

## **IC 8-1-32.4**

### **Chapter 32.4. Telecommunications Providers of Last Resort**

#### **IC 8-1-32.4-1**

##### **Application of definitions**

Sec. 1. Except as otherwise provided, the definitions in IC 8-1-2.6 apply throughout this chapter.

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-2**

##### **"Approved alternative technology"**

Sec. 2. As used in this chapter, "approved alternative technology" refers to any technology that:

- (1) offers service and functionality comparable to that provided through an exiting provider's facilities, as determined by the commission;
- (2) may include a technology that does not require the use of any public right-of-way; and
- (3) is approved by the commission for deployment in a particular service area.

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-3**

##### **"Basic telecommunications service"**

Sec. 3. As used in this chapter, "basic telecommunications service" has the meaning set forth in IC 8-1-2.6-0.1.

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-3.2**

##### **"Communications service provider"**

Sec. 3.2. As used in this chapter, "communications service provider" has the meaning set forth in IC 8-1-32.6-3.

*As added by P.L.8-2012, SEC.1.*

#### **IC 8-1-32.4-4**

##### **"Exiting provider"**

Sec. 4. As used in this chapter, "exiting provider" means a provider that:

- (1) holds a certificate of territorial authority issued by the commission;
- (2) is the predominant local exchange carrier in a defined geographic area and provides telecommunications service using the provider's own facilities; and
- (3) ceases operation in all or part of the service area covered by the certificate of territorial authority.

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-5**

##### **"Facilities based local exchange carrier"**

Sec. 5. As used in this chapter, "facilities based local exchange

carrier" means a local exchange carrier that provides local exchange service:

- (1) exclusively over facilities owned or leased by the carrier; or
- (2) predominantly over facilities owned or leased by the carrier, in combination with the resale of the telecommunications service (as defined in 47 U.S.C. 153) of another carrier.

*As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.2.*

#### **IC 8-1-32.4-6**

##### **"Incumbent local exchange carrier"**

Sec. 6. As used in this chapter, "incumbent local exchange carrier" has the meaning set forth in 47 U.S.C. 251(h).

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-7**

##### **"Local exchange carrier"**

Sec. 7. As used in this chapter, "local exchange carrier" has the meaning set forth in 47 U.S.C. 153.

*As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.3.*

#### **IC 8-1-32.4-8**

##### **"Local exchange service"**

Sec. 8. As used in this chapter, "local exchange service" means the provision of telephone exchange service (as defined in 47 U.S.C. 153) or exchange access (as defined in 47 U.S.C. 153).

*As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.4.*

#### **IC 8-1-32.4-9**

##### **"Provider of last resort"**

Sec. 9. As used in this chapter, "provider of last resort" means a provider that:

- (1) holds a certificate of territorial authority issued by the commission; and
- (2) is required to offer local exchange service throughout a defined geographic area.

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-10**

##### **Repealed**

*(Repealed by P.L.8-2012, SEC.5.)*

#### **IC 8-1-32.4-11**

##### **Obligations of incumbent local exchange carrier as provider of last resort; satisfaction of obligations using any available technology**

Sec. 11. Except as provided in:

- (1) IC 8-1-32.6-8;
- (2) section 13 of this chapter;
- (3) section 16 of this chapter; or
- (4) section 17 of this chapter;

an incumbent local exchange carrier has the obligations of the

provider of last resort. An incumbent local exchange carrier may meet the carrier's obligations under this section using any available technology.

*As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.6.*

#### **IC 8-1-32.4-12**

##### **Exiting provider; advance notice required; liability for charges owed to other providers**

Sec. 12. (a) This section applies to a provider that holds a certificate of territorial authority to provide local exchange service in Indiana. If a provider:

- (1) decides to cease serving all or part of the provider's defined service area; or
- (2) plans to file for bankruptcy;

the provider shall provide at least sixty (60) days advance notice to the commission and each affected customer and wholesale provider.

(b) A notice described in subsection (a) must:

- (1) be submitted in the form and manner prescribed by the commission; and
- (2) include at least one (1) toll free customer service telephone number maintained by the provider to facilitate the continuation of service and the transition of customers to other providers.

(c) The exiting provider is liable for all charges owed to other providers and is responsible for any provider change charges.

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-13**

##### **Relief from provider of last resort obligations; installation of facilities by another provider**

Sec. 13. (a) If the holder of a certificate of territorial authority to provide local exchange service installs facilities to provide telecommunications service, including local exchange service, in a defined geographic area and:

- (1) the holder is not the designated provider of last resort for the area; and
- (2) the designated provider of last resort for the area has not installed facilities to serve customers in the area;

the designated provider of last resort may petition the commission for an order relieving the designated provider of its obligations as the provider of last resort in the area.

(b) The commission shall relieve the petitioning provider from its obligations as the provider of last resort for the area described in subsection (a) and shall designate the holder making the installation under subsection (a) as the provider of last resort for the area if the commission determines that:

- (1) the petitioning provider does not have facilities in place to provide local exchange service to all customers in the area; and
- (2) the holder making the installation under subsection (a) has installed facilities adequate to provide local exchange service throughout the area.

The commission shall make the determinations required by this subsection not later than sixty (60) days after the date the petition is filed with the commission under subsection (a).

*As added by P.L.27-2006, SEC.54.*

#### **IC 8-1-32.4-14**

##### **Repealed**

*(Repealed by P.L.8-2012, SEC.7.)*

#### **IC 8-1-32.4-15**

##### **Commission's declaration of emergency; order to expedite availability of voice service; authorization for provider to offer voice service through any available technology**

Sec. 15. (a) The commission may declare in accordance with IC 8-1-2-113 that an emergency exists in an area in Indiana that is not served by any communications service provider offering voice service through any technology or medium. If the commission declares an emergency under this section, the commission may issue any order necessary to protect the health, safety, and welfare of affected residents or businesses and may expedite the availability of voice service to the affected residents or businesses.

(b) If the commission authorizes a communications service provider to offer voice service under this section, the commission shall permit the communications service provider to offer the voice service through any available technology or medium determined by the communications service provider.

*As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.8.*

#### **IC 8-1-32.4-16**

##### **Exclusive service arrangements; relief from provider of last resort obligations**

Sec. 16. (a) If a provider, other than the incumbent local exchange carrier, operates under an arrangement by which the provider is the exclusive provider of basic telecommunications service in a particular geographic area, building, or group of residences and businesses, the incumbent local exchange carrier is relieved of any provider of last resort obligations that the incumbent local exchange carrier would ordinarily have with respect to the particular geographic area, building, or group of residences and businesses.

(b) If:

- (1) a provider with an exclusive service arrangement described in subsection (a) decides to cease operations in all or part of the particular geographic area, building, or group of residences and businesses that the provider serves under the arrangement; and
- (2) the incumbent local exchange carrier:

(A) has insufficient facilities to serve the affected customers of the exiting provider; and

(B) elects to purchase the facilities of the exiting provider;

the incumbent local exchange carrier has twelve (12) months to make any modifications necessary to the purchased facilities to allow the

incumbent local exchange carrier to serve the affected customers of the exiting provider. The incumbent local exchange carrier may apply to the commission for an extension of the period allowed under this subsection, and the commission shall grant the extension upon good cause shown by the incumbent local exchange carrier.

(c) If:

(1) a provider with an exclusive service arrangement described in subsection (a) decides to cease operations in all or part of the particular geographic area, building, or group of residences and businesses that the provider serves under the arrangement; and

(2) the incumbent local exchange carrier:

(A) has insufficient facilities to serve the affected customers of the exiting provider; and

(B) elects not to purchase the facilities of the exiting provider;

the incumbent local exchange carrier has twelve (12) months to deploy an approved alternative technology necessary to allow the incumbent local exchange carrier to serve the affected customers of the exiting provider. The incumbent local exchange carrier may apply to the commission for an extension of the period allowed under this subsection, and the commission shall grant the extension upon good cause shown by the incumbent local exchange carrier.

*As added by P.L.27-2006, SEC.54. Amended by P.L.1-2007, SEC.74.*

#### **IC 8-1-32.4-17**

#### **Relief from provider of last resort obligation; notice by incumbent local exchange carrier; presence of two ETC eligible providers required before July 1, 2014; obligations under federal law not affected; "ETC eligible communications service provider"**

Sec. 17. (a) Subject to subsection (b), upon notice to the commission by an incumbent local exchange carrier that is the provider of last resort in one (1) or more parts of the incumbent local exchange carrier's service area, the incumbent local exchange carrier is relieved of its obligation as the provider of last resort in any part of the incumbent local exchange carrier's service area in which there are at least two (2) ETC eligible communications service providers, one (1) of which may be the incumbent local exchange carrier, offering a voice service through any technology or medium, including any of the following:

(1) Wire communication (as defined in 47 U.S.C. 153).

(2) Internet Protocol enabled services.

(3) Commercial mobile service (as defined in 47 U.S.C. 332).

(b) After June 30, 2014, upon notice to the commission by an incumbent local exchange carrier that is the provider of last resort in one (1) or more parts of the incumbent local exchange carrier's service area, the incumbent local exchange carrier is relieved of its provider of last resort obligation with respect to any part of its service area identified in the incumbent local exchange carrier's notice to the commission under this subsection.

(c) Relief from a provider of last resort obligation under this

chapter does not affect an incumbent local exchange carrier's obligations under federal law.

(d) As used in this section, "ETC eligible communications service provider" means a communications service provider that provides, using any available technology or medium, the voice telephony services described in 47 CFR 54.101, regardless of whether the communications service provider has been designated as an eligible telecommunications carrier.

*As added by P.L.8-2012, SEC.9.*