

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: PUBLIC SERVICE COMMISSION TITLE NUMBER: 150

CITE AUTHORITY: §§24-1-7, 24-6-6b

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

§24-1-7

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Rules and Regulations for the
Government of Telephone Utilities.

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS OCTOBER 10, 2000

Charlotta R. Lane

Authorized Signature

Public Service Commission

Richard E. Hitt, General Counsel



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August 11, 2000

Judy Cooper, Director
Administrative Law Division
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Building 1, Suite 157-K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0771

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

AUG 11 4 29 PM '00

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Re: Series 6; Telephone Rules

Dear Judy:

Enclosed for filing is a copy of our Telephone Rules in final version. I have included Form 5, notice of adoption as well as a diskette containing a clean version of the final rules.

If there are any problems or questions, please direct them to my attention.

Sincerely,

Richard E. Hitt
General Counsel
304-340-0317

REH/cbd
Enclosure
cc: Sandra Squire, Executive Secretary
rickmisc/cooper25.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 11th day of August, 2000.

GENERAL ORDER NO. 187.16

In the matter of promulgating proposed amendments to the Commission's Rules and Regulations for the Government of Telephone Utilities, 150 C.S.R. Series 6.

COMMISSION ORDER

By this order, the Commission adopts, as final, amendments to its Rules and Regulations for the Government of Telephone Utilities, 150 C.S.R. Series 6 (Telephone Rules), to become effective 60 days after this order's entry date. The Commission has made numerous stylistic and grammatical changes to the proposed amendments that are non-substantive in nature. These stylistic and grammatical changes will not be specifically addressed by the Commission but they are clearly delineated by strike through and underscoring in the final rules attached to this order.

I. Factual and Procedural Background.

By order entered March 31, 1998, the Commission proposed amendments to its Telephone Rules. The proposed amendments adopted numerous recommendations made in the Local Competition Task Force's May 7, 1996, report to the Commission in Case No. 94-1102-T-GI, which were intended to implement competition in the local exchange telecommunications market. The proposed amendments also incorporated various rulings by the Commission in proceedings filed with the Commission pursuant to the Telecommunications Act of 1996, codified at 47 U.S.C. §§151 et seq. (TA96). The Commission caused notice of its proposed rulemaking to be published in newspapers statewide.

A. Summary of the Proposed Amendments.

The proposed amendments make a number of changes to the definitions set forth in the Telephone Rules. The Commission also proposed amendments that would require carriers to comply with verification procedures before changing a subscriber's local service provider and would prohibit local carriers from interrupting basic service as the result of a reseller's inability to serve customers. In addition, the proposed amendments would eliminate the current provisions in

and the West Virginia Independent Group (Independent Group).²

As part of its initial comments filed on May 11, 1998, WorldCom filed a motion requesting the Commission to withdraw its proposed rulemaking on the grounds that the Commission may be operating from a different set of rules than those currently on file or on the Commission's Internet site. Specifically, WorldCom claimed that the Telephone Rules currently on file and displayed on the Commission's Internet site are identified as being effective September 26, 1995. The draft rules attached to the Commission's March 31, 1998, order contained some discrepancies when compared to the September 26, 1995, rules. WorldCom suggested that the Commission should dismiss this proceeding until it can ascertain which official rules are currently in effect before repropounding amendments to those rules.

In addition to WorldCom's motion, John D. Childers, an individual, filed a motion with the Commission on May 11, 1998, requesting an extension of the comment period on the grounds that the Commission had not published a notice in a way that "any significant numbers of affected parties could have knowledge of this proceeding and the attendant comment period."

On May 18, 1998, Sprint Communications Co., L.P. (Sprint), filed a letter advising that, although it would not be filing initial comments, it reserved the right to file reply comments.

A hearing on the Commission's proposed amendments to the Telephone Rules was held, as scheduled, on May 19, 1998. All persons submitting initial comments entered an appearance. Neither Sprint nor Mr. Childers entered an appearance. At the hearing's outset, the Commission denied Mr. Childers' motion on the grounds that the record contained a number of affidavits of publication of the notice, attached to the Commission's March 31, 1998, order, advising the public of the proposed amendments, applicable comment dates and the scheduled hearing date. The Commission declined to rule upon WorldCom's motion. BA-WV presented the testimony of two witnesses in support of its comments: Stanley J. Zoltek and Gale Y. Given. No other witnesses testified on behalf of any person submitting comments.

At the conclusion of the May 19, 1998, hearing, Staff requested that the Commission modify the procedural schedule by allowing the parties until May 29, 1998, to file reply comments. See Transcript of Proceedings, p. 23 (Tr. at ___). In addition, Citizens requested that the Commission allow several more rounds of comments to be submitted: an initial round of comments regarding additional rules proposed by Staff on May 13, 1998, with such comments and initial reply comments

²The West Virginia Independent Group consists of the following telephone companies: Armstrong Telephone Company - Northern Division; Armstrong Telephone Company - West Virginia; Hardy Telecommunications, Inc.; Spruce Knob Seneca Rocks Telephone, Inc.; War Telephone Company; and West Side Telephone Company.

to the Commission's proposed amendments due May 29, 1998; and a second round of further reply comments to Staff's proposals only, to be filed by June 5, 1998. Tr. at 23-25. The Commission granted Citizens' motion and directed the parties to file their reply comments with the Commission on May 29, 1998, their initial comments regarding Staff's proposed additional rules likewise on May 29, 1998, and their replies regarding Staff's proposed additional rules on June 5, 1998. The Commission reduced its rulings to writing by order entered May 22, 1998.

In accordance with the Commission's order, the following parties filed reply comments and initial comments regarding Staff's proposed additional rules on May 29, 1998: Staff, the Independent Group, BA-WV, AT&T, CAD, and Citizens. Staff, BA-WV, AT&T and CAD filed reply comments regarding Staff's proposed additional rules on June 5, 1998.

DISCUSSION

As set forth more fully below, the Commission concludes that, subject to numerous changes reflecting the comments submitted by various persons in this proceeding or the Commission's own determinations regarding the proposed amendments, the Telephone Rules attached hereto as Appendix A should be adopted as final rules, to become effective 60 days after this order's entry date.

I. WorldCom's Motion To Dismiss.

The Commission concludes that WorldCom's motion to dismiss should be denied. While WorldCom is clearly correct in claiming that there are discrepancies between the proposed Telephone Rules and the rules currently in effect, the Commission's review of the two sets of rules leads it to conclude that those discrepancies are minor in nature and non-substantive. The discrepancies, for the most part, involve the numbering of rules. In several instances, minor wording differences exist which are the result of failing to properly identify (by strike through and underscoring) changes the proposed rules made to the current rules.

The following summarizes the discrepancies between the Telephone Rules, as proposed, and the September 26, 1995, version of the Telephone Rules (1995 rules).

Rule 1.7.: Definitions. In the 1995 rules, this provision was only one sentence. The proposed Telephone Rules added two sentences to Rule 1.7, referring to TA96 and dealing with references to singular and plural subjects. These sentences should have been underscored.

Rule 1.7.3.: "Base Rate Area." In the second line of the 1995 rules, the phrase "telephone utility" is used. In the proposed amendments, which strike Rule 1.7.3. altogether, the phrase used is "telephone company."

Rule 1.7.35.: "Main Station." The second line of the 1995 rules uses the phrase "or party line," while the proposed amendments, which delete the rule altogether, erroneously number the rule as 1.7.36. and omit "or party line" from the second line.

Rule 1.8.2.: Uniform system of accounts. The 1995 rules use the phrase "company notifies the Commission" in the second sentence. The proposed amendments erroneously omitted the word "notifies" in the second sentence.

Rule 2.1.3.: Customer billing. In the 1995 rules, there is no title to this section, the first paragraph is not lettered and the succeeding paragraphs are designated "a." through "d." The proposed amendments designated the first paragraph as "a." and redesignated the remaining paragraphs "b." through "e." without properly underscoring or striking through the changes.

Rule 3.6.2.: Emergency operation. The first sentence of the 1995 rules includes the phrase "all central offices have some provision for emergency power." In the proposed amendments, the rule (now renumbered Rule 3.3.2), changes the phrase to "all central offices have adequate provision for emergency power" but omits to strikeout "some" and fails to underscore "adequate."

Rule 3.7.1.: Construction work near utility facilities. The proposed amendments renumber the rule as Rule 3.4.1, add a comma following "public" in the third line without underscoring, and move the phrase "such as identifying in a suitable manner the location of any underground facilities which may be affected by the work" from the end of the rule to the fourth and fifth lines without properly underscoring and striking through the language in the 1995 rule.

Rule 3.7.3.: Construction work near utility facilities. In the 1995 rules, the third line of the rule refers to "service piping or wiring on." The proposed amendment, now renumbered Rule 3.4.3., omits the phrase "service piping or wiring on," which should have been struck through since the proposed amendments replaced that phrase with the term "facilities," which itself was not underscored.

Rule 5.4.: Report format. The proposed amendments incorporated the 1995 version of Rule 5.4. into the language of new Rule 5.3., but failed to indicate this change by striking through former Rule 5.4., and underscoring that language in Rule 5.3.

Rule 6.2.3.: Held orders and held regrades. The 1995 rule consisted of five subsections, lettered "a." through "e." The proposed amendments eliminated subsection "a.," as shown by strike through, and renumbered the remaining subsections but failed to indicate the former subsections by strike through and underscoring of the new subsection designations.

Rule 6.4.3.: Local dial service requirements. In the 1995 rules, there are three sections numbered 6.4.1. through 6.4.3. The proposed amendments eliminate and strike through Rule 6.4.1., renumber

the remaining sections, but do not indicate the changes in numbering by strike through.

The Commission found no other discrepancies between the 1995 rules and the proposed amendments. In the Commission's opinion, while unfortunate, the discrepancies found were of a minor, non-substantive nature and do not warrant reproposal of the amendments. Moreover, none of the other persons submitting comments expressed any difficulty with the proposed amendments and the Commission believes this supports its conclusion that the discrepancies were minor and did not prejudice any of the persons submitting comments.

II. Numbering of Rules.

In the final rules attached to this order, the Commission has adopted the numbering convention required by the Secretary of State and has revised the rules to be consistent with that convention. See 153 C.S.R. Series 6 (Effective June 7, 1996). However, this order addresses the parties' comments to the proposed amendments which were numbered inconsistently with 153 C.S.R. Series 6. The Commission will identify the final rules' numbers in brackets throughout this order. Further, the Commission notes that, in many of the final rules, reference is made to a particular "subsection," "subdivision," "paragraph," etc. These references are based on the text breakdown identified in the Secretary of State's rules, Table 153-6 A. For ease of reference, the Commission will restate that text breakdown here:

<u>Cite</u>	<u>Text Breakdown</u>
153 C.S.R.	Title
153 C.S.R. 6	Series
153 C.S.R. 6-1.	Section
153 C.S.R. 6-1.1.	Subsection
153 C.S.R. 6-1.1.a.	Subdivision
153 C.S.R. 6-1.1.a.1	Paragraph
153 C.S.R. 6-1.1.a.1.A.	Subparagraph
153 C.S.R. 6-1.1.a.1.A.1.	Part
153 C.S.R. 6-1.1.a.1.A.1.(a)	Subpart
153 C.S.R. 6-1.1.a.1.A.1.(a)(1)	Item
153 C.S.R. 6-1.1.a.1.A.1.(a)(1)(A)	Subitem

III. Adoption of Final Rules.

Given the large number of amendments proposed, together with the voluminous comments in response to those amendments, the Commission will first identify those proposed amendments that elicited comments of relatively minor nature and that were not the subject of controversy. These proposed amendments will be adopted, in accordance with the comments submitted. Next, the

Commission will address, separately, each proposed amendment to the Telephone Rules that elicited substantive comments or were disputed by one or more of the persons filing comments with the Commission.

A. Non-Substantive Rule Changes.

The following rules will be revised in accordance with the parties' comments, since there are no serious disputes regarding the substance of the proposed rules, and adopted as final rules:

<u>Proposed Rule</u> [<u>Final Rule</u>]	<u>Final Action</u>
1.7.3.a. [1.7.c.]	Delete the 14.4 Kbps requirement.
1.7.3.c. [1.7.c.3.]	Revise to eliminate the requirement that subscribers of competitive LECs are automatically included in an LEC's local directory.
1.7.3.e.E. [1.7.c.5.E.]	Revise to allow toll blocking where customers do not pay for properly billed long distance service.
1.7.3.f. [1.7.c.6.]	Revise to address non-West Virginia companies that do not have the ability to block collect and third-party long-distance calls.
1.7.15. [1.7.p.]	Use "geographic area" rather than "unit."
1.7.16. [NA]	Eliminate the definition of "extended area service."
1.7.20. [1.7.t.]	Include a definition of "interexchange carrier," consistent with Rule 9.1.3.b.
1.7.22. [1.7.v.]	Revise the definition regarding the NID.
1.7.23. [1.7.u.]	Revise the definition of "local call."
1.7.25. [1.7.y.]	Revise the definition of "local exchange carrier."
1.7.26. [1.7.z.]	Revise the definition of "local exchange service."
1.7.27. [1.7.aa.]	Revise the definition of "local message."
1.7.29. [1.7.cc.]	Revise the definition of "local service charge."
1.7.30. [1.7.dd.]	Revise the definition of "long distance service."
1.7.35. [1.7.ii.]	Revise the definition of "NID."
1.7.37. [1.7.kk.]	Revise the definition of "number portability."
1.7.44. [1.7.rr.]	Revise the definition of "reseller."
1.7.45. [1.7.ss.]	Revise language.
1.7.52.b. [1.7.tt.2.]	Delete extraneous language in the definition of "rural telephone company."
1.7.53. [1.7.aaa.]	Revise the definition of "telecommunications carrier" and combine with definition of "telephone company."
1.7.54. [NA]	Eliminate separate definition of "telephone company" and combine with definition of "telecommunications

		carrier.”
1.7.58.	[1.7.eee.]	Revise language.
1.8.2.	[1.8.b.]	Revise language.
2.2.4.e.	[2.2.d.5.]	Revise language.
2.2.4.f.	[2.2.d.6.]	Revise language.
2.2.6.h.	[2.2.f.8.]	Revise language.
2.2.8.	[2.2.h.]	Revise language.
2.8.b.D.	[2.8.b.4.]	Revise language.
2.8.g.	[2.8.f.]	Renumber the rule.
4.1.	[4.1.]	Correct typographical error.
5.1.	[5.1.]	Revise language.
5.3.	[5.3.]	Modify the rule to make it applicable to all LECs, not just incumbent LECs.
5.4.	[5.4.]	Revise language.
6.5.6.c.	[6.5.f.3.]	Correct typographical error.
10.1.	[10.1]	Correct typographical error.
10.4.2.	[10.4.b.]	Correct typographical error.
10.5.1.	[10.5.a.]	Adopt clarifying language proposed by Staff.
10.7.1.	[10.7.a]	Correct typographical errors. Adopt language modifying the proposed rule consistent with Staff and AT&T recommendations.
10.7.2.a.	[10.7.b.]	Correct typographical errors. Adopt language modifying the proposed rule consistent with Staff and AT&T recommendations.
150-6-13.	[13.]	Revise the title of section.
13.1.10.c.	[13.1.j.3.]	Adopt modifications suggested by Staff.
13.1.15.a.	[13.1.o.1.]	Adopt modifications suggested by Staff.
14.2.1.a.	[14.2.a.1.]	Adopt modifications suggested by Staff.
14.2.2.b.	[14.2.b.2.]	Adopt modifications suggested by Staff.
14.2.2.e.	[14.2.b.5.]	Correct typographical error.
14.2.3.	[14.2.c.]	Correct typographical error.
14.4.1.	[14.4.a.]	Adopt language proposed by the Independent Group to the effect that there is no presumption regarding “eligible telecommunications carrier” status in a rural telephone company service area.
14.4.2.a.	[14.4.b.1.]	Renumber the rule to accommodate a new CAD rule.
14.4.2.b.	[14.4.b.2.]	Adopt new CAD rule consistent with changes in language suggested by Staff.
15.5.13.d.A.	[15.6.d.1.]	Reinstate the remainder of interconnection requirements set forth in Section 251(c) of TA96; renumber rule.
Form 11-1.	[NA]	Adopt Staff changes to enhance communications with

payphone service providers.

B. Substantive Rule Changes.

The following proposed rules are controversial and involve substantive issues which warrant more detailed discussion.

1. Section 1: General.

a. 1.7.12. [1.7.m.] Definition of "customer."

Rule 1.7.12, as proposed, would define "customer" as follows:

"Customer" -- Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., ~~provided with who purchases~~ telecommunications services ~~by the~~ from a telephone company.

(i) Comments.

In its comments, BA-WV suggested revising the proposed rule to read:

"Customer" -- Any person, firm . . . who purchases, or on whose specific and named behalf is purchased, telecommunications services from a telephone company.

BA-WV asserted that this change addresses "gift billing" situations in which service is purchased by one person for the use of another. BA-WV Comments at 6. Staff opposed BA-WV's attempt to define customer synonymously with "user." Staff argued that the definition of "customer" needs to be strengthened to protect against "slamming" and "cramming" practices, not weakened. Staff Reply at 1. Staff suggested several ways persons can deal with "gift billing" and argued that, in any event, the Commission previously construed "customer" narrowly to mean the person in whose name service is rendered. Id. at 2, citing Stevens v. Columbia Gas of West Virginia, Case No. 80-560-G-C, 68 ARPSCWV 2510 (March 19, 1981).

(ii) Decision and Rationale.

The Commission will adopt the rule, as proposed, and rejects BA-WV's proposed change. BA-WV's proposed change could be construed as a weakening of the definition of the term "customer," thereby encouraging illegal "slamming" or "cramming" practices. "Slamming" and "cramming" are activities that have generated considerable numbers of complaints in West Virginia

and nationally, and have prompted action at the Federal Communications Commission (FCC) level.

b. 1.8.1. [1.8.a.] Uniform System of Accounts.

As proposed, Rule 1.8.1 states:

Under the authority of the West Virginia Code, Chapter 24, Article 2, Section 8, all local exchange ~~telephone companies~~ carriers shall maintain a "Uniform System of Accounts", as promulgated by the Federal Communications Commission effective January 1, 1988, and contained in Part 32 under Title 47 of the Code of Federal Regulations, as unless subsequently revised by this Commission by rule or decision. Interexchange carriers shall maintain adequate accounting records such that each interexchange carrier will be able to comply with the annual reporting requirements of this Commission.

(i) Comments.

AT&T suggested making the Uniform System of Accounts (USOA) applicable only to incumbent LECs, asserting that a variety of carriers, using different strategies, will enter the local exchange market as competition evolves. Requiring new entrants to comply with the USOA may impede competitors' market entry, AT&T claimed. AT&T Comments at 3. It was just this rationale, AT&T claims, that led the Commission to decline to impose USOA requirements on IXC's over twelve years ago. Id., citing MCI Telecommunications Corporation, Case Nos. 84-125-T-CN et al. (June 30, 1986). CAD opposed AT&T's suggestion, claiming that, if new entrants are incapable of keeping their books in conformity with the USOA, they should not be providing local service in the state. CAD Reply at 2.

(ii) Decision and Rationale.

The Commission will reject AT&T's suggested change to the proposed rule. In order for the Commission to carry out its regulatory oversight function, it needs to have a uniform system of accounting in place in order to determine what a carrier's real costs are. The Commission concludes that requiring carriers to conform to a uniform system of accounting – established and mandated by the FCC in 47 C.F.R. Part 32 – will assist the Commission in making sure that carriers report costs and expenses consistently. Because they are federally established accounting practices that have been in place for some time, the USOA should not constitute a barrier to entry into West Virginia's local market.

2. Section 2: Customer Relations.

a. 2.1.1. [2.1.a.] Customer billing.

Rule 2.1.1, as proposed, would provide:

Bills to customers shall be typed or clearly printed, rendered monthly, and shall contain a listing of all charges and the period of time covered by the billing period. ~~Local service charges for residential and commercial customers shall be itemized at initiation of service, whenever a change is made in local service, and once annually.~~ This itemization shall list separately all items such as service options extensions and other items for which a flat monthly charge is made. ~~However, the telephone company is not required to itemize changes made in local commercial service for Centrex and large PBX customers.~~

(i) Comments.

AT&T recommended modifying the proposed rule to allow billing other than on a monthly basis, noting that the Commission previously authorized AT&T to bill on a bi-monthly basis. AT&T Comments, at 2-3, citing "Commission Order," AT&T Communications of WV, Case No. 95-0260-T-PW (April 11, 1995). AT&T recommended replacing "monthly" with "periodically" or with "monthly, bi-monthly, or quarterly." Id.

For its part, BA-WV suggested retaining the current rule but eliminating the monthly itemization requirement on the grounds such itemization will not enable the customer to manage his or her telephone bill any more effectively because charges for itemized optional features do not vary with usage.. BA-WV Comments at 19. However, BA-WV subsequently recommended adoption of AT&T's proposed changes to Rule 2.1.1. BA-WV Reply at 2-4.

Staff opposed BA-WV's recommendation, arguing that requiring subscribers to contact their carrier to determine what services they are being charged for is an unnecessary inconvenience and that any compliance costs incurred by LECs will be offset by reductions in time and resources responding to subscriber billing inquiries. Staff Reply at 3. Staff also opposed AT&T's recommendation and suggested that the term "(if agreeable to the billed party)" should be added after "monthly." Id. at 8. In addition, Staff recommended appending the following language to the proposed rule: "Bills must show the actual name of the vender(s) [sic] for all charges listed and the toll-free telephone number(s) of the party(ies) empowered to resolve disputes concerning those charges." Staff Comments at 5. This change, Staff asserted, makes it easier for subscribers, or Staff, to resolve billing disputes.

CAD supported Staff's proposed modifications to Rule 2.1.1 and opposed BA-WV's

recommendation, based on its belief that monthly itemization of service options could be an important customer billing safeguard, in light of increasing problems with erroneous or fraudulent billing practices. CAD Reply at 3. CAD opposed AT&T's recommended change on similar grounds. Id. at 4.

(ii) Decision and Rationale.

Rule 2.1.1 will be adopted, as proposed, subject to the following modifications. First, the Commission will modify the proposed rule to incorporate Staff's recommendation regarding identifying the vendor name for charges listed on the bill. The Commission agrees with Staff and CAD that, in light of competition and the proliferation of carriers offering a multitude of different services, not to mention the consistently high levels of customer complaints regarding "slamming" and "cramming," more disclosure, not less, is sound regulatory policy. With respect to BA-WV's claim that providing a detailed itemization of charges every month would force it to incur additional billing costs out of proportion to the benefit to customers, the Commission is aware that BA-WV has been utilizing a monthly billing statement that provides a much more detailed itemization of charges for some time now. But in any event, the Commission believes that the regulatory and public policy underlying fuller disclosure of charges for services and features outweighs the unsubstantiated cost concerns voiced by BA-WV. Finally, none of the other carriers objected to the proposal to require itemization of charges on a monthly basis.

Second, the Commission will modify the proposed rule to incorporate AT&T's suggested change allowing billing on a less-than-monthly basis, provided such periodic billing arrangement is set forth in the carrier's Commission-approved tariff and provided that customers are allowed to opt out of such billing arrangement simply by notifying the carrier via a toll-free number, in writing or electronically. The Commission has previously allowed AT&T to implement billing on a less-than-monthly basis for certain low usage customers. This practice has not generated any appreciable volume of customer complaints with the Commission. Moreover, allowing flexibility in such billing practices may have competitive benefits that should be encouraged by the Commission.

b. 2.1.1.a. [2.1.a.1. & 2.1.a.2.] Charges for non-telecommunications services.

The Commission proposed adding the following new subsection to the Telephone Rules:

For good cause shown and pursuant to the specific and express approval of the Commission, bills may contain charges for non-telecommunications services or items; Provided, however, that no telecommunications services may be denied, interrupted or discontinued for failure of the billed party to pay any portion of the charges billed for non-telecommunications services or items. Further,

in the case of partial payments of bills rendered, such partial payments shall first be applied to amounts owed for telecommunications services.

(i) Comments.

The Cellulars suggested that wireless providers should be exempted from the proposed rule because wireless service is typically not a subscriber's sole means of telecommunications service, terminated subscribers may well be able to obtain service from a competitor, and wireless carriers frequently bill for non-telecommunications services. Cellulars Comments at 1-2. Moreover, the proposed rule, the Cellulars argued, is inconsistent with the Commission's rule requiring wireless carriers to apply the first \$0.75 collected from subscribers each month to the payment of the wireless E911 fee established in General Order No. 187.14. Id. at 2. Finally, the Cellulars noted that the Commission previously recognized that the risk of fraud to wireless carriers justifies their exemption from the deferred payment plan, termination of service, and security deposit requirements in the rules. Id., citing "Commission Order," General Order No. 187.8 and "Commission Order," Vanguard Acquisition Corp., et al., Case No. 95-0034-C-T (Nov. 2, 1995). AT&T supported the Cellulars' proposal. AT&T Reply at 6.

Staff recommended modifying the last sentence of the proposed rule to read "applied to undisputed amounts owed for telecommunications services." Staff Comments at 5. Staff opposed exempting wireless carriers on the grounds that personal communications service (PCS) providers expect to replace wireline service to a large extent in the next few years and PCS customers deserved the same protection wireline customers receive. Staff Surreply at 5.

(ii) Decision and Rationale.

The proposed rule will be adopted, as modified herein. The Commission concludes that the Cellulars' arguments have merit and that wireless carriers should be exempted from the proposed rule's application. The discretionary nature of wireless service, together with wireless carriers' traditional billing for non-telecommunications services, warrants this exemption. Staff's comment that PCS providers expect to replace wireline service to a large extent in the next few years is speculation and does not warrant rejection of the Cellulars' proposed change. Past experience demonstrates just how long fundamental change in the telecommunications market can take, contrary to projections. Staff's proposed addition to the proposed rule appears reasonable and was not objected to by any of the other parties to this proceeding. Accordingly, that revision to the proposed rule will be adopted. Finally, the Commission will further revise the proposed rule to make it clear that taxes and other legally required charges may be included in bills for telecommunications services.

c. 2.1.1.b. [2.1.a.3. & 2.1.a.4.] Late Payment Penalties.

(i) Comments.

Staff proposed a new subsection to be added to the Telephone Rules to deal with late payment penalties. As proposed by Staff, the new section would provide:

No telephone company may charge a late payment fee unless allowed to do so by Commission-approved tariff. Such tariffed fees may not be levied unless the subscriber's bill clearly shows the date by which payment must be mailed, or made at a collection point, or via electronic means, in order for the fee to be avoided.

The proposed rule, Staff wrote, would help eliminate confusion among customers regarding what they have to do in order to avoid late payment penalties. Staff Comments at 3. CAD supported Staff's proposed rule. CAD Reply at 4.

AT&T supported Staff's proposal, but recommended substituting "received" for the phrase "mailed, or made at a collection point, or via electronic means." AT&T Reply at 2. The change, AT&T wrote, would better reflect standard billing practice in commercial transactions, *i.e.*, establishing a date by which payment must be "received" in the office before a late payment fee is assessed rather than the date the customer mails payment. *Id.* AT&T argued that carriers cannot reasonably be expected to track when customers actually mail their payments in order to determine whether payment is late.

BA-WV opposed Staff's proposal with respect to the manner in which timely payment is determined. BA-WV claimed that it was unaware of any confusion on its customers' part regarding when payment would be considered late. Those customers, BA-WV wrote, receive bills that clearly state, on page one, that a 1% late payment charge will apply to any amounts not received by the due date. BA-WV Reply at 2-3. BA-WV's monthly bills further advise customers, on page two, that payments received on any business day will be credited to the customer's account the next business day, and that payments credited to the customer's account on or before the due date are considered on-time. *Id.* at 3. Like AT&T, BA-WV claimed that Staff's proposal would alter current, and long-established industry practice without any justification. Like virtually all vendors who receive payment by mail, BA-WV uses a fully automated process to open envelopes, remove payment and then discard the envelope – and thus the postmark date. If Staff's proposal was adopted, carriers would have to manually check the envelope for postmarks for all payments received after the due date. The cost would be prohibitive. *Id.* BA-WV further pointed out that, even where payment is not received by the due date and is therefore delinquent, it allows its customers two additional "grace" days, until the "bill extract" date, before a late payment charge is imposed. *Id.* n. 1.

In response to AT&T's comments, CAD indicated that it did not oppose AT&T's comments so long as the delinquency period is extended to 30 days, in accordance with proposed Rule 2.1.6.

CAD Surreply at 3.

(ii) Decision and Rationale.

The rule proposed by Staff should be adopted, with certain revisions in accordance with BA-WV and AT&T's comments and the Commission's own views. Late payment penalties should only be allowed where a carrier's Commission-approved tariff so provides. Furthermore, carriers seeking to collect late payment penalties must clearly and conspicuously indicate the payment due date on the bill. This date cannot be less than 20 days after the bill was rendered.

d. 2.1.2.b. [2.1.b.2.] Bills for toll service.

The proposed rules included the following new subsection addressing bills for toll service:

All charges for service, whether such charges are flat-rate or usage-based, shall appear on a bill rendered not later than sixty (60) calendar days beyond the date on which the charge was incurred.

(i) Comments.

Virtually every party submitting comments addressed this proposed rule.

Both Citizens and BA-WV recommended that all charges for service should appear on bills rendered not later than 90 days after the date the charge was incurred. Citizens Comments at 4; BA-WV Comments at 21-22. A longer period for rendering bills is necessary, they claimed, because they do not control the billing practices of other carriers for whom they provide billing services. BA-WV proposed changing the proposed rule to allow 90 days and appending the following proviso: "provided, however, that, irrespective of such ninety (90) day period, it shall be the object of all carriers to bill their customer charges as soon after such charges are incurred as is reasonably practicable." BA-WV Comments at 21-22.

WorldCom suggested revising the proposed rule to allow bills to include charges for service rendered up to 180 days prior to the billing date and, in cases involving toll fraud, for up to 1 1/2 years prior to the billing date. WorldCom Comments at 2. The Cellulares requested that wireless carriers should be exempt because of delays in receiving charges for roaming service. Cellulares Comments at 3. The Independent Group claimed that the 60-day time frame is appropriate for "1+" intrastate toll charges but a longer period of time, 120 days, is needed where intrastate operator assisted and casual calling/dial-around toll calls may be placed on a consumer's bill. Ind. Gr. Comments at 2. AT&T recommended that the rule should be revised to allow billing for charges up to 90 days or within two billing cycles, whichever is longer. AT&T Comments at 4-5.

In response, Staff contended that there is no excuse for a carrier to render a bill over 60 days old at a time when communications travel at the speed of light and when the Internet allows almost instantaneous transfer of information. Staff Reply at 3-4. CAD supported BA-WV's proposed change to Rule 2.1.2.b. CAD Reply at 4-5. AT&T likewise expressed support for a 90-day limit for billing for services rendered and supported the suggestion that wireless carriers should be exempt. AT&T Reply at 7-8.

(ii) Decision and Rationale.

The Commission concludes that the proposed rule should be adopted, with several of the changes advocated by BA-WV, AT&T, Citizens and the Cellulares incorporated. First, the Commission will amend the rules to provide that all charges associated with wireline telecommunications service should appear on bills rendered not later than 60 days after the date the charge was incurred. The Commission agrees with Staff's comment that, in an era where virtually all business transactions and exchanges of information are carried out electronically, there is no excuse for needing more than two months to obtain the information necessary to bill a customer for services used by that customer. However, the Commission believes that the Cellulares' comments with respect to "roaming" charges should be taken into account and will extend the period within which bills must be rendered for wireless services to 90 days. As a final matter, the Commission will incorporate BA-WV's suggested language requiring carriers to bill for services as soon as practicable within the 60- and 90-day periods allowed under the rule.

e. 2.1.3.a. [2.1.c.1.] Statements of applicable rates.

The Commission did not propose to amend Rule 2.1.3.a. The current rule provides:

Each telephone utility shall transmit by mail to each of its basic residential and business customers a clear and concise statement of the existing rate schedule applicable generally to residential and business customers.

(i) Comments.

AT&T suggested modifying the rule by replacing "telephone utility" with "local exchange carrier." AT&T Comments at 5. Staff opposed this change, arguing that there is no compelling reason why the rule should not apply to all telephone companies. Staff Reply at 9.

(ii) Decision and Rationale.

The Commission will retain the current rule. AT&T's suggested change is rejected because it creates a double standard that distinguishes between different, competitive markets in West

Virginia. The modification proposed by AT&T would make LECs subject to greater obligations in providing their customers with information than carriers providing interexchange toll service, both intraLATA and interLATA. The Commission fails to see why LECs that provide intraLATA toll, or possibly interLATA toll service, should be subject to more stringent notice requirements than IXCs that compete against them in these markets. Imposing a more rigorous notice rule for LECs only seems anticompetitive. Moreover, it undercuts the Commission's policy favoring the provision of more information to customers in order to allow customers to make informed choices among competitors.

f. 2.1.6. [2.1.f.] Delinquent payments.

As proposed, Rule 2.1.6 provided:

Payment shall not be delinquent less than ~~twenty (20)~~ thirty (30) days after such bill is mailed to the customer.

(i) Comments.

Citizens, AT&T, and BA-WV urged the Commission to retain the current rule (i.e., 20-day delinquency). Citizens Comments at 5; AT&T Comments at 5; BA-WV Comments at 23-24. Staff recommended revising the proposed rule by adding the phrase "or otherwise rendered" after "mailed." Staff Comments at 5. Staff opposed retention of the 20-day delinquency period on the grounds that it is inconsistent with other utility rules that define a bill as delinquent if not paid within 30 days of being rendered. Staff Reply at 4-5, citing 150 C.S.R. § 3-4.8.3.a. (Electric Rules), 150 C.S.R. § 4-4.8.3.a. (Gas Rules). Staff asserts that the commenters confuse the terms "due" and "delinquent;" the due date commonly found in most telecommunications tariffs is 20 days, while the term delinquent means the bill has exceeded the allowed period and companies can move forward with termination. Id. at 5. CAD supported Staff's position and suggested that the carriers' arguments that extending the period may increase uncollectibles is speculative. CAD Reply at 5.

(ii) Decision and Rationale.

The Commission will adopt the proposed rule, as modified by Staff. As Staff points out, the rule change makes the Telephone Rules consistent with Commission rules governing other utilities. Those rules make it clear that a customer is not considered delinquent until 30 days after the bill for service was mailed. The delinquency provisions are relevant to termination of service, not the applicability of late payment penalties, which have already been discussed, and which can be charged if payment is not received 20 days after the bill was mailed. With respect to Staff's modification to the proposed rule, the Commission concludes that the modifying language should be adopted. Staff's modification is a reasonable effort to reflect the fact that many telecommunications carriers have now begun providing "e-bills" to customers via the Internet.

g. 2.2.1.b. [NA] Cramming.

CAD proposed an entirely new rule addressing “cramming”³ practices by certain companies. CAD’s proposed rule would provide:

b. Any Local Service Provider which provides billing services to third-party providers of goods or services must:

1) require as part of any agreement to provide billing services that such third-party provider disclose the precise nature of the services which are being provided, and all other entities for whom such services are being provided, including any parents, subsidiaries, agents, principals, customers or other such entities on whose behalf the third-party provider is acting in any way (“related entities”);

2) require proof that any such third-party provider of goods or services, and any and all related entities, are duly licensed and/or authorized to conduct business in the State of West Virginia prior to executing any agreement to provide billing services;

3) include terms in any agreement to provide billing services to a third-party provider of goods or services that failure to fulfill the notification and authorization requirements in subsection (2) constitutes an automatic breach of the agreement, and grounds for referring said entity to the Public Service Commission of West Virginia for possible enforcement action;

4) provide its telephone customers with an option to designate in writing the only services to which the customer is subscribing;

5) provide its telephone customers with an option to request that any billing for goods or services not included in those designated in writing by the customer be itemized on a separate insert to their monthly bill, which insert must be on a page of a different color from the remainder of the monthly bill; and

6) include within all monthly bills a toll free telephone number for

³“Cramming” refers to the practice of including charges for non-telecommunications services on bills for telecommunications service.

a customer service representative devoted to investigating and addressing customer billing complaints.

(i) Comments.

CAD wrote that customers should have some option to place reasonable controls on their account in order to minimize their exposure to fraudulent practices, such as "cramming." CAD Comments at 2. While it claims it does not want to impose unduly expensive or burdensome solutions on local carriers, CAD stated that LECs must fulfill a minimal "gatekeeper" function if they are being paid a fee to bill on behalf of others and the charges appear on the LECs' bills. Id. Another approach suggested by CAD would to require all LECs to publish, prominently and on the monthly bill, the number for customer service representatives who investigate billing complaints. CAD Comments at 2. Once a complaint is made, the LEC should be required to respond to the customer in writing before the customer is required to pay any disputed charge. Id.

The Independent Group opposed CAD's proposal, writing that CAD had not demonstrated why the public interest is served by shifting the responsibility of ensuring a carrier's regulatory compliance from the third-party provider -- and ultimately, the Commission -- to the LEC. Ind. Gr. Reply at 3. The obligation to comply with Commission rules properly resides with the service provider rather than the LEC, and shifting that responsibility imposes additional costs and burdens upon the LEC. Ind. Gr. Reply, at 3. The Independent Group also opposed CAD's suggestion that billing for goods or services not previously designated in writing by the customer should be itemized on a separate insert of a different color. Id. at 4. While noting its opposition to "slamming" and "cramming," AT&T likewise disagreed with CAD's proposed rule on the grounds that the number of customer service changes would make it an administrative "nightmare" to require the LEC to confirm such changes and to await receipt of a signed customer authorization before any change is implemented. AT&T Reply at 8-9.

On the other hand, Staff supported CAD's proposed rules, noting that companies are not obligated to place a prior restraint on consumers' ability to obtain new services but rather consumers would have a choice they do not currently have -- the choice to voluntarily restrict their future choices and delay subsequent change. Staff Surreply at 6. Staff noted that CAD's proposal is similar to carriers' current practice of offering blocking service for 900 numbers, collect calls and third-party calls, as well as preferred interexchange carrier (PIC) freezes. Id.

(ii) Decision and Rationale.

The Commission's decision to adopt Rule 2.1.a.1., as modified previously in this order, makes it clear that telecommunications carriers cannot place charges for non-telecommunications services on customers' bills. This general prohibition on such billing obviates the need to adopt CAD's proposed rule.

g. 2.2.1.c. [NA] Cramming.

CAD also proposed the following additional new rules dealing with cramming and related practices:

c. The Commission, upon finding that any provision of this section of the Rules has been violated, may take any or all of following action:

1) Lay a fine upon the violator for each violation. Such fine shall not exceed the applicable limits of the West Virginia Code.

2) Revoke the violator's certificate of public convenience and necessity.

(i) Comments.

CAD wrote that potential targets of fines or certificate revocations should include telephone companies that repeatedly fail to engage in prudent due diligence with regard to billing entities engaged in fraud on the public. CAD Comments at 4. The Independent Group opposed CAD's proposed Rule 2.2.1.c on the grounds that the penalties and certificate revocation provisions improperly shift the responsibility for improper practices of billing entities from those entities to the LEC. Ind. Gr. Reply at 3.

(ii) Decision and Rationale.

As with CAD's proposed Rule 2.2.1.b, the Commission's decision to generally prohibit telecommunications carriers from including charges for non-telecommunications services on customer bills makes it unnecessary to adopt CAD's proposed Rule 2.2.1.c. The Commission has sufficient statutory authority to enforce its rules and regulations and does not need to adopt a rule establishing sanctions for violations of CAD's anti-"cramming" rules.

h. 2.2.6.b. [2.2.f.2.] Denial or discontinuance of service.

Rule 2.2.6.b in its present form, provides:

b. The telephone company shall give written notice complying with Form 14-T sent first class mail, address correction requested, at least ten (10) days prior to the scheduled termination. At the time notice is given, a residential customer shall be advised of his rights under Rule 2.2.6.e. Written notice shall become invalid thirty (30) days after the date indicated on the notice for termination. At the time notice is given,

a residential customer shall be advised of his rights under Rule 2.2.6.e. Written notice shall become invalid thirty (30) days after the date indicated on the notice for termination. [sic] The telephone company shall also make at least two attempts at personal notice by telephone at least twenty-four (24) hours prior to termination. However, the inability of the telephone company to perfect personal notice shall not prevent the telephone company from terminating service. Discontinuance of service will not be made on a day that the business office is closed or on any day immediately preceding a day on which the business office is closed. Furthermore, discontinuance of service shall not be made earlier than 8:00 a.m., nor later than 4:00 p.m.

(i) Comments.

Although the Commission did not propose any amendments to Rule 2.2.6.b, both Staff and CAD recommended certain changes to the current rules. Staff proposed disallowing service disconnections on Saturday, Sunday or holidays. Staff Comments at 5. For its part, CAD proposed language to be included in Rule 2.2.6(e), governing deferred payment plans, that would require the itemization of charges for which service may be terminated. CAD Comments, at 3. CAD's proposed Rule 2.2.6(e) would include the following proviso:

The customer shall be informed at the time a disconnect notice is issued of the option of a reasonable payment plan, including an itemization of those charges not in bona fide dispute related to basic service, the payment of which will prevent termination.

Id. at 8.

Citizens opposed Staff's limitation on disconnection, claiming that the current rule prohibits disconnection on a day or the day before its business office is closed, thereby giving the customer an immediate opportunity to pay the outstanding charges. Citizens Reply at 7. Furthermore, Citizens claimed that Staff's goal of regulatory uniformity does not support its proposal and that the proposal reduces a LEC's flexibility in a competitive market. Id. at 8. BA-WV likewise claimed that current industry practice in West Virginia -- in which business offices are closed on Saturdays -- accomplishes the same end Staff seeks. BA-WV Reply at 2. BA-WV similarly argued for competitive flexibility with respect to office hours and service terminations. Id.

In response, CAD urged the Commission to adopt Staff's amendments in order to avoid two or three-day service terminations. CAD Surreply at 3. Staff noted that the Commission adopted similar provisions prohibiting disconnections on Friday, Saturday or Sunday in other utility rules. Staff Surreply at 1, citing "Commission Order," General Order. No. 184.10 (May 8, 1996), at 5

(Electric Rules); “Commission Order,” General Order No. 185.12 (May 22, 1996), at 3 (Gas Rules). Furthermore, Staff argued, Friday terminations put customers at a disadvantage because Commission employees are unavailable on weekends and because many utilities no longer have business offices but rather “800” numbers and “virtual” offices. Id.

(ii) Decision and Rationale.

Staff’s proposed revision to the current rule is reasonable and should be adopted. Although the telecommunications carriers’ comments regarding their business decisions to maintain alternative office hours in the face of competition have merit, the problem is that the Commission is not staffed on Saturdays, Sundays or holidays. Even if customers can reach a carrier’s representatives regarding restoring or maintaining service on such days, if the customer is unable to resolve the termination with the carrier, he or she will be unable to contact Commission staff to seek relief. This is the crux of the matter – whether customers can avoid termination on days when Commission staff is not available. The Commission will also adopt CAD’s proposed change, which appears reasonable and was unopposed.

i. 2.4.4. [2.4.d.] Insufficient reasons for denying/discontinuing service.

The current rule provides:

When the subscriber is of the age sixty-five (65) years or older, and such subscriber is living alone, denial or discontinuance of service shall not be made prior to contact with a near relative, i.e., son, daughter, niece, or nephew, or responsible third party. Where the West Virginia Department of Welfare is a party in interest, they are considered as such third party. This exception shall also apply to any subscriber regardless of age, who is physically and/or emotionally incapacitated, and living alone.

(i) Comments.

Although the Commission did not propose any amendments to Rule 2.4.4, Staff proposed major changes to the current rule. Staff proposed that the Commission replace “Department of Welfare” with “Department of Human Resources [sic] (or successor agency).” In addition, Staff suggested that the following additional language should be appended to Rule 2.4.4:

The requirements of this rule shall be considered met if the eligible subscriber, at a minimum, is provided with the following:

a. Dial tone (without ability to receive incoming calls);

- b. Ability to make "9-1-1" calls;
- c. Ability to call the serving LEC's business office;
- d. A recorded announcement, played whenever a caller tries to reach something other than "9-1-1" or the serving LEC's business office, which informs the caller that the line cannot receive incoming calls and can only be used to make emergency calls to 9-1-1 and to contact the telephone company's business office.

Staff Comments at 6. The appended language, Staff asserted, would allow serving LECs to use "Soft Dial Tone" to meet eligible subscribers' emergency medical calling needs.

In response, Citizens suggested that Staff's proposed Rule 2.4.4.b should be amended by adding "where available" following "9-1-1" to reflect the fact that 911 service is not yet ubiquitous in West Virginia. Citizens Reply at 8. Citizens opposed Staff's proposed Rule 2.4.4.c on the grounds that compliance would be prohibitively expensive, if not technically infeasible. Separate programming would be required in order to enable affected customers to call the LEC office but block calls to other 7- or 10-digit numbers. Id. Moreover, such problems would be exacerbated in a resale environment. If the Commission adopts Staff's proposed rule, Citizens requested clarification regarding how the rule applies in a competitive environment, especially resale.

In reply, Staff noted that, in areas where 911 service is not available, such calls connect a caller with a "0" type operator who can quickly connect the caller with the appropriate emergency service provider. Staff Surreply at 6.

(ii) Decision and Rationale.

Staff's proposed changes to Rule 2.4.4 should be adopted for the most part. However, subsection 2.4.4.c. will be deleted and the language in subsection 2.4.4.d. modified to remove any reference to the customer's ability to reach the serving LEC's business office. The Commission sees no dire necessity for customers who are covered by Rule 2.4.4, and who are without service, to be able to reach the serving LEC's business office, in contrast to being able to make 911 calls. In light of the difficulties cited by Citizens, not the least of which is how to deal with the complexities of reaching the serving carrier's business office in a resale environment, and the general lack of necessity in contacting that office, this requirement should be dropped.

- j. 2.4.5. [2.4.e.] Limitation on denial/discontinuance of basic local exchange service.

In its amendments, the Commission proposed the following new subsection be added to the Telephone Rules:

Basic Local Exchange Telephone Service, as defined in 1.7.3, shall be neither disconnected nor interrupted for non-payment of charges rendered for provision of Non-Basic Services, as defined herein, provided the customer pays for and continues to pay all charges, not in bona fide dispute, related to basic services.

(i) Comments.

Both AT&T and BA-WV argued that the proposed rule should be deleted in its entirety. AT&T Comments at 5-8; BA-WV Comments at 25-26. AT&T claimed that, of all the proposed amendments, this amendment would have the most significant, potential adverse financial impact on carriers and subscribers who pay their bills. The proposed rule, AT&T claimed, would result in higher rates due to higher LEC and IXC uncollectibles, would provide a disincentive for new carriers to enter the state, and contradicts the Commission's prior determination that, as a matter of policy, termination of local service for non-payment of undisputed interexchange charges was reasonable. AT&T Comments, at 5-6, citing "Commission Order," Lawrence v. C&P Telephone Company of West Virginia, et al., Case No. 84-426-T-C (July 3, 1985). AT&T claimed that there is no evidence the current policy, established in Lawrence, adversely affects West Virginia subscribers, and further asserted that changing the policy only benefits subscribers who do not pay their bills. Id. at 6-8. Finally, AT&T argued, in an increasingly competitive market in which customers can "jump" from carrier to carrier, disconnecting local service for non-payment of interexchange charges is the "only effective" method of protecting LECs, IXCs and paying customers from the unscrupulous minority of non-paying customers. Id. at 8.

BA-WV likewise argued that, in Lawrence, the Commission determined that allowing termination of local service for non-payment of interexchange charges served the interests of ratepayers, LECs and IXCs. BA-WV Comments at 25. The proposed rule, BA-WV claimed, goes beyond merely overturning Lawrence, because it prohibits LECs from not only denying local service for non-payment of IXC charges, but also prohibits LECs from denying local service for non-payment of charges for long distance, discretionary (e.g., Custom Calling) and other non-basic services that the LECs themselves provide. Id. The problem, BA-WV wrote, lies in partial payment situations. BA-WV claimed that its billing system does not allow it to determine, absent manual analysis, whether local charges are being satisfied while other charges are not. Id. Moreover, the proposed rule diminishes the value of BA-WV's billing and collection service and would reduce revenues from those services. Id. at 26. Finally, the low number of customers who fail to pay their bills on time, and the even smaller number who actually have their service denied, does not justify the higher operating costs and uncollectibles that would result from a change in current policy. Id.

Citizens recommended that the Commission replace the phrase "Non-Basic Services" with "services not regulated by the Public Service Commission." Citizens Comments at 6. CAD argued that the final rule should reference the Commission's ability to impose fines allowable under state law for any violation of Rule 2.4.5. CAD Comments at 3-4.

Staff disagreed with BA-WV, AT&T and Citizens and advocated adoption of Rule 2.4.5., as proposed. Staff claimed that BA-WV's assertion that it is unable to allocate partial payments is not credible because BA-WV's current tariff provides that it will not terminate or suspend, without prior Commission authorization, any Commission-regulated service for which payment has been made, due to non-payment of non-regulated service. Staff Reply at 5, citing Bell Atlantic - WV, P.S.C. Tariff No. 201, Section 1.F.3, ¶ 2, at p. 36. Moreover, Staff claimed that BA-WV has stated, informally, that it does not suspend or terminate local service for non-payment of many non-basic services (e.g., fax services, 900 calls, long distance calling card plans, Internet access fees). Staff contended that BA-WV has resolved its partial payment problem for many of the items that Staff would regard as non-basic services. The only non-Commission regulated services for which BA-WV disconnects local service for non-payment are interstate and international toll calls billed on behalf of IXC's. Id. Staff asserted that allowing BA-WV to terminate local service for unpaid IXC charges extends its monopoly power in the local market and allows IXC's to use the threat of disconnection as a collection tool. This, Staff suggested, is inconsistent with the expansion of competition in telecommunications markets. Id. at 5-6.

Staff also disputed AT&T's claim that the current policy allowing disconnection of local service for non-payment of an IXC charge poses little problem. Staff cited situations involving IXC practices with respect to charges for 900 number entertainment services, which are frequently international toll calls. Under current rules and practice, customers can be billed substantial amounts for such calls and AT&T's typical response to customer requests for assistance is to "reluctantly" agree to a one-time, 50% adjustment. Id. at 6. AT&T benefits by 900 number vendors escaping regulation because it can expect BA-WV to disconnect local service for non-payment of the 900 number charges.

Finally, with respect to arguments based on Lawrence, Staff argued that circumstances have changed since that decision was rendered. Staff noted that carriers today possess the technology for toll restriction and blocking, that the intimate and interdependent relationship between AT&T and BA-WV no longer exists, that various markets and services are deemed competitive, and that non-paying subscribers can "jump" from vendor to vendor in a number of markets today. Id. at 6-7. Therefore, Staff wrote, the Commission should adopt the proposed rule, which looks to the future -- when AT&T and BA-WV are competing LEC's. Id. at 7.

In addition, Staff urged the Commission not to adopt Citizens' suggested change to the proposed rule. Staff claimed that it is vital that basic telephone services be fully protected by the Commission at a time when competition, service options, and rate plans are proliferating. Local

service, in contrast to optional services, is a lifeline and "must not be held hostage to other nonessential services," Staff argued. Staff Reply at 10.

CAD supported Staff's proposal, arguing that the Commission should uphold full toll service denial, as the Wyoming state commission did, as an appropriate remedy for failure to pay undisputed toll charges. CAD Reply at 7-8, citing Re: US West Communications, Inc., 184 P.U.R.4th 207, 208 (Wyo. P.S.C. Jan. 14, 1998). Adoption of the proposed rule allows subscribers to have access to local, emergency and directory assistance service -- if they remain current on their bills for local service. Such a rule is sound policy, CAD asserted, since toll service denial attaches the sanction to the service for which the customer has failed to pay. Id. at 8. Moreover, CAD argued, BA-WV's and AT&T's arguments regarding uncollectibles is speculative. If, however, the Commission is persuaded by those arguments, CAD suggested it should convene a general investigation before continuing to uphold the right to disconnect local service for failure to pay toll charges. Id.

In its reply, BA-WV asserted that new approaches carriers are taking toward bundling different types of service, such as intraLATA service with local service, or local service with non-basic services, makes the proposed rule unworkable. BA-WV Reply at 4-5. Bundling and packaging of services will, BA-WV argued, obliterate the historic distinctions among local, toll and other -- vertical, optional, discretionary -- services. Id. at 5. Moreover, the creation of different local calling areas by different, competing LECs, will render the proposed rule unworkable. Id.

(ii) Decision and Rationale.

After considering the commenters' arguments, the Commission concludes that the proposed rule should be adopted.

One of the primary pillars of the arguments advanced by BA-WV and AT&T is the Commission's 15-year old decision in Lawrence. In that case, the Commission concluded, after a lengthy proceeding, that local carriers should be allowed to terminate customers' local service for non-payment of long distance bills pursuant to billing and collection agreements between the local carriers and the IXCs. The Commission's decision in Lawrence was based on then-current technical capabilities of local carriers and IXCs, as well as economic benefits the local carriers derived from their billing and collection agreements with IXCs. Lawrence, 69 P.U.R.4th at 680. The technical issues considered by the Commission focused on: (1) the ability of C&P Telephone (BA-WV's predecessor) to allocate partial payments; (2) C&P Telephone's ability to selectively terminate customers; and (3) the ability of AT&T to control access to its network. Id. at 673-74. With respect to the first technical issue, the Commission noted that C&P Telephone's billing system, in 1985, did not have the capability to allocate partial payments (i.e., bills showed only a total amount due, not amounts due for local and interexchange service). The Commission accepted C&P Telephone's contention that the cost to reprogram that billing system would be substantial, though

Staff opined that the cost of reprogramming was not as high as C&P Telephone estimated and that the company had the capability in 1985 to handle dual balance billing. Id.

As for C&P Telephone's ability to selectively terminate customers, the Commission noted that the three types of electromechanical switches used by C&P Telephone and some other LECs were not, in 1985, designed for selective denial without reprogramming or modification. Nor could the LECs deny operator handled calls without the development of additional software. Id. at 674. Addressing the third technical issue, AT&T's ability to control access to its network, the Commission noted that AT&T would not have its own network call denial system in place until 1986 and, prior to that time, AT&T would have to rely on LECs to deny access to delinquent long distance customers. Id. Only in exchanges offering equal access could AT&T obtain the network information necessary to be able to control access to its network independently. Id.

To put it mildly, a lot has changed in telecommunications technology since 1985. BA-WV's billing system is far more sophisticated today than it was in 1985. Monthly bills rendered by BA-WV now provide separate line item charges for numerous services, such as applicable taxes and fees, usage-based charges, peak and off-peak billing, flat-rate charges, charges for discretionary services and charges for long distance calls made through use of IXC access codes. Moreover, as Staff noted in its comments, BA-WV's current practice in dealing with customer complaints suggests that the problem of dealing with partial payments is not as problematic as it once was. As for switching technology, the telecommunications industry has come a long, long way from 1985. Digital switches are now deployed in every exchange in West Virginia. These switches, unlike the electromechanical switches considered by the Commission in Lawrence, can easily be programmed to selectively deny non-paying customers access to long distance service. Finally, with the advent of equal access throughout West Virginia in August 1997, all IXCs have the capability of receiving calling number data that allows them to independently deny access to their own long distance networks. In short, the technical problems underpinning the Commission's decision in Lawrence no longer apply.

That leaves the economic issues considered by the Commission in Lawrence. The Commission considered two economic issues: (1) the value of termination authority in billing and collection agreements, and (2) the benefits of current billing arrangements. With respect to the first issue, the Commission concluded that the billing and collection service offered by LECs would be less valuable to IXCs if the LECs were unable to terminate local service for non-payment of long distance charges. Lawrence, 69 P.U.R.4th at 675. The Commission noted that testimony suggested that IXCs' uncollectibles would increase up to 6-7% without LEC termination of local service. Id. As for the benefits of the current billing arrangements, the Commission concluded that the revenue LECs receive for their billing and collection service generally contributes to lower rates for basic service. Id. at 674-75. The Commission observed that, if AT&T ceased using C&P Telephone's billing and collection service, C&P Telephone's revenues would be reduced by approximately \$8 million, which would translate into an additional \$1.50 across-the-board rate increase. The revenues

increase. The revenues lost by Citizens' predecessor (GTSE) would translate into a \$1.85 increase in customers' local rates. *Id.* at 675. Some other benefits customers would lose, the Commission noted, were the time and money saved writing one monthly check and using one envelope to mail payments. *Id.*

As with technical issues, much has changed since 1985. For one thing, as Staff pointed out in its comments, the interdependent relationship between AT&T and C&P Telephone has ended. Many of AT&T's customers in West Virginia are now billed separately by AT&T; the same is true for other large IXCs. Much of the revenue fallout from the loss of billing and collection arrangements has probably already been felt by the LECs. More importantly, competition in the local telecommunications market has arrived. Many of the IXCs are themselves now authorized to provide local service: some have even begun providing local service, either through resale of the incumbent LEC's service or a combination of resale and facilities-based service. As a practical matter, competitors may be at a disadvantage if the incumbent LEC can more readily leverage its "bottleneck" facilities to provide increased revenue by being able to terminate local service at the switching location, something resellers and some facilities-based competitors will have more difficulty doing.

In addition, the Commission notes that many state commissions have acted to prohibit local carriers from terminating local service for non-payment of long distance charges, including: California, Colorado, Idaho, Minnesota, New York, North Carolina, Ohio, Oregon, South Dakota, and Virginia.⁴ The Commission believes that should reverse Lawrence, consistent with current technical capabilities, existing economics, and the movement toward greater competition in the

⁴See In re. Rules Designed to Deter Slamming, Cramming and Sliding, Rulemaking 97-08-001, Decision No. 00-03-020 (Cal. P.U.C. March 2, 2000); O'Bryant v. US West Communications, Inc., 132 P.U.R.4th 417, 1992 WL 159940 (Colo. P.U.C. April 1, 1992); Telephone Customer Relations Rules, IDAPA 31.41.01, Rule 310.03 [Idaho]; In re. Local Disconnection and Toll Blocking Charges, Docket No. P-999/CI-96-38 (Minn. P.U.C. June 4, 1996); "Memorandum, Order and Resolution," Rules and Regulations Contained in 16 NYCRR, Chapter VI, Telephone and Telegraph Corporations, Case No. 90-C-1148 (N.Y. P.S.C. Jan. 17, 1992); "Order Directing Revision of Rules," 2000 WL 192172 (N.C.U.C. Jan. 14, 2000); In re. Disconnection of Basic Local Exchange Service for the Nonpayment of Charges Associated with Services Other Than Local Exchange Service, Case No. 95-790-TP-COI (Ohio P.U.C. June 12, 1996); Or. Admin. R. 860-021-505(8), and In re. Rule Relating to Disconnection of Local Exchange Service, Order No. 89-662 (Ore. P.U.C. May 22, 1989); Service Standards for Telecommunications Companies, S.D. Admin. R. 20:10:33:31 (Eff. Dec. 27, 1998) [South Dakota]; In re. Termination of Local Exchange Services for Failure to Pay for Long Distance Service, Case No. PUC970113, 1999 WL 1040198 (Va. S.C.C. Sept. 10, 1999).

local telecommunications market and, in the future, competition in the intrastate long distance market in West Virginia.

k. 2.6.11. [2.6.k. & 2.6.l.] Directories.

The current rule states:

Each directory shall contain rate schedules by mileage band for inter and intra state message toll calls. Such listings shall show the rates for direct dial calls and operator handled calls in each applicable time period. In addition each directory may contain representative rate schedules for inter and intra state toll calls.

(i) Comments.

Both BA-WV and the Independent Group recommended that the current rule should be deleted in its entirety. BA-WV Comments at 27; Ind. Gr. Comments at 4. Staff indicated that it agreed that the current Rule 2.6.11 should be deleted and proposed that it should be replaced with the following rule:

Each Telephone Company shall, without charge and on a 24-hour per day, 7 day per week basis, provide to the public applicable rate and charge information regarding local, intrastate and interstate calling. Such information may be provided directly by the telephone company and/or through the use of one or more other entities capable of providing the information. Such information shall be available by each of the following means:

- a. Free telephone call;
- b. E-Mail;
- c. Internet web site.

Telephone Companies may also provide such information in a printed format available by mail and/or direct customer pickup and such information may also be faxed to customers desiring fax transmittal.

Staff Reply at 7. In addition, Staff recommended that the current Rule 2.6.12, which states “[i]llustrative service connection and installation charges for residential service shall be listed in each directory,” should be replaced with the following rule:

Service connection and installation (where appropriate) charge

information shall be made available by Telephone Companies exactly as required for calling rate and charge information by Rule 2.6.11.

Id. Staff contended that "timely, free, and around the clock" rate and charge information is essential for customers' informed decisions, especially in light of the "dizzying array" of service options and the likelihood such options will increase as competition increases. Staff Reply at 7.

BA-WV opposed Staff's proposals on the grounds that, while customers have a right to timely information about available telecommunications services, that right does not extend to having a service representative on duty to answer any rate question at any time. BA-WV Surreply at 4. BA-WV claimed that few businesses, and no state agency, maintain offices 24 hours a day to field customer/constituent questions. Moreover, while BA-WV does maintain 24-hour operator services, those operators are not -- and should not be -- trained to answer questions about the full range of available services. Such questions, BA-WV argues, should be directed to business office personnel during normal business hours -- from 8:00 a.m. to 6:00 p.m. Id. at 4. Staff offered no explanation why customers cannot ask questions during a normal 10-hour business period. BA-WV also requested three months to implement the requirement that its tariffs be posted on the Internet. Id.

(ii) Decision and Rationale.

Staff's proposed rules will be adopted, but revised to eliminate the 24-hour per day, seven day per week customer service representative requirement. Telephone companies should instead be allowed to operate according to normal business hours. The Commission agrees with BA-WV that being able to contact the telephone company during its normal business hours is sufficient for any customer seeking information about the company's rates and charges. In addition, the Commission will, within this order rather than in the rules, provide telephone companies with a 3-month period within which to put their tariffs on the Internet. This timetable for compliance with this provision of the rules appears reasonable.

1. 2.8. [2.8.] Changes in subscriber carrier selections.

The Commission proposed to add a new section to the Telephone Rules to deal with changes in subscriber carrier selections. Rather than setting forth the new rules in their entirety, the Commission will set forth only those portions that were the subject of substantive disputes among the commenters. The relevant provisions of proposed Rule 2.8 state:

- a. No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of local exchange telephone service or interexchange telecommunication's service except in accordance with the verification procedures stated in

this section.

b. In order for a telecommunications carrier to obtain subscriber confirmation of a request for a change in local exchange telephone service or a change of presubscribed interexchange carrier (PIC) providing intrastate toll service, a telecommunications carrier must, from the customer of record:

A. Obtain written authorization through letters of agency; or

B. Obtain electronic authorization through the use of a toll-free telephone number;

Or Must:

C. Orally verify the change of carrier request through an appropriate independent third party; or

D. Send an information package, including a pre-paid, returnable postcard within three days of the subscriber's request for a change of carrier, and wait fourteen (14) days before submitting the subscriber's order to the local exchange carrier.

(i) Comments.

Citizens recommended that the Commission's rules should provide that a change in local exchange carrier should be made only upon receipt of a letter of agency (LOA), together with a statement that the customer authorizes the local carrier to disclose customer private network information. Citizens Comments at 6.

Only AT&T responded to Citizens' recommendations, opposing them on the grounds that the FCC specifically rejected a proposal identical to that made by Citizens. AT&T Reply, at 10. AT&T claimed that requiring new entrants to obtain signed LOAs in order to change their local carrier is not required under Section 222 of the Communications Act of 1934, 47 U.S.C. § 222, and may thwart the obligations imposed on incumbent LECs under Section 251 of TA96 by placing an anti-competitive hurdle in the path of competition. Id. at 11. Section 222(c)(1), AT&T noted, permits the sharing of customer records necessary for competitive carriers to provide service.

(ii) Decision and Rationale.

The Commission will adopt the rule as proposed and reject Citizens' proposed changes. Citizens' proposed changes conflict with the provisions of H.B. 2924. Among other things, W. Va. Code § 24-2E-1(a)(3) and (b) provide that changes in subscriber selections of providers of telephone service shall be authenticated by third-party verification, by LOA from the subscriber, by electronic authorization, or by recorded oral confirmation. Limiting provider changes to LOAs only, as Citizens proposed, is not an option. In addition, the Commission notes that several minor revisions were made to ensure that the final rules are consistent with the provisions of H.B. 2924, which was enacted March 12, 1999, and which took effect June 10, 1999. H.B. 2924 added a new article -- 2E -- to Chapter 24 of the W. Va. Code, and addressed "slamming" by placing limits on the transfer of phone service.

m. 2.8.d. [2.8.d.] Maintaining documentation re: change requests.

As proposed, Rule 2.8.d states:

Carriers shall retain, for at least six months, hard copy or electronic documentation of carrier change requests in which they become the requestor's chosen carrier. Such documentation shall be supplied to the Commission upon request.

The proposed rule is targeted at "slamming."⁵

(i) Comments.

The Independent Group suggested that the Commission defer action to address "slamming" until the FCC completes action on its Notice of Proposed Rulemaking, pursuant to Section 258 of TA96. Ind. Gr. Comments at 3-5. Furthermore, a recent Minnesota state court decision called states' ability to regulate slamming into question. Id. at 3-4, citing State v. Minimum Rate Pricing, Inc., File C1-97-008435 (Minn. Dist. Ct., Ramsey County, 2nd Judicial Dist., April 13, 1998). Alternatively, the Independent Group suggested that the Commission may wish to cross-reference the applicable FCC rules -- 47 C.F.R. §§ 64.1100 and .1150 -- until the FCC acts. Id. at 4.

In response, CAD argued that the Commission should not await FCC action before adopting the proposed rule. CAD cited the large number of slamming complaints received by the Commission, for both residential and business customers. CAD Reply at 8. Further, CAD claimed that the Minnesota state court decision is not dispositive of the FCC and states' respective jurisdiction over "slamming." CAD urged the Commission to adopt a "hard line" at least with respect to intraLATA service and cited the Pennsylvania commission's recent policy fining

⁵"Slamming" refers to a telecommunications carrier's submission of a request to change a subscriber's carrier without proper authorization from the subscriber.

slammers up to \$1,000 per day per slammed customer until a complaint is resolved. Id. at 8-9.

(ii) Decision and Rationale.

The proposed rule will be adopted, with minor modifications. Rule 2.8.d will be revised to require records to be kept for at least two years rather than six months. H.B. 2924 made it a requirement that records verifying subscriber service provider changes must be kept for at least two years. See W. Va. Code § 24-2E-1(b)(5).

n. 2.8.h.A & B [2.8.h. & 2.8.i.] New Staff rule.

Staff proposed adding two additional subsections to Rule 2.8:

2.8.h.A. Whenever a LEC subscriber receives a change in his or service status due to subscriber request or to late payment (or nonpayment) and whenever a LEC subscriber makes a change in presubscribed IXC (or is subjected to an unauthorized presubscription change, i.e., "slamming"), the serving LEC shall, at the time of service restoral or presubscription restoral, inform the customer that his or her IXC account status may have been changed and that such change could result in billing changes and that questions regarding any of that should be directed to the customer's IXC(s).

2.8.h.B. Under no circumstances shall a LEC or an IXC bill someone a "casual calling," random calling," etc. type rate, charge or fee for a call made over a telephone line presubscribed to the IXC which carried the call.

(i) Comments.

Staff subsequently suggested that, in an effort to promote competition, its proposed Rule 2.8.h.B should be modified by deleting the phrase "for a call made over a telephone line presubscribed to the IXC which carried the call." Staff Reply at 11. Staff claimed that customers often wrongly assume that, when their service is reconnected, their service -- including toll service -- will include the same rates and charges that applied before disconnection. Staff claimed that IXC non-presubscription charges were never intended to apply when a customer has presubscribed to an IXC but, for some reason, no longer has an active account with that carrier. Staff Comments at 1-2. Staff contended that its proposed rules will reduce this problem.

Staff's proposed new rules provoked strong opposition from Citizens, BA-WV and AT&T.

With respect to proposed Rule 2.8.h.A, Citizens wrote that the rule should require the IXC -- rather than the LEC -- to provide the contemplated notice since changes in an IXC's calling plan are matters between the customer and the IXC, not the LEC. Citizens Reply at 3. BA-WV opposed proposed Rule 2.8.h.A on the grounds that Staff erroneously assumes that the LEC ordinarily contacts the customer in the normal course of restoring service. BA-WV Reply at 3. In most cases, BA-WV claimed, the customer pays the bill and service is automatically restored. Staff's proposal would require LECs, at considerable time and expense, to call the customer when there is no local service-related reason to do so. Id. Like Citizens, BA-WV argued that the customer's long distance account and its status should be treated as a matter between the customer and the IXC. Id. at 3-4.

In its further reply comments, BA-WV noted that the rule appears to apply whenever a LEC subscriber makes a change in presubscribed IXC. BA-WV Surreply at 5. BA-WV claimed that it makes no sense for it to advise an AT&T "Dime-A-Minute" plan customer who has decided to switch to MCI that the customer should call AT&T to determine whether AT&T's toll discount plan can be retained. BA-WV further asserted that the proposed rule is unclear with respect to advising customers to call their IXC when there is a change in the customer's service status -- itself an undefined concept -- due to late payment. Id. BA-WV noted that since an IXC ordinarily will not know that the customer was late in paying a bill and thus the customer's toll plan likely would not have changed, requiring the LEC to advise the customer to contact the IXC makes no sense. Id. at 5-6.

As for proposed Rule 2.8.h.B, Citizens suggested that the proposed rule be revised to apply to IXCs only. Citizens claimed that, where a LEC provides billing and collection services for an IXC, the LEC typically has no ability to change the rating given a call by the IXC; all such information is provided by the IXC and the LEC simply prints the charges onto the LEC's bill. Citizens Reply to Staff at 3. Without costly upgrades, Citizens' billing system is incapable of cross-checking an IXC's charges against the presubscription status of a particular customer. Id. Finally, Citizens argued that the duty to rate calls carried by an IXC properly rests with the IXC. However, Citizens did agree that questions regarding rates sometimes arise when a customer selects a new presubscribed IXC and the LEC processes the change before the IXC establishes a customer account. To avoid higher rates being charged by the IXC in such situations, Citizens recommended revising proposed Rule 2.8.h.B to prohibit an IXC from billing casual calling rates or charges for calls made from a line presubscribed to it and for which it has established an account. At a minimum, Citizens suggested that the rule should be changed to permit IXCs to issue credits retroactively. Id. at 4. Citizens raised one other issue, namely what happens when a presubscribed customer nonetheless uses an access code (such as 1010XXX) to reach the IXC to which the line is presubscribed. Citizens noted that such calls typically appear to IXCs as casual calls. Id. Claiming that it would be unduly burdensome for IXCs to cross-check all apparently casually dialed calls, and that the customer bears some responsibility for the applicable charge in these situations, Citizens suggested that the proposed rule should be modified to exclude situations where the customer uses an access code to reach the IXC to which the line is presubscribed. Citizens

recommended adding the following language: "An IXC may not assess 'casual calling' rates or charges for calls placed from a telephone line presubscribed to that IXC, and for which the IXC has established an account, except where the caller dials an access code to reach the presubscribed IXC." Citizens Reply to Staff at 4.

For its part, AT&T stated that the relationship between proposed Rule 2.8.h.B and the rest of Section 2.8 was unclear, since that subsection does not address changes in subscriber carrier selections and Staff's comments did not clarify the intent behind the proposed rule. AT&T Reply at 3. Moreover, AT&T noted that the terms "casual calling" and "random calling" are not defined or described in the proposed amendments. AT&T suggested Rule 2.8.h.B should not be adopted.

CAD, on the other hand, endorsed Staff's proposed Rule 2.8.h.A and suggested that, while LECs should not be unduly burdened with discussing the rate plans of other carriers, some minimum notification that new or newly reconnected customers should directly contact their chosen IXC is appropriate. CAD Reply at 9. With respect to proposed Rule 2.8.h.B, CAD stated that it believes Staff's proposal does not go far enough and recommended that the rule should be amended to provide an absolute ban on casual calling surcharges or fees by any carrier -- regardless of their presubscribed status. Id. at 9-10. CAD recommended that the rule should be revised to read: "Under no circumstances shall a LEC or an IXC bill someone a 'casual calling,' 'random calling,' 'dial-around,' etc. type rate, charge, surcharge or fee." Id. at 10. While CAD did not object to clarifying Rule 2.8.h.B in accord with AT&T's comments, it opposed Citizens' argument that the absolute proscription on casual calling rates in Rule 2.8.h.B should apply only to IXCs and urged the Commission to apply the proscription "across the board." CAD Surreply at 5.

In response to the criticisms levied at proposed Rule 2.8.h.B, Staff indicated that it did not object to placing the subsection elsewhere in Section 2 of the Telephone Rules. Staff Surreply at 4. Staff also suggested adding the following definition of "casual calling" and "random calling" in order to clarify the rule's application:

"Casual Calling" -- The use, on a per-call basis, of long distance service by means of accessing an interexchange telecommunications carrier through use of that carrier's access code. This term is synonymous with the term "random calling" and is sometimes referred to as "dial-around calling."

Id.

(ii) Decision and Rationale.

Staff's proposed Rule 2.8.h.A will be adopted, but will be revised to make it clear that LECs' obligation to provide the required information to customers arises only when the customer contacts

the LEC to restore service. Requiring LECs to spend a few seconds to provide a general advisory to customers that their interexchange service may have changed and that they should contact their toll carriers to ensure that they are properly billed for toll service is not a significant burden and will help alleviate the confusion and frustration customers experience when they are served by different carriers. Moreover, the Commission's revision comports with CAD's recommendation that some minimum notice should be provided to telecommunications customers.

With respect to Rule 2.8.h.B , it is reasonable to adopt the rule as proposed by Staff, subject to several revisions. The Commission agrees with Citizens' proposed changes to reflect the presubscription status of a customer, or a customer's effort to reach the carrier to which the customer is presubscribed through use of an access code. The Commission also finds CAD's suggestion, i.e., that the prohibition on "casual calling" should apply across the spectrum of carriers and should not be limited to IXC's only, is reasonable and should be adopted. Finally, the Commission will adopt, with some modifications, Staff's definition of "casual calling" in order to clarify the rule's application. These modifications expand the scope of the proscription on charging presubscribed customers "casual calling" rates at all levels -- local, intrastate toll, and interexchange, interstate toll -- in accordance with CAD's suggestion.

o. Rule 2.8.h.C. [2.8.j.] New Staff rule.

In its reply comments, Staff proposed another new rule, Rule 2.8.h.C, to provide as follows:

Whenever a telephone number change or a presubscribed interexchange carrier (PIC) assignment, change or reactivation is made to a telephone line, the local exchange carrier which made the telephone number change or the PIC assignment, change or reactivation shall, within three business days of the implementation of the telephone number change or PIC assignment, change or reactivation, notify the beneficiary interexchange carrier (IXC). Within three business days of receipt of such notification, the beneficiary IXC shall determine if an active account exists for the affected line. If none exists, the beneficiary IXC shall, within three business days of such determination, attempt to contact the subscriber associated with the affected line and inform the subscriber of the lack of an account for that line. For purposes of this rule, the beneficiary IXC shall be the IXC associated with the PIC code which becomes assigned to the telephone line pursuant to the implementation of any of the changes mentioned in this rule.

Staff Reply at 11.

(i) Comments.

Staff wrote that, in its experience, many people do not adequately know what is involved in establishing and maintaining accounts with LECs and toll carriers. This results in subscribers being charged higher rates than they expect because their account status changed, without their knowledge, and they were charged default rates. Id. Staff noted that default rates are normally the high base rates on which discount plans are based.

In response, BA-WV recommended that, if the rule is adopted by the Commission, it should be amended to provide that LECs need only establish an electronic or other automated system that provides for furnishing the information required by the rule. BA-WV Surreply at 6. BA-WV noted that it has put in place an automated system -- "Exchange Electronic Access" or XEA -- which provides the type of information that would have to be furnished other carriers under the proposed rule. However, not all carriers have elected to acquire the equipment necessary to interface with XEA. BA-WV argued that LECs should not be required to "chase down" those carriers, at the LEC's expense. Id. Citizens suggested that the proposed rule should be amended to require notification of reconnection following a temporary disconnection only if the LEC notified the IXC of the temporary disconnection of service. Citizens Surreply at 3-4.

(ii) Decision and Rationale.

Staff's proposed rule will be adopted, albeit in substantially revised form. As an initial matter, the Commission finds BA-WV's arguments that LECs should not be required to "chase down" IXCs that do not access electronic or other automated systems capable of providing the requisite information to be reasonable and should be incorporated in the final rule. Citizens comments also appear to be reasonable and should be incorporated in the final rule. Finally, the Commission concludes that the time frames suggested by Staff within which the IXC is required to take action are administratively unworkable. Tying IXC action to "receipt" of notice by the IXC could be construed to make the LECs guarantors of the notice -- i.e., requiring an LEC to take action to ensure the IXCs have in fact received the requisite notice. Moreover, the entire process for the IXC to determine what to do to contact the customer is limited to six business days. This is too short. The Commission concludes that it is reasonable to simply require IXCs to attempt to contact their customers of any account problems within 30 days following the provision of notice by the LEC. Finally, the Commission will separate the final rule into two subsections to make it read more clearly.

3. Section 6: Standards of Quality of Service.

a. 6.1. [6.1.] Basic telephone company obligations.

(i) Comments.

AT&T recommended that the title of this section should be changed to "Basic local exchange

carrier obligations" on the grounds that Rule 6.1 describes the obligations of LECs providing service in West Virginia. AT&T Comments at 9. Staff disagreed with AT&T's characterization of Rule 6.1, arguing that there is no reason that the requirements in Rule 6.1 -- providing adequate quantities of reliable service, keeping suitable records, and requiring courteous, considerate and efficient performance by carrier employees -- should not also apply to IXCs. Staff Reply at 9.

(ii) Decision and Rationale.

The current title of Rule 6.1 will be retained. Most of the provisions in Section 6 of the Telephone Rules deal with local exchange service, rather than either intraLATA or interLATA toll service and, for the most part, these provisions specifically refer to local service or the local exchange carrier. See, e.g., 150 C.S.R. §§ 6-6.2.1.a and 6.2.3.a. This would appear to support AT&T's comments. However, the Commission agrees with Staff that some of the requirements of Rule 6.1 should be universally applicable to entities providing telecommunications service within West Virginia, whether local or toll. Accordingly, AT&T's comments will be accommodated by making it clear, in the body of the rules themselves, precisely where the standards apply to LECs only, as opposed to all telephone companies.

b. 6.1.8.a. & 6.1.8.b. [6.1.h.1. & 6.1.h.2.] Subscriber loop requirements.

Staff proposed that a new rule 6.1.8, entitled "subscriber loop requirements," should be adopted by the Commission. This rule would provide:

a. Where analog voice telecommunications service is provided to a subscriber, the local distribution circuit (loop) shall meet the following specifications when measurements are taken at the LEC's Network Interface Device connecting point.

- A. Loop Current: 23 m/A or more
- B. Circuit Loss: -8 db or more
- C. Circuit Noise: 20 dbmC or less
- D. Power Influence: 80 db or less
- E. Balance (Power Influence minus Circuit Noise): 60 db or more.

b. Where digital telecommunications is provided to a subscriber, the loop shall be able to pass data, from the subscriber to the switching location electrically nearest the subscriber, at a minimum speed of 56 Kbps when appropriate send/receive devices are utilized at the LEC's NID connecting point and the switching location.

(i) Comments.

Staff claimed that its proposed rules were necessary to deal with the dilemma of what data capabilities should be provided to subscribers. Since it is not feasible to assign a meaningful minimum data speed to voice-grade analog lines, Staff recommended that the Commission should require certain parameters to be met. Staff Comments at 2-3. As for digital service, Staff asserted that 56 kilobits per second (Kbps) is a reasonable minimum standard to prescribe for all lines so that rural subscribers are not denied reasonable access to the Internet and other data-dependent services. Id. at 3.

BA-WV suggested several modifications to proposed Rule 6.1.8.a to reflect current engineering standards. BA-WV Reply at 4; Tr. at 20-21 (Zoltek).⁶ BA-WV further advised that it would meet with Staff and Citizens in an effort to reach a stipulation regarding these standards. Staff endorsed BA-WV's proposed modifications to Rule 6.1.8.a regarding loop current and current loss but opposed all other modifications recommended by BA-WV. Staff Surreply at 2. With respect to circuit noise and power influence, Staff argued that the deviations suggested by BA-WV could significantly affect use of a modem for communicating with the Internet. Id.

The Independent Group did not oppose Staff's proposed Rule 6.1.8.b but recommended that the Commission adopt the following, new Rule 6.1.8.c, which would give carriers time to bring their systems into compliance with Staff's proposals.

Carriers may seek a waiver of the requirements of Section 6.1.8.b to the extent that the provision of digital telecommunications service is not technically or economically feasible.

Ind. Gr. Reply at 6.

Citizens and BA-WV flatly opposed Staff's proposed Rule 6.1.8.b. Citizens argued that the proposed rule assumes that all digital telecommunications services are capable of carrying data. This is not necessarily the case. Citizens Reply at 4-5. For example, while digital channel service

⁶BA-WV recommended the following modifications: (1) Loop current -- substitute 20mA of current to a 400 ohm load; (2) Circuit loss -- set 1kHz circuit loss on standard voice grade circuits that have been designed using the Revised Resistance Design nominally at 8.5db; (3) Circuit noise -- set the standard at 30dbmC; (4) Power influence -- set the standard at 90db. With respect to circuit noise and power influence, BA-WV advised that its engineers generally do not take corrective action unless the levels it proposes are met or exceeded.

(DCS)⁷ lines may allow data transmission, such lines are not designed or guaranteed to provide such capability, let alone transmission at a particular rate. Id. at 5. BA-WV suggested that digital transmission speeds should be specified for each digital service offering contained in the carrier's approved tariff rather than set forth as a unitary standard in the rules. BA-WV Reply at 5, citing Tr. 21 (Zoltek). Service rates vary with transmission speed, BA-WV noted, and requiring all data services to operate at speeds of 56 Kbps results in higher rates being charged for customers whose data applications function well at slower speeds. Id.

CAD argued that there was no reason to eliminate minimal data transmission requirements but did not object to the Independent Group's proposed Rule 6.1.8.c. CAD Surreply at 6-7.

(ii) Decision and Rationale.

Staff's proposed Rule 6.1.8.a, as modified by BA-WV with respect to loop current and current loss, should be adopted. With respect to data transmission standards in Staff's proposed Rule 6.1.8.b, the Commission rejects Staff's proposal to adopt 56 Kbps as a minimum transmission speed for all digital telecommunications services. Both Citizens' and BA-WV's arguments appear to be well-founded and militate against adoption of a unitary standard for all digital telecommunications services. The Commission will instead adopt BA-WV's suggestion and require data transmission speeds to be specified for each digital service offering set forth in a carrier's Commission-approved tariff. Where a particular digital service is not designed or intended to transmit data, the carrier can so indicate in its tariff. Finally, in view of the Commission's action with respect to Rule 6.1.8.b, there is no need to promulgate the waiver provision suggested by the Independent Group.

c. 6.4.2. [6.4.b.] Local dial service requirements.

The Commission proposed the following changes to Rule 6.4.2:

~~Where existing central office equipment will permit, and W~~with the exception of numbers that are changed coincident with the issuance of a new directory, intercept service ~~will~~ shall be provided by the telephone company in accordance with the following: intercept services, either operator or mechanical, shall be provided for each non-working and changed telephone numbers until assigned, reassigned, or no longer listed in the main directory ~~where equipment permits, for that~~

⁷Digital Channel Service is typically used to provide direct-inward-dialing and direct-outward-dialing capability to PBXs, as well as to provide two-way trunking. Citizens Reply at 4-5.

telephone number. Such intercept shall, insofar as feasible and appropriate, provide the caller with the replacement telephone number if one exists. In instances where provision of a replacement number is infeasible or inappropriate, the intercept service shall inform the caller that the called number is a non-working number. A reasonable length of time shall separate telephone number reassignments.

(i) Comments.

Citizens noted that it currently provides the new telephone number to intercept callers, if appropriate, in some, but not all, exchanges. Deployment of this service would not be feasible until Citizens completes a statewide deployment of CLASS features, scheduled to be completed by December 31, 1999. Citizens Comments at 7. For its part, BA-WV claimed that providing intercept service for residential customers for more than 60 days was unnecessary because its historical experience, and lack of complaints, demonstrates that 60 days is sufficient. Moreover, it would be extremely labor intensive and costly to tie intercept service to the directory publication cycle since service representatives would have to determine the next directory publication date for the area where the service has been disconnected or changed. BA-WV Reply at 5-6. No reason for the proposed change was presented, BA-WV asserted.

(ii) Decision and Rationale.

The Commission will adopt the proposed rule, with changes to reflect BA-WV's comments. As drafted, the proposed rule appears overly confusing and does not offer the advantage of a fixed period of time for which intercept service is provided. Rather than leaving it to the carriers and Staff to dispute what constitutes a "reasonable" period for providing intercept service, the Commission will incorporate BA-WV's existing practice into its rules. The Commission notes that BA-WV has been providing intercept service for 60 days for residential customers for some time and Staff has not objected to this period as unreasonable. The Commission considers this to be prima facie evidence that 60 days is a reasonable length of time to provide intercept service for residential customers. For business customers, one year appears reasonable in order to provide such customers with the benefits of their advertising. Finally, adoption of a 60-day period during which intercept service must be provided offers the advantage of freeing up phone numbers for reassignment more quickly and reduces local number exhaustion.

With respect to Citizens' comments, there is no need to establish a waiver for intercept service since Citizens expects to have completed statewide deployment of CLASS features by the end of 1999 -- well before the final rules adopted by the Commission take effect. In addition, the Commission should adopt a waiver provision for LECs which can demonstrate that compliance with the proposed rule is not technically feasible.

d. Rules 6.5.5 & 6.5.8. [6.5.e. & 6.5.h.] Maintenance Requirements.

As proposed, Rule 6.5.5 would provide:

Whenever ~~the service must be~~ is interrupted for the purpose of working on transmission facilities and/or their supporting apparatus and/or switching location ~~the distribution system or central office equipment,~~ this such work shall be done at a time which will cause the least inconvenience to subscribers, and those who will be most seriously affected by such interruptions shall, so far as ~~possible~~ feasible, be notified adequately in advance.

(i) Comments.

Staff suggested adding the following language to the proposed rule:

LECs shall notify a 9-1-1 answering center of any planned outage which will affect, for 15 minutes or longer, 25 or more access lines served by that 9-1-1 answering center.

Staff Comments at 7. In addition, Staff recommended that a new rule, 6.5.8., should be added to the rules. This rule would provide:

6.5.8. LECs shall immediately notify a 9-1-1 answering point of any service outage which affects the area served by that 9-1-1 answering point.

The Independent Group and Citizens objected to Staff's suggested changes in several respects. Citizens complained that the Staff's proposed additions needed clarification. With respect to Staff's proposed 6.5.8., Citizens claimed that the rule would be overbroad and vague since it literally would require notification to a 9-1-1 answering point whenever a single customer's service is out. Citizens Reply at 5. In addition, the meaning of "affect" in both rules is unclear, Citizens asserted, and it requested clarification whether the outage must be of a type that makes it impossible for 911 callers to reach the 9-1-1 answering point, as well as clarification regarding how large an outage triggers the notification requirement. Id. at 6. Citizens suggested that a trigger point for notification should be used, and recommended outages affecting 200 or more lines for more than 2 hours. Id. The Independent Group suggested that each rule should be revised to require LECs to make "reasonable efforts" to notify the 9-1-1 answering point of the outage. Ind. Gr. Reply at 7. BA-WV recommended that, with respect to 6.5.8, notification should be required only in cases of major service outages.

In response to these comments, Staff indicated that the trigger point suggested by Citizens was reasonable and should be incorporated in each rule. Staff Surreply at 6. CAD also responded to these comments. CAD did not object to specifying the type and size of service outage that triggers the notification requirement, but believes a 2-hour outage threshold should be rejected as too long. CAD Surreply at 7-8. With respect to the Independent Group's suggestion, CAD flatly opposed any attempt to require only "reasonable efforts" to notify the 9-1-1 center since that language merely watered down the notification requirement. Id. at 8.

(ii) Decision and Rationale.

The Commission concludes that Rule 6.5.5. should be adopted, with certain revisions. First, the Commission will incorporate Citizens' suggested notification trigger level, to which Staff agreed, but with one change to reflect CAD's comments. Notification will be required when any planned outage involves 200 access lines or more. However, the Commission agrees with CAD that a two-hour threshold for notification is too long. One hour seems a reasonable compromise. With respect to the Independent Group's comments, the Commission agrees with CAD that requiring "reasonable efforts" to contact the 9-1-1 answering point in the context of planned outages or planned work that may result in outages is too weak. Where a LEC must interrupt service to work on its facilities, it should be required to contact the 9-1-1 center in advance, just like customers. With respect to unanticipated outages, which is the focus of Rule 6.5.8., the Independent Group's comments are more valid. Therefore, the Commission will adopt the Independent Group's suggestion, though it will be strengthened to require telephone companies to take "all reasonable actions" to notify the 9-1-1 center or appropriate emergency services personnel of any unanticipated service outages that affect more than 200 access lines for one hour or more.

e. Rule 6.7.1. [6.7.a.] Public Interest Telephones.

The Telephone Rules amendments, as proposed, would have deleted the following provision relating to payphones:

~~6.7.1. In each exchange, at least one (1) public telephone will be available to the public on a twenty-four (24) hour basis. This public telephone shall be located in a prominent location, provided with a directory and lighted at night, if practicable.~~

Although no party objected to the proposed deletion of this rule, the Commission will withdraw the proposed amendment and retain the rule as currently written. In the Commission's general investigation regarding public interest payphones, Case No. 98-0430-T-GI, the task force established in that proceeding recommended that no Commission action regarding providing for public interest payphones was necessary, precisely because Telephone Rule 6.7.1. made adequate provision for such payphones. Based on that recommendation, the Commission concluded that no action needed

to be taken with respect to public interest payphones. See "Commission Order," GI Re: Public Interest Payphones, Case No. 98-0430-T-GI (Sept. 22, 1998), at 2 and Conclusion of Law No. 2.⁸ Deletion of the rule, as proposed, would eliminate the only provision for public interest payphones in the Commission's rules and would require a reevaluation of the decision in Case No. 98-0430-T-GI.

f. 6.7.2. [NA] New Staff rule.

In its initial comments, Staff proposed that a new Rule 6.7.2. should be added to the Telephone Rules, which would provide as follows:

Each CMRS provider, as such is defined in the West Virginia Code § 24-6-2, shall route 9-1-1 calls to the appropriate county answering point. The appropriate county answering point shall be determined by mutual agreement of the 9-1-1 directors of affected counties with 9-1-1 service and county emergency service directors of affected counties without 9-1-1 service.

(i) Comments.

Staff claimed that the proposed rule would codify existing practice, would prevent undue delay in deciding how 9-1-1 calls should be routed by the rapidly growing number of cellular and PCS sites in the State, and would give Staff the authority it needs to resolve wireless 9-1-1 call routing conflicts. Staff Comments at 2. In addition, Staff argued, the proposed rule would also protect wireless carriers from accusations that they are responsible for 9-1-1 call routing decisions. Id. AT&T suggested that the following clarifying language should be added to the end of Staff's proposed rule:

Provided, however, a CMRS provider is not required to perform selective routing to multiple answering points within a given county prior to a county's request for 'Phase I' enhanced 911 services pursuant to 47 CFR § 20.18(d) and (f)."

This modification is necessary, AT&T claimed, to make it clear that wireless carriers do not have to perform more advanced, selective routing to multiple public safety answering points (PSAPs) within a given county prior to the county's request for "Phase I" enhanced 911 services, pursuant to applicable FCC rules. AT&T Reply at 5. Pursuant to FCC rules, wireless carriers must relay certain information -- generally referred to as Phase I information -- to the designated PSAP, but

⁸In its order in Case No. 98-0430-T-GI, the parties and Commission erroneously referred to the subject rule as Telephone Rule 6.8.1.

only so long as the designated PSAP has requested the enhanced service, can receive and utilize the data, and a cost recovery mechanism is in place. AT&T Reply at 5, citing 47 C.F.R. §§ 20.18(d) & (f). One feature associated with Phase I technology, AT&T noted, is the ability to more selectively route wireless enhanced 911 calls to PSAPs. Id. at 6.

(ii) Decision and Rationale.

In view of the fact that all rules relating to emergency telephone service have previously been moved to Series 25 of the Commission's rules, the Commission concludes that the proposed rule should be deleted in its entirety. This provision may be re-proposed or a different rule proposed in the next rulemaking affecting Series 25.

4. Section 9: Accelerated rate filing procedures for IXCs.

The Commission proposed an entirely new set of rules dealing with accelerated filing procedures for IXCs. Several of those new rules were addressed in the parties' comments.

a. 9.1.2. [9.2.] Notice period.

As proposed, Rule 9.1.2 would provide:

A telecommunications carrier seeking any of the changes delineated in 9.1.1, above, must provide a notice period of not less than fourteen (14) business days by billing inserts to customers or by Class I legal advertisement in the carrier's affected service area.

(i) Comments.

BA-WV wrote that, while providing public notice of rate and service changes is generally appropriate, the Commission should reconsider the proposed customer notice requirements in light of the advent of competition in the long distance market. Carriers bringing new long distance services to market should be allowed to decide how they wish to bring those services to prospective customers' attention, BA-WV asserted. BA-WV Comments at 30. The proposed rule's mandate that two types of notice -- bill inserts and Class 1 legal advertisements -- be used in all cases is overly broad and inappropriate in some instances. For example, notice of new services cannot be given to "customers," since by definition there are no customers for those services. Id. The important point is that customers be given appropriate notice, with the form of notice left to the carrier's reasonable discretion. Id. at 30-31. Notice should be filed with the Commission in all cases, BA-WV wrote, with 14 days' notice given, noting that this is the notice period provided for in BA-WV's current Incentive Regulation Plan approved in Case No. 97-1461-T-PC.

AT&T supported BA-WV's suggested changes. AT&T Reply at 11. In addition, AT&T suggested that the Commission should revise the rule to provide for 14 calendar days' notice, as opposed to business days. AT&T Comments at 10. Changing the notice period to business days, AT&T argued, effectively decelerates the process. Moreover, AT&T asserted, there was no evidence to support abandoning the calendar day element, which was adopted in 1986 in a generic proceeding in which the Commission streamlined interexchange carrier regulation to promote competition, based upon the evidence presented to it. Id. Citizens supported AT&T's arguments against adoption of a 14-business day requirement. Citizens Reply at 3.

CAD opposed BA-WV's proposed changes to the rule but supported both BA-WV and AT&T's change from 14 business days to calendar days. CAD Reply at 11. CAD asserted that relying on carriers' good will in notifying customers of rate changes would be improper, and that the carriers have a reasonable option -- between bill inserts or Class 1 legal advertisements. Id.

(ii) Decision and Rationale.

After considering the parties' comments, the Commission concludes that the proposed rule should be revised as suggested by BA-WV and adopted. The proposed rule was intended to codify prior Commission practice with respect to interexchange service tariffs. This practice was established in a 1986 ruling of the Commission. See "Final Order," MCI Telecommunications Corporation, Case Nos. 84-125-T-CN, et al. (June 30, 1986). In that order, the Commission streamlined procedures for interexchange toll carriers and resellers by requiring such carriers, when seeking to implement new rates, charges or service offerings, to: (1) file proper tariffs; (2) to give a reasonable notice period of not less than 14 days, with rates going into effect thereafter unless otherwise ordered by the Commission; and (3) to submit a "Report of Tariff Changes" pursuant to Rule 41 of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle, 150 C.S.R. Series 2 (Tariff Rules). MCI Order, at 21. This streamlined procedure was adopted on a trial, or experimental, basis and the Commission made it clear that, if such streamlined procedures did not benefit the public, they could be withdrawn or modified. Id. n. 3 and Conclusions of Law No. 3. By allowing new interexchange rates, charges or services to be implemented on not less than 14-days' notice, the Commission expressly waived Tariff Rules 23 and 25. Id. n. 4. Finally, the Commission expressly prohibited all interexchange carriers from engaging in any form of anti-competitive behavior, including rate deaveraging. MCI Order, at 15.

Nowhere in the MCI Order did the Commission specify the manner in which notice of new interexchange rates, charges or service offerings were to be made. Instead, Staff or other interested persons were free to object to the manner of notice proposed in an interexchange tariff filing. The Commission's streamlined procedure for interexchange rates, charges or service offerings has worked well over the past 14 years. BA-WV's proposed revisions accurately codify that existing practice. There is no apparent reason to restrict the notice requirements as the proposed rule would

have done.

b. 9.1.3. [NA] Docketing.

Rule 9.1.3, as proposed, would provide:

Absent public protest or protest by the Consumer Advocate Division, correctly filed, legally sufficient and properly noticed tariff changes shall not be docketed by the Executive Secretary's office unless Commission Staff finds that any proposed tariff change violates any of the following conditions:

- a. Rates shall not be geographically deaveraged.
- b. Operator surcharges shall not exceed those of interexchange carriers having at least \$1 million in annual gross revenues.
- c. Surcharges shall not be permitted for carrier access by means of access code dialing.
- d. All rules on terminations shall be followed; or
- e. Any other reason Staff finds sufficient other reason to request that the filing be docketed.

(i) Comments.

AT&T claimed that the proposed rule is confusing and recommended rewording the proposed rule. AT&T Comments at 11. CAD supported AT&T's suggested changes. CAD Reply, at 12. BA-WV proposed deleting proposed Rule 9.1.3.b. altogether on the grounds that the practical difficulties of calculating and adhering to a pre-determined cap are simply too great. BA-WV Comments at 32. BA-WV suggested that the market will eliminate carriers that charge unreasonably high rates.

Staff opposed BA-WV's suggestion and instead recommended modifying the rule as follows:

- b. Operator surcharges shall not exceed those of the dominant interexchange carrier carriers having at least \$1 million in annual gross revenues.

Staff Reply at 12. BA-WV found Staff's proposed modifications unacceptable, since Staff's

revision did not define the relevant market for purposes of "dominance," nor did it define how "dominance" was determined, and finally, Staff's revision made it unclear what options the "dominant" carrier had with respect to changing its surcharges. BA-WV Surreply at 8.

Citizens claimed that Rule 9.1.3.e. was overbroad and gave Staff unlimited discretion to request the docketing of any tariff change. Citizens Comments at 7. Citizens suggested rewording the rule to provide that Staff may request the docketing of a tariff change if it finds that the change violates the Commission's rules or an applicable statute.

(ii) Decision and Rationale.

Upon further consideration, and after reviewing its 1986 decision in MCI Corp., the Commission concludes that proposed Rule 9.1.3 should not be adopted. As discussed above, the streamlined procedure for tariffing interexchange rates, charges and service offerings has worked well over the past 14 years. That procedure has included docketing such tariff filings. The Commission believes that the docketing process is necessary in order to allow the Commission, Staff and others, to track new and changed rates, charges and offerings over time. If the docketing process was abandoned altogether, valuable information could be lost. Moreover, the Commission has not been able to decide upon any alternatives to the current docketing process. While the docketing process may ultimately be abandoned, or modified, the Commission will not do so now.

In light of the Commission's decision not to adopt proposed Rule 9.1.3, proposed Rule 9.1.4, which would have dealt with exceptions to the no-docketing rule, likewise will not be adopted.

5. Section 10: Reduced rates for low-income residential customers.

a. 10.7.2.b. [10.7.b.] Non-certification of revenue deficiencies.

The proposed rules added the following new subsection:

The Commission may by order, may certify such revenue deficiencies to the West Virginia Tax Dept. for purposes of recovery of the shortfalls pursuant to appropriate legislative action.

(i) Comments.

AT&T recommended that the subsection should be deleted because it appeared to anticipate amendment of the W. Va. Code to allow recovery of revenue deficiencies resulting from participation in the expanded federal Lifeline program -- something the W. Va. Code currently prohibits. If the W. Va. Code is amended to allow recovery of such deficiencies in the future, the Telephone Rules can be amended to address the qualifications established by the Legislature.

AT&T Comments at 13. Alternatively, AT&T suggested amendment of the preceding subsection to provide:

Unless otherwise authorized by state law, revenue deficiencies associated with the service described in 10.7.1, above, shall not be recoverable through Commission certification to the W. Va. Department of Tax and Revenue [of] such shortfall.

Id. CAD supported AT&T's recommendations that proposed Rule 10.7.2.b. should be deleted in its entirety and clarifying language added to proposed Rule 10.7.2.a. CAD Reply at 12.

(ii) Decision and Rationale.

The proposed Rule 10.7.2.b should not be adopted. Instead, AT&T's suggested revisions to proposed Rule 10.7.2.a appear reasonable and should be adopted.

6. Section 11: Payphones.

In the proposed amendments to the Telephone Rules, the Commission deleted Section 11, which previously was entitled "Customer owned public telephones," and proposed a new Section 11, entitled "Payphones." Parties submitting comments recommended changes to a number of the provisions of the new section.

a. 11.2.1. [11.2.a.] Rates and charges.

Rule 11.2.1, as proposed, stated that:

There shall be no charge for calls made to 9-1-1 or to any other bona fide emergency telephone number.

(i) Comments.

Staff proposed that the phrase "or to any other bona fide emergency telephone number" should be deleted because most areas of the State have, or shortly will have, 9-1-1 service. Moreover, proposed Rule 11.3.12.a. requires free payphone access to "0"-type operators, who can route callers to appropriate emergency numbers. Therefore, the quoted phrase is unnecessary and confusing. Staff Comments at 8. CAD suggested that the Commission should simply specify those two access requirements, i.e., 9-1-1 or "0"-type operators. CAD Reply, at 12.

(ii) Decision and Rationale.

The Commission concludes that the proposed rule should be adopted with CAD's suggested changes. CAD's proposal appears reasonable and appropriately clarifies the effect of the rule.

b. 11.3.6. [11.3.f.] Overpayment.

Rule 11.3.6, as proposed, provides:

Coin-accepting payphones shall automatically return unused coins, but need not provide change for over-payment due to use of coins of greater denomination than required.

(i) Comments.

BA-WV supported the proposed rule but suggested requiring payphones to provide notice to users of the procedure to obtain refunds by appending the following sentence: "PSPs shall, however, post instructions on their payphones for obtaining a refund of such change." BA-WV Comments at 33. Staff agreed with BA-WV's suggested change. Staff Reply at 8. CAD urged the Commission to modify Rule 11.3.6 to require all payphones to either: (1) provide change for overpayment; or (2) provide a toll free number, in a prominent place on the payphone, which can be dialed to obtain credit for the overpayment, either in the form of cash back or some type of credit arrangement with the PSP. CAD Comments at 4. Accordingly, CAD suggested appending the following phrase: "and shall either provide change for overpayment due to use of coins, or prominently display a toll free number where full refund, credit or reimbursement from the PSP can be obtained. See Rule 11.4.1(c)." CAD claimed that the issue is particularly relevant following BA-WV's increase in the coin rate for its payphones (from \$0.25 to \$0.35). Customer use of two quarters, if they do not have correct change, corresponds to a 43% unearned premium over the coin rate. Id.

Citizens opposed CAD's recommendations for the following reasons: (1) payphones are not designed to provide change and redesigning and deploying payphones that can provide change would be cost prohibitive; (2) operating costs for change-returning payphones would be significantly higher because additional visits by technicians would be needed to refill change dispensers; (3) many payphone users use calling cards rather than change reducing the magnitude of the windfall and the harm to consumers CAD cites; (4) consumers have not made many complaints about payphones' failure to provide change; and (5) the administrative costs to process refund requests would be prohibitive in comparison to the amount of the refund. Citizens Reply at 5-6. Additional costs would also be incurred to create West Virginia-specific placards to provide refund information. Id.

(ii) Decision and Rationale.

After considering the parties' arguments, the Commission concludes that the proposed rule should be amended, in accordance with BA-WV's recommendations, and adopted. The Commission believes that it is reasonable to require PSPs to provide a toll free number, on the payphone, where refunds for overpayments may be obtained. However, the Commission does not believe CAD's suggestion that payphones be required to provide change should be adopted. Citizens sets forth several good arguments regarding the impracticalities of requiring payphones to provide change. Further, the Commission does not see why requiring payphones to provide change is necessary in light of the fact that the payphone market has been deregulated. See "Commission Order," Bell Atlantic - WV, Case No. 97-0643-T-T (May 22, 1998). In a competitive market, PSPs should be allowed to charge as much as the market will bear for coin calls. The Commission can, in the context of its periodic review of "market failures" in the payphone market (Case No. 98-0430-T-GI), always consider whether coin rates are inflated by monopolistic practices of PSPs. At this point, however, no action to address such "market failures" appears to be warranted.

c. 11.3.15. [11.3.o.] Routing of "0-" calls.

Proposed Rule 11.3.15 states:

"0-" calls shall be immediately routed to a live operator fully capable of routing emergency calls made from the payphone's location.

(i) Comments.

Although Staff recommended only that a typographical error in the proposed rule should be corrected, CAD suggested that the proposed rule should be amended to specifically require that "0" type operators be able to "timely and adequately" route emergency calls. CAD Reply at 12-13.

(ii) Decision and Rationale.

The Commission concludes that the proposed rule should be adopted, as revised in accordance with the typographical change suggested by Staff and CAD's suggested revision.

d. 11.4.1.d. [11.4.a.4.] Information displayed on payphones.

The proposed amendments to the Telephone Rules addressed the information to be displayed on payphones and provided, in part:

The following information shall be conspicuously and clearly displayed on the front of each payphone:

* * *

d. the payphone service provider's name, address, telephone number and the Public Service Commission identification number.

(i) Comments.

Citizens urged the Commission to eliminate the requirement that a placard displaying a Commission identification number must be provided. Compliance with this provision would require West Virginia-specific placards to be produced, which would provide information of little value to consumers, at significant expense to payphone operators. Citizens Comments at 7. Although Staff agreed with Citizens' arguments, it recommended the following language modifying Rule 11.4.1.d.:

d. the payphone service provider's name, address, and telephone number ~~and the Public Service Commission identification number.~~

Staff Reply at 10.

(ii) Decision and Rationale.

The Commission will adopt the proposed rule, as modified by Staff. Unlike posting payphone overpayment refund information, which the Commission considers to be reasonable and appropriate, requiring that payphones display their Commission identification number does not appear to be reasonable or necessary. It is difficult to conceive what benefit customers derive from knowing the Commission identification number of the payphone they are using. Moreover, any payphone can be adequately identified by its physical location.

7. Section 14: Certification requirements for all intrastate carriers.

Another new section added to the Telephone Rules, Section 14 sets forth those certification requirements applicable to all intrastate telecommunications carriers.

a. 14.3. [14.3.a. - 14.3.c.] Suspension or Revocation of Certificate.

As proposed, Rule 14.3. provides:

Excessive subscriber complaints against a carrier shall be a basis for suspension or revocation of a carrier's Certificate of Public Convenience and Necessity if, after hearing, the Commission determines such complaints to be meritorious. In all proceedings, the Commission shall give to the carrier notice of the allegations made

Commission shall give to the carrier notice of the allegations made against it and afford the carrier with an opportunity to be heard concerning those allegations, prior to the suspension or revocation of the carrier's Certificate of Public Convenience and Necessity or other formal action. The burden of establishing the adequate provision of service is upon the carrier.

(i) Comments.

Staff recommended that the above-quoted rule should be redesignated Rule 14.3.a. and proposed that the Commission adopt two additional subsections to Rule 14.3. The new subsections would provide:

- b. Other reasons for which a carrier's certificate may be suspended or revoked by the Commission, pursuant to due investigation, public hearing (where warranted) and Commission order, are:
 - A. Failure to timely and satisfactorily file Commission-required reports;
 - B. Failure to timely and satisfactorily address and resolve, as appropriate, legitimate and reasonable customer complaints;
 - C. Failure to timely and satisfactorily respond to lawful Commission orders;
 - D. Inability of the Commission, pursuant to due effort, to contact carrier.
- c. Provision of any intrastate telecommunications service subject to regulation by the Commission, without the provider having a valid certificate of public convenience and necessity from the Commission, may invalidate the charge(s) levied for such service. This sanction also applies where service, which should be provided under Commission-approved tariff, is provided without the provider having the necessary tariff authority.

Staff Comments at 3-4. Staff contended that the suggested rules would facilitate the timely suspension and revocation of LEC and IXC certificates "where the carrier is not operating in the public interest." Id. at 4. Rule 14.3.c., Staff claimed, would "duly" penalize carriers who fail to

in a “number of instances . . . IXC’s have begun operating in West Virginia without even applying for a certificate.” Id.

No one opposed Staff’s recommended Rule 14.3.b. However, Staff’s proposed Rule 14.3.c. drew fire from other parties. BA-WV suggested that Staff’s proposed Rule 14.3.c. is illegal because nothing in Chapter 24, Article 4 of the W. Va. Code delegates to the Commission, either expressly or by necessary implication, the sort of financial forfeiture that is provided for in Staff’s proposal. BA-WV Reply at 5. Citizens supported BA-WV’s arguments. Citizens Surreply at 5. CAD, on the other hand, urged the Commission to adopt Rule 14.3.c. as proposed by Staff, arguing that BA-WV’s argument should be rejected and claiming that Staff’s proposal is “a wholly appropriate disgorgement provision that applies only to in-state income obtained in violation of state law.” CAD Surreply at 8. The proposed rule does not purport to require “forfeiture” of the violating entity’s unrelated assets, CAD argued, and if the rule is adopted and implemented, and a court determines that it exceeds the Commission’s authority, the Legislature can address the issue. Id. Staff also considered “strange” BA-WV’s argument that the proposed rule is illegal in light of the Commission’s authority to regulate utility rates, which are contained in tariffs, and which would not be approved unless the utility is certificated. Staff Surreply at 3.

(ii) Decision and Rationale.

The Commission will adopt proposed Rule 14.3., with minor revisions, and rejects Staff’s proposal to add two new subsections, b. and c., to the Telephone Rules. The Commission does not believe that it is necessary to specify “other reasons” for which a carrier’s certificate of public convenience and necessity can be suspended or revoked. It suffices to revise the rule to make it clear that the Commission may suspend or revoke a carrier’s certificate for such other reasons as the Commission determines warrant such action. With respect to Staff’s proposed subsection c., the Commission does not find clear authority in the W. Va. Code for the disgorgement provision Staff would add and therefore will not adopt such provision.

b. 14.4.2. [14.4.b.2.] Ubiquitous Provision of Service.

In its comments, CAD proposed a new subsection to Rule 14.4.2. that would state:

b. Notwithstanding the provisions of subsection (a) above, nothing in this section shall affect the obligations of incumbent local exchange carriers to offer telecommunications services to all customers within an exchange served by the incumbent local exchange carrier.

CAD Comments at 5. The originally proposed Rule 14.4.2. would be redesignated Rule 14.4.2.a.

(i) Comments.

CAD claimed that its proposed subsection makes it clear that incumbent LECs, who by definition serve customers over their own facilities, have a continuing obligation to serve all customers within an exchange, unlike new entrants who, if they provide facilities-based service, are not so obligated under Rule 14.4.2.a. Id. Staff generally agreed with CAD's recommendation but suggested that the Commission should simply add clarifying language to its proposed Rule 14.4.2. that would make it clear that the relaxed service obligations applicable to facilities-based service apply only to non-incumbent local exchange carriers. Staff Reply at 9.

(ii) Decision and Rationale.

The Commission will adopt CAD's proposed addition to the rules in light of the lack of opposition to that addition and its apparent reasonableness.

8. Section 15: Interconnection.

a. 15.1.1.h. [15.1.a.8.] New Staff rule.

In its comments, Staff proposed that the following new subsection be added to proposed Rule 15.1.1., which sets forth the interconnection obligations applicable to all LECs:

All Local Exchange Carriers shall:

* * *

h. not provide intrastate service to any interexchange telecommunications carrier (IXC) or any local exchange carrier (LEC) until determining that the IXC or the LEC is properly certificated by the Commission to provide IXC or LEC service in West Virginia.

(i) Comments.

Staff argued that its proposed subsection would prevent LECs and IXCs from illegally providing service before they obtain certificates, something which Staff claims has happened on several occasions with respect to IXCs. Staff Comments at 1. Furthermore, Staff noted, such a regulation has existed for years with respect to customer-owned payphones. Finally, Staff asserted that the regulation imposes a very minor burden on LECs. Id. CAD supported Staff's proposed rule as written. CAD Reply at 14.

Staff's proposed subsection provoked a flurry of comments from other parties. The Independent Group expressed support for Staff's arguments but suggested that the language in Staff's proposed rule should be modified to eliminate the requirement that an LEC not provide service until it determines whether a requesting IXC or another LEC is properly certificated. Ind. Gr. Reply at 7-8. The Commission, not LECs, is the proper party to police certification of carriers the Independent Group argued, and there is no independent need for the LEC to "determine" whether another carrier is properly certificated prior to providing service to that carrier. Id. at 8. The Independent Group suggested the following revision to Staff's proposed rule:

- h. not provide intrastate service to any interexchange telecommunications carrier (IXC) or any local exchange carrier (LEC) until ~~determining~~ that the IXC or the LEC provides information to the LEC that it is properly certificated by the Commission to provide IXC or LEC services in West Virginia.

Id.

Both Citizens and BA-WV expressed strong opposition to Staff's proposed Rule 15.1.1.h. Citizens wrote that the proposed rule would require it to renegotiate its billing and collection agreements, which currently only require the other party to have appropriate FCC authorization. Citizens Reply at 2. While Citizens is willing to modify those agreements to require the other party to have appropriate authorization from the state as well, and had begun discussions with larger billing and collections customers along those lines, Citizens asserted that compliance may be more problematic for those carriers that use clearinghouses rather than contracting directly with it. Citizens stated that it believes an LEC should be considered in compliance if, by contract, it requires clearinghouses to ensure that all carriers billing West Virginia customers through the clearinghouse are properly certificated. In support of its suggestion, Citizens noted that there are over 4500 sub-CICs (e.g., Carrier Identification Codes) that bill through its largest billing and collection customer and each sub-CIC represents a separate carrier with which Citizens would have to contract. Id.

Similarly, BA-WV opposed Staff's proposed rule, arguing that it improperly made the LECs police the Commission's certification requirements. Once an IXC or competitive LEC assures an LEC that it has been properly certificated, the LEC should not be expected to do more. BA-WV Reply at 6. BA-WV cites the large numbers of IXCs that seek certification, as well as the level of inquiry required where certification is granted upon a condition subsequent -- such as having approved tariffs -- as examples of the burden imposed on incumbent LECs under Staff's proposed rule. The Commission has ample authority to punish "rogue" carriers. Id. Finally, BA-WV offered to provide Staff with periodic lists of all carriers to whom it provides service. Id. at 7. BA-WV later indicated that it agreed with the Independent Group's suggestion that an IXC or competitive LEC should be required to provide information to the incumbent LEC representing that it has been properly certificated and that the incumbent LEC is entitled to rely on that representation. BA-WV

Surreply at 8-9.

(ii) Decision and Rationale.

The proposed rule will be adopted, though modified in accordance with the Independent Group's suggestion. The Commission agrees with the Independent Group that the burden should be placed on IXC's or competitive LEC's to demonstrate, in the first place, that they are properly certificated.

b. 15.3.1. [15.3.a.] Good faith negotiations.

Rule 15.3.1 of the Telephone Rules, as proposed, provides:

Any telecommunications carrier may request interconnection with any LEC. A telecommunications carrier requesting interconnection with a LEC must have first applied for or obtained a certificate of public convenience and necessity to provide local exchange services within West Virginia pursuant to Section 14.1 above.

(i) Comments.

AT&T asserted that the Commission must amend the rule in two respects. Noting that the first sentence of the proposed rule evidences the Commission's intent to allow all telecommunications providers to interconnect with any LEC, all carriers should be allowed to request interconnection, regardless of the type of service for which they have been certificated. This is consistent with 47 U.S.C. § 251(c)(1), AT&T asserted. AT&T Comments at 13-14. Second, AT&T suggested that the proposed rule should be revised to recognize the fact that wireless carriers are not required to obtain a certificate before providing service. Id. at 14-15. AT&T's revisions would read as follows:

Any telecommunications carrier may request interconnection with any LEC. A telecommunications carrier requesting interconnection with a LEC must have first applied for or obtained a certificate of public convenience and necessity to provide ~~local~~ exchange telecommunications services within West Virginia pursuant to Section 14.1 above, provided that such a certificate is required by the Commission.

The Independent Group opposed AT&T's proposal that the certificate requirement should be broadened, asserting that the rule, as proposed by the Commission, ensures that the services for which interconnection can be sought under Sections 15.1.1 and 15.1.2, are exchange and exchange

access services. Altering the scope of what may be requested pursuant to 47 U.S.C. § 251 may lead to confusion and argument over the Commission's authority to govern the provision of intrastate access services. Ind. Gr. Reply at 5-6. AT&T's suggested change could be misused to suggest that an IXC may seek interconnection negotiations for intrastate access services purchased from an LEC in order to terminate and originate interexchange service. This type of request is not contemplated by 47 U.S.C. § 251(c). Id. at 6.

(ii) Decision and Rationale.

The rule will be adopted but revised to incorporate AT&T's change with respect to wireless carriers. The Independent Group's argument against AT&T's proposed substitution of "telecommunications" for "local exchange" is reasonable since AT&T's revision could be construed to expand the interconnection and other obligations imposed in Section 251 of TA96 beyond "exchange" and "exchange access" services. On the other hand, AT&T's point concerning wireless carriers is well taken. State commissions do not have the authority to regulate the entry of either commercial or private mobile radio service providers (e.g., wireless carriers). See 47 U.S.C. § 332(c)(3). It would therefore be inappropriate to make interconnection with a wireless carrier's network contingent on the wireless carrier having a certificate the Commission cannot require. The Commission will also revise Rule 15.3.1. to make it clear that the interconnection obligations apply only to incumbent LECs, in accordance with Section 251 of TA96.

c. 15.4.1.a. [NA] Procedures for negotiations.

Section 15.4. of the proposed rules deals with procedures for negotiation of agreements for interconnection, access to network elements or resold telecommunications services. Rule 15.4.1.a., as proposed, states:

The negotiations required by this Section shall conclude within one hundred and thirty five (135) days of the receipt of the bona fide request.

(i) Comments.

BA-WV recommended that the 135-day limit on negotiations between parties to an agreement should be deleted because TA96 does not specify any time by which interconnection negotiations must be concluded but, rather, merely provides that either party to negotiations may seek state commission arbitration from the 135th to 160th day (inclusive) after the date on which the incumbent LEC receives the request for negotiation. Furthermore, BA-WV argued, parties commonly continue negotiations even after an arbitration request has been filed and often resolve their differences before the conclusion of arbitration. Imposition of an artificial deadline may prevent parties from reaching agreement. BA-WV Comments at 34. CAD opposed BA-WV's

recommendation, arguing that deletion of the 135-day negotiation window would only serve to potentially delay the negotiation and arbitration process. The public interest supports fixing the time frame, and the Commission can deal with the issue of subsequent settlement during the course of arbitration, CAD claimed. CAD Reply at 14.

(ii) Decision and Rationale.

BA-WV's recommendation is well-taken and the proposed rule will be deleted in its entirety. Nothing in TA96 requires negotiating carriers to cease negotiations upon the filing of a request for arbitration. Instead, TA96 merely provides a window of time within which one or both parties to the negotiations must seek arbitration. It does not preclude the parties from continuing to seek an agreement. Nor does precluding the parties from continuing negotiations to resolve their differences, even while an arbitration proceeding is pending, make sense.

d. 15.5.10.b.E. [15.5.j.4.E.] - Rights of third persons.

The Commission proposed certain rules dealing with the rights of third persons to intervene in proceedings for Commission arbitration of unresolved issues stemming from negotiations for an interconnection agreement. The Independent Group addressed the following subsection in its comments:

b. Third persons may petition the Commission to be allowed to participate, on a limited basis, in a compulsory arbitration proceeding hereunder. Such petition shall be filed with the Commission on or before the fourteenth (14th) calendar day following the date the petition requesting Commission arbitration was filed, and shall state with specificity the grounds upon which limited participation is sought. If the Commission grants a petition to participate, such participation shall be limited as follows:

* * *

E. The petitioner shall not file exceptions or petitions for reconsideration of the Commission's decision.

(i) Comments.

While it generally supported subsection 15.5.10.b., the Independent Group suggested that Rule 15.5.10.b.E. should be deleted in its entirety. As the Independent Group noted, TA96, and the Commission's proposed rules, recognize that an interconnection agreement cannot discriminate

against another carrier not party to the agreement. The offending subsection, the Independent Group maintained, bars a non-negotiating party from exercising its procedural due process rights to contest decisions it believes are contrary to TA96's principles. Ind. Gr. Comments at 6-7. None of the other parties filing comments in this proceeding responded to the Independent Group's arguments.

(ii) Decision and Rationale.

The Commission will adopt the Rule 15.5.10.b. as proposed and rejects the Independent Group's arguments that subparagraph E should be deleted. The Commission previously ruled that non-parties to interconnection agreement negotiations submitted for arbitration were prohibited from filing either exceptions or petitions for reconsideration. See "Commission Order," MCI Telecommunications Corporation, Case No. 97-1210-T-PC (Nov. 4, 1998), at 6 and Conclusions of Law No. 7. Third persons, who are not parties to the interconnection negotiations or agreement, are likewise not "parties" entitled to file exceptions with the Commission pursuant to W. Va. Code § 24-1-9. Similarly, such persons should not be allowed to file petitions for reconsideration of the Commission's arbitration decision. However, persons who believe that the Commission's arbitration decision would result in the approval of an interconnection agreement that violates the standards set forth in 47 U.S.C. § 252(e)(2) have two opportunities to have their concerns considered by the Commission: first, in their post-hearing statements in the arbitration proceeding; and second, by intervening in the proceeding for approval of the arbitrated interconnection agreement.

IV. Other Matters.

The Commission concludes that all telecommunications carriers should be directed to review their currently-approved tariffs and determine whether any provisions in those tariffs are inconsistent with the final rules being adopted in this order. Where tariffs are inconsistent with the final rules, telecommunications carriers should revise and re-file those tariffs with the Commission. If a telecommunications carrier fails to revise any tariff provision that is inconsistent with the final rules adopted in this order, such provisions will be considered invalid unless expressly exempted from the rules' operation.

FINDINGS OF FACT

1. By order entered March 31, 1998, the Commission proposed amendments to its Telephone Rules.
2. The proposed amendments adopted numerous recommendations made in the Local Competition Task Force's May 7, 1996, report to the Commission in Case No. 94-1102-T-GI, which were intended to implement competition in the local exchange telecommunications market.
3. The proposed amendments also incorporated various rulings by the Commission in

proceedings filed with the Commission pursuant to the Telecommunications Act of 1996, codified at 47 U.S.C. §§151 et seq. (TA96).

4. The Commission caused notice of its proposed rulemaking to be published in newspapers statewide.

5. In accordance with the Commission's March 31, 1998, order, the following persons filed initial comments with the Commission on May 11, 1998: AT&T, BA-WV, Citizens, CAD, WorldCom, and the Cellular Companies. WorldCom also filed a motion requesting the Commission to withdraw its proposed rulemaking on the grounds that the Commission may be operating from a different set of rules than those currently on file or on the Commission's Internet site.

6. In addition to WorldCom's motion, John D. Childers, an individual, filed a motion with the Commission on May 11, 1998, requesting an extension of the comment period on the grounds that the Commission had not published a notice in a way that "any significant numbers of affected parties could have knowledge of this proceeding and the attendant comment period."

7. The following persons filed initial comments with the Commission on May 13, 1998: Staff and the Independent Group.

8. On May 18, 1998, Sprint Communications Co., L.P. (Sprint), filed a letter advising that, although it would not be filing initial comments, it reserved the right to file reply comments.

9. A hearing on the Commission's proposed amendments to the Telephone Rules was held, as scheduled, on May 19, 1998. All persons submitting initial comments entered an appearance. Neither Sprint nor Mr. Childers entered an appearance.

10. At the hearing's outset, the Commission denied Mr. Childers' motion on the grounds that the record contained a number of affidavits of publication of the notice, attached to the Commission's March 31, 1998, order, advising the public of the proposed amendments, applicable comment dates and the scheduled hearing date. The Commission declined to rule upon WorldCom's motion.

11. At the May 19, 1998, hearing, BA-WV presented the testimony of two witnesses in support of its comments: Stanley J. Zoltek and Gale Y. Given. No other witnesses testified on behalf of any person submitting comments.

12. The following parties filed reply comments to the Commission's proposed rules and initial comments regarding Staff's proposed additional rules on May 29, 1998: Staff, the Independent Group, BA-WV, AT&T, CAD, and Citizens.

behalf of any person submitting comments.

12. The following parties filed reply comments to the Commission's proposed rules and initial comments regarding Staff's proposed additional rules on May 29, 1998: Staff, the Independent Group, BA-WV, AT&T, CAD, and Citizens.

13. Staff, BA-WV, AT&T and CAD filed reply comments regarding Staff's proposed additional rules on June 5, 1998.

14. The Commission adopts, as if fully restated, all recitals of fact set forth herein.

CONCLUSIONS OF LAW

1. The Telephone Rules attached hereto as Appendix A should be adopted as final rules, to become effective 60 days after this order's entry date.

2. WorldCom's motion to dismiss should be denied. While WorldCom is clearly correct in claiming that there are discrepancies between the proposed Telephone Rules and the rules currently in effect, the Commission's review of the two sets of rules leads it to conclude that those discrepancies are minor in nature and non-substantive.

3. All telecommunications carriers should be directed to review their currently-approved tariffs and determine whether any provisions in those tariffs are inconsistent with the final rules being adopted in this order. Where tariffs are inconsistent with the final rules, telecommunications carriers should revise and re-file those tariffs with the Commission.

4. If a telecommunications carrier fails to revise any tariff provision that is inconsistent with the final rules adopted in this order, such provisions will be considered invalid unless expressly exempted from the rules' operation by the Commission.

5. The Commission adopts, as if fully restated, all legal conclusions set forth herein.

ORDER

IT IS, THEREFORE, ORDERED that the Telephone Rules attached hereto as Appendix A are adopted as final rules, and shall become effective October 10, 2000.

IT IS FURTHER ORDERED that WorldCom, Inc.'s May 11, 1998, motion to dismiss is denied.

IT IS FURTHER ORDERED that all telecommunications carriers are directed to review

their currently-approved tariffs and determine whether any provisions in those tariffs are inconsistent with the final rules being adopted in this order. Where tariffs are inconsistent with the final rules, telecommunications carriers should revise and re-file those tariffs with the Commission.

IT IS FURTHER ORDERED that, if a telecommunications carrier fails to revise any tariff provision that is inconsistent with the final rules adopted in this order, such provision will be considered invalid unless expressly exempted from the rules' operation by the Commission.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall cause a copy of this order, together with the attached rules, to be filed with the Secretary of State upon this order's entry.

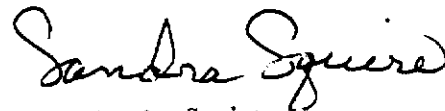
IT IS FURTHER ORDERED that, upon entry hereof, this proceeding shall be removed from the Commission's active docket of cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

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A True Copy, Teste:



Sandra Squire
Executive Secretary

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TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

SERIES 6
RULES AND REGULATIONS FOR THE GOVERNMENT
OF TELEPHONE UTILITIES

FILED
AUG 11 4 23 PM '00
OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

§150-6-1. General.

1.1. Scope -- These rules govern the operation and service of telephone utilities subject to the jurisdiction of the Public Service Commission of West Virginia pursuant to West Virginia Code §24-2-1.

1.2. Authority -- West Virginia Code §24-1-7, §24-2-1, §24-2-6, §24-2-8, §24-2C-1, and §24-6-1, and §24-2E-1.

1.3. Filing Date -- ~~July 28, 1995~~ August 11, 2000

1.4. Effective Date -- ~~September 26, 1995~~ October 10, 2000

1.5. Policy.

The Public Service Commission of West Virginia and the regulated telephone companies have a joint responsibility to the citizens of West Virginia to ensure a quality of adequate communications services that meets the general need requirements of the public, provides the public with a high degree of reliability and convenience, and contributes substantially to the overall economic progress of the State of West Virginia.

~~To accomplish this objective, these~~ telephone service regulations are established which state to meet the objectives needed to provide the best possible telephone service consistent with modern technology.

1.6. Application.

The telephone service rules promulgated herein shall apply to all telephone company operations in the State of West Virginia that are subject to the jurisdiction of the Commission.

1.6.a. The rules promulgated by the Commission shall establish reasonable standards to the end that quality service, i.e., that which is adequate and satisfactory, is rendered to the telephone using public in the transmission of both local and long distance messages.

1.6.b. If unreasonable hardship to a telephone user or

APPENDIX A

telephone subscriber, or to the serving telephone company results from compliance with any Commission rules, application may be made to the Commission for modification of the rule, or for temporary exemption from its requirements.

1.6.c3. The adoption of these rules by the Commission preserves the authority of the Commission to grant exceptions and exemptions to and from its regulations under available procedures. The definitions contained herein are an integral part of and are treated as regulations.

1.6.d4. The rules promulgated herein shall in no way relieve the telephone company from any of its duties under the laws of the State of West Virginia or from any other rules or directives of the Commission.

1.7. Definitions.

In the interpretation of these rules, the following definitions shall be used, subject to the provisions of each company's applicable tariffs.

1.7.a1. "Aggregator" - Any person or business entity who, in the ordinary course of operations, makes telephones (other than ~~COPPs~~ and public telephones) available to the public or to transient users of its premises for intrastate telephone calls using an operator services provider.

1.7.b2. "Automatic Dialing and Announcing Device" (ADAD) -- An item of telecommunications terminal equipment which has the ability to randomly, sequentially and/or according to a set of instructions, automatically initiate telephone calls and to, upon ascertaining that the called line has answered the call, play a prerecorded message. Telecommunications devices which, when activated by an alarm mechanism, call a predetermined telephone number to report the alarm's activation are not ADADs for purposes of this definition.

~~1.7.3. "Base Rate Area" - The portion or portions within each exchange area, as set forth in the telephone utility's filed tariff, in which base rate area rates for urban grades of lines without mileage or zone charges apply. Urban grades of exchange lines within this area are offered at rates that do not vary with the distance from the central office or exchange rate center.~~

1.7.c. "Basic Local Exchange Service" - provision to a subscriber at his or her residence or business location of at least all of the following:

150CSR6

1. A voice-grade, two-way, single-party communications channel with dual-tone multifrequency signaling capability;

2. A telephone number by which the subscriber may be signaled and an optional "White Pages" directory listing or its functional equivalent;

3. A telephone directory that shall be updated at least annually and that shall contain, except for "non-published" and "unlisted" telephone listings, all telephone listings in the local calling area of those subscribers who are served by the local exchange carrier that publishes the directory or directories;

4. Local call switching, signaling, supervision, completion, and transmission, for both outgoing and incoming calls;

5. Access, at all times, to each of the following:

A. Emergency services, including 9-1-1 and Enhanced 9-1-1 where such are utilized by the appropriate governmental body;

B. "0" type operator service;

C. Directory assistance;

D. Telecommunications relay service, excluding provision of associated subscriber premises equipment;

E. Outgoing services offered by long distance carriers which serve the subscriber's exchange, including carrier access code dialing and presubscribed, 1-plus access where authorized, except when such access may be, pursuant to Commission rule or order, denied for failure to pay undisputed amounts owed;

F. Incoming long distance calls;

G. A means by which local service problems may be reported;

H. Customer dispute resolution process.

6. Optional blocking of the following:

A. Transmittal of the caller's telephone number or name to called party (except for calls to Enhanced 9-1-1 answering points);

B. Access to 900, 976 or 976-like services;

C. Access to non-local calling;

D. Ability to accept collect calls originating in West Virginia; and

E. Ability for third-party calls originating in West Virginia to be charged to the customer's telephone number.

1.7.d4. "Business Rates Service" -- Service is classified and charged for as business service where the use is primarily or substantially of a business, professional, institutional or occupational nature, or where a business directory listing is furnished, except as provided in each telephone company's applicable tariffs. Where the place of business is located on the same premises as a residence and separate telephone service is not installed for the business, the telephone service installed on the premises shall ordinarily be billed at the business rate if the person operating said business is required to obtain a business registration certificate for said business on said premises; and provided that the person is not exempted from paying West Virginia business registration tax.

1.7.e5. "Busy Hour" -- The hour having the highest central office traffic load.

1.7.f6. "Busy Season" -- That period of the year during which the greatest volume of traffic is handled in the central office.

1.7.g7. "Calls" -- Customers' telephone messages attempted.

1.7.h. "Casual Calling" -- The use, on a per-call basis, of telecommunications service by means of accessing a telecommunications carrier through use of that carrier's access code. The term is synonymous with "random calling" and is sometimes referred to as "dial-around calling."

1.7.i8. "Central Office" -- A switching unit in one (1) location of a telephone system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting customer lines and trunks. More than one (1) central office may be located in the same building.

1.7.j9. "Channel" -- ~~is an~~ An electrical path provided by the a telephone company between two (2) or more points, furnished in such a manner as the telephone company may elect whether by wire, radio, fiber optics or a combination thereof and whether or not by a single physical facility or route.

1.7.~~k~~10. "Class of Service" -- A description of telecommunications service furnished to a subscriber which denotes such characteristics as nature of use (Business or Residence) or type of rate (Flat Rate, or Message Rate or Measured Rate). ~~Classes of service are usually subdivided into classifications, such as individual line, two (2) party, or four (4) party.~~

1.7.11. ~~"Classification of Service" -- The number of parties (main stations) served on a telephone line, such as one (1) party, two (2) party, four (4) party, etc.~~

1.7.~~l~~12. "Commission" - The Public Service Commission of West Virginia.

1.7.~~m~~13. "Customer" -- Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., ~~provided with~~ who purchases telecommunications services ~~by the~~ from a telephone company.

1.7.14. ~~"Customer Owned Public Telephone" (COPT) -- Any telephone instrument, operated by an entity other than a Public Service Commission certificated local exchange carrier, or interexchange carrier, which is predominately used by the public and/or inmates of jails, prisons, etc., and for which the telephone instrument user or called party is normally charged for use of the instrument.~~

1.7.~~n~~15. "Customer Trouble Report" -- Any oral or written report from a subscriber or user of telecommunications service relating to a physical defect or to difficulty or dissatisfaction with the operation of telecommunications facilities. One (1) report shall be counted for each oral or written report received even though it may duplicate a previous report or merely involve an inquiry concerning progress on a previous report. Also, a separate report shall be counted for each telephone or private branch exchange (PBX) ~~PBX~~ switchboard position reported in trouble when several items are reported by one (1) customer at the same time, unless the group of troubles so reported is clearly related to a common cause.

1.7.~~o~~16. "Direct-Inward-Dial-Number" -- A telephone number which may be used to directly signal a telecommunications device connected to a line extending from a facilities concentrating/switching device or system such as a PBX, key telephone system (KTS), hybrid PBX/KTS, Centrex ~~CENTREX~~ system, etc.

1.7.17. ~~"Emergency Number" -- Any telephone number, including 9 1 1, and any 7 digit or 10 digit number which could access a 9 1 1 line or trunk, which is primarily used for the~~

~~purpose of reporting emergencies such as fires, the need for law enforcement, rescue and/or medical assistance, actual or imminent disasters, etc. (Former 1.7.17 has been moved to 150 C.S.R. Series 25).~~

~~1.7.18. "Emergency Services Organization" Means the organization established under Article 5 (§§15-5-1 et seq.), Chapter 15 of the West Virginia Code, as amended. (Former 1.7.18 has been moved to 150 C.S.R. Series 25).~~

~~1.7.19. "Emergency Telephone System" Means a telephone system which through normal telephone service facilities automatically connects a person dialing the primary emergency telephone number to an established public agency answering point. (Former 1.7.19 has been moved to 150 C.S.R. Series 25).~~

1.7.p20. "Exchange" -- is a geographic area unit established for the administration of telecommunications service under the provisions of each telephone company's applicable tariffs. It consists of one (1) or more central offices together with associated plant used in furnishing local service. An exchange's boundaries are specified in documents on file with the Commission. An exchange has one unique rate center which may be used for purposes of calculating rates and charges.

~~1.7.21. "Extended Area Service" A type of telephone service furnished under local tariff provisions whereby subscribers of a given exchange may complete calls to and receive calls from one (1) or more exchanges without the application of long distance message telecommunications charges.~~

1.7.g22. "Held Order" -- An application for establishment of basic exchange service not filled within thirty (30) days of the date on which the prospective customer desires service.

~~1.7.23. "Held Regrade" -- An application for regrade of service not filled within thirty (30) days of the date which the customer desires service.~~

1.7.r24. "Individual Line Service" -- A classification of exchange service which provides that only one (1) main station shall be served by the circuit connecting such station with the central office equipment.

1.7.s25. "Intercept Service" -- A service arrangement provided by the telephone company whereby calls placed to a disconnected or discontinued telephone number are intercepted and the calling party informed that the called telephone number has been disconnected, or discontinued, or changed to another number,

or that calls are being received by another telephone, etc.

1.7.t. "Interexchange Telecommunications Carrier" - A person or entity providing telecommunications service between Local Access and Transport Areas (LATAs) pursuant to a certificate of public convenience and necessity issued pursuant to West Virginia Code §24-2-11.

1.7.u26. "Interexchange Trunks Trunk" -- A transmission path, including the conductor or conductors and associated equipment, connecting two (2) exchanges.

1.7.v27. "Line" -- A general term used in telecommunications practice in several different senses, the most important of which are:

1a. The conductor or conductors and supporting or containing structures, including the network interface device (NID), extending between the NIDs located at the subscriber's stations premises and the central offices.

2b. The conductors and circuit apparatus associated with a particular communication channel.

3c. Any communication channel between two (2) points regardless of disregarding the method of its derivation.

1.7.w. "Local Call" - A call between two (2) points both of which are within the local calling area of the other.

1.7.x28. "Local Calling Area" -- The entire area within which are located the stations which a customer may call at the local rates and charges applicable in accordance with each telephone company's applicable tariffs.

~~1.7.29. "Local Exchange Carrier" - A telecommunications utility regulated by the Public Service Commission of West Virginia which provides dial tone to subscribers over local exchange access lines owned, operated and maintained by the utility.~~

1.7.y. "Local Exchange Carrier or LEC" - A person or entity granted a certificate of public convenience and necessity to provide local exchange services and exchange access within a defined service area of the state. Incumbent LECs shall be those LECs holding certificates of public convenience and necessity on or before February 8, 1996.

~~1.7.30. "Local Exchange Service" - The service provided in an entire area within which are located the stations~~

~~which a customer may call at local rates and charges applicable in accordance with each telephone company's applicable tariffs.~~

1.7.z. "Local Exchange Service" - Telecommunications services that originate and terminate within a local calling area in accordance with the general tariffs of the local exchange carriers, regardless of how the call is switched or routed. Local exchange services shall include the provision of basic local exchange service.

1.7.aa~~31~~. "Local Message" -- ~~is a~~ A communication between a calling station and any other station within the local ~~service calling~~ area of the calling station.

1.7.bb~~32~~. "Local Message Charge" -- The charge that applies for a completed telephone call that is made when the calling station and the ~~stations~~ station to which the connection is established are both within the same local calling area, and a local message charge is applicable.

1.7.cc~~33~~. "Local Service Charge" -- The recurring charge imposed by a local exchange carrier for furnishing facilities to enabling a subscriber to send or receive telecommunications within the local ~~service~~ calling area.

1.7.dd~~34~~. "Long Distance Service" -- ~~is that of~~ The furnishing of facilities for telecommunications between stations in different local ~~service~~ calling areas in accordance with the regulations and schedule of rates specified in each telephone company's applicable tariffs.

~~1.7.35. "Main Station" -- A telephone directly connected to a central office by an individual or party line circuit. In the case of PBX service, each trunk may be considered a main station. For Centrex service, trunk equivalents may be used for determining the number of main stations.~~

1.7.ee~~36~~. "Message" -- A completed customer telephone call.

1.7.ff~~37~~. "Message Rate Service" -- A classification of local service (other than public or semi-public telephone service) under which a customer pays a certain monthly charge entitling ~~him/her~~ the customer to use ~~the~~ a number of local messages, as specified in each telephone company's applicable tariffs.

1.7.gg~~38~~. "Message Toll Service" -- ~~Same as~~ See "long distance service."

1.7.hh~~39~~. "Message Unit" -- A unit used for billing

message rate services. ~~and/or measured optional calling plans.~~

1.7.ii. "Network Interface Device or NID" - The telecommunications facility which serves as the demarcation point between a subscriber's facilities, including customer premises wiring, and the telecommunications facilities of the telecommunications carrier connecting to the NID. The NID is installed and maintained in accordance with the applicable tariffs of the telecommunications carrier that furnishes the NID.

1.7.jj. "Non-Basic Services" - Telecommunications services that are not defined as Basic Local Exchange Services.

1.7.kk. "Number Portability" - The ability of users of telecommunications services to retain, at the same location, existing telephone numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

1.7.ll. "'0' Type Operation Service" - Provision to a caller, by the use of automated equipment or telephone company personnel, in a timely and reliable manner at the request of the caller, of each of the following:

1. Emergency call transfer to the 9-1-1 or Enhanced 9-1-1 answering point serving the caller's location or, when the caller's location is not served by a 9-1-1 or Enhanced 9-1-1 system, to the proper emergency service provider.

2. Assistance, when needed, in completing local calls.

3. Information regarding how to do any of the following:

A. Report service problems;

B. Contact a specific toll carrier;

C. Contact the caller's local exchange carrier's business office;

D. Contact the telecommunications relay service; or

E. Contact the Commission.

1.7.mm40. "Operator Service Provider" -- A public telecommunications utility regulated by the ~~Public Service Commission of West Virginia~~ which performs any ~~or all~~ of the

following services, by manual and/or mechanized means, for the public:

- 1a. Receives and handles Zero Plus ("0+") calls.
- 2b. Receives and handles Zero Minus ("0-") calls.
- 3c. Handles, wholly or in part:
 - A. Credit card calls;~~;~~
 - B. Third-number billed calls; ~~or~~
 - C. Collect (reversal of charges) calls.
- 4d. Provides emergency call routing service.

1.7.~~nn~~41. "Outside Plant" -- The telephone equipment and facilities installed on, along, over, or under streets, alleys, roads, highways, or on public or private rights-of-way between the central office and customers' locations or between central offices.

~~1.7.42. "Party Line Service" -- A classification of exchange service which provides for a number of main stations to be served by the same central office line.~~

1.7.oo. "Payphone" - A telephone made available to the general public or inmates of jails, prisons, etc. on a fee-per-call basis: **Provided**, however, that telephones in rooms occupied by guests, residents or patients of hotels, motels, dormitories and hospitals, are not considered payphones for purposes of application of the Commission's payphone rules and regulations.

1.7.pp. "Payphone Service Provider or PSP" - Any person or business entity that owns or operates payphones.

1.7.~~qq~~43. "Premises" -- A term used to denote continuous property occupied by a customer either under lease or ownership as administered by each telephone company's applicable tariffs.

~~1.7.44. "Public Agency" -- Means the State, and any municipality, county, public district, or public authority which provides or has authority to provide fire fighting, police, ambulance, medical, rescue or other emergency services. (Former 1.7.44 has been moved to 150 C.S.R. Series 25).~~

~~1.7.45. "Public Safety Unit" -- Means a functional division of a public agency which provides fire fighting, police, medical, rescue or other emergency services. (Former 1.7.45 has~~

been moved to 150 C.S.R. Series 25).

~~1.7.46. "Public Telephone Service" -- Is a main station installed at the telephone company's initiative, or at its option, for furnishing service to the general public. It is an individual line subscriber service usually equipped with a coin collecting telephone instrument.~~

~~1.7.47. "Regrade" - An application for a different class of service.~~

1.7.rr. "Reseller" - A carrier that resells a telecommunications service that it procures, at a wholesale discount, from another carrier that provides the service at retail to subscribers who are not telecommunications carriers.

1.7.ss. "Residence Service" - Service where the primary use of the service is of a domestic nature and where the business use, if any, is merely incidental.

1.7.tt. "Rural Telephone Company or RTC" - A local exchange carrier that meets any of the following criteria:

1. The carrier provides common carrier service in any local exchange carrier study area that does not include either:

A. Any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

B. Any territory, incorporated or unincorporated, included in any urbanized area, as defined by the Bureau of the Census as of August 10, 1993.

2. The carrier provides telephone exchange services, including exchange access, to fewer than 50,000 access lines.

3. The carrier provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines.

4. The carrier has less than fifteen percent (15%) of its access lines in communities of more than 50,000 on February 8, 1996.

1.7.uu48. "Serving Local Exchange Carrier" -- The Public Service Commission-certificated local exchange carrier telephone company which that provides dial tone and local exchange access to

~~a customer owned public telephone subscriber or payphone.~~

1.7.vv49. "Station" -- ~~is the~~ The network control signaling unit, data set, or other equipment provided by the telephone company customer on the customer's premises which enables the customer to establish the communications connections and to effect communications through such connections.

1.7.wv50. "Subscriber" -- See "Customer."

1.7.xx51. "Surcharge" -- Any charge imposed pursuant to the intrastate calling use of an aggregator's facilities which is not contained in a current tariff on file with the Public Service Commission.

1.7.yy. "Switching Location" - A telecommunications facility used by a telecommunications carrier to connect and disconnect callers to and from lines and other transmission facilities for the purposes of communicating between points and for terminating such communications. A line concentrating device is not a switching location unless it is used to connect a caller to the caller's destination point without the use of additional switching.

1.7.zz52. "Tariff" -- ~~The entire body of rates, tolls, rentals, charges, classifications, rules and regulations filed with the Commission by a telephone company. A telephone company's entire body of definitions, descriptions, requirements, penalties, obligations, rates, tolls, charges, fees, classifications, rules, regulations, etc. filed with and approved by the Commission or allowed to go into effect.~~

1.7.aaa. "Telecommunications Carrier" or "Telephone Company" - Any provider of telecommunications services to the public under the jurisdiction of the Commission.

~~1.7.53. "Telephone Company" - Any person, firm, partnership, or corporation engaged in the business of furnishing telephone communications services to the public under the jurisdiction of the Public Service Commission of West Virginia.~~

1.7.bbb. "Telecommunications Services" - Any of the following, when offered, for purposes of communicating between points, to the public and regulated to any degree by the Commission:

1. Access to the public switched telecommunications network.

2. Signaling capability.

3. Switching.

4. Transmission of electrical, including radio or lightwave signals of a digital or analog nature.

5. Controls necessary for proper and successful telecommunications.

The actual content of any message communicated between points is not a telecommunications message.

1.7.ccc54. "Telephone Solicitation" -- The initiation, without the called party's prior express invitation or permission, of a telephone call to a party for the purpose of encouraging that party to purchase property, goods and/or services or soliciting donations of money, property, goods and/or services. Telephone solicitation does not include:

1a. Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the calling company or organization during a period not longer than twelve (12) months prior to the telephone contact.7

2b. Calls made for a not-for-profit organization to its own list of bona fide or active members of the organization.7

3c. Calls limited to polling or soliciting the expression of ideas, opinions or votes.7

4d. Contacts with telephone subscribers with whom a business and/or credit relationship exists.7 or

5e. Calls utilized for relaying messages for private purposes, including voice messaging services or message delivery services.

1.7.ddd55. "Traffic" -- Telephone call volume, based on the number and duration of messages.

1.7.eee. "Transmission Facilities" - the non-switching media necessary to convey communications signals between points. Transmission facilities include, but are not limited to:

1. Wires, cable (including co-axial and fiber optic), and waveguides.

2. Radio receivers, transmitters and antennae.

3. Amplifiers and channel derivation devices.

1.7.fff56. "Zero Minus (0-) call" -- A call made by the caller dialing the digit "0" and no other digits within five seconds of dialing the digit "0."

1.7.ggg57. "Zero Plus (0+) call" -- A telephone call made by the caller dialing the digit "0" and all of the additional digits necessary to make the call.

1.8. Uniform system of accounts.

~~a1.8.1.~~ Under the authority of the West Virginia Code, Chapter 24, Article 2, Section 8, all local exchange ~~telephone companies carriers~~ shall maintain a "Uniform System of Accounts", as promulgated by the Federal Communications Commission ~~effective January 1, 1988,~~ and contained in Part 32 under Title 47 of the Code of Federal Regulations, ~~as unless~~ subsequently revised by this Commission by rule or decision. Interexchange carriers shall maintain adequate accounting records such that each inter-exchange carrier will be able to comply with the annual reporting requirements of this Commission.

~~b1.8.2.~~ Each ~~telephone company~~ local exchange carrier will inform the Commission, concurrent with informing the Federal Communications Commission, of its intention to follow new accounting standards prescribed by the Financial Accounting Standards Board (or successor authoritative accounting standard-setting groups). Changes in accounting standards will automatically take effect ninety (90) days after the ~~telephone company~~ local exchange carrier notifies the Commission, unless the Commission notifies the ~~company~~ carrier to the contrary.

~~c1.8.3.~~ For the purpose of securing uniformity in the applications of this system, all questions of doubtful interpretation of accounting rules are to be submitted to the Commission for consideration and decision.

§150-6-2. Customer relations.

2.1. Customer billing.

~~a2.1.1.~~ Bills to customers shall be typed or clearly printed, rendered monthly, and shall contain a listing of all charges and the period of time covered by the billing period. Bills may be rendered less frequently than monthly: Provided, that such periodic billing arrangement is set forth in the telecommunications carrier's Commission-approved tariff, and: Provided further, that the telecommunications carrier's subscribers are permitted to elect to be billed monthly by notifying the carrier by phone, mail or electronic means. Local service charges for residential and commercial customers shall be itemized at

initiation of service, whenever a change is made in local service, and once annually. This itemization shall list separately all items such as service options extensions and other items for which a flat monthly charge is made. However, the telephone company is not required to itemize changes made in local commercial service for Centrex and large PBX customers. Bills shall show the actual name of each vendor for all charges listed and the toll-free telephone number of the person authorized to resolve disputes relating to those charges.

1. Other than taxes and other legally required charges, bills may not contain charges for non-telecommunications services or items: **Provided**, that for good cause shown, and pursuant to the specific and express approval of the Commission, bills may contain charges for non-telecommunications services or items and: **Provided further**, that no telecommunications services may be denied, interrupted or discontinued for failure of the billed party to pay any portion of the charges billed for non-telecommunications services or items. Further, in the case of partial payments of bills rendered, such partial payments shall be applied to amounts owed for telecommunications services first before being applied to amounts owed for non-telecommunications services.

2. Cellular and other wireless telecommunications carriers are not subject to the requirements of §150-6-2.1.a.1.

3. A telephone company may charge a late payment penalty, provided such late payment penalty provision is part of the telephone company's Commission-approved tariff.

4. No late payment penalty may be recovered unless the date by which payment must be mailed is clearly and conspicuously identified on the subscriber's bill. The payment due date cannot be less than twenty (20) days after the bill was rendered.

b2.1.2. Bills for Toll Services.

1. Statements itemizing message toll charges, if applicable, shall be included in bills to customers and shall show location of origin of call, location of destination of call, place, date, time, duration, and discount for each such toll charge made. The discount may be shown either as a percentage amount or as a dollar figure: **Provided**, that it appears in understandable form. The statement shall further show on which rate schedule the call is being billed: (e.g., Direct Dialed, Operator Handled, Person to Person, etc.).

2. All charges for service, whether such charges

are flat-rate or usage-based, shall appear on a bill rendered not later than sixty (60) days beyond the date on which the charge was incurred: **Provided**, however, that for wireless carriers, charges for service shall appear on a bill rendered not later than ninety (90) days beyond the date on which the charge was incurred. Irrespective of such time frames, it shall be the object of all telecommunications carriers to bill their customer charges as soon after such charges are incurred as is reasonably practicable.

c2.1.3. Statement of Applicable Rates.

1. Each telephone utility shall transmit by mail to each of its basic residential and business customers a clear and concise statement of the existing rate schedule applicable generally to residential and business customers.

~~a2.~~ Such written statement shall first be transmitted by hand or by mail to ~~all such customers upon application for service; and~~ the following:

A. To all such customers upon application for service; and

~~b.~~ To all customers within sixty (60) days of a final order of the Commission in a general rate case; and, in any event,

~~c.~~ To all customers not less frequently than once each calendar year.

~~3d.~~ Such written statement may be transmitted together with the customer's billing or in such other manner as the Commission deems appropriate.

d2.1.4. Disputed bills.—

In the event of a dispute between the customer and the telephone company respecting any bill, the telephone company may require the customer to pay the undisputed portion of the bill and shall make such investigation as may be appropriate to the particular case, and report the result thereof to the customer. In the event the dispute is not reconciled, either party may make application to the Commission for review and disposition of the matter.

e2.1.5. Service interruptions.—

When the use of service or facilities furnished by the telephone company is interrupted due to any cause other than the negligence or willful act of the customer or the failure of the

facilities provided by the customer, a pro rata adjustment of the fixed monthly charges involved will be allowed for the service and facilities rendered useless and inoperative by reason of the interruption whenever said interruption continues for a period of ~~forty-eight (48)~~ twenty-four (24) hours or more from the time it is reported to or known to exist by the telephone company, except as otherwise specified in the telephone company's applicable tariffs. For the purpose of administering this regulation, every month is considered to have thirty (30) days.

f2.1.6. Payment shall not be delinquent less than ~~twenty (20)~~ thirty (30) days after such bill is mailed or otherwise rendered to the customer.

2.2. Credit considerations.

a2.2.1. Establishment of credit.—

1a. Applicants for service.— Before service is rendered, an applicant for service, in addition to complying with all other applicable rules and regulations, may be required to establish satisfactory credit. The applicant shall be notified promptly of such requirement to prevent any undue delay in the furnishing of service. Any applicant who has not established his credit, as provided under this subsection ~~Rule~~ may be required to pay any service connection charge and make an advance payment on his or her ~~his/her~~ account in an amount equal to one (1) month's estimated average total bill for all services before service is established. An advance payment shall not relieve the applicant of his/her responsibility to establish satisfactory credit. The intent of this subdivision ~~regulation~~ is to provide maximum requirements for use to protect revenues from known credit risks and not as a substitute for reasonable business judgment.

A. In the case of an applicant for residential service, credit will be deemed established if:

1.(a) The applicant owns the premises to be served: **Provided, that** the credit of the applicant is not otherwise impaired; or

2.(b) The applicant demonstrates by appropriate means that his or her ~~his/her~~ credit is acceptable to the telephone company. In determining whether the credit of the applicant is acceptable, the telephone company may request the following information from the applicant and shall consider it: name of employer, place of employment, length of service, the names of credit references; or

3.(c) The applicant has been a

customer of a telephone company for a similar type of service within a period of six (6) consecutive months preceding the date of application unless records of such previous service show that during the last twelve (12) consecutive months of that service period, service was denied or disconnected for non-payment; or

4.(d) The applicant furnishes a guarantor satisfactory to the telephone company to secure payment of bills for the service requested; or

5.(e) The applicant makes a cash deposit. Such deposit shall not be more than one-twelfth (1/12) of the annual estimated charge for the residential service: **Provided**, however, ~~that~~ this part rule shall not affect residential customer security deposits required by a utility prior to the passage of West Virginia Code §24-3-8 on March 12, 1983.

B. In the case of an applicant for business service, credit will be deemed established if:

1.(a) The applicant owns the premises to be served: **Provided**, that the credit of the applicant is not otherwise impaired; or

2.(b) The applicant demonstrates by appropriate means that his or her ~~his/her~~ credit is acceptable to the telephone company. In determining whether the credit of the applicant is acceptable, the telephone company may request the following information from the applicant, and shall consider it: name of the business and the names of its officers or owners; type of organization, e.g., individually owned business, partnership, corporation; nature of the product or service provided; length of time established; other telephone service, present or previous; banking references and other sources of credit information which may be quickly and inexpensively contacted by the telephone company; and any other information pertinent to the determination of the credit standing of the applicant; or

3.(c) The applicant has been a customer of a telephone company for a similar type of service within a period of six (6) consecutive months preceding the date of application unless records of such previous service show that during the last twelve (12) consecutive months of that service period, service was denied or disconnected for non-payment, or the applicant had more than one (1) occasion during such twelve (12) month period in which a bill was not paid within the period prescribed by the reasonable regulations of the telephone company on file with the Commission: **Provided**, ~~that~~ the average total monthly bill for all services rendered during such twelve (12) month period was equal to at least fifty percent (50%) of that

estimated as the average total monthly bill for the service being applied for, and: **Provided, further,** ~~That~~ the credit of the applicant is not otherwise impaired; or

4.(d) The applicant furnishes a guarantor satisfactory to the telephone company to secure payment of bills for the service requested; or

5.(e) The applicant makes a cash deposit to secure payment of bills for service as prescribed in \$150-6-2.2.c ~~Rule 2.2.3.~~

C. The establishment of credit under the provisions of this subdivision Rule, or the re-establishment of credit under the provisions of ~~Rule 2.2.3. \$150-6-2.2.c.~~, shall not relieve the applicant for service or customer from compliance with regulations of the telephone company on file with the Commission as to advance payments and the payment of bills, and shall not modify any regulations of the telephone ~~company~~ in regard to the discontinuance of service for the non-payment of bills due for service furnished.

b2.2.2. Reestablishment of credit.—

1a. Applicant for service - previous customer.—
An applicant for service who previously has been a customer of the telephone company and whose most recent period of service was discontinued by the telephone company because of non-payment of bills, may be required to reestablish credit in accordance with \$150-6-2.2.c. ~~Rule 2.2.3.~~ The telephone company may refuse to provide service if the customer still owes a bill for previous service, furnished to him at the same or another location, regardless of the amount owed: **Provided,** however, ~~That~~ an applicant for residential service shall not be denied service for failure to pay bills for business service, except where ~~he~~ the applicant was the sole owner of or partner in the business formerly served and responsible for charges incurred in connection with such business service.

2b. Current customer with service.—

A. A customer who fails to pay bills before they become past due in accordance with the telephone company's standard billing practices, and who further fails to pay such bills within the time intervals prescribed by ~~Rule 2.2.6. \$150-6-2.2.f.~~, may be required to pay such bills and reestablish his or her credit by depositing the amount prescribed in ~~Rule 2.2.3. \$150-6-2.2.c.~~ and, when applicable, a reconnection charge. However, residential customers shall be entitled to enter into a deferred payment plan as described in \$150-6-2.2.f.5. ~~Rule 2.2.6.e.~~

B. A customer may be required to reestablish his or her credit in accordance with \$150-6-2.2.c. Rule 2.2.3. in case the conditions of service or basis on which credit was originally established have changed materially.

c2.2.3. Deposits: amount, receipt, interest.—

1a. Computation of amounts for non-residential customers.— The amount of the cash deposit which may be required to establish credit for non-residential customers shall not be in excess of one and one-half (1-1/2) times the estimated average total monthly bill for all services, and in the case of seasonal service, in excess of one-half (1/2) of the estimated charges for the service for the season involved. After service has been established and experience demonstrates that the amount of the outstanding deposit is not suitable to safeguard the interests of the telephone company, the telephone company may require an adjustment to the deposit. For in certain services that which carry a termination liability, such as PBX installations, the amount of the deposit shall be determined by the circumstances involved in each case.

2b. Issuance of deposit receipt.— Concurrently with receiving a cash deposit, the telephone company shall provide the applicant for service or customer a receipt showing: the date thereof of the deposit; the name and billing address of the applicant or customer to be served or served; and the amount of the deposit.

3c. Interest rate and method of payment.— The simple interest rate to be paid shall be determined as follows: The rate which utilities shall be required to pay shall be the average of the one-year United States Treasury Bill rates for October, November and December of the preceding calendar year. By January 15 of each year, ~~Staff of the Commission~~ Staff shall make the necessary calculations and file with the Commission its calculations. The Commission will issue an order setting the rate to be paid by the utilities until the next annual Commission order.

d2.2.4. Refund of deposits.—

1a. Upon discontinuance of service the telephone company shall apply the customer's deposit, including accrued interest, to the final bill for service. Any amount in excess of the final charges shall be refunded to the customer promptly. A transfer of service from one (1) premise to another within the service area of the telephone company shall not be deemed a discontinuance within the meaning of these Rules.

2b. The telephone company shall return the

customer's deposit, including accrued interest at any time upon request, if the customer's credit has been otherwise established in accordance with §150-6-2.2.a. or 2.2.b. Rules 2.2.1. or 2.2.2.

3c. At the option of the telephone company, a customer's deposit, including plus accrued interest may be refunded, in whole or in part, at any time earlier than the times hereinabove prescribed in this subdivision Rule.

4. No amount deposited as surety for provision of telecommunications service may be applied against any amounts owed for non-telecommunications services or items.

5d. Customers with residential service. — After the customer has paid bills for service for nine (9) (or less at the company's discretion) consecutive months (or less at the telephone company's discretion) without having had service denied or disconnected for non-payment, and without having had more than two (2) occasions on which a bill was not paid within the period prescribed by §150-6-2.1.f. Rule 2.1.6. (i.e., was delinquent), and: **Provided**, that provided the customer's credit of customer is not otherwise impaired, the telephone company shall refund the customer's deposit, including plus accrued interest. If the customer has had service denied or disconnected for non-payment, or has had more than two (2) such past due bills during such period, the telephone company shall thereafter review the account every six (6) months and shall refund the customer's deposit, including plus accrued interest, after the customer has not had service denied or disconnected for non-payment, and has not had more than two (2) such past due bills during the six (6) months prior to any such review: **Provided**, that the customer's credit of the customer is not otherwise impaired.

6e. Customers with business service. — After the customer has paid bills for service for twenty-four (24) consecutive months without having had service denied or disconnected for non-payment, and without having had more than one (1) occasion on which a bill was not paid within the period prescribed by §150-6-2.1.f. Rule 2.1.6. (i.e., was delinquent), and: **Provided**, that the customer's credit of the customer is not otherwise impaired, the telephone company shall refund the customer's deposit, including plus accrued interest. If the customer has had service denied or disconnected for non-payment, or has had more than one (1) such past due bill during such period, the telephone company shall thereafter review the account every twelve (12) months and shall refund the customer's deposit, including plus accrued interest, after the customer has not had service denied or disconnected for non-payment, and has not had more than one (1) such past due bill during the twelve (12) months prior to any such review: **Provided**, that the customer's credit of

~~the customer~~ is not otherwise impaired.

7f. Upon the customer's meeting the provisions above for refund of deposit, the telephone company shall promptly and automatically refund the customer's deposit, including plus accrued interest. A receipt or production of proof of payment will not be necessary under these regulations as a condition of the deposit refund.

~~e2.2.5.~~ Record of deposit.— The telephone company shall keep a record of each cash deposit until the deposit is returned. The record shall show: the name and current billing address of the depositor; the amount and date of the deposit; and each transaction concerning the deposit.

~~f2.2.6.~~ Denial or discontinuance of service.—

1a. The telephone company may refuse, deny, or discontinue service, as appropriate, for failure on the part of the applicant or a customer to establish or reestablish credit in accordance with \$150-6-2.2.a. or 2.2.b., ~~these Rules~~ or for non-payment of a delinquent bill owed to the telephone company for service furnished. Delinquency under this provision shall apply to previous or existing service, whether at the same or another location and also be in accord with the provisions of \$150-6-2.2.b., 2.2.d., and 2.4.c. ~~Rules 2.2.2. and 2.2.4. and Rule 2.4.3.~~

2b. The telephone company shall give written notice complying with P.S.C. W.Va. Form 14-T sent first class mail, address correction requested, at least ten (10) days prior to the scheduled termination. At the time notice is given, a residential customer shall be advised of his or her rights under \$150-6-2.2.f.5. ~~Rule 2.2.6.e.~~ Written notice shall become invalid thirty (30) days after the date indicated on the notice for termination. At the time notice is given, a residential customer shall be advised of his or her rights under \$150-6-2.2.f.5. ~~Rule 2.2.6.e.~~ Written notice shall become invalid thirty (30) days after the date indicated on the notice for termination. The telephone company shall also make at least two (2) attempts at personal notice by telephone at least twenty-four (24) hours prior to termination. However, the inability of the telephone company to perfect personal notice shall not prevent the telephone company from terminating service. Discontinuance of service will not be made on a day that the business office is closed or on any day immediately preceding a day on which the business office is closed, nor shall service be discontinued on a Friday, Saturday or Sunday. Furthermore, discontinuance of service shall not be made earlier than 8:00 a.m., nor later than 4:00 p.m.

3c. If, prior to termination of service, the

utility receives notice from the customer:

A. ~~T~~hat any portion of a bill is in dispute;7

B. ~~T~~hat he or she is being charged for service not rendered;7

C. ~~T~~hat any information resulting in the utility's decision to terminate is erroneous;7

D. ~~T~~hat he or she is unable to pay for such service in accordance with the requirements of the utility's billing and that termination or service would be especially dangerous to the health or safety of a member of the customer's household;7 or

E. ~~T~~hat he or she is able to pay for such service but only in installments, the utility shall provide an opportunity to the customer for presentation of his or her complaint to a designated managerial employee, who is empowered to resolve the dispute. The hearing shall take place at the business office nearest to the customer's residence: **Provided**, however, ~~F~~that at the option of the customer, the hearing may take place by a telephone conference. The customer shall have seven (7) days from the date of the utility's decision to file an appeal with the Commission. Service may not be terminated from the date the utility receives notice of the customer complaint until the expiration of the seven (7) day appeal period, or during the pendency of an appeal to the Commission. Any amount not in dispute must be paid by the customer in order to protect his or her rights under this subparagraph, rule except as provided in \$150-6-2.2.f.5. Rule 2.2.6.e.

4d. In the event a customer is back-billed any amounts, including but not limited to, amounts resulting from misapplication of a rate in any item normally a part of monthly local service charges, service shall be denied or discontinued for failure of the customer to pay such amounts, only if the customer refuses to negotiate, and subsequently meet, payment arrangements mutually satisfactory to both parties.

5e. Any residential customer who has been notified that telephone service is to be terminated for non-payment of bills shall be given the opportunity to enter into a deferred payment agreement: **Provided**, ~~F~~that the customer has demonstrated an ability to pay but only in installments. The customer shall be informed at the time a disconnect notice is issued of the option of a reasonable payment plan, including an itemization of those charges not in bona fide dispute related to basic service, the

payment of which will prevent termination. The conditions surrounding the deferred payment agreement shall be as follows:

A. The details of the deferred payment agreement are to be negotiated between the utility and the customer and may consider several factors, including, but not limited to the following: amount of the bill; ability of the customer to pay; payment history; time the debt has been outstanding; reasons why the debt has been outstanding; and any other relevant factors: **Provided**, ~~That~~ the agreement requires payment of the current bill plus a specific amount per month on the arrearage. A customer's line may be put on a toll-restricted service as a part of a deferred payment agreement.

B. Utilities shall be allowed to collect a carrying charge of six percent (6%) on any outstanding balance subject to a deferred payment agreement: **Provided**, however, ~~that~~ any utility which charges interest on unpaid balances pursuant to tariff shall be precluded from charging additional interest pursuant to this subparagraph Rule.

C. Once a deferred payment agreement has been established, if the customer's financial conditions significantly change and the existing payment works a hardship, the utility shall renegotiate the payment agreement, consistent with the provisions of \$150-6-2.2.f.5.A. Rule ~~2.2.6.e.A.~~ However, during any renegotiation period, the customer must timely pay his or her current bill and make some payment on the arrearage.

D. The deferred payment agreement shall include language informing the customer of the right to appeal the reasonableness of the proposed payments to the ~~Public Service~~ Commission.

E. During the appeal, service may not be terminated: **Provided**, however, ~~That~~ the current bill must be timely paid by the customer in order to protect his or her rights under this paragraph Rule.

F. If the deferred payment is not received, in accordance with the terms of the agreement, the utility may terminate service only after it has mailed written notice, by first class mail, to the customer at least five (5) ~~calendar~~ days, excluding postal holidays, prior to termination: **Provided**, ~~That~~ at the option of the utility, either personal contact or telephone contact may be substituted for contact by first class mail. If the customer makes the delinquent payment within that notice period, service shall not be terminated.

6f. For the purposes of \$150-6-2.2.f.3.D. Rule

~~2.2.6.c.D.~~, a customer is required to provide written certification from a licensed physician that termination would be especially dangerous to the health or safety of a member of the customer's household. Written certification must be renewed every thirty (30) days, except when a licensed physician can state, to a reasonable degree of medical certainty, that the medical condition which makes termination especially dangerous is permanent.

7g. Cellular and other wireless telecommunications carriers ~~telephone companies~~ and interexchange carriers shall be exempt from any requirements of \$150-6-2.2.f.2., 2.2.f.3., 2.2.f.5., and 2.2.f.6. ~~Rules 2.2.6.b., 2.2.6.c., 2.2.6.e., and 2.2.6.f.~~

8h. Any telephone company may cancel, revoke or limit any calling card issued to a customer of that company at any time it deems appropriate, notwithstanding the other requirements of these Rules.

g2.2.7. Service reconnection charge. — Where service has been discontinued pursuant to the terms of the notification provided for in ~~Rule 2.2.6.b.~~ \$150-6-2.f.2., herein, the telephone company may charge and collect the reconnection charge set out in its tariff.

h2.2.8. All statements of accounts shall carry contain the following statement: ~~the legend~~ "This Company is a utility regulated by the Public Service Commission of West Virginia". Further, monthly billing statements shall explain in terms familiar to consumers the elements of all local service charges.

2.3. Reasons for denying service.

The telephone company may suspend or terminate ~~the~~ service for the following reasons:

a2.3.1. Non-payment of any sum due for service and not in bona fide dispute: **Provided,** ~~That~~ there has been compliance with ~~Rule 2.2.6.e.~~ \$150-6-2.f.5. for residential customers.

b2.3.2. Making of nuisance calls.

~~2.3.3. Abuse of party line service.~~

c2.3.4. Violation of or non-compliance with Commission regulations or FCC technical requirements.

d2.3.5. Failure to comply with laws applicable to telephone service.

~~e2.3.6.~~ Failure to permit the company reasonable access to company equipment.

2.4. Insufficient reasons for denying or discontinuing service.

The following shall not constitute sufficient cause for refusing, denying or discontinuing service to an applicant or present customer:

~~a2.4.1.~~ Delinquency in payment for service by a previous occupant of the premises to be served other than a member of the same household.

~~b2.4.2.~~ Failure to pay directory advertising charges, ~~however,~~ Provided, that in such case customer's telephone number may be changed.

~~c2.4.3.~~ Delinquency in payment for business service shall not constitute sufficient cause for refusal of residence service or vice versa, except as provided in \$150-6-2.2.b.1. Rule 2.2.2.a.

~~d2.4.4.~~ When the subscriber is ~~of the~~ age sixty-five (65) years or older, and such subscriber is living alone, denial or discontinuance of service shall not be made prior to contact with a near relative, i.e., son, daughter, niece, or nephew, or responsible third party. Where the West Virginia Department of Health and Human Resources (or successor agency) Welfare is a party in interest, ~~they are~~ it is considered as such third party. This exception shall also apply to any subscriber regardless of age, who is physically ~~and/or~~ emotionally incapacitated, and living alone. The requirements of this subdivision shall be considered met if the eligible subscriber is, at a minimum, provided with the following:

1. Dial tone (without the ability to receive incoming calls).

2. The ability to make 9-1-1 calls.

3. A recorded announcement whenever the caller tries to reach a number other than 9-1-1 that informs the caller that the line cannot receive incoming calls and can only be used to make emergency calls to 9-1-1.

e. Basic local exchange telephone service, as defined in \$150-6-1.7.c., shall be neither disconnected nor interrupted for non-payment of charges rendered for the provision of either telecommunications services not defined in \$150-6-1.7.c. or non-telecommunications services: **Provided**, that the customer pays for

and continues to pay all charges, not in bona fide dispute, related to basic local exchange telephone service. This subdivision does not prohibit an interexchange telecommunications carrier from blocking the customer's access to that carrier's service at the switching location.

2.5. Complaints and appeals.

a2.5.1. The telephone company shall make a full and prompt investigation of all complaints made by its ~~applicants or customers~~ or applicants for service either directly to ~~it~~ such persons or, upon Commission request, to the Commission.

b2.5.2. The telephone company shall direct its personnel engaged in initial contact with an applicant or customer in which dissatisfaction with the decision or explanation of such personnel is expressed, to inform ~~him/her~~ the applicant or customer of his/her his or her right to have the problem considered and acted upon by the telephone company's supervisory personnel ~~of the telephone company~~. The telephone company shall further direct such ~~supervisory personnel to furnish that~~ the applicant or customer be furnished with the address and telephone number of the Utility Complaints Division of the ~~Public Service Commission of West Virginia to be that may~~ be contacted for further review of the problem.

2.6. Directories.

a2.6.1. Primary telephone directories of all exchanges shall normally be revised, printed and distributed to customers once each year listing the name, address and telephone number of all customers, except public telephones and numbers unlisted at customer's request. All LECs must either produce their own directories or arrange with another entity, such as the incumbent LEC, for the provisioning of such directories.

b2.6.2. Telephone directories shall include listings for all local service areas for the exchanges ~~in~~ to which this directory is supplied.

c2.6.3. The telephone company shall list its customers in the ~~d~~Directory ~~a~~Assistance ~~d~~Directory necessary for the ~~d~~Directory ~~a~~Assistance operators to provide the requested telephone numbers based on the customers' names and addresses, within one (1) week of establishment of service.

d2.6.4. Upon issuance, two (2) copies of each directory shall be furnished to the Commission.

e2.6.5. Information pertaining to emergency calls, such

as for the police and fire departments, shall appear conspicuously in the front part of directory pages. Also the offices of the West Virginia State Police, county sSheriff's office, and ambulance services shall be listed.

~~f~~2.6.6. The directory shall contain such instructions concerning placing local and long distance calls, calls to ~~t~~Telephone ~~r~~Repair ~~s~~Service and ~~d~~Directory ~~a~~Assistance ~~s~~Services, and location, office hours and telephone number of telephone company ~~B~~business ~~o~~ffices as may be appropriate ~~to~~ for the area served by the directory.

~~g~~2.6.7. Directory Assistance or intercept operators shall have access to records of all customers' numbers (except public telephones and telephone numbers unlisted at the customer's request) in the area for which they are responsible for furnishing Directory Assistance Service.

~~h~~2.6.8. In the event of an error in the listed number of any customer, the telephone company shall, where practicable, intercept all calls to the listed number until the next local directory is issued. In the event of an error or omission in the name listing of a customer, such customer's correct name and telephone number shall be in the files of the ~~d~~Directory ~~a~~Assistance or intercept operators and the correct number furnished to the calling party either upon request or intercept.

~~i~~2.6.9. Whenever any customer's telephone number is changed after a directory is published, the telephone company shall intercept all calls to the former number for a reasonable period of time and give the calling party the new number: **Provided, that** existing central office equipment will permit and the customer so desires such intercept service.

~~j~~2.6.10. When additions or changes in plant, records or operations which will necessitate a large group of number changes are scheduled, reasonable notice shall be given to all customers so affected even though the additions or changes may be coincident with a directory issue.

~~k~~2.6.11. ~~Each directory shall contain rate schedules by mileage band for inter and intra state message toll calls. Such listings shall show the rates for direct dial calls and operator handled calls in each applicable time period. In addition each directory may contain representative rate schedules for inter and intra state toll calls. Each telephone company shall, without charge, provide applicable rate and charge information regarding local, intrastate and interstate calling normal business hours. Such information may be provided directly by the telephone company or through the use of one or more other entities capable of~~

providing the information.

1. Such information shall be available by each of the following means:

- A. Free telephone call;
- B. E-mail; or
- C. Internet web site.

2. Telephone companies may also provide such information in a printed format available by mail or direct customer pickup and such information may also be faxed to customers desiring such transmittal.

12.6.12. Illustrative service connection and installation charges for residential service shall be listed in each directory. Information regarding service connection and installation charges, where applicable, shall be made available by telephone companies in exactly the same manner as required by §150-6-2.6.k. for information regarding calling rates and charges.

2.7. Labeling of station equipment.

Where the telephone company offers for outright sale to the subscriber ~~items of~~ equipment or apparatus to be used in conjunction with telephone service or accessory thereto, the equipment or apparatus it shall be plainly labeled on the item that this is as a product sold by the company. On such services and/or or equipment which are comprised both of items sold to the customer and items provided by the telephone company but not sold to the customer not for sale and intended to remain the telephone company's property of the telephone company, such items shall be clearly marked for identification identified so that the customer can readily identify his/her distinguish between property purchased from the telephone company and property over purchased property from that part of the property which the telephone company retains ownership.

2.8. Changes in Subscriber Carrier Selections.

a. No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of local exchange telephone service or interexchange telecommunications service, except in accordance with the verification procedures set forth in this subsection and West Virginia Code §24-2E-1.

b. In order for a telecommunications carrier to obtain subscriber confirmation of a request for a change in local exchange

telephone service or a change of presubscribed interexchange carrier (PIC) providing intrastate toll service, a telecommunications carrier must, from the customer of record, perform one of the following:

1. Obtain written authorization through letters of agency.

2. Obtain electronic authorization through the use of a toll-free telephone number.

3. Orally verify the change of carrier request through an appropriate, independent third-party.

4. Send an information package, including a pre-paid, returnable postcard, within three (3) days of the subscriber's request for a change of carrier, and wait fourteen (14) days, or until contacted by the subscriber, whichever is earlier, before submitting the subscriber's order to the local exchange carrier.

c. The letter of agency described in §150-6-2.8.b.1. must contain the following information:

1. The subscriber's billing name and address, and each telephone number subject to the change order.

2. A statement setting forth the subscriber's decision to change from his or her current local or interexchange carrier to the new local or interexchange carrier.

3. A statement that the subscriber designates the local or interexchange carrier to act as the subscriber's agent for purposes of executing the change.

4. A statement that the subscriber understands that any change of carrier may involve a charge to the subscriber.

5. Nothing that conflicts with Federal Communications Commission regulations found in 47 CFR Part 64, Subpart K, or successor regulations.

d. Carriers shall retain, for at least two (2) years, hard copy or electronic documentation of carrier change requests in which they become the requester's chosen carrier. Such documentation shall be provided to the Commission, the customer or the Attorney General of West Virginia.

e. Any telecommunications carrier that violates the verification procedures described in this subsection, and that

collects charges for local exchange service or intrastate toll service, from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation. Any overcharges that are due the subscriber shall be refunded by the properly authorized carrier within thirty (30) days after such carrier's receipt of all charges collected by the violating carrier.

f. The Commission, upon finding that any provision of this subsection has been violated, may take any or all of the following actions:

1. Impose a fine upon the violator for each violation. Such fine shall not exceed the applicable limits of the West Virginia Code.

2. Revoke the violator's certificate of public convenience and necessity.

g. In the case of an unauthorized change in carrier, or a change which violates the verification procedures described in this subsection, subscribers shall be liable only for charges up to an amount that would have been paid to their former, authorized local exchange carrier or intrastate interexchange carrier. The remedies provided by this subsection are in addition to any other remedies available by law.

h. Whenever an LEC subscriber receives a change in his or her service status due to subscriber request, or due to either late payment or non-payment of a bill, and whenever an LEC subscriber makes a change in presubscribed interexchange carrier or is subject or an unauthorized change in such carrier, the serving LEC shall, upon receipt of a subscriber's request to restore service, inform the subscriber:

1. That his or her interexchange carrier account status may have changed and that such change could result in billing changes.

2. That questions regarding any change in interexchange carrier's account should be directed to the subscriber's interexchange carrier.

i. Under no circumstances shall a customer be responsible for a "casual calling" or "random calling" rate, charge or fee for a call placed from a telephone line presubscribed to the telecommunications carrier that carried the call and for which the telecommunications carrier has established an account, except where the caller dials an access code to reach the presubscribed carrier.

j. Whenever a telephone number change or a presubscribed interexchange carrier assignment change or reactivation is made to a telephone line, the local exchange carrier which made the change or reactivation shall, within three (3) business days of the implementation of the change or reactivation, notify the beneficiary interexchange carrier. Within thirty (30) days after provision of such notice, the beneficiary interexchange carrier shall attempt to contact the subscriber if no active account exists for the affected line. For purposes of this subdivision, "beneficiary interexchange carrier" means the interexchange carrier associated with the presubscribed interexchange carrier code that becomes assigned to the telephone line pursuant to any of the changes described in this subdivision.

2.9 Non-Interruption of Basic Telephone Service Due To Reseller Inability to Serve.

a. No local exchange carrier shall discontinue service to a reseller without first providing notice to the reseller and the Commission.

b. Any reseller whose service has been, or is about to be, discontinued shall immediately provide notice to its customers of the reseller's cessation of operations. Such notice shall advise customers of the expected date the reseller's service will cease and shall include a statement advising customers that they should review their telephone directory to determine what other local exchange carriers may be willing and able to provide service to the customer.

§150.6-3. Engineering.

3.1. Construction.

~~The telecommunications~~ Telecommunications plant shall be designed, constructed, maintained, and operated in accordance with the provisions ~~as~~ outlined in the current National Electric Safety Code or REA Rural Utility Service Standard, or such other appropriate regulation as may be prescribed.

~~3.2. Inter exchange trunks.~~

~~Inter exchange trunks or toll circuits shall be full metallic or equivalent (e.g., microwave, carrier, fiber optic or waveguide).~~

~~3.3. Grounded circuits.~~

~~Grounded circuits will not be permitted except for signaling purposes.~~

~~3.4. Selective ringing.~~

~~In providing new dial central offices, the telephone company shall provide, as a minimum, full selective ringing on all two (2) party and four (4) party lines and semi selective ringing on all remaining multi party lines until upgraded.~~

3.25. Switching service.

In order to provide and maintain the best possible service for all telephone customers, the telephone company shall not be required to provide exchange or message toll switching services to lines that introduce energy into the network at levels of frequencies that will interfere with other users.

3.36. Emergency operation.

~~a3-6-1.~~ The telephone company shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of personnel, or from fire, storm, or other acts of God, and the telephone company shall inform employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telephone service.

~~b3-6-2.~~ It is essential that all ~~central offices~~ switching locations have some provision for emergency power. At switching locations ~~in offices~~ without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on short notice.

~~c3-6-3.~~ At switching locations serving in excess of ~~in~~ exchanges exceeding five thousand (5,000) lines, a permanent auxiliary power unit shall ~~should~~ be installed.

~~d3-6-4.~~ Selective interruption of telephone service may be necessary to ~~insure~~ insure continuance of service to essential users during emergency conditions.

3.47. Construction work near utility facilities.

~~a3-7-1.~~ Upon receipt of written or verbal notification from the property owner, or from a contractor, of work ~~which that~~ that may affect its facilities used for serving the public, the telephone company shall investigate and decide what action, if any, must reasonably be taken to protect or alter telephone facilities in order to protect service to the public and to avoid unnecessary damage, such as identifying in a suitable manner the location of any underground facilities which may be affected by the work.

~~b3.7.2.~~ The telephone company shall take such action as is reasonably and legally necessary to protect, remove, alter, or reconstruct its facilities, and shall perform such work with reasonable dispatch taking into account the conditions to be met: **Provided**, ~~that~~ nothing in this subdivision Rule shall be deemed to affect any right which the telephone company may have to require advance payment or adequate assurance of payment of the reasonable cost thereof to the telephone company by the property owner or contractor.

~~c3.7.3.~~ The telephone company may, in order to protect its interest, require that the owner or contractor perform certain work upon that part of the service piping or wiring on, or being removed from, the property on which the work is being performed. This subdivision Rule is not intended to affect the responsibility of the contractor or owner, or the liability or legal rights of any party.

~~d3.7.4.~~ The telephone company shall provide a listing in each of its directories advising the public and contractors of an appropriate office to call for guidance and directions for performing excavations, etc., near telephone facilities.

~~§150-6-4. Metering, inspections and tests.~~ Testing.

4.1. Provisions for testing.

The telephone company shall provide or have reasonable access to test facilities which will enable it to determine the operating and transmission capabilities of circuit and switching equipment, ~~either~~ for routine maintenance, or for fault location and for purposes of reasonable testing requested by Commission Staff for good cause, such as complaint resolution or service quality inspection.

~~4.2. Meter reading records.~~

~~When meters are used in connection with telecommunications service the meter reading data and related customer records from which the customer's bills are prepared shall show:~~

~~4.2.1. Identifying number or means to determine readily the customer's name, address and service classification.~~

~~4.2.2. Meter readings.~~

~~4.2.3. Date of meter reading.~~

~~4.2.4. Multiplier or constant, if used.~~

~~4.3. Meter reading interval.~~

~~As nearly as practicable, meters shall be read at intervals to correspond to customer billing periods.~~

~~4.4. Meter and recording equipment test facilities.~~

~~4.4.1. The telephone company furnishing telecommunications service, where local exchange billing is based on the number and/or duration of messages, shall provide the necessary facilities, instruments and equipment for testing its metering or recording equipment. The telephone company may be exempted from this requirement by the Commission: Provided, That satisfactory arrangements are made for test of its meters and recording equipment by another telephone company or approved agency.~~

~~4.4.2. The overall accuracy of the test equipment and test procedure shall be sufficient to enable test of meters and recording equipment within the requirements of these Rules.~~

~~4.5. Meter and recording equipment requirements.~~

~~All meters and/or recording devices used to record data and prepare customers' bills shall be in good mechanical and electrical condition, shall be accurately read and shall not involve approximations. All meters and/or recording devices shall accurately perform the following:~~

~~4.5.1. For message rate service, where timing of length of message is not involved, the meter and/or recording device shall show the number of completed messages sent by the station which it is measuring.~~

~~4.5.2. Where a meter is associated with the station making the call, the meter shall accumulate the number of message units used for these calls.~~

~~4.5.3. Where the recording equipment provides coded information that is used to automatically prepare customer bills, accurate interpretation of such coded information is required and must be provided the Commission on request.~~

~~4.6. Initial test.~~

~~Every telephone meter and/or recording device shall be tested for accuracy when released for service, either by the manufacturer, the telephone company, or an approved organization equipped for such testing.~~

~~4.7. As found tests.~~

~~All meter and/or recording devices tested in accordance with these Rules for routine testing for complaint purposes shall be tested in their normal operating location and wiring made prior to removal or adjustment.~~

~~4.8. Routine tests.~~

~~The telephone company shall adopt appropriate practices for the periodic testing and maintenance of its controlling trunk equipment associated with the meters and/or recording devices to assure the integrity of their operation.~~

~~4.9. Request tests.~~

~~Upon request of any customer the telephone company shall make a test of any meter and/or recording device related to his/her billing: **Provided**, such request is not made more frequently than once each six (6) months.~~

~~4.10. Referee tests.~~

~~Any customer, by written application to the Commission, may have a test of any meter and/or recording device related to his/her billing, conducted by the telephone company in the presence of a representative of the Commission: **Provided**, such application is not made more frequently than once in six (6) months.~~

~~4.11. Test records.~~

~~A record of all meter and/or recording equipment tests and adjustments and data sufficient to allow checking of the results shall be recorded. Such record shall include: the identifying number of the meter and/or recording device; its type; the date and kind of test; and, the results of each test.~~

§150-6-5. Records and reports receipts.

5.1. Location of records.

~~Unless otherwise authorized by the Commission, a~~All records required by these rules shall be kept within the State. ~~Such records shall be~~ made available to the Commission or its authorized representative at any time upon request.

5.2. Preservation of records.

All records required by these rules shall be preserved for the period of time specified in the current edition of the Federal Communications Commission's records retention schedule, unless otherwise specified by the ~~Public Service Commission of West~~

Virginia.

5.3. Service Quality Reports.

~~The telephone company~~ Each local exchange carrier shall submit to the Commission appropriate annual reports describing its performance with respect to the standards of service prescribed herein. All statistics and measurements will normally be reported on a West Virginia operations basis and shall be a product of the ~~normal Company's~~ carrier's normal measurement techniques. These reports shall be due in the Commission's office by no later than March 1 of each year within forty five (45) working days after the end of the period to be reported.

As the ~~Company~~ local exchange carrier changes or improves its measurement procedures, the comparative data shall also be changed and the Commission apprised of the nature of ~~the~~ each change coincident with the first report under the new procedure.

The annual data report to the Commission shall follow the format shown on P.S.C. W.Va. Form No. T-1.

5.4. Financial and Statistical Report format.

~~The annual data report to the Public Service Commission shall follow the format shown on P.S.C. Form No. T-1.~~

a. Telecommunications carriers shall file annually a financial and statistical report upon forms to be furnished by the Commission or as otherwise designated by Commission Staff. This report shall be based upon the accounts set up in conformity with the Commission's order and rule, as set out in §150-6-1.8. of these rules. The report shall be filed on or before March 31 of each year, or at such date as the Commission may direct.

b. An interexchange carrier with annual gross revenues of less than one million dollars (\$1,000,000) from operations within the state is not required to file an annual financial and statistical report unless the carrier has also been certificated as a local exchange carrier.

c. Cellular and wireless service carriers that have not been certificated as local exchange carriers are not required to file an annual financial report, except as otherwise required by 150 C.S.R. Series 25.

d. All telecommunications carriers shall keep the Commission timely apprised of the following information and any changes to such information:

1. The carrier's legal name.
2. All business names used by the carrier in West Virginia.
3. The name, title, mailing address, telephone number, telefacsimile number and e-mail address of the carrier's point of contact for regulatory matters in West Virginia.

5.5. Management audits.

a5.5.1. Scope. — To establish a procedure for examination of management practices and policies to determine whether the entity being audited is operating with efficiency and utilizing sound management practices. The purpose of a management audit is to disclose operating areas that are efficient or inefficient, to identify areas for improvement, and to form recommendations for changes. The results of a management audit and the response of the utility to the recommendations and implementation plans developed pursuant to a management audit may be a factor in determining just and reasonable rates, as set out herein.

b5.5.2. Types of management audits. — The following types of management audits, which vary in scope, may be directed and utilized by the Commission:

1a. Comprehensive. — An investigation characterized by an extensive, detailed analysis of a utility's management and operations.

2b. Reconnaissance. — A broad review, similar in scope to a comprehensive audit, but in less detail. The objective of this type of audit is to identify specific areas for more intensive investigation based upon the magnitude of the problem identified or the potential benefits to be derived.

3c. Focused. — An in-depth investigation of one (1) or more ~~several~~ specific areas of a utility's management and operations.

c5.5.3. Frequency. — The Commission shall order a management audit of any utility under its jurisdiction whenever the Commission deems it necessary to investigate the operational efficiency of the utility. Such factors as the cost of the management audit and the potential benefits of such audit may be taken into consideration. The Commission may accept or request a management audit performed under the rules of another jurisdiction in satisfaction of this subsection rule when that audit is of the scope contemplated by the Commission, conforms to the standards

herein set forth and covers the utility's service functions in its West Virginia jurisdiction.

d5.5.4. Conduct and control of management audits. —

1a. The Commission may choose to have the audit performed by ~~its~~ Commission Staff or contracted to a qualified outside auditing firm. In the latter case, the Commission may supervise the selection process. If the management audit is to be conducted by an auditing firm, the Commission's order initiating the audit shall include provision for the development of the request for proposal (RFP), the consultant selection process and Commission Staff's assistance and supervision during the audit.

2b. The Commission may impose eligibility restrictions upon contractors relating to past, current, and post-audit relationships with the utility.

3c. The utility is expected to cooperate to the fullest extent with the performer of a Commission ordered management audit. A responsible employee shall be appointed by the utility as its management audit coordinator, who shall be responsible to assist in the efficient performance of the management audit.

e5.5.5. Costs of management audits. — It shall be the responsibility of the audited utility to pay for a contracted audit. The Commission shall include the reasonable cost of conducting the contracted management audit in the cost of service of the utility. The Commission may allow such costs to be recovered in the utility's next general rate case following completion of the audit, or the Commission may order such costs to be amortized over a reasonable period of years, considering the impact of these costs on both the utility and its customers.

f5.5.6. Implementation of management audit recommendations. —

1a. Draft report. —

A. Upon completion of the audit a draft report shall be submitted to the utility for comments.

B. The auditor and utility Company representatives shall conduct a draft review meeting subsequent to the distribution of the draft review report.

2b. Final report. —

A. A final report shall be submitted to the

Commission no later than thirty (30) days after the submission of the draft report to the utility.

B. Within thirty (30) days of the final submission of the management audit report, the utility shall file a document detailing its position on each audit recommendation. This document must state which recommendations are acceptable to the utility and the nature of the utility's disagreement with any recommendations.

3e. The Commission may, after hearing, issue an order prescribing the recommendations that ~~which~~ should be adopted by the utility.

4d. The utility shall file detailed implementation plans for the Commission's review and approval within the time specified in the Commission's order prescribing which recommendations the utility should adopt. The utility shall not deviate from an approved implementation plan without prior notice to the Commission which specifically states the utility's reasons for departing from the approved plan.

5e. At the direction of the Commission, a follow-up audit may be performed to review the progress of the utility in implementing the approved plans and the results of previously performed management audits.

6f. A management audit report and implementation plan adopted pursuant thereto and any follow-up audit may be used by parties in a general rate case subsequent to the management audit. Such audits and implementation plans may be a factor in the determination of just and reasonable rates if introduced as an exhibit and subjected to normal due process procedures.

7g. The Commission may grant an extension of the time limits established in this subsection ~~Rule upon a showing of~~ for good cause shown ~~for such extension.~~

§150-6-6. Standards of quality of service.

6.1. Basic telephone company obligations.

~~a6.1.1.~~ The telephone company shall provide telecommunications service to the public in its service area in accordance with its rules and tariffs approved by and on file with the Commission.

~~b6.1.2.~~ The telephone company shall employ prudent management and engineering practices, including the employment of reliable procedures for forecasting future demand for service, to

the end that reasonable margins of facilities and adequate personnel are available to ensure that service will meet the standards of quality described herein.

c6.1.3. The telephone company has the obligation of continually reviewing its operations to assure the furnishing of service in accordance with the standards set forth herein. Studies shall be made and records maintained to the extent, and with the frequency necessary, to determine that sufficient and suitable equipment and an adequate operating force are provided.

d6.1.4. The telephone company shall maintain records of its operations in sufficient detail as is necessary to permit review of service quality, and such records shall be made available for inspection by the Commission, upon request, at any time within the period prescribed for retention of such records.

e6.1.5. Where a telephone company is generally operated in conjunction with any other enterprise, suitable records shall be maintained so that the results of the telephone operation may be determined upon reasonable notice and request by the Commission.

f6.1.6. Suitable practices shall be adopted by the telephone company to ensure that employees are courteous, considerate, and efficient in the handling of all calls, and comply with the provisions of all applicable Federal and State laws in maintaining secrecy of communications.

g6.1.7. Upon reasonable requests the telephone company shall provide verification of busy lines.

h. Subscriber loop requirements.

1. Where analog voice telecommunications service is provided to a subscriber, the local distribution circuit (loop) shall meet the following specifications when measurements are taken at the local exchange carrier's NID connecting point:

- A. Loop current: 20 mA to a 400 ohm load.
- B. Circuit loss: (-)8.5 db or less.
- C. Circuit noise: 20 dbmC or less.
- D. Power influence: 80 db or less.
- E. Balance (power influence minus circuit noise): 60 db or more.

2. Where digital telecommunications service is

provided to a subscriber, the local exchange carrier shall meet or exceed the minimum data transmission speed for the specific digital telecommunications service provided to the subscriber. Each digital telecommunications service offering shall be set forth in the carrier's Commission-approved tariff.

6.2. Service standards.

a6.2.1. Request for new service. —

1a. The telephone company shall endeavor to satisfy requests for the installation of local exchange service within five (5) working days after receipt of application.

2b. Installation intervals beyond five (5) working days are appropriate in those instances where a later installation date is requested by the applicant, where special equipment or services are involved, where installation ~~forces~~ personnel are busy restoring services due to interruption caused by emergency situations, where materials cannot be obtained through no fault of the company, and during unusual ~~rush~~ periods caused by seasonal factors or work stoppage. Normally, the telephone company is expected to complete at least ninety percent (90%) ~~seventy five percent (75%)~~ of requests for new service within five (5) working days when no special equipment or significant construction is involved.

3c. Whenever, for any reason, the service installation cannot be made on the day requested by the applicant or within the prescribed interval, the applicant ~~will~~ shall be notified promptly of the delay, the reason therefore, and the approximate date when the installation will take place.

4d. When the request for new service requires an unusually large amount of construction outside the Base Rate Area and is on public right-of-way, the customer may be required to pay a portion or all of the costs associated with the required construction. However, these charges are applicable only when the revenue to be received by the telephone company or the immediate prospect of securing sufficient additional revenue, or both, does not justify the necessary investment.

5. When the construction for which the telephone company has made a cash construction charge is utilized by the telephone company for the purpose of serving additional customers or for supporting other telephone facilities, the telephone company shall refund a portion or all of the amount charged. Refund periods must be consistent with ~~that~~ those used to justify the necessary investment. Specific regulations for construction charges and refunds, relating to construction on public and private

right-of-way, shall be detailed in each telephone company's tariff.

b6.2.2. Meeting commitments. — The telephone company shall make reasonable diligent efforts to fill, complete fully by the promised date, all regular orders for new or additional service, or for changes in existing services, for which a commitment has been made. Recognizing the many practical factors, such as the need to employ installation personnel forces to restore service interruptions caused by emergency situations, unusual weather conditions or other acts of God, as well as the need to avoid curtail excessive costs, the satisfactory level of performance shall be to meet at least ninety percent (90%) of such commitments. Where the promised date cannot be met, the telephone company shall make reasonable diligent efforts to inform the customer of the delay and a new appointment shall be made within a reasonable time.

c6.2.3. Held orders, and held regrades

~~a. The telephone company shall have as its objective the satisfaction of requests for regrades of local exchange service inside the Base Rate Area within thirty (30) days of the customer's application.~~

1b. During such periods of time as the telephone company may not be able to provide initial local exchange service to an applicant or upgrade modify, as requested, a customer's existing service within thirty (30) days after the date the applicant or customer requests initial service or service modification, desires service, the telephone company shall keep a record, by exchange, showing the name and address of each applicant or customer, the date of application, the desired date for service, the class and grade type of service or service modification applied for, together with and the reason for the inability to provide the new service or higher grade of service modification.

2c. When, because of shortage of facilities, the telephone company is unable to provide local exchange service on dates requested by an applicants, first priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the Commission may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made.

3d. Intervals in excess of thirty (30) days are may be appropriate in those instances requiring significant outside plant construction work or installation of additional switching location central office equipment, or when the applicant or subscriber requests new service or a service modification to be

provided more than thirty (30) days beyond the date of the application a later date.

4e. Whenever, for any reason, ~~a the regrade request for service cannot be filled on the date requested by the subscriber or within the prescribed interval or on a date requested by the customer which is beyond the prescribed interval,~~ the subscriber or applicant shall ~~will~~ be notified promptly of the delay, the reason therefore, and the approximate date when the order will be filled.

6.3. Operator service requirements.

a6.3.1. The telephone company shall provide operator assistance service twenty-four (24) hours a day for all ~~exchanges customers it serves.~~

b6.3.2. Adequate personnel forces shall be provided at operator offices with the objective that at least eighty-five percent (85%) of ~~toll and requests for assistance calls~~ will be answered within ten (10) seconds.

c6.3.3. When an operator is notified by a customer that ~~he/she the customer~~ has reached a wrong number, been cut off, or experienced poor transmission, the customer shall be given appropriate credit when the claim has been substantiated.

6.4. Local dial service requirements.

~~6.4.1. The telephone company shall employ adequate procedures for assignment of facilities. The assignment record shall be kept up to date and checked periodically to determine if adjustments are necessary to maintain proper balance in all trunk and equipment groups.~~

a6.4.2. Switching location ~~Central office~~ capability and equipment shall be provided to meet the following requirements:

1a. Dial tone, or the functional equivalent, within three (3) seconds on at least ninety-eight percent (98%) of calls during the average busy season -- busy hour period.

~~b. Complete dialing of called numbers on at least ninety-eight percent (98%) of calls without encountering equipment irregularities and overflows.~~

2. Satisfactory transmission quality on at least ninety-nine percent (99%) of all calls as measured by sampling or test calling procedures.

3. Satisfactory completion of at least ninety-nine percent (99%) of all calls as measured by sampling or test calling procedures.

~~b6.4.3. Where existing central office equipment will permit, and wWith the exception of numbers that are changed coincident with the issuance of a new directory, intercept service will be provided by the telephone company in accordance with the following: intercept services, either operator or mechanical, shall be provided for each non-working and changed telephone numbers for no less than sixty (60) days, in the case of residential telecommunications service, and no less than one (1) year, in the case of business telecommunications service until assigned, reassigned, or no longer listed in the directory where equipment permits.~~

1. Such intercept service shall, insofar as feasible and appropriate, provide the caller with the replacement telephone number if one exists.

2. In instances where provision of a replacement number is infeasible or inappropriate, the intercept service shall inform the caller that the called number is a non-working number.

3. A telephone number shall not be reassigned until the required intercept service has terminated in accordance with this subdivision.

~~6.5. Inter office service requirements.~~

~~Engineering and maintenance of the trunks and related switching components of the toll network shall be such as to permit a minimum rate of 96% call completion for DDD Calls (incoming trunks) during the average of observed days, on properly dialed calls that do not encounter called number busy, no answer, or proper intercept.~~

6.56. Maintenance requirements.

a6.6.1. The telephone company shall adopt and pursue a maintenance program aimed at preventing service interruptions so as to achieve adequately reliable and efficient operation of its system.

b6.6.2. Maintenance shall include keeping all plant and equipment in a good state of repair consistent with the design capabilities of the plant affected, such as:

a. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced.

~~b. Adjustable apparatus and equipment shall be readjusted as necessary when found to be in an unsatisfactory condition.~~

~~c. Electrical faults, such as leakage or poor insulation, noise induction, cross talk, or poor transmission characteristics, shall be corrected to the extent practicable.~~

~~6.6.3. Records of various tests and inspections shall be prepared. These records shall show the line or station tested or inspected, the reason for the test, the general result of the test, and such corrections as were made when the test indicated need for same.~~

~~c6.6.4. The telephone company shall keep a record showing all of each interruptions affecting service to an entire exchange, and or any other significant important portion of the distribution system company's telecommunications network. This record shall show the date, time, duration, extent, and cause, and resolution of the interruption. A report shall be made that details how the telephone company plans to prevent recurrence of the service interruption. These records and reports shall be made available to Staff upon request.~~

~~d6.6.5. When interruptions occur, the telephone company shall reestablish service with the shortest feasible possible delay. In general, out-of-service troubles should be cleared within twenty-four (24) hours of the time such troubles are reported or otherwise noticed by the telephone company, except when such service interruptions are caused by emergency situations or acts of God affecting large such numbers of customers as to make twenty-four (24) hour service restoration infeasible.~~

~~e6.6.6. Whenever the service must be is interrupted for the purpose of working on transmission facilities or their supporting apparatus or switching location the distribution system or central office equipment, this such work shall be done at a time which will cause the least inconvenience to subscribers, and those who will be most seriously affected by such interruption shall, insofar so far as feasible possible, be adequately notified in advance. The telephone company shall also notify the appropriate 9-1-1 answering center of any planned service interruption that will affect, for one (1) hour or more, two hundred (200) or more access lines served by that 9-1-1 answering point.~~

~~f6.6.7. Repair service shall be available on weekends and holidays, as well as weekdays, for telephones basic service reported to be out of order.~~

~~1a. Arrangements shall be made to receive customer~~

trouble reports twenty-four (24) hours daily and to clear trouble as soon as feasible and at all hours for customers who express a bona fide emergency need for of service, if clearing such trouble is consistent with the personal safety of telephone company personnel. An emergency shall consist of an immediate threat or significant potential threat to the customer's health, or the health of anyone in the customer's household, or to the customer's property life, limb or property.

2b. The telephone company shall provide to customers the telephone number to call for repair service, and calls to repair service shall be available, without toll or unit charges, for calls placed from the exchange in which trouble is experienced. ~~Arrangements shall also be made to take calls for repair service without toll or unit charges from any adjoining exchange in cases where trouble reporting from the adjoining exchange is convenient to the customer.~~ When trouble is apparently located in the connecting company facilities, ~~the,~~ this trouble report shall be referred by the telephone company to the connecting company.

3c. The telephone company shall provide clearly and list in the directory the telephone number to use to call the telephone company's business office, and calls to the business office shall be available, without toll or unit charges, for calls placed from any exchange to the business office for that exchange.

~~6.6.8.~~ The telephone company shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date and nature of the report, the action taken to dispose of the report or satisfy the complaint, and the date and time of trouble clearance or other disposition. This record shall be available to the Commission or its authorized representatives upon request during usual business hours within the period prescribed for retention of such records.

~~6.6.9. Service shall be maintained in such a manner that the average rate of all initial customer trouble reports for a report entity does not exceed seven (7) per one hundred (100) telephones per month.~~

h. The telephone company shall take all reasonable actions to notify a 9-1-1 answering point, or appropriate emergency services personnel, of any service outage that affects, for one (1) hour or more, two hundred (200) or more access lines served by that 9-1-1 answering point.

6.67. Transmission requirements.

Telephone companies shall furnish and maintain adequate plant, equipment and facilities to provide satisfactory transmission of communications between customers in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and cross-talk shall be such as not to impair communications.

6.7~~8~~. Miscellaneous service requirements.

~~a6.8.1.~~ In each exchange, at least one (1) public telephone will be available to the public on a twenty-four (24) hour basis. This public telephone shall be located in a prominent location, provided with a directory and lighted at night, if practicable.

~~6.8.2.~~ ~~The telephone company shall not connect more customers on any line than are contemplated under the grade of service for which the customers on such line are charged.~~

b. The failure of commercial electrical power service to a location with basic local service shall generally not cause the basic local service at the location to fail.

~~6.8.3.~~ ~~All coin operated telephones shall by no later than January 1, 1987, be of such a design that will permit a caller to initiate calls to long distance operators, directory assistance operators, and to the emergency telephone answering point (if one exists in the local area) without first having to insert a coin. The telephones may be of either the dial tone first, or post pay design.~~

§150-6-7. Safety.

7.1. Protective measures.

~~a7.1.1.~~ The telephone company shall exercise reasonable care to reduce the hazards to which its employees, its customers, and the general public may be subjected to by its operations.

~~b7.1.2.~~ The telephone company shall give reasonable assistance to the Commission in the investigation of the cause of accidents, and in the determination of suitable means of preventing accidents.

§150-6-8. Promotional practices.

8.1. Declaration of public policy.

In the public interest and pursuant to the powers vested in it, the Commission declares that any utility in designing and

implementing any promotional practice or practices shall consider what impact, if any, such promotional practice or practices will have upon the conservation of energy and the efficient use of utility plant; and the utility shall not implement any practice or practices which shall have an adverse effect upon conservation, or which cannot be justified from a rate payer benefit/utility cost standpoint.

~~§150-6-9. Local emergency telephone system.~~

[Former Section 9 was moved to 150 C.S.R. Series 25]

~~9.1. Creation of emergency telephone systems.~~

~~9.1.1. A public agency may establish, consistent with these rules, an emergency telephone system within its respective jurisdiction. Nothing herein contained, however, shall be construed to prohibit or discourage in any way the establishment of multi jurisdictional or regional systems, and any system established may include only a portion of the territory of a public agency. To the extent feasible, these systems shall be centralized.~~

~~9.1.2. Every system shall provide access to emergency services organizations, police, fire fighting, and emergency medical and ambulance services and may provide access to other emergency services. The system may also provide access to private ambulance services. The system may also provide the necessary mechanical equipment at the established public agency answering point to allow deaf persons access to the system. In those areas in which a public safety unit of the State provides emergency services, the system shall provide access to the public safety unit.~~

~~9.1.3. The number "9 1 1" shall be used as the primary emergency number whenever practicable. If the use of the number "9 1 1" is not practicable, the telephone company or companies shall make application to this Commission in order to use an alternate emergency telephone number. The Commission encourages the use of "1 9 1 1" as the alternate emergency telephone number.~~

~~9.1.4. The telephone utility in the normal course of replacing or making major modifications to its switching equipment shall include the capability of providing for the emergency telephone system and shall bear all costs related thereto. All charges for other services and facilities provided by the telephone utility, including the provision of distribution facilities and station equipment, shall be paid for by the public agency or public safety unit in accordance with the applicable tariff rates then in effect for such services and facilities.~~

~~9.2. Establishment of emergency telephone systems.~~

~~9.2.1. The telephone utility when establishing a new wire center or when replacing the switching equipment for any existing wire center shall insure that the new switching equipment contains the capability of providing emergency telephone system services.~~

~~9.2.2. The telephone utility shall design the switching equipment used in all new wire centers and in the replacement of existing wire centers to be capable of accessing emergency services by using the telephone number "9 1 1".~~

~~9.2.3. The telephone utility when modifying the existing switching equipment in any wire center shall configure the equipment in a manner that will most easily facilitate the implementation of an emergency telephone system in that wire center, using the telephone number "9 1 1", if practicable.~~

~~9.2.4. Under normal circumstances, the telephone utility shall respond within ninety (90) days to any application for emergency telephone service made by a public agency, emergency services organization or public safety unit. This response shall show the projected cost of the system to the maker of the application and the projected date on which emergency telephone service can be established. A copy of this response shall be filed with the Commission.~~

~~9.2.5. Under normal circumstances where equipment is available, the telephone utility shall have as its objective the satisfaction of all requests for the establishment of emergency telephone service within nine (9) months of the date of a firm order for such service. Under all circumstances, emergency telephone service should be established within twenty four (24) months of the date of such firm order received by the telephone utility.~~

~~9.2.6. The telephone utility shall report to the Commission emergency telephone service it is unable to satisfy within nine (9) months of any application therefor.~~

~~9.2.7. The provision of emergency telephone service shall be made under tariffs approved by this Commission.~~

~~9.2.8. In political jurisdictions served by more than one (1) telephone utility, the telephone utilities shall cooperate in establishing an emergency telephone system. The Utilities Division of this Commission shall, upon request, assist in the coordination of the different telephone utilities. In these political jurisdictions, the telephone utilities shall have as~~

~~their objective the satisfaction of all requests for an emergency telephone system within nine (9) months of the date a firm order for such system is received. Under all circumstances, emergency telephone service should be established within twenty four (24) months of the date of such firm order received by the telephone utility.~~

~~9.2.9. The telephone utilities shall report to the Commission any request for emergency telephone systems involving more than one (1) utility which cannot be established within one (1) year of the date a firm order is received.~~

~~9.3. Reporting requirements of the telephone utility.~~

~~The telephone utility before establishing any wire center, replacing any wire center or making major modifications to any wire center, shall furnish the Commission plans showing that it has complied with the requirements of these rules. "Major Modifications" is hereby defined to be a central office modification affecting level assignments, thousands levels or trunking.~~

~~9.4. 9-1-1 rule regarding telephone directory emergency numbers pages.~~

~~9.4.1. Telephone directories shall list, on the inside of the directory front cover or on the front page of the directory, otherwise known as the emergency calling information page, all emergency service providers accessible from the exchanges covered by the directory on a local call and/or 9-1-1 basis: **Provided,** That, if a 9-1-1 system serves any portion of the area covered by the directory, the emergency calling information page shall boldly and prominently display the 9-1-1 telephone number. Furthermore, all major public agencies such as, municipal police, fire, ambulance, sheriff and state police, that are accessible by calling 9-1-1 shall be listed in close proximity to the 9-1-1 listing along with the appropriate agency generic symbols.~~

~~9.4.2. Each telephone directory shall have a page immediately following the emergency calling information page which shall clearly list the name and seven (7) digit non emergency administrative telephone number of each individual emergency services provider which serves any portion of the area covered by the telephone directory. Such listings shall be grouped by service type (e.g., ambulance, fire, law enforcement, rescue, etc.) and the listings shall be arranged alphabetically within the service type grouping. Where appropriate, subgrouping by county may be done. The seven (7) digit non emergency administrative telephone number of each 9-1-1 Public Safety Answering Point which serves any portion of the area covered by the telephone directory shall be~~

~~prominently displayed at the top of the page.~~

~~9.4.3. Where an entire directory coverage area is not covered by 9-1-1, the emergency calling information page shall list the seven (7) digit telephone numbers of all directory coverage area Public Safety Units not accessible by calling 9-1-1. The emergency calling information page shall, at least, clearly show which emergency calls should be made to 9-1-1 and which should be made to other emergency telephone numbers listed on the page.~~

~~9.4.4. Additional information regarding emergency calling, as is beneficial to the public interest, may appear on the emergency calling information page.~~

~~9.4.5. Each and every local exchange telephone carrier responsible for a telephone directory emergency calling information page shall submit each emergency calling information page and the page immediately following to the Public Service Commission for review, by informally filing same with the Public Service Commission's Telecommunications Section, before said pages are published. Such submittals shall be sent at least thirty (30) calendar days prior to the deadline for making changes.~~

\$150-6-9. Accelerated rate filing procedures for interexchange services.

This section sets forth a procedure for telecommunications carriers seeking to implement new or changed interexchange rates, charges or service offerings.

9.1. A telecommunications carrier seeking to implement a new or changed interexchange rate, charge or service offering shall file a proper tariff with proper tariff notations reflecting such changes.

9.2. A telecommunications carrier seeking to implement a new or changed interexchange rate, charge, or service offering must provide fourteen (14) days' notice of the new or changed interexchange rate, charge or service offering to affected customers. The form and format of such notice shall be as reasonably determined by the carrier, unless otherwise directed by Commission Staff. As part of the tariff or other filing implementing the new or changed interexchange rate, charge, or service offering, the carrier shall fully advise Commission Staff of the public notice the carrier proposes to provide. Such new or changed interexchange rate, charge, or service offering shall become effective upon the expiration of the fourteen (14) day notice period, unless otherwise ordered by the Commission.

9.3. Promotions of ninety (90) days duration or less that

affect interexchange services need not be tarified.

9.4. Filings made pursuant to this Section shall be accompanied by the following:

a. A statement, consistent with Rule 41 of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle, CSR \$150-2-18.1, or successor rules and regulations.

b. A description of the notice given to the public. If a bill insert is used to provide notice, a copy of the bill insert shall be included.

\$150-6-10. Reduced telephone rates for certain low-income residential customers.

10.1. Lifeline Requirement ~~Tariff filings.~~

Every local exchange carrier telephone utility, except cooperative telephone utilities, which provides local exchange dial access line service within the State of West Virginia subject to regulation by the Commission shall, within fifteen (15) days of the adoption of this rule, submit tariff sheets to the Commission for its approval containing a pursuant to tariff, offer a Tel-assistance Residential Service rate schedule. The Tel-assistance Residential Service rate schedule shall provide special reduced rates for certain low income residential customers and shall clearly state the availability of service, the eligibility conditions, the type of service to be offered, the restrictions on service, and the applicable rates and charges as set forth in the subsequent sections of this section rule and in West Virginia Code, Chapter 24, Article 2C. ~~Such tariffs, once approved, shall not be changed or modified without prior Commission approval.~~

10.2. Provision of ~~t~~Tel-assistance residential service.

~~a~~10.2.1. Tel-assistance service shall be made available only to qualified low income customers who are:

~~1~~a. ~~E~~ither disabled or age sixty (60) or older;
and

~~2~~b. West Virginia Works (or its successor program) benefit recipients, social security supplemental security income (SSI) benefit recipients, aid to dependent children (AFDC) benefit recipients, aid to dependent children-unemployed (AFDC-U) benefit recipients, food stamp recipients or customers whose total household income is at or below the income level established for

SSI eligibility.

~~b10.2.2.~~ Tel-assistance residential service shall consist of an individual, residential local exchange dial access line and an allowance for usage. "Usage" means the usage-sensitive charges for all local, extended area service and toll calls provided by the telephone utility furnishing the ~~t~~Tel-assistance service. This includes all intraLATA toll calls billed by the local exchange carrier. This service shall be provided through an individual measured or message line at the lowest priced service option available. ~~If measured or messaged line service cannot be provided, the highest grade of multi party service available (which shall be deemed to be one (1) party service where no multi party service is available) shall be provided at the tel-assistance rate until measured or message service is available.~~ No other local exchange voice telephone service may be provided to the dwelling place of a ~~t~~Tel-assistance customer, nor may ~~individual line~~ foreign zone or foreign exchange service be provided.

10.3. Rates and charges.

~~a10.3.1.~~ The monthly ~~t~~Tel-assistance rate shall be set initially by the Commission at the lower of:

1a. ~~T~~he lowest priced eligible service available to the customer at the time of his or her ~~his/her~~ application, ~~;~~ or

2b. ~~S~~even dollars and fifty cents (\$7.50).

~~b10.3.2.~~ This rate shall allow the customer two dollars (\$2.00) in usage and free optional toll blocking service. All usage in excess of two dollars (\$2.00) shall be charged to the customer at the otherwise applicable tariff rate.

~~c10.3.3.~~ The Commission may, upon having set the rate initially for ~~t~~Tel-assistance, change such rate from time to time upon a finding that it is reasonable to do so, and may, in connection therewith increase or decrease the usage allowance.

~~d10.3.4.~~ A local exchange carrier ~~telephone utility~~ may not impose an order processing charge or line connection charge in changing a customer to or from ~~t~~Tel-assistance service. However, charges for other allowed services, including those for installing service or for moving a customer's service from one (1) dwelling to another, shall be made at the otherwise applicable tariff rate.

10.4. Carrier's Utility's responsibility upon application.

~~a10.4.1.~~ Local exchange carriers ~~Telephone utilities~~ required to offer ~~t~~Tel-assistance service shall accept applications

for such service from:

- 1a. Any current customer; and
- 2b. Any person who subsequently becomes a customer.

~~b~~10.4.2. "Customer" shall mean, for the purpose of this section Rule, the member of the household in whose name telephone service is provided. In determining whether an applicant is eligible to receive tTel-assistance service, a local exchange carrier utility is entitled to rely upon the information provided to it directly or indirectly by the West Virginia Department of Health and Human Resources Services (or successor agency) pursuant to West Virginia Code ~~§24-2C-4(c)~~.

~~c~~10.4.3. Each local exchange carrier utility offering tTel-assistance service shall maintain documentation regarding the resolution of individual applications. The information contained in said records shall include names, addresses or other information which adequately identifies the applicant, the application date, the basis source of eligibility, and the date on which tTel-assistance service is approved or denied.

~~d~~10.4.4. Any customer who ceases to receive service under a Tel-assistance Residential Service rate schedule must reapply in order to receive such service again.

10.5. Certification of revenue deficiency.

~~a~~10.5.1. On or before ~~the first day of~~ March 1 of each year, each local exchange carrier utility offering tTel-assistance service may make application to the Commission for a determination and certification of the revenue deficiency, except that caused by free toll blocking service, which it has experienced during the previous calendar year. Subsequently, the Commission will enter an order certifying the amount of the revenue deficiency. If a local exchange carrier does not make application for certification of revenue deficiency for any calendar year, that local exchange carrier must, by March 1 of the following year, fully report to the Commission the extent of its actual provision of Tel-assistance service.

~~b~~10.5.2. The local exchange carrier's utility's revenue deficiency shall be calculated as the difference between revenues received from customers participating in tTel-assistance service and the revenues which would have been received at full tariff rates for the same service as being provided under tTel-assistance.

~~c~~10.5.3. Applications for determination and

certification of a local exchange carrier's utility's revenue deficiency shall be made in the format ~~to be~~ prescribed by the Commission. All information submitted in such this application shall be verified by the local exchange carrier utility to be true and accurate to the best of its knowledge and information.

10.6. Notice to customers.

The local exchange carriers telephone utilities subject to this section rule shall adopt policies for providing notice to their customers of the availability of and advantages of the Tel-assistance program.

10.7. Additional Lifeline Service Provided by Local Exchange Carriers.

a. In order to qualify for federal Lifeline assistance, a local exchange carrier shall offer, pursuant to tariff, the same Lifeline service, and at the same rates, to all customers who would qualify for Tel-assistance service if Tel-assistance service did not have an age or disability requirement. To receive federal Lifeline support for qualified subscribers, local exchange carriers must also file a tariff demonstrating compliance with all additional qualifications for Lifeline support established in the applicable Federal Communications Commission regulations.

b. Unless otherwise authorized by state law, revenue deficiencies associated with the service described in §150-60-1-10.7.a. shall not be recoverable through Commission certification to the West Virginia Department of Taxation and Revenue of such shortfall. Additionally, the amount of federal Lifeline support received by a local exchange carrier shall be reported to the Commission in the carrier's application for recovery of revenue deficiencies and shall be deducted from the revenue deficiency.

c. In order to increase the amount of federal Lifeline assistance it receives, a local exchange carrier may, pursuant to tariff, modify its Tel-assistance offering and the offering described in §150-6-10.7.a., to increase the benefit to eligible subscribers: **Provided**, that additional revenue losses incurred pursuant to such action shall not be certified to the West Virginia Department of Taxation and Revenue for purposes of recovery by the local exchange carrier of shortfalls, except as provided in §150-6-10.7.b.

~~§150-6-11. Customer owned public telephones.~~

~~11.1. Certification and Registration requirements.~~

~~11.1.1. Each customer owned public telephone (COPT)~~

~~provider shall be required to obtain a Commission certificate. No COPT shall be entitled to receive access to local exchange carrier service unless the COPT provider has received certification from the Public Service Commission. When a COPT provider applies for a certificate the applicant shall provide the information contained on 11.1 FORM A.~~

~~11.1.2. Each COPT instrument must be registered with the Public Service Commission prior to being placed into service. COPT providers must file 11.1 FORM B for each COPT instrument it places in service. There shall be an annual non-refundable twelve dollar (\$12.00) fee per instrument, or such amount that the Commission may establish in the future. In order for a local exchange carrier to provide network access to a COPT instrument, the instrument must be registered with the Public Service Commission.~~

~~11.2. Rates and charges.~~

~~11.2.1. Except as otherwise provided in the applicable tariffs of the local exchange carrier serving the COPT, COPTs shall be required to subscribe to one (1) party measured (or message) business service unless such service is not available from the local exchange carrier serving the COPT.~~

~~11.2.2. Where one party measured (or message) business service is not available from the local exchange carrier serving the COPT, the COPT shall subscribe to a one party flat business rate.~~

~~11.2.3. A COPT shall charge no more for any local call than is allowed by the applicable rate ceiling on file with the Public Service Commission (11.1 FORM B). Rate ceilings must be approved by Public Service Commission order.~~

~~11.2.4. No COPT shall charge, for any completed intrastate toll call, more than fifty cents (\$.50) over what the benchmark toll carrier (as determined by Public Service Commission order) would charge for a comparable completed intrastate toll call. The following shall be prominently posted on the COPT instrument: Charges for intrastate long distance (toll) calls shall not exceed \$.50 over the rates currently charged by [NAME OF PSC-DESIGNATED DOMINANT TOLL CARRIER] for similar calls.~~

~~11.2.5. There shall be no charge for uncompleted calls.~~

~~11.3. Operational and maintenance requirements.~~

~~11.3.1. All COPTs shall comply with generally accepted telecommunications industry standards, Public Service Commission~~

~~Rules and Regulations, applicable local ordinances and the current National Electric Code and National Electrical Safety Code.~~

~~11.3.2. COPTs shall be maintained and operated in accordance with generally accepted telecommunications industry standards and Public Service Commission Rules and Regulations.~~

~~11.3.3. COPTs shall be hearing aid compatible as defined by the Federal Communications Commission.~~

~~11.3.4. Each COPT shall be connected to the serving local exchange carrier's public switched telephone network facilities by means of its own dedicated, non switched voice grade (or better) landline circuit, or by means of wireless facilities which provide (at least) the same grade of service as do voice grade landline facilities. Where a COPT is connected to the public telephone network by means of wireless facilities, the following shall be prominently posted on the COPT instrument: THIS TELEPHONE USES A WIRELESS (RADIO) SIGNAL WHICH MAY BE SUBJECT TO "ELECTRONIC EAVESDROPPING."~~

~~11.3.5. A COPT user shall be able to pay for completed calls by using coins, credit card numbers, third number billing or collect calling.~~

~~11.3.6. COPTs shall automatically return unused coins, but need not provide change for over payment due to use of coins of greater denomination than required.~~

~~11.3.7. A COPT shall be capable of receiving incoming calls without charge to the answering party and be equipped with working ringers or equivalent audible signaling devices unless the COPT is conspicuously marked as being unable to receive incoming calls.~~

~~11.3.8. Calls made to COPTs which disallow incoming calls shall be automatically intercepted by the serving local exchange carrier (or another carrier designated by the local exchange carrier) at no charge to the calling party. The calling party shall be informed that he or she has attempted to reach a public telephone which does not accept incoming calls.~~

~~11.3.9. COPTs shall be equipped with tone signaling.~~

~~11.3.10. COPT instruments shall be registered with the Federal Communications Commission pursuant to the provisions of 47 CFR Part 68.~~

~~11.3.11. COPTs shall fully participate in Enhanced 9 1 1 programs when the COPT is located in a service area covered by an~~

~~Enhanced 9 1 1 system.~~

~~11.3.12. Each COPT, except those used primarily by inmates of prisons, jails, etc. or those COPTs where other alternative public services are readily available or for good cause shown shall allow free access, without the need to insert a coin, to:~~

- ~~a. "0" Operator~~
- ~~b. "9 1 1"~~
- ~~c. "Local" directory assistance~~
- ~~d. "800" telephone numbers~~

~~11.3.13. Calls to "9 1 1" unless the COPT station (where allowed to do so by Public Service Commission rules or order) does not permit such calls, shall automatically route to the 9 1 1 center serving the COPT location. If the COPT location is not served by a 9 1 1 center, allowed calls to "9 1 1" shall route to an "0" type operator.~~

~~11.3.14. A non coin extension telephone station may be connected to a COPT line if, for each such extension telephone station, adequate circuitry is employed at all times in conjunction with the extension such that the extension station may not be used to listen to COPT conversations or to in any way interrupt a COPT call in progress.~~

~~11.4. Information to be displayed on a COPT.~~

~~11.4.1. The following information shall be conspicuously and clearly displayed on each COPT:~~

~~a. Operating instructions, including how to place toll calls, when toll calling is allowed, over the facilities of the inter-exchange carrier serving the COPT's location and how to access local directory assistance, (except inmate COPTs which do not allow access to local directory assistance).~~

~~b. Rates for local calling and directions regarding how to use the COPT to obtain, without charge, other applicable rate information.~~

~~c. The party to contact and the telephone number for refunds and service complaints and language explaining that this is the party to contact for refunds and service complaints.~~

~~d. The COPT provider's name, address, telephone~~

~~number and the COPT's Public Service Commission registration number.~~

~~e. The location of the COPT.~~

~~11.5. Violations and penalties.~~

~~Unauthorized COPT providers and/or COPT providers who are providing service not in accordance with any of the above prescribed rules and regulations shall be subject to the penalties imposed by State law or Commission Rules and Regulations.~~

\$150-6-11. Payphones.

11.1. Registration Requirement.

a. Each payphone service provider (PSP) that provides public telephone service from more than three (3) noncontiguous locations in West Virginia shall register with the Commission. Registration shall be accomplished by completing Form P.S.C. W.Va. 11-1. Any and all changes in the information provided on Form P.S.C. W.Va. 11-1 shall be reported to the Commission within thirty (30) days of the change.

11.2. Rates and Charges.

a. There shall be no charge for calls made to 9-1-1 or to "0" type operator service.

b. There shall be no charge for uncompleted calls.

c. There shall be no charge for calls to telephone company operators for dialing instructions or rate information.

d. There shall be no charge for access to Telecommunications Relay Service.

11.3. Operational and Maintenance Requirements.

a. All payphones shall comply with generally accepted telecommunications industry standards, Commission rules and regulations, applicable local ordinances and the current National Electric Code and National Electrical Safety Code.

b. Payphones shall be maintained and operated in accordance with generally accepted telecommunications industry standards, Commission rules and regulations, applicable local ordinances and the current National Electric Code and National Electrical Safety Code.

c. Payphones shall be hearing aid compatible, as defined by the Federal Communications Commission.

d. Payphones shall allow calling via Telecommunications Relay Service.

e. Each payphone shall be connected to the serving facilities by means of its own dedicated, non-switched voice grade (or better) landline circuit, or by means of functionally equivalent wireless facilities which provide (at least) the same grade of service as do voice grade landline facilities. Where a payphone is connected to the public telephone network by means of wireless facilities, the following shall be prominently posted, in capital letters, on the payphone instrument: "This telephone uses a wireless radio signal which may be subject to electronic eavesdropping."

f. Coin-accepting payphones shall automatically return unused coins, but need not provide change for over-payment due to use of coins of greater denomination than required: **Provided**, that payphones shall prominently display a toll-free number where full refund, credit or reimbursement from the payphone service provider can be obtained in event of over-payment.

g. Payphones shall be capable of receiving incoming calls and shall be equipped with working ringers or equivalent audible signaling devices, unless the payphone is conspicuously marked as being unable to receive incoming calls.

h. Payphones shall provide access to all interexchange carriers that provide service in the exchange in which the payphone is located.

i. Payphones shall be equipped with tone signaling.

j. Payphone instruments shall be registered with the Federal Communications Commission pursuant to 47 CFR Part 68, or appropriate superseding regulations.

k. Payphones shall fully participate in the Enhanced 9-1-1 program when the payphone is located in a service area covered by an Enhanced 9-1-1 system.

l. Each payphone, except those used primarily by inmates of prisons, jails, etc., or those payphones where other alternative public services are readily available or for good cause shown, shall allow free access, without the need to insert a coin or to use any other payment method, to:

1. "0-" Operator;

2. 9-1-1; and

3. A payphone service provider employee authorized to handle customer complaints.

m. Calls to 9-1-1, unless the payphone (where allowed by Commission rules or order) does not permit such calls, shall automatically route to the 9-1-1 center serving the payphone location. If the payphone location is not served by a 9-1-1 center, allowed calls to 9-1-1 shall route to a "0-" type operator as specified in §150-6-11.3.o.

n. A non-payphone extension telephone station may be connected to a payphone line if, for each such extension telephone station, adequate circuitry is employed at all times in conjunction with the extension such that the extension may not be used to listed to payphone conversations or to in any way interrupt a payphone call in progress.

o. "0-" calls shall be immediately routed to a live operator fully capable of timely and adequately routing emergency calls made from the payphone's location.

11.4. Information to be Displayed on Payphones.

a. The following information shall be conspicuously and clearly displayed on the front of each payphone:

1. Operating instructions, including how to place toll calls, when toll calling is allowed, over the facilities of the interexchange carrier serving the payphone's location and how to access local directory assistance (except inmate payphones which need not allow access to local directory assistance).

2. Rates for local calling and directions regarding how to use the payphone to obtain, without charge, other applicable rate information.

3. The party to contact and the toll-free telephone number to use for refunds and service complaints.

4. The payphone service provider's name, address and telephone number.

5. The location of the payphone.

6. The name of the interexchange carrier to which the payphone is presubscribed.

b. If the local calling area of the payphone is smaller

than the local calling area of the exchange in which the payphone is located, the payphone shall clearly, completely and in full view of the payphone user, identify the extent of the payphone's local calling area.

11.5. Violations and Penalties.

Payphone service providers that provide service not in accordance with any of the Commission's rules and regulations shall be subject to the penalties imposed by state law or Commission rules and regulations.

\$150-6-12. Intrastate use of automatic dialing and announcing devices.

12.1. Local exchange telephone carriers shall require that users of automatic dialing and announcing devices (ADADs) at all times meet each and every one of the following requirements.

~~a12.1.1.~~ ADADs may not be used between the hours of 9:00 p.m. and 9:00 a.m.

~~b12.1.2.~~ No ADAD may be used for purposes of telephone solicitation unless the ADAD user has previously registered with the ~~Public Service~~ Commission as an ADAD user.

~~c12.1.3.~~ ADAD telephone solicitation messages must contain a preamble identifying the ADAD user, giving the ADAD user's telephone number and address, stating the purpose of the call and informing the called party that he or she is listening to a prerecorded message.

~~d12.1.4.~~ ADADs must automatically release the called party's line within five (5) seconds of the time the ADAD receives notification that the called party has terminated the call in order to allow the called party's line to be used to make or receive other calls.

~~e12.1.5.~~ ADADs must be programmed to skip emergency numbers, pager numbers, mobile numbers, cellular numbers, unlisted numbers, non-published numbers, toll-free numbers and direct-inward-dial numbers.

~~f12.1.6.~~ ADADs must, wherever such service is available, use measured rate telephone service.

12.2. Local exchange telephone carriers shall take reasonable steps to identify ADAD users who are not in full and strict compliance with \$150-6-12.1.a. through 12.1.f. ~~Rules 12.1.1. through 12.1.6., above.~~ When any violation of any portion of \$150-

~~6-12.1.a. through 12.1.f., Rules 12.1.1. through 12.1.6. above,~~ is discovered by a serving local exchange telephone carrier or brought to its attention, the service used by the offending ADAD equipment shall be discontinued after all ~~Public Service~~ Commission requirements regarding service discontinuation are met, until the user of the ADAD equipment can demonstrate that it shall be in compliance with the ~~previously violated~~ rule or rules violated. Any initial violation of \$150-6-12.1.a. Rule 12.1.1. shall result in a warning being issued to the offender. Any subsequent violation shall result in termination of service for thirty (30) continuous days.

12.3. Any suspected violation of any portion of \$150-6-12.1.a. through 12.1.f. Rules 12.1.1. through 12.1.6., above, shall be immediately reported to the Telecommunications Section of the ~~Public Service~~ Commission's Utilities Division.

\$11-50-6-13. Provision of Alternative Operator Services.

13.1. Responsibilities of ~~Operator~~ Service Providers.

~~a13.1.1.~~ Operator service providers shall require their customers (aggregators) to prominently note, on or near telephone sets in guest rooms, dormitories, hospital rooms, etc., and on public and semi-public telephone sets, the following information:

1a. Name, address and toll-free telephone number of the operator service provider providing "0+" service to the associated telephone line.†

2b. Notification that other operator service providers may be used by dialing their carrier access code.†

3c. Complaint procedures and methods for requesting refunds.†

4d. Emergency calling information.†

5e. Dialing instructions for obtaining rate information.† ~~and~~

6f. Amount of surcharge, if any, imposed by the aggregator.

This requirement shall also be in effect for guest room, dormitory, hospital room, public, semi-public, etc., telephone sets owned by operator service providers.

~~b13.1.2.~~ Operator service provider operators shall, upon request and without charge, provide rate information to callers.

~~c13.1.3.~~ Operator service providers shall, upon request and without charge, instruct callers who wish to use another carrier to disconnect and dial the preferred carrier's designated access code. If an operator service provider transfers a caller to his or her preferred carrier, such transfer shall not cause the originating billing point to become anything other than the actual telephone exchange from which the caller is calling.

~~d13.1.4.~~ Operator service providers shall clearly identify themselves to the callers in sufficient time to enable callers to discontinue their attempt to complete a call without charge, whether the calls are handled on a manual or mechanized basis.

~~e13.1.5.~~ Operator service providers shall require, by contract, that their subscribers not block access to local exchange carriers, interexchange carriers or other operator service providers. In the event that an operator service provider believes that blocking at a particular subscriber location is required to prevent fraudulent use of its facilities, the operator service provider can request a waiver from the Commission to permit blocking at that location. Such request will be considered on a location-by-location basis, and will be granted only for such time as is required to eliminate the technical or other problems which make fraudulent use possible. Any waiver request should be limited to a specific location and should include detailed information concerning the location, the number of telephones involved, the servicing operator service provider ~~who serves it~~, the volume of operator service calls originating from that location in the most recent month for which data is available, the amount of commissions paid for the traffic, the type of customer premise equipment ("CPE") used at the location, the changes required to unblock the equipment, the anticipated cost of unblocking, and the time period that is expected to elapse before unblocking will occur. If a waiver is granted because CPE lacks blocking capability, the waiver will be limited to that particular CPE and that particular location.

~~f13.1.6.~~ There shall be no charge for any uncompleted call.

~~g13.1.7.~~ Operator service provider operators shall take service complaints from callers and promptly forward the complaints to the appropriate operator service provider personnel for timely resolution. Operator service providers shall have a toll-free telephone number which users may utilize, twenty-four (24)-hours daily, to voice complaints and make inquiries. Operator service providers shall retain billing data for each call for a minimum of one-hundred eighty (180) days from the date the call is made.

~~h13.1.8.~~ Bills for operator service provider calls shall be sent to the callers or to their designees within sixty (60) calendar days of the date the calls are made.

~~i13.1.9.~~ Each local exchange carrier shall arrange for provision of full-time emergency call routing service to every access line originating in its serving area. Such service may be provided in a telephone exchange by the local exchange carrier serving the exchange or by another operator service provider as designated by the local carrier serving the exchange.

~~j13.1.10.~~ Provision of emergency call routing service shall be subject to all of the following requirements:

1a. The provider shall have a complete and current list of all emergency service telephone numbers for each telephone exchange for which emergency call routing service is offered. These lists shall include, but need not be limited to, the following types of emergency services inasmuch as these services are available:

- A. Local Police;
- B. Fire;
- C. Ambulance;
- D. Rescue;
- E. Sheriff;
- F. State police;
- G. Poison control; and
- H. Bomb squad.

2b. The caller shall not be charged for the routing of an emergency call to the appropriate emergency service provider.

3c. The operator service provider operator shall stay on the call until such time that ~~he or she~~ the operator determines that the caller has been connected to the proper emergency services provider and that the operator is not needed for further assistance, such as providing the caller's location.

4d. The service shall be provided on a full-time basis.

5e. Emergency calls made to an operator service

provider on a "0-" basis shall be immediately and directly routed to the appropriate emergency service provider or to the appropriate ~~"911"~~ 9-1-1 public safety answering point. Such emergency calls shall not be rerouted to another operator service provider nor shall the operator service provider advise the caller that the caller should hang up and try another ~~some other~~ calling method to obtain aid.

~~k13.1.11.~~ An operator service provider shall not receive "0-" calls from a telephone line unless that operator service provider has the capability of providing emergency call routing service for that telephone line's service location.

~~l13.1.12.~~ When a caller seeks to charge a call on a telephone company credit card identifiable as other than that issued by the operator service provider, the caller shall be informed that the operator service provider's rates will apply.

~~m13.1.13.~~ Full toll call detail billing shall not be required for operator service provider bills issued by entities other than regulated telephone utilities.

~~n13.1.14.~~ No operator service provider shall be allowed to bill a caller for any surcharges levied by the business establishment providing the telephone over which the operator services provider was contacted. Only tariffed charges shall be billed by the operator service provider or the operator service provider's billing entity.

~~o13.1.15.~~ Fraud Prevention.

1a. An operator service provider may not bill an aggregator for calls which originated from the aggregator's line through the use of ~~10XXX+; 10XXX+01; 950-XXX; or 1-800~~ access codes (e.g., 10XXX+; 10XXX+01; 950-XXX) or toll-free prefixes (e.g., 1+800, 1+888), or when the call originating from that line otherwise reached an operator position, if the originating line subscribed to outgoing call screening and the call was placed after the effective date of the outgoing call screening order.

2b. An operator service provider may not bill a call aggregator for any charges for collect or third number billed calls, if the line to which the call was billed was subscribed to incoming call screening and the call was placed after the effective date of the call screening service order.

3c. Any calls billed through the local exchange carrier in violation of \$150-6-13.1.o.1 and 13.1.o.2. Rules 13.1.15.a and 13.1.15.b. ~~above~~ must be removed from the call aggregator's bill by the local exchange company carrier upon

identification. If investigation by the local exchange company carrier determines that the pertinent call screening was operational when the call was made, the local exchange company carrier may return the charges for the call to the operator service provider as not billable.

4d. Any call billed directly by an operator services provider, or through a billing method other than the local exchange company carrier, which is billed in violation of \$150-6-13.1.o.1 and 13.1.o.2. Rules 13.1.15.a. and 13.1.15.b. above, must be removed from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the local exchange company carrier. If the local exchange company carrier, after investigation, determines that call screening was subscribed to by the call aggregator, but was not operational at the time the call was placed, the operator service provider shall bill the local exchange company carrier for the call.

~~13.1.16.~~ Operator service providers shall have the ability to perform line busy verification and call-in-progress interruption services or shall, upon request for such service and without charge to the caller, transfer the caller to an operator service provider who can perform such services.

\$150-6-14. Certification requirements applicable to all intrastate telecommunications carriers.

14.1. Certificate Filing Fees.

a. There shall be due a non-refundable filing fee of three hundred dollars (\$300), or such other amount that the Commission may establish in the future, upon the filing of an application for a certificate of convenience and necessity by any individual or entity seeking authority to provide intrastate telecommunications service in the State of West Virginia.

b. Applications for certificates of convenience and necessity seeking authority to provide intrastate telecommunications services that are not accompanied by the appropriate filing fee will not be accepted by the Commission until such time as the appropriate fee is remitted.

c. The filing fee for applications for a certificate of convenience and necessity seeking authority to provide intrastate telecommunications service shall be paid either in cash or by bank check made payable to "The Public Service Commission of West Virginia."

14.2. Additional Requirements Applicable to Local Exchange Carriers.

a. No telecommunications carrier may provide local exchange telecommunications service within the state without first obtaining a certificate of public convenience and necessity from the Commission.

1. All carriers wishing to provide local exchange telecommunications service within the state are required to file with the Commission an original and twelve (12) copies of an application for a certificate of public convenience and necessity. Such application shall contain all the information and exhibits required in §150-6-14-2.b.

2. Each applicant shall publish notice of the application for a certificate of public convenience and necessity to provide local exchange telecommunications service in accordance with West Virginia Code §24-2-11. In addition, notice of the filing of an application for a certificate of public convenience and necessity to provide local exchange telecommunications service shall be provided by the applicant, at the time of the filing, to each Commission-certificated local exchange carrier that has requested, in writing, copies of such filings. Notice of the filing shall also be provided to such other entities as may be required by the Commission.

b. The application for a certificate of public convenience and necessity required by this section shall include the following information:

1. The applicant's business structure (e.g., corporation, general partnership, limited liability company).

2. The names, addresses, telephone and telefacsimile numbers, and e-mail address of the principals of the applicant and the applicant's contact for regulatory matters in the state.

3. A description of the facilities to be constructed by the applicant, if any.

4. A description of the services the applicant intends to provide, including the geographic areas in which the applicant intends to provide service.

5. A statement by the applicant, certifying that the applicant has knowledge of, and is willing to comply with, all applicable Commission rules and regulations: **Provided**, that such certification shall also state that the applicant is willing to:

A. Fully, timely and completely participate in the reasonable provision of access to emergency services,

including, where appropriate, full interface with and support of Basic and Enhanced 9-1-1 services; and

B. Comply with the requirements set forth in Section 251(f) of the Telecommunications Act of 1996 before offering service in any area served by an RTC.

6. An illustrative tariff, setting forth the terms, conditions, rates, charges and regulations pursuant to which the applicant proposes to provide regulated telecommunications service, including:

A. An accurate description of the services the applicant intends to offer;

B. A statement of the terms and conditions of such service offerings;

C. A statement setting forth the rates and charges for such service offerings;

D. A description of the geographic areas the applicant proposes to serve, by exchange; and

E. A statement explaining customers' rights and responsibilities.

7. A demonstration of the applicant's financial and managerial ability to provide the services for which a certificate is sought.

8. A demonstration of the applicant's technical ability to provide service in a manner that will be consistent with the standards of service quality required by the Commission including, but not limited to, assurance that the connectivity of the applicant's network to other carriers will not impair the statewide public switched network.

9. A statement that the applicant will participate, to the extent it may be required to do so by the Commission, in mechanisms providing for the support of universally available telephone service at affordable rates.

c. Except as provided for in §150-6-15.6., the Commission shall grant an application for a certificate of public convenience and necessity to provide local exchange telecommunications services if it finds that granting the application is in the public interest and is otherwise consistent with the requirements of these rules and all applicable federal and state statutes.

d. A certificated local exchange carrier shall not offer local exchange telecommunications service to the public unless and until it has filed for, and received, Commission approval of a tariff governing the terms, conditions, rates, charges and regulations pursuant to which it will provide such service.

1. A certificated local exchange carrier's proposed local exchange telecommunications service tariffs shall be filed with the Commission at least thirty (30) days prior to the date the carrier intends to commence provide local exchange telecommunications service, and shall contain the information set forth in §150-6-14.2.b.6.A. through E.

e. A certificated local exchange carrier shall not offer local exchange telecommunications service to the public unless and until it has filed for, and received, Commission approval of an agreement with each incumbent local exchange carrier that serves the areas that the carrier intends to serve, setting forth the terms, conditions, rates, charges and regulations for interconnection, resold service or network elements, as set forth in Section 251 of the Telecommunications Act of 1996 and applicable Federal Communications Commission regulations.

14.3. Suspension or Revocation of a Certificate.

a. Excessive subscriber complaints against a carrier shall be a basis for suspension or revocation of the carrier's certificate of public convenience and necessity if, after hearing, the Commission determines that such complaints are meritorious.

b. The Commission may suspend or revoke the carrier's certificate of public convenience and necessity for such other grounds as the Commission may determine, after hearing, warrant suspension or revocation of the carrier's certificate.

c. In all proceedings, the Commission shall give the carrier notice of the allegations against it and afford the carrier an opportunity to be heard concerning those allegations, prior to suspension or revocation of the carrier's certificate or other formal action. The burden of persuasion to establish that adequate service has been, and is being, provided rests with the carrier.

14.4. Ubiquitous Provision of Service.

a. Resold Telecommunications Service.

Where an applicant seeks a certificate of public convenience and necessity to provide local exchange telecommunications service to a class, or classes, of customers

through resale only, or through a combination of resold service and facilities-based service, any certificate granted by the Commission shall require the applicant to provide, upon request, telecommunications services to all such class, or classes, of customers in the incumbent local exchange carrier's exchange in which the applicant intends to offer such service. Provided, however, that, where an applicant proposes to provide service within an area served by an incumbent rural telephone company, compliance with this subsection does not create any presumption regarding the findings required to designate an eligible telecommunications carrier pursuant to Section 214 of the Telecommunications Act of 1996.

b. Facilities-Based Telecommunications Service.

1. Where an applicant seeks a certificate of public convenience and necessity to provide facilities-based local exchange telecommunications services only, the applicant shall not be required to provide either resold or facilities-based telecommunications services to any particular customer, or class or classes of customers, in the incumbent local exchange carrier's exchange in which the applicant intends to offer such service.

2. Notwithstanding the provisions of §150-6-14.4.b.1., nothing in this subsection shall affect the obligations of incumbent local exchange carriers to offer telecommunications services to all customers within an exchange served by the incumbent carrier.

14.5. Regulation of Certificated Local Exchange Carriers.

Nothing in these rules alters a certificated telecommunications carrier's status as a public utility subject to regulation under Chapter 24 of the West Virginia Code.

§150-6-15. Interconnection.

15.1. General Requirements.

a. All local exchange carriers shall:

1. Not prohibit, nor impose unreasonable or unduly discriminatory conditions or limitations on the resale of the carrier's telecommunications services.

2. Provide, to the extent technically feasible, number portability consistent with national standards and with requirements prescribed by the Commission, which shall include the establishment of fair and equitable number portability cost recovery mechanisms.

3. Provide dialing parity to competing local exchange carriers and providers of toll telephone service.

4. Permit all competing local exchange carriers and providers of toll telephone service to have nondiscriminatory access to telephone numbers, operator service, directory assistance and directory listings, with no unreasonable dialing delays.

5. Afford competing providers of telecommunications services reasonable access to the poles, ducts, conduits and rights-of-way of such local exchange carrier, on rates, terms and conditions that are consistent with federal requirements.

6. Establish reciprocal compensation arrangements for the transport and termination of local telecommunications traffic.

7. Comply with all applicable Commission rules and regulations regarding the provision of directory assistance service.

8. Not provide intrastate service to any interexchange carrier or any local exchange carrier until after the interexchange carrier or local exchange carrier provides information demonstrating that such carrier is properly certificated by the Commission to provide such telecommunications service.

15.2. Additional Requirements for Incumbent Local Exchange Carriers.

Subject to the requirements contained in §150-6-15.5.c., all incumbent local exchange carriers shall comply with the requirements set forth in this subsection.

a. Each incumbent local exchange carrier shall provide for interconnection between the facilities and equipment of any requesting telecommunications carrier and the incumbent's network:

1. For the transmission and routing of telephone exchange service and exchange access;

2. At any technically feasible point within the incumbent's network;

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

4. On rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the carriers' interconnection agreement and the requirements of §150-6-15.2, and 15.4.a.

b. Each incumbent local exchange carrier shall provide, to any requesting telecommunications carrier, nondiscriminatory access to network elements on an unbundled basis, at any technically feasible point, on rates, terms and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the carriers' interconnection agreement and the requirements of §150-6-15.2, and 15.4.a. To the extent allowed by Commission order or federal law, an incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide telecommunications service.

c. Each incumbent local exchange carrier shall offer for resale, at wholesale rates, any telecommunications service that the incumbent provides, at retail, to subscribers who are not telecommunications carriers. Each incumbent local exchange carrier shall not prohibit, nor impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service: **Provided**, however, that the incumbent may prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

d. Each incumbent local exchange carrier shall provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that incumbent's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities or networks.

e. Each incumbent local exchange carrier shall provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the incumbent. **Provided**, however, that the incumbent may provide for virtual collocation where the incumbent demonstrates to the Commission that physical collocation is not practical for technical reasons or because of space limitations.

15.3. Good Faith Negotiations.

a. Any telecommunications carrier may request interconnection with an incumbent local exchange carrier in accordance with Sections 251(b) and 251(c) of the

Telecommunications Act of 1996. A telecommunications carrier requesting interconnection with an incumbent local exchange carrier must have first obtained, or applied for, a certificate of public convenience and necessity to provide local exchange telecommunications services within the state, pursuant to §150-6-14.1.: Provided, that such a certificate is required by the Commission.

b. Within fifteen (15) days after receipt of a bona fide request from a telecommunications carrier, the incumbent local exchange carrier and the requesting carrier shall enter into good faith negotiations seeking to establish the reasonable rates, terms and conditions for such interconnection.

c. Any agreement reached between an incumbent local exchange carrier and a requesting carrier shall not unreasonably discriminate against a similarly situated telecommunications carrier not a party to the agreement, and such agreement shall be based on rates, terms and conditions that are just and reasonable.

d. The negotiating parties shall follow the procedures set forth in §150-6-15.4.a. In the event that the parties are unable to negotiate rates, terms and conditions for interconnection, either party may seek compulsory arbitration by the Commission by filing a petition that complies with the requirements of §150-6-15.5.

e. Nothing in this subsection shall preclude the modification of the requirements contained in this subsection upon mutual agreement of the negotiating parties.

15.4. Procedures for Negotiations.

a. The refusal of any carrier to participate further in the negotiation of an interconnection agreement, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission, shall be considered to constitute a failure to negotiate in good faith.

1. Any party negotiating an interconnection agreement under this subsection may, at any point in the negotiations, ask the Commission to participate in the negotiations and to mediate any differences arising in the course of negotiations.

2. Within thirty (30) days after the completion of negotiations, the negotiating parties shall file with the Commission a schedule of itemized charges and conditions for the service, setting forth the facilities or functions provided for under the agreement.

b. A bona fide request for the resale of an incumbent local exchange carrier's services shall include the following information:

1. A description of the services or network features the requesting telecommunications carrier wishes to use.

2. A description of the geographic coverage areas in which the services or application are to be accessible or are to provide access.

3. A description of the switching locations involved.

c. A bona fide request for unbundled network elements shall include the following information:

1. A description of the technical and functional characteristics of the requested elements.

2. A description of the geographic coverage areas in which the elements or application are to be accessible or are to provide access.

3. A description of the desired serving addresses, switching locations and NXX codes involved.

d. Once the informational obligations have been met, the incumbent local exchange carrier shall provide a written response to the requesting telecommunications carrier, within thirty (30) days, as to whether or not the request will be met, or whether and what further information is needed to respond to the request. If further information is needed, the requesting telecommunications carrier is entitled to refuse to provide any information that it considers competitively sensitive.

15.5. Procedures for Compulsory Arbitration.

a. The Commission shall establish the rates, terms and conditions of interconnection between an incumbent local exchange carrier and a requesting telecommunications carrier only upon the filing of a petition requesting arbitration under this subsection.

b. A petition filed pursuant to this subsection shall be filed by one of the negotiating parties no sooner than the 135th day, and no later than the 160th day, inclusive, after the date the incumbent received the bona fide request described in §150-6-15.2. and 15.4.

c. In resolving by arbitration any open issues and

imposing conditions upon the parties to the agreement, the Commission shall:

1. Establish any rates for interconnection, services, or unbundled network elements according to the pricing standards contained in this subsection.

2. Provide a schedule for implementation of the terms and conditions by the parties to the agreement.

d. Determinations by the Commission of the just and reasonable rates for interconnection, services, or unbundled network elements:

1. Shall be based on a cost methodology consistent with the Telecommunications Act of 1996 and any applicable Federal Communications Commission regulations promulgated thereunder;

2. Shall be nondiscriminatory; and

3. May include a reasonable profit.

e. Determinations by the Commission for the transport and termination of local telecommunications traffic shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless:

1. Such terms and conditions provide for the mutual and reciprocal recovery by each party to the agreement of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier.

2. Such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

3. These standards shall not be construed:

A. To preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

B. To prevent the Commission from engaging in any rate regulation proceeding to establish, with particularity, the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

f. Determinations by the Commission for wholesale prices for resold services shall be based on the retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the incumbent local exchange carrier.

g. A petition for compulsory arbitration filed with the Commission must comply with the requirements of this subdivision. Each petition shall include each of the following:

1. The names, addresses, telephone and telefacsimile numbers, and email addresses of the representatives of the parties involved in the negotiations.

2. A definitive list of the open issues for which arbitration is requested.

3. The positions of each of the parties to the negotiations with respect to those issues submitted for arbitration.

4. A demonstration by the petitioning telecommunications carrier, based on the specific facts and circumstances, that:

A. The negotiations entered into were not conducted in good faith;

B. The rates, terms and conditions upon which the desired interconnection arrangement was offered or requested were unjust, unreasonable or unreasonably discriminated against telecommunications carriers not party to the agreement;

C. The interconnection sought was or was not technically and economically feasible; or

D. Any other demonstration that refusal to offer the requested interconnection would or would not serve the public interest.

5. A certification made by an authorized representative or officer of the petitioning telecommunications carrier that the allegations set forth within the petition are true and accurate to the best of that person's knowledge and belief.

6. A certification that the petition was served upon all other parties to the negotiations and is otherwise in compliance with the Commission's rules for service of papers upon parties.

h. Response to Petition.

1. Within twenty-five (25) days of the filing of a petition pursuant to §150-6-15.5.g., the non-petitioning parties to the negotiations may file a response admitting or denying, in whole or part, the allegations set forth in the petition.

2. The response may include affirmative demonstrations that the allegations set forth in the petition are in error, or that a finding in favor of the petitioner would not serve the public interest.

3. The response shall include a certification made by an authorized representative or officer of the responding telecommunications carrier that the information set forth within the response is true and accurate to the best of that person's knowledge and belief.

4. The response shall also include a certification that the response was served upon all other parties to the negotiations and is otherwise in compliance with the Commission's rules for service of papers upon parties.

i. Commission Action on Petitions for Arbitration.

1. The Commission shall limit its consideration of any petition and of any response to the issues set forth in the petition and in any response to that petition.

2. The Commission may require any party to provide additional information related to the issues raised by the petition or any response. The Commission may institute reasonable procedures in order to develop the record necessary to resolve the petition. The Commission shall make every effort to utilize procedures that minimize the imposition of economic and administrative burdens on the parties and the Commission.

3. The Commission shall resolve each issue set forth in the petition and any response, by imposing appropriate conditions, as required to implement §150-6-15.5.d., upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than nine (9) months after the date on which the incumbent local exchange carrier received the request under this section.

j. Rights of Third Persons.

1. The rights of third persons to intervene in arbitration proceedings before the Commission under this subsection shall be limited.

2. Only the Consumer Advocate Division of the Commission shall be entitled to intervene in such arbitration proceedings, provided that an appropriate petition to intervene is filed no later than fourteen (14) days following the date the petition requesting Commission arbitration was filed.

3. Commission Staff shall be considered a party to any compulsory arbitration proceeding.

4. Third persons may petition the Commission to be allowed to participate, on a limited basis, in a compulsory arbitration proceeding. Such petition shall be filed with the Commission no later than fourteen (14) days following the date the petition requesting Commission arbitration was filed. Such petition shall state with specificity the grounds upon which limited participation is sought. If the Commission grants a petition to participate, such participation shall be limited as follows:

A. The petitioner shall not present pre-filed testimony.

B. The petitioner shall not present any witnesses.

C. The petitioner shall not conduct cross-examination of witnesses presented by the parties.

D. The petitioner may file pre-hearing and post-hearing statements regarding the parties' positions and the parties' compliance with Section 251 of the Telecommunications Act of 1996 or, in the event the parties waive a hearing, the petitioner may file such statements on the dates established by the Commission for the parties to pre-file testimony.

E. The petitioner shall not file exceptions or petitions for reconsideration of the Commission's decision.

k. Approval of Agreements.

1. Any interconnection agreement adopted by negotiation or arbitration shall be submitted to the Commission for approval. The Commission shall approve or reject the agreement, with written findings as to any deficiencies.

2. The Commission may only reject an agreement, or any portion thereof, adopted by negotiation if the Commission finds that:

A. The agreement, or portion thereof,

discriminates against a telecommunications carrier not a party to the agreement; or

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

3. The Commission may only reject an agreement, or any portion thereof, adopted by arbitration if the Commission finds that the agreement does not meet the requirements of this subdivision, or the pricing standards set forth in §150-6-15.5.d.

4. If the Commission does not act to approve or reject an agreement, or any portion thereof, adopted by negotiation within ninety (90) days after submission by the parties, the agreement shall be deemed approved.

5. If the Commission does not act to approve or reject an agreement, or any portion thereof, adopted by arbitration within thirty (30) days after submission by the parties, the agreement shall be deemed approved.

1. Filing Required.

1. The Commission shall make a copy of each interconnection agreement approved by the Commission, and any Bell operating company statement of generally available terms and conditions filed pursuant to Section 252(f) of the Telecommunications Act of 1996 and approved by the Commission, available for public inspection and copying within ten (10) days after the agreement or statement is approved.

2. A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved by the Commission under §150-6-15.5.k., to which it is a party, to any other requesting telecommunications carrier upon the same terms and conditions provided for in the agreement.

15.6. Exemptions, Suspension and Modifications for Rural Telephone Companies.

a. Exemption of Rural Telephone Companies.

The requirements of §150-6-15.3. shall not apply to a rural telephone company until such time as the conditions set forth in Section 251(f) of the Telecommunications Act of 1996 have been satisfied.

b. Termination of Rural Telephone Company Exemption.

1. A party making a bona fide request to a rural telephone company for interconnection, service, or network elements, shall submit to the Commission a notice of its request within ten (10) days after delivering its request to such rural telephone company.

2. Upon receipt of notice of a bona fide request for interconnection, service, or network elements, to a rural telephone company, the Commission shall conduct an inquiry for the purpose of determining whether to terminate the rural telephone company's exemption.

3. The Commission shall terminate the rural telephone company's exemption within one-hundred twenty (120) days following receipt of the notice of request if the Commission determines that the request is not unduly economically burdensome, is technically feasible, and is consistent with Section 254 of the Telecommunications Act of 1996, excluding subsections (b)(7) and (c)(1)(D) thereof.

4. Upon termination of any rural telephone company's exemption, the Commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with the Commission's rules and regulations.

c. Limitation on Exemption.

The exemption for a rural telephone company shall not apply to a request, under §150-6-15.3., from a cable operator providing video programming and seeking to provide any telecommunications service in the area in which the rural telephone company provides video programming. This limitation does not apply to a rural telephone company that was providing video programming on February 8, 1996.

d. Suspensions and Modifications for Rural Local Exchange Carriers.

1. A local exchange carrier with fewer than two percent (2%) of the Nation's subscriber lines installed in the aggregate Nationwide may petition the Commission for a suspension or modification of any requirement of §150-6-15.1., 15.2., or 15.3. to telephone exchange service facilities specified in such petition.

2. The Commission shall grant such petition to the extent that, and for such duration as, the Commission determines that such suspension or modification:

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A. Is necessary:

1. To avoid a significant adverse economic impact on users of telecommunications services generally;

2. To avoid imposing a requirement that is unduly economically burdensome; or

B. Is consistent with the public interest, convenience and necessity.

3. The Commission shall act upon any petition for a suspension or modification within one-hundred eighty (180) days after receiving the petition. The Commission may suspend enforcement of the requirements to which the petition applies, with respect to the petitioner, pending a final Commission order.

ED. NOTE: All forms are available from the P.S.C.

P.S.C. W.VA. FORM 11-1

PAYPHONE SERVICE PROVIDER REGISTRATION

1. Provider Name: _____
Address of Principal
Place of Business: _____
Telephone Number: (_____) _____
Telefax Number: (_____) _____
E-mail Address: _____

2. Provide the following information to be used for processing of
complaints or refund requests, if different from above:

Address: _____
Telephone Number: (_____) _____
Telefax Number: (_____) _____
E-mail Address: _____

3. Provide the following information to be used for Commission-
regulatory matters, if different from above:

Name and Title: _____
Address: _____
Telephone Number: (_____) _____
Telefax Number: (_____) _____
E-mail Address: _____

P.S.C. W.VA. FORM 11-1
Page 2 of 2

CERTIFICATION

County of: _____

State of: _____

I certify that I have read Section 11 of the Public Service Commission of West Virginia's Rules and Regulations for the Government of Telephone Utilities and that I will comply with all of the requirements of that Section.

Signature

Signer's Typed Name and Title

Date

Notary

FOR COMMISSION USE:

PSP ID NUMBER: _____

P.S.C. FORM NO. T-1

SERVICE STANDARDS

COMPANY _____

REPORT PERIOD _____

ITEM	OBJECTIVE RANGE	ACTUAL PERFORMANCE
Station Installations, % Completed Within 5 <u>Working Days</u>	75% <u>90%</u> or more	
<u>Service Station Commitments, % Commitments Met (\$150-6-6.2.b.)</u>	90% or more	
<u>Held Orders over 30 Calendar Days (\$150-6-6.c.1.)</u>		
Held Regrades Over 30 Days Operator Assistance Requests, % Within Ten 10 Seconds (\$150-6-6.3.b. Rule 6.3.2.)		85% or more
<u>Dial-Tone, or Functional Equivalent % Within Three 3 Seconds (Rule 6.4.2.a.) (\$150-6-6.4.a.1.)</u>	98% or more	
<u>Satisfactory Transmission Quality (\$150-6-6.4.a.2.)</u>		99% or more of test or sampled calls
<u>Satisfactory Call Completion (\$150-6-6.a.3.)</u>		99% or more of test or sampled calls
Local Dial, % Without Equipment Irregularities and Overflows (Rule 6.4.2.b.)		98% or more
BDD Calls (Incoming Trunk), % Without Blockage and Failure (Rule 6.5.)		96% or more
Initial Trouble Reports per 100 Telephones per Month (Rule 6.6.9.)		7 or less

~~P.S.C. W.VA. 11-1 FORM A~~

~~CERTIFICATE APPLICATION FOR
CUSTOMER OWNED PUBLIC TELEPHONES~~

1. ~~Business Name~~ _____

~~Business Address~~ _____

~~Business Telephone Number ()~~ _____

2. ~~Please list the toll free telephone number and address to use
for complaints and/or refund requests.~~

~~Name~~ _____

~~Address~~ _____

~~Telephone Number ()~~ _____

3. ~~Please list name, address and telephone number of person to be
contacted by Public Service Commission for regulatory matters.~~

~~Name~~ _____

~~Address~~ _____

~~Telephone Number ()~~ _____

~~I certify that I have read Rule 11. of the Public Service
Commission's Rules and Regulations for the Government of Telephone
Utilities and will comply with all of the requirements of the COPT
Rules.~~

~~Signature:~~ _____

~~P.S.C. W.VA. 11.1 FORM B~~

~~Page 1 of 2~~

~~REGISTRATION FORM FOR
CUSTOMER OWNED PUBLIC TELEPHONES~~

~~A registration form is required for each COPT instrument.~~

~~THIS FORM MUST BE ACCOMPANIED BY A \$12.00 REGISTRATION FEE
(TYPE OR PRINT CLEARLY AND USE ADDITIONAL PAPER IF NECESSARY)~~

~~PUBLIC SERVICE COMMISSION OF W.VA.
CERTIFICATION/REGISTRATION NUMBERS _____ / _____~~

~~TELEPHONE NO. ASSIGNED TO COPT: _____ / _____~~

~~1. Location of COPT:

_____~~

~~2. Type of COPT set: _____~~

~~3. List the service(s) provided by this COPT:

_____~~

~~4. List the rate ceiling(s) for local service:

_____~~

~~5. COPT SET FCC REGISTRATION NO. _____~~

~~6. HOW WILL THIS COPT DETERMINE THAT AN OUTGOING CALL HAS BEEN ANSWERED?

_____~~

~~REGISTRATION FORM FOR~~
~~CUSTOMER OWNED PUBLIC TELEPHONES~~

7. ~~WILL INCOMING CALLS BE ALLOWED? YES _____ NO _____~~

8. ~~HOW WILL A PERSON USING THIS COPT BE NOTIFIED THAT MORE MONEY SHOULD BE DEPOSITED?~~

9. ~~HOW MANY SECONDS WARNING OF THE NEED FOR MORE MONEY WILL BE GIVEN BEFORE A CALL IS CUT OFF?~~

10. ~~WILL ONE OR MORE EXTENSION TELEPHONE SETS BE USED ON THIS COPT'S ACCESS LINE? YES _____ NO _____ IF YES, HOW MANY? _____~~
~~ALSO, IF YES, WHAT PROVISIONS TO INSURE COPT USER PRIVACY WILL BE EMPLOYED (BE SPECIFIC)?~~

11. ~~WHAT TELEPHONE COMPANY PROVIDES LOCAL SERVICE (DIAL TONE) TO WHERE THE COPT WILL BE LOCATED?~~

12. ~~PLEASE PUT ANY ADDITIONAL INFORMATION BELOW WHICH YOU FEEL WILL AID THE PSC IN PROPER REGULATION OF THIS COPT:~~

(Insert Company Name Here)

**NOTICE OF SCHEDULED TERMINATION
OF SERVICE AND CUSTOMER RIGHTS**

We have scheduled your _____ service provided at
 _____ for termination on or

 (address)
 after _____.
 (date)

This action has been taken for the following reason(s): (Include reason and facts resulting in decision to terminate service).

If your service is terminated you may be subject to additional charges involving reconnect fees and deposit requirements in order to restore service.

YOU HAVE THE RIGHT TO CHALLENGE THE TERMINATION IF YOU BELIEVE ANY OF THE FOLLOWING CONDITIONS APPLY TO YOU:

1. Any portion of the bill is in dispute
2. You are being charged for service not received
3. The information above is incorrect
4. You are able to pay only in installments

If the reason for your challenge is 1, 2, or 3 above, you will have to pay any amount not in dispute. If the reason for your challenge is 4, we will attempt to negotiate a deferred payment plan with you.

YOU MUST NOTIFY US BEFORE THE DATE OF TERMINATION IN ORDER TO PROTECT YOUR RIGHTS UNDER THIS RULE:

(Provide instructions for contacting the appropriate utility personnel by telephone and mail, including business hours)

IF YOU ARE NOT SATISFIED WITH OUR DECISION AT THIS MEETING, YOU WILL HAVE SEVEN DAYS IN WHICH TO FILE AN APPEAL WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. You will be required to pay your current bill while the appeal is pending. There is no charge associated with filing an appeal and you may do so without the assistance of an attorney.

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P.S.C. W.VA. FORM NO. 14-T
Page 2 of 2

Attachment A

To file an appeal with the PSC, you may call this toll free telephone number 1-800-642-8544 or write to this address:

Utility Appeal
Public Service Commission of West Virginia
P.O. Box 812
Charleston, West Virginia 25323

If you are in need of assistance to pay your bill you should contact the following agencies: (List agencies in service area).

If you desire the assistance of a lawyer with regard to the scheduled termination and are unable to pay for legal counsel, contact one of the following low income legal assistance organizations: (List agencies in service area).