THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S REVIEW OF OHIO ADM.CODE CHAPTER 4901:1-7, LOCAL EXCHANGE CARRIER-TO CARRIER RULES.	CASE NO. 16-2066-TP-ORD

FINDING AND ORDER

Entered in the Journal on April 19, 2017

I. SUMMARY

{¶ 1} In this Finding and Order, pursuant to R.C. 106.03 and R.C. 111.15, the Commission adopts proposed rules contained in Ohio Adm.Code Chapter 4901:1-7 concerning carrier-to-carrier activities.

II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} Pursuant to R.C. 106.03(A) and R.C. 111.15, all state agencies are required to conduct a review, every five years of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules.

{¶ 3} The Commission has established this docket to conduct an evaluation of the rules in Ohio Adm.Code Chapter 4901:1-7, which set forth the procedures and standards applicable to all telephone companies pursuant to 47 U.S.C. 251 and 252. The current Ohio Adm.Code Chapter 4901:1-7 became effective March 2, 2013.

{¶ 4} R.C. 106.03(A) requires the Commission to determine whether the rules:

(a) Should be continued without amendment, be amended or rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted;

(b) Need amendment or recession to give more flexibility at the local level;

(c) Need amendment or recession to eliminate unnecessary paperwork;

(d) Incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by R.C. 121.74, and whether the incorporation by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;

(e) Duplicate, overlap, or conflict with other rules;

(f) Have an adverse impact on businesses, as determined under R.C. 107.53; and

(g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive.

{¶ 5} The Commission notes that, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review any proposed rules to determine the impact that a rule has on small businesses and attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties.

{¶ 6} Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must conduct a business impact analysis (BIA) regarding the rules. If there will be an adverse impact on business, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to R.C. 121.82, to

provide the Common Sense Initiative (CSI) office with the draft rules and the business impact analysis.

{¶ 7} Pursuant to the Entry of October 21, 2016, a workshop was scheduled for November 29, 2016, in order to provide interested stakeholders with the opportunity to propose revisions to the rules found in Ohio Adm.Code Chapter 4901:1-7. Representatives from various stakeholders attended the workshop, although no comments were offered.

{¶ 8} After evaluating the rules contained in Ohio Adm.Code 4901:1-7, Staff's proposed amendments to the rules were issued for comment along with the BIA, on January 18, 2017, in accordance with R.C. 121.82.

{¶ 9} On February 10, 2017, initial comments were filed by the Ohio Consumers' Counsel (OCC), Ohio Cable Telecommunications Association (OCTA); and The Midwest Association of Competitive Communications, Inc., whose members include Birch Communications, First Communications, Granite Telecom; Integra, Level 3 Communications, Inc., Socket, TDS Metrocom, and Windstream Communications, Inc.

{¶ 10} On February 24, 2017, reply comments were filed by The Ohio Telecom Association; CenturyTel of Ohio, Inc. dba CenturyLink and United Telephone Company of Ohio dba CenturyLink (jointly, CenturyLink); and AT&T Ohio.

{¶ 11} The Commission has carefully reviewed the existing rules, the amendments proposed by Staff and the comments filed by interested stakeholders in reaching the decisions regarding the rules in Ohio Adm.Code Chapter 4901:1-7. The Commission will address the more salient comments below. Some minor or noncontroversial changes have been incorporated into the amended rules without Commission discussion, including the correction of typographical errors incorporated into the currently adopted rules. Any recommended change that is not discussed below or incorporated into the attached adopted rules should be considered denied.

III. DISCUSSION

A. Comments on Ohio Adm.Code 4901:1-7-03 Toll Presubscription.

{¶ 12} In the Entry of January 18, 2017, Staff proposed amending Ohio Adm.Code 4901:1-7-03(F) to remove the obligation that an incumbent local exchange carrier (ILEC) offering presubscription shall read a random listing of all available toll service providers.

{¶ 13} While not objecting to the proposed elimination of the obligation to read a random listing of available toll service providers, OCC requests that the Commission add a requirement that the ILEC inform the customer that a listing of carriers authorized to provide toll service in Ohio is available on the Commission's website. (OCC Feb. 10, 2017 Initial Comments at 4). In support of its recommendation, OCC asserts that, although the Federal Communications Commission (FCC) no longer requires telephone companies to read lists of providers to customers who have not selected a long distance provider when initiating service, there is a benefit to consumers if the local telephone companies were at least required to direct the affected residential customers to the Commission's website for assistance. OCC opines that the Commission's website will provide these subscribers with a reliable place to begin their search. OCC contends that the local telephone companies' costs associated with directing consumers to the Commission's website will be de minimis and that the consumer benefit in being directed to the Commission's website for help in finding a long distance carrier would outweigh the cost to the local telephone companies. (OCC Initial Comments at 2-5.)

{¶ 14} OTA contends that there is no evidence that customers would benefit from being directed to a list of available long distance carriers. OTA considers OCC's recommendation to be unnecessary and notes that the proposed directing to a list of providers is not required by the FCC or any other state. Therefore, OTA submits that, to the extent that the Commission is to grant OCC's proposal, ILECs in the state of Ohio would be required to institute a unique Ohio-mandated service requirement and would impose an unnecessary delay in service to customers. (OTA Reply Comments at 3-5.)

{¶ 15} CenturyLink avers that OCC's proposal serves no beneficial purpose and should be rejected for the same rationale relied upon by the FCC for eliminating its previous federal equal access scripting rule. CenturyLink notes that there is no need to provide customers with a list of long distance providers or to point customers to the Commission's website list because lists of providers are already available on the Internet and that there is no evidence that the Commission website list is the best source of information from the consumer's perspective. Rather, CenturyLink believes that the proposed directing to the Commission website listing is likely to distort competitive choices. For example, CenturyLink points out that the Commission's website does not describe options available from various providers such as bundled offerings, nor does it remind consumers of the availability of "over-the-top" voice over Internet Protocol (VoIP) services, dial around long distance services, and calling cards. (CenturyLink Reply Comments 3-4.)

{¶ 16} Further, CenturyLink states that OCC's proposal is not competitively neutral since it only applies to ILECs and, therefore, tilts the playing field in favor of CLECs and other competing providers. It also believes that any benefits of OCC's proposed script are outweighed by the costs due to the fact that the proposed script addition will be unique to Ohio and would require the ILEC customer service representatives to spend time advising customers as to where to find the Commission's website and answering questions from customers who may be confused as to why they should use the Commission's list rather than another list that is available on the Internet. (CenturyLink Reply Comments at 4.)

{¶ 17} AT&T contends that OCC's proposal conflicts with the FCC's prior determinations that scripting requirements to advise customers about long distance carriers are unhelpful and unnecessary inasmuch as stand-alone long distance is giving way to competition from service bundles offered by wireless, cable, and VoIP. Therefore, AT&T submits that just like the FCC rejected long distance scripting requirements for interstate service, the Commission should reject OCC's proposal for directing subscribers

to the Commission's website regarding intrastate, intraLATA toll providers. Further, AT&T asserts that directing subscribers to the Commission website will only confuse them and, at best, will provide a list of the names and addresses of over 80 interexchange carriers with no phone numbers, rates, services, or geographic areas served. (AT&T Reply Comments at 1-4.)

{¶ 18} AT&T submits that OCC is proposing a solution for a nonexistent problem. Specifically, AT&T notes that in today's market, customers do not know the difference between interstate/interLATA toll service and intrastate/intraLATA toll service due to the unlimited nationwide local and long distance calling provided by most carriers. According to AT&T, in such an environment, it would be impossible for an Ohio rule to apply to only one narrow type of traffic without affecting interstate toll. Therefore, AT&T asserts that OCC's proposal will only result in subscriber confusion.

{¶ 19} The Commission rejects OCC's recommended modifications and, instead, finds that the proposed Ohio Adm.Code 4901:1-7-03(F) should be adopted. In reaching this determination, the Commission finds that there has not been an adequate demonstration made as to why the Commission should deviate from the FCC's current requirements that do not include directing subscribers to a list of interexchange providers. Further, the Commission agrees with AT&T that the information currently maintained on the Commission's website will not serve the purpose desired by OCC.

B. Comments on Ohio Adm.Code 4901:1-7-12 Compensation for transport and termination of non-access telecommunications traffic.

{¶ 20} In the Entry of January 18, 2017, Staff proposed that modifications to Ohio Adm.Code 4901:1-7-12 for the purpose of clarifying the types of traffic subject to non-access reciprocal compensation.

{¶ 21} OCTA recommends that Ohio Adm.Code 4901:1-7-12 be clarified to ensure that it will be applied consistently with the *In re Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (Nov. 18, 2011),

pets. for review denied sub no. In re FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (*Transformation Order*) so as to avoid any interpretation that intrastate compensation under Ohio Adm. Code 4901:1-7-12 would apply irrespective of the FCC ruling. Specifically, OCTA proposes that the following language be inserted before subsection (A) :

> The provisions of this rule will apply to the extent that that they are not inconsistent with Subpart H (Reciprocal Compensation for Transport and Termination of Telecommunications Traffic) of Part 51 of Title 47 of the Code of Federal Regulations.

{¶ 22} While AT&T is sympathetic with the concerns raised by OCTA, it does not believe that specific proposed language is necessary because the Commission already understands that the FCC rules will control. In support of its position, AT&T notes that Ohio Adm.Code 4901:1-7-12(D)(1)(a) already states that that any rate for non-access reciprocal compensation shall be superseded by the transition process set forth in 47 C.F.R. 51.705(c). (AT&T Reply Comments at 4-5.)

{¶ 23} The Commission finds that OCTA's proposed clarifying language is unnecessary and should be denied. As noted by AT&T, Ohio Adm.Code 4901:1-7-12(D)(1)(a) already states that any rate for non-access reciprocal compensation shall be superseded by the transition process set forth in 47 C.F.R. 51.705(c).

{¶ 24} With respect to Ohio Adm.Code 4901:1-7-12(D)(2)(e), OCTA notes that the existing rule requires the rate to vary based on whether the traffic is routed through a tandem switch or directly to the end office switch. As a result, OCTA states that the rate will be the tandem rate when interconnection is at the ILEC's tandem office and will be the end office termination rate when interconnection is at the ILEC's end office. As a result, OCTA submits that a CLEC will not receive tandem compensation when interconnecting at an ILEC's end office. (OCTA Initial Comments at 3-4.)

{¶ 25} According to OCTA, 47 C.F.R. 51.711 requires that the applicable reciprocal compensation be based on the geographical area served, and not the switch routing pattern. Consistent with 47 C.F.R. 51.711, OCTA states that where the switch of a carrier other than an ILEC serves a geographic area comparable to the area served by the ILEC's tandem switch, the appropriate rate for the carrier other than the ILEC is the ILEC's tandem rate. Therefore, OCTA contends that Ohio Adm.Code 4901:1-7-12(D)(2)(e) should be modified accordingly. (OCTA Initial Comments at 4.)

{¶ 26} AT&T responds that OCTA has only raised a general concern regarding Ohio Adm.Code 4901:1-7-12(D)(2)(e) and has not provided any specific proposed language. In particular, AT&T submits that OCTA does not explain which part of Ohio Adm.Code 4901:1-7-12(D)(2)(e) should be revised and does not explain what part of 47 C.F.R. 51.711 should be referenced for the purpose of consistency. Therefore, OCTA concludes that OCTA's concern should be rejected. (AT&T Reply Comments at 5.)

{¶ 27} The Commission determines that Ohio Adm.Code 4901:1-7-12(D)(2)(e) should be revised in order to be consistent with 47 C.F.R. 51.711(a)(3). Specifically, the rule should reflect that where the switch of a carrier other than an ILEC serves a geographic area comparable to the area served by the ILEC's tandem switch, the appropriate rate for the carrier other than the ILEC is the ILEC's tandem rate.

C. *Comments on Ohio Adm.Code 4901:1-7-14 Compensation for Intrastate Switched Access Reciprocal Compensation Traffic and Carrier-to-Carrier Traffic*

{¶ 28} In the Entry of January 18, 2017, Staff proposed no changes to this rule.

{¶ 29} Consistent with its stated concerns relative to Ohio Adm.Code 4901:1-7-12, OCTA contends that Ohio Adm.Code 4901:1-7-14 be clarified to reflect that the rule will not be applied inconsistently with the Transformation Order. Specifically, OCTA believes that it is important to avoid any interpretation that intrastate compensation pursuant to Ohio Adm.Code 4901:1-7-14 applies irrespective of the FCC's rules.

Therefore, OCTA recommends that the following clarification be inserted before subsection (A):

> The provisions of this rule will apply to the extent that they are not inconsistent with Subpart J (Transitional Access Service Pricing) of Part 51 of Title 47 of the Code of Federal Regulations.

(OCTA Initial Comments at 4.)

{¶ 30} Similar to its response relative to OCTA's proposed modifications to Ohio Adm.Code 4901:1-7-12, AT&T states that the clarification is not necessary because the Commission understands that the FCC rules will control. In support of its position, AT&T references the language in Ohio Adm.Code 4901:1-7-14(C), which recognizes that terminating intrastate switched access reciprocal compensation rates shall be transitioned to a default bill-and-keep compensation consistent with 47 C.F.R. 51.903-913. (AT&T Initial Comments at 5-6.)

{¶ 31} The Commission finds that OCTA's proposed clarifying language is unnecessary and should be denied. As noted by AT&T, the language in Ohio Adm.Code 4901:1-7-14(C) correctly recognizes that terminating intrastate switched access reciprocal compensation rates shall be transitioned to a default bill-and-keep compensation consistent with 47 C.F.R. 51.903-913. Therefore, the proposed Ohio Adm.Code 4901:1-7-14 should be adopted.

{¶ 32} OCTA recommends that Ohio Adm.Code 4901:1-7-14(A)(1) should be modified to properly reflect the most recent citation for the definition of a "rural telephone".

{¶ 33} The Commission finds that in order to address the concern raised by OCTA, and in order to avoid the possibility of subsequent statutory amendments that may affect the numbering of definitions, all applicable definitions throughout the Ohio Adm.Code

Chapter 4901:1-7 pertaining to 47 U.S.C. 153, including the one in Ohio Adm.Code 4901:1-7-14(A)(1) will be cited as simply 47 U.S.C. 153.

{¶ 34} OCTA recommends that Ohio Adm.Code 4901:1-7-14(A)(1) be modified in order to reflect the term being referenced in the specific federal regulation being cited.

{¶ 35} The Commission finds that OCTA's proposed language is reasonable. Therefore, Ohio Adm.Code 4901:1-7-14(A)(3) shall be amended to reflect that "[s]witched access reciprocal compensation shall have the meaning of 'access reciprocal compensation' set forth in 47 C.F.R. 51.903(h)."

D. Comments on Ohio Adm.Code 4901:1-7-21 Resale

{¶ 36} OCTA states that inasmuch as the removal of subsection (D) regarding the resale of Lifeline services has been proposed, the Commission should further modify subsections (C)(2) and new (D)(3)(a)-(d) so that they will not incorrectly refer to subsection (E).

{¶ 37} The Commission finds that OCTA's proposed language is reasonable. Therefore, Ohio Adm.Code 4901:1-7-21 shall be amended accordingly.

E. Comments on Ohio Adm.Code 4901:1-7-22 Customer Migration

{¶ 38} In its Entry of January 18, 2017, Staff proposed no changes to this rule.

{¶ 39} OCTA recommends that subsection (D) of this rule be revised to require telephone companies to respond to a request for customer service records within 24 hours instead of two business days. Specifically, OCTA proposes that such information should be provided to the requesting telephone company within twenty-four clock hours unless otherwise negotiated, excluding weekends and current service provider holidays. (OCTA Initial Comments at 5.)

{¶ 40} AT&T agrees with OCTA's proposed modification (AT&T Reply Comments at 6.)

{¶ 41} The Commission finds OCTA's proposed additional language to be reasonable. The adopted rule shall be amended accordingly.

F. Comments on Ohio Adm.Code 4901:1-7-01(Q) Definitions of "Telephone Company"

{¶ 42} Staff proposed a minor citation change to this rule.

{¶ 43} AT&T points out that the rule should be further modified to remove "as effective in paragraph (A) of the rule 4901:1-7-02 of the Administrative Code," as it is unnecessary and incorrect.

{¶ 44} The Commission agrees with the proposed modification and the rule shall be amended accordingly.

G. Additional changes

{¶ 45} OCTA identifies the fact that while the BIA included with the Staff-proposed changes identified telephone companies as the only businesses affected by the rules, there are other types of companies that will be affected as well. These entities include non-public utility carriers that are impacted by interconnection requirements, collocation requirements, and the competition safeguards applicable to telephone companies. Additionally, OCTA opines that business customers will also be affected by the intercarrier compensation rules because they have an impact on customer rates. The time frames set forth in the rules will also impact the commencement of a business customer's receipt of service. Therefore, OCTA believes that the responses to Questions 14 and 15 of the BIA should be revised to reflect the broader impact of the rules in Ohio Adm.Code Chapter 4901:1-7.

{¶ 46} The Commission agrees with OCTA's recommendations and they will be incorporated, where applicable, into the revised BIA to be issued along with the final rules.

IV. CONCLUSION

{¶ 47} Upon consideration of the record as a whole, including the Staff proposal and all comments and reply comments submitted in response to it, the Commission enacts the rules attached as the appendix to this Finding and Order for the reasons discussed above.

{¶ 48} The rules are posted on the Commission's Docketing Information System (DIS) website at http://dis.puc.state.oh.us/. To minimize the expense of this proceeding, the Commission will serve a paper copy of this Finding and Order only. Interested persons are directed to input the case number 16-2066-TP-ORD into the Case Lookup Box to view the rules, as well as this Finding and Order, or to contact the Commission's Docketing Division to request a paper copy.

V. ORDER

{¶ 49} It is, therefore,

{¶ 50} ORDERED, That Ohio Adm.Code 4901:1-7-04, 4901:1-7-05, 4901:1-7-06, 4901:1-7-09, 4901:1-7-10, 4901:1-7-11, 4901:1-7-13, 4901:1-7-15, 4901:1-7-16, 4901:1-7-17, 4901:1-7-18, 4901:1-7-19, 4901:1-7-20, 4901:1-7-24, and 4901:1-7-26 be filed as no change rules as set forth in the appendix to this Finding and Order. It is, further,

{¶ 51} ORDERED, That Ohio Adm.Code 4901:1-7-01, 4901:1-7-02, 4901:1-7-03, 4901:1-7-07, 4901:1-7-08, 4901:1-7-12, 4901:1-7-14, 4901:1-7-21, 4901:1-7-22, and 4901:1-7-25 be amended as set forth in the attached appendix to this Finding and Order. It is, further,

{¶ 52} ORDERED, That the adopted rules be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission, in accordance with divisions (D) and (E) of R.C. 111.15. It is, further,

{¶ 53} ORDERED, That the final rules be effective on the earliest date permitted by law. Unless otherwise ordered by the Commission, the five-year review date for Ohio Adm.Code Chapter 4901:1-7 shall be in compliance with R.C. 106.03. It is, further,

{¶ 54} ORDERED, That to the extent not addressed in this Finding and Order, all other arguments raised are denied. It is, further,

{¶ 55} ORDERED, That a notice of this Finding and Order be sent to the Telephone Industry list-serve. It is, further,

{¶ 56} ORDERED, That a copy of this Finding and Order, without any attachments, be served upon all regulated telephone companies and all radio common carriers, the office of the Ohio Consumers' Counsel, the Ohio Telecom Association, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

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Entered in the Journal APR 19 2017

Barcy F. McNeal
Secretary

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4901:1-7-01 Definitions.

As used within this chapter, these terms denote the following:

(A) "Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this chapter, the term "own" means to own an equity interest (or the equivalent thereof) of more than ten per cent.

(B) "Commission" means the public utilities commission of Ohio.

(C) "Competitive local exchange carrier" (CLEC) means, with respect to a service area, any facilities-based and nonfacilities-based, local exchange carrier that was not an incumbent local exchange carrier on the date of the enactment of the Telecommunications Act of 1996 (1996 Act), or is not an entity that, on or after such date of enactment, became a successor or assign of an incumbent local exchange carrier.

(D) "Customer" means any person, firm, partnership, corporation, municipality, cooperative organization, government agency, etc. that agrees to purchase a telecommunications service and is responsible for paying charges and for complying with the rules and regulations of the telephone company.

(E) "Exchange" is a geographic service area established by an incumbent local exchange carrier and approved by the commission.

(F) "Facilities-based CLEC" means, with respect to a service area, any local exchange carrier that uses facilities it owns, operates, manages, or controls to provide telephone exchange service or access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service; and that was not an incumbent local exchange carrier on the date of the enactment of the 1996 Act. Such carrier may partially or totally own, operate, manage, or control such facilities. Carriers not included in such classification are carriers providing service(s) solely by resale of other local exchange carrier's local exchange services.

(G) "Incumbent local exchange carrier" (ILEC) means any facilities-based local exchange carrier that: (1) on the date of enactment of the 1996 Act, provided basic local exchange service with respect to an area; and (2) (a) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or (b) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (2)(a).

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(H) "InterLATA service" means telecommunications between a point located in a local access and transport area and a point outside such area.

(I) "Local access and transport area" (LATA) means, as designated by the "Modification of Final Judgment," United States v. Western Electric Co., (C.A. No. 82-1092), 552 F. Supp. 131 (1982), an area in which a local exchange carrier is permitted to provide service. It contains one or more local exchange areas.

(J) "Local exchange carrier" (LEC) means any facilities-based and nonfacilities-based ILEC and CLEC that provides telephone exchange service or access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service to the public . Such term does not include an entity insofar as such entity is engaged in the provision of a commercial mobile radio service (CMRS) under 47 U.S.C. 332(c), except to the extent that the federal communications commission finds that such service should be included in the definition of such term.

(K) "Local presubscribed interexchange carrier" is a designation used to identify an intrastate intraLATA presubscribed interexchange carrier that provides intrastate intraLATA presubscribed interexchange service to customers.

(L) "Network element" means the facility or equipment used in the provision of a telecommunication service. Such term also includes, but is not limited to, features, functions, and capabilities that are provided by means of such facility or equipment, including, but not limited to, subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

(M) "Number portability" means the ability of customers of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one telephone company to another.

(N) "Rural carrier" means a LEC operating entity as defined in 47 U.S.C. 251(f)(2).

(O) "Rural telephone company" means a LEC operating entity as defined in 47 U.S.C. 153~~(37).~~

(P) "Telecommunications" for purposes of this chapter, shall have the same meaning as defined in 47 U.S.C. 153~~(43).~~

(Q) "Telephone company" for purposes of this chapter, shall have the same meaning as defined in division (A)~~(1)~~ of section 4905.03 of the Revised Code and includes the

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definition of "telecommunications carrier" incorporated in 47 U.S.C. 153~~(44), as effective in paragraph (A) of rule 4901:1-7-02 of the Administrative Code~~.

(R) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with customers for exchange service.

(S) "Toll service provider" means a provider of telephone toll service.

(T) "Wireless service" means federally licensed commercial mobile service as defined in the "Telecommunications Act of 1996," 110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as ~~commercial mobile radio service (~~CMRS~~)~~ in 47 C.F.R. 20.3. CMRS is specifically limited to include mobile telephone, mobile cellular telephone, paging, personal communication services, and specialized mobile radio service providers when serving as a common carrier in Ohio and excludes fixed wireless service.

(U) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in the state of Ohio.

4901:1-7-02 General applicability.

(A) The obligations found in rules 4901:1-7-03 to ~~491:1-7-27~~ 4901:1-7-26 of the Administrative Code, shall apply to all telephone companies pursuant to 47 U.S.C. 251 and 252.

(B) The commission may for good cause shown and consistent with state and federal law, waive any requirement, standard, or rule set forth in this chapter, other than a requirement mandated by statute unless such waiver is permitted by the terms of the statute.

(C) Any telephone company seeking a waiver(s) of rules contained in this chapter shall specify the period of time for which it seeks such a waiver(s), and a detailed justification in the form of a motion filed in accordance with rule 4901-1-12 of the Administrative Code.

(D) All waiver requests must be approved by the commission and will toll any automatic approval time frames set forth in rule 4901:1-6-05 of the Administrative Code.

(E) Each citation within this chapter made either to a section of the United States Code or a regulation in the code of federal regulations is intended and shall serve, to incorporate by reference the particular version of the cited matter that was effective on April 1, 2017.

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4901:1-7-03 Toll presubscription.

(A) All local exchange carriers (LEC) shall charge intrastate intraLATA toll service providers or customers no more than five dollars and fifty cents for a manual, local presubscribed interexchange carrier (LPIC) change or no more than one dollar and twenty-five cents for an electronic LPIC change, except when a LEC establishes a company-specific, cost-based, intrastate LPIC rate, as outlined in paragraph (G) of this rule.

Whenever a LEC charges an intrastate intraLATA toll service provider for changing a customer's LPIC, such LEC may not charge the customer making the request for the same LPIC change.

An intrastate intraLATA toll service provider who is charged by the LEC providing presubscription for changing a customer's LPIC, may pass through to that customer no more than what it has been charged by such LEC.

(B) Charges other than the permitted LPIC change charge are explicitly prohibited from applying to any LPIC change.

(C) When a customer switches both the customer's interLATA presubscribed interexchange carrier (PIC) and LPIC at the same time, the LEC providing presubscription shall waive one-half of the applicable LPIC change charge without regard to whether the change was performed through manual or electronic means. This requirement to waive one-half of the applicable LPIC change charge does not apply when company-specific, cost-supported charges that account for the efficiencies of changing the customer's interLATA PIC and LPIC at the same time have been approved pursuant to paragraph (G) of this rule.

(D) When an intrastate intraLATA toll service provider electronically submits to a LEC a request to change a customer's LPIC, the LEC shall treat the LPIC change as an electronic LPIC change for customer billing purposes, regardless of any manual process that may be required or involved in carrying out the change.

(E) Paragraphs (A) to (D) of this rule also apply when the subscriber explicitly chooses no intrastate intraLATA toll service provider (NoLPIC).

(F) A new customer shall be permitted to make an initial LPIC selection, which may include choosing NoLPIC, free of charge at the time the customer initiates local service. If the customer is unable to make a selection at the time of initiation of local service, ~~the ILEC offering presubscription shall read a random listing of all available~~

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~~toll service providers to aid in the customer's selection. If, after being read the list of all available toll service providers, the customer still does not make an LPIC selection~~, the ILEC shall inform the customer that unless a selection is made by the customer at the time local service is initiated, the LEC will, as a default, place the customer in a NoLPIC status. ~~The requirement to read a random listing of all available toll service providers does not apply to CLECs, AT&T Ohio, and Frontier North Incorporated and any LEC that receives a federal waiver or forebearance from the equal access scripting requirement.~~

The LEC shall further inform the customer that until such time as the customer informs the LEC of the customer's LPIC selection, the customer will not have an intrastate intraLATA toll service provider and, as a result, will be required to dial a carrier access code to route an intrastate intraLATA toll call to the carrier of the customer's choice or make other arrangements. A customer making an LPIC selection after the time of local service initiation may be assessed an LPIC change charge subject to paragraphs (A) to (D) of this rule.

(G) A LEC demonstrating through a submitted cost study that the LPIC rates identified in paragraph (A) of this rule do not recover the costs incurred shall be permitted to file company-specific rates through the filing of a UNC case.

(H) Any LEC that has previously relied upon cost support to establish its tariffed LPIC change charge when such charge is below the safe harbor rates set forth in this rule and in effect as of the effective date of this rule may not increase its LPIC change charge without first providing cost support justifying the increase.

"No Change"

4901:1-7-04 Rural telephone company exemption.

(A) A rural telephone company is subject to the provisional rural telephone exemption referenced in 47 U.S.C. 251(f)(1), until such time as the rural telephone company receives a bona fide request for interconnection, services, or network elements, and the commission terminates the rural telephone company exemption pursuant to paragraph (D) of this rule. Should a nonrural telephone company sell, devise, assign, or otherwise transfer any portion of its facilities to a rural telephone company and such facilities are subject to an interconnection agreement(s) at the time of the transfer, such facilities shall remain subject to all obligations of the existing interconnection agreement(s). Such facilities will be subject to requirements referenced in 47 U.S.C. 252(i), unless the commission rules otherwise.

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(B) If a rural telephone company receives a bona fide request for interconnection, services, or network elements pursuant to 47 U.S.C. 251(c), and it seeks to maintain a rural telephone company exemption, it shall file a UNC application with the commission within fifteen calendar days after receiving the request. The telephone company requesting interconnection shall file a response within fifteen calendar days after the rural telephone company's application for exemption. The burden of proof regarding the termination of a rural telephone company exemption pursuant to 47 U.S.C. 251(f)(1), rests upon the telephone company requesting interconnection.

(C) The commission will review such application for exemption and the response to it on an individual case basis within one hundred twenty calendar days of the commission's notice of the bona fide request for interconnection.

(D) In reviewing the request for a rural telephone company exemption, the commission will review the application and responses and terminate the exemption should the commission find that the interconnection request is not unduly economically burdensome, is technically feasible, and is consistent with 47 U.S.C. 254.

(E) If the commission terminates the rural telephone company exemption, the timeframes established in rule 4901:1-7-07 of the Administrative Code begin anew with the issuance of the commission's order.

(F) If a rural telephone company does not seek to maintain an exemption, it shall follow the negotiation procedures set forth in rule 4901:1-7-07 of the Administrative Code.

(G) If the commission, pursuant to the review process established in rule 4901:1-7-04(C) of the Administrative Code, grants the request for a rural telephone company exemption, the rural telephone company is still obligated to fulfill all the duties set forth in 47 U.S.C. 251(a) and (b), including the duty to interconnect and exchange traffic. The rural telephone company's obligations pursuant to 47 U.S.C. 251(a) and (b) is subject to the commission procedures set forth in rules 4901:1-7-06 to 4901:1-7-09 of the Administrative Code, as applicable, to implement 47 U.S.C. 252.

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"No Change"

4901:1-7-05 Rural carrier suspensions and modifications.

(A) If an incumbent local exchange carrier (ILEC), serving fewer than two per cent of the nation's subscriber lines installed in the aggregate, seeks a suspension or modification of any portion or portions of 47 U.S.C. 251(b) or (c), as a rural carrier, it must file a UNC application with the commission within fifteen calendar days of receiving a bona fide request for interconnection.

(B) Such application must set forth with particularity the provision or provisions from which the rural carrier seeks suspension or modification. The commission shall act within one hundred eighty calendar days after receiving such application. The burden of proof regarding the suspension or modification rests upon the rural carrier.

(C) Pending such action, the commission may suspend enforcement of any requirement to which the application applies with respect to the requesting local exchange carrier. The commission may also consider such request in the context of the rural carrier's filings pursuant to rule 4901:1-6-08 of the Administrative Code.

(D) The commission shall grant such petition to the extent that, and for such duration as, the commission determines that:

(1) The proposed suspension or modification is necessary in order:

(a) To avoid a significant adverse economic impact on users of telecommunications services generally.

(b) To avoid imposing a requirement that is unduly economically burdensome.

(c) To avoid imposing a requirement that is technically infeasible.

(2) The proposed suspension or modification is consistent with the public interest, convenience, and necessity.

"No Change"

4901:1-7-06 Interconnection.

The term interconnection as used in this chapter refers to the facilities and equipment physically linking two networks for the mutual exchange of traffic.

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(A) General interconnection standards

(1) Each telephone company has the duty to interconnect directly or indirectly with the facilities and equipment of other telephone companies for the exchange of telecommunications traffic regardless of the network technology underlying the interconnection pursuant to 47 U.S.C. 251(a).

(2) Each telephone company shall make available interconnection to other telephone companies for the mutual exchange of telecommunications traffic upon receipt of a request for interconnection regardless of the network technology underlying the interconnection, unless the commission orders a waiver of this requirement.

(3) All telephone companies shall have the duty to negotiate in good faith the terms and conditions of the interconnection agreement for the exchange of voice telecommunications traffic regardless of the network technology underlying the interconnection.

(4) Each incumbent local exchange carrier (ILEC) shall provide, for the facilities and equipment of any requesting telephone company, interconnection with the ILEC's network, for the transmission and routing of telephone exchange traffic, exchange access traffic, or both. A telephone company requesting interconnection to an ILEC's network solely for the purpose of originating or terminating its interexchange traffic, not for the provision of telephone exchange service and exchange access to others, is not entitled to receive interconnection pursuant to 47 U.S.C. 251(c)(2).

(5) Each ILEC shall provide interconnection to requesting telephone companies at any technically feasible point within its network, with quality at least equal to that provided by that ILEC to itself or to any subsidiary, affiliate, or any other party to which it provides interconnection pursuant to 47 C.F.R. 51.305. Any telephone company requesting interconnection to the existing network may do so via feature group D-type interconnection or via a mutually agreed upon interconnection arrangement. Interconnecting carriers may use one-way trunks or two-way trunks to interconnect for traffic transport and termination if it is technically feasible. Technically feasible methods of obtaining interconnection or access to unbundled network elements include, but are not limited to: a) collocation at the premises of the ILEC; and b) meet point interconnection arrangements, pursuant to rule 4901:1-7-11 of the Administrative Code, 47 C.F.R. 51.321 and 51.323. If a meet point arrangement is requested from the ILEC for the purpose of gaining access to unbundled network elements and/or for the

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purpose of exchanging traffic with the ILEC, each carrier is required to bear the network cost on its side of the point of interconnection in the meet point arrangement.

(6) Technically feasible points of interconnection within the ILEC's network shall include at a minimum:

(a) The line side of a local switch.

(b) The trunk side of a local switch.

(c) The trunk interconnection points for a tandem switch.

(d) Central office cross-connect points.

(e) Out-of-band signaling transfer points necessary to exchange traffic at these points and access call-related databases.

(f) The points of access to unbundled network elements as described in rule 4901:1-7-16 of the Administrative Code and 47 CFR 51.319.

(7) Interconnection rates, terms, and conditions shall be established through negotiation between telephone companies upon receipt of a request for interconnection or through arbitration. Such arrangements shall be processed pursuant to rule 4901:1-7-07 of the Administrative Code.

(B) Basic requirements for request for interconnection

A request for interconnection shall be in writing and shall detail the specifics of the request. A request for interconnection shall include at a minimum, as applicable, the following:

(1) The requested meet point(s) or, in the alternative, the requested point(s) of interconnection (e.g., the end office, tandem, etc.).

(2) The requested reciprocal compensation arrangement for transport and termination of telecommunications traffic.

(3) A description of any required unbundled network elements and the requested method of access to the operation support system associated with these unbundled network elements.

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(4) A list of the requested telecommunications services to be offered for resale by the providing telephone company, and required operational support systems associated with the resale of these telecommunications services.

(5) If transit telecommunications traffic functionality is required, the requested method of providing that functionality at each requested point of interconnection.

(6) A list including names, phone numbers, e-mail, and areas of responsibility of the requesting carrier's contact persons for the negotiation process.

4901:1-7-07 Establishment of interconnection agreements.

(A) Processing requests for interconnection

(1) Any request for an interconnection arrangement pursuant to 47 U.S.C. 251 and 252 must be submitted via facsimile, overnight mail, e-mail, or hand-delivery to the appropriate personnel or division within the providing telephone company's organization in charge of negotiating interconnection arrangements between telephone companies. The requesting telephone company must also notify simultaneously the chief of the telecommunications and technology division of the ~~utilities~~ rates and analysis department of the commission.

(2) At any point in time during the negotiation, any party to the negotiation may ask the commission to participate in the negotiation and to mediate any differences arising during the course of the negotiation, pursuant to rule 4901:1-7-08 of the Administrative Code.

(3) An incumbent local exchange carrier (ILEC) shall make available without unreasonable delay to any requesting telephone company any agreement in its entirety to which the ILEC is a party that is approved by the commission pursuant to 47 U.S.C. 252(i), upon the same rates, terms, and conditions as those provided in the agreement and pursuant to 47 C.F.R. 51.809.

(4) Negotiated interconnection agreements shall be effective upon filing. The agreement shall be approved pursuant to the ninety-day process set forth in paragraph (D)(2) of this rule.

(B) Requests for the negotiation of an amendment to an existing interconnection arrangement

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(1) A bona fide request (BFR) for interconnection may be used to request an interconnection arrangement, service, or unbundled network element that is subsequent to, unique, or in addition to an existing interconnection agreement and is to be added as an amendment to the underlying interconnection agreement.

(2) All amendments of an existing, approved interconnection agreement must be filed within ten calendar days of its execution and filed with the commission as a negotiated agreement (NAG).

(3) Interconnection agreement amendments shall be effective upon filing. The amendment to the agreement shall be approved pursuant to the ninety-day process set forth in paragraph (D)(2) of this rule.

(C) Process for the negotiation of subsequent interconnection agreements

(1) Parties shall negotiate the rates, terms, and conditions of subsequent interconnection arrangements in accordance with the terms of their existing interconnection agreement. Both parties to the existing interconnection agreement shall notify the chief of the telecommunications and technology division of the ~~utilities~~ rates and analysis department of the commission when negotiations of a subsequent interconnection agreement have commenced.

(2) A party to an existing interconnection agreement may seek arbitration of a subsequent interconnection agreement pursuant to the arbitration rules set forth in rule 4901:1-7-09 of the Administrative Code.

(3) Subsequent interconnection agreements, whether adopted through negotiation or arbitration, shall be docketed as a new case within ten calendar days of signing.

(4) The subsequent interconnection agreement shall be effective upon filing. The subsequent interconnection agreement shall be approved pursuant to the ninety-day process set forth in paragraph (D)(2) of this rule.

(D) Interconnection agreement approval process

(1) Title 47 U.S.C. 252(e)(2)(A), limits the legal test to be applied to the approval of negotiated interconnection agreements to whether (a) the agreement (or portion thereof) is discriminatory against another telephone company, and (b) whether the implementation of such agreement is in the public interest.

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(2) In light of the limited legal test set forth in 47 U.S.C. 252(e)(2)(A), all negotiated interconnection agreements, all executed adoptions of existing interconnection agreements under 47 U.S.C. 252(i), all negotiated subsequent interconnection agreements, and all amendments to such agreements shall be approved pursuant to the ninety-day process set forth in 47 U.S.C. 252(e)(4). All arbitrated agreements shall be approved pursuant to the thirty-day process set forth in 47 U.S.C. 252(e)(4).

(E) BFR fee

A providing telephone company is entitled to recover costs associated with the evaluation of a unique request for interconnection, examination of facilities for special arrangements, and technical and economic feasibility assessments. If the BFR fee exceeds five hundred dollars, the providing telephone company must allow, upon request by the requesting telephone company, payment of that fee over no more than twelve months whether or not the requesting telephone company proceeds with the request. The commission, through the arbitration process, will resolve disputes concerning the amount of the BFR fee. The BFR fee shall be subject to commission review and approval.

4901:1-7-08 Negotiation and mediation of 47 U.S.C. 252 interconnection agreements.

Interconnection agreements pursuant to 47 U.S.C. 252, shall be negotiated, mediated, and arbitrated under the following mediation rules in this chapter and arbitration rules outlined in rule 4901:1-7-09 of the Administrative Code:

(A) Duty to negotiate

All telephone companies have the duty to negotiate in good faith the terms and conditions of their agreements. The commission will presume that a party who refuses to provide information about its costs or other relevant information upon request of the other party has not negotiated in good faith provided that, where appropriate, the other party agrees to execute a reasonable confidentiality agreement. This presumption of failure to negotiate in good faith is rebuttable. The commission will resolve disputes concerning the furnishing of information when raised by a party to the negotiation and may impose sanctions where appropriate.

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(B) Mediation

(1) Mediation is a voluntary alternative dispute resolution process in which a neutral third party assists the parties in reaching their own settlement. At any point during the negotiation, any party or both parties to the negotiation may ask the commission to mediate any differences arising during the course of the negotiation.

(2) To request mediation, a party to the negotiation shall notify in writing the chief of the telecommunications section of the commission's legal department and the chief of the telecommunications and technology division of the ~~utilities~~ rates and analysis department of the commission. A copy of the mediation request should be simultaneously served on the other party in the dispute. The request shall include the following information:

(a) The name, address, telephone number, e-mail, and fax number of the party to the negotiation making the request.

(b) The name, address, telephone number, e-mail, and fax number of the other party to the negotiation.

(c) The name, address, telephone number, e-mail, and fax number of the parties' representatives participating in the negotiations and to whom inquiries should be made.

(d) The negotiation history, including meeting times and locations.

(e) A statement concerning the differences existing between the parties, including relevant documentation and arguments concerning matters to be mediated.

(f) The other party to the negotiation shall provide a written response within seven calendar days of the request for mediation to the chief of the telecommunications section of the commission's legal department and to the chief of the telecommunications and technology ~~section~~ division of the ~~utilities~~ rates and analysis department. The response to a request for mediation shall be simultaneously served upon the telephone company requesting the mediation.

(3) The commission will appoint a mediator to conduct the mediation. The mediator will promptly contact the parties to the negotiation and establish a time to commence mediation. The mediator will work with the parties to establish an appropriate schedule and procedure for the mediation.

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(4) The mediator's function is to be impartial and to encourage voluntary settlement by the parties. The mediator may not compel a settlement. The mediator may schedule meetings of the parties, direct the parties to prepare for those meetings, hold private caucuses with each party, request that the parties share information, attempt to achieve a mediated resolution, and, if successful, assist the parties in preparing a written agreement.

(5) Participants in the mediation must have the authority to enter into a settlement of the matters at issue.

(6) Confidentiality

(a) Discussions during the mediation process shall be private and confidential between the parties. By electing mediation under this rule, the parties agree that no communication made in the course of and relating to the subject matter of the mediation shall be disclosed, except as permitted in this chapter.

(b) No party shall use any information obtained through the mediation process for any purpose other than the mediation process itself. This restriction includes, but is not limited to, using any information obtained through the mediation process to gain a competitive advantage.

(c) As provided in the Ohio Rules of Evidence 408, offers to compromise disputed claims and responses to them are inadmissible to prove the validity of that claim in a subsequent proceeding. Evidence of conduct or statements made in compromise negotiations are also not admissible in a future proceeding. This rule does not require the exclusion of evidence otherwise discoverable merely because it is presented in the course of compromise negotiations.

(7) Parties to the mediation shall reduce to writing the mediated resolution of all or any portion of the mediated issues and submit the resolution to the mediator.

(8) A member of the commission staff or an attorney examiner who serves as a mediator shall, by virtue of having served in such capacity, be precluded from serving in a decision-making role or as a witness on matters subject to mediation in a formal commission case involving the same parties and the same issues.

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"No Change"

4901:1-7-09 Arbitration of 47 U.S.C. 252 interconnection agreements.

(A) Arbitration is an alternative dispute resolution process whereby parties present evidence and legal arguments to a neutral third party, called an arbitrator or an arbitration panel, who renders a recommended decision to the commission. Any party to the negotiation of an interconnection agreement may, during the period from the one hundred thirty-fifth to the one hundred sixtieth day (inclusive) after the date on which a local exchange carrier receives a request for negotiation, petition the commission to arbitrate any open issues.

(B) The commission will only arbitrate issues that have been unresolved between the parties and filed with the commission in the petition for arbitration or the response to the petition.

(C) To petition the commission for arbitration, a party to the negotiation shall file two copies of the request with the commission's docketing division. Docketing will assign a docket number using the industry code TP and the purpose code ARB.

(D) The petition must include the following information:

(1) The name, address, telephone number, e-mail, and fax number of the party to the negotiation making the request.

(2) The name, address, telephone number, e-mail, and fax number of the other party to the negotiation.

(3) The name, address, telephone number, e-mail, and fax number of the parties' representatives participating in the negotiation and to whom inquiries should be made.

(4) The negotiation history, including meeting times and locations.

(5) A list of the petitioning party's unresolved issues and a clear explanation of that party's position on the listed issues.

(6) All relevant nonproprietary documentation on any other issue discussed and resolved by the parties.

(7) A statement identifying information needed to decide unresolved issues or information that has been requested during negotiations but not yet provided.

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(E) Notice of petition for arbitration

A petitioner requesting the commission to arbitrate unresolved issues shall provide a copy of the petition and accompanying documentation to the other party not later than the day on which the petition is filed with the commission.

(F) Opportunity to respond to petition

A nonpetitioning party to a petition for arbitration shall file a response to the petition within twenty-five calendar days after the petition to arbitrate is filed. The response should identify the nonpetitioning party's position on the petitioning party's unresolved issues. In addition, the nonpetitioning party may identify additional unresolved issues with a clear explanation of its position on the additional issues it identifies.

(G) Commission responsibility

(1) Upon receipt of a timely and complete petition for arbitration, the commission shall appoint an arbitration panel. It is the function of the arbitration panel to recommend a resolution of the issues in dispute if the parties cannot reach a voluntary agreement.

(2) Within ten calendar days of the filing of a request for arbitration, the arbitration panel will schedule a conference to be held within thirty calendar days after the filing of the arbitration petition. The purpose of the conference is to plan an arbitration hearing date, identify witnesses to be presented at the hearing, discuss possible admissions or stipulations of uncontested matters, clarify the issues to be resolved, identify additional information needed to reach a decision on the unresolved issues, schedule the production of relevant documents and other information, identify issues which have been resolved, discuss or rule on any other appropriate procedural matters, and consider any other procedures that will expedite the arbitration process. The arbitration panel is authorized to order any party to provide information that it deems necessary to reach a decision on the unresolved issues and to establish the time period for providing the information.

(3) Unless otherwise determined by the arbitration panel, seven calendar days prior to the arbitration hearing, each party shall file an arbitration package that will assist the arbitrators in the conduct of the hearing. Unless previously submitted in writing to the panel, the arbitration package shall contain: the list of issues to be arbitrated as identified by the petition for arbitration or the response to the petition, the party's position as to each issue, identification of issues which have

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been resolved by the parties and a description of the resolution, the party's prefiled testimony, the exhibits which the party intends to introduce at the hearing, and a list of factual stipulations upon which the parties have agreed. Given the expedited nature of the arbitration process, factual stipulations are encouraged.

(4) Unless otherwise determined by the arbitration panel and the parties, the panel will conduct a hearing with prefiled testimony, transcription of the hearing, and cross-examination of witnesses. Unless determined otherwise by the arbitration panel after consultation with the parties, the length of the hearing, including oral argument, will be limited to four calendar days. Generally, the arbitration panel will conduct the hearing process according to the following procedures:

(a) The panel will provide the parties at least fifteen calendar days' written notice of the hearing.

(b) Unless consolidation of issues is permitted, only parties to the negotiation will be permitted to participate as parties to the arbitration hearing.

(c) The arbitration panel will permit discovery. Basic cost information to support prices for interconnection, services, or network elements should be exchanged expeditiously. The panel will establish a schedule for additional discovery by entry or at the prehearing conference.

(d) Whenever possible, the parties should enter into factual stipulations given the expedited hearing schedule.

(e) The chair of the arbitration panel will preside over the hearing.

(f) A written transcript of the hearing will be prepared.

(g) Witnesses shall be subject to cross-examination on their testimony. However, the arbitration panel shall have the authority to limit or prohibit cross-examination on policy or legal issues.

(h) Instead of requiring post-hearing briefs, the panel may hear oral arguments of the parties at the conclusion of the hearing.

(i) The arbitration panel will limit its consideration of any petition for arbitration and any response to the unresolved issues raised in the petition and response.

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(j) The parties to the arbitration may be required to provide additional information as may be necessary for the arbitration panel to reach a decision on the unresolved issues. Information provided to the arbitration panel shall also be provided at the same time to the other parties to the arbitration. If any party refuses or fails to respond on a timely basis to any reasonable request from the arbitration panel, the arbitration panel may proceed on the basis of the best information available on the record.

(k) The commission shall resolve each issue set forth in the petition and the response by imposing conditions that ensure that the resolution and conditions meet the requirements of 47 U.S.C. 251, establish rates for interconnection, services, or network elements in accordance with 47 U.S.C. 252(d), and provide a schedule for implementation of the terms and conditions by the parties to the agreement.

(l) A commission arbitration award shall be issued not later than nine months after the date on which the local exchange carrier received the request for interconnection pursuant to 47 U.S.C. 252(b)(4)(C).

(5) Within thirty calendar days after the issuance of the arbitration award, the parties shall file their entire interconnection agreement, consistent with the commission's arbitration award, for commission review. A complete interconnection agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement, including all separate agreements covering such services or network elements.

(6) If the parties are unable to agree on an entire interconnection agreement, within thirty calendar days after the arbitration award is issued, each party shall file for commission review its version of the language that should be used in a commission-approved interconnection agreement. Unless otherwise authorized by the commission, no comments addressing disputed language filed under this provision will be entertained. The commission will select the competing language that most closely reflects the commission's award.

(7) Parties to the arbitration may seek extension of any of the deadlines outlined in this rule by the mutual agreement of the parties and the arbitration panel.

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(H) Commission review

Unless otherwise determined by the commission, the agreement shall be deemed approved on the thirty-first calendar day.

(I) Nothing in these rules precludes the filing of a voluntarily negotiated interconnection agreement at any time.

(J) If the commission rejects a voluntary agreement resulting from negotiation or mediation, or an agreement arrived at by the arbitration process, the parties may file within thirty calendar days an application for rehearing for the commission's consideration. Alternatively, the parties may resubmit the agreement for commission approval within thirty calendar days following rejection if the parties have remedied the deficiencies found by the commission in its order.

(K) Confidentiality

The commission will treat information determined by the commission to be proprietary and confidential which is received during the mediation, negotiation, and/or arbitration process as confidential. The parties to the mediation, negotiation, and/or arbitration process are expected to negotiate appropriate protective orders for the exchange of information deemed to be proprietary. The commission's procedures concerning proprietary information contained in rule 4901-1-24 of the Administrative Code, shall govern the treatment of confidential and proprietary information.

(L) Waiver

(1) Notwithstanding any provision in these rules, the mediator, arbitration panel, or the commission may permit variance from these rules.

(2) The commission retains continuing jurisdiction and will maintain regulatory oversight over all approved interconnection agreements.

(M) Notice of approved interconnection agreements

All approved interconnection agreements may be obtained from the commission's docketing division or electronically by subscribing to a personal daily distribution list at the commission website.

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"No Change"

4901:1-7-10 Mediation for carrier-to-carrier disputes.

(A) The mediation procedure in this rule is available for pending formal complaints between telephone companies. Any telephone company involved in a pending formal carrier-to-carrier complaint may ask the commission to mediate that matter. This rule is not intended to supersede any existing alternative dispute resolution provisions in approved interconnection agreements. These provisions are not intended to alter or diminish the commission's (or its staff's) authority to conduct investigations and to take remedial action when deemed necessary. This rule is not intended to alter or diminish the commission's (or its staff's) dispute resolution procedures for informal disputes.

(B) Mediation shall have the same meaning as that set forth in paragraph (B)(1) of rule 4901:1-7-08 of the Administrative Code.

(C) The mediation process shall be the same as that set forth in paragraphs (B)(2) to (B)(8) of rule 4901:1-7-08 of the Administrative Code.

"No Change"

4901:1-7-11 Collocation.

(A) If collocation is the requested method of interconnection, the incumbent local exchange carrier (ILEC) shall provide physical collocation of equipment necessary for interconnection or access to unbundled network elements at its premises. If upon demonstration by an ILEC and a determination by the commission that physical collocation is not practical for technical reasons, or because of space limitations, then the ILEC shall provide virtual collocation of equipment necessary for interconnection or access to unbundled network elements at its premises, to the extent it is technically feasible. Such demonstration shall include, but not be limited to, the provision of detailed floor plans or diagrams of such premises to the commission. The commission determination shall be performed on a case-by-case basis.

(B) ILECs shall provide virtual collocation of equipment necessary for interconnection or access to unbundled network elements at its premises if requested by the interconnecting telephone company, even if the ILEC has floor space available for physical collocation, to the extent it is technically feasible.

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(C) Collocation shall be provided pursuant to rates, terms, and conditions that are just, reasonable, and nondiscriminatory pursuant to 47 C.F.R. 51.321 and 51.323, and consistent with the commission's policies and decisions.

(D) In the event collocation fact-specific issues have not been addressed by the federal communications commission rules, the commission will determine such collocation issues on a case-by-case basis due to the fact that collocation is a very case- and fact-specific issue.

4901:1-7-12 Compensation for the transport and termination of non-access telecommunications traffic.

(A) Compensation principles

(1) Reciprocal compensation

(a) All telephone companies shall have the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic pursuant to 47 U.S.C. 251(b)(5), regardless of the network technology utilized by the telephone company to transport or terminate that traffic.

(b) Transport is the transmission, and any necessary tandem switching of telecommunications traffic subject to 47 U.S.C. 251(b)(5), from the interconnection point between the two telephone companies to the terminating telephone company's end office switch that directly serves the called party, or equivalent facility provided by a telephone company other than an incumbent local exchange telephone company (ILEC).

(c) Termination is the switching of the non-access telecommunications traffic at the terminating telephone company's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

(2) Eligibility

Telephone companies shall be entitled to compensation for the use of network facilities they own or obtain by leasing from an ILEC (i.e., through purchasing unbundled network elements) to provide transport and terminate non-access telecommunications traffic originated on the network facilities of other telephone companies pursuant to 47 C.F.R. 51.703. Nonfacilities-based, local exchange carriers (LECs) are not eligible for the transport and termination of non-access telecommunications traffic compensation.

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(B) Traffic measurement and identification

(1) All telephone companies exchanging non-access reciprocal compensation traffic and switched access reciprocal compensation traffic shall measure minutes-of-use for compensation purposes if technically and economically feasible, unless they mutually agree to a different arrangement in an interconnection agreement.

(2) All telephone companies exchanging telecommunications traffic, where technically and economically feasible, as the provider of originating or transiting intrastate telecommunications traffic that is transported and/or terminated on the network of another telephone company, shall comply with the signaling information delivery requirements outlined in 47 C.F.R. 64.1601(a). This obligation is applicable to all telephone companies exchanging telecommunications traffic regardless of the network technology utilized by the telephone company to transport or terminate that traffic.

(C) ~~Traffic~~ The following types of traffic are subject to non-access reciprocal compensation:

(1) Telecommunications traffic exchanged between LECs ~~As a LEC establishes its own local calling area(s), the perimeter of the local calling area of the ILEC with which the LEC is requesting to establish a non-access reciprocal compensation arrangement shall constitute the demarcation for differentiating non-access reciprocal compensation traffic versus switched access reciprocal compensation traffic for the purpose of the compensation arrangement. Any call Telecommunications traffic exchanges between LECS~~ that ~~originating~~ originates and ~~terminating~~ terminates within the boundary of ~~such~~ an ~~ILEC~~ ILEC's local calling area. ~~shall be subject to non-access reciprocal compensation.~~ The local calling area of the ILEC shall include non-optional extended area service (EAS) approved by the commission while excluding optional EAS arrangements.

(2) Telecommunications traffic exchanged between a LEC and a wireless service provider that, at the beginning of the call, originates and terminates within the same major trading area as defined in 47 C.F.R. 24.202(a), shall be subject to non-access reciprocal compensation.

(3) Telecommunications traffic exchanged between a LEC and another telephone company in time division multiplexing (TDM) format that originates and/or terminates in internet protocol (IP) format and that otherwise meets the definitions in paragraph (C)(1) or (C)(2) of this rule. Telecommunications traffic originates and/or terminates in IP format if it originates from and/or terminates

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to an end-user customer of a service that requires internet protocol compatible customer premises equipment.

(D) Non-access reciprocal compensation arrangements

(1) Rates, terms, and conditions for the transport and termination of non-access reciprocal compensation traffic shall be established through either negotiated or arbitrated agreements. An ILEC's rates for transport and termination of non-access reciprocal compensation traffic shall be established, at the commission's discretion in an arbitration proceeding, on the basis of one of the following:

(a) The forward-looking economic costs of such offerings, using a cost study pursuant to rules 4901:1-7-17 and 4901:1-7-19 of the Administrative Code. Any rate established pursuant to this provision shall be superseded by the transition process set forth in 47 C.F.R. 51.705(c).

(b) A bill and keep arrangement pursuant to 47 C.F.R. 51.713.

(2) Symmetrical non-access reciprocal compensation

(a) For purposes of this section, symmetrical rates are rates that a telephone company assesses upon an ILEC for transport and termination of non-access reciprocal compensation traffic equal to the rates that the ILEC assesses upon the telephone company for the same services.

(b) Rates for transport and termination of non-access reciprocal compensation traffic shall be symmetrical unless the non-ILEC telephone company (or the smaller of two ILECs) proves to the commission, on the basis of a forward-looking economic cost study pursuant to rule 4901:1-7-19 of the Administrative Code, that its forward-looking costs for its network exceed the costs incurred by the ILEC (or the larger ILEC), and that justifies a higher rate.

(c) If both parties to the compensation arrangement are ILECs, symmetrical rates for transport and termination of non-access reciprocal compensation traffic shall be based on the larger telephone company's forward-looking costs, unless the parties voluntarily agree to different rates.

(d) If neither party to the compensation arrangement is an ILEC, symmetrical rates for transport and termination of non-access reciprocal compensation traffic shall not exceed the highest tandem interconnection total element long run incremental cost-based rate charged by the largest ILEC in the state, unless the parties voluntarily agree to different rates.

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(e) The commission may establish symmetrical transport and termination rates for non-access reciprocal compensation traffic that vary according to whether this traffic is routed through a tandem switch or directly to an end office switch. If a non-ILEC has a switch that serves a geographic area comparable to the area served by an ILEC's tandem switch, the non-ILEC may not charge a rate that exceeds the ILEC's tandem rate.

(i) Where the telephone company interconnects at the ILEC's tandem office and the switch of the telephone company serves a geographical area comparable to the area served by that ILEC's tandem switch, the telephone company is eligible for the tandem interconnection rate for the transport and termination of non-access reciprocal compensation traffic over this tandem interconnection facility.

(ii) Where the telephone company interconnects at the ILEC's end office, regardless of the geographical area served by the telephone company's switch, the telephone company is eligible for the end office termination rate only for the transport and termination of reciprocal compensation traffic over this end office interconnection facility.

(3) Transport and termination for non-access telecommunications traffic exchanged between a local exchange carrier and a wireless service provider shall be pursuant to a bill-and-keep arrangement, as provided in 47 C.F.R. 51.705(a).

(4) Rate structure

(a) Rates for transport and termination of non-access reciprocal compensation traffic shall be structured consistent with the manner that telephone companies incur those costs pursuant to paragraph (B) of rule 4901:1-7-17 of the Administrative Code.

(b) LECs shall offer flat-rate compensation to other telephone companies for dedicated facilities purchased for the transport of non-access reciprocal compensation traffic.

(c) The rate of a telephone company providing transmission facilities dedicated to the transmission of non-access reciprocal compensation traffic between two telephone companies' networks shall recover only the costs of the portion of that trunk capacity used by an interconnecting telephone company to send traffic that will terminate on the providing

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telephone company's network. Such proportion may be measured during peak periods.

(d) Non-access reciprocal compensation for telecommunication traffic exchanged between rate-of-return regulated rural telephone company as defined in 47 C.F.R. 51.5, and wireless service provider shall be set pursuant to 47 C.F.R. 51.709(c).

(E) This section shall not be construed to preclude telephone companies from negotiating and voluntarily agreeing to other interconnection and compensation arrangements.

"No Change"

4901:1-7-13 Transit traffic compensation.

(A) Transit traffic is traffic that originates on one telephone company(s) network, terminates on a second telephone company's network, and is transmitted using an intermediate third telephone company(s) network facilities.

(B) The intermediate telephone company(s) carrying traffic originating and terminating on other telephone company's networks shall be compensated for the use of its (their) network facilities.

(C) An intermediate telephone company may not refuse to carry transit traffic if:

(1) It is appropriately compensated for the use of its network facilities necessary to carry the transit traffic.

(2) The originating and terminating telephone companies have a compensation agreement in place with the intermediate telephone company that sets the rates, terms, and conditions for the compensation of such transit traffic.

(D) The intermediate telephone company(s) must be compensated at the intermediate telephone company(s) total element long run incremental cost (TELRIC) based transit traffic compensation rates. Until such time as the commission approves telephone company-specific TELRIC-based transit traffic compensation rates, an intermediate telephone company(s) should be compensated, on an interim basis, at its (their) tariffed switched access reciprocal compensation rates subject to a true up of these rates.

(E) This section shall not be construed to preclude telephone companies from negotiating other transit traffic interconnection and compensation arrangements.

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(F) The originating and terminating telephone companies in a transit traffic arrangement are both obligated to establish a transport and termination agreement between them pursuant to 47 U.S.C. 251(b)(5) and 251(a)(1).

4901:1-7-14 Compensation for intrastate switched access reciprocal compensation traffic and carrier-to-carrier tariff.

(A) For purposes of this rule:

(1) "Nonrural incumbent local exchange carrier" (nonrural ILEC)" shall mean an incumbent local exchange carrier that is not a "rural telephone company" under 47 U.S.C. 153(37).

(2) "Rural competitive local exchange carrier" (rural CLEC) shall mean a CLEC that does not serve (i.e., terminate traffic to or originate traffic from) any customers located within either:

(a) An incorporated place of fifty thousand inhabitants or more based on the most recently available population statistics of the census bureau.

(b) An urbanized area, as defined by the census bureau.

(3) "Switched access reciprocal compensation" shall have the meaning of access reciprocal compensation set forth in 47 C.F.R. 51.903(h).

(B) The prevailing ILEC and CLEC intrastate switched access reciprocal compensation rates established pursuant to case nos. 83-464-TP-COI and 00-127-TP-COI, shall be capped for compensation for origination of switched access telecommunications traffic terminated by other telephone companies at the December 29, 2011, level until the commission rules otherwise. The exception to this capping requirement of originating intrastate switched access reciprocal compensation shall be to those ILECs regulated on a rate-of-return basis by the Federal Communications Commission. Any change in the ILEC or CLEC intrastate switched access reciprocal compensation tariffs shall be filed as an ATA case and shall be subject to the thirty-day approval procedure set forth in rule 4901:1-6-05 of the Administrative Code.

(C) The prevailing ILEC and CLEC terminating intrastate switched access reciprocal compensation rates established pursuant to case nos. 83-464-TP-COI and 00-127-TP-COI, shall be transitioned to a default bill-and-keep compensation consistent with 47 C.F.R. 51.903-913.

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(D) When filing for certification under rule 4901:1-6-08 of the Administrative Code, a facilities-based CLEC shall tariff the rates, terms, and conditions for switched access reciprocal compensation for the termination and origination of intrastate switched access traffic originated and/or terminated by other telephone companies.

(E) A facilities-based CLEC filing for certification, an ILEC's affiliate filing for a CLEC certification, or an ILEC proposing to operate outside its ILEC service area, shall establish their initial switched access reciprocal compensation rates, at a level that does not exceed the current rates of the ILEC providing service in the CLEC's service area, for the termination and origination of intrastate switched access reciprocal compensation traffic, unless the CLEC is a rural CLEC competing with a nonrural ILEC and its rates are capped at national exchange carrier association switched access reciprocal compensation rates. Once initial switched access reciprocal compensation rates are established, the rates shall be subject to requirements set forth in paragraphs (B) and (C) of this rule.

(F) A facilities-based CLEC, an ILEC's affiliate CLEC, or an ILEC operating outside its ILEC service area's intrastate switched access reciprocal compensation tariff not filed as part of its certification process pursuant to rule 4901:1-6-08 of the Administrative Code, shall be filed as an ATA case and shall be subject to the thirty-day approval procedure set forth in rule 4901:1-6-05 of the Administrative Code and requirements set forth in paragraph (E) of this rule.

"No Change"

4901:1-7-15 Meet point billing (MPB).

(A) MPB arrangements shall be used in billing for compensation for jointly provisioned switched access service to another carrier by more than one local exchange carrier (LEC), similar to MPB arrangements currently used by the incumbent local exchange carriers.

(B) LECs may use MPB arrangements for compensation of other types of traffic exchanged between them.

(C) Under MPB compensation arrangements, the meet point can be any technically feasible point of interconnection pursuant to paragraph (A)(6) of rule 4901:1-7-06 of the Administrative Code.

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"No Change"

4901:1-7-16 Unbundled network elements (UNE).

General unbundling requirements

(A) Each incumbent local exchange carrier (ILEC) shall have the duty to provide, to any requesting telephone company for the provision of telecommunications service, nondiscriminatory access to network elements, pursuant to 47 U.S.C. 251(c), and 251(d)(2), on an unbundled basis at any technically feasible point consistent with 47 C.F.R. 51.307-321.

(B) Each ILEC shall provide UNEs on rates, terms, and conditions that are just, reasonable, and nondiscriminatory pursuant to 47 U.S.C. 251(c)(3) and 252.

(C) Unbundled network element rates, terms, and conditions shall be established through negotiation between telephone companies upon receipt of a request for interconnection pursuant to rule 4901:1-7-06 of the Administrative Code, or through arbitration pursuant to rule 4901:1-7-09 of the Administrative Code.

(D) Unbundled network elements shall be priced at cost-based rates pursuant to the pricing standards set forth in rules 4901:1-7-17 and 4901:1-7-19 of the Administrative Code.

"No Change"

4901:1-7-17 Carrier-to-carrier pricing.

(A) General principles

(1) These standards apply to pricing of interconnection, unbundled network elements, methods of obtaining interconnection and access to unbundled network elements (including collocation), and reciprocal compensation pursuant to 47 U.S.C. 251(c) and 251(d)(2). All of these provisions shall be referred to as "elements" for the purpose of this rule.

(2) An incumbent local exchange carrier's (ILEC's) rates for each element it offers shall comply with the rate structure standards as described in paragraph (B) of this rule.

(3) The commission, at its discretion in an arbitration proceeding, shall set the ILEC's rates for each element it offers by either:

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(a) Utilizing interim rates that are based on the best information available to the commission about the ILEC's forward-looking economic costs. Such interim rates shall be subject to a true up pursuant to paragraph (A)(4) of this rule.

(b) Pursuant to the forward-looking economic cost-based pricing methodology described in rule 4901:1-7-19 of the Administrative Code.

(4) The interim rate(s) for an element(s) shall cease to be in effect once the commission determines rates based on forward-looking economic costs pursuant to rule 4901:1-7-19 of the Administrative Code, submitted by the ILEC and approved by the commission. If the interim rate for an element is different from the rate established by the commission pursuant to rule 4901:1-7-19 of the Administrative Code, the involved telephone companies shall make adjustments to the past rate charged for that element which allow each telephone company to be charged at a rate level it would have been charged had the interim element rate equaled the rate later established by the commission pursuant to rule 4901:1-7-19 of the Administrative Code. The involved telephone companies may consider the financial impact of the true up and negotiate the period of time over which the true up takes place.

(5) Any ILEC offering of a volume discount, term discount, or geographically deaveraged price of an element, shall be made available on a nondiscriminatory basis to all telephone companies who meet the discount or the deaveraging criteria.

(6) The ILEC shall prove to the commission's satisfaction that the price for each element provided to a requesting telephone company does not exceed the forward-looking economic cost per unit of providing that element unless otherwise negotiated.

(7) The rate that an ILEC assesses for elements shall not vary on the basis of the class of customer served by the requesting telephone company, or on the type of services that the requesting telephone company purchasing such elements uses them to provide.

(B) Rate structure

(1) The following rate structure standards shall apply to rates set by the commission in arbitration proceedings pursuant to rule 4901:1-7-09 of the Administrative Code. Local exchange carriers (LECs) are not precluded from negotiating alternative rates or rate structures.

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(2) General rate structure standards

The following rate structure standards shall apply regardless of whether the price of an element is set pursuant to a forward-looking cost study or the interim rate approach.

(a) Rates for an element shall be structured consistent with the manner in which the costs of providing that element are incurred.

(i) Recurring costs shall be recovered through recurring charges, unless an ILEC can prove to the commission's satisfaction that such recurring costs are de minimus when the costs of administrating the recurring charges would be excessive in relation to the amount of the recurring costs.

(ii) An ILEC may recover the forward-looking nonrecurring economic costs through recurring charges allocated among requesting telephone companies and spread over a reasonable period of time. The commission on a case-by-case basis shall evaluate the reasonableness of such cost recovery mechanisms.

(b) The costs of dedicated facilities shall be recovered through flat-rated charges.

(c) The costs of shared facilities shall be recovered in a manner that efficiently apportions those costs among users. Costs of shared facilities may be recovered through either usage sensitive charges or capacity-based, flat-rated charges. The commission shall determine on a case-by-case basis the reasonableness of the proposed cost recovery mechanism.

(d) An ILEC may establish different rates for elements in at least three defined geographic areas within the state to reflect geographic cost differences. To establish geographically-deaveraged rates, the ILEC may use its existing density-related zone plans established pursuant to 47 C.F.R. 69.123, other cost-related zone plans established pursuant to state law, or another cost-related zone plan that creates a minimum of three cost-related zones approved by the commission.

(3) Rate structure for specific rate elements

The following element-specific rate structure standards shall apply in addition to the standards set forth in paragraph (B)(2) of this rule.

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(a) Local loop costs shall be recovered through flat-rated charges.

(b) Dedicated transmission link costs shall be recovered through flat-rated charges, except for the purpose of establishing a reciprocal compensation rate for providing transmission facilities dedicated to the transmission of traffic between two carriers' networks, which is provided pursuant to paragraph (D)(4)(c) of rule 4901:1-7-12 of the Administrative Code.

"No Change"

4901:1-7-18 Interim rates for forward-looking economic prices.

(A) Interim rates may be used by the commission in setting prices while arbitrating disputed issues pursuant to rule 4901:1-7-9 of the Administrative Code.

(B) Interim rates shall be set by the commission when it determines that it does not have sufficient time to review cost information provided by an incumbent local exchange carrier or when it appears that there may be significant concerns with the cost studies from the commission's cursory review.

"No Change"

4901:1-7-19 Forward-looking economic costs.

(A) The forward-looking, economic, cost-based price of an element shall be set at a level that allows the providing carrier to recover the sum of the total element long-run incremental cost (TELRIC) of the element and a reasonable allocation of the forward-looking, joint and common costs.

(B) TELRIC

(1) Principal

The TELRIC of an element is the forward-looking economic cost over the long-run of the total quantity of the facilities and functions that are directly attributable to, or reasonably identifiable as incremental to, such element, calculated while holding all other products' volumes constant.

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(2) Study period

The commission will consider a cost study period of five years to be reasonable. An incumbent local exchange carrier (ILEC) shall have the burden of proof, to the commission's satisfaction, that such study period would not be reasonable for a specific element.

(3) Technology

The TELRIC of an element shall be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the ILEC's wire centers.

(4) Cost of capital

The TELRIC of an element shall be calculated using the forward-looking cost of capital (debt and equity) reflecting the risks of a competitive market, that includes a reasonable level of profit. An ILEC may use an unbundled network element-specific, forward-looking, cost of capital in calculating the TELRIC-based cost for that unbundled network element.

(5) Depreciation

The TELRIC of an element shall be calculated using the economic depreciation rates that reflect the forward-looking economic lives of the equipment and the economic value of an asset. In doing so, an ILEC may accelerate recovery of the initial capital outlay for an asset over its life to reflect the anticipated decline in its value.

(6) Federal, state, and local income taxes

(a) Federal, state, and local income tax expenses shall be determined based on the TELRIC.

(b) Since federal, state, and local taxes are applicable, recognition shall be given to the "tax-on-tax" situation that results from the deductibility of state and local tax when federal taxes are paid.

(7) Inflation

TELRIC studies shall reflect costs that are expected to be incurred during the study period. Such costs shall be projected to their anticipated level over the study period by using prices in supplier contracts or an appropriate index of

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future cost, such as supplier estimates of price changes, indices developed from labor contracts, or other relevant indices.

(8) Investment development

(a) Material investment

(i) The development of the material component of investment shall begin with the current vendor price(s) for the hardware and software resources required to provide the element, projected over the study period as described above.

(ii) Other components of material investment shall include inventory, supply expenses, and sales taxes.

(iii) The sales tax component of investment shall be calculated by applying a sales tax factor if applicable. The factor shall reflect taxes imposed by state and local taxing bodies on material purchases. It shall be applied to the material and inventory components.

(iv) The supply component shall include the expense incurred by the ILEC for storage, inventory, and delivery of material.

(b) Labor investment

There are two major components of labor investment, vendor-related and ILEC-related.

(i) Vendor-related labor investment shall include vendor-provided installation and engineering.

(ii) ILEC-related labor investment may be developed based on account averages or from estimates of product-specific plant engineering and installation hours.

(iii) Total labor costs shall be computed by multiplying the account average or product specific work times by the appropriate labor rate.

(iv) Hourly labor rates include the operational wages, benefits, paid absence, and, if applicable, tools and miscellaneous expenses.

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(9) Fill factors

The investment developed above shall be adjusted to reflect reasonably accurate "fill factors." Fill factors are the proportion of a facility that will be filled with network usage during the study period. The ILEC shall have the burden to justify the reasonableness of the fill factors used in its TELRIC studies.

(10) Maintenance

Maintenance costs are incurred in order to keep equipment resources in usable condition.

(a) Included in this classification are: direct supervision; engineering associated with maintenance work; labor and material costs incurred in the upkeep of plant; rearrangements and changes of plant; training of maintenance forces; testing of equipment and facilities; tool expenses; and miscellaneous expenses.

(b) The specific maintenance cost estimates associated with the element in question or investment-related annual maintenance factors may be applied to arrive at an annual maintenance cost.

(c) The factor shall be specific to the investment and expense accounts associated with the element and developed from the most current data reasonably available to the ILEC.

(11) The forward-looking, economic, cost per unit of an element shall equal the forward-looking, economic cost of the element, divided by a reasonable projection of the sum of the total number of units of that element that the ILEC is likely to provide to requesting telephone companies and the total number of units of that element that the ILEC itself is likely to use in offering its own services, during the study period.

(12) In the determination of the total number of units:

(a) If the ILEC offers an element on a flat-rate basis, the number of units shall be defined by the ILEC as the discrete number of elements that the ILEC uses or provides (e.g., number of loops or number of ports).

(b) If the ILEC offers an element on a usage-sensitive basis, the number of units shall be defined by the ILEC as the unit of measurement of the usage (e.g., number of minutes-of-use or database queries).

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(13) The TELRIC of an element shall reflect any cost-based volume discount, term discount, and/or geographic-deaveraging the ILEC plans to offer.

(C) Forward-looking, joint and common costs

(1) Forward-looking common costs are economic costs incurred by the ILEC in providing all elements and services provided by the ILEC that cannot be attributed directly to an individual element or service.

(2) Forward-looking joint costs are those forward-looking costs that are common to only a subset of the elements or services provided by the ILEC.

(3) Reasonable allocation of forward-looking, joint and common costs:

(a) Forward-looking joint costs which are common to only a subset of the elements or services provided by the ILEC, shall be allocated to that subset, and should then be allocated among the individual elements or services in that subset, based upon measures of utilization, including such measures as: number of circuits, minutes-of-use, and bandwidth. The commission shall evaluate the reasonableness of the joint cost allocation methodology on a case-by-case basis.

(b) Forward-looking common costs shall be allocated among elements and services in a reasonable manner. The ILEC may allocate forward-looking common costs using a fixed allocator as a markup over the sum of the TELRIC and the allocated forward-looking joint cost allocated to such element. The ILEC shall have the burden of proving that the fixed allocator permits only reasonable recovery of any forward-looking common costs.

"No Change"

4901:1-7-20 Cost study requirements.

(A) When a local exchange carrier (LEC) submits a cost study to the commission staff, it must simultaneously submit a complete set of supporting work papers and source documents.

(B) The work papers must clearly and logically present all data used in developing the estimate and provide a narrative explanation of all formulas or algorithms applied to these data. These work papers must allow others to replicate the methodology and

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calculate equivalent or alternative results using equivalent or alternative assumptions.

(C) The work papers must clearly set forth all significant assumptions and identify all source documents used in preparing the cost estimate, including the technology being used in providing the element.

(D) The work papers must be organized so that a person unfamiliar with the study will be able to work from the initial investment, expense, and demand data to the final cost estimate. Every number used in developing the study must be clearly identified in the work papers as to what it represents. Further, the source should be clearly identifiable and readily available, if not included with the work papers.

(E) Any input expressed as a "dollars per minute," "dollars per foot," "dollars per loop," "dollars per port," and the like must be traceable back to the original source documents containing the number of dollars, minutes, feet, loops, ports, and the like from which these figures were calculated.

(F) All data and work papers must be provided in electronic format.

4901:1-7-21 Resale.

(A) Resale provisioning

(1) All local exchange carriers (LECs) must make all telecommunications services available for resale by any LEC and shall not contain unreasonable, discriminatory, or anti-competitive conditions, or limitations.

(2) All incumbent local exchange carriers (ILECs) must make available for resale at wholesale rates any retail telecommunication services that the ILEC provides at retail to subscribers who are not telephone companies.

(3) Each ILEC shall be required to provide nondiscriminatory, automated operational support systems. Such systems shall enable other LECs reselling the ILEC's retail telecommunications services to preorder and order service, installation, repair, and number assignment; monitor network status; and bill for local service. Such support systems shall include, but not be limited to:

(a) Preordering and ordering functionalities for processing customer service orders.

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(b) Provisioning requirements to ensure electronic transmission of data to the LEC providing telecommunications services for resale, as well as order and service completion confirmation.

(c) Repair and maintenance requirements.

(4) ILECs are required to provide branding of operator, call completion, or directory assistance services offered for resale.

(B) Resale of retail promotions

(1) Promotions of recurring charges for retail services offered by an ILEC lasting more than ninety calendar days, as measured on a per customer basis in a twelve-month time frame, or a promotion of the comparable cash value offered by a ILEC shall be made available for resale at the wholesale rates.

(2) Promotions of recurring charges for retail services offered by a competitive local exchange carrier (CLEC) lasting more than ninety calendar days, as measured on a per customer basis in a twelve-month time frame, or a promotion of the comparable cash value offered by a CLEC shall be made available for resale.

(C) Resale of contracts

(1) All LECs must make available for resale all retail telecommunication service contracts. The contract is available for resale only in its entirety, and is available to similarly situated customers other than the same customer under the LEC contract.

(2) ILECs must make these contracts available at the wholesale rate discussed in paragraph (~~E~~D) of this rule.

(3) LECs may, subject to commission approval, place reasonable restrictions on the resale of contracts including the resale of residential services to business customers.

~~(D) Resale of lifeline~~

~~LECs purchasing lifeline services for resale may only resell those services to qualifying lifeline customers and must pass on to the customer the full amount of the applicable lifeline discount. The LEC purchasing lifeline services for resale is responsible for certification and validation of the eligibility of the lifeline customers it serves. The ILEC must sell lifeline service to that reseller at the wholesale rate established for basic local exchange service, less any lifeline discount for which the~~

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~~ILEC is eligible to be reimbursed by existing federal and/or state funding mechanisms.~~

(~~E~~D) Resale pricing

(1) ILEC's retail telecommunications services available for resale to any telephone company shall be priced on a wholesale basis. Wholesale prices shall be determined on the basis of the retail rates charged to customers for the telecommunications service under consideration, excluding the portions thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the ILEC.

(2) The commission, at its discretion, may establish the wholesale rates utilizing either:

(a) Interim wholesale rates that are based on the best information available to the commission, about the ILEC avoided costs. In that case, the commission may establish a single discount percentage rate that shall be used to establish interim wholesale rates for each telecommunications service. Such interim rates may be subject to a true up consistent with principles outlined in paragraph (A)(4) of rule 4901:1-7-17 of the Administrative Code.

(b) Rates that are equal to the ILEC's existing retail rates for the telecommunications service, less avoided retail costs through the commission's review and approval of the ILEC's avoided cost study.

(3) Avoided retail costs for large ILECs shall be those costs that will be avoided when an ILEC provides a telecommunications service for resale at wholesale rates to a requesting telephone company.

(a) For the ILECs that are designated as class A companies pursuant to 47 C.F.R. 32.11, except as provided in paragraph (~~E~~D)(3)(d) of this rule, the avoided retail costs shall:

(i) Include, as direct costs, the costs recorded in uniform system of accounts (USOA) account numbers 5301 (telecommunications uncollectibles) in proportion to the avoided direct expenses, 6611 (product management), 6612 (sales), 6613 (product advertising), 6621 (call completion services), 6622 (number services), and 6623 (customer services).

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(ii) Include, as indirect costs, a portion of the costs recorded in USOA accounts 6121-6124 (general support expenses), 6711, 6712, 6721-6728 (corporate operations expenses).

(iii) Not include plant-specific expenses and plant nonspecific expenses other than general support expenses (6110-6116 and 6210-6565).

(b) Costs included in accounts 6611-6613 and 6621-6623 described in paragraph (~~E~~D)(3)(a)(i) of this rule, may be included in wholesale rates only to the extent that the ILEC proves to the commission that specific costs in these accounts will be incurred and are not avoidable with respect to the services sold at wholesale, or that specific costs in these accounts are not included in the retail prices of resold services.

(c) Costs included in accounts 6110-6116 and 6210-6565 described in paragraph (~~E~~D)(3)(a)(iii) of this rule, may be treated as avoided retail costs, and excluded from the retail rates, only to the extent that a party proves to the commission that specific costs in these accounts can reasonably be avoided when an ILEC provides a telecommunications service for resale to a requesting carrier.

(d) For the ILECs that are designated as class B companies under 47 C.F.R. 32.11, and that record information in summary accounts instead of specific USOA accounts, the entire relevant summary accounts may be used in lieu of specific USOA accounts listed in paragraphs (~~E~~D)(3)(a) to (~~E~~D)(3)(c) of this rule.

(4) Avoided retail costs for small ILECs will be determined on a case-by-case basis.

(5) An ILEC may, upon commission approval, set wholesale discounts that are not uniform provided the ILEC demonstrates to the commission that those rates are set on the basis of an appropriate avoided-cost study.

(6) The ILEC shall develop a two-pronged wholesale discount, one discount that applies when the reseller purchases operator services and directory assistance, and a second discount when these services are not purchased in their entirety.

(~~F~~E) When an ILEC provides exchange services to a requesting carrier at wholesale rates for resale, the ILEC shall continue to assess the intrastate access charges provided in its intrastate tariffs upon the requesting carrier. The ILEC access charges assessed to the requesting carrier must be at the tariffed rate not at an avoided-cost discounted rate.

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4901:1-7-22 Customer migration.

(A) Each competitive local exchange carrier (CLEC) shall be required to provide systems to facilitate the migration of customers between local exchange carriers (LECs). Such systems may be manual but must enable another LEC to migrate customers efficiently from that CLEC's network. Such systems shall include, but not be limited to, systems required to preorder, order, install, and repair service, and billing for local service. CLEC responses to customer service record requests shall include information sufficient to facilitate customer migration between LECs. For the purposes of this rule, customer service information includes but is not limited to the following:

(1) Customer service records - detailed identification of the regulated services to which the customer is subscribed.

(2) Service completion confirmation - the verification and notification that all tasks associated with a service order have been completed.

(3) Line loss notification - the notification to a LEC that a customer has initiated a transition to another LEC.

(4) Completion notices - notice that all work to effect a customer migration has been completed.

(5) Circuit identification - the manner and system a carrier uses to identify physical circuits under its control, if applicable.

(6) 911 and directory listings.

(B) Incumbent local exchange carriers (ILECs) are required to provide systems to facilitate the migration of customers between LECs pursuant to 47 C.F.R. 51.319(g), and consistent with any existing ILEC-specific commission requirement.

(C) All telephone companies shall use the relevant industry developed standards and timelines, where they exist, or a mutually agreed upon equivalent, for the exchange of customer account information between telephone companies.

(D) Telephone companies responding to local service requests shall follow industry standards, including North America numbering council timelines. Telephone companies responding to a request for customer service records shall provide such information to the requesting telephone company, if available, within ~~two business~~

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~~days~~ twenty-four clocks hours, unless otherwise negotiated, excluding weekends and current service provider holidays.

(E) No telephone company, having obtained facilities, resources, or information for the purpose of serving a specific customer, shall, upon the receipt of a request to migrate that customer, continue to hold, or fail to release said facilities, resources, or information solely in order to prevent or delay the migration of that customer. In the event of a dispute, the telephone company retaining the facilities, resources, or information carries the burden of proof to demonstrate a valid reason for retaining the facilities, resources, or information in question.

(F) A telephone company losing its customer shall not use information obtained as a result of the customer migration process to solicit a competing telephone company's customer while the competing telephone company is in the process of obtaining from such telephone company the facilities, resources, or information necessary to serve that same customer.

(G) No acquiring telephone company shall require, instruct, or advise any new customer to first establish service with, migrate to, or otherwise use transitionally another telephone company, without the consent of such other telephone company, for an interim period of time before becoming a customer of the acquiring telephone company.

(H) Telephone companies shall submit customer service record requests to the customer's existing telephone company and not to the underlying network provider.

"No Change"

4901:1-7-24 Local number portability (LNP).

(A) Telephone companies do not have a proprietary interest in the customer's telephone number. Customers must have the ability to retain the same telephone number as they change from one telephone company to another at the same location.

(B) All telephone companies must provide permanent LNP pursuant to 47 C.F.R. 52.21-52.36.

4901:1-7-25 Number optimization.

All number holding telephone companies, including wireless service providers, must adhere to the following requirements:

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(A) Upon request, provide copies of all NXX code requests to the North American numbering plan administrator (NANPA) or thousands block requests to the pooling administrator to the chief of the telecommunications and technology division of the ~~utilities~~ rates and analysis department of the commission.

(B) Initial and growth NXX code or thousands block requests must comply with applicable federal regulation.

(C) The telephone company must obtain NXX codes from NANPA or thousands blocks from the pooling administrator only for those areas where it is certified and plans to activate service within six months. If a telephone company is unable to meet the six-month deadline for placing a code or thousands block into service by returning a part 4 form to NANPA or to the pooling administrator, then further action regarding this code or thousands block is the responsibility of the commission and the telephone company.

(D) The telephone company will adopt all current and future number resource optimization measures set forth by the federal communications commission and the commission orders.

"No Change"

4901:1-7-26 Competition safeguards.

(A) Disclosure of information

(1) Definitions

(a) For the purpose of this rule, "customer proprietary network information" (CPNI) shall be defined in accordance with 47 U.S.C. 222(h)(1).

(b) For the purpose of this rule, "subscriber list information" shall be defined in accordance with 47 U.S.C. 222(h)(3).

(c) For purposes of this rule "customer-specific information" shall be defined as any information specifically pertaining to a customer that is not information included in the definitions set forth in paragraphs (A)(1)(a) and (A)(1)(b) of this rule.

(2) Customer proprietary network information (CPNI)

(a) The use of CPNI by any telephone company must comply with 47 U.S.C. 222, and 47 C.F.R. 64.2001 to 64.

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(b) No local exchange carrier (LEC) shall access or use the CPNI held by either an interconnecting LEC or a LEC reselling its services for the purpose of marketing its services to either the interconnecting LEC's customers or reselling LEC's customers.

(3) To the extent a telephone company makes subscriber list information available to affiliated competitors within its service territory for purposes other than the publishing of directories, it must, upon request, also do so on a nondiscriminatory basis with all unaffiliated competitors certified to provide service in its service territory.

(a) This provision does not apply to customer-specific information, obtained with proper authorization, necessary to fulfill the terms of a contract, or information relating to the provision of general and administrative support services.

(b) This provision does not apply to information subject to a customer request to either release or withhold information.

(4) Records

All telephone companies shall maintain records, consistent with federal communications commission (FCC) requirements, to enable the commission to determine whether they have satisfied paragraph (A) of this rule.

(B) Accounting requirements

Each incumbent local exchange carrier (ILEC) shall maintain its books, records, and accounts in accordance with the FCC's accounting requirements, as appropriate to the categorization of the ILEC, and as revised from time to time.

4901:1-7-27 Local exchange carrier default.

(A) In the event a local exchange carrier (LEC) intends to terminate another LEC's access to its network for nonpayment or any other material default, as defined by an agreement between the LECs, and in the event such termination of service would effectively result in the disconnection of the defaulting LEC's customers from the local telecommunications network without a customer notice, consistent with rule 4901:1-6-07 of the Administrative Code, the aggrieved LEC shall be required to notify the commission at least fourteen calendar days in advance of the date it intends to terminate the other LECs' access. Such notice shall be made by e-mail, facsimile, overnight mail, or hand delivery to the defaulting LEC and to the director of the

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service monitoring and enforcement department, the chief of the telecommunications and technology ~~section~~ division of the ~~utilities~~ rates and analysis department, and the chief of the telecommunications section of the legal department.

(B) If it is determined by the commission, that further investigation is warranted or that immediate termination may not be in the public interest, the commission or an attorney examiner may direct the aggrieved LEC to stay the termination for further investigation. This rule is not intended to replace any default or dispute resolution provisions contained in an agreement between the LECs. Rather, it is an additional requirement should a default trigger the potential for termination of service(s) from the aggrieved LEC's network.

CSI - Ohio
The Common Sense Initiative

Revised Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio (PUCO)
Attention: Angela Hawkins, Legal Director
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Regulation/Package Title: Local Exchange Carrier-to-Carrier Rules

Rule Number(s): 4901:1-7-01, 4901:1-7-02, 4901:1-17-03, 4901:1-7-04, 4901:1-7-05, 4901:1-7-06, 4901:1-7-07, 4901:1-7-08, 4901:1-7-09, 4901:1-7-10, 4901:1-7-11, 4901:1-7-12, 4901:1-7-13, 4901:1-7-14, 4901:1-7-15, 4901:1-7-16, 4901:1-7-17, 4901:1-7-18, 4901:1-7-19, 4901:1-7-20, 4901:1-7-21, 4901:1-7-22, 4901:1-7-24, 4901:1-7-25, 4901:1-7-26, 4901:1-7-27

Date: April 19, 2017

Rule Type:

☒ **Amended** ☒ **5-Year Review**
☒ **No Change**

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Ohio Adm.Code Chapter 4901:1-7 establishes the standards by which telephone companies interconnect their networks to provision telephone service to end user customers pursuant to R.C. Chapter 4927. The proposed changes to this chapter include substantive changes in order to be consistent with determinations of the Federal Communications Commission (FCC) and non-substantive amendments. Further, the proposed changes include the addition of new

language incorporating by reference a version of the Code of Federal Regulations and United States Code as of a date certain, and the updating of references to specific sections of the United States Code and Code of Federal Regulations. Additionally, the titles to specific PUCO departments and divisions have been updated.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

   R.C. 4927.03 and R.C. 4901.13

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

   Many of the rules in Ohio Adm.Code Chapter 4901:1-7, have been adopted to fulfill the PUCO's obligations as a state commission under the Telecommunications Act of 1996 (47 U.S.C. §§251 et.al).

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   In addition to the requirements in this chapter which implement federal law, there are additional provisions that specifically implement S.B. 162 adopted by the 128th Ohio General Assembly. There are no additional requirements adopted in this chapter which are not outlined in state or federal law.

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   The federal government has empowered the States to take an active role in relations between telephone companies given the States' technical knowledge of telephone company operations and the States' familiarity with local conditions. But for PUCO involvement in mediating these carrier relationships, the FCC would have to do so which would be virtually impossible for the FCC to act on carrier relationships for all fifty states.

6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

   The PUCO will measure the success of this regulation by the PUCO's ability to review and resolve issues in a timely and thorough manner that arise between telephone companies and that would impact the ability of consumers to make and receive telephone calls in Ohio.

Development of the Regulation

7. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

   The Commission conducted a workshop on November 29, 2016, at its offices for the purpose of receiving feedback from interested stakeholders and the general public. The case number for the Commission's review of Ohio Adm.Code Chapter 4901:1-7 is Case No. 16-2066-TP-ORD. The Entry providing notice of the workshop was served on the Ohio Telecom Association, the Ohio Consumers' Counsel, and the telephone industry list serve. Representatives from various stakeholders attended the workshop.

8. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

   No comments were provided by the stakeholders in attendance at the workshop.

9. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

   No scientific data was directly provided or considered. In adopting any changes to the rules, the Commission takes into account all feedback from stakeholders and the general public.

10. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

    As it is necessary to have standards that implement federal and state law governing local exchange carrier-to-carrier relationships, no alternative regulations have been considered.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

No. The proposal is based upon the statutory requirements of state and federal law as well as federal regulations set forth in R.C. Chapter 4927, the Telecommunications Act of 1996, and the Code of Federal Regulations. Performance-based regulation is not provided for in the statute.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The PUCO is the only agency in the State of Ohio that has jurisdiction over carrier interconnection and compensation issues involving telephone companies. Thus, we are assured that there is no duplication with any existing regulation.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The PUCO conducts a review of each application filed pursuant to this chapter to ensure that all applications comply with federal law including federal regulations. One of the main purposes for adopting this chapter is to provide the framework for consistent and predictable interactions among telephone companies.

<u>Adverse Impact to Business</u>

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following: (*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact*).

a. Identify the scope of the impacted business community;

The business community impacted by this chapter of rules includes telephone companies, as defined in R.C. 4927.01(A)(14), as well as non-public utility carriers that are impacted by interconnection and collocation requirements applicable to telephone companies. Additionally, business customers will also be affected because of the impact on customer rates and the time frames for the commencement of service.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Telephone companies are in the business of transmitting telephonic messages. The interconnection of telephone company networks in order to transmit messages from point-to-point is required by federal law and federal regulation. Therefore, by definition, the PUCO does not believe that this chapter represents an "adverse" impact on the affected regulated telephone company business community. Nonetheless, this chapter does impact the regulated telephone company business community by requiring employer time associated with the negotiation and implementation of interconnection arrangements including compensation for handing off traffic among telephone companies. Additionally, the carrier rules may have an unknown impact on non-public utility carriers that are impacted by interconnection and collocation requirements. Further, the carrier rules may have an unknown impact on business customers rates.

c. Quantify the expected adverse impact from the regulation.

The interconnection of telephone company networks in order to transmit messages from point-to-point is required by federal law and federal regulation. As such, the PUCO Staff does not believe that the impact from these rules is "adverse." In fact, the rationale underlying the adoption of these rules is to provide clear and consistent requirements and procedures that streamline and add certainty to the interconnection process. The proposed rules will ensure timely and economically efficient connectivity of telephone company networks which will increase the value of those networks and enhance the telephone companies' business. To the extent that the carrier rules will have impact on business customer rates, the impact is unknown at this time.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The proposed rules will ensure timely and economically efficient connectivity of telephone company networks which will increase the value of those networks and enhance the telephone companies' business. The PUCO believes that the need for clear and consistent filing requirements and procedures for thorough review of interconnection agreements filed pursuant to federal law justifies the continued compliance requirements contained in the existing rules; but emphasizes that the proposed rules will not have an additional adverse impact on the identified business community.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Yes, Ohio Adm.Code 4901:1-7-04 and 4901:1-7-05 include procedures for exemption and for suspension/modification applications filed by rural telephone companies and rural carriers from some of the interconnection requirements set forth in federal law and federal regulations. By definition, these rural telephone companies and rural carriers are small businesses. The rural telephone company exemption applies until such time as the PUCO determines that an interconnection request is not unduly economically burdensome, is technically feasible, and is consistent with the universal service provisions of 47 U.S.C. §254. Similarly, a small business qualifying as a rural carrier may apply for a suspension/modification of some of the interconnection obligations provided the PUCO determines that such suspension or modification is necessary (i) to avoid a significant adverse economic impact on users of telecommunications services generally; (ii) to avoid imposing a requirement that is unduly economically burdensome; or (iii) to avoid imposing a requirement that is technically infeasible; and is consistent with the public interest, convenience, and necessity.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

There are no fines and penalties imposed under this chapter; therefore, R.C. 119.14 is inapplicable to this chapter.

18. What resources are available to assist small businesses with compliance of the regulation?

The rules, application forms, and other applicable regulations are accessible on the telephone company industry page on the PUCO website. Further, our Staff regularly assists small telephone companies with their filings at the PUCO. Additionally, all applicants, large and small, are permitted to electronically file applications with the PUCO via the website. Also, all previous interconnection agreements, including terms, conditions, and rates, are available electronically through the PUCO's docketing website. This ensures that small business owners have access to full information.