



**Title 291 NAC, Chapter 5
Telecommunications
Rules and Regulations**

NEBRASKA ADMINISTRATIVE CODE

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TITLE 291 - NEBRASKA PUBLIC SERVICE COMMISSION

CHAPTER 5 – TELECOMMUNICATIONS RULES AND REGULATIONS

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001 GENERAL.

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

001.01A ACCESS.

001.01A1 CARRIER ACCESS. The ability of interexchange carriers to utilize the facilities of the exchange carrier for the origination and termination of interexchange calls.

001.01A2 SUBSCRIBER ACCESS. The ability of subscribers to utilize the facilities of the exchange carrier for connection to the network.

001.01B 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.

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

001.01D BASE RATE AREA. The area in which urban access line service is furnished without mileage charges.

001.01E BILLING COMPANY. Any company rendering its own bill, or who has legally contracted with a telecommunications company to provide billing services.

001.01F 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.

001.01G CALL. A customer telecommunications message attempted.

001.01H 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.

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

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

001.01K COMMISSION. The Nebraska Public Service Commission.

001.01L COMPETITIVE ELIGIBLE TELECOMMUNICATIONS CARRIER. A carrier that is an eligible telecommunications carrier and does not meet the definition of an incumbent local exchange carrier.

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001.01M COMPETITIVE LOCAL EXCHANGE CARRIER. 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.

001.01N CUSTOMER AND/OR ACCESS LINE TROUBLE REPORT. Any oral or written report from a subscriber relating to a physical defect in the operation of the exchange carrier's facilities.

001.01O 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.

001.01P 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.

001.01Q DUAL-DISABLED. Any individuals with more than one hearing, vision or speech impairment simultaneously.

001.01R ELIGIBLE TELECOMMUNICATIONS CARRIER. A carrier designated as such by this Commission.

001.01S EXCHANGE. A unit established by an exchange carrier for the administration of access line service in a specified 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.

001.01T 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.

001.01U 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 (2) way switched communications to and from subscribers in one or more other exchanges in the group without an interexchange toll charge.

001.01U1 PETITIONING EXCHANGE. The exchange which petitions the Commission for EAS.

001.01U2 PETITIONED EXCHANGE(S). The exchange, or group of exchanges, to which the petitioning exchange asserts a community of interest.

001.01V FUND. The Nebraska Telecommunications Relay System Fund (NTRSF).

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001.01W GRADE OF ACCESS LINE SERVICE. 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).

001.01X 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.

001.01Y HELD APPLICATION. A firm but unfilled application which is not filled within thirty (30) days.

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

001.01AA INCUMBENT LOCAL EXCHANGE CARRIER. 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.

001.01BB INDEBTED HOUSEHOLD. Two or more people living together at least one of whom is indebted to the telephone company for service previously rendered.

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

001.01DD INTEREXCHANGE CARRIER. A telecommunications company which provides interexchange telephone service.

001.01EE INTEREXCHANGE SERVICE. The telecommunications service rendered by telephone companies between points which are not both within a local calling area as established in the tariff of an exchange carrier.

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

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

001.01HH LOCAL EXCHANGE SERVICE. The telecommunications service provided within a local calling area in accordance with the exchange carrier's tariffs.

001.01II MAP. A drawing showing the geographical location of an area in which a telephone company furnishes service.

001.01JJ MESSAGE. A completed customer telephone call.

001.01KK NEBRASKA SPECIALIZED TELECOMMUNICATIONS EQUIPMENT

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PROGRAM (NSTEP). Program administered by the Commission that provides assistance to impaired Nebraskans in purchasing specialized telecommunications equipment.

001.01LL 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.

001.01MM 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.

001.01NN 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.

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

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

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

001.01RR PERSON. Any individual, firm, partnership, limited liability company, joint venture, cooperative, corporation, company, association, or other entity.

001.01SS PERSONAL TELEPHONE SERVICE. Telephone service located in an individual's room and the telephone service account is in the individual's name.

001.01TT PROGRAM ADMINISTRATOR. The person designated by the Commission for the administration of the Nebraska Telecommunications Relay System Act.

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

001.01VV 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.

001.01WW SPEECH-IMPAIRED. A permanent or fluctuating loss of ability to vocalize

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auditory sounds which may adversely affect the ability to communicate in a spoken language without the use of an interpreter or auxiliary aid.

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

001.01YY 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.

001.01ZZ TELECOMMUNICATIONS COMMON CARRIER. A person holding a certificate issued by the Commission to offer telecommunications services within Nebraska.

001.01AAA TELECOMMUNICATIONS CONTRACT CARRIER. A person holding a permit issued by the Commission to offer telecommunications services within Nebraska.

001.01BBB TELECOMMUNICATIONS RELAY SURCHARGE. The surcharge set annually by the Commission to carry out the Telecommunications Relay System Act.

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

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

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

001.01FFF TRS ACT. The Telecommunications Relay System Act.

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

001.01HHH 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.

001.01III WIRELESS SERVICE. The offering of wireless telecommunications, as defined in Neb. Rev. Stat. §86-456.01 (Supp. 2007), for a fee.

001.02 REQUIREMENT FOR A CERTIFICATE OR PERMIT. Before any person 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

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telecommunications common carrier or a permit as a telecommunications contract carrier.

002 LOCAL EXCHANGE SERVICE.

002.01 GENERAL.

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

002.01A1. Provide local exchange or access line service.

002.01A2. Provide radio common carrier service, including paging and mobile telephone service. Such radio common carrier service shall be subject to the provisions of Chapter 6 of these rules and regulations.

002.01A3. Provide the resale of access line service as may be defined in the exchange carriers' tariffs.

002.01B. The Commission shall maintain safeguards for the protection of proprietary information, included but not limited to, protective orders and limited distribution of the proprietary information.

002.02 ADEQUACY OF SERVICE.

002.02A. 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 service interruptions, trouble reports, customer complaints and 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.

002.02B. 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.

002.02C. 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.

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

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customers.

002.02E. 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.

002.02F. 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.

002.02G. 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.

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

002.02I. 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 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 INTERRUPTIONS OF SERVICE.

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

002.03B. Each exchange carrier shall keep a record of all access line service interruptions 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. The record shall include appropriate identification of the customer or access line service affected, the date, time, duration, extent, and cause of the interruption. The carrier shall furnish reports to the Commission upon request 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.

002.03C. In the event the 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 (24) 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

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the month's charge for the period of days during which such access line service was interrupted. Provided, however, 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. 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.

002.04A. Each exchange carrier shall receive or provide a reasonable means for receipt of customer and/or access line trouble reports daily on a twenty-four (24) hour basis.

002.04B. 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.

002.04C. It shall be the objective to so maintain access line service that the average rate of all access line trouble reports in an exchange is no greater than six (6) per one hundred (100) access lines per month, based on a six (6) month period. In the event this average trouble rate reaches eight (8) per month, in a particular exchange, it shall be the responsibility of the exchange carrier serving that exchange to develop a plan to improve service in the exchange with the objective being to reduce trouble reports to acceptable levels.

002.04D. In the case of access line service interruptions, 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.

002.05A. 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 and each exchange carrier shall inform its employees as to procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of access line service.

002.05B. 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 on reasonably short notice, and which can be readily connected.

002.05C. Each central office shall contain, as a minimum, three (3) hours of battery reserve.

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002.06 PUBLIC TELEPHONE SERVICE. In each municipality served by an exchange carrier where public convenience requires it, the exchange carrier shall supply at least one public pay station that will be available to the public on a 24-hour basis. The requirement for this facility may be waived by the Commission for reasons such as: abusive vandalism or damage, excessive cost of maintaining the pay station, or lack of use.

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

002.08 MAINTENANCE PROGRAM.

002.08A. 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.

002.08B. 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 repaired or replaced. 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.

002.08C. 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.

002.09 OPERATOR RULES.

002.09A. 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.

002.09B. Operators shall be instructed to be courteous, considerate, and efficient in the handling of all calls.

002.09C. All operator handled calls shall be carefully supervised and disconnections made promptly.

002.09D. 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.

002.10 TESTS. Each exchange carrier shall provide or have access to test facilities which will enable it to determine the operating and transmission capabilities of circuit and switching

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equipment, both for routine maintenance and for fault location.

002.10A. Each exchange carrier furnishing access line service, where local measured service is offered, shall provide the necessary facilities, instruments, and equipment for testing its metering and recording equipment.

002.10B. The overall accuracy of the test equipment and test procedures shall be sufficient to enable testing of meters and recording equipment within the requirements of these rules.

002.10C. All meters and/or recording devices used to record data and prepare customer's bills shall be in good mechanical and electrical condition, shall be accurately read and shall not involve approximations.

002.10D. All meters and/or recording devices shall accurately perform the following:

002.10D1. For message rate service, where timing or length of message is not involved, the meter and/or recording device shall show accurately the number of completed messages sent by the access line which it is measuring.

002.10D2. For local measured and/or toll service where in addition to recording the number of messages, it is necessary to time and distance-rate the messages, the recording device shall show accurately the number of messages and the chargeable time involved in each message, applicable distance information, and the access line originating the message.

002.10D3. Where the recording equipment provides coded information that is used to automatically prepare customer bills, accurate interpretation of such coded information is required.

002.10E. Every billing meter and/or recording device shall be tested for accuracy, when put into service, either by the exchange carrier or a qualified organization.

002.10F. All meters and/or recording devices tested in accordance with these rules for routine maintenance or pursuant to complaints shall be tested in their normal operating locations and wiring modes prior to removal or adjustment.

002.10G. Each exchange carrier shall adopt appropriate practices for the routine testing and maintenance of its meters and/or recording devices to assure the integrity of their operation.

002.10H. Upon request of any customer the exchange carrier shall make a test of any metering and/or recording equipment related to the billing in question provided such request is not made more frequently than once each six (6) months.

002.10I. Any customer, by written application to the Commission, may have a test of metering and/or recording equipment conducted by the exchange carrier in the presence of a representative of the Commission for reasonable cause as determined by the

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Commission.

002.10J. A record of all metering and/or recording equipment tests and adjustments and data sufficient to allow checking of the results shall be recorded and retained for a period of two (2) years. Such record shall include the identifying number of the meter and/or recording device, its type, the date and kind of test, and the result found in each test.

002.11 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:

002.11A. Where the performance criteria is 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.

002.11B. Where the performance criteria is in terms of the percentage of calls which are answered within a specified period, the following objectives shall apply.

002.11B1. Ninety percent (90%) of all toll and assistance operator calls will be answered within ten (10) seconds (equivalent measurements as approved by the Commission may be used).

002.11B2. Ninety percent (90%) of repair service calls, calls to the business office and other calls shall be answered within twenty (20) seconds (equivalent measurements as approved by the Commission may be used)

002.11C. 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.

002.11D. 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.

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

002.12A. Ninety-eight percent (98%) of all calls should receive dial tone within three (3) seconds.

002.12B. Intraoffice trunks shall be sufficient so that ninety-seven percent (97%) of all correctly dialed intraoffice calls can be handled without encountering an all trunks busy condition.

002.12C. Local interoffice trunks in multi-office exchanges shall be provided in sufficient quantities so that ninety-six percent (96%) of all correctly dialed interoffice local calls will

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not encounter an all trunks busy condition.

002.12D. Trunks for extended area service shall be provided in sufficient quantities so that at least ninety-five percent (95%) of all correctly dialed calls offered to any trunk group within the local calling area will not encounter an all trunks busy condition.

002.13 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.

002.13A. 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.

002.13B. Transmission loss as set forth herein means the loss that occurs in a telephone connection, measured in decibels (db) at one thousand (1000) hertz per second, exclusive of test pads, impedance matching coils used for measurement, and similar devices. Transmission loss on local access line loops shall not exceed ten (10) db.

002.13C. The maximum overall transmission loss objective, including the loss of terminating equipment on local interoffice trunks, shall be seven (7) db.

002.13D. Noise, as set forth herein means noise expressed in db above reference level, with the standard C-message weighting (dbnC) at applicable circuitry impedances. Reference level is defined as minus ninety (-90) dbm (minus 90 decibels referred to one milliwatt). The maximum noise objective for local access line loops shall be thirty (30) dbnC.

002.13E. The maximum power influence or noise-to-ground objective for local access line loops shall be ninety (90) dbnC.

002.13F. The minimum loop current objective for local access lines shall be twenty (20) milliamps (ma).

002.14 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:

002.14A. 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.

002.14B. The customer shall be responsible for the installation, operation and maintenance of any customer-provided telephones used in connection with this service.

002.14C. 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

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of service.

002.14D. Customer-provided coin or non-coin operated telephones must have the following operational characteristics:

002.14D1. Must be able to access the operator at no charge and without using a coin.

002.14D2. 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.

002.14D3. 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.

002.14D4. 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.

002.14D5. Must allow completion of both local and long distance calls from the zero (0) level.

002.14E. 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.

002.14F. Customer-provided semi-public telephones must be connected to one-party service and only one such instrument per line is allowed.

002.14G. 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 002.14E preceding.

002.15 APPLICATION FOR SERVICE.

002.15A. An application 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.

002.15B. 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

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applicant. The exchange carrier shall furnish reports to the Commission upon request.

002.16 REFUSAL OF SERVICE AND DISCONNECTION.

002.16A. Access line service may be refused or disconnected for any of the following reasons:

002.16A1. Without notice in the event of customer use of equipment in such a manner as to adversely affect the access line service to others.

002.16A2. Without notice in the event of tampering with the equipment furnished and owned by the exchange carrier.

002.16A3. 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.

002.16A4. Failure to pay for services rendered subsequent to proper notice.

002.16A5. 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. Rule and Regulation No. 121; October 27, 1993

002.16B. The following shall not constitute sufficient cause for refusal of access line service to a present or prospective customer:

002.16B1. Delinquency in payment for service by a previous occupant, other than a member of the same household, of the premises to be served.

002.16B2. Failure to pay directory advertising charges or other unregulated charges.

002.16B3. Failure to pay for operator service provider charges billed by the local exchange carrier if the charge exceeds that of AT&T Communications of the Midwest.

002.16B4. Failure to pay for 900, 960 or 976 calls disputed by the customer.

002.17 CUSTOMER BILLING.

002.17A. 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 (20) days from the date of billing.

002.17A1. "Prompt and accurate" billing shall mean that any charges for

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telecommunications services shall not be older than one hundred and eighty (180) 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.

002.17B BILLING ADJUSTMENTS. For all billing adjustments resulting in a charge to the customer, a carrier must offer a reasonable amount of time for payment.

002.17C. If a dispute between the customer and the exchange carrier occurs regarding any bill, an investigation will be made, and the results given 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 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.

002.18 INFORMATION.

002.18A. Each exchange 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.

002.18B. Each exchange carrier shall provide or make provisions, through tariffs, for directory assistance and information regarding customers not listed in their locally published directory, provided, however, the number of a customer who has requested that his number not be made available to the public need not be disclosed.

002.18C. Each exchange carrier shall provide or make provisions through tariffs, customer line verification in emergencies where possible.

002.19 RULES GOVERNING CREDIT AND DEPOSITS.

002.19A. Rules filed under Section 002.21G governing the establishment of credit by customers for the payment of service bills shall be subject to the following provisions:

002.19A1. The amount of deposit required shall not normally exceed the bill for two (2) month's service plus estimated toll charges for two (2) months. An increase in the deposit amount may be requested if increased usage or additional services warrants it.

002.19A2. 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 (30) days.

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002.19A3. In the case of residential service, the deposit shall be refunded upon request of the customer after twelve (12) consecutive months of prompt payment and refunded voluntarily after twenty-four (24) consecutive months of prompt payment.

002.19A4. In the case of business service, the deposits shall be refunded after thirty-six (36) consecutive months of prompt payment.

002.19A5. Deposits may be refunded sooner at the exchange carrier's option.

002.19A6. 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 (3) months.

002.19A7. 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.

002.19A8. 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.

002.19A9. 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.

002.19A10. 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.

002.19A11. 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 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.

002.19B. Guarantors shall be accepted in lieu of deposits subject to the following:

002.19B1. The guarantor shall be satisfactory to the exchange carrier.

002.19B2. 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.

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002.19B3. The guarantor's obligation shall cease:

002.19B3a. Upon the customer discontinuing service, or

002.19B3b. After twelve (12) consecutive months of prompt payment, or

002.19B3c. After ten (10) 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.

002.19B4. The exchange carrier shall have six (6) 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.

002.19B5. The exchange carrier shall provide written notification to the guarantor verifying date guarantor's obligation ceases.

002.19C. 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.

002.19D. 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.

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

002.20A. 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.

002.21 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:

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002.21A. 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.

002.21B. A map or maps of each exchange showing the various rate areas.

002.21C. Information as to the extended area access line service furnished.

002.21D. Definitions of classes of access line service.

002.21E. 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.

002.21F. Rules governing foreign exchange access line service (where offered) and all other access line service offerings together with the corresponding rates and charges.

002.21G. Rules governing the establishment or re-establishment of access line service including credit requirements.

002.21H. Rules governing the procedures followed in disconnecting and reconnecting access line service.

002.21I. Rules governing the billing procedures and payment requirements.

002.22 DIRECTORIES.

002.22A. One exchange alphabetical directory for each access line shall be made available, 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 customers how such listings may be obtained. Inclusion of all listings for the calling area within a single volume is recommended.

002.22B. Directories shall be revised at least annually. Exemption from this requirement may be necessary with an office conversion, or when changed listings and new listings are not sufficient in number to cause serious inconvenience. Such exemption shall be provided upon approval of this Commission. A shorter directory interval may be necessary where the number of changed listings and new listings is abnormally large.

002.22C. 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.

002.22D. 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 a subscriber who has requested that his number not be made available to the public shall not be listed subject to any existing or

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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, 300 The Atrium, 1200 N Street, Lincoln, NE 68508, telephone number 402-471-3101.

002.22E. Upon issuance of a new directory, two copies thereof shall be filed by the exchange carrier with the Commission.

002.23 RECORDS.

002.23A. All records required by these rules, unless otherwise specified herein, shall be preserved for the period of time specified by the Federal Communications Commission's Records Retention Schedule.

002.23B. 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.

002.23C. 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.

002.24 ACCOUNTING.

002.24A. For purposes of accounting to the Commission, each exchange carrier shall be classified in conformance with the latest FCC rules.

002.24B. 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.

002.24C. Each exchange carrier shall file an annual report with the Commission on or before April 30 of the succeeding year.

002.24D. 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.

002.24E. Exchange carriers operating in more than one state shall file with the Commission a supplemental annual report with segregation of accounts and miscellaneous statistics for the State of Nebraska on the form prescribed by the Commission.

002.24F. Exchange carriers not filing an annual report with the Federal Communications

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Commission shall file with the Commission an annual report on the form prescribed by the Commission.

002.25 SERVICE AREA.

002.25A. Each exchange carrier shall file with the Commission a map for each exchange operated in the State of Nebraska. Each map shall show the exchange area of the exchange for which such map is filed. The exchange area shall be enclosed in a solid black line; a service station company area receiving switching service from the exchange shall be enclosed in a dash-dot line; any area within the exchange area boundaries which receives service from another exchange shall be shaded indicating a duplicate service area; section lines, range and township numbers and the names of counties served shall be shown; the map shall be drawn to a scale not less than 1/2 inch per mile; the map shall indicate the revision number, date of issuance, and person who authorized the revision.

002.25B. 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. Each exchange carrier shall within a reasonable time after a change in its service area boundaries, file a revised map depicting the revised service area of the exchange for which such map is filed.

002.25C. 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.

002.26 EXCHANGE BOUNDARY CHANGES.

002.26A. 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.

002.26B. 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.

002.26C. The Commission shall serve upon each telecommunications company directly affected by the application a copy of the application. In the event both telecommunications companies directly affected do not consent to the application, a hearing shall be scheduled and notice of the hearing shall be sent to each affected telecommunications company at least thirty (30) days prior to the hearing on the application.

002.26C1. Any telecommunications company directly affected by the application shall, within thirty (30) days of receiving notice pursuant to section 002.26C, notify the Commission in writing whether or not the telecommunications company consents to

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the application.

002.26D. 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.

002.26E. Upon the completion of the hearing on such an application made pursuant to section 002.26C, if a hearing is required, the Commission may grant the application, in whole or in part, if the evidence establishes the following:

002.26E1. That such applicant is not receiving, and will not within a reasonable time receive, reasonable advanced telecommunications capability service from the telecommunications company which furnishes telecommunications service in the local exchange area in which the applicant resides;

002.26E2. 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

002.26E3. 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.

002.26E4. The amount of any payment by the applicant for construction and other costs associated with providing service to the applicant pursuant to section 002.26E3, may be negotiated between the applicant and the affected telecommunications company.

002.26F. In the event the Commission lawfully grants an application pursuant to section 002.26E, the telecommunications company ordered to provide the advanced telecommunications capability service shall be issued a certificate of convenience and necessity to serve that area added to its local exchange area by the Commission, if necessary.

002.26G. 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.

002.26H. If the Commission refuses to grant an application made pursuant to section 002.26B, no new application for the same advanced telecommunications capability service shall be filed or shall be considered by the Commission until one year has elapsed after the date of mailing of the Commission order.

002.27 TRANSFER OF OWNERSHIP OF EXCHANGE CARRIERS OF THEIR

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PROPERTIES.

002.27A. 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 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.

002.27B. No two or more exchange carriers operating as a common carrier shall consolidate their properties, or any part thereof involving an exchange, into a single carrier, nor shall one or more exchange carriers acquire the whole or any part of the properties of another exchange carrier by the purchase of stock, securities or by lease or in any like manner without first filing an application with and receiving from the Commission a certificate of convenience and necessity, providing, however, 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.

002.27C. After a public hearing, if the Commission finds that the proposed transfer, consolidation, acquisition or control be of advantage to persons to whom service is to be rendered and in the public interest, it shall thereupon enter an order certifying to that effect, and the applicant or applicants may thereafter proceed to consolidate, acquire or control in the manner and form specified in said application except and unless the Commission otherwise provides.

002.28 EXTENDED AREA SERVICE.

002.28A. No Extended Area Service (EAS) may be discontinued without prior approval of the Commission. All new EAS offerings must be approved by the Commission.

002.28B SURVEY PROCEDURE; GENERAL INFORMATION.

002.28B1. All exchange carriers subject to the Commission's jurisdiction shall follow the EAS survey procedures set forth in the following sections: Sections 002.27C and 002.27D contain the procedures to be followed to establish EAS and Sections 002.27E and 002.27F contain the procedures to be followed to discontinue EAS.

002.28B2. 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.

002.28B3. Whenever an EAS survey is conducted, the exchange carrier shall mail to each customer account (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. 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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002.28B3a. Customers are permitted one vote per account.

002.28B4. 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.

002.28C REQUIREMENTS FOR ESTABLISHING EXTENDED AREA SERVICE (EAS) STUDIES.

002.28C1. 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.

002.28C2. 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 requirements, the Commission will assign a docket number to the EAS request.

002.28C3. If the requirements of Section 002.27C1 are fulfilled, the exchange carrier shall conduct a usage study covering the most recent three month 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 (5) or more calls per customer, per month, and more than fifty percent (50%) of the customers must make at least two (2) calls per month to the petitioned exchange in at least two (2) of the three (3) months studied. The exchange carrier shall file the results of the usage study with the Commission within forty-five (45) days from the date the petition is docketed. If these basic criteria are not met, the request will be dismissed without further action.

002.28C4. If the provisions of Section 002.27C3 are met, the exchange carrier shall file proposed rates for EAS and may voluntarily file an OEACP with the Commission within ninety (90) 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.

002.28C5. The exchange carrier shall hold at least one informational meeting in the exchange where the EAS petition was originated within sixty (60) 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.

002.28C5a. 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 (1) week prior to the date of the meeting.

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002.28C6. Within thirty (30) 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.

002.28C6a. The exchange carrier shall publish the results of the Commission's decision (made pursuant to Section 002.27C6) in the local newspaper of the affected exchange(s).

002.28C7. 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.

002.28C7a. A petition for EAS may not be resubmitted for twelve (12) months from the date the OEACP is approved.

002.28C8. When a petition fails to pass the tests in Section 002.27C3, the petitioning exchange may not initiate a similar petition for twelve (12) months from the date the petition is dismissed.

002.28D REQUIREMENTS FOR CUSTOMER SURVEY TO ESTABLISH EXTENDED AREA SERVICE (EAS).

002.28D1. 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.

002.28D2. The survey letter shall contain the following items:

002.28D2a. An explanation of the purpose of the survey;

002.28D2b. An explanation that only one vote, per account is permitted;

002.28D2c. Identification of the existing rate, the amount of the rate increase, and the new rate associated with the addition of the proposed EAS;

002.28D2d. A statement that more than fifty percent (50%) of those voting must vote in favor of the proposal before EAS will be implemented;

002.28D2e. 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

002.28D2f. 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

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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.

002.28D3 BALLOT RETURN. The postage-paid, Commission-addressed return ballot included with the survey letter should contain the following information:

002.28D3a. A statement explaining the EAS proposal being voted upon as set out in the survey letter;

002.28D3b. A place for the customer to indicate a choice of being in favor of, or opposed to, the establishment of EAS; and

002.28D3c. Lines designated for the customer's signature, telephone number, and date.

002.28D4. 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.

002.28D5. When a petition fails to pass the requirements of Section 002.27D2d, the exchange carrier or petitioning exchange may not submit a similar petition for twelve (12) months from the date the petition is dismissed.

002.28E REQUIREMENTS FOR DISCONTINUING EXTENDED AREA SERVICE (EAS).

002.28E1. 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.

002.28E2. 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 requirements, the Commission shall assign a docket number to the request to discontinue EAS.

002.28E3. 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

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with a customer survey.

002.28E4. The exchange carrier need not undertake such studies more than once in the twelve (12) month period from the date the petition is dismissed.

002.28F REQUIREMENTS FOR CUSTOMER SURVEY TO DISCONTINUE EXTENDED AREA SERVICE (EAS).

002.28F1. The survey letter shall contain the following items:

002.28F1a. An explanation of the purpose of the survey;

002.28F1b. An explanation that only one vote, per account, is permitted;

002.28F1c. 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)

002.28F1d. A statement that more than fifty percent (50%) of those voting must vote in favor of the proposal before EAS will be discontinued;

002.28F1e. 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

002.28F1f. 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.

002.28F2 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:

002.28F2a. A statement explaining the EAS proposal being voted on as set out in the survey letter;

002.28F2b. A place for the customer to indicate a choice of being in favor of, or opposed to, the discontinuance of EAS; and

002.28F2c. Lines designated for the customer's signature, telephone number, and date.

002.28F3. A majority of those voting in each exchange surveyed must vote to discontinue EAS for the service to be withdrawn.

002.28F4. The exchange carrier need not conduct a customer survey to discontinue

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EAS more than once in any twelve (12) month period from the date the petition is dismissed.

002.28G 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 002.27B in that exchange.

002.29 SHORT TERM DEBT. No exchange carrier whose security issues require the approval of this Commission may issue short term or demand notes or other evidence of indebtedness in any amount exceeding twenty percent (20%) of its total plant in service without prior approval of this Commission.

002.30 APPLICATION FOR NEW RATES OR CHARGES, OF CHANGES IN EXISTING RATES OR CHARGES FOR TELEPHONE SERVICE. An application to establish new rates or charges or to change existing rates or charges filed pursuant to Section 75-128 R.R.S. 1943, as amended, 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.

002.30A. The Commission will not approve any increase in rates pursuant to Section 75-128 R.R.S. 1943, as amended unless it finds:

002.30A1. The increase is cost-justified and does not reflect future inflationary expectations. Said standard shall be applied subject to the following conditions:

002.30A1a. 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 (6) months actual experience and not more than six (6) months estimated data to be subject to correction or verification during the course of the proceeding considering the proposed rate increase.

002.30A1b. 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 in costs, as well as increases will be included in the adjustments made.

002.30A1c. Adjustments will also be made to eliminate the effects of abnormal or unrepresentative conditions reflected in test year data.

002.30A1d. 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

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increased cost.

002.30A2. The increase is the minimum required to assure continued, adequate and safe service or to provide for necessary expansion to meet future requirements.

002.30A2a. 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 002.29A1(b), (c), and (d) preceding.

002.30A3. The increase will achieve minimum rate of return or revenue needed to attract capital at reasonable costs, to maintain the integrity of the utility'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.

002.30A3a. 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.

002.30A3b. The rate of return or operating ratio allowed by the Commission will not reflect expectations of future inflations, but only cost-justified expense increases.

002.30A4. The increase takes into account expected and obtainable productivity gains, to the extent that such gains can be measured and verified.

002.30A5. This Rule shall not apply to rate increases of utilities if such rate increases are:

002.30A5a. Intended only to pass on to customers specific payments to municipalities, such as occupation taxes, license taxes, permit or franchise fees, or

002.30A5b. Which do not increase the utility's aggregate annual revenue by more than one percent.

002.30B. An Application to increase rates shall include the information set forth below:

002.30B1. 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.

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002.30B2. 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.

002.30B3. The latest available certified audit report.

002.30B4. The latest annual report to stockholders.

002.30B5. A summary of trouble reports showing by exchange for the most recent twelve (12) month period for which such information is available, the monthly average incidence of customer access line trouble per one hundred (100) access lines.

002.30B6. A summary of monthly answering time study results for the most recent twelve (12) month period for which such information is available.

002.31 EXEMPTION FROM RATE REGULATION. Exchange carriers which serve less than five thousand (5,000) subscribers shall not be subject to rate regulation by the Nebraska Public Service Commission pursuant to Section 75-609 R.R.S. 1943, as amended, unless:

002.31A. 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 the application.

002.31B. If the proposed increase exceeds thirty percent (30%) in any one year for any subscriber's service, the proposed increase shall be subject to Commission rate regulation.

002.31C. 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 and a statement that all subscribers have been notified. Notice to all affected subscribers shall be in the following form:

002.31C1 FORM FOR NOTICE OF PROPOSED RATE CHANGE.

(Date)

Exchange Carrier
, Nebraska

NOTICE OF RATE INCREASE

All affected subscribers of the _____ Telephone Company are hereby notified that increased rates will be effective (date). Present and proposed rates by class of service are as follows:

<u>Class of Service</u>	<u>Present</u>	<u>Proposed</u>
-	-	-

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All affected subscribers are hereby notified that said rates are not subject to approval by the Nebraska Public Service Commission unless petitions signed by five percent (5%) or more of the subscribers are received by the Commission before the effective date shown above. At the present time the company serves _____ affected subscribers. Petitions must be in the following form:

To the Nebraska Public Service Commission:

The undersigned subscribers of the _____ Telephone Company do hereby petition the Nebraska Public Service Commission to determine rates in lieu of those proposed by the telephone company.

<u> Date </u>	<u>Subscriber's Signature</u>	<u>Telephone No.</u>
-	-	-

Each signature shall be dated and shall be that of the subscriber or the subscriber's spouse. If a business, the name shall be included with the signature of an officer or agent. The subscriber's telephone number shall be shown. If an unlisted number, "unlisted" may be shown. Each petition may be signed by one or more subscribers and shall be sent to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln, NE 68508.

002.31D. The foregoing notice to subscribers may exclude the instructions concerning petitions if such information is published in the company's telephone directory and the notice contains reference thereto.

002.31E. 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 (5%) of the subscribers have submitted petitions.

002.31F. If at any time the Commission receives petitions signed by fifty-one percent (51%) or more of an exchange carrier's subscribers requesting regulation, the Commission shall declare the company subject to rate regulation.

002.31F1. PETITIONS SHALL BE IN THE FOLLOWING FORM.

To the Nebraska Public Service Commission:

The undersigned subscribers of the _____ Telephone Company hereby petition the Nebraska Public Service Commission to declare that the company shall be subject to rate regulation.

<u> Date </u>	<u>Subscriber's Signature</u>	<u>Telephone No.</u>
-	-	-

Each signature shall be dated and shall be that of the subscriber or the

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subscriber's spouse. If a business, the name shall be included with the signature of an officer or agent. The subscriber's telephone number shall be shown. If unlisted, "unlisted" may be shown. Each petition may be signed by one or more subscribers and shall be sent to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln, NE 68508.

002.31F2. Upon receipt of said petitions, the Commission shall notify the exchange carrier and shall obtain a list of current subscribers.

002.31F3. Companies subject to rate regulation by virtue of petitions by fifty-one percent (51%) of their subscribers may be exempted from regulation upon the filing with the Commission of petitions signed by fifty-one percent (51%) of the subscribers requesting deregulation in like form as previously set forth in this section.

002.31F4. 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.

002.32 RATE REGULATION. Pursuant to Section 86-803 R.R.S. 1943, as amended, telecommunications companies shall not be subject to basic local exchange service rate regulation by the Nebraska Public Service Commission, except as follows:

002.32A. A telecommunications company may file an application with the Commission requesting the Commission to prescribe fair and reasonable rates for the company.

002.32B. Except as provided in Section 75-609.01 R.R.S. 1943, as amended and Commission Rule 002.30, the Commission may on its own motion review basic local exchange rates of any telecommunications company if the company has increased such rates for its local service area by more than 10% within any consecutive 12-month period.

002.32C. The Commission shall review a telecommunications company's basic local exchange rates if a valid petition is filed with the Commission within sixty days from the date notice is sent to affected subscribers and is signed by:

002.32C1. 5% of all affected subscribers if the company has up to 50,000 access lines in service.

002.32C2. 3% of all affected subscribers if the company has 50,000 but not more than 250,000, access lines in service.

002.32C3. 2% of all affected subscribers if the company has more than 250,000 access lines in service.

002.33 NOTICE OF RATE CHANGE. All subscribers shall be notified in writing of any change in the monthly basic local exchange rates sixty days prior to the effective date. A notice of this change shall include but not be limited to:

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002.33A. The reasons for the rate increase

002.33B. A description of the affected service

002.33C. An explanation of the right of the subscriber to petition the commission for a public hearing on the rate increase

002.33D. A list of exchanges which are affected by the proposed rate increase

002.33E. The dates, times, and places for the public informational meetings required by this section.

002.33F. A statement of the number of affected subscribers served and the number and percentage of signatures required for a hearing to be held, and

002.33G. 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.

002.34 LOCAL EXCHANGE SERVICE PETITION NOTICE. The notice to subscribers required by subsection (2) of Section 86-803 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.

002.35 INFORMATION MEETING(S). At least one informational meeting shall be held in an affected exchange of each Commission district in which an exchange carrier provides basic local exchange service prior to the effective date of the rate increase. The exchange carrier shall explain the proposed rate increases, the reasons for the increases and respond to questions by members of the public. At the exchange carriers' informational meetings, the notice must be made available for the subscribers.

002.36 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.

002.37 EFFECTIVE DATE. Sufficient notice shall be given prior to the effective date of a rate increase by an exchange carrier so that if the sixtieth day following the notice falls on a Saturday, Sunday, or legal holiday the notice period shall be extended to the next business day.

002.38 NOTIFY AND VALIDATE. The Commission shall validate the required number of petitions necessary to trigger a hearing and shall not be required to validate all petitions received. Notification shall be made to the exchange carrier by the effective date if fewer than the required subscribers submitted valid petitions. Upon receipt of the required number of valid subscriber petitions, the Commission shall notify the telecommunications company.

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002.39 VALID PETITION SIGNATURE. Each signature shall be dated and if a residential subscriber, be that of the subscriber or the subscriber's spouse. If a business subscriber, the name of the business shall be included with the signature of an officer or agent. Only one signature per business subscriber or per residential subscriber will be counted. The subscriber's telephone number shall be shown to aid in verifying the subscriber. If an unlisted number, "unlisted" may be shown. Each formal complaint may be signed by one or more subscribers and shall be sent to the Nebraska Public Service Commission, 300 The Atrium, 1200 "N" Street, Lincoln, NE 68508.

002.40 SUSPENDED RATES AND CHARGES. If a proper complaint is presented to the Commission within sixty days from the date notice of the rate change was sent to subscribers, the Commission shall accept and file the complaint, and, upon proper notice, may suspend the rates and charges at issue during the pendency of the proceedings and reinstate the rates and charges previously in effect. The exchange carrier shall be notified in writing as to the time and place of a hearing to review the rates.

002.41 BURDEN OF PROOF. In a complaint proceeding pursuant to a rate change, the applicant for a rate change has the burden of going forward with presentation of evidence unless otherwise ordered by the Commission.

002.42 REVIEW BY THE COMMISSION. If a proper complaint is presented to the Commission under Nebraska Revised Statute '86-803 (1986 Supp) the Commission may, within sixty days after close of the hearing, enter an order adjusting the basic local exchange rates and charges at issue, except that the commission may not set any rate or charge below the actual cost of providing such service as established by the evidence received at the hearing.

002.43 ACTUAL COST. The phrase actual cost as used in Section 86-803 (1986 Supp.) shall mean those costs that are attributable to the provision of basic local exchange service. These costs may include, but shall not be limited to, a telecommunications company's cost for the local distribution facilities, the applicable central office equipment, billing and collecting, directory listing, intercept service and usage on the local switched network if usage is included in the flat monthly charge for basic local exchange service. Such cost may include cost of money as well as expenses specified by the Uniform System of Accounts such as depreciation, all applicable taxes, operating expenses and directly attributable administrative expenses. A telecommunications company may establish these costs at a hearing through one of the following cost studies adjusted to reflect expected future changes: a long-run incremental cost study, a fully allocated separations cost study, or any other cost study acceptable to the Commission. No matter which study a telecommunications company elects to use, it shall also include within actual cost a ratable portion of administrative expenses and overhead incurred by the telecommunications company in its operations and any appropriate amortization of previously deferred accounting costs. A telecommunications company shall make available to the Commission all workpapers, analyses and data used to prepare the cost study. This definition is only for the purposes of Section 86-803 (1986 Supp.) and the rules pertaining to that section.

002.44 ORDER OF PRESENTING EVIDENCE. At evidentiary hearings upon basic local

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exchange rates the telecommunications company changing its rates shall open and close the presentation of evidence. The Hearing Officer may direct departures from the foregoing order of procedure for efficiency and justice.

002.45 SERVICE. The Commission shall retain quality of service regulation over the services provided by all telecommunications companies and shall investigate and resolve subscriber complaints concerning quality of telecommunications service, subscriber deposits, and disconnection of service.

002.45A. At a hearing affecting basic local exchange rates, the Commission may consider testimony regarding service presented by an affected subscriber, the commission staff or the telecommunications company.

002.45B. The Commission may by order in accordance with the Commission's rules and regulations render its decision granting or denying service relief as is reasonable based on the evidence presented to the commission at the hearing. Any such order of the commission may be enforced against any telecommunications company as provided in Sections 75-140 to 75-145 and may be appealed.

002.46 NOTICE OF A CHANGE IN A RATE LIST OTHER THAN FOR BASIC LOCAL EXCHANGE SERVICE. Any change in a rate list under Nebraska Revised Statute '86-803 (1) (1986 Supp.) shall be effective after ten days' notice to the Commission.

002.47 EFFECTIVE NOTICE TO CUSTOMERS. 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:

002.47A. Publication in a statewide or local newspaper in the area.

002.47B. Included in the latest bill.

002.47C. Separate letters notifying customers of increases.

002.47D. Press Release.

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

002.49 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.

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

002.50A CERTIFICATE OF AUTHORITY OR PERMIT REQUIRED. Except as provided by Neb. Rev. Stat. '86-805 (Reissue 1999) or other applicable statutes, no person, firm, partnership, limited liability company, joint venture, corporation, cooperative, or association (hereinafter, applicant) shall offer any telecommunications service as defined by the Telecommunications Act of 1996, 47 U.S.C. '151 et. seq. (the Act) or shall construct new telecommunications facilities in this state outside of the applicant's certificated or permitted service area, as defined in these rules, 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 after due notice and, when required, a hearing, as provided under the rules and regulations of the Commission.

002.50B STANDARDS FOR GRANTING CERTIFICATION OR OBTAINING A PERMIT. Before granting a certificate of authority for an applicant as a telecommunications common carrier or a permit for a telecommunications contract carrier pursuant to Rule 002.49A, the applicant shall bear the burden of demonstrating and the Commission shall find:

002.50B1. The applicant's provision of competitive local exchange telecommunications services in the territory in which the applicant proposes to offer such service (the certificated service area) is consistent with the public interest. For purposes of this section, public interest shall include, but not be limited to:

002.50B1a. Preserving and advancing universal service;

002.50B1b. Protecting the public safety and welfare;

002.50B1c. Ensuring the continuous quality of telecommunications services within such territory; and,

002.50B1d. Safeguarding the rights of consumers.

002.50B2. The applicant has sufficient financial resources to provide competitive local exchange telecommunications service in the proposed certificated or permitted service area;

002.50B3. The applicant has sufficient technical competency to provide competitive local exchange telecommunications service in the proposed certificated or permitted service area;

002.50B4. The applicant has sufficient managerial resources to provide competitive local exchange telecommunications service in the proposed certificated or permitted service area; and,

002.50B5. The applicant has satisfactorily provided all of the information required by

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the Commission in its application.

002.50C 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 the filing fee established pursuant to Rules of Commission Procedure, Section 025. Such application shall also include the following information:

002.50C1. To the extent pertinent to applicant's form of organization:

002.50C1a. A certified copy of applicant's Articles of Incorporation with all amendments, if any.

002.50C1b. If applicant is a foreign corporation, a copy of its Certificate of Authority to transact business in the state of Nebraska.

002.50C1c. 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.

002.50C1d. If applicant is a joint venture, a copy of applicant's Joint Venture Agreement with all amendments, if any.

002.50C1e. If applicant is a proprietorship, the name and business address of all proprietors.

002.50C1f. 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, and if applicant is a foreign liability company, a copy of its Certificate of Authority to transact business in the state of Nebraska.

002.50C2. The names, telephone numbers, and business addresses of each of applicant's officers, directors, general and limited partners, joint venture members or managers;

002.50C3. The names and business addresses of each of applicant's shareholders having a beneficial interest in 5% or more of applicant's voting securities;

002.50C4. 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;

002.50C5. 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;

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002.50C6. 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 (2) 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;

002.50C7. 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, whether advance payments and/or deposits will be required;

002.50C8. A description of the geographic areas within which such services will be offered;

002.50C9. A description of applicant's technical support staff, training and/or experience of personnel pertinent to its Nebraska local service operations should be provided together with such information as applicant deems appropriate which will allow the Commission to make an assessment of the technical competency of such staff;

002.50C10. A copy of applicant's last three annual financial statements to include 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:

002.50C10a. A minimum positive 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;

002.50C10b. 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 current liabilities.

002.50C11. A copy of the latest annual report of applicant, if available;

002.50C12. The name and business address of applicant's attorney, resident agent, or other representative to whom all communications regarding the application should be directed;

002.50C13. The name and business address of the resident agent and person to

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contact concerning customer complaints;

002.50C14. A copy of the certificates or permits the applicant holds in the State of Nebraska authorizing the applicant to provide telecommunications services other than local exchange services;

002.50C15. The method or methods by which the applicant proposes to provide local exchange service;

002.50C16. Information concerning the applicant's plans to provide directory assistance and operator assistance services;

002.50C17. Information concerning the provision of emergency 911 services;

002.50C18. Information concerning the provision of Telephone Relay Service; and,

002.50C19. A statement that the applicant agrees to adhere to all state laws and all Commission policies, rules, and orders.

002.50C20. A sample tariff which describes the services to be offered and which contains proposed rates, tolls, rentals, charges, classifications and rules and regulations.

002.50D PERFORMANCE BONDS.

002.50D1. 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 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:

002.50D1a. Other telecommunications companies providing access to the local exchange networks for the applicant.

002.50D1b. All customers of the applicant.

002.50D2. The minimum bond should be sufficient to protect any advances or deposits the telecommunications company may collect from its customers.

002.50D3. 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.

002.51. In addition to information otherwise provided to or filed with the Commission, any incumbent local exchange carrier (ILEC) that provides service in the same service territory or exchange as a competitive local exchange carrier (CLEC) with which it is affiliated shall file

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with the Commission information specified by this rule.

002.51A. An ILEC shall file with the Commission all commercial agreements between the ILEC and its affiliated CLEC as they are made.

002.51A1. 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.

002.51A2. For the purposes of this section, it will be sufficient if the ILEC files such agreements not later than thirty (30) days from the date such agreements are signed.

002.51B. An ILEC shall file with the Commission, on an annual basis, commencing April 30, 2006, the number of resale access lines provided by the ILEC to its affiliated CLEC.

002.52. No incumbent local exchange carrier (ILEC) that provides service in the same service territory or exchange as a competitive local exchange carrier (CLEC) 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.

003.01A. The Commission shall maintain safeguards for the protection of proprietary information, included but not limited to, protective orders and limited distribution of the proprietary information.

003.01B. The Commission may exempt an interexchange carrier or interexchange service from any provisions of this chapter when the Commission determines 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.

003.01C. 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 the terms and conditions, if any, of the subsections below apply:

- 002.02. Adequacy of Service
- 002.03. Interruptions of Service
- 002.05. Emergency Operations and Power
- 002.08. Maintenance Program
- 002.09. Operator Rules

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- 002.11. Answering Time Objectives
- 002.15. Application for Service
- 002.16. Refusal of Service and Disconnection
- 002.17. Customer Billing
- 002.19. Rules Governing Credit and Deposits
- 002.23. Records
- 002.27. Transfer of Ownership of Exchange Carriers of their Properties
- 002.31. Rate Regulation

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

003.02 TROUBLE REPORTS.

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

003.02A1. The trouble index objectives found in part 002.04C shall not apply to interexchange carriers.

003.03 INFORMATION.

003.03A. 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.

003.03B. 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.

003.05A. On toll connecting trunks, a goal of sufficient quantities of trunks to be provided so that ninety-nine percent (99%) of all telephone calls offered to any trunk group will not encounter an all trunks busy condition.

003.05B. Trunks shall be provided in sufficient quantities so that ninety-five percent (95%) of all toll manual calls will be completed without an all trunks busy condition.

003.05C. Ninety-five percent (95%) of Direct Distance Dialed (DDD) 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.

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003.05D. Interexchange carriers shall provide access circuits in sufficient quantities so that at least ninety-five percent (95%) 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 MINIMUM TRANSMISSION OBJECTIVES. The transmission objectives set forth herein are based upon the use of standard telephone sets connected to a 48-volt dial central office. This does not preclude future designs based on new instruments or voltages other than 48 volts, provided that equivalent or better transmission is obtained.

003.07A. Transmission loss as set forth herein means the loss that occurs in a telephone connection, measured in decibels (db) at one thousand (1000) hertz per second, exclusive of test pads, impedance matching coils used for measurement, and similar devices.

003.07B. The maximum overall transmission loss objective, including the loss of terminating equipment, for toll terminating trunks shall be four (4) db. The maximum loss objective of intertoll trunks shall be consistent with the requirements of a nationwide switching plan.

003.07C. Noise, as set forth herein, means noise expressed in db above reference level, with the standard C-message weighting (dbnC) at applicable circuitry impedances. Reference level is defined as -90 dbm (minimum 90 decibels referred to one milliwatt).

003.07D. The maximum noise objectives for trunks, with both terminals located within the State of Nebraska, shall be as follows:

003.07D1. Trunks of 50 miles or less in length, thirty-two (32) dbnC.

003.07D2. Trunks between 50 and 100 miles in length, thirty-six (36) dbnC.

003.07D3. Trunks exceeding 100 miles in length, forty (40) dbnC.

003.08 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:

003.08A. Definition of all classes of service provided.

003.08B. Rules governing foreign exchange service (where offered) and all other service offerings together with the corresponding rates and charges.

003.09 ACCOUNTING.

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003.09A. 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.

003.09B. Each interexchange carrier shall file an annual report with the Commission on or before April 30 of the succeeding year.

003.09C. 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.

003.09D. 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.

003.09E. 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.

003.10 SERVICE AREA.

003.10A. Each interexchange carrier shall file with the Commission a map showing each originating location.

003.10B. Each interexchange carrier shall file with the Commission a map showing each terminating location.

003.10C. Each interexchange carrier must file new or revised maps when originating or terminating locations identified in 003.10A and 003.10B change.

003.10D. 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.

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

003.11A NEW RATES. An application to establish new rates or charges or to change existing rates or charges filed pursuant to Section 75-128 R.R.S., 1943, as amended, 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.

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003.11A1. 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.

003.11A2. Balance sheet and income statement or, in lieu thereof, a statement of the assets and reserves which constitute the jurisdictional rate base and net earnings statement for the test year and any adjustments thereto.

003.11A3. The latest available certified audit report.

003.11A4. The latest annual report to stockholders.

003.11A5. A summary of monthly answering time study results for the most recent 12-month period for which such information is available.

003.11A6. This Rule shall not apply to rate increases of interexchange carriers if such rate increases are intended only to pass on to customers increases in payments to municipalities, such as occupation taxes, license taxes, permits or franchise fees.

003.11B NEW SERVICES.

003.11B1. New products and services identification and rate schedules will be submitted to the Commission under the proprietary information provision ten (10) days before first date of offer.

003.11B2. Service discontinuances, by item, area, customer class, etc. will be submitted to the Commission thirty (30) days before withdrawal date. The Commission will adjudge the necessity of a hearing.

003.11C EXPERIMENTATION. Interexchange carriers will be allowed to implement market trials, and rate and service experiments upon ten (10) days' notice.

003.12 INTER-LATA INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

003.12A APPLICATIONS. Applications for a certificate or permit authorizing any telecommunications company to offer and provide inter-LATA 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 filing fee established pursuant to Rules of Commission Procedure, Section 025; and, (d) include, to the extent pertinent to the applicant's form of organization, the following information:

003.12A1. A certified copy of applicant's articles of incorporation with all amendments.

003.12A2. If applicant is a foreign corporation, a copy of its certificate of authority to transact business in Nebraska.

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003.12A3. If applicant is a partnership or a limited partnership, a copy of applicant's articles of partnership or limited partnership.

003.12A4. If applicant is a joint venture, a copy of applicant's joint venture agreement.

003.12A5. If applicant is a proprietorship, the name and business address of the proprietor.

003.12A6. The names, telephone numbers, and business addresses of each of applicant's officers, directors, general and limited partners, or joint venture members.

003.12A7. The names and business addresses of each of applicant's shareholders having a beneficial interest in 5% or more of applicant's voting securities.

003.12A8. 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.

003.12A9. 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.

003.12A10. A detailed description of each formal complaint or other investigatory or enforcement proceeding involving the business operations of applicant or any of its officers, directors, principals, partners, proprietors, or shareholders having a beneficial interest in 5% or more of applicant's voting securities, commenced within the last two (2) 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.

003.12A11. A detailed description of the services applicant proposes to offer in Nebraska, including whether advance payments and/or deposits will be required.

003.12A12. A description of the geographic areas within which such services will be offered, showing originating points.

003.12A13. A detailed description of the communications network 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 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.

003.12A14. A description of applicant's technical support staff, training and/or experience of personnel pertinent to its Nebraska operations together with such information as applicant deems appropriate to allow the Commission to make an assessment of the technical competency of such staff.

003.12A15. A copy of applicant's last three annual financial statements, to include a

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balance sheet and profit and loss statement, and evidence of adequate financing, certified by an independent certified public accountant, together with applicant's most recent interim financial statements, certified by applicant's chief financial officer. 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 (AGAAP@). For the purposes of determining evidence of adequate financing, the following minimum criteria shall be met:

003.12A15a A MINIMUM POSITIVE 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.

003.12A15b 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.

003.12A16. A copy of the latest annual report of applicant, if available.

003.12A17. A schedule showing investment to be made in proposed service and estimated expenses until breakeven point.

003.12A18. The name and business address of applicant's attorney, resident agent, or other representative to whom all communications regarding the application should be directed.

003.12A19. The name and business address of resident agent or person to contact concerning customer complaints.

003.12B 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:

003.12B1. Does not provide the information required by Rule 003.12A.

003.12B2. Fails to file any performance bond required by the Commission in accordance with the provisions of Rule 003.12E.

003.12B3. Does not possess adequate financial resources to provide the proposed service; or

003.12B4. Does not possess adequate managerial and technical competency to provide the proposed service.

003.12C NOTICE. The Commission shall take action to approve or issue a notice of

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hearing concerning any application for certification or for a permit within 30 days after receiving the application. The Commission may approve an application with or without a hearing. The Commission may deny an application only after a hearing.

003.12C1. Notice of the filing of the application will be in accordance with the provisions of Rules of Commission Procedure 011.06 and 011.08.

003.12D PROTESTS AGAINST APPLICATIONS; WHEN FILED. Except as provided in Rule 014.05, and unless otherwise provided in statute, a protest against the granting of an application for a certificate or permit authorizing inter-LATA interexchange telecommunications service shall be filed with the Commission within ten (10) days from the date of publication of said notice. A copy of the protest shall be served upon all adverse parties of record, or upon their attorney or attorneys of record.

003.12E PERFORMANCE BONDS.

003.12E1. The Commission may, if it finds that such action is in the public interest, require an applicant, as a condition precedent to the granting of an application for a certificate or permit authorizing the offering and providing of inter-LATA interexchange telecommunications services, to file with the Commission a bond in such sum as the Commission may require. Such bond shall run to the State of Nebraska and be for the benefit of:

003.12E1a. Other telecommunications companies providing access to the local exchange networks for the applicant.

003.12E1b. All customers of the applicant.

003.12E2. The minimum bond must be sufficient to protect any advances or deposits the telecommunications company may collect from its customers.

003.12E3. 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 of the Department of Insurance of the State of Nebraska authorizing it to execute the same.

003.12F 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.

003.12G. Rules 003.13 through 003.16D 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.

003.13 NOTICE OF A CHANGE IN A RATE LIST OTHER THAN FOR BASIC LOCAL EXCHANGE SERVICE. Any change in a rate list under Neb. Rev. Stat. '86-803(1) (Reissue

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1999) shall be effective after ten days' notice to the Commission.

003.14 EFFECTIVE NOTICE TO CUSTOMERS. 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:

003.14A. Publication in a statewide or local newspaper in the area.

003.14B. Included in the latest Bill.

003.14C. Separate letters notifying customers of increases.

003.14D. Press Release.

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

003.16 OPERATOR SERVICE. Operator service providers as defined in Section 001.01AA 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.

003.16A 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.

003.16B 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.

003.16C 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.

003.16D 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 insure 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

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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.

003.17 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.

003.18 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.

- 002.01. General
- 002.02. Adequacy of Service
- 002.03. Interruptions of Service
- 002.04. Trouble Reports
- 002.05. Emergency Operations and Power
- 002.07. Intercept
- 002.08. Maintenance Program
- 002.09. Operator Rules
- 002.10. Tests
- 002.11. Answering Time Objectives
- 002.12. Dial Service Objectives
- 002.13. Loop Transmission Objectives
- 002.16. Refusal of Service and Disconnection
- 002.22. Directories
- 002.23. Records
- 002.24. Accounting
- 002.26. Transfer of Ownership of Exchange Carriers of their Properties
- 002.28. Short Term Debt
- 002.44. Service
- 002.49. Certification and Permitting of Competitive Local Exchange Carrier (CLEC) except that subsections 002.49D1 through 002.49D3 shall not apply.

003.19 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.

- 003.01. General
- 003.02. Trouble Reports
- 003.03. Information
- 003.04. Tests

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- 003.05. Trunk and Access Circuit Service Objectives
- 003.06. Transmission Requirements
- 003.07. Minimum Transmission Objectives
- 003.09. Accounting
- 003.12. Inter-LATA Interexchange Telecommunications Services
except that subsections 003.12E and 003.12F shall not apply
- 003.16. Operator Service

003.20 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 E911, wireless 911, enhanced wireless E-911 and telecommunications relay service requirements as directed by the Commission.

003.21 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.

003.22 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.

003.23 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.

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:

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

004.01B. 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

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local exchange service, intra-LATA interexchange service, inter-LATA interexchange service, and any other telecommunications services to 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 86-808 (Cum. Supp. 1998).

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:

004.03A. Written change authorization from the subscriber;

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

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

004.03D. 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 (30) 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:

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

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

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

004.04D. 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.

004.05A. Upon receiving notification from the subscriber that the subscriber has paid charges to an allegedly unauthorized carrier, the properly authorized carrier shall, within thirty (30) days, request from the unauthorized carrier proof of verification of the authorization of the subscriber's intent to change carriers.

004.05A1. Within ten days after receiving a request, the allegedly unauthorized carrier shall forward to the authorized carrier either:

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004.05A1a. Proof of verification of the subscriber's authorization to change carriers; or

004.05A1b. (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.

004.05A2. 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.

004.05B. 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.

004.05C. 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.

004.06A. 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.

004.06B. Within sixty (60) 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.

004.06C. If an authorized carrier fails to receive proof of verification of a subscriber's authorization to change carriers pursuant to Rule 004.05A1 within ten (10) 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 (60) 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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004.06C1. The name of the subscriber and the name of the alleged unauthorized carrier;

004.06C2. The date that the authorized carrier received notification of the unauthorized change;

004.06C3. The amount of the total charges paid by the subscriber to the unauthorized carrier; and

004.06C4. 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.

004.06D. 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.

004.07A. 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.

004.07B. 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.

004.07C. 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.

004.08 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 procedures for a Departmental Complaint and those rules of notice, publication, service, answer and hearing as provided in Title 291, Chapter 1, Rules of Commission Procedure, except as herein described:

004.08A. 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 004.06D.

004.08B. A complaint may be filed in accordance with this section by:

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004.08B1. An authorized carrier who has notice of an unauthorized change;

004.08B2. A subscriber who had his or her telecommunications services carrier changed without his or her authorization; or

004.08B3. The Commission, on its own motion.

004.08C. Within twenty (20) days of 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.

004.08C1. An administrative penalty shall not exceed two thousand dollars (\$2,000). Each violation associated with a specific access line within the state shall be considered a separate and distinct violation.

004.08C2. The amount of an administrative penalty shall be based on:

004.08C2a. The nature, circumstances, extent, and gravity of a prohibited act;

004.08C2b. The history of previous violations;

004.08C2c. The amount necessary to deter further violations; and

004.08C2d. Any efforts to correct the violation or violations.

004.08C3. Any administrative penalty may be appealed and the appeal shall be in accordance with Neb. Rev. Stat. Sections 75-136 to 75-139.

004.08C4. Any administrative penalty shall be transmitted to the State Treasurer for credit to the permanent school fund.

004.09 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 (2) years. The Commission shall at all times have access to all records kept by carriers pursuant to this section.

004.10 SUBSCRIBER COMPLAINT SYSTEM. The Executive Director of the Commission shall administer a subscriber complaint system to record, monitor and report on all complaints received regarding the unauthorized change of a subscribers' telecommunications carrier. An annual reporting shall be incorporated into the Commission's annual report.

004.11 PERFORMANCE STANDARDS. The Executive Director shall provide the Commission, at least once a month at a regularly scheduled meeting of the Commission, 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, date of the unauthorized change, duration, if known, of the unauthorized change, and any resolution of the complaint, if

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applicable.

004.11A. The Director of Communications shall report to the Commission, at a regularly scheduled meeting of the Commission, any carrier who has failed to meet minimum performance standards for the prior three (3) month period beginning with the period ending August 31, 1999.

004.11B. Minimum performance standards shall mean, for the purposes of this section, that the number of complaints against the carrier shall not exceed three (3) verified complaints per three (3) month period for every ten thousand (10,000) accounts held by the carrier within the state.

004.11C. The Commission may, upon its own motion, initiate a complaint against any carrier that fails to meet the minimum performance standards. 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.

004.12 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.

004.12A. 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.

004.12B. 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.

004.12B1. 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.

004.12B2. A telecommunications carrier shall not charge a recurring fee for blocking for a service as provided in this section.

005 ENHANCED WIRELESS 911 SERVICES. Moved to Title 291, Chapter 15

006 NEBRASKA INTERNET ENHANCEMENT FUND PROGRAM.

006.01 STATUTORY AUTHORITY. This section is adopted pursuant to 2001 Laws Neb. 827.

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

006.02A. Advanced telecommunications capability shall mean high-speed, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

006.02B. Commission shall mean the Nebraska Public Service Commission.

006.02C. Eligible service provider shall mean an entity certificated, permitted or otherwise legally authorized to provide telecommunications, video, internet or other related services.

006.02D. Fund shall mean the Nebraska Internet Enhancement Fund created pursuant to 2001 Laws Neb. 827.

006.03 PURPOSE OF THE FUND. The Fund shall be used to provide financial assistance to install and deliver broadband or other advanced telecommunications infrastructure and service throughout the State.

006.04 CONTENTS OF THE FUND. The Fund shall consist of money appropriated by the Legislature and gifts, grants, or bequests from any source, including federal, state, public, and private sources.

006.05 GRANTS FROM THE FUND. Any county or municipality in the state may apply for financial assistance from the Fund. An applicant may obtain a service provider for broadband or other advanced telecommunications services in an exchange or other area defined by the county or municipality where such services are to be delivered at rates of service agreed upon between the service provider and county or municipality.

006.06 PRIORITIES FOR GRANTS. Highest priority shall be given to applications based on high-cost factors, including population scarcity and location remoteness. Other factors, including financial need, may be considered by the Commission as deemed necessary.

006.07 APPLICATION REQUIREMENTS. The Commission may develop application forms and may require use of such forms for any application. The application shall state the projected cost, identify the service provider, describe the process for selection of the service provider, list terms and considerations of any agreement between the applicant and the service provider, and include other information as required by the Commission.

006.08 ELIGIBILITY. A service provider must be an eligible service provider.

006.09 MATCHING FUNDS REQUIREMENT. An applicant must provide matching funds of at least twenty-five percent of the total projected cost. Such funds may be public or private matching funds or in-kind services. The value of in-kind services shall be calculated at the standard or market rate.

006.10 PUBLIC RECORDS. Project proposals are public records.

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006.11 AUDITS. The Commission may, at its own expense, require an audit of any project funded by an award from the Fund. The Commission shall have access to the financial records for funded projects of all grantees for a period of five fiscal years after the conclusion of the project period. For purposes of this section, a fiscal year is July 1 through June 30.

006.12 TERMINATION OF A PROJECT. Prior to completion, a project may be terminated by a grant recipient or the Commission. Such termination requires written notice to all other parties to the project. All unexpended and unencumbered funds must be returned on the date of the receipt of the termination notice.

006.12A TERMINATION BY APPLICANT. An authorized representative of an applicant, as designated by the grant recipient in the initial application or as amended in writing, may terminate a grant at any time. Such termination request must be in writing and will become effective when received by the Executive Director of the Commission.

006.12B TERMINATION BY COMMISSION. A grant may be terminated by the Commission when the Commission determines that the grant activities are outside the approved application, conditions of the grant are not met, there is fraud or fiscal mismanagement, or there is lack of adequate funding. In the event the Commission proposes to terminate grant funding, it shall provide the authorized applicant representative of the grant recipient written notice of the reasons for such action and an opportunity for hearing. Any such hearing shall be conducted by the Commission pursuant to Rules of Commission Procedure. All requests for hearing must be filed with the Commission within 30 days of the authorized applicant representative's receipt of the proposal to terminate. If no such request for a hearing is filed, the Commission may take final action to terminate the grant at the next regularly scheduled Commission meeting without further proceedings before the Commission.

006.13 GRANT AWARD NOTIFICATION. Distributions from the Fund shall be made upon order of the Commission. The complete terms of a grant shall be contained in a written contract signed by authorized representatives or the grant recipient, including evidence of approval by the applicant's governing board.

006.14 FAILURE OF TERMS AND CONDITIONS. If grantees fail to meet any terms and conditions of the grant award notification or any requirements of this rule, the grantees may be required to reimburse the Nebraska Internet Enhancement Fund for any and all funds disbursed to the project and forfeit any additional funds not yet disbursed.

006.15 NEBRASKA INTERNET ENHANCEMENT FUND ADVISORY BOARD. The Commission may appoint an advisory board to assist the Commission in carrying out the purposes of the Nebraska Internet Enhancement Fund Program.

006.15A. The advisory board shall be composed of seven individuals appointed by the Commission, including:

006.15A1. Two representatives of local government, either county or municipal;

006.15A2. One person employed in the field of economic development;

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006.15A3. Two representatives of local exchange carriers;

006.15A4. One Internet service provider; and

006.15A5. One Commissioner or his or her designee.

006.15B. The advisory board shall have the following responsibilities:

006.15B1. Assist in setting guidelines for grants;

006.15B2. Review grant applications and recommend amount of funding for each grant application;

006.15B3. Prioritize distributions of grants; and

006.15B4. Recommend regulatory or legislative changes to the Commission regarding the administration and distribution Fund.

007 DARK FIBER LEASING.

007.01 STATUTORY AUTHORITY. This section is adopted pursuant to 2001 Laws Neb. 827.

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

007.02A. Applicant means a party filing an application.

007.02B. Commission means the Nebraska Public Service Commission.

007.02C. 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.

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

007.03 Lease. Any agency or political subdivision of the state may lease its dark fiber if:

007.03A. The lessee is a certificated telecommunications common carrier or a permitted telecommunications contract carrier pursuant to Nebraska Revised Statutes section 75-604 or an Internet service provider; and

007.03B. The lease price and profit distribution is approved by the Commission as provided by Commission rules and regulations.

007.04 APPLICATION PROCESS. Before entering into a lease, an agency or political subdivision must:

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007.04A. File an application with the Commission pursuant to the Nebraska Administrative Code, Title 291, Chapter 1, Rules of Commission Procedure, Section 005.02.

007.04A1. In addition to requirements of the Nebraska Administrative Code, Title 291, Chapter 1, Rules of Commission Procedure, Section 005.02, an application shall include:

007.04A1a. A request for a competitive price comparison to determine market rate, and

007.04A1b. A request for determination of the cost of infrastructure overbuilding.

007.04A2. At the discretion of the applicant, the applicant may propose a lease price and a profit distribution in the application.

007.04A3. Notice of the filing of all applications pursuant to this section shall be given by publication pursuant to Nebraska Administrative Code, Title 291, Chapter 1, Rules of Commission Procedure.

007.05 PROTEST, INTERVENTION. Any protest or formal intervention to an application shall be made pursuant to Nebraska Administrative Code, Title 291, Chapter 1, Rules of Commission Procedure.

007.06 COMPETITIVE PRICE COMPARISON AND COST OF INFRASTRUCTURE OVERBUILDING DETERMINATION. The Commission shall hold a public hearing (a) to conduct a competitive price comparison to determine the market rate for leasing dark fiber and (b) to determine the cost of infrastructure overbuilding.

007.06A. The market rate is the price associated with similar unbundled network elements that may be available from the incumbent local exchange carrier or the price of any other private entity leasing dark fiber optic facilities serving the same or similar territory where the leased equipment is located.

007.06B. When conducting a competitive price 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.

007.06C. The agency or political subdivision that owns the fiber shall provide the Commission with documentation of its cost of infrastructure overbuilding.

007.07 ORDER. The Commission shall enter an order setting the market rate and cost of infrastructure overbuilding to be applied to the lease for which the application was made, and, if the application proposed a lease price and a profit distribution, the Commission shall approve or deny the lease price and profit distribution.

007.07A PROPOSED LEASE PRICE AND PROFIT DISTRIBUTION IN APPLICATION DISAPPROVED; AMENDED LEASE PRICE AND PROFIT DISTRIBUTION. If the

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application included a proposed lease price and profit distribution, and the Commission did not approve the lease price and profit distribution, or, if the applicant elected not to propose a lease price and profit distribution in its application, the following process shall apply:

007.07A1. The applicant shall file a revised lease price and profit distribution that comports with the Commission's order setting the market rate and cost of infrastructure overbuilding. The applicant shall serve notice of such filing upon all protestants and intervenors.

007.07A2. The Commission shall approve or deny the lease price and profit distribution by entering an order.

007.08 MODIFIED PROCEDURE FOR SUBSEQUENT LEASES BY AN APPLICANT. A party, having obtained approval of a lease price and profit distribution, may seek to apply the same lease price and profit distribution to subsequent leases in the same or similar territory within two years of the original order establishing lease price and profit distribution. The application and notification shall conform to the process set forth at Title 291, Chapter 5, Section 007.04 and shall include a sworn affidavit verifying that the applicant's cost of infrastructure overbuilding has not changed since the original proceeding. Protest or intervention shall not be permitted. The Commission shall conduct a competitive price comparison to determine the market rate and shall determine the cost of infrastructure overbuilding within 30 days from the publication of notice of the application. The Commission shall conduct a competitive price comparison and determine the cost of infrastructure overbuilding either (1) by use of sworn affidavits from the applicant and from Commission staff or (2) by holding a public hearing.

07.09 LEASE REQUIREMENTS. The following shall be required in order for the Commission to approve a lease of dark fiber:

007.09A FIBER MAINTENANCE. A lease shall require that the agency or political subdivision be solely responsible for the maintenance of its dark fiber and that the lessee be responsible, on a pro rata basis, for any such maintenance costs.

007.09B DISPOSITION OF PROFITS. Fifty percent of the profit earned by the agency or political subdivision under the lease shall be remitted to the Nebraska Internet Enhancement Fund.

007.09B1. Profit earned by the agency or political subdivision is the lease price less the cost of infrastructure overbuilding.

007.09B2. The agency or political subdivision may remit profits using forms or methods which may be developed by the Commission.

007.09B3. Each payment by the lessee under any dark fiber lease approved by the Commission shall be comprised of both cost of infrastructure overbuilding and profit. The ratio of cost of infrastructure overbuilding to profit shall be the same for each payment. Profits must be remitted within 60 days of receipt of payment pursuant to a

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lease.

007.10 APPROVAL OF INTERCONNECTION AGREEMENTS. Any interconnection agreement subject to subsection (2) of section 75-109 must be approved by the Commission.

007.11 DARK FIBER ACTIVATION. The lessee shall make every reasonable effort to activate the maximum number of the leased fiber as is possible, within one year of entering into the lease, unless good cause is shown.

007.11A. The lessee shall report to the Commission its efforts to activate dark fiber within one year of the Commission's approval of a lease price and profit distribution.

008 WIRELESS REGISTRATION.

008.01 STATUTORY AUTHORITY. This section is adopted pursuant to 2001 Laws Neb. 1211.

008.02 DEFINITIONS. As used in this section, unless the context otherwise requires:

008.02A COMMISSION. The Nebraska Public Service Commission.

008.02B PERSON. Any individual, firm, organization, corporation, company, association, partnership, joint stock association, body politic, common carrier, society, legal representative, trustee, receiver, assignee, guardian, executor, or administrator.

008.02C TELECOMMUNICATIONS. The transmission, between or among points specified by the subscriber, or information of the subscriber's choosing, without a change in the form or content of the information as sent or received.

008.02D TELECOMMUNICATIONS SERVICE. The offering of telecommunications for a fee.

008.02E WIRELESS CARRIER. Any person offering mobile radio service, radio paging service, or wireless telecommunications service for a fee in Nebraska intrastate commerce.

008.03 REGISTRATION.

008.03A REGISTRATION REQUIRED. A wireless carrier providing telecommunications service in Nebraska shall file a registration with the Commission. A wireless carrier which provided such telecommunications service prior to January 1, 2003, and which continues to provide such telecommunications service on and after January 1, 2003, shall register with the Commission prior to April 1, 2003. Any wireless carrier which begins to provide telecommunications service in Nebraska on or after January 1, 2003, shall register with the Commission prior to providing such telecommunications service.

008.03B REGISTRATION FORM. The registration shall be on a form prescribed by the Commission, incorporated herein at the end of the chapter and labeled as Attachment #1.

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Each wireless carrier is required to remit an initial application fee of fifty dollars (\$50.00) with the registration form.

008.03C INFORMATION REQUIRED. At a minimum, each wireless carrier must provide the following information:

008.03C1. 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;

008.03C2. 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;

008.03C3. The name, address, telephone number, and email address of a contact person whom the Commission may contact concerning questions or requirements of the Neb. Rev. Stat. sections 86-2201 to 86-2214 and related surcharges, if applicable; and

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

008.04 CHANGES IN INFORMATION CONTAINED IN REGISTRATION. The registrant shall notify the Commission of any changes in the information contained in its registration within sixty (60) days from such change. No additional filing fee will be required for changes in information pursuant to this section.

008.05 ENFORCEMENT.

008.05A INVESTIGATION. The Commission may conduct an investigation upon written complaint that Neb. Rev. Stat. section 86-125 (2002 Cum. Sup.) or section 008 of these rules or regulations have been or are being violated. Any such investigation shall be conducted in accordance with the Rules of Commission Procedure provided in Nebraska Administrative Code, Title 291, Chapter 1.

008.05B ADMINISTRATIVE PENALTY. The Commission, in accordance with Neb. Rev. Stat. section 75-156(2) and upon notice and hearing, may administratively fine any wireless carrier which violates these rules and regulations or Neb. Rev. Stat. section 86-125 (2002 Cum. Sup.).

009 ELIGIBLE TELECOMMUNICATIONS CARRIER.

009.01. An eligible telecommunications carrier that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

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009.02 REQUIREMENTS FOR COMMISSION DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS.

009.02A. In order to be designated an eligible telecommunications carrier, any common carrier in its application must:

009.02A1. 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;

009.02A2. 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);

009.02A3. Demonstrate that it will advertise the availability of such services and the charges therefore using media of general distribution;

009.02A4. 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;

009.02A5. 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:

009.02A5a. 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

009.02A5b. 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;

009.02A6. 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

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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;

009.02A7. 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;

009.02A8. A carrier seeking high cost support shall demonstrate that it will satisfy applicable consumer protection and service quality standards;

009.02A9. 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; and

009.02A10. A carrier seeking high cost support shall certify that the applicant 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.

009.02B 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.

009.02C 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 also conduct a cream skimming analysis.

009.03. Any common carrier that has been designated by this Commission as an eligible telecommunications carrier must submit the information required by paragraph 009.02A6 and 009.02A7 of this section no later than October 1, 2006.

009.04 ANNUAL REPORTING REQUIREMENTS FOR DESIGNATED ELIGIBLE TELECOMMUNICATIONS CARRIERS.

009.04A. A common carrier designated as an eligible telecommunications carrier for high cost support shall provide:

009.04A1. A progress report on its five-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;

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009.04A2. Detailed information on any outage as the term is defined by these rules, of at least 30 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;

009.04A3. 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;

009.04A4. The number of complaints per 1,000 handsets or lines;

009.04A5. A certification that it is complying with applicable service quality standards and consumer protection rules;

009.04A6. A certification that the carrier is able to function in emergency situations as set forth in § 54.201(a)(2) and any applicable Commission rules;

009.04A7. 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

009.04A8. 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.

009.04B 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 by April 30, 2006 or 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. An eligible telecommunications carrier electing to file on April 30 shall submit its reporting information on April 30, 2006 and thereafter annually by April 30 of each year. An eligible telecommunications carrier electing to file its report with the Commission on October 1 shall submit its reporting information on October 1, 2006 and thereafter annually by October 1 of each year. Commission approval is required if a carrier requests to change its reporting deadline.

010 NEBRASKA TELECOMMUNICATIONS RELAY SYSTEM.

010.01 PURPOSE. Provide a statewide telecommunications relay system and a statewide voucher program for the provision of specialized telecommunications equipment for qualified

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deaf, hard of hearing, or speech-impaired persons in Nebraska which enables them to communicate twenty-four (24) hours per day, seven (7) days per week, including holidays, with other persons who use conventional telephone systems.

010.02 STATUTORY AUTHORITY. THIS SECTION IS ADOPTED PURSUANT TO THE TELECOMMUNICATIONS RELAY SYSTEM ACT.

010.03 SCOPE. Any person using NTRS shall not be charged for access to such system other than charges 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 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.

010.04 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.

010.04A ADMINISTRATIVE FINES. The Commission may administratively fine pursuant to Neb. Rev. Stat. Section 75-156 any person who violates the Act.

010.05 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.

010.06 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 (20) cents per month on each telephone number or functional equivalent in Nebraska, including wireless service.

010.06A EXEMPTION. The surcharge authorized by this section shall not apply to prepaid wireless telecommunications services as defined in the Prepaid Wireless Surcharge Act.

010.06B 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".

010.06C ANNUAL SURCHARGE RATE DETERMINATION.

010.06C1 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.

010.06C2 RATE. After such hearing as required in Section 010.06B1, 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.

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010.06C3 EFFECTIVE DATES. The surcharge set pursuant to 010.06B1 and 010.06B2 shall become effective for the next fiscal year beginning July 1.

010.06C4. LIMITATION. The surcharge rate shall not exceed twenty cents (0.20) 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 (100) telephone numbers or functional equivalent per subscriber. The companies shall add the surcharge to each subscriber's local telephone bill.

010.06C5. EMERGENCY RATE SETTING. In an emergency the Commission may adjust the amount of the surcharge after a public hearing for such purpose.

010.06D 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.

010.07 REMITTANCE.

010.07A REMITTANCE WORKSHEETS. Remittance worksheets shall be received by the Department no later than thirty (30) days after the end of the remittance period. In the event the thirtieth (30th) day falls on a weekend or holiday, the remittance form shall be due on the next business day.

010.07B FILING OPTIONS.

010.07B1 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 010.07B2 and 010.07B3.

010.07B2 QUARTERLY. A telephone company or provider of wireless service whose monthly remittance amount is less than twenty-five dollars (\$25) may elect to remit on a quarterly basis.

010.07B3 ANNUALLY. A telephone company or provider of wireless service whose monthly remittance amount is less than twenty-five dollars (\$25) 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 on July 30 annually.

010.07B4 FILING ELECTION. A telephone company or provider of wireless service whose monthly remittance amount is less than twenty-five dollars (\$25) must notify the Commission in writing of its election to remit quarterly or annually prior to the remittance period.

010.07C REMITTANCE TO THE FUND. Except as provided in Rule 010.07C1, all remittances shall be transferred electronically to the Nebraska State Treasurer. Remittances shall be received by the Nebraska State Treasurer no later than thirty (30) days after the end of the remittance period in which they were collected pursuant to the

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period prescribed or elected pursuant to section 010.07B, as applicable. In the event the thirtieth (30th) day falls on a weekend or holiday, the electronic remittance shall be due on the next business day.

010.07C1 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.

010.07C2 AUTHORIZATION AND BANKING INFORMATION. A telephone company or provider of wireless service electing to have the Department initiate the electronic transfer of remittance to the Fund shall provide the necessary authorization and banking information required by the Program Administrator.

010.07C3 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.

010.07D REMITTANCE BY COMMISSION. The Commission shall remit the proceeds from the surcharge to the State Treasurer for credit to the Fund.

010.07E AUDITS. The Commission may require an audit of any telephone company collecting the surcharge pursuant to the Act.

010.08 ADEQUACY OF SERVICE.

010.08A. The vendor shall ensure that, except during network failure, at least ninety percent (90%) of all calls are answered by the relay center within ten (10) seconds from the time the call enters the TRS system during all times of the day and at least ninety-five percent (95%) of all calls are answered within ten (10) 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.

010.09 DIRECTORY REQUIREMENTS. Telephone companies shall provide printed information in telephone directories at no charge regarding relay services.

010.09A REQUIRED INFORMATION. The information listed in telephone directories shall contain information on the following:

010.09A1. Connecting to the relay, including a reference to 711 dialing;

010.09A2. Access numbers, including but not limited to TTY, Voice, ASCII, Fast ASCII, Speech to Speech, Spanish and Customer Service;

010.09A3. A reference to the NSTEP program including contact numbers for the PSC

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and the Nebraska Commission for the Deaf and Hard of Hearing and application information.

010.10 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.

010.11 NEBRASKA SPECIALIZED TELECOMMUNICATIONS EQUIPMENT PROGRAM (NSTEP).

010.11A ELIGIBILITY. To qualify for NSTEP applicants must meet ALL of the following eligibility requirements:

010.11A1. 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.

010.11A2. Applicant is at least three (3) years of age or older and able to demonstrate the requisite skill to operate STE.

010.11A3. Applicant currently has telephone service or has applied for telephone service in the state of Nebraska at their primary place of residence.

010.11A4. Applicant is a resident of the state of Nebraska.

010.11A5. Applicant has not applied for NSTEP within the past five (5) years.

010.11A6. At the time of application, no other resident of applicant's household has STE in his or her possession.

010.11A7. Applicant has obtained a professional certification of the qualifying disability or disabilities as prescribed by the Commission.

010.11B EQUIPMENT SELECTION. Except as provided in Section 010.11C, applicants may only choose one piece of STE and/or one telephone signaling device per household. A list of eligible equipment categories may be obtained from the Commission upon request.

010.11C DUAL-DISABLED APPLICANTS. Dual-Disabled applicants desiring specialized equipment with further adaptive equipment for dually disabled individuals shall complete a supplemental application form including certification from a qualified profession of applicant's dual-disability status and need for further adaptive equipment. Supplemental applications shall be available from the Commission upon request.

010.11D VOUCHER PROCEDURE.

010.11D1. Once the Program Administrator receives a completed application form and verifies that all eligibility requirements have been met, the Program Administrator will issue a NSTEP voucher.

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010.11D2. Applicant, or in the case of a minor, applicant's parent or guardian, shall sign the NSTEP voucher online marked "Applicant's Verification."

010.11D3. Applicant shall deliver the signed voucher to the vendor from whom the applicant is purchasing the STE.

010.11E REAPPLYING. Reapplication for NSTEP is allowed only when one of the following requirements is satisfied.

010.11E1. Applicant has not received any STE in the five years previous to the date on the current application.

010.11E2. 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.

010.11E3. The Commission or Program Administrator may waive the requirements of section 010.11E1 upon a showing of need by the applicant or upon request from the Nebraska Commission for the Deaf and Hard of Hearing.

010.11F VENDORS.

010.11F1 PARTICIPATING VENDORS. Only vendors recognized by the Commission as "Participating Vendors" will be eligible for reimbursement under NSTEP.

010.11F2 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.

010.11F3. APPROVED EQUIPMENT LIST. The Commission shall maintain an approved equipment list 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.

010.11F4 PAYMENT AUTHORIZATION. Except as provided in Section 010.11F8, payment for equipment submitted under NSTEP shall be subject to the maximum allowable expense per applicant as determined by the Commission. Any costs incurred by the 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.

010.11F5 PRODUCT KNOWLEDGE. Vendors shall maintain reasonable knowledge of all products being offered that qualify for reimbursement under NSTEP.

010.11F6 VENDOR PAYMENT. To receive payment under NSTEP, vendors shall

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submit voucher forms received from applicants along with an itemized invoice of applicant's purchase(s) to the Commission.

010.11F7 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.

010.11F8 SPECIAL AUTHORIZATION. If the applicant is determined to be dually disabled, the maximum allowable expense per applicant pursuant to Section 010.11F4 does not apply.

010.11G APPLICANT RESPONSIBILITIES.

010.11G1 MAINTENANCE. Any costs for general and regular servicing or maintenance of equipment purchased under NSTEP is the responsibility of the applicant.

010.11G2 REPAIRS. Any costs for repair of equipment purchased under NSTEP, regardless of whether said equipment is under warranty, is the responsibility of the applicant.

010.11G3 WARRANTIES, EXTENDED WARRANTIES. Any costs associated with warranty provisions for repairs of any equipment purchased under NSTEP is the responsibility of the applicant. Any costs associated with purchasing warranties and/or extended warranties on equipment purchased under NSTEP are the responsibility of the applicant.

010.11G4 STRUCTURAL MODIFICATIONS. Any costs associated with structural modifications of existing structures necessary for NSTEP equipment operation is the responsibility of the applicant.

010.12 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.

011 RESERVED FOR FUTURE USE.

012 RESERVED FOR FUTURE USE.

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

013.01 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:

013.01A. Railroad carrier has the same meaning as in Neb. Rev. Stat. Section 75-402.

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013.01B. Railroad has the same meaning as in Neb. Rev. Stat. Section 75-402.

013.01C. Telecommunications carrier means a telecommunications common carrier or a telecommunications contract carrier.

013.02 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.

013.02A APPLICATIONS FOR CROSSING. The request shall be in the form of a completed crossing application, and shall include engineering specifications.

013.02B 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.

013.02C PETITION FOR HEARING. If the railroad carrier and the telecommunications carrier are unable to negotiate a binding wire-crossing agreement within sixty (60) days after receipt of the completed crossing application pursuant to subsection 013.02A 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.

013.02D PETITION REQUIREMENTS. A party that files a petition for hearing under Section 003.02C shall include all relevant documentation concerning the disputed terms and conditions and the position of the petitioning party with respect to those issues.

013.02E NOTICE OF PETITION. A party that submits a petition for hearing under Section 013.02C 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.

013.02F OPPORTUNITY TO RESPOND. The non-petitioning party under Section 013.02C 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 (20) days after service of the petition.

013.02G ACTION BY THE COMMISSION.

013.02G1 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 (60) days after receipt of a petition for hearing.

013.02H 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, including but not limited to those prescribed and outlined in the following:

013.02H1. The Commission may require the parties to provide such information as

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may be necessary for the Commission to reach a decision on the unresolved issues.

013.02I COMMISSION ORDER. The Commission shall have thirty (30) days from the date of hearing to issue an order resolving each issue set forth in the petition and the response with written findings and opinions.

013.03 SUBMISSION OF AGREEMENT TO THE COMMISSION. Upon issuance of an order by the Commission on the petition submitted pursuant to Section 013.02C, the parties will have fifteen (15) days in which to file a conforming wire crossing agreement with the Commission. The Commission shall have fifteen (15) days from the date of filing the conforming agreement to approve or reject the agreement or the agreement will be deemed approved.

013.03A NON-CONFORMING AGREEMENT. The Commission may reject a wire crossing agreement submitted by the parties pursuant to Section 013.03 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 (10) days. If the Commission does not approve or reject the revised agreement within fifteen (15) days after the date of filing, the agreement shall be deemed approved.

013.04 WIRE CROSSING AGREEMENT TERMS.

013.04A STANDARD CROSSING FEE. Except as provided in Section 013.04D, 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 013, 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.

013.04A1 ONE-TIME FEE. The one-time crossing fee, with or without special circumstances as provided in Section 013.04D, shall be for the life of the line, wire, or cable placed across the railroad right-of-way.

013.04B FLAGGING EXPENSES. In addition to the standard crossing fee as provided in Section 013.04A, the telecommunications carrier shall reimburse the railroad carrier for any actual flagging expenses associated with the placement of the line, wire, or cable.

013.04C OTHER FEES PROHIBITED. The standard crossing fee as provided in Section 013.04A 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.

013.04D 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

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initial petition to the Commission pursuant to Section 013.02C. The Commission shall determine if a special circumstance exists that necessitates additional requirements for such placement or a modification of the standard crossing fee.

013.04E INDEMNIFICATION CLAUSES.

013.04E1. 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 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.

013.04E2. 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.

013.04E3. 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.

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