



Federal Communications Commission
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Small Entity Compliance Guide

Tariffing of Competitive Interstate Switched Exchange Access Service

DA 04-2691

CC Docket No. 96-262

This Guide is prepared in accordance with the requirements of Section 212 of The Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the above-referenced FCC rule. This Guide is not intended to replace the rule, and final authority rests solely with the rule. While we have attempted to cover all parts of the rule that might be especially important to small entities, the coverage may not be exhaustive. In any civil or administrative action against a small entity for a violation of a rule, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be made based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update text. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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Table of Contents

1. Compliance Requirements

- Requirements for tariffing of competitive interstate access services
- Guidelines for setting rates for components of competitive interstate access services
- Exemption for competitive interstate access services provided in rural areas

2. Internet Links

- Eighth Report and Order and Fifth Order on Reconsideration, FCC 04-110, *Access Charge Reform; Reform of Access Charges Imposed By Competitive Local Exchange Carriers*
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-110A1.pdf
- News Release – *FCC Maintains Lower Access Rates Charged By Competitive Carriers*
http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-247172A1.pdf
- 47 C.F.R. § 61.26
<http://wireless.fcc.gov/rules.html>

Compliance Requirements

1. General Objective

The primary objective of the rules governing the access charges of competitive local exchange carriers is to ensure that such charges are just and reasonable in accordance with the Communications Act of 1934 (47 U.S.C. § 201(b)).

2. Important Definitions

a. **Local Exchange Carrier (47 U.S.C. § 153(26))**

The term “local exchange carrier” means any person that is engaged in the provision of telephone exchange service or exchange access.

b. **Competitive Local Exchange Carrier or “CLEC” (47 C.F.R. § 61.26 (a)(1))**

The term “CLEC” means a local exchange carrier that provides some or all of the interstate exchange access services used to send traffic to or from an end user and does not fall within the definition of “incumbent local exchange carrier” in 47 U.S.C. § 251(h).

c. **Rural CLEC (47 C.F.R. § 61.26(a)(6))**

The term “rural CLEC” means a CLEC that does not serve (*i.e.*, terminate traffic to or originate traffic from) **any** end users located within either:

- i) any incorporated place of 50,000 inhabitants or more, based on most recently available population statistics of the Census Bureau; **or**
- ii) an urbanized area, as defined by the Census Bureau.

d. **Incumbent Local Exchange Carrier or “ILEC” (47 U.S.C. § 251(h))**

The term “ILEC” means, with respect to a particular geographic area, the local exchange carrier that:

- i) on February 8, 1996, provided telephone exchange service in such area;
and
- ii) on February 8, 1996, was a member of the National Exchange Carrier Association (NECA); **or** is a person or entity that, on or after February 8, 1996, became a successor or assign of a NECA member.

e. Competing ILEC (47 C.F.R. § 61.26(a)(2))

The term “competing ILEC” shall mean the ILEC, as defined in section 251(h) of the Act that would provide interstate exchange access services, in whole or in part, to the extent those services were not provided by the CLEC.

f. Non-Rural ILEC (47 C.F.R. § 61.26(a)(4))

The term “non-rural ILEC” means an ILEC that is not a rural telephone company under 47 U.S.C. § 153(37).

g. Rural Telephone Company (47 U.S.C. § 153(37))

The term “rural telephone company” means a local exchange carrier that:

- i) provides common carrier service to any local exchange carrier study area that does not include either (1) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Census Bureau; **or** (2) any territory, incorporated or unincorporated, including in an urbanized area, as defined by the Census Bureau as of August 10, 1993;
- ii) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;
- iii) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; **or**
- iv) has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

h. Telephone Exchange Service (47 U.S.C. § 153(47))

The term “telephone exchange service” means:

- i) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, **or**
- ii) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination) by which a subscriber can originate and terminate a telecommunications service.

i. Exchange Access (47 U.S.C. § 153(16))

The term “exchange access” means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

j. Interstate Switched Exchange Access Services (47 C.F.R. § 61.26(a)(3))

The term “interstate switched exchange access services” shall include the equivalent of the ILEC interstate exchange services associated with the following rate elements: carrier common line (originating); carrier common line (terminating); local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching.

k. Rate (47 C.F.R. § 61.26(a)(5))

The term “rate” for interstate switched exchange access services means the composite per minute rate that includes all applicable fixed and traffic-sensitive charges.

3. Compliance Requirements -- Benchmark Rates

A CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the benchmark rate. The benchmark rate equals the rate charged by the competing ILEC for services similar to those provided by the CLEC. **(47 C.F.R. § 61.26(b)-(c)).**

A CLEC can charge the full composite benchmark rate only if it provides access to its own end-users. When a CLEC does not serve the end user, it must not charge more than the competing ILEC charges for the same access services. **(47 C.F.R. § 61.26(f)).**

4. Determining Competing ILEC Charges

CLECs may charge only for those access services that they provide. For instance, if a CLEC switch can perform both tandem and end office functions, it should charge a switching rate that reflects only the function actually provided.

- i) When a CLEC originates or terminates calls to end-users, the appropriate rate should be the competing ILEC’s end office switching rate.
- ii) When a CLEC transfers calls between other carriers, the appropriate rate should be the competing ILEC’s tandem switching rate.

5. Determining Competing ILEC Rates When a CLEC Operates in a Service Area With Multiple ILECs

A CLEC serving an area with multiple ILECs can determine the competing ILEC rate by one of two ways in any particular service area:

- i) a CLEC can charge different rates for access to various end users based on the access rate that would have been charged by the ILEC in the service area in which that particular end user resides; **or**
- ii) a CLEC can charge a blended access rate, so long as the blended access rate reasonably approximates what would be paid to the competing ILECs for access to the CLEC's customers.

6. Rural Exemption (47 C.F.R. § 61.26(e))

A rural CLEC may tariff rates up to the rate prescribed in the NECA access tariff, assuming the highest rate band for local switching (**47 C.F.R. § 61.26(e)**). A rural CLEC may impose a pre-subscribed interexchange carrier charge (PICC) in addition to that NECA rate only if and to the extent that the competing ILEC charges a PICC (**47 C.F.R. § 61.26(e)**).