensation for the information from a third party. Staff agrees and recommends that such compensation be established through mutual negotiations, with the terms being available on non-discriminatory terms to other resellers. Ameritech did not take a position on this issue, but stated that it expects to address it in the context of the FCC's NPRM.

The Commission adopts AT&T's proposal. It is only reasonable to require wholesale carriers to compensate resellers for information they receive from the resellers and are subsequently able to sell to a third party. The fact that the wholesale carriers receive compensation for the information affirmatively demonstrates its value. We agree with Staff that the amount of compensation the reseller is to receive should be set by mutual agreement.

H. Qualifications to Purchase Wholesale Services and Arbitrage

Staff contends that the Commission should permit carriers with either a Section 13-404 or Section 13-405 certificate to subscribe to wholesale services (including residence wholesale services). Ameritech accepted Staff's position. Staff also contended that the Commission should maintain existing policies prohibiting arbitrage for existing class of service distinctions between residence and business services. The Company agreed with this position as well. Ameritech objected, however, to Staff's proposal that services priced separately for residence and business customers since adoption of the Alternative Regulation Plan be subject to arbitrage. The Company contended that pricing decisions relative to residence services continue to be impacted by past pricing decisions of this Commission that were intended to accomplish certain regulatory policy objectives. Furthermore, the Company argued that the residence marketplace has different demand and other characteristics than the business marketplace. Under these circumstances it would be inappropriate to permit rate arbitrage. Finally, the Company stated that its billing systems will not permit resellers to pick and choose between residence and business services and prices for the same customers.

Staff also took the position that third party auditing of reseller operations should be permitted to ensure that class of service restrictions are being observed and that the LEC should have discretion to initiate such audits. Ameritech agreed with Staff's position.

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Commission Conclusion

There appears to be little dispute between the parties over these issues and Staff's position will be adopted with one exception. The Commission will maintain class of service protection against arbitrage between residence and business services regardless of when the separate residence rate was established. If any reseller wishes to resell a residence service to business customers at residence rates, it can file an appropriate request with supporting arguments.

I. Slamming

Staff proposed that the guidelines set out in the FCC's recent rules and regulations regarding slamming for interexchange provisions be followed for changing local exchange service providers, pending adoption of specific rules by this Commission. Staff also supported Ameritech's proposal to charge a \$50 fee for slamming to offset the LEC's costs.

The Commission adopts both proposals.

J. Obligations of Resellers

Staff contends that neither the service obligations of resellers nor a reciprocal obligation to provide wholesale services by new LECs should be addressed in this docket and should be considered instead in a rulemaking proceeding addressing the rights and responsibilities of the new LECs. Ameritech found Staff's proposal to be reasonable.

The Commission agrees that these issues should be addressed in a rulemaking proceeding. The Commission hereby directs Staff to address the service obligations of resellers and the obligations of new LECs to provide wholesale services in a proceeding, consistent with our order in the Customers First proceeding. The Commission notes that several workshops have been held. New LEC responsibilities should be resolved promptly since companies may be making substantial investments in the marketplace without a clear understanding of their responsibilities.

K. Resellers Defaulting on Wholesale Service Bills

Staff took the position that the incumbent LEC should be allowed to terminate service to resellers which fail to pay their wholesale bills and that the resellers' end users should then be served directly by the incumbent LEC. Ameritech supported Staff's position.

The Commission adopts Staff's and Ameritech's position.

L. Notice Requirements

Staff opposed Ameritech's proposal that serving carriers notify one another of defaulting customers with unpaid balances, using the wholesale LEC as a clearing house, to protect the industry from unscrupulous end users who switch from one LEC to another. The Company responded to Staff's concerns by changing the proposed procedures to reduce the 36-hour lag provided in its original plan.

The Commission adopts Ameritech's modified notification process. The industry should be permitted to protect itself against consumer fraud and increasing bad debt levels as long as such measures are reasonable. The Commission concludes that Ameritech's modified proposal is reasonable.

M. Publishing Names of Alternative LECs in Wholesale LECs' Phone Books

Staff took the position that incumbent LECs should be required to publish the names of alternative LECs in their telephone directories, subject to reasonable compensation.

Again, Ameritech stated that Don Tech is willing to provide such services on a negotiated basis.

Based on the foregoing, the Commission will not address this issue at this time.

N. Retention of a Customer's Phone Number in a Resale Environment

Staff and Ameritech agreed that customers should be able to move between providers without a number change in a resale environment. However, Staff contended that all issues related to number portability in a resale environment should be addressed in Docket 96-0128. The Company disagreed, stating that this is a simple issue in a resale environment and should be resolved in this proceeding.

The Commission agrees that this issue can be resolved now. The Commission will require that customers be allowed to retain their telephone numbers when switching from incumbent carriers to resellers, from resellers back to incumbent carriers and between resellers.

95-0458/95-0531 (Consol.)

O. Joint Marketing Restrictions

Staff took the position that Ameritech should not be permitted to include a joint marketing restriction in its tariff, given the passage of the federal Act which includes such a restriction as a matter of federal law. The Company agreed during the proceeding to remove the joint marketing restriction from its tariff for precisely this reason.

There is no need for the Commission to address this issue in view of Ameritech's commitment.

P. Citizens Utility Board's Customer Protection Recommendations

CUB argues that the Commission should not promote cherry picking by competitors. Staff agrees with CUB that the local exchange market should not be structured in a manner that allows carriers to cream skin because of regulatory policies placed on the incumbent providers. The Commission is of the opinion that Staff's proposed pricing methodology acknowledges the retail pricing structure of the wholesale LEC and prevents such cream skinning.

CUB proposed five safeguards. These proposals are beyond the scope of this proceeding. It is Staff's position that the appropriate place to address these issues is in the current workshops examining rules and regulations applicable to new LECs. The Commission agrees.

CUB also proposed that new entrants with 35 percent or more market share should be regulated as a dominant carrier. Staff opposes CUB's proposal. The PUA only makes two distinctions: LECs and LECs with less than 35,000 access lines; and noncompetitive and competitive services.

The Commission agrees with Staff and rejects CUB's proposal.

IX. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein, and being fully advised in the premises thereof, is of the opinion and finds that:

- (1) AT&T Communications of Illinois, Inc. is an Illinois Corporation engaged in the business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;

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- (2) LDDS WorldCom, f/k/a LDDS Communications, Inc., d/b/a LDDS Metromedia Communications ("LDDS") is an Illinois Corporation engaged in the business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;
- (3) Illinois Bell Telephone Company d/b/a Ameritech Illinois, is an Illinois Corporation engaged in the business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;
- (4) Central Telephone Company of Illinois is an Illinois Corporation engaged in the business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;
- (5) the Commission has jurisdiction over Ameritech Illinois and Central Telephone Company and the subject matter of this proceeding;
- (6) the recital of facts and law and conclusions reached in the prefatory portion of this Order are supported by the evidence of record, and are hereby adopted as findings of fact and conclusions of law for the purposes of this Order;
- (7) the wholesale tariff proposed by Ameritech Illinois, which limits the wholesale services to be provided by Ameritech Illinois, contains inappropriate rate structures and price levels that are above the levels proscribed by the federal Act and should be rejected as inconsistent with the mandates of the federal Act, as well as being inconsistent with the Commission's stated long-term goal of developing local exchange competition;
- (8) Ameritech Illinois should be directed to make changes in its proposed wholesale tariff to conform with the proposed tariff submitted by AT&T, subject to the modifications and directives of this Commission and the methodology as set forth in the prefatory portions of this Order, including but not limited to the following:
 - a. Ameritech Illinois and Central Telephone Company of Illinois are required to include, as a part of

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- their total service resale offering, all telecommunications services offered to end users at retail, excluding promotional offerings, any portion of a service package and carrier access service;
- b. Ameritech Illinois and Central Telephone Company of Illinois are required in their wholesale tariffs to mirror and replicate in total their retail rate schedules and structures, including all discounts in their retail offerings to end users;
 - c. Ameritech Illinois and Central Telephone Company of Illinois are directed to conform their costing and pricing methodologies with Section 252(d)(3) of the federal Act, as discussed above in the prefatory portions of this Order, including the pro rata pricing methodology presented by Staff and reflected on ICC Staff Ex. 1.05;
 - d. Ameritech Illinois and Central Telephone Company of Illinois must apply the pro rata methods on an individual service-by-service-element basis;
 - e. Ameritech Illinois and Central Telephone Company of Illinois shall be required to perform and pass imputation tests with respect to their wholesale services;
 - f. the wholesale services should be treated as "new" services for purposes of Ameritech's Alternative Regulatory Plan and shall be assigned to the "carrier" basket;
 - g. Any revenue shortfall associated with Ameritech Illinois' wholesale service shall not receive exogenous treatment under Ameritech's Alternative Regulatory Plan;
 - h. Ameritech Illinois and Central Telephone Company of Illinois are required to provide to resellers, as an integral part of their resale service offerings, all operational interfaces, at parity with those provided their own retail customers, whether directly or through an affiliate;
 - i. in the event that Ameritech Illinois and Central Telephone Company of Illinois are unable to fully and immediately comply with the parity requirement for operational interfaces, they are required to

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submit a written plan, within thirty (30) days of this Order, including specific plans and a timetable for achieving full compliance. Following that filing the Commission will consider a schedule of incentive discounts to encourage prompt and complete compliance;

- (9) To the extent consistent with our findings and conclusions herein, the petition of LDDS WorldCom should be granted;
- (10) Ameritech Illinois and Central Telephone Company of Illinois shall file tariffs within 30 and 90 days, respectively, consistent with Staff's local switch platform proposal;
- (11) Ameritech Illinois and Central Telephone Company of Illinois shall file tariffs within 30 and 90 days, respectively, for unbundled transport.
- (12) Ameritech Illinois and Central Telephone Company of Illinois shall file their wholesale service tariffs in compliance with this Order on not less than 15 days notice.
- (13) Ameritech Illinois and Central Telephone Company of Illinois shall file their local switch platform and unbundled transport tariffs in compliance with this Order on not less than 45 days notice.
- (14) Issues relating to the pricing of the local switch platform should be deferred until said issues are addressed in the proceedings pertaining to the tariffs filed pursuant to Finding (10) herein; and
- (15) Any objections, motions or petitions filed in this proceeding which remain undisposed of should be disposed of in a manner consistent with the ultimate conclusions herein contained.

IT IS FURTHER ORDERED that AT&T's petition in Docket No. 95-0458 is granted to the extent described above.

IT IS FURTHER ORDERED that the petition of LDDS WorldCom in Docket No. 95-0531 is granted to the extent described above, and determination of the pricing issues is deferred to the separate proceedings resulting from the Ameritech and Centel tariffs filed in response to, and as provided in, this Order.

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IT IS FURTHER ORDERED that Ameritech Illinois and Central Telephone Company of Illinois, within 30 days and 90 days respectively, should file tariffs to implement the platform proposal of LDDS, as modified by the Commission Staff and set forth in the prefatory portion of this Order.

IT IS FURTHER ORDERED that Ameritech Illinois and Central Telephone Company of Illinois, within 30 days should file their wholesale service tariffs in compliance with this Order.

IT IS FURTHER ORDERED that Ameritech Illinois and Central Telephone Company of Illinois, within 30 days and 90 days, respectively, should file tariffs for unbundled transport.

IT IS FURTHER ORDERED that Ameritech Illinois and Centel Telephone Company of Illinois should file its local switch platform and unbundled transport tariffs in compliance with this Order on not less than 45 days notice.

IT IS FURTHER ORDERED that all motions, petitions and tariffs not previously disposed of are hereby disposed of consistent with the findings of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 26th day of June, 1996.

(SIGNED) Dan Miller

Chairman

(S E A L)

DOCKET U-20883
Redline
SUBSTITUTE PROPOSED
REGULATIONS FOR COMPETITION IN
THE LOCAL TELECOMMUNICATIONS MARKET

PREAMBLE

The Louisiana Public Service Commission hereby promulgates the following regulations (the "Regulations") to foster the transition from monopoly to competitive local telecommunications markets in Louisiana. The Commission imposes these Regulations for competition within local service areas in order to encourage competitive entry, preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.

The Commission recognizes that, given current local telecommunications markets, competition in every segment of these markets will take time to develop. It is likely that the introduction of competitive services will occur asymmetrically with new entrants initially targeting high volume, heavily populated urban areas, and other selected high-profit areas, and that, therefore, the benefits resulting from competition will be seen first in those areas. However, it is the policy of the Commission that all Louisiana consumers should benefit from competition. Although a limited exemption is proposed for incumbent local exchange carriers with 100,000 access lines or less in Louisiana, the Commission encourages competition throughout Louisiana.

These Regulations are designed to ensure that Louisiana consumers in the aggregate benefit from competition. The Commission grants telecommunications services providers the opportunity to compete in local telecommunications markets under the condition that the consumers of Louisiana benefit by having greater choices among telecommunications products, prices and providers. Through the development of effective competition, which promotes the accessibility of new and innovative services at non-discriminatory prices consumers can and are willing to pay, and which results in wider deployment of existing services at competitive prices, the public interest will be promoted.

SECTION 101. Definitions

1. **Basic Local Service** - those telecommunications services required to provide residential and single-line business customers with each of the items comprising the definition of Universal Service as specified in Commission General Order, dated May 22, 1995.
2. **Basic Services** - for purposes of the Price Plan and ILECs regulated thereunder, the category of services required to provide basic local service to residential and single line business customers, including all services itemized in the Price Plan.
3. **Bona Fide Request** - a request to a telecommunications services provider that demonstrates a good faith showing by the requesting party that it intends to purchase the services requested within ninety (90) days of the date of the request.
4. **Central Office** - a facility within a telecommunications network where calls are switched and which contains all the necessary equipment, operating arrangements and interface points for terminating and interconnecting facilities such as subscribers' lines and interoffice trunks.
5. **Commission** - the Louisiana Public Service Commission.
6. **Commercial Mobile Radio Service (CMRS)** - a mobile service that is: (a)(1) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (2) an interconnected service; and (3) available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (b) the functional equivalent of such a mobile service described in paragraph (a) of this definition. 47 CFR § 20.3, as amended. CMRS includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500*et seq.*
7. **Commercial Mobile Radio Service Provider** - any person or entity engaged in the provision of a service that is a commercial mobile radio service. CMRS Provider includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500*et seq.*
8. **Competitive Access Provider (CAP)** - a telecommunications services provider offering and/or providing only exchange access services or private line services in a local service area.
9. **Competitive Local Exchange Carrier (CLEC)** - a telecommunications services provider, except a CAP, offering and/or providing local telecommunications services in competition with an ILEC.
- ~~10. **Consumer Price Index Telephone Services (CPI TS)** - a measure of the percentage change in prices charged for telephone services as identified by the Bureau of Labor Statistics.~~
10. **Essential Telecommunications Carrier (ETC)** - the telecommunications services provider designated by the Commission to be the obligated provider of basic local service within a particular local service area (formerly referred to as the Carrier-of-Last-Resort).
11. **Exchange Access Services** - the provision of switched or dedicated telecommunications services which connect an end-user to an interexchange carrier for the purpose of originating or terminating interexchange telecommunications. These services are provided by facilities in an exchange area for the transmission, switching, or routing of interexchange telecommunications originating or terminating within the exchange area.

12. **Exchange Area** - a geographic area established by a telecommunications services provider consisting of one or more central offices together with associated facilities used in furnishing local telecommunications services within the area in which telecommunications services and rates are the same.

13. **Facilities Based Telecommunications Services Provider** - a telecommunications services provider which has deployed and is using its own significant telecommunications equipment or facilities within a particular geographic area in Louisiana to serve its Louisiana subscribers. A facilities based provider may offer services exclusively over its own facilities, or partially over its own facilities and partially through the resale of ILEC and/or CLEC wholesale offerings.

14. **Gross Domestic Product-Price Index (GDP-PI)** - the total value of all currently produced goods and services in the United States during any particular time period as is calculated by the United States Bureau of Economic Analysis of the Department of Commerce.

15. **Incumbent Local Exchange Carrier (ILEC)** - telecommunications services provider that is the incumbent and historical wireline provider of local telecommunications services within a local service area as of the effective date of these Regulations, and any intrastate regulated affiliate or successor to such entity which is engaged in the provisioning of local telecommunications services.

16. **Interconnection** - the physical linking of networks, including signaling facilities, of telecommunications service providers that provides the reciprocal ability to handoff calls from customers on one network to customers on another provider's network in a manner that is transparent to customers, and which allows one provider to utilize unbundled basic network functions of another provider for the purpose of providing an end-to-end service to end users. Interconnection can be achieved at different points on the network.

17. **Interconnection Services** - for purposes of Price Plan and ILECs regulated thereunder, the category of services that allow telecommunications services providers to interconnect to an incumbent local exchange carrier's network to originate or terminate telecommunications services, including all services itemized in the Price Plan. For other purposes, those services offered by telecommunications services providers to other providers to interconnect networks in order to originate or terminate telecommunications traffic, and to interconnect at all unbundled points on another provider's network.

18. **Interexchange Carrier** - a telecommunications services provider of interLATA telecommunications services.

19. **Interexchange Telecommunications** - telecommunications traffic that originates in one exchange area and terminates in a different exchange area regardless of the service or facilities used to originate and terminate traffic.

20. **Intraexchange Telecommunications** - telecommunications traffic that originates and terminates within the same exchange area regardless of the service or facilities used to originate and terminate traffic.
21. **LPSC** - the Louisiana Public Service Commission.
22. **Local Exchange Carrier (LEC)** - telecommunications services provider offering and/or providing local telecommunications services.
23. **Long Distance** - any telephone call to a location outside a local service area. Also called a toll call.
24. **Local Service Area** - the geographic area in which end users may place telephone calls without incurring toll charges which includes a flat rate calling area. The local service area of a CLEC may be different from the local service area of an ILEC. Nothing in this definition shall preclude the provision of toll service within the expanded Local Optional Service Area as described in Order No. U-17949-N, dated October 18, 1991.
25. **Local Telecommunications Services** - telecommunications services traditionally provided by an ILEC as a local service, including but not limited to, exchange access services, private line services, basic local services, and public pay phone services.
26. **Long Run Incremental Cost** - the costs a company would incur (or save) if it increases (or decreases) the level of production of an existing service or group of services. These costs consists of the costs associated with adjusting future production capacity and reflect forward-looking technology and operations methods.
27. **Market Trial** - a trial involving paying customers that focuses on the collection of primary market research information that could impact the marketing of a product or service, such as customer acceptance of a product or service and/or willingness to pay for a product or service.
28. **Mobile Service** - a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: a) both one-way and two-way radio communication services; b) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control an relay stations for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and c) any service for which a license is required in a personal communications service pursuant to 47 CFR Part 24. 47 CFR Sect. 20.3, as amended. Mobile Service includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500 *et seq.*
29. **Non-Basic Services** - for purposes of the Price Plan and ILECs regulated thereunder, all services not otherwise classified as basic or interconnection services offered by an ILEC. See Appendix A and Appendix B attached.

30. **Number Portability** - the ability of an end-user customer of local telecommunications services to retain his existing telephone number(s) without impairment of quality, reliability or convenience, when changing from one provider of local telecommunications services to another, as long as the user remains at the same location.
31. **Private Line Service** - any dedicated point-to-point, or point-to-multi point service for the transmission of any telecommunications services.
32. **Private Mobile Radio Service (PMRS)** - As defined at 47 CFR § 20.3, as amended.
33. **Public Pay Telephone Service Provider** - COCOTs as defined in Commission Orders U-16462, U-16462-A through U-16462-G, General Order dated March 30, 1995 and any subsequent Orders, including but not limited to, Orders resulting from Docket No. U-21322.
34. **Rate** - the price of a service approved by the Commission.
35. **Resale** - the offering of services, elements, features, functions, and capabilities for sale to competing telecommunications services providers.
36. **Reseller** - a telecommunications services provider that purchases telecommunications services from another provider for resale to end users for a fee.
37. **Small ILEC** - an incumbent local exchange carrier with 100,000 access lines or less statewide.
38. **Technical Trial** - a trial involving non-paying customers that focuses on assessing the technical capabilities of a new network serving arrangement, including technologies and supporting equipment, and associated supporting systems, such as ordering, billing, provisioning and maintenance systems. Services provisioned pursuant to a technical trial may include new services and/or new ways of providing existing services.
39. **Telecommunications**- the bi-directional transmission of information of the user's choosing between or among points specified by the user, including voice, data, image, graphics and video, without change in the form or content of the information as sent and received, by means of an electromagnetic and/or fiber optic transmission medium, including all instrumentalities, facilities, apparatus and services (including the collection, storage, forwarding, switching and delivery of such information) essential to such transmission.
40. **Telecommunications Equipment** - equipment, other than customer premises equipment, used by a telecommunications services provider to provide telecommunications services including software integral to such equipment.
41. **Telecommunications Service** - the offering and/or providing of telecommunications for compensation or monetary gain to the public, or to such classes of users as to be effectively available to the public regardless of the facilities used to transmit the telecommunications services.

42. **Telecommunications Services Provider (TSP)** - a generic term used to refer to any person or entity offering and/or providing telecommunications services for compensation or monetary gain.
43. **Toll Call** - a call to any location outside the local service area. Also called a long distance call.
44. **Total Service Long Run Incremental Cost (TSLRIC)** - the total additional cost incurred by a telecommunications services provider to produce the entire quantity of a service, group of services, or basic network functions, given that the telecommunications services provider already provides all of its other services. TSLRIC is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.
45. **Unbundle** - disaggregation of a facilities-based telecommunications services provider's network services, including elements, features, functions and capabilities whenever technically feasible at rates as determined by the Commission.
46. **Universal Service** - as defined by Commission General Order dated May 22, 1995, and any subsequent modifications or amendments thereto.

SECTION 201. Public Interest

A. Based on the complete record before the Commission in this docket, which includes the complete records, evidence and pleadings of Subdocket "D" of Docket U-17949 and the Regulatory Track of Subdocket "E" of Docket U-17949,¹ and considering the present state of the telecommunications market structure, the Louisiana Public Service Commission hereby finds, determines and declares that the promotion of competition in all local telecommunications markets in Louisiana is in the public interest.

B. Because effective competition will not exist in these markets in the short-term but will require a long-term policy enabling competition to develop, the Commission likewise finds, determines, and declares that providing an appropriate regulatory framework and methodology to transition into effective competition is additionally in the public interest.

SECTION 202. Service Areas

A. TSPs are permitted to provide telecommunications services in all historically designated ILEC service areas as described in existing Commission orders as of the effective date of these Regulations, or in maps, tariffs and rate schedules reviewed and approved by the Commission prior to the effective date of these Regulations, with the exception of service areas

¹ LPSC Order No. U-17949 - Subdocket D, March 2, 1995; and LPSC Order No. U-17949 (Subdocket E), August 22, 1995.

served by ILECs with 100,000 access lines or less statewide (the "Small ILECs"). The Small ILEC service area exemption does not apply to the provisioning of CMRS and PMRS.

Additionally, the Small ILEC service area exemption does not apply to the provisioning of any telecommunications services authorized by the Commission in Subdocket "F" of Docket No. U-17949.

B. A Small ILEC may, once these Regulations are effective and subject to the provisions of Section 301 below, provide telecommunications services in the historically designated service area(s) served by a non-exempted ILEC in which case the Small ILEC's historically designated service area(s) will become open to competition by all TSPs.

C. A Small ILEC shall be exempted from the provisions and mandates of the following Sections of these Regulations unless it provisions telecommunications services outside its historically designated service area(s), in which case the following provisions shall apply to that Small ILEC: 1) Section 801. Number Portability; 2) Section 901. Interconnection; 3) Section 1001. Unbundling; and 4) Section 1101. Resale.

D. A Small ILEC may, as provided in Section 701 below, petition the Commission to be regulated pursuant to a price cap plan in which case its historically designated service area(s) will become open to competition by all TSPs.

E. For Commission regulatory purposes, a Small ILEC choosing to provision telecommunications services outside its historically designated service area(s) shall segregate the assets, liabilities, revenues and expenses relating to services provisioned in its historically designated service area(s) from those relating to services offered or provided outside its historically designated service area(s). The Small ILEC's revenues not derived, and expenses not incurred from the Small ILEC's historically designated service area(s) shall not be considered by the Commission for purposes of applying Order No. U-21181, including LECAP funding. The Small ILEC's traditional ILEC operations shall not cross-subsidize its competitive ventures.

F. If a Small ILEC forms a subsidiary and/or other affiliate entity to provision telecommunications services outside its historically designated service area(s), the Small ILEC's historically designated service area(s) will not become open to competition by all TSPs. For Commission regulatory purposes, including the application of Order No. U-21181 and LECAP funding, the Small ILEC shall maintain separate books and accounts which segregate the assets, liabilities, revenues and expenses of the Small ILEC from those of the subsidiary and/or other affiliate entity. The Small ILEC's traditional ILEC operations shall not cross-subsidize the operations of any subsidiary and/or other affiliate entity providing telecommunications services outside the Small ILEC's historically designated service area(s). The Small ILEC shall apply all Commission imputation rules when dealing with its subsidiary and/or other affiliate.

G. The Small ILEC exemption will be evaluated by the Commission three years from the effective date of these Regulations to determine whether the exemption will be terminated, continued and/or modified.

H. An exclusive franchise, license or certificate shall not be issued to any TSP to provide telecommunications services for a particular service or geographic area by the Commission.

SECTION 301. Certification of Telecommunications Services Providers

A. Any TSP desiring to offer telecommunications services is required to apply to the Commission for issuance of a Certificate of Authority. This application process shall not apply to ILECs with regard to their historically designated service areas and to TSPs exclusively provisioning CMRS and/or PMRS. Providers of CMRS and/or PMRS shall continue to register with the Commission.

B. Until modified by state or federal law, or explicit Commission order, operator service providers shall remain subject to the provisions of Order Nos. U-17957 through U-17957-C, and any subsequent orders. Public Pay Telephone Service Providers shall remain subject to the provisions of Order Nos. U-16462 through U-16462-G and any subsequent orders, including General Order dated March 30, 1995.² To the extent that operator service providers and public pay telephone service providers desire to expand their service offerings of telecommunications services beyond those authorized prior to the effective date of these Regulations, such providers must apply to the Commission for authority pursuant to, and agree to be bound by, these Regulations.

C. The Commission, through its Secretary, when in the public interest and subject to and in compliance with the conditions and procedures set forth below, shall grant a Certificate of Authority to an applicant that possesses the requisite managerial, financial and technical abilities to provide telecommunications services. A color-coded Certificate of Authority suitable for framing and display in a TSP's business office will be issued by the CommissionNo TSP shall offer or provide telecommunications services to any person or entity prior to obtaining a Certificate of Authority from the Commission.

D. TSPs operating under a Certificate of Authority issued prior to the effective date of these Regulations or, granted pursuant to this Section, or TSPs previously registered with the Commission, are prohibited from providing telecommunications services to or on behalf of an uncertificated TSP that is required to be certificated pursuant to this Section and which is providing telecommunications services in Louisiana.

E. Each applicant hereunder shall submit to the Secretary of the Commission an original and five (5) copies of its application, along with an application fee of \$250.00 to cover the administrative costs of processing the application. Upon request by the Secretary, and when reasonably feasible, an applicant shall also submit in addition to the original and five copies, a copy of its application on computer disk in a format specified by the Secretary. All applications shall include the following:

² In re: Registration and Certification of Customer-Owned Coin-Operated Telephone Service Providers. See also Docket No. U-21322, which shall consolidate and supersede the cited Orders as applied to public payphone service providers and operator service providers.

1. Legal name, and name under which the applicant intends to do business, mailing and physical addresses of the applicant, and telephone number where the applicant can be reached by the Commission.

2. The names and addresses of the applicant's principal corporate officers.

3. If different from (2) above, the names and addresses of all officers and corporate officers in Louisiana, and the names and addresses of employees responsible for Louisiana operations.

4. Information about the structure of the business organization, and, where applicable, a copy of any articles of incorporation, partnership agreement or by-laws of the applicant. An applicant shall also disclose all affiliate entities offering and/or providing telecommunications services in Louisiana.

5. A certified copy of the applicant's authorization to do business in Louisiana issued by the Secretary of State.

6. The name, address and telephone number of the applicant's Louisiana agent for service of process.

7. Documentation demonstrating managerial, financial and technical abilities, including but not limited to, the following:

(a) To demonstrate financial ability, each applicant shall provide a copy of its most recent stockholders annual report and its most recent SEC 10K, or, if the applicant is not publicly traded, its most recent financial statements. If the applicant does not have separate financial reports, it may submit applicable financial statements of an affiliate with explanation to demonstrate the financial ability of the applicant.

(b) To demonstrate managerial ability, each applicant shall attach a brief description of its history of providing telecommunications services and shall list the geographic areas in which it has been and is currently providing telecommunications services. Newly created applicants shall list the experience of each principal officer in order to show its ability to provide service.

(c) Technical ability shall be indicated by a description of the applicant's experience in providing telecommunications services, or in the case of newly created companies, the applicant may provide other documentation which supports its technical ability.

8. A description of the services proposed to be offered, the proposed exact geographic areas in which the services shall be offered and a map thereof.

9. **Repair and maintenance information, including the name, address and telephone number of a Louisiana contact person responsible for and knowledgeable about the applicant's operations.**

10. **A list of other states where the applicant has applied to operate as a telecommunications services provider and/or to offer telecommunications services, a list of other states where the applicant is authorized to operate, and a list of those states which have denied any requested authority.**

11. **Illustrative tariffs in compliance with the requirements set forth in Section 401 below.**

12. **Such other information as the Commission Staff may specifically request of any applicant.**

F. **The Commission, through its Secretary, may require as a precondition to certification the procurement of a performance bond, line of credit and/or certificate of deposit sufficient to cover any advances or deposits the applicant may collect from its customers, or require that such advances or deposits be held in escrow or trust. A bond, credit and/or certificate schedule will be established based on an applicant's financial resources.**

G. **A showing of public convenience and necessity shall not be required of an applicant hereunder. A showing that an ILEC's services or facilities are somehow inadequate in any local service area as a condition precedent for grant of authority to an applicant hereunder shall not be required nor considered by the Commission.**

H. **Applications determined by the Commission Staff to be in compliance with each of the above requirements may be approved by the Commission through its Secretary and a Certificate of Authority issued therewith, unless the Secretary elects to publish notice of any application in accordance with Rule 19 of the Commission's Rules of Practices and Procedures, in which case a Certificate of Authority may be issued pending the resolution of any protest filed pursuant to subsection I below. Notice of approved applications will be published in the Commission's Official Bulletin.**

I. **Any notice of protest timely filed in accordance with Rules 19 and 20 of the Commission's Rules of Practices and Procedures shall be docketed and administered pursuant to Rules 54 through 66 of the Commission's Rules. Any applicant issued a Certificate of Authority hereunder shall be allowed to provide telecommunications services pending final resolution of any notice of protest filed pursuant to Rule 20 of the Commission's Rules.**

J. **TSPs obtaining a Certificate of Authority under this Section shall obtain certification subject to the following conditions and obligations:**

1. **TSPs shall comply with all Commission rules, regulations, orders, tariff and other requirements relevant to the provision of telecommunications service.**

2. TSPs are prohibited from engaging in unreasonable price discrimination, predatory pricing, price squeezing, or tying arrangements with respect to other TSPs and end users regardless of whether services are offered pursuant to tariff and/or contract.

3. TSPs are prohibited from providing preferences related to the provisioning of telecommunications services to affiliated entities.

4. TSPs shall file with the Secretary of the Commission all reports required pursuant to Section 302 below.

5. TSPs shall maintain on file with the Commission all current tariffs and service standards.

6. TSPs shall cooperate with Commission investigations of customer complaints.

7. As required by the Commission, TSPs shall participate in and contribute to a Universal Service Fund.

8. TSPs shall comply with the mandates of Commission Order No. U-17656-B, dated October 20, 1992 regarding the Americans with Disabilities Act.

9. Following certification, TSPs are required to file tariff amendments pursuant to Section 401 regarding new service offerings and changes to the geographic areas where services are to be offered prior to provisioning a new service or implementing a change in service area(s).

10. After notice and hearing, such other obligations the Commission may require.

Failure of a TSP to comply with any of the above conditions and obligations may, after notice and hearing, result in the rescission of its Certificate of Authority and/or the imposition of monetary fines not exceeding ten thousand dollars (\$10,000) per violation.

K. In addition to the conditions and obligations applicable to all TSPs set forth above in subsection J, TSPs designated by the Commission as CLECs shall be subject to the following additional conditions and obligations:

1. Upon request a CLEC shall provide to any customer in its certificated area basic local service, and shall render adequate service within its certificated area. This does not relieve an ILEC from its obligations to subscribers arising from its status as the Essential Telecommunications Carrier.

2. Within ninety (90) days of receipt of a bona fide request, a facilities-based CLEC shall provide interconnection as close as technically possible to the end user or at other locations more efficient, technically or economically feasible to the party requesting interconnection. A cable television system providing telecommunications services as a CLEC shall make interconnection available at its headend or at other locations more efficient, technically or economically feasible to the party requesting interconnection.

3. A facilities-based CLEC shall make all telecommunications service offerings on its facilities available for resale within the same class of service without unreasonable discrimination.

4. A CLEC shall charge non-discriminatory switched access rates which do not exceed the intrastate switched access rates of the competing ILEC in each of the CLEC's certificated areas.

5. All CLECs shall charge non-discriminatory interconnection rates.

6. All CLECs shall provide all customers equal access presubscription to their long distance carrier of choice as provided by Commission Orders.

7. Upon request a CLEC shall provide, either on its own facilities or through resale, service in accordance with its tariffs to all customers in the same service classification in its certificated areas.

Failure of a CLEC to comply with any of the above conditions and obligations may, after notice and hearing, result in the rescission of its Certificate of Authority and/or the imposition of monetary fines not exceeding ten thousand dollars (\$10,000) per violation

L. After notice and hearing, the Commission may impose monetary fines not exceeding ten thousand dollars (\$10,000) per violation, or revoke a certificate previously issued to any applicant which:

1. Does not provide or fails to disclose information required by subsections E and F of this Section.
2. Submits false or materially misleading information in its application.
3. Is found not to possess adequate financial, managerial and/or technical abilities to provide services.
4. Fails to provide a performance bond, line of credit and/or certificate of deposit, or establish an escrow or trust account, if required as a precondition to certification or, after notice and hearing, subsequent to the granting of certification.

5. Is found to have failed to comply with any and all applicable Commission rules, regulations, orders, tariffs, and procedures, including these Regulations such as the conditions and obligations imposed in subsections J and K above.

SECTION 302. Reporting Requirements of Telecommunications Services Providers

A. All TSPs providing telecommunications services in Louisiana shall file with the Commission the following reports on a Louisiana-specific basis by April 1st of each year in accordance with Commission General Order dated August 31, 1992.³

1. All annual financial reports, including income statement and balance sheets.
2. Annual report on the availability of service capabilities and service offerings within Louisiana subdivided by facilities-based and non-facilities-based.
3. Annual report on the number of customers, access lines served, and revenues, subdivided by residential and business.

B. One year from the date of obtaining its Certificate of Authority, and semi-annually thereafter, all CLECs shall file with the Commission service standard reports as follows:

1. Complaints - the number of complaints filed with the Commission and the CLEC.
2. The change in the total numbers of customers in each service category served in Louisiana.
3. % Appointments Offered in Five (5) Days - the percentage of appointed service initiation orders for basic local service implemented within five (5) days of such request.
4. Service Initiation Appointments Met - the percentage of appointed service initiation orders that are implemented by the appointment date set with the customer.
5. Customer Trouble Reports - the number of customer reported troubles.
6. Percentage Out-of-Service Troubles Cleared Within 24 Hours - the percentage of out-of-service customer trouble reports that are cleared within 24 hours of taking the initial trouble report.

C. The Commission may modify these reporting requirements as technology and customer needs change and as competition in the local market develops.

³ Treatment of information designated as trade secret, proprietary or confidential.

SECTION 401. Tariffs

A. All TSPs shall file tariffs with the Commission describing the services offered and the rates charged. All such tariff filings shall be in compliance with the rules set forth in Order No. U-20375, dated November 18, 1994 as contained in these Regulations. Upon request tariffs shall be filed on a computer disk in a format specified by the Commission Secretary.

B. Providers of CMRS and providers of PMRS shall file tariffs which identify and describe the rates, terms and conditions of services offered and provided in Louisiana. Such tariff filings shall be reviewed by the Commission consistent with the mandates of the Omnibus Budget Reconciliation Act of 1993 as codified at 47 U.S.C.A. §332, as amended.⁴ However, to ensure the universal availability of telecommunications services to Louisiana consumers at affordable rates, providers of CMRS or PMRS, where such services have become or are a substitute for land line telephone exchange service for a substantial portion of the communications within the State, shall be required to abide by and comply with these tariff filing requirements.

C. Except as modified in subsection 401.B, the Commission hereby incorporates and restates the technical tariff rules as adopted in Order No. U-20375 and as amended as shown herein.

1. General Requirements

a. Each regulated telecommunications services provider shall maintain on file with the Commission tariffs which set forth all of the rates and charges for customer services, the different services available to subscribers, and the conditions and circumstances under which service will be furnished. When the Commission has authorized contract rates, the conditions under which such contracts may be offered shall be clearly stated in the provider's tariff but the contracts themselves need not be part of the tariff. Upon request by the Commission, the contracts are to be made available to the Commission for its review. The tariff shall not include charges for detariffed equipment and services.

b. Each tariff shall be Louisiana-specific and all rates, charges, and service descriptions shall be for intrastate usage, unless interstate rates are necessary to compute the intrastate portion of a customer's monthly bill; then, the interstate rates, charges and service description shall also be quoted in the tariff or

⁴ See also, *In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order*, 9 FCC Rcd. 1411 (1994); and *In the Matter of Petition on Behalf of the Louisiana Public Service Commission for Authority to Retain Existing Jurisdiction over Commercial Mobile Radio Services Offered Within the State of Louisiana*, Report and Order, PR Docket No. 94-107 (1995).

referenced and readily available to the extent necessary to compute the intrastate portion of a customer's bill.

c. Each tariff must be clearly expressed in simple words, sentences and paragraphs. It must avoid unnecessarily long, complicated or obscure phrases or acronyms so that the customer will understand that for which he is contracting or obligated to pay.

d. Each tariff shall be written in a manner such that service will be provided on a non-discriminatory basis. No public statement of service quality, rates, or service offerings or billings should be misleading or differ from those stated in the tariff.

e. A printed notice shall be kept posted by each company in a public and conspicuous place in each office, if any, where application for service may be made stating that its tariff and standard contract and agreement forms, are on file at that office and are open to examination by any person. In the case of telecommunications providers without an office in Louisiana the notice and tariffs will be maintained at the office of local counsel or the agent for service of process. The holder of this information shall be disclosed to the Commission.

f. All proposed changes to an existing, filed tariff shall be directed to the Secretary of the Louisiana Public Service Commission, Post Office Box 91154, Baton Rouge, Louisiana 70821-9154. A filing must be received by the Commission before 4:30 P.M. of a normal Commission workday in order for it to be "filed" on that day.

g. All tariff changes shall be submitted to the Commission in quadruplicate in substantially the same form described herein. The letter of transmittal shall be sent in duplicate with the request that the duplicate be returned. If requested, the duplicate copy stamped "Received" will be returned to the company, which shall be the notice to the company that the proposed tariff has been received. Once the tariff has been accepted by the Commission, the telecommunications services provider will be notified either by notation on the tariff transmittal letter submitted by the provider, or by separate letter from the Commission.

h. Telecommunications services providers shall charge only the rates contained or allowed in their tariffs. Telecommunications services providers electing to enter special marketing promotions where they desire to temporarily lower rates or suspend specific charges and later return to existing tariff rates, may notify the Commission by letter stating the specific tariff charges, a description of the customers who would be eligible for the decrease, the conditions under which customers would be eligible for the decrease, the conditions under which customers would receive a decrease, and the beginning and ending dates of the reduction.

2. Format

- a. All tariffs filed shall be submitted in loose leaf form on 8-1/2" x 11" sheets, typewritten on a good grade of white three hole paper of durable quality, using one side of the paper only. All copies must be clear and legible. Sufficient margin shall be allowed on each sheet for a left-hand binding edge so that when the tariff book is open all printed matter will be in view.
- b. Every page in the tariff shall be numbered in the upper right hand corner of the page.
- c. Each page shall bear the name of the filing company in the upper left-hand corner of the page.
- d. Each initially approved page in the tariff shall be marked "Original Page" in the upper right-hand corner of the page. As an example: Original Page No. 1, or Original Page No. 5.2.
- e. Revised pages in the tariff shall be marked with the number of the revision in the upper right-hand corner and the number of the page(s) it replaces. As an example: First Revised Page No. 1
Cancels Original Page No. 1
or
Fourth Revised Page No. 5.2
Cancels Third Revised Page Nos. 5.2, 5.3
and Second Revised Page 5.4
- f. On each page shall appear the Issued Date in the upper left-hand corner of the page. The Issued Date will be the date shown on the provider's transmittal letter to the Commission referencing the tariff filing.
- g. On each page shall appear the name and/or title of the issuing officer of the filing company in the upper left hand corner of the page under the Issued Date.
- h. The filed tariffs shall contain the following in the order listed:
 - (1) Title Page. The title page shall adequately identify the tariff, filed by the particular company with the Commission and will include the name, address and telephone number of the company representative responsible for providing information with respect to the company's tariff filings.
 - (2) Table of Contents. All tariffs shall have a Table of Contents identifying the page location of each section in the tariff. In tariffs of less

than 30 sheets, the table of contents may serve as subject index for the entire volume.

(3) **Symbols Used in Tariff Filings.** The following symbols will be used in any proposed change to the existing tariff in the manner described herein. The symbols will appear in the right margin of each sheet to denote the line(s) to which any change has been made. In the event more than one type of change occurs on the same line, two or more types of symbols denoting the changes shall be placed next to each other on the affected line. The following are the only letters allowed to denote the following types of change:

C - To signify Changed Regulation

D - Delete or Discontinue

I - Change Resulting in an Increase to a rate

M - Moved from Another Tariff Location

N - New

R - Change Resulting in a Reduction to a rate

S - Matter Appearing Elsewhere or Repeated for Clarification

T - Change in Text But No Change to Rate or Charge

V - Signifies Vintage Tariff

Z - Correction

(4) **Technical Terms and Abbreviation.** This section shall contain full and concise information as to the meaning of all technical and special terms and abbreviations used in the tariff.

(5) **Rules and Regulations.** This section shall include all rules, regulations, practices, exceptions and conditions made or observed relative to the services provided by the company which are general and apply to allow many of the services offered. It shall contain the telecommunications provider's deposit requirements. If a general regulation does not apply to particular service, that fact should be clearly stated within the regulation or as part of the specific regulations of a particular service.

(6) **Description of Service Offered.**