

CHAPTER 21. INTERCONNECTION AGREEMENTS FOR TELECOMMUNICATIONS SERVICE PROVIDERS

Subchapter D. DISPUTE RESOLUTION.

§21.97. Approval of Negotiated Agreements.

- (a) **Application.** Any agreement adopted by negotiation shall be submitted to the commission for review and approval and may be submitted by any one of the parties to the agreement, provided that all parties to the agreement seek approval. The parties requesting approval shall submit an application for approval of the agreement with the commission's filing clerk and must serve a copy on each of the parties to the agreement. Any agreement submitted to the commission for approval is a public record and no portion of the agreement may be treated as confidential information under §21.77 of this title (relating to Confidential Material). An application for approval of a negotiated agreement shall include:
- (1) a complete and unredacted copy of the negotiated agreement;
 - (2) the name, address, and telephone number of each of the parties to the agreement;
 - (3) an affidavit by each of the signatory parties explaining how the agreement is consistent with the public interest, convenience, and necessity, including all relevant requirements of state law; and
 - (4) to the extent that an agreement adopted by negotiation establishes a new or different price for an unbundled network element, combination of unbundled network elements, or resold service, a verified statement that all certificated carriers will be notified of such price either through web posting, mass mailing or electronic mail within ten days of the date the ruling becomes final.
- (b) **Notice.** The presiding officer may require the parties to the agreement to provide reasonable notice of the filing of the agreement. The presiding officer may require publication of the notice in addition to direct notice to affected persons. At the presiding officer's discretion, notice may be provided by direct notice, electronic mail or a web posting, provided all affected persons are made aware of the website. The presiding officer shall determine the appropriate scope and wording of the notice to be provided.
- (c) **Proceedings.**
- (1) **Administrative review.** The commission delegates its authority to the presiding officer to administratively approve or deny any negotiated interconnection agreements. Notice of approval or denial shall be issued within 15 days of the filing of the application. If a notice of denial is filed, the notice of denial without prejudice shall include written findings indicating any deficiencies in the agreement. An application considered under this section shall be administratively reviewed by the presiding officer unless the presiding officer determines that a formal review of the application is appropriate pursuant to paragraph (2) of this subsection. Additionally, at the presiding officer's discretion, approval can be referred directly to the commission should the presiding officer determine that there is an issue(s) more appropriately decided by the commission that does not necessarily require formal resolution.
 - (2) **Formal resolution.** If the presiding officer determines that an application for approval of a negotiated agreement should not be approved administratively, a formal review may be conducted and may require formal resolution under §21.95 of this title (relating to Compulsory Arbitration) or §21.125 of this title (relating to Formal Dispute Resolution Proceeding), as appropriate.
- (d) **Comments.** An interested person may file comments on the negotiated agreement by filing the comments with the commission's filing clerk and serving a copy of the comments on each party to the agreement within five days of filing of the application. The comments shall include the following information:
- (1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;

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§21.97(d) continued

- (2) specific allegations that the agreement, or some portion thereof:
 - (A) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - (B) is not consistent with the public interest, convenience, and necessity; or
 - (C) is not consistent with other requirements of state law; and
 - (3) the specific facts upon which the allegations are based.
- (e) **Issues.** In any proceeding conducted by the commission pursuant to subsection (c)(2) of this section, the commission will consider only evidence and argument concerning whether the agreement, or some portion thereof:
- (1) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - (2) is not consistent with the public interest, convenience, and necessity; or
 - (3) is not consistent with other requirements of state or federal law.
- (f) **Authority of presiding officer.** The presiding officer has broad discretion in conducting the formal resolution, including the authority given to a presiding officer pursuant to §22.202 of this title (relating to Presiding Officer) and pursuant to §21.95 of this title (relating to Compulsory Arbitration). Discovery shall be governed by §21.95(k) of this title. In addition, in a formal resolution proceeding, the presiding officer has broad discretion to ask clarifying questions and to direct a party or a witness to provide information, at any time during the proceeding, as set out in §21.95(q) of this title.
- (g) **Filing of agreement.** Once the presiding officer approves the agreement, then the parties to the agreement shall file two copies, one unbound, of the complete agreement with the filing clerk within 15 working days of the presiding officer's decision. The copies shall be clearly marked with the control number assigned to the proceeding and the language "Complete interconnection agreement as approved (or modified and approved) on (insert date)." Also within 15 working days of the approval of the agreement, the incumbent local exchange company (ILEC) shall post notice of the approved interconnection agreement on its website in a separate, easily identifiable area of the website. The ILEC website shall provide a complete list of approved interconnection agreements, listed alphabetically by carrier, including docket numbers and effective dates. In addition, the ILEC website shall provide a direct link to the commission's website.