

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter on the Commission's Own	)	
Motion to promulgate rules required by	)	Case No. U-16063
MCL 484.2202(1)(c)(ii) and (iii).	)	
_____	)	

At the August 25, 2009 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman  
          Hon. Monica Martinez, Commissioner  
          Hon. Steven A. Transeth, Commissioner

**ORDER AND NOTICE OF HEARING**

On September 9, 2008, two Requests for Rulemaking RFRs were submitted to the State Office of Administrative Hearings and Rules (SOAHR) on behalf of the Commission. SOAHR approved both requests. One RFR involves proposed rules for the provision of unbundled network elements and local interconnection, #2008-032 LG; the other involves proposed rules governing the transfer of customers from one provider to another, #2008-033 LG.

The Commission submitted the draft rules to SOAHR and the Legislative Service Bureau (LSB) for informal approvals. On July 20, 2009, the Commission received notification that the LSB and SOAHR had granted informal approvals, with certain corrections. Thereafter, the draft rules were modified to include changes made by the Federal Communications Commission and resubmitted. On August 24, 2009, the Commission received notice that the SOAHR and LSB had approved the new language without further change.

To provide the public with an opportunity to comment on the proposed rules, the Commission has scheduled a public hearing, which will be held at 9:00 a.m. on October 6, 2009. Any person may attend the public hearing and may offer comments on the proposed rules. The Commission encourages interested parties to become involved in the proceedings.

In addition, any person may submit written or electronic comments regarding the proposed rules. The comments must be filed with the Commission and must be received no later than 5:00 p.m. on October 20, 2009. Written comments should be sent to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909. Electronic comments may be e-mailed to [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov). All comments should reference Case No. U-16063. All information submitted to the Commission in this matter will become public information available on the Commission's website and subject to disclosure.

THEREFORE, IT IS ORDERED that:

A. A public hearing regarding proposed rules governing proposed rules for the provision of unbundled network elements and local interconnection, 2008-032 LG, and proposed rules governing the transfer of customers from one provider to another, 2008-033 LG shall be held at 9:00 a.m. on October 6, 2009, in the offices of the Commission, 6545 Mercantile Way, Lansing. A notice of hearing is attached to this order as Exhibit A. A copy of each proposed rulemaking is attached to this order as Exhibits B and C, respectively.

B. The public hearing will be legislative in nature and any person may present data, views, questions, and arguments regarding the issues. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to be heard.

C. Any person may file written or electronic comments, suggestions, data, views, questions, argument, and modifications concerning the issues. To be considered, all comments must be

received at the Commission no later than 5:00 p.m. on October 20, 2009, and should reference Case No. U-16063.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

---

Orjiakor N. Isiogu, Chairman

---

Monica Martinez, Commissioner

---

Steven A. Transeth, Commissioner

By its action of August 25, 2009.

---

Mary Jo Kunkle, Executive Secretary

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

**NOTICE OF HEARING  
REGARDING PROPOSED RULEMAKINGS  
UNBUNDLED NETWORK ELEMENTS AND LOCAL INTERCONNECTION  
SERVICES  
And  
BASIC LOCAL EXCHANGE SERVICE CUSTOMER MIGRATION  
CASE NO. U-16063**

The Michigan Public Service Commission is considering promulgating new rules regarding unbundled network elements and local interconnection services, R 484.71 to R 484.75 and basic local exchange service customer migration, R 484.81 to R 484.90. The Commission will hold a public hearing to solicit comments from anyone who wishes to comment on the proposed rules. These rules are proposed to take effect 7 days after filing with the Secretary of State.

The information below describes how a person may participate in this case.

You may call or write the Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909, 800.292.9555 for a free copy of the proposed rules. Any person may review the rules at the Commission offices, or on the Commission's E-Docket Website at [michigan.gov/mpscedockets](http://michigan.gov/mpscedockets).

The public hearing will be held:

- DATE:** October 6, 2009
- TIME:** 9:00 a.m.
- LOCATION:** Michigan Public Service Commission  
6545 Mercantile Way, Suite 7  
Lansing, Michigan
- PARTICIPATION:** Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. People needing any accommodation to participate should contact the Commission's Executive Secretary at 517.241.6160 in advance to request mobility, visual, hearing or other assistance.

The proposed rules create requirements applicable to telecommunications providers when providing unbundled network elements or local interconnection to another provider and when a customer migrates from one provider to another. The

hearing will be for the purpose of providing an opportunity for all interested persons to present statements, views, data, questions, or arguments concerning the proposed rules. The public hearing will continue until all parties present have had a reasonable opportunity to present statements regarding the proposed rules. Persons presenting statements may be asked questions by the Commission and its Staff, as well as by the presiding officer. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings.

Written and electronic comments may be filed with the Commission and must be received no later than 5:00 p.m. on October 20, 2009. Written comments should be sent to the: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909. Electronic comments may be emailed to [michigan.gov/mpscedockets](http://michigan.gov/mpscedockets). All comments should reference Case No. U-16063. All information submitted to the Commission in this manner will become public information available on the Commission's website and subject to disclosure.

Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*

August 25, 2009  
Lansing, Michigan

This notice of hearing is also published in the September 15, 2009 Michigan Register under SOAHR (State Office of Administrative Hearings & Rules) # 2008-032 LG and #2008-033 LG.

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

UNBUNDLED NETWORK ELEMENT AND LOCAL INTERCONNECTION SERVICES

Filed with the Secretary of State on  
These rules become effective 7 days after filing with the Secretary of State.

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213)

R 484.71, 484.72, 484.73, 484.74, and 484.75 are added to the Michigan Administrative Code.

PART 1. GENERAL PROVISIONS

R 484.71 Applicability.

Rule 1. These rules apply to the provision of unbundled network elements and local interconnection services by an incumbent local exchange carrier to other providers which are used in the provision of basic local exchange service. These rules do not alter the scope or terms of any preexisting performance remedy plan and performance measurements approved by the commission.

R 484.72 Definitions.

Rule 2. (1) As used in these rules:

- (a) "Act" means 1991 PA 179, MCL 484.2102 et seq.
- (b) "Federal act" means the telecommunications act of 1996, 101 stat. 101 (1996).
- (c) "Incumbent local exchange carrier" or "ILEC" means that term as defined in 47 USC 251(h) and required to comply with the additional obligations set forth in 47 USC 251(c).
- (d) "Interconnection agreement" means an agreement between 2 or more providers entered into under sections 251 and 252 of the federal act.
- (e) "Provider" means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act.

(2) A term defined in the act has the same meaning when used in these rules.

R 484.73 Expiration.

Rule 3. These rules expire 3 years from the effective date of the rules. The commission may, prior to the expiration of the rules, promulgate new rules.

PART 2. PROVISION OF UNBUNDLED NETWORK ELEMENTS AND LOCAL INTERCONNECTION

R 484.74 Quality standards.

Rule 4. (1) The quality standards for the provision of unbundled network elements and local interconnection by an ILEC shall be either of the following:

(a) Those standards in a preexisting performance remedy plan for an ILEC and performance measurements approved by the commission in an industry-wide proceeding in Michigan, regardless of whether all providers participate in the plan.

(b) If a plan specified in subrule (1)(a) of this rule does not exist for the ILEC, then the performance remedy plan and performance measurements negotiated or arbitrated by the parties in an interconnection agreement approved by the commission.

(2) Nothing in this rule shall entitle a provider to participate in a plan if the plan is not incorporated into its commission-approved interconnection agreement.

#### R 484.75 Remedies.

Rule 5. Nothing in this rule shall add to or detract from the remedies available to a provider under the plans referenced in Rule 484.74, the act, or the federal act.

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

BASIC LOCAL EXCHANGE SERVICE CUSTOMER MIGRATION

Filed with the Secretary of State on

These rules become effective 7 days after filing with the Secretary of State

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213)

R 484.81, 484.82, 484.83, 484.84, 484.85, 484.86, 484.87, 484.88, 484.89, and 484.90 are added to the Michigan Administrative Code.

PART 1. GENERAL PROVISIONS

R 484.81 Applicability.

Rule 1. These rules apply to the timely and complete transfer of an end user from 1 provider of basic local exchange service to another provider.

R 484.82 Exclusions.

Rule 2. Nothing in these rules prohibits providers from adopting more stringent standards in an interconnection agreement or other stand alone agreement.

R 484.83 Definitions.

Rule 3. (1) As used in these rules:

- (a) "Act" means 1991 PA 179, MCL 484.2101 et seq.
- (b) "Basic local exchange service" or "local exchange service" or "service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.
- (c) "Business day" means a day on which a provider's office is scheduled to be open for business.
- (d) "Business hours" means the times that a provider's office is scheduled to be open for business. As scheduled business days and hours may vary, the schedule to be followed by each provider is the one posted on its website.
- (e) "Commission" means the Michigan public service commission.
- (f) "Customer service record" or "customer service information" means account information including, but not limited to, the customer's address, features, services, equipment, directory listings, and network information, as appropriate.
- (g) "Directory service provider" means the entity that receives or implements the local service provider's directory service requirements for the end user, including white page listings, and may also include providing end user directory assistance.
- (h) "End user" means the retail subscriber of a telecommunication service.

(i) "End user's authorization" means the data or record indicating that the end user has authorized a new local service provider to change the end user's service provider or view the end user's customer service record.

(j) "Federal act" means the telecommunications act of 1996, 101 Stat 101 (1996).

(k) "Interconnection agreement" means an agreement between 2 or more providers entered into under sections 251 and 252 of the federal act.

(l) "Line level" means features or activities associated with a specific line.

(m) "Local service provider" means the provider that administers and bills local exchange and related services for the end user, and includes both of the following:

(i) "New local service provider" means the planned or actual provider of record following the completion of the migration process.

(ii) "Old local service provider" means the provider of record prior to the migration process or the current local service provider prior to service migration.

(n) "Local service request" means an industry standard document used among providers to request installation, changes, or disconnections of local services.

(o) "Loop" or "Unbundled loop" means the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office.

(p) "Loss notification" means provider notification initiated by the underlying network service provider at the completion of a service migration to notify the old local service provider of the loss of end user facilities.

(q) "Number portability" means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from 1 telecommunications provider to another.

(r) "Plain old telephone service" means the provision of a standard telephone line and telephone number, as subscribed to by a residential or small business end user.

(s) "Primary interexchange carrier" or "primary interexchange carriers" means the provider or providers designated by a wire line end user to carry intraLATA and/or interLATA long distance traffic.

(t) "Provider" means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act.

(u) "Service configuration" means identification of the type of serving arrangement used by the local service provider to provide service to the end user, including resale, facility based service, and other arrangements.

(v) "Service provider" means each provider involved in supplying service to an end user, including local service providers and/or underlying network service providers.

(w) "Underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user's local telecommunications service, including both of the following:

(i) "New underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user's local telecommunications service following the completion of the migration process or the potential network service provider prior to service migration.

(ii) "Old underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user's local telecommunications service prior to the migration process or the current network service provider prior to service migration.

(2) A term defined in the act has the same meaning when used in these rules.

R 484.84 Expiration.

Rule 4. These rules shall expire 3 years from the effective date of the rules. The commission may, prior to the expiration of the rules, promulgate new rules.

PART 2. TRANSFER OF END USER BY PROVIDERS

R 484.85 Migration responsibilities of local service providers.

Rule 5. (1) Each service provider shall maintain a publicly accessible website with all of the following information:

(a) All applicable processes and procedures for end user migration.

(b) Company contact escalation list, which shall include a company contact for operational issues and a contact for escalation of those issues.

(2) The old local service provider shall release any assigned telephone numbers associated with the end user's service that are properly requested in accordance with industry standards and federal law.

(3) The new local service provider shall communicate directly with the end user, receive the end user's authorization to switch service providers, and provide all pertinent information to the end user associated with the end user migration.

(4) The new local service provider shall be responsible for the coordination required to migrate the end user. The underlying network service providers shall promptly provide necessary support and assistance to migrate the end user. Neither the old local service provider nor underlying network service provider shall interfere in the transfer or otherwise use this opportunity to win back the customer.

(5) Before requesting a customer service record, the new local service provider or authorized agent shall have obtained an end user's authorization.

(6) All providers shall follow industry standard procedures for porting an end user's telephone number upon receipt of an accurate request from the new local service provider. For requests received outside of business hours, the date and time of receipt shall be considered to be the beginning of the next business day.

(7) Data used to measure performance concerning due dates shall not include misses caused by either of the following:

(a) Action or inaction of the new local service provider or the end user.

(b) The number portability administration center.

(8) When local exchange service to be migrated is currently provided using resale or local wholesale arrangements, the old underlying network service provider shall provide a loss notification to the old local service provider upon completion of a request.

(9) Upon completion of the service order, the old underlying network service provider shall unlock the end user's E911 records that are being migrated, within industry standard or federally mandated timeframes, whichever is earlier. The new underlying network service provider shall assure the new E911 database record is accurately entered into the E911 database and that the database is locked.

(10) Directory listing information shall be submitted by the new local service provider to the directory service provider using a local service request or other mutually agreeable format. If the old local service provider is a facilities based provider and directory listing migration capabilities are not available from the directory service provider, then the old local service provider shall

remove its listings upon completion of a local service request to migrate local service. The new local service provider shall ensure that the directory listing information is accurate.

(11) The new local service provider may reuse an unbundled loop upon request if reuse is technically feasible. Any of the following exclusions shall apply:

(a) The new local service provider has made all reasonable efforts to obtain the circuit identification for reuse, and the circuit identification information was not provided by the old local service provider.

(b) Upgrade or downgrade of existing facilities is required.

(12) The old local service provider shall release the circuit identification and facilities for reuse when the existing circuit or facilities are no longer needed by the old local service provider to provide service to the migrating end user or any other end user that is currently using those facilities.

(13) The old local service provider shall not retain a requested facility for possible future use.

(14) An unbundled loop shall be considered released for reuse when the old local service provider provides the circuit identification for release.

(15) Subject to subrule (11) of this rule, when requested, and reuse of the unbundled loop facility is available, the old local service provider shall provide the circuit identification number with the associated telephone number for the requested unbundled loop facility to the new local service provider as part of the customer service record or firm order confirmation response. To order the reuse of an unbundled loop facility, the new local service provider shall furnish the circuit identification number on the local service request issued to the new underlying network service provider.

(16) If the new local service provider requests reuse of the unbundled loop facility, and it is not available, then the old local service provider shall use best efforts to indicate as part of the customer service record or firm order confirmation response the reason why the unbundled loop is not reusable.

(17) The local service providers and underlying network service providers involved in the transfer shall maintain accurate unbundled loop circuit identification information and customer service record content, as applicable, to the end user service to facilitate migration activity as described within these rules.

(18) The underlying network service provider shall notify the local service providers involved in the transfer of changes affecting information contained in this rule within 5 business days of completion of the transfer.

#### R 484.86 Exchanging customer service information.

Rule 6. (1) Unless otherwise agreed to by the providers involved, all of the following shall be the responsibility of the local service providers in any migration of an end user's local service.

(a) The new local service provider shall request and receive the customer service record information, which includes circuit identification with associated telephone number from the old local service provider as part of the customer service record or firm order confirmation.

(b) To the extent resale and local wholesale arrangement information is available via current pre-order functionality in the underlying network service provider's operational support systems and is made available under current local business practice, it shall be made available to all new local service providers upon request and acknowledgement of end user permission. Underlying network service provider customer service record information might not reflect all end user services subscribed and received from the old local service provider.

(c) Customer service record requests shall only be submitted after proper authorization from the end user to review the end user's account and only with the intent to obtain information to facilitate the migration of local service.

(d) A customer service request or local service request shall not be used by a local service provider to trigger retention activity. The new local service provider shall not be required to share a copy of the end user's authorization with the old local service provider, prior to receipt of the records, but shall retain records for a reasonable period of time to resolve issues about proper use of operational support systems or to assist in the resolution of a claim of unauthorized transfer, should one arise.

(e) All customer service record requests shall be provided within 24 hours of receipt, except intervals may be negotiated for any of the following:

- (i) Manual requests for projects (19 or more lines).
- (ii) Mass migration.
- (iii) Complex migration.

(f) The deadline for submitting service requests shall be posted on a provider's website.

(g) Within 24 hours of receiving a local service request for 1 to 18 lines, a receiving provider shall issue either a confirmation or rejection of an electronic request or an acknowledgement of a complete and correct order in a manual environment. If the request is for a project (19 or more lines), the time within which the receiving provider shall issue either a confirmation or rejection of an electronic request shall be negotiated between the providers.

(h) A customer service record request shall include all of the following:

- (i) Billed assigned telephone number.
- (ii) Acknowledgement of end user consent to review the customer service record or customer service information.
- (iii) End user name.
- (iv) Contact information detailing to whom, how, and where to respond with the customer service record or customer service information.
- (v) A telephone number and person to contact for questions about the customer service record or customer service information request.
- (vi) The name of the company requesting the customer service record or customer service information.
- (vii) The date and time the request was sent.
- (viii) Indication whether circuit identification with associated telephone number is requested for loop reuse.
- (ix) Indication whether directory information is requested.

(i) The old local service provider shall provide to the new local service provider all of the following information:

- (i) Account level information including the following:
  - (A) Billing telephone number.
  - (B) Complete customer billing name and address.
  - (C) Directory listing information, including address and listing type, to the extent that it is maintained by the old local service provider.
  - (D) Complete service address including floor, suite, unit, or similar designation.
  - (E) Type of service.
- (ii) Line level information shall include all services and features associated with the service provider, including the following:

- (A) Assigned telephone number, which identifies all telephone numbers that are billed on the account.
- (B) Current primary interexchange carrier selections including freeze status.
- (C) Local freeze status, if offered.
- (D) All vertical features such as custom calling features identified in a manner so that the new local service provider can understand to which products and services the end user currently subscribes.
- (E) Other service options, such as lifeline, 900 blocking, toll blocking, remote call forwarding, and off premises extensions, if applicable.
- (F) Service configuration information.
- (G) Identification of the local service or underlying network service provider when different from the provider providing the response.
- (H) Identification of any data services on the migrating end user's line or any other services such as alarm services that utilize the unbundled loop.
- (I) Circuit identification with associated telephone number, provided with the customer service record, when requested and the unbundled loop is not being used for other services.
- (J) Indication as to whether any circuit identifications are not reusable and therefore not provided.
- (K) Type of service.
  - (j) If requested, the old local service provider shall provide the network information, including loop circuit identification (when the unbundled loop is available for reuse) and associated telephone number, with the customer service record or firm order confirmation. When service components such as loop and directory services are currently being provided to the end user by an entity other than the local service provider or the underlying network service provider the customer service record shall also include identification of those components and the associated service provider.
  - (k) The transmission of customer service records and customer service information requests and information shall be through electronic facsimile, electronic mail, electronic data interchange, graphical user interface, or any other means negotiated between the 2 providers. The transmission of customer service records and customer service information requests shall not be by voice telephone call. All providers shall, at a minimum, allow transmission of customer service record requests by facsimile.

**Rule 484.87 Order process requirements.**

Rule 7. All migration and ordering processes between providers shall follow the applicable industry standards and comply with federal law.

**Rule 484.88 Service quality standards.**

Rule 8. (1) For basic local exchange service, a provider shall release both the loop facilities and telephone number serving its customer within a monthly average of 4 business days after a request is made by a customer or on behalf of a customer to change local service providers, unless a later date is requested. A request shall be considered made when an error free local service request is received by the old local service provider.

(2) The old local service provider shall port the telephone number and transfer the unbundled loop to the new local service provider within the specified time period listed in subdivisions (a) and (b) of this subrule, unless a later due date is requested. If the provider reschedules the

original due date without consent of the requesting provider, the original due date shall be the one measured against. The following apply to due dates:

(a) Due dates for migrations involving number portability with or without a loop. For an installation request involving 1 to 18 lines, the due date is a monthly average of 5 business days after a request is made. Any installation request involving 19 or more lines involving number portability with or without a loop is a project for which a due date shall be negotiated.

(b) Due dates for installations involving a simple stand alone number portability request only, for example, not for orders that require other facilities, such as loops. For an installation involving 1 line, the due date is 1 business day unless a longer period is requested by the new provider, the end user elects otherwise, or a waiver is granted by the federal communications commission. For installation involving simple stand alone number portability requests for 2 to 30 lines, the old local service provider shall send a firm order confirmation within 24 hours and complete the porting of the telephone number to the new local service provider within 3 business days of the firm order confirmation. Any installation request that involves simple stand alone number portability for 31 or more lines is a project for which a due date shall be negotiated.

(3) The provider shall keep records on provisioning due dates not met. This measurement shall be reported by the provider at an order level for resale plain old telephone service, and at a feature or circuit level for resale specials and local wholesale arrangements.

### PART 3. REMEDIES, WAIVER, AND GENERAL EXEMPTIONS

#### R 484.89 Remedies.

Rule 9. (1) If, after 3 consecutive months, a provider fails to meet 1 or more of the standards as set forth by these rules for each of the 3 months, then the provider shall notify commission staff within 10 days of such failure and the commission may require the provider to take corrective action. This corrective action shall include, but is not limited to, the 2-part report described as follows:

(a) Part 1 of the report shall be a “root-cause” analysis of the reported level of performance, explaining why the reported performance failed to meet applicable service quality standard(s).

(b) Part 2 of the report shall be a “corrective action plan.” The plan shall be based on the causes for substandard performance identified in part 1, and it shall define actions proposed to bring performance up to a level at or above the applicable standard. This plan shall also have a timeline within which the provider expects to bring its performance up to a level at or above the applicable standard.

(2) A provider shall deliver its 2-part report to the commission staff within 30 days after it receives a request from the commission staff. Unless otherwise requested by the commission staff, the provider shall also provide a status report for each month thereafter until the provider meets the applicable service quality standard.

(3) This rule does not prohibit a provider from seeking commission action against another provider, nor does it prohibit the commission from investigating a provider’s compliance under its own motion under the Michigan telecommunications act, 1991 PA 179, as amended, MCL 484.2201 et seq.

(4) Violation of these rules may result in penalties issued under Section 601 of the act, MCL 484.2601.

Rule 484.90 Waiver and general exemptions.

Rule 10. (1) A provider may petition for a permanent or temporary waiver or exception from these rules when qualifying circumstances beyond the control of the provider render compliance impossible or when compliance would be unduly economically burdensome or technologically infeasible.

(2) Qualifying circumstances include any of the following:

(a) The problem is or was attributable to an "act of God." The term "act of God" shall include events such as any of the following:

- (i) Flood.
- (ii) Lightning.
- (iii) Tornado.
- (iv) Earthquake.
- (v) Fire.
- (vi) Blizzard.
- (vii) Ice storm.
- (viii) Widespread electrical power outage.
- (ix) Other unusual natural or man-made disasters.

(b) There is a work stoppage or other work action, beyond the control of the provider, that causes or caused a significant reduction in hours worked.

(c) The problem occurs or occurred during a major failure. A major failure is a single event or occurrence that is not the direct result of action taken by the provider and that generates out-of-service reports affecting 100 or more access lines.

(d) The problem is or was caused by either the end user or by malicious damage to facilities by a third party outside the control of the provider.

(3) A provider may request a temporary waiver in order to have sufficient time to implement procedures and systems to comply with these rules.

(4) The provider shall notify the commission, in writing, within 20 business days of such an event that it intends to invoke the occurrence of an event described in subrule (2) of this rule.

The notification to the commission shall include all of the following information:

- (a) Specific description of the event and general impact.
- (b) Date or dates of the event.
- (c) Location affected, such as exchanges or wire centers.
- (d) Estimated number of customers affected.

(5) The commission staff shall have 10 business days following the notification to advise the provider, in writing, of a dispute concerning the validity of the company's invocation of an event described in subrule (2) of this rule and the reasons for such dispute. If the dispute cannot be resolved within 10 business days of the commission staff's advice, then the provider shall file an application with the commission within 10 business days thereafter for resolution of the dispute.