



ADMINISTRATIVE RULES OF MONTANA



38.5.3210 DESIGNATION AND MAINTENANCE -- PUBLIC INTEREST

- (1) Consideration of the public interest will apply in all eligible telecommunications carrier designation and maintenance of status proceedings.
- (2) The commission is not required to designate additional eligible telecommunications carriers in any service area, nonrural or rural. The commission may determine designation of an eligible telecommunications carrier in any service area, rural or nonrural, is not in the public interest.
- (3) Consideration of the "public interest" means the commission will consider all known factors regarding the designation of an eligible telecommunications carrier and the maintenance of status as an eligible telecommunications carrier that clearly demonstrate a public benefit or a public detriment, including, but not limited to:
 - (a) the ability of the eligible telecommunications carrier to provide the supported services in the manner required;
 - (b) the ability and willingness of the eligible telecommunications carrier to comply with all laws governing eligible telecommunications carriers;
 - (c) the ability of a service area to support or continue to support an additional eligible telecommunications carrier;
 - (d) the effect designation of an additional eligible telecommunications carrier will have on an existing eligible telecommunications carrier, primarily in regard to the provision of services and cost as relates to density, terrain, service, and so forth;
 - (e) whether the eligible telecommunications carrier technology platform is compatible with broadband and other advanced service offerings and facilitates availability of advanced telecommunications and information services in the areas served;
 - (f) the ability of the eligible telecommunications carrier to provide equal access to interexchange carriers in the event no other eligible telecommunications carrier is providing equal access in the service area;
 - (g) the extent to which the eligible telecommunications carrier is able to provide service to customers throughout the service area using the eligible telecommunications carrier's own network;
 - (h) the effect that designation or maintenance of status will have on the availability of universal service funds;
 - (i) the effect that designation or maintenance of status will have on the principles of universal service;

- (j) the public convenience, including things such as mobility, quality of service, availability of competition, and market choices; and
 - (k) public necessity, including factors such as public safety, reliability of service, ability to operate in emergencies.
- (4) Any one public interest factor, identified in (3) or otherwise relevant for consideration, is unlikely to be determinative in and of itself, regarding the designation of an eligible telecommunications carrier or the maintenance of status as an eligible telecommunications carrier. A determination of public interest will generally include a consideration and balancing of all relevant factors.

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

Implementing statute(s): 69-3-840, MCA

History: NEW, 2005 MAR p. 653, Eff. 4/29/05.