

4901:1-6-14

BLES pricing parameters.

(A) Rates for basic local exchange service (BLES) offered by a local exchange company (LEC) shall be subject to the tariff requirements and pricing constraints set forth in this rule.

(B) BLES regulatory framework

- (1) BLES shall only be offered by LECs pursuant to approved tariffs on file with the commission. A LEC offering BLES shall maintain a complete, up-to-date tariff on file at the offices of the commission at all times.
- (2) The tariff for BLES shall contain all rates, terms, and conditions for BLES and installation and reconnection fees for BLES.
- (3) The BLES pricing flexibility for incumbent local exchange carriers (ILECs) set forth in this rule shall be applied to the monthly recurring rates for the network access line component or equivalent of a single residential BLES line or a primary small business BLES line.
- (4) BLES is considered BLES for purposes of these rules regardless of what other a la carte services and features to which a customer may subscribe.
- (5) A bundle or package of telecommunications services which includes telephone exchange service is not subject to the pricing constraints contained in paragraph (C) of this rule and section 4927.12 of the Revised Code and may be priced at market-based rates.
- (6) An ILEC offering BLES outside of its traditional service area or a competitive local exchange carrier (CLEC) affiliate of an ILEC offering BLES within or outside of that ILEC's traditional service area shall follow all BLES rules in this chapter that are applicable to CLECs offering BLES.

(C) For-profit ILEC BLES pricing flexibility

- (1) Upon not less than thirty day's notice, pursuant to paragraph (F)(5) of this rule, a for-profit ILEC may increase its rates for BLES:
 - (a) If ~~the an~~ ILEC, within twelve months prior to September 13, 2010, increased the ILECs' rates for BLES for the exchange area, both of the following apply:
 - (i) ~~The ILEC may not alter its rates for BLES for the exchange area upward by any amount during the period that ends twelve months after the date of the last increase of the rates for BLES.~~

~~(ii)(i)~~ ~~In no event may the ILEC during the twelve-month period that begins immediately after the end date of the period described in paragraph (C)(1)(a)(i) of this rule, and~~ An ILEC during any subsequent twelve-month period, may alter the ILEC's monthly rates for BLES downward by any amount, but not below the carrier's incremental cost, or upward for an exchange area by not more than one dollar and twenty-five cents.

~~(iii)(ii)~~ An ILEC may make multiple rate increases, in the exchange to which the application applies, within the twelve-month period that begins on the thirty-first day after the company files the application, and during any subsequent twelve-month period in compliance with paragraph (F)(5) of this rule, as long as the multiple increases do not exceed the one dollar and twenty-five cents two dollar annual price increase cap. An ILEC does not have to increase the carrier's monthly rates for BLES for residential and business customers concurrently.

(b) If the ILEC did not, within twelve months prior to September 13, 2010, increase the ILEC's rates for BLES for an exchange area, and if the commission has made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, ~~in no event may the ILEC, during the twelve-month period that begins on September 13, 2010, and~~ during any subsequent twelve-month period, may alter the ILEC's monthly rates for BLES downward by any amount, but not below the carrier's incremental cost, or upward for the exchange area by not more than one dollar and twenty-five cents.

(c) If the commission has not made a prior determination that ~~the an~~ an exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4, of the Administrative Code, as that chapter existed on September 13, 2010, an ILEC may, at any time, alter the ILEC's rate for BLES for that exchange area downward by any amount, but not below the carrier's incremental cost. The carrier may not alter its rates for BLES upward for that exchange area unless the ILEC first applies to the commission and the commission determines that the application demonstrates that two or more alternative providers offer, in the exchange area, competing service to the BLES offered by the ILEC in the exchange area, regardless of the technology and facilities used by the alternative provider, the alternative provider's location, and the extent of the alternative provider's service area within the exchange area.

- (i) Upon the filing of an application under paragraph (C)(1)(c) of this rule pursuant to a BLS case purpose code, the commission shall be deemed to have found that the application meets the requirements of that paragraph unless the commission, within thirty days after the filing of an application, does either of the following: (1) issues an order finding that the requirements have not been met or (2) suspends the automatic approval for good cause shown. The commission should then act to approve or deny the application not later than ninety-days after the date of suspension.
- (ii) ~~In no event may an~~ If an ILEC ~~that~~ applies to the commission under paragraph (C)(1)(c) of this rule and the application is approved or deemed approved under paragraph (C)(1)(c)(i), the ILEC, during the twelve-month period that begins on the thirty-first day after ~~the company files the application was deemed approved or the date the commission issues an order approving an application that was suspended,~~ and during any subsequent twelve-month period, may alter the carrier's monthly rates for BLES upward for the exchange area to which the application applies by not more than ~~one dollar and twenty-five cents~~ two dollars.

(2) Banking

Any rate increase allowed by this rule that is not used during a twelve-month period by a for-profit ILEC may not be used in any subsequent year.

(D) Not-for profit ILEC pricing flexibility.

At any time, and upon no less than thirty days' notice pursuant to paragraph (F)(5) of this rule, a not-for-profit mutual ILEC, owned and operated exclusively by and solely for its customers, may increase its rates for BLES by any amount.

~~(E) In no event may an ILEC, before January 1, 2012, alter its rates for BLES upward for a customer receiving lifeline service.~~

~~(F)~~(E) ILEC BLES application, process, and notice

- (1) If the commission has not made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, a for-profit ILEC must file an application seeking approval to obtain BLES pricing flexibility as set forth in paragraph (C)(1)(c)(i) of this rule, using the most up-to-date telecommunications filing form, under the case purpose code TP-BLS.

- (2) A for-profit ILEC shall establish or maintain a tariffed rate cap for BLES consistent with paragraphs (C)(1)(a)(ii), (C)(1)(b), and (C)(1)(c)(ii) of this rule. Such ILECs shall file an updated tariff, for each exchange area with BLES pricing flexibility, at the end of each exchange's twelve-month period, to reflect the new anniversary date and, as necessary, the new tariffed rate cap for BLES. Such tariff shall be filed as a zero-day tariff amendment (ZTA).
- (3) A for-profit ILEC's BLES price change(s) below its annual tariffed cap for BLES is subject to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (4) A not-for-profit ILEC's BLES rates may be established and changed in its tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (5) Increases in an ILEC's BLES rates pursuant to paragraphs (C) and (D) of this rule require customer notice, consistent with the requirements of rule 4901:1-6-07 of the Administrative Code, to all affected customers, including the office of the Ohio consumers' counsel (OCC) if residential BLES is involved, not less than thirty days prior to the rate increase. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.

(F) BLES pricing flexibility exemption for ILECs.

Not earlier than four years after the effective date of section 4927.123 as enacted in substitute House Bill 402 of the 132nd General Assembly, an ILEC may apply for an exemption from the requirements of paragraph (C) of this rule for an exchange area subject to paragraph (F)(3) of this rule.

(1) A for-profit ILEC may apply for an exemption from the requirements of paragraph (C) of this rule provided that:

(a) the ILEC shows it has experienced at least fifty percent line loss in the exchange area since January 1, 2002 and one of the following applies:

(i) the ILEC, within twelve months prior to September 13, 2010, increased the ILEC's rates for BLES for the exchange area;

(ii) the commission has made a prior determination that the exchange area qualified for alternative regulation of BLES under Chapter 4901:1-4 of the Administrative Code, as that chapter existed on September 13, 2010, or;

- (iii) the ILEC filed an application for the exchange area that was approved or deemed approved pursuant to paragraph (C)(1)(c) of this rule.
- (2) Upon the filing of an application under paragraph (F)(1) of this rule pursuant to a BEX case purpose code, the commission shall be deemed to have found that the application meets the requirements of that paragraph unless the commission, within thirty days after the filing of an application issues an order finding that the requirements have not been met.
- (3) If an ILEC applies to the commission under paragraph (F)(1) of this rule and the application is approved or deemed approved under paragraph (F)(2), the ILEC shall be exempt from the requirements of paragraph (C) of this rule for the exchange area to which the application applies, except the ILEC may not alter the ILEC's BLES rate below the ILEC's incremental cost.
- (4) Increases in an ILEC's BLES rates, after the application is approved or deemed approved under paragraph (F)(2) require customer notice, consistent with the requirements of rule 4901:1-6-07 of the Administrative Code, to the commission and all affected customers, including the office of the Ohio consumers' counsel (OCC) if residential BLES is involved, not less than thirty days prior to the rate increase. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.
- (5) Subsequent rate alterations to BLES rates, in exchanges approved or deemed approved under paragraph (F)(2) of this rule, shall be changed in its tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (6) The granting of an exemption does not impair the rights of any person to file a complaint pursuant to R.C. 4927.21 or restrict the rights of the Commission to initiate such a complaint.
- (G) A decrease in BLES rates by a for-profit ILEC, under paragraphs (C), (D) or (F) of this rule, shall be changed in the company's tariff pursuant to a zero-day notice filing under the company's tariff filing (TRF) docket and include an affidavit attesting that the decreased rate is not below the ILEC's incremental cost. A decrease in an ILEC's BLES rate is presumptively deemed above the carrier's incremental cost, subject to rebuttal, if the rate decrease is not more than twenty percent of the ILEC's BLES rate at the time of the decrease.
- ~~(G)~~(H) CLEC BLES pricing flexibility, process, and notice:

- (1) CLECs may establish the tariffed rate(s) for any BLES offerings based on the marketplace.
- (2) A CLEC's BLES rate change(s) is subject to a zero-day notice filing under the company's tariff filing (TRF) docket.
- (3) A CLEC may increase its BLES rates on no less than thirty days' written notice to affected customers, including OCC if residential BLES is involved. Such increases require customer notice consistent with the requirements of rule 4901:1-6-07 of the Administrative Code. A copy of the applicable customer notice must be provided to commission staff no later than the date it is provided to customers by emailing the text of the customer notice to a commission-provided electronic mailbox at: Telecomm-Rule07@puco.ohio.gov.

~~(H)~~(I) New services, change in terms and conditions and expansion of local service area

- (1) In order to introduce BLES or for an expansion of a local service area, a LEC must docket a zero-day notice filing (ZTA) with the commission to amend its tariff, in accordance with the process set forth in rule 4901:1-6-04 of the Administrative Code. The ZTA will take effect in accordance with paragraph (B) of rule 4901:1-6-05 of the Administrative Code.
- (2) Material changes in terms and conditions of an existing BLES by a LEC, including the introduction of a nonrecurring service charge, surcharge or fee to BLES by a CLEC, shall be filed through a thirty-day application for tariff amendment (ATA) filing. A standard of reasonableness will be applied to these charges including, but not limited to, a comparison with similar charges previously approved by the commission and similar charges assessed by other providers. Such application requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

~~(I)~~(J) BLES late payment charges

Late payment charges for BLES may be introduced or increased through a thirty-day ATA filing. A standard of reasonableness will be applied to late payment charges including, but not limited to, a comparison with similar charges previously approved by the commission and similar charges assessed by non-regulated providers. Such application requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

~~(J)~~(K) BLES installation and reconnection fees

Any ILEC nonrecurring service charges for installation and reconnection of a single residential or primary business BLES line shall be included in the BLES

tariff and may be increased through a thirty-day application for tariff amendment (ATA) filing. A standard of reasonableness will be applied to nonrecurring service charges for installation and reconnection. Applications for increases to nonrecurring reconnection charges requires a customer notice to be filed in accordance with rule 4901:1-6-07 of the Administrative Code.

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Certification

Date

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