

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Public Service Commission

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Responsibilities of Providers of Basic Local Exchange Service that Cease to Provide the Service

5. Rule numbers or rule set range of numbers:

R 484.1001- 484.1009

6. Estimated time frame:

12 months

Name of person filling out RFR:

Caitlin Mucci

E-mail of person filling out RFR:

MucciC@michigan.gov

Phone number of person filling out RFR:

517-284-8066

Address of person filling out RFR:

7109 W. Saginaw Highway, Lansing MI 48917

7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The rules address the responsibilities of providers of basic local exchange service that cease to provide service to any segment of end-users or geographic area; go out of business; or withdraw from the state, including the transfer of customers to other providers and the reclaiming of unused telephone numbers. Specifically, the rules address the roles and responsibilities of retail and wholesale providers that seek to discontinue service to any type of end user or geographic area, withdraw service from the state, or transfer a customer or customers to another provider of basic local exchange service.

Part 2 of the rules, titled Responsibilities of Providers and Wholesale Providers Involved in a Disconnection Dispute, specifically addresses the roles and responsibilities of retail and wholesale telecommunications providers that are involved in interconnection disputes with each other, which may result in the disconnection of end-user customers. The proposed rules, which are primarily re-promulgating the current rules, will remain largely unchanged and help ensure that both the PSC and affected customers receive adequate notice of an impending discontinuance of service from a wholesale provider and/or retail provider. The re-promulgated rules also assist the PSC in attempts to resolve disputes between providers by requiring that the notice to the PSC contains certain information.

If a provider of basic local exchange service proposes to discontinue a regulated service pursuant to Section 313 of Public Act 179 of 1991, the Michigan telecommunications act (MTA), MCL 484.2313 (referred to as Section 313), the provider is required to file a notice of the discontinuance of service with the PSC, publish the notice in a newspaper of general circulation within the exchange area, and provide notice to each of its customers within the exchange by first-class mail or within customer bills. Section 313 is silent as to what information providers of basic local exchange service should provide to the PSC when proposing to discontinue service. The re-promulgated ruleset under the proposed Part 3, Cessation of Service to Any Segment of End Users or Geographic Area, Withdrawal of Service from the State, Transfer of Customers to Other Providers, will add rules to address the notice requirements set out in Section 313.

The PSC staff have received several filings for a discontinuance of service pursuant to Section 313, noting in particular an increase in filings since 2019. The PSC staff anticipate that Section 313 discontinuance filings will increase due to changes in telecommunications technology. Currently, the PSC staff request that providers of basic local exchange service that are seeking to discontinue service provide certain notice information on a voluntary basis. The proposed rules will codify as requirements the information that currently is provided voluntarily to provide efficiency and make the notice process pursuant to Section 313(5)(a) and (b) more effective through formalized rules. The proposed rules will provide clarity to providers as to the specific information that should be included in a notice to the PSC regarding a discontinuance of service and how that notice should be provided to customers and interconnecting providers. The rules will eliminate the ambiguity in the MTA and address frequently received questions from providers regarding notices to the PSC, while maintaining consistency with the intent of the MTA and the traditional function and purpose of rulemaking. Adopting formalized rules will also provide consistency in terms of the information each provider must submit in a notice of discontinuance to the PSC.

With the addition of Part 3 to the ruleset, the PSC proposes the addition of seven rules to the ruleset, the necessary renumbering of one part of the existing ruleset, and the rescinding and addition of rules such that the rules are renumbered but maintain the text of the existing rule.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 484.2213 authorizes the PSC to promulgate rules under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 484.2213 authorizes the PSC to promulgate rules under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

MCL 484.2202(1)(c)(iv) requires the Commission to promulgate rules pursuant to MCL 484.2213 to establish and enforce quality standards for: “Providers of basic local exchange service that cease to provide the service to any segment of end users or geographic area, go out of business, or withdraw from the state, including the transfer of customers to other providers and the reclaiming of unused telephone numbers.” This ruleset was originally promulgated under this authority.

MCL 484.2202(2) mandates that this ruleset shall expire within three years of its effective date, and that the PSC “may, before the expiration of the rules, promulgate new rules under subsection (1)(c).” Thus, these rules sunset every three years and must be re-promulgated every three years. The rules are currently scheduled to sunset on March 21, 2024. The PSC is initiating the rulemaking process at this time because it is necessary to receive the approved RFR, informal approvals of the rules, and the approved RIS prior to issuing the first order commencing the rulemaking process for the public. Once the first order is issued, the PSC strives to complete the rulemaking process within the 180-day deadline set by the MTA.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 484.2202(1)(c)(iv) requires the Commission to promulgate rules pursuant to MCL 484.2213 to establish and enforce quality standards for: “Providers of basic local exchange service that cease to provide the service to any segment of end users or geographic area, go out of business, or withdraw from the state, including the transfer of customers to other providers and the reclaiming of unused telephone numbers.” This ruleset was originally promulgated under this authority.

MCL 484.2202(2) mandates that this ruleset shall expire within three years of its effective date, and that the PSC “may, before the expiration of the rules, promulgate new rules under subsection (1)(c).” Thus, these rules sunset every three years and must be re-promulgated every three years. The rules currently sunset on March 21, 2024. The PSC is initiating the rulemaking process at this time because it is necessary to receive the approved RFR, informal approvals of the rules, and the approved RIS prior to issuing the first order commencing the rulemaking process for the public. Once the first order is issued, the PSC strives to complete the rulemaking within the 180-day deadline set by the MTA.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The PSC is unaware of any such rules.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The PSC has included a Question & Answer document via a link titled Discontinuance Information for Service Providers on the PSC website (<https://www.michigan.gov/mpsc/regulatory/telecommunications/providers>) that outlines the process for discontinuances of service under Section 313 of the MTA. The information provided in this document mimics the rules the PSC is proposing to add as Part 3 to the ruleset.

11. Are the rules listed on the department’s annual regulatory plan as rules to be processed for the current year?

No, the rules are not listed in the PSC's annual regulatory plan as rules to be processed for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The PSC is unaware of any such rules.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

No, the PSC has not received any complaints about the rules.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules were last revised in 2020 and became effective March 21, 2021. MCL 484.2202(2) mandates that this ruleset shall expire within three years of its effective date, and that the PSC may, prior to the expiration of the rules, promulgate new rules pursuant to MCL 484.2202(1)(c). These rules are set to sunset on March 21, 2024. Therefore, following the effective date of the current ruleset and in anticipation of the sunset of these rules, the PSC staff examined the ruleset, economic conditions, and technologies related to regulated basic local exchange service and noted an increase in filings for discontinuance of services pursuant to Section 313 of the Act since late 2019. The PSC staff anticipate that discontinuance filings will increase due to changes in telecommunications technology. Currently, the PSC staff request providers of basic local exchange service that are seeking to discontinue service the information on a voluntary basis. The proposed rules will add new rules to codify as requirements the actions that currently are provided voluntarily to provide efficiency and make the notice process pursuant to Section 313(5)(a) and (b) more effective through formalized rules. The proposed rules will provide clarity to providers as to the specific information that should be included in a notice to the PSC regarding a discontinuance of service and how that notice should be provided to customers and interconnecting providers.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No. The rules continue to be necessary to address the responsibilities of providers of basic local exchange service that cease to provide service pursuant to the PSC's responsibilities under MCL 484.2213.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.