

Attachment A

PART 53 -- SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

Subpart A – General Information

Sec.
53.3 Terms and Definitions

§ 53.3 Terms and Definitions

Checklist Network Element. A *Checklist Network Element* is any facility or equipment, including the features, functions, and capabilities that are provided by means of such facilities or equipment, enumerated in section 271(c)(2)(B)(iv)-(x) of the Act.

Customer's Premises. A *customer's premises* as referred to in section 271(c)(2)(B)(iv) of the Act is any technically feasible point designated by the requesting telecommunications carrier.

Statement of Generally Available Terms. A *Statement of Generally Available Terms* ("SGAT") is a statement of the terms and conditions, and prices that a BOC generally offers to fulfill its obligations under section 271(c)(2)(B)(iv)-(x) of the Act.

Telecommunications Carrier. *Telecommunications Carrier* has the same meaning as that term is defined in section 153(a)(44) of the Communications Act of 1934, as amended.

Subpart G – Compliance with Section 271 Checklist Requirements

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§ 53.601 Applicability and Compliance

- (a) The requirements of this section apply to a BOC in any state in which it has been authorized pursuant to section 271(d) to provide in-region interLATA services.
- (b) A BOC shall comply with section 271(c)(2)(B)(iv)-(x) of the Act through the filing and approval by the Commission of an SGAT in accordance with the requirements of this Part.
- (c) In addition to the requirements of subsection (b) of this section, a BOC may negotiate an agreement that contains terms and conditions and prices for Checklist Network Elements that differ from those contained in its SGAT, provided that such agreement is filed in accordance with this Part. The filing of a negotiated agreement does not relieve a BOC from its obligation to have an effective SGAT on file with the Commission.
- (d) SGATs and negotiated agreements must meet the requirements of sections 201(b), 202(a) and 271 of the Act.

§ 53.602 General Terms and Conditions

- (a) A BOC shall provide to a requesting telecommunications carrier nondiscriminatory access to Checklist Network Elements on an unbundled basis at any technically feasible point on terms and conditions that are just, reasonable, and nondiscriminatory.
- (b) The duty to provide access to Checklist Network Elements pursuant to section 271 of the Act includes a duty to provide a connection to the Checklist Network Elements independent of any duty to provide interconnection pursuant to this part and section 251(c)(2) of the Act.
- (c) A BOC shall provide a requesting telecommunications carrier access to a Checklist Network Element, along with all of the features, functions, and capabilities of the network element, in a manner that allows the requesting telecommunications carrier to provide any service that can be offered by means of that Network Element.
- (d) A BOC shall provide a requesting telecommunications carrier access to the facility or functionality of a requested Checklist Network Element separate from access to the facility or functionality of other Checklist Network Elements or network elements provided under section 251(c)(3) of the Act, for a separate charge.
- (e) A BOC shall make all routine network modifications necessary to provide Checklist Network Elements pursuant to sections 271(c)(2)(B)(iv) and (v) of the Act where the requested Checklist Network Element facilities have already been constructed. Such routine network modifications shall be performed in accordance with §§ 51.319(a)(7) and 51.319(e)(4). Routine network modifications to Checklist Network Elements as provided for in this section shall be performed at no additional charge to the rates established in

accordance with § 53.609. Routine network modifications to Checklist Network Elements as provided for in this section shall be performed within the intervals and subject to the performance measurements and associated remedies for corresponding network elements provided under section 251(c)(3) of the Act.

(f) A BOC shall provide a requesting telecommunications carrier technical information about the BOC's network facilities sufficient to allow the requesting telecommunications carrier to achieve access to Checklist Network Elements consistent with the requirements of this section.

(g) Checklist Network Elements shall remain subject to any performance and/or penalty plans filed by a BOC for corresponding network elements provided under section 251(c)(3) of the Act.

§ 53.603 Use of Checklist Network Elements

(a) A BOC shall not impose limitations, restrictions, or requirements on requests for, or the use of, Checklist Network Elements.

(b) A telecommunications carrier purchasing access to a network facility as a Checklist Network Element is entitled to exclusive use of that facility for a period of time, or when purchasing access to a feature, function, or capability of a facility, a telecommunications carrier is entitled to use of that feature, function, or capability for a period of time. A telecommunications carrier's purchase of access to a Checklist Network Element does not relieve the BOC of the duty to maintain, repair, or replace the Checklist Network Element.

(c) A BOC shall permit a requesting telecommunications carrier to commingle a Checklist Network Element or a combination of Checklist Network Elements with one or more wholesale services or facilities, including network elements provided under section 251(c)(3), obtained from a BOC.

(d) A BOC shall perform the functions necessary to commingle a Checklist Network Element or a combination of Checklist Network Elements with one or more wholesale services or facilities, including network elements provided under section 251(c)(3), that a requesting telecommunications carrier has obtained from a BOC

§ 53.604 Nondiscriminatory Access to Checklist Network Elements

(a) The quality of a Checklist Network Element, as well as the quality of the access to the Checklist Network Element, that a BOC provides to a requesting telecommunications carrier shall be the same for all telecommunications carriers requesting access to that Network Element.

(b) To the extent technically feasible, the quality of a Checklist Network Element, as well as the quality of the access to such Network Element, that a BOC provides to a requesting

telecommunications carrier shall be at least equal in quality to that which the BOC provides to itself. If a BOC fails to meet this requirement, the BOC must prove that it is not technically feasible to provide the requested Checklist Network Element, or to provide access to the requested Checklist Network Element, at a level of quality that is equal to that which the BOC provides to itself.

(c) Previous successful access to a Checklist Network Element or a network element provided under section 251(c)(3) of the Act at a particular point in a network, using particular facilities, is substantial evidence that access is technically feasible at that point, or at substantially similar points, in networks employing substantially similar facilities. Adherence to the same interface or protocol standards shall constitute evidence of the substantial similarity of network facilities.

(d) Previous successful provision of access to a Checklist Network Element or a network element provided under section 251(c)(3) of the Act at a particular point in a network at a particular level of quality is substantial evidence that access is technically feasible at that point, or at substantially similar points, at that level of quality.

§ 53.605 Just, Reasonable and Nondiscriminatory Terms and Conditions for the Provision of Checklist Network Elements

(a) The terms and conditions pursuant to which a BOC provides access to Checklist Network Elements shall be offered equally to all requesting telecommunications carriers.

(b) Where applicable, the terms and conditions pursuant to which a BOC offers to provide access to Checklist Network Elements, including but not limited to, the time within which the BOC provisions such access to such network elements, shall, at a minimum, be no less favorable to the requesting carrier than the terms and conditions under which the BOC provides such elements to itself.

(c) A BOC may not condition any term, condition or price of a Checklist Network Element on a telecommunications carrier's commitment to fulfill set quantities or percentages of the telecommunications carrier's demand using the BOC's wholesale network facilities or services including, but not limited to, special access services.

(d) A BOC must provide a carrier purchasing access to Checklist Network Elements with the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions of the BOC's operations support systems.

§ 53.606 Combination of Checklist Network Elements

(a) A BOC shall provide Checklist Network Elements in a manner that allows requesting telecommunications carriers to combine such network elements in order to provide service.

(b) Except upon request, a BOC shall not separate requested Checklist Network Elements that the BOC currently combines.

(c) Upon request, a BOC shall perform the functions necessary to combine Checklist Network Elements with other Checklist Network Elements or with network elements provided under section 251(c)(3), or other wholesale services, in any manner, even if those elements or services are not ordinarily combined in the BOC's network, provided that such combination:

- (1) Is technically feasible; and
- (2) Would not undermine the ability of other carriers to obtain access to network elements or to interconnect with the BOC's network.

(d) Upon request, a BOC shall perform the functions necessary to combine Checklist Network Elements with elements possessed by the requesting telecommunications carrier in any technically feasible manner.

(e) A BOC that denies a request to combine network elements pursuant to paragraph (c)(1) or paragraph (d) of this section must prove that the requested combination is not technically feasible.

(f) A BOC that denies a request to combine network elements pursuant to paragraph (c)(2) of this section must demonstrate that the requested combination would undermine the ability of other carriers to obtain access to network elements or to interconnect with the BOC's network.

(g) Charges for performing the functions necessary to commingle or combine a Checklist Network Element with any other Checklist Element, network element provided under section 251(c)(3), or wholesale service shall not exceed the direct cost of the incremental functions necessary to commingle or combine facilities that are not yet combined and/or commingled when ordered.

§ 53.607 Methods of Obtaining Interconnection and Access to Checklist Network Elements

Access to Checklist Network Elements shall comply with § 51.321 of this title.

§ 53.608 Conversion

(a) Upon request, a BOC shall convert a wholesale service or group of wholesale services or facilities including, but not limited to, unbundled network elements or combinations of unbundled network elements required under section 251(c)(3) of the Act, and commingled combinations of network elements required under section 251(c)(3) of the Act and other wholesale services or facilities including special access, to the equivalent Checklist Network Element, combination of Checklist Network Elements, or commingled combination of Checklist Network Elements available under the Act and this part.

(b) A BOC shall perform any conversion required under this section without adversely affecting the service quality perceived by the requesting telecommunications carrier's end user customer.

(c) Except as agreed to by a requesting telecommunications carrier, a BOC shall not impose any untariffed termination charges, or any disconnect fees, reconnect fees, or charges associated with establishing a service for the first time, in connection with any conversion permitted under this section.

(d) Charges for conversions permitted under this section shall not exceed the direct cost to effect conversion. Unless agreed to by a BOC and a requesting telecommunications carrier, a BOC shall not require any physical rearrangement of network elements or wholesale services subject to a conversion request.

§ 53.609 Pricing

(a) *Non-recurring charges.* Non-recurring charges for Checklist Network Elements shall equal non-recurring charges applicable to comparable network elements required under section 251(c)(3) of the Act.

(b) *Recurring charges.* Recurring charges for a Checklist Network Element shall recover the direct costs of the element, plus a reasonable allocation of the BOC's common overheads.

(c) *Direct Cost Calculation.* Direct cost shall be the forward looking economic cost determined in compliance with § 51.505 of this title, prior to the inclusion of any allocation of forward-looking common costs calculated in accordance with § 51.505(c) of this title.

(d) *Common cost allocation.* A BOC shall not include in the price of a Checklist Network Element more than a reasonable allocation of the company's common costs. Common cost allocations less than or equal to 22% shall be presumptively reasonable.

(e) *Stand-alone Cost.* In no event shall the sum of the direct costs plus a reasonable allocation of common costs exceed the stand-alone costs associated with the network

element. For purposes of this section, stand-alone costs are the total forward-looking costs, including corporate costs, that would be incurred to produce a given element if that element were provided by an efficient firm that produced nothing but the given element.

(f) *Imputation.* No interstate service offered by a BOC shall be priced below its direct cost as computed by the sum of the prices of those Checklist Network Elements comprising the facilities used to provision the service.

§ 53.610 Rules Applicable to SGAT Filings

(a) The general rules (including definitions), regulations, exceptions, and conditions which govern an SGAT must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the SGAT must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all services, together with a list of all points of service to and from which the rates apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or condition from or to any other SGAT or tariff.

(b) Every proposed SGAT filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least 45 days notice.

(c) The notice period begins on and includes the date the SGAT is received by the Commission, but does not include the effective date. In computing the notice period required, all days including Sundays and holidays must be counted.

§ 53.611 SGAT Term Requirements

SGATs shall be made available without modification for a minimum three year term from the effective date. A carrier may subscribe to the initial SGAT for the full term at any time prior to 180 days before the expiration of the SCAT's initial term..

§ 53.612 Petitions for Suspension or Rejection of SGAT Filings

(a) *Content.* Petitions seeking investigation, suspension, or rejection of a new or revised SGAT filing or any provision thereof shall specify the items against which protest is made, and the specific reasons why the protested SGAT filing warrants investigation, suspension, or rejection under the Communications Act. No petition shall include a prayer that it also be considered a formal complaint.

(b) *When filed.* All petitions seeking investigation, suspension, or rejection of an SGAT filing shall be filed and served within 15 days after the date of the SGAT filing. If the

date for filing the petition falls on a weekend or holiday, the petition shall be filed on the next succeeding business day.

(c) *Replies.* Replies to petitions seeking investigation, suspension, or rejection of an SGAT filing shall be filed and served within 5 days after service of the petition.

(d) *Copies, service.* An original and four copies of each petition shall be filed with the Commission as follows: The original and three copies of each petition shall be filed with the Secretary, 236 Massachusetts Ave., NE., Washington, DC 20002; one copy must be delivered directly to the Commission's copy contractor. Additional, separate copies shall be served simultaneously upon the Chief, Wireline Competition Bureau; and the Chief, Pricing Policy Division.

§ 53.613 Filing of Negotiated Agreements

(a) In addition to having an effective SGAT on file with the Commission, a BOC may also provide Checklist Elements pursuant to one or more negotiated agreements filed in accordance with this section.

(b) The general rules (including definitions), regulations, exceptions, and conditions which govern a negotiated agreement must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the negotiated agreement must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate.

(c) Every filed negotiated agreement shall bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least 15 days notice.

(d) Notice is accomplished by filing the negotiated agreement with the Commission. The notice period begins on and includes the date the filing is received by the Commission, but does not include the effective date. In computing the notice period required, all days including Sundays and holidays must be counted.

(e) Negotiated agreements shall be offered for opt-in to any similarly-situated telecommunications carrier. Any telecommunications carrier shall be presumed similarly-situated to any other telecommunications carrier for purposes of this section.

§ 53.614 Petitions for Suspension or Rejection of Negotiated Agreements

(a) All petitions seeking investigation, suspension, or rejection of a negotiated agreement shall be filed and served within 7 days after the date of the filing. If the date for filing the petition falls on a holiday, the petition shall be filed on the next succeeding business day.

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(b) Replies to petitions seeking investigation, suspension, or rejection of a negotiated agreement shall be filed and served within 4 days after service of the petition.

(c) A negotiated agreement shall be rejected if it (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement, or if the implementation of such agreement is not consistent with the public interest, convenience and necessity.

Attachment B

Attachment B
Comparison of Checklist Element Rules to Section 251 UNE Rules
Availability, Combinations and Non-Discrimination

Proposed Rules	Comparison to Existing Rules¹
<p>§ 53.601 Applicability and Compliance</p> <p>(a) The requirements of this section apply to a BOC in any state in which it has been authorized pursuant to section 271(d) to provide in-region interLATA services.</p> <p>(b) A BOC shall comply with section 271(c)(2)(B)(iv)-(x) of the Act through the filing and approval by the Commission of an SGAT in accordance with the requirements of this Part.</p> <p>(c) In addition to the requirements of subsection (b) of this section, a BOC may negotiate an agreement that contains terms and conditions and prices for Checklist Network Elements that differ from those contained in its SGAT, provided that such agreement is filed in accordance with this Part. The filing of a negotiated agreement does not relieve a BOC from its obligation to have an effective SGAT on file with the Commission.</p> <p>(d) SGATs and negotiated agreements must meet the requirements of sections 201(b), 202(a) and 271 of the Act.</p>	<p>Entire § 53.601 added</p>
<p>§ 53.602 General Terms and Conditions</p>	<p>Patterned on § 51.307 - Duty to Provide Access On An Unbundled Basis To Network Elements with the following changes:</p>

¹ The chart above identifies substantive changes/additions to existing rules applicable to Section 251 unbundled network elements. As such, the table does not use ~~strikeout~~ and underlining to identify formatting and editorial changes that do not have substantive effect.

Attachment B
Comparison of Checklist Element Rules to Section 251 UNE Rules
Availability, Combinations and Non-Discrimination

Proposed Rules	Comparison to Existing Rules ¹
<p>(a) A BOC shall provide to a requesting telecommunications carrier nondiscriminatory access to Checklist Network Elements at on an unbundled basis any technically feasible point on terms and conditions that are just, reasonable, and nondiscriminatory.</p>	<p>(a) An incumbent LEC <u>A BOC</u> shall provide, to a requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to Checklist network elements on an unbundled basis at any technically feasible point on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of any agreement, the requirements of sections 251 and 252 of the Act, and the Commission's rules.</p>
<p>(b) The duty to provide access to unbundled network elements pursuant to section 251(c)(3) of the Act includes a duty to provide a connection to an unbundled network element independent of any duty to provide interconnection pursuant to this part and section 251(c)(2) of the Act.</p>	<p>(b) The duty to provide access to unbundled network elements pursuant to section 251(c)(3) of the Act includes a duty to provide a connection to an unbundled network element independent of any duty to provide interconnection pursuant to this part and section 251(c)(2) of the Act.</p>
<p>(c) A BOC shall provide a requesting telecommunications carrier access to a Checklist Network Element, along with all of the features, functions, and capabilities of the network element, in a manner that allows the requesting telecommunications carrier to provide any service that can be offered by means of that Network Element.</p>	<p>(c) An incumbent LEC <u>A BOC</u> shall provide a requesting telecommunications carrier access to an unbundled a Checklist network element, along with all of the unbundled network element's features, functions, and capabilities, in a manner that allows the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element.</p>
<p>(d) A BOC shall provide a requesting telecommunications carrier access to the facility or functionality of a requested Checklist Network Element separate from access to the facility or functionality of other Checklist Network Elements or network elements provided under section 251(c)(3) of the Act, for a separate charge.</p>	<p>(d) An incumbent LEC <u>A BOC</u> shall provide a requesting telecommunications carrier access to the facility or functionality of a requested Checklist network element separate from access to the facility or functionality of other Checklist network elements <u>or network elements provided under section 251(c)(3) of the Act,</u> for a separate charge.</p>

Attachment B
Comparison of Checklist Element Rules to Section 251 UNE Rules
Availability, Combinations and Non-Discrimination

Proposed Rules	Comparison to Existing Rules ¹
<p>(e) A BOC shall make all routine network modifications necessary to provide Checklist Network Elements pursuant to sections 271(c)(2)(B)(iv) and (v) of the Act where the requested Checklist Network Element facilities have already been constructed. Such routine network modifications shall be performed in accordance with §§ 51.319(a)(7) and 51.319(e)(4). Routine network modifications to Checklist Network Elements as provided for in this section shall be performed at no additional charge to the rates established in accordance with § 53.609. Routine network modifications to Checklist Network Elements as provided for in this section shall be performed within the intervals and subject to the performance measurements and associated remedies for corresponding network elements provided under section 251(c)(3) of the Act.</p> <p>(f) A BOC shall provide a requesting telecommunications carrier technical information about the BOC's network facilities sufficient to allow the requesting telecommunications carrier to achieve access to Checklist Network Elements consistent with the requirements of this section.</p> <p>(g) Checklist Network Elements shall remain subject to any performance and/or penalty plans filed by a BOC for corresponding network elements provided under section 251(c)(3) of the Act.</p>	<p><u>(e) A BOC shall make all routine network modifications necessary to provide Checklist Network Elements pursuant to sections 271(c)(2)(B)(iv) and (v) of the Act where the requested Checklist Network Element facilities have already been constructed. Such routine network modifications shall be performed in accordance with §§ 51.319(a)(7) and 51.319(e)(4). Routine network modifications to Checklist Network Elements as provided for in this section shall be performed at no additional charge to the rates established in accordance with § 53.609. Routine network modifications to Checklist Network Elements as provided for in this section shall be performed within the intervals and subject to the performance measurements and associated remedies for corresponding network elements provided under section 251(c)(3) of the Act.</u></p> <p>(f) An incumbent LEC A BOC shall provide to a requesting telecommunications carrier technical information about the incumbent LEC's BOC's network facilities sufficient to allow the requesting carrier to achieve access to unbundled Checklist network elements consistent with the requirements of this section.</p> <p><u>(g) Checklist Network Elements shall remain subject to any performance and/or penalty plans filed by a BOC for corresponding network elements provided under section 251(c)(3) of the Act.</u></p>

Attachment B
Comparison of Checklist Element Rules to Section 251 UNE Rules
Availability, Combinations and Non-Discrimination

Proposed Rules	Comparison to Existing Rules ¹
<p>§ 53.603 Use of Checklist Network Elements</p> <p>(a) A BOC shall not impose limitations, restrictions, or requirements on requests for, or the use of, Checklist Network Elements.</p> <p>(b) A telecommunications carrier purchasing access to a network facility as a Checklist Network Element is entitled to exclusive use of that facility for a period of time, or when purchasing access to a feature, function, or capability of a facility, a telecommunications carrier is entitled to use of that feature, function, or capability for a period of time. A telecommunications carrier's purchase of access to a Checklist Network Element does not relieve the BOC of the duty to maintain, repair, or replace the Checklist Network Element.</p>	<p>Patterned on § 51.309 - Use of Unbundled Network Elements with the following changes:</p> <p>(a) Except as provided in Sec. 51.318, an incumbent LEC A BOC shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled Checklist network elements for the service a requesting telecommunications carrier seeks to offer.</p> <p>—(b) A requesting telecommunications carrier may not access an unbundled network element for the exclusive provision of mobile wireless services or interexchange services.</p> <p>(c) A telecommunications carrier purchasing access to an unbundled network facility <u>as a Checklist Network Element</u> is entitled to exclusive use of that facility for a period of time, or when purchasing access to a feature, function, or capability of a facility, a telecommunications carrier is entitled to use of that feature, function, or capability for a period of time. A telecommunications carrier's purchase of access to an unbundled Checklist network element does not relieve the incumbent LEC of the duty to maintain, repair, or replace the unbundled <u>Checklist</u> network element.</p> <p>-(d) A requesting telecommunications carrier that accesses and uses an unbundled network element consistent with paragraph (b) of this section may provide any telecommunications services over the same unbundled network element.</p>

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Comparison of Checklist Element Rules to Section 251 UNE Rules
Availability, Combinations and Non-Discrimination

Proposed Rules	Comparison to Existing Rules¹
<p>(c) A BOC shall permit a requesting telecommunications carrier to commingle a Checklist Network Element or a combination of Checklist Network Elements with one or more wholesale services or facilities, including network elements provided under section 251(c)(3), obtained from a BOC.</p> <p>(d) A BOC shall perform the functions necessary to commingle a Checklist Network Element or a combination of Checklist Network Elements with one or more wholesale services or facilities, including network elements provided under section 251(c)(3), that a requesting telecommunications carrier has obtained from a BOC</p>	<p>(e) Except as provided in Sec. 51.318, an incumbent LEC <u>A BOC</u> shall permit a requesting telecommunications carrier to commingle an unbundled Checklist network element or a combination of unbundled Checklist network elements with <u>one or more wholesale services provided under section 251(c)(3), obtained from an incumbent LEC a BOC.</u></p> <p>(f) Upon request, an incumbent LEC <u>A BOC</u> shall perform the functions necessary to commingle an unbundled Checklist network element or a combination of unbundled Checklist network elements with one or more facilities or services that a requesting telecommunications carrier has obtained at wholesale, <u>including network elements provided under section 251(c)(3), from an incumbent LEC BOC.</u></p> <p>(g) An incumbent LEC shall not deny access to an unbundled network element or a combination of unbundled network elements on the grounds that one or more of the elements: —(1) Is connected to, attached to, linked to, or combined with, a facility or service obtained from an incumbent LEC; or —(2) Shares part of the incumbent LEC's network with access services or inputs for mobile wireless services and/or interexchange services.</p>
<p>§ 53.604 Nondiscriminatory Access to Checklist Network Elements</p> <p>(a) The quality of a Checklist Network Element, as well as the quality of the access to the Checklist Network Element, that a</p>	<p>Patterned on § 51.311 - Nondiscriminatory Access to Unbundled Network Elements with the following changes:</p> <p>(a) The quality of an unbundled Checklist network element, as well as the quality of the access to the unbundled Checklist</p>

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Availability, Combinations and Non-Discrimination

Proposed Rules	Comparison to Existing Rules ¹
<p>BOC provides to a requesting telecommunications carrier shall be the same for all telecommunications carriers requesting access to that Network Element.</p> <p>(b) To the extent technically feasible, the quality of a Checklist Network Element, as well as the quality of the access to such Network Element, that a BOC provides to a requesting telecommunications carrier shall be at least equal in quality to that which the BOC provides to itself. If a BOC fails to meet this requirement, the BOC must prove that it is not technically feasible to provide the requested Checklist Network Element, or to provide access to the requested Checklist Network Element, at a level of quality that is equal to that which the BOC provides to itself.</p> <p>(c) Previous successful access to a Checklist Network Element or a network element provided under section 251(c)(3) of the Act at a particular point in a network, using particular facilities, is substantial evidence that access is technically feasible at that point, or at substantially similar points, in networks employing substantially similar facilities. Adherence to the same interface or protocol standards shall constitute evidence of the substantial similarity of network facilities.</p> <p>(d) Previous successful provision of access to a Checklist Network Element or a network element provided under section</p>	<p>network element, that an incumbent <u>LEC BOC</u> provides to a requesting telecommunications carrier shall be the same for all telecommunications carriers requesting access to that network element.</p> <p>(b) To the extent technically feasible, the quality of an incumbent <u>unbundled Checklist</u> network element, as well as the quality of the access to such incumbent <u>unbundled Checklist</u> network element, that an incumbent <u>LEC BOC</u> provides to a requesting telecommunications carrier shall be at least equal in quality to that which the <u>BOC</u> incumbent <u>LEC</u> provides to itself. If an incumbent <u>LEC BOC</u> fails to meet this requirement, the incumbent <u>LEC BOC</u> must prove to the state commission that it is not technically feasible to provide the requested incumbent <u>unbundled Checklist</u> network element, or to provide access to the requested incumbent <u>unbundled Checklist</u> network element, at a level of quality that is equal to that which the incumbent <u>LEC BOC</u> provides to itself.</p> <p>(c) Previous successful access to an incumbent <u>unbundled Checklist</u> Network Element or a network element provided under section <u>251(c)(3) of the Act</u> at a particular point in a network, using particular facilities, is substantial evidence that access is technically feasible at that point, or at substantially similar points, in networks employing substantially similar facilities. Adherence to the same interface or protocol standards shall constitute evidence of the substantial similarity of network facilities.</p> <p>(d) Previous successful provision of access to an incumbent <u>unbundled Checklist</u> Network Element or a network element provided under</p>

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Proposed Rules	Comparison to Existing Rules¹
<p>251(c)(3) of the Act at a particular point in a network at a particular level of quality is substantial evidence that access is technically feasible at that point, or at substantially similar points, at that level of quality.</p>	<p><u>section 251(c)(3) of the Act</u> at a particular point in a network at a particular level of quality is substantial evidence that access is technically feasible at that point, or at substantially similar points, at that level of quality.</p>
<p>§ 53.605 Just, Reasonable and Nondiscriminatory Terms and Conditions for the Provision of Checklist Network Elements</p> <p>(a) The terms and conditions pursuant to which a BOC provides access to Checklist Network Elements shall be offered equally to all requesting telecommunications carriers.</p> <p>(b) Where applicable, the terms and conditions pursuant to which a BOC offers to provide access to Checklist Network Elements, including but not limited to, the time within which the BOC provisions such access to such network elements, shall, at a minimum, be no less favorable to the requesting carrier than the terms and conditions under which the BOC provides such elements to itself.</p> <p>(c) A BOC may not condition any term, condition or price of a Checklist Network Element on a telecommunications carrier's commitment to fulfill set quantities or percentages of the telecommunications carrier's demand using the BOC's wholesale network facilities or services including, but not limited to, special</p>	<p>Patterned on § 51.311 - Just, Reasonable and Nondiscriminatory Terms and Conditions for the Provision of Unbundled Network Elements with the following changes:</p> <p>(a) The terms and conditions pursuant to which an incumbent <u>LEC BOC</u> provides access to unbundled <u>Checklist</u> network elements shall be offered equally to all requesting telecommunications carriers.</p> <p>(b) Where applicable, the terms and conditions pursuant to which an incumbent <u>LEC BOC</u> offers to provide access to unbundled <u>Checklist</u> network elements, including but not limited to, the time within which the incumbent <u>LEC BOC</u> provisions such access to unbundled network elements, shall, at a minimum, be no less favorable to the requesting carrier than the terms and conditions under which the incumbent <u>LEC BOC</u> provides such elements to itself.</p> <p>(c) <u>A BOC may not condition any term, condition or price of a Checklist Network Element on a telecommunications carrier's commitment to fulfill set quantities or percentages of the telecommunications carrier's demand using the BOC's wholesale network facilities or services including, but not limited to, special</u></p>

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Comparison of Checklist Element Rules to Section 251 UNE Rules
Availability, Combinations and Non-Discrimination

Proposed Rules	Comparison to Existing Rules¹
<p>access services.</p> <p>(d) A BOC must provide a carrier purchasing access to Checklist Network Elements with the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions of the BOC's operations support systems.</p>	<p><u>access services.</u></p> <p>(d) An incumbent LEC <u>BOC</u> must provide a carrier purchasing access to unbundled Checklist <u>network elements</u> with the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions of the incumbent LEC's <u>BOC's</u> operations support systems.</p>
<p>§ 53.606 Combination of Checklist Network Elements</p> <p>(a) A BOC shall provide Checklist Network Elements in a manner that allows requesting telecommunications carriers to combine such network elements in order to provide service.</p> <p>(b) Except upon request, a BOC shall not separate requested Checklist Network Elements that the BOC currently combines.</p> <p>(c) Upon request, a BOC shall perform the functions necessary to combine Checklist Network Elements with other Checklist Network Elements or with network elements provided under section 251(c)(3), or other wholesale services, in any manner, even if those elements or services are not ordinarily combined in the BOC's network, provided that such combination:</p> <p>(1) Is technically feasible; and</p>	<p>Patterned after § 51.315 - Combination of Unbundled Network Elements with the following changes:</p> <p>(a) An incumbent LEC <u>BOC</u> shall provide unbundled Checklist <u>network elements</u> in a manner that allows requesting telecommunications carriers to combine such network elements in order to provide a telecommunications <u>service</u>.</p> <p>(b) Except upon request, an incumbent LEC <u>BOC</u> shall not separate requested <u>Checklist</u> network elements that the incumbent LEC <u>BOC</u> currently combines.</p> <p>(c) Upon request, an incumbent LEC <u>BOC</u> shall perform the functions necessary to combine unbundled Checklist <u>network elements with other Checklist Network Elements or with network elements provided under section 251(c)(3), or other wholesale services</u>, in any manner, even if those elements or services are not ordinarily combined in the incumbent LEC's <u>BOC's</u> network, provided that such combination:</p> <p>(1) Is technically feasible; and</p>

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Proposed Rules	Comparison to Existing Rules ¹
<p>(2) Would not undermine the ability of other carriers to obtain access to network elements or to interconnect with the BOC's network.</p> <p>(d) Upon request, a BOC shall perform the functions necessary to combine Checklist Network Elements with elements possessed by the requesting telecommunications carrier in any technically feasible manner.</p> <p>(e) A BOC that denies a request to combine network elements pursuant to paragraph (c)(1) or paragraph (d) of this section must prove that the requested combination is not technically feasible.</p> <p>(f) A BOC that denies a request to combine network elements pursuant to paragraph (c)(2) of this section must demonstrate that the requested combination would undermine the ability of other carriers to obtain access to network elements or to interconnect with the BOC's network.</p> <p>(g) Charges for performing the functions necessary to commingle or combine a Checklist Network Element with any other Checklist Element, network element provided under section 251(c)(3), or wholesale service shall not exceed the direct cost of the incremental functions necessary to commingle or combine facilities that are not yet combined and/or commingled when ordered.</p>	<p>(2) Would not undermine the ability of other carriers to obtain access to incumbent LEC's <u>unbundled network elements</u> or to interconnect with the <u>BOC's</u> network.</p> <p>(d) Upon request, an incumbent LEC BOC <u>BOC</u> shall perform the functions necessary to combine unbundled <u>Checklist</u> network elements with elements possessed by the requesting telecommunications carrier in any technically feasible manner.</p> <p>(e) An incumbent LEC BOC <u>BOC</u> that denies a request to combine elements pursuant to paragraph (c)(1) or paragraph (d) of this section must prove to the state commission that the requested combination is not technically feasible.</p> <p>(f) An incumbent LEC <u>BOC</u> that denies a request to combine unbundled network elements pursuant to paragraph (c)(2) of this section must demonstrate to the state commission that the requested combination would undermine the ability of other carriers to obtain access to unbundled network elements or to interconnect with the incumbent LEC's <u>BOC's</u> network.</p> <p>(g) <u>Charges for performing the functions necessary to commingle or combine a Checklist Network Element with any other Checklist Element, network element provided under section 251(c)(3), or wholesale service shall not exceed the direct cost of the incremental functions necessary to commingle or combine facilities that are not yet combined and/or commingled when ordered.</u></p>

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Proposed Rules	Comparison to Existing Rules¹
<p>§ 53.607 Methods of Obtaining Interconnection and Access to Checklist Network Elements</p> <p>Access to Checklist Network Elements shall comply with § 51.321 of this title.</p>	<p>No Changes to Existing Requirements in § 51.321 - Methods of Obtaining Interconnection and Access to Checklist Network Elements</p>
<p>§ 53.608 Conversion</p> <p>(a) Upon request, a BOC shall convert a wholesale service or group of wholesale services or facilities including, but not limited to, unbundled network elements or combinations of unbundled network elements required under section 251(c)(3) of the Act, and commingled combinations of network elements required under section 251(c)(3) of the Act and other wholesale services or facilities including special access, to the equivalent Checklist Network Element, combination of Checklist Network Elements, or commingled combination of Checklist Network Elements available under the Act and this part.</p> <p>(b) A BOC shall perform any conversion required under this section without adversely affecting the service quality perceived by the requesting telecommunications carrier's end user customer.</p>	<p>§ 51.316 Conversion of Unbundled Network Elements and Services with the following changes.</p> <p>(a) Upon request, an incumbent LEC <u>BOC</u> shall convert a wholesale service, or group of wholesale services, <u>or facilities including, but not limited to, unbundled network elements or combinations of unbundled network elements required under section 251(c)(3) of the Act, and commingled combinations of network elements required under section 251(c)(3) of the Act and other wholesale services or facilities including special access,</u> to the equivalent unbundled Checklist <u>network element, or commingled combination of unbundled Checklist</u> Network Elements, that is available to the requesting telecommunications carrier <u>under section 251(c)(3) of the Act</u> and this part.</p> <p>(b) An incumbent LEC <u>BOC</u> shall perform any conversion required under this section from a wholesale service or group of wholesale services to an unbundled network element or combination of unbundled network elements without adversely affecting the service quality perceived by the requesting telecommunications carrier's end-user customer.</p>

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<p>(c) Except as agreed to by a requesting telecommunications carrier, a BOC shall not impose any untariffed termination charges, or any disconnect fees, reconnect fees, or charges associated with establishing a service for the first time, in connection with any conversion permitted under this section.</p> <p>(d) Charges for conversions permitted under this section shall not exceed the direct cost to effect conversion. Unless agreed to by a BOC and a requesting telecommunications carrier, a BOC shall not require any physical rearrangement of network elements or wholesale services subject to a conversion request.</p>	<p>(c) Except as agreed to by <u>a requesting telecommunications carrier</u> the parties, an incumbent LEC <u>BOC</u> shall not impose any untariffed termination charges, or any disconnect fees, re-connect fees, or charges associated with establishing a service for the first time, in connection with any conversion <u>permitted under this section</u> between a wholesale service or group of wholesale services and an unbundled network element or combination of unbundled network elements.</p> <p>(d) <u>Charges for conversions permitted under this section shall not exceed the direct cost to effect conversion. Unless agreed to by a BOC and a requesting telecommunications carrier, a BOC shall not require any physical rearrangement of network elements or wholesale services subject to a conversion request.</u></p>