

CHAPTER 38
LOCAL EXCHANGE COMPETITION

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/9/30

199—38.1(476) General information.

38.1(1) *Application and purpose of rules.* This chapter applies to local exchange carriers. The purpose of these rules is to further the development of competition in the local exchange services market.

38.1(2) *Definitions.* For the administration and interpretation of this chapter, the following words and terms have the meaning indicated below, unless the context indicates otherwise:

“*Act*” means the Telecommunications Act of 1996, effective April 9, 2025.

“*Arbitration*” means the investigative process whereby a dispute is submitted to the commission for resolution.

“*Bona fide request*” means a request to a local exchange carrier that demonstrates a good faith showing that the requesting party intends to purchase the services requested within six months of the date of the request.

“*Competitive local exchange carrier*” means any local exchange carrier that is not an incumbent local exchange carrier.

“*Incumbent local exchange carrier*” means a local exchange carrier, or its successor, that was the historical provider of local exchange service pursuant to an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the commission as of September 30, 1992.

“*Local exchange carrier*” means the same as defined at 199—Chapter 22.

“*Mediation*” means the process in which a neutral party assists the parties in reaching their own settlement but does not have the authority to make a binding decision.

[ARC 8998C, IAB 3/5/25, effective 4/9/25]

199—38.2(476) Interconnection requirements. A local exchange carrier that originates local telecommunications traffic and desires to terminate that traffic on the network of another local exchange carrier may choose the point(s) of interconnection between the two networks for the exchange of that originating local telecommunications traffic at any technically feasible point within the terminating carrier’s network. Interconnection must be equal in quality to that provided by the local exchange carrier to itself, any affiliate, or any other party to which the local exchange carrier provides interconnection. Interconnection must be on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

[ARC 8998C, IAB 3/5/25, effective 4/9/25]

199—38.3(476) Unbundled facilities, services, features, functions, and capabilities.

38.3(1) *Tariff filings.*

a. Filing schedule. Each incumbent local exchange carrier shall file tariffs implementing unbundling for the facilities enumerated in paragraph 38.3(1)“*b.*” The obligation to file a tariff does not apply to a rural telephone company until the conditions specified in 47 U.S.C. Section 251(f)(1), effective April 9, 2025, have been met.

b. List of unbundled essential facilities. Each incumbent local exchange carrier’s tariff filing shall, at a minimum, unbundle the following essential facilities, services, features, functions, and capabilities: loops, ports, signaling links, signal transfer points, facilities to interconnect unbundled links at the central office, interoffice transmission facilities, listings in the directory assistance database, inbound operator services including busy-line verification and call interrupt, interconnection to the 911 system, and interconnection to the tandem switch for routing to other carriers.

38.3(2) *Requests for unbundled facilities.* Except as allowed in subrule 38.3(3), requests to unbundle facilities, services, features, functions, and capabilities shall be processed as follows:

a. A competitive local exchange carrier may make a bona fide request of an incumbent local exchange carrier to make additional unbundled essential facilities available. After receiving a request for

additional unbundled essential facilities, the incumbent local exchange carrier shall respond within 30 days of the request either by agreeing to the request or by denying the request. If the incumbent local exchange carrier agrees to fulfill the request, the carrier shall file a tariff unbundling the essential facility within 60 days of the initial request.

b. If the incumbent local exchange carrier denies the request, a competitive local exchange carrier may petition the commission to classify the requested facility as essential, as defined by Iowa Code section 476.100(2), and to require the incumbent local exchange carrier to make the requested facility available on an unbundled basis by filing a tariff. In such a petition, the competitive local exchange carrier shall provide information to the commission showing how the requested facility meets the definition of essential facility found in Iowa Code section 476.100(2). The petitioning party under this subrule may state a preference for proceeding by rulemaking or contested case, but the commission will select the process to be used.

38.3(3) *Alternative procedures.* As an alternative to the procedures in subrule 38.3(2), a competitive local exchange carrier may elect the negotiation, mediation, and arbitration procedures available under 47 U.S.C. Section 252, effective April 9, 2025, by notifying the incumbent local exchange carrier and the commission in writing at the time additional unbundled facilities are requested.

38.3(4) *Reclassifying essential facilities.* An incumbent local exchange carrier may, at any time, petition the commission with a request to reclassify a facility classified as essential. With its petition, the incumbent local exchange carrier shall provide information to the commission showing why the facility no longer meets the definition of essential found in Iowa Code section 476.100(2). The commission will determine the procedure to be used in reviewing the petition.

38.3(5) *Interconnection to essential facilities.* The terms and conditions under which competitive local exchange carriers shall be able to interconnect with an incumbent local exchange carrier's unbundled facilities shall be technically and economically equivalent to those under which the incumbent local exchange carrier provides those facilities to itself or its affiliates. If it believes such terms and conditions are not technically or economically feasible, the incumbent local exchange carrier may petition the commission for a waiver of this provision.

[ARC 8998C, IAB 3/5/25, effective 4/9/25]

199—38.4(476) Terminating access charge complaints. No local exchange carrier shall deliver traffic to another local exchange carrier as local service or extended area service terminating traffic if the terminating traffic is long distance or some other type of traffic for which terminating switched access charges would otherwise have been payable. Any local exchange carrier may bring a complaint to the commission if another local exchange carrier has violated this requirement or taken insufficient measures to determine whether switched access charges would otherwise have been payable. The commission may order payment or refund of compensation withheld from or received by a local exchange carrier in violation of this rule, with appropriate interest or tarified late payment penalties.

[ARC 8998C, IAB 3/5/25, effective 4/9/25]

199—38.5(476) Mediation and arbitration. This rule applies to all local exchange carriers, except for rural telephone companies as defined in Section 3(47) of the Telecommunications Act of 1996. The commission may make all or part of this rule applicable to a rural telephone company or companies in proceedings relating to Section 251(f) of the Act.

38.5(1) *Voluntary negotiations.*

a. Initiation of negotiations. A telecommunications carrier initiates the negotiation process by requesting interconnection, services, or network elements as defined in the Act from an incumbent local exchange carrier pursuant to Section 252(a)(1) of the Act. The day the request is received by the incumbent local exchange carrier is day one of the schedule set for resolution of all issues. Within five days of receipt of the request, the incumbent local exchange carrier shall file with the commission a copy of the request and a statement of the date the request was received.

b. Duty to negotiate. All negotiations shall be made in good faith for the requested interconnection, services, or network elements. Good faith negotiations require that the parties meet and confer at reasonable times and places, remain open to the arguments and proposals, and work toward the goal of reaching agreement on terms and conditions for the requested interconnections and services. Refusal of any

party to give information about its costs or other pertinent data upon request of another party may be considered by the commission as a failure to negotiate in good faith.

38.5(2) Mediation.

a. Initiation of mediation. At any time during the negotiations, any party to the negotiations may request mediation. The request shall be filed with the commission and simultaneously served on the other parties. Alternatively, parties may file a joint request for mediation with the commission. A request for mediation shall contain a brief statement of the nature of the dispute and the names, addresses, and telephone and fax numbers of the parties or their representatives.

b. Appointment of mediator. The commission may appoint any competent, impartial person of character and ability to act as mediator. The commission will immediately convene a meeting of the parties to discuss appointment of a mutually acceptable mediator.

c. Parties. Only parties to the negotiations will be permitted to participate as parties to the mediation.

d. Assessment of costs. The cost of mediation shall be shared equally by the parties and paid directly to the mediator.

38.5(3) Arbitration.

a. Initiation of arbitration. Any party to the negotiation may petition the commission to arbitrate all open issues. The petition requesting arbitration must be filed during the period from the 135th day through the 160th day after the date on which the request for negotiation was received by the local exchange carrier. Simultaneously with filing the petition with the commission, the petitioning party shall provide a copy of the petition and accompanying documentation to the other parties.

b. Supporting documentation. On the same day of the filing of the request for arbitration, the petitioning party shall provide to the commission the date upon which the request for negotiation for the interconnection, services, or network elements in dispute was made to the local exchange carrier, a list of unresolved issues, the position of each party on each of the unresolved issues, how the parties' positions meet or fail to meet the requirements of Section 251 of the Act or other regulations, any supporting documents for positions taken by the parties on unresolved issues including all relevant cost studies where prices are in dispute, whether a hearing is requested, a list of issues discussed and resolved prior to the petition for arbitration, any requests for confidentiality, and any other documents relevant to the dispute.

c. Response to the request for arbitration. A nonpetitioning party to the negotiation may respond to the petitioning party's position and provide additional information within 25 days after the petition for arbitration was received by the commission.

d. Parties. Only parties to the negotiations will be permitted to participate as parties to the arbitration, unless the commission consolidates proceedings. However, the office of consumer advocate will also be considered a party to the arbitration proceeding.

e. Docketing of the arbitration request. Upon receipt of a timely and complete petition for arbitration, the commission shall docket the request for consideration by the commission.

f. Arbitration schedule and procedures. Within 15 days of the receipt of the petition for arbitration, the commission will schedule a conference in order to plan an arbitration hearing date, clarify the issues to be resolved, identify additional information needed to reach a decision on the issues, schedule production of documents and other information, discuss or rule on any other procedural matters, and consider any other matters that will expedite the arbitration process.

g. Decision. Following the hearing, the commission will issue its preliminary written decision on the unresolved issues. All exceptions to the decision must be filed by the parties within ten days of issuance of the preliminary decisions. All replies to exceptions shall be filed within five days of the filing of the exceptions. A final written decision regarding all issues offered in arbitration shall be issued by the commission within the nine-month deadline in the Act.

38.5(4) Commission review of agreements.

a. Filing of agreements. All interconnection agreements shall be filed with the commission for approval within 15 days after the issuance of a final decision on the arbitrated issues, or, in the case of negotiated agreements, after the execution of the agreement.

b. Comments on arbitrated agreements. Within ten days following the filing of the arbitrated agreement with the commission for review, the parties involved in the arbitration, and any other interested

party, may submit written comments to the commission supporting either approval or rejection of the agreement. If the commission does not approve or reject the agreement within 30 days after submission by the parties of an agreement adopted by arbitration, the agreement shall be deemed approved.

c. Comments on negotiated agreements and amendments to agreements. Within 30 days of the filing date of the negotiated agreement or amendment, the parties involved in the negotiations and any other interested party may submit written comments with the commission supporting either acceptance or rejection of the agreement or amendment. If the commission does not issue a decision within 90 days after the filing date, the agreement or amendment shall be deemed approved.

d. Comments on adoption of agreements. No commission approval is necessary when there is an adoption of the terms, conditions, and rates from an approved interconnection agreement. The adoption is effective upon filing. If there are terms, conditions, or rates in the filing that are not from an adopted agreement, then the filing is subject to the provisions of paragraph 38.5(4) "c."

e. Indefinite terms, conditions, or rates. When the agreement or amendment contains terms, conditions, or rates that are not yet agreed to, the parties shall file an amendment to the agreement once they have reached agreement on the terms, conditions, or rates.

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