

**CHAPTER 63. TELECOMMUNICATIONS SERVICE**

Subchap.		Sec.
A.	GENERAL PROVISIONS .....	63.1
B.	SERVICE AND FACILITIES .....	63.11
C.	ACCOUNTS AND RECORDS .....	63.31
D.	[RESERVED] .....	63.41
E.	TELECOMMUNICATIONS QUALITY SERVICE STANDARDS ...	63.51
F.	[RESERVED] .....	63.71
G.	[RESERVED] .....	63.91
H.	[RESERVED] .....	63.101
I.	[RESERVED] .....	63.111
J.	CONFIDENTIALITY OF CUSTOMER COMMUNICATIONS AND INFORMATION .....	63.131
K.	COMPETITIVE SAFEGUARDS .....	63.141
L.	UNIVERSAL SERVICE .....	63.161
M.	CHANGING LOCAL SERVICE PROVIDERS .....	63.191
N.	LOCAL SERVICE PROVIDER ABANDONMENT PROCESS .....	63.301
O.	ABBREVIATED PROCEDURES FOR REVIEW AND APPROVAL OF TRANSFER OF CONTROL FOR TELECOMMUNICATIONS PUBLIC UTILITIES .....	63.321

**Subchapter A. GENERAL PROVISIONS**

Sec.  
63.1. Definitions.

**Authority**

The provisions of this Chapter 63 issued under act of May 28, 1937 (P.L. 1053) (66 P.S. §§ 1341—1342) (Repealed), unless otherwise noted.

**Source**

The provisions of this Chapter 63 adopted March 25, 1946; amended through June 30, 1969, unless otherwise noted.

**§ 63.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Applicant*—A person, association, partnership, corporation or government agency making a written or oral request for the commencement of or changes in its public utility service.

*Application*—A written or oral request to a jurisdictional telecommunications public utility for the commencement of or changes in utility service.

*Automatic customer transfer*—The process through which the Commission's Bureau of Consumer Services is able to immediately and contemporaneously transfer a customer inquiry or service or billing complaint to a jurisdictional telecommunications public utility that has voluntarily elected to participate in such an arrangement.

*Busy hour*—The continuous 1-hour period of the day during which the volume of traffic is greater than during another continuous 1-hour period of the same day.

*Busy season*—The calendar month or 30-day period of the year during which the greatest volume of traffic is handled in the office.

*Calls*—A customer telecommunications message attempted.

*Central office*—An operating unit equipped with switching apparatus by means of which telephonic communication is established between telephones connected to it or by the additional aid of trunk lines between the telephones and telephones connected to other central offices.

*Competitive wire center*—A wire center or other geographic area that is defined and served by a local exchange telecommunications company where all of its protected, retail nonprotected and retail noncompetitive telecommunications services have been declared or determined to be competitive by the Commission under 66 Pa.C.S. § 3016 (relating to competitive services).

*Customer*—A person, association, partnership, corporation or government agency provided with telecommunications service by a regulated public utility.

*Exchange*—A unit established by a jurisdictional telecommunications public utility for the administration of communication services under its specific local exchange service tariff provisions consisting of one or more central offices with associated plant facilities used in furnishing services and having one point designated for the purpose of rating toll calls for customers.

*Jurisdictional telecommunications public utility*—A person or corporation owning or operating equipment or facilities in this Commonwealth for conveying or transmitting messages or communications to the public for compensation. The term does not include either a person or corporation not otherwise a public utility who or which furnishes service only to himself or itself or a bona fide cooperative association which furnishes services only to its stockholders or members on a nonprofit basis.

*Local service area*—The area within which customers may call without assessment of toll charges.

*Message*—A completed customer or user call.

*Message unit*—A unit of measurement used for a form of exchange service under which originated messages are measured and charged for in accordance with the local exchange tariff.

*Metering*—The metering of data concerning a customer's calls which is used in preparation of the customer's bill for service which is made by operators, automatic message accounting, message registers or other acceptable data recorder methods.

*Noncompetitive wire center*—A wire center or other geographic area that is defined and served by a local exchange telecommunications company where the jurisdictional telecommunications public utility offers retail protected, nonprotected and noncompetitive telecommunications services as defined by 66 Pa.C.S. § 3012 (relating to definitions).

*Nonprimary service order*—An application for simple residential or business, voice grade, public utility service which is not primary service.

*Primary service order*—An application for simple residential or business, voice grade, telecommunications utility service to be provided at a customer location which does not have telecommunications utility service including, but not limited to, the initial connection of a new customer or the transfer of utility service of an existing customer's service to a new location.

*Subscriber*—A person, firm or corporation designated on public utility records as the party responsible for payment of bills for telecommunications service.

*Surveillance level*—A measurement of telecommunications service which indicates a need for the public utility to investigate the cause of the problem, to remedy the problem and to inform the Commission of the problem.

*Trouble report*—A written or oral report delivered to an authorized public utility representative by a customer or user of public utility services which relates to a defect, difficulty or dissatisfaction with the public utility's regulated service.

*Trunk*—A communication channel between central offices, switching units or private branch exchanges.

*Working day*—A day except Saturday, Sunday or legal holiday.

#### Authority

The provisions of this § 63.1 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301, 1501, 1504, 2901 and 3019(b)(2) and (3).

#### Source

The provisions of this § 63.1 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; amended January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (351357) to (351358) and (324553).

### Subchapter B. SERVICE AND FACILITIES

- Sec.
- |        |   |
|--------|---|
| 63.11. | [Reserved].   |
| 63.12. | [Reserved].   |
| 63.13. | [Reserved].   |
| 63.14. | Emergency equipment and personnel.                            |
| 63.15. | Complaint procedures.   |
| 63.16. | [Reserved].   |
| 63.17. | [Reserved].   |
| 63.18. | [Reserved].   |
| 63.19. | [Reserved].   |
| 63.20. | [Reserved].   |
| 63.21. | Directories.  |
| 63.22. | Service records.  |
| 63.23. | Construction and maintenance safety standards for facilities. |
| 63.24. | [Reserved].   |

**§ 63.11. [Reserved].****Source**

The provisions of this § 63.11 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; amended December 15, 2006, effective December 16, 2006, 36 Pa.B. 7558. Immediately preceding text appears at serial pages (246445) to (246446).

**§ 63.12. [Reserved].****Authority**

The provisions of this § 63.12 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501 and 1508; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.12 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (324554).

**§ 63.13. [Reserved].****Authority**

The provisions of this § 63.13 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501 and 1508; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.13 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (324554) and (246447).

**§ 63.14. Emergency equipment and personnel.**

(a) A jurisdictional telecommunications public utility shall take reasonable measures to ensure the continuous operation of its telecommunications service in all geographic areas and this continuous functionality of its telecommunication infrastructure will also allow for robust communication and information sharing across all levels of government, within communities, and between public and private organizations during emergencies such as fire, illness of personnel, sudden increase in traffic or loss of power due to extreme weather events and disasters caused by natural hazards.

(b) The jurisdictional telecommunications public utility shall maintain qualified personnel for emergency operating and repair work and have reserve equipment or a portable power supply that will give it the reasonable capability to maintain power at its central office so that it has the ability to remain functional during the emergency situation.

**Authority**

The provisions of this § 63.14 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504, 2901 and 3019(b)(2) and (3).

**Source**

The provisions of this § 63.14 adopted March 25, 1946; amended through June 30, 1969; amended January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246447).

**§ 63.15. Complaint procedures.**

(a) [Reserved].

(a.1) *Customer service complaints.* The Commission's Bureau of Consumer Services shall process service complaints received from consumers in the following manner:

(1) *Automatic customer transfer.* Upon the receipt of a service-related complaint from a customer, the Commission's Bureau of Consumer Services may seek to immediately and contemporaneously transfer the customer to its jurisdictional telecommunications public utility for resolution to address the inquiry or service complaint in the following manner:

- (i) The transfer will occur with the customer's explicit consent.
- (ii) The transfer will be made to a live operator or customer service representative of the jurisdictional telecommunications public utility.
- (iii) The jurisdictional telecommunications public utility shall maintain a dedicated toll-free telephone number for the automatic customer transfer process.

(iv) In the event that the customer's service complaint cannot be resolved, it will be referred back to the Commission's Bureau of Consumer Services for resolution in accordance with the provisions of subsection (c).

(v) The Commission's Bureau of Consumer Services and participating public utilities may establish automated electronic communication links, electronic data interfaces, or appropriate web page access, for the exchange of information and data in the automatic customer transfer. These links shall be used only by authorized Commission and the jurisdictional telecommunications public utility's personnel shall safeguard the customer's personal data and billing information from public disclosure.

(2) *Investigations.* If the customer declines to participate in automatic customer transfer resolution process set forth in paragraph (1), the jurisdictional telecommunications public utility shall make a full and prompt investigation of the service complaints made to it through the Commission by its customers. Upon receiving a service complaint from a customer of a utility, the Commission will transmit a summary of the service complaint to the utility. If a service complaint is resolved, the utility may terminate the investigation by submitting or transmitting a copy of the service order which identified the action taken by the utility to resolve the service complaint. When complaints are referred to the

jurisdictional telecommunications public utility through the Commission, the utility and the Commission shall work to process and resolve all complaints.

(b) *Records of complaints.* A jurisdictional telecommunications public utility shall preserve copies of written or recorded service complaints showing the name and address of the subscriber or complainant, the date and character of the complaint, the action taken and the date of final disposition. Records of complaints shall be kept in accordance with § 64.192 (relating to record maintenance).

(c) *Commission review.* If a customer or applicant expresses dissatisfaction with the jurisdictional telecommunications public utility's decision or explanation, the jurisdictional telecommunications public utility shall inform the customer or applicant of the right to have the problem considered and reviewed by the Commission and shall provide the name, address and telephone number of the appropriate Commission Bureau. This subsection shall be read in conjunction with §§ 64.141—64.181 when applicable to residential utility service.

#### Authority

The provisions of this § 63.15 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301, 1501, 1504, 2901 and 3019(b)(2) and (3).

#### Source

The provisions of this § 63.15 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; amended January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246447) to (246448).

#### Cross References

The section cited in 52 Pa. Code § 63.21 (relating to directives).

### § 63.16. [Reserved].

#### Authority

The provisions of this § 63.16 deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.16 adopted March 25, 1946; amended through June 30, 1969; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246448).

### § 63.17. [Reserved].

#### Source

The provisions of this § 63.17 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; reserved July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394. Immediately preceding text appears at serial pages (205882) and (225747).

**§ 63.18. [Reserved].****Authority**

The provisions of this § 63.18 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301, 1501 and 1508; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.18 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246448) to (246449).

**§ 63.19. [Reserved].****Authority**

The provisions of this § 63.19 deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.19 adopted March 25, 1946; amended through June 30, 1969; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246449).

**§ 63.20. [Reserved].****Authority**

The provisions of this § 63.20 deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.20 adopted March 25, 1946; amended through June 30, 1969; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246449).

**§ 63.21. Directories.**

(a) When a directory is provided by the jurisdictional telecommunications public utility, it must be revised and reissued at sufficiently frequent intervals to avoid serious inconvenience to the public. A satisfactory length for a directory period must be determined by the volume of changes and new listings and the facilities available for supplying new numbers to calling parties and for intercepting calls to numbers which have been changed.

(b) One copy of each new directory issue shall be furnished to the Commission by the issuing jurisdictional telecommunications public utility at the time of its distribution to subscribers. The jurisdictional telecommunications public utility shall furnish a new directory to customers and subscribers in the following manner:

(1) A jurisdictional telecommunications public utility shall include a bill message no less than once annually advising customers that paper copies of that market's or service area's affected directories are available upon request. The notice must provide customers with a toll-free number to call to obtain a

paper directory at no cost and must include the jurisdictional telecommunications public utility's Internet address where customers can find the online directory. The jurisdictional telecommunications public utility also shall post the notice on its web site.

(2) A jurisdictional telecommunications public utility shall make paper directories or USB thumb drive directories available at no charge to customers in that market or service area on an "upon request" basis by calling a toll free number maintained by the public utility.

(3) Distribution of directories beyond an "upon request" basis shall be at the discretion of the jurisdictional telecommunications public utility.

(4) Requests for printed directories shall be treated as standing orders but may be reconfirmed by the jurisdictional telecommunications public utility every 2 years.

(5) Directories shall be made available online in digital format at a web site maintained by the jurisdictional telecommunications public utility.

(6) Printed, USB and online versions of directories must meet all regulatory form and content requirements of this section and § 64.191(g) (relating to public information).

(c) A directory shall contain the following:

(1) The name of the issuing jurisdictional telecommunications public utility.

(2) The month and year issued.

(3) A statement of the area covered by the directory.

(4) Necessary instructions to enable users to place calls efficiently, including, but not limited to, telephone company local, toll, emergency and operator-assistance calls. Necessary instructions to transact business with the telephone company, such as payment of bills, ordering changes in service and reporting service difficulties.

(5) A separate section containing social service organization, school and government listings.

(d) A name shall be listed in a directory only if the following conditions are met:

(1) It leads to a positive and particular identification of a party.

(2) It is a name the party legally is authorized to use.

(3) It is a name used by the party in the community.

(4) It is a name which is not misleading, deceptive or confusing.

(e) Upon receiving a customer complaint alleging misleading, deceptive or confusing directory listings, a jurisdictional telecommunications public utility shall investigate the complaint under § 63.15 (relating to complaint procedures). If the utility determines that a directory listing is misleading, deceptive or confusing, the utility shall delete the listing from future directories. After reaching its decision the jurisdictional telecommunications public utility shall advise inter-



ested parties in writing of its opinion and shall inform them of the right to file a complaint with the Commission.

(f) The provisions of this section shall be in effect until January 1, 2026 whereupon directory distribution is no longer required.

#### Authority

The provisions of this § 63.21 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301, 1501, 1504, 2901 and 3019(b)(2) and (3).

#### Source

The provisions of this § 63.21 adopted March 25, 1946; amended through June 30, 1969; amended January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246449) to (246450).

#### Notes of Decisions

##### *Duty to Inform*

Duty to inform public under this section does not establish duty on part of phone company to give non-negligent legal service in its directory, where issue was raised for first time on appeal. *Rice v. Bell Telephone Company of Pennsylvania*, 524 A.2d 522 (Pa. Super. 1987).

### § 63.22. Service records.

- (a) A public utility shall keep sufficient records to reflect the following:
  - (1) [Reserved].
  - (2) Service complaints and trouble reports.
    - (i) A jurisdictional telecommunications public utility shall provide for the receipt of trouble reports at all hours and make a full and prompt investigation of, and response to, complaints, with the exception of isolated outages beyond normal working hours affecting fewer than 15 customers in an exchange.
    - (ii) A jurisdictional telecommunications public utility shall maintain an accurate record of customer trouble reports which shall include:
      - (A) Identification of the customer affected.
      - (B) Service affected.
      - (C) Time, date and nature of the report.
      - (D) Results of investigation.
      - (E) Action taken to remedy the situation.
      - (F) Time and date of trouble clearance or other disposition.
  - (3) Service interruptions affecting 300 or more customers, including the date, cause, extent and duration of the interruption.
  - (4) [Reserved].
- (b) [Reserved].
- (c) [Reserved].

**Authority**

The provisions of this § 63.22 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1508, 2901 and 3019(b)(2) and (3).

**Source**

The provisions of this § 63.22 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; amended January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246450) to (246451).

**Cross References**

This section cited in 52 Pa. Code § 63.54 (relating to record retention).

**§ 63.23. Construction and maintenance safety standards for facilities.**

Overhead and underground equipment or facilities and crossings of the wires or cables of every jurisdictional telecommunications public utility over or under the facilities of other public utilities, cooperative associations or electric utilities—including parallel or random installation of underground electric supply and communication conductors or cable—shall be constructed and maintained in accordance with the most recent Institute of Electrical and Electronics Engineers' (IEEE) *National Electrical Safety Code*, as amended and supplemented.

**Authority**

The provisions of this § 63.23 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501 and 1508; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.23 adopted March 25, 1946; amended through June 30, 1969; amended October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246451) to (246452).

**§ 63.24. [Reserved].****Authority**

The provisions of this § 63.24 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501 and 1508; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.24 adopted March 25, 1946; amended through June 30, 1969; amended through October 29, 1982, effective December 18, 1982, 12 Pa.B. 4285; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246452) and (359085).

**Subchapter C. ACCOUNTS AND RECORDS**

Sec.	
63.31.	Classification of public utilities.
63.32.	[Reserved].
63.33.	[Reserved].
63.34.	[Reserved].
63.35.	Preservation of records.
63.36.	Filing of annual financial reports.
63.37.	Operation of the Telecommunication Relay Service System and Relay Service Fund.

**§ 63.31. Classification of public utilities.**

For accounting and reporting purposes, jurisdictional telecommunications public utilities are classified as follows:

- (1) *Class A.* Telecommunications public utilities that are local exchange telecommunications companies subject to an alternative form of regulation, including, but not limited to, price cap formulas, under 66 Pa.C.S. Chapter 30 (relating to alternative form of regulation of telecommunications services).
- (2) *Class B.* Telecommunications public utilities that are local exchange telecommunications companies subject to rate base/rate of return regulation or the Plan B Simplified Ratemaking Plan approved by the Commission under 66 Pa.C.S. Chapter 30.
- (3) *Class C.* Telecommunications public utilities that provide competitive local telecommunications services and that are not the incumbent provider in any local exchange area within this Commonwealth.

**Authority**

The provisions of this § 63.31 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301, 1501 and 3019(b)(2) and (3).

**Source**

The provisions of this § 63.31 adopted March 25, 1946; amended through June 30, 1969; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; amended April 5, 2002, effective April 6, 2002, 32 Pa.B. 1723; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (359085).

**Cross References**

This section cited in 52 Pa. Code § 56.15 (relating to billing information); and 52 Pa. Code § 56.265 (relating to billing information).

**§ 63.32. [Reserved].****Authority**

The provisions of this § 63.32 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 1501 and 1701; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.32 adopted March 25, 1946; amended through June 30, 1969; amended December 18, 1987, effective January 1, 1988, 17 Pa.B. 5253; amended April 5, 2002, effective April 6, 2002, 32 Pa.B. 1723; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (359086).

**§ 63.33. [Reserved].****Authority**

The provisions of this § 63.33 amended under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.33 adopted March 25, 1946; amended through June 30, 1969; amended April 5, 2002, effective April 6, 2002, 32 Pa.B. 1723; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (359086) and (287763).

**§ 63.34. [Reserved].****Authority**

The provisions of this § 63.34 deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.34 adopted March 25, 1946; amended through June 30, 1969; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (287763), (246455) to (246456) and (340969).

**§ 63.35. Preservation of records.**

(a) [Reserved].

(b) Unless a different retention period is otherwise specifically addressed in this chapter, a telecommunications public utility shall be required to retain for 8 years all of the following records:

(1) Records related to an audit conducted by the Commission under section 516 of the Public Utility Code, such as but not limited to financial and management audits.

(2) Records required for review under sections 505 and 506 of the Public Utility Code.

(3) Records required for those entities remaining subject to ratemaking provisions under Chapters 13 and 30 of the Public Utility Code.

**Authority**

The provisions of this § 63.35 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.35 adopted March 25, 1946; amended through June 30, 1969; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (340969).

**§ 63.36. Filing of annual financial reports.**

Under 66 Pa.C.S. §§ 504 and 3301 (relating to reports by public utilities; and civil penalties for violations), the Commission may require a public utility to file certain reports, and invoke penalties for failure to file those reports. In this regard, the following apply:

(1) Unless prior permission to do otherwise is granted, a public utility, other than transportation, subject to the jurisdiction of the Commission, shall file with the Commission annual financial reports by April 30 immediately following the reporting year, for reports based upon the calendar year, and by July 31 immediately following the reporting year for reports permitted to be based upon the fiscal year ending May 31. A request for an extension of time for filing an annual report shall be submitted to the Commission prior to the filing dates specified in this paragraph.

(2) If a public utility, other than transportation, fails to file its annual report in compliance with paragraph (1), the public utility may be subject to a penalty as provided under 66 Pa.C.S. § 3301. Continued failure to file annual reports may result in additional penalties.

**Authority**

The provisions of this § 63.36 amended under the Public Utility Code, 66 Pa.C.S. §§ 501 and 504.

**Source**

The provisions of this § 63.36 adopted March 25, 1946; amended through June 30, 1969; amended May 6, 1988, effective May 7, 1988, 18 Pa.B. 2106. Immediately preceding text appears at serial page (125481).

**Cross References**

This section cited in 52 Pa. Code § 101.2 (relating to definitions); and 52 Pa. Code § 101.4 (relating to reporting requirements).

**§ 63.37. Operation of the Telecommunications Relay Service System and Relay Service Fund.****(a) General.**

(1) The Pennsylvania Telecommunications Relay Service (TRS), the Telecommunications Devices for the Deaf Program and the Print Media Access System Program are codified in the Universal Telecommunications and Print Media Access Act (35 P. S. §§ 6701.1—6701.4). The Relay Service Fund (Fund) covers eligible intrastate costs associated with the operation of the three programs. The costs are recovered from residential and business wireline access line end-users by a monthly surcharge on local service telephone bills.

(2) To permit the Commission to effectively monitor and evaluate the revenue and cost data associated with the Fund, each local exchange carrier (LEC) shall file an annual tracking report delineating monthly revenues collected and remittances for late payments for the preceding 12-month year and an annual access line summary report detailing its access line count as of December 31 of the preceding year. The tracking data are used for periodic audits of the Fund. The access line counts are used to calculate the next year's TRS surcharge.

(b) *Timely remittance of revenues.*

(1) LECs shall remit the TRS surcharge revenues to the Fund administrator by the 20th of each month for revenues collected during the prior month.

(2) Delays or inaccuracies in remitting revenues to the Fund result in lost earnings by the Fund. An LEC that is late in remitting surcharge revenues shall remit an additional contribution to the Fund to make up for lost Fund earnings. The additional contribution shall be based upon the published prime rate in effect at the time of the missed due date and shall cover the period beginning at the date of the occurrence of the failure to remit and continue until the surcharge revenues are properly remitted to the Fund.

(c) *Filing of TRS reports.*

(1) *Annual tracking report.* An LEC shall submit its annual tracking report to the Secretary's Bureau by March 31 of each year, in the format and detail specified on the Commission's web site ([www.puc.state.pa.us](http://www.puc.state.pa.us)).

(2) *Annual access line summary report.* An LEC shall submit its annual access line summary report to the Secretary's Bureau by March 1 of each year, in the format and detail specified on the Commission's web site.

(d) *Failure to remit TRS revenues or to file TRS reports.* An LEC that fails to timely and accurately submit a tracking report or an access line summary report or that fails to timely and accurately submit TRS surcharge revenues may need to reimburse the Fund under subsection (b). The Commission will utilize all available remedies to ensure reporting and remittance compliance including fines and the revocation of Certificates of Public Convenience.

**Authority**

The provisions of this § 63.37 adopted under the Universal Telecommunications and Print Media Access Act (35 P.S. §§ 6701.1—6701.4).

**Source**

The provisions of this § 63.37 adopted December 19, 2008, effective December 20, 2008, 38 Pa.B. 6924.

**Subchapter D. [Reserved]****§ 63.41. [Reserved].****Authority**

The provisions of this § 63.41 amended under the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.41 adopted March 25, 1946; amended through June 30, 1969; amended June 29, 1984, effective June 30, 1984, 14 Pa.B. 2250; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (340971) and (246459) to (246461).

**Subchapter E. TELECOMMUNICATIONS QUALITY SERVICE  
STANDARDS**

- Sec.  
63.51. [Reserved].  
63.52. [Reserved].  
63.53. General provisions.  
63.54. Record retention.  
63.55. Surveillance levels.  
63.56. [Reserved].  
63.57. Customer trouble reports.  
63.58. [Reserved].  
63.59. Call answering measurements.  
63.60. [Reserved].  
63.61. [Reserved].  
63.62. [Reserved].  
63.63. [Reserved].  
63.64. Metering inspections and tests.  
63.65. Safety.

**Cross References**

This subchapter cited in 52 Pa. Code § 63.55 (relating to surveillance levels).

**§ 63.51. [Reserved].****Authority**

The provisions of this § 63.51 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.51 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246461) to (246462).

**§ 63.52. [Reserved].****Authority**

The provisions of this § 63.52 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.52 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246462).

**§ 63.53. General provisions.**

- (a) [Reserved].
- (b) [Reserved].
- (c) [Reserved].
- (d) [Reserved].

(e) If unreasonable hardship to a jurisdictional telecommunications public utility results from compliance with this subchapter, the jurisdictional telecommunications public utility may file a petition in accordance with § 5.41 (relating to petitions generally) requesting the modification of the section or for temporary exemption from its requirements. The Commission may grant temporary exemptions of this subchapter in exceptional cases consistent with applicable statutory procedures. The jurisdictional telecommunications public utility shall provide notice to a person who may be affected by the modification or temporary exemption, if granted. Notice may be made by a bill insert or in another reasonable manner.

**Authority**

The provisions of this § 63.53 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.53 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246462) to (246463).

**§ 63.54. Record retention.**

- (a) A jurisdictional telecommunications public utility shall retain for at least 90 days the information contained in customer bills and used by the public utility



in compiling customer bills. Billing information on an account for which a dispute is pending shall be retained until the dispute has been finally resolved.

(b) A jurisdictional telecommunications public utility shall retain for at least a minimum 3-year period the service records related to all of the following:

- (1) Call answering times under § 63.59 (relating to call answering measurements).
- (2) Service complaints and trouble reports under § 63.22 (relating to service records).
- (3) Surveillance level investigations under § 63.55 (relating to surveillance levels).
- (4) Service outages under § 63.22 and § 63.57 (relating to customer trouble reports) of this chapter.

#### Authority

The provisions of this § 63.54 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.54 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246463).

### § 63.55. Surveillance levels.

(a) On request from the Commission, a jurisdictional telecommunications public utility shall provide to the Commission a report detailing the results of any investigation into a failure to meet the quality of service standards set forth in Chapter 15 of the Public Utility Code, or violations of Subchapter E of Chapter 63 of the Commission's regulations, and any steps, studies and further action undertaken or commenced by the utility to determine the cause and to remedy the inadequate performance.

- (b) [Reserved].
- (c) [Reserved].

#### Authority

The provisions of this § 63.55 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.55 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246463).

#### Cross References

This section cited in 52 Pa. Code § 63.54 (relating to record retention); and 52 Pa. Code § 63.57 (relating to customer trouble reports).

**§ 63.56. [Reserved].****Authority**

The provisions of this § 63.56 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.56 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246464).

**§ 63.57. Customer trouble reports.**

(a) [Reserved].

(b) A jurisdictional telecommunications public utility shall respond to out-of-service trouble reports within 24 hours unless a different period of time is agreed to by the customer.

(c) A jurisdictional telecommunications public utility shall keep commitments made to its customers and applicants, unless timely notice of unavoidable changes is given to the customer or applicant or a reasonable attempt is made to convey the notice.

(d) If unusual repairs are required or other factors preclude the prompt clearing of reported trouble, reasonable efforts shall be made to notify affected customers.

(e) [Reserved].

(f) It shall be substandard performance for a jurisdictional telecommunications public utility to receive more than 5.5 customer trouble reports per 100 lines per month. A jurisdictional telecommunications public utility receiving greater than 5.5 customer trouble reports per 100 lines per month is subject to the reporting requirements set forth in § 63.55 (relating to surveillance levels).

**Authority**

The provisions of this § 63.57 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.57 adopted January 29, 1988, effective July 30, 1988, except subsection (f) effective January 1, 1989, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246464) to (246465).

**Cross References**

This section cited in 52 Pa. Code § 63.54 (relating to record retention).

**§ 63.58. [Reserved].****Authority**

The provisions of this § 63.58 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.58 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246465).

**§ 63.59. Call answering measurements.**

A jurisdictional telecommunications public utility shall take measures necessary and keep sufficient call answering records to monitor answering times for calls as follows:

(1) The percent of calls answered at each jurisdictional telecommunications public utility's call center or business office, or both, within 30 seconds with the public utility representative ready to render assistance and to accept information necessary to process the call. An acknowledgment that the customer or applicant is waiting on the line does not constitute an answer. If the utility records data for more than one call center or business office, the utility should also record the combined percent of calls answered within 30 seconds for the public utility as a whole.

(2) The average busy-out rate for each call center or business office, or both. If the jurisdictional telecommunications public utility records data for more than one call center or business office, the utility should also record the combined busy-out rate for the utility as a whole.

(3) The call abandonment rate for each call center or business office, or both. If the jurisdictional telecommunications public utility records data for more than one call center or business office, the utility should also record the combined call abandonment rate for the utility as a whole.

**Authority**

The provisions of this § 63.59 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.59 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246466).

**Cross References**

This section cited in 52 Pa. Code § 63.54 (relating to record retention).

**§ 63.60. [Reserved].****Authority**

The provisions of this § 63.60 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.60 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246466) to (246467).

**§ 63.61. [Reserved].****Authority**

The provisions of this § 63.61 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.61 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246467).

**§ 63.62. [Reserved].****Authority**

The provisions of this § 63.62 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.62 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246467) to (246468).

**§ 63.63. [Reserved].****Authority**

The provisions of this § 63.63 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.63 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246468).

**§ 63.64. Metering inspections and tests.**

- (a) [Reserved].
- (b) [Reserved].
- (c) If a meter is used in connection with telecommunications service, it shall be read, where applicable, at monthly intervals. The meter reading records from which the customers' bills are prepared shall show all of the following:
  - (1) Identifying number or means to determine readily the customer's name, address and service classification.
  - (2) Meter readings.

- (3) Date of meter reading.
- (4) Multiplier or constant if used.
- (d) [Reserved].
- (e) A telecommunications meter and recording device shall be tested prior to installation or when released for service and at regular intervals, or both, either by the manufacturer, the public utility or an approved organization equipped for the testing. The utility shall comply with all of the following:
  - (1) A public utility furnishing service, if local exchange billing is based on the number or duration of messages, shall provide the necessary facilities, instruments and equipment for testing its metering or recording equipment.
  - (2) The overall accuracy of the test equipment and test procedure shall be sufficient to enable testing of meter and record equipment within the requirements of this chapter.
  - (3) A meter and recording device tested under this subchapter for routine or complaint shall be tested in its normal operating location and wiring mode prior to removal or adjustment.
  - (4) A record of meter and recording equipment tests and adjustments and data sufficient to allow checking of the results shall be recorded. The record shall include the identifying number of the meter and recording device, its type, the date and kind of test and the results of each test.
- (f) A public utility shall perform periodic testing and maintenance of its controlling trunk equipment associated with the meters or recording devices, or both, to assure the integrity of their operation upon request or complaint.
- (g) [Reserved].
- (h) [Reserved].

#### Authority

The provisions of this § 63.64 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504 and 2901; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.64 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246468) to (246470).

### § 63.65. Safety.

A public utility shall adopt and implement a safety program fitted to the size and type of its operation and shall conform to the Occupational Safety and Health Act (OSHA) standards, 29 CFR Parts 1910—1999 as amended from time to time.

#### Authority

The provisions of this § 63.65 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1508 and 2901; amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.65 adopted January 29, 1988, effective July 30, 1988, 18 Pa.B. 466; amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246470).

**Subchapter F. [Reserved]****§ 63.71. [Reserved].****Authority**

The provisions of this § 63.71 issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.71 adopted March 17, 1989, effective March 18, 1989, 19 Pa.B. 1179; amended May 17, 1991, effective May 18, 1991, 21 Pa.B. 2340; amended June 18, 1993, effective June 19, 1993, 23 Pa.B. 2829; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246471) to (246472).

**§ 63.72. [Reserved].****Authority**

The provisions of this § 63.72 issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.72 adopted March 17, 1989, effective March 18, 1989, 19 Pa.B. 1179; amended June 18, 1993, effective June 19, 1993, 23 Pa.B. 2829; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246472).

**§ 63.72a. [Reserved].****Authority**

The provisions of this § 63.72a issued under 66 Pa.C.S. § 501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.72a adopted June 18, 1993, effective June 19, 1993, 23 Pa.B. 2829; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246472) to (246474).

**§ 63.73. [Reserved].****Authority**

The provisions of this § 63.73 issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.73 adopted March 17, 1989, effective March 18, 1989, 19 Pa.B. 1179; amended May 17, 1991, effective May 18, 1991, 21 Pa.B. 2340; corrected May 31, 1991, effective May 18, 1991, 21 Pa.B. 2555; amended June 18, 1993, effective June 19, 1993, 23 Pa.B. 2829; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246474) to (246475).

**§ 63.74. [Reserved].****Authority**

The provisions of this § 63.74 issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.74 adopted March 17, 1989, effective March 18, 1989, 19 Pa.B. 1179; amended May 17, 1991, effective May 18, 1991, 21 Pa.B. 2555; amended June 18, 1993, effective June 19, 1993, 23 Pa.B. 2829; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246475) to (246476).

**§ 63.75. [Reserved].****Authority**

The provisions of this § 63.75 issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.75 adopted March 17, 1989, effective March 18, 1989, 19 Pa.B. 1179; amended June 18, 1993, effective June 19, 1993, 23 Pa.B. 2829; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246476) to (246477).

**§ 63.76. [Reserved].****Authority**

The provisions of this § 63.76 issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.76 adopted March 17, 1989, effective March 18, 1989, 19 Pa.B. 1179; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246478).

**§ 63.77. [Reserved].****Authority**

The provisions of this § 63.77 issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.77 adopted March 17, 1989, effective March 18, 1989, 19 Pa.B. 1179; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246478).

**Subchapter G. [Reserved]****§ 63.91. [Reserved].****Authority**

The provisions of this § 63.91 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301—1325, 1501—1511 and 2911—2915; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.91 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246479).

**§ 63.92. [Reserved].****Authority**

The provisions of this § 63.92 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301—1325, 1501—1511 and 2911—2915; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).



**Source**

The provisions of this § 63.92 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended June 10, 1994, effective June 11, 1994, 24 Pa.B. 2922; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246479) to (246480).

**§ 63.93. [Reserved].****Authority**

The provisions of this § 63.93 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301—1325, 1501—1511 and 2911—2915; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.93 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246480).

**§ 63.94. [Reserved].****Authority**

The provisions of this § 63.94 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301—1325, 1501—1511 and 2911—2915; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.94 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended June 10, 1994, effective June 11, 1994, 24 Pa.B. 2922; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246480) to (246482).

**§ 63.95. [Reserved].****Authority**

The provisions of this § 63.95 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301—1325, 1501—1511 and 2911—2915; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.95 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended June 10, 1994, effective June 11, 1994, 24 Pa.B. 2922; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (246482).

**§ 63.96. [Reserved].****Authority**

The provisions of this § 63.96 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301—1325, 1501—1511 and 2911—2915; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.96 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended June 10, 1994, effective June 11, 1994, 24 Pa.B. 2922; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (246482) and (332457).

**§ 63.97. [Reserved].****Source**

The provisions of this § 63.97 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended April 3, 1992, effective April 4, 1992, 22 Pa.B. 1554; amended June 10, 1994, effective June 11, 1994, 24 Pa.B. 2922; reserved July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394. Immediately preceding text appears at serial pages (205920) and (232269).

**§ 63.98. [Reserved].****Authority**

The provisions of this § 63.98 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301—1325, 1501—1511 and 2911—2915; deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.98 adopted August 26, 1988, effective August 27, 1988, 18 Pa.B. 3810; amended June 10, 1994, effective June 11, 1994, 24 Pa.B. 2922; amended July 17, 1998, effective July 18, 1998, 28 Pa.B. 3394; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (332457) to (332458).

**Subchapter H. [Reserved]****Authority**

The provisions of this Subchapter H issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 3009(d); amended under 66 Pa.C.S. § 3018; deleted under 66 Pa.C.S. § 3019(b)(2) and (3), unless otherwise noted.

**Source**

The provisions of this Subchapter H adopted July 3, 1997, effective July 5, 1997, 27 Pa.B. 3217, unless otherwise noted; amended January 25, 2008, effective January 26, 2008, 38 Pa.B. 488; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (332458) to (332465).

**§ 63.101—63.109. [Reserved].**

**Subchapter I. [Reserved]**

§ 63.111. [Reserved].

§ 63.112. [Reserved].

§ 63.112a. [Reserved].

§§ 63.113—63.118. [Reserved].

**Subchapter J. CONFIDENTIALITY OF CUSTOMER  
COMMUNICATIONS AND INFORMATION**

Sec.	
63.131.	General provisions.
63.132.	Definitions.
63.133.	Confidentiality.
63.134.	Commitment to confidentiality of customer communications and customer information.
63.135.	Customer information.
63.136.	[Reserved].
63.137.	[Reserved].

**Authority**

The provisions of this Subchapter J issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501, unless otherwise noted.

**Source**

The provisions of this Subchapter J adopted July 24, 1992, effective September 23, 1992, 22 Pa.B. 3892, unless otherwise noted.

**§ 63.131. General provisions.**

(a) [Reserved].

(b) A telecommunications company subject to this subchapter shall treat customer communications and customer information as confidential. Except for the limited instances provided in this subchapter, release of customer information to the public shall be permitted only on the authority of the customer. When a telecommunications company or its authorized employees, agents or independent contractors utilize customer information, they shall do so only when necessary and only to the extent necessary to accomplish legitimate and authorized purposes, as set forth in this subchapter. Telecommunications companies and their employees, agents or independent contractors shall make every reasonable effort to avoid the unauthorized dissemination of customer information to the public. A telecommunications company, its employee, its affiliates or subsidiaries, or an agent or independent contractor that has entered into a contractual relationship

with the telecommunications company and handles customer communications and customer information is subject to this subchapter.

(c) Nothing in this subchapter supersedes the Wiretap Act, or permits a telecommunications company service or activity which is otherwise prohibited by the Wiretap Act.

#### Authority

The provisions of this § 63.131 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.131 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (332466).

#### Notes of Decisions

##### *Wiretap Act*

The Public Utility Commission lacked jurisdiction to interpret the Wiretap Act and determine the legality of an instance of electronic surveillance. *The United Telephone Company of Pennsylvania v. Pennsylvania Public Utility Commission*, 676 A.2d 1244 (Pa. Cmwlth. 1996).

### § 63.132. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Agent*—An individual or entity that performs work on behalf of a telecommunications public utility who is the principal in the contractual relationship with the agent.

*Customer communications*—A customer voice or data communication made in whole or in part by wire, cable, microwave or other means for the transmission by a telecommunications company of communications between the point of origin and the point of reception by a telecommunications company.

*Customer information*—Information regarding a customer of a telecommunications company or information regarding the services or equipment ordered and used by that customer. The term includes a customer's name, address and telephone number, occupation, information concerning toll calls, collect calls and third-party billed calls, local message detail information and information concerning services ordered or subscribed to by a customer. The term also includes bills, statements, credit history, toll records whether on paper, microfiche or electromagnetic media; computer records; interexchange carrier selection, service problems and annoyance call records.

*Destruction*—The mutilation of documents in a manner which insures that their content is obliterated by sufficiently tearing or shredding prior to collection by public waste or trash collectors or by appropriately erasing information stored electromagnetically.

*Employee*—An individual who works directly for and is paid a salary by a telecommunications company subject to this subchapter.

*Independent contractor*—An individual or entity that is not an employee or agent of the telecommunications company but performs work on behalf of a telecommunications company under a contractual relationship.

*Security department*—The department or individuals with responsibility for the prevention and investigation of the loss, destruction or theft of telecommunications company property, the unauthorized or unlawful use of telecommunications company equipment or services and the unlawful conduct of telecommunications company employees, agents or independent contractors which occurs during the course of employment.

*Service evaluation and monitoring*—Evaluation and monitoring of telecommunications company operations, including communications, to maintain or improve the quality of service to the customer. The term includes review of employee, agent or independent contractor relationships with customers, system checks and facility maintenance.

*Telecommunications company*—A public utility which provides telecommunication services subject to Commission jurisdiction.

*Telecommunications services*—The offering of the transmission of messages or communications for a fee to the public.

*Wiretap Act*—Title 18 of the *Pennsylvania Consolidated Statutes* §§ 5701—5781 (relating to Wiretapping and Electronic Surveillance Control Act).

#### Authority

The provisions of this § 63.132 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.132 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (332466) to (332467).

### § 63.133. Confidentiality.

A telecommunications company shall distribute a written statement of its fundamental policy and obligation to maintain the confidentiality of customer communications and customer information to its customers annually. The written statement shall declare the responsibility of each employee, agent or independent contractor to maintain the confidentiality of customer communications and customer information in accordance with applicable State and Federal law.

#### Authority

The provisions of this § 63.133 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.133 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (332467).

**§ 63.134. Commitment to confidentiality of customer communications and customer information.**

A telecommunications company shall confirm with each employee, agent or independent contractor the responsibility to maintain the confidentiality of customer communications and customer information in accordance with applicable Federal and State law.

(1) *Securing commitment from employees, agents or independent contractors.* A telecommunications company shall, at the time a person commences employment or an agency or independent contractor relationship, instruct that person regarding telecommunications company policy covering the following points:

(i) State and Federal law generally prohibits the interception, disclosure and use of customer communications.

(ii) An employee, agent or independent contractor is prohibited from intercepting, using or disclosing customer communications except in those limited instances which are a necessary incident to:

(A) The provision of service.

(B) The protection of the legal rights or property of the telecommunications company where the action is taken in the normal course of employment.

(C) The protection of the telecommunications company, an interconnecting carrier, a customer or user of service from fraudulent, unlawful or abusive use of telecommunications service.

(D) Compliance with legal process or other requirements of law.

(iii) An employee, agent or independent contractor is prohibited from using or disclosing customer information except when the use or disclosure is authorized by this subchapter.

(iv) Improper interception, use or disclosure of customer communications or customer information may result in disciplinary action, including dismissal or criminal and civil proceedings, or both.

(2) *Documentation of employee, agent or independent contractor commitment.* An appropriate document shall be prepared outlining the policy summarized in paragraph (1) and stating that the telecommunications company employee, agent or independent contractor has read and understands the policy. The telecommunications company shall present the document to each employee, agent or independent contractors for signature. A telecommunications company manager shall witness and date the document, regardless of whether the employee, agent or independent contractor has agreed to sign the document. One copy shall be filed with the personnel papers of the employee, agent or independent contractors and one copy given to the employee, agent or independent contractors to keep and review.

(3) *Annual review.* A telecommunications company shall annually review with employees, agents or independent contractors the commitment to confi-

dentiality of customer communications and customer information, and shall make a record of that annual review.

**Authority**

The provisions of this § 63.134 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.134 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (332467) to (332468).

**Cross References**

This section cited in 52 Pa. Code § 63.135 (relating to customer information).

**§ 63.135. Customer information.**

This section describes procedures for determining access to customer information and the purposes for which this information may be used by employees, agents or independent contractors responding to requests for customer information from persons outside the telecommunications company and the recording of use and disclosure of customer information.

(1) *Access to and use of customer information.* Access to and use of customer information shall be limited to employees, agents or independent contractors who have a legitimate need to use the information in the performance of their work duties and, because of the nature of their duties, need to examine the data to accomplish the legitimate and lawful activities necessarily incident to the rendition of service by the telecommunications company. An employee, agent or independent contractor shall be prohibited from using customer information for personal benefit or the benefit of another person not authorized to receive the information.

(2) *Requests from the public.* Customer information that is not subject to public availability may not be disclosed to persons outside the telecommunications company or to subsidiaries or affiliates of the telecommunications company, except in limited instances which are a necessary incident to:

- (i) The provision of service.
- (ii) The protection of the legal rights or property of the telecommunications company where the action is taken in the normal course of an employee's, agent's or independent contractor's activities.
- (iii) The protection of the telecommunications company, an interconnecting carrier, a customer or a user of service from fraudulent, unlawful or abusive use of service.
- (iv) A disclosure that is required by a valid subpoena, search warrant, court order or other lawful process.
- (v) A disclosure that is requested or consented to by the customer or the customer's attorney, agent, employee or other authorized representative.
- (vi) A disclosure request that is required or permitted by law, including the regulations, decisions or orders of a regulatory agency.

(vii) A disclosure to governmental entities if the customer has consented to the disclosure, the disclosure is required by a subpoena, warrant or court order or disclosure is made as part of telecommunications company service.

(3) *Limitation on disclosures to agents, contractors, subsidiaries or affiliates.* To comply with this subchapter, a telecommunications company may not allow disclosure of customer information to an agent, contractor, subsidiary or affiliate it has entered in a direct contractual relationship with or to the agents, independent contractors, subsidiaries or affiliates of a party it has entered into a contract with absent the prior establishment of terms and conditions for the disclosure pursuant to a written agreement that requires:

(i) Treatment of the information as confidential.

(ii) Use of the information by the contracting party or any of its respective employees, agents or independent contractors for only those purposes specified in the contract or agreement. The contract shall require the contracting party to establish a confidentiality statement which provides confidentiality protections which are no less than those required of the telecommunications company by this subchapter and to maintain the same commitment to the protections in § 63.134 (relating to commitment to confidentiality of customer communications and customer information). The contract may not allow the interception or use of the customer information or customer communications in a manner not authorized with respect to a telecommunications company's employee, agent or independent contractor. The contracting party shall also be subject to the operational restrictions specified in this subchapter with regard to the handling of customer communications and customer information as would otherwise apply to a telecommunications company's employee, agent or independent contractor.

(iii) Nondisclosure of the customer information and customer communications to third parties except as required by law.

(4) *Requests from law enforcement agencies and civil litigation.* Government administrative, regulatory and law enforcement agencies and parties in civil litigation may be able to compel the telecommunications company to disclose customer information by serving upon the utility a subpoena, search warrant, court order or other lawful process.

(i) In response to legal process requiring the disclosure of customer information, the security department shall make the necessary arrangements with the government agency or attorney who caused the legal process to be issued regarding the information to be produced and the identity of the employee, agent or independent contractor or other telecommunications company representative who will produce the information. The employee, agent or independent contractor assigned to produce this information shall secure the information, including applicable records, from the department having possession of the information and records and shall ascertain the meaning of a code word or letters or nomenclature which may appear on the records, to



explain the meaning, if requested to do so. The employee, agent or independent contractor shall then comply with the legal process.

(ii) If information, including applicable records, is unavailable, the employee, agent or independent contractor selected to respond to the legal process shall be prepared to explain the unavailability of the information requested.

(iii) When a request for customer information is presented by a law enforcement agency, but that request is not accompanied by legal process, the request shall be referred to the security department. Absent legal process, the security department may not make disclosure of customer information to a law enforcement agency, except as required or permitted by law. Written, oral or other communication to law enforcement officials to indicate whether obtaining legal process would be worthwhile is prohibited by the Commission.

(5) *Safeguarding customer information.* A telecommunications company is responsible for implementing appropriate procedures to safeguard customer information and prevent access to it by unauthorized persons. Tangible customer records such as paper or microfiche records and electromagnetic media shall be stored in secure buildings, rooms and cabinets, as appropriate, to protect them from unauthorized access. Data processing and other electronic systems shall contain safeguards, such as codes and passwords, preventing access to customer information by unauthorized persons.

(i) *Transmission of customer information.* Customer information shall be transmitted in a manner which will reasonably assure that the information will not be disclosed to persons who are not authorized to have access to it.

(ii) *Reproduction.* Customer records may not be reproduced unless there is a business need for the reproduction. Only sufficient copies shall be made to satisfy the business purpose for the reproduction.

(iii) *Destruction of customer records.* Customer records shall be disposed of by the most advantageous method available at each location when retention of the records is no longer required by applicable Federal Communications Commission (FCC) regulations, other legal requirements, contract provisions such as government contract requirements or appropriate document retention guidelines.

(6) *Recording use and disclosure of customer information.* Because of the frequency with which customer information is used and disclosed in the ordinary course of business, it is neither practical nor desirable to record each instance in which customer information is used or disclosed by an employee, agent or independent contractor. However, the importance of some forms of customer information and the circumstances under which the information may be used or disclosed dictate that a record is required of the use or disclosure of customer information, as follows:

(i) Each instance in which customer information is used or disclosed for purposes other than to furnish service to the customer, to collect charges due from the customer or to accomplish other ordinary and legitimate business purposes.

(ii) Each instance in which information is disclosed to persons outside of the telecommunications company, subject to subparagraph (i).

(iii) Each instance in which customer information is disclosed to a governmental entity or the telecommunications company security department.

(iv) Each instance in which a record is required by other telecommunications company practices or procedures.

(7) *Annual notice of Customer Proprietary Network Information (CPNI) rights.* The telecommunications company shall provide an annual written notice of CPNI rights, as defined by the FCC, to customers with less than 20 access lines. The notice shall be submitted to the Commission's Bureau of Consumer Services for plain language review prior to issuance.

#### Authority

The provisions of this § 63.135 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.135 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (332468) to (332469), (232285) to (232286) and (361655).

#### Cross References

This section cited in 52 Pa. Code § 63.143 (relating to code of conduct).

### § 63.136. [Reserved].

#### Authority

The provisions of this § 63.136 deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.136 deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (361655).

### § 63.137. [Reserved].

#### Authority

The provisions of this § 63.137 deleted under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.137 amended June 29, 2012, effective June 30, 2012, 42 Pa.B. 3728; deleted August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (361655) to (361657).

**Subchapter K. COMPETITIVE SAFEGUARDS**

Sec.

- 63.141. Statement of purpose and policy.
- 63.142. Definitions.
- 63.143. Code of conduct
- 63.144. Remedies.

**Authority**

The provisions of this Subchapter K issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 1501 and 3001—3009, unless otherwise noted.

**Source**

The provisions of this Subchapter K adopted December 12, 2003, effective December 13, 2003, 33 Pa.B. 6047, unless otherwise noted.

**§ 63.141. Statement of purpose and policy.**

(a) This subchapter establishes competitive safeguards to:

(1) Assure the provision of adequate and nondiscriminatory access by local exchange telecommunications companies to competitive telecommunications carriers as the term is defined in this subchapter for all services and facilities local exchange telecommunications companies are obligated to provide competitive telecommunications carriers under any applicable Federal or State law.

(2) Prevent the unlawful cross subsidization or support for competitive services from noncompetitive services by local exchange telecommunications companies.

(3) Prevent LECs from engaging in unfair competition.

(b) These competitive safeguards are intended to promote the Commonwealth's policy of establishing and maintaining an effective and vibrant competitive market for all telecommunications services.

(c) The code of conduct in § 63.143 (relating to code of conduct) supersedes and replaces the code of conduct adopted by Commission order entered September 30, 1999, at P-00991648, et al.

**Authority**

The provisions of this § 63.141 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.141 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial page (361658).

**§ 63.142. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Competitive service*—As defined in 66 Pa.C.S. § 3012 (relating to definitions).

*Competitive telecommunications carrier*—

- (i) A local exchange telecommunications services provider that has been certificated or given provisional authority by the Commission as a

competitive telecommunications carrier under the Commission's procedures implementing the Telecommunications Act of 1996, the act of February 8, 1996 (Pub.L. No. 104-104, 110 Stat. 56), or under the relevant provisions in 66 Pa.C.S. § 3019(a) (relating to additional powers and duties), and its successors and assigns.

(ii) The term includes any of the competitive telecommunications carrier's affiliates, subsidiaries, divisions or other corporate subunits that provide local exchange service.

*LEC—Local exchange carrier*—A legal entity that is authorized to do business in this Commonwealth by the Department of State and has been certificated by the Commission to offer local exchange telecommunications service within a specified service area. LECs encompass both local exchange telecommunications companies and competitive telecommunications carriers.

*Local exchange telecommunications company*—As defined in 66 Pa.C.S. § 3012.

*Market price*—Prices set at market-determined rates.

*Noncompetitive service*—As defined in 66 Pa.C.S. § 3012.

*Telecommunications service*—The offering of the transmission of messages or communications for a fee to the public.

#### Authority

The provisions of this § 63.142 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.142 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (361658) and (301449).

### § 63.143. Code of conduct.

All LECs, unless otherwise noted, shall comply with the following requirements:

#### (1) *Nondiscrimination.*

(i) A local exchange telecommunications company may not give itself, including any local exchange affiliate or division or other corporate subunit that performs that function, or any competitive telecommunications carrier any preference or advantage over any other competitive telecommunications carrier in the preordering, ordering, provisioning, or repair and maintenance of any goods, services, network elements (as defined under section 3(35) of the Communications Act of 1934 (47 U.S.C.A. § 153(35)), or facilities.

(ii) A local exchange telecommunications company may not condition the sale, lease or use of any noncompetitive service on the purchase, lease or use of any other goods or services offered by the local exchange telecommunications company or on a written or oral agreement not to deal with any CLEC. In addition, a LEC may not condition the sale, lease or use of any noncompetitive service on a written or oral agreement not to deal with any other LEC. Nothing in this paragraph prohibits a local exchange telecommunications company from bundling noncompetitive services with other non-

competitive services or with competitive services so long as the local exchange telecommunications company continues to offer any noncompetitive service contained in the bundle on an individual basis.

(iii) local exchange telecommunications company shall offer to competitive telecommunications carriers for resale any bundled competitive and noncompetitive services it provides to end-users at the same price it offers the bundled services to end-users less any applicable wholesale discount approved by the Commission, and shall make the unbundled network elements associated with those services available to competitive telecommunications companies as may be required by any applicable State or Federal law.

(2) *Employee conduct.*

(i) A LEC employee, while engaged in the installation of equipment or the rendering of services to any end-user on behalf of a competitor, may not disparage the service of the competitor or promote any service of the LEC to the end-user.

(ii) A LEC employee, while processing an order for the repair or restoration of service or engaged in the actual repair or restoration of service on behalf of a competitor, may not either directly or indirectly represent to any end-user that the repair or restoration of service would have occurred sooner if the end-user had obtained service from the LEC.

(3) *Corporate advertising and marketing.*

(i) A LEC may not engage in false or deceptive advertising with respect to the offering of any telecommunications service in this Commonwealth.

(ii) A LEC may not state or imply that the services provided by the LEC are inherently superior when purchased from the LEC unless the statement can be factually substantiated.

(iii) A LEC may not state or imply that the services rendered by a competitor may not be reliably rendered or are otherwise of a substandard nature unless the statement can be factually substantiated.

(iv) A local exchange telecommunications company may not state or imply that the continuation of any requested service from the local exchange telecommunications company is contingent upon taking other services offered by the local exchange telecommunications company that are not technically necessary to provide the requested service.

(4) *Cross subsidization.*

(i) A local exchange telecommunications company may not use revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize or support any competitive services.

(5) *Information sharing and disclosure.*

(i) A local exchange telecommunications company shall simultaneously make available to competitive telecommunications carriers network information not in the public domain that is used for sales purposes by the

local exchange telecommunications company or its local exchange affiliate or division or other corporate subunit that performs that function.

(A) The term “network information” means information concerning the availability of unbundled network elements or information necessary for interconnection to the local exchange telecommunications company’s network.

(B) Network information does not include information obtained during the processing of an order or service on behalf of the local exchange telecommunications company or the local exchange telecommunications company’s competitive local exchange affiliate or division or other corporate subunit that performs that function.

(ii) A local exchange telecommunications company’s employees, including its wholesale employees, shall use competitive telecommunications carrier proprietary information (that is not otherwise available to the local exchange telecommunications company) received in the preordering, ordering, provisioning, billing, maintenance or repairing of any telecommunications services provided to the competitive telecommunications carrier solely for the purpose of providing the services to the CLEC. Local exchange telecommunications company employees may not disclose the competitive telecommunications carrier proprietary information to other employees engaged in the marketing or sales of retail telecommunications services unless the competitive telecommunications carrier provides prior written consent to the disclosure. This provision does not restrict the use of aggregated competitive telecommunications carrier data in a manner that does not disclose proprietary information of any particular competitive telecommunications carrier.

(iii) Subject to customer privacy or confidentiality constraints, a LEC employee may not disclose, directly or indirectly, any customer proprietary information to the LEC’s affiliated or nonaffiliated entities unless authorized by the customer under § 63.135 (relating to customer information).

(6) *Sharing of employees and facilities.* Local exchange telecommunications company’s wholesale employees who are responsible for the processing of a competitive telecommunications carrier order or service of the operating support system on behalf of a competitive telecommunications carrier may not be shared with the retail portion of the local exchange telecommunications company’s business, shall have offices physically separated from the local exchange telecommunications company’s retail employees and shall have their own direct line of management.

(7) *Adoption and dissemination.* Every LEC shall formally adopt and implement the applicable code of conduct provisions as company policy or modify its existing company policy as needed to be consistent with the applicable code of conduct provisions. Every LEC shall also disseminate the applicable code of conduct provisions to its employees and take appropriate steps to train and instruct its employees in their content and application.

**Authority**

The provisions of this § 63.143 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

**Source**

The provisions of this § 63.143 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (301449) to (301451).

**Cross References**

This section cited in 52 Pa. Code § 63.141 (relating to statement of purpose and scope).

**§ 63.144. Remedies.**

(a) A violation of this subchapter allegedly harming a party may be adjudicated using the Commission's *Interim Guidelines for Abbreviated Dispute Resolution Process*, at Doc. Nos. P-00991648 and P-00991649, which were published at 30 Pa.B. 3808 (July 28, 2000), or any successor Commission alternative dispute resolution process, to resolve the dispute. This action, however, does not preclude or limit additional available remedies or civil action, including the filing of a complaint concerning the dispute or alleged violations with the Commission under 66 Pa.C.S. § 701 (relating to complaints) and § 5.21(a) (relating to formal complaints generally).

(b) The Commission may also, when appropriate, impose penalties under 66 Pa.C.S. § 3301 (relating to civil penalties for violations) or refer violations of the code of conduct provisions in this subchapter to the Pennsylvania Office of Attorney General, the Federal Communications Commission or the United States Department of Justice.

**Subchapter L. UNIVERSAL SERVICE**

Sec.

- 63.161. Statement of purpose and policy.
- 63.162. Definitions.
- 63.163. Universal service fund administration.
- 63.164. Commission oversight.
- 63.165. Calculation of contributions.
- 63.166. Administrator criteria.
- 63.167. Administrator's duties.
- 63.168. Auditor's duties.
- 63.169. Collection of universal service fund contributions.
- 63.170. End-user surcharge prohibited.
- 63.171. Enforcement.

**Authority**

The provisions of this Subchapter L issued under the Public Utility Code, 66 Pa.C.S. § 501, unless otherwise noted.

**Source**

The provisions of this Subchapter L adopted June 29, 2001, effective June 30, 2001, 31 Pa.B. 3402, unless otherwise noted.

**§ 63.161. Statement of purpose and policy.**

On July 8, 1993, the General Assembly enacted 66 Pa.C.S. Chapter 30 (relating to alternative form of regulation of telecommunications services) which provides for the regulatory reform of the telephone industry in this Commonwealth.

(1) The General Assembly's first declaration of policy in Chapter 30 is to "[m]aintain universal telecommunications services at affordable rates while encouraging the accelerated deployment of a universally available state-of-the-art, interactive, public switched broadband telecommunications network in rural, suburban and urban areas." See 66 Pa.C.S. § 3001(1) (relating to declaration of policy).

(2) The General Assembly assigned to the Commission and this Commonwealth's telecommunications providers responsibility for assuring and maintaining universal service in this Commonwealth. Given an increasingly competitive telecommunications marketplace, it is necessary to establish a competitively-neutral universal service funding mechanism to assure and maintain universal service and to promote the development of competition in telecommunications markets throughout this Commonwealth.

(3) The purpose of the Fund is to maintain the affordability of local service rates for end-user customers while allowing rural telephone companies to reduce access charges and intraLATA toll rates, on a revenue-neutral basis, thereby encouraging greater competition.

**§ 63.162. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Assessment rate*—The percentage rate which when multiplied by each contributing telecommunications provider's total intraState end-user telecommunications retail revenue for the prior month will determine that provider's monthly contribution to the annual Fund budget. The assessment rate is computed annually under § 63.165 (relating to calculation of contributions).

*Basic universal service*—An evolving set of telephone services, as defined by the Commission, which represents the set of services essential for a resident of this Commonwealth to participate in modern society at any point in time.

*Contributing telecommunications providers*—Telecommunications carriers that provide intraState telecommunications services. Whether a provider or class of providers is a telecommunications carrier will be determined based upon whether the provider or class of providers is considered a telecommuni-



cations carrier under Federal law as interpreted by the Federal Communications Commission except that wireless carriers are exempt from this subchapter under 66 Pa.C.S. § 102(2)(IV) (relating to definitions).

*End-user revenue*—Revenues received from telecommunications subscribers who consume the final service unadjusted for any expense or other purpose. Total intrastate end-user telecommunications retail revenue does not include those revenues received from access, resale (toll or local), or the sale of unbundled network elements or other services which are essentially wholesale in nature.

*Fund*—The Universal Service Fund.

*Fund recipient*—An entity which receives funds from the Fund. Incumbent local exchange carriers operating in this Commonwealth, with the exception of Verizon Pennsylvania and Verizon North, Inc. are eligible Fund recipients.

*Local service provider*—A telecommunications company to which retail customers subscribe for basic universal service.

### § 63.163. Universal service fund administration.

(a) The Commission will designate within the context of a competitive bidding process a third-party administrator and a fund auditor to maintain and audit the Fund consistent with this subchapter.

(b) The Fund shall be administered in a manner ensuring that the Fund is exempt from State, Federal, and local taxes. The Fund administrator shall seek tax exempt status from the Internal Revenue Service.

(c) The Fund shall be established and kept separate from any other Commonwealth general fund.

(d) The administrator shall be responsible for assessing contributing telecommunications providers for contributions to the Fund as provided for in § 63.165 (relating to calculation of contributions). The administrator shall also be responsible for receiving contributions, validating contributions and distributing payments to fund recipients.

(e) The administrator shall file with the Commission by September 1 of each year an annual report which shall include an income statement of the Fund's activity for the preceding calendar year, a list of recommendations pertaining to operations of the Fund, and a proposed budget and assessment rates for the upcoming year. A copy of the report will be served contemporaneously upon the Office of Consumer Advocate, Office of Small Business Advocate and all telecommunications carriers participating in the Fund.

(f) Interested parties shall be provided the opportunity to file comments to the administrator's report within 30 days of its submission to the Commission. Replies to comments shall be filed within 15 days thereafter. Comments should be addressed to the Pennsylvania Public Utility Commission's Secretary's Bureau, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265. The comments should be filed at Docket No. M-00001337.

**§ 63.164. Commission oversight.**

The Commission will issue an order within 90 days of receipt of the administrator's annual report, which establishes the size of the Fund, a budget, assessment rate for contributing telecommunications providers, and administrative guidelines for the upcoming calendar year.

**§ 63.165. Calculation of contributions.**

(a) Contributing telecommunications providers shall submit an affidavit to the administrator by March 31 of each year, identifying the provider's total intra-state end-user telecommunications retail revenue for the previous calendar year. A copy shall be served upon the Commission.

(b) In determining the annual assessment rate, the administrator will utilize the following calculation:

$$\frac{W + X + Y + Z}{A} \times \frac{B}{12} = C$$

W = Increase in funding requirement due to growth in access lines of recipient carriers. W equals the access line growth percentage for each recipient carrier multiplied by each recipient carriers' prior year net support (prior year funding minus prior year payment). The individual recipient carriers' required fund increases are totaled to yield W.  $W = ALG \times (PYF-PYP)$ .

X = Prior year's size of fund minus the estimated surplus from the prior year or plus any shortfall from the prior year.

Y = Surcharge for uncollectables is 1% times (X + W).

Z = Commission approved administrative and auditing expenses.

A = Aggregate Statewide end-user intraState retail revenue of all contributing telecommunications providers for the previous calendar year.

B = Individual contributing telecommunications provider's end-user intra-state retail revenue for the prior calendar year.

C = Individual contributing telecommunications provider's monthly contribution.

(c) To the extent the funding received from providers in any 1 year exceeds the disbursements required for the Fund plus the cost of administering the Fund (including 1% of the total size of the Fund to cover delinquent accounts and contingencies), the excess shall remain in the Fund, and the subsequent year's Fund size reduced by that surplus.

**Cross References**

This section cited in 52 Pa. Code § 63.162 (relating to definitions); 52 Pa. Code § 63.163 (relating to universal service fund administration); and 52 Pa. Code § 63.169 (relating to collection of universal service fund contributions).

**§ 63.166. Administrator criteria.**

The administrator shall meet the following criteria:

(1) The administrator shall be neutral, impartial and independent from telecommunications service providers operating in this Commonwealth.

(2) The administrator may not advocate specific positions before the Commission in nonuniversal service administrative proceedings related to telecommunications issues.

(3) The administrator may not be an affiliate of any provider of telecommunications services. The administrator may not be closely associated with any provider of telecommunications services in a dependent or subordinate position.

(4) If the administrator has a board of directors that includes members with direct financial interests in entities that contribute to or receive support from the Fund, no more than a third of the board members may represent any one category (for example, local exchange carriers or interexchange carriers) of contributing carriers or support recipients, and the Board's composition shall reflect the broad base of contributors to and recipients of Fund assets. For purposes of this restriction, a direct financial interest exists when the administrator or Board member:

- (i) Is an employee of a telecommunications carrier.
- (ii) Owns any equity interests in bonds or equity instruments issued by any telecommunications carrier.
- (iii) Owns mutual funds that invest more than 50% of its assets in telecommunications securities.

(5) If the administrator's board composition changes during its contractual period, the administrator shall notify the Commission immediately.

#### **§ 63.167. Administrator's duties.**

The administrator shall have the following duties:

(1) Maintain a database to track contributing telecommunications providers.

(2) Develop Commission-approved forms which all telecommunications service providers will submit to the administrator on a monthly basis with their monthly contributions.

(3) Review the completed forms to ensure completeness and accuracy of reported revenue and Fund assessments and contact providers whose accounts contain unexplained variances in reported revenues or Fund assessments.

(4) Assess late-payment charges of 1.5% per month pro rata per diem on contributions that are 30 days or more past due.

(5) Send initial notices of delinquency to delinquent contributors when a payment is 30 days past due and follow up with at least one subsequent written notice, phone call, or both, to the contributor to pursue collection of Fund payments that are 60 days past due.

(6) Maintain logs of notices to delinquent contributors and refer to the Commission for further enforcement, on a monthly basis, all accounts more than 90-days past due.

(7) Immediately inform the Commission if the administrator has reason to believe that a contributing telecommunications provider has submitted false information to the administrator with the intent of obtaining fraudulent funding or underreported end-user revenue, or if any other irregularity occurs in the operation or administration of the Fund. Penalties that will be assessed to the contributing telecommunications provider are addressed in § 63.171 (relating to enforcement).

(8) Invest Fund moneys in interest-bearing instruments designed to minimize risk of loss while providing maximum liquidity. Return on investment shall be placed into the Fund. Permitted investments include:

- (i) Marketable obligations directly and fully guaranteed by the United States government.
- (ii) Federally-insured checking, money market accounts or certificates of deposit.
- (iii) Other accounts expressly approved by the Commission.

(9) Promptly advise the Commission if the administrator projects any potential Fund shortfall or if Fund disbursements exceed receipts in a given month.

(10) In January of each year, mail reporting forms to each contributing telecommunications provider to acquire appropriate data to determine the following:

- (i) Each contributing telecommunications provider's intraState end-user telecommunications retail revenue for the prior calendar year.
- (ii) The Fund recipients' access line growth which translates into a dollar amount increase in the size of the next year's Fund.
- (iii) Aggregate Statewide end-user intraState retail revenue of all contributing telecommunications providers for the previous calendar year.
- (iv) Each contributing telecommunications provider's contribution for the following calendar year.

(11) Cooperate with the auditor selected by the Commission and provide data and information reasonably required to support audit activities.

(12) Promptly respond to Commission requests for information pertaining to Fund administration.

(13) Maintain adequate principal liability insurance coverage, criminal liability coverage, and a sufficient umbrella liability policy.

(14) Prepare reports of Fund activity for the Commission on a monthly basis detailing carrier assessments, delinquent payers, late-payment charges, fund disbursements, interest earned and cumulative results.

(15) Maintain records by contributor and by recipient.

(16) Provide additional reports as requested by the Commission.

(17) Maintain a statement of financial condition (balance sheet) and income statement for the total fund, and a sources and uses of funds statement, which will tie to the total Fund income statement.

(18) Deliver the balance sheet, income statement, and sources and uses of funds statement to the Fund auditor by May 1 of each year so that the auditor may prepare its report.

(19) Maintain a system of internal controls.

(20) Consider the auditor's report in preparing the annual report for submission to the Commission and include any undercollections or overcollections identified by the audit report in developing a proposed budget for the upcoming fiscal year.

(21) Submit the administrator's annual report by September 1 or 60 days following receipt of the audit report, whichever is later.

(22) With prior Commission approval, borrow monies to cover the short-term liabilities of the Fund caused by undercollections.

(23) At least 60 days before short-term borrowing is necessary, the administrator shall provide formal notice to the Commission which identifies the amount, the proposed lending source and the terms and conditions of the loan.

(24) Comply with the contract and Commission orders. Any dispute between the administrator and any contributing telecommunications provider shall be submitted to the Commission for resolution.

(25) Have access to the books of account of all telecommunications service providers to the limited extent necessary to verify their intraState end-user telecommunications retail revenues and other information used by the administrator in determining assessments and disbursements for the Fund.

(26) Treat competitive and financial information received as confidential and proprietary and only release that information upon order of the Commission.

(27) Operate on a fiscal year which shall be the same as the calendar year.

#### **§ 63.168. Auditor's duties.**

(a) An independent external auditor chosen by the Commission will audit the Fund records covering both collections and disbursements for the fiscal year. The costs for conducting audits will be included in the computation of Fund requirements. Thereafter, an audit of the Fund collections and disbursements will be done annually.

(b) Following the audit, the Fund auditor will prepare and submit a report to the Commission and the administrator by July 1 of each year. The audit report should make recommendations regarding the finances of the Fund and should identify undercollections or overcollections experienced by the Fund in the previous year.

**§ 63.169. Collection of universal service fund contributions.**

(a) At the beginning of the calendar year, the administrator will provide monthly reporting forms to each contributing telecommunications provider. Each carrier will complete the form monthly using the calculation as described in § 63.165 (relating to calculation of contributions) and remit the form to the administrator along with its monthly contribution in full.

(b) Failure to make timely payment will result in the levy of a late payment charge of 1.5% per month pro rata per diem on the delinquent contribution.

(c) If a carrier's contribution to the Fund in a given year is less than \$120, that carrier will not be required to submit a contribution.

**§ 63.170. End-user surcharge prohibited.**

A telecommunications service provider may not implement a customer or end-user surcharge or any other direct or indirect charge to recover any contributions to the Fund.

**§ 63.171. Enforcement.**

A telecommunications service provider that fails to pay, in a timely manner, any contribution required under this subchapter may be prohibited from providing service in this Commonwealth and be subject to other penalty as authorized under law.

**Cross References**

This section cited in 52 Pa. Code § 63.167 (relating to administrator's duties).

**Subchapter M. CHANGING LOCAL SERVICE PROVIDERS****GENERALLY**

- Sec.  
63.191. Statement of purpose and policy.  
63.192. Definitions.

**MIGRATION**

- 63.201. General migration standards.  
63.202. Migration responsibilities of OLSPs, NLSPs and NSPs.  
63.203. Standards for the exchange of CSRs.  
63.204. Removal or lifting of LSPFs.  
63.205. Porting telephone numbers.  
63.206. Discontinuance of billing.

- 63.207. Carrier-to-carrier guidelines and performance assurance plans.

### INTERFERING STATIONS

- 63.211. Duties of NSPs and NLSPs when an interfering station condition is identified.  
63.212. Duties of the prospective NLSP and the applicant when an interfering station condition is identified.  
63.213. Duties of the OLSP if notified by the prospective NLSP that an interfering station exists at a location where existing local service is provided by the OLSP and the applicant has shown proof of identity and of ownership or right of occupancy.  
63.214. Duties of the prospective NLSP when the OLSP is unable to resolve the interfering station condition at the applicant's service location.

### DISPUTES

- 63.221. Customer complaint procedures.  
63.222. Expedited process for resolution of migration disputes between service providers.

#### Authority

The provisions of this Subchapter M issued under the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; and section 612 of The Administrative Code of 1929 (71 P.S. § 232), unless otherwise noted.

#### Source

The provisions of this Subchapter M adopted August 12, 2005, effective August 13, 2005, 35 Pa.B. 4597, unless otherwise noted.

### GENERALLY

#### § 63.191. Statement of purpose and policy.

(a) The purpose of this subchapter is to establish general rules, procedures and standards governing the migration of customers between LSPs, including porting telephone numbers, resolving interfering stations, exchanging customer records and the transition of billing accounts. The primary objective of this subchapter is to establish standards to ensure that residential and business customers can migrate from one LSP to another LSP without confusion, delay or interruption to their local service.

(b) This subchapter applies to:

- (1) LSPs and NSPs for migration of residential and business customers between LSPs.
- (2) LSPs and NSPs when interfering station conditions are encountered.

(c) This subchapter does not apply to:

- (1) Mass migrations of customers brought about by the selling or transferring of a customer base of one LSP to another.
- (2) An LSP that has properly proceeded with the abandonment of service to its customer base.
- (3) DSL migration.
- (4) Line sharing/splitting arrangements.
- (d) To the extent that other regulations do not address circumstances as described in subsection (c), this subchapter may provide guidance for those transactions.

### § 63.192. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Applicant*—

(i) A person, association, partnership, corporation or government agency making a written or oral request for the commencement of local service, other than a transfer of local service from one location to another within the local service area of the same LSP or a reinstatement of local service following a discontinuation or termination.

(ii) The term does not apply to a customer who is subject to special contractual arrangements and has otherwise agreed to different conditions of local service that do not contradict Commission rules or regulations.

*Appropriate retained documentation*—Proof accompanying a customer's order, request for a change in telephone service or service providers, or permission to obtain the customer's CSR that uses a unique identifier associated with the customer, such as the customer's city of birth, Social Security number, mother's birth name or tax identification code.

*Authorized agent*—An adult designated by an applicant or a customer to act on the behalf of the applicant or customer.

*CSR—Customer service record*—Documentation indicating the customer's name, address, contact telephone number, quantity of lines, services, features, network serving arrangements, and other information associated with a customer account.

*Commission review*—Includes informal or formal review, evaluation or adjudication, staff-level review or alternate dispute resolution.

*Customer*—The end user recipient of telephone service provided by an LSP.

*DSL—Digital subscriber line*—A dedicated, high-speed, always-on service, frequently used in the context of "ADSL" or "XDSL."

*Discontinuation of service*—The temporary or permanent cessation of service upon the request of a customer.

*Facilities*—The equipment (for example—local loop, network interface device, transport facilities, and the like) necessary to provide local service to a customer.



*Freeze*—A designation elected by a customer that restricts a third party's ability to change the customer's choice of preferred service providers.

*Interfering station*—Preexisting local service that prevents the reuse of existing telephone facilities by an NLSP to serve a new customer at a location where the prior customer did not notify the OLSP to disconnect the local service. The OLSP and the NLSP may be the same company.

*InterLATA*—Originating in one LATA and terminating in another LATA. For example—an interLATA telephone call is a call that is placed from a telephone in one LATA to a telephone located in another LATA.

*IntraLATA*—Originating and terminating within the same LATA. For example—an intraLATA telephone call is a call that is placed from a telephone in one LATA to a telephone located within the same LATA.

*LATA—Local access and transport area*—One of the 196 geographical areas designated in 1984 by the decree that broke up AT&T into seven telephone operating companies. At that time, a LATA was the area within which one of the existing local service providers could offer either local or long distance service.

*LOA—Letter of authorization*—A specific written or electronic record signed by a customer granting a NLSP the authority to act as the customer's agent.

*LSC—Local service confirmation*—Documentation issued by the NSP to inform the LSP of the confirmed scheduled completion date for work affecting the migration of local service.

*LSP—Local service provider*—A company, such as a local exchange carrier (LEC), that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities, or by a combination of these methods of providing local service to a customer.

*LSPF—Local service provider freeze*—A designation elected by a customer that restricts a third party's ability to change a customer's choice of preferred LSP.

*LSR—Local service request*—The electronic or paper form that contains all the information required to arrange for installation of, change in or disconnection of local services.

(i) The LSR is sent by an LSP to an NSP, for example—to request the activation of number portability, the installation of an unbundled loop facility, or the disconnection of loop facilities and migration of a number.

(ii) The NSP uses the LSR to create the internal directives, for example—a service order, to cause the work to be performed as ordered.

*Line loss notification*—The report the old NSP issues upon completion of a migration to inform the OLSP that the OLSP no longer provides local service to a customer on a particular line.

*Line sharing*—The sharing of facilities by an LSP and an NSP in the provision of voice and data services to a given location over the same facilities.

*Line splitting*—The sharing of facilities by two LSPs, when neither is the NSP, in the provision of voice and data services to a given location over the same facilities.

*Local loop*—The wires and cable between the customer's premise and the central office of the local telephone company.

*Local service*—Telecommunications service within a customer's local calling area.

(i) The term includes the customer's local calling plan, dial tone line, touch-tone and directory assistance calls allowed without additional charge.

(ii) The term also includes services covered by the Federal line cost charge, Pennsylvania Relay Surcharge, Federal Universal Service Fund Surcharge, Local Number Portability Surcharge, Public Safety Emergency Telephone Act (9-1-1) Fee and applicable Federal and State taxes.

*Migration*—The movement of a customer from one LSP to another LSP at the same service location.

*NLSP—New local service provider*—The company that will provide local service to a customer after a migration.

*NSP—Network service provider*—A telecommunications provider that interacts with LSPs and provides the facilities and equipment components needed to make up a customer's telecommunications service.

(i) An NSP may also be referred to as an underlying carrier.

(ii) An NSP may also be an LSP.

*Network serving arrangements*—The service platform (for example—resale, unbundled loop, full facilities, UNE-P) to provide local service to a customer. Network serving arrangements may also be referred to as service configuration information.

*OLSP—Old local service provider*—The company that provides local service to a customer prior to migration.

*Optional services*—

(i) Telecommunications services in addition to local service that are offered by LSPs at a cost per individual service or as part of a package of services.

(ii) Examples include toll blocking, 900/976 blocking, inside wiring maintenance plans and extensions off premise.

(iii) The term also includes vertical services.

*Preferred service provider*—The company chosen by a customer to provide particular telecommunications services. A preferred service provider is sometimes referred to as a "preferred carrier."

*Porting*—The process that allows customers to keep their telephone numbers when changing LSPs.

*Recording verifying permission*—An auditory documentation of a customer's voice made when the customer ordered local service, requested a change in

local service or local service providers or granted permission to a local service provider to obtain the customer's CSR.

*Service provider*—A generic term to include LSPs and NSPs.

*Termination of service*—Permanent cessation of service after a suspension without the consent of the customer.

*Third party verification*—The process by which an independent entity confirms that a customer ordered local service, authorized a change in local service or local service providers or granted permission to a local service provider to obtain the customer's CSR.

*UNEs—Unbundled network elements*—Various physical and functional parts of an NSP's infrastructure that may be leased to another LSP. These components include things such as local switching, local loops, interoffice transmission facilities, signaling and call-related databases, operator services, directory assistance, and the like.

*UNE-P—UNE-platform*—A combination of unbundled network elements that facilitates end-to-end service delivery. A typical arrangement includes at least a local loop and switching.

*Vertical services*—Telecommunications features available to local service customers at either an added cost or as part of a service package. Vertical services refer to the way in which a telephone line works and include customer calling features such as call forwarding and call waiting.

*Unbundled loop*—A local loop that is leased by one service provider from another service provider to provide local service to a customer.

*Working day*—A day except Saturday, Sunday or legal holiday.

## MIGRATION

### § 63.201. General migration standards.

- (a) A customer has the right to migrate from one LSP to another LSP.
- (b) The prospective NLSP shall communicate and explain to the customer the migration process and the migration timetable for the local service and for any other service the customer may order.
- (c) The OLSP, the NLSP and the NSP shall work together in good faith to minimize or avoid problems associated with migrating the customer's account.
- (d) The OLSP may not prohibit the NLSP from reusing facilities that are no longer needed by the OLSP to provide local service to the migrating customer or other customer. If the OLSP has a conflict over the use of the facilities, it may be resolved using the interfering station procedures under §§ 63.211—63.214 (relating to interfering stations) or the expedited dispute process under § 63.222 (relating to expedited process for resolution of migration disputes between service providers).

(e) At the end of each working day, the NLSP shall notify the 9-1-1 host carrier and the Directory Listings/White Pages providers of that day's changes to these databases.

(f) Each LSP and NSP shall maintain a company contact and escalation list for use in resolving migration problems and interfering station conditions. The companies shall update the lists to ensure that the information is current and accurate. LSPs and NSPs shall post the list on a publicly accessible website and supply the website address to the Commission. The Commission will post the address on its website.

**§ 63.202. Migration responsibilities of OLSPs, NLSPs and NSPs.**

(a) The OLSP shall be responsible for responding to the prospective NLSP's request for a CSR, consistent with the requirements of § 63.203 (relating to standards for the exchange of CSRs).

(b) The prospective NLSP shall be responsible for coordinating the migration of the customer's local service with its NSP, if any, and with the OLSP.

(c) The prospective NLSP shall provide the LSR information to affected service providers, as applicable.

(d) The timetable for issuing an LSC is as follows:

(1) By August 13, 2005, the NSP or OLSP shall issue an LSC or rejection within 3 working days from the date the NSP or OLSP receives an LSR from the prospective NLSP.

(2) After February 13, 2006, the NSP or OLSP shall issue an LSC or rejection within 2 working days from the date the NSP or OLSP receives an LSR from the prospective NLSP.

(3) After August 14, 2006, the NSP or OLSP shall issue an LSC or rejection within 1 working day from the date the NSP or OLSP receives an LSR from the prospective NLSP.

(e) The NLSP shall be responsible for coordinating a customer's service restoration that may become necessary due to problems with the migration.

(f) After a migration has been completed, the old NSP shall provide notification to the OLSP that the customer has migrated to the NLSP.

**§ 63.203. Standards for the exchange of CSRs.**

(a) Prospective NLSPs may not acquire CSRs without a verified customer authorization. The prospective NLSP shall use one of the following verification procedures and retain the authorization and verification for 2 years:

- (1) An LOA from the customer of record to review the customer's account.
- (2) A third-party verification of the customer's consent.
- (3) A recording verifying permission from the customer.
- (4) Oral authorization documented with appropriate retained documentation.

- (5) Additional verification procedures as may be authorized by the Federal Communications Commission (FCC) or the Commission.
- (b) The prospective NLSP shall indicate to the customer's current LSP that it has a verified authorization for access to the CSR. The NLSP is not required to provide a copy of the authorization or verification to the current LSP.
- (c) A current LSP may not contact a customer to retain or keep that customer as a result of a request from another LSP for the customer's CSR.
- (d) When a prospective NLSP has verified authorization from the customer to switch the customer's LSP, the prospective NLSP shall request the customer's CSR from the OLSP. The prospective NLSP is not required to provide proof to the OLSP of the authorization or verification at the time of migration. The prospective NLSP shall use one of the following types of verification and shall retain the authorization and verification for 2 years:
- (1) An LOA from the customer to switch LSPs.
  - (2) A third-party verification of the customer's request.
  - (3) An electronic verification of the customer's request to switch LSPs that contains unique identifying information.
  - (4) Additional verification procedures as may be authorized by the FCC or the Commission.
- (e) A customer's current LSP shall provide the following information when the CSR is requested to migrate a customer's local service:
- (1) Billing telephone number and working telephone number.
  - (2) Complete customer billing name and address.
  - (3) Complete service address, including floor, suite unit and any other unique identifying information.
  - (4) 9-1-1/E-9-1-1 information.
  - (5) Directory listing information, including address, listing type and all other pertinent information.
  - (6) Preferred service providers for interLATA, intraLATA, local service and other services.
  - (7) Provider freeze status by interLATA toll, intraLATA toll, local service and other services.
  - (8) Listing of all vertical services (for example—custom calling, hunting, and the like) to which the customer currently subscribes.
  - (9) Listing of all optional services (for example—900 blocking, toll blocking, remote call forwarding, off-premise extensions, and the like) to which the customer currently subscribes.
  - (10) Tracking number or transaction number (for example—purchase order number).
  - (11) Network serving arrangements (for example—resale, UNE-P, unbundled loop).
  - (12) Identification of NSPs.

(13) Identification of any line sharing/line splitting on the migrating customer's line.

(f) Timetable for providing CSRs, minimum requirements:

(1) By August 13, 2005, OLSPs shall provide 80% of requested CSRs within 2 working days.

(2) After February 13, 2006, OLSPs shall provide 80% of requested CSRs within 1 working day.

(3) After August 14, 2006, OLSPs shall provide 80% of requested CSRs the same day if the request is made by noon of that day, or by noon of the next working day if requested after noon.

#### Cross References

This section cited in 52 Pa. Code § 63.202 (relating to migration responsibilities of OLSPs, NLSPs and NSPs).

### § 63.204. Removal or lifting of LSPFs.

(a) An applicant shall authorize the removal of an existing LSPF before a prospective NLSP may process a change in LSP. The prospective NLSP shall inform the applicant of the following at the time of application:

(1) If the applicant has an LSPF, the applicant shall authorize the removal of the LSPF before the request for a change of the customer's LSP can be processed.

(2) The applicant or the applicant's authorized agent shall contact the OLSP to have an LSPF lifted. Before processing the lifting of the LSPF, the OLSP shall confirm appropriate verification data such as the customer's date of birth, Social Security number or mother's birth name with the applicant or the applicant's authorized agent.

(3) A prospective NLSP may not authorize the removal of an applicant's LSPF.

(b) When the prospective NLSP is also seeking to provide other services, (for example, interexchange, intraLATA, interLATA, interstate or international toll) covered by freezes, authorizations to lift the freezes may be transmitted in one process, if the applicant expressly requests that each freeze be lifted. The prospective NLSP shall inform the applicant of the distinctions among the services and of the requirement that service may not be migrated unless the customer expressly lifts each freeze.

(c) LSPs that offer LSPFs to their customers shall provide various methods to customers for lifting LSPFs, as required by the Federal Communications Commission as set forth in 47 CFR Part 64, Subpart K (relating to changes in preferred telecommunications service providers).

**§ 63.205. Porting telephone numbers.**

An OLSP or NSP may not refuse an otherwise valid request to port a number to a NLSP unless the number is for local service that has been terminated or discontinued under Chapter 64 (relating to standards and billing practices for residential telephone service) for residential customers or consistent with the LSP's tariff for other customer classes.

**§ 63.206. Discontinuance of billing.**

(a) LSPs shall minimize overlap in billing during the migration between LSPs.

(b) Within 42 days of the receipt of a line loss notification from the NSP, the customer's OLSP shall issue the customer a final bill for services rendered.

(c) Once the customer has paid the charges on the final bill, the OLSP shall immediately remove the customer from its billing system and discontinue billing, unless the OLSP provides other services to the customer.

(d) Subject to the terms of an applicable tariff or customer specific pricing arrangement, the OLSP shall stop billing the customer for any recurring charges associated with the migrated services as of the date of the migration.

(e) This subchapter does not affect a customer's debtor/consumer rights or an LSP's creditor's remedies, as may be otherwise permitted by law.

**§ 63.207. Carrier-to-carrier guidelines and performance assurance plans.**

For an LSP or NSP subject to State or Federal carrier-to-carrier guidelines or performance assurance plans, if the carrier-to-carrier guidelines or performance assurance plan provide a more explicit or a narrower window for performance than otherwise specified under this subchapter, the carrier-to-carrier guidelines or performance assurance plan shall control for that LSP or NSP.

**INTERFERING STATIONS****§ 63.211. Duties of NSPs and NLSPs when an interfering station condition is identified.**

(a) The NSP shall inform the prospective NLSP of an interfering station condition by the end of the next working day after the NSP identifies that an interfering station condition exists.

(b) The NSP shall review the LSR information with the prospective NLSP to determine possible errors:

(1) Upon confirmation that the LSR information is correct, the NSP shall inform the prospective NLSP that the LSR cannot be fulfilled because there is preexisting local service at the service location.

(2) If the LSR information is incorrect, the prospective NLSP shall correct the information and resubmit the corrected LSR to the NSP.



**Cross References**

This section cited in 52 Pa. Code § 63.201 (relating to general migration standards).

**§ 63.212. Duties of the prospective NLSP and the applicant when an interfering station condition is identified.**

(a) The prospective NLSP shall notify the applicant that there is preexisting local service at the service location within 1 business day of the date the NLSP receives notice of the interfering station condition. The prospective NLSP shall contact the applicant by telephone, email, first class mail or in person to request that the applicant verify the address at the service location.

(b) If the applicant fails to respond to the notice within 5 days, the prospective NLSP may cancel the application.

(c) If the applicant informs the prospective NLSP that the address is incorrect, the prospective NLSP shall correct the information on the application, submit a new LSR and provide the new local service installation date.

(d) If the applicant verifies that the address is correct, the prospective NLSP shall explain that new local service is not able to be installed using the same facilities due to preexisting local service at the address and request the applicant to provide proof of ownership or right of occupancy.

(e) If the applicant provides proof of ownership or right of occupancy, the prospective NLSP shall advise the applicant of the following options:

(1) The applicant may authorize the prospective NLSP to contact the OLSP to confirm abandoned service.

(2) The applicant may attempt to resolve the interfering station condition with the customer of record, if known to the applicant.

(3) The applicant may arrange for the installation of new facilities.

(i) If inside wiring is required, the applicant shall provide proof of installation before the prospective NLSP is able to proceed with the LSR.

(ii) If new facilities (for example—outside wiring or a network interface device (NID)), are required, the prospective NLSP shall advise the applicant that the applicant shall pay for the installation of the new facilities pursuant to tariff rates and that the installation may take longer than 5 days.

(4) The applicant may cancel the application.

**Cross References**

This section cited in 52 Pa. Code § 63.201 (relating to general migration standards).

**§ 63.213. Duties of the OLSP if notified by the prospective NLSP that an interfering station exists at a location where existing local service is provided by the OLSP and the applicant has shown proof of identity and of ownership or right of occupancy.**

(a) Within 3 working days of the notification, the OLSP shall issue a termination notice to the customer of record in the OLSP's billing system. The notice



of termination must state the reason for termination, date of termination and what the customer of record is required to do to prevent termination. The termination date must be 7 days from the date of the mailing of the notice by first class mail.

(b) If the customer of record does not contact the OLSP, the OLSP shall terminate the customer's service and take appropriate action to release the customer's facilities to the prospective NLSP.

(c) If the customer of record contacts the OLSP by the termination date and does not agree to the termination of service, the OLSP shall notify the prospective NLSP of the inability of the OLSP to release the facilities to be used by the prospective NLSP.

#### Cross References

This section cited in 52 Pa. Code § 63.201 (relating to general migration standards).

### § 63.214. Duties of the prospective NLSP when the OLSP is unable to resolve the interfering station condition at the applicant's service location.

(a) The prospective NLSP shall contact the applicant and explain that the preexisting customer will not agree to the termination of service and that the prospective NLSP is not able to use the existing facilities.

(b) The prospective NLSP shall inform the applicant of the following options to obtain local service:

(1) The applicant may pursue any disputes between co-tenants, owners and occupants before an appropriate forum for the remedy. The prospective NLSP shall inform the applicant that neither the prospective NLSP, the OLSP nor the Commission is responsible for or available to resolve private disputes between customers and applicants.

(2) The applicant may arrange for the installation of new facilities.

(i) If inside wiring is required, the applicant shall provide proof of installation before the prospective NLSP is able to proceed with the LSR.

(ii) If new facilities (for example—outside wiring or a NID) are required, the applicant shall pay for the installation of the new facilities pursuant to tariff rates and the installation may take longer than 5 days.

#### Cross References

This section cited in 52 Pa. Code § 63.201 (relating to general migration standards).

## DISPUTES

### § 63.221. Customer complaint procedures.

(a) *Records of complaints.* An LSP covered by or operating under this title shall preserve written or recorded complaints showing the name and address of the applicant or complainant, the date and character of the complaint, the action

taken and the date of final disposition. Records of complaints for residential customers shall be kept in accordance with § 64.192 (relating to record maintenance).

(b) *Commission review.* If a customer or applicant expresses dissatisfaction with the LSP's decision or explanation, the LSP shall inform the customer or applicant of the right to have the dispute considered and reviewed by the Commission and shall provide the name, address and telephone number of the appropriate Commission bureau. This subsection shall be read in conjunction with Chapter 64, Subchapters G and H (relating to disputes; informal and formal complaints; and restoration of service) for residential service.

(c) *Investigations.* Within 1 working day of receiving a complaint covered by this subchapter from an applicant, customer or third party, the Commission will transmit a summary of the complaint to the LSP. When complaints are referred to the LSP through the Commission, the LSP and the Commission will work to process and resolve the complaints. An LSP shall make a full and prompt investigation of complaints made to it through the Commission by the applicant, customer or third party. For complaints involving commercial service, if the LSP needs more than 30 days to respond to the Commission, the LSP shall advise the Commission of that need within 30 days of the date it receives the complaint summary and indicate when it will send its response to the Commission.

(d) *Resolutions.* If a complaint is resolved between the LSP and the complaining party, the LSP shall advise the Commission within 10 working days of the resolution and submit a copy of the service order or other documentation of satisfaction which identifies the action taken by the LSP to resolve the complaint. The LSP may not consider the complaint closed until the Commission advises the LSP that the Commission has closed the complaint.

#### **§ 63.222. Expedited process for resolution of migration disputes between service providers.**

(a) The Commission will provide a nonadversarial, expedited dispute process to address migration disputes between service providers. The Commission will designate Commission staff as contact persons through which LSPs and NSPs may request expedited resolution for alleged problems between service providers or compliance with this title.

(b) An LSP or NSP that has a dispute under this subchapter with another LSP which cannot be resolved between the entities may refer the dispute to the expedited dispute process for a suggested resolution in a nonadversarial context.

(c) The Commission designee will review the dispute within 2 working days of the date the dispute was received, attempt to contact the involved entities and suggest a nonbinding resolution of the dispute, consistent with § 1.96 (relating to unofficial statements and opinions by Commission personnel).

(d) If the expedited dispute process fails to resolve the dispute, the parties may resort to the Commission's mediation process under §§ 69.391—69.397 (relating to mediation process) or formal dispute resolution processes.

(e) The expedited dispute process is neither mandatory nor a prerequisite to the Commission's mediation or formal dispute resolution processes.

#### Cross References

This section cited in 52 Pa. Code § 63.201 (relating to general migration standards).

### Subchapter N. LOCAL SERVICE PROVIDER ABANDONMENT PROCESS

Sec.

- 63.301. Statement of purpose and policy.
- 63.302. Definitions.
- 63.303. Pretermination provisions.
- 63.304. NSP termination process for wholesale customers.
- 63.305. Initiation of abandonment.
- 63.306. Abandoning LSP obligations for abandonment.
- 63.307. Abandonment process management.
- 63.308. Commission consideration and action.
- 63.309. Acquiring LSP provisions and obligations.
- 63.310. Abandoning LSP follow-up obligations.

#### Authority

The provisions of this Subchapter N is issued under the Public Utility Code, 66 Pa.C.S. 501, 1501 and 3001—3009, unless otherwise noted.

#### Source

The provisions of this Subchapter N adopted April 15, 2005, effective April 16, 2005, 35 Pa.B. 2289, unless otherwise noted.

### § 63.301. Statement of purpose and policy.

- (a) *Purpose.* The purpose of this subchapter is to:
- (1) Provide for an orderly process when a NSP intends to terminate service to a LSP.
  - (2) Provide for an orderly process when a LSP seeks to stop the provision of existing service to residential and business customers under any of the following circumstances:
    - (i) A NSP that provides part or all of the services necessary to provide local service is intending to terminate a LSP's interconnection agreement.
    - (ii) The Commission has issued an order to revoke a LSP's certificate of public convenience.
    - (iii) A LSP has filed an application to abandon a certificate of public convenience for the provision of local service.

(3) Ensure that customers are provided ample notice and the opportunity to select a new LSP of their choice and thereby not lose local service when the LSP exits their market.

(4) Coordinate information flow and activities through a project management team.

(5) Ensure that an abandoning LSP provides sufficient network information so that customers are able to be migrated seamlessly.

(6) Ensure that an abandoning LSP coordinates with 9-1-1 service providers and the North American Numbering Plan Administrator.

(b) *Application.*

(1) This subchapter applies to a LSP that provides local service to residential or business customers.

(2) This subchapter applies to a NSP that provides wholesale local service to a LSP and intends to terminate the LSP's service for breach of an interconnection agreement.

### § 63.302. Definitions.

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

*Abandon*—To cease providing local service to existing customers. The term does not include discontinuance as a result of a customer's request or a temporary change in the provision of service that may arise from maintenance, repair or failure of a LSP's equipment or facilities.

*Abandoning LSP*—A LSP that seeks to abandon providing local service to existing customers.

*Acquiring LSP*—A LSP that voluntarily undertakes to provide local service to customers of the abandoning LSP after the abandoning LSP is permitted to alter or abandon providing local service.

*CSR—Customer service record*—Documentation indicating the customer's name, address, contact telephone number, quantity of lines, services, features and other information associated with a customer account.

*Customer*—The end-user recipient of telecommunications service provided by an LSP.

*Exit date*—The date upon which an abandoning LSP intends to cease providing telecommunications service.

*Full facilities*—The term used when the LSP has all the services and equipment (that is, central office switches, local loops, trunk lines, and the like) necessary to provide telephonic communications between telephones connected to it or to other central offices.

*Interconnection agreement*—An agreement to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.

*LSP—Local service provider*—A company, such as a local exchange carrier (LEC), that provides local service by resale, by unbundled network elements

(with or without platform) or through its own facilities, or by a combination of these methods of providing local service to a customer.

*Local exchange carrier*—A legal entity that is authorized to do business in this Commonwealth by the Department of State and has been certificated by the Commission to offer local exchange telecommunications service within a specified service area. LECs encompass both local exchange telecommunications companies and competitive telecommunications carriers.

*Local service*—Telecommunications service within a customer's local calling area.

(i) The term includes the customer's local calling plan, dial tone line, touch-tone and directory assistance calls allowed without additional charge.

(ii) The term also includes services covered by the Federal Line Cost Charge, Pennsylvania Relay Surcharge, Federal Universal Service Fund Surcharge, Local Number Portability Surcharge, Public Safety Emergency Telephone Act (9-1-1) Fee and applicable Federal and State taxes.

*Local service reseller*—A LSP that resells another company's wholesale telecommunications services to provide local service to customers.

*Local telecommunications service*—Telecommunications service within a customer's local calling area, including:

(i) The customer's local calling plan, dial tone line, touch-tone and directory assistance calls allowed without additional charge.

(ii) Services covered by the Federal line cost charge, Pennsylvania relay surcharge, Federal universal service fund surcharge, local number portability surcharge, Public Safety Emergency Telephone Act (9-1-1) fee and applicable Federal and State taxes.

*NANPA—North American Numbering Plan Administration*—The organization that holds overall responsibility for the neutral administration of North American telephone numbering resources, subject to directives from regulatory authorities in the countries that share the North American telephone numbering resources. NANPA's responsibilities include assignment of telephone numbering resources, and, in the United States and its territories, coordination of area code relief planning and collection of utilization and forecast data.

*NSP—Network service provider*—A telecommunications provider that interacts with LSPs and provides the facilities and equipment components needed to make up a customer's telecommunications service. A NSP may be referred to as an underlying carrier, and may also be a LSP.

*Preferred carrier freeze*—A designation elected by a customer that restricts a third party's ability to change a customer's choice of preferred telecommunications service provider.

*Resale*—The term used when a LSP does not have its own facilities, but purchases telecommunications services at wholesale rates to sell to the public. Typically, the telecommunications services are purchased from a NSP.

*Telecommunications service*—The offering of the transmission of messages or communications for a fee to the public.

*UNE—Unbundled network element*—Various physical and functional parts of a NSP's infrastructure that may be leased to another LSP. These components include things such as local switching, local loops, interoffice transmission facilities, signaling and call-related databases, operator services, directory assistance, and the like.

*UNE-L—Local Loop*—The telephone line (copper or fiber), that runs from the local telephone company to a customer's premise. A LSP may own a local switch and lease the local loop from the NSP.

*UNE-P—UNE-Platform*—A combination of unbundled network elements that facilitates end-to-end service delivery. A typical arrangement includes at least a local loop and switching.

*Wholesale customer*—A LSP that provides local service by resale or by unbundled network elements (with or without platform).

#### Authority

The provisions of this § 63.302 amended under 66 Pa.C.S. § 3019(b)(2) and (3).

#### Source

The provisions of this § 63.302 amended August 12, 2022, effective August 13, 2022, 52 Pa.B. 5049. Immediately preceding text appears at serial pages (312624) to (312625).

### § 63.303. Pretermination provisions.

(a) *Wholesale customer billing dispute resolution process.* Wholesale customers shall have the opportunity to dispute charges for the provision of service with the NSP. A wholesale customer is obligated to pay amounts not under dispute. Disputes shall be raised by a LSP on a timely basis consistent with the language in applicable interconnection agreements.

(1) When disputing NSP charges, the wholesale customer shall provide the NSP with a written dispute notice unless other methods of delivery have been agreed to as part of an interconnection or other governing agreement.

(2) The dispute notice must be addressed to the NSP's designee.

(3) The dispute notice must provide the NSP with the amounts that form the grounds for the dispute as well as the specific accounts and bills that are being disputed.

(4) Within 5 calendar days of receiving a written dispute notice from a wholesale customer, the NSP shall provide written acknowledgement of the receipt of the notice to the wholesale customer's contact.

(5) Upon receiving a dispute notice from a wholesale customer, the NSP and the wholesale customer shall make a good faith effort to resolve the dispute within 30 calendar days unless a longer dispute resolution period is provided for in an interconnection or other governing agreement. During this dis-

pute resolution period, the NSP may not pursue termination of the wholesale customer's service unless it is based on other indebtedness that is not disputed.

(6) If resolution of the dispute is not achieved to the satisfaction of the NSP and the wholesale customer at the conclusion of the dispute resolution period, either party may file a complaint with the Commission to resolve the dispute.

(7) The NSP and the wholesale customer shall seek to file a complaint with the Commission to resolve a billing dispute prior to the time when retail customers are to be notified of the pending abandonment.

(8) The NSP may not pursue termination of the wholesale customer's service while a complaint to resolve the dispute is pending with the Commission unless the termination is based on other indebtedness that is not disputed.

(b) *NSP payment default resolution process.*

(1) Prior to a NSP issuing a termination notice to a wholesale customer for a payment default, the NSP shall:

(i) Provide the wholesale customer with a written notice of payment default.

(ii) Send the default notice by first class mail unless other methods of delivery have been agreed to as a part of the interconnection or other governing agreement or are provided for in an applicable tariff.

(iii) Address the default notice to the wholesale customer's designee.

(iv) Send a copy of the default notice to the Secretary of the Commission and to the Commission's Bureau of Consumer Services.

(2) The default notice to a wholesale customer shall include the following:

(i) The amount owed that forms the grounds for the payment default as well as the specific accounts and invoices that are in default.

(ii) A statement of the terms of the interconnection or other governing agreement that forms the grounds for the NSP's notification of payment default.

(iii) Available methods the wholesale customer may use to cure the payment default.

(iv) The NSP's contact information to be used by the wholesale customer for payment of the NSP's bill.

(3) Allow at least 30 calendar days from the date of the default notice for resolution of the payment default prior to issuing a termination notice. If interconnection or other governing agreements between the NSP and the wholesale customer allow for a longer dispute resolution period prior to the NSP issuing a termination notice, the time periods in the agreement govern.

(4) Within 5 calendar days of receiving a written notice of payment default, the wholesale customer shall provide written acknowledgement of the receipt of the notice to the NSP's contact.

**Cross References**

This section cited in 52 Pa. Code § 63.304 (relating to NSP termination process for wholesale customers); and 52 Pa. Code § 63.305 (relating to initiation of abandonment).

**§ 63.304. NSP termination process for wholesale customers.**

(a) *Authorized reasons for a NSP to terminate service.* A NSP may terminate service to a wholesale customer for one or more of the following reasons:

- (1) Failure of the wholesale customer to pay an undisputed delinquent amount for services necessary to provide customers with local service when that amount remains unpaid for 30 calendar days or more after the date of the bill unless the bill has been disputed in accordance with the provisions in § 63.303(a) or (b) (relating to pretermination provisions).
- (2) Failure of the wholesale customer to abide by the terms and conditions of an interconnection or other governing agreement related to the provision of local service that has been approved by the Commission.
- (3) Failure of the wholesale customer to comply with the terms of a payment agreement related to the provision of local service.
- (4) Failure of the wholesale customer to comply with a Commission order related to the provision of local service.

(b) *Unauthorized reasons for a NSP to terminate service.* Unless specifically authorized by the Commission, a NSP may not terminate service for the following reasons:

- (1) Failure of a wholesale customer to pay a charge unrelated to the provision of local service, for example, a charge for a LSP's own directory advertising in a NSP's yellow pages directory.
- (2) Failure of a wholesale customer to pay a charge that was not previously billed prior to the due date of the current bill.
- (3) Failure of a wholesale customer to pay a charge that is under a payment agreement prior to the date of payment set forth in the agreement.
- (4) Failure of a wholesale customer to pay a charge that is at issue in a complaint before the Commission unless termination is specifically authorized by the Commission.

(c) *Termination notice provisions.*

- (1) A NSP shall provide a wholesale customer with a written termination notice at least 45 calendar days prior to the date that the NSP intends to cease providing the service that enables the wholesale customer to serve end-user customers.
- (2) A NSP shall send the termination notice by first class mail unless other methods of delivery have been agreed to as part of the interconnection or other governing agreement or are provided for in an applicable tariff.
- (3) A NSP shall address the termination notice to the wholesale customer's designee.



(4) A NSP shall send a copy of the termination notice to the Secretary of the Commission, to the Commission's Bureau of Consumer Services and the Law Bureau.

(5) A termination notice from a NSP to a wholesale customer shall include the following:

- (i) The date of the notification and reason for termination.
- (ii) The date services shall be terminated unless payment is received or other mutually acceptable arrangements are made.
- (iii) The amount owed, if applicable.
- (iv) A contact telephone number and name for the NSP.

(d) *Combined default/termination notice provisions.* A NSP, when authorized by the provisions of its interconnection or other agreement with a wholesale customer, may provide the wholesale customer with a single notice of default and of termination that specifies that termination shall occur in less than the minimum 75 calendar days provided for in § 63.303 and this section, provided that the termination may not occur in less than the 45-day termination period provided for in subsection (c)(1).

#### § 63.305. Initiation of abandonment.

A LSP shall initiate abandonment of service when a LSP receives a notice from the NSP of a termination of a LSP's service consistent with the pretermination dispute provisions in § 63.303 (relating to pretermination provisions), when the Commission issues an order to revoke a LSP's certificate of public convenience or when a LSP has made proper application to the Commission to abandon some or all of a LSP's local service customers.

(1) *NSP initiation.*

(i) A NSP that intends to terminate the service of a LSP that is a wholesale customer and serves residential or business customers shall provide prior notice to the LSP and the Commission electronically and by first class mail unless other methods of delivery have been agreed to as part of the interconnection or other governing agreement between the NSP and the LSP, not less than 45 calendar days in advance of the scheduled termination.

(ii) The Commission may require a NSP to extend a LSP's termination date until the LSP's customers have been properly notified.

(2) *Commission initiation.* The Commission may initiate the abandonment of a LSP's service through the issuance of a Commission order that revokes the LSP's certificate of public convenience.

(3) *LSP initiation.* A LSP may initiate the voluntary abandonment of some or all of its local service customers by filing with the Commission an application to abandon service to some or all of its existing customers. A LSP shall file an application to abandon service at least 35 calendar days prior to the exit date.

**§ 63.306. Abandoning LSP obligations for abandonment.**

(a) *General.* Upon receiving a termination notice from a NSP, or upon receiving a Commission order notifying a LSP of an effective date for revoking its certificate of public convenience, or upon a LSP's voluntary filing of an application to abandon service, the abandoning LSP shall make a good faith effort to secure an acquiring LSP to serve the customers it plans to abandon.

(b) *Abandonment plan.* The abandoning LSP shall file an abandonment plan with the Commission at least 35 calendar days in advance of abandoning service. The abandonment plan shall contain the following information:

- (1) An identification of the telecommunications services, either facilities-based or through resale, to be abandoned or curtailed in the associated service territory.
- (2) An explanation of reasons for the abandonment of service.
- (3) A detailed outline of the procedures a LSP shall use to facilitate continuation of service for its affected customers. The abandoning LSP shall demonstrate that the abandonment will not deprive the public of necessary telecommunications services.
- (4) The notices required by this section.
- (5) A list of current customers that will be abandoned.
- (6) The abandonment notice that is to be sent to customers.
- (7) The beginning and ending dates for the period in which customers are to shop and select a new LSP (customer choice period). Customers shall be allowed up to 20 calendar days after receiving a customer notice of abandonment to shop and select a new LSP.
- (8) The beginning and ending dates for the customer migration period when the business arrangements are to be completed for the transfer of service to the new LSP. The customer migration period shall immediately follow the customer choice period, allow 10 calendar days for migration, and immediately precede the exit date.
- (9) A proposed exit date. If the abandonment is initiated by termination by a NSP or by Commission order, the proposed exit date may not be later than the termination date provided by the NSP or the date the certificate of public convenience is to be revoked.
- (10) Contact names and telephone numbers for a LSP's program manager, the regulatory contact and other pertinent contacts, for example, the contact for customer service records (CSR) or provisioning contacts.
- (11) If applicable, the arrangements made for an acquiring carrier.
- (12) The procedures to be taken with NANPA to transfer NXX codes or thousand number blocks (if applicable) while preserving number portability for numbers within the code.
- (13) The name of the NSP and the current customer serving arrangements, for example, UNE-P, resale, UNE-L or Full Facilities.

(14) A list of customer names and contact information when the abandoning LSP is the only provider of facilities to a customer or group of customers.

(15) The number of customers to be impacted by the abandonment.

(16) The details of a transfer of assets or control that requires Commission approval under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate).

(17) A request to modify or cancel tariffs.

(18) A plan for processing customer deposits, credits and termination liabilities or penalties.

(19) A plan for unlocking the E-9-1-1 records.

(20) A plan for maintaining toll-free telephone access to an abandoning LSP's call center (including customer service and billing records) so that a customer is able to contact the LSP to inquire about or dispute final bills and refunds.

(c) *Transfer of customers' 9-1-1/E-9-1-1 records.*

(1) *Transfers to a new LSP.* An abandoning LSP shall unlock all of its telephone numbers in the 9-1-1/E-9-1-1 records to provide a new LSP with access to the abandoning LSP's customers' 9-1-1/E-9-1-1 records. The abandoning LSP shall unlock the 9-1-1/E-9-1-1 records in compliance with the National Emergency Numbering Association's (NENA) recommended data standards for service providers going out of business.

(2) *Transfers after abandonment.* An abandoning LSP shall submit a letter to the appropriate 9-1-1/E-9-1-1 service provider authorizing the 9-1-1/E-9-1-1 service provider to unlock remaining 9-1-1/E-9-1-1 records after the LSP has abandoned the market. The abandoning LSP shall provide this letter at least 30 days prior to abandoning the market.

(d) *Notification to the industry and NANPA.*

(1) *Industry abandonment notice.* An abandoning LSP shall provide written notice to:

(i) Telecommunications corporations providing the abandoning LSP with essential facilities or services or UNEs that affect the abandoning LSP's customers.

(ii) Telecommunications corporations providing the abandoning LSP with resold telecommunications services, if resold service is part of the telecommunications services provided to the abandoning LSP's affected customers.

(2) *NANPA abandonment notice.* An abandoning LSP which has NXX or thousand block number resources from NANPA shall provide written notice to NANPA identifying and authorizing the release of all of its used and unused number resources to an acquiring carrier, other LSPs or NANPA, as applicable. When number resources are to be released to an acquiring carrier, the notice to NANPA shall be provided at least 35 days prior to the abandoning LSP's exit date.

(3) The notice shall include identification of all working telephone numbers assigned to the customers, identification of all unassigned or administrative numbers available for reassignment to other providers and the date the unassigned telephone numbers shall be available for reassignment.

(4) The abandoning LSP shall authorize the release of each individually assigned customer telephone number to the subsequent provider selected by the customer. The abandoning LSP may not abandon NXX codes or thousand block numbers if a number within the relevant range of numbers has not been completely ported.

(e) *Abandoning LSP notification to customers.*

(1) The abandoning LSP (and acquiring LSP if applicable) shall notify customers by letter at least 30 calendar days in advance of the exit date.

(2) The abandoning LSP shall provide customers with a list of all services (for example—local basic, regional toll and long distance toll) that the abandoning LSP is currently providing to the customer that will no longer be provided as of the exit date. The abandoning LSP shall direct customers to choose a new LSP to obtain whatever services they wish to have going forward.

(3) The abandoning LSP shall lift all existing preferred carrier freezes on the services to be abandoned.

(4) The notice of pending abandonment of service to residential and business customers shall contain the following:

(i) A printed message on the envelope and the notice containing the words “Important Notice, Loss of Local Telephone Service” printed in bold letters with a font size of at least 14 points, conspicuously displayed on the front of the envelope to attract the attention of the reader.

(ii) A statement on the notice: “At this time, (LSP name) provides you with local telephone service, (list other services provided by the LSP that will no longer be provided upon abandonment of local service).”

(iii) A statement on the notice: “As of (the exit date) (LSP name) will no longer provide your local telephone service and you must take action.”

(iv) A statement on the notice: “To prevent the loss of your local telephone service, you must select another local telephone service provider on or before (list a specific date 10 calendar days prior to the exit date). If you act by this date there will be enough time for the new local service provider you choose to start your new service before your current service ends.”

(v) A statement on the notice: “Please remember that customers may choose the provider of their local telephone service. You may select any company that is offering service in your area.” Customers shall be notified that they can check their telephone directory yellow pages under “telephone service providers” or in the front of the directory under the heading of “other local phone companies” for information about LSPs serving their area.

(vi) If the abandoning LSP has arranged for an acquiring LSP to serve customers, the abandoning LSP customer notice provisions shall reflect these

arrangements. Specifically, the written notice to customers shall be a joint notice from the abandoning and acquiring LSPs. The joint notice shall be sent to customers in an envelope from the abandoning LSP. The joint notice shall inform customers that they may select any LSP that serves their area by (date of the end of customer choice period) or they may take no action and their service will be transferred to the acquiring LSP no later than (exit date). The joint notice shall also include information about the acquiring LSP's rates and terms and conditions of service.

(vii) A statement on the notice: "This is an important notice (the word "important" in bold) about the loss of your local telephone service. If you have any questions, need more information or have problems with changing your services, contact (LSP contact information including a toll-free telephone number)."

(viii) Information to customers outlining the procedure for obtaining refunds of credits and deposits, obtaining final bills and addressing questions or complaints.

(ix) Customers who had preferred carrier freezes on their accounts shall be directed to contact their new LSP to arrange for new preferred carrier freezes if they wish to have this protection going forward.

#### **§ 63.307. Abandonment process management.**

(a) The abandoning LSP shall appoint a program manager to coordinate the abandonment process. The program manager shall be selected from the abandoning LSP or, if applicable, the acquiring LSP.

(b) The program manager shall be accountable to each of the parties involved in the abandonment. The individual parties involved in the migration may be:

- (1) The abandoning LSP.
- (2) The acquiring LSP.
- (3) The abandoning LSP's customers.
- (4) The Commission.

(c) The parties involved in the abandonment shall appoint a project manager who will work with the program manager to ensure that the abandonment process flows in a seamless manner.

#### **§ 63.308. Commission consideration and action.**

(a) The Commission will post information of an impending abandonment on its website at [www.puc.state.pa.us](http://www.puc.state.pa.us) under "Local Service Telephone Provider Abandonment Notification."

(b) If necessary, Commission staff may establish an industry conference call to address potential problem areas and procedures with the abandoning LSP, as well as with the acquiring or other LSPs as applicable.

**§ 63.309. Acquiring LSP provisions and obligations.**

(a) An abandoning LSP and acquiring LSP may change the customer's local service provider without being considered to have engaged in slamming if the customer has not selected another LSP during the 20-day customer choice period and the acquiring LSP does not change a customer's preferred interexchange carrier designation without the customer's authorization. This provision does not relieve the abandoning LSP or the acquiring LSP of any requirements imposed by the Federal Communications Commission's (FCC) antislamming rules or State rules in § 64.23(b) (relating to standardizing LEC responses to customer contacts alleging unauthorized charges added to the customer's bill (cramming) and unauthorized changes to the customer's long distance carrier (slamming)).

(b) If an acquiring LSP determines that it will be unable to migrate service to a customer by the abandoning LSP's exit date, the acquiring LSP shall notify the Commission, the customer and the abandoning LSP within 24 hours of the determination. If the customer is unable to select another available LSP, the abandoning LSP shall continue to provide service until the date on which a LSP is able to provide service or a date ordered by the Commission, whichever is earlier.

**§ 63.310. Abandoning LSP follow-up obligations.**

(a) An abandoning LSP shall track the progress of migrations and provide Commission staff with progress reports on the number of customers that have and have not migrated to a new LSP. The frequency of the updates will vary with the magnitude of the mass migration and will be determined by the Commission on a case by case basis.

(b) An abandoning LSP shall send a second abandonment notice to a customer who is not subject to acquisition by another LSP and has not taken action to select a new LSP. The second abandonment notice shall be sent after consultation with the Commission. The form of the second notice is left to the discretion of the abandoning LSP and may be the following:

- (1) First class mail.
- (2) A telephone call.
- (3) A bill insert.
- (4) Any other means of direct contact with the customer.

**Subchapter O. ABBREVIATED PROCEDURES FOR REVIEW AND  
APPROVAL OF TRANSFER OF CONTROL FOR  
TELECOMMUNICATIONS PUBLIC UTILITIES**

Sec.

63.321. Purpose.

63.322. Definitions.

63.323. Applicability.

63.324. Commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.

63.325. Commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.

**Authority**

The provisions of this Subchapter O issued under 66 Pa.C.S. §§ 502, 1102, 1103, 2101—2107 and 3019, sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law, and the regulations promulgated thereunder, section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)) and section 745.5 of the Regulatory Review Act, unless otherwise noted.

**Source**

The provisions of this Subchapter O adopted July 30, 2010, effective July 31, 2010, 40 Pa.B. 4254, unless otherwise noted.

**§ 63.321. Purpose.**

This subchapter establishes cost-effective review and approval periods that abbreviate the traditional unlimited time for approving an application seeking Commission approval of an acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of a telecommunications public utility requiring a certificate of public convenience under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate).

**§ 63.322. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Applicant*—A carrier, incumbent local exchange carrier, or telecommunications public utility seeking Commission review and approval of a transaction under 66 Pa.C.S. §§ 1102 and 1103 (relating to enumeration of acts requiring certificate; and procedure to obtain certificates of public convenience).

*Assets*—Property of all kinds, real and personal, tangible and intangible, including patents and causes of action which belong to an applicant as defined in this section under State and Federal law.

*Carrier*—An entity defined as a “public utility” in 66 Pa.C.S. § 102 (relating to definitions) or defined as a “public utility” in 66 Pa.C.S. § 102 and certificated by the Commission under 66 Pa.C.S. § 1102(a).

*Controlling interest*—An interest, held by a person or group acting in concert, which enables the beneficial holder or holders to control 20% or more, either within this Commonwealth or Nationwide, whichever is larger, of the voting interest in the telecommunications public utility or its parent, regardless of the remoteness of the holder or holders or the transaction. A contingent right may not be included.

*Customer base*—An asset of an applicant consisting of all or a portion of the customers served by the applicant.

*Formal complaint*—The term as defined in § 1.8 (relating to definitions) of the Commission’s rules of practice and procedure.

*Formal investigation*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.



*Formal proceeding*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*General rule transaction*—A transaction resulting in a change in rates or conditions of service or which, taken together with all previous internal corporate restructurings, changes the applicant’s controlling interest greater than 20%.

*Incumbent local exchange carrier*—A local exchange carrier as defined in section 3(26) of the Telecommunications Act of 1934 (47 U.S.C.A. § 153) or a local exchange telecommunications company as defined in 66 Pa.C.S. § 3012 (relating to definitions) including a certificated carrier under 66 Pa.C.S. § 1102(a).

*Informal complaint*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Informal investigation*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Informal proceeding*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Party*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Pennsylvania legal counsel*—The attorney of record appearing before the Commission as required under §§ 1.21 and 1.22 (relating to appearance; and appearance by attorney or certified legal intern) of the Commission’s rules of practice and procedure.

*Person*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Pro forma transaction*—A transaction that is seamless to the customer and does not result in a change in rates or conditions of service which, taken together with all previous internal corporate restructurings, does not change the applicant’s controlling interest greater than 20%.

*Staff*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Statutory advocate*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Telecommunications public utility*—An entity that provides telecommunications service as defined in section 3(46) of the Telecommunications Act of 1934 or 66 Pa.C.S. § 3012 or as a carrier.

*Verification*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

### § 63.323. Applicability.

This subchapter applies to an applicant and the affiliate of an applicant seeking Commission approval for an acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of an applicant requiring a certificate of public



convenience under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate) or approval of a contract between public utilities and affiliates.

**§ 63.324. Commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.**

(a) *General rule transactions.* The following transactions of an applicant involving a change in conditions of service or rates that seek Commission approval for acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of an applicant require notification to the Commission and approval by the Commission as a general rule transaction:

- (1) A transaction resulting in the transfer of 20% or more of the assets of an applicant.
- (2) A transaction resulting in the transfer of 20% or more of the direct or indirect control of an applicant.
- (3) A transaction requiring a certificate of public convenience issued under 66 Pa.C.S. § 1102(a) (relating to enumeration of acts requiring certificate).
- (4) A transaction subject to evaluation under the statement of policy on transfer of control. See § 69.901 (relating to utility stock transfer under 66 Pa.C.S. § 1102(a)(3)).
- (5) A transaction that transfers the customer base of an applicant and involves a change in conditions of service or rates.
- (6) A transaction subjected to this subchapter by decision of the Commission, including a transaction no longer classified as a general rule transaction by the Commission.

(b) *Reclassification of a general rule transaction.* When an applicant seeks review and approval of a transaction as a general rule transaction and the Commission reclassifies the general rule transaction, the Commission will notify the applicant of the reclassification by notice published in the *Pennsylvania Bulletin*. An applicant may file a challenge to the reclassification during the protest period established by the notice. If a formal protest or complaint to the transaction is filed, the challenge will be reviewed as part of a traditional rule review proceeding. If no formal protest or complaint to the transaction is filed, the challenge will be reviewed by the Commission as part of the review of the transaction.

(c) *Notification requirements for general rule transactions.* Notification of a general rule transaction shall be filed with the Commission on the date of filing with a Federal regulatory agency seeking Federal approval of a general rule transaction or no later than 60 days prior to the closing of a transaction subject to this subchapter, whichever is longer. The applicant filing the notification shall comply with the Commission's rules of practice and procedure governing applications. (See §§ 5.11—5.14 (relating to applications).) The applicant shall clearly state that the application is a general rule transaction and provide a copy of the application to the Commission and the statutory advocates. An applicant shall

provide an updated copy of any subsequent filings to the Commission and the statutory advocates in the following circumstances:

- (1) Filing with the Federal Communications Commission (FCC) of an application seeking approval of the transaction (FCC application).
- (2) Filing of a notice with the United States Department of Justice (U.S. DOJ) under the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C.A. §§ 15c—15h, 18a and 66) (HSR Filing).
- (3) Filing by an applicant of a pleading responding to a formal or informal complaint, investigation, or proceeding undertaken by the FCC or the U.S. DOJ or other State or Federal regulatory agency involving the transaction.
- (4) Filing required by the Commission from an applicant in response to a notification by the Commission that simultaneous notification is appropriate to protect the public interest.
- (5) Filing required by the Commission from an applicant in response to a request by any of the following:
  - (i) A request by a statutory advocate.
  - (ii) A request by a carrier with a certificate of public convenience obtained under 66 Pa.C.S. § 1102(a) for a copy.
  - (iii) A request by the Commission or staff for a copy.
  - (iv) A request by a person or party for a copy.
- (d) *Content of notification for general rule transactions.* In addition to the information required under § 5.12 (relating to contents of applications) of the Commission's rules of practice and procedure, a general rule transaction must contain the following information:
  - (1) The name, address and telephone number of each party or applicant to the transaction.
  - (2) The government, state or territory under the laws of which each corporate or partnership applicant to the transaction is organized.
  - (3) The name, title, post office address and telephone number of the officer or contact point, including legal counsel in this Commonwealth, to whom correspondence concerning the transaction is to be addressed.
  - (4) The name, address, citizenship and principal place of business any person, party or entity that directly or indirectly owns more than 20% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).
  - (5) A summary description of the transaction.
  - (6) A summary of the services and the service territories in this Commonwealth that will be affected by the transaction.
  - (7) A verified statement as to how the transaction fits into one or more of the categories subject to the general rule for notification.
  - (8) Identification of other transactions related to the transaction.

- (9) A verified statement whether the transaction warrants special consideration because either party to the transaction is facing imminent business failure.
- (10) Identification of a separately filed waiver request sought in conjunction with the transaction.
- (11) A verified statement containing facts and allegations establishing:
- (i) For a merger or similar transaction, how the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.
  - (ii) Findings that approval for a transaction subject to 66 Pa.C.S. § 1103(a) (relating to procedure to obtain certificates of public convenience) is necessary or proper for the service, accommodation, convenience, or safety of the public.
  - (iii) The impact of the transaction on competition.
- (12) A verified statement affirming that the applicant is in compliance with Commission obligations and filings and a listing of all State and Federal proceedings when:
- (i) Within the 3-year period prior to filing the application, the applicant was found to have violated either State or Federal requirements.
  - (ii) Within the 3-year period prior to filing the application, the applicant is alleged to have violated either State or Federal requirements.
- (13) A verified statement affirming that customers received prior notice. Notice shall be accomplished using a notice approved by the Commission's Bureau of Consumer Services (BCS). Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring the process in § 5.44 (relating to petitions for appeal from actions of the staff) of the Commission's rules of practice and procedure.
- (14) A verified statement containing a copy of any Commonwealth utility certificates held by the applicant.
- (15) A verified statement on the effect of the transaction on existing Commonwealth tariffs. If applicable or in response to a request from staff, an applicant shall provide a red-line document identifying changes in existing Commonwealth tariffs before and after the transaction for which the applicant seeks approval from the Commission.
- (16) A verified statement on the transaction's effect on the existing affiliate interest agreements of the applicant.
- (17) A verified statement establishing that no State or Federal regulatory agency is expected to undertake an informal or formal investigation, complaint or proceeding relating to the transaction.
- (18) Organizational charts showing the effect on the applicant's organization before and after the transaction.
- (19) A copy of the application filed at the FCC or a notice filed with the U.S. DOJ, if any, including the electronic location on the agency's web site.

(20) A verified statement setting forth the expected public effect of the transaction on the capital structure of the applicant over the next 5 years.

(21) For an applicant subject to a broadband deployment commitment under Federal or State law, a verified statement affirming that the applicant is in compliance with that commitment.

(22) For an applicant with eligible telecommunications carrier status under Federal and State law, a verified statement affirming that the applicant is in compliance with the law and that the applicant will continue to be in compliance with the law.

(23) A verified statement affirming that the transaction complies with the prohibition against cross-subsidization imposed under Federal and State law.

(e) *Continuing obligations for notification of general rule transactions.* When a Commission or Federal proceeding related to a transaction that is the subject of the general rule transaction is pending, the applicant to the transaction shall file with the Commission and provide to the statutory advocates copies of all procedural motions, public responses to discovery, and orders or other actions addressing or terminating the proceeding. The applicant shall supplement the application with any FCC or U.S. DOJ public notice issued concerning the transaction.

(f) *Commission publication and reclassification of general rule transactions.*

(1) The Secretary will publish notice of a general rule transaction in the *Pennsylvania Bulletin*. The Secretary may post notice of the general rule transaction on the Commission's web site.

(2) Any notice will contain a 15-day formal protest period established under § 5.14(d) (relating to applications requiring notice) of the Commission's rules of practice and procedure. A formal protest or complaint shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and subject the transaction to traditional rule review.

(g) *Applicant notice to customers.*

(1) *General rule transactions involving a change in conditions of service or rates.* An applicant shall prepare and distribute prior notice to the customers of a general rule transaction involving a change in conditions of service or rates with the approval of the BCS. Notice to the customers shall occur prior to Commission approval unless circumstances make distribution prior to approval impractical. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.

(2) *Transfers of customer base subject to the general rule.*

(i) A transaction transferring a customer base involving a change in conditions of service or rates shall require prior notice to the customer base prepared with the approval of the BCS. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.

(ii) A timely formal protest or complaint to the transfer of a customer base involving a change in conditions of service or rates shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure.

(h) *Commission review of transactions subject to the general rule.* The Commission retains the discretion to make inquiries and, after notice and opportunity to be heard, take action to protect the public interest, including:

(1) For a merger or similar transaction, ensuring that the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.

(2) Findings that a transaction subject to 66 Pa.C.S. § 1103(a) is necessary or proper for the service, accommodation, convenience, or safety of the public.

(3) Addressing the impact of the transaction on competition.

(4) The imposition of conditions on approval of the transaction when deemed necessary or proper under 66 Pa.C.S. § 1103.

(i) *Formal protests and complaints to a general rule transaction.* A protest filed to a general rule transaction must comply with the Commission's rules of practice and procedure. (See Subpart A (relating to general provisions).)

(j) *Reclassification of a transaction from the general rule.* The Commission will reclassify an application for approval of a general rule transaction in the following circumstances:

(1) The filing of a formal protest or complaint.

(2) The filing involves an acquisition, merger or other transaction that raises novel or important issues.

(3) The Commission determines that reclassification is necessary to protect the public interest.

(k) *Commission approval for a general rule transaction.* The Commission will issue a Secretarial letter or order after review of an unprotested application subject to this subchapter determining if the application is in the public interest and consistent with 66 Pa.C.S. §§ 1102(a) and 1103(a) no later than 60 days after expiration of the protest period established in the public notice in the *Pennsylvania Bulletin*.

(1) The Commission will determine, for a merger or similar transaction, whether the transaction affirmatively promotes the service, accommodation, convenience, or safety to the public in some substantial way.

(2) The Commission will make findings whether a transaction subject to 66 Pa.C.S. § 1103(a) is necessary for the service, accommodation, convenience, or safety of the public and state whether the Commission will issue a certificate of public convenience authorizing the transaction under 66 Pa.C.S. §§ 1102(a) and 1103.

(3) The Commission will address the impact of the general rule transaction on competition.

(4) The Commission will determine whether to impose conditions deemed necessary or proper under 66 Pa.C.S. § 1103 in conjunction with a determination on approving a general rule transaction.

(5) The Commission or staff may extend the review and approval period, reject the filing or transaction, remove a transaction from the general transaction rule or take other action deemed appropriate to protect the public interest.

(6) A staff action will be in writing and inform the applicant of the right of appeal. An appeal from an action of staff shall be governed by the procedures governing appeals from an action of staff under § 5.44 of the Commission's rules of practice and procedure.

(1) *Limitations on general rule transactions.*

(1) *Bankruptcy proceedings.* General rule transactions related to bankruptcy remain subject to §§ 1.61 and 1.62 (relating to matters before other tribunals) of the Commission's rules of practice and procedure.

(2) *Scope of general rule transactions.* A general rule transaction may not operate to permit an applicant to circumvent an obligation by doing or refraining from doing anything that an applicant must do or cannot do.

**§ 63.325. Commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.**

(a) *Pro forma transactions.* The following transactions of an applicant not involving a change in conditions of service or rates that seek Commission approval for acquisition, merger, stock sales or transfers, transfer of assets or transfer of control of an applicant require notification to the Commission and approval by the Commission as a pro forma transaction:

(1) A transaction resulting in the transfer of less than 20% of the assets of an applicant.

(2) A transaction resulting in the transfer of less than 20% of the direct or indirect control of an applicant.

(3) A transaction requiring a certificate of public convenience issued under 66 Pa.C.S. § 1102(a) (relating to enumeration of acts requiring certificate).

(4) A transaction subject to evaluation under the statement of policy on transfer of control, § 69.901 (relating to utility stock transfer under 66 Pa.C.S. § 1102(a)(3)).

(5) A transaction that transfers the customer base of an applicant and does not involve a change in conditions of service or rates.

(6) A transaction subjected to this subchapter by decision of the Commission, including a pro forma transaction no longer classified as a pro forma transaction by the Commission.

(b) *Reclassification of a pro forma transaction.* When an applicant seeks review and approval of a transaction as a pro forma transaction and the Commission reclassifies the pro forma transaction, the Commission will notify the applicant of the reclassification by notice published in the *Pennsylvania Bulletin*. An

applicant may file a challenge to the reclassification during the protest period established by the notice. If a formal protest or complaint to the transaction is filed, the challenge will be reviewed as part of a traditional rule review proceeding. If no formal protest or complaint to the transaction is filed, the challenge will be reviewed by the Commission as part of the review of the transaction.

(c) *Notification requirements for pro forma transactions.* Notification of a pro forma transaction shall be filed with the Commission on the date of filing with a Federal regulatory agency seeking Federal approval of a pro forma transaction or no later than 30 days prior to the closing of a pro forma transaction subject to this subchapter, whichever is longer. The applicant filing the notification shall comply with the Commission's rules of practice and procedure governing applications. The applicant shall clearly state that the application is a pro forma transaction and provide a copy of the application to the Commission and the statutory advocates. An applicant shall provide an updated copy of any subsequent filings to the Commission and the statutory advocates in the following circumstances:

(1) Filing with the Federal Communications Commission (FCC) of an application seeking approval of the transaction (FCC application).

(2) Filing of a notice with the United States Department of Justice (U.S. DOJ) pursuant to the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C.A. §§ 15c—15h, 18a and 66) (HSR Filing).

(3) Filing by an applicant of a pleading responding to a formal or informal complaint, investigation, or proceeding undertaken by the FCC or the U.S. DOJ or other State or Federal regulatory agency involving the transaction.

(4) Filing required by the Commission from an applicant in response to a notification by the Commission that simultaneous notification is appropriate to protect the public interest.

(5) Filing required by the Commission from an applicant in response to a request by any of the following:

- (i) A request by a statutory advocate.
- (ii) A request by a carrier with a certificate of public convenience obtained under 66 Pa.C.S. § 1102(a) for a copy.
- (iii) A request by the Commission or staff for a copy.
- (iv) A request by a person or party for a copy.

(d) *Content of notification for pro forma transactions.* In addition to the information required under § 5.12 (relating to contents of applications) of the Commission's rules of practice and procedure, a pro forma transaction must contain the following information:

(1) The name, address and telephone number of each party or applicant to the transaction.

(2) The government, state or territory under the laws of which each corporate or partnership applicant to the transaction is organized.



(3) The name, title, post office address and telephone number of the officer or contact point, including Pennsylvania legal counsel in this Commonwealth, to whom correspondence concerning the transaction is to be addressed.

(4) The name, address, citizenship and principal place of business of any person, party or entity that directly or indirectly owns more than 20% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).

(5) A summary description of the transaction.

(6) A summary of the services and the service territories in this Commonwealth that will be affected by the transaction.

(7) A verified statement as to how the transaction fits into one or more of the categories subject to the pro forma rule.

(8) Identification of other transactions related to the transaction.

(9) A verified statement whether the transaction warrants special consideration because either party to the transaction is facing imminent business failure.

(10) Identification of a separately filed waiver request sought in conjunction with the transaction.

(11) A verified statement of facts and allegations establishing:

(i) For a merger or similar transaction, how the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.

(ii) Findings that approval for a transaction subject to 66 Pa.C.S. § 1103(a) (relating to procedure to obtain certificates of public convenience) is necessary or proper for the service, accommodation, convenience, or safety of the public.

(iii) The impact of the transaction on competition.

(12) A verified statement affirming that the applicant is in compliance with Commission obligations and filings and a listing of all State and Federal proceedings when:

(i) Within the 3-year period prior to filing the application, the applicant was found to have violated either State or Federal requirements.

(ii) Within the 3-year period prior to filing the application, the applicant is alleged to have violated either State or Federal requirements.

(13) A verified statement affirming that customers received prior notice. Notice shall be accomplished using a notice approved by the Commission's Bureau of Consumer Services (BCS). Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 (relating to petitions for appeal from actions of the staff) of the Commission's rules of practice and procedure.

(14) A verified statement containing a copy of any Commonwealth utility certificates held by the applicant.



(15) A verified statement on the effect of the transaction on existing Commonwealth tariffs. If applicable or in response to a request from staff, an applicant shall provide a red-line document identifying changes in existing Commonwealth tariffs before and after the transaction for which the applicant seeks approval from the Commission.

(16) A verified statement on the transaction's effect on the existing affiliate interest agreements of the applicant.

(17) A verified statement establishing that no State or Federal regulatory agency is expected to undertake an informal or formal investigation, complaint or proceeding relating to the transaction.

(18) Organizational charts showing the effect on the applicant's organization before and after the transaction.

(19) A copy of the application filed at the FCC or a notice filed with the U.S. DOJ, if any, including the electronic location on the agency's web site.

(20) A verified statement setting forth the expected public effect of the transaction on the capital structure of the applicant over the next 5 years.

(21) For an applicant subject to a broadband deployment commitment under Federal or State law, a verified statement affirming that the applicant is in compliance with that commitment.

(22) For an applicant with eligible telecommunications carrier status under Federal and State law, a verified statement affirming that the applicant is in compliance with the law and that the applicant will continue to be in compliance with the law.

(23) A verified statement affirming that the transaction complies with the prohibition against cross-subsidization imposed under Federal and State law.

(e) *Continuing obligations for notification of pro forma transactions.* When a Commission or Federal proceeding related to a transaction that is the subject of the pro forma transaction is pending, the applicant seeking approval of a pro forma transaction shall file with the Commission and provide to the statutory advocates copies of all procedural motions, public responses to discovery, and orders or other actions addressing or terminating the proceeding. The applicant shall supplement the application with any FCC or U.S. DOJ public notice issued concerning the transaction.

(f) *Commission publication and reclassification of pro forma transactions.*

(1) The Secretary will publish notice of a pro forma transaction in the *Pennsylvania Bulletin*. The Secretary may post notice of the pro forma transaction on the Commission's web site.

(2) A notice will contain a 15-day formal protest period established under § 5.14(d) (relating to applications requiring notice) of the Commission's rules of practice and procedure. A formal protest or complaint shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and shall subject the transaction to traditional rule review.

(g) *Applicant notice to customers.*

- (1) *Pro forma transactions with no change in conditions of service or rates.* An applicant shall prepare and distribute prior notice to the customers of a pro forma transaction involving no change in conditions of service or rates with the approval of the BCS. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.
- (2) *Transfers of customer base subject to the pro forma rule.*
- (i) A transaction transferring a customer base involving no change in conditions of service or rates shall require prior notice to the customer base prepared with the approval of the BCS. Any disagreement between the applicant and BCS shall be addressed by an appeal from an action of staff mirroring § 5.44 of the Commission's rules of practice and procedure.
- (ii) A timely formal protest or complaint to the transfer of a customer base involving no change in conditions of service or rates shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure.
- (h) *Commission review of pro forma transactions.* The Commission retains the discretion to make inquiries and, after notice and opportunity to be heard, take action to protect the public interest, including:
- (1) For a merger or similar transaction, ensuring that the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.
- (2) Findings that a transaction subject to 66 Pa.C.S. § 1103(a) is necessary or proper for the service, accommodation, convenience, or safety of the public.
- (3) Addressing the impact of the transaction on competition.
- (4) The imposition of conditions on approval of the transaction when deemed necessary or proper under 66 Pa.C.S. § 1103.
- (i) *Formal protests and complaints to a pro forma transaction.* A protest filed to a pro forma transaction must comply with the Commission's rules of practice and procedure.
- (j) *Reclassification of a transaction.* The Commission will reclassify an application for approval of a pro forma transaction in the following circumstances:
- (1) The filing of a formal protest or complaint.
- (2) The filing involves an acquisition, merger or other transaction that raises novel or important issues.
- (3) The Commission determines that reclassification is necessary to protect the public interest.
- (k) *Commission approval for a pro forma transaction.* The Commission will issue a Secretarial letter or order after review of an untested transaction subject to this subchapter determining if the application is in the public interest and

consistent with 66 Pa.C.S. §§ 1102(a) and 1103(a) no later than 30 days after expiration of the protest period established in the public notice in the *Pennsylvania Bulletin*.

(1) The Commission will determine for a merger or similar transaction whether the transaction affirmatively promotes the service, accommodation, convenience, or safety of the public in some substantial way.

(2) The Commission will make findings whether a transaction subject to 66 Pa.C.S. § 1103(a) is necessary for the service, accommodation, convenience, or safety of the public and state whether the Commission will issue a certificate of public convenience authorizing the transaction under 66 Pa.C.S. §§ 1102(a) and 1103.

(3) The Commission will address the impact of the pro forma transaction on competition.

(4) The Commission will determine whether to impose conditions deemed necessary or proper under 66 Pa.C.S. § 1103 in conjunction with a determination to approve a pro forma transaction.

(5) The Commission or staff may extend the consideration period, reject the filing or transaction, remove a transaction from the pro forma rule or take other action deemed appropriate to protect the public interest.

(6) A staff action will be in writing and inform the applicant of the right of appeal. An appeal from an action of staff shall be governed by the procedures governing appeals from an action of staff under § 5.44 of the Commission's rules of practice and procedure.

(1) *Limitations on pro forma transactions.*

(1) *Bankruptcy proceedings.* Pro forma changes related to bankruptcy remain subject to §§ 1.61 and 1.62 (relating to matters before other tribunals) of the Commission's rules of practice and procedure.

(2) *Scope on pro forma transactions.* A pro forma transaction may not operate to permit an applicant to abandon a condition of service or rate. A pro forma transaction may not operate to permit an applicant to circumvent an obligation by doing or refraining from doing anything that an applicant must do or cannot do.

[Next page is 64-1.]

63-84

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