

- (d) The specific reason(s) that the requested service network access to network facilities, or network function or element cannot or will not be provided, or reason(s) that the telecommunications provider's existing schedules, operating practice, contract(s), or corporate policy should not be changed to accommodate the request within the time requested or within three months after receipt of the request; and
- (e) A report of any offer made by the telecommunications provider to the requestor to furnish similar or substitute service(s) access, functions or elements and the disposition of that offer.

**Derivation: §7(B)(1)**

- (2) Disposition of Request Not Resolved. The notification which is required to be made in subsection A(3) above shall contain the following information:
  - (a) The identification of the person or other entity making the request;
  - (b) The date on which the request was made and/or received, and any date(s) on which the service, network access, or network function or element was requested to be effective;
  - (c) A description of any preliminary findings made with respect to provision of service, access, function or element requested; and
  - (d) The anticipated date on which a determination as to the provision of service, access, function or element will be made.

**Derivation: §7(B)(2)**

- (3) Filing of Responses. Notification required to be made under this subsection must be filed with the Commission within two months after receipt of the request. A copy of the notification must be provided to the requestor.

**Derivation: §7(B)(3)**

- D. Commission Review. A requestor may obtain review of an telecommunications provider's refusal to provide a

requested service or access pursuant to section 15 of this Chapter.

**Derivation:** §7(C)

**NOTE:** This Rulemaking proposes to delete present Section 6. Proposed section 6 below is derived from subsection C of present section 5.

**6. PROVISION OF FACILITIES BY LOCAL EXCHANGE CARRIERS TO OTHER TELECOMMUNICATIONS PROVIDERS**

A. General Obligation of LECs. Upon request by a telecommunications provider, a local exchange carrier (LEC), using its own facilities or providing service by purchasing unbundled network elements shall provide access and interconnection facilities in those areas where it uses its own facilities or purchases unbundled network elements. Access and network facilities should be provided in a timely manner and in a quantity sufficient to accommodate the traffic expected to be generated by the telecommunications provider.

**Derivation:** §5(C) (1)

B. Excessive Traffic.

1. Limitation or Delay. If the provision of the access or interconnection facilities will cause substantial concentration, redirection, or other change to traffic volumes carried on the public switched network that may result in a degradation of service to the LEC's other customers, the LEC shall apply to the Commission for a waiver of these provisions to allow it to terminate, limit, or delay temporarily the provision of service to the requestor until sufficient facilities can be made available.

**Derivation:** §5(C) (1)

2. Capital Additions; Payment. If, as a result of additional traffic by a telecommunications provider, network facilities, including extended area service (EAS) trunks, become exhausted or overloaded, the telecommunications provider must pay the LEC all capital and other costs the LEC incurs that are reasonably necessary to ensure that the access provided to the telecommunications provider will not significantly degrade the service provided to the LEC's own end-users. A reasonable portion of those costs shall be

collected in the form of an installation charge to the interexchange or telecommunications provider at the time the capital additions are required.

**Derivation:** §5(C)(2)

**7. UNAUTHORIZED INTEREXCHANGE SERVICE; BLOCKING OF UNAUTHORIZED TRAFFIC**

Where it is technically possible to distinguish and separate intrastate from interstate traffic, LECs shall deny intrastate access to interexchange providers (IXPs) that are telephone utilities as defined in 35-A M.R.S.A. § 102(19) but are not authorized to provide intrastate telecommunications services. Where the LEC or LECs cannot deny access and the unauthorized IXP can block unauthorized traffic, the IXP shall block all such intrastate traffic. For unauthorized intrastate interexchange traffic that cannot be blocked, the unauthorized IXP shall pay the charge that is required by section 8(G)(1).

**Derivation:** §5(B)

**8. CHARGES TO INTEREXCHANGE PROVIDERS FOR INTEREXCHANGE SERVICE**

**NOTE:** Section 8 contains some provisions that are based on provisions in the present rule, but is almost entirely rewritten and is entirely reorganized. Many new subsections have no counterpart in the present rule, and several subsections in the present rule are proposed to be deleted. See the derivation notes below and the disposition table at Part II.A of the Notice of Rulemaking.

**A. Payment and Reporting Required; Notice of Change of Underlying Interexchange Provider.**

- (1) Applicability. The charges and rates for interexchange access service and the reporting requirements described in this section shall apply to all interexchange providers, as defined in Section 2, including interexchange carriers and switchless interexchange providers, whether or not they are public utilities; incumbent and competitive local exchange carriers that provide interexchange service; and providers of mobile telecommunications services, whether or not they are public utilities.

**Derivation:** §8(A)

- (2) Authority Contingent on Payment and Reporting; Blocking. Failure to pay the charges and rates required by this section and failure to comply

with the reporting obligations shall be grounds for the termination of authority issued by the Commission to provide interexchange service, and shall be grounds, with the approval or order of the Commission, to require blocking of an authorized interexchange provider's intrastate service.

**Derivation: New**

- (3) No Exemption. An interexchange provider that pays interstate access charges for intrastate communications, including those communications carried on interstate facilities, shall not be exempt from payment of the charges and rates required by this Section.

**Derivation: §8(A)(4)**

- (4) Notice of Change of Underlying Interexchange Provider. A switchless interexchange reseller that adds or changes an underlying interexchange provider shall provide notice of that change within 30 days following the date of the change to (a) the Commission, (b) the access administrator, (c) the old underlying provider(s) and (d) the new underlying providers.

**Derivation: New**

B. Forward-Looking Rates for Switching, Transport and Operator Services and Other Traffic-Sensitive Functions.

- (1) In General. Each incumbent local exchange carrier (ILEC) shall establish rates for switching, transport, operator services, and other traffic-sensitive network access functions or services that are set at the forward-looking cost (as defined in section 2(D) for that ILEC of providing each switching (including toll switching), transport, operator service and other traffic-sensitive network element, function or service. The rates shall include the incremental cost to the access administrator to bill and collect from interexchange providers for the access services described by this subsection.

**Derivation: §8(C)(2), (3)**

- (2) Applicability. The rates required by this subsection shall be paid by all interexchange

providers that use the network functions or services described in this subsection for the provision of intrastate interexchange services by those interexchange providers.

**Derivation: New**

- (3) Rate Structure. Except as provided in paragraph 5 below, the forward-looking economic cost rates for switching transport, operator services and other network elements or services shall be differentiated by time of day. Rates shall be established for a peak period and, if necessary to avoid peak shifting, one or more off-peak period. The billing unit for each rate shall be the same as the unit of use for which costs are incurred, to the extent practicable and to the extent consistent with interstate practice or interstate requirements at the Federal Communications Commission. Duration-sensitive costs shall be priced on a duration-sensitive basis; attempt-sensitive costs (e.g., for set-up) shall be priced per attempt; capacity costs shall be priced per unit of capacity. Where cost is sensitive to more than one cost factor, the pricing unit shall be based on multiple factors; for example, transport shall be based on at least distance and duration.

**Derivation: New**

- (4) Averaged Switching and Transport Rates; Exception. The switching rates required by this subsection shall be averaged for all exchanges served by the ILEC, and the transport rates shall be averaged for all of the ILEC's transport routes, but if the forward-looking economic long-run incremental cost for switching any exchange or for any transport route is below the average switching or transport cost for that LEC and deviates from the average by more than 20%, the LEC may file separate rates for those exchanges or routes or for groups of exchanges or routes with similar below-average cost characteristics. If a LEC files a deaveraged rate as provided in this paragraph, the forward-looking economic costs used for calculating the averaged rate for the remaining routes shall exclude the forward-looking economic switching

costs for those exchanges or routes that have specific, deaveraged rates.

**Derivation:**

**General rule of averaging: §8(B)(C)(2), (3);**

**Deaveraging exception: New**

- (5) Rates for Access Services Other Than Feature Group D. An interexchange provider (IXP) that obtains either originating or terminating intrastate access by a means other than a Feature Group D (FGD) access, i.e., by means such as other feature groups, special access, customer-provided access, 700 service or non-FGD 800 service, the IXP shall not be permitted to obtain switching, network functions and transport at the rates described in paragraphs 3 and 4, but shall instead pay rates established by the access administrator that are at least 1.25 times the rates described in paragraphs 3 and 4. An IXP that uses a means of access other than FGD access shall, if required by the access administrator, report its percentages of interstate and intrastate use to the access administrator. Failure to report or under-reporting of intrastate usage shall be subject to the provisions of subsection H below.

**Derivation: New**

- (6) Incumbent Local Exchange Carrier Access Schedules. All incumbent local exchange carriers (ILECs) shall file and maintain access rate schedules for the switching and transport rates required by this subsection with the access administrator. An ILEC that has less than 30,000 access lines in Maine may concur in the rate schedule of an ILEC that has more than 100,000 access lines, or may file a joint schedule with other ILECs having less than 30,000 access lines that concurs in the rate schedule of an ILEC having more than 100,000 access lines. The access administrator shall file copies of all current ILEC access rate schedules with the Commission.

**Derivation: §8(B)**

- (7) Competitive Local Exchange Carrier Schedules.

**RESERVED**

C. Transitional Recovery of Embedded Interexchange Transport, Switching and Operator Service Costs.

- (1) General Purpose. It is the purpose of this subsection to provide for recovery of embedded (historic) intrastate costs of transport, switching and operator services associated with the provision of interexchange service by incumbent local exchange carriers (ILECs) that are

not recovered through the forward-looking economic cost rates described in subsection B above; that the amount recovered from interexchange providers, through a transitional wholesale access charge (in combination with the transport, switching and operator service rates required by subsection B) shall be equivalent to the amounts recovered for those costs from retail ratepayers of ILECs. It is the further intent of this subsection that recovery of those costs will be limited to the embedded cost levels that exist on April 1, 1997; that after the difference between those embedded costs and the forward-looking economic costs of switching, transport and operator services is recovered, the transitional charge shall terminate; and that incumbent local exchange carriers may recover additional investments made and other costs incurred after April 1, 1997 only through retail rates charged to their own retail customers.

- (2) Calculation of Recovery Amount by ILECs; Annual Adjustment; Filing with Access Administrator.
  - (a) Initial Embedded Calculation. Each ILEC shall calculate its embedded annual revenue requirement for the provision of intrastate switching, transport and operator services for the year associated with the provision of interexchange service ending December 31, 1997, using a 13-month average for all rate base items. Operator service costs shall include equipment and equipment-related costs, but shall not include the cost of salaries for operator positions.
  - (b) Annual Reduction. Each year, the ILEC shall reduce the total embedded balance to be recovered from interexchange providers by a percentage approved by the Commission that may be equal to the LEC's approved composite depreciation rate for those investments that are included in the total embedded cost.
  - (c) Calculation of Forward-Looking Recovery. Each year, each ILEC shall also calculate the amount of transport, switching and operator service costs that are subject to recovery pursuant to the forward-looking economic cost rates required by subsection B above, by converting those rates to an annual amount

for all wholesale and retail minutes billed by the ILEC.

- (d) Recovery Amount. The amount of embedded costs subject to recovery pursuant to this subsection shall equal the declining embedded balance calculated pursuant to subparagraph (b) above *minus* the amount subject to recovery from forward-looking rates calculated pursuant to subparagraph (c) above.
- (e) Filing. Each ILEC shall file the calculation required by subparagraph (a) with the access administrator by April 1, 1997 and the annual revisions required by subparagraphs (b), (c) and (d) with the access administrator by April 1 of each year.
- (3) Cost of Capital for Revenue Requirement Calculation. For the purpose of calculating the revenue requirement described in paragraph 2 above, an ILEC shall use the cost of capital that was calculated and approved by the Commission in a litigated or stipulated case within the past five years. If no cost of capital was calculated in the past five years, an ILEC shall calculate its cost of capital using its own capital structure and cost of debt and the cost of equity for an ILEC having a similar capital structure that was calculated and approved by the Commission within the past five years.
- (4) Termination of Charge. The charge required by this subsection shall terminate when the amount remaining to be recovered, after the annual adjustments made pursuant to paragraph 2 above, is equal to the forward-looking economic cost rates for switching, transport, operator services and other traffic-sensitive network functions and services required by subsection B above, after conversion of those rates to an annual amount.

**NOTE: Proposed subsections C (above) and D (below) have as their general antecedent the common line charge contained in § 8(G)(1) of the present rule.**

D. Common Line Cost Recovery Charge.

- (1) General Purpose. The charge required by this subsection shall recover the portion of intrastate common line (the loop plus nontraffic-sensitive

switching functions) costs that are not recovered from local intrastate rates. It is the policy of the Commission that the contribution to common line costs paid by retail customers of ILECs that provide interexchange service, through retail toll rates, shall also be included in the wholesale charge paid by interexchange providers that use the common line facilities to provide their retail interexchange services.

- (2) Calculation of Amount to Be Recovered from Common Line Cost Recovery Charge. Each incumbent local exchange carrier (ILEC) shall calculate and file with the access administrator the amount of common line costs that shall be subject to recovery through the payment of the common line cost recovery charge to be paid by all interexchange providers. The amount subject to recovery shall be equal to (a) annual intrastate embedded revenue requirement for the ILEC's common line (nontraffic-sensitive switching and loop) costs, less (b) that portion of local exchange revenues that provides a contribution to those nontraffic-sensitive costs. The amount required by clause (b) in the previous sentence shall be calculated as described in paragraph 3 below.
- (3) Calculation of Contribution of Local and Ancillary Service Revenues to Nontraffic-Sensitive Costs.
  - (a) Contribution. To determine the contribution to common line costs from local exchange revenues, to common line costs as required for the deduction of those revenues in paragraph 2 above, an ILEC shall determine the amount of its local exchange revenues, and then deduct the amount of its traffic sensitive costs attributable to the provision of local exchange service.
  - (b) Traffic-Sensitive Costs. To calculate the traffic-sensitive costs attributable to local exchange service, an ILEC may conduct an embedded cost study, or it may use the interstate rates derived from Part 69 of the rules of the Federal Communications Commission (47 C.F.R.) as a proxy for its embedded traffic-sensitive costs. If an ILEC chooses to use the proxy method, it shall determine its intrastate embedded traffic-sensitive costs by multiplying (i) the quantities for each switching and transport

functions used to provide local service, by (ii) the tariffed interstate rates for each switching and transport function that have been derived from Part 69.

- (4) Cost of Capital. For the calculation required by paragraph 2 above, an ILEC shall use the same cost of capital that is determined pursuant to subsection C(3) above.
- (5) Revisions of Amounts Subject to Recovery.
  - (a) New England Telephone. New England-Telephone and Telegraph Company (NET) (or its Bell Operating Company successor) shall adjust the amount subject to recovery, as calculated pursuant to paragraph 2 above, each year, at the time of its annual rate adjustment filing required by the alternative form of regulation (AFOR) for NET. The amount subject to recovery shall be governed by the pricing rule for core nondiscretionary services. The revenue requirement amount required by paragraph 2 shall be recalculated whenever time NET's baseline revenue requirement is reset.
  - (b) Other ILECs. Other ILECs that are subject to rate of return regulation shall recalculate the recovery amount required by paragraph 2 at the time of every retail rate case, but no less often than every five years.
  - (c) Other ILECs; AFOR. Other ILECs that are subject to an alternative form of regulation (AFOR) shall recalculate the recovery amount required by paragraph 2 in the same manner as specified by subparagraph (a) above, to the extent applicable, or as required by the order establishing the ILEC's AFOR.

**NOTE: Proposed subsections C and D (above) have as their general antecedent the common line charge contained in §8(C)(1) of the present rule.**

- E. Limited Exemption from Cost Calculation by ILECs Using Average-Schedule Costs. For the period of time described below, an incumbent local exchange carrier that participates in settlements of interexchange retail revenues using an average schedule of costs may use those costs to determine its amounts subject to recovery pursuant to subsections C(2) and D(2), instead

of conducting the calculations otherwise required by those subsections. This limited exemption shall last until the earlier of (1) the conclusion of a general rate increase case filed by an average schedule company or the conclusion of a rate investigation by the Commission, or (2) five years from the effective date of this Rule.

**Derivation: New**

F. Access Administrator; Rate Schedules.

- (1) Access Administrator. The Commission shall appoint or approve the appointment of an access administrator.
- (2) Duties of Access Administrator in Connection with Subsection C and D Recovery Amounts. With respect to the recovery amounts described in subsections C and D above, the access administrator shall:
  - (a) Reports. Receive reports of billings for retail and wholesale sales from all competitive providers, and enforce reporting requirements.
  - (b) Calculate Rate. Calculate the percentage of retail billings that each competitive provider shall pay and file access rate schedules with the Commission.
  - (c) Bill and Collect. Bill and collect from interexchange providers the amounts due under the access schedules described in subparagraph (b) above.
- (3) Other Duties. The access administrator shall also:
  - (a) Billing and Collection of Forward-Looking Transport, Switching and Operator Service Rates. File with the Commission a copy of each ILEC's rate schedules for the rates for switching, transport, operator services and other traffic-sensitive functions required by subsection B and bill and collect amounts due under those schedules.
  - (b) Enforcement. Enforce the provisions of section 7; file a rate schedule for the charges required by subsection G of this section for unauthorized operation, for

failure to report and for false under-reporting; and collect the amounts due under those schedules.

- (4) Authority to Enforce Rate Schedules and Obtain Data; Audits. The access administrator shall have the obligation and all necessary authority to bill for and collect access charges that are owed pursuant to its approved access rate schedules and to obtain all data that is necessary for that enforcement. The access administrator shall have the authority to conduct or require an audit of any interexchange provider that is subject to the rates and charges administered by the access administrator.

**Derivation: §8(B)**

G. Administration, Collection and Distribution of Subsections C and D Recovery Amounts.

- (1) Quarterly Reports by Interexchange Providers. Each quarter, every interexchange provider (IXP), including all switchless interexchange resellers and all ILECs that provide interexchange service, shall report to the access administrator, on forms provided by the access administrator, the following information for the previous quarter:
- (a) the intrastate interexchange billings to retail customers by the IXP;
  - (b) the total of its intrastate interexchange service billings to its wholesale customers;
  - (c) the name of each wholesale customer and the amount billed to that customer for wholesale intrastate interexchange.

**Derivation: New**

- (2) Wholesale Billings; Definition; Restriction. For the purpose of this subsection, billings to wholesale customers shall include billings for services that are resold by switchless interexchange resellers pursuant to any rate schedule of the IXP that is limited to such resale, and billings to other IXPs for the leasing of any facilities to those IXPs. No billings may be reported by an interexchange provider as wholesale billings for services that are resold by switchless interexchange resellers unless (1) they

are sold to a switchless interexchange reseller that is registered with the access administrator, and (2) they are sold under a rate schedule that complies with the requirement of section 10(B). Continued authority to provide interexchange service is contingent on the accurate reporting of the information required by this subsection.

**Derivation: New**

- (3) Calculation of Rate; Payment. Each interexchange provider shall pay to the access administrator the share of its retail intrastate interexchange billings that shall be calculated by the access administrator as follows:

the combined amounts of all ILECs for the recovery of common line and embedded transport and switching costs (as calculated pursuant to subsections C(2) and D(2) above), adjusted annually.

*divided by*

the combined intrastate interexchange billings to retail customers of all interexchange providers for the quarter ending six months prior to the calculation date, multiplied by 4.

The rate shall be recalculated on March 31, June 30, September 30 and December 31 of each year.

**EXAMPLE**

If the numerator (*the combined ILEC intrastate interexchange recovery amount*) is \$18,000,000, and the denominator (quarterly IXP retail billings, multiplied by 4 to annualize) is \$30,000,000, the result of the division will be 0.60. Each IXP must pay 60% of its retail interexchange billings.

**Derivation: New**

- (4) Minimum Payment for Resold Services. For those wholesale services described in paragraph 2 above that have been sold to switchless interexchange providers, the switchless interexchange provider shall pay the greater of: the amount required by paragraph 3 above amount for wholesale services, or the minimum payment as calculated pursuant to

this paragraph. The minimum payment shall equal (a) the amount billed to the switchless interexchange provider by the underlying interexchange provider *divided* by (b) 1 minus the percentage rate (converted to a decimal amount) calculated pursuant to paragraph 3 above. The quotient of (a) and (b) above shall be *multiplied* by the percentage rate (converted to a decimal amount) calculated pursuant to paragraph 3. The underlying interexchange provider shall be liable for any payment not made by the switchless interexchange reseller, up to the minimum amount.

**Derivation: New**

- (5) Distribution of Revenues Among ILECs. The access administrator shall distribute the quarterly revenues received pursuant to paragraph 2 above among all ILECs in direct proportion to the ILEC's amount subject to recovery for each ILEC by adding the amounts subject to recovery for that ILEC calculated pursuant to subsections C(2) (embedded transport and switching costs) and D(2) (common line costs), adjusted annually.

**Derivation: § 8(H)**

H. Unauthorized Service; Failure to Report and Under-reporting; Rates; Notice.

- (1) Rate for Unauthorized Operation. If an interexchange provider that is a public utility is providing interexchange service, but has not obtained authority to provide that service pursuant to 35-A M.R.S.A. § 2102 and section 4(A) of this Chapter, and the unauthorized intrastate interexchange traffic it carries or sells cannot or has not been blocked, as required by section 7, the unauthorized interexchange provider shall pay the charges for unauthorized interexchange traffic that shall be contained in the access rate schedule filed by the access administrator. The charges shall be approved by the Commission and shall include (1) a per-minute charge that is not less than the average Message Telecommunications Service (MTS) rate of all ILECs with no time-of-day discounts, and (2) a revenue-based charge equal to some multiple of the carrier's total revenues (interstate and intrastate) for all traffic originating in Maine.

**Derivation: §5(B)**

- (2) Failure to Report Intrastate Use. If an interexchange provider fails to report a percentage of intrastate use required by subsection B(5) above, it shall pay the intrastate access charge required by that subsection on all of its traffic (interstate and intrastate) that originates or terminates in Maine. The access administrator shall implement this requirement in its access rate schedule.

**Derivation: New**

- (3) Failure to Report Billings. An interexchange provider that fails to report intrastate interexchange retail billings, wholesale billings or other information related to wholesale billings required by subsection G(1) above, shall pay the rate for failure to report billings that shall be established by the access administrator in a rate schedule to be approved by the Commission. The rate for failure to report intrastate interexchange billings shall be not less than 1.5 times the amount owed pursuant to subsection G(3) above.

**Derivation: New**

- (4) Underreporting. If a competitive interexchange provider or interexchange carrier has a duty to report its percentage of intrastate usage pursuant to subsection B(6) above, or intrastate interexchange retail and wholesale revenues pursuant to subsection G(1) above, and provides a false report of its usage or its revenues that underreports its intrastate interexchange revenues or percentage usage by more than a *de minimis* amount, it shall pay a rate for false underreporting that shall be contained in the access rate schedule filed by the access administrator and approved by the Commission. The rate for false underreporting of PIU shall be not less than the Message Telecommunication Service (MTS) rate averaged for all ILECs, with no time-of-day discounts, and shall apply to all of its traffic (interstate and intrastate) that originates in Maine. The rate for false underreporting of intrastate interexchange revenues shall be not less than two times the amount owed pursuant to subsection G(2) above.

The forms for reporting provided by the access administrator shall provide conspicuous notice

that false statements made by a person on that form, that the person making the statement does not believe to be true, are punishable as unsworn falsification as provided in 17-A M.R.S.A. § 453.

**Derivation: New**

9. **LOCAL INTERCONNECTION CHARGES**

**RESERVED**

10. **SCHEDULE FILINGS BY INTEREXCHANGE PROVIDERS; CHANGES IN RATES**

- A. Rate Schedules. Interexchange providers subject to the authority of the Commission shall file schedules of rates and terms and conditions as provided in 35-A M.R.S.A. § 307, and such rates shall be subject to provisions of all applicable statutes, including 35-A M.R.S.A. §§ 309, 701-703.

**Derivation: §10(A)**

- B. Wholesale Rates; Limitations; Statement of Minimum Access Charge. An interexchange provider that files a rate schedule providing a wholesale interexchange rate shall include terms and conditions with that rate that: (1) limits the availability of the rate to switchless interexchange resellers that have registered with the access administrator; and (2) prohibits the purchaser from using the service for any purpose other than resale. The wholesale rate schedule shall also state the following information: (1) the minimum access payment that the purchaser must pay for resold services, as calculated pursuant to section 8(G)(4); and (2) the break-even amount for the reseller, defined as the wholesale rate itself plus the minimum access payment.

**Derivation: New**

- C. Telecommunication services for the deaf, hearing impaired, and speech impaired. Interexchange providers are required to provide a 70% rate reduction for intrastate toll calls for deaf, hard-of-hearing or speech-impaired persons as required by 35-A M.R.S.A. § 7302.

**Derivation: § 10(B)**

- D. Changes in Interexchange Rates; Finding; Policy. Rates for interexchange services provided by interexchange

providers (IXPs) other than incumbent local exchange carriers (ILECs) are subject to competitive market forces. Because of active regulation of the interexchange rates of ILECs, which have a significant portion of that market, the Commission finds that the interexchange rates provided by IXPs other than ILECs generally will be just and reasonable without active review. Accordingly, although the interexchange rates of IXPs subject to the jurisdiction of the Commission are subject to the suspension and investigation provisions of 35-A M.R.S.A. § 310, the Commission ordinarily will not exercise those powers when IXPs other than ILECs propose to change their interexchange rates.

**Derivation: New**

- E. Exemption from Filing Requirements. Because of the finding and policy stated in subsection C above, interexchange providers other than ILECs shall be exempt from those provisions of Chapters 110 and 120 that require notice to customers and to the Commission and the filing of specified information at the time a utility files a "general increase in rates" as defined in 35-A M.R.S.A. § 307, unless the Commission orders otherwise in a particular case.

**Derivation: Chapter 110, § 711**

**11. NOTICE BY ALL INTEREXCHANGE PROVIDERS PRIOR TO EFFECTIVE DATE OF RATE INCREASES**

- A. General Requirement. At least 15 days prior to the effective date of a rate increase of 20% or more in the rate for any individual interexchange service offered by any interexchange provider (IXP) (including LECs offering interexchange service) subject to the authority of the Commission, the IXP shall send notice by a bill insert or by separate mailing to all affected customers. For the purpose of this section, a "rate increase" shall include any term and condition that has the effect of raising a rate for one or more customers.
- B. Cancellation Period Added to Notice Period. If a rate (including a rate pursuant to special contract) contains a term and condition stating that cancellation of a service by a customer will not be effective until a stated time period following notice given by the customer to the telecommunications provider, the notice period for the telecommunications provider required by subsection A shall be equal to 15 days plus the length

of the period required for the customer to provide notice cancellation.

- C. Affected Customer: Definition. A customer is affected by a rate if the customer has used the service that is subject to the rate increase of 20% or greater and, during the month prior to or after the filing of the proposed increase, has incurred total charges for the service of \$5 or more, or if, during the three months prior to the filing of the proposed increase, has incurred total charges for the service of \$15 or more.
- D. Alternative Compliance. An interexchange carrier or competitive provider may satisfy this requirement by sending notice of all increases of 20% or more to all its customers.
- E. Exemption. An incumbent local exchange carrier or any other telecommunications provider that has complied with the notice requirements of Chapter 110, § 718 following a general rate case is not required to comply with this subsection.

**Derivation of proposed § 11: New**

**12. REPORTS AND RECORDS**

- A. Annual Reports. All interexchange providers subject to the authority of the Commission are exempt from the annual report and other requirements of Chapter 210 (Uniform System of Accounts for Telephone Utilities) of the Commission's Rules. They shall, however, annually provide the Commission, in a manner prescribed and on forms specified by the Commission, with a report of its annual revenues, and total minutes of use sold, the annual revenues derived from sales for resale and the number of minutes of use sold to resellers.

**Derivation: § 12(A)**

- B. Records. All providers of telecommunications services subject to the provisions of this Chapter shall maintain records sufficient to identify and to allow auditing of traffic volumes, intrastate interexchange billings for both retail and wholesale services, and all information that is necessary to calculate access or interconnection charges in accordance with this Chapter. Those records shall be maintained for a minimum of two calendar years.

**Derivation: § 12(B)**

**13. WAIVER OF 35-A M.R.S.A. §§ 707 AND 708; NOTICE REQUIREMENT**

- A. Waiver. Subject to the conditions described in subsections B and C below, interexchange providers subject to the jurisdiction of the Commission shall be exempt from the requirement of 35-A M.R.S.A. § 708(2) that each reorganization (defined in 35-A M.R.S.A. § 708(1)) of a public utility be approved by the Commission.
- B. Notice Requirement. Each public utility that is exempt pursuant to subsection A from the requirement that reorganizations be approved shall file notice with the Commission of any reorganization that results in a merger, sale or transfer of a controlling interest or of the public utility or of any entity that owns more than 50% of the public utility. The notice required by this subsection shall be filed within 10 days following any reorganization described herein.
- C. Changes of Name, Business Office and Contact Person; Notice. Each public utility subject to the exemption contained in subsection A that has changed its name, the name under which it does business (d/b/a), the location of its business office, and its contact person shall provide the Administrative Director of the Commission with notice of that change within 30 days following the change.

**Derivation: New**

**14. APPLICABILITY OF OTHER STATUTES**

All telephone utilities organized or incorporated under the laws of this state shall obtain the approval required by 35-A M.R.S.A. § 901 for the issuance of stocks, bonds and notes. All telephone utilities must obtain the approvals required by 35-A M.R.S.A. § 1101 prior to selling or encumbering property useful in its duties to the public, by 35-A M.R.S.A. § 1103 prior to acquiring the stock of another public utility organized or existing under the laws of this state, and by 35-A M.R.S.A. § 1104 prior to abandoning property or discontinuing service.

**Derivation: § 13**

**15. COMMISSION REVIEW**

Any person aggrieved may obtain review of decisions by any local exchange carrier that provides or has an obligation to provide interexchange access or interconnection for local exchange competition, or any access, service or network element described in section 5. The aggrieved person may refer the

matter to the Commission for Staff resolution. The matter will be treated as an informal complaint submitted for resolution by the Staff under section 1102 of Chapter 110 of the Commission's rules. If a party is not satisfied with the Staff's resolution, it must file a written request for Commission review within seven business days following the issuance of the resolution by the Staff. Failure to file a timely request for Commission review of the Staff's resolution shall constitute acceptance of the resolution and waiver of further opportunity to be heard with respect to the matter.

Receipt of a request for Commission review shall be treated as a request for investigation pursuant to 35-A M.R.S.A. § 1303. A summary investigation shall be conducted, after which the Commission shall determine whether a formal investigation is warranted. If it decides to commence a formal investigation, the Commission shall may affirm, reverse, or modify the Staff's resolution. If the Commission decides not to commence a formal investigation, failure to act in accordance with the Staff's resolution shall constitute grounds to commence a formal investigation pursuant to section 1303 and the initiation of a proceeding to issue a temporary order pursuant to 35-A M.R.S.A. § 1322.

**Derivation: § 11**

#### **16. WAIVER OF PROVISIONS OF RULE**

Any provider of telecommunications services subject to the provisions of this Chapter may request that the Commission waive some or all of the requirements of this Chapter. Where good cause exists, the Commission, the Administrative Director, the Director of Technical Analysis, or the Hearing Examiner assigned to a proceeding involving the subject matter of the waiver may grant the requested waiver, provided that the granting of the waiver would not be inconsistent with the intent of this Chapter. The waiver shall be applicable only to the specific application under consideration.

**Derivation: § 14**

**AUTHORITY:** 35-A M.R.S.A. §§ 104, 111, 301, 1301, 2102, 2105, 2110 and 7101.

Amy Dougherty, Attorney  
Kentucky Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

Don Gilbert  
Cathy Hotka  
National Retail Federation  
325 7th Street, N.W., Suite 1000  
Washington, D.C. 20004

David Becket, Esq.  
Assistant Attorney General  
Colorado PUC  
1580 Logan Street  
Office Level 2  
Denver, CO 80203

Kofi Asiedu Ofori, Counsel  
Office of Comm. Of the United Church of Christ  
2000 M Street, N.W.  
Suite 400  
Washington, D.C. 20036

Richard J. Johnson  
Brian T. Grogan  
Moss & Barnett  
Attorneys for The Minnesota Indep. Coalition  
4800 Northwest Center, 90 South 7th Street  
Minneapolis, MN 55402-4129

Angela J. Campbell  
Ilene R. Penn  
John Podesta  
Institute for Public Representation  
600 New Jersey Ave., N.W.  
Washington, D.C. 20001

Katherine Grincewich  
Office of the General Counsel  
United States Catholic Conference  
3211 4th Street, NE  
Washington, D.C. 20017-1194

Andrea Kelsey  
David Bergmann  
Richard Pace  
Assistant Consumers' Counsel  
77 South High Street, 15th Floor  
Columbus, OH 43266-0550

Judith St. Ledger-Roty  
Stefan M. Lopatkiewicz  
Reed Smith Shaw & McClay  
1301 K Street, N.W., East Tower  
Washington, D.C. 20005

Kenneth Lein, Manager  
Winnebago Cooperative Telephone Assoc.  
704 East Main  
Lake Mills, IA 50450

The Honorable Reed E. Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

The Honorable Rachelle B. Chong, Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

The Honorable Julia Johnson, Commissioner  
Federal Communications Commission  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure  
Vice Chairman  
Missouri Public Service Commission  
301 West High St., Suite 530  
Jefferson City, MO 65102

The Honorable Sharon L. Nelson  
Chairman  
Washington Utilities and Transportation  
Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

The Honorable Laska Schoenfelder  
Commissioner  
South Dakota Public Utilities Commission  
500 E Capital Avenue  
Pierre, SD 57501

Martha S. Hogerty  
Public Counsel for the State of Missouri  
P.O. Box 7800  
Harry S. Truman Building, Room 250  
Jefferson City, MO 65102

Paul E. Pederson  
State Staff Chair  
Missouri Public Service Commission  
P.O. Box 360  
Truman State Office Building  
Jefferson City, MO 65102

Kisa Boehley  
Federal Communications Commission  
2100 M Street, N.W., Room 8605  
Washington, D.C. 20554

Charles Bolle  
South Dakota, PUC  
State Capitol, 500 E. Capitol Street  
Pierre, SD 57501-5070

Deonne Bruning  
Nebraska PSC  
300 The Atrium  
1200 N. Street, P.O. Box 94927  
Lincoln, NE 68509-4927

James Casserly  
Federal Communications Commission  
Office of Commissioner Ness  
1919 M Street, Room 832  
Washington, D.C. 20554

John Clark  
Federal Communications Commission  
2100 M Street, room 8619  
Washington, D.C. 20554

Bryan Clopton  
Federal Communications Commission  
2100 M Street, N.W., Room 8615  
Washington, D.C. 20554

Irene Flannery  
Federal Communications Commission  
2100 M Street, Room 8922  
Washington, D.C. 20554

Daniel Gonzalez  
Federal Communications Commission  
Office of Commissioner Chong  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

Emily Hoffnar  
Federal Communications Commission  
2100 M Street, N.W., Room 8623  
Washington, D.C. 20554

L. Charles Keller  
Federal Communications Commission  
2100 M Street, N.W., Room 8918  
Washington, D.C. 20554

Lori Kenyon  
Alaska PUC  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501

David Krech  
Federal Communications Commission  
2025 M Street, N.W., Room 7130  
Washington, D.C. 20554

Debra M. Kriete  
Pennsylvania Public Utilities Comm.  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Diane Law  
Federal Communications Commission  
2100 M Street, N.W., Room 8920  
Washington, D.C. 20554

Mark Long  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

Robert Loube  
Federal Communications Commission  
2100 M Street, N.W., Room 8914

Samuel Loudenslager  
Arkansas Public Service Commission  
P.O. Box 400  
Little Rock, AR 72203-0400

Sandra Makeeff  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, IA 50319

Philip F. McClelland  
Pennsylvania Office of Consumer Advocate  
1425 Strawberry Square  
Harrisburg, PA 17120

Michael A. McRae  
D.C. Office of the People's Counsel  
1133 15th Street, N.W., Suite 500  
Washington, D.C. 20005

Tejal Mehta  
Federal Communications Commission  
2100 M Street, N.W., Room 8625  
Washington, D.C. 20554

Terry Monroe  
New York Public Service Commission  
Three Empire Plaza  
Albany, NY 12223

John Morabito  
Deputy Division Chief, Accounting & Audits  
Federal Communications Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20554

Mark Nadel  
Federal Communications Commission  
1919 M Street, N.W., Room 542  
Washington, D.C., 20554

John Nakahata  
Federal Communications Commission  
Office of the Chairman  
1919 M Street, N.W., Room 814  
Washington, D.C., 20554

Lee Palagyi  
Washington Utilities & Transportation Comm.  
1300 South Evergreen Park Drive, S.W.  
Olympia, WA 98504

Kimberly Parker  
Federal Communications Commission  
2100 M Street, N.W., Room 8609  
Washington, D.C. 20554

Barry Payne  
Indiana Office of the Consumer Counsel  
100 North Senate Ave., Room N501  
Indianapolis, IN 46204-2208

Jeanine Poltronieri  
Federal Communications Commission  
2100 M Street, N.W., room 8924  
Washington, D.C. 20554

Gary Seigel  
Federal Communications Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20554

Richard Smith  
Federal Communications Commission  
2100 M Street, N.W., Room 8605  
Washington, D.C. 20554

Pamela Szymczak  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Lori Wright  
Federal Communications Commission  
2100 M Street, N.W., Room 8603  
Washington, D.C., 20554

Eileen Benner  
Idaho Public Utilities Commission  
P.O. Box 83720  
Boise, ID 83720-0074

Charles Bolle  
South Dakota Public Utilities Commission  
State Capital, 500 E. Capital Ave.  
Pierre, SD 57501-5070

Lorraine Kenyon  
Alaska Public Utilities Commission  
1016 West Sixth Ave., Suite 400  
Anchorage, AK 99501

Clara Kuehn  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Rafi Mohammed  
Federal Communications Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20036

Andrew Mulitz  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Gary Oddi  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Lee Palagyi  
Washington Utilities & Transportation Comm.  
P.O. Box 47250  
Olympia, WA 98504-7250

Jeanine Poltronieri  
Federal Communications Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

James Bradford Ramsay  
Natl. Assoc. Of Regulatory Utility Comm.  
1201 Constitution Ave., N.W.  
Washington, D.C. 20423

Jonathan Reel  
Federal Communication Commission  
2000 L Street, N.W., Suite 257  
Washington, D.C. 20036

Brian Roberts  
California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102-3298

Whiting Thayer  
Federal Telecommunications Commission  
2000 L Street, N.W., Suite 812  
Washington, D.C. 20036

Alex Belinfante  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Larry Povich  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

International Transcription Service  
1990 M Street, N.W., Room 640  
Washington, D.C. 20036

The Interactive Services Association  
Edwin N. Lavergne  
J. Thomas Nolan  
Ginsburg Feldman & Bress, Chartered  
1250 Connecticut Ave., N.W.  
Washington, D.C. 20036

Ellis Jacobs  
Council for the Edgemont Neighborhood  
Coalition  
Legal Aid Society of Dayton  
333 West First Street, Suite 500  
Dayton, OH 45402

Public Utility Commission of Texas  
Vicki Oswalt  
Director, Office of Policy Development  
7800 Shoal Creek Blvd.  
Austin, TX 78757-1098

Brite Voice Systems, Inc.  
David F. Hemmings  
Executive Vice President  
7309 East 21st Street, North  
Wichita, KS 67206

Ronald A. Gagnon  
Executive Director  
Noble  
26 Cherry Hill Drive  
Danvers, MA 01923

Carolyn Purcell  
Executive Director  
Department of Information Resources  
P.O. Box 13564  
Austin, TX 78711-3564

Adam Turner  
Consultant to the Resident Representative  
2121 R Street, N.W.  
Washington, D.C. 20006

Mitchell Sprague  
Mendocino Unified School District  
P.O. Box 1154  
Mendocino, CA 95460

Allied Associated Partners, LP  
Geld Information Systems  
Curtis T. White, Managing Partner  
4201 Connecticut Ave., N.W., Suite 402  
Washington, D.C. 20008-1158

Ronald K. Greenhalgh  
Chief Engineer  
Natl. Rural Electric Cooperative Assoc.  
4301 Wilson Blvd.  
Arlington, VA 22203-1860

State of South Carolina  
Public Service Commission  
R. Glenn Rhyne, Manager  
Research Department, PO Drawer 11649  
Columbus, SC 29211