

State, a political subdivision of a State, an Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for 9-8-8 related services, if the fee or charge is held in a sequestered account to be obligated or expended only in support of 9-8-8 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge.

**(2) Use of 9-8-8 funds**

A fee or charge collected under this subsection shall only be imposed, collected, and used to pay expenses that a State, a political subdivision of a State, an Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) is expected to incur that are reasonably attributed to—

(A) ensuring the efficient and effective routing of calls made to the 9-8-8 national suicide prevention and mental health crisis hotline to an appropriate crisis center; and

(B) personnel and the provision of acute mental health, crisis outreach and stabilization services by directly responding to the 9-8-8 national suicide prevention and mental health crisis hotline.

**(b) Fee Accountability Report**

To ensure efficiency, transparency, and accountability in the collection and expenditure of a fee or charge for the support or implementation of 9-8-8 services, not later than 2 years after October 17, 2020, and annually thereafter, the Commission shall submit to the Committees on Commerce, Science, and Transportation and Appropriations of the Senate and the Committees on Energy and Commerce and Appropriations of the House of Representatives a report that—

(1) details the status in each State, political subdivision of a State, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of the collection and distribution of such fees or charges; and

(2) includes findings on the amount of revenues obligated or expended by each State, political subdivision of a State, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for any purpose other than the purpose for which any such fees or charges are specified.

**(c) Definitions**

In this section:

**(1) Commercial mobile service**

The term “commercial mobile service” has the meaning given that term under section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

**(2) Commission**

The term “Commission” means the Federal Communications Commission.

**(3) IP-enabled voice service**

The term “IP-enabled voice service” shall include—

(A) an interconnected VoIP service, as defined in section 9.3 of the<sup>1</sup> title 47 of the Code of Federal Regulations, or any successor thereto; and

(B) a one-way interconnected VoIP service.

**(4) State**

The term “State” has the meaning given that term in section 615b of this title.

(Pub. L. 116-172, § 4, Oct. 17, 2020, 134 Stat. 833.)

**Editorial Notes**

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), is Pub. L. 116-172, Oct. 17, 2020, 134 Stat. 832, known as the National Suicide Hotline Designation Act of 2020. For complete classification of this Act to the Code, see Short Title of 2020 Amendment note under section 609 of this title and Tables.

The Communications Act of 1934, referred to in subsec. (a)(1), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsecs. (a) and (b), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

CODIFICATIONSECTION WAS ENACTED AS PART OF THE NATIONAL SUICIDE HOTLINE DESIGNATION ACT OF 2020, AND NOT AS PART OF THE COMMUNICATIONS ACT OF 1934 WHICH COMPRISES THIS CHAPTER.

**§ 252. Procedures for negotiation, arbitration, and approval of agreements**

**(a) Agreements arrived at through negotiation**

**(1) Voluntary negotiations**

Upon receiving a request for interconnection, services, or network elements pursuant to section 251 of this title, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251 of this title. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before February 8, 1996, shall be submitted to the State commission under subsection (e) of this section.

**(2) Mediation**

Any party negotiating an agreement under this section may, at any point in the negotiation, ask a State commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

**(b) Agreements arrived at through compulsory arbitration**

**(1) Arbitration**

During the period from the 135th to the 160th day (inclusive) after the date on which an in-

<sup>1</sup> So in original.

cumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

**(2) Duty of petitioner**

(A) A party that petitions a State commission under paragraph (1) shall, at the same time as it submits the petition, provide the State commission all relevant documentation concerning—

- (i) the unresolved issues;
- (ii) the position of each of the parties with respect to those issues; and
- (iii) any other issue discussed and resolved by the parties.

(B) A party petitioning a State commission under paragraph (1) shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the State commission receives the petition.

**(3) Opportunity to respond**

A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State commission receives the petition.

**(4) Action by State commission**

(A) The State commission shall limit its consideration of any petition under paragraph (1) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (3).

(B) The State commission may require the petitioning party and the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived.

(C) The State commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

**(5) Refusal to negotiate**

The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State commission shall be considered a failure to negotiate in good faith.

**(c) Standards for arbitration**

In resolving by arbitration under subsection (b) any open issues and imposing conditions upon the parties to the agreement, a State commission shall—

(1) ensure that such resolution and conditions meet the requirements of section 251 of this title, including the regulations prescribed by the Commission pursuant to section 251 of this title;

(2) establish any rates for interconnection, services, or network elements according to subsection (d); and

(3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

**(d) Pricing standards**

**(1) Interconnection and network element charges**

Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251 of this title, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section—

(A) shall be—

(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and

(ii) nondiscriminatory, and

(B) may include a reasonable profit.

**(2) Charges for transport and termination of traffic**

**(A) In general**

For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5) of this title, a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless—

(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and

(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

**(B) Rules of construction**

This paragraph shall not be construed—

(i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

**(3) Wholesale prices for telecommunications services**

For the purposes of section 251(c)(4) of this title, a State commission shall determine

wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

**(e) Approval by State commission**

**(1) Approval required**

Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

**(2) Grounds for rejection**

The State commission may only reject—

(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; or

(B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) if it finds that the agreement does not meet the requirements of section 251 of this title, including the regulations prescribed by the Commission pursuant to section 251 of this title, or the standards set forth in subsection (d) of this section.

**(3) Preservation of authority**

Notwithstanding paragraph (2), but subject to section 253 of this title, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

**(4) Schedule for decision**

If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under subsection (a), or within 30 days after submission by the parties of an agreement adopted by arbitration under subsection (b), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.

**(5) Commission to act if State will not act**

If a State commission fails to act to carry out its responsibility under this section in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State commission's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State commission under this section with respect to the proceeding or matter and act for the State commission.

**(6) Review of State commission actions**

In a case in which a State fails to act as described in paragraph (5), the proceeding by the Commission under such paragraph and any judicial review of the Commission's actions shall be the exclusive remedies for a State commission's failure to act. In any case in which a State commission makes a determination under this section, any party aggrieved by such determination may bring an action in an appropriate Federal district court to determine whether the agreement or statement meets the requirements of section 251 of this title and this section.

**(f) Statements of generally available terms**

**(1) In general**

A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 of this title and the regulations thereunder and the standards applicable under this section.

**(2) State commission review**

A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 of this title and the regulations thereunder. Except as provided in section 253 of this title, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

**(3) Schedule for review**

The State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

(A) complete the review of such statement under paragraph (2) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

(B) permit such statement to take effect.

**(4) Authority to continue review**

Paragraph (3) shall not preclude the State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2).

**(5) Duty to negotiate not affected**

The submission or approval of a statement under this subsection shall not relieve a Bell operating company of its duty to negotiate the terms and conditions of an agreement under section 251 of this title.

**(g) Consolidation of State proceedings**

Where not inconsistent with the requirements of this chapter, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253 of this title, and this section in order to reduce administrative burdens on telecommunications carriers, other par-

ties to the proceedings, and the State commission in carrying out its responsibilities under this chapter.

**(h) Filing required**

A State commission shall make a copy of each agreement approved under subsection (e) and each statement approved under subsection (f) available for public inspection and copying within 10 days after the agreement or statement is approved. The State commission may charge a reasonable and nondiscriminatory fee to the parties to the agreement or to the party filing the statement to cover the costs of approving and filing such agreement or statement.

**(i) Availability to other telecommunications carriers**

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

**(j) "Incumbent local exchange carrier" defined**

For purposes of this section, the term "incumbent local exchange carrier" has the meaning provided in section 251(h) of this title.

(June 19, 1934, ch. 652, title II, §252, as added Pub. L. 104-104, title I, §101(a), Feb. 8, 1996, 110 Stat. 66.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

**§ 253. Removal of barriers to entry**

**(a) In general**

No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

**(b) State regulatory authority**

Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254 of this title, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

**(c) State and local government authority**

Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

**(d) Preemption**

If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

**(e) Commercial mobile service providers**

Nothing in this section shall affect the application of section 332(c)(3) of this title to commercial mobile service providers.

**(f) Rural markets**

It shall not be a violation of this section for a State to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in section 214(e)(1) of this title for designation as an eligible telecommunications carrier for that area before being permitted to provide such service. This subsection shall not apply—

(1) to a service area served by a rural telephone company that has obtained an exemption, suspension, or modification of section 251(c)(4) of this title that effectively prevents a competitor from meeting the requirements of section 214(e)(1) of this title; and

(2) to a provider of commercial mobile services.

(June 19, 1934, ch. 652, title II, §253, as added Pub. L. 104-104, title I, §101(a), Feb. 8, 1996, 110 Stat. 70.)

**§ 254. Universal service**

**(a) Procedures to review universal service requirements**

**(1) Federal-State Joint Board on universal service**

Within one month after February 8, 1996, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) of this title a proceeding to recommend changes to any of its regulations in order to implement sections 214(e) of this title and this section, including the definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for completion of such recommendations. In addition to the members of the Joint Board required under section 410(c) of this title, one member of such Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates. The Joint Board shall, after notice and opportunity for public comment, make its recommendations to the Commission 9 months after February 8, 1996.

**(2) Commission action**

The Commission shall initiate a single proceeding to implement the recommendations from the Joint Board required by paragraph (1) and shall complete such proceeding within 15 months after February 8, 1996. The rules estab-