

TO BE RESCINDED

4901:1-6-08 **Competitive operations of all incumbent ILECs.**

Rule 4901:1-6-08 of the Administrative Code, applies to all ILECs whether the ILEC is subject to a qualifying alternative regulation plan or not.

- (A) An ILEC cannot establish a telephone company affiliate that competes with the tier one telecommunication service(s) the ILEC offers in its traditional service territory.
- (B) A large ILEC may only operate outside of its traditional service area by certifying a separate CLEC affiliate which complies with the commission's affiliate transaction requirements set forth in paragraph (C) of rule 4901:1-6-08 of the Administrative Code as well as the affiliate transaction requirements set forth in 47 C.F.R. 32.27, as effective on November 1, 2002. Such out-of-territory operations will be subject to the provisions of Chapter 4901:1-6 of the Administrative Code that are applicable to CLECs, including the submission of an application for certification (ACE), unless otherwise determined by the commission.

(C) Affiliate transactions

(1) Definitions

- (a) "Affiliates" are companies that are related to each other due to common ownership or control.
- (b) "Fully distributed costs" are the sum of direct costs plus an appropriate share of indirect costs.
- (c) "Employees" are all full-time or part-time employees of an ILEC or its affiliates, as well as consultants, independent contractors, or any other persons performing various duties or obligations on behalf of or for the ILEC or its affiliates.

(2) Safeguards

- (a) ILECs establishing separate CLECs shall maintain books, records, and accounts that are separate from the books, records, and accounts of its affiliates.
- (b) Shared employees shall appropriately record and charge their time based on fully distributed costs.

- (c) The costs should be traceable to the books of the applicable corporate entity.
- (d) The ILEC and affiliates shall maintain all underlying affiliate transaction information for a minimum of three years.
- (e) The affiliate may contract with the ILEC for the provision of services and facilities within the ILEC traditional service territory to be used by the affiliate to compete outside the ILEC traditional service territory, pursuant to Section 251(c) of the 1996 Act. Such transaction must be reduced to writing and must be filed with the commission for approval pursuant to Section 252(e) of the 1996 Act.

(3) Financial arrangements

- (a) Any indebtedness incurred by an affiliate shall be without recourse to the ILEC.
 - (b) An ILEC shall not enter into any agreement with terms under which the ILEC is obligated to commit funds to maintain the financial viability of an affiliate.
 - (c) An ILEC shall not make any investment in an affiliate under any circumstances in which the ILEC would be liable for the debts and/or liabilities of the affiliate incurred as a result of actions or omissions of an affiliate.
 - (d) An ILEC shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an affiliate.
 - (e) An ILEC shall not assume any obligation or liability as a guarantor, endorser, surety, or otherwise in respect to any security of an affiliate.
 - (f) An ILEC shall not pledge, mortgage, or use as collateral, any assets of the ILEC for the benefit of an affiliate.
- (D) Small ILECs may seek to certify a CLEC affiliate in accordance with the provisions set forth in paragraph (B) of this rule. Additionally, the commission will consider, on a case-by-case basis, applications filed by small ILECs that seek to edge out into contiguous large ILEC exchanges. An edge out application shall be filed using the UNC purpose code and will not be processed on an automatic basis.

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CERTIFIED ELECTRONICALLY

Certification

09/06/2007

Date

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