

7811.2000 RURAL EXEMPTION CLAIM; NOTICE, PROCEEDINGS.

Subpart 1. **Bona fide request.** A competitive local exchange carrier (CLEC) seeking interconnection, services, or network elements with a local exchange carrier (LEC) shall submit to the LEC a bona fide request. The bona fide request shall include, to the extent known, the CLEC's best reasonable estimate of the following information concerning interconnection services or network elements that the CLEC believes may be within the scope of its request to be negotiated or arbitrated with the LEC.

A. Points of interconnection:

- (1) Yes No line-side interconnections;
- (2) Yes No trunk-side interconnections;
- (3) Yes No tandem trunk interconnections;
- (4) Yes No central office cross-connects;
- (5) Yes No out-of-band signaling transfer points, including call-related databases;
- (6) Yes No points of access to unbundled network elements;
- (7) Yes No interconnection facilities with specifications different from the incumbent LEC's facilities;
- (8) Yes No two-way trunks.

B. Unbundled elements:

- (1) Yes No local loops, including subloop unbundling;
- (2) Yes No network interface devices;
- (3) Yes No local or tandem switching;
- (4) Yes No interoffice transmission facilities;
- (5) Yes No signaling networks and call-related databases, including service management systems;
- (6) Yes No operations support systems;
- (7) Yes No operator services and directory assistance.

C. Collocation:

- (1) Yes No physical, including:
 - (a) Yes No transmission equipment;
 - (b) Yes No equipment used to terminate transmission equipment;

- (2) Yes No virtual;
- (3) Yes No meet point.

D. Wholesale services:

- (1) Yes No residential;
- (2) Yes No business;
- (3) Yes No unbranded or rebranded call completion;
- (4) Yes No unbranded or rebranded operator;
- (5) Yes No unbranded or rebranded directory assistance.

E. Number portability: Yes No

Subp. 2. **Notice of claim to rural exemption.** A LEC, seeking to retain or establish a rural exemption under United States Code, title 47, section 251, subsection (f), paragraph (1), shall, no later than 20 days after receiving a CLEC's bona fide request for interconnection, services, or network elements under United States Code, title 47, section 251, notify the requesting company, the commission, the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), and the city clerk, or other official authorized to receive service or notice, of all municipalities within the LEC's designated service area, of its claim to the exemption. A LEC failing to assert its exemption claim as provided in this subpart is deemed to have waived any right it may have to the exemption for purposes of the specific bona fide request for which it has failed to assert the exemption. The notice must state:

- A. the basis upon which the LEC considers itself to be a rural telephone company;
- B. the basis upon which the LEC considers the CLEC's request to be unduly economically burdensome, technically infeasible, or inconsistent with United States Code, title 47, section 254, other than subsections (b), paragraph (7), and (c), paragraph (1), subparagraph (D), of that section; and
- C. when and how to intervene, pursuant to part 7829.0800.

Subp. 3. **CLEC response to exemption claim.** An affected CLEC shall file any challenge to a LEC's exemption claim under subpart 2, including a request to terminate the exemption, within 20 days after receiving the LEC's notice under subpart 2.

Subp. 4. **Discovery; parties.** The following parties may seek discovery: the CLEC, the LEC, the commission, the department, the OAG-RUD, and any other entity granted intervenor status by the commission.

Subp. 5. **Discovery request; proprietary information.** The CLEC may seek discovery of the LEC before submitting a bona fide request. Once the CLEC has sought

discovery or filed a bona fide request, any party may seek discovery of any other party. Before responding, a party may seek a commission order to protect its trade secrets and proprietary information within the meaning of part 7829.0500 from disclosure or use outside the scope of the proceeding.

Subp. 6. **Discovery procedures; service and response.** The parties may seek discovery by any means available under the Rules of Civil Procedure for the district courts of Minnesota, rules of the Office of Administrative Hearings, and standard public utilities commission practice, subject to the discretion of the commission. The response to any request for discovery must explain any refusal to provide the information requested. The request and the response must be served on all parties and filed with the commission. A party may request to meet with other parties to facilitate information exchange. Each party shall respond reasonably to the request and may be accompanied at a meeting by a representative, including an attorney representing the party.

Subp. 7. **Discovery disputes.** Discovery disputes must be resolved by the commission, or by the Office of Administrative Hearings if the commission has referred the matter to that office.

Subp. 8. **Time frame for determination of request.** Within 120 days after a CLEC files a notice of its bona fide request, the commission shall determine whether to terminate or continue a rural exemption.

Subp. 9. **Standard for terminating exemption; burden of proof.** The commission shall terminate the exemption if the request is:

- A. not unduly economically burdensome;
- B. technically feasible; and
- C. consistent with the universal service provisions of United States Code, title 47, section 254, other than subsections (b), paragraph (7), and (c), paragraph (1), subparagraph (D).

The burden of production and persuasion with respect to issues of material fact is on the incumbent LEC. The commission or arbitrator may shift the burden of production and persuasion as appropriate, based on which party has control of the critical information regarding the issue in dispute and which party is the proponent of the issue.

Subp. 10. **Exception for request from cable operator.** Notwithstanding subpart 9, the commission shall not grant a rural exemption with respect to a request from a cable operator providing video programming and seeking to provide telecommunications services in an area in which a rural telephone company is providing video programming unless the rural telephone company was providing video programming on February 8, 1996.

Subp. 11. **Implementation schedule.** A commission decision to deny or terminate an exemption must include a schedule for implementing the negotiation, arbitration, and agreement approval requirements of United States Code, title 47, section 252.

Statutory Authority: *MS s 237.10; 237.16; 237.71*

History: *22 SR 2079*

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