



ADMINISTRATIVE RULES OF MONTANA



42.26.1201 DEFINITIONS

The following definitions apply to this chapter:

- (1) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service, typically marketed as toll-free calling, may utilize a prefix such as "800", "855", "866", "877", and "888" toll-free calling, or any subsequent numbers designated by the Federal Communications Commission.
- (2) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. 900 service does not include collection services provided by the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service, and any subsequent numbers designated by the Federal Communications Commission.
- (3) "Air-to-ground radio telephone service" means a radio service in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.
- (4) "Ancillary service" is a type of telecommunications service that includes but is not limited to the following subcategories: "related services" as defined in 15-53-129, MCA and ARM 42.31.501; "detailed telecommunications billing"; "directory assistance"; "vertical service"; "conference bridging service"; "digital downloads"; "ringtones"; and "voice mail services." The term ancillary service is defined as a broad range of services and is broader than the sum of the subcategories.
- (5) "Bundled transaction" means the retail sale of two or more products.
 - (a) Bundled transaction includes retail sales in which the products are:
 - (i) otherwise distinct and identifiable; and
 - (ii) sold for one nonitemized price.
 - (b) For purposes of this rule, a bundled transaction does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.
 - (c) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is:

- (i) the retail sale of two products where the first product is essential to the use of the second product, and the first product is provided exclusively in connection with the second, and the true object of the transaction is the second;
 - (ii) the retail sale of more than one product, but the products are sourced the same under this rule; or
 - (iii) the retail sale of more than one product, but the sum of the purchase price or sales price of products which are sourced differently under this rule is de minimis.
- (6) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.
- (7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.
- (8) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.
- (9) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.
- (10) "Customer" means the person or entity which contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.
- (11) "Customer channel termination point" means the location where the customer either inputs or receives the communications.
- (12) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
- (13) "Directory assistance" means an ancillary service of providing telephone number information, and/or address information.
- (14) "End user" means the person who utilizes telecommunications service. In the case of an entity, end user means the individual who utilizes the service on behalf of the entity.
- (15) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.
- (16) "Home service provider" has the same meaning as provided for in Section 124(5) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).
- (17) "International" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a U.S. territory or possession.

- (18) "Interstate" means a telecommunications service that originates in one state of the United States, the District of Columbia, or a United States territory or possession, and terminates in a different state of the United States, the District of Columbia, or a United States territory or possession.
- (19) "Intrastate" means a telecommunications service that originates in one state of the United States, the District of Columbia, or a United States territory or possession, and terminates in the same state of the United States, the District of Columbia, or a United States territory or possession.
- (20) "Mobile telecommunications service" has the same meaning as provided for in Section 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).
- (21) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed or routed regardless of the technology used, whereby the origination and/or termination points of the transmission, conveyance, or routing are not fixed. By way of example only, telecommunications services that are provided by a commercial mobile radio service provider would represent a mobile wireless service.
- (22) "Network access service" means the provision by a local exchange telecommunications service provider of the use of its local exchange network by an inter-exchange telecommunications service provider to originate or terminate the inter-exchange telecommunications service provider's traffic carried to or from a distant exchange.
- (23) "Outer jurisdictional property" means tangible personal property, such as orbiting satellites, undersea transmission cables and the like, that are owned or rented by the taxpayer and used in a telecommunications service business, but that are not physically located in any particular state.
- (24) "Paging service" means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.
- (25) "Pay telephone service" means a telecommunications service provided through any pay telephone.
- (26) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, place of primary use shall be within the licensed service area of the home service provider.
- (27) "Postpaid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service.
- (28) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.
- (29) "Prepaid wireless calling service" means the sale of a telecommunications service that provides the right to utilize mobile wireless service that is sold in predetermined units of dollars of which the number declines with use in a known amount.

- (30) "Private communications service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.
- (31) "Product" means tangible personal property, digital good, or service.
- (32) "Service address" means:
- (a) The location of the customer's telecommunications equipment, to which the customer's call is charged, and from which the call originates or terminates, regardless of where the call is billed or paid.
 - (b) If the location in (a) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.
 - (c) If the location in (a) and (b) are not known, the service address means the location of the customer's place of primary use.
- (33) "Telecommunications service" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities, that originates or terminates in this state.
- (a) The term telecommunications service is defined as a broad range of services. The term includes, but is broader than the sum of, the following subcategories: ancillary services as defined in this chapter, related services as defined in 15-53-129(10)(c), MCA and ARM 42.31.501, 800 service, 900 service, fixed wireless service, mobile wireless service, paging service, prepaid calling service, prepaid wireless calling service, private communication service, value-added nonvoice data service, coin-operated telephone service, international telecommunications service, interstate telecommunications service, intrastate telecommunications service, network access service, and pay telephone service.
 - (b) The term telecommunications service does not include:
 - (i) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data;
 - (ii) installation or maintenance of wiring or equipment on a customer's premises;
 - (iii) tangible personal property;
 - (iv) advertising, including but not limited to directory advertising; and
 - (v) billing and collection services provided to third parties.
 - (c) Examples of included and excluded services are:
 - (i) Example 1 - An entity provides dedicated network service to an entity which will resell that service as intrastate telecommunications service. Both entities are providing a telecommunications service.

- (ii) Example 2 - An entity provides an interstate telecommunications service to an internet service provider which will use that service in the provision of internet access service. The entity providing interstate telecommunications service is providing a telecommunications service. The providing of internet access service is not the providing of a telecommunications service.
 - (iii) Example 3 - An entity primarily engaged in the provision of cable television provides an interstate telecommunications service. The entity is engaged in the provision of telecommunications services.
- (34) "Value-added nonvoice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.
 - (35) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.
 - (36) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages.

Authorizing statute(s): 15-1-201, 15-31-313, 15-31-201, MCA

Implementing statute(s): 15-1-601, 15-31-301, 15-31-302, 15-31-303, 15-31-304, 15-31-305, 15-31-306, 15-31-307, 15-31-308, 15-31-309, 15-31-310, 15-31-311, 15-31-312, MCA

History: NEW, 2011 MAR p. 582, Eff. 4/15/11.