

7.500 NONDOMINANT TELECOMMUNICATIONS CARRIERS**7.501 Purpose**

The purpose of this rule is to define the obligations of various kinds of telecommunications carriers under Title 30 of Vermont Statutes, and especially 30 V.S.A. § 227c, relating to nondominant carriers.

7.502 Authority

- (A) In accordance with 30 V.S.A. § 227c, this rule modifies, reduces and suspends various requirements under Title 30 of Vermont statutes that would otherwise apply to nondominant providers of telecommunications service. In determining what modifications, reductions or suspensions of Title 30 requirements should be included in this rule, the Public Utility Commission has determined that competition in the relevant markets, combined with the remaining regulatory requirements of Title 30:
- (1) will be sufficient to ensure that the charges, practices, classifications or regulations related to the service are just and reasonable, and are not unjustly or unreasonably discriminatory; and
 - (2) will afford the public at least as much protection as the applicable regulatory requirements that are modified, reduced or suspended.
- (B) This rule also codifies prior precedent of the Public Utility Commission and in some cases establishes new responsibilities for telecommunications carriers. In so doing, this rule relies on other provisions of Vermont statute, including but not limited to 30 V.S.A. §§ 102, 104–109, 218, 225, 226, 226a, 226b, 227a, 231, and 311.

7.503 Applicability

By order, the Public Utility Commission may alter the effect of this rule on particular companies or groups of companies.

7.504 Definitions

The following definitions apply to this rule:

- (A) "Commission" means the Vermont Public Utility Commission.
- (B) "Department" means the Vermont Department of Public Service.
- (C) "Dominant" means possessing the ability to set prices in the relevant geographic and functional market for a particular service, taking into consideration: (1) whether any competitor(s) offer a sufficient quantity of similar or equivalent services; (2) whether there is reasonable ease of entry into the market for providers of these services; and (3) any other relevant indicator of market power.
- (D) "Eligible Telecommunications Carrier" ("ETC") is a carrier designated by the Commission as an eligible telecommunications carrier under Section § 214(e) of the Telecommunications Act of 1996; 47 U.S.C. § 214(e).
- (E) "Incumbent" local exchange carrier means any of the ten companies providing local exchange service and designated as eligible telecommunications carriers on

January 1, 2002, plus any affiliate, successor or assign of such a carrier that provides local exchange service.

- (F) "Local exchange carrier" means a telecommunications carrier that offers local exchange service or exchange access service on a common carriage basis.
- (G) "Local exchange service" means two-way voice or data telecommunications within a local exchange, including any bundled or integrated service, of which local exchange service is a component.
- (H) "Telecommunications carrier" means a person or company offering telecommunications service to the public on a common carrier basis.
- (I) "Telecommunications service" means any service defined in 30 V.S.A. 203(5).

7.505 Corporate Organization and Finance

- (A) For purposes of this section, the term "corporate organization and financial review" means review authorized by the following statutes:
 - (1) 30 V.S.A. § 104 — Amendments to the articles of association
 - (2) 30 V.S.A. § 105 — Payment for stock with property
 - (3) 30 V.S.A. § 107 — Acquisition of control of one utility company by another; supervision
 - (4) 30 V.S.A. § 108 — Issue of bonds or other securities
 - (5) 30 V.S.A. § 109 — Sales and leases; hearings
 - (6) 30 V.S.A. § 311 — Merger review
- (B) Only dominant local exchange carriers are subject to corporate organization and financial reviews:
 - (1) All incumbent local exchange carriers shall be classified as dominant local exchange carriers for purposes of this section.
 - (2) After an opportunity for hearing, the Commission, on its own motion, or pursuant to a petition, may find that a dominant local exchange carrier is a nondominant carrier for purposes of this section
- (C) After an opportunity for hearing, the Commission, on its own motion, or pursuant to a petition, may find that a nondominant carrier is a dominant carrier for purposes of this section.
- (D) Any telecommunications carrier not subject to corporate and financial review shall notify the Commission within two weeks of completing any transaction that is subject to review under the terms of 30 V.S.A. §§ 107, 109, or 311. Notice shall be accomplished through the filing of a completed form provided by the Commission for that purpose

7.506 Rates and Charges

- (A) For purposes of this section, the term "rate review and tariffing" means requirements to file tariffs and to be subject to investigations and orders of the Commission, as authorized by the following statutes:
- (1) 30 V.S.A. § 225 — Rate schedules
 - (2) 30 V.S.A. § 226 — Rates, hearings, bond
 - (3) 30 V.S.A. § 227(a) — Pricing of competitive telecommunications services
 - (4) 30 V.S.A. § 229 — Rebates; exceptions
- (B) Only dominant local exchange carriers are subject to rate review and tariffing:
- (1) All incumbent local exchange carriers shall be classified as dominant local exchange carriers for purposes of this section.
 - (2) After an opportunity for hearing, the Commission, on its own motion, or pursuant to a petition, may find that a dominant local exchange carrier is a nondominant carrier for purposes of this section.
- (C) After an opportunity for hearing, the Commission, on its own motion, or pursuant to a petition, may find that a nondominant carrier is a dominant carrier for purposes of this section.
- (D) Exceptions
- (1) Local exchange carriers that impose intrastate terminating exchange access charges shall comply with 30 V.S.A. § 225 with respect to such charges if they exceed the default terminating exchange access charges established by the Commission.
 - (2) Carriers that have made election pursuant to 30 V.S.A. § 227d.
- (E) Nondominant Carrier Tariffs
- (1) Nondominant carriers shall not file tariffs with the Commission.
 - (2) All tariffs for services offered by nondominant carriers and on file with the Commission on the effective date of this rule are null and void, and any subsequent changes to the rates, terms, or conditions of service shall comply with the provisions of Rule 7.600.

