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**NTS COMMUNICATIONS REQUEST
FOR WAIVER OF RURAL EXEMPTION
OF SOUTH PLAINS TELEPHONE
COOPERATIVE, INC.**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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**ORDER SETTING
IMPLEMENTATION SCHEDULE**

I. Introduction

On September 15, 2004, the Public Utility Commission of Texas (Commission) entered an Order addressing the application of NTS Communications (NTS) to terminate the rural exemption of South Plains Telephone Cooperative, Inc. (South Plains) pursuant to § 251(f)(1)(A) of the Federal Telecommunications Act.¹ The Order granted NTS's request to terminate the rural exemption of South Plains for the Woodrow exchange. The Order further directed that an implementation schedule be set to allow the parties to negotiate the terms of interconnection pursuant to FTA § 251(f)(1)(B). This Order sets that implementation schedule.

II. Discussion

NTS requested an expedited schedule because more than nine months have elapsed since NTS delivered the request to South Plains that triggered this docket. NTS suggested a period of 30 to 60 days to negotiate before opening the arbitration window, specifically requesting that the arbitration window open on October 15 and close on November 9, 2004, with arbitration to be completed by February 28, 2005.

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified, as amended, in Sections 15 and 47 U.S.C.) (FTA).

EXHIBIT

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South Plains argues that the standard timelines for negotiation and arbitration of interconnection agreements are set forth in FTA § 252(a) and (b) and P.U.C. SUBST. R. 26.272(f) and (g). These timelines require a period of 135 days for negotiations with a window to request arbitration between the 135th and the 160th day and are triggered by a request for interconnection meeting the requirements of P.U.C. SUBST. R. 26.272(f)(3). It is South Plains's position that no such request meeting these requirements has been received by South Plains.

The Commission finds the arguments of South Plains persuasive. The September 15, 2004 Commission Order, in Finding of Fact No. 11, found that the December 4, 2003 letter (officially filed on January 28, 2004) from NTS to South Plains was a request to interconnect that showed NTS's sincere and clear intent to interconnect with South Plains. That letter was sufficient to commence this docket for termination of South Plains' rural exemption, but it does not meet all of the requirements of P.U.C. SUBST. R. 26.272(f)(3)(A)-(D). Therefore, no deadlines have yet been triggered in this docket, and the Commission enters an implementation schedule consistent with the following findings of fact and conclusions of law.

III. Findings of Fact

1. Section 251 of the FTA requires telecommunications carriers such as NTS and South Plains to interconnect for the purpose of exchanging telephone traffic originated by their customers.
2. NTS is a competitive local exchange carrier currently serving the cities of Amarillo, Lubbock, Midland, Odessa, and surrounding areas.
3. NTS seeks in this proceeding an interconnection with South Plains within the South Plains Woodrow exchange in order to provide local exchange service within a one-half mile wide area, along a fiber route it purchased as part of a larger facilities acquisition from a competitive local exchange carrier leaving the Lubbock area.

4. The interconnection NTS seeks is for the Woodrow exchange only, and only for a connection between South Plains' Woodrow switch and NTS's switch.
5. By letter dated December 4, 2003, NTS requested to negotiate interconnection with South Plains, pursuant to FTA § 251(f)(1)(A).
6. NTS mailed a copy of the December 4, 2003 letter to the Public Utility Commission of Texas (Commission) without filing the letter with the Commission filing clerk as required by P.U.C. PROC. R. 22.71(b).
7. On January 28, 2004, NTS filed its December 4, 2003 letter in compliance with P.U.C. PROC. R. 22.71(b), notifying the Commission of its intent to interconnect with South Plains.
8. The Commission referred this case to the State Office of Administrative Hearings (SOAH) on February 9, 2004, requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing on the merits and issue a Proposal for Decision.
9. The parties participating in that proceeding were: NTS represented by Lawrence S. Smith, Smith Majcher & Mudge, L.L.P.; South Plains represented by Brook Bennett Brown, McGinnis Lochridge & Kilgore; and Commission Staff represented by Mark Gladney, Legal and Enforcement Division.
10. The ALJ convened the hearing on the merits on May 18, 2004.
11. On September 15, 2004, the Commission entered the Order adopting the ALJ's Proposal for Decision and terminating South Plains's exemption to the Woodrow exchange only.

IV. Conclusions of Law

1. Section 251(f) of the FTA exempts rural telephone companies such as South Plains from the statutory requirement to negotiate agreements for interconnection unless the Commission has terminated the exemption.
2. The Commission has jurisdiction over this proceeding pursuant to the FTA § 251(f) and § 52.002 of the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. (Vernon 1998 and Supp. 2005) (PURA).
3. Under FTA § 251(f)(1)(A), a rural telephone company is exempt from the requirements to interconnect under FTA § 251(c) until the rural company receives a bona fide request to interconnect.
4. *Bona fide* is defined as in good faith, sincere, or genuine. *American Heritage Dictionary of the English Language*, 3rd Edition (Houghton Mifflin 1992).
5. It is not a requirement under FTA § 251(f)(1)(A) for NTS to provide the specific details of the interconnection in its bona fide request.
6. A *bona fide* request to interconnect pursuant to FTA § 251(f)(1)(A) does not have to meet all of the requirements of P.U.C. SUBST. R. 26.272(f)(3) necessary to determine the beginning date for negotiations of an interconnection agreement.
7. NTS's December 4, 2003 letter was a *bona fide* request to interconnect pursuant to FTA § 251(f)(1)(A), but it does not meet the requirements of P.U.C. SUBST. R. 26.272(f)(3); therefore, no date beginning negotiations between NTS and South Plains has been established.

V. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. NTS is ordered to file a request for interconnection from South Plains that meets the requirements of P.U.C. SUBST. R. 26.272(f)(3)(A)-(D) with the Commission and serve South Plains with that request. The timelines set forth in the FTA and P.U.C. SUBST. R. 26.272(f) and (g) shall be calculated from the date the request is filed with the Commission.
2. All other motions, requests for specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 5th day of ^{November}~~October~~ 2004.

PUBLIC UTILITY COMMISSION OF TEXAS



JULIE PARSLEY, COMMISSIONER

PAUL HUDSON, CHAIRMAN

BARRY T. SMITHERMAN, COMMISSIONER

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS PROVIDERS.

Subchapter L. WHOLESALE MARKET PROVISIONS.

§26.272. Interconnection.

- (a) **Purpose.** The purpose of this section is to ensure that all providers of telecommunications services which are certificated to provide local exchange service, basic local telecommunications service, or switched access service within the state interconnect and maintain interoperable networks such that the benefits of local exchange competition are realized as envisioned under the provisions of the Public Utility Regulatory Act (PURA). The commission finds that interconnection is necessary to achieve competition in the local exchange market and is, therefore, in the public interest.
- (b) **Definition.** The term "customer" when used in this section, shall mean an end-user customer.
- (c) **Application and Exceptions.**
 - (1) **Application.** This section applies to all certificated telecommunications utilities (CTUs) providing local exchange service.
 - (2) **Exceptions.** Except as herein provided, all CTUs providing local exchange service must comply with the requirements of this section.
 - (A) Holders of a service provider certificate of operating authority (SPCOA).
 - (i) The holder of an SPCOA that does not provide dial tone and only resells the telephone services of another CTU shall be subject only to the requirements of subsections (e)(1)(B)(ii) and (e)(1)(D)(i)-(vii) of this section and subsection (i)(1) - (3) of this section.
 - (ii) The underlying CTU providing service to the holder of an SPCOA referenced in subparagraph (A)(i) of this paragraph shall comply with the requirements of this section with respect to the customers of the SPCOA holder.
 - (B) Small incumbent local exchange companies (ILECs).
 - (i) This section shall apply to small ILECs to the extent required by 47 United States Code §251(f) (1996).
 - (ii) Notwithstanding the requirement in clause (i) of this subparagraph, small ILECs shall terminate traffic of a CTU which originates and terminates within the small ILEC's extended local calling service (ELCS) or extended area service (EAS) calling scope, where the small ILEC has an ELCS or EAS arrangement with another dominant certificated telecommunications utility (DCTU). The termination of this traffic shall be at rates, terms, and conditions as described in subsection (d)(4)(A) of this section.
 - (C) Rural telephone companies.
 - (i) This section shall also apply to rural telephone companies as defined in 47 United States Code §153 (1996) to the extent required by 47 United States Code §251(f) (1996).
 - (ii) Rural telephone companies shall terminate traffic of a CTU which originates and terminates within the rural telephone company's ELCS or EAS calling scope, where the rural telephone company has an ELCS or EAS arrangement with another DCTU. The termination of this traffic shall be at rates, terms, and conditions as described in subsection (d)(4)(A) of this section.
 - (D) Small CTUs.
 - (i) A small CTU may petition for a suspension or modification of the application of this section pursuant to 47 United States Code §251(f)(2) (1996).

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§26.272(c)(2)(D) continued

- (ii) Small CTUs shall terminate traffic of a CTU which originates and terminates within the small CTU's ELCS or EAS calling scope, where the small CTU has an ELCS or EAS arrangement with another DCTU. The termination of this traffic shall be at rates, terms, and conditions as described in subsection (d)(4)(A) of this section.
- (d) **Principles of interconnection.**
- (1) **General principles.**
 - (A) Interconnection between CTUs shall be established in a manner that is seamless, interoperable, technically and economically efficient, and transparent to the customer.
 - (B) Interconnection between CTUs shall utilize nationally accepted telecommunications industry standards and/or mutually acceptable standards for construction, operation, testing and maintenance of networks, such that the integrity of the networks is not impaired.
 - (C) A CTU may not unreasonably:
 - (i) discriminate against another CTU by refusing access to the local exchange;
 - (ii) refuse or delay interconnections to another CTU;
 - (iii) degrade the quality of access provided to another CTU;
 - (iv) impair the speed, quality, or efficiency of lines used by another CTU;
 - (v) fail to fully disclose in a timely manner, on request, all available information necessary for the design of equipment that will meet the specifications of the local exchange network; or
 - (vi) refuse or delay access by any person to another CTU.
 - (D) Interconnecting CTUs shall negotiate rates, terms, and conditions for facilities, services, or any other interconnection arrangements required pursuant to this section.
 - (E) This section should not be construed to allow an interconnecting CTU access to another CTU's network proprietary information or customer proprietary network information, customer-specific as defined in §26.5 of this title (relating to Definitions) unless otherwise permitted in this section.
 - (2) **Technical interconnection principles.** Interconnecting CTUs shall make a good-faith effort to accommodate each other's technical requests, provided that the technical requests are consistent with national industry standards and are in compliance with §23.61 of this title (relating to Telephone Utilities) and implementation of the requests would not cause unreasonable inefficiencies, unreasonable costs, or other detriment to the network of the CTU receiving the requests.
 - (A) Interconnecting CTUs shall ensure that customers of CTUs shall not have to dial additional digits or incur dialing delays that exceed industry standards in order to complete local calls as a result of interconnection.
 - (B) Interconnecting CTUs shall provide each other non-discriminatory access to signaling systems, databases, facilities, and information as required to ensure interoperability of networks and efficient, timely provision of services to customers.
 - (C) Interconnecting CTUs shall provide each other Common Channel Signaling System Seven (SS7) connectivity where technically available.
 - (D) Interconnecting CTUs shall be permitted a minimum of one point of interconnection in each exchange area or group of contiguous exchange areas within a single local access and transport area (LATA), as requested by the interconnecting CTU, and may negotiate

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with the other CTU for additional interconnection points. Interconnecting CTUs shall agree to construct and/or lease and maintain the facilities necessary to connect their networks, either by having one CTU provide the entire facility or by sharing the construction and maintenance of the facilities necessary to connect their networks. The financial responsibility for construction and maintenance of such facilities shall be borne by the party who constructs and maintains the facility, unless the parties involved agree to other financial arrangements. Each interconnecting CTU shall be responsible for delivering its originating traffic to the mutually-agreed-upon point of interconnection or points of interconnection. Nothing herein precludes a CTU from recovering the costs of construction and maintenance of facilities if such facilities are used by other CTUs.

- (E) Interconnecting CTUs shall establish joint procedures for troubleshooting the portions of their networks that are jointly used. Each CTU shall be responsible for maintaining and monitoring its own network such that the overall integrity of the interconnected network is maintained with service quality that is consistent with industry standards and is in compliance with §23.61 of this title.
 - (F) If a CTU has sufficient facilities in place, it shall provide intermediate transport arrangements between other interconnecting CTUs, upon request. A CTU providing intermediate transport shall not negotiate termination on behalf of another CTU, unless the terminating CTU agrees to such an arrangement. Upon request, DCTUs within major metropolitan areas will contact other CTUs and arrange meetings, within 15 days of such request, in an effort to facilitate negotiations and provide a forum for discussion of network efficiencies and inter-company billing arrangements.
 - (G) Each interconnecting CTU shall be responsible for ensuring that traffic is properly routed to the connected CTU and jurisdictionally identified by percent usage factors or in a manner agreed upon by the interconnecting CTUs.
 - (H) Interconnecting CTUs shall allow each other non-discriminatory access to all facility rights-of-way, conduits, pole attachments, building entrance facilities, and other pathways, provided that the requesting CTU has obtained all required authorizations from the property owner and/or appropriate governmental authority.
 - (I) Interconnecting CTUs shall provide each other physical interconnection in a non-discriminatory manner. Physical collocation for the transmission of local exchange traffic shall be provided to a CTU upon request, unless the CTU from which collocation is sought demonstrates that technical or space limitations make physical collocation impractical. Virtual collocation for the transmission of local exchange traffic shall be implemented at the option of the CTU requesting the interconnection.
 - (J) Each interconnecting CTU shall be responsible for contacting the North American Numbering Plan (NANP) administrator for its own NXX codes and for initiating NXX assignment requests.
- (3) **Principles regarding billing arrangements.**
- (A) Interconnecting CTUs shall cooperatively provide each other with both answer and disconnect supervision as well as accurate and timely exchange of information on billing records to facilitate billing to customers, to determine intercompany settlements for local and non-local traffic, and to validate the jurisdictional nature of traffic, as necessary. Such billing records shall be provided in accordance with national industry standards. For billing interexchange carriers for jointly provided switched access services, such billing records shall include meet point billing records, interexchange carrier billing

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name, interexchange carrier billing address, and Carrier Identification Codes (CICs). If exchange of CIC codes is not technically feasible, interconnecting CTUs shall negotiate a mutually acceptable settlement process for billing interexchange carriers for jointly provided switched access services.

- (B) CTUs shall enter into mutual billing and collection arrangements that are comparable to those existing between and/or among DCTUs, to ensure acceptance of each other's non-proprietary calling cards and operator-assisted calls.
 - (C) Upon a customer's selection of a CTU for his or her local exchange service, that CTU shall provide notification to the primary interexchange carrier (IXC) through the Customer Account Record Exchange (CARE) database, or comparable means if CARE is unavailable, of all information necessary for billing that customer. At a minimum, this information should include the name and contact person for the new CTU and the customer's name, telephone number, and billing number. In the event a customer's local exchange service is disconnected at the option of the customer or the CTU, the disconnecting CTU shall provide notification to the primary IXC of such disconnection.
 - (D) All CTUs shall cooperate with interexchange carriers to ensure that customers are properly billed for interexchange carrier services.
- (4) **Principles regarding interconnection rates, terms, and conditions.**
- (A) Criteria for setting interconnection rates, terms, and conditions. Interconnection rates, terms, and conditions shall not be unreasonably preferential, discriminatory, or prejudicial, and shall be non-discriminatory. The following criteria shall be used to establish interconnection rates, terms, and conditions.
 - (i) Local traffic of a CTU which originates and terminates within the mandatory single or multiexchange local calling area available under the basic local exchange rate of a single DCTU shall be terminated by the CTU at local interconnection rates. The local interconnection rates under this subclause also apply with respect to mandatory EAS traffic originated and terminated within the local calling area of a DCTU if such traffic is between exchanges served by that single DCTU.
 - (ii) If a non-dominant certificated telecommunications utility (NCTU) offers, on a mandatory basis, the same minimum ELCS calling scope that a DCTU offers under its ELCS arrangement, a NCTU shall receive arrangements for its ELCS traffic that are not less favorable than the DCTU provides for terminating mandatory ELCS traffic.
 - (iii) With respect to local traffic originated and terminated within the local calling area of a DCTU but between exchanges of two or more DCTUs governed by mandatory EAS arrangements, DCTUs shall terminate local traffic of NCTUs at rates, terms, and conditions that are not less favorable than those between DCTUs for similar mandatory EAS traffic for the affected area. A NCTU and a DCTU may agree to terms and conditions that are different from those that exist between DCTUs for similar mandatory EAS traffic. The rates applicable to the NCTU for such traffic shall reflect the difference in costs to the DCTU caused by the different terms and conditions.

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§26.272(d)(4)(A) continued

- (iv) With respect to traffic that originates and terminates within an optional flat rate calling area, whether between exchanges of one DCTU or between exchanges of two or more DCTUs, DCTUs shall terminate such traffic of NCTUs at rates, terms, and conditions that are not less favorable than those between DCTUs for similar traffic. A NCTU and a DCTU may agree to terms and conditions that are different from those that exist between DCTUs for similar optional EAS traffic. The rates applicable to the NCTU for such traffic shall reflect the difference in costs to the DCTU caused by the different terms and conditions.
- (v) A DCTU with more than one million access lines and a NCTU shall negotiate new EAS arrangements in accordance with the following requirements.
 - (I) For traffic between an exchange and a contiguous metropolitan exchange local calling area, as defined in §26.5 of this title (relating to Definitions), the DCTU shall negotiate with a NCTU for termination of such traffic if the NCTU includes such traffic as part of its customers' local calling area. These interconnection arrangements shall be not less favorable than the arrangements between DCTUs for similar EAS traffic.
 - (II) For traffic that does not originate or terminate within a metropolitan exchange local calling area, the DCTU shall negotiate with a NCTU for the termination of traffic between the contiguous service areas of the DCTU and the NCTU if the NCTU includes such traffic as part of its customers' local calling area and such traffic originates in an exchange served by the DCTU. These interconnection arrangements shall be not less favorable than the arrangements between DCTUs for similar EAS traffic.
 - (III) A NCTU shall have the same obligation to negotiate similar EAS interconnection arrangements with respect to traffic between its service area and a contiguous exchange of the DCTU if the DCTU includes such traffic as part of its customers' local calling area.
- (vi) NCTUs are not precluded from establishing their own local calling areas or prices for purposes of retail telephone service offerings.
- (B) Establishment of rates, terms, and conditions.
 - (i) CTUs involved in interconnection negotiations shall ensure that all reasonable negotiation opportunities are completed prior to the termination of the first commercial call. The date upon which the first commercial call between CTUs is terminated signifies the beginning of a nine-month period in which each CTU shall reciprocally terminate the other CTU's traffic at no charge, in the absence of mutually negotiated interconnection rates. Reciprocal interconnection rates, terms, and conditions shall be established pursuant to the compulsory arbitration process in subsection (g) of this section. In establishing these initial rates and three years from termination of the first commercial call, no cost studies shall be required from a new CTU.
 - (ii) An ILEC may adopt the tariffed interconnection rates approved for a larger ILEC or interconnection rates of a larger ILEC resulting from negotiations without providing the commission any additional cost justification for the adopted rates. If an ILEC adopts the tariffed interconnection rates approved for a larger ILEC, it

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§26.272(d)(4)(B)(ii) continued

shall file tariffs referencing the appropriate larger ILEC's rates. If an ILEC adopts the interconnection rates of a larger ILEC, the new CTU may adopt those rates as its own rates by filing tariffs referencing the appropriate larger ILEC's rates. If an ILEC chooses to file its own interconnection tariff, the new CTU must also file its own interconnection tariff.

- (C) Public disclosure of interconnection rates, terms, and conditions. Interconnection rates, terms, and/or conditions shall be made publicly available as provided in subsection (h) of this section.

(e) Minimum interconnection arrangements.

- (1) Pursuant to mutual agreements, interconnecting CTUs shall provide each other non-discriminatory access to ancillary services such as repair services, E-911, operator services, white pages telephone directory listing, publication and distribution, and directory assistance. The following minimum terms and conditions shall apply:
 - (A) Repair services. For purposes of this section, a CTU shall be required to provide repair services for its own facilities regardless of whether such facilities are used by the CTU for retail purposes, or provided by the CTU for resale purposes, or whether the facilities are ordered by another CTU for purposes of collocation.
 - (B) E-911 services. E-911 services include Automatic Number Identification (ANI), ANI and Automatic Location Identification (ALI), ANI and/or ALI and selective routing, and/or any other combination of enhanced 9-1-1 features required by the Regional Planning Commission or the 9-1-1 emergency communication district responsible for the geographic area involved. This requirement is in accordance with Health and Safety Code, Chapter 771, and the applicable regional plan approved by the Commission on State Emergency Communications or by the emergency communication district, defined in Health and Safety Code, §771.001(2), responsible for the geographic area involved or other local authority responsible for the geographic area involved.
 - (i) As a prerequisite to providing local exchange telephone service to any customer and thereafter, a CTU must meet the following requirements.
 - (I) The CTU is responsible for ordering or provisioning the trunk groups necessary to provide E-911 services.
 - (II) The CTU is responsible for enabling all its customers to dial the three digits 9, 1, 1, and only these numbers, to access 9-1-1 service.
 - (III) The CTU is responsible for providing the telephone number of the 9-1-1 calling customer to the appropriate CTU's E-911 tandems or appropriate 9-1-1 Public Safety Answering Point, as applicable. This number must include both the numbering plan area (NPA) code, or numbering plan digit (NPD), as appropriate and necessary, and the local telephone number of the 9-1-1 calling customer, that can be used to successfully complete a return call to the customer. ANI represents this capability.
 - (IV) The CTU is responsible for selectively routing a 9-1-1 customer call, as well as interconnecting traffic on its network, to the appropriate CTU's E-911 tandems or appropriate 9-1-1 Public Safety Answering Point, as applicable, based on the ANI and/or location of the calling party. The appropriate CTU and/or appropriate 9-1-1 entity, as applicable, shall provide routing information to the CTU for routing purposes.

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§26.272(e)(1)(B)(i) continued

- (V) The CTU is responsible for providing appropriate information describing the location from which a CTU customer is placing a 9-1-1 call. This information shall consist of the calling customer name, physical location, appropriate emergency service providers, and other similar data. For purposes of this subclause, appropriate or other similar data shall be determined by the Regional Planning Commission responsible for the geographic area involved, in accordance with Health and Safety Code, Chapter 771, and the applicable regional plan approved by the Commission on State Emergency Communications or by the emergency communication district, defined in Health and Safety Code, §771.001(2), responsible for the geographic area involved or other local authority responsible for the geographic area involved.
- (ii) Each interconnecting CTU is responsible for providing to the local authority and the appropriate CTU, accurate and timely current information for all published, nonpublished, and nonlisted information associated with its customers for the purposes of emergency or E-911 services.
 - (I) For purposes of this clause, the appropriate CTU refers to the CTU designated by the local authority for purposes of maintaining the 9-1-1 database.
 - (II) For purposes of this clause, the information is considered timely if within 24 hours of receipt of the information, it is delivered by the CTU to the appropriate CTU and the local authority, and/or placed into the database by the appropriate CTU.
 - (III) For purposes of this clause, the information sent by a CTU to the appropriate CTU or the information used by the appropriate CTU shall be maintained in a fashion to ensure that it is accurate at a percentage as close to 100% as possible. "Accurate" means a record that correctly routes a 9-1-1 call, and/or provides correct location information relating to the origination of such call. "Percentage" means the total number of accurate records in that database divided by the total number of records in that database. In determining the accuracy of records, a CTU shall not be held responsible for erroneous information provided to it by a customer or another CTU.
 - (IV) Interconnecting CTUs shall execute confidentiality agreements with each other, as necessary, to prevent the unauthorized disclosure of non-published/non-listed numbers. Interconnecting CTUs shall be allowed access to the ALI database by the appropriate CTU for verification purposes. The local 9-1-1 entity shall provide non-discriminatory access to the Master Street Address Guide.
- (iii) Each CTU is responsible for developing a 9-1-1 disaster recovery, service restoration plan with input from the applicable Regional Planning Commission or emergency communication district and the Commission on State Emergency Communications. This plan shall identify the actions to be taken in the event of a network-based 9-1-1 service failure. The goal of such actions shall be the efficient and timely restoration of the 9-1-1 service. CTUs shall notify the applicable Regional Planning Commission or emergency communications district of any changes in CTU network based services and other services that may require changes to the plan.

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§26.272(e)(1)(B) continued

- (iv) Interconnecting CTUs shall provide each other and the appropriate 9-1-1 entity notification of scheduled outages for 9-1-1 trunks at least 48 hours prior to such outages. In the event of unscheduled outages for 9-1-1 trunks, interconnecting CTUs shall provide each other and the appropriate 9-1-1 entity immediate notification of such outages.
- (v) Each NCTU's rates for 9-1-1 service to a Public Safety Answering Point shall be presumed to be reasonable if they do not exceed the rates charged by the ILEC for similar service.
- (C) Operator services. Interconnecting CTUs shall negotiate to ensure the interoperability of operator services between networks, including but not limited to the ability of operators on each network to perform such operator functions as reverse billing, line verification, call screening, and call interrupt.
- (D) White pages telephone directory and directory assistance. Interconnecting CTUs shall negotiate to ensure provision of white pages telephone directory and directory assistance services.
 - (i) The telephone numbers and other appropriate information of the customers of NCTUs shall be included on a non-discriminatory basis in the DCTU's white pages directory associated with the geographic area covered by the white pages telephone directory published by the DCTUs. Similarly, any white pages telephone directory provided by a NCTU to its customers shall have corresponding DCTU listings available on a non-discriminatory basis. The entries of NCTU customers in the DCTU white pages telephone directory shall be interspersed in correct alphabetical sequence among the entries of the DCTU customers and shall be no different in style, size, or format than the entries of the DCTU customers, unless requested otherwise by the NCTU. The CTU or its affiliate publishing a white pages telephone directory on behalf of the CTU shall not directly charge the customer of another CTU located in the geographic areas covered by the white pages telephone directory for white pages listings or directory.
 - (ii) Listings of all customers located within the local calling area of a NCTU, but not located within the local calling area of the DCTU publishing the white pages telephone directory, shall be included in a separate section of the DCTU's white pages telephone directory at the option of the NCTU.
 - (iii) CTUs shall provide directory listings and related updates to the CTU or its affiliate publishing a white pages telephone directory on behalf of the CTU or to any CTU providing directory assistance, in a timely manner to ensure inclusion in the annual white page listings and provision of directory assistance service that complies with §23.61 of this title. The CTU or its affiliate publishing a white pages telephone directory on behalf of the CTU shall be responsible for providing all other CTUs with timely information regarding deadlines associated with its published white pages telephone directory.
 - (iv) CTUs shall, upon request, provide accurate and current subscriber listings (name, address, telephone number) and updates in a readily usable format and in a timely manner, on a non-discriminatory basis, to publishers of yellow pages telephone directory. CTUs shall not provide listings of subscribers desiring non-listed status for publication purposes.

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§26.272(e)(1)(D) continued

- (v) White pages telephone directories shall be distributed to all customers located within the geographic area covered by the white pages telephone directory on non-discriminatory terms and conditions by the CTU or its affiliate publishing the white pages telephone directory.
 - (vi) A CTU or its affiliate that publishes a white pages telephone directory on behalf of the CTU shall provide a single page per CTU in the information section of the white pages telephone directory, for the CTU to convey critical customer contact information regarding emergency services, billing and service information, repair services and other pertinent information. The CTU's pages shall be arranged in alphabetical order. Additional access to the information section of the white pages telephone directory shall be subject to negotiations.
 - (vii) CTUs must provide information that identifies customers desiring non-listed and/or non-published telephone numbers and/or non-published addresses to the CTU or its affiliate publishing a white pages telephone directory on behalf of the CTU and to the CTU maintaining the directory assistance database. The CTU or its affiliate publishing a white pages telephone directory on behalf of the CTU shall not divulge such non-listed and/or non-published telephone numbers or addresses and the CTU maintaining the directory assistance database shall not divulge such non-published telephone numbers or addresses.
 - (viii) CTUs shall provide each other non-discriminatory access to directory assistance databases.
- (2) At a minimum, interconnecting CTUs shall negotiate to ensure the following:
- (A) Non-discriminatory access to databases such as 800 and Line Information Data Base (LIDB) where technically feasible, to ensure interoperability between networks and the efficient, timely provision of service to customers;
 - (B) non-discriminatory access to Telecommunications Relay Service;
 - (C) Common Channel Signaling interconnection including transmission of privacy indicator where technically available;
 - (D) non-discriminatory access to all signaling protocols and all elements of signaling protocols used in routing local and interexchange traffic, including signaling protocols used to query call processing databases, where technically feasible;
 - (E) number portability and the inclusion of the NCTU's NXX code(s) in the Local Exchange Routing Guide and related systems;
 - (F) non-discriminatory handling, including billing, of mass announcement/audiotext calls including, but not limited to, 900 and 976 calls;
 - (G) provision of intercept services for a specific telephone number in the event a customer discontinues service with one CTU, initiates service with another CTU, and the customer's telephone number changes;
 - (H) cooperative engineering, operations, maintenance and billing practices and procedures; and
 - (I) non-discriminatory access to Advanced Intelligent Network (AIN), where technically available.

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(f) Negotiations.

- (1) CTUs and other negotiating parties shall engage in good-faith negotiations and cooperative planning as necessary to achieve mutually agreeable interconnection arrangements.
- (2) Before terminating its first commercial telephone call, each CTU requesting interconnection shall negotiate with each CTU or other negotiating party that is necessary to complete all telephone calls, including local service calls and EAS or ELCS calls, made by or placed to the customers of the requesting CTU. Upon request, DCTUs within major metropolitan calling areas will contact other CTUs and arrange meetings, within 15 days of such request, in an effort to facilitate negotiations and provide a forum for discussions of network efficiencies and intercompany billing arrangements.
- (3) Unless the negotiating parties establish a mutually agreeable date, negotiations are deemed to begin on the date when the CTU or other negotiating party from which interconnection is being requested receives the request for interconnection from the CTU seeking interconnection. The request shall:
 - (A) be in writing and hand-delivered; sent by certified mail or by facsimile;
 - (B) identify the initial specific issues to be resolved, the specific underlying facts, and the requesting CTU's proposed resolution of each issue;
 - (C) provide any other material necessary to support the request, included as appendices; and
 - (D) provide the identity of the person authorized to negotiate for the requesting CTU.
- (4) The requesting CTU may identify additional issues for negotiation without causing an alteration of the date on which negotiations are deemed to begin.
- (5) The CTU or negotiating party from which interconnection is sought shall respond to the interconnection request no later than 14 working days from the date the request is received. The response shall:
 - (A) be in writing and hand-delivered; sent by certified mail or by facsimile;
 - (B) respond specifically to the requesting party's proposed resolution of each initial issue identified by the requesting party, identify the specific underlying facts upon which the response is based and, if the response is not in agreement with the requesting party's proposed resolution of each issue, the responding party's proposed resolution of each issue;
 - (C) provide any other material necessary to support the response, included as appendices; and
 - (D) provide the identity of the person authorized to negotiate for the responding party.
- (6) At any point during the negotiations required under this subsection, any CTU or negotiating party may request the commission designee(s) to participate in the negotiations and to mediate any differences arising in the course of the negotiation.
- (7) Interconnecting CTUs may, by written agreement, accelerate the requirements of this subsection with respect to a particular interconnection agreement except that the requirements of subsection (g)(1)(A) of this subsection shall not be accelerated.
- (8) Any disputes arising under or pertaining to negotiated interconnection agreements may be resolved pursuant to Chapter 22, Subchapter Q, of this title (relating to Post-Interconnection Agreement Dispute Resolution).

(g) Compulsory arbitration process.

- (1) A negotiating CTU that is unable to reach mutually agreeable terms, rates, and/or conditions for interconnection with any CTU or negotiating party may petition the commission to arbitrate any unresolved issues. In order to initiate the arbitration procedure, a negotiating CTU:

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- (A) shall file its petition with the commission during the period from the 135th to the 160th day (inclusive) after the date on which its request for negotiation under subsection (f) of this section was received by the other CTU involved in the negotiation;
 - (B) shall provide the identity of each CTU and/or negotiating party with which agreement cannot be reached but whose cooperation is necessary to complete all telephone calls made by or placed to the customers of the requesting CTU;
 - (C) shall provide all relevant documentation concerning the unresolved issues;
 - (D) shall provide all relevant documentation concerning the position of each of the negotiating parties with respect to those issues;
 - (E) shall provide all relevant documentation concerning any other issue discussed and resolved by the negotiating parties; and
 - (F) shall send a copy of the petition and any documentation to the CTU or negotiating party with which agreement cannot be reached, not later than the day on which the commission receives the petition.
- (2) A non-petitioning party to a negotiation under subsection (f) of this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after the commission receives the petition.
 - (3) The compulsory arbitration process shall be completed not later than nine months after the date on which a CTU receives a request for interconnection under subsection (f) of this section.
 - (4) Any disputes arising under or pertaining to arbitrated interconnection agreements may be resolved pursuant to Chapter 22, Subchapter Q, of this title (relating to Post-Interconnection Agreement Dispute Resolution).
- (h) **Filing of rates, terms, and conditions.**
- (1) Rates, terms and conditions resulting from negotiations, compulsory arbitration process, and statements of generally available terms.
 - (A) A CTU from which interconnection is requested shall file any agreement, adopted by negotiation or by compulsory arbitration, with the commission. The commission shall make such agreement available for public inspection and copying within ten days after the agreement is approved by the commission pursuant to subparagraphs (C) and (D) of this paragraph.
 - (B) An ILEC serving greater than five million access lines may prepare and file with the commission, a statement of terms and conditions that it generally offers within the state pursuant to 47 United States Code §252(f) (1996). The commission shall make such statement available for public inspection and copying within ten days after the statement is approved by the commission pursuant to subparagraph (E) of this paragraph.
 - (C) The commission shall reject an agreement (or any portion thereof) adopted by negotiation if it finds that:
 - (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
 - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.
 - (D) The commission shall reject an agreement (or any portion thereof) adopted by compulsory arbitration, under subsection (g) of this section, pursuant to guidelines found in 47 United States Code §252(e)(2)(B) (1996).

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- (E) The commission shall review the statement of generally available terms filed under subparagraph (B) of this paragraph, pursuant to guidelines found in 47 United States Code §252(f) (1996). The submission or approval of a statement under this paragraph shall not relieve an ILEC serving greater than five million access lines of its duty to negotiate the terms and conditions of an agreement pursuant to §47 United States Code §251 (1996).
- (2) **Rates, terms and/or conditions among DCTUs.** Within 15 days of a request from a CTU negotiating interconnection arrangements with a DCTU, a non-redacted version of any agreement reflecting the rates, terms, and conditions between and/or among DCTUs which relate to interconnection arrangements for similar traffic shall be disclosed to the CTU, subject to commission-approved non-disclosure or protective agreement. A non-redacted version of the same agreement shall be disclosed to commission staff at the same time if requested, subject to commission-approved non-disclosure or protective agreement.
- (i) **Customer safeguards.**
- (1) **Requirements for provision of service to customers.** Nothing in this section or in the CTU's tariffs shall be interpreted as precluding a customer of any CTU from purchasing local exchange service from more than one CTU at a time. No CTU shall connect, disconnect, or move any wiring or circuits on the customer's side of the demarcation point without the customer's express authorization as specified in §26.130 of this title, (relating to Selection of Telecommunications Utilities).
- (2) **Requirements for CTUs ceasing operations.** In the event that a CTU ceases its operations, it is the responsibility of the CTU to notify the commission and all of the CTU's customers at least 61 working days in advance that their service will be terminated. The notification shall include a listing of all alternative service providers available to customers in the exchange and shall specify the date on which service will be terminated.
- (3) **Requirements for service installations.** DCTUs that interconnect with NCTUs shall be responsible for meeting the installation of service requirements under §23.61(e)(2) of this title in providing service to the NCTU. NCTUs shall make a good-faith effort to meet the requirements for installation in §23.61(e)(2) of this title, and may negotiate with the DCTU to establish a procedure to meet this goal.
- (A) For those customers for whom the NCTU provides dial tone but not the local loop, 95% of the NCTU's service orders shall be completed in no more than ten working days from request for service, unless a later date is agreed to by the customer.
- (B) For those customers for whom the NCTU does not provide dial tone and resells the telephone services of a DCTU, 95% of the NCTU's service orders shall be completed in no more than seven working days from request for service, unless the customer agrees to a later date.
- (C) For those customers where the NCTU uses facilities other than a DCTUs' resale facilities obtained through PURA §60.041, the NCTU shall complete service orders within 30 calendar days from request of service, unless a later date is agreed to by the customer.
- (D) The DCTU shall not discriminate between its customers and NCTUs if the DCTU is able to install service in less than the time permitted under §23.61(e)(2) of this title.