

199—34.2(476) Definitions.

“Engaged primarily in providing the same competitive nonutility services in the area” means that a person, on an ongoing basis, sells or leases equipment or products or offers services, accounting for at least 60 percent of the person’s gross business revenue, that are functionally interchangeable with and considered similar by the public to the nonutility service provided by a public utility in the same identifiable geographic area where the public utility provides utility service.

“Systematic marketing effort, other than on an incidental or casual basis” means an effort determined by the board to be recurring, active in nature, and done on a comprehensive basis. Factors to be considered include but are not limited to the types and number of media used; the frequency, extent, and duration of the marketing effort; the amount of marketing expenses incurred; and whether the public utility appeared to intend to significantly increase its market share.

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