



ADMINISTRATIVE RULES OF MONTANA



38.5.2715 FORBEARANCE

- (1) Any telecommunications provider may apply to the commission for forbearance of regulation for purposes of negotiating an individual customer contract pursuant to 69-3-808, MCA, in accordance with the procedures set forth in this rule. The procedures specified herein must be satisfied before a telecommunications provider may offer an individual customer contract containing rates which differ from the provider's applicable tariffs or price lists.
- (2) A telecommunications provider requesting forbearance approval for a particular customer must file an application with the commission containing all of the following information:
 - (a) the name and address of the telecommunications provider requesting forbearance;
 - (b) the name, address and telephone number of the customer;
 - (c) a description of the telecommunications service(s) to be offered the customer, including specific references to the provider's tariffs and price lists, and the market area to be served.
 - (d) A statement that either:
 - (i) Another telecommunications provider has given the customer an oral or written competitive offer to provide the same or similar service(s) for which forbearance is requested; or
 - (ii) The customer has requested a quotation of prices from another telecommunications provider having tariffs or price lists for similar services on file with the commission.
 - (e) the name, address and telephone number of the alternative provider referred to in (d) , if known.
- (3) The forbearance application containing the information required by subsection (2) shall:
 - (a) be verified under oath in accordance with Montana law, 1-6-101 et seq., MCA;
 - (b) be served by mail on all persons and entities on the commission's forbearance mailing list, on the same day that it is filed with the commission; and
 - (c) include a certificate of service verifying service as required in subsection (b) .
- (4) If a complete application is filed and served in full compliance with the above requirements, the application shall be deemed automatically granted one (1) day after the date of filing, without the necessity of formal commission action. Approval shall authorize the provider to negotiate rates with the customer without regard to its tariffs or price lists.
 - (a) The application shall be deemed automatically denied if it is incomplete, inaccurate or fraudulent.

- (b) The automatic approval provided above shall be deemed void if it is demonstrated at a later date that the application was incomplete, inaccurate or fraudulent at the time it was filed.
- (5) The commission reserves the right to investigate, request additional information or hold hearings at any time regarding forbearance applications, negotiations, contracts or the service and rates provided to forbearance customers. The commission may amend the terms or adjust the rates of any forbearance contract; or order such other relief as may be appropriate. If the commission determines that the rates charged under forbearance contracts were or are below costs, it may issue appropriate orders to ensure that the provider's shareholders, and not ratepayers, are responsible for any costs not recovered through the contract rates.

Authorizing statute(s): Sec. 69-3-822, MCA

Implementing statute(s): Sec. 69-3-808, MCA

History: NEW, 1986 MAR p. 807, Eff. 5/16/86; AMD, 1992 MAR p. 57, Eff. 12/27/91; AMD, 1993 MAR p. 1336, Eff. 6/25/93.