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**IDAPA 31
TITLE 42
Chapter 01**

**31.42.01 - THE IDAHO PUBLIC UTILITIES COMMISSION RULES FOR
TELEPHONE CORPORATIONS SUBJECT TO THE RULES OF
THE IDAHO PUBLIC UTILITIES COMMISSION UNDER
THE TELECOMMUNICATIONS ACT OF 1988
(THE TITLE 62 TELEPHONE CORPORATION RULES)**

000. LEGAL AUTHORITY (Rule 0).

These rules are adopted under the general legal authority of the Telecommunications Act of 1988, as amended, chapter 6, title 62, Idaho Code, and the specific authority of Sections 62-602, 62-606, 62-611, 62-614, 62-615, 62-616 and 62-622, Idaho Code. (8-10-98)

001. TITLE AND SCOPE (Rule 1).

The name of this chapter is "Rules for Telephone Corporations Subject to the Regulation of the Idaho Public Utilities Commission Under the Telecommunications Act of 1988", (The Title 62 Telephone Corporation Rules). This chapter has the following scope: These rules are adopted by the Idaho Public Utilities Commission in its administration of the Telecommunications Act of 1988 to provide rules under and to give information concerning administration of that Act to telephone corporations subject to that Act and to consumers of the services of those telephone corporations. (7-1-93)

002. WRITTEN INTERPRETATIONS--AGENCY GUIDELINES (Rule 2).

For rulemakings conducted before July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the order of proposed rulemaking and review of comments submitted in the order adopting these rules are maintained in the files of the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. The Commission Secretary may be contacted in writing at the Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074, or may be reached by telephone at (208) 334-0300. For rulemakings conducted after July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. (7-1-93)

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals under the regulatory fee portion of these rules are conducted under the statutory provisions of Sections 61-1001 et seq., Idaho Code. There are no administrative appeals from the remaining rules. (7-1-93)

004. PUBLIC RECORDS ACT COMPLIANCE (Rule 4).

All correspondence with regard to these rules is a public record subject to inspection, examination and copying. (7-1-93)

005. DEFINITIONS (Rule 5).

The following terms are defined in paragraphs (1) through (10) of Section 62-603, Idaho Code, or are defined in these rules based upon analogies to those definitions: (7-1-93)

01. Basic Local Exchange Service. "Basic local exchange service" means the provision of access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within a local exchange area. See Section 62-603(1), Idaho Code. (7-1-93)

02. Basic Local Exchange Rate. "Basic local exchange rate" means the monthly charge imposed by a telephone corporation for basic local exchange service, but does not include any charges resulting from action by a federal agency or taxes or surcharges imposed by a governmental body that are separately itemized and billed by a telephone corporation to its customers. See Section 62-603(2), Idaho Code. (7-1-93)

03. Business Telephone Service. "Business telephone service" means telecommunication service that is not residential telephone service. (7-1-93)

04. Local Exchange Area. "Local exchange area" means a geographic area encompassing one (1) or

more local communities as described in maps, tariffs or rate schedules filed with and approved by the Commission, or basic local exchange rates rather than message telecommunication service rates apply. (7-1-93)

05. Local Exchange Company (LEC). "Local exchange company" (LEC) is a telephone corporation providing local exchange service to customers in Idaho. (7-1-93)

06. Local Exchange Service. "Local exchange service" means the provision of local exchange access lines to residential or business customers with the associated transmission of two-way interactive switched voice-grade transmission within a local exchange area. (7-1-93)

07. Message Telecommunication Service (MTS). "Message Telecommunication service (MTS)" means the transmission of two-way interactive switched voice communication between local exchange areas for which charges are made on a per-unit basis, not including wide area telecommunications service (WATS), or its equivalent, or individually negotiated contracts for telecommunication services. See Section 62-603(6), Idaho Code. (7-1-93)

08. MTS/WATS Company. "MTS/WATS company" means a telephone corporation providing Idaho intrastate MTS or WATS services within the definition of Section 62-603(6), Idaho Code. (7-1-93)

09. Residential Customers. "Residential customers" shall mean persons to whom telecommunication services are furnished at a dwelling and which are used for personal or domestic purposes and not for business, professional or institutional purposes. See Section 62-603(a), Idaho Code. (7-1-93)

10. Residential Telephone Service. "Residential telephone service" means telecommunication service furnished and maintained at a dwelling primarily for personal or domestic purposes and not for business, professional or institutional purposes, i.e., service provided to residential customers as defined in Section 62-603(7), Idaho Code. (7-1-93)

11. Small Business Customers. "Small business customers" shall mean a business entity, whether an individual, partnership, corporation or any other business form, to whom telecommunication services are furnished for occupational, professional or institutional purposes, and which business entity does not subscribe to more than five (5) access lines within a building. See Section 62-603(a), Idaho Code. (7-1-93)

12. Telecommunication Service. "Telecommunication service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, light waves, or other electromagnetic means (which includes message telecommunication service and access service), which originate and terminate in Idaho, and are offered to or for the public, or some portion thereof, for compensation. "Telecommunication service" does not include the one-way transmission to subscribers of: (7-1-93)

a. Video programming; or (7-1-93)

b. Other programming service, and subscriber interaction, if any, which is required for the selection of such a video programming or other programming service, surveying, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), and such services shall not be subject to the provisions of Title 61, Idaho Code, or Title 62, Idaho Code. See Section 62-603(9), Idaho Code. (7-1-93)

13. Telephone Corporation. "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing telecommunication services for compensation within Idaho. Telephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of: (7-1-93)

a. Video programming; or (7-1-93)

b. Other programming service, and subscriber interaction, if any, which is required for the selection of

such a video programming or other programming service or surveying are exempt from any requirement of this chapter or Title 61, Idaho Code, in the provision of such services. See Section 62-603(10), Idaho Code. (7-1-93)

14. WATS. "WATS" means wide-area telecommunications service. Questions of fact under the Act whether services, rates, areas, customers, or corporations fall within or without any of these definitions are resolved on a case-by-case basis in proceedings before the Commission, not by rulemaking. (7-1-93)

006. CITATION (Rule 6).

The official citation of these rules is IDAPA 31.42.01.000 et seq. For example, this rule is cited as IDAPA 31.42.01.006. In documents submitted to the Commission or issued by the Commission, these rules may be cited by their short title of Title 62 Rules (T62R) and the parenthetical rule number. For example, this rule may be cited as T62R 6. (7-1-93)

007. EFFECTIVE DATE--HISTORY OF RULES (Rule 7).

The Commission adopted predecessors to these rules in 1991. They were most recently codified at IDAPA 31.N.1, -.2, and -.4. They were readopted and reformatted by rulemaking decision in Docket Number 31-4201-9301, effective July 1, 1993. The history of rulemaking proceedings preceding the initiation of the publishing of the Idaho Administrative Bulletin and the Idaho Administrative Code is available from the Commission Secretary. (7-1-93)

008. -- 100. (RESERVED).

101. PROCEEDINGS UNDER THE TELECOMMUNICATIONS ACT OF 1988 (Rule 101).

All proceedings under the Telecommunications Act of 1988 will be conducted pursuant to the procedures of the Public Utilities Law, Chapters 6 Title 61, Idaho Code, and the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. See Section 62-619, Idaho Code. (7-1-93)

102. UNIVERSAL SERVICE FUND RULES (Rule 102).

The Commission's rules for Universal Service Fund established by Section 62-610, Idaho Code, of the Telecommunications Act of 1988 are found at IDAPA 31.45.01.000 et seq. (7-1-93)

103. RULES ADDRESSING RESOLUTION OF SUBSCRIBER COMPLAINTS (Rule 103).

The Commission has authority under Section 62-616, Idaho Code, to investigate and resolve various kinds of complaints made by subscribers of telecommunication services subject to the provisions of the Telecommunications Act of 1988. It has exercised this authority with regard to subscriber inquiries or complaints about these services by the adoption of the Telephone Customer Relations Rules, IDAPA 31.41.01.000 et seq., and by providing consumer assistance for individual subscriber inquiries and informal complaints. In addition, subscribers may file formal complaints against the providers of telecommunication services subject to the Telecommunications Act of 1988 pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. The Commission has further exercised its authority under Section 62-616, Idaho Code, in Rules 201 through 300 by requiring the filing of price lists or tariffs in aid of resolving subscriber complaints. (7-1-93)

104. -- 200. (RESERVED).

201. APPLICABILITY OF RULE (Rule 201).

Every telephone corporation subject to the Telecommunications Act of 1988 is required by Sections 62-604(1)(a), 62-606 or this Commission's implementation of Section 62-616, Idaho Code to file the information required by Rules 201 through 203. (7-1-93)

202. INFORMATION TO BE INCLUDED IN NOTICE TO COMMISSION (Rule 202).

01. Notice To Be Filed. All telephone corporations described in Section 62-604(1)(a), Idaho Code, are required by Section 62-604(1)(b), Idaho Code, to file a notice with this Commission before offering telecommunications services intrastate in Idaho. This notice must be filed by all telephone corporations, except mutual nonprofit or cooperative corporations, that did not on January 1, 1988, hold a certificate of public convenience and necessity issued by the Commission and that do not provide basic exchange service. Telephone corporations that must file this notice include MTS or WATS companies, resellers of MTS or WATS services, operator service providers, etc., not already certified by the Commission under Idaho Code Title 61, but this sentence does not exclude

other categories of telephone corporations from this filing requirement. (7-1-93)

02. Contents Of Notice. The notice must contain the following information: (7-1-93)

a. The name of the telephone corporation and the business name of the telephone corporation if it does business under an assumed business name; (7-1-93)

b. The United States and electronic (if available) mailing addresses of the principal place of business of the telephone corporation, and, if there is a principal place of business in Idaho, the addresses of the principal place of business in Idaho; (4-5-00)

c. An agent in Idaho for service of process by the Commission in the state of Idaho including the agent's United States and electronic (if available) mailing addresses; (4-5-00)

d. A description of the telecommunication services offered by the telephone corporation and a map of the area(s) served by the telephone corporation or in which the telephone corporation offers or intends to offer service; (7-1-93)

e. Address(es) and toll-free telephone number(s) for personnel responsible for handling consumer inquiries, complaints, etc., by the public; and (7-1-93)

f. Name(s), United States mail and electronic (if available) addresses, and telephone number(s) of person(s) designated as a contact for the Commission Staff in resolving consumer complaints, responding to consumer inquiries, and answering matters concerning rates and price lists or tariffs. These notices must be updated at least annually, between December 1 and December 31 each year, and whenever there is a change in the telephone corporation's name, address, or agent for service of process. The Commission Secretary will provide forms for these notices. (4-5-00)

03. Service. Notices, orders, rules, complaints and other documents issued by the Commission may be served by United States or electronic mail on the agent for service of process listed pursuant to Rule 202.02.c. of this rule. This service constitutes due and timely notice to the telephone corporation, and no further service is necessary to bind the telephone corporation. Telephone corporations obligated by statute to file the notice required by Rule 202.02 of this rule, but failing to do so, are bound by the Commission's motions, orders, rules, complaints and other documents upon their filing with the Commission Secretary. (4-5-00)

203. PRICE LISTS OR TARIFF FILINGS (Rule 203).

01. Price Lists Or Tariffs. All telephone corporations subject to the Telecommunications Act of 1988 are required by Section 62-606, Idaho Code, or by this Commission's implementation of Section 62-616, Idaho Code, to file for informational purposes price lists or tariffs that reflect the availability, price, terms and conditions of all telecommunication services not offered under Title 61 of the Idaho Code. The price lists or tariffs must: (7-1-93)

a. Contain a title page identifying the telephone corporation; (7-1-93)

b. Show on each page the name of the company, the date of issuance and an effective date for their rates; (7-1-93)

c. Contain a table of contents; (7-1-93)

d. Number pages and paragraphs describing the services; (7-1-93)

e. Show when pages or services have been cancelled or revised; and (7-1-93)

f. Provide a mechanism (e.g., page revision numbers) for tracing additions, deletions or amendments to the price list or tariff. The price lists or tariffs must include schedules of rates for each type of service generally made available to subscribers, showing the effective date of all rates and charges and listing any rules and regulations associated with provision of the services. Surcharges, discounts, hours of availability, minimum service periods, and

other conditions of service must be detailed. (7-1-93)

02. Changes To Price Lists Or Tariffs. When required by Section 62-606, Idaho Code, changes to price lists or tariffs are effective not less than ten (10) days after filing with the Commission and giving public notice to affected customers except for charges for non-recurring services quoted directly to the customer when an order is placed or price reductions, both of which may take effect immediately with filing. Changes to price lists or tariffs must be accompanied by a letter of transmittal stating how affected customers received notice of the changes to price lists or tariffs. See Telephone Customer Information Rule 102.04, IDAPA 31.41.02.102.04. (7-1-93)

03. Tracking Price Lists Or Tariffs. Each revision to a price list or tariff must be accompanied by a cover letter summarizing the changes to the price list or tariff, specifically referring to existing tariff pages affected by the new price list or tariff and stating whether new pages replace, are in addition to, or delete existing pages. The Commission Secretary may adopt a system to number each company's changes to its price lists or tariffs. (7-1-93)

204. FORM AND NUMBER OF COPIES OF PRICE LIST OR TARIFF (Rule 204)

Price lists or tariffs filed pursuant to Section 62-606, Idaho Code, or by this Commission's implementation of Section 62-616, Idaho Code, must have a blank space approximately three by one and one-half inches (3" x 1-1/2") square provided for the Commission's filing stamp in the upper right or lower right corner of each schedule filed. An original and three copies of the price list or tariff must be filed with the Commission. The Commission stamps its indication that the price list or tariff has been filed in the space provided on each copy of the price list or tariff, placing the original in its files and returning one copy to the telephone corporation. (7-1-93)

205. -- 300. (RESERVED).

RULES 301 THROUGH 400 - REGULATORY FEES

301. STATUTORY REQUIREMENT TO PAY REGULATORY FEES (Rule 301).

Section 62-611, Idaho Code, requires telephone corporations offering services subject to the provisions of the Telecommunications Act of 1988 to pay to the Commission a special regulatory fee to be determined by the Commission, pursuant to the procedures set forth in Chapter 10, Title 61, Idaho Code, in the amount necessary to defray the Commission's expenses in supervising and regulating telephone corporations pursuant to the Telecommunications Act of 1988. Those fees are in addition to fees paid by the telephone corporation in connection with telecommunications services offered under Title 61, Idaho Code. (7-1-93)

302. PAYMENT OF REGULATORY FEES (Rule 302).

01. Returns--Forms And Preparation--Time Of Filing And First Fee Payment. Pursuant to Sections 62-611 and 61-1003, Idaho Code, on or before April 1 of each year, each Title 62 telephone corporation must file with the Commission a return verified by an officer or agent of the telephone corporation showing its gross operating revenues from its intrastate Title 62 telecommunications business in Idaho for the preceding calendar year. The Commission supplies forms for this purpose. The Commission may audit the Title 62 telephone corporation to verify information contained in the form returned to the Commission. (7-1-93)

02. Determination--Maximum And Minimum Fees. Pursuant to Sections 62-611 and 61-1004, Idaho Code, the Commission determines the assessment against gross operating revenues derived from intrastate business of Title 62 telephone corporations for the preceding calendar year. The maximum fee payable does not exceed three-tenths of one percent (.3%) of the gross operating revenues derived from intrastate Title 62 telecommunications services, but in no case is the fee less than fifty dollars (\$50). (7-1-93)

03. Payment Of Fees--Time And Manner--Procedure On Nonpayment. On or before May 1 of each year, the Commission notifies each Title 62 telephone corporation of the amount of its fee for the following fiscal year beginning July 1, computed as provided by Sections 62-611 and 61-1004, Idaho Code. The fee must be paid to the Commission in equal semiannual installments on or before the 15th days of November and May in each fiscal year. If payment is not made on or before those dates, the installments due will bear interest at the rate of six percent

(6%) per annum until the full amount of the installment is paid. On failure, refusal or neglect of any Title 62 telephone corporation to pay this fee, the Attorney General may commence an action in the name of the State to collect the fee.

(7-1-93)

04. Objections To Fees Assessed--Procedure. If any Title 62 telephone corporation claims the assessment made against it is erroneous, excessive, unlawful or invalid, the corporation must file with the Commission its written objection to the assessment, setting out specifically the grounds upon which it claims the assessment is erroneous, excessive, unlawful or invalid. This filing must be made before the time specified for payment of the first installment of the assessment against it. The Commission, upon receipt of any such objection, processes it under the procedures prescribed by Section 61-1007, Idaho Code. (7-1-93)

303. -- 400. (RESERVED).

**RULES 401 THROUGH 500 - ACCESS AND
INTERCONNECTION STANDARDS IN
NEW TELECOMMUNICATIONS DEVELOPMENT AREAS**

401. DEFINITIONS (Rule 401).

As used in Rules 401 through 410:

(8-10-98)

01. Facilities-Based Competitor. "Facilities-based competitor" means a non-incumbent telephone corporation that offers basic local exchange service exclusively over its own telecommunications service facilities or predominantly over its own facilities in combination with the resale of telecommunications services of another carrier. (8-10-98)

02. Incumbent Telephone Corporation. "Incumbent telephone corporation" means a telephone corporation or its successor which was providing basic local exchange service on or before February 8, 1996. (8-10-98)

03. Network Element. "Network element" means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service. (8-10-98)

04. New Telecommunications Development Area. "New telecommunications development area" means a geographic area in which no telephone corporation, including a municipal, cooperative, or mutual non-profit telephone company, has facilities capable of providing basic local exchange service to customers. (8-10-98)

05. Non-Incumbent Telephone Corporation. "Non-incumbent telephone corporation" means a telephone corporation which was not providing basic local exchange service on or before February 8, 1996. (8-10-98)

06. Telephone Corporation. "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing basic local exchange services for compensation within this state, except municipal, cooperative, or mutual nonprofit telephone companies, or telephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are not included. (8-10-98)

07. Unbundled Element. "Unbundled element" means a single network element that a competitor telephone corporation may lease on its own, or if the competitor telephone corporation wishes, in combination with other elements. (8-10-98)

402. INTERCONNECTION STANDARDS (Rule 402).

If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall provide interconnection with its network for the facilities and equipment of any telephone corporation requesting the transmission and routing of telephone exchange service. (8-10-98)

403. EXCHANGE ACCESS QUALITY STANDARDS (Rule 403).

If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall provide exchange access at any technically feasible point within its network that is equal in quality to that provided to itself or to any subsidiary, affiliate, or any other party to which it provides interconnection. (8-10-98)

404. UNBUNDLED ACCESS STANDARDS (Rule 404).

If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall provide nondiscriminatory access to network elements to any telephone corporation requesting provision of a telecommunications service on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and non-discriminatory and shall provide such unbundled network elements in a manner that allows requesting telephone corporations to combine such elements in order to provide basic local exchange service. (8-10-98)

405. RESALE STANDARDS (Rule 405).

If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall offer any telecommunications service for resale at wholesale rates that it provides at retail to subscribers who are not telephone corporations and shall not prohibit or impose unreasonable or discriminatory conditions or limitations on the resale of such telecommunications service. (8-10-98)

406. PHYSICAL COLLOCATION STANDARDS (Rule 406).

Subject to Rule 407, if a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall provide for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the facilities-based competitor, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. (8-10-98)

407. EXEMPTION FOR VIRTUAL COLLOCATION (Rule 407).

If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it may provide for virtual collocation if it demonstrates to the commission that physical collocation is not practical for technical reasons or because of space limitations. (8-10-98)

408. VOLUNTARY NEGOTIATION (Rule 408).

Upon receiving a request for interconnection, services, or network elements, a facilities-based competitor that built facilities to provide basic local service within a new telecommunications development area may negotiate and enter into a binding agreement with the requesting telephone corporation without regard to the standards set forth in Rules 402 through 407. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement and shall be submitted to the commission for approval. Any party negotiating an agreement under this Rule may, at any point in the negotiation, petition the commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation. (8-10-98)

409. ARBITRATION. (Rule 409).

No earlier than ninety (90) days after the date on which a facilities-based competitor receives a request for negotiation pursuant to Rule 408, any party to the negotiation may petition the commission to arbitrate any open issues. The commission shall provide for the resolution of each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required. (8-10-98)

410. PETITION FOR EXEMPTION FROM RULES 402-409 (Rule 410).

Any facilities-based competitor may petition the commission to exempt it from the application of Rules 402 through 409. The commission may grant the petition if the petitioner demonstrates there are functionally equivalent, competitively priced basic local services reasonably available to both residential and small business customers within the unserved area from a telephone corporation unaffiliated with the petitioner, or the petitioner demonstrates exemption is in the public interest. (8-10-98)

411. EFFECTIVE DATE (Rule 411).

The effective date for these rules is the date of Order No. 27674, August 10, 1998.

(8-10-98)

412. -- 999. (RESERVED).

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