

CHAPTER 12
RATES AND RATE DISPUTES

751—12.1(8D) Purpose. The commission shall establish rates to be charged to all authorized users for the use of the network.

751—12.2(8D) Definitions. For the purposes of interpreting these rules, the following definitions are applicable.

“*Educational or training event*” on the network means any event designed to have an instructional outcome.

“*Meeting event*” means any event on the network that is designed to achieve a decisional outcome including but not limited to meetings, hearings, mediations, discussion groups, public meetings or other adjudicatory proceedings.

751—12.3(8D) Notice of rates. Upon approval of rates to be charged to authorized users for use of any network services offered by the commission, the commission shall provide written notice to the affected users.

12.3(1) A rate increase for voice and data transmissions shall become effective upon the date established by the commission.

12.3(2) Video rates shall be established in September of each fiscal year with an effective date of July 1 of the next following fiscal year.

751—12.4(8D) Rates for educational users. Rates for educational access shall among other things ensure that rural communities have access to comparable services to the services provided in urban areas resulting from any plans to construct, install, repair, or maintain any part of the network. Educational rates for K-12 and area education agencies shall include meeting events for authorized users. All other meeting events for other educational users shall be charged at the administrative rate established for state agencies for meeting events. Educational use for state agencies shall be charged at the higher educational rate. The purpose of the meeting event shall determine the charge for the session not the originating or receiving sites for the meeting event itself. If the training or meeting event is for federal authorized users or telemedicine authorized users, the rate applicable to these users shall apply. An educational user and area education agency users other than K-12 users must certify the type of use it intends at the time an event is scheduled on the network.

751—12.5(8D) Rates for telemedicine and the federal government. A fee established by the commission to be charged to a hospital licensed pursuant to Iowa Code chapter 135B, a physician clinic, or the federal government shall be at an appropriate rate so that, at a minimum, there is no state subsidy related to the costs of the connection to or use of the network related to such user. The fees charged for use of the network shall be based on the ongoing expenses of the network.

751—12.6(8D) Rate dispute resolution.

12.6(1) Definitions. A rate dispute shall exist when the payor disagrees with the rate charged by the commission for the service used by the user. A rate dispute shall not be a contested case proceeding.

12.6(2) Factors in rate dispute. In the event of a rate dispute, the executive director, or the commission’s designee (decision maker) shall decide which rate is applicable for the network service used. In making such a decision, the executive director or the commission’s designee shall consider all relevant factors known to the decision maker supplied by the commission staff or the user including, but not limited to, the following:

- a. Nature, frequency or duration of the use requested;
- b. The purpose of the use;
- c. The audience for the use;
- d. Whether the use is for training, testing, a meeting or other use;
- e. Whether the use is an educational use;

f. Any other factor deemed relevant by the decision maker based upon the evidence presented.

12.6(3) *Written decision.* In the event that the decision maker makes a decision regarding the rate dispute, the decision maker shall prepare a memorandum regarding the conflict and its resolution. No oral testimony shall be taken regarding the rate dispute. The memorandum shall identify the authorized user or users involved, the nature of the rate dispute, the decision maker's decision, the factors considered by the decision maker and the reasons for the decision. The memorandum shall be created within 24 hours after the decision is made and shall be maintained by the decision maker for at least 12 months after the decision is made. A copy of the memorandum shall be faxed and mailed to each authorized user affected by the decision. The memorandum shall include a notice regarding the time within which an aggrieved party may appeal with filing instructions included in the notice.

12.6(4) *Notice of appeal.* Any authorized user affected by the decision regarding a rate dispute may appeal that decision to the commission by filing written notice of appeal thereof either by fax, hand delivery or by regular or overnight mail with the decision maker within five days after the authorized user receives a copy of the decision. The notice of appeal shall identify the decision in question and the authorized user making the appeal.

12.6(5) *Filing supporting documents for appeal.* Within seven days following filing of the notice of appeal, the aggrieved party shall file with the executive director or the commission's designee, a written statement of evidence identifying all reasons or evidence upon which the aggrieved party relies in support of its appeal. The appealing user may attach to the statement of evidence any documents or information which the user wishes to submit, provided that no more than 25 pages of attachments shall be submitted unless the aggrieved party obtains permission of the commission to attach additional documentation for good cause shown. The commission may allow oral arguments.

12.6(6) *Time for appeal decision.* Within seven days after the statement of evidence is filed, the commission or the commission's designee shall file a written appeal decision affirming, reversing or modifying the decision of the decision maker regarding the rate dispute.

12.6(7) *Final agency action for appeal.* The appeal decision shall state the factors considered by the commission and the reasons for the decision. The decision shall be delivered to each authorized user affected by the decision. The appeal decision shall constitute final agency action for the purposes of Iowa Code chapter 17A.

This chapter is intended to implement Iowa Code section 8D.3.

[Filed 3/21/97, Notice 1/15/97—published 4/9/97, effective 5/14/97]

[Filed 3/24/06, Notice 2/15/06—published 4/12/06, effective 5/17/06]