

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

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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:

Unbundled Network Element and Local Interconnection Services

5. Rule numbers or rule set range of numbers:

R 484.71-484.75

6. Estimated time frame:

6 months

Name of person filling out RFR:

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

These rules specify the minimum quality standards for provision of unbundled network elements (UNEs) and local interconnection services applicable to incumbent local exchange carriers (ILECs) interconnecting with competitive local exchange carriers (CLECs), to enable efficient competition in the marketplace in the provision of basic local exchange service. R 484.74 requires that the minimum quality standards for the provision of UNEs and local interconnection by an ILEC be either the standards set out in the final order in an industrywide proceeding before the Commission, or, where there is no such order, the standards adopted by the interconnecting parties pursuant to their interconnection agreement (ICA) approved by the Commission. The only current, final order in an industry-wide proceeding—the September 24, 2020 order in Case No. U-11830—applies to AT&T Michigan (the ILEC) and all CLECs interconnecting with AT&T Michigan. Thus, all other ILECs are subject to the alternative standard; that is, those standards adopted by the ILEC and CLEC in their ICA approved by the Commission.

The rules apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs typically do not offer UNEs on a wholesale basis. The few CLECs engaged in offering wholesale services are excluded from these rules due to the small amount of activity that they generate and the costs that would be incurred to implement processes to address and monitor such rules. The rules are based upon existing negotiation processes between ILECs and CLECs, as provided for by 47 USC 251 and 252, and standards established through industry-wide proceedings that occur between the individual ILECs and participating CLECs before the Commission.

Creating an intricate set of rules for the provision of unbundled network elements and local interconnection services is unnecessary due to market forces and the effective negotiation processes between providers already in existence. When such processes already exist and allow for certainty, there is no need for additional regulatory intervention. There is presently no known reason to believe there will be any negative effects from adopting these rules. The Commission proposes to repromulgate the rules with no changes. There were already repromulgated and put into effect in 2013, 2016, and 2019.

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

By authority conferred on the Commission by MCL 484.2202 and MCL 484.2213.

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

MCL 484.2202 and MCL 484.2213.

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

Per MCL 484.2202(1)(c)(ii), the Commission shall promulgate rules under Section 213 to establish and enforce quality standards for the provision of unbundled network elements and local interconnection services to providers that are used in the provision of basic local exchange service.

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 Commission is not aware of any conflict or duplication.

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

No.

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

Yes.

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.

These rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

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

No complaints or comments were received.

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.

Not amending the existing rule set. Just seeking repromulgation as a result of the three-year sunset provision under MCL 484.2202(2).

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. Entire ruleset still needed.

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