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§ 605.1 Common carriage

Pursuant to the Public Service Law and the commission's authority and jurisdiction, the rules set forth in this Part establish certain standards and obligations applicable to telephone corporations operating as common carriers.

(a) Definitions. (1) Common carrier means a corporation that holds itself out to provide service to the public for hire to provide conduit services including voice, data, or video by electrical, electronic, electromagnetic or photonic means.

(2) Conduit means the facilities, functions, or media used for providing electric, electromagnetic, electronic, or photonic transmission of communications, including voice, data or video.

(3) Conduit services means the provision of conduit or functions integrally related to the provision of conduit.

(4) Content means the information or intelligence transmitted over a conduit. Information used solely for the provision of a communications "conduit" is not "content."

(5) Content services means those services offered over common carrier conduits, including, but not limited to, point to multi-point connections, which provide content, employ computer processing applications that act on the format, code, protocol or similar aspects of transmitted content; provide additional, different, or restructured content; or involve user interaction with stored content.

(6) Blocking means the ability to prevent the completion of a telephonic communication to a specified telephone number.

(b) General applicability. (1) These rules are applicable to telephone corporations operating as common carriers, and, except as waived or otherwise stated, shall apply to such corporations.

(2) These rules shall not apply to:

(i) cable television services provided by cable television operators exempted from common carrier regulation under 47 U.S.C. 541(c).

(ii) the provision of content services.

(c) Waivers. Where the commission determines that it is in the public interest, it may, for services or types of carriers, waive any portion of these rules.

§ 605.2 Availability of services

(a) General requirements. Telephone corporations operating as common carriers must provide publicly offered conduit services on demand to any similarly situated user on substantially similar terms, subject to the availability of facilities and capacity. Such services shall be provided by a telephone corporation on a first-come, first-served basis unless a party is able to show in a timely fashion that such provision would be unreasonable or unless otherwise ordered by the commission. Additionally:

(1) conduit services shall be made available as services separate from the provision of content;

(2) interconnection into the networks of telephone corporations shall be provided for other public or private networks; and

(3) segregable services and functions requested by users shall be provided to the extent technically and economically practicable.

(b) Restrictions on network use. No telephone corporation operating as a common carrier shall unreasonably restrict lawful network. No restriction may impede access between a content service provider and a willing customer, except where required by law. All restrictions shall be administered in a least restrictive fashion.

(1) Requirements by telephone corporations on users for prior subscription to a particular content services will generally be permissible only where requested by the provider of the service, or required by law, or where a waiver is granted.

(2) End-user initiated blocking shall always be available for content services, to the extent technically and economically feasible.

(c) Video conduit services. To the extent that a telephone corporation may provide video conduit services, it may do so only so long as it provides adequate capacity to content service providers seeking its video conduit services, and treats all users in a nondiscriminatory fashion.

(d) Individualized contracts. Where permitted by the commission, individualized contracts may be offered by telephone corporations operating as common carriers, so long as similarly situated customers are provided, upon request, service upon substantially similar terms. Such contracts may not be used to avoid common carrier obligations.

§ 605.3 Carrier involvement with content

(a) General requirement. No telephone corporation operating as a common carrier shall exercise control or influence over the content of lawful communications tendered to it for distribution. In turn, it has no liability for the content of tendered communications. This does not diminish a telephone corporation's duty to provide service of adequate transmission quality, capacity and timeliness.

(b) Safeguards against abuse. Telephone corporations operating as common carriers shall make reasonable efforts to inform each content service provider, serving the public at large, of the need for safeguards against abuse of its service, appropriate to the nature of the service and the cost and difficulty of such safeguards. In addition, they shall incorporate in the tariffs or contracts pursuant to which services are made available to information providers, a requirement that such providers adopt and apply procedures reasonably designed to provide safeguards against such abuse, including, but not limited to, the provision of information concerning complaint mechanisms.

(c) Availability of blocking. Telephone corporations shall make available, once technically and economically feasible, facilities giving end-users the ability to block (or delegate the blocking of) individual content services. Until such time that such blocking is readily available, it shall be permissible for telephone corporations to designate particular special interest central office codes which can be blocked at the subscriber's request. Inclusion in such central office codes shall be left to self-selection by the content service provider with independent arbitration and due process protections in the event of a dispute. Such special interest central office codes should be treated nondiscriminatorily, with respect to terms and conditions of services.