

## § 51.809

(h) Absent mutual consent of the parties to change any terms and conditions adopted by the arbitrator, the decision of the arbitrator shall be binding on the parties.

[61 FR 45619, Aug. 29, 1996, as amended at 66 FR 8520, Feb. 1, 2001]

### § 51.809 Availability of agreements to other telecommunications carriers under section 252(i) of the Act.

(a) An incumbent LEC shall make available without unreasonable delay to any requesting telecommunications carrier any agreement in its entirety to which the incumbent LEC is a party that is approved by a state commission pursuant to section 252 of the Act, upon the same rates, terms, and conditions as those provided in the agreement. An incumbent LEC may not limit the availability of any agreement only to those requesting carriers serving a comparable class of subscribers or providing the same service (*i.e.*, local, access, or interexchange) as the original party to the agreement.

(b) The obligations of paragraph (a) of this section shall not apply where the incumbent LEC proves to the state commission that:

(1) The costs of providing a particular agreement to the requesting telecommunications carrier are greater than the costs of providing it to the telecommunications carrier that originally negotiated the agreement, or

(2) The provision of a particular agreement to the requesting carrier is not technically feasible.

(c) Individual agreements shall remain available for use by telecommunications carriers pursuant to this section for a reasonable period of time after the approved agreement is available for public inspection under section 252(h) of the Act.

[69 FR 43771, July 22, 2004]

## Subpart J—Transitional Access Service Pricing

SOURCE: 76 FR 73856, Nov. 29, 2011, unless otherwise noted.

## 47 CFR Ch. I (10–1–20 Edition)

### § 51.901 Purpose and scope of transitional access service pricing rules.

(a) The purpose of this section is to establish rules governing the transition of intercarrier compensation from a calling-party's-network pays system to a default bill-and-keep methodology. Following the transition, the exchange of traffic between and among service providers will, by default, be governed by bill-and-keep arrangements.

(b) Effective December 29, 2011, the provisions of this subpart apply to reciprocal compensation for telecommunications traffic exchanged between telecommunications providers that is interstate or intrastate exchange access, information access, or exchange services for such access, other than special access.

NOTE TO § 51.901: See FCC 11–161, figure 9 (chart identifying steps in the transition).

### § 51.903 Definitions.

For the purposes of this subpart:

(a) *Competitive Local Exchange Carrier*. A *Competitive Local Exchange Carrier* is any local exchange carrier, as defined in § 51.5, that is not an incumbent local exchange carrier.

(b) *Composite Terminating End Office Access Rate* means terminating End Office Access Service revenue, calculated using demand for a given time period, divided by end office switching minutes for the same time period.

(c) *Dedicated Transport Access Service* means originating and terminating transport on circuits dedicated to the use of a single carrier or other customer provided by an incumbent local exchange carrier or any functional equivalent of the incumbent local exchange carrier access service provided by a non-incumbent local exchange carrier. *Dedicated Transport Access Service* rate elements for an incumbent local exchange carrier include the entrance facility rate elements specified in § 69.110 of this chapter, the dedicated transport rate elements specified in § 69.111 of this chapter, the direct-trunked transport rate elements specified in § 69.112 of this chapter, and the intrastate rate elements for functionally equivalent access services. *Dedicated Transport Access Service* rate

elements for a non-incumbent local exchange carrier include any functionally equivalent access services.

(d) *End Office Access Service* means:

(1) The switching of access traffic at the carrier's end office switch and the delivery to or from of such traffic to the called party's premises;

(2) The routing of interexchange telecommunications traffic to or from the called party's premises, either directly or via contractual or other arrangements with an affiliated or unaffiliated entity, regardless of the specific functions provided or facilities used; or

(3) Any functional equivalent of the incumbent local exchange carrier access service provided by a non-incumbent local exchange carrier. End Office Access Service rate elements for an incumbent local exchange carrier include the local switching rate elements specified in §69.106 of this chapter, the carrier common line rate elements specified in §69.154 of this chapter, and the intrastate rate elements for functionally equivalent access services. End Office Access Service rate elements for an incumbent local exchange carrier also include any rate elements assessed on local switching access minutes, including the information surcharge and residual rate elements. End office Access Service rate elements for a non-incumbent local exchange carrier include any functionally equivalent access service.

NOTE TO PARAGRAPH (d): For incumbent local exchange carriers, residual rate elements may include, for example, state Transport Interconnection Charges, Residual Interconnection Charges, and PICCs. For non-incumbent local exchange carriers, residual rate elements may include any functionally equivalent access service.

(e) *Fiscal Year 2011* means October 1, 2010 through September 30, 2011.

(f) *Price Cap Carrier* has the same meaning as that term is defined in §61.3(aa) of this chapter.

(g) *Rate-of-Return Carrier* is any incumbent local exchange carrier not subject to price cap regulation as that term is defined in §61.3(bb) of this chapter, but only with respect to the territory in which it operates as an incumbent local exchange carrier.

(h) *Access Reciprocal Compensation* means telecommunications traffic ex-

changed between telecommunications service providers that is interstate or intrastate exchange access, information access, or exchange services for such access, other than special access.

(i) *Tandem-Switched Transport Access Service* means:

(1) Tandem switching and common transport between the tandem switch and end office; or

(2) Any functional equivalent of the incumbent local exchange carrier access service provided by a non-incumbent local exchange carrier via other facilities. *Tandem-Switched Transport* rate elements for an incumbent local exchange carrier include the rate elements specified in §69.111 of this chapter, except for the dedicated transport rate elements specified in that section, and intrastate rate elements for functionally equivalent service. Tandem Switched Transport Access Service rate elements for a non-incumbent local exchange carrier include any functionally equivalent access service.

(j) *Transitional Intrastate Access Service* means terminating End Office Access Service that was subject to intrastate access rates as of December 31, 2011; terminating Tandem-Switched Transport Access Service that was subject to intrastate access rates as of December 31, 2011; and originating and terminating Dedicated Transport Access Service that was subject to intrastate access rates as of December 31, 2011.

(k) *Access Stimulation* has the same meaning as that term is defined in §61.3(bbb) of this chapter.

(l) *Intermediate Access Provider* has the same meaning as that term is defined in §61.3(ccc) of this chapter.

(m) *Interexchange Carrier* has the same meaning as that term is defined in §61.3(ddd) of this chapter.

[76 FR 73856, Nov. 29, 2011, as amended at 83 FR 67121, Dec. 28, 2018; 84 FR 57650, Oct. 28, 2019]

#### § 51.905 Implementation.

(a) The rates set forth in this section are default rates. Notwithstanding any other provision of the Commission's rules, telecommunications carriers may agree to rates different from the default rates.