

4901:1-6-21**Tier two.**(A) Tier two definition

Tier two services include all regulated telecommunications services that do not fall on tier one.

(B) Tier two regulatory framework

- (1) Tier two service tariffs must be filed with the commission but do not require prior commission tariff approval.
- (2) Tier two service rates are not subject to any rate cap and may be priced at market-based rates.
- (3) The price floor does not need to appear in the tariff. Only the actual rate needs to appear in the tariff.
- (4) To demonstrate the cost of service and price floor, any telephone company offering tier two services must provide a LRSIC study to the commission's staff upon demand.
- (5) The rate for any tier two service must recover the long run service incremental costs associated with the service plus a common cost allocation. A telephone company may allocate common costs using a fixed allocator of ten percent. In the event the telephone company chooses to use a different common cost allocator, the telephone company will have the burden of establishing the reasonableness of the chosen common cost allocator.
- (6) A telephone company may elect to maintain its tier two service offerings either in a paper tariff filed with the commission or in an electronic tariff on the company's website. However, the electronic tariff shall be maintained in a form that complies in all respects with rule 4901:1-6-03 of the Administrative Code. To facilitate public access to the website tariff, a telephone company maintaining a website tariff for tier two services must maintain up-to-date website links on the commission's webpage from which an interested person can link to the telephone company's tariff.
- (7) A telephone company currently certified to offer tier two services must file notice under the company's TRF docket if the company chooses an electronic tariff as a replacement for a paper tariff. A telephone company may exercise this option no more often than once every twelve months. Telephone companies that choose the electronic tariff format must continue to file with the commission notice of any additions, withdrawals, or changes in terms and conditions of tier two services as ZTA notices pursuant to the zero-day notice provisions of rule 4901:1-6-05 of the Administrative Code. The initial election shall be made as a part of the company's certification proceeding for new telephone companies.

(C) Service packages(1) General parameters

(a) All packages of regulated services must be tariffed whether or not they are offered in conjunction with unregulated services. The LEC shall clearly identify the regulated services within the package.

(b) All service packages are considered tier two service offerings. The total price of any bundled service package need not match the total of the services' individual prices, but must still cover the long-run service incremental cost of regulated services included in the bundled package. Each regulated telecommunication service offered as a component of a service package by an ILEC must be individually tariffed in the ILEC's tariff.

(2) Packages containing both regulated local service and toll and/or unregulated services.

If a LEC packages or bundles regulated local services with toll service and/or unregulated services, the LEC must comply with the disconnection procedures in rule 4901:1-5-17 of the Administrative Code. In order to insure that local service is not disconnected for nonpayment of toll and/or nonregulated services, when customers are billed at a single packaged rate for both regulated local services and also toll and/or unregulated services, LECs shall choose one of the following options:

(a) Option one

(i) Option one tariff

LECs that package or bundle regulated local services with toll and/or unregulated services shall tariff only the regulated components of a package or bundle of services either as a package at a separate, single rate for the regulated components or individually at individual tariffed rates. The unregulated services and any rate(s) associated with the unregulated service components of any package or bundle of services shall not be tariffed.

(ii) Option one disconnection procedures

Under option one, if a customer fails to submit timely payment sufficient to cover the amount of the regulated charges, the LEC may discontinue the provision of the regulated services in compliance with rule 4901:1-5-17 of the Administrative Code.

(iii) Option one staff notice

Under option one, LECs shall keep the director of the consumer services division and the chief of telecommunications of the utilities department informed and up-to-date on all current offers to consumers that bundle regulated local services with unregulated services at a single packaged rate, different from the rate shown in the tariff for the regulated components of the package. The notice to staff shall identify the regulated and unregulated services included and the packaged rate (the combined tariffed and untariffed rate).

(b) Option two

(i) Option two tariff

Under option two, LECs shall tariff the entire package or bundle of services including both regulated local services and toll and/or unregulated services for a single combined packaged rate (including any amount attributable to the unregulated components). The LEC shall clearly identify the services within the package and denote which services are unregulated.

(ii) Option two disconnection procedures

Under option two, if a customer fails to submit timely payment sufficient to cover the entire amount of the regulated and unregulated bundled packaged rate, the LEC may discontinue the provision of any regulated and unregulated services, other than basic local exchange service, if payment is sufficient to cover the rate for basic local exchange service. For purposes of this rule, the rate for basic local exchange service shall be the tariffed rate for stand-alone basic local exchange service. In the event a CLEC does not offer basic local exchange service on a stand-alone basis, the CLEC shall identify an amount in the tariff for the basic local exchange service component of the package. In no event shall this amount exceed the packaged rate. Further, if the customer loses services included in the package due to nonpayment or partial payment pursuant to this rule, the customer shall be entitled to add, change, or discontinue any regulated services provided according to the LEC's normal procedures for adding, changing or discontinuing such services.

(iii) Option two disconnection notice

Under option two, the LEC shall, in its notice of disconnection for

nonpayment, state the total amount due to avoid discontinuance of the package, as well as the total amount due to avoid discontinuance of the basic local exchange service component of the package.

(D) New services

- (1) New tier two services are subject to a zero-day ZTA notice-only filing at the commission. New tier two service offerings filed after the effective date of these rules shall be deemed approved when notice and a copy of the tariff has been filed at the commission and, if applicable, when a tariff has been published at the company's website and linked on the commission's web page.
- (2) New services introduced after the effective date of these rules will be presumed to qualify for tier two regulatory treatment unless the new service involves safety and/or privacy concerns. The commission may make an after-the-fact determination that a newly introduced service should be reclassified from tier two to tier one if the new service involves safety and/or privacy concerns. Stand alone basic local exchange service is always a tier one service.

(E) Change in terms and conditions

- (1) In order to change the terms and conditions of an existing tier two service, the telephone company must docket a ZTA with the commission along with a completed telecommunications application form.
- (2) Upon the filing by the telephone company of an application to change the terms and conditions of an existing tier two service, the application will be subject to the zero-day notice process and shall become effective the day of filing, unless suspended. Such filing does not preclude the ability of the commission to impose a full or partial suspension.
- (3) In applications for change in terms and conditions of an existing tier two service, the telephone company must comply with the customer notice provisions of rule 4901:1-6-17 of the Administrative Code.
- (4) An affidavit attesting to the fact that customer notice has been provided in accordance with this rule must accompany the ZTA application.

(F) Suspension

Tier two services of any telephone company are subject to suspension under rule 4901:1-6-04 of the Administrative Code.

(G) Rate changes and customer notice

(1) Rate changes above the cost floor are subject to a zero-day notice filing under its TRF docket.

(2) Increases in rates for a tier two service require a customer notice provided in accordance with rule 4901:1-6-17 of the Administrative Code.

(H) Withdrawal

Withdrawal (with or without grandfathering) of tier two services is permitted through a zero-day, notice filing, with customer notice meeting the requirements of rule 4901:1-6-17 of the Administrative Code, but mailed at least thirty days prior to withdrawing the service. If applicable, a copy of the customer notice as well as an affidavit attesting to the fact that advance customer notice was provided must accompany the zero-day notice filing.

(I) Reclassification of services among tiers

Nothing within these rules prohibits the commission from reclassifying a service between the tiers.

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