

199—38.4(476) Unbundled facilities, services, features, functions, and capabilities.**38.4(1) Tariff filings.**

a. Filing schedule. Each local exchange carrier shall file tariffs implementing unbundling for the facilities enumerated in paragraph 38.4(1)“*b.*” The obligation to file a tariff shall not apply to a rural telephone company until the conditions specified in 47 U.S.C. Section 251(f)(1) have been met.

b. List of unbundled essential facilities. Each 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.

38.4(2) Requests for unbundled facilities. Except as allowed in subrule 38.4(3), requests to unbundle facilities, services, features, functions, and capabilities shall be processed as follows:

a. A competitive local exchange service provider may make a bona fide request of a local exchange carrier to make additional unbundled essential facilities available. After receiving a request for additional unbundled essential facilities, the local exchange carrier shall respond within 30 days of the request either by agreeing to the request or by denying the request. If the 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 local exchange carrier denies the request, a competitive local exchange service provider may petition the commission to classify the requested facility as essential, as defined by Iowa Code section 476.100(2), and to require the 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 service provider 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 rule making or contested case, but the commission will select the process to be used.

38.4(3) Alternative procedures. As an alternative to the procedures in subrule 38.4(2), a competitive local exchange service provider may elect the negotiation, mediation, and arbitration procedures available under 47 U.S.C. Section 252, by notifying the local exchange carrier and the commission in writing at the time additional unbundled facilities are requested.

38.4(4) Reclassifying essential facilities. A local exchange carrier may, at any time, petition the commission with a request that a facility classified as essential, either by the terms of subrule 38.4(1) or pursuant to a subsequent request of a competitive local exchange service provider, be removed from that classification and no longer be required to be provided on an unbundled basis. With its petition, the 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.

38.4(5) Interconnection to essential facilities.

a. Nondiscriminatory access. All competitive local exchange service providers shall have access to a local exchange carrier’s unbundled facilities on the same nondiscriminatory terms and conditions. Such terms and conditions shall be specified in the local exchange carrier’s tariff for unbundled facilities.

b. Reasonable equal access. The terms and conditions under which competitive local exchange service providers shall be able to interconnect with a local exchange carrier’s unbundled facilities shall be technically and economically equivalent to those under which the 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 local exchange carrier may petition the commission for a waiver of this provision.

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