

## NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety, or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule takes effect upon filing with the Secretary of State and remains in effect for 180 days. An emergency rule may be renewed for one or two 180-day periods if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

### NOTICE OF EMERGENCY RULEMAKING

#### TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

#### CHAPTER 2. CORPORATION COMMISSION FIXED UTILITIES

#### PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
Article 14	New Article
R14-2-1401	New Section
R14-2-1402	New Section
R14-2-1403	New Section
R14-2-1404	New Section
R14-2-1405	New Section
R14-2-1406	New Section
R14-2-1407	New Section
R14-2-1408	New Section
R14-2-1409	New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 40-202, 40-203, 40-204, 40-250, 40-321, 40-322, 40-336, 40-361, 40-365, 40-367, and Article 14, §§ 2, 3, 4, 6, 7, and 9 of the Arizona Constitution.
- 3. The effective date of the rules:**

December 22, 1995
- 4. Is this rulemaking a renewal of a previous emergency rulemaking?**

No.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Paul Bullis, Chief Counsel, Legal Division  
Address: Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007  
Telephone: (602) 542-3402  
Fax: (602) 542-4870
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed rule established procedures for implementing intraLATA equal access (2-PIC toll equal access), so that R14-2-1111 can be complied with by all local exchange carriers and interexchange carriers. R14-2-1111(B)(1) requires that all local exchange carriers implement intraLATA equal access within 9 months of receiving a bona fide request for intraLATA equal access. R14-2-1111(B)(2) also requires all local exchange carriers to make intraLATA equal access available in all central offices no later than July 1, 1996. The proposed intraLATA equal access rule is necessary to effectuate R14-2-1111 so that interexchange carriers can begin offering 1+intraLATA long-distance service to business and residential customers.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

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**8. The summary of the economic, small business, and consumer impact:**

R14-2-1111 requires the implementation of intraLATA equal access. This rule was adopted by the Corporation Commission in June 1995 to enable competitive providers of intraLATA toll service to provide these services on a 1+ dialing basis. By enabling the interexchange carriers to offer 1+ dialing for intraLATA toll service (a service that is already being provided in the interLATA market), customers will be able to select a different primary long-distance carrier for intraLATA and interLATA long-distance service. This is known as 2-PIC toll access. IntraLATA equal access will afford customers of long-distance telephone service the greatest flexibility in shopping for and selecting long-distance carriers. As competitive providers enter the intraLATA long-distance market, customers or the public should experience the same kind of service quality improvements and lower prices that were experienced when the interLATA long-distance market was opened to competition.

While R14-2-1111 required the local exchange carriers to provide intraLATA equal access to the interexchange carriers, this rule did not outline the specific steps to be taken to effectuate implementation. The necessary steps include: notifying and educating customers about 2-PIC toll access, notifying potential providers of intraLATA long-distance service about the availability of intraLATA equal access from the local exchange companies, prescribing balloting procedures so that new customers may select both inter- and intraLATA long-distance providers, and prescribing a method for recovering the costs of implementing equal access. It is, therefore, necessary for the Commission to issue another rule to specify the procedures for implementing intraLATA equal access.

Business and residential long-distance customers will benefit by being able to choose a preferred intraLATA long-distance carrier. Additionally, the competition among intraLATA long-distance providers will lead to lower prices and better quality service for customers. Competitive providers of intraLATA long-distance service will also benefit from the rule by being able to provide intraLATA toll service at a profit.

The proposed rule will result in no increased cost to any governmental body or political subdivision. In fact, governmental agencies will benefit from implementation of the proposed rule through lower prices for intraLATA long-distance service and better quality service.

The proposed rule is unlikely to impose any significant costs on the Commission, although the rule designates the formation of a customer education task force, in which the Commission will be an important participant.

The proposed rule is the least intrusive and least costly alternative for implementing intraLATA equal access. Furthermore, because adequate data is not available, the probable impacts of the proposed rules are explained in qualitative terms.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.

**10. Incorporations by reference and their location in the rules:**  
Not applicable.

**11. An explanation of the situation justifying the rule's adoption as an emergency rule:**  
The proposed rule must be adopted on an emergency basis in order to fulfill the requirements of a previous Commission rule, R14-2-1111, which requires local exchange carriers to implement intraLATA equal access no later than July 1, 1996, or within 9 months of the receipt of bona fide request from an interexchange carrier. Without the proposed rule, the local exchange carriers do not have sufficient direction on the specific parameters for implementation and could expend millions of dollars in completing the technical conversion to intraLATA equal access incorrectly.

Due to the abbreviated time schedule imposed by the competitive rules for implementation of intraLATA equal access, notice and public participation requirements are impracticable. To the extent such participation was possible, affected industry members were involved in the development of the matters and specific solutions embodied in this rule.

**12. The date of the Attorney General's approval of the emergency rule:**  
Not applicable.

**13. The full text of the rules follows:**

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION  
FIXED UTILITIES**

**ARTICLE 14. INTRALATA EQUAL ACCESS**

<u>Section</u>	
<u>R14-2-1401.</u>	<u>Application of Rules</u>
<u>R14-2-1402.</u>	<u>Definitions</u>
<u>R14-2-1403.</u>	<u>Commission Task Force</u>
<u>R14-2-1404.</u>	<u>Customer Education and Presubscription Procedures</u>
<u>R14-2-1405.</u>	<u>Interexchange Company Participation</u>
<u>R14-2-1406.</u>	<u>Customer Charges and Procedures</u>

<u>R14-2-1407.</u>	<u>Scope of IntraLATA Equal Access</u>
<u>R14-2-1408.</u>	<u>Equal Access Cost Recovery</u>
<u>R14-2-1409.</u>	<u>Termination of IntraLATA Toll Compensation</u>

**ARTICLE 14. INTRALATA EQUAL ACCESS**

<u>R14-2-1401.</u>	<u>Application of Rules</u>
<u>These rules govern procedures for implementing intraLATA equal access as provided in R14-2-1111.</u>	

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**R14-2-1402. Definitions**

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Abbreviated dialing arrangement" means calls that are made using special-service codes (e.g. 411, 811, 911) which are routed to a specific destination without the need for dialing additional digits.
2. "Ballot" means the written notification that equal access is available and includes the names of all the telecommunication companies wishing to participate in the pre-subscription process.
3. "Balloting" means the process by which the local exchange carrier notifies customers of the availability of equal access in their particular area through the mailing of a ballot.
4. "Bona fide request" means a written request submitted by a telecommunications company to a local exchange carrier for intraLATA equal-access service.
5. "Central office" means a facility within a telecommunications system where calls are switched and which contains all the necessary equipment, operating arrangements, and interface points for terminating and interconnecting facilities such as a subscribers' line and interoffice trunks.
6. "Commission" means the Corporation Commission, the regulatory agency of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
7. "Equal access" means an arrangement where a local exchange carrier provides all telecommunications companies operating in an equal-access central office with dialing arrangements and other service characteristics that are equivalent in type and quality to what the local exchange carrier utilizes in the provision of its service.
8. "Exchange" means a geographical service area where calls made within the area are toll-free calls.
9. "IntraLATA" means services, revenue, and functions that relate to telecommunications that originate and terminate within the same LATA.
10. "IntraLATA equal access" means an arrangement where a local exchange carrier provides all telecommunications companies operating in an equal-access central office dialing arrangements within the LATA and other service characteristics that are equivalent in type and quality to what the local exchange carrier utilizes in the provision of its services. IntraLATA equal access is only available in 1- and 2-party lines.
11. "IntraLATA toll provider" means the telecommunications company that is authorized to carry toll traffic between the exchanges within the LATA.
12. "Interexchange carrier" means a telecommunications company that provides services to the public between local exchanges on an intraLATA or interLATA basis in compliance with local or federal regulatory requirements and that is not an end user of the services provided.
13. "InterLATA" means services, revenues, and functions that relate to telecommunications originating in 1 LATA and terminating in another LATA.
14. "InterLATA equal access" means an arrangement where a local exchange carrier provides all telecommunications companies operating in an equal-access central office with dialing arrangements between LATAs and other service characteristics that are equivalent in type and quality to what the local exchange carrier utilizes in provision of its services.
15. "LATA" (Local Access Transport Area) means 1 of 161 telephone exchange areas established as a result of the AT&T divestiture.
16. "Local exchange carrier" means a telecommunications company that provides local exchange service as 1 of the telecommunications services it offers to the public.
17. "Local exchange service" means a telecommunications services that provides a local dial tone, access line, and a local usage within an exchange or local calling area.
18. "Primary IntraLATA toll carrier" means the telecommunications company with whom a customer may pre-subscribe or select to provide 1+/0+ intraLATA toll service without the use of access codes.
19. "Primary InterLATA carrier" means a telecommunications company with whom a customer may presubscribe or select to provide 1+/0+ interLATA toll service without the use of access codes.
20. "Presubscription" means the process by which a customer may select a primary intraLATA or interLATA carrier prior to a central office conversion to equal access.
21. "Zero-minus" or "0-" means calls that are made using operator-assisted calling.

**R14-2-1403. Commission Task Force**

- A. The Utility Division of the Commission shall convene a task force to review matters relating to implementation of equal access and to review the customer education materials.
- B. The task force shall, at a minimum, consist of 1 representative from each of the following: the Utilities Division of the Commission, the certificated intraLATA carriers, the local exchange carriers, the long-distance resellers, and any other interested party, as deemed appropriate.

**R14-2-1404. Customer Education and Presubscription Procedures**

- A. In exchanges where interLATA equal access is in place prior to the implementation of intraLATA equal access:
  1. Balloting will not be utilized to determine each customer's primary intraLATA carrier.
  2. At least 45 days prior to the scheduled implementation of intraLATA equal access, the local exchange carrier shall provide written information to customers describing intraLATA equal access.
  3. Any customer seeking to initiate local exchange service after the written information is provided to customers, but prior to the implementation of equal access, shall also be provided with the written information.
- B. In exchanges where interLATA equal access is not in place prior to receipt by the local exchange carrier of a bona fide request for intraLATA equal access:
  1. Balloting for both interLATA and intraLATA equal access shall be conducted concurrently. The balloting shall be carried out in accordance with the requirements for interLATA equal access set forth in Appendix B, Federal Communications Commission CC Docket 83-1145, Phase I.
  2. The local exchange carrier shall furnish customers with written information that provides clear directions and ballots to allow customers to presubscribe to their selected primary intraLATA carrier as well as their primary interLATA carrier.
- C. Customers who commence service after the initial intraLATA equal access is completed in their end office shall be informed by the local exchange carrier of their intraLATA and interLATA toll carrier options at the time that service is requested and shall be required to select both their primary interLATA carrier and their primary intraLATA carrier at that time.

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- D.** Informational material and forms developed by a local exchange carrier for use in compliance with this Section, along with scripts the local exchange carrier intends to use solely to comply with intraLATA equal-access implementation procedures, shall be completed, clear, and unbiased. The local exchange carrier shall provide a copy of the informational materials, forms, and scripts to the Commission not more than 60 days after receipt of a bona fide request for intraLATA equal access or December 31, 1995, whichever is later. Following a written request, the Utilities Division of the Commission may extend this time period if reasonable and necessary.
- E.** The Commission's task force will review the informational materials, forms, and scripts to ensure that they are clear and unbiased. Within 30 days of receipt of such informational materials, forms, and scripts, the Utilities Division of the Commission shall consider comments from interested parties, make any revisions necessary to ensure completeness, clarity, and objectivity, and approve or disapprove the materials, forms, and scripts.
- F.** After the Utilities Division has approved the informational materials and forms, the local exchange carrier shall provide copies to each telecommunications company that has notified the local exchange carrier of its desire to be included in such materials.

**R14-2-1405. Interexchange Company Participation**

- A.** For bona fide requests to implement intraLATA equal-access received prior to the effective date of these rules, the local exchange carrier shall provide notice of the equal-access requests to all interexchange carriers offering service in the affected exchange or exchanges no later than January 31, 1996.
- B.** For bona fide requests to implement intraLATA equal access received following the effective date of these rules, a local exchange carrier shall provide notice of the equal-access request to all interexchange carriers offering service in the affected exchange or exchanges not more than 15 days after the receipt after the bona fide request.
- C.** The notice required in subsections (A) and (B) shall include information related to the scheduled implementation dates, the ordering procedures for the interexchange carrier to notify the local exchange carrier of its desire to participate in the provision of intraLATA toll, and the procedures to notify the local exchange carrier of customers who wish to have the interexchange carrier as their primary intraLATA toll carrier, as well as the terms and conditions for an interexchange carrier to participate in the balloting process.
- D.** Interexchange carriers seeking to be included in all informational materials and ballots furnished to customers in advance of initial implementation of intraLATA equal access in any exchange shall advise the local exchange carrier in writing at least 90 days prior to the scheduled implementation date. After this notification, the local exchange carrier shall include the interexchange carrier in all informational materials and ballots listing providers.

**R14-2-1406. Customer Charges and Procedures**

- A.** For the initial implementation of intraLATA equal access in any exchange, all customers in that exchange shall be allowed to select a primary intraLATA carrier, with no charge imposed for such selection, beginning 60 days prior to implementation and continuing 60 days following the date of implementation.
- B.** No charge shall be imposed for a customer's initial selection of a primary intraLATA carrier when establishing new service. In addition, customers that choose or change their primary carrier within 60 days of the effective date of the effective date of their new service will not be charged for the

first such change. Any charges for subsequent changes of a primary intraLATA toll carrier shall be the same as those charges imposed for changing a primary interLATA carrier.

- C.** No change order for a primary intraLATA toll carrier shall be submitted to a local exchange carrier until the order has been confirmed pursuant to the procedures set forth in Appendix B, Federal Communications Commission CC Docket No. 91-64, which amends 47 CFR 64.
- D.** At the time of conversion to equal access, the local exchange carrier shall accept only those customer orders for a primary intraLATA toll carrier where the date on which the customer selected the service is no earlier than 60 days prior to the scheduled implementation date. The primary intraLATA toll carrier shall be activated on the implementation date. Where more than 1 primary intraLATA toll carrier is received for a particular customer, the primary intraLATA toll carrier that was most recently requested by the customer will be implemented.

**R14-2-1407. Scope of IntraLATA Equal Access**

- A.** For the initial implementation of intraLATA equal access, 0- and abbreviated dialing arrangements such as 411, 811, 911 calling, cellular 1+ calling party pay calls, 976, and 676 calls will continue to be processed by the local exchange carrier following the implementation of intraLATA equal access in any exchange. IntraLATA 0+ calls for customers with 1- or 2-party service will be routed to the customer's primary intraLATA toll carrier after the software to accomplish such routing has been installed by the local exchange carrier.
- B.** IntraLATA calling shall be provided to a customer by the intraLATA toll provider until the customer selects a different primary intraLATA toll provider.

**R14-2-1408. Equal Access Cost Recovery**

- A.** Each local exchange carrier may seek to recover those additional costs that are incurred for the provision of intraLATA equal access through its switched access rates. Costs eligible for recovery shall include only initial incremental expenditures for hardware, software, and implementation functions, including systems and translations costs, which are directly related to the provision of intraLATA equal access which would not be required to upgrade the switching capabilities of the office absent the provision of intraLATA equal access. Those costs may include administrative costs incurred in the Commission-approved customer education and presubscription efforts.
- B.** The costs of intraLATA equal access implementation shall be recovered over a 5-year period. A review of actual intraLATA implementation costs shall be conducted in year 4. In addition, projected switched access minutes should be identified. Based on these figures, the rate required in year 5 to fully recover costs will be filed with the Commission.
- C.** The costs of intraLATA equal-access implementation shall be recovered through a tariffed surcharge filed by each local exchange carrier and assessed on each provider of intrastate toll service on a per-minute basis. The surcharge shall be applicable to all switched intrastate access minutes of use originating in the exchange or exchanges. The local exchange carriers that provide toll service shall also impute the surcharge to all switched intrastate toll minutes of use provided by them.

**R14-2-1409. Termination of IntraLATA Toll Compensation**

At the time equal-access implementation is completed, no intraLATA toll compensation shall be required to be paid to the local exchange carriers.