

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. § 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

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

#### CHAPTER 2. CORPORATION COMMISSION FIXED UTILITIES

#### PREAMBLE

1. 

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R14-2-1301	New Section
R14-2-1302	New Section
R14-2-1303	New Section
R14-2-1304	New Section
R14-2-1305	New Section
R14-2-1306	New Section
R14-2-1307	New Section
R14-2-1308	New Section
R14-2-1309	New Section
R14-2-1310	New Section
R14-2-1311	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, 40-281, 40-282, 40-321, 40-336, 40-361, 40-365, and 40-421  
Implementing statute: Not applicable
3. The effective date of the rules:  
September 6, 1996
4. A list of all previous notices appearing in the Register addressing the exempt rule:  
Notice of Proposed Rulemaking:  
2 A.A.R. 856, February 2, 1996
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, including the statutory citation to the exemption from the regular rulemaking procedures:

The rules establish guidelines for interconnection arrangements in compliance with applicable rules for competitive communications services set forth in R14-2-1101 through R14-2-1115. The approved rules direct that all local exchanges carriers (LECs) provide appropriate interconnection arrangements with other telecommunications companies under non-discriminatory terms and conditions. The rules provide the parameters for interconnection arrangements pursuant to which LECs would file tariffs. The rules include provisions covering unbundling, pricing, points of interconnection, compensation for call competition, and number portability.

The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (*State of Arizona v. Corporation Commission*, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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**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

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

**1. *Identification of the rulemaking***

The rules establish requirements for interconnection arrangements in compliance with applicable rules for competitive telecommunications services set forth in R14-2-1101 through R14-2-1115, and specifically in R14-2-1112. Interconnection arrangements provide access on an unbundled, nondiscriminatory basis to physical, administrative, database network components between telecommunications companies, thereby allowing calls to be completed between end users who are customers of different telecommunications companies. The rules also provide guidelines for interim number portability.

**2. *Brief summary of the economic impact statement***

Rules for competitive telecommunications services require telecommunications companies to interconnect at reasonable prices and under reasonable terms and conditions that do not discriminate against or in favor of any provider, including the local exchange carrier. The rules apply to the provision of local exchange services by and between local exchange carriers. The rules will affect providers and users of telecommunications services in Arizona.

Probable costs and benefits to the Commission include costs associated with new tasks, such as reviewing interconnection arrangement tariffs that would be filed by telecommunications companies pursuant to these rules. The Commission benefits by avoiding a litigated process to establish the interconnection requirements. Implementation of the rules should not result in increased costs to political subdivisions. As an end user of telecommunications services, a political subdivision also may benefit as the result of competition in the provision of local telephone service.

Costs to incumbent providers of local exchange service include costs associated with submitting tariffs that set forth interconnection arrangements, the cost of constructing and maintaining a portion of interconnecting facilities, and the cost of preparing certain studies that are necessary to establish pricing.

Costs to new entrant local exchange service providers include costs associated with submitting tariffs that set forth interconnection arrangements and the cost of constructing and maintaining interconnecting facilities. Additional costs to new entrant local exchange service providers are the cost of purchasing various unbundled network facilities or services that would enable the new entrant to offer competitive local exchange service.

New entrant providers benefit from being able to provide seamless service to end users. Incumbent local exchange providers benefit by being compensated for the use of its facilities by other telecommunications providers. To the extent that competition results in new, innovative service offerings and drives prices towards cost, consumer demand for telecommunications services of both incumbent and new entrant providers would increase.

The rules are deemed the least costly method to deal with interconnection in the telecommunications industry. Because adequate data are not available, the probable impacts are explained in qualitative terms.

**9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

**R14-2-1302. Definitions**

The words "geographic area in subsection (14) were replaced by the words "wire center".

The following definition which was adopted as R14-2-1302(21) was inadvertently omitted from the proposed rules: "Resale of local service "means the purchase by a local exchange carrier from another local exchange carrier a local exchange service provisioned directly to an end-user customer and rebrands it as its own service." The subsequent definitions were renumbered accordingly.

**R14-2-1303. Points of Interconnection**

The following language was added to the end of subsection (B): "Companies are free to negotiate points of interconnection that involve the recurring and non-recurring compensation by 1 carrier for the transport facilities of another carrier".

**R14-2-1304. Reciprocal Compensation**

The word "36" in rule subsection (A) was changed to "24" and the words "these rules" were changed to "Commission approval of the 1st interconnection agreement pursuant to R14-2-1506".

The following language which was adopted as subsection (B) was inadvertently omitted from the proposed rules: "Any charges for the underlying transport facilities between the carriers shall be limited to the construction and maintenance charges specified in R14-2-1303". The subsequent sections were renumbered accordingly.

The word "24" in subsection (D) were changed to "18" and the words "these rules" were changed to "Commission approval of the 1st interconnection agreement pursuant to R14-2-1506".

The following words were deleted from subsection (D): "However, those tariffs shall not contain usage sensitive call termination charges." The following language was added: "This Commission has expressed a preference for flat rate local calling and therefore those tariffs shall not contain usage-sensitive call termination charges, unless otherwise approved by the Commission."

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**R14-2-1306. Access to Databases/other Network Facilities**

The word "Incumbent" in subsection (A) was replaced by the following language: "All LECs, including new and incumbent".

The following language was added after the word "intercompany" in subsection (E): "service ordering, provisioning, and billing and,".

**R14-2-1307. Unbundling**

The language "pursuant to tariffs filed within 30 days of the effective day of these rules" was deleted in subsection (D) and replaced with "pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission".

In subsection (E), all references to "incumbent" were deleted and the words "an incumbent" were inserted in front of local exchange carriers in the 1st sentence of subsection (E). The following language was added to the sentence in subsection (E) ending with the words "subsection C": "or when a certificated telecommunications company makes a bona fide request to a NELEC that is the sole owner of essential facilities in the geographic area to unbundle any network facility or service capability". In subsection (E)(2), every place after the word "LEC" appears, the words "or NELEC" were added. In subsections (E)(3) and (4), every place after the words "local exchange carrier" appears, the words "or NELEC" were added.

The language "an appropriate tariff shall be filed with the Commission within 150 days of the bona fide request" was deleted in R14-2-1307(E)(3) and replaced by the following language: "the facility or service shall be provided pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission."

**R14-2-1308. Number Portability**

The words "geographic area" in subsection (A) were replaced by the words "wire center".

The language "through the use of existing capabilities. A local exchange carrier shall file an interim number portability tariff within 30 days of the effective date of these rules, and shall in addition comply with such other or additional requirements as may be adopted by the Commission." was deleted from subsection (C) and replaced with the following language: "pursuant to negotiated agreements or an approved statement of terms and conditions, which shall be filed with the Commission, and shall in addition comply with such other or additional requirements as may be adopted by the Commission."

Subsection (E) was deleted in its entirety.

**R14-2-1310. Pricing**

The following language was added to the end of subsection (A)(1): "A NELEC can price below an incumbent LEC's TSLRIC After the word "costs" in subsection (B)(1), the following language was added: "which may include an assignment of verifiable indirect costs or a 10% addition for indirect costs to the TSLRIC direct costs at the choice of the incumbent LEC."

**10. A summary of the principal comments and the agency response to them:**

**A. R14-2-1302. Definitions**

Issue: Subsection (8) proposes a definition for essential service. U S West asserted that the proposed definition of an "essential service" is ambiguous and will provide new entrants with the ability to require incumbent LECs to unbundle network elements that are available from other suppliers. Further, the rules would improperly impose imputation and inappropriate pricing requirements on such network elements. U S West requested the definition be modified to remove the requirement that a service is defined as essential if it is not available from another source at an equivalent "quantity, quality, and price."

In response, staff indicated the definition was taken from the definition in the state of Utah. Further, the fact that there is no reasonable alternative in terms of quantity, quality, or price is a critical factor in determining the rate at which competition will be able to grow in a market.

Evaluation: The quantity, quality, and price of an essential service is a consideration that must be taken into account in offering that service to new telecommunications service providers.

Resolution: No change is needed.

Issue: MCI asserted that the definitions of network elements, telephone exchange service, telecommunications, telecommunications service, and telecommunications carriers as those terms are used and defined in the Act should be added to the Proposed Rules for clarity.

In response, staff indicated that many of these definitions are already contained in R14-2-1101.

Evaluation: We are not convinced of the need to either add or duplicate the proposed definitions.

Resolution: No change is necessary.

Issue: In R14-2-1308 as discussed herein, AT&T proposed the words "geographic area" be replaced with the words "wire center". The AT&T proposal was unopposed and R14-2-1308 was modified accordingly. The same words are also contained in R14-2-1302(14).

Evaluation: Consistent with the modification to R14-2-1308, a similar change needs to be made to R14-2-1302(14).

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Resolution: The words "geographic area" in R14-2-1302(14) should be replaced by the words "wire center".

**B. R14-2-1303. Points of Interconnection**

Issue: Subsection (B) provides that each company interconnecting shall be responsible for building and maintaining its own facilities to the point of interconnection. U S West expressed concern that Subsection (B) would preclude the exchange of compensation between 2 connecting carriers for the facilities between their respective networks. As a result, U S West requested that subsection (B) be clarified to ensure that connecting carriers are free to negotiate points of interconnection that may involve the compensation by 1 carrier for the transport facilities provided by another carrier. U S West proposed subsection (B) be modified as follows:

Each company interconnecting pursuant to the provisions of this Section shall be responsible for building and maintaining its own facilities to the point of interconnection. *Companies are free to negotiate points of interconnection that involve the recurring and non-recurring compensation by 1 carrier for the transport facilities of another carrier.*

In response, staff indicated that nothing in the Rules precludes 1 party from agreeing on an interconnection point that involves 1 company paying the other for transport or other services. For that reason, staff recommended no change to subsection (B).

Evaluation: We find the proposed modification of U S West will help to clarify the intent of R14-2-1303(B).

Resolution: Adoption of U S West's proposed language in subsection (B) will clarify the intent of that rule.

Issue: ELI supported R14-2-1303, but requested modification to require incumbent LECs to offer physical collocation.

Staff responded that incumbent LECs are required to offer physical collocation pursuant to the Act. Accordingly, staff concluded it was not necessary for R14-2-1303 to also mandate it.

Evaluation: It is not necessary for R14-2-1303 to repeat the requirements of the Act.

Resolution: No change is necessary.

Issue: According to GST, the Act requires a more rigorous interconnection mandate than R14-2-1303. As a result, GST urged the Commission to modify R14-2-1303 to incorporate the requirements of the Act.

Staff indicated R14-2-1303 did not need to repeat requirements of the Act.

Evaluation: It is not necessary for R14-2-1303 to repeat the requirements of the Act.

Resolution: No change is necessary.

Issue: The Act provides for mediation and ultimately, the arbitration by state regulatory commissions when negotiations between new and incumbent carriers reach a stalemate concerning points of interconnection. The Act requires the Commission to conclude the resolution within 9 months of the date when the incumbent LEC received the request for negotiation. AT&T proposed adding language to R14-2-1303(D) that would limit the amount of time (45 days) staff could mediate the dispute before requesting direct Commission involvement.

According to staff, R14-2-1303 is not inconsistent with the Act. The carrier responding to the interconnection requests must notify staff of the inability of the parties to come to a mutually-accepted arrangement. Staff indicated that the proposal of AT&T only inserts another process within the process.

Evaluation: If a formal proceeding is necessary to resolve the matter, the Commission would expect staff to initiate a proceeding in a timely manner.

Resolution: No change is necessary at this time.

Issue: TCG Group proposed that R14-2-1303 be clarified that to the extent that LECs are able to enter into mutually agreeable interconnection agreements, tariff filings are not necessary.

In response, staff indicated that tariffs are not required pursuant to R14-2-1303.

Evaluation: Since there is no requirement for filing tariffs pursuant to R14-2-1303, we find the proposed change is not necessary.

Resolution: No change is necessary.

Issue: AAEC urged the following guidelines be added to R14-2-1303: (1) "the NELEC should not be given the right to demand interconnection points that are either technically infeasible or economically unreasonable from the incumbent LEC's perspective;" and (2) "NELECs should pay 100% of the additional costs imposed by their interconnection."

Staff responded that the comments of AAEC do not accurately reflect R14-2-1303.

Evaluation: R14-2-1303 provides for LECs and NELECs to mutually agree on the points of interconnection. Further, each company is responsible for building and maintaining its own facilities. The rule is designed to provide the companies with sufficient flexibility to reach a mutual agreement. As a result, the additional guidelines proposed by AAEC are not necessary.

Resolution: No change is necessary.

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**C. R14-2-1304. Reciprocal Compensation**

Issue: R14-2-304(A) provides for the use of mutual traffic exchange, also known as bill and keep, as the compensation mechanism for the exchange of local and EAS traffic for a period of 36 months. U S West opposed the bill and keep mechanism as it had the potential for cost shifting resulting in subsidization of 1 carrier by another which would shift costs from new entrants to U S West's residential customers. Even if it was adopted on an interim basis, U S West opined there is clearly no justification for adopting 36 months of bill and keep. U S West urged the Commission to reject bill and keep and allow the parties to negotiate for the recovery of these costs as provided for by the Act.

MCI urged the Commission to join the majority of states who have acted on similar rules and adopted a form of bill and keep on an interim basis. According to MCI, the U S West service areas in Colorado, Oregon, and Washington have all adopted bill and keep on an interim basis. In addition, the following non-U S West states have adopted interim bill and keep measures: California, Connecticut, Florida, Ohio, and Tennessee. Further, Iowa has proposed the use of bill and keep while it has been rejected in Illinois and New York. MCI extracted the following from the Commission Decision in Colorado:

"[i]t is apparent that there is presently no proven mechanism readily available to new entrants for measuring terminating local traffic. Thus, the costs of measurement and billing under a reciprocal compensation arrangement are unknown at the present time."

According to MCI, the following was the primary reason given in Iowa Docket No. 95-RM-U for proposing bill and keep on an interim basis:

"concern that monetary compensation in the initial stages of local service competition may be burdensome on local utilities, with very little money changing hands if the traffic is somewhat balanced. The premise of the new proposed rule is that mutual traffic exchange should continue until a local utility makes an appropriate showing that imbalance in the traffic justifies the effort involved in monetary compensation."

In response, staff indicated that the Act does not prohibit bill and keep as a compensation mechanism for terminating local and EAS calls. Further, R14-2-1304(A) allows companies to negotiate alternative arrangements for compensation.

AT&T opined that the bill and keep methodology is sanctioned by the Act. AT&T urged the Commission to follow the lead of many other states and adopt bill and keep on an interim basis. According to AT&T, it is vital to have bill and keep for at least 24 months. AT&T indicated that under the proposed rules, new entrants would have an incentive to negotiate because bill and keep will be discontinued after 3 years.

TCG asserted that U S West's arguments are without merit. TCG indicated that bill and keep is the only expressly acknowledged reciprocal compensation mechanism condoned by the Act. The following was extracted from Section 252 of the Act:

This paragraph shall not be construed -- "(i) to preclude arrangements that afford the mutual recovery of costs through the off-setting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or "(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls."

MFS-AZ expressed its support for R14-2-1304 as being necessary to ensure that NELECs can effectively compete with incumbent LECs by eliminating the possibility of a price squeeze. Further, MFS-AZ indicated that experience in other states show that new entrants often terminate more inbound traffic than the incumbent LEC. MFS-AZ also alleged that adoption of anything but bill and keep in the short term would be discriminating because incumbent LECs currently utilize the bill and keep methodology to exchange traffic today. MFS-AZ urged the Commission to proceed along the same lines as the Texas, California, Michigan, Oregon, Washington, and other commissions by adopting bill and keep as the interim compensation mechanism.

Evaluation: While bill and keep is not a perfect solution, it is a reasonable interim solution. We believe the most difficult decision is how long bill and keep should be utilized. Based on other state commissions as well as the comments of interested parties, a reasonable time period is somewhere between 2 and 3 years. The proposed rules recommend the upper limit of the reasonable range of 3 years. We believe the lower reasonable level of 2 years is a more appropriate time period for an interim solution. We further believe that this period should commence to run on the effective date of Commission approval of the 1st interconnection agreement pursuant to R14-2-1506.

Consistent with the clarification in R14-2-1304(A) of the appropriate time period of 24 months, the time period in R14-2-1304(D) would need to be changed to 18 months.

Resolution: Changing "36" months in R14-2-1304(A) to "24" months will result in a reasonable period of time for an interim solution. Consistent with that change, R14-2-1304(D) would require "24" to be changed to "18". We further believe that this period should commence to run on the effective date of Commission approval of the 1st interconnection agreement pursuant to R14-2-1506.

Contel argued that R14-2-1304(D) mandates a specific outcome to negotiations which is contrary to the Act.

Evaluation: This Commission has expressed a preference for flat rate local calling. The addition of some additional language would articulate that Commission preference and conform to the intent of the Act.

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Resolution: We will change the language in R14-2-1304(D) to read: "This Commission has expressed a preference for flat rate local calling and therefore those tariffs shall not contain usage sensitive call termination charges unless otherwise approved by the Commission."

GST concurred with R14-2-1304 as proposed. However, GST believed R14-2-1304 was unclear about the acceptability of including usage-sensitive call termination charges in negotiated agreements.

According to staff, R14-2-1304 precludes usage-sensitive termination charges only in the tariff option. Companies can agree to include such charges as part of a negotiated agreement.

Evaluation: R14-2-1304 only refers to tariffs not containing usage-sensitive call termination charges. This does not preclude companies from including such charges as part of a mutual agreement.

Resolution: No change is necessary.

AAEC was concerned that R14-2-1304 was unfair to carriers providing disproportionate amounts of terminating access. In addition, AAEC asserted that R14-2-1304(A) created ambiguity and should be deleted.

Staff indicated that R14-2-1304(C) required tariffs to be filed within 24 months and the 36-month limitation in R14-2-1304(A) allows staff and the Commission 1 year to analyze any tariff proposals submitted. According to staff, R14-2-1304(A) does not create an ambiguity but simply sets an outside parameter on the use of bill and keep.

Evaluation: The difference in time periods referenced in R14-2-1304 is to allow staff and the Commission sufficient time to analyze any tariff proposals.

Resolution: No change is necessary.

**D. R14-2-1305. Local and Toll Rating Centers**

Issue: Although GST didn't disagree with R14-2-1305 as proposed, it believed that the Commission should have another proceeding which would explore how to more fully employ an expanded network architecture, which also would remove artificial billing boundaries more appropriate to a monopoly environment.

In response, staff indicated R14-2-1305 reflected a consensus item reached by the industry. Staff did not believe another proceeding was necessary.

Evaluation: There is no basis for changing R14-2-1305 at this time.

Resolution: No change is necessary.

**E. R14-2-1306. Access to Data Bases and Other Network Functions**

Issue: AAEC objected to any informational access requirements that are not 100% reciprocal between LECs and NELECs. AAEC opined that R14-2-1306 is entirely I-sided and discriminates against incumbent LECs.

Staff concurred with AAEC.

Evaluation: R14-2-1306(A) should apply to both LECs and NELECs.

Resolution: Replace "Incumbent" in R14-2-1306(A) with "All LECs, including new and incumbent".

Issue: R14-2-1306(E) requires all LECs and NELECs to cooperate in the development of a process to handle intercompany repair service referrals. Based on experience in other jurisdictions, AT&T recommended R14-2-1306(E) be supplemented to include service ordering, provisioning, and billing.

Staff agreed with AT&T's comments.

Evaluation: The processes of service ordering, provisioning, and billing are all part of the overall service function. It would help clarify R14-2-1306(E) to add the processes.

Resolution: Based on the above, R14-2-1306(E) should be modified to read as follows:

All LECs and NELECs shall cooperate in the development of a process to handle intercompany *service ordering, provisioning, and billing, and* repair service referrals.

**F. R14-2-1307. Unbundling**

The following LEC network capabilities are classified as essential facilities pursuant to R14-2-1307(C):

1. Termination of local calls.
2. Termination of long distance calls.
3. Interconnection with E911 and 911 services.
4. Access to numbering resources.
5. Dedicated channel network access connections.

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6. Unbundled loops.

U S West and AAEC proposed deletion of unbundled loops from the lists of essential facilities since NELECs have the capability to provide their own loops. U S West also alleged that R14-2-1307 discriminated against incumbent LECs since incumbents are required to unbundle essential facilities when NELECs are not. U S West indicated that it intended to offer an unbundled loop to its competitors through negotiated agreements even if the rules do not classify such loops as essential services. U S West also requested the term Dedicated Channel Network Connections ("DCNCs") be clarified. According to U S West, the term is equivalent to the term Expanded Interconnection Channel Termination ("EICT") that appears in the U S West access tariffs. These are used to interconnect a competitor's virtual collocation equipment to U S West's private line and switched network. Although it may be appropriate to classify switched access DCNC as essential, U S West does not believe it would be appropriate to classify DCNCs that are used to access private line facilities as essential.

AT&T and MCI indicated that under the U S West test, no service or facility could qualify as essential since with unlimited time, funds, etc. the entire local exchange network could be duplicated. Such a duplication would be a waste of valuable resources which could be better utilized in maximizing the utilization of the existing network and the deployment of new technologies to expand and enhance local service options. Further, it is necessary to mandate the unbundling of the local loops and ensure that the pricing of services provided by the LEC is competitively fair in order to avoid subsidizing U S West's provision of service. MCI requested the Commission follow the leads of the Colorado and Iowa Commissions and classify additional items as essential.

U S West urged MCP's request to classify 11 additional items as essential services be rejected. According to U S West, this same list had been proposed by AT&T and MCI during the industry workshop discussions and rejected in the draft order.

In response, staff indicated that the local loop is an essential facility as defined in the Rules. Other pathways have not been shown to be equivalent in terms of quality, quantity, and price. Staff also opined that NELECs should have access to facilities that would allow them to complete calls via dedicated or switched facilities.

ELI generally agreed with the list of essential facilities, however ELI proposed the addition of "Telephone number portability" to the list.

Staff indicated that the process for establishing interim, as well as permanent, number portability is the subject of R14-2-1308. Staff believes that the requirements of R14-2-1308 are sufficient to ensure that number portability will be resolved.

MCI proposed that R14-2-1307 be modified to be consistent with the Act. In particular, MCI requested R14-2-1307(C) be modified to include additional details.

In response, staff indicated that R14-2-1307 is not inconsistent with the Act. Further, any additional details would be part of a tariff filing and should not be in the rule.

TCG generally concurred with R14-2-1307. For clarification purposes, TCG recommended that essential NELEC facilities also should be made available based on a bona fide request. As a result, TCG proposed R14-2-1307(E) be modified to include language that where the NELEC functions as an incumbent LEC, it should be treated as an incumbent LEC for the provision of essential facilities. U S West and AAEC were also concerned that the unbundling requirement did not appear to apply to NELECs.

Staff agreed that TCG's clarification was consistent with the intent of the rule. Further, staff concurred with TCG's proposed language change.

Evaluation: R14-2-1307(E) needs to be clarified that essential facilities should be made available upon a bona fide request. That would apply to both incumbent LECs and well as NELECs.

Resolution: Based on the above, the language of R14-2-1307(E) should be modified to clearly state that the sole owner of essential facilities should be made available whether those facilities are owned by an incumbent LEC or a NELEC.

AT&T was concerned that R14-2-1307(E) only requires notice to the requesting party and the Commission of any claimed technical infeasibility. AT&T recommended language be added which would prescribe a resolution procedure.

Staff asserted that no change is necessary. According to staff, any interconnection disputes would be resolved either through informal staff mediation, the Commission's formal complaint process, or the provisions of the Act.

Evaluation: It is not necessary to provide every detail in the Proposed Rules.

Resolution: No change is necessary at this time.

R14-2-1307(E)(3) allows the LEC 150 days to tariff a bona fide unbundling request for elements not enumerated by the Commission. MFS recommended this time frame be shortened to 60 days if a NELEC can show the service has been provided or tariffed pursuant to agreement by another LEC elsewhere in the United States.

U S West suggested that in light of the arbitration process, the filing of tariffs within 30 days was unnecessary. Staff agreed with this recommendation.

Evaluation: Tariff filings are not necessary.

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Resolution: The language in R14-2-1307(D) should be changed to read: "Incumbent local exchange carriers shall make essential facilities available for purchase and use pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission."

U S West also suggested that, for the same reasons, tariff filings were not necessary in R14-2-1307(E). Staff agreed.

Evaluation: Tariff filings are not necessary.

Resolution: The language in R14-2-1307(E)(3) should be changed to read: "If the incumbent local exchange carrier agrees to provide the network facility or service on an unbundled basis, the facility or service shall be provided pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission."

**G. R14-2-1308. Number Portability**

AT&T proposed the words "geographic area" in R14-2-1308(A) be replaced with the words "wire center". According to AT&T, this term will more precisely define the geographic area within which a telephone subscriber is able to move today and still retain his or her telephone number.

Staff concurred that the term "wire center" was a more precise definition.

Evaluation: The term "wire center" is a more precise definition than the words "geographic area".

Resolution: The words "geographic area" in R14-2-1308(A) should be replaced by the words "wire center".

U S West indicated R14-2-1308(E) appears to anticipate the potential provision of interim number portability services at prices below incremental cost. Since the Proposed Rules require initial pricing at a level equal to incremental cost, U S West was concerned that future pricing would be at a discounted level below incremental cost. According to U S West, such an approach would be in conflict with Section 252 of the Act.

R14-2-1308(E) provides that the Commission shall consider implementing discount pricing for interim number portability in the event a permanent mechanism is not in place by July 1, 1997. Instead of implementing such discount pricing, ELI recommended the issue be revisited in 1997 when more evidence was available.

Staff indicated that number portability is 1 of the issues the FCC is required to address in the next 6 months and that Staff and the industry task forces have yet to convene on this issue. As a result, staff concurred with ELI and recommended R14-2-1308(E) be deleted.

MFS recommended that the Commission clarify that interim local number portability arrangements offered by LECs must include at a minimum a remote call forwarding based option.

Evaluation: Since R14-2-1308(E) does not provide for any Commission action until approximately July 1997, it can be revisited at a later date after the FCC has acted.

Resolution: R14-2-1308(E) can be deleted at this time.

In response, staff indicated that the mechanisms for interim number portability need not be placed in the rule itself. Those mechanisms should be contained in the tariffs that are required to be filed.

Evaluation: It is not necessary to provide every detail in the Proposed Rules.

Resolution: No change is necessary at this time.

U S West also suggested that, for the same reasons, tariff filings were not necessary in R14-2-1308(C). Staff agreed.

Evaluation: Tariff filings are not necessary.

Resolution: The language in R14-2-1308(C) should be changed to read: "Until such time as local number portability becomes available through database technology, local exchange carriers shall provide interim number portability through the use of existing technology, pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission, and shall in addition comply with such other or additional requirements as may be adopted by the Commission".

**H. R14-2-1309. Cost Methodology**

R14-2-1309 establishes that TSLRIC is the standard to be used in conducting cost studies that establish the underlying cost of LEC services. AAEC and Contel asserted that TSLRIC should establish a price floor and not be used to determine the price. As a result, AAEC and Contel recommended the word "cost" in line 3 of the proposal be replaced with the word "price floor".

Staff responded that R14-2-1309 was an industry consensus. According to staff, R14-2-1309 simply established the standard by which cost studies will be conducted.

Evaluation: R14-2-1309 establishes the standard for conducting cost studies for establishing the underlying cost of LEC services.

Resolution: No change is necessary.

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**I. R14-2-1310. Pricing**

TCG proposed that NELECs be allowed to price the unbundled element at or below the incumbent LECs TSLRIC price. Further, NELECs, should not be required to prepare and provide cost studies as they would not have an internal infrastructure capability for preparing such studies.

In response to TGCs comments, U S West asserted that new entrants should have to prepare and file cost studies with the Commission. New entrants are going to be companies such as AT&T and MCI who certainly have the ability to prepare and file cost studies.

Staff concurred with TCG. Staff recommended R14-2-1310 be clarified to reflect TCG's comments.

Evaluation: A NELEC should not be penalized if its costs are below that of the incumbent LEC. Although some of the new entrants will have the capability to file cost studies, we believe with competition the trend should be away from cost studies.

Resolution: The following language should be added to the end of R14-2-1310(A)(1):

A NELEC can price below an incumbent LECs TSLRIC price.

U S West and AAEC proposed that R14-2-1310(B) be modified to establish prices for interconnection services that will cover TSLRIC and provide contribution to the LEC's shared and common costs. U S West asserted that R14-2-1310 unfairly required incumbent LECs to price interconnection services at their incremental costs. According to U S West, the fixed costs of the telecommunications facilities are high while the marginal costs are low. As a result of not allowing incumbent LECs to include joint and common costs in the price of interconnection services, U S West indicated that new entrants will not have to pay for those costs of providing interconnection services. U S West was unaware of any other state commission<sup>1</sup> which has ordered the pricing of interconnection services at incremental costs.

MCI and AT&T asserted that pricing interconnection services at TSLRIC is vital to insure that new entrants will not be forced to subsidize an incumbent LEC's own competitive services. Without a ceiling on prices, the LECs can retard entry by pricing facilities and services needed by competitors at arbitrarily high levels. MCI indicated that the TSLRIC costing principles which were presented to the Commission on a consensus basis state that TSLRIC includes labor costs and loadings, operations and maintenance, depreciation, taxes, and a rate of return or profit. MCI emphasized it did not include additional contribution that a monopoly carrier can extract from a new carrier. AT&T indicated that all of U S West's joint and common costs are currently being recovered in rates. According to MCI, the Commission in Washington found that TSLRIC was the appropriate cost measurement. The Commission in Colorado ordered rates to be set consistent with its Costing and Pricing Rules which require the filing of both TSLRIC and fully allocated cost studies. MCI also noted that Colorado rejected U S West's proposed Business/Residence Support Charge that was offered to replace the alleged implicit subsidy from high contribution business customers which would be lost when those customers chose an alternative provider. The Commission indicated that such a finding would need to be determined as part of a rate case.

According to MCI & AT&T, Iowa and Colorado are the only states within U S West's service territory which have addressed the filing of tariffs since the Act was passed. Both have required tariff filings. MCI asserted that the requirement to file tariffs will foster the emergence of competition

Staff responded that TSLRIC was the consensus cost standard reached by the industry task force. The industry group also agreed that TSLRIC includes labor costs and loadings, operations and maintenance, depreciation, taxes, and a rate of return on profit.

Evaluation: There needs to be a pricing standard established in order to insure that the LECs will not maintain artificially high prices for necessary services. We generally concur that TSLRIC should be used as the price floor with some reasonable profit in order to provide a reasonable contribution to joint and common costs. While the proposed TSLRIC includes a rate of return element for the selling carrier, we believe the selling carrier should have the opportunity to recover some level of joint and common costs that are directly assignable to the network function or service being sold or include a 10% addition for indirect costs to the TSLRIC direct costs.

Resolution: After the word "costs" in R14-2-1310(B)(1), add the following language:

which may include an assignment of verifiable indirect costs or a 10% addition for indirect costs to the TSLRIC direct costs at the choice of the incumbent LEC.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
12. Incorporations by reference and their location in the rules:  
Not applicable.
13. Was this rule previously adopted as an emergency rule?  
No

<sup>1</sup> States which U S West cited for in its arguments were: Oregon; Connecticut; Maryland; New York; and Illinois.

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

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

**CHAPTER 2. CORPORATION COMMISSION  
FIXED UTILITIES**

**ARTICLE 13. TELECOMMUNICATIONS  
INTERCONNECTION AND UNBUNDLING**

Section

- R14-2-1301. Application of Rules
- R14-2-1302. Definitions
- R14-2-1303. Points of Interconnection
- R14-2-1304. Reciprocal Compensation
- R14-2-1305. Local and Toll Rating Centers
- R14-2-1306. Access to Databases/other Network Functions
- R14-2-1307. Unbundling
- R14-2-1308. Number Portability
- R14-2-1309. Cost Methodology
- R14-2-1310. Pricing
- R14-2-1311. Waivers

**ARTICLE 13. TELECOMMUNICATIONS  
INTERCONNECTION AND UNBUNDLING**

**R14-2-1301. Application of Rules**

These rules govern interconnection requirements as provided in R14-2-1112. These rules apply to the provision of local exchange services by and between local exchange carriers as those terms are defined in R14-2-1102.

**R14-2-1302. Definitions**

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

1. "800 data base" means an 800 service data base that contains information on the screening and routing of 800 numbers that are in service.
2. "AIN data base" means a data base that is used in connection with an Advanced Intelligent Network (AIN) architecture. The AIN architecture enables telecommunications service providers to introduce advanced telecommunications services.
3. "ALI" or "Automatic Location Identification" means the process of electronically identifying and displaying the name of the subscriber and address of the calling telephone number to a person answering a 911 call.
4. "Central Office Code" means the 1st 3 digits of a 7-digit telephone number. Central office codes are assigned to telecommunications providers by the central office code administrator in accordance with the industry's central office code assignment guidelines.
5. "Centralized Message Distribution System" or "CMDS" means the system managed by Bellcore that assists in billing third party calls. Access to CMDS requires a Bellcore client company host.
6. "Directory Assistance Database Listings" means customer name, address, and telephone number listings in the LEC directory assistance database.
7. "E911" access means the ability of a LEC to interconnect with and deliver emergency calls, and associated ANI and ALI information, where available, to the E-911 controlling office for further routing to the appropriate Public Safety Answering Point.

7. "Essential facility or service" means any portion, component, or function of the network or service offered by a provider of local exchange service: that is necessary for a competitor to provide a public telecommunications service; that cannot be reasonably duplicated; and for which there is no adequate economic alternative to the competitor in terms of quality, quantity, and price.
8. "Extended Area Service" or "EAS" means local (toll-free) calling provided between local exchange carrier exchanges (service areas).
9. "Incumbent Local Exchange Carrier" means any company providing service as a local exchange carrier in Arizona prior to June 23, 1995.
10. "Interconnection Services" means those features and functions of a local exchange carriers network that enable other local exchange carriers to provide local exchange and exchange access services. Interconnection services include, but are not limited to, those services offered by local exchange carriers which have been classified by the Commission as essential services.
11. "LIDB" or "Line Information Data Base" means a data base that contains access line information that is used by telecommunications service providers for billing validation.
12. "Local Exchange Carrier" or "LEC" means a telecommunications company that provides local exchange service as 1 of the telecommunications services it offers to the public.
13. "Local Number Portability" means permitting customers to choose between authorized providers of local exchange services within a given wire center without changing their telephone number and without impairment of quality, functionality, reliability, or convenience of use.
14. "Mutual traffic exchange" means the exchange of terminating local and EAS traffic between LECs such that all LECs terminate the local exchange traffic of all other LECs without explicitly charging each other for such traffic exchange.
15. "New Entrant Local Exchange Carrier" or "NELEC" means any company certificated by the Commission after June 23, 1995, as a local exchange carrier.
16. "Numbering Plan Administration" or "NPA" means a specific geographic area identified by a unique NPA code. The NPA (area code) is a 3-digit code that identifies the NPA for purposes of call routing. The NPA Administrator is the entity within an NPA that assigns central office prefixes (telephone numbers) to users in the NPA.
17. "Public Safety Answering Point" or "PSAP" means a communications facility operated on a 24-hour basis that is assigned the responsibility to receive 911 calls and, as appropriate, to dispatch public or private safety services or to extend, transfer, or relay 911 calls to the appropriate public or private safety agencies.
18. "Rate Center" means specific geographic locations from which airline mileage measurements are determined for the purpose of rating local, Extended Area Service (EAS), and toll traffic.
19. "Reciprocal Compensation" means the arrangement by which local exchange carriers compensate each other for like services

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used in the termination of local calls between the customers of the 2 carriers.

20. "Resale of local service" means the purchase by a local exchange carrier from another local exchange carrier a local exchange service provisioned directly to an end-user customer and rebrands it as its own service.
21. "Total Service Long Run Incremental Cost" or "TSLRIC" is as defined in R14-2-1102(17).
22. "White Pages Listings" means customer name, address, and telephone number listings in the white pages section of LEC telephone directories.
23. "Yellow Pages Listings" means customer name, address, and telephone number listings in the yellow pages section of LEC telephone directories.

**R14-2-1303. Points of Interconnection**

- A. Incumbent LECs and NELECs shall, by mutual agreement, arrange for the points of interconnection of their respective networks.
- B. Each company interconnecting pursuant to the provisions of this Section shall be responsible for building and maintaining its own facilities to the point of interconnection. Companies are free to negotiate points of interconnection that involve the recurring and non-recurring compensation by 1 carrier for the transport facilities of another carrier.
- C. Each company interconnecting pursuant to the provisions of this Section shall be responsible for the traffic that originates on its network up to the point of interconnection, and for the terminating traffic handed off at the point of interconnection to the call's destination.
- D. Should the companies negotiating interconnection arrangements not be able to agree upon the points of interconnection, written notice to that effect shall be made to the Commission Staff by the carrier responding to the interconnection request. The notice shall contain a detailed description of the request itself and why interconnection at the point requested is not feasible.

**R14-2-1304. Reciprocal Compensation**

- A. Local and EAS traffic shall be terminated by the LECs over the interconnection facilities described in R14-2-1303 on the basis of mutual traffic exchange, for a period of 24 months from the effective date of Commission approval of the 1st interconnection agreement pursuant to R14-2-1506.
- B. Any charges for the underlying transport facilities between the carriers shall be limited to the construction and maintenance charges specified in R14-2-1303.
- C. Notwithstanding the provisions of subsection (A), compensation arrangements may be made by mutual agreement between companies.
- D. If incumbent local exchange carriers and new entrant local exchange carriers do not arrive at compensation arrangements for local call termination by mutual agreement, they shall each file tariffs proposing permanent compensation mechanisms for terminating local calls within 18 months of the effective date of Commission approval of the 1st interconnection agreement pursuant to R14-2-1506. This Commission has expressed a preference for flat rate local calling and therefore those tariffs shall not contain usage-sensitive call termination charges, unless otherwise approved by the Commission.

**R14-2-1305. Local and Toll Rating Centers**

- A. The incumbent LEC's local calling areas and existing EAS boundaries will be utilized for the purpose of classifying traffic as local, EAS, or toll for purposes of intercompany compensation.

- B. All LECs will use central office codes with rate centers matching the incumbent LEC's rate centers.
- C. All LECs shall be assigned the necessary central office codes for rate purposes.
- D. Until a central office code administrator is designated by the Federal Communications Commission to replace U S West Communications, Inc., central office codes will be assigned to LECs, at no charge, in accordance with the industry's central office code assignment guidelines.
- E. No LEC may charge another LEC for changes to switch routing software necessitated by the creation, assignment, or reassignment of NPA or central office codes.

**R14-2-1306. Access to Databases and other Network Functions**

- A. All LECs, including new and incumbent LECs are required to provide non-discriminatory access to all necessary network functions, databases, and service components required to provide competitive local exchange services. These elements include, but are not limited to, directory assistance database listings, white page listings, yellow page listings, 800 LIDB and AIN databases, CMDS hosting, Busy Line Verification and Busy Line Interrupt operator services, distribution of telephone directories, inclusion of NELEC information in the Call Guide section of the directory, and E-911.
- B. Access to additional network functions, databases, and service components may be required from time to time by order of the Commission. This provision does not preclude the incumbent LEC and NELECs from negotiating voluntary arrangements for access to additional network functions, databases, or service components so long as the contracts for the voluntary arrangements are filed with the Commission and such access is made available to all other NELECs, upon request, under non-discriminatory terms and conditions, including price.
- C. Incumbent LECs shall provide access that is at least equal in type, quality, and price to that provided to themselves, to any affiliate, from any affiliate, or to another incumbent LEC.
- D. LECs shall make available the call setup signaling resources and information necessary for setting up local and interexchange connections, including the use of signaling protocols used in the querying of data bases such as 800 and LIDB. LECs shall be prohibited from interfering with the transmission of signaling information between customers and network operators. LECs and NELECs shall have a duty to correct errors, support network management in a way that promotes network integrity, and prevent fraudulent use of a LEC's network.
- E. All LECs and NELECs shall cooperate in the development of a process to handle intercompany service ordering, provisioning, and billing, and, repair service referrals.

**R14-2-1307. Unbundling**

- A. Local exchange carriers with less than 200,000 access lines shall be exempt from the unbundling requirements in these rules. Such exemption shall expire upon the receipt of a bona fide request from a certificated local exchange carrier for an unbundled facility, or if a carrier voluntarily chooses to offer unbundled services.
- B. The local exchange carrier's network facilities or services which are determined to be essential shall be provided on terms and under conditions that are equivalent to the terms and conditions under which a local exchange carrier provides such essential facilities or services to itself in the provision of the local exchange carrier's services. The pricing of essential facilities or services shall be pursuant to R14-2-1310 on pricing.

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**C.** The following local exchange carrier network capabilities are classified as essential facilities or services:

1. Termination of local calls.
2. Termination of long distance calls.
3. Interconnection with E911 and 911 services.
4. Access to numbering resources.
5. Dedicated channel network access connections.
6. Unbundled loops.

**D.** Incumbent local exchange carriers shall make essential facilities or services available for purchase and use pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission.

**E.** The following guidelines apply when a certificated telecommunications company makes a bona fide request of an incumbent local exchange carrier to unbundle any network facility or service capability not identified in subsection (C) or when a certificated telecommunications company makes a bona fide request to a NELEC that is the sole owner of essential facilities in the geographic area to unbundle any network facility or service capability. The request shall specify whether the network facility or service is considered by the requesting company to be essential.

1. For the 12 months following the effective date of these rules, the local exchange carrier shall respond to any such request in writing within 120 days. Thereafter, the local exchange carrier shall respond to any such request in writing within 90 days.
2. The response to an unbundling request shall clearly state whether the LEC or NELEC intends to provide the network facility or service on an unbundled basis and, if requested, whether it will be offered as an essential facility or service. If the LEC or NELEC does not intend to provide the requested network facility or service, the response shall state the basis for such refusal.
3. If the local exchange carrier or NELEC agrees to provide the network facility or service on an unbundled basis, the facility or service shall be provided pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission.
4. If the local exchange carrier or NELEC asserts that unbundling the network facility or service is not technically feasible, notice to that effect shall be made to the requesting party and to the Commission.

**R14-2-1308. Number Portability**

**A.** All local exchange carriers shall make local number portability available to facilitate the ability of a customer to switch between authorized local exchange carriers within a given wire center without changing their telephone number and without impairment of quality, functionality, reliability, or convenience of use. Implementation of local number portability or other forms of local number portability shall be based on a technically and economically feasible solution that meets the needs of Arizona consumers and carriers in a competitively neutral manner.

**B.** An incumbent local exchange carrier serving less than 200,000 access lines will not be required to implement local number portability solutions absent the certification and commitment by a new entrant local exchange carrier to provide service on a facilities basis in the incumbent's service territory.

**C.** Until such time as local number portability becomes available through database technology, local exchange carriers shall provide interim local number portability pursuant to negotiated agreements or an approved statement of terms and conditions, which shall be filed with the Commission, and shall in addition comply with such other or additional requirements as may be adopted by the Commission.

**D.** All telecommunication providers who terminate traffic into an exchange(s) in which the local number portability database solution has been implemented shall utilize the database solution to ensure efficient and appropriate routing of traffic to Arizona customers.

**R-14-2-1309. Cost Methodology**

TSLRIC is the cost standard to be employed by the incumbent local exchange carrier in conducting the cost studies that establish the underlying cost of local exchange carrier services including unbundled essential facilities and services.

**R14-2-1310. Pricing**

**A. Pricing of Basic Communication Services.**

1. The incumbent local exchange carrier shall provide the Commission with price floor calculations for local exchange and long distance services to ensure the avoidance of anti-competitive pricing practices. A NELEC can price below an incumbent LEC's TSLRIC price.
2. Whenever the incumbent local exchange carrier introduces a new local exchange service or long distance service, or proposes to change the rate for an existing local exchange service or long distance service, the local exchange carrier shall provide to the Commission information that demonstrates that the proposed rate equals or exceeds a price floor calculation for that service using an imputation test described in subsection (C).

**B. Pricing of Interconnection Services by Local Exchange Providers.**

1. Incumbent local exchange carriers shall establish the price of each interconnection service, including access to databases and other network functions as described in R14-2-1306, at a level equivalent to its TSLRIC-derived costs which may include an assignment of verifiable indirect costs or a 10% addition for indirect costs to the TSLRIC direct costs at the choice of the incumbent LEC.
2. Interim number portability shall be provided by the incumbent local exchange carrier at a price equal to TSLRIC. Any compensation which would otherwise have been received had a local or EAS call to a forwarded number been terminated directly to a customer's chosen carrier, should be passed through from the carrier from whose network the forwarded number is assigned, to the customer's chosen carrier to whose network the number is forwarded.

**C. Imputation**

1. An incumbent local exchange carrier shall recover in the retail price of each telecommunications service offered by the company the TSLRIC of all non-essential, and the imputed prices of all essential services, facilities, components, functions, or capabilities that are utilized to provision such telecommunications service, whether such service is offered pursuant to tariff or private contract.
2. Imputation requirements of this Section shall be applied in a manner that will permit a carrier providing a service to a customer that is or that becomes eligible for universal service support by order of the Commission to provide such retail service at a price that is net of any Commission-ordered universal service support funding, pursuant to the provisions of the Arizona Universal Service Fund rules.

**R14-2-1311. Waivers**

The Commission may consider variations or exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2, Article 13) upon application of an affected party. The application must set forth the reasons why the public interest will be

served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these

rules and an approved tariff or order of the Commission, the provision of the approved tariff or order of the Commission shall apply.