

NEBRASKA ADMINISTRATIVE CODE

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TITLE 291 - NEBRASKA PUBLIC SERVICE COMMISSION

CHAPTER 5 – TELECOMMUNICATIONS RULES AND REGULATIONS

001 GENERAL.

001.01 DEFINITIONS. As used in this chapter unless the context otherwise requires.

001.01(A) ACCESS. The ability of an interexchange carrier or subscriber to utilize the facilities of an exchange carrier.

001.01(B) ACCESS LINE. The facility used by the exchange carrier to provide dial tone to a subscriber from the central office through and including the Network Interface on the subscriber's premises.

001.01(C) APPLICANT. A party filing an application to the Commission.

001.01(DG) APPLICATION FOR SERVICE. A request made verbally or in writing for telecommunications service and shall include requests for a change in existing service.

001.01(ED) BUSY HOUR-BUSY SEASON. The continuous one-hour period of that day in the calendar month or period of the year (not to exceed 30 days) during which the greatest volume of traffic is handled by the central office.

001.01(FE) CALL. A customer telecommunications message attempted.

001.01(GF) CENTRAL OFFICE. An independent switching unit in a telecommunications system providing service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting access lines and trunks or trunks only. There may be more than one central office in a building.

001.01(HG) CERTIFICATE. An authorization issued by the Commission to allow a person to offer telecommunications services within Nebraska as a common carrier.

001.01(IH) CLASS OF SERVICE. The various categories of service generally available to customers such as business access line service.

001.01(JI) COMMISSION. The Nebraska Public Service Commission.

001.01(KJ) COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC). A person holding a permit to offer contract carriage or a certificate to offer common carriage telecommunications services within Nebraska issued after February 8, 1996. Competitive local exchange carriers are not required to offer dial tone service or any other specific service unless authorized or required by the terms of their permit or certificate.

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001.01(L) COST OF INFRASTRUCTURE OVERBUILDING. The cost of each leased optic fiber, including the cost, on a pro rata basis, associated with the agency of political subdivision's installation of such fiber.

001.01(MK) CUSTOMER OR SUBSCRIBER. Any person, firm, partnership, corporation, limited liability company, municipality, cooperative, organization, governmental agency, or any other entity provided with telecommunications service by a telephone company.

001.01(N) DARK FIBER. Any unused fiber optic cable through which no light is transmitted or any installed fiber optic cable not carrying a signal.

001.01(O) DARK FIBER SAFE HARBOR RANGE. The safe harbor range of market rates for all dark fiber leases or licenses as determined by the Commission.

001.01(PL) DEAF. Any hearing impairment, with or without amplification, which is so severe that the person with the impairment may have difficulty in auditorily processing spoken language without the use of an interpreter.

001.01(QM) DUAL-DISABLED. Having ~~with~~ more than one hearing, vision, or speech impairment simultaneously.

001.01(RN) ELIGIBLE TELECOMMUNICATIONS CARRIER; ELIGIBLE TELECOMMUNICATIONS COMPANY. A carrier designated by the Commission pursuant to 47 U.S.C. § 214(e) and 291 Neb. Admin. Code, Section 9 to receive monetary support from the Federal Universal Service Fund.

001.01(SQ) EXCHANGE. A unit wherein an exchange carrier administers access line service in a specified geographic area which usually embraces a city, town or village and its environs. It consists of one or more central offices together with associated plant used in furnishing access line service in the area.

001.01(TP) EXCHANGE CARRIER. A local exchange telephone company operating under authority of a Certificate of Public Convenience and Necessity engaged in providing access line service and related telecommunications service, regulated or unregulated, to the public. An exchange carrier may provide interexchange service as authorized by this Commission.

001.01(UQ) EXTENDED AREA SERVICE (EAS). A telecommunications service which groups two or more exchanges to allow subscribers of one exchange in the group to place and receive two-way switched communications to and from subscribers in one or more other exchanges in the group without an interexchange toll charge.

001.01(UQ)(i) PETITIONING EXCHANGE. The exchange which petitions the Commission for EAS.

001.01(UQ)(ii) PETITIONED EXCHANGE(S). The exchange, or group of exchanges, to which the petitioning exchange asserts a community of interest.

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~~001.01(R) GRADE. The type of access line service furnished a customer with respect to the number of access lines which may be connected to central office lines (1-party, 2-party, 4-party and multi-party).~~

001.01(VS) HARD OF HEARING. A hearing loss, permanent or fluctuating, which may adversely affect the ability to understand spoken language without the use of an interpreter or auxiliary aid.

001.01(WT) HELD APPLICATION. A completed application for service which is not filled within thirty days.

001.01(XU) HOUSEHOLD. A family unit whose members are related by birth, marriage, or adoption and who share a common living arrangement.

001.01(YV) INCUMBENT LOCAL EXCHANGE CARRIER (ILEC). A person holding a certificate to offer local exchange telecommunications services within Nebraska issued on or before February 8, 1996. The issuance of a new certificate in conjunction with the acquisition of a certificate issued on or before February 8, 1996 gives the acquiring entity incumbent local exchange status in the pre-February 8, 1996 certificated area.

001.01(ZW) INDEBTED HOUSEHOLD. Two or more people sharing a common living arrangement, at least one of whom is indebted to the telephone company for service previously rendered.

001.01(AAX) INTERCEPT. A means, whether automatic or manual, to permit the interception of calls to vacant levels, numbers, and codes.

001.01(BBY) INTEREXCHANGE CARRIER. A telecommunications company which provides interexchange telephone service.

001.01(CCZ) INTEREXCHANGE SERVICE. Interexchange service means the access and transmission of communications between two or more local exchange areas, except for two-way switched communications between local exchanges that are grouped for extended area service.

001.01(DDAA) INTER-LATA INTEREXCHANGE SERVICE. Telecommunications services that originate in one and terminate in another Local Access and Transport Area.

001.01(EEBB) INTRA-LATA INTEREXCHANGE SERVICE. Telecommunications services that originate and terminate in the same Local Access and Transport Area.

~~001.01(FF) INTERNET SERVICE PROVIDER. An entity providing broadband Internet service providing access to the Internet in Nebraska at speeds of at least one hundred megabits per second for downloading and twenty megabits per second for uploading.~~

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001.01(~~GGGG~~) LOCAL ACCESS AND TRANSPORT AREA (LATA). A local geographical area in the United States within which a local telephone company may offer telecommunications services, as defined by 47 U.S.C. § 153(31).

001.01(~~HHDD~~) LOCAL EXCHANGE SERVICE. The access and transmission of two-way voice communications within a local exchange area. Also referred to as “basic local exchange service.”~~The telecommunications service provided within a local calling area in accordance with the exchange carrier's tariffs.~~

001.01(~~IIIE~~) MESSAGE. A completed customer telephone call.

001.01(~~JJFF~~) NEBRASKA SPECIALIZED TELECOMMUNICATIONS EQUIPMENT PROGRAM (NSTEP). Program administered by the Commission that provides assistance to impaired Nebraskans in purchasing specialized telecommunications equipment.

001.01(~~KKGG~~) NEBRASKA TELECOMMUNICATIONS RELAY SYSTEM (NTRS). The Nebraska service permitting full and simultaneous communication between deaf, hard of hearing, or speech-impaired persons using specialized telecommunications equipment and other persons using conventional telephone equipment.

001.01(~~LLHH~~) NETWORK INTERFACE. The point of connection between the subscriber's facilities and the exchange carrier provided access line, which is located on the subscriber's premises at a place deemed necessary to ensure transmission quality, station grounding coordination and which is readily accessible to the subscriber and the exchange carrier.

001.01(~~MMH~~) OPERATOR. An employee of a telephone company, or contractor with that company, who aids in the completion of phone calls or provides directory assistance.

001.01(~~NNJJ~~) OPERATOR SERVICE PROVIDER. Any person, firm, partnership or corporation engaged in furnishing operators to facilitate the completion of local and/or long distance calls and who also bills for such operator services and call completion either separately, through exchange carriers or other billing services such as credit card companies.

~~001.01(KK) OPTIONAL ENHANCED AREA CALLING PLAN (OEACP). A toll discount plan offered in lieu of EAS or for any other purpose.~~

001.01(~~OOLL~~) ORIGINATING LOCATION. The geographic area served for originating interexchange telecommunications through the facilities of the exchange carrier at the originating end of the call.

001.01(~~PPMM~~) OUTAGE; SERVICE INTERRUPTION. The terms “service interruption,” “interruption,” and “outage” refer to one or more of the following:

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001.01(PP)(1). Any significant degradation in the ability of an end user to establish and maintain a channel of communications by use of a company or its affiliate's local exchange or long distance facilities, affecting service to one hundred or more of the company's access lines or eighty percent of the access lines in any given exchange, whichever is smaller, for thirty minutes or longer;

001.01(PP)(2). Complete loss of extended area service or toll trunk groups in a central office for thirty minutes or longer;

001.01(PP)(3). Any loss of service relating to company operated 911 equipment or facilities that causes isolation of working lines in any exchange from 911 access for thirty minutes or longer; or

001.01(PP)(4). Any loss of service to airports, schools, military facilities, hospital facilities, public safety answering points, police stations, or fire houses, for thirty minutes or longer.

001.01(PP)(5). A service interruption or outage does not include a loss of service which is planned and scheduled, occurs between midnight and 6:00 a.m. local time, and is of a duration less than sixty minutes; or, if such loss of service extends to a maximum of four hours, it will not be considered a service interruption or outage as long as notice has been provided to all affected customers and affected PSAPs at least twenty-four hour in advance of the loss of service.

~~Any significant degradation in the ability of an end user to establish and maintain a channel of communications by use of a company or its affiliate's local exchange or long distance facilities, affecting multiple customers in an exchange, caused by the same set of circumstances, or a complete loss of extended area service or toll trunk groups in a central office.~~

001.01(~~QQNN~~) PERMIT. An authorization issued by the Commission to allow a person to offer telecommunications services within Nebraska as a contract carrier.

001.01(~~RRQQ~~) PERSON. Any individual, firm, partnership, limited liability company, joint venture, cooperative, corporation, company, association, or other entity.

001.01(~~SSPP~~) PROGRAM ADMINISTRATOR. The person designated by the Commission for the administration of the Nebraska Telecommunications Relay System Act.

001.01(~~TTQQ~~) PROPRIETARY INFORMATION. Any information that is intended solely for the use of persons authorized by a company and not for general disclosure.

001.01(UU) SERVICE AREA. The geographic area designated by the Commission in which a carrier offers service.

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001.01(~~VVRR~~) SPECIALIZED TELECOMMUNICATIONS EQUIPMENT (STE). Any telecommunications device enabling deaf, hard of hearing, or speech-impaired persons to communicate using conventional telephone systems, including, but not limited to, telecommunications devices for the deaf, signaling devices, and amplification devices.

001.01(~~WWSS~~) SPEECH-IMPAIRED. A permanent or fluctuating loss of ability to vocalize auditory sounds which may adversely affect the ability to communicate in a spoken language without the use of an interpreter or auxiliary aid.

001.01(~~XXTT~~) TARIFF. The schedule of rates, tolls, rentals, charges, classifications, rules, and regulations which a carrier files with the Commission.

001.01(~~YYUU~~) TELECOMMUNICATIONS. The transmission between or among points specified by the subscriber, of information of the subscriber's choosing, without a change in the form or content of the information as sent or received.

001.01(~~ZZVV~~) TELECOMMUNICATIONS COMMON CARRIER. A person holding a certificate issued by the Commission to offer telecommunications services to the general public at large in Nebraska intrastate commerce.~~within Nebraska.~~

001.01(~~AAWW~~) TELECOMMUNICATIONS CONTRACT CARRIER. A person holding a permit issued by the Commission to offer telecommunications services for hire, other than as a common carrier, in Nebraska intrastate commerce.~~within Nebraska.~~

001.01(~~BBXX~~) TELECOMMUNICATIONS RELAY SURCHARGE. The surcharge set annually by the Commission to carry out the Telecommunications Relay System Act.

001.01(~~CCYY~~) TELEPHONE COMPANY. Any person, firm, partnership, limited liability company, cooperative, corporation, or other entity engaged in the business of furnishing telecommunications services.

001.01(~~DDZZ~~) TERMINATING LOCATION. The geographic area served for terminating interexchange telecommunications through the facilities of the exchange carrier at the terminating end of the call.

001.01(~~EEEEAA~~) TEXT TELEPHONE (TTY). Any machine that employs graphic communication in the transmission of coded signals through wire or radio communication system.

001.01(~~FFBBBB~~) TROUBLE REPORT. Any oral or written report from a subscriber relating to a defect in the operation of the exchange carrier's facilities, including but not limited to outages, service interruptions, inability to make a call, or poor audio quality.

001.01(~~GGGGGG~~) TRS ACT. The Telecommunications Relay System Act.

001.01(~~HHHDDD~~) VENDOR. Any person, firm, partnership, limited liability company, cooperative, corporation, or other entity that sells goods or services for profit.

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001.01(~~IIIEEE~~) VOUCHERS. Written certificates issued under the Telecommunications Relay System Act to pay private vendors for all or part of the cost of equipment to qualified deaf, hard of hearing, and speech-impaired persons in Nebraska.

001.01(~~JJJFFF~~) WIRELESS SERVICE. The offering of wireless telecommunications, as defined in Neb. Rev. Stat. § 86-456.01, for a fee.

001.02 REQUIREMENT FOR A CERTIFICATE OR PERMIT. Before any person or entity offers any telecommunications service, it must first obtain from the Commission a certificate, if seeking to provide telecommunications services as a common carrier, or a permit, if seeking to provide telecommunications services as a contract carrier. No agency or political subdivision of the state may be issued a certificate of public convenience and necessity as a telecommunications common carrier or a permit as a telecommunications contract carrier.

002 LOCAL EXCHANGE SERVICE.

002.01 GENERAL.

002.01(A). An exchange carrier shall have the authority, through its Certificate of Public Convenience and Necessity, within its Certificated service area to:

002.01(A)(i). Provide local exchange or access line service.

002.01(A)(ii). Provide radio common carrier service, including paging and mobile telephone service, subject to applicable provisions of these rules and regulations.

002.01(A)(iii). Provide the resale of access line service as may be defined in the exchange carriers' tariffs.

002.02 ADEQUACY OF SERVICE.

002.02(A). Each exchange carrier shall provide adequate access line service. In determining whether the access line service provided by an exchange carrier is adequate, the Commission's consideration will include, but shall not be limited to, the adequacy of the carrier's plant and equipment, the number and nature of outages, service interruptions, trouble reports, customer complaints, held applications, the nature of access line service offered by the carrier, and the nature of the access line services desired by the public served.

002.02(B). Adequate service shall include not subjecting any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage in the provisioning of service by means of blocking, choking, reducing, or restricting traffic in any way, or otherwise engaging in unjust or unreasonable conduct with regard to intrastate telecommunications service prohibited by Nebraska law or the rules and regulations of the Commission.

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002.02(C). In the event of a dispute between a subscriber or subscribers and an exchange carrier regarding the adequacy of the access line service provided, the carrier shall make such investigations as required by the particular case and report the results to the subscriber. In the event the dispute is not reconciled, the exchange carrier, or the subscriber affected, may make application to the Commission for a determination of the dispute.

002.02(D). Each exchange carrier shall employ appropriate engineering and administrative procedures to determine the adequacy of access line service being provided to its customers.

002.02(E). Traffic studies shall be made, and records thereof maintained to the extent and frequency necessary to determine that sufficient equipment and adequate operating forces are provided.

002.02(F). Each exchange carrier shall employ adequate procedures for assignment of facilities. The assignment record shall be kept up-to-date and checked periodically to determine whether adjustments are necessary to maintain proper balance in all trunk and equipment groups.

002.02(G). Local access line service furnished by means of line concentrators or subscriber carrier equipment at a given exchange shall be substantially equivalent to that furnished other subscribers at that exchange served by means of normal physical loops.

002.02(H). Each exchange carrier shall continually review its operations to ensure that the access line service provided is adequate.

002.02(I). No exchange carrier shall engage in any practice, including blocking, choking, reducing, or otherwise restricting telecommunications traffic to particular locations in an unjust or unreasonable manner, that has the effect of degrading service to a particular location, including for purposes of avoiding any applicable rate, charge, or fee. This shall not apply if traffic restriction is made in compliance with Federal Communications Commission requirements (including STIR/SHAKEN), or if it is caused by a force majeure event that is beyond the reasonable control of the exchange carrier. Each exchange carrier shall be responsible for the acts, omissions, or failures of their officers, agents or other persons acting for or employed by the carrier, acting within the scope of their employment, including but not limited to third parties contracted by carriers to assist in the provision of service.

002.03 SERVICE INTERRUPTIONS AND OUTAGES.

002.03(A). Each exchange carrier shall make all reasonable efforts to prevent service interruptions and outages. When interruptions service outages occur, the exchange carrier shall re-establish access line and 911 service with the shortest possible delay consistent with the physical conditions encountered, the available work forces, and with normal safety practices.

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002.03(B). Each exchange carrier shall keep a record of all ~~access line service interruptions, outages, or acute irregularities of access line service whenever reported to it or whenever the duration of a found access line service interruption exceeds twenty-four (24) hours~~ service outages. The record shall include appropriate identification of the customer(s) or access line service(s) affected, the date, time, duration, extent, and cause of the interruption. The carrier shall furnish reports to the Commission upon request and in accordance with any Commission policy relating to service interruptions or outages, and shall inform the Commission as soon as possible of any occurrence of an unusual nature which apparently will result in prolonged and serious interruption of access line service to a large number of customers.

002.03(C). In the event a customer's access line service is interrupted other than by the negligence or willful act of the customer and it remains interrupted for a period in excess of twenty-four hours after being reported or found to be interrupted, the carrier shall, upon request or pursuant to direction of the Commission, refund the pro rata portion of the month's charge for the period of days during which such access line service was interrupted.

002.03(C)(i). If access line service is interrupted as the result of widespread disaster, and other than by the negligence or willful act of the exchange carrier, no refund shall be required unless the access line service remains interrupted for a period in excess of seven (7) days. No exchange carrier shall charge or collect any further rates for such service that was affected during the interruption of service

002.03(C)(ii). An exchange carrier may, in its discretion, refund such sum without request or Commission direction and for a lesser period of access line interruption. This refund may be accomplished by a credit on a subsequent bill for local exchange service.

002.04 TROUBLE REPORTS.

002.04(A). Each exchange carrier shall provide a reasonable means for receipt of customer and/or access line trouble reports daily on a twenty-four hour basis.

002.04(B). Each exchange carrier shall keep a record of trouble reports made by its customers. This record shall include appropriate identification of the customers or access line service affected, the time, date and nature of the report, the action taken, the date and time of trouble clearance or other disposition and the identification of the person making final disposition. The carrier shall furnish reports to the Commission upon request.

002.04(C). Carriers shall maintain access line service such that the average rate of all access line trouble reports in an exchange is no greater than six per one hundred access lines per month, based on a six month period.

002.04(C)(i). In the event this average trouble rate reaches eight reports per calendar month, in a particular exchange, the exchange carrier serving that exchange shall notify the Commission within thirty days following the end of that month.

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002.04(C)(ii). The exchange carrier shall then develop a plan to improve service in the exchange with the objective being to reduce trouble reports to acceptable levels, which shall be filed with the Commission no later than sixty days following the carrier's notification of excessive trouble reports.

002.04(D). In the case of service interruptions or outages, each exchange carrier shall provide repair service daily consistent with the bona fide needs of the customer and the personal safety of exchange carrier personnel.

002.05 EMERGENCY OPERATIONS AND POWER.

002.05(A). Each exchange carrier shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in local calls, or similar emergencies. Each exchange carrier shall inform its employees as to procedures to be followed in the event of an emergency in order to prevent or mitigate interruption or impairment of access line service.

002.05(B). It is essential that all central offices have reasonably adequate provisions for emergency power. For offices without permanently installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on reasonably short notice.

002.05(C). Each central office shall contain, as a minimum, sufficient battery reserve to operate the central office and provide service to the area served by the central office for three hours without outside power.

002.06 INTERCEPT. Central office equipment shall be equipped to provide adequate operator or recorded announcement intercept to cover changed numbers, vacant numbers, and vacant levels.

002.07 MAINTENANCE OF FACILITIES.

002.07(A). Each exchange carrier shall maintain, repair, and upgrade its facilities on an ongoing basis to ensure that it is able to provide adequate access line service without undue or foreseeable service interruptions or outages.

002.07(B). Each exchange carrier shall employ or contract with a sufficient number of service repair technicians to adequately maintain, repair, and upgrade its facilities on an ongoing basis and to respond to service interruptions and outages without delay.

002.07(C). Each exchange carrier shall adopt and pursue an adequate maintenance program, which includes provision for periodic tests, inspections, and preventive maintenance for the purpose of insuring rendition of adequate service at all times.

002.07(D). Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and adequate service performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be promptly repaired or replaced.

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Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise induction, crosstalk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.

002.07(E). The maintenance program shall also include definite procedures designed to keep the central office equipment rooms clean and the humidity and temperature at satisfactory levels. These rooms should not ordinarily be used for storage of general supplies nor for a general workshop.

~~002.08 OPERATOR RULES.~~

~~002.08(A). Suitable practices shall be adopted by each exchange carrier concerning the operating methods to be employed by operators with the objective of providing efficient and pleasing service to the customers.~~

~~002.08(B). Operators shall be instructed to be courteous, considerate, and efficient in the handling of all calls.~~

~~002.08(C). All operator handled calls shall be carefully supervised and disconnections made promptly.~~

~~002.08(D). If a customer reaches a wrong number on a direct dialed call and notifies the operator, reasonable action shall be taken to make certain that the customer is not charged for the call.~~

~~002.098~~ RESPONSE TIME; AUTOMATED CALL ANSWERING SYSTEMS.

~~002.098(A)~~. Calls placed to a carrier's business or repair center during regular business hours must be answered either by a live representative or by an automated call answering system.

~~002.089(B)~~. If a carrier chooses to use an automated answering system, the system must comply with the following requirements:

~~002.089(B)(i)~~. Each month, the average time until the automated system answers a call must not exceed thirty seconds; and

~~002.089(B)(ii)~~. The automated system must provide a caller with an option to speak to a live representative within the first sixty seconds of the recorded message, or it must transfer the caller to a live representative within the first sixty seconds.

~~002.089(B)(ii)(a)~~. A company may provide the live representative option by directing the caller to take an affirmative action, or by default.

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002.089(B)(ii)(b). The recorded message must clearly describe the method a caller must use to reach a live representative.

002.089(C). Each month, the average time until a live representative answers a call must not exceed sixty seconds from the time a caller selects the appropriate option to speak to a live representative.

002.089(D). Companies that do not use an automated answering system must answer at least ninety-nine percent of call attempts, each month, within thirty seconds.

002.0940 ANSWERING TIME OBJECTIVES. Each exchange carrier shall provide equipment designed and engineered on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide personnel so as to attain the following daily operator answer performance objectives under normal operating conditions:

002.0940(A). Where the performance criteria is-are in terms of the average interval preceding answer, the objective shall be 2.5 seconds for all toll and assistance calls and 6.3 seconds for directory assistance and intercept calls.

002.0940(B). Where the performance criteria is-are in terms of the percentage of calls which are answered within a specified period, the following objectives shall apply. Equivalent measurements may be used if approved by the Commission.

002.0940(B)(i). Ninety percent of all toll and assistance operator calls will be answered within ten seconds.

002.0940(B)(ii). Ninety percent of repair service calls, calls to the business office and other calls shall be answered within twenty seconds.

002.0940(C). The term "answered" as used in this subsection shall be construed to mean that the operator or exchange carrier representative is ready to render assistance and/or accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an "answered" call.

002.0940(D). Answering time studies shall be made by exchange carriers to the extent and frequency necessary to determine compliance with the objectives outlined in this subsection. The exchange carrier shall furnish reports to the Commission upon request.

002.140 DIAL SERVICE OBJECTIVES. Sufficient central office capacity and equipment shall be provided to meet the following requirements during the average busy hour-busy season:

002.140(A). Ninety-eight percent of all calls should receive dial tone within three seconds.

002.140(B). Intraoffice trunks shall be sufficient so that ninety-seven percent of all correctly dialed intraoffice calls can be handled without encountering an all trunks busy condition.

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002.104(C). Local interoffice trunks in multi-office exchanges shall be provided in sufficient quantities so that ninety-six percent of all correctly dialed interoffice local calls will not encounter an all trunks busy condition.

002.104(D). Trunks for extended area service shall be provided in sufficient quantities so that at least ninety-five percent of all correctly dialed calls offered to any trunk group within the local calling area will not encounter an all trunks busy condition.

002.112 LOOP TRANSMISSION OBJECTIVES. Exchange carriers shall furnish and maintain adequate plant, equipment, and facilities necessary to provide satisfactory transmission of telecommunications. Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and crosstalk shall be such as not to impair communications.

002.112(A). Local line loops shall have a loop resistance not exceeding the operating design of the associated central office equipment. Longer loops may be used by employment of long line adapters and amplifiers, or special equipment.

002.112(B). Transmission loss as set forth herein means the loss that occurs in a telephone connection, measured in decibels (~~dB~~) at one thousand hertz per second (1,000 Hz/s), exclusive of test pads, impedance matching coils used for measurement, and similar devices. Transmission loss on local access line loops shall not exceed ten db.

002.112(C). The maximum overall transmission loss objective, including the loss of terminating equipment on local interoffice trunks, shall be seven ~~db~~decibels.

002.112(D). Noise, as set forth herein means noise power above reference noise within a given bandwidth, expressed in ~~db~~decibels above reference level, with the standard C-message weighting (~~dB~~BrnC) at applicable circuitry impedances. Reference level is defined as minus ninety (~~-90~~)~~dbm~~decibels (minus 90 dBmC, or decibels referred to one milliwatt). The maximum noise objective for local access line loops shall be thirty ~~dbmC~~decibels above reference noise.

002.112(E). The maximum power influence or noise-to-ground objective for local access line loops shall be ninety ~~dbmC~~decibels above reference noise.

002.112(F). The minimum loop current objective for local access lines shall be twenty milliamps (mA).

~~002.13 CUSTOMER-PROVIDED SEMI-PUBLIC TELEPHONES. Customer-provided coin or non-coin-operated telephone instruments may be connected to semi-public telephone service offered by exchange carriers under the following conditions:~~

~~002.13(A). Customer-provided coin or non-coin-operated telephones must be registered in compliance with Part 68 of the Federal Communications Commission Registration Program or be connected behind an FCC registered coupler.~~

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~~002.13(B). The customer shall be responsible for the installation, operation and maintenance of any customer provided telephones used in connection with this service.~~

~~002.13(C). The customer shall be responsible for payment of all exchange carrier charges for this service as well as charges for all toll messages originated or accepted at this type of service.~~

~~002.13(D). Customer provided coin or non coin operated telephones must have the following operational characteristics:~~

~~002.13(D)(i). Must be able to access the operator at no charge and without using a coin.~~

~~002.13(D)(ii). Must be able to access 911 Emergency Service, where available, at no charge, without using a coin, and, when such instrument can only access 911 Emergency Service by use of a dialing sequence other than 911, must prominently display on such instrument, the appropriate dialing sequence to access 911 Emergency Service, where available.~~

~~002.13(D)(iii). Must be able to access the 988 Suicide and Crisis Lifeline, where available, at no charge, without using a coin.~~

~~002.13(D)(iv). Must be able to access all interexchange carriers unless the customer is an interexchange carrier in which case access may be limited to that carrier.~~

~~002.13(D)(v). Must comply with all applicable federal, state, and local laws and regulations concerning the use of these telephones by disabled persons and the hearing impaired.~~

~~002.13(D)(vi). Must allow completion of both local and long distance calls from the zero (0) level.~~

~~002.13(E). The customer shall cause to be prominently displayed on each customer-provided coin or non coin operated semi-public telephone the name of the owner of such instrument, the procedure for reporting the service difficulties and obtaining customer refunds, and the percentage or range of percentages by which the cost of long distance service to the vendor is increased to the user of such equipment.~~

~~002.13(F). Customer provided semi-public telephones must be connected to one party service and only one such instrument per line is allowed.~~

~~002.13(G). Rates for local calls from customer provided semi-public telephones shall not be regulated by the Commission. Any additional charge for long distance service must be made in accordance with 002.13(E) preceding.~~

002.124 APPLICATION FOR SERVICE.

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002.124(A). An applicant or applicants desiring access line service from an exchange carrier may be required to make application in writing. Forms for this purpose shall be supplied by the exchange carrier and should be accompanied by a telephone number the exchange carrier can call during normal business hours to reach the applicant and complete the application.

002.124(B). Each exchange carrier shall keep a record of held applications by exchange, showing the name and address of each applicant for service, the date of application, the date service is desired, the class and grade of service applied for, together with the reasons for the inability to provide the new service or higher grade of service to the applicant. The exchange carrier shall furnish reports to the Commission upon request.

002.135 REFUSAL OF SERVICE AND DISCONNECTION.

002.135(A). Access line service may be refused or disconnected for any of the following reasons:

002.135(A)(i). Without notice in the event of customer use of equipment in such a manner as to adversely affect the access line service to others.

002.135(A)(ii). Without notice in the event of tampering with the equipment furnished and owned by the exchange carrier.

002.135(A)(iii). For violation of or non-compliance with the Commission's regulations governing access line service supplied by exchange carriers or for violation of or non-compliance with the exchange carrier's tariff on file with the Commission.

002.135(A)(iv). Failure to pay for services rendered subsequent to proper notice.

002.135(A)(v). Request for service or delinquency in payment for service at an indebted household, unless a customer in the indebted household to whom service is provided and billed has made prompt payment for such service.

002.135(B). The following shall not constitute sufficient cause for refusal of access line service to a present or prospective customer:

002.135(B)(i). Delinquency in payment for service by a previous occupant, other than a member of the same household, of the premises to be served.

002.135(B)(ii). Failure to pay directory advertising charges or other unregulated charges.

002.135(B)(iii). Failure to pay for operator service provider charges billed by the local exchange carrier if the charge is excessive.

002.135(B)(iv). Failure to pay for 900, 960 or 976 calls disputed by the customer.

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002.146 CUSTOMER BILLING.

002.146(A) PROMPT AND ACCURATE BILLING.

002.146(A)(i). Bills to customers shall be prompt and accurate, rendered regularly consistent with the carrier's tariff and shall contain a clear listing of all charges. An itemized listing of the services being subscribed to and their monthly rates, written or upon request of the customer, electronic, where available, shall be provided as a part of the initial bill or when service is ordered and subsequently upon reasonable request of the customer. No carrier shall impose interest or late payment fees for delinquent payment less than twenty days from the date of billing.

002.146(A)(ii). "Prompt and accurate" billing shall mean that any charges for telecommunications services shall not be older than one hundred and eighty days prior to the date of the first monthly billing statement or invoice that reflects such charges. The requirement of prompt billing shall not operate to curtail the rights of any telecommunications provider to collect payment for telecommunications services rendered and timely billed and shall not operate to curtail the rights of any telecommunications provider to bill and collect for services obtained by fraud or other misconduct on the part of the customer regardless of when such bills are first submitted.

002.146(B) BILLING ADJUSTMENTS. For all billing adjustments resulting in a charge to the customer, a carrier must offer a reasonable amount of time for payment.

002.146(C) DISPUTES; INVESTIGATION. If a dispute between the customer and the exchange carrier occurs regarding any bill, an informal investigation will be made, and the results of the informal investigation will be communicated to the customer. During the investigation, disconnection of service will not occur provided the balance of the bill not in dispute is paid. If the informal investigation does prove the disputed billing is correct under the regulations of the Commission, and the customer still will not pay the amount due, the exchange carrier may then disconnect service. The customer, or the exchange carrier, may make application to the Commission for review. Their decision will be final, subject only to legal redress as the parties involved may choose to exercise. The Commission may prohibit such disconnection pending judicial review of the dispute.

002.157 INFORMATION.

002.157(A). Each exchange carrier shall make available to its customers such information and assistance as is necessary so that they may secure the most desirable grades of service.

002.157(B). Each exchange carrier shall provide or make provisions through tariffs customer line verification in emergencies where possible.

002.168 RULES GOVERNING CREDIT AND DEPOSITS.

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002.168(A). Rules filed under Section 002.20(G) governing the establishment of credit by customers for the payment of service bills shall be subject to the following provisions:

002.168(A)(i). The amount of deposit required shall not normally exceed the bill for two month's service plus estimated toll charges for two months. An increase in the deposit amount may be requested if increased usage or additional services warrants it.

002.168(A)(ii). Deposits shall bear simple interest at the minimum rate of seven percent (7%) per annum. No interest need be paid on deposits held less than thirty days.

002.168(A)(iii). In the case of residential service, the deposit shall be refunded upon request of the customer after twelve consecutive months of prompt payment and refunded voluntarily after twenty-four consecutive months of prompt payment. In the case of business service, the deposits shall be refunded after thirty-six consecutive months of prompt payment. Deposits may be refunded sooner at the exchange carrier's option.

002.168(A)(iv). New and existing residential customers may be allowed to pay deposits or requests for increases in existing deposits in installments over a period of at least three months.

002.168(A)(v). Each exchange carrier holding customer deposits shall render to each depositor, when such customer's deposit is applied to an unpaid bill, a statement showing the bill then due and unpaid, the amount of the deposit, together with the interest accrued thereon and the period covered thereby, and the balance due or remaining to the credit of the depositor.

002.168(A)(vi). Each exchange carrier holding customer deposits shall render to each depositor, when and as such deposit is refunded, a statement showing the amount of the deposit, together with the amount of unpaid interest accrued thereon to the date of refund and the period covered thereby.

002.168(A)(vii). For purposes of establishing a refund date when deposits are paid on an installment plan, the date will be the day of receipt of the final installment.

002.168(A)(viii). Each exchange carrier holding deposits shall issue to every subscriber from whom a deposit may be exacted, a receipt of which a record shall remain in the possession of the exchange carrier.

002.168(A)(ix). Records shall be kept by each exchange carrier showing, with respect to each deposit, the account telephone number, the name of the customer making the deposit, the address of each depositor, if known, the date of receipt of the deposit and the amount of the deposit. These deposit records shall include deductions representing sums due and unpaid to the carrier, when the depositor ceased to be a

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customer and the date thereof, together with such other information as any such carrier may deem necessary to make a complete record of each deposit.

002.168(B). Guarantors shall be accepted in lieu of deposits subject to the following:

002.168(B)(i). The guarantor shall be satisfactory to the exchange carrier.

002.168(B)(ii). The guarantor shall guarantee the payment of all specific charges for access line facilities and service covered on the date the guarantee arrangement is entered into. The guarantor's liability shall not exceed the amount otherwise required as a deposit by the exchange carrier from the customer.

002.168(B)(iii). The guarantor's obligation shall cease:

002.168(B)(iii)(a). Upon the customer discontinuing service, or

002.168(B)(iii)(b). After twelve consecutive months of prompt payment, or

002.168(B)(iii)(c). After ten business days written notice by the guarantor to the exchange carrier, the customer would be subject to suspension of service unless a security deposit is received before the date the guarantor's obligation ceases.

002.168(B)(iv). The exchange carrier shall have six months, from the date a guarantor's obligation ceases, in which to accumulate charges incurred prior to such date for which the guarantor may be obligated.

002.168(B)(v). The exchange carrier shall provide written notification to the guarantor verifying date guarantor's obligation ceases.

002.168(C). The exchange carrier may request an existing customer for a deposit or guarantee or an increase in a deposit or guarantee only if increased usage warrants such request or where the customer's payment record is not satisfactory.

002.168(D). Where the customer's business is of a hazardous or temporary nature, the exchange carrier may bill such customer on other than a monthly basis with a corresponding adjustment in the deposit or guarantee requirement.

002.179 COMPLAINT HANDLING PROCEDURES.

002.179(A). Customers' complaints about access line service, deposit requests, or other service or billing problems shall first be made to the exchange carrier. The carrier shall allow complaints to be accepted and processed in a simple manner and form. Every complaint shall be promptly investigated in a fair manner and the results reported to the complainant. If the report of the investigation is made orally, the carrier shall provide the complainant, upon request, the report in writing. If the carrier fails to resolve a complaint to the satisfaction of the complainant, the carrier shall, upon request, inform same of the

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availability of the Commission to review the carrier's investigation, including the Commission's address and telephone number.

002.179(B). An exchange carrier shall refrain from suspending or terminating service for non-payment during the pendency of a complaint before the exchange carrier or this Commission or its authorized designee, unless otherwise provided by the Commission or its authorized designee; provided however, that as a condition of continued service during the pendency of such dispute, a customer shall pay the undisputed portions of any bill for service.

002.1820 TARIFF TO BE FILED WITH THE COMMISSION. No exchange carrier shall offer access line service to the public except pursuant to its tariff filed with the Commission. The provisions of such tariff shall be definite and so worded as to minimize ambiguity or the possibility of misinterpretation and shall include, together with such other information as may be deemed pertinent, the following:

002.1820(A). A list of the exchanges or a separate sheet for each exchange showing the rates and charges for local exchange access line service at those exchanges.

002.1820(B). A map or maps of each exchange showing the various rate areas.

002.1820(C). Information as to the extended area access line service furnished.

002.1820(D). Definitions of classes of access line service.

002.1820(E). Rules for extending access line service to new customers indicating what portion of the line extension or the cost thereof will be furnished by the exchange carrier.

002.1820(F). Rules governing foreign exchange access line service (where offered) and all other access line service offerings together with the corresponding rates and charges.

002.1820(G). Rules governing the establishment or re-establishment of access line service including credit requirements.

002.1820(H). Rules governing the procedures followed in disconnecting and reconnecting access line service.

002.1820(I). Rules governing the billing procedures and payment requirements.

002.1924 DIRECTORIES.

002.1924(A). Directories may be made available to customers through print or electronic means, including by availability on a carrier's website. One printed exchange alphabetical directory for each access line shall be made available upon request, without charge, to all access line customers. The listings of customers in foreign exchanges to which extended area service is provided shall also be made available to all access line customers. Where such listings are not included in the exchange directory, the exchange carrier shall inform

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customers how such listings may be obtained. Inclusion of all listings for the calling area within a single volume is recommended.

002.1924(B). Directories shall be revised at least annually. A carrier may request exemption from this requirement for good cause. A shorter directory interval may be necessary where the number of changed listings and new listings is abnormally large.

002.1924(C). The name of the exchange covered by the directory, month and year issued, and the area code shall appear prominently. If the directory serves more than one exchange, such exchanges shall be listed in the front of the directory.

002.1924(D). Each directory shall contain a list of common governmental emergency numbers, a list of extended area service points, and the repair service number; pertinent instructions concerning the use of local and extended area service; and an alphabetical list of all customers, together with their address (unless customer requests address omission) and telephone number. The number of any subscribers who have requested that their number not be made available to the public shall not be listed subject to any existing or future tariffs that may be applicable. The emergency numbers shall appear prominently in the directory either on the inner or outer face of the front cover, or on the first page inside the cover. The opening pages of the directory shall contain a conspicuous notice advising customers that should the carrier fail to satisfactorily resolve service or billing problems, the customer may refer the problem to the Nebraska Public Service Commission, and list the Commission's current address and phone number.

002.1924(E). Upon issuance of a new directory, two copies thereof shall be filed by the exchange carrier with the Commission. If produced in electronic format, an electronic copy and, if applicable, a link to the directory website shall be filed as well.

002.202 ACCOUNTING.

002.202(A). For purposes of accounting to the Commission, each exchange carrier shall be classified in conformance with the latest FCC rules.

002.202(B). For the purposes of accounting to the Commission, each exchange carrier shall keep its books and records in accordance with the appropriate uniform system of accounts in conformance with the latest FCC rules.

002.202(C). Each exchange carrier shall file an annual report with the Commission on or before April 30 of the succeeding year, on forms prescribed by the Commission and containing all information required by the Commission, as well as a filing fee if required.

002.202(D). Exchange carriers filing an annual report with the Federal Communications Commission shall file a copy of same with the Commission and in addition shall file with the Commission an annual report on the form prescribed by the Commission.

002.202(E). Exchange carriers operating in more than one state shall file with the Commission a supplemental annual report with segregation of accounts and

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miscellaneous statistics for the State of Nebraska on the form prescribed by the Commission.

002.202(F). Exchange carriers not filing an annual report with the Federal Communications Commission shall file with the Commission an annual report on the form prescribed by the Commission.

002.213 SERVICE AREA.

002.213(A). The Commission will maintain a map for each exchange operated in the State of Nebraska.

002.213(B). Each exchange carrier shall maintain a map of its service ~~territory~~area, as approved by the Commission. Should the map maintained by the exchange carrier differ from the map maintained by the Commission, the Commission's map will control.

002.21(C). An exchange carrier may request a correction to the Commission's map by submitting an application for a change to the map, if the exchange carrier reasonably believes the map contains inaccuracies. Any such application must include supporting documentation, evidence demonstrating the nature of the error, and a map in GIS format providing the correct information.

002.213(DG). Any change in the service area boundary of an exchange which would result in one exchange carrier offering access line service in the exchange area of another exchange carrier or which would result, directly or indirectly, in an increase in rates charged or in a change of service offered in the area affected, shall be valid only after approved by the Commission.

002.213(ED). Commission acceptance or approval of a map filed pursuant to this subsection shall not preclude the Commission from thereafter determining in any appropriate proceeding the accuracy of the map filed or from assisting in the settlement of any boundary dispute.

002.224 EXCHANGE BOUNDARY CHANGES.

002.224(A). For purposes of this section, advanced telecommunications capability service means high-speed, broadband telecommunications capability provided by a local exchange carrier that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology.

002.224(B). Any person may file an application with the Commission to obtain advanced telecommunications capability service furnished by a telecommunications company in the local exchange area adjacent to the local exchange area in which the applicant resides.

002.224(C). Any person may file an application with the Commission to obtain basic local exchange service furnished by a telecommunications company in the local exchange area adjacent to the local exchange area in which the applicant resides.

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002.224(D). If an application is made by multiple persons or by an entity on behalf of multiple persons, each person affected by the proposed change must submit written confirmation that they consent to the application and accept any obligations which may arise due to the application, including such construction and other costs and rates as are fair and equitable, and that they understand that they may be asked to reimburse the affected telecommunications company for any necessary loss of investment in existing property as determined by the Commission.

002.224(E). The Commission shall serve upon each telecommunications company directly affected by the application a copy of the application.-

002.224(E)(i). Each telecommunications company directly affected by the application shall, within thirty days of receiving notice of the application, notify the Commission in writing whether or not the telecommunications company consents to the application.

002.224(E)(ii). If both affected telecommunications companies provide written consent to the application, the application may, ~~in~~at the Commission's discretion, be processed without hearing pursuant to the Commission's Rule of Modified Procedure.

002.224(E)(iii). Following this thirty-day period, if a written response to the application has not been filed by both affected telecommunications companies, the Commission may proceed to schedule the matter for hearing.

002.224(E)(iv). If a hearing is scheduled, the Commission will provide notice of the hearing to each affected telecommunications company at least thirty days prior to the hearing on the application.

002.224(F). Telecommunications companies affected by an application for advanced telecommunications services shall provide the following information:

002.224(F)(i). If the telecommunications company serving the exchange where the applicant resides does not consent to the application, the company must provide in writing a description of the advanced telecommunications service speeds available to the applicant that the company is capable of providing at the time of the application.

002.224(F)(ii). If the applicant's desired telecommunications company consents to the application, the company must provide in writing an indication of when service would be made available to the applicant if the application is granted; a description of the proposed service offering including the speeds at which the advanced telecommunications service would be offered; and an estimate of any costs required to be paid by the applicant which would be incurred if the application is granted.

002.224(G). If an application for the revision of an exchange service area includes more than one customer in a particular exchange, the Commission shall consider the circumstances of each customer and the impact to the obligations of any affected telecommunications company which has not consented to the application.

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002.224(H). Upon the completion of the hearing on such an application made pursuant to this section, if a hearing is required, the Commission may grant the application, in whole or in part, if the evidence establishes the following:

002.224(H)(i). For applications for advanced telecommunications service, that such applicant is not receiving, and at the time of the application is not able to receive, advanced telecommunications capability service from the telecommunications company which furnishes telecommunications service in the local exchange area in which the applicant resides;

002.224(H)(ii). For applications for basic local exchange service, that good cause exists to change the exchange boundary;

002.224(H)(iii). That the revision of the exchange service area required to grant the application is economically sound, will not impair the capability of any telecommunications company affected to serve the remaining subscribers in any affected exchanges, and will not impose an undue and unreasonable technological or engineering burden on any affected telecommunications company; and

002.224(H)(iv). That the applicant is willing and, unless waived by the affected telecommunications company, will pay such construction and other costs and rates as are fair and equitable and will reimburse the affected telecommunications company for any undepreciated investment in existing property as determined by the commission.

002.224(I). The amount of any payment by the applicant for construction and other costs associated with providing service to the applicant pursuant to ~~s~~Section 002.246(E)(iii), may be negotiated between the applicant and the affected telecommunications company.

002.224(J). In the event the Commission grants an application for exchange boundary change, the telecommunications company ordered to provide the requested service shall be issued a certificate of convenience and necessity to serve the area added to its local exchange area by the Commission, if necessary.

002.224(K). The Commission shall set the date when the service granted shall take effect and, in doing so, shall take into consideration any construction or major repair which will be required of the telecommunications company involved.

002.224(L). If the Commission refuses to grant an application made pursuant to this section, no new application for the same service may be considered by the Commission until one year has elapsed after the effective date of the Commission order denying the first application.

002.253 TRANSFER OF OWNERSHIP OF EXCHANGE CARRIERS OF THEIR PROPERTIES.

002.235(A). No valid sale, assignment or transfer of one or more exchanges can be affected by transfer of the physical properties or the assignment of stock resulting in a

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change in controlling interest until a joint application requesting such change is approved by the Commission and a certificate of public convenience and necessity or permit as a contract carrier has been issued to the new owner.

002.235(B). No two or more exchange carriers operating as a common carrier may transfer control of or otherwise consolidate their properties, or any part thereof involving an exchange, including by sale of assets, customers, exchanges, certificates of authority, stocks, or transferring control by lease, unless an application has been filed and approved by the Commission prior to the consolidation's effective date. This rule shall not be construed to apply to purchase and sale transactions in the usual course of business between one exchange carrier and another involving units of property less than a single exchange.

002.23(C). Direct ownership of a certificated carrier may not change absent approval by Commission order. The Commission may review indirect transfers of control of certificated carriers, including a change of ownership at the holding level or pro forma company reorganizations, on a case-by-case basis as required by the public interest.

002.246 EXTENDED AREA SERVICE.

002.246(A). No Extended Area Service (EAS) may be discontinued without prior approval of the Commission. All new EAS offerings must be approved by the Commission.

002.246(B) SURVEY PROCEDURE: GENERAL INFORMATION.

002.246(B)(i). All exchange carriers subject to the Commission's jurisdiction shall follow the EAS survey procedures set forth in the following sections to establish or discontinue EAS. ∴ Sections 002.26(C) and 002.26(D) contain the procedures to be followed to establish EAS and Sections 002.26(E) and 002.26(F) contain the procedures to be followed to discontinue EAS.

002.246(B)(ii). At all stages of this procedure, the information an exchange carrier is required to supply customers shall be brief but sufficient to explain the proposed service to the customers and shall not discourage the customers from completing the survey.

002.246(B)(iii). CUSTOMER SURVEY

002.246(B)(iii)(a). Whenever an EAS survey is conducted, the exchange carrier shall mail to each customer account, at the primary service listing, a letter explaining the purpose of the survey, and a postage-paid, Commission-addressed return ballot on which the customer can indicate a preference.

002.246(B)(iii)(b). The Commission shall provide the exchange carrier a copy of the survey results within ten ~~(10)~~ days following the last date on which surveys may be returned to the Commission.

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002.246(B)(iii)(c). Customers are permitted one vote per account.

002.264(B)(iv). The exchange carrier shall provide a copy of the proposed text and format of the customer letter and ballot to the Commission, for its approval.

002.246(C) REQUIREMENTS FOR ESTABLISHING EXTENDED AREA SERVICE (EAS) STUDIES.

002.246(C)(i). The initiative for EAS shall be in the form of a petition presented to the Commission with evidence of support indicated by signatures of twenty-five percent ~~(25%)~~, or 750, of the petitioning exchange accounts, whichever is less. If the subscriber has a residential account, the petition must be signed by the subscriber or the subscriber's spouse. In the case of a business account, only a duly authorized agent or representative of the business may sign the petition. Each signer shall include an address and telephone number. The exchange carrier may also inaugurate the initiative for EAS.

002.246(C)(ii). The exchange carrier shall file a list of customers in the petitioning exchange with the Commission within seven working days of notification by the Commission that a petition has been filed. If the petition meets the above requirements, the Commission will assign a docket number to the EAS request.

002.246(C)(iii). If the requirements of Section 002.248(C)(i) are fulfilled, the exchange carrier shall conduct a usage study covering data from the most recent three months available ~~data~~ to determine if a sufficient community of interest exists from the petitioning exchange to the petitioned exchange. There must be an average of five or more calls per customer, per month, and more than fifty percent ~~(50%)~~ of the customers must make at least two calls per month to the petitioned exchange in at least two of the three months studied. The exchange carrier shall file the results of the usage study with the Commission within forty-five days from the date the petition is docketed. If these basic criteria are not met, the request will be dismissed without further action.

002.264(C)(iv). If the provisions of Section 002.248(C)(iii) are met, the exchange carrier shall file proposed rates for EAS and may voluntarily file an OEACP with the Commission within ninety days from the date usage studies are submitted. The proposed rates shall be made a part of the record in the docket. The exchange carrier shall provide evidence supporting the proposed rate, including computations used to develop the proposed rates.

002.246(C)(v). The exchange carrier shall hold at least one informational meeting in the exchange where the EAS petition was originated within sixty days from the date the proposed rates are filed. The purpose of the meeting is to inform the petitioners of the proposed rates and to assess the petitioners' interest in receiving EAS, or an OEACP if offered.

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002.246(C)(v)(a). The exchange carrier shall publish notice of the time, date, and location of the informational meeting in the local newspaper of the affected exchange(s) at least one week prior to the date of the meeting.

002.264(C)(vi). Within thirty days from the date of the informational meeting, the Commission shall determine whether a survey for EAS should be mailed to the affected customers. If the Commission determines that EAS is not acceptable, or if the EAS ballot fails, the Commission may require that the voluntarily offered OEACP be offered.

002.246(C)(vi)(a). The exchange carrier shall publish the results of the Commission's decision in the local newspaper of the affected exchange(s).

002.246(C)(vii). If the Commission determines an optional enhanced area calling plan is acceptable, the exchange carrier shall establish the service not later than six ~~(6)~~ months from the date of the informational meeting, unless good cause is shown.

002.246(C)(vii)(a). A petition for EAS may not be resubmitted for twelve ~~(12)~~ months from the date the OEACP is approved.

002.246(C)(viii). When a petition fails to pass the requirements of Section 002.246(C)(iii), the petitioning exchange may not initiate a similar petition for twelve ~~(12)~~ months from the date the petition is dismissed.

002.246(D) REQUIREMENTS FOR CUSTOMER SURVEY TO ESTABLISH EXTENDED AREA SERVICE (EAS).

002.2426(D)(i). If the Commission determines EAS should be offered, the exchange carrier shall conduct a survey of the customers whose rates will be affected if the plan is adopted. The Commission may grant a waiver of this provision upon request from an affected exchange carrier and a showing of good cause.

002.246(D)(ii). The survey letter shall contain the following items:

002.246(D)(ii)(a). An explanation of the purpose of the survey;

002.246(D)(ii)(b). An explanation that only one vote, per account is permitted;

002.246(D)(ii)(c). Identification of the existing rate, the amount of the rate increase, and the new rate associated with the addition of the proposed EAS;

002.246(D)(ii)(d). A statement that more than fifty percent ~~(50%)~~ of those voting must vote in favor of the proposal before EAS will be implemented;

002.246(D)(ii)(e). A statement indicating the proposed date when service would be established which shall not be more than one ~~(1)~~ year from the survey ballot date, unless a delay is granted by the Commission for good cause shown; and

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002.246(D)(ii)(f). The date by which the survey ballot must be returned to be considered, as set by the Commission. Such date shall be not less than thirty ~~(30)~~ days, nor more than sixty ~~(60)~~ days, from the date on which the exchange carrier mails the survey letter. The Commission shall not count the survey ballots for three ~~(3)~~ days following the return date to allow all returned survey ballots to clear the post office.

002.246(D)(iii) BALLOT RETURN. The postage-paid, Commission-addressed return ballot included with the survey letter should contain the following information:

002.246(D)(iii)(a). A statement explaining the EAS proposal being voted upon as set out in the survey letter;

002.246(D)(iii)(b). A place for the customer to indicate a choice of being in favor of, or opposed to, the establishment of EAS; and

002.246(D)(iii)(c). Lines designated for the customer's signature, telephone number, and date.

002.246(D)(iv). If the customers in an exchange vote in favor of EAS to another exchange, but concurrence in EAS is not received from the second exchange, then customers in the first exchange shall be surveyed with new rates for EAS. The same basic survey procedure shall be followed as provided herein, but the survey letter shall also include information concerning lack of concurrence for EAS by the neighboring exchange and that another survey is being undertaken to determine interest in EAS at new rates. If ultimately only one exchange votes in favor of EAS, the subscribers in that exchange shall bear the total cost of the EAS offering.

002.246(D)(v). When a petition fails to pass the requirements of Section 002.246(D)(ii)(d), the exchange carrier or petitioning exchange may not submit a similar petition for twelve ~~(12)~~ months from the date the petition is dismissed.

002.246(E) REQUIREMENTS FOR DISCONTINUING EXTENDED AREA SERVICE (EAS).

002.246(E)(i). The initiative to discontinue EAS shall be in the form of a petition presented to the Commission with evidence of support indicated by signatures of twenty-five percent ~~(25%)~~, or 750, of the petitioning exchange accounts, whichever is less. If the subscriber has a residential account, the petition must be signed by the subscriber or the subscriber's spouse. In the case of a business account, only a duly authorized agent or representative of the business may sign the petition. Each signer shall include an address and telephone number. The exchange carrier may also inaugurate the initiative to discontinue EAS.

002.246(E)(ii). The exchange carrier shall file a list of customers in the petitioning exchange with the Commission within seven ~~(7)~~ working days of notification by the Commission that a petition has been filed. If the petition meets the above

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requirements, the Commission shall assign a docket number to the request to discontinue EAS.

002.246(E)(iii). The exchange carrier shall conduct customer usage, cost, and revenue studies and shall submit the results of such studies to the Commission within ninety (90) days of the docket date. The Commission shall determine the merits of proceeding with a customer survey.

002.246(E)(iv). The exchange carrier need not undertake such studies more than once in the twelve ~~(12)~~ month period from the date the petition is dismissed.

002.246(F) REQUIREMENTS FOR CUSTOMER SURVEY TO DISCONTINUE EXTENDED AREA SERVICE (EAS).

002.246(F)(i). The survey letter shall contain the following items:

002.246(F)(i)(a). An explanation of the purpose of the survey;

002.246(F)(i)(b). An explanation that only one vote, per account, is permitted;

002.246(F)(i)(c). Identification of the existing rate, the amount of the rate decrease, if any, and the new rate associated with the proposed discontinuance of EAS;
~~(Previously Item 2)~~

002.246(F)(i)(d). A statement that more than fifty percent ~~(50%)~~ of those voting must vote in favor of the proposal before EAS will be discontinued;

002.246(F)(i)(e). A statement indicating the proposed date when the service would be discontinued, which shall not be more than six ~~(6)~~ months from the survey ballot date; and

002.246(F)(i)(f). The date by which the survey ballot must be returned to be considered, as set by the Commission. Such date shall be not less than thirty ~~(30)~~ days, nor more than sixty ~~(60)~~ days, from the date on which the exchange carrier mails the survey letter. The Commission shall not count the ballots for three ~~(3)~~ days following the return date to allow all returned survey ballots to clear the post office.

002.246(F)(ii) BALLOT RETURN. Along with the survey letter, the exchange carrier shall send each customer in the affected exchange(s) a postage-paid, Commission-addressed return ballot containing the following information:

002.246(F)(ii)(a). A statement explaining the EAS proposal being voted on as set out in the survey letter;

002.246(F)(ii)(b). A place for the customer to indicate a choice of being in favor of, or opposed to, the discontinuance of EAS; and

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002.246(F)(ii)(c). Lines designated for the customer's signature, telephone number, and date.

002.246(F)(iii). A majority of those voting in each exchange surveyed must vote to discontinue EAS for the service to be withdrawn.

002.246(F)(iv). The exchange carrier need not conduct a customer survey to discontinue EAS more than once in any twelve ~~(12)~~-month period from the date the petition is dismissed.

002.246(G) EXEMPTION. If an exchange carrier offers, in an exchange, an optional enhanced area calling plan acceptable to the Commission, it shall be exempt from the requirements of rule 002.26(B) in that exchange.

002.257 BLOCKING OF 900, 960, 976. Each local exchange company shall, where facilities are available and only upon request by the subscriber, on an individual numbering plan area (NPA) basis or NXX basis, provide blocking of the following two options: (1) all 900 NPA, 960, and 976 NXX numbers; (2) all 960 and 976 NXX numbers. Such blocking shall be provided without interruption of other services. Any cost associated with the initial blocking shall not be billed separately to the subscriber.

002.286 CERTIFICATION AND PERMITTING OF COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC).

002.286(A) CERTIFICATE OF AUTHORITY OR PERMIT REQUIRED. No person, firm, partnership, limited liability company, joint venture, corporation, cooperative, or association shall offer any telecommunications service or shall construct new telecommunications facilities in this state outside of the applicant's certificated or permitted service area for the purpose of providing any telecommunications service without first making an application for, and receiving from the Commission, a certificate of authority as a telecommunications common carrier or a permit as a telecommunications contract carrier.

002.286(B) STANDARDS FOR GRANTING CERTIFICATION OR OBTAINING A PERMIT. In an application for a certificate of authority for an applicant as a telecommunications common carrier or a permit for a telecommunications contract carrier, the applicant shall bear the burden of demonstrating to the Commission:

002.268(B)(i). Granting the application would be consistent with the public interest. For purposes of this section, public interest shall include, but not be limited to:

002.286(B)(i)(a). Preserving and advancing universal service;

002.286(B)(i)(b). Protecting the public safety and welfare;

002.268(B)(i)(c). Ensuring the continuous quality of telecommunications services within ~~such the applicant's proposed service area~~ territory; and

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002.3268(B)(i)(d). Safeguarding the rights of consumers.

002.268(B)(ii). The applicant has sufficient financial resources to provide the service described;

002.268(B)(iii). The applicant has sufficient technical competency to provide the service described;

002.268(B)(iv). The applicant has sufficient managerial resources to provide the service described; and,

002.268(B)(v). The applicant has satisfactorily provided all of the information required by the Commission in its application.

002.268(C) INFORMATION REQUIRED FOR CLEC APPLICATIONS. Applications for a certificate or permit authorizing any applicant to offer and provide local exchange telecommunications services shall: (1) be submitted in writing; (2) be subscribed to under oath by a duly authorized official of the applicant who possesses full power and authority to make binding representations on applicant's behalf; and (3) be accompanied by a filing fee prescribed by the Commission. Such application shall also include the following information:

002.268(C)(i). To the extent pertinent to applicant's form of organization:

002.268(C)(i)(a). A certified copy of applicant's Articles of Incorporation with all amendments, if any;

002.268(C)(i)(b). If applicant is a partnership or a limited partnership, a copy of applicant's Articles of Partnership or Limited Partnership Agreement with all amendments, if any;

002.268(C)(i)(c). If applicant is a joint venture, a copy of applicant's Joint Venture Agreement with all amendments, if any;

002.286(C)(i)(d). If applicant is a proprietorship, the name and business address of all proprietors; or

002.268(C)(i)(e). If applicant is a limited liability company, a copy of applicant's Articles or Certificate of Organization and Operating Agreement with all amendments, if any.

002.286(C)(ii). A copy of the applicant's Certificate of Authority to transact business in the state of Nebraska;

002.268(C)(iii). The names, telephone numbers, email addresses, and business addresses of each of applicant's officers, directors, general and limited partners, joint venture members, or managers;

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002.268(C)(iv). The names and business addresses of each of applicant's shareholders having a beneficial interest in 5% or more of applicant's voting securities;

002.268(C)(v). A listing of each state in which applicant currently transacts business and a brief description of the nature and extent of the business transacted in each such state;

002.268(C)(vi). A listing of each state in which the applicant has applied for certification or a permit to provide telecommunication services; the date each pending application was filed; and the disposition of all applications;

002.268(C)(vii). A detailed description of each docketed formal complaint or other investigatory or enforcement proceeding involving the business operations of applicant or any of its officers, directors, principals, partners, proprietors, shareholders, members or managers having a beneficial interest in 5% or more of applicant's voting securities, commenced within the last two years showing the state where such action was brought, the date commenced, the nature of the proceeding, the substance of the complaint or proceeding, and its disposition or current status;

002.268(C)(viii). A detailed description of the services the applicant proposes to offer in Nebraska, an indication of whether the applicant intends to offer these services as a common carrier or contract carrier, and whether advance payments and/or deposits will be required;

002.268(C)(ix). A description of the geographic areas within which such services will be offered, including a map of the proposed service ~~territory~~ area in digital GIS format;

002.268(C)(x). A description of applicant's technical support staff, training, and relevant experience of personnel pertinent to the applicant's Nebraska local service operations, and any other information relevant to the technical competency of the applicant's staff;

002.268(C)(xi). A copy of applicant's last three annual financial statements, including a balance sheet, profit and loss statement, and evidence of adequate financing, together with applicant's most recent interim financial statements, certified by an independent certified public accountant. If certified financial statements are not available, applicant shall provide such information as the Commission requires to satisfy this provision. At a minimum, financial statements shall adhere to generally accepted accounting principles (GAAP). For purposes of determining evidence of adequate financing, the following minimum criteria shall be met:

002.268(C)(xi)(a). A minimum capitalization of \$200,000. Capitalization shall include all components of equity and total long and short-term debt and can include, but is not limited to, all classes of capital stock, additional paid-in capital, treasury stock, retained earnings, accumulated deficit, preferred stock, long and short-term debt;

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002.268(C)(xi)(b). A minimum net worth of \$50,000. Net worth is defined as total assets minus total liabilities. Applicants whose financial statements fail to meet this requirement may submit documentation demonstrating adequate financial backing sufficient to satisfy the Commission, such as committed funding from investors or a parent company.

002.268(C)(xi)(c). Positive ~~w~~Working ~~c~~Capital. For purposes of determining working capital, working capital shall be defined as the excess of an entity's current assets over its current liabilities. Applicants whose financial statements fail to meet this requirement shall provide additional evidence sufficient to satisfy the Commission that additional operating capital can be obtained to meet the requirement.

002.268(C)(xii). A copy of the latest annual report of applicant, if available;

002.628(C)(xiii). The name, telephone number, email address, and business address of applicant's attorney, resident agent, or other representative(s) to whom all communications regarding the application should be directed;

002.268(C)(xiv). The name, telephone number, email address, and business address of at least one point of contact concerning customer complaints;

002.268(C)(xv). A copy of any certificates or permits the applicant holds in the State of Nebraska authorizing the applicant to provide telecommunications services other than local exchange services;

002.268(C)(xvi). A description of the method or methods by which the applicant proposes to provide local exchange service;

002.286(C)(xvii). Information concerning the provision of emergency 911 services;

002.268(C)(xviii). Information concerning the provision of 988 services;

002.268(C)(xix). Information concerning the provision of Telephone Relay Service; and,

002.286(C)(xx). A statement that the applicant agrees to adhere to all state laws and all Commission regulations, policies, and orders; ~~and-~~

002.268(C)(xxi). A sample tariff which describes the services to be offered and which contains proposed rates, tolls, rentals, charges, classifications, and rules and regulations.

002.268(D) PERFORMANCE BONDS.

002.268(D)(i). The Commission may, if it finds that such action is in the public interest, require an applicant, as a condition precedent to granting a certificate or permit

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authorizing the offering of local exchange telecommunications services, to file with the Commission a bond in such sum as the Commission may require. Such bond shall be filed with the State of Nebraska and be for the benefit of:

002.268(D)(i)(a). Other telecommunications companies providing access to the local exchange networks for the applicant.

002.268(D)(i)(b). All customers of the applicant.

002.268(D)(ii). The minimum bond should be sufficient to protect any advances or deposits the telecommunications company may collect from its customers.

002.286(D)(iii). The Commission may, for good cause shown, require such increases in the amount of such bond, from time to time, as it may deem necessary for the protection of the public. The surety on such bond must be a corporate surety company holding a certificate with the Department of Insurance of the State of Nebraska authorizing it to execute the same.

~~002.29 FILING OF COMMERCIAL AGREEMENTS. In addition to information otherwise provided to or filed with the Commission, any incumbent local exchange carrier that provides service in the same service territory or exchange as a competitive local exchange carrier with which it is affiliated shall file with the Commission information specified by this rule.~~

~~002.29(A). An ILEC shall file with the Commission all commercial agreements between the ILEC and its affiliated CLEC as they are made.~~

~~002.29(A)(i). For the purposes of this rule, commercial agreements includes, but is not limited to, agreements not otherwise included in and filed with the interconnection agreement between the ILEC and its affiliated CLEC.~~

~~002.29(A)(ii). For the purposes of this section, it will be sufficient if the ILEC files such agreements not later than thirty days from the date such agreements are signed.~~

~~002.29(B). An ILEC shall file with the Commission, on an annual basis, the number of resale access lines provided by the ILEC to its affiliated CLEC.~~

002.2730. DISCRIMINATORY PRACTICES PROHIBITED. No incumbent local exchange carrier provides service in the same service territory area or exchange as a competitive local exchange carrier with which it is affiliated may engage in discriminatory practices to the favor of its affiliated CLEC.

003 INTEREXCHANGE SERVICE.

003.01 GENERAL. An interexchange carrier shall have the authority, through its certificate of public convenience and necessity or permit granted by the Commission, to provide interexchange telecommunications services subject to the provisions in this section.

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003.01(A). The Commission shall maintain safeguards for the protection of proprietary information, including ~~dinged~~ but not limited to, protective orders and limited distribution of the proprietary information.

003.01(B). The Commission may exempt an interexchange carrier or interexchange service from any provisions of this chapter upon a determination that the interexchange carrier or interexchange service is subject to competition. The Commission shall continue to exercise oversight authority over all interexchange carriers and services, and may reimpose or strengthen to the extent necessary, regulation over such services or carriers when the Commission determines such regulation is warranted.

003.01(C). The following subsections of the preceding section in this chapter shall apply to interexchange carriers with the terms “exchange carrier”, “access line service”, and “central office” replaced by “interexchange carrier”, “interexchange service”, and “switching office” respectively if the service is provided as a common carrier. If the interexchange service is provided as a contract carrier, the contract shall govern whether the terms and conditions, if any, of the subsections below apply:

- 002.02. Adequacy of Service
- 002.03. Service Interruptions and Outages
- 002.05. Emergency Operations and Power
- 002.078. Maintenance of Facilities
- ~~002.08. Operator Rules~~
- ~~002.0940. Answering Time Objectives~~
- ~~002.124. Application for Service~~
- ~~002.135. Refusal of Service and Disconnection~~
- ~~002.146. Customer Billing~~
- ~~002.168. Rules Governing Credit and Deposits~~
- ~~002.235. Transfer of Ownership of Exchange Carriers of their Properties~~

003.01(D). Common carriers providing interexchange service shall comply with Sections 003.02 through 003.11(C). Contract carriers providing interexchange service pursuant to contract authority shall comply with Sections 003.02 through 003.11(C) unless the terms of their respective contracts provide for some alternative.

003.02 TROUBLE REPORTS.

003.02(A). All interexchange carriers shall comply with the provisions of Subsection 002.04 of this chapter regarding trouble reports.

003.02(A)(i). The trouble index objectives found in ~~part~~ Section 002.04(C) shall not apply to interexchange carriers.

003.03 INFORMATION.

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003.03(A). Each interexchange carrier shall, upon request, provide its customers with such information and assistance as is necessary so that they may secure the most desirable grades of service.

003.03(B). Each interexchange carrier shall provide customer line verification in emergencies where possible.

003.04 TESTS. Each interexchange carrier shall provide or contract for test facilities which will enable determination of operating and transmission capabilities of circuit and switching equipment, either for routine maintenance or for fault location.

003.05 TRUNK AND ACCESS CIRCUIT SERVICE OBJECTIVES.

003.05(A). On toll connecting trunks, a goal of sufficient quantities of trunks to be provided so that ninety-nine percent of all telephone calls offered to any trunk group will not encounter an ~~a~~All ~~t~~Itrunks ~~b~~Busy condition.

003.05(B). Trunks shall be provided in sufficient quantities so that ninety-five percent of all toll manual calls will be completed without an ~~A~~all ~~I~~Itrunks ~~B~~Busy condition.

003.05(C). Ninety-five percent of Direct Distance Dialed calls, assuming they are properly dialed, shall receive a ring back signal, line busy signal or intercept facility on the first attempt after completion of dialing.

003.05(D). Interexchange carriers shall provide access circuits in sufficient quantities so that at least ninety-five percent ~~=~~of all calls offered to the interexchange carrier will not encounter an all circuits busy condition.

003.06 TRANSMISSION REQUIREMENTS. Interexchange carriers shall furnish and maintain adequate plant, equipment, and facilities to provide satisfactory transmission of telecommunications. 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 telecommunications.

003.07 TARIFF TO BE FILED WITH THE COMMISSION. No interexchange carrier shall offer a telecommunications service to the public, except pursuant to its tariff filed with the Commission. The provisions of such tariff shall be definite and so worded as to minimize ambiguity or the possibility of misinterpretation and shall include, together with such other information as may be deemed pertinent, the following:

003.07(A). Definitions of all classes of service provided.

003.07(B). Rules governing foreign exchange service (where offered) and all other service offerings together with the corresponding rates and charges.

003.08 ACCOUNTING.

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003.08(A). For purposes of accounting to the Commission, each interexchange carrier shall be classified and shall keep its books and records in accordance with the Uniform System of Accounts as prescribed by the Federal Communications Commission.

003.08(B). Each interexchange carrier shall file an annual report with the Commission on or before April 30 of the succeeding year.

003.08(C). Each interexchange carrier filing an annual report with the Federal Communications Commission shall file a copy of same with the Commission and in addition shall file with the Commission an annual report on the form prescribed by the Commission.

003.08(D). Interexchange carriers operating in more than one state shall file with the Commission a supplemental annual report with segregation of investment, revenue, ~~and~~ expense accounts, ~~and~~ miscellaneous statistics for the State of Nebraska on the form prescribed by the Commission.

003.08(E). Interexchange carriers not filing an annual report with the Federal Communications Commission shall file with the Commission an annual report on the form prescribed by the Commission.

003.09 SERVICE AREA.

003.09(A). Each interexchange carrier shall file with the Commission a map or maps, in digital GIS format or other format requested by the Commission, showing each originating location and each terminating location.

003.09(~~BC~~). Each interexchange carrier must file new or revised maps when originating or terminating locations identified in maps previously submitted to the Commission change.

003.09(~~CD~~). Commission acceptance or approval of a map filed pursuant to this subsection shall not preclude the Commission from thereafter determining in any appropriate proceeding the accuracy of the map filed.

003.10 APPLICATION FOR NEW RATES OR CHARGES OR CHANGES IN EXISTING RATES OR CHARGES.

003.10(A) NEW RATES. An application to establish new rates or charges or to change existing rates or charges shall be accompanied by proposed tariff sheets setting forth the proposed rates and the appropriate filing fee. An application to increase rates for interexchange service shall include the information set forth below along with such tariff sheets and filing fee. In lieu of filing proposed tariff sheets an applicant may submit a detailed rate schedule of all items to be changed including the present rate, the proposed rate, the number of units and the revenue to be produced.

003.10(B) NEW SERVICES.

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003.10(B)(i). New products and services identification and rate schedules will be submitted to the Commission ten days before first date of offer.

003.10(B)(ii). Detailed information regarding any service discontinuances, described by item, area, customer class, and any other relevant criteria, must be submitted to the Commission no fewer than thirty days before withdrawal date.

003.10(C) EXPERIMENTATION. Interexchange carriers will be allowed to implement market trials and rate and service experiments upon ten days' notification to affected customers and to the Commission.

003.11 INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

003.11(A) APPLICATIONS. Applications for a certificate or permit authorizing any telecommunications company to offer and provide interexchange telecommunications services shall: (a) be submitted in writing; (b) be subscribed to under oath by a duly authorized official of the applicant who possesses full power and authority to make binding representations on the applicant's behalf; (c) be accompanied by the required filing fee; and, (d) include, to the extent pertinent to the applicant's form of organization, the following information:

003.11(A)(i). To the extent pertinent to the applicant's form of organization:

003.11(A)(i)(a). A certified copy of applicant's Articles of Incorporation with all amendments, if any;

003.11(A)(i)(b). If applicant is a partnership or a limited partnership, a copy of applicant's Articles of Partnership or Limited Partnership Agreement with all amendments, if any;

003.11(A)(i)(c). If applicant is a joint venture, a copy of applicant's Joint Venture Agreement with all amendments, if any;

003.11(A)(i)(d). If applicant is a proprietorship, the name and business address of the proprietor; or

003.11(A)(i)(e). If applicant is a limited liability company, a copy of applicant's Articles or Certificate of Organization and Operating Agreement with all amendments, if any.

003.11(A)(ii). A copy of the applicant's Certificate of Authority to transact business in the State of Nebraska.

003.11(A)(iii). The names, telephone numbers, email addresses, and business addresses of each of applicant's officers, directors, general and limited partners, or joint venture members, or managers.

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003.11(A)(iv). The names and business addresses of each of applicant's shareholders having a beneficial interest in 5% or more of applicant's voting securities.

003.11(A)(v). A listing of each state in which applicant currently transacts business and a brief description of the nature and extent of the business transacted in each such state.

003.11(A)(vi). A listing of each state in which the applicant has applied for certification or a permit to provide telecommunication services; the date each such application was filed; and the disposition of each such application.

003.11(A)(vii). A detailed description of each docketed formal complaint or other investigatory or enforcement proceeding involving the business operations of applicant or any of its officers, directors, principals, partners, proprietors, shareholders, members, or managers having a beneficial interest in 5% or more of applicant's voting securities, commenced within the last two years showing the state where such action was brought, the date commenced, the nature of the proceeding, the substance of the complaint or proceeding, and its disposition or current status.

003.11(A)(viii). A detailed description of the services applicant proposes to offer in Nebraska, including an indication of whether services will be offered on a contract basis, and whether advance payments and/or deposits will be required.

003.11(A)(ix). A description of the geographic areas within which such services will be offered, showing originating points, including a map of the proposed service ~~territory~~ area in digital GIS format.

003.11(A)(x). A detailed description of the communications network(s) applicant proposes to utilize in Nebraska. If any facilities will be purchased or leased from other providers, identify the lessor(s) or vendor(s) and, if requested by the Commission, provide copies of the purchase and/or lease agreements. If applicant's own facilities will be utilized, describe the facilities in detail and indicate when they will be available and how they will be maintained.

003.11(A)(xi). A description of applicant's technical support staff, training, and relevant experience of personnel pertinent to the applicant's Nebraska operations, and any other information relevant to the technical competency of the applicant's staff.

003.11(A)(xii). A copy of applicant's last three annual financial statements, including a balance sheet, profit and loss statement, and evidence of adequate financing, together with applicant's most recent interim financial statements, certified by an independent certified public accountant. If certified financial statements are not available, applicant shall provide such information as the Commission requires to satisfy this provision. At a minimum, financial statements shall adhere to generally accepted accounting principles (GAAP). For the purposes of determining evidence of adequate financing, the following minimum criteria shall be met:

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003.11(A)(xii)(a). A minimum capitalization of \$200,000. Capitalization shall include all components of equity and total long and short-term debt and can include, but is not limited to, all classes of capital stock, additional paid-in capital, treasury stock, retained earnings, accumulated deficit, preferred stock, long and short-term debt.

003.11(A)(xii)(b). A minimum net worth of \$50,000. Net worth is defined as total assets minus total liabilities. Applicants whose financial statements fail to meet this requirement may submit documentation demonstrating adequate financial backing sufficient to satisfy the Commission, such as committed funding from investors or a parent company.

003.11(A)(xii)(c). Positive working capital. For purposes of determining working capital, working capital shall be defined as the excess of an entity's current assets over its liabilities. Applicants whose financial statements fail to meet this requirement shall provide additional evidence sufficient to satisfy the Commission that additional operating capital can be obtained to meet the requirement.

003.11(A)(xiii). A copy of the latest annual report of applicant, if available.

003.11(A)(xiv). The name, telephone number, email address, and business address of applicant's attorney, resident agent, or other representative to whom all communications regarding the application should be directed.

003.11(A)(xv). The name, telephone number, email address, and business address of at least one point of contact concerning customer complaints.

003.11(B) STANDARDS FOR DETERMINATION. The Commission will base its decision to approve or deny the application upon its assessment of the financial resources and the managerial and technical competency of the applicant. The Commission will deny the application of any applicant which:

003.11(B)(i). Does not provide required information;

003.11(B)(ii). Fails to file any performance bond required by the Commission;

003.11(B)(iii). Does not possess adequate financial resources to provide the proposed service; or

003.11(B)(iv). Does not possess adequate managerial and technical competency to provide the proposed service.

003.11(C) PERFORMANCE BONDS.

003.11(C)(i). The Commission may require an applicant for authority to provide interexchange services to file a performance bond in such sum as the Commission

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may require. A bond shall only be required if such action is in the public interest. Such bond shall run to the State of Nebraska and be for the benefit of:

003.11(C)(i)(a). Other telecommunications companies providing access to the local exchange networks for the applicant.

003.11(C)(i)(b). All customers of the applicant.

003.11(C)(ii). The minimum bond must be sufficient to protect any advances or deposits the telecommunications company may collect from its customers.

003.11(C)(iii). The Commission may require increases in the amount of a performance bond filed by a provider of interexchange services. An increase to the performance bond may only be made after a showing of good cause and a finding that such increase is necessary for the protection of the public. The surety on such bond must be a corporate surety company holding a certificate of the Department of Insurance of the State of Nebraska authorizing it to execute the same.

003.11(D) ESCROW OR ADVANCE DEPOSITS. The Commission may require that any deposit the applicant telecommunications company collects from its customers or any advances made by the customer be held in escrow or trust in a federally insured financial institution.

003.12 RULES APPLICABLE ONLY TO COMMON CARRIERS. The rules set forth in this subsection apply only to common carriers. Contract carriers providing services within the purview of these rules will provide for the terms of their service pursuant to the terms of the contract between the carrier and their customer.

003.12(A). Any change in a rate list shall be effective after ten days' notice to the Commission.

003.12(B). In addition to the notice to the Commission, each telecommunications company shall notify the customers affected by an increase in a rate list. Notice to affected customers may be in any of the following forms:

003.12(B)(i). Publication in a statewide or local newspaper in the area.

003.12(B)(ii). Included in the latest Bill.

003.12(B)(iii). Separate letters notifying customers of increases.

003.12(B)(iv). Press Release.

003.12(C) STATEMENT TO COMMISSION. Within thirty days after the effective date of an increase in a rate list, the telecommunications company shall present the Commission with a signed, written statement that affected customers have been notified or are being notified and the method of notification. In the case where customers are still being notified,

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the statement shall include the date when notification shall be final, not to exceed sixty days after the effective date of an increase.

~~003.13 OPERATOR SERVICE. Operator service providers shall comply with all provisions of these rules applicable to interexchange carriers including, but not limited to those dealing with certification, complaints and quality of service.~~

~~003.13(A) IDENTIFICATION. All operator service providers shall identify themselves in the course of the transaction of an operator assisted call in sufficient time for a caller to terminate the call without incurring a charge.~~

~~003.13(B) CUSTOMER NOTIFICATION. Operator service providers contracting with hotels, motels, hospitals, private pay phone owners or other such businesses are required to cause to be posted and displayed in a prominent fashion, a notice that their rates are not regulated and instructions for registering a complaint with the operator service provider. The notice shall include the carrier name, detailed complaint procedure and procedure to access another company's operator. Rates of the operator service provider shall be available to the caller upon request.~~

~~003.13(C) PUBLIC SAFETY. All operator service providers must provide adequate emergency service to callers dialing zero (0). Absent the ability of an operator service provider to process emergency calls itself or to reroute emergency calls at all locations back to the originating local network in a timely fashion at no charge, then all calls shall be directed to the local exchange carrier.~~

~~003.13(D) ACCESS TO OTHER CARRIERS. In order for proper billing of calls and that access to alternate long distance carriers not be denied to the end user, operator service providers must ensure that a caller is able to use his or her carrier of choice for long distance service, where available. Operator service providers shall also have procedures for transferring callers on request to other carriers or instructing such callers to follow dialing procedures previously provided to the caller by the carrier of choice. Such transfer may be made only to an operator center serving the originating telephone.~~

004 SUBSCRIBER COMPLAINTS OF SLAMMING AND UNAUTHORIZED CHARGES.

004.01 DEFINITIONS. For purposes of this section, the definitions in Section 001.01 shall apply except that as used in this section and unless the context otherwise requires:

004.01(A). Slamming shall mean the unauthorized switching of a telecommunications company selected by the subscriber to provide telecommunications service.

004.01(B). Subscriber shall mean a person or persons, company, or lawful entity, who has the financial responsibility for the telephone service provided by a telecommunications provider.

004.02 SCOPE. This section shall apply to all telecommunications companies providing basic local exchange service, interexchange service, and any other telecommunications services to

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subscribers in this state, except that this section shall not apply to providers not regulated by the Commission as provided in Neb. Rev. Stat. Section 86-124.

004.03 AUTHORIZED CHANGE IN A SUBSCRIBER'S CARRIER. Except when a subscriber initiates or changes telecommunications service by contacting his or her local exchange carrier to change telecommunications service not directly provided by that local exchange carrier, no telecommunications company shall submit or execute a change in a subscriber's provider of basic local exchange service, intra-LATA interexchange service, or inter-LATA interexchange service without:

004.03(A). Written change authorization from the subscriber;

004.03(B). Toll-free electronic authorization placed from the telephone number which is the subject of the change order; or

004.03(C). Oral authorization obtained by an independent third party.

004.03(D). A separate and distinct authorization shall be required to submit or execute a change of service for services provided to subscribers in this state.

004.04 WRITTEN CONFIRMATION OF A SUBSCRIBER CHANGE. Within thirty days after a subscriber changes his or her authorized provider of telecommunication services, the new authorized service provider shall provide to the subscriber written notice of such change. The written confirmation shall:

004.04(A). Describe clearly and simply the nature of the subscription change;

004.04(B). Not be a part of, or attached to, any other document;

004.04(C). Not contain any promotion, offer, or inducement; and,

004.04(D). Be mailed to the subscriber's billing address.

004.05 CHARGES PAID BY A SUBSCRIBER TO AN UNAUTHORIZED CARRIER. If a subscriber has determined that his or her telecommunication service has been changed without the subscriber's authorization as provided for in this section, and the subscriber has paid charges to an unauthorized carrier, the subscriber shall give notice to either the subscriber(s) authorized carrier or to the unauthorized carrier.

004.05(A). Upon receiving notification from the subscriber that the subscriber has paid charges to an allegedly unauthorized carrier, the properly authorized carrier shall, within thirty days, request from the unauthorized carrier proof of verification of the authorization of the subscriber's intent to change carriers.

004.05(A)(i). Within ten days after receiving a request, the allegedly unauthorized carrier shall forward to the authorized carrier either:

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004.05(A)(i)(a). Proof of verification of the subscriber's authorization to change carriers; or

004.05(A)(i)(b). (1) An amount equal to all charges paid by the subscriber to the unauthorized carrier; (2) an amount equal to any charge required to return the subscriber to his or her properly authorized company, if applicable; and (3) copies of any telephone bills issued from the unauthorized company to the subscriber.

004.05(A)(ii). If an authorized carrier incurs any billing and collection expenses in collecting charges from the unauthorized carrier, the unauthorized carrier shall reimburse the authorized company for reasonable expenses.

004.05(B). When a subscriber notifies the unauthorized carrier, rather than the authorized carrier, of an unauthorized change, the unauthorized carrier shall immediately notify the authorized carrier. The authorized carrier shall then take the steps provided for in this section.

004.05(C). When a subscriber notifies a local exchange carrier rather than the authorized carrier of an unauthorized change, the local exchange carrier shall immediately notify the subscriber that it must notify the authorized carrier. The local exchange carrier must provide the subscriber with the name of his or her authorized carrier when the local exchange carrier bills or has billed the subscriber for the authorized carrier. The authorized carrier shall then take the steps provided for in this section.

004.06 REMITTANCE OF CHARGES PAID TO AN UNAUTHORIZED CARRIER. Upon receipt of charges paid by a subscriber from a carrier that was not authorized by the subscriber, the authorized carrier shall provide a refund or credit to the subscriber of all charges paid in excess of the charges that would have been due to the authorized subscriber absent the unauthorized change of carrier.

004.06(A). If an authorized carrier has not received from the unauthorized carrier an amount equal to the charges paid by the subscriber to the unauthorized carrier, the authorized carrier is not required to provide any refund or credit.

004.06(B). Within sixty days after an authorized carrier receives notification of an unauthorized change, the authorized carrier shall notify the subscriber if it has failed to collect any charges from the unauthorized carrier. The authorized carrier shall also, at the time of this notification, inform the subscriber of his or her right to pursue a claim against the unauthorized carrier for a refund of all charges paid to the unauthorized carrier and to file an appropriate complaint with the Commission.

004.06(C). If an authorized carrier fails to receive proof of verification of a subscriber's authorization to change carriers pursuant to Rule 004.05(A)(i) within ten days after sending such a request to an allegedly unauthorized carrier, or if the authorized carrier fails to collect any charges paid by a subscriber within sixty days after an authorized carrier receives notification of an unauthorized change, the authorized carrier shall notify the Commission of such failure. Such notice shall include:

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004.06(C)(i). The name of the subscriber and the name of the alleged unauthorized carrier;

004.06(C)(ii). The date that the authorized carrier received notification of the unauthorized change;

004.06(C)(iii). The amount of the total charges paid by the subscriber to the unauthorized carrier; and

004.06(C)(iv). A description of the actions taken by the authorized carrier to collect the charges paid by the subscriber to the unauthorized carrier including contacts made by the authorized carrier and a copy of any correspondence or communication received from the unauthorized carrier.

004.06(D). Upon notice to the Commission as provided in this section, the Commission shall initiate a complaint as specified in Section 004.08.

~~004.07 REINSTATEMENT OF SUBSCRIBER IN A PREMIUM PROGRAM. The authorized carrier shall reinstate the subscriber in any premium program in which that subscriber was enrolled prior to the unauthorized change if the subscriber's participation in the premium program was terminated because of the unauthorized change. For purposes of this section, a premium program shall mean any bonuses paid to a subscriber as rewards for each dollar spent on telecommunications services and may include cash benefits, refunds, or other awarded benefits such as frequent flier miles and other travel bonuses.~~

~~004.07(A). If reinstatement in the premium program is not possible, the authorized carrier shall so inform the subscriber of the inability of the authorized carrier to reinstate the subscriber and of the reason that reinstatement is not possible.~~

~~004.07(B). If the subscriber has paid charges to the unauthorized carrier, the properly authorized carrier shall also provide or restore to the subscriber any premiums to which the subscriber would have been entitled had the unauthorized change not occurred.~~

~~004.07(C). The authorized carrier shall comply with the requirements of this section regardless of whether the authorized carrier is able to recover from the unauthorized carrier any charges paid by the subscriber.~~

004.078 ENFORCEMENT. This section shall be enforced through a complaint process known as the Subscriber Slamming Complaint. In administering a complaint, the Commission shall be governed by the Rules of Commission Procedure, except as herein described:

004.078(A). A complaint with the Commission shall be filed by the subscriber's authorized carrier section where the authorized carrier has given notice to the Commission pursuant to section 004.06(D).

004.078(B). A complaint may be filed in accordance with this section by:

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004.078(B)(i). An authorized carrier who has notice of an unauthorized change;

004.078(B)(ii). A subscriber who had his or her telecommunications services carrier changed without his or her authorization; or

004.078(B)(iii). The Commission, on its own motion.

004.078(C). Following the receipt of an answer to a complaint filed pursuant to this section, the Commission shall hold a hearing. After such hearing, the Commission may impose an administrative penalty.

004.078(C)(i). An administrative penalty shall not exceed two thousand dollars. Each violation associated with a specific access line within the state shall be considered a separate and distinct violation.

004.078(C)(ii). The amount of an administrative penalty shall be based on:

004.078(C)(ii)(a). The nature, circumstances, extent, and gravity of a prohibited act;

004.078(C)(ii)(b). The history of previous violations;

004.078(C)(ii)(c). The amount necessary to deter further violations; and

004.078(C)(ii)(d). Any efforts to correct the violation or violations.

004.078(C)(iii). Any administrative penalty may be appealed and the appeal shall be in accordance with Neb. Rev. Stat. Sections 75-136 to 75-139.

004.078(C)(iv). Any administrative penalty shall be transmitted to the State Treasurer for credit to the permanent school fund.

004.089 RECORDS. All telecommunication carriers subject to this section shall maintain all relevant records regarding any change in a subscriber's telecommunications carrier for a period not less than two years. The Commission shall at all times have access to all records kept by carriers pursuant to this section.

004.0940 SUBSCRIBER COMPLAINT SYSTEM. The Director of Communications shall administer a subscriber complaint system to record, monitor and report on all complaints received regarding the unauthorized change of a subscribers' telecommunications carrier.

004.104 PERFORMANCE STANDARDS. The Director of Communications shall provide the Commission, at the Commission's request, with a separate report detailing all ~~of the~~ complaints received by the Commission regarding the unauthorized change of a subscriber's telecommunications carrier. The report shall include a listing of the complainant, name of the subscriber, subscriber's authorized telecommunications carrier, alleged unauthorized carrier,

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date of the unauthorized change, duration, if known, of the unauthorized change, and any resolution of the complaint, if applicable.

004.104(A). Minimum performance standards shall mean, for the purposes of this section, that the number of complaints against the carrier relating to the unauthorized change of a subscriber's telecommunications carrier shall not exceed three verified complaints per three month period for every ten thousand accounts held by the carrier within the state.

004.104(B). Failure to meet the minimum performance standards may constitute the basis for a complaint against the carrier, which may be filed pursuant to the Commission's Rules of Procedure. Such complaint shall be filed only upon those verified instances of an unauthorized change of carrier that has not been previously and separately prosecuted as a complaint pursuant to this section.

004.112 UNAUTHORIZED CHARGES. No telecommunications carrier shall initiate or bill additional telecommunications services to a subscriber for services not required by Commission regulation, state statute, or federal law or regulation for which the subscriber did not explicitly request or authorize.

004.112(A). If a charge is assessed on a per-use basis for a telecommunications service not required by rule, regulation or law and for which the subscriber did not request or authorize, and the subscriber notifies the providing carrier that the subscriber did not utilize the service or that the subscriber did not authorize the utilization of the service, the providing carrier shall refund the charge or apply the charge as a credit to the next billing period.

004.112(B). If a providing carrier receives a notification by a subscriber that he or she has been billed for a service not required by rule, regulation or law nor authorized or requested by the subscriber, the carrier shall inform the subscriber of the ability to block services from future use by the subscriber and shall block the services from future use by the subscriber if the subscriber so requests.

004.112(B)(i). If a subscriber requests that the carrier not block the service or later requests that the block on the service be removed, the subscriber shall be responsible for similar charges for similar services caused by the future utilization of such a service.

004.112(B)(ii). A telecommunications carrier shall not charge a recurring fee for blocking for a service as provided in this section.

~~0057~~ DARK FIBER LEASING.

~~007.02 DEFINITIONS. As used in this section, unless the context otherwise requires, the following definitions apply:~~

~~007.02(A). Applicant means a party filing an application.~~

~~007.02(B). Commission means the Nebraska Public Service Commission.~~

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~~007.02(C). Cost of infrastructure overbuilding means the cost of each leased optic fiber, including the cost, on a pro rata basis, associated with the agency or political subdivision's installation of such fiber.~~

~~007.02(D). Dark fiber means any unused fiber optic cable through which no light is transmitted or any installed fiber optic cable not carrying a signal.~~

~~007.02(E). Internet service provider means an entity providing broadband Internet service providing access to the Internet in Nebraska at speeds of at least one hundred megabits per second for downloading and twenty megabits per second for uploading.~~

~~007.02(F). Safe harbor range means the safe harbor range of market rates for all dark fiber leases or licenses as determined by the Commission.~~

0057.013 LEASE, LICENSE. Any agency or political subdivision of the state may lease or license its dark fiber if:

0057.013(A). The lessee or licensee is a certificated telecommunications common carrier, ~~or a permitted telecommunications contract carrier pursuant to Nebraska Revised Statutes section~~ Neb. Rev. Stat. § 86-128, or an ~~i~~Internet service provider; and

0057.013(B). The lease or license terms are fair, reasonable, and nondiscriminatory;

0057.013(C). All locations where service will be made available pursuant to the lease or license are, at the time the lease or license is filed, unserved locations; and

0057.013(D). The lease or license is otherwise in compliance with Nebraska statutes.

0057.024 FILING OF DARK FIBER LEASE OR LICENSE.

0057.024(A). A lease or license of dark fiber is not effective until it has been filed with the Commission. Once filed with the Commission, the lease or license becomes effective.

0057.024(B). A lease or license will not be considered filed with the Commission unless all of the following information is provided:

0057.024(B)(i). A copy of the lease or license, provided in its entirety, and clearly showing the rate or rates to be charged;

0057.024(B)(ii). A description of the facilities to be leased or licensed;

0057.024(B)(iii). A map in digital GIS format depicting the geographic area to be served through the lease or license; and

0057.024(B)(iv). A list of all Nebraska counties and exchanges where broadband service is expected to be provided through the lease or license.

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0057.024(C). Within five days after a lease or license is filed, the Commission will publish notice of the filing of the lease or license on the Commission website, and will contact all Internet service providers providing broadband service in the counties named in the filed lease or license, based upon publicly filed broadband mapping data.

0057.035 CHALLENGE. Any Internet service provider may challenge a lease or license filed with the Commission. Such challenge may allege that such lease or license does not serve an unserved location, that the rates set forth in the lease or license are unreasonable, or other violations of Nebraska statute or regulation.

0057.035(A). A challenge must be filed within thirty days of the provider's receipt of notice of the filing of the lease.

0057.035(B). The Commission will make a determination regarding the violation or violations alleged in the challenge within thirty days after the filing of the challenge.

0057.035(C). Challenges will be processed pursuant to the Commission's Rules of Procedure, except that modifications to procedural deadlines may be made by the Hearing Officer in order to accommodate statutory deadlines.

0057.046 RATES FOR DARK FIBER LEASING. The Commission shall establish a safe harbor range of market rates for all dark fiber leases or licenses using a competitive price determination comparison.

0057.046(A). When conducting a competitive price determination comparison, the commission, in its discretion, shall use rate schedules, interconnection agreements, or other documents within its regulatory oversight and shall gather other market rate information as deemed necessary.

0057.046(B). If a lease or license filed with the Commission utilizes rates within or above the safe harbor range in effect at the time the parties entered into the lease or license, such rates shall be deemed approved.

0057.046(C). If a lease or license utilizes rates below the safe harbor range in effect at the time the parties entered into the lease or license, the lease may be challenged.

0086 WIRELESS REGISTRATION.

0068.01 REGISTRATION.

0068.01(A) REGISTRATION REQUIRED. A wireless carrier providing or intending to provide telecommunications service in Nebraska shall file a registration with the Commission prior to providing such telecommunications service.

0068.01(B) REGISTRATION FORM. The registration shall be on a form prescribed by the Commission. Each wireless carrier is required to remit an initial application fee as determined by the Commission.

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0068.01(C) INFORMATION REQUIRED. At a minimum, each wireless carrier must provide the following information:

0068.01(C)(i). The name, address, telephone number, and email address of a contact person whom the Commission may contact concerning questions or requirements of the Nebraska Telecommunications Universal Service Fund Act and related surcharges, if applicable;

0068.01(C)(ii). The name, address, telephone number, and email address of a contact person whom the Commission may contact concerning questions or requirements of the Telecommunications Relay System Act and related surcharges, if applicable;

0068.01(C)(iii). The name, address, telephone number, and email address of a contact person whom the Commission may contact concerning questions or requirements of statutes relating to 911 services and related surcharges, if applicable; and

0068.01(C)(iv). The name, address, telephone number, and email address of a contact person whom the Commission may contact concerning consumer complaints and inquiries;

0068.02 CHANGES IN INFORMATION CONTAINED IN REGISTRATION. The registrant shall notify the Commission of any changes in the information contained in its registration within sixty days from such change. No additional filing fee will be required for changes in information pursuant to this section.

0068.03 ENFORCEMENT.

0068.035(A) INVESTIGATION. The Commission may conduct an investigation upon written complaint that Neb. Rev. Stat. § 86-125 or section ~~008-006~~ of these rules or regulations have been or are being violated. Any such investigation shall be conducted in accordance with the Commission's Rules of Commission Procedure.

0068.035(B) ADMINISTRATIVE PENALTY. The Commission, in accordance with Neb. Rev. Stat. § 75-156 and upon notice and hearing, may administratively fine any wireless carrier which violates these rules and regulations or Neb. Rev. Stat. § 86-125.

0079 ELIGIBLE TELECOMMUNICATIONS CARRIER.

0079.01 USE OF SUPPORT. An eligible telecommunications carrier that receives high-cost support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

0079.02 REQUIREMENTS FOR COMMISSION DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS.

0079.02(A). In order to be designated an eligible telecommunications carrier, any common carrier in its application must:

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0079.02(A)(i). Demonstrate that such designation is consistent with the public interest, convenience, and necessity, and, in the case of an area served by a rural telephone company, demonstrate that public interest will be met by an additional designation;

0079.02(A)(ii). Demonstrate that it will offer the services that are supported by federal universal service support mechanisms and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier);

0079.02(A)(iii). Demonstrate that it will advertise the availability of such services and the charges therefore using media of general distribution;

0079.02(A)(iv). Demonstrate that it is capable of providing and will continuously provide the services designated for support as defined in 47 C.F.R. ~~Section §~~ 54.101;

0079.02(A)(v). Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will:

0079.02(A)(v)(a). Provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and

0079.02(A)(v)(b). Provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by (a) modifying or replacing the requesting customer's equipment; (b) deploying a roof-mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting network or customer facilities; (e) reselling services from another carrier's facilities to provide service; or (f) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment;

0079.02(A)(vi). A carrier seeking high cost support shall submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area;

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0079.02(A)(vii). A carrier seeking high cost support shall demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations, and that customers receiving service which requires a separate power source have access to at least eight hours of back-up power at no additional charge;

0079.02(A)(viii). A carrier seeking high cost support shall demonstrate that it will satisfy applicable consumer protection and service quality standards;

0079.02(A)(ix). A carrier seeking high cost support shall demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.

0079.02(B) SPEED TESTING. Any carrier seeking to receive high-cost support from the Nebraska Telecommunications Universal Service Fund shall agree to submit to speed tests as determined by the commission.

0079.02(C) PUBLIC INTEREST STANDARD. In addition to the information described above, in the case of an applicant seeking designation in an area served by a rural telephone company, the Commission will consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering.

0079.02(D) STUDY AREA LEVEL. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the Commission shall review the application for "cream-skimming," or selectively choosing locations which are low-cost to the detriment of local carriers.

0079.03 ANNUAL REPORTING REQUIREMENTS FOR DESIGNATED ELIGIBLE TELECOMMUNICATIONS CARRIERS.

0079.03(A). A common carrier designated as an eligible telecommunications carrier for high-cost support shall provide:

009.03(A)(i). Detailed information on any outage as the term is defined by these rules, of at least ~~30~~ thirty minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect (a) at least ten percent of the end users served in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. § 4.5(e). Specifically, the eligible telecommunications carrier's annual report must include information detailing: (a) the date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) the particular services affected; (d) the geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected;

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0097.03(A)(ii). The number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers;

0079.03(A)(iii). The number of complaints per 1,000 handsets or lines;

0079.03(A)(iv). A certification that it is complying with applicable service quality standards and consumer protection rules;

0079.03(A)(v). A certification that the carrier is able to function in emergency situations as set forth in 47 C.F.R. § 54.2024(a)(2) and any applicable Commission rules;

0079.03(A)(vi). A certification that the carrier is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and

0079.03(A)(vii). A certification that the carrier acknowledges that the Federal Communications Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

0079.03(B) FILING DEADLINES. In order for a common carrier designated as an eligible telecommunications carrier to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designation, it must make an election during the first year it receives an eligible telecommunications carrier designation, to submit the annual reporting information in this section either on April 30 or October 1 of each year. Annual reporting information must be submitted on or before the selected reporting deadline. Commission approval is required if a carrier requests to change its reporting deadline.

00840 NEBRASKA TELECOMMUNICATIONS RELAY SYSTEM.

00840.01 PURPOSE. Provide a statewide telecommunications relay system and a statewide voucher program for the provision of specialized telecommunications equipment for qualified deaf, hard of hearing, or speech-impaired persons in Nebraska which enables them to communicate twenty-four hours per day, seven days per week, including holidays, with other persons who use conventional telephone systems.

00840.02 STATUTORY AUTHORITY. This section is adopted pursuant to the Telecommunications Relay System Act.

00840.03 SCOPE. Any person using NTRS shall not be charged for access to such system other than charges for access to such system other than charges billed for call types such as calls placed from payphones, calls placed to and from international locations, or calls placed to Directory Assistance or other paid services, billed for in-state and out-of-state long-distance telephone service. NTRS shall at a minimum provide state-wide in-state calls with charges for long-distance calls billed to the person making the call in a manner which the Commission

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~~determines will recover the cost of long-distance calls to the system; out-of-state calls with charges billed to the person making the call; and emergency calls.~~

00810.04 COMMISSION AUTHORITY. Procedures involving the administration of NTRS shall be governed by the Nebraska Telecommunications Relay System Rules and the Rules of Commission Procedure unless otherwise prescribed by order of the Commission. The Commission may enter into contracts with other agencies or private organizations to operate NTRS and NSTEP.

00810.05 FORMS. The Commission will specify, by order, the manner in which information shall be filed with the Commission. Upon a showing of good cause, the Program Administrator may accept information filed in a manner other than prescribed in a Commission order.

00810.06 TELECOMMUNICATIONS RELAY SURCHARGE. Each telephone company and provider of wireless service in Nebraska shall collect from each of the telephone subscribers with a surcharge not to exceed twenty cents per month on each telephone number or functional equivalent in Nebraska, including wireless service.

00810.06(A) EXEMPTION. The surcharge authorized by this section shall not apply to prepaid wireless telecommunications services as defined in the Prepaid Wireless Surcharge Act.

00810.06(B) RELAY SURCHARGE SHOWN ON SUBSCRIBER BILLS. The surcharge shall appear as a separate line-item charge on the subscriber's billing statement and shall be labeled as "Telecomm Relay Surcharge" or "Relay Surcharge".

00810.06(C) ANNUAL SURCHARGE RATE DETERMINATION.

00810.06(C)(i) PUBLIC HEARING. Before April 1 of each year, the Commission shall hold a public hearing to determine the amount of surcharge necessary to carry out the provisions of the Act.

00810.06(C)(ii) RATE. After hearing, the Commission shall set the surcharge at the level necessary to fund the statewide NTRS and NSTEP for the following year, plus a reasonable reserve.

00810.06(C)(iii) EFFECTIVE DATES. The surcharge set pursuant to these rules shall become effective for the next fiscal year beginning July 1.

00810.06(C)(iv) LIMITATION. The surcharge rate shall not exceed twenty cents per month on each telephone number or functional equivalent in Nebraska, including wireless service. Except for wireless service, the surcharge shall only be collected on the first one hundred telephone numbers or functional equivalent per subscriber. The companies shall add the surcharge to each subscriber's local telephone bill.

00810.06(C)(v) EMERGENCY RATE SETTING. In an emergency, the Commission may adjust the amount of the surcharge after a public hearing for such purpose.

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00840.06(D) NEBRASKA TELECOMMUNICATIONS RELAY SYSTEM FUND. The fund shall consist of the surcharges credited to the fund, any monies appropriated by the Legislature, any federal funds received for telecommunications relay systems, and any other funds designated for credit to the fund.

00840.07 REMITTANCE.

00840.07(A) REMITTANCE WORKSHEETS. Remittance worksheets shall be received by the Department no later than fifteen days after the end of the remittance period. In the event the fifteenth day falls on a weekend or holiday, the remittance form shall be due on the next business day.

00840.07(B) FILING OPTIONS.

00840.07(B)(i) MONTHLY. Telephone companies and providers of wireless service shall remit the TRS surcharge on a monthly basis to the TRS Fund except as provided in sections 00840.07(B)(ii) and 00840.07(B)(iii).

00840.07(B)(ii) QUARTERLY. A telephone company or provider of wireless service whose monthly remittance amount is less than twenty-five dollars may elect to remit on a quarterly basis.

00840.07(B)(iii) ANNUALLY. A telephone company or provider of wireless service whose monthly remittance amount is less than twenty-five dollars may elect to remit on an annual basis. The period for annual remittances shall run July 1 through June 30, with the surcharge remittance due annually on July 15th ~~annually~~.

00840.07(B)(iv) FILING ELECTION. A telephone company or provider of wireless service whose monthly remittance amount is less than twenty-five dollars must notify the Commission in writing of its election to remit quarterly prior to the remittance period.

00840.07(C) REMITTANCE TO THE FUND. Except as provided in Rule 00840.07(C)(i), all remittances shall be transferred electronically to the Nebraska State Treasurer. Remittances shall be received by the Nebraska State Treasurer no later than thirty days after the end of the remittance period in which they were collected pursuant to the period prescribed or elected pursuant to ~~s~~Section 00840.07(B), as applicable. In the event the thirtieth day falls on a weekend or holiday, the electronic remittance shall be due on the next business day.

00840.07(C)(i) DEPARTMENT INITIATED REMITTANCES. A telephone company or provider of wireless service may elect to have the Department initiate the electronic transfer of such company's remittance to the Fund.

00840.07(C)(ii) AUTHORIZATION AND BANKING INFORMATION. A telephone company or provider of wireless service electing to have the Department initiate the

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electronic transfer of remittance to the Fund shall provide the necessary authorization and banking information required by the Program Administrator.

00810.07(C)(iii) INITIATION OF TRANSFER. The receipt of a telephone company or provider of wireless services' remittance worksheet will result in the Department's initiation of the electronic transfer of the telephone company's or provider of wireless services' remittance to the Fund if the appropriate indication is made on said remittance worksheet. Said electronic transfer will be done in accordance with authorization granted to the Department by the company or provider of wireless services.

00810.07(D) REMITTANCE BY COMMISSION. The Commission shall remit the proceeds from the surcharge to the State Treasurer for credit to the Fund.

00810.07(E) AUDITS. The Commission may require an audit of any telephone company collecting the surcharge pursuant to the Act.

00810.08 ADEQUACY OF SERVICE. The vendor shall ensure that, except during network failure, at least ninety percent of all calls are answered by the relay center within ten seconds from the time the call enters the TRS system during all times of the day and at least ninety-five percent of all calls are answered within ten seconds for the month by any method which results in the caller's call immediately being placed, not put in a queue or on hold.

00810.09 DIRECTORY REQUIREMENTS. Telephone companies shall provide printed information in telephone directories, where such directories are required, at no charge regarding relay services.

00810.09(A) REQUIRED INFORMATION. The information listed in telephone directories shall contain information on the following:

00810.09(A)(i). Connecting to the relay, including a reference to 711 dialing;

00810.09(A)(ii). Access numbers, including but not limited to TTY, Voice, ASCII, Fast ASCII, Speech to Speech, Spanish and Customer Service;

00810.09(A)(iii). A reference to the NSTEP program including contact numbers for the PSC and the Nebraska Commission for the Deaf and Hard of Hearing and application information.

00810.10 NOTIFICATION. Telephone companies shall inform their subscribers of the availability of relay services through a bill insert or other prominent bill message on an annual basis.

00810.11 NEBRASKA SPECIALIZED TELECOMMUNICATIONS EQUIPMENT PROGRAM (NSTEP).

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00840.11(A) ELIGIBILITY. To qualify for NSTEP, applicants must meet all of the following eligibility requirements:

00840.11(A)(i). Applicant is deaf, hard of hearing, speech-impaired, or dual-disabled and as a result of such impairment is unable to use a conventional telephone effectively.

00840.11(A)(ii). Applicant is at least three years of age or older and able to demonstrate the requisite skill to operate specialized telecommunications equipment (STE).

00840.11(A)(iii). Applicant currently has telephone service or has applied for telephone service in the state of Nebraska at their primary place of residence.

00840.11(A)(iv). Applicant is a resident of the state of Nebraska.

00840.11(A)(v). Applicant has not applied for NSTEP within the past three years.

00840.11(A)(vi). At the time of application, no more than one other resident of applicant's household has received STE through NSTEP within the past three years.

00840.11(A)(vii). Applicant has obtained a professional certification of the qualifying disability or disabilities as prescribed by the Commission.

00840.11(B) EQUIPMENT SELECTION. Except as provided in Section 00840.11(C), applicants may only choose one piece of STE and/or one telephone signaling device per eligible recipient. No more than two persons residing at the same address may receive STE through NSTEP. A list of eligible equipment categories may be obtained from the Commission upon request.

00840.11(C) DUAL-DISABLED APPLICANTS. Dual-disabled applicants desiring STE with further adaptive equipment for dual-disabled individuals shall complete a supplemental application form including certification from a qualified professional of applicant's dual-disabled status and need for further adaptive equipment.

00840.11(D) VOUCHER PROCEDURE.

00840.11(D)(i). Once the Program Administrator receives a completed application form and verifies that all eligibility requirements have been met, the Program Administrator will issue an NSTEP voucher.

00840.11(D)(ii). Applicant, or if the applicant is a minor, applicant's parent or guardian, shall sign the NSTEP voucher online marked "Applicant's Verification."

00840.11(D)(iii). Applicant shall deliver the signed voucher to the vendor from whom the applicant is purchasing the STE.

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00840.11(E) REAPPLYING. Reapplication for NSTEP is allowed only when one of the following requirements is satisfied.

00840.11(E)(i). Applicant has not applied for any STE in the three years ~~previous~~ prior to the date on the current application.

00840.11(E)(ii). Applicant's medical condition has changed to such an extent that different equipment is required. Special approval is required to reapply under this section from the Nebraska Commission for the Deaf and Hard of Hearing.

00840.11(E)(iii). The Commission or Program Administrator may waive the requirements of ~~S~~section 00840.11(E)(i) upon a showing of need by the applicant or upon request from the Nebraska Commission for the Deaf and Hard of Hearing.

00840.11(F) VENDORS.

00840.11(F)(i) PARTICIPATING VENDORS. Only vendors recognized by the Commission as "Participating Vendors" will be eligible for reimbursement under NSTEP.

00840.11(F)(ii) APPLICATION PROCESS. Any Vendor desiring to be recognized as a Participating Vendor in NSTEP shall submit the following: a completed application form; a return and exchange policy statement; a price list; and a statement that the vendor has read and agrees to adhere to the Commission's Rules and Regulations governing NSTEP. Participating Vendor application forms shall be available from the Commission upon request.

00840.11(F)(iii) APPROVED EQUIPMENT LIST. The Commission shall maintain a list of approved STE that will be made available upon request. Vendor invoices submitted for payment of equipment not on the approved equipment list will not qualify for reimbursement.

00840.11(F)(iv) PAYMENT AUTHORIZATION. Except as provided in Section 00840.11(F)(viii), payment for equipment submitted under NSTEP shall be subject to the maximum allowable expense per applicant as determined by the Commission. The maximum allowable expense per applicant shall be made publicly available and shall be communicated to applicants seeking benefits from NSTEP. Any costs incurred by an applicant in excess of the maximum allowable expense per applicant are the responsibility of the applicant. Setup costs shall not be included in the calculation of the maximum allowable expense per applicant.

00840.11(F)(v) PRODUCT KNOWLEDGE. Vendors shall maintain reasonable knowledge of all products being offered that qualify for reimbursement under NSTEP.

00840.11(F)(vi) VENDOR PAYMENT. To receive payment under NSTEP, vendors shall submit voucher forms received from applicants along with an itemized invoice of applicant's purchase(s) to the Commission.

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00840.11(F)(vii) SETUP COSTS. If the applicant requests setup services from the vendor, the vendor may request reimbursement for the actual setup costs from NSTEP. The vendor may submit the actual costs of setup to the Commission on the same invoice as the equipment sale.

00840.11(F)(viii) SPECIAL AUTHORIZATION. If the applicant is determined to be dual-disabled, the maximum allowable expense per applicant pursuant to Section 00840.11(F)(iv) does not apply.

00840.11(G) APPLICANT RESPONSIBILITIES.

00840.11(G)(i) MAINTENANCE. Any costs for general and regular servicing or maintenance of equipment purchased under NSTEP are the responsibility of the applicant.

00840.11(G)(ii) REPAIRS. Any costs for repair of equipment purchased under NSTEP, regardless of whether said equipment is under warranty, are the responsibility of the applicant.

00840.11(G)(iii) WARRANTIES, EXTENDED WARRANTIES. Any costs associated with warranty provisions for repairs of any equipment purchased under NSTEP are the responsibility of the applicant. Any costs associated with purchasing warranties or extended warranties on equipment purchased under NSTEP are the responsibility of the applicant.

00840.11(G)(iv) STRUCTURAL MODIFICATIONS. Any costs associated with structural modifications of existing structures necessary for NSTEP equipment operation are the responsibility of the applicant.

00840.12 TELECOMMUNICATIONS RELAY SYSTEM ADVISORY COMMITTEE. The Commission shall solicit advice on the administration of NTRS from the Telecommunications Relay System Advisory Committee. Such Committee shall be formed pursuant to the Act.

00944 INTERCONNECTION AGREEMENTS.

00944.01 APPROVAL OF INTERCONNECTION AGREEMENTS. Any interconnection agreement subject to ~~subsection (2) of section~~ Neb. Rev. Stat. § 86-12275-109 must be approved by the Commission.

00944.02 ADOPTION OF INTERCONNECTION AGREEMENT. An application to adopt an interconnection agreement previously approved by the Commission shall become effective ten days after publication of the notice of application.

0102 CONTRACT CARRIERS.

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0102.01 PERMIT REQUIRED. Before any person may offer any telecommunications services as a contract carrier, such carrier must first obtain from the Commission a permit pursuant to the rules set forth herein.

0102.02 APPLICABLE RULES FOR LOCAL EXCHANGE CONTRACT CARRIERS. The following subsections of Rule 002 in this chapter shall apply to contract carriers seeking to provide local telecommunications services unless the parties have agreed to different quality of service standards in their contract. Only those quality of service standards applicable to the type of service offered will be applicable. Voice grade quality standards will not be applicable to data transmission.

<u>002.01.</u>	General
<u>002.02.</u>	Adequacy of Service
<u>002.03.</u>	Service Interruptions and Outages
<u>002.04.</u>	Trouble Reports
<u>002.05.</u>	Emergency Operations and Power
<u>002.06.</u>	Intercept
<u>002.07.</u>	Maintenance of Facilities
002.08.	Operator Rules
<u>002.0910.</u>	Answering Time Objectives
<u>002.1044.</u>	Dial Service Objectives
<u>002.112.</u>	Loop Transmission Objectives
<u>002.135.</u>	Refusal of Service and Disconnection
<u>002.1924.</u>	Directories
<u>002.2022.</u>	Accounting
<u>002.235.</u>	Transfer of Ownership of Exchange Carriers of their Properties
<u>002.268.</u>	Certification and Permitting of Competitive Local Exchange Carrier (CLEC) except that subsection 002.28D shall not apply.

0102.03 APPLICABLE RULES FOR INTEREXCHANGE CONTRACT CARRIERS. The following subsections of Rule 003 shall apply to contract carriers providing or seeking to provide interexchange telecommunications services unless the parties have agreed by contractual terms to different quality of service standards. Only those quality of service standards applicable to the type of service offered will be applicable. Voice grade quality standards will not be applicable to data transmission.

<u>003.01.</u>	General
<u>003.02.</u>	Trouble Reports
<u>003.03.</u>	Information
<u>003.04.</u>	Tests
<u>003.05.</u>	Trunk and Access Circuit Service Objectives
<u>003.06.</u>	Transmission Requirements
<u>003.08.</u>	Accounting
<u>003.11.</u>	Inter-LATA Interexchange Telecommunications Services except that subsection 003.11(C) shall not apply
003.13.	Operator Service

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0102.04 OTHER APPLICABLE SECTIONS. In addition to the requirements otherwise identified in this Rule, all contract carriers must comply with all universal service, Lifeline, 911, and telecommunications relay service requirements, including surcharge assessments and remittances, as directed by the Commission.

0102.05 APPLICATION OF RULES. If a common carrier is providing common carrier service, the rules applicable to common carriers shall apply. If a common carrier is providing contract service, the rules applicable to contract carriers shall apply. The service provided by each carrier shall be governed by the rules applicable to that class of carrier.

0102.06 SINGLE PERMIT. Any person wishing to provide telecommunications services as a contract carrier may obtain from the Commission a single permit to serve multiple customers. The permit will identify the type of service and the geographic area in which the service is to be provided. Common carriers which provide contract carrier service may provide contract carrier service to no more than twenty-five percent (25%) of the total customers it serves as a common carrier. Carriers which hold only a contract carrier permit may serve no more than five (5) customers as a contract carrier.

0102.07 CERTIFICATION OF CONTRACT. Each contract carrier shall file a certification of contract for each customer with whom it signs a contract to provide service. A certification shall be in such form as the Commission may direct and include, but not be limited to: (a) the date the certification was filed; (b) the name of the permit holder; (c) the permit number assigned by the Commission; (d) the type of services that will be provided under the contract; (e) the name of the customer; (f) the customer's address; (g) the primary telephone number of the customer; (h) the term of the contract; and, (i) the signature of an authorized representative of the carrier holding the permit.

0113 TELECOMMUNICATION LINES, WIRES, OR CABLES CROSSING RAILROAD RIGHT-OF-WAYS.

0113.01 DEFINITIONS. For purposes of this section, the definitions in Section 001.01 shall apply except that as used in this section and unless the context otherwise requires:

0113.01(A). Railroad carrier has the same meaning as in Neb. Rev. Stat. ~~Section §~~ 75-402.

0113.01(B). Railroad has the same meaning as in Neb. Rev. Stat. ~~S§~~section 75-402.

0113.01(C). Telecommunications carrier means a telecommunications common carrier or a telecommunications contract carrier.

0113.02 CROSSING AGREEMENTS; FAILURE TO REACH AGREEMENT; PETITION FOR HEARING. Any telecommunications carrier that intends to place a line, wire, or cable across a railroad right-of-way shall request permission for such placement from the railroad carrier.

0113.02(A) APPLICATIONS FOR CROSSING. The request shall be in the form of a completed crossing application, and shall include engineering specifications.

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0113.02(B) BINDING AGREEMENT. Upon receipt of such application, the railroad carrier and the telecommunications carrier may enter into a binding wire-crossing agreement including terms pursuant to Section 013.04.

0113.02(C) PETITION FOR HEARING. If the railroad carrier and the telecommunications carrier are unable to negotiate a binding wire-crossing agreement within sixty days after receipt of the completed crossing application pursuant to subsection 0113.02(A) by the railroad carrier, either party may submit a petition to the commission for a hearing on the disputed terms and conditions of the wire-crossing agreement.

0113.02(D) PETITION REQUIREMENTS. A party that files a petition for hearing under Section 003.02(C) shall include all relevant documentation concerning the disputed terms and conditions and the position of the petitioning party with respect to those issues.

0113.02(E) NOTICE OF PETITION. A party that submits a petition for hearing under Section 013.02(C) shall serve a copy of the petition and any other documentation on the other party or parties not later than the day on which the Commission receives the petition for hearing.

0113.02(F) OPPORTUNITY TO RESPOND. The non-petitioning party under Section 0113.02(C) shall respond to the petition and provide any relevant documentation concerning the unresolved issues and the position of the non-petitioning party with respect to those issues within twenty days after service of the petition.

0113.02(G) HEARING. Unless otherwise agreed to by all parties, the Commission shall, after providing proper notice, hold and complete a hearing on the disputed wire-crossing agreement within sixty days after receipt of a petition for hearing.

~~(H)~~ 0113.02(H) COMMISSION CONSIDERATION. In rendering its decision, the Commission shall consider whether the terms and conditions at issue are unreasonable or against the public interest, taking into account safety, engineering, and access requirements of established rail industry standards. The Commission may require the parties to provide such information as may be necessary for the Commission to reach a decision on the unresolved issues.

0113.02(I) COMMISSION ORDER. The Commission shall issue an order within thirty days after the hearing resolving each issue set forth in the petition and the response with written findings and opinions.

0113.03 SUBMISSION OF AGREEMENT TO THE COMMISSION. Upon issuance of an order by the Commission on the petition submitted pursuant to Section 0113.02(C), the parties will have fifteen days in which to file a conforming wire crossing agreement with the Commission. The Commission shall have fifteen days from the date of filing the conforming agreement to approve or reject the agreement. If the Commission does not act within fifteen days from the filing of the agreement, the agreement will be deemed approved.

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0113.03(A) NON-CONFORMING AGREEMENT. The Commission may reject a wire crossing agreement submitted by the parties pursuant to Section 0113.03 if it finds that the wire crossing agreement does not conform to the order issued by the Commission. If the Commission enters such a finding, the parties shall revise the agreement to comply with the Commission's order and shall file the revised agreement with the Commission within ten days.

0113.04 WIRE CROSSING AGREEMENT TERMS.

0113.04(A) STANDARD CROSSING FEE. Except as provided in Section 0113.04(D), or as otherwise agreed to by all parties, if a telecommunications carrier places a line, wire, or cable across a railroad right-of-way pursuant to Section 0113, it shall pay the railroad carrier, owner, manager, agent, or representative of the railroad carrier a one-time standard crossing fee of one thousand two hundred fifty dollars ~~(\$1,250.00)~~ for each applicable crossing.

0113.04(A)(i) ONE-TIME FEE. The one-time crossing fee, with or without special circumstances as provided in Section 0113.04(D), shall be for the life of the line, wire, or cable placed across the railroad right-of-way.

011.04(A)(ii) FEE CALCULATION. ~~The one-time crossing fee may not be calculated on a per-strand basis.~~

0113.04(B) FLAGGING EXPENSES. In addition to the standard crossing fee as provided in Section 0113.04(A), the telecommunications carrier shall reimburse the railroad carrier for any actual flagging expenses associated with the placement of the line, wire, or cable. Actual flagging expenses must be reasonable based on standard business practices and market value in the industry.

0113.04(C) OTHER FEES PROHIBITED. The standard crossing fee as provided in Section 0113.04(A) shall be in lieu of any license fee or any other fees or charges to reimburse the railroad carrier for any direct expense incurred as a result of the placement of the line, wire, or cable. Fees prohibited include, but are not limited to, application fees and processing fees.

0113.04(D) SPECIAL CIRCUMSTANCES. If a railroad carrier or telecommunications carrier believes a special circumstance exists for the placement of a line, wire, or cable across a railroad right-of-way, the railroad carrier or telecommunications carrier may petition the Commission for additional requirements or modification of the standard crossing fee in its initial petition to the Commission pursuant to Section 0113.02(C). The Commission shall determine if a special circumstance exists that necessitates additional requirements for such placement or a modification of the standard crossing fee.

0113.04(E) INDEMNIFICATION CLAUSES.

0113.04(E)(i). Any provision, clause, covenant, or agreement contained within the wire-crossing agreement, collateral to the agreement, or affecting such agreement

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between a railroad carrier and a telecommunications carrier that purports to indemnify, defend, or hold harmless the railroad carrier from any liability for loss or damage resulting from the negligence or willful and wanton misconduct of the railroad carrier, its agents, employees, or independent contractors who are directly responsible to the railroad carrier are prohibited.

0113.04(E)(ii). Any provision, clause, covenant, or agreement contained within the wire-crossing agreement, collateral to the agreement, or affecting such agreement between a railroad carrier and a telecommunications carrier that purports to indemnify, defend, or hold harmless the telecommunications carrier from any liability for loss or damage resulting from the negligence or willful and wanton misconduct of the telecommunications carrier, its agents, employees, or independent contractors who are directly responsible to the telecommunications carrier are prohibited.

0113.04(E)(iii). Nothing in this section shall affect a provision, clause, covenant, or agreement in which the telecommunications carrier indemnifies, defends, or holds harmless a railroad carrier against liability for loss or damage to the extent that the loss or damage results from the negligence or willful and wanton misconduct of the telecommunications carrier or its agents, employees, or independent contractors who are directly responsible to the telecommunications carrier.

0113.05 APPEALS. A party seeking to obtain reversal, modification, or vacation of an order entered by the Commission pursuant to this ~~s~~Section may appeal such order in accordance with the state's Administrative Procedure Act.

0124 RATE REGULATION.

0124.01 APPLICATION FOR NEW RATES OR CHARGES, OR CHANGES IN EXISTING RATES. Applications for new rates or charges, or changes in existing rates, shall follow the requirements and process set forth in Chapter 86 of Nebraska Revised Statutes. Certain carriers may be exempted from regulation as described in Neb. Rev. Stat. § 86-141.

0124.02 ELECTION TO BE REGULATED. Exchange carriers eligible for exemption may elect to be regulated. If prior to any proposed rate change its Board of Directors votes to be subject to regulation, a copy of the resolution shall be filed with an application for rate review.

0124.03 RATE REVIEWS. Rate reviews may be initiated by subscriber complaint, by the Commission, or by request by a telecommunications company. Rate review proceedings shall follow the requirements and process set forth in Chapter 86 of Nebraska Revised Statutes.

0124.04 FORM OF APPLICATION. An application to establish new rates or charges or to change existing rates or charges shall be accomplished by proposed tariff sheets setting forth the proposed rates and the appropriate filing fee. In lieu of filing tariff sheets, an applicant may submit a detailed rate schedule of all items to be changed including the present rate, the proposed rate, the number of units, and the revenue to be produced.

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0124.05 APPLICATION NOT REQUIRED. An application is not required to be filed if the rate increase:

0124.05(A). Is intended only to pass on to customers specific payments to municipalities, such as occupation taxes, license taxes, permit or franchise fees, or

0124.05(B). Does not increase the utility's aggregate annual revenue by more than one percent.

0124.06 REVIEW OF RATE INCREASE. The Commission will not approve any increase in rates unless it finds:

0124.06(A). The increase is cost-justified and does not reflect future inflationary expectations. Said standard shall be applied subject to the following conditions:

0124.06(A)(i). Application or tariff filings for rate increases must be based on data submitted for a recently concluded test year or for a test year consisting of at least six months actual experience and not more than six months estimated data to be subject to correction or verification during the course of the proceeding considering the proposed rate increase.

0124.06(A)(ii). Adjustments will be made to test year data to reflect changes in costs occurring during the test year but not reflected in test year data, known and measurable changes in costs occurring within a reasonable time subsequent to the test year. All known decreases and increases in costs, ~~as well as increases~~ will be included in the adjustments made.

0124.06(A)(iii). Adjustments will also be made to eliminate the effects of abnormal or unrepresentative conditions reflected in test year data.

0124.06(A)(iv). Adjustments for changes in test year costs will not be made unless either the changes are subject to definite computation or reasonable estimation, or in exceptional circumstances, a cost adjustment is dictated by overriding considerations of public policy and should be allowed despite difficulties in estimations. In the case of adjustments falling within the latter category, the Commission may require periodic reporting or impose other protective conditions. In no case will an adjustment be made on the general predictions of future increased cost.

0124.06(A)(v). The increase is the minimum required to ~~assure~~ ensure continued, adequate and safe service or to provide for necessary expansion to meet future requirements.

0124.06(A)(v)(a). Where rate increases are sought to cover future costs associated with safety, expansion of service, improvement of service, or environmental or ecological protection, the increases will not be permitted except in instances where the costs qualify as test year adjustments within the scope of subsections -0124.06(A)(ii), (iii), and (iv) preceding.

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0124.06(A)(vi). The increase will achieve minimum rate of return or revenue needed to attract capital at reasonable costs, to maintain the integrity of the company's investment, and not to impair its credit; such rate of return must also meet all the requirements of the Constitution and statutes of the state of Nebraska and all decisions of the Nebraska Supreme Court with reference to such matters.

0124.06(A)(vi)(a). In determining an appropriate rate of return, the Commission will consider the capital structure at or near the time the applicant's increased rates will become effective. Costs of various components of capital structure interest on bonds, dividends on preferred stock, return on common stock will be computed as of that date. Adjustments generally will be made in the capital structure and in the costs of various types of capital in a number of situations, as, for example, where adjustments are required to reflect new financings which are known to be imminent.

0124.06(A)(vi)(b). The rate of return or operating ratio allowed by the Commission will not reflect expectations of future inflations, but only cost-justified expense increases.

0124.06(A)(vii). The increase takes into account expected and obtainable productivity gains, to the extent that such gains can be measured and verified.

0124.06(B). An application to increase rates shall include the information set forth below:

0124.06(B)(i). Testimony and exhibits of all witnesses to be called in the direct case. Amendments of filed testimony and exhibits may be made only with the permission of the Commission.

0124.06(B)(ii). Balance sheet and income statement or, in lieu thereof, a statement of the assets and revenues which constitute the jurisdictional rate base and net earnings statement for the test year and any adjustments thereto.

0124.06(B)(iii). The latest available certified audit report.

0124.06(B)(iv). The latest annual report to stockholders.

0124.06(B)(v). A summary of trouble reports showing by exchange for the most recent twelve month period for which such information is available, the monthly average incidence of customer access line trouble per one hundred access lines.

0124.06(B)(vi). A summary of monthly answering time study results for the most recent twelve month period for which such information is available.

0124.07 RATE CHANGE WITHOUT APPLICATION. Exchange carriers exempt from regulation as provided above may increase rates in accordance with Nebraska Revised Statutes, Chapter 86, and as set forth below.

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0124.07(A). If the proposed increase exceeds thirty percent in any one year for any subscriber's service, the proposed increase shall be subject to Commission rate regulation.

0124.07(B). Notice to the Commission shall be in writing over the signature of an officer of the exchange carrier and shall include the present and proposed rates, the effective date of the rate increase, a list of subscribers as of the first day of the month in which the notice is given, a statement that all subscribers have been notified, and a copy of the notice provided to all affected subscribers. Notice to all affected subscribers shall be in a form prescribed by the Commission and shall include a statement that a sample petition may be obtained by writing or calling the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln, NE 68508, 402-471-3101.

0124.07(C). The effective date of any rate increase proposed by an exchange carrier exempt from rate regulation shall not fall on a Saturday, Sunday, legal holiday or the day immediately following any of the above. Exchange carriers will be notified by the Commission by telephone as soon as petitions are filed, with a confirmation by letter, and shall likewise be notified by the effective date if fewer than five percent of the subscribers have submitted petitions.

0124.07(D). If at any time the Commission receives petitions signed by fifty-one percent or more of an exchange carrier's subscribers requesting regulation, the Commission shall declare the company subject to rate regulation.

0124.07(D)(i). Upon receipt of said petitions, the Commission shall notify the exchange carrier. The carrier shall then provide the Commission in not less than thirty days' time a list of current subscribers.

0124.07(D)(ii). Companies subject to rate regulation by petition may be exempted from regulation upon the filing with the Commission of petitions signed by fifty-one percent of the subscribers requesting deregulation.

0124.07(D)(iii). When any proposed rate increase is subjected to Commission regulation, whether by petition or otherwise, a proper application shall be filed with the Commission and all provisions of the Commission's Rules and Regulations as to applications shall apply.

0124.08 UNREGULATED CARRIER; NOTICE OF RATE CHANGE.

0124.08(A). A telecommunications company not subject to rate regulation as set forth above must notify the commission and each of the telecommunications company's subscribers of any proposed rate change.

0124.08(B). All subscribers shall be notified in writing of any change in the monthly basic local exchange rates at least ninety days prior to the effective date. A notice of this change shall include but not be limited to:

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0124.08(B)(i). The reasons for the rate increase;

0124.08(B)(ii). A description of the affected service;

0142.08(B)(iii). An explanation of the right of the subscriber to petition the commission for a public hearing on the rate increase;

0124.08(B)(iv). A list of exchanges which are affected by the proposed rate increase;

0124.08(B)(v). The dates, times, and places for any public informational meetings to be held;

0124.08(B)(vi). A statement of the number of affected subscribers served and the number and percentage of signatures required for a hearing to be held; and

0124.08(B)(vii). A statement that the complaint must be signed by the subscriber or subscriber's spouse, be dated and include a telephone number. If a business subscriber, the name of the business with a signature of an officer or an agent. The subscriber's telephone number should be shown to aid in verifying the subscriber. If an unlisted number, "unlisted" may be shown.

0124.09 FILING WITH THE COMMISSION. At the time notice of a rate change is sent to the subscribers, a copy of the notice shall be filed with the Commission along with a list of current subscribers.

0124.10 BURDEN OF PROOF. In a complaint proceeding pursuant to a rate change, the applicant for a rate change bears the burden of presenting evidence sufficient to merit the granting of the application.

0135 DEREGULATION OF AN EXCHANGE.

0135.01 APPLICATION. A local exchange carrier may seek deregulation of its exchange pursuant to the- Telecommunications Exchange Deregulation Act by filing an application with the Commission.

0135.02 CONTENTS OF APPLICATION. An application for deregulation of an exchange shall contain the following information:

0135.02(A). A description of each exchange sought to be deregulated;

0135.02(B). Identification of all carriers known to the applicant to be providing telecommunications service in the exchange;

0135.02(C). A shapefile map identifying all locations in the exchange and identifying any tribal areas located within the exchange;

~~015.02(D).~~ ~~A list of subscribers in the exchange;~~

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0135.02(DE). A copy of the notice provided to subscribers in the exchange describing the application for deregulation;

0135.02(EF). A detailed financial record demonstrating:

0135.02(EF)(i). The total amount of federal USF funds received to support the exchange;

0153.02(EF)(ii). The total amount of NUSF funds received to support the exchange;

0135.02(EF)(iii). Records demonstrating how all USF and NUSF funds received to support the exchange were utilized, including but not limited to a listing of all plant built or installed in the exchange; and

0135.02(EF)(iv). Records demonstrating the current value of assets built in or installed in the exchange.

0135.02(FG). A record of all trouble reports and service outages made by the applicant's customers in each exchange sought to be deregulated, including ~~a~~ identification of the customers or access line service(s) affected, the time, date and nature of the report, the action taken, the date and time of trouble clearance or other disposition, and the identification of the person making final disposition; and

0135.024(GH). A statement as to why deregulation would be in the public interest.

0135.032 NOTICE TO SUBSCRIBERS. A local exchange carrier seeking deregulation of an exchange must provide notice to all subscribers residing in the exchange of the application at least thirty days in advance of filing the application. Such notice must contain:

0135.032(A). A listing of all carriers known to the applicant to be providing telecommunications service in the exchange;

0135.032(B). A statement that if the application is granted, the applicant will no longer be required to comply with state service quality standards or carrier of last resort obligations; and

0135.032(C). A statement that any resident of the exchange may file a petition for hearing on the application by submitting a written petition to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln, NE 68508, 402-471-3101; and

0135.032(D). A blank petition form.

0135.043 PETITION. Any person residing in the exchange sought to be deregulated may file a petition for hearing on the application on a form prescribed by the Commission. If a petition for hearing is received, a hearing will be scheduled at the earliest practicable date.

0135.054 HEARING. The Commission may schedule a hearing on the application.

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0135.065 ORDER; NOT MORE THAN 120 DAYS. The Commission will enter an order ruling on the application no later than one hundred and twenty calendar days after the filing of the application.

0135.076 COSTS. An applicant for deregulation shall bear the costs of the application, including an application fee as determined by the Commission, as well as any hearing costs incurred.

0135.087 DENIAL; NEW APPLICATION. If an application for deregulation of an exchange is denied, the applicant may file a new- application for deregulation of the same exchange if at least six months have passed since the Commission ruled upon the previous application and upon a showing of a material change in the exchange.

0146 RECORDS.

0146.01. All records required by these rules, unless otherwise specified herein, shall be preserved for the period of time specified by Commission's Records Retention Schedule, available on the Commission website and by request.

0146.02. Each exchange carrier shall maintain records of its operations in sufficient detail as is necessary to permit review of its operation to assure the furnishing of adequate service. Such records shall be made available for inspection by the Commission upon request at any time within the period required for the retention of such records.

0146.03. Where an exchange carrier is operated in conjunction with any other enterprise, suitable records shall be maintained, so that the results of the exchange carrier's regulated operation may be determined within a reasonable time after notice to the exchange carrier by the Commission.

0157 SUBMISSION OF CONFIDENTIAL INFORMATION.

0157.01 CONFIDENTIAL INFORMATION. A party making a filing with the Telecommunications/NUSF Department of the Commission may request that the Department treat the filed information confidentially.

0157.01(A) MARKING OF CONFIDENTIAL FILINGS. A party requesting confidential treatment of filed information should clearly indicate that the material should be treated confidentially. The word "CONFIDENTIAL" should be displayed on each page of the information sought to be given confidential treatment. If information is filed digitally, the word "CONFIDENTIAL" should appear in the file name.

0157.01(B) PROTECTIVE ORDERS. A party seeking confidential treatment of filed information may seek a Protective Order from the Commission or the Hearing Officer assigned to a docket. Absent the entry of a Protective Order, confidential information will be treated according to the terms of Nebraska's public records law. Such order may set forth the terms of the confidential treatment of the information, including, but not limited to:

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0157.01(B)(i). The specific items which may and may not be given confidential treatment;

0157.01(B)(ii). The duration of time for which information may be given confidential treatment; and

0157.01(B)(iii). Any terms under which the information may be disclosed to third parties, including by way of non-disclosure agreements.

0157.01(C) CONFIDENTIAL TREATMENT. Upon a properly filed request for confidential treatment of a filing, the Department will endeavor to prevent ~~unauthorized~~ disclosure of the information outside of the Commission and its staff. Should the need arise for disclosure of any confidential information, the Department will contact the party that filed the information.

0157.01(D) PUBLIC RECORDS REQUESTS. Nothing in this section shall be construed to eliminate or change the Commission's obligations pursuant to public records statutes or other applicable law.