

4901:1-6-27

Provider-Carrier of last resort (POLR)(COLR).

- (A) Except as otherwise provided in this rule, or rule 4901:1-6-21 of the Administrative Code, an incumbent local exchange carrier (ILEC) shall provide basic local exchange service (BLES) to all persons or entities in its service area requesting that service; ~~and that service shall be provided~~ on a reasonable and nondiscriminatory basis.
- (B) An ILEC is not obligated to construct facilities and provide BLES, or any other telecommunications service, to the occupants of multitenant real estate, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks, if the owner, operator, or developer of the multitenant real estate does any of the following to the benefit of any other provider of telecommunications service:
- (1) Permits only one provider of telecommunications service to install its facilities or equipment during the construction or development phase of the multitenant real estate;
 - (2) Accepts or agrees to accept incentives or rewards that are offered by a provider of telecommunications service to the owner, operator, developer, or occupants of the multitenant real estate and are contingent on the provision of telecommunications service by that provider to the occupants, to the exclusion of services provided by other providers of telecommunications service; or
 - (3) Collects from the occupants of the multitenant real estate any charges for the provision of telecommunications service to the occupants, including charges collected through rents, fees, or dues.
- (C) An ILEC not obligated to construct facilities and provide BLES pursuant to paragraph (B) of this rule shall notify the commission of that fact within one hundred twenty days of receiving knowledge thereof. Such notification ~~shall~~ is to be filed in a zero-day notice under a ZTA case caption including, where applicable, any necessary tariff revisions outlining the geographic boundaries of the ILEC's service area to which the notification would apply. In addition, the notice shall specify the circumstances under which the company qualifies to invoke paragraph (B) of this rule.
- (D) An ILEC that receives a request from any person or entity to provide BLES under the circumstances described in paragraph (B) of this rule shall provide, ~~within fifteen days of receipt of such request, provide notice~~ to the requesting person or entity in accordance with division (B)(4) of section 4927.11 Revised Code, specifying whether the ILEC will provide the requested service. If the ILEC provides notice that it will not serve the person or entity, the notice shall:
- ~~(1) Explain the reason for not offering the requested BLES; and~~

- ~~(2) Describe the person's or entity's right to file a complaint with the commission under section 4927.21 of the Revised Code within thirty days after receipt of the notice.~~
- (E) In resolving any complaint under paragraph (D) of this rule, the commission's determination ~~shall~~ will be limited to whether any circumstance described in paragraphs (B)(1) to (B)(3) of this rule exists. Upon a finding by the commission that such a circumstance exists, the complaint ~~shall~~ will be dismissed. Upon a finding that such circumstances do not exist, the person's or entity's sole remedy ~~shall~~ will be provision by the ILEC of the requested service within a reasonable time, as determined by the commission.
- (F) When the circumstances described in paragraph (B) of this rule cease to exist, and a person or entity subsequently requests that the ILEC provide BLES, the ILEC ~~shall~~ will be required to provide BLES to such real estate, unless the ILEC files with the commission a request for waiver pursuant to paragraph (G) of this rule and such request is granted. In the event that the commission determines that the ILEC should not be required to provide BLES, the commission will initiate a commission proceeding for determining a successor telephone company.
- (G) An ILEC may apply to the commission for a waiver from compliance with paragraph (A) of this rule in circumstances other than those listed in paragraph (B) of this rule, through an application for waiver (WVR) filing in accordance with division (D) of section 4927.11 Revised Code.
- (1) The application for waiver of the ILEC's obligation under paragraph (A) of this rule shall include, at the minimum, all of the following:
- (a) A clear and detailed description of the geographic boundary of the ILEC's service area to which the requested waiver would apply;
 - (b) The requested effective date of the waiver;
 - (c) A clear identification of class of customer impacted by the waiver, if any customer-class limitation of waiver is requested, and the number of persons or entities who would be impacted by the requested waiver;
 - (d) A clear explanation of the rationale behind the requested waiver, including an unusual technical limitation or an economic analysis demonstrating a financial hardship to provide BLES in the requested geographic area and an identification of any available alternative providers of telecommunications service;

- (e) A proposed newspaper customer notice, consistent with paragraph (G)(2) of this rule;
 - (f) A clear explanation as to whether the requested waiver would apply only to prospective customers or to the entire customer-base in the requested geographic area;
 - (g) A clear explanation of how customers would otherwise have access to BLES or alternative service offerings that are just and reasonable; and
 - (h) A clear explanation of how the requested waiver would be just, reasonable, and not contrary to the public interest.
- (2) The ILEC applying for the waiver shall provide, with its application, a draft copy of its proposed customer notice to be published one time in a newspaper of general circulation throughout the service area identified in the application. In addition, the ILEC shall also provide any other notice required by the commission in the waiver proceeding to any affected persons who are or would be potentially impacted by the requested waiver. For purposes of this rule, affected persons shall include, at a minimum, any existing customers of the requesting ILEC within the geographic boundary of the ILEC's service area to which the requested waiver would apply. Upon the filing of a waiver application filed under this paragraph, the commission, attorney examiner, or legal director shall issue an entry which addresses customer notice content and service, establishes a reasonable opportunity for comment, schedules a hearing as set forth in paragraph (G)(3) of this rule, and addresses any other procedural matters.
- (3) ~~The commission shall order a~~ A public hearing in the service area(s) identified in the application pursuant to paragraph (G)(1)(a) of this rule will be ordered in accordance with division (C) of section 4927.11 Revised Code.
- (4) No later than one hundred twenty days after the filing of a complete application pursuant to paragraph (G) of this rule, the commission either ~~shall~~will issue an order granting the waiver if, upon investigation, it finds the waiver to be just, reasonable, and not contrary to the public interest, and that the applicant demonstrates a financial hardship or an unusual technical limitation, or ~~shall~~ issue an order denying the waiver based on a failure to meet those standards and specifying the reasons for the denial.
- (H) A waiver application filed under paragraph (G) of this rule that does not contain all of the information required by paragraph (G)(1) of this rule will be considered deficient and will not trigger the one hundred twenty-day review period in paragraph (G)(4)

of this rule until the date that a complete application has been filed by the applicant. The commission, the legal director, or an attorney examiner has the authority to issue an entry either dismissing the application or establishing the date that the application is complete and begin the one hundred twenty-day review period.

Replaces: 4901:1-6-27 Carrier of last resort (COLA)

Effective:

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Certification

Date

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