



**WEST VIRGINIA  
SECRETARY OF STATE**

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**ADMINISTRATIVE LAW DIVISION**

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7/2/2015 1:40:42 PM

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR  
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY **Public Service Commission**

RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **150-**

RULE NAME **The Government of Telephone Utilities** **06**

CITE AUTHORITY **W. Va. Code 24-1-7, 24-2-1, 24-2-6, 24-2-8, 24-2C-1, 24-6-1, and 24-2E-1.**

RULE IS LEGISLATIVE EXEMPT

**Yes**

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

**W.Va. Code Section 24-1-7**

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

**Monday, August 31, 2015**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**

**Ingrid M Ferrell -- By my signature, I certify that I am the person authorized to file legislative rules, in  
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 150-06



Rule Id: 9680



Document: 26875

**TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION**

**SERIES 6  
RULES FOR THE GOVERNMENT OF TELEPHONE UTILITIES**

**§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 W. Va Code §24-2-1.

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

1.3. Filing Date. -- .

1.4. Effective Date. -- .

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.

These telephone service regulations are established 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 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.c. 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.d. 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.a. "Aggregator" -- Any person or business entity who, in the ordinary course of operations, makes telephones (other than public telephones) available to the public or to transient users of its premises for intrastate telephone calls using an operator services provider.

1.7.b. "Automatic Dialing and Announcing Device" (ADAD) -- An item of telecommunications terminal equipment which has the ability to randomly, sequentially 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.c. "Basic Local Exchange Service" -- provision to a subscriber at his or her residence or business location of at least all of the following:

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. Subject to the provisions set out in Rule 2.6 hereof, a printed telephone Directory or electronic 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.d. "Business 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.e. "Busy Hour" -- The hour having the highest central office traffic load.

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

1.7.g. "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.i. "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.j. "Channel" -- An electrical path provided by 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. "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, Message Rate or Measured Rate).

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

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

1.7.n. "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) 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. "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 system, etc.

1.7.p. "Directory" -- A listing of phone numbers and other information required by these rules printed on paper or listed in an internet-based electronic document and that is provided by a Local Exchange Carrier on an annual basis.

1.7.q. "Exchange" -- A geographic area established for the administration of telecommunications service under the provisions of each telephone company's applicable tariffs. 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.r. "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.s. "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.t. "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.u. "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 W. Va. Code §24-2-11.

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

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

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

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

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

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

1.7.y. "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.z. "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.aa. "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.bb. "Local Message" -- A communication between a calling station and any other station within the local calling area of the calling station.

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

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

1.7.ee. "Long Distance Service" -- The furnishing of telecommunications between stations in different local calling areas in accordance with the regulations and schedule of rates specified in each telephone company's applicable tariffs.

1.7.ff. "Message" -- A completed customer telephone call.

1.7.gg. "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 the customer to use a number of local messages, as specified in each telephone company's applicable tariffs.

1.7.hh. "Message Toll Service" -- See "long distance service."

1.7.ii. "Message Unit" -- A unit used for billing message rate services.

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

1.7.ll. "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.mm. "0" Type Operator 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.nn. "Operator Service Provider" -- A public telecommunications utility regulated by the Commission which performs any of the following services, by manual or mechanized means, for the public:

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

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

1.7.rr. "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.ss. "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.tt. "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.uu. "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.vv. "Serving Local Exchange Carrier" -- The Commission-certificated local exchange carrier that provides dial tone and local exchange access to a subscriber or payphone.

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

1.7.xx. "Subscriber" -- See "Customer."

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

1.7.ccc. "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 signals, 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.ddd. "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 or services or soliciting donations of money, property, goods or services. Telephone solicitation does not include:

1. 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.
2. Calls made for a not-for-profit organization to its own list of bona fide or active members of the organization.
3. Calls limited to polling or soliciting the expression of ideas, opinions or votes.

4. Contacts with telephone subscribers with whom a business or credit relationship exists.

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

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

1.7.fff. "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 cable), and waveguides.
2. Radio receivers, transmitters and antennae.
3. Amplifiers and channel derivation devices.

1.7.ggg. "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.hhh. "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.

a. Under the authority of the W. Va. Code §24-2-8, all local exchange carriers shall maintain a "Uniform System of Accounts", as promulgated by the Federal Communications Commission and contained in Part 32 under Title 47 of the Code of Federal Regulations, 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.

b. Each 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 local exchange carrier notifies the Commission, unless the Commission notifies the carrier to the contrary.

c. For the purpose of securing uniformity in the application's 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.

a. 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. This itemization shall list separately all items such as service options for which a flat monthly charge is made. 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 §150CSR6-2.1.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 received 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.

b. 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,

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 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.

c. 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.

2. Such written statement shall first be transmitted by hand or by mail to 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.

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

d. 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.

e. 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 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.

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

## 2.2. Credit considerations.

### a. Establishment of credit.

1. 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 may be required to pay any service connection charge and make an advance payment on his or 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 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. The applicant owns the premises to be served: Provided, that the credit of the applicant is not otherwise impaired; or

2. The applicant demonstrates by appropriate means that his or 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. 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. The applicant furnishes a guarantor satisfactory to the telephone company to secure payment of bills for the service requested; or

5. 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 shall not affect residential customer security deposits required by a utility prior to the passage of W. Va 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. The applicant owns the premises to be served: Provided, that the credit of the applicant is not otherwise impaired; or

2. The applicant demonstrates by appropriate means that his or 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. 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. The applicant furnishes a guarantor satisfactory to the telephone company to secure payment of bills for the service requested; or

5. The applicant makes a cash deposit to secure payment of bills for service as prescribed in §150CSR6-2.2.c.

C. The establishment of credit under the provisions of this subdivision, or the re-establishment of credit under the provisions of §150CSR6-2.2.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.

b. Reestablishment of credit.

1. 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 §150CSR6-2.2.c. 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 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.

2. 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 §150CSR6-2.2.f., may be required to pay such bills and reestablish his or her credit by depositing the amount prescribed in §150CSR6-2.2.c. and, when applicable, a reconnection charge. However, residential customers shall be entitled to enter into a deferred payment plan as described in §150CSR6-2.2.f.5.

B. A customer may be required to reestablish his or her credit in accordance with §150CSR6-2.2.c. in case the conditions of service or basis on which credit was originally established have changed materially.

c. Deposits: amount, receipt, interest.

1. 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 certain services that carry a termination liability, such as PBX installations, the amount of the deposit shall be determined by the circumstances involved in each case.

2. 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 of the deposit; the name and billing address of the applicant or customer to be served; and the amount of the deposit.

3. 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, 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.

d. Refund of deposits.

1. 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.

2. 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 §150CSR6-2.2.a. or 2.2.b.

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

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

5. Customers with residential service. After the customer has paid bills for service for nine (9) 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 §150CSR6-2.1.f. (i.e., was delinquent), and: Provided, that the customer's credit is not otherwise impaired, the telephone company shall refund the customer's deposit, including 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 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 is not otherwise impaired.

6. 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 §150CSR6-2.1.f. (i.e., was delinquent), and: Provided, that the customer's credit is not otherwise impaired, the telephone company shall refund the customer's deposit, including 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 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 is not otherwise impaired.

7. 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 accrued interest. A receipt or production of proof of payment will not be necessary under these regulations as a condition of the deposit refund.

e. 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.

f. Denial or discontinuance of service.

1. 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 §150CSR6-2.2.a. or 2.2.b., 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 §150CSR6-2.2.b., 2.2.d., and 2.4.c.

2. 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 §150CSR6-2.2.f.5. 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 §150CSR6-2.2.f.5. 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.

3. If, prior to termination of service, the utility receives notice from the customer:

A. That any portion of a bill is in dispute;

B. That he or she is being charged for service not rendered;

C. That any information resulting in the utility's decision to terminate is erroneous;

D. That 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; or

E. That 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, 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, except as provided in §150CSR6-2.2.f.5.

4. 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.

5. 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, 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 a statement identifying that amount of the bill, 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.

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 §150CSR6-2.2.f.5.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 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.

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) 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.

6. For the purposes of §150CSR6-2.2.f.3.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.

7. Cellular and other wireless telecommunications carriers and interexchange carriers shall be exempt from any requirements of §150CSR6-2.2.f.2., 2.2.f.3., 2.2.f.5., and 2.2.f.6.

8. 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.

g. Service reconnection charge. Where service has been discontinued pursuant to the terms of the notification provided for in §150CSR6-2.f.2., the telephone company may charge and collect the reconnection charge set out in its tariff.

h. All statements of accounts shall contain the following statement: "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 service for the following reasons:

a. Non-payment of any sum due for service and not in bona fide dispute: Provided, that there has been compliance with §150CSR6-2.f.5. for residential customers.

b. Making of nuisance calls.

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

d. Failure to comply with laws applicable to telephone service.

e. 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:

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

b. Failure to pay Directory advertising charges: Provided, that in such case customer's telephone number may be changed.

c. Delinquency in payment for business service shall not constitute sufficient cause for refusal of residence service or vice versa, except as provided in §150CSR6-2.2.b.1.

d. When the subscriber is 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) is a party in interest, it is considered as such third party. This exception shall also apply to any subscriber regardless of age, who is physically 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 §150CSR6-1.7.c., shall be neither disconnected nor interrupted for non-payment of charges rendered for the provision of either telecommunications services not defined in §150CSR6-1.7.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.

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

b. 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 the applicant or customer of his or her right to have the

problem considered and acted upon by the telephone company's supervisory personnel. The telephone company shall further direct such personnel to furnish the applicant or customer with the address and telephone number of the Utility Complaints Division of the Commission that may be contacted for further review of the problem.

## 2.6. Directories.

a. Each LEC must provide telephone directories by one of the following methods:

1. Print and distribute a paper Directory to customers or arrange for printing and distribution to customers once a year. The Directories must list the name, address and telephone number of all customers, except public telephones and numbers unlisted at customer request.

2. Or after January 1, 2017, provide an internet-based electronic Directory containing the information required for a printed Directory. If a Local Exchange Carrier uses this method, it must provide customers with the option to obtain a printed directory on request. The LEC may not transition to an internet-based Directory until after it has provided notice to each customer through three separate monthly bill inserts or similar customer bill message over a period of not less than three months nor more than six months. Prior to transitioning to an internet-based directory, an LEC must also issue a press release regarding the transition, place a prominent plain language notice of 16 point font on the cover of the final full distribution of printed Directories regarding the upcoming transition including instructions of how customers may request a printed copy of the Directory and post a prominent and easily readable notice on its internet website describing the transition period and how to request a printed Directory. Subsequent to transition to an internet-based Directory, each LEC must advise customers annually of the internet address of the online Directory and of the availability of a printed Directory on request. Internet-based Directories must be divided into reasonable local calling areas similar to historical printed Directories, or if larger Directories are produced, must contain an index with links to sections covering reasonable local calling areas similar to historical printed Directories.

b. Telephone Directories shall include listings for all local service areas for the exchanges to which this Directory is supplied.

c. The telephone company shall list its customers in the Directory assistance directory necessary for the Directory assistance operators to provide the requested telephone numbers based on the customers' names and addresses, within one (1) week of establishment of service.

d. Upon issuance, two (2) copies of each printed Directory and, if applicable, the internet address of an online Directory shall be furnished to the Commission.

e. Information pertaining to emergency calls, such as the local police and fire departments, shall appear conspicuously in the front part of the Directory.. Also the offices of the West Virginia State Police, county sheriff's office, and ambulance services shall be listed.

f. The Directory shall contain such instructions concerning placing local and long distance calls, calls to telephone repair service and Directory assistance services, and location, office hours and telephone number of telephone company business offices as may be appropriate for the area served by the Directory.

g. 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. In the event of an error in the listed number of any customer in a printed Directory, the telephone company shall, where practicable, intercept all calls to the listed number until the next local printed Directory with corrected numbers is issued. Corrections in internet-based Directories shall be made as soon as the error is discovered, but this shall not eliminate the call intercept requirement. 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 Directory assistance or intercept operators and the correct number furnished to the calling party either upon request or intercept.

i. 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. 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. Each telephone company shall, without charge, provide applicable rate and charge information regarding local, intrastate and interstate calling during normal business hours. Such information may be provided directly by the telephone company or by indicating that such information is available from the carrier that is the subject of the inquiry and providing appropriate information regarding contacting the carrier.

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

A. Free telephone call;

B. E-mail; and

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.

1. Information regarding service connection and installation charges, where applicable, shall be made available by telephone companies in exactly the same manner as required by §150CSR6-2.6.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 equipment or apparatus to be used in conjunction with telephone service or access thereto, the equipment or apparatus shall be plainly labeled as a product sold by the company. On services or equipment comprised of items sold to the customer and items provided by the telephone company but not sold to the customer and intended to remain the telephone company's property, such items shall be clearly identified so that the customer can readily distinguish between property purchased from the telephone company and property over 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 W. Va. 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.

c. The letter of agency described in §150CSR6-2.8.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 to 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: Provided, however, that the local exchange carrier may, at its option, establish an electronic or other automated system capable of providing the requisite information. 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.

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

3.2. 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.

3.3. Emergency operation.

a. 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.

b. It is essential that all switching locations have some provision for emergency power. At switching locations without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on short notice.

c. At switching locations serving in excess of five thousand (5,000) lines, a permanent auxiliary power unit shall be installed.

d. Selective interruption of telephone service may be necessary to ensure continuance of service to essential users during emergency conditions.

3.4. Construction work near utility facilities.

a. Upon receipt of written or verbal notification from the property owner, or from a contractor, of work 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.

b. 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 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.

c. 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 is not intended to affect the responsibility of the contractor or owner, or the liability or legal rights of any party.

d. 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. 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 for routine maintenance, for fault location and for purposes of reasonable testing requested by Commission Staff for good cause, such as complaint resolution or service quality inspection.

#### **§150-6-5. Records and reports.**

##### 5.1. Location of records.

All records required by these rules 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 Commission.

##### 5.3. Service Quality Reports.

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 carrier's normal measurement techniques. These reports shall be due in the Commission's office by no later than March 1 of each year.

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

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

#### 5.4. Financial and Statistical Report.

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 rules, as set out in §150CSR6-1.8. 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 and statistical report, except as otherwise required by 150CSR25.

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.

a. 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.

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

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

2. 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.

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

c. 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 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.

d. Conduct and control of management audits.

1. The Commission may choose to have the audit performed by 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.

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

3. 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.

e. 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.

f. Implementation of management audit recommendations.

1. Draft report.

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

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

2. 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.

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

4. 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.

5. 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.

6. 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.

7. The Commission may grant an extension of the time limits established in this subsection for good cause shown.

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

6.1. Basic telephone company obligations.

a. The telephone company shall provide tele- communications service to the public in its service area in accordance with its rules and tariffs approved by and on file with the Commission.

b. 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.

c. 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.

d. 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.

e. 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.

f. 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.

g. Upon reasonable request the telephone company shall provide verification of busy lines.

h. Subscriber loop requirements.

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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.

#### a. Request for new service.

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

2. 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 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 periods caused by seasonal factors or work stoppage. Normally, the telephone company is expected to complete at least ninety percent (90%) of requests for service within five (5) working days when no special equipment or significant construction is involved.

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

4. When the request for new service requires an unusually large amount of construction, 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 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.

b. Meeting commitments. The telephone company shall make reasonable efforts to fill, by the promised date, all regular orders for 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 to restore service interruptions caused by emergency situations, unusual weather conditions or other acts of God, as well as the need to avoid 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 efforts to inform the customer of the delay and a new appointment shall be made within a reasonable time.

c. Held orders.

1. During such periods of time as the telephone company may not be able to provide initial local exchange service to an applicant or 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, 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 type of service or service modification applied for, and the reason for the inability to provide the new service or service modification.

2. When, because of shortage of facilities, the telephone company is unable to provide local exchange service on dates requested by an applicant, 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.

3. Intervals in excess of thirty (30) days may be appropriate in those instances requiring significant outside plant construction work or installation of additional switching location 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.

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

6.3. Operator service requirements.

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

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

c. When an operator is notified by a customer that 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.

a. Switching location capability and equipment shall be provided to meet the following requirements:

1. 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.

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.

b. With the exception of numbers that are changed coincident with the issuance of a new Directory, intercept services, either operator or mechanical, shall be provided for each non-working and changed telephone number 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.

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. Maintenance requirements.

a. 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.

b. Maintenance shall include keeping all plant and equipment in a good state of repair consistent with the design capabilities of the plant affected.

c. The telephone company shall keep a record of each interruption affecting service to an entire exchange, or any other significant portion of the company's telecommunications network. This record shall show the date, time, duration, extent, 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 Commission Staff upon request.

d. When interruptions occur, the telephone company shall reestablish service with the shortest feasible 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 such numbers of customers as to make twenty-four (24) hour service restoration infeasible.

e. Whenever service must be interrupted for the purpose of working on transmission facilities or their supporting apparatus or switching location equipment, 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 as feasible, 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.

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

1. 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 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.

2. The telephone company shall provide to customers the telephone number to call for repair service, and calls to repair service shall be available, without charge, for calls placed from the exchange in which trouble is experienced. When trouble is apparently located in the connecting company facilities, the trouble report shall be referred by the telephone company to the connecting company.

3. 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 charge, for calls placed from any exchange to the business office for that exchange.

g. 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.

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.

#### 6.6. 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. Miscellaneous service requirements.

a. 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 printed Directory and lighted at night, if practicable.

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.

### **§150-6-7. Safety.**

#### 7.1. Protective measures.

a. 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.

b. 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. 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 tariffed.

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 for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle, §150CSR2-18.1, 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. Requirement to Offer Tel-assistance Service.

Every eligible telecommunications carrier shall, pursuant to tariff or agreements filed with and approved by the Commission, offer a Tel-assistance Service rate schedule for residential customers. The Tel-assistance Service rate schedule shall provide special reduced rates for all qualifying low income consumers 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 subsections of this section and in W. Va. Code §24-2C.

10.2 Definitions.

a. "Customer" shall mean, for the purpose of this section, the member of the household in whose name telephone service is provided. For purposes of this section, the terms "customer" and "consumer" are synonymous, and may be used interchangeably.

b. "Eligible Telecommunications Carrier" means a common carrier that offers telecommunications services that are supported by federal universal service mechanisms, that advertises the availability of such services and the charges for such services using media of general distribution, and that has been designated as an eligible telecommunications carrier by the Commission pursuant to the provisions of 47 U.S.C. Section 214(e).

c. "Qualifying low-income consumer" means a residential customer who is a recipient of Medicaid, food stamps, supplemental security income, federal public housing assistance, low-income home energy assistance program benefits, temporary assistance to needy families benefits, or benefits under other income-related state or federal programs.

d. "Tel-assistance Service" means an individual, residential local exchange dial access line and an allowance for usage established by the Commission. The monthly rate for Tel-assistance Service shall be less than that normally charged by the eligible telecommunications carrier for residential service available to all customers. No other basic local exchange telephone service, foreign zone or foreign exchange service may be

provided to the dwelling place of a Tel-assistance customer. Tel-assistance service is not available to business customers.

e. "Usage" means the amount of local exchange service and long distance service provided by eligible telecommunications carriers to Tel-assistance customers.

10.3. Availability of Tel-assistance; rates and charges.

a. Tel-assistance Service shall be made available by eligible telecommunications carriers to all qualifying low income consumers.

b. The monthly Tel-assistance rate shall be set initially by the Commission at the lower of:

1. The lowest priced eligible service available to the customer at the time of his or her application; or

2. Seven dollars and fifty cents (\$7.50).

c. The Tel-assistance 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.

d. The Commission may, upon having set the rate initially for 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. Insofar as permitted under federal law, eligible telecommunications carriers may file with the Commission tariffs or agreements that, without limitation, offer Tel-assistance Service which includes a broader group of services, or make Tel-assistance Service available to a broader group of low-income customers. All such tariffs and agreements are subject to approval by the Commission.

e. An eligible telecommunications carrier may not impose an order processing charge or line connection charge in changing a customer to or from 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. Eligible telecommunications carrier's responsibility upon application.

a. Eligible telecommunications carriers shall accept applications for Tel-assistance Service from:

1. Any current customer; and

2. Any person who subsequently becomes a customer.

b. In determining whether an applicant is eligible to receive Tel-assistance Service, an eligible telecommunications carrier is entitled to rely upon the information provided to it directly or indirectly by the West Virginia Department of Health and Human Resources (or successor agency) pursuant to West Virginia Code.

c. An Eligible telecommunications carrier may provide Tel-assistance Service to a customer based on the customer's self-certification of eligibility, so long as the qualification of the applicant is subject to subsequent verification by the eligible telecommunications carrier.

d. Each eligible telecommunications carrier shall maintain documentation regarding the resolution of individual applications for Tel-assistance Service. The information contained in said records shall include names, addresses or other information which adequately identifies the applicant, the application date, the basis of eligibility, the date on which Tel-assistance Service is approved or denied; and whether the applicant is disabled and/or age sixty or older.

e. Any customer who ceases to receive service under a Tel-assistance Service rate schedule must reapply in order to receive such service again.

#### 10.5. Certification of revenue deficiency.

a. On or before March 1 of each year, each eligible telecommunications carrier 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 an eligible telecommunications carrier does not make application for certification of revenue deficiency for any calendar year, that eligible telecommunications 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. The eligible telecommunications carrier's revenue deficiency shall be calculated as the difference between revenues received from customers participating in Tel-assistance Service and the revenues which would have been received at full tariff rates for the same service as being provided under Tel-assistance; provided, however, that the revenue deficiency shall be limited to the revenues generated from providing Tel-assistance Service to qualifying low-income consumers who are disabled and/or age sixty or older.

c. Applications for determination and certification of an eligible telecommunications carrier's revenue deficiency shall be made in the format prescribed by

the Commission. All information submitted in such application shall be verified by the eligible telecommunications carrier to be true and accurate to the best of its knowledge and information.

d. The agreements or tariffs filed with the Commission for approval in accordance with this section, and W. Va. Code §24-2C, may specify the methodology by which the eligible telecommunications carrier will calculate its annual revenue deficiency. Subject to prior approval by the Commission, eligible telecommunications carriers may agree to freeze or cap the amount of the revenue deficiency at specific levels.

e. Where an eligible telecommunications carrier provides Tel-assistance Service by means of resale of an incumbent local exchange carrier's retail service, the Commission shall allocate the revenue deficiency between the eligible telecommunications carrier physically providing the line serving the qualifying low-income consumer, and the eligible telecommunications carrier that provided the Tel-assistance Service at retail to the qualifying low-income consumer. The foregoing allocation shall be based on the wholesale resale discount applicable to such Tel-assistance Service.

#### 10.6. Notice to customers.

a. All eligible telecommunications carriers shall advertise the availability of and rate for Tel-assistance Service throughout the service territory in which they have been designated an eligible telecommunications carrier.

b. All eligible telecommunications carriers shall adopt policies for providing notice to their customers of the availability and advantages of the Tel-assistance program.

c. As part of the annual certification required of the Commission under 47 C.F.R §§54.313 and 54.314, all eligible telecommunications carriers shall report to the Commission their actions to: (1) advertise the availability of and rates for Tel-assistance Service, and (2) to provide notice to customers of the availability and advantages of the Tel-assistance program.

#### 10.7. Additional federal Lifeline Service provided by eligible telecommunications carriers.

a. In order to qualify for federal Lifeline assistance, an eligible telecommunications 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. To receive federal Lifeline support, eligible telecommunications 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 providing federal Lifeline Service described in §150CSR6-10.7.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 an eligible telecommunications carrier shall be reported to the Commission in the carrier's application for recovery of revenue deficiencies and shall be deducted from the calculation of such revenue deficiency.

c. In order to increase the amount of federal Lifeline assistance it receives, an eligible telecommunications carrier may, pursuant to tariff, modify its Tel-assistance offering and the offering described in §150CSR6-10.7.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 eligible telecommunications carrier of revenue deficiencies, except as provided in §150CSR6-10.7.b.

### **§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 and submitting to the Commission 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;
3. A payphone service provider employee authorized to handle customer complaints; and
4. "800" or other toll free numbers.

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 §150CSR6-11.3.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 listen 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 carriers shall require that users of automatic dialing and announcing devices (ADADs) at all times meet each and every one of the following requirements.

- a. ADADs may not be used between the hours of 9:00 p.m. and 9:00 a.m.
- b. No ADAD may be used for purposes of telephone solicitation unless the ADAD user has previously registered with the Commission as an ADAD user.
- c. 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.
- d. 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.
- e. 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.
- f. ADADs must, wherever such service is available, use measured rate telephone service.

12.2. Local exchange carriers shall take reasonable steps to identify ADAD users who are not in full and strict compliance with §150CSR6-12.1.a. through 12.1.f. When any violation of any portion of §150CSR6-12.1.a. through 12.1.f. is discovered by a serving local exchange carrier or brought to its attention, the service used by the offending ADAD

equipment shall be discontinued after all Commission requirements regarding service discontinuation are met, until the user of the ADAD equipment can demonstrate that it shall be in compliance with the rule or rules violated. Any initial violation of §150CSR6-12.1.a. 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 §150CSR6-12.1.a. through 12.1.f. shall be immediately reported to the Telecommunications Section of the Commission's Utilities Division.

### **§150-6-13. Provision of operator services.**

#### 13.1. Responsibilities of Operator Service Providers.

a. 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:

1. Name, address and toll-free telephone number of the operator service provider providing "0+" service to the associated telephone line.
2. Notification that other operator service providers may be used by dialing their carrier access code.
3. Complaint procedures and methods for requesting refunds.
4. Emergency calling information.
5. Dialing instructions for obtaining rate information.
6. 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.

b. Operator service provider operators shall, upon request and without charge, provide rate information to callers.

c. 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.

d. 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.

e. 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 serving operator service provider, 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.

f. There shall be no charge for any uncompleted call.

g. 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.

h. 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.

i. 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.

j. Provision of emergency call routing service shall be subject to all of the following requirements:

1. 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.

2. The caller shall not be charged for the routing of an emergency call to the appropriate emergency service provider.

3. The operator service provider operator shall stay on the call until such time that 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.

4. The service shall be provided on a full-time basis.

5. 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 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 calling method to obtain aid.

k. 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.

l. 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.

m. Full toll call detail billing shall not be required for operator service provider bills issued by entities other than regulated telephone utilities.

n. 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.

o. Fraud Prevention.

1. An operator service provider may not bill an aggregator for calls which originated from the aggregator's line through the use of 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.

2. 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.

3. Any calls billed through the local exchange carrier in violation of §150CSR6-13.1.o.1 and 13.1.o.2. must be removed from the call aggregator's bill by the local exchange carrier upon identification. If investigation by the local exchange carrier determines that the pertinent call screening was operational when the call was made, the local exchange carrier may return the charges for the call to the operator service provider as not billable.

4. Any call billed directly by an operator services provider, or through a billing method other than the local exchange carrier, which is billed in violation of §150CSR6-13.1.o.1 and 13.1.o.2., must be removed from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the

local exchange carrier. If the local exchange 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 carrier for the call.

p. 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 §150CSR6-14-2.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 W. Va 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 addresses 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 9-1-1 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 §150CSR6-15.6., 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 providing local exchange telecommunications service, and shall contain the information set forth in §150CSR6-14.2.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 §150CSR6-14.4.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 §150CSR6-15.5.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 §150CSR6-15.2. 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 §150CSR6-15.2. 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 §150CSR6-14.1.: 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 §150CSR6-15.4.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 §150CSR6-15.5.

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 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 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 §150CSR6-15.2. 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 §150CSR6-15.5.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 §150CSR6-15.5.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 §150CSR6-15.5.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 §150CSR6-15.5.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 §150CSR6-15.2. and 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 §150CSR6-15.2. and 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 §150CSR6-15.1., 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:

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 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 PERFORMANCE	OBJECTIVE RANGE	ACTUAL
Station Installations, % Completed Within 5 Working Days	90% or more	
Service Commitments, % Commitments Met (§150CSR6-6.2.b.)	90% or more	
Held Orders over 30 Calendar Days (§150CSR6-6.c.1.)		
Operator Assistance Requests, % Within 10 Seconds (§150CSR6-6.3.b.)	85% or more	
Dial-Tone, or Functional Equivalent, % Within 3 Seconds (§150CSR6-6.4.a.1.)	98% or more	
Satisfactory Transmission Quality (§150CSR6-6.4.a.2.)	99% or more of test or sampled calls	
Satisfactory Call Completion (§150CSR6-6.a.3.)	99% or more of test or sampled calls	

**(Insert Company Name Here)**

**NOTICE OF SCHEDULED TERMINATION  
OF SERVICE AND CUSTOMER RIGHTS**

We have scheduled your \_\_\_\_\_ service,  
provided at \_\_\_\_\_,  
\_\_\_\_\_ (address)  
for termination on or 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.

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).