4901:1-7-12 **Compensation for the transport and termination of non-access telecommunications traffic.**

[Comment: For dates of references to a section of either the United States Code or a regulation in the code of federal regulations see rule 4901:1-7-02 of the Administrative Code.]

(A) Compensation principles

(1) Reciprocal compensation

(a) All telephone companies shall have the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic pursuant to 47 U.S.C. 251(b)(5), regardless of the network technology utilized by the telephone company to transport or terminate that traffic.

(b) Transport is the transmission, and any necessary tandem switching of telecommunications traffic subject to 47 U.S.C. 251(b)(5), from the interconnection point between the two telephone companies to the terminating telephone company's end office switch that directly serves the called party, or equivalent facility provided by a telephone company other than an incumbent local exchange telephone company (ILEC).

(c) Termination is the switching of the non-access telecommunications traffic at the terminating telephone company's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

(2) Eligibility

Telephone companies shall be entitled to compensation for the use of network facilities they own or obtain by leasing from an ILEC (i.e., through purchasing unbundled network elements) to provide transport and terminate non-access telecommunications traffic originated on the network facilities of other telephone companies pursuant to 47 C.F.R. 51.703. Nonfacilities-based, local exchange carriers (LECs) are not eligible for the transport and termination of non-access telecommunications traffic compensation.

(B) Traffic measurement and identification

(1) All telephone companies exchanging non-access reciprocal compensation traffic and switched access reciprocal compensation traffic shall measure minutes-of-use for compensation purposes if technically and economically feasible, unless they mutually agree to a different arrangement in an interconnection agreement.

(2) All telephone companies exchanging telecommunications traffic, where technically and economically feasible, as the provider of originating or transiting intrastate telecommunications traffic that is transported and/or terminated on the network of another telephone company, shall comply with the signaling information delivery requirements outlined in 47 C.F.R. 64.1601(a). This obligation is applicable to all telephone companies exchanging telecommunications traffic regardless of the network technology utilized by the telephone company to transport or terminate that traffic.

(C) ~~Traffic~~ The following types of traffic are subject to non-access reciprocal compensation:

(1) Telecommunications traffic exchanged between LECs that originates and terminates within the boundary of an ILEC's local calling area. The local calling area of the ILEC shall include non-optional extended area service (EAS) approved by the commission while excluding optional EAS arrangements.

~~As a LEC establishes its own local calling area(s), the perimeter of the local calling area of the ILEC with which the LEC is requesting to establish a non-access reciprocal compensation arrangement shall constitute the demarcation for differentiating non-access reciprocal compensation traffic versus switched access reciprocal compensation traffic for the purpose of the compensation arrangement. Any call originating and terminating within the boundary of such ILEC local calling area shall be subject to non-access reciprocal compensation. The local calling area of the ILEC shall include non-optional EAS approved by the commission while excluding optional EAS arrangements.~~

(2) Telecommunications traffic exchanged between a LEC and a wireless service provider that, at the beginning of the call, originates and terminates within the same major trading area as defined in 47 C.F.R. 24.202(a), shall be subject to non-access reciprocal compensation.

(3) Telecommunications traffic exchanged between a LEC and another telephone company in time division multiplexing (TDM) format that originates and/or terminates in internet protocol (IP) format and that otherwise meets the definitions in paragraph (C)(1) or (C)(2) of this rule. Telecommunications traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires internet protocol compatible customer premises equipment.

(D) Non-access reciprocal compensation arrangements

(1) Rates, terms, and conditions for the transport and termination of non-access reciprocal compensation traffic shall be established through either negotiated

or arbitrated agreements. An ILEC's rates for transport and termination of non-access reciprocal compensation traffic shall be established, at the commission's discretion in an arbitration proceeding, on the basis of one of the following:

(a) The forward-looking economic costs of such offerings, using a cost study pursuant to rules 4901:1-7-17 and 4901:1-7-19 of the Administrative Code. Any rate established pursuant to this provision shall be superseded by the transition process set forth in 47 C.F.R. 51.705(c).

(b) A bill and keep arrangement pursuant to 47 C.F.R. 51.713.

(2) Symmetrical non-access reciprocal compensation

(a) For purposes of this section, symmetrical rates are rates that a telephone company assesses upon an ILEC for transport and termination of non-access reciprocal compensation traffic equal to the rates that the ILEC assesses upon the telephone company for the same services.

(b) Rates for transport and termination of non-access reciprocal compensation traffic shall be symmetrical unless the non-ILEC telephone company (or the smaller of two ILECs) proves to the commission, on the basis of a forward-looking economic cost study pursuant to rule 4901:1-7-19 of the Administrative Code, that its forward-looking costs for its network exceed the costs incurred by the ILEC (or the larger ILEC), and that justifies a higher rate.

(c) If both parties to the compensation arrangement are ILECs, symmetrical rates for transport and termination of non-access reciprocal compensation traffic shall be based on the larger telephone company's forward-looking costs, unless the parties voluntarily agree to different rates.

(d) If neither party to the compensation arrangement is an ILEC, symmetrical rates for transport and termination of non-access reciprocal compensation traffic shall not exceed the highest tandem interconnection total element long run incremental cost-based rate charged by the largest ILEC in the state, unless the parties voluntarily agree to different rates.

(e) The commission may establish symmetrical transport and termination rates for non-access reciprocal compensation traffic that vary according to whether this traffic is routed through a tandem switch or directly to an end office switch. <u>If a non-ILEC has a switch that serves a geographic area comparable to the area served by an ILEC's tandem switch, the non-ILEC may not charge a rate that exceeds the ILEC's tandem rate.</u>

(i) Where the telephone company interconnects at the ILEC's tandem office and the switch of the telephone company serves a geographical area comparable to the area served by that ILEC's tandem switch, the telephone company is eligible for the tandem interconnection rate for the transport and termination of non-access reciprocal compensation traffic over this tandem interconnection facility.

(ii) Where the telephone company interconnects at the ILEC's end office, regardless of the geographical area served by the telephone company's switch, the telephone company is eligible for the end office termination rate only for the transport and termination of reciprocal compensation traffic over this end office interconnection facility.

(3) Transport and termination for non-access telecommunications traffic exchanged between a local exchange carrier and a wireless service provider shall be pursuant to a bill-and-keep arrangement, as provided in 47 C.F.R. 51.705(a).

(4) Rate structure

(a) Rates for transport and termination of non-access reciprocal compensation traffic shall be structured consistent with the manner that telephone companies incur those costs pursuant to paragraph (B) of rule 4901:1-7-17 of the Administrative Code.

(b) LECs shall offer flat-rate compensation to other telephone companies for dedicated facilities purchased for the transport of non-access reciprocal compensation traffic.

(c) The rate of a telephone company providing transmission facilities dedicated to the transmission of non-access reciprocal compensation traffic between two telephone companies' networks shall recover only the costs of the portion of that trunk capacity used by an interconnecting telephone company to send traffic that will terminate on the providing telephone company's network. Such proportion may be measured during peak periods.

(d) Non-access reciprocal compensation for telecommunication traffic exchanged between rate-of-return regulated rural telephone company as defined in 47 C.F.R. 51.5, and wireless service provider shall be set pursuant to 47 C.F.R. 51.709(c).

(E) This section shall not be construed to preclude telephone companies from negotiating and voluntarily agreeing to other interconnection and compensation arrangements.

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