



parties pursuant to contract (i.e., in their interconnection agreement (“ICA”)) approved by the Commission.

Unnecessary rules should be eliminated wherever possible. These Rules are not necessary because (1) the Commission has achieved its objective of creating a fully competitive marketplace for the provision of basic local exchange services; and (2) the minimum quality standards are fully addressed by the negotiation/arbitration process for ICAs under federal law (47 U.S.C. §§ 251/252) and state law (MCL 484.2201(1)).

**1. The Rules Are Not Needed Because Basic Local Exchange Services are Fully Competitive**

The underlying policy reason for the Rules is to support efficient competition in the provision of basic local exchange service.<sup>2</sup> That policy objective has been met and there is no longer a need for wholesale service quality rules for interconnection or UNEs.

There have been dramatic changes in the telecommunications marketplace in Michigan since the Rules were first adopted in 2013. Customers today have replaced the traditional wireline residential service of AT&T Michigan (and other ILECs) with facilities-based wireless and VoIP services. As a result, the overall number of traditional (*i.e.*, circuit-switched POTS) ILEC wireline residential customers has decreased substantially. For example, between 2005 and June 2019, the number of traditional ILEC residential wireline customers in Michigan decreased by over 85%, from 2,814,824 lines to 331,000 lines.<sup>3</sup> AT&T Michigan’s traditional residential retail lines in Michigan decreased by 87% between 2005 and June 2017. The decline has been more precipitous in recent years. In the 18 months from year-end 2015

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<sup>2</sup> Id.

<sup>3</sup> FCC Voice Telephony Services Report, Nationwide and State Level Data for 2008-Present. <https://www.fcc.gov/voice-telephone-services-report>. The FCC's Local Telephone Competition Report was used as source for December 2005 data. The FCC's Voice Telephone Services Report, which replaced the Local Telephone Competition Report after December 2013, was used as a source for data after that date.

through June 2017, for example, AT&T Michigan’s residential line count dropped 26% from what had been in service at the end of 2015.

Meanwhile, the number of wireless subscriber lines in Michigan has increased exponentially. There were 8,027,000 wireless subscriber lines as of December, 2008. That number increased to 10,628,000 as of June, 2019.<sup>4</sup> The number of Interconnected VOIP lines in Michigan as of June, 2019 was 1,938,000. That means there were over 12,000,000 wireless and VOIP access lines in Michigan in June, 2019. In sharp contrast, the number of traditional landlines at that time was only 894,000 – and most of those were business (not residential) lines.

Moreover, most Americans have cut the cord altogether and live in “wireless only” households. According to the Centers for Disease Control and Prevention’s National Center For Health Statistics, at the end of 2020 almost 66% of adult Americans lived in “wireless only” households.<sup>5</sup>

All told, by AT&T Michigan’s calculations, ILEC residential wireline service provides less than 5% of the voice access lines for Michigan households.

Given these remarkable statistics, it is beyond question that Michigan consumers choose between providers of wireless, Interconnected VOIP and traditional landline services and that the provision of basic local exchange service in Michigan is fully competitive. The Commission’s competitive policy objective has been met and there is no longer a need for wholesale service quality rules for interconnection and UNEs. The Rules are outdated and unnecessary and should not be re-adopted.

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<sup>4</sup> FCC Voice Telephony Services Report, Nationwide and State Level Data for 2008-Present. <https://www.fcc.gov/voice-telephone-services-report>

<sup>5</sup> Centers for Disease Control and Prevention’s National Center For Health Statistics, “Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December, 2020.” <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202108-508.pdf>

## **2. The Negotiation/Arbitration Process Supplants the Need for the Rules**

The Rules are duplicative and unnecessary because there are other mechanisms in place that address wholesale service quality.

AT&T Michigan and the other ILECs in Michigan are subject to the negotiation/arbitration process for ICAs under federal law. 47 U.S.C. §§ 251/252. So, if an interconnecting CLEC has an issue with the established performance measurements, or with the established remedy plan, that issue can be raised in ICA negotiations and in an arbitration petition filed with the Commission. The Commission is authorized by state law to resolve arbitration issues under federal law, so the Commission can address wholesale service quality issues in this manner. MCL 484.2201(1).

The Commission can also conduct wholesale performance measurements proceedings that apply to ILECs. That happened for AT&T Michigan in 1999. *In the matter of Ameritech Michigan's Submission on Performance Measures, Reporting and Benchmarks, Pursuant to the October 2, 1998 Order in Case No. U-11654, Case No. U-11830, Opinion and Order (May 27, 1999)*. In that proceeding, the Commission adopted performance measures and benchmarks to be used in reviewing the compliance of Ameritech Michigan (i.e., AT&T Michigan) with its obligation to provide nondiscriminatory access to its facilities and services, including unbundled network elements, to CLECs. Moreover, in an April 17, 2001 order in that proceeding, the Commission adopted an enforcement mechanism in the form of a remedy plan that provides cash compensation to CLECs. April 17, 2001 Order, Case No. U-11830, at 5. AT&T Michigan has operated pursuant to the orders in that proceeding since 1999 and continues to do so today.

Given these two, well-established and well-utilized means for Commission oversight of minimum quality standards for provision of UNEs and local interconnection, the Rules are duplicative and unnecessary.

The Commission appears to agree that these well-established processes are effective. In the Request for Rulemaking (“RFR”) filed by the Commission with the Michigan Office of Administrative Hearings and Rules (“MOAHR”) to renew these rules in 2021, the Commission states that “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.” RFR at 2 (MOAHR 2021-41 LR), included as Attachment B.

Likewise, the Commission’s Regulatory Impact Statement and Cost-Benefit Analysis (“RIS”) acknowledges that wholesale service quality for all ILECs is governed by the ICA negotiation/arbitration process and, for AT&T Michigan, is also governed by the Commission orders in Case No. U-11830:

A regulatory scheme currently exists independent of state intervention for the most part. Due to the myriad of services that an individual provider may offer and technical differences in provider networks, it is not feasible to craft a set of rules that can be applied to each individual provider. Providers are routinely involved in the processes of negotiating the purchase of UNEs and interconnection services and standards for such services. The state role in the process is dictated in Sections 251 and 252 of the FTA, which allow for providers to bring any issues that cannot be negotiated to the individual state commissions for resolution of the issue through arbitration. The Michigan Telecommunications Act and federal law also allows any disputes that result from an existing ICA to be brought to the Commission for resolution. Specific standards have also been established for Michigan’s largest ILEC and provider of wholesale UNEs, Michigan Bell Telephone Company, d/b/a AT&T Michigan, in Commission Docket No. U-11830, a proceeding which was opened in 1998 as a result of AT&T’s desire to offer interLATA long distance telephone service.

RIS at 7, included as Attachment A. Given the comprehensive regulatory scheme that exists independent of the Rules, the Rules are simply not needed. They are duplicative and can be eliminated without any diminution of the Commission's authority in this area.

The obsolescence of the Rules is further shown by the fact that the similarly-situated states<sup>6</sup> of Indiana, Ohio and Wisconsin do not have wholesale service quality rules. To be sure, AT&T Indiana, AT&T Ohio, and AT&T Wisconsin have wholesale service quality obligations, in ICAs and through the industry collaborative process for performance measurements/remedy plans that include those states. But ILECs in those states are not subject to duplicative, unnecessary rules that cover the same ground – as they are in Michigan.

The RIS asks, on page 3, whether the proposed Rules are “promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.” The answer is “no,” because the least burdensome alternative is to eliminate the Rules and to allow the comprehensive regulatory scheme that exists, independent of the Rules, to operate. This would be efficient for the government because it would avoid repetitive work for the Commission and MOAHR every three years, when they must review the Rules, go through the administrative steps required by the Administrative Procedures Act to re-promulgate rules, and conduct a docketed rule-making proceeding at the Commission. Eliminating this work would also assist industry by freeing AT&T Michigan and other companies from the unnecessary work of reviewing the Rules and participating in the rule-making procedure.

For all these reasons, AT&T Michigan recommends that the Commission embrace this opportunity to eliminate an unnecessary regulation and to lighten the regulatory load on the State

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<sup>6</sup> These states are identified by the Commission as similarly-situated to Michigan in the RIS at 2.

of Michigan and industry. Allowing the Rules to expire on April 19, 2022 would accomplish these highly beneficial policy goals.

Respectfully submitted this 19<sup>th</sup> day of October 2021.

AT&T Michigan

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**Docket No. U-21078**

**COMMENTS OF AT&T MICHIGAN**

**Attachment A**

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RIS)**

**Agency Information:**

**Department name:**

Licensing and Regulatory Affairs

**Bureau name:**

Public Service Commission

**Name of person filling out RIS:**

Leah Arendt

**Phone number of person filling out RIS:**

517-284-8093

**E-mail of person filling out RIS:**

ArendtL@michigan.gov

**Rule Set Information:**

**ARD assigned rule set number:**

2021-41 LR

**Title of proposed rule set:**

Unbundled Network Element and Local Interconnection Services

**Comparison of Rule(s) to Federal/State/Association Standard**

**1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.**

The Commission is not aware of any conflict with or duplication of state or federal regulations. There are no known comparisons to state or national licensing organization standards. The rules are based upon existing negotiation processes between incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) as provided for by Sections 251 and 252 of the Federal Telecommunications Act (FTA)—47 USC 251 and 252—and standards established through industry-wide proceedings that occur between the individual ILECs and participating CLECs.

**A. Are these rules required by state law or federal mandate?**

These rules are promulgated pursuant to MCL 484.2202(1)(c), which provides that the Commission shall “[p]romulgate rules under section 213 to establish and enforce quality standards for . . . (ii) [t]he provision of unbundled network elements and local interconnection services to providers that are used in the provision of basic local exchange service.”

**B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.**

These rules do not exceed national or regional compliance requirements or other standards.

**2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.**

Similarly situated states are Illinois, Indiana, Ohio, and Wisconsin. These rules do not exceed the standards in these states. The rules are based upon existing negotiation processes between ILECs and CLECs as provided for by Sections 251 and 252 of the FTA—47 USC 251 and 252—and standards established through industry-wide proceedings that occur between the individual ILECs and participating CLECs. All states are required to comply with Sections 251 and 252 of the FTA.

**A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.**

These rules do not exceed standards in similarly situated states.

**3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.**

There are no known conflicts, duplications, or overlaps with other legal requirements.

**A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.**

The Commission is not aware of any conflict with or duplication of state or federal regulations. There are no known comparisons to state or national licensing organization standards. The rules are based upon existing negotiation processes between ILECs and CLECs as provided for by Sections 251 and 252 of the FTA—47 USC 251 and 252—and standards established through industry-wide proceedings that occur between the individual ILECs and participating CLECs.

**4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.**

MCL 24.232(8) does not apply.

**5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.**

The proposed rules do not impose standards more stringent than those required by federal law.

**Purpose and Objectives of the Rule(s)**

**6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.**

These rules specify the minimum quality standards for provision of unbundled network elements (UNEs) and local interconnection services applicable to ILECs interconnecting with CLECs, to enable efficient competition in the marketplace in the provision of basic local exchange service. In brief, the rules (specifically R 484.74) provide that the minimum quality standards for the provision of UNEs and local interconnection by an ILEC shall be either the standards set out and approved by the Commission in an industry-wide proceeding or the standards adopted by the interconnecting parties pursuant to contract (in their interconnection agreement (ICA)) approved by the Commission. The rules are crafted to apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs do not offer UNEs on a wholesale basis, and the few CLECs currently 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.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.**

Creating an intricate set of rules for the provision of unbundled network elements and local interconnection services has been left largely unnecessary due to market forces and the effective negotiation processes between providers already in existence.

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

When such processes already exist and allow for certainty, there is no need for additional regulatory intervention at this time. There is presently no known reason to believe there will be any negative effects from continuing promulgation of these rules.

**C. What is the desired outcome?**

The desired outcome is that the parties will continue to negotiate agreements in good faith with little regulatory oversight. There is presently no known reason to believe there will be any negative effects from continuing promulgation of these rules. The Commission proposes to re-promulgate the identical rules.

**7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

These rules specify the minimum quality standards for provision of UNEs and local interconnection services applicable to ILECs interconnecting with CLECs, to enable efficient competition in the marketplace in the provision of basic local exchange service. In brief, the rules (specifically R 484.74) provide that the minimum quality standards for the provision of UNEs and local interconnection by an ILEC shall be either the standards set out and approved by the Commission in an industry-wide proceeding or the standards adopted by the interconnecting parties pursuant to contract (in their ICA) approved by the Commission. The rules are crafted to apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs do not offer UNEs on a wholesale basis, and the few CLECs currently 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. The rules have already been in place since 2010, thus the frequency of the targeted behavior should not change, since the Commission proposes to re-promulgate the rules with no changes.

**A. What is the rationale for changing the rules instead of leaving them as currently written?**

There are no changes to the rules.

**8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

These rules specify the minimum quality standards for provision of UNEs and local interconnection services applicable to ILECs interconnecting with CLECs, to enable efficient competition in the marketplace in the provision of basic local exchange service and to benefit end users with greater choices. In brief, the rules (specifically R 484.74) provide that the minimum quality standards for the provision of UNEs and local interconnection by an ILEC shall be either the standards set out and approved by the Commission in an industry-wide proceeding or the standards adopted by the interconnecting parties pursuant to contract (in their ICA) approved by the Commission. The rules are crafted to apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs do not offer UNEs on a wholesale basis, and the few CLECs currently 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.

**9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

There are none.

## **Fiscal Impact on the Agency**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

**10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).**

There is no foreseen additional cost to the Commission, as this ruleset will result in no change to the existing processes for the provision of UNEs and local interconnection services. Current staffing levels are sufficient to monitor compliance with these rules.

**11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.**

There is no foreseen additional cost to the Commission, as this ruleset will result in no change to the existing processes for the provision of UNEs and local interconnection services. Current staffing levels are sufficient to monitor compliance with these rules.

**12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.**

There is no additional burden to individuals. These rules codify the existing processes for negotiating ICAs between providers of basic local exchange service. These rules have been in place for several years.

**A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.**

There are no additional burdens placed on individuals.

## **Impact on Other State or Local Governmental Units**

**13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.**

There are no increase or decrease in revenues to other state or local governmental until as a result of these rules.

**14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.**

There are no programs, services, duties, or responsibilities imposed upon any city, town, village, or school district by the rules.

**A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.**

There are no actions that governmental units must take to be in compliance with the rules.

**15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.**

This is not necessary.

## **Rural Impact**

**16. In general, what impact will the rules have on rural areas?**

Generally, there will be no impact on rural areas.

**A. Describe the types of public or private interests in rural areas that will be affected by the rules.**

No public or private interests in rural areas will be affected.

## **Environmental Impact**

**17. Do the proposed rules have any impact on the environment? If yes, please explain.**

No, the proposed rules will not have any impact on the environment.

## **Small Business Impact Statement**

**18. Describe whether and how the agency considered exempting small businesses from the proposed rules.**

The Commission did not consider exempting small businesses because there is no disproportionate impact on small businesses. See, MCL 24.240(1). Additionally, all ILECs are subject to Sections 251 and 252 of the FTA. This ruleset complements federal law and does not impose standards more stringent than those required by federal law. See, MCL 24.240(5).

**19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.**

There is no disproportionate impact on small businesses.

**A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.**

There are approximately 110 small business basic local exchange service providers that are affected by these rules. These rules indicate that performance standards shall be either the standards set out in an industry-wide proceeding before the Commission or the standards adopted by the interconnecting parties pursuant to their ICA, which is voluntarily negotiated, and later approved by the Commission. The only industry-wide proceeding, 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. The rules do not impose a new regulatory scheme. This allows for regulatory certainty for both ILECs and CLECs in the continuation of their operations.

**B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.**

There are no differing compliance or reporting requirements or timetables in these rules.

**C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.**

There are no differing compliance or reporting requirements in these rules.

**D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.**

These performance standards were not designed to replace design or operation standards.

**20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.**

There are no disproportionate impacts.

**21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.**

There are no reporting requirements in these rules.

**22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.**

The businesses exclusively affected by these rules are providers of basic local exchange service. There are no additional costs incurred as the regulated businesses, specifically providers engaged in providing and obtaining UNEs and local interconnection services used in the provision of basic local exchange service, should already be in compliance under federal law.

**23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.**

The businesses exclusively affected by these rules are providers of basic local exchange service. There are no additional costs incurred as the regulated businesses, specifically providers engaged in providing and obtaining UNEs and local interconnection services used in the provision of basic local exchange service, should already be in compliance under federal law.

**24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.**

The businesses exclusively affected by these rules are providers of basic local exchange service. There are no additional costs incurred as the regulated businesses, specifically providers engaged in providing and obtaining UNEs and local interconnection services used in the provision of basic local exchange service, should already be in compliance under federal law.

**25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.**

There is no cost to the agency.

**26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.**

The rules are crafted to apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs do not offer UNEs on a wholesale basis, and the few CLECs currently 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. In the absence of all quality standards, the quality of telecommunications service would be expected to deteriorate. The rules do not impose a new regulatory scheme. The rules allow for regulatory certainty for both large and small providers in the operations of their businesses.

**27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.**

The Telecommunications Division Staff commenced an informal comment process in March 2021 with representatives of the affected ILECs and CLECs regarding whether these rules should be re-promulgated, and, if so, whether these rules should be revised. Small business-ILECs and CLECs were invited to participate in this process and did not propose any changes to the ruleset at this time.

**A. If small businesses were involved in the development of the rules, please identify the business(es).**

Small business-ILECs and CLECs were invited to participate in this process.

**Cost-Benefit Analysis of Rules (independent of statutory impact)**

**28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.**

The Commission is proposing to re-promulgate the existing rules. There would be no additional costs incurred by providers to comply with these rules, as these rules are based on the existing negotiation and arbitration processes as provided for in Sections 251 and 252 of the FTA that allows a competitive carrier to purchase UNEs and local interconnection services from an ILEC.

**A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.**

These rules are designed specifically for providers engaged in providing and obtaining UNEs and local interconnection services used in the provision of basic local exchange service.

**B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.**

The rules do not impose a new regulatory scheme and there will be no additional costs imposed as a result of these rules. This allows for regulatory certainty for providers in continuation of their operations. Additionally, the rules are crafted to apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs do not offer UNEs on a wholesale basis and the few CLECs currently 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.

**29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.**

There are no such statewide costs applicable to individuals.

**A. How many and what category of individuals will be affected by the rules?**

These rules are applicable to providers of basic local exchange service.

**B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?**

These rules are applicable to providers of basic local exchange service.

**30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.**

These rules are applicable to providers of basic local exchange service. As these rules align with federal requirements, compliance with these rules should not impose new costs for local exchange providers. Providers' costs will also remain competitive with access to UNEs.

**31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.**

These rules specify the minimum quality standards for provision of UNEs and local interconnection services applicable to ILECs interconnecting with CLECs, to enable efficient competition in the marketplace in the provision of basic local exchange service. In brief, the rules (specifically R 484.74) provide that the minimum quality standards for the provision of UNEs and local interconnection by an ILEC shall be either the standards set out and approved by the Commission in an industry-wide proceeding or the standards adopted by the interconnecting parties pursuant to contract (in their ICA) approved by the Commission. The rules are crafted to apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs do not offer UNEs on a wholesale basis, and the few CLECs currently 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. The rules have already been in place since 2010, thus the frequency of the targeted behavior should not change, since the Commission proposes to re-promulgate the rules with no changes.

**32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.**

The proposed rules will not impact business growth or job creation in Michigan.

**33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.**

There are no individuals or businesses who will be disproportionately affected by the rules.

**34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.**

The Commission relied on staff from the Telecommunications Division and the Regulatory Affairs Division in compiling this RIS. The proposed rules are mandated by MCL 484.2202.

**A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.**

Estimates and assumptions were made on the basis of information in the possession of those employees of the Telecommunications Division and the Regulatory Affairs Division.

## **Alternative to Regulation**

**35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.**

A regulatory scheme currently exists independent of state intervention for the most part. Due to the myriad of services that an individual provider may offer and technical differences in provider networks, it is not feasible to craft a set of rules that can be applied to each individual provider. Providers are routinely involved in the processes of negotiating the purchase of UNEs and interconnection services and standards for such services. The state role in the process is dictated in Sections 251 and 252 of the FTA, which allow for providers to bring any issues that cannot be negotiated to the individual state commissions for resolution of the issue through arbitration. The Michigan Telecommunications Act and federal law also allow any disputes that result from an existing ICA to be brought to the Commission for resolution. Specific standards have also been established for Michigan's largest ILEC and provider of wholesale UNEs, Michigan Bell Telephone Company, d/b/a AT&T Michigan, in Case No. U-11830, a proceeding which was opened as a result of AT&T's desire to offer interLATA long distance telephone service. The standards established in Case No. U-11830 are modified periodically during industry collaboratives and include the AT&T Midwest ILEC affiliates; staff from MI, IL, IN, OH and WI state utility commissions; and participating CLECs. The standards established or modified during these collaboratives are then approved by the individual state commissions and can be incorporated into ICAs that AT&T has negotiated with the individual CLECs.

**A. Please include any statutory amendments that may be necessary to achieve such alternatives.**

The Commission is unaware of any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

**36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

Current laws allow market-based mechanisms to be at work in determining the content of the performance standards negotiated in an ICA under Sections 251 and 252 of the FTA between ILECs and CLECs.

The rules are crafted to apply to large ILECs in their offering of wholesale UNEs and interconnection. Small ILECs do not offer UNEs on a wholesale basis, and the few CLECs currently 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 AT&T Michigan and participating CLECs before the Commission.

**37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.**

The alternative of allowing the rules to lapse without taking action was considered. Based on stakeholder input, staff does not advocate this position at this time.

**Additional Information**

**38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

There are none. The method of complying with the rules is included in the rules themselves. There are no separate instructions.

**Docket No. U-21078**

**COMMENTS OF AT&T MICHIGAN**

**Attachment B**

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

611 W. Ottawa Street  
Lansing, MI 48909  
Phone: 517-335-8658 Fax: 517-335-9512

**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:**

Leah Arendt

**E-mail of person filling out RFR:**

ArendtL@michigan.gov

**Phone number of person filling out RFR:**

517-284-8093

**Address of person filling out RFR:**

7109 W Saginaw Hwy, Lansing, MI 48917

**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