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system; a major division thereof; or which, in the judgment of the telecommunications service provider, may cause a high degree of public interest or concern.

(b) The Commission notification process required in subsection (a) of this Section, may be accomplished by facsimile, twenty-four (24) hours a day, seven (7) days a week; or by phone, during the business hours of 8:00 a.m. through 4:30 p.m., Monday through Friday, and should consist of the following:

(A) An initial contact to advise of the outage; the cause of such outage; the area affected; and, the estimated time for repair;

(B) Intermediate contact to provide status reports, as deemed necessary by the telecommunications service provider, or as may be requested by the Commission Staff; and,

(C) A conclusory contact detailing the results and completion of the restoration of service.

**SUBCHAPTER 15. EXCHANGE OR ACQUISITION
OF TELEPHONE PROPERTIES**

Section

- 165:55-15-1. Approval of acquisition or exchange
- 165:55-15-2. Major stock acquisitions
- 165:55-15-3. Sale of equipment

165:55-15-1. Approval of acquisition or exchange

No individual, corporation, cooperative, trust, or other legal entity shall acquire by purchase or exchange a telephone company telecommunications service provider or all or a substantial part of the telephone properties, territory, operating plant, network, or telephone telecommunications business of another telephone company telecommunications service provider without approval of the Commission given by order upon application and after notice and hearing.

165:55-15-2. Major stock acquisitions

If, at anytime, any person, firm or corporation, either by inheritance, purchase, merger, or otherwise should acquire sufficient amount of capital stock of any

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~~telephone company~~ telecommunications service provider in Oklahoma so as to change the effective power to control said corporation, said person, firm, or corporation so acquiring the capital stock shall advise the Commission of such acquisition and furnish the names of the operating officers and managers of said corporation who will be responsible for the operation of said ~~telephone company~~ telecommunications service provider in compliance with the rules and regulations of this Commission.

165:55-15-3. Sale of equipment

This Section shall not prohibit sale or exchange of individual items of equipment not affecting the service or area of service of a ~~telephone company~~ telecommunications service provider.

SUBCHAPTER 17. FACILITATION OF LOCAL EXCHANGE COMPETITION
[NEW]

Section

- 165:55-17-1. Rules governing local exchange competition**
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165:55-17-1. Rules governing local exchange competition

The provisioning of local exchange service by any telecommunications service provider subject to the jurisdiction of the Oklahoma Corporation Commission, shall be subject to all requirements of OAC 165:55.

165:55-17-3. Designation of service territory

The Commission shall determine whether a competitive LEC's service territory is in the public interest at the time the competitive LEC seeks certification or proposes changes to its service territory. In determining whether the proposed service territory meets the public interest, the Commission shall consider factors, including but not limited to, the existence and location of the competitive LEC's facilities, the number of potential customers to be served and the potential impact on universal service.

165:55-17-5. Obligations of telecommunications service providers to facilitate competition

(a) General duty of telecommunications service providers. Each telecommunications service provider has the duty:

- (1) To interconnect directly with or indirectly with the facilities and equipment of other telecommunications service providers; and.**
- (2) Not to install network features, functions, or capabilities that do not comply with established guidelines and standards.**

(b) Obligations of all telecommunications service providers. Each telecommunications service provider furnishing local exchange services has the following duties:

- (1) Resale. The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services.**
- (2) Number portability. The duty to provide, to the extent technically feasible, number portability in accordance with requirements established by the FCC.**

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(3) Dialing parity. The duty to provide dialing parity to competing providers of local exchange and long distance telecommunications services, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance and directory listings, with no unreasonable dialing delays.

(4) Access to rights of way. The duty to afford access to the poles, ducts, conduits, and rights-of-way of such telecommunication service provider to competing providers of telecommunications services on rates, terms and conditions that are consistent with existing laws, regulations and contract rights.

(5) Reciprocal compensation. The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications services.

(c) Additional obligations of incumbent LECs. In addition to the obligations described in OAC 165:55-17-5(b), each incumbent LEC and any competitive LEC that is treated as an incumbent LEC pursuant to 47 U.S.C. §251(h), has the following duties:

(1) Negotiations. The duty to negotiate in good faith the particular terms and conditions of agreements to fulfill the duties described in this Section. The requesting telecommunications service provider also has the duty to negotiate in good faith the terms and conditions of such agreements.

(2) Interconnection. The duty to provide, for the facilities and equipment of any requesting telecommunications service provider, interconnection with the incumbent LEC's network as follows:

(A) For the transmission and routing of telephone exchange service and access service;

(B) At any technically feasible point within the incumbent LEC's network;

(C) That is at least equal in quality to that provided by the incumbent LEC to itself or to any subsidiary, affiliate, or any other party to which the incumbent LEC provides interconnection; and

(D) On rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and requirements of this Section.

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(3) Unbundled access. The duty to provide, to any requesting telecommunications service provider for the provision of telecommunications services, nondiscriminatory access to network elements required by OAC 165:55-17-11 on an unbundled basis and at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and requirements of this Chapter. An incumbent LEC shall provide such unbundled network elements in a manner that allows requesting telecommunications service providers to combine such elements in order to provide such telecommunications services.

(4) Resale. The duty to provide resale as follows:

(A) To offer for resale at wholesale rates any telecommunications service that the incumbent LEC provides at retail to subscribers who are not telecommunications service providers; and

(B) Not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications services, except that telecommunications service providers may resell local exchange service only to the same class of customers to which the incumbent LEC sells such services.

(5) Notice of changes. The duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using the incumbent LEC's facilities or networks, as well as of any other changes that would affect the interoperability of such facilities and networks.

(6) Collocation. The duty to provide, on rates, terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the incumbent LEC, except that the incumbent LEC may provide for virtual collocation if the incumbent LEC demonstrates that physical collocation is not practical for technical reasons or because of actual space limitations.

(d) Exemptions for rural telephone companies.

OAC 165:55-17-5(c) shall not apply to a rural telephone company until:

(1) Such company has received a bona fide request for interconnection, services, or network elements, and

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(2) The Commission determines that such request is not unduly burdensome, is technically feasible, and is consistent with established universal service principles.

(A) Termination of exemption. In order to terminate the exemption of a rural telephone company, the following must occur:

(i) The telecommunications service provider making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the Commission.

(ii) The Commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under this subsection.

(B) Limitation on exemption. The exemption provided by this subsection shall not apply to a request under OAC 165:55-17-5(c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company begins providing video programming after February 8, 1996.

(e) Suspensions and modifications for rural telephone companies. An incumbent LEC with fewer than two percent (2%) of the end-user lines installed in the aggregate within the United States may apply to the Commission for suspension or modification of any requirement of OAC 165:55-17-5(b) or OAC 165:55-17-5(c) applicable to network facilities specified in such application. The Commission will grant such application to the extent that, and for such duration as, the Commission determines that such suspension or modification:

(1) Is necessary to:

(A) Avoid a significant adverse economic impact on users of telecommunications services generally;

(B) Avoid imposing a requirement that is unduly economically burdensome; or

(C) Avoid imposing a requirement that is technically infeasible; and

(2) Is consistent with the public interest, convenience and necessity.

(f) Time for Commission review. The Commission will issue an Order regarding

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any application:

(1) For termination of an exemption pursuant to OAC 165:55-17-5(d), within one hundred twenty (120) days after the Commission receives notice of the request:

(A) The Commission shall terminate the exemption if the request is:

- (i) Not unduly economically burdensome;
- (ii) Is technically feasible; and
- (iii) Is consistent with established universal service principles.

(B) Upon termination of the exemption, the Commission will establish an implementation schedule for compliance with the request.

(2) For a suspension or modification of OAC 165:55-17-5(b) or OAC 165:55-17-5(c), within one hundred eighty (180) days after receiving such application.

(g) Failure to act on a bona fide request. Any telecommunications service provider that makes a bona fide request for services or network elements to another telecommunications service provider, but fails to begin the necessary steps to introduce competition in the requested exchange(s) or zone(s) within twelve (12) months after satisfactory unbundling and/or interconnection agreements have been approved by the Commission, shall be liable for the reasonable expenses incurred by the requested telecommunications service provider.

165:55-17-7. Procedures for negotiation, arbitration and approval of agreements.

(a) Agreements arrived at through voluntary negotiations. Upon receiving a request for interconnection, services, or network elements pursuant to OAC 165:55-17-5, an incumbent LEC may negotiate and enter into a binding agreement with the requesting telecommunications service provider or providers without regard to the standards set forth in OAC 165:55-17-5 (b) and (c). The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), shall be filed with the Commission under subsection (e) of this Section.

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(b) Mediation. Any party negotiating an agreement under this Section may, at any point in the negotiations, ask the Commission to participate in the negotiations and mediate any differences arising in the course of the negotiations. The Public Utility Division shall provide the mediator, unless otherwise directed by the Commission.

(c) Agreements arrived at through compulsory arbitration. During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent LEC receives a request for negotiation under this Section, the incumbent LEC or any other party to the negotiation may seek arbitration at the Commission of any open issues. Nothing in this subsection shall preclude negotiating parties from filing a joint application.

(1) Responsibilities of the applicant with regard to the Commission. A party that seeks arbitration from the Commission pursuant to this subsection shall, contemporaneously with the filing of its application, provide the Commission all relevant documentation concerning:

(A) The unresolved issues and the position of each of the parties with respect to those issues; and

(B) Any other issue discussed and resolved by the parties.

(2) Responsibility of the applicant with regard to other parties. A party that seeks arbitration from the Commission pursuant to this subsection shall, provide a copy of the application and any documentation to the other party or parties not later than the day on which the application is filed.

(3) Opportunity to respond. A nonpetitioning party to a negotiation under this Section may respond to the other party's petition and provide such additional information as it wishes within twenty-five (25) days after the Commission receives the petition.

(4) Action by the Commission. When an application for arbitration is filed, the Commission will utilize the following procedures.

(A) The Commission will limit its consideration of any petition under this subsection, and any response thereto, to the issues set forth in the petition and in the response, if any, filed under paragraph (3) of this subsection.

(B) The Commission may require the petitioning party and the responding

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party to provide such information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or unreasonably fails to respond on a timely basis to any request from the Commission, then the Commission may proceed on the basis of the best information available to it, from whatever source derived.

(C) The Commission will resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (d) of this Section upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than nine (9) months after the date on which the telecommunications service provider received the request under this Section.

(5) Refusal to negotiate. The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a failure to negotiate in good faith.

(d) Standards for Arbitration. In resolving by arbitration, under subsection (c) of this Section, any open issues and imposing conditions upon the parties to the agreement, the Commission will:

(1) Ensure that such resolution and conditions meet the requirements of OAC 165:55-17-5 and applicable FCC requirements;

(2) Establish rates for interconnection, services, or network elements consistent with OAC 165:55-17-27; and,

(3) Provide a schedule for implementation of the terms and conditions by the parties to the agreement.

(e) Approval by the Commission and grounds for rejection. Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the Commission, which will approve or reject the agreement, with written findings as to any deficiencies. The Commission will only reject an agreement, or any portion thereof, if it finds that:

(1) The agreement, adopted by negotiation under subsection (a) of this Section, either:

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(A) Discriminates against a telecommunications service provider that is not a party to the agreement; or.

(B) The implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

(2) The agreement adopted by compulsory arbitration under this Section does not meet the requirements of OAC 165:55-17-5 or the agreement does not meet the standards in OAC 165:55-17-27.

(f) Reservation of authority. Notwithstanding subsection (e), the Commission, consistent with the requirements of 47 U.S.C. §253, shall enforce other requirements of State law in its review of an agreement, including requiring compliance with subchapter 13 of this Chapter.

(g) Statement of generally available terms. In conformance with 47 U.S.C. §252(f), SWBT may prepare and file with the Commission a statement of the terms and conditions that SWBT generally offers within Oklahoma to comply with the requirements of 47 U.S.C. §251, and the regulations thereunder and the standards applicable under this Section. In the event SWBT files such a statement, the Commission will:

(1) Approve the statement provided the statement complies with subchapter 13 of this Chapter, OAC 165:55-17-5 and OAC 165:55-17-27 and is consistent with 47 U.S.C. §253;

(2) Complete the Commission's review of SWBT's statement not later than 60 days after the date of such submission, (including any reconsideration thereof), unless SWBT agrees to an extension of the period for such review; or permit such statement to take effect.

(h) Continued review of SWBT's statement of generally available terms. In the event the Commission has permitted the statement of SWBT to take effect pursuant to paragraph (2) of subsection (g), the Commission may continue to review said statement after it is effective and the Commission may approve or disapprove said statement if it does not meet the requirements of paragraph (1) of subsection (g).

(i) Duty to negotiate not affected. The submission or approval of a statement under subsection (g) shall not relieve SWBT of its duty to negotiate the terms and conditions of an agreement pursuant to OAC 165:55-17-5.

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(i) Consolidation of proceedings. Where not inconsistent with the requirements of the Federal Telecommunications Act of 1996, the Commission may, to the extent practical, consolidate proceedings under OAC 165:55-17-5 and OAC 165:55-17-7, in order to reduce administrative burdens on telecommunications service providers, other parties to the proceedings, and the Commission in carrying out its responsibilities under the Telecommunications Act of 1996.

(k) Availability for public inspection. The Commission will make a copy of each agreement approved under subsection (e) and each statement approved under subsection (g) available for public inspection and copying within 10 days after the agreement or statement is approved. The Commission will charge the fees set forth in OAC 165:5-3-1 to cover the costs of processing an application and copying.

(l) Availability to other telecommunications service providers. A telecommunications service provider shall make available any interconnection, service, or network element provided under an agreement approved under this Section to which it is a party, to any other requesting telecommunications service provider, upon the same terms and conditions as those provided in the agreement.

165:55-17-9. Resale of local telecommunications service

(a) Elimination of resale restrictions. Except as provided in this Subchapter, each telecommunications service provider has the duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services. Telecommunications services may be resold, either on a stand-alone basis, or as part of a package of services.

(b) Allowable resale restriction. A telecommunications service provider that obtains, at wholesale rates, a telecommunications service that is available at retail only to a specified category of end-users may only resell such service to the same category of end-users.

(c) Incumbent LEC wholesale rates. Each incumbent LEC has the duty to offer for resale, at wholesale rates, any telecommunications service that the incumbent LEC provides at retail to end-users who are not telecommunications service providers. Wholesale rates of services shall exclude costs attributable to marketing, billing, collection and other costs that will be avoided by the incumbent LEC in providing the service on a wholesale basis.

(d) Automated Interfaces. To the extent an incumbent LEC provides itself, its

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affiliate, or its subsidiary automated interface for purpose of service ordering, maintenance, or repair, it shall make such interfaces available to the extent it protects customer privacy and system integrity, to other telecommunications service providers on rates, terms, and conditions that are just, reasonable and nondiscriminatory. The provision of such interfaces shall not permit access to or manipulation of the underlying systems themselves.

165:55-17-11. Unbundling of incumbent LEC networks

(a) Upon receipt of a bona fide request, each incumbent LEC shall enter into good faith negotiations to unbundle its network elements to the exchange(s) and/or zone(s) specifically requested in the bona fide requests. Said unbundling shall be available at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

(b) Subsection (a) of this Section shall not be applicable to a rural telephone company until such time as the Commission has determined that the bona fide request is not unduly economically burdensome, is technically feasible and is consistent with universal service.

(c) Unbundling issues not addressed or resolved by these rules, shall be addressed and resolved through the negotiation and arbitration process provided for in OAC 165:55-17-5 and OAC 165:55-17-7, in a manner consistent with the Federal Telecommunications Act of 1996 and FCC regulations prescribed thereto.

165:55-17-13. Interconnection of networks

(a) Local exchange telecommunications networks shall be interconnected, where technically feasible, so that end-users of any telecommunications service provider can seamlessly send and/or receive calls without any diminution in service quality regardless of the telecommunications service provider selected by the end-user or the called party. Such interconnection shall be made available, when requested by a competing telecommunications service provider, on an unbundled basis equally and on a nondiscriminatory basis.

(b) A telecommunications service provider shall make available any interconnection, service, or network element provided under an agreement to which it is a party and which has been approved by the Commission pursuant to OAC 165:55-17-7, to any other requesting telecommunications service provider upon the same terms and conditions as those provided in the agreement.

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(c) Interconnection issues not addressed or resolved by these rules, shall be addressed and resolved through the negotiation and arbitration process provided for in OAC 165:55-17-5 and OAC 165:55-17-7, in a manner consistent with the Federal Telecommunications Act of 1996 and FCC regulations prescribed thereto.

165:55-17-15. Reciprocal compensation

(a) Local telecommunications traffic shall be terminated on a nondiscriminatory basis for reciprocal compensation. The Commission will not consider the terms and conditions for reciprocal compensation to be just and reasonable unless:

- (1) Such terms and conditions provide for the mutual and reciprocal recovery by each telecommunications service provider of the costs associated with the transport and termination on each telecommunications service provider's network facilities related to traffic that originates on the network facilities of the other telecommunications service provider; and,
- (2) Such terms and conditions determine said costs on the basis of a reasonable approximation of the additional costs of terminating said traffic.

(b) This Section shall not be construed:

- (1) To preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or,
- (2) To require telecommunications service providers to maintain records with respect to the additional costs of said traffic.

165:55-17-17. Number portability and dialing parity

(a) In General. All telecommunications service providers subject to OAC 165:55-17-5(b)(2) have the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC. Until the date the FCC issues its regulations to require number portability, number portability will be provided through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. In addition, all telecommunications service providers shall provide dialing parity to enable an end-user to have the

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ability to route automatically, without the use of any access code, their traffic to the telecommunications service provider of the end-user's designation, regardless of which telecommunications service provider originates or terminates the traffic.

(b) Additional State Requirements. To the extent a telecommunications service provider allows an end-user to retain the same telephone number when changing service locations within a wire center, said telecommunications service provider must allow an end-user to retain the same telephone number when changing service locations and telecommunications service providers within a wire center.

(c) Public Numbering Resources. Until the date by which telecommunications numbering administration guidelines are established by the FCC, the incumbent LECs shall provide nondiscriminatory access to telephone numbers for assignment to the other telecommunications service provider's end-users. After that date, compliance with such FCC guidelines, plan or rules is required.

(d) Cost recovery. The costs of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications service providers on a competitively neutral basis consistent with FCC rules and regulations.

165:55-17-19. Universal service

Universal service is a paramount goal of the Commission's telecommunications policy. The purpose of universal service is to ensure that all end-users have access to basic residential intrastate voice and/or relay service at a reasonable and affordable price.

165:55-17-21. Universal service fund

(a) The Commission hereby establishes a Universal Service Fund ("USF") to preserve and advance universal service in Oklahoma. Every entity which provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, for the preservation and advancement of universal service in Oklahoma, in a manner established by the Commission.

(b) Within thirty (30) days after submission of the Commission's Agency Rule

Report amending this Subchapter to the Oklahoma Legislature, the Commission shall initiate a docket for the purpose of investigating the definition of basic local service, the calculation of a subsidy of a Carrier of Last Resort, if any, required to support the goal of universal service and to determine any other telecommunications service provider's eligibility for receipt of any funding. Scheduling of the docket shall be designed to complete the Commission's evaluation of universal service within one hundred eighty (180) days of the effective date of this Subchapter, unless otherwise ordered by the Commission.

165:55-17-23. [RESERVED]

165:55-17-25. Costing standards

(a) To facilitate the Commission's ability to arbitrate agreements between telecommunications service providers when negotiations have resulted in a party requesting the Commission to arbitrate, the telecommunications service provider owning facilities that are the subject of arbitration shall provide to the Commission the following cost studies, for those services in dispute, no later than one hundred sixty (160) days after the receipt of a request for negotiation:

- (1) Long-run incremental cost ("LRIC") studies and studies identifying a contribution to common costs for interconnection of facilities and network elements; or
- (2) Marketing, billing, collection and other costs that will be avoided by the telecommunications service provider for any resold services.

(b) To facilitate the Commission's ability to review and approve negotiated agreements between telecommunications service providers, both parties shall provide to the Commission Staff, within ten (10) days following the request, any information, including LRIC studies, necessary to demonstrate that the negotiated agreement does not discriminate against a telecommunications service provider which is not a party to the agreement.

(c) Nothing in this Section precludes a party from requesting production of cost studies during the negotiation process provided for in OAC 165:55-17-7, nor precludes a party from objecting to such request. Disputes related to such requests or objections may be submitted by either party to the Commission for mediation pursuant to OAC 165:55-17-7(b).

165:55-17-27. Pricing and imputation standards

(a) Interconnection and network element charges. The Commission will determine just and reasonable prices for network elements and interconnection of facilities and equipment as follows:

- (1) Prices shall be based on the cost, determined without reference to a rate-of-return or other rate-based proceeding, of providing the interconnection or network element, whichever is applicable:**
- (2) Prices shall be nondiscriminatory; and,**
- (3) Prices may include a reasonable profit.**

(b) Charges for transport and termination of traffic. The terms and conditions for reciprocal compensation shall be consistent with OAC 165:55-17-15 and 47 U.S.C. §252(d)(2).

(c) Wholesale prices for telecommunications services. Incumbent LECs shall provide wholesale rates for all retail telecommunications services sold to end-users on the basis of the retail rates, excluding the portion thereof attributable to any marketing, billing, collection and other costs that will be avoided by telecommunications service providers in providing the service on a wholesale basis.

(d) Southwestern Bell Telephone Company imputation. Southwestern Bell Telephone Company shall charge its affiliates, or impute to itself if using the access for provision of its own services, an amount for access to its telephone service and exchange access that is no less than the amount charged to any unaffiliated IXCs for such service.

(e) Prohibition of subsidization. A telecommunications service provider may not use services that are not competitive to subsidize services that are subject to competition. With respect to intrastate services, the Commission may establish any necessary cost allocations, rules, accounting safeguards, and guidelines to ensure that no such subsidization occurs.

165:55-17-29. Carrier of Last Resort/Eligible Telecommunications Carrier

Each incumbent LEC is designated as a Carrier of Last Resort for the territory for which it was certified on the date of the adoption of the Federal Telecommunications Act of 1996. For the purpose of eligibility to receive federal

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universal service support under 47 U.S.C. §214(e), each Carrier of Last Resort is designated as an eligible telecommunications service provider for its respective service territory. An eligible telecommunications service provider shall, throughout its service territory:

- (1) Offer the telecommunications services that are supported by Federal universal service support mechanisms under 47 U.S.C. §254(c), either using its own facilities or a combination of its own facilities and resale of another telecommunications service provider's services, including the services offered by another eligible telecommunications service provider; and.
- (2) Advertise the availability of such telecommunications services and the charges therefor using media of general distribution.

165:55-17-31. [RESERVED]

165:55-17-33. Verification of compliance prior to providing certain In-Region InterLATA services

After SWBT has made application to the FCC for authorization to provide interLATA services originating in any in-region State, the Commission shall verify compliance pursuant to 47 U.S.C. §271(d)(2)(B) with the requirements contained in 47 U.S.C. § 271(c), once SWBT has met the requirements set forth in this Section.

- (1) Agreement or statement. SWBT meets the requirements for providing certain in-region interLATA services if it has complied with either subparagraph (A) or subparagraph (B) of this paragraph with regard to its telecommunications system in Oklahoma.

(A) Presence of a facilities-based competitor. SWBT complies with the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under 47 U.S.C. §252 specifying the terms and conditions under which SWBT is providing access and interconnection to its network facilities, for the network facilities of one or more unaffiliated telecommunications service providers providing service to residential and business end-users. For the purpose of this subparagraph, such service may be offered by a telecommunications service provider either exclusively over their own telecommunications facilities or predominantly

over their own telecommunications facilities in combination with the resale of the telecommunications services of another telecommunications service provider.

(B) Failure to request access. SWBT meets the requirements of this subparagraph if ten (10) months or more after the date of enactment of the Federal Telecommunications Act of 1996 and three (3) months before the date that SWBT makes its application to the FCC under 47 U.S.C. §271 (d)(1), no unaffiliated telecommunications service provider providing services to residential and business end-users has requested the access and interconnection described in OAC 165:55-17-11(b); provided a statement of the terms and conditions that SWBT generally offers to provide such access and interconnection has been approved or permitted to take effect by the Commission. For purposes of this subparagraph, SWBT shall be considered not to have received any request for access and interconnection if the Commission certifies that the only telecommunications service provider, or providers, making such a request have:

(i) failed to negotiate in good faith as required by 47 U.S.C. §252, or

(ii) violated the terms of an agreement approved under 47 U.S.C. §252 of said Act by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

(2) Specific interconnection requirements. Within Oklahoma, SWBT meets the requirements concerning specific interconnection requirements pursuant to 47 U.S.C. §271 (c)(2), if:

(A) SWBT is providing access and interconnection pursuant to one or more agreements described in paragraph (1)(A) of this Section; or

(B) SWBT is generally offering access and interconnection pursuant to a statement described in paragraph (1)(B) of this Section.

(3) Competitive checklist. The access and interconnection provided or generally offered by SWBT to other telecommunications service providers meets the requirements of 47 U.S.C. §271 (c)(2)(B), if such access and interconnection includes each of the following:

(A) Interconnection in accordance with the requirements of 47 U.S.C. §251(c)(2) and 47 U.S.C. §252(d)(1);

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(B) Nondiscriminatory access to network elements in accordance with the requirements of 47 U.S.C. §251(c)(3) and 47 U.S.C. §252(d)(1):

(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by SWBT at just and reasonable rates in accordance with the requirements of 47 U.S.C. §224:

(D) Local loop transmission from the central office to the end-user's premises, unbundled from local switching or other services:

(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services:

(F) Local switching unbundled from transport, local loop transmission, or other services:

(G) Nondiscriminatory access to:

(i) 911 and E911 services;

(ii) Directory assistance services to allow the other carrier's end-users to obtain telephone numbers; and

(iii) Operator call completion services.

(H) White pages directory listings for end-users of the other telecommunications service provider's telecommunications service:

(I) Until the date by which telecommunications numbering plan, administration guidelines, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other telecommunications service provider's end-users. After that date, compliance with such plan, guidelines or rules:

(J) Nondiscriminatory access to databases and associated signaling necessary for traffic routing and completion:

(K) Until the date by which the FCC issues regulations pursuant to 47 U.S.C. §251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations:

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(L) Nondiscriminatory access to such services or information as are necessary to allow the requesting telecommunications service provider to implement local dialing parity in accordance with the requirements of 47 U.S.C. §251(b)(3):

1. (M) Reciprocal compensation arrangements in accordance with the requirements of 47 U.S.C. §252(d)(2); and.

(N) Telecommunications services are available for resale in accordance with the requirements of 47 U.S.C. §251(c)(4) and 47 U.S.C. §252(d)(3).

165:55-17-35. Unauthorized transfer of end-users

(a) The unauthorized change of an end-user's service to another telecommunications service provider ("slamming") is prohibited. To discourage the practice of slamming and protect end-users from unauthorized changes in their choice of telecommunications service providers, any election of an end-user to switch telecommunications service providers shall be in writing, in print type of at least 12 point.

(b) Prior to transferring an end-user to a different telecommunications service provider, the new telecommunications service provider shall obtain written authorization from the end-user, unless otherwise authorized by the Commission, after notice and hearing.

(c) Willful failure to obtain written authorization of an end-user prior to switching telecommunications service providers shall be punishable as for contempt, pursuant to 17 OS §1 et seq. in the amount of \$500 for each access line for each occurrence.

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NEW RULE CHAPTER

CHAPTER 1220-4-8

REGULATIONS FOR LOCAL TELECOMMUNICATIONS PROVIDERS

NEW RULES

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DEFINITIONS

- (1) In the interpretation of the Rules in this Chapter, the following definitions shall apply:
- (a) **Automatic Emergency Communications District (ECD) Routing** - E-911 call routing to the proper Tandem Central Office where the End Office has subscribers in more than one ECD and the Incumbent Emergency 911 Service provider has different Tandem Central Offices serving those ECD's.
 - (b) **Basic Local Exchange Service** - The telecommunications services comprised of an access line, dial tone, touch-tone, and usage provided to the premises of residential customers or business customers for the provision of high quality, two-way switched voice, or data transmission over voice grade facilities, within a local calling area, Lifeline, Link-up Tennessee, 911 Emergency Services, and educational discounts existing on the effective date of Chapter 408 Public Acts of 1995. Said service shall be provided at the same level of quality as was provided on the effective date of Public Chapter 408. This shall include recurring and non-recurring charges.
 - (c) **Bona Fide Request** - A request to an Incumbent Local Exchange Telephone Company or a Competing Local Telecommunications Service Provider that demonstrates a good faith showing by the requesting provider that it intends to purchase the services within a reasonable time.
 - (d) **Commission** - The Tennessee Public Service Commission.
 - (e) **Common Channel Signaling** - A method of digitally transmitting call set-up and network control data over a special network fully separate from the public switched network that carries the actual call.
 - (f) **Competing Telecommunications Service Provider** - A company, entity, or an individual that offers or provides any two-way communications service, telephone service, paging service, or communications service similar to such services and telegraph services certificated for such services after June 6, 1995.
 - (g) **Emergency Communications District (ECD)** - Any Emergency Communications District created pursuant to the provisions of T.C.A. 7-86-101, et seq.
 - (h) **Enhanced 911/911 Service** - An emergency service available to the general public and activated by dialing the digits 911 on the telephone.
 - (i) **Gross Domestic Product Price Index (GDP-PI)** - The final estimate of the chain-weighted Gross Domestic Product Price Index as prepared by the U.S. Department of Commerce and published in the Survey of Current Business or its successor.
 - (j) **Incumbent Enhanced 911 Emergency Service Provider** - A public utility offering Enhanced 911 Service on June 6, 1995 to any ECD or other governing authority referred to in T.C.A. 7-86-101, et seq.
 - (k) **Interconnection** - Refers to telecommunication services, including intrastate switched access that allows a Telecommunications Service Provider to interconnect with the networks of other Telecommunications Service Providers.
 - (l) **Interexchange Access Service** - A telecommunications service to provide access between end users and an Interexchange carrier and/or private line services between end users.
 - (m) **Interexchange Carrier** - A facilities based telecommunications service provider of intrastate, interLATA telecommunications services

(n) **IntraLATA long distance service** - a long distance service within any LATA.

(o) **Local Calling Area** - The geographic area encompassing one or more local exchanges in maps, tariff, and rate schedules approved by the Commission, including the expanded service area as that term is used in such maps, tariffs, and rate schedules within which toll charges do not apply.

(p) **Local Exchange** - A switching center serving a 10,000 line grouping or less that can be uniquely identified by an area code and the first three digits of a telephone number (NXX code).

(q) **Incumbent Local Exchange Telephone Company** - A public utility offering and providing basic local exchange service pursuant to tariffs approved by the Commission prior to June 6, 1995.

(r) **Local Service** - Any service provided within a local calling area.

(s) **Local Telecommunications Service Providers** - All providers of local telecommunications services certificated by the Commission after June 6, 1995 and all Incumbent local exchange telephone companies serving more than 100,000 access lines or which are otherwise subject to this rule chapter.

(t) **Long Run Incremental Cost** - The additional forward-looking cost the company would incur in offering an existing or new service, group of services or basic network function for the current or reasonably expected level of service demand, excluding shared expenses and overheads not directly attributable to the service or function.

(u) **Non-basic services** - Telecommunications Service which are not defined as basic local exchange telephone services and which are not otherwise exempted from this category by the provisions of TCA 65-5-208. Rates for this service shall include recurring and non-recurring charges.

(v) **Number Portability** - The technical capability to allow a customer to retain his local number, which includes:

1. **service provider portability** - the ability to retain one's telephone number within a local telecommunications provider's service area when changing service providers;

2. **geographic portability** - the ability to take one's telephone number when moving to a different permanent location (business or residential), and;

3. **service portability** - the ability to retain one's telephone number when changing service types, an example would be when a customer changes from voice grade telephone service to Integrated Services Digital Network (ISDN) and retains the same telephone number.

(w) **Price List** - The prices, or a range of prices, charged for services provided by a local telecommunications service provider on file with the Commission.

(x) **Price Regulation** - A method for setting affordable prices through the use of a combination of caps, floors, and indexes or adjustment mechanisms, other than methods which use earnings, rate base and rate of return regulation.

(y) **Rate** - The price of a telecommunication service. Whenever the term price is used in this rule chapter it shall be synonymous with rate and vice versa.

(z) **Shared Tenant Service Provider** - A basic local exchange service subscriber who shares or resells basic local exchange service, generally occurring under a single owner or common development with a single name identity.

(aa) **Stand-alone Cost** - Are those costs that an efficient firm would incur, using least-cost technology, to produce a service or group of services by themselves without reference to the rest of the services produced by the firm.

(bb) **Tariff** - The schedule, or a range, of prices and regulations for a particular service which is filed with the Commission and serves as the official published list of charges, terms and conditions governing the provision of the service or facility. Tariffs function in lieu of a contract between an end user and a service provider.

(cc) **Tariff or price filing date** - The date on which the new tariff filing or price filing is first published in the Commission's weekly tariff sheet.

(dd) **Telecommunications Resale Service** - A service provided by a Telecommunications Service Provider, including Shared Tenant Services Providers, that purchases telecommunications services or functions from another certificated provider for resale to the public.

(ee) **Telecommunications Services** - A generic term describing two-way communications services transmitted over communications facilities. These services include voice, data, and video transmissions. These services exclude the transmission of one-way or two-way television and radio communications over traditional cable television and broadcast facilities provided exclusively between TV or radio subscribers and the TV or radio service provider.

(ff) **Universal Service** - The provision of affordable residential basic local exchange telephone service and carrier-of-last-resort obligations.

(gg) **Usage Based Service** - A service for which the rate applies to each additional increment of service usage. Usage based service does not include a message-rated service or any local exchange service for which usage rates do not apply after a maximum dollar amount or level of usage is consumed.

Statutory Authority: TCA 65-2-102, 65-3-105, 65-4-101, 65-4-104, 65-5-207, 65-5-208
Chapter 408 of Public Acts of 1995

1220-4-8-.02

CERTIFICATION POLICY AND REQUIREMENT

(1) The purpose of this rule chapter is to provide specific rules for the Commission to use in certifying additional service providers in local telecommunications markets.

(2) It is the Commission's policy to ensure that all consumers receive high quality telecommunications services, regardless of the service provider they select and that such providers shall be supervised by the Commission.

(3) Every provider of telecommunications service, unless otherwise exempted by state or federal law, shall obtain a certificate pursuant to application under this Rule before providing local telecommunications service, and shall not provide local telecommunications service without a certificate to provide such service. Any certificate or other Commission approved authority to provide local telecommunications service existing on the effective date of this Rule shall remain in effect unless otherwise revoked by the Commission.

Statutory Authority: TCA 65-2-102, 65-4-201