

CHAPTER 22
REGULATION OF TELECOMMUNICATIONS SERVICE
[Prior to 10/8/86, Commerce Commission[250]]

199—22.1(476) General information.

22.1(1) *Application and purpose of rules.* These rules shall apply to any telecommunications service provider operating within the state of Iowa subject to Iowa Code chapter 476, including local exchange telecommunications service providers, interexchange telecommunications service providers, or alternative operator services companies. These rules are intended to govern the exercise of the board's powers and duties relating to the provision of telecommunications service in the state of Iowa, and to govern the form, contents, and filing of registrations, tariffs, and other documents necessary to carry out the board's powers and duties. A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with rule 199—1.3(17A,474,476).

22.1(2) *Definitions.* For the administration and interpretation of these rules, the following words and terms shall have the meanings indicated below:

“Alternative operator services company” or “AOS company” means a nongovernmental company which receives more than half of its Iowa intrastate telecommunications services revenues from calls placed by end-user customers from telephones other than ordinary residence or business telephones. This definition is further limited to include only companies which provide operator assistance, either through live or automated intervention, on calls placed from other than ordinary residence or business telephones, and does not include services provided under contract to rate-regulated local exchange telecommunications service providers. Alternative operator services companies as defined are telecommunications service providers subject to the rules in this chapter.

“Board” means the Iowa utilities board.

“Calls” means telephone messages attempted by customers or users.

“Competitive local exchange carrier” or “CLEC” means a telecommunications service provider, other than an incumbent local exchange telecommunications service provider, that provides local exchange service.

“Customer” means any person as defined in Iowa Code section 4.1(20) responsible by law for payment for communications service from the telecommunications service provider.

“Exchange” means a unit established by a telecommunications service provider for the administration of communications services.

“Exchange service” means communications service furnished by means of exchange plant and facilities.

“Exchange service area” or “exchange area” means the general area in which the telecommunications service provider holds itself out to furnish local exchange telephone service.

“High-volume access service” or “HVAS” is any service that results in an increase in total billings for intrastate exchange access for a local exchange telecommunications service provider in excess of 100 percent in less than six months. By way of illustration and not limitation, HVAS typically results in significant increases in interexchange call volumes and can include chat lines, conference bridges, call center operations, help desk provisioning, or similar operations. These services may be advertised to consumers as being free or for the cost of a long distance call. The call service operators often provide marketing activities for HVAS in exchange for direct payments, revenue sharing, concessions, or commissions from local telecommunications service providers.

“Incumbent local exchange carrier” or “ILEC” means a telecommunications service provider, or successor to a telecommunications service provider, 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 approved by the board as of September 30, 1992.

“Information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the

management, control, or operation of a telecommunications system or the management of a telecommunications service.

“Interexchange service” is the provision of intrastate telecommunications services and facilities between local exchanges.

“Interexchange telecommunications service provider” means a telecommunications service provider, a resale telecommunications service provider or other entity that provides intrastate telecommunications services and facilities between exchanges within Iowa, without regard to how such traffic is carried. A local exchange telecommunications service provider that provides exchange service may also be considered an interexchange telecommunications service provider. An interexchange telecommunications service provider that provides local exchange service may also be considered a local exchange service provider.

“InterLATA toll service” means toll service that originates and terminates between local access transport areas.

“Internet protocol-enabled service” means any service, capability, functionality, or application that uses Internet protocol or any successor protocol and enables an end user to send or receive voice, data, or video communications in Internet protocol format or a successor format.

“IntraLATA toll service” means toll service that originates and terminates within the same local access transport area.

“Intrastate access services” are services of telecommunications service providers which provide the capability to deliver intrastate telecommunications services which originate from end users to interexchange telecommunications service providers and the capability to deliver intrastate telecommunications services from interexchange telecommunications service providers to end users.

“Local exchange service” means telephone service furnished between customers or users located within an exchange area.

“Local exchange telecommunications service provider” means a registered telecommunications service provider that provides local exchange service. The telecommunications service provider may also provide other services and facilities such as access services.

“Message” means a completed telephone call by a customer or user.

“Rates” means amounts billed to customers for alternative operator services or intrastate access services.

“Registration” means compliance by all telecommunications service providers with Iowa Code chapter 476. Registration shall be in the form as provided by the board in 199—Chapter 23.

“Retail services” means those communications services furnished by a telecommunications service provider directly to end-user customers. For an alternative operator services company, the terms and conditions of its retail services are addressed in an approved intrastate tariff.

“Tariff” means the entire body of rates, classifications, rules, procedures, policies, etc., adopted and filed with the board by a local exchange telecommunications service provider for wholesale services, not governed by an interconnection agreement or commercial agreement, or by an alternative operator services company for retail services, in fulfilling its role of furnishing telecommunications services.

“Telecommunications service provider” or *“service provider”* means a provider of local exchange or long distance telephone services, or both, other than commercial mobile radio service. “Telecommunications service provider” includes alternative operator service companies and providers of wholesale service. “Telecommunications service provider” includes companies formerly included in the definition of “telephone utility” or “utility” and means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing communications service to the public for compensation.

“Toll message” means a message made between different exchange areas for which a charge is made, excluding message rate service charges.

“Traffic” means telephone call volume, based on number and duration of calls.

“Transitional intrastate access service” means annual reductions affecting terminating end office access service that was subject to intrastate access rates as of December 31, 2011; terminating tandem-switched transport access service subject to intrastate access rates as of December 31, 2011;

and originating and terminating dedicated transport access service subject to intrastate access rates as of December 31, 2011.

“Voice over Internet protocol service” means an Internet protocol-enabled service that facilitates real-time, two-way voice communication that originates from, or terminates at, a user’s location and permits the user to receive a call that originates from the public switched telephone network and to terminate a call on the public switched telephone network.

“Wholesale services” means those communications services furnished by one telecommunications service provider to another provider of communications services. The terms and conditions of wholesale services may be addressed in a telecommunications service provider’s approved intrastate access tariff, local interconnection tariff, interconnection agreement reached under Sections 251 and 252 of the federal Telecommunications Act, or in a commercial agreement reached between the providers. Nothing in this chapter shall affect, limit, modify, or expand an entity’s obligations under Sections 251 and 252 of the federal Telecommunications Act; any board authority over wholesale telecommunications rates, services, agreements, interconnection, providers, or tariffs; or any board authority addressing or affecting the resolution of disputes regarding compensation between telecommunications service providers.

[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.2(476) Tariffs.

22.2(1) *Tariffs to be filed with the board.* Telecommunications service providers which are required to file tariffs with the board, such as alternative operator service companies and telecommunications service providers offering intrastate access, shall maintain tariffs in a current status. A copy of the tariffs shall be available upon request. The tariffs shall be classified, designated, arranged, and submitted so as to conform to the requirements of this chapter or board order. Provisions in the tariffs shall be definite and stated so as to minimize ambiguity or the possibility of misinterpretation. The form, identification, and content of tariffs shall be in accordance with these rules unless otherwise provided.

22.2(2) *Form and identification.* All tariffs shall conform to the following requirements:

a. The tariff shall be printed so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side. In the case of telecommunications service providers subject to regulation by any federal agency, the format of the sheets of the tariff filed with the board may be the same format as is required by the federal agency, provided that the requirements of the board as to title page; identity of superseding, replacing or revising sheets; identity of amending sheets; identity of the filing telecommunications service provider, issuing official, date of issue and effective date; and the words “Filed with the board” shall be applied to modify the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show the following in the order set forth below:

(1) The first page shall be the title page, which shall show:

Name of Telecommunications Service Provider

Telecommunications Tariff

Filed with Iowa Utilities Board

Date

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on its title page that it is a revision of a tariff on file.

(3) When a revision or amendment is made to a filed tariff, the revision or amendment shall show on each sheet the designation of the original tariff or the number of the immediately preceding revision or amendment which it replaces.

(4) When a new part of a tariff eliminates an existing part of a tariff, it shall so state and clearly identify the part eliminated.

c. Any tariff modifications as described above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change

in text. The marked version shall show all additions and deletions, with all new language marked by underlined text and all deleted language indicated by strike-through. The following symbols are to be used in identifying changes to tariffs.

<u>Symbol</u>	<u>Meaning</u>
(C)	A change in regulation.
(D)	A discontinued rate or regulation.
(I)	An increased rate.
(N)	A new rate, treatment or regulation.
(R)	A reduced rate or new treatment resulting in a reduced rate.
(T)	A change in the text that does not include a change in rate, treatment, or regulation.

d. All sheets except the title page shall have, in addition to the information required above, the following further information:

(1) The name of the telecommunications service provider, which shall be set forth above the words “Telecommunications Service Provider Tariff” under which shall be set forth the words “Filed with board.” If the telecommunications service provider is not a corporation and a trade name is used, the name of the individual or partners must precede the trade name.

(2) The issue date and the name of the issuing official.

(3) The effective date.

[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.3(476) Customer complaints. Complaints from customers about telecommunications service shall be processed pursuant to the board’s rules in 199—Chapter 6. Unless a customer agrees to an alternative form of notice, local exchange telecommunications service providers shall notify customers by bill insert or notice on the bill form of the address and telephone number where a telecommunications service provider representative can be reached. The bill insert or notice shall also include a statement: “If (telecommunications service provider name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by writing to the Iowa Utilities Board, 1375 E. Court Avenue, Des Moines, Iowa 50319; by calling 515-725-7321 or toll-free 877-565-4450; or by email to customer@iub.iowa.gov.” The bill insert or notice on the bill shall be provided no less than annually.

[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.4(476) Intrastate access charge application, tariff procedures, and rates.

22.4(1) Application of intrastate access charges.

a. Intrastate access charges shall apply to all intrastate access services rendered to interexchange telecommunications service providers. Intrastate access charges shall not apply to extended area service (EAS) traffic. In the case of resale of services of interexchange telecommunications service providers, access charges shall apply as follows:

(1) The interexchange telecommunications service provider shall be billed as if no resale were involved.

(2) The resale telecommunications service provider shall be billed only for access services not already billed to the underlying interexchange telecommunications service provider.

(3) Specific billing treatment and administration shall be provided pursuant to tariff.

b. Except as provided in subparagraph 22.4(1) “*b*”(3), no person shall make any communication of the type and nature transmitted by telecommunications service providers, between exchanges located within Iowa, over any system or facilities, which are or can be connected by any means to the intrastate telecommunications network, and uses exchange telecommunications service provider facilities, unless the person shall pay to the exchange telecommunications service provider or telecommunications service providers which provide service to the exchange where the communication is originated and the exchange where it is terminated, in lieu of the carrier common line charge, a charge in the amount of \$25 per month

per circuit that is capable of interconnection. However, if the person provides actual access minutes to the exchange telecommunications service provider, the charge shall be the charge per access minute or fraction thereof, not to exceed \$25 per line per month. The charge shall apply in all exchanges. However, if the person attests in writing that the person's facility cannot interconnect and is not interconnected with the exchange in question, the person will not be subject to the charge in that exchange.

(1) In the event that a communication is made without compliance with this rule, the telecommunications service provider or telecommunications service providers serving the person shall terminate telecommunications service after notice to the person. The telecommunications service provider shall not reinstate service until the board orders the telecommunications service provider to restore service. The board shall order service to be restored when the board has reasonable assurance that the person will comply with this rule.

(2) In any action concerning this rule, the burden of proof shall be upon the person making intrastate communications.

(3) This rule shall be inapplicable to administrative communications made by or to a telecommunications service provider.

22.4(2) Filing of intrastate access service tariffs.

a. Tariffs providing for intrastate switched access services shall be filed with the board by a local exchange telecommunications service provider that provides such services. A local exchange telecommunications service provider whose tariff or concurring tariff does not contain automatic reductions to implement the applicable transitional intrastate access service reductions shall file revised transitional intrastate access services rates with the board to become effective on or about July 1 of each year until such terminating rates are removed from the tariff. A competitive local exchange carrier that is required to benchmark its intrastate access service rates to the rates of an incumbent local exchange carrier shall file revised transitional intrastate access rates with the board to become effective on or about August 1 of each year until such terminating rates are removed from the tariff. Unless otherwise provided, the filings are subject to the applicable rules of the board.

b. Except in situations involving HVAS, a local exchange telecommunications service provider may concur in the intrastate access tariff filed by another local exchange telecommunications service provider serving the same exchange area. However, a competitive local exchange carrier may not concur in the intrastate access tariff of an incumbent local exchange carrier that qualifies as a rural telephone company pursuant to 47 U.S.C. § 153(44) unless the competitive local exchange carrier is also a rural CLEC pursuant to 47 CFR 61.26(a)(6).

(1) Alternatively, a local exchange telecommunications service provider may voluntarily elect to join another local exchange telecommunications service provider or telecommunications service providers in forming an association of local exchange telecommunications service providers. The association may file intrastate access service tariffs.

(2) All elements of the filings under this rule, including access service rate elements, shall be subject to review and approval by the board.

c. All intrastate access service tariffs shall incorporate the following:

(1) Carrier common line charge. The rate for the intrastate carrier common line charge shall be three cents per access minute or fraction thereof for the originating segments of the communication unless a lower rate is required by the transitional intrastate access service reductions or if numbered paragraphs 22.4(2) "c"(1) "1," "2," and "3" are applicable. The carrier common line charge shall be assessed to exchange access made by an interexchange telecommunications service provider, including resale telecommunications service providers. In lieu of this charge, interconnected private systems shall pay for access as provided in paragraph 22.4(1) "b."

1. Incumbent local exchange telecommunications service provider intrastate access service tariffs shall include the carrier common line charges approved by the board.

2. A competitive local exchange telecommunications service provider that concurs in or mirrors the rates in the access services tariff of the Iowa Communications Alliance, or its successor, shall deduct the originating and terminating carrier common line charges from its intrastate access service tariff.

3. Carrier common line charge for originating segments of the communication may be stepped down in compliance with requirements established by the Federal Communications Commission for originating access.

(2) End-user charge. No intrastate end-user charge shall be assessed.

(3) Universal service fund. No universal service fund shall be established.

(4) Transitional and premium rates. There shall be no discounted transitional rate elements applied in Iowa except as otherwise specifically set forth in these rules.

(5) A telecommunications service provider may, pursuant to tariff, bill for access on the basis of assumed minutes of use where measurement is not practical. However, if the interexchange telecommunications service provider provides actual minutes of use to the billing telecommunications service provider, the actual minutes shall be used.

(6) In the absence of a waiver granted by the board, local exchange telecommunications service providers shall allow any interexchange telecommunications service provider the option to use its own facilities that were in service on March 19, 1992, to provide local access transport service to terminate its own traffic to the local exchange telecommunications service provider. The interexchange telecommunications service provider may use its facilities in the manner and to a meet point agreed upon by the local exchange telecommunications service provider and the interexchange telecommunications service provider as of March 19, 1992. Changes mutually agreeable to the local exchange telecommunications service provider and the interexchange telecommunications service provider after that date also shall be recognized in allowing the interexchange telecommunications service provider to use its own local access transport facilities to terminate its own traffic. Recognition under this rule will also be extended to improvements by an interexchange telecommunications service provider that provided all the transport facilities to an exchange on March 19, 1992, whether the improvements were mutually agreeable or not, unless the improvements are inconsistent with an agreement between the interexchange telecommunications service provider and the local exchange telecommunications service provider.

(7) A provision prohibiting the application of association access service rates to HVAS traffic.

d. A local exchange telecommunications service provider that is adding a new HVAS customer or otherwise reasonably anticipates an HVAS situation shall provide notice of the situation, the telephone numbers that will be assigned to the HVAS customer (if applicable), and the expected date service to the HVAS customer will be initiated, if applicable. Notice may be sent to each interexchange telecommunications service provider that paid for intrastate access services from the local exchange telecommunications service provider in the preceding 12 months; to any telecommunications service provider with whom the local exchange telecommunications service provider exchanged traffic in the preceding 12 months; and to all other local exchange telecommunications service providers authorized to provide service in the subject exchange, by a method calculated to provide adequate notice. Any interexchange telecommunications service provider may request negotiations concerning the access rates applicable to calls to or from the HVAS customer.

(1) Any interexchange telecommunications service provider that believes a situation has occurred or is occurring which does not specifically meet the HVAS threshold requirements defined in subrule 22.1(2), but which raises the same general concerns and issues as an HVAS situation, may file a complaint with the board.

(2) A local exchange telecommunications service provider that experiences an increase in intrastate access billings that qualifies as an HVAS situation, but did not add a new HVAS customer or otherwise anticipate the situation, shall notify interexchange telecommunications service providers of the HVAS situation at the earliest reasonable opportunity, as described in the preceding paragraph. Any interexchange telecommunications service provider may request negotiations concerning whether the local exchange telecommunications service provider's access rates, as a whole or for HVAS only, should be changed to reflect the increased access traffic. When a telecommunications service provider requests negotiations concerning intrastate access services, the companies shall negotiate in good faith to achieve reasonable terms and procedures for the exchange of traffic. No access charges shall apply to the HVAS traffic until an access tariff for HVAS has been approved by the board. At

any time that any telecommunications service provider believes negotiations will not be successful, the telecommunications service provider may file a written complaint with the board. In any such proceeding, the board will consider setting the rate for access services for HVAS traffic based upon the incremental cost of providing HVAS, although any other relevant evidence may also be considered. The incremental cost will not include marketing or other payments made to HVAS customers. The resulting rates for access services may include a range of rates based upon the volume of access traffic or other relevant factors. Any negotiations pursuant to this subparagraph shall conclude within 60 days. After 60 days, a telecommunications service provider may petition the board to extend the period of negotiations or may petition the board to establish a procedural schedule and hearing date.

22.4(3) *Notice of intrastate access service tariffs.*

a. Each telecommunications service provider that files new or changed tariffs relating to access charges or access service shall give written notice of the new or changed tariffs to the telecommunications service provider's interexchange telecommunications service provider access customers, the board, and the consumer advocate. Notice shall be given on or before the date of the filing of the tariff. The notice shall consist of: the file date and proposed effective date of the tariff, a description of the proposed changes, and the tariff section number where the service description is located. If two or more local exchange telecommunications service providers concur in a single tariff filing, the local exchange telecommunications service providers may send a joint written notice to the board, the consumer advocate, and the interexchange telecommunications service providers.

b. The board shall not approve any new or changed tariff described in paragraph 22.4(3) "a" until after the period for resistance.

22.4(4) *Resistance to intrastate access service tariffs.*

a. If an interexchange telecommunications service provider affected by an access service filing or the consumer advocate desires to file a resistance to a proposed new or changed access service tariff, it shall file its resistance within 14 days after the filing of the proposed tariff. The interexchange telecommunications service provider shall send a copy of the resistance to all telecommunications service providers filing or concurring in the proposed tariff.

b. After receipt of a timely resistance, the board may:

(1) Deny the resistance if it does not on its face present a material issue of adjudicative fact or the board determines the resistance to be frivolous or otherwise without merit and approve the tariff; or

(2) Either suspend the tariff or approve the tariff to become effective subject to refund; and initiate informal complaint proceedings; or

(3) Either suspend the tariff or approve the tariff to become effective subject to refund; and initiate contested case proceedings; or

(4) Reject the tariff, stating the grounds for rejection.

c. The interexchange telecommunications service provider or the consumer advocate shall have the burden to support its resistance.

d. If contested case proceedings are initiated upon resistance filed by an interexchange telecommunications service provider, the interexchange telecommunications service provider may be required to pay the expenses reasonably attributable to the proceedings. The board will assess the costs of the proceeding on a case-by-case basis.

22.4(5) *Access charge rules to prevail.* The provisions of this rule shall be determinative of the procedures relating to intrastate access service tariffs and shall prevail over all inconsistent rules.

[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.5(476) Interexchange telecommunications service provider service and access.

22.5(1) *Interexchange telecommunications service provider service.* An interexchange telecommunications service provider may provide interexchange service by complying with the laws of this state and the rules of this board. Any company or other entity accessing local exchange facilities or services in order to provide interexchange communication services to the public shall be considered to be an interexchange telecommunications service provider and subject to the rules herein, unless otherwise exempted. Such telecommunications service providers are required to file a registration

form, reports, and other items and are subject to service standards as specified in board rules, unless otherwise exempted.

22.5(2) *Interexchange telecommunications service provider intrastate access.* Intrastate access to local exchange services or facilities may be obtained by an interexchange telecommunications service provider by ordering and paying for such intrastate access pursuant to the applicable tariff filed by the exchange telecommunications service provider in question, or as otherwise provided by agreement between the parties.

[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.6(476) Alternative operator services.

22.6(1) *Tariffs.* Alternative operator service companies must provide service pursuant to board-approved tariffs covering both rates and service.

22.6(2) *Blocking.* AOS companies shall not block the completion of calls which would allow the caller to reach a long distance telecommunications service provider different from the AOS company. All AOS company contracts with contracting entities must prohibit call blocking by the contracting entity. The contracting entity shall not violate that contract provision.

22.6(3) *Posting.*

a. Contracting entities must post on or in close proximity to all telephones served by an AOS company the following information:

- (1) The name and address of the AOS company;
- (2) A customer service number for receipt of further service and billing information; and
- (3) Dialing directions to the AOS operator for specific rate information.

b. Contracts between AOS companies and contracting entities shall contain provisions for posting the information. The AOS companies also are responsible for the form of the posting and shall make reasonable efforts to ensure implementation, both initially and on an updated basis.

22.6(4) *Oral identification.* All AOS companies shall announce to the end-user customer the name of the provider carrying the call and, before billing begins, shall include a sufficient delay period to permit the caller to terminate the call or advise the operator to transfer the call to the end-user customer's preferred telecommunications service provider.

22.6(5) *Billing.* All AOS company bills to end-user customers shall comply with the following requirements:

a. All calls, except those billed to commercial credit cards, shall be itemized and identified separately on the bill. All calls will be rated solely from the end-user customer's point of origin to point of termination.

b. All bills, except those for calls billed to commercial credit cards, shall be rendered within 60 days of the provision of the service.

c. All charges for the use of a telephone instrument shall be shown separately for each call, except for calls billed to a commercial credit card.

22.6(6) *Emergency calls.* All AOS companies shall have a board-approved methodology to ensure the routing of all emergency zero-minus (0-) calls in the fastest possible way to the proper local emergency service agency.

22.6(7) *Service to inmates in correctional facilities.* AOS companies that provide local or intrastate calling services to inmates housed in correctional facilities may provide service that is not consistent with the requirements in this rule by including a statement of noncompliance in the AOS company's tariffs, which tariffs are required to be approved by the board before service is provided. AOS companies providing inmate calling services shall file a copy of each contract in support of the statement of noncompliance.

[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.7(476) Service territories. Service territories are defined by the telephone exchange area boundary maps on file with the board.

22.7(1) *Map availability.* The maps are available for viewing at the board's office during regular business hours, and copies are available at the cost of reproduction.

22.7(2) Map specifications. All ILECs shall have on file with the board maps which identify their exchanges and both the internal exchange boundaries where the telecommunications service provider's own exchanges abut and the ultimate boundaries where the telecommunications service provider's exchanges abut the exchanges of other telecommunications service providers. A CLEC shall either file its own exchange boundary map or adopt the exchange boundary map filed by the ILEC serving that exchange. Maps shall be filed in electronic format as approved by the board. ILECs and CLECs shall file updated exchange maps when the company adds service to an exchange or when the company ceases providing service to an exchange.

[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.8(476) Registration of telecommunications service providers. Each telecommunications service provider required to register with the board pursuant to Iowa Code section 476.95A shall register with the board annually thereafter. Registration shall be completed electronically as provided by the board. If a telecommunications service provider is not required to register, the telecommunications service provider shall file an annual report in compliance with 199—Chapter 23.

22.8(1) The board shall issue an acknowledgment of registration within five business days of receipt of a provider's completed application for registration. Such acknowledgment shall authorize the applicant to obtain telephone numbers, interconnect with other telecommunications service providers, cross railroad rights-of-way pursuant to Iowa Code section 476.27, and provide telecommunications services within the state.

22.8(2) Registration may be transferred to another telecommunications service provider by filing a new or updated registration form. The board shall serve an acknowledgment of the new registration within five business days of receipt.

22.8(3) Registration is required even though a telecommunications service provider has a certificate of public convenience and necessity issued prior to July 1, 2018, and the provider retains the rights conferred by that certificate.

22.8(4) Telecommunications service providers that have not previously provided telecommunications service in Iowa shall register with the board prior to providing telecommunications service in Iowa.

22.8(5) Telecommunications service providers shall include with the registration a list of the exchanges where the telecommunications service provider offers telecommunications service, if applicable. A telecommunications service provider shall file an amended registration prior to expanding service to an exchange not listed on the registration or when exiting an exchange listed on the registration.

22.8(6) Updated registrations are required when the contact information on the registration changes.
[ARC 4831C, IAB 12/18/19, effective 1/22/20]

199—22.9(476) Unauthorized changes in telecommunications service.

22.9(1) Definitions. As used in this rule, unless the context otherwise requires:

"Change in service" means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a customer account.

"Consumer" means a person other than a service provider who uses a telecommunications service.

"Cramming" means the addition or deletion of a product or service for which a separate charge is made to a telecommunications service customer's account without the verified consent of the affected customer. "Cramming" does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made. "Cramming" does not include telecommunications services that are initiated or requested by the customer, including dial-around services such as "10-10-XXX," directory assistance, operator-assisted calls, acceptance of collect calls, and other casual calling by the customer.

"Customer" means the person other than a service provider whose name appears on the account and others authorized by that named person to make changes to the account.

“Executing service provider” means, with respect to any change in telecommunications service, a telecommunications service provider who executes an order for a change in service received from another telecommunications service provider or from its own customer.

“Jamming” means the addition of a preferred telecommunications service provider freeze to a customer’s account without the verified consent of the customer.

“Letter of agency” means a written document complying with the requirements of paragraph 22.9(2)“b.”

“Preferred telecommunications service provider freeze” means the limitation of a customer’s preferred telecommunications service provider choices so as to prevent any change in preferred telecommunications service provider for one or more services unless the customer gives the telecommunications service provider from which the freeze was requested the customer’s express consent.

“Service provider” means a telecommunications service provider providing telecommunications service, not including commercial mobile radio service.

“Slamming” means the designation of a new telecommunications service provider to a customer, including the initial selection of a telecommunications service provider, without the verified consent of the customer. “Slamming” does not include the designation of a new provider of a telecommunications service to a customer made pursuant to the sale or transfer of another telecommunications service provider’s customer base, provided that the designation meets the requirements of paragraph 22.9(2)“e.”

“Soft slam” means an unauthorized change in service by a telecommunications service provider that uses the telecommunications service provider identification code of another telecommunications service provider, typically through the purchase of wholesale services for resale.

“Submitting service provider” means a telecommunications service provider who requests another telecommunications service provider to execute a change in service.

“Telecommunications service” means a local exchange or long distance telephone service other than commercial mobile radio service.

“Verified consent” means verification of a customer’s authorization for a change in service.

22.9(2) Prohibition of unauthorized changes in telecommunications service. Unauthorized changes in telecommunications service, including but not limited to cramming and slamming, are prohibited. Telecommunications service providers shall comply with Federal Communications Commission requirements regarding verification of customer authentication of a change in service and change in service provider as provided for in 47 CFR 64.1120 and 47 CFR 64.2401.

a. Verification required.

(1) No service provider shall submit a preferred telecommunications service provider change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with one of the following procedures:

1. The service provider has obtained the customer’s written authorization in a form that meets the requirements of this rule; or

2. The service provider has obtained the customer’s electronic authorization to submit the preferred telecommunications service provider change order. Such authorization must be placed from the telephone number(s) on which the preferred telecommunications service provider is to be changed and must confirm the information required in numbered paragraph 22.9(2)“a”(1)“1” above. Service providers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit or to a similar mechanism that records the required information regarding the preferred telecommunications service provider change, including automatically recording the originating automatic numbering identification; or

3. An appropriately qualified independent third party has obtained the customer’s oral authorization to submit the preferred telecommunications service provider change order that confirms and includes appropriate verification data. The independent third party must not be owned, managed, controlled, or directed by the service provider or the service provider’s marketing agent; must not have any financial incentive to confirm preferred telecommunications service provider change orders

for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred telecommunications service provider change; or

4. The local service provider may change the preferred service provider, for customer-originated changes to existing accounts only, through maintenance of sufficient internal records to establish a valid customer request for the change in service. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden will be on the local service provider to show that its internal records are adequate to verify the customer's request for the change in service.

All verifications shall be maintained for at least two years from the date the change in service is implemented, and all complaints regarding a change in preferred service provider must be brought within two years of the date the change in service is implemented. Verification of service freezes shall be maintained for as long as the preferred telecommunications service provider freeze is in effect.

(2) For other changes in service resulting in additional charges to existing accounts only, a service provider shall establish a valid customer request for the change in service through maintenance of sufficient internal records. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification under the circumstances of the identification of the person requesting the change in service. Any of the three verification methods in numbered paragraphs 22.9(2) "a"(1) "1" to "3" are also acceptable. The burden will be on the telecommunications service provider to show that its internal records are adequate to verify the customer's request for the change in service. Where the additional charge is for one or more specific telephone calls, examples of internal records a telecommunications service provider may submit include call records showing the origin, date, time, destination, and duration of the calls, and any other data the telecommunications service provider relies on to show the calls were made or accepted by the customer, along with an explanation of the records and data.

b. Letter of agency form and content.

(1) A service provider may use a letter of agency to obtain written authorization or verification of a customer's request to change the customer's preferred service provider selection. A letter of agency that does not conform with this subrule is invalid for purposes of this rule.

(2) The letter of agency shall be a separate document (or an easily separable document) or located on a separate screen or web page and contain only the authorizing language described in subparagraph 22.9(2) "b"(5) having the sole purpose of authorizing a service provider to initiate a preferred service provider change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the preferred service provider change. A local exchange telecommunications service provider may use a written or electronically signed letter of agency to obtain authorization or verification of a customer's request to change service.

(3) The letter of agency shall not be combined on the same document, screen, or web page with inducements of any kind.

(4) Notwithstanding subparagraphs 22.9(2) "b"(2) and (3), the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in subparagraph 22.9(2) "b"(5) and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, boldface type on the front of the check, a notice that the customer is authorizing a preferred service provider change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(5) At a minimum, the letter of agency must be printed in a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

1. The customer's billing name and address and each telephone number to be covered by the preferred service provider change order;

2. The decision to change the preferred service provider from the current service provider to the soliciting service provider;

3. That the customer designates [insert the name of the submitting service provider] to act as the customer's agent for the preferred service provider change;

4. That the customer understands that only one service provider may be designated as the customer's interstate or interLATA preferred interexchange service provider for any one telephone number. To the extent that a jurisdiction allows the selection of additional preferred service providers (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, or international interexchange), the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

5. That the customer understands that any preferred service provider selection the customer chooses may involve a charge to the customer for changing the customer's preferred service provider.

(6) Any service provider designated in a letter of agency as a preferred service provider must be the service provider directly setting the rates for the customer.

(7) Letters of agency shall not suggest or require that a customer take some action in order to retain the customer's current service provider.

(8) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

c. Customer notification. Every change in service shall be followed by a written notification to the affected customer to inform the customer of the change. Such notice shall be provided within 30 days of the effective date of the change. Such notice may include, but is not limited to, a conspicuous written statement on the customer's bill, a separate mailing to the customer's billing address, or a separate written statement included with the customer's bill. Each such statement shall clearly and conspicuously identify the change in service, any associated charges or fees, the name of the service provider associated with the change, and a toll-free number by which the customer may inquire about or dispute any provision in the statement.

d. Preferred telecommunications service provider freezes.

(1) A preferred telecommunications service provider freeze (or "freeze") prevents a change in a customer's preferred service provider selection unless the customer gives the service provider from whom the freeze was requested express consent. All local exchange service providers who offer preferred telecommunications service provider freezes must comply with the provisions of this subrule.

(2) All local exchange service providers who offer preferred telecommunications service provider freezes shall offer freezes on a nondiscriminatory basis to all customers, regardless of the customers' service provider selections.

(3) Preferred telecommunications service provider freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred telecommunications service provider freeze. The service provider offering the freeze must obtain separate authorization for each service for which a preferred telecommunications service provider freeze is requested.

(4) Solicitation and imposition of preferred telecommunications service provider freezes.

1. All solicitation and other materials provided by a service provider regarding preferred telecommunications service provider freezes must include:

- An explanation, in clear and neutral language, of what a preferred telecommunications service provider freeze is and what services may be subject to a freeze;

- A description of the specific procedures necessary to lift a preferred telecommunications service provider freeze; an explanation that these steps are in addition to the verification requirements in this rule for changing a customer's preferred service provider selections; and an explanation that the customer will be unable to make a change in service provider selection unless the freeze is lifted; and

- An explanation of any charges associated with the preferred telecommunications service provider freeze.

2. No local exchange telecommunications service provider shall implement a preferred telecommunications service provider freeze unless the customer's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

- The local exchange telecommunications service provider has obtained the customer's written or electronically signed authorization in a form that meets the requirements of this rule; or
- The local exchange telecommunications service provider has obtained the customer's electronic authorization, placed from the telephone number(s) on which the preferred telecommunications service provider freeze is to be imposed, to impose a preferred telecommunications service provider freeze. The electronic authorization shall confirm appropriate verification data. Service providers electing to confirm preferred telecommunications service provider freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit or to a similar mechanism that records the required information regarding the preferred telecommunications service provider freeze request, including automatically recording the originating automatic numbering identification; or

- An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred telecommunications service provider freeze and confirmed the appropriate verification data and the information required in this rule. The independent third party must not be owned, managed, or directly controlled by the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred telecommunications service provider freeze requests for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred telecommunications service provider freeze.

3. A local exchange service provider may accept a written and signed authorization to impose a freeze on the customer's preferred service provider selection. Written authorization that does not conform with this subrule is invalid and may not be used to impose a preferred telecommunications service provider freeze.

- The written authorization shall comply with this rule concerning the form and content for letters of agency.

- At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

- The customer's billing name and address and the telephone number(s) to be covered by the preferred telecommunications service provider freeze;

- The decision to place a preferred telecommunications service provider freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred telecommunications service provider freezes on additional preferred service provider selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

- That the customer understands that the customer will be unable to make a change in telecommunications service provider selection unless the preferred telecommunications service provider freeze is lifted; and

- That the customer understands that any preferred telecommunications service provider freeze may involve a charge to the customer.

(5) All local exchange telecommunications service providers that offer preferred telecommunications service provider freezes must, at a minimum, offer customers the following procedures for lifting a preferred telecommunications service provider freeze:

1. A local exchange service provider administering a preferred telecommunications service provider freeze must accept a customer's written or electronically signed authorization stating the intention to lift a preferred telecommunications service provider freeze; and

2. A local exchange service provider administering a preferred telecommunications service provider freeze must accept a customer's oral authorization stating the intention to lift a preferred

telecommunications service provider freeze and must offer a mechanism that allows a submitting service provider to conduct a three-way conference call with the service provider administering the freeze and the customer in order to lift a freeze. When engaged in oral authorization to lift a preferred telecommunications service provider freeze, the service provider administering the freeze shall confirm appropriate verification data and the customer's intent to lift the particular freeze.

e. Procedures in the event of sale or transfer of customer base. A telecommunications service provider may acquire, through a sale or transfer, either part or all of another telecommunications service provider's customer base without obtaining each customer's authorization if the acquiring telecommunications service provider complies with the following procedures. A telecommunications service provider may not use these procedures for any fraudulent purpose, including any attempt to avoid liability for violations under this rule.

(1) No later than 30 days before the planned transfer of the affected customers from the selling or transferring telecommunications service provider to the acquiring telecommunications service provider, the acquiring telecommunications service provider shall file with the board a letter notifying the board of the transfer and providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected customers, and the date of the transfer of the customer base to the acquiring telecommunications service provider. In the letter, the acquiring telecommunications service provider also shall certify compliance with the requirement to provide advance customer notice in accordance with this rule and with the obligations specified in that notice. In addition, the acquiring telecommunications service provider shall attach a copy of the notice sent to the affected customers.

(2) If, subsequent to the filing of the letter of notification with the board any changes to the required information develop, the acquiring telecommunications service provider shall file written notification of these changes with the board no more than ten days after the transfer date announced in the prior notification. The board may require the acquiring telecommunications service provider to send an additional notice to the affected customers regarding such material changes.

(3) Not later than 30 days before the transfer of the affected customers from the selling or transferring telecommunications service provider to the acquiring telecommunications service provider, the acquiring telecommunications service provider shall provide written notice to each affected customer. The acquiring telecommunications service provider must fulfill the obligations set forth in the written notice. The written notice must inform the customer of the following:

1. The date on which the acquiring telecommunications service provider will become the customer's new telecommunications service provider;

2. The rates, terms, and conditions of the service(s) to be provided by the acquiring telecommunications service provider upon the customer's transfer to the acquiring telecommunications service provider, and the means by which the acquiring telecommunications service provider will notify the customer of any change(s) to these rates, terms, and conditions;

3. The acquiring telecommunications service provider will be responsible for any telecommunications service provider change charges associated with the transfer;

4. The customer's right to select a different preferred telecommunications service provider for the telecommunications service(s) at issue, if an alternative telecommunications service provider is available;

5. All customers receiving the notice, even those who have arranged preferred telecommunications service provider freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring telecommunications service provider unless the customers select a different telecommunications service provider before the transfer date; existing preferred telecommunications service provider freezes on the service(s) involved in the transfer will be lifted; and the customers must contact their local service providers to arrange a new freeze;

6. Whether the acquiring telecommunications service provider will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring telecommunications service provider; and

7. The toll-free customer service telephone number of the acquiring telecommunications service provider.

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[◇] Two or more ARCs

- ¹ Effective date of 12/1/83 of subrules 22.1(3), 22.2(5)“v,” and 22.3(13) delayed 70 days by the Administrative Rules Review Committee on 11/8/83.
- ² Effective date of 22.10(1)“c” delayed 70 days by the Administrative Rules Review Committee on 11/14/90; delay lifted 12/11/90, effective 12/12/90.
- ³ Effective date of 22.4(2)“b” delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.