



ADMINISTRATIVE RULES OF MONTANA

38.5.4002 TERMS AND DEFINITIONS

Terms used in this subchapter have the following meanings:

- (1) "Arbitrated agreement" means an agreement between telecommunications carriers for interconnection, services or network elements pursuant to the 1996 Act, which is reached through arbitration or a combination of negotiation and arbitration.
- (2) "Arbitration" means an alternative dispute resolution process in which a neutral third party decides a matter in dispute. Arbitration is an investigatory contested case proceeding under the Montana Administrative Procedure Act. The term arbitration as used in the 1996 Act is not arbitration under either the United States Arbitration Act, 9 USC 1, et seq., or the Montana Uniform Arbitration Act, 27-2-401, MCA, et seq.
- (3) "CMRS" is commercial mobile radio service.
- (4) "Commission" refers to the Montana public service commission.
- (5) "Contested case" means any proceeding in which a determination of legal rights, duties or privileges of a party is required by law. Such proceedings are required by law whenever the Montana legislature has so provided or where constitutional due process requires a hearing.
- (6) "FCC" is the federal communications commission.
- (7) "Incumbent LEC" means, with respect to an area, the LEC that on February 8, 1996, provided telephone exchange service in that area.
- (8) "Interconnection" is the physical linking of two networks for the mutual exchange of traffic. This term does not include the transport and termination of traffic.
- (9) "Local exchange carrier (LEC) " is any person or entity that is engaged in the provision of telephone exchange service or exchange access but does not include CMRS providers.
- (10) "Mediation" means an alternative dispute resolution process in which a neutral third party assists the disputants in reaching their own agreement but does not have the authority to make a binding decision.
- (11) "Meet point" is a point of interconnection between two networks, designated by two telecommunications carriers, at which one carrier's responsibility for service begins and the other carrier's responsibility ends.
- (12) "Meet point interconnection arrangement" is an arrangement by which each telecommunications carrier builds and maintains its network to a meet point.

- (13) "Network element" is a facility or equipment used in the provision of a telecommunications service. Such term also includes, but is not limited to, features, functions, and capabilities that are provided by means of such facility or equipment, including but not limited to, subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing or other provision of a telecommunications service.
- (14) "Negotiated agreement" means a voluntary agreement between telecommunications carriers for interconnection, services or network elements pursuant to the 1996 Act.
- (15) "The 1996 Act" means the Telecommunications Act of 1996, Public Law No. 104-104, amending the Telecommunications Act of 1934, 47 USC 151, et seq.
- (16) "Number portability" means the ability of users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.
- (17) "Open issues" means any unresolved difference(s) arising in the negotiations.
- (18) "Physical collocation" is an offering by an incumbent LEC that enables a requesting telecommunications carrier to:
 - (a) place its own equipment to be used for interconnection or access to unbundled network elements within or upon an incumbent LEC's premises;
 - (b) use such equipment to interconnect with an incumbent LEC's network facilities for the transmission and routing of telephone exchange service, exchange access service or both or to gain access to an incumbent LEC's unbundled network elements for the provision of a telecommunications service;
 - (c) enter those premises, subject to reasonable terms and conditions, to install, maintain, and repair equipment necessary for interconnection or access to unbundled elements; and
 - (d) obtain reasonable amounts of space in an incumbent LEC's premises, as provided in this subchapter, for the equipment necessary for interconnection or access to unbundled elements, allocated on a first-come, first-served basis.
- (19) "Premises" refers to an incumbent LEC's central offices and serving wire centers, as well as all buildings or similar structures owned or leased by an incumbent LEC that house its network facilities, and all structures that house incumbent LEC facilities on public rights-of-way, including but not limited to vaults containing loop concentrators or similar structures.
- (20) "Rural LEC" is an entity that:
 - (a) provides common carrier service to any LEC study area that does not include either:
 - (i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the bureau of the census; or
 - (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the bureau of the census as of August 10, 1993;
 - (b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;
 - (c) provides telephone exchange service to any LEC study area with fewer than 100,000 access lines; or

- (d) has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.
- (21) "Statement of generally available terms and conditions" means a statement by a bell operating company (BOC) of the terms and conditions that such company generally offers within a particular state to comply with the requirements of section 251 of the 1996 Act and the regulations thereunder and the standards applicable under section 252 of the 1996 Act.
- (22) "Telecommunications carrier" is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services, which are persons that, in the ordinary course of operations, make telephones available to the public or to transient users of their premises, for interstate telephone calls using a provider of operator services.
- (23) "Virtual collocation" is an offering by an incumbent LEC that enables a requesting telecommunications carrier to:
 - (a) designate or specify equipment to be used for interconnection or access to unbundled network elements to be located within or upon an incumbent LEC's premises, and dedicated to such telecommunications carrier's use;
 - (b) use such equipment to interconnect with an incumbent LEC's network facilities for the transmission and routing of telephone exchange service, exchange access service or both or for access to an incumbent LEC's unbundled network elements for the provision of a telecommunications service; and
 - (c) electronically monitor and control its communications channels terminating in such equipment.
- (24) The meaning of undefined terms used in this subchapter shall be consistent with their general usage in the telecommunications industry unless specifically defined by other applicable Montana or federal law.

Authorizing statute(s): Sec. 69-3-103, MCA

Implementing statute(s): Secs. 69-3-102 and 69-3-201, MCA

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