

**RULES
OF
TENNESSEE REGULATORY AUTHORITY**

**CHAPTER 1220-4-2
REGULATIONS FOR TELEPHONE COMPANIES**

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1220-4-2-.01 REPEALED.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Repealed by Public Chapter 440; effective July 1, 1985.

1220-4-2-.02 REPEALED.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Repealed by Public Chapter 440; effective July 1, 1985.

1220-4-2-.03 DEFINITIONS.

- (1) In the interpretations of these rules, the following definitions shall be used:
 - (a) Authority - The Tennessee Regulatory Authority.
 - (b) Average Busy Season-Busy Hour Traffic - The average traffic volume for the hour having the highest traffic volume throughout the busy season.

(Rule 1220-4-2-.03, continued)

- (c) Basis Rate Area - The developed portion of portions within each exchange service area as set forth in the telephone utility's tariffs, maps or descriptions. Main Station service within this area is furnished at uniform rates without extra exchange miles charges.
- (d) Busy Hour - The two (2) consecutive half-hours during which the greatest volume of traffic is handled in the office.
- (e) Busy Season - That period of the year during which the greatest volume of traffic is handled in the office.
- (f) Calls - Customer's telephone message attempted.
- (g) Class of Service - The various categories of service generally available to customers, such as business or residence.
- (h) Central Office - A switching unit, in a telephone system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and inter-connecting subscriber lines and trunks or trunks only. There may be more than one central office in a building.
- (i) Customer or Subscriber - Any person, firm partnership, corporation, municipality, cooperative organization, governmental agency, etc., provided with telephone service by any telephone utility.
- (j) Customer Trouble Report - Any oral or written report from a subscriber or user of telephone service relating to a physical defect or to difficulty or dissatisfaction with the operation of telephone facilities. One report shall be counted for each oral or written report received even though it may duplicate a previous report or merely involve an inquiry concerning progress on a previous report. Also, a separate report shall be counted for each telephone or PBX switchboard position reported in trouble when several items are reported by one customer at the same time, unless the group of troubles so reported is clearly related to a common cause.
- (k) Exchange - A unit established by a telephone utility for the administration of telephone service in a specified area which usually embraces a city, town, or village and its environs. It consists of one or more central offices together with associated plant used in furnishing communication service in that area.
- (l) Reserved
- (m) Grade of Service - The number of parties served on a telephone line such as one-party, two-party, four-party, etc.
- (n) Message - A completed customer telephone call.
- (o) Outside Plant - The telephone equipment and facilities installed on, along, over, or under streets, alleys, highways, or on private right-of ways between the central office and customer's locations or between central offices.
- (p) Service Line - Those facilities owned and maintained by a customer or group of customers, which lines are connected at an agreed upon point with the facilities of a telephone utility for communication service.
- (q) Subscriber Line - The wires or channels used to connect the telephone equipment at the subscriber's premises with the Central office.

(Rule 1220-4-2-.03, continued)

- (r) Switching Service - Switching performed for service lines.
- (s) Tariff - The entire body of rates, tolls, charges, classifications and rules, adopted and filed with the Authority by a telephone utility.
- (t) Telephone Utility - Any person, firm, partnership, corporate organization, or corporation engaged in the furnishing of telephone service and other Communications Services to the public under the jurisdiction of the Authority.
- (u) Toll Connecting Trunks - A general classification of trunks carrying toll traffic and ordinarily extending between a local office and a toll office except trunks classified as tributary circuits.
- (v) Toll Station - A telephone connected to a toll line or directly to a toll board.
- (w) Reporting Entity - Shall be defined as exchange for:
 - 1. Installation of service (1220-4-2-.35).
 - 2. Customer trouble reports (1220-4-2-.39).
 - 3. The other reporting areas shall be reported under this section by districts. The reason for the two (2) exemptions is that the current districts have several reporting areas which cannot be pinpointed. The company has no way to monitor these exemptions by exchanges.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982. Amendment by Public Chapter 440; effective July 1, 1985. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.04 LOCATION OF RECORDS.

- (1) Unless otherwise authorized by the Authority, all records required by these rules shall be kept within the state or shall be made available to the Authority or its authorized representatives upon request.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.05 RETENTION OF RECORDS.

- (1) All records required by these rules shall be preserved for the period of time specified in the current edition of the Federal Communications Commission’s records retention schedule.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.06 DATA TO BE FILED WITH THE AUTHORITY.

- (1) Tariffs
 - (a) Each telephone utility shall file with the Authority tariffs which set forth the various exchange areas, base rate areas, the conditions and circumstances under which service will be furnished and defining the classes and grades of service available to customers, all in accordance with the

(Rule 1220-4-2-.06, continued)

rules and regulations governing the filing of tariffs as prescribed by the Authority in Chapter 1220-4-1 (General Public Utilities Rules).

(2) Exchange Maps

- (a) Each telephone utility shall file exchange maps or descriptions with the Authority showing the exchange service area for each telephone exchange operated, and the maps, or descriptions shall be in sufficient detail to reasonably permit locating the exchange service area boundaries in the field. A copy of such map or description shall be available for public inspection at all points where the applicable tariff is available. With every revised map or description, the telephone utility so filing shall submit proof of notice of the proposed revision to each telephone utility whose exchange area adjoins the boundary or is located reasonably near the unfilled territory which would be changed by such revisions unless otherwise provided by statutes or Authority order.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.07 METER READING RECORDS.

- (1) When meters are used in connection with telephone service the meter reading records from which the customers’ bills are prepared shall show:
 - (a) identifying number or when to determine readily the customer’s name, address, and service classification;
 - (b) meter readings;
 - (c) date of meter reading;
 - (d) multiplier or constant, if used.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.08 METER READING INTERVALS.

As nearly as practicable meters shall be read at monthly intervals.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.09 BILLING RECORDING EQUIPMENT.

Where mechanical and electronic means are used for recording information that will affect a customer’s bill, such equipment shall be frequently inspected to see that it is functioning properly.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.10 CUSTOMER BILLING.

- (1) Bills to customers shall be rendered regularly and shall contain a listing of all charges. Utilities shall comply with reasonable customer requests for an itemized statement of charges.

(Rule 1220-4-2-.10, continued)

- (2) In the event the customer's service is interrupted other than by negligence or willful act of the customer and it remains out of order in excess of twenty-four (24) hours after being reported, appropriate adjustments or refunds shall be made to the customer, upon the customer's request. The refund to the customer shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on the subsequent bill for telephone service.
- (3) A bill insert should be included in the first bill after the effective date of this rule informing the customer of his/her refund option. When new phone books are printed the Call-Guide will contain a customer refund section.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982.

1220-4-2-.11 CUSTOMER DEPOSITS.

- (1) No deposit shall be required as a condition for establishment of service other than as provided in the utility's rules and tariffs on file with the Authority.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.12 REASONS FOR DENYING SERVICE.

- (1) Service may be refused or discontinued for any of the reasons listed below:
 - (a) In the event of customer use of equipment in such a manner as to adversely affect the utility's equipment or the utility's service to others.
 - (b) In the event of tampering with the equipment furnished and owned by the utility.
 - (c) For violation of or noncompliance with the Authority's Regulations Governing Service Supplied by Telephone Utilities, or for violation of or non-compliance with the utility's rules on file with the Authority.
 - (d) For failure to comply with municipal ordinance or other laws.
 - (e) For failure of the customer to permit the utility reasonable access to its equipment.
 - (f) For nonpayment of bill.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.13 CUSTOMER COMPLAINTS.

- (1) Each telephone utility shall make a full and prompt investigation of all types of complaints made by its customers, either directly to it or through the Authority.
- (2) If the use of service interferes unreasonably with the necessary use of other customers, a customer may be required to take insufficient quantity or of a different class or grade.

(Rule 1220-4-2-.13, continued)

- (3) Each telephone utility shall within ten (10) working days, after receipt of a complaint forwarded by the Authority, file a written reply, with the Authority.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.14 HELD APPLICATIONS.

- (1) During the period of time that telephone utilities may not be able to supply initial telephone service to an applicant or upgrade a customer’s existing service after the date applicant desires service, the telephone utility shall keep a record of applicants for each exchange. The telephone utility shall furnish the Authority with the total number of held orders of both initial and upgrade service on a quarterly basis. The Authority may at any time, direct the telephone utility to provide the names of applicants, dates of application and any other necessary information.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.15 DIRECTORIES-ALPHABETICAL LISTING (WHITE PAGES).

- (1) Telephone directories shall be regularly published, listing the name, address and telephone number of all customers, except public telephones and numbers unlisted at customer request.
- (2) Upon issuance, a copy of each directory shall be distributed to all customers served by that directory and a copy of each directory shall be furnished to the Authority upon request.
- (3) The name of the telephone utility, the area included in the directory and the month and year of issue shall appear on the front cover information pertaining to emergency calls such as for the police and fire departments shall appear conspicuously in the front part of the directory pages.
- (4) The directory shall contain such instructions concerning placing local and long distance calls, calls to repair and information services, and location of telephone company business offices as may be appropriate to the area served by the directory.
- (5) Information operators shall have access to records which include all listed telephone numbers (except telephone numbers not listed or published at customer request) in the area for which they are responsible for furnishing information services.
- (6) In the event of an error in the listed number of any customer, the telephone utility shall intercept all calls to the listed number for a reasonable period of time provided existing central office equipment will permit and the number is not in service. In the event of an error or omission in the name listing of a customer, such customer’s correct name and telephone number shall be in the files of the information or intercept operators and the correct number furnished the calling party either upon request or interception.
- (7) Whenever any customer’s telephone number is changed after a directory is published, the utility shall intercept all calls to the former number for a reasonable period of time, and give the calling party the new number provided existing central office equipment will permit, and the customer so desires. Provided, however, the telephone utility may refuse to take such action for good and sufficient reason.

(Rule 1220-4-2-.15, continued)

- (8) When additions or changes in plant, records or operations which will necessitate a large group of number changes are scheduled, reasonable notice shall be given to all customers so affected even though the additions or changes may be coincident with a directory issue.
- (9) The inside cover of the directories shall contain the Authority's telephone number: 1-800-342-8359 (toll free).

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982. Amendment filed November 9, 1984; effective December 9, 1984. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.16 CONSTRUCTION.

- (1) Construction of telephone plant shall be subject to the provisions of the current National Electric Safety Code.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.17 MAINTENANCE OF PLANT AND EQUIPMENT.

- (1) Each telephone utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of reasonably safe, adequate, and continuous service at all times.
- (2) Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and adequate service performance.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.18 GRADE OF SERVICE.

- (1) Within the base rate area, no utility shall connect more customers on any line than are contemplated under the grade of service charged the customer on such line.
- (2) On rural lines where multi-party service is provided no more than eight (8) customers shall be connected to any one circuit, unless approved by the Authority. All rural circuits now serving more than eight (8) shall be changed to meet this requirement within a three (3) year period following adoption of these rules. The telephone utility may regroup customers in such a manner as may be necessary to carry out the provision of this rule. Upon completion or delay in the meeting of this requirement a report to that effect shall be filed with the Authority.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.19 INTER-EXCHANGE TRUNKS.

- (1) When trunk lines or toll circuits for communication are furnished by one (1) or more telephone utilities between exchanges, the circuits connecting such exchanges shall be non-grounded. No customer's instruments other than toll stations shall be regularly connected thereto.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.20 GROUNDED CIRCUITS.

- (1) On and after the effective date of those rules, no additional telephone lines shall be constructed as single wire with ground return. All existing grounded telephone lines shall be converted to non-grounded circuits.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.21 SELECTIVE RINGING.

Each telephone utility shall have as an ultimate objective the provision of full selective ringing.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.22 SWITCHING SERVICE.

- (1) Effective with the adoption in of these rules, telephone utilities shall not provide additional switching service to lines which do not meet the technical criteria of these rules. Also, effective with the adoption of these rules, each telephone utility shall eliminate nonconforming switching service according to the following provisions:
 - (a) Upon conversion to dial service or any other plan approved by the Authority.
 - (b) All other shall be changed to company-owned stations within a period of five (5) years.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.23 EMERGENCY OPERATION.

- (1) Each telephone utility shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators, or from fire, storm or acts of God, and each telephone utility shall inform employees as to procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telephone service.
- (2) It is essential that all central offices have adequate provision for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered on short notice, and which can be readily connected.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.24 CONSTRUCTION WORK NEAR UTILITY FACILITIES.

Even though all contractors working in the vicinity of utility lines or structures are responsible for exercising due diligence in preventing damage to utility property or interruption to utility services, telephone utilities shall, when requested, furnish to contractors appropriate information concerning location of underground conduit, cable, etc., in order to prevent any interruption of service to telephone customers. Nothing in this rule is intended to affect the responsibility, liability, or legal rights of any party under applicable laws or statutes.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.25 PROVISIONS FOR TESTING.

Each telephone utility shall provide or have access to test facilities which will enable it to determine the operating and transmission capabilities of circuit and switching equipment, either for routine maintenance or for fault location.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.26 METER AND RECORDING EQUIPMENT TEST FACILITIES.

- (1) Each utility furnishing telephone service, where local exchange billing is based on the number and/or duration of messages shall provide the necessary facilities, instruments, and equipment for testing its metering or recording equipment. Any utility may be exempted from this requirement by the Authority.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.27 ACCURACY REQUIREMENTS.

- (1) All meters and/or recording devices used to record data and prepare customers’ bills shall be in good mechanical and electrical condition, shall be accurately read and shall not involve approximations. All meters and/or recording devices shall accurately perform the following:
 - (a) For message rate service, where timing of length of message is not involved, the meter and/or recording device shall show accurately the number of completed messages sent by the station which it is measuring.
 - (b) For message toll service, the meter and/or recording device shall show accurately the number of calls and the time involved in each call and the station making such call.
 - (c) Where the recording equipment provides coded information that is used to automatically prepare customer bills, accurate interpretation of such coded information is required.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.28 ADEQUACY OF SERVICE.

- (1) Each utility shall employ engineering and administrative procedures to determine the adequacy of service being provided to the customer.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.29 BASIC UTILITY OBLIGATIONS.

- (1) Each telephone utility shall provide telephone service to the public in its service area. Such service shall meet or exceed the standards set forth in Chapter 1220-4-2 – (Regulations for Telephone Companies).
- (2) Each telephone utility has the obligation of continually reviewing its operations to assure the furnishing of adequate service.
- (3) Where a telephone utility is generally operated in conjunction with any other enterprise, suitable records shall be maintained so that the results of the telephone operation may be determined upon reasonable notice and request by the Authority.

(Rule 1220-4-2-.29, continued)

- (4) Business offices shall be so located and staffed that customers and the public will have convenient access to qualified personnel, including supervisory personnel where warranted, to answer questions relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and in general, represent the utility to the customer.
 - (a) Where one business office serves several communities toll-free calling to the business office from such communities shall be provided. By means of directory information or assistance, signs on company buildings and property, newspaper advertising or other methods necessary, the utility shall keep its customers and the public advised as to means of contacting the business office.
 - (b) Business office services will be available to the customers and the public during the normal hours of the normal work week, excluding holidays and at such other times as may be warranted by circumstances.
 - (c) It will be the responsibility of the utility to insure that qualified personnel, instructed to be courteous, considerate and efficient, are available to promptly serve those who contact the business office.
 - (d) The utility shall inform the customer of any service connection charge to be applied to his bill and the monthly charge for the service ordered, with the exception of business customers not requiring this information, prior to undertaking any action to furnish the service ordered. To customers inquiring about new service, the utility shall provide any information and assistance necessary to obtain service conforming to the customer's needs.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.30 TRAFFIC RULES.

- (1) Suitable practices shall be adopted by each telephone utility concerning the operating methods to be employed by operators with the objective of providing efficient and pleasing service to the customers.
- (2) Telephone operators shall be instructed to be courteous, considerate and efficient in the handling of all calls, and to comply with the provisions of the Communications Act of 1934 in maintaining the secrecy of communications.
- (3) All operator-handled calls shall be carefully supervised and disconnects made promptly.
- (4) When an operator is notified by a customer that he/she has reached a wrong number on a direct dialed call, the customer shall be given credit on his/her bill when the claim has been substantiated.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.31 TRANSMISSION REQUIREMENTS.

- (1) Telephone utilities shall furnish and maintain adequate plant, equipment and facilities to provide satisfactory transmission of communications between customers in their service area.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982.

1220-4-2-.32 PUBLIC TELEPHONE SERVICE.

- (1) The utility shall establish public telephone service at locations where the public convenience will be served. The Authority may direct installation of a public telephone where it is needed.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1982. Amendment filed August 18, 1982; effective September 17, 1982. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.33 INTERRUPTIONS OF SERVICE.

- (1) When interruptions occur, the utility shall re-establish service with the shortest possible delay.
- (2) Arrangements shall be made to receive customer trouble reports twenty-four (24) hours daily and to clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer and personal safety of utility personnel.
- (3) Each telephone utility shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. This record shall be available to the Authority or its authorized representatives upon request at any time within the period prescribed for retention of such records.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.34 SERVICE OBJECTIVES AND SURVEILLANCE LEVELS.

- (1) Certain measurements have been shown to be most important in determination of quality of telephone service. The results of these measurements may vary, however, depending on the size of the service area being measured, geography and demography of the service area, types of equipment operated by the telephone utility, season of the year (weather) and number of days in the month being measured. For these reasons, no single statistical standard can serve as a strict demarcation level between “good” and “poor” service for every company in Tennessee.
- (2) Accordingly, the Authority has established herein a set of criteria which is generally recognized as being on the one hand, measures of reasonable and economically attainable service, and on the other hand, levels of service which indicate a need for scrutiny of service and corrective action.
- (3) Each utility shall make measurements to determine the level of service for each item included in these rules to the extent feasible. In central offices of such size that recording equipment is not presently, or normally installed for the purpose of measuring accurately such functions as dial tone speed and central office overflows, this rule does not mandate the installation of such measuring equipment. Each utility shall, however, make the necessary physical checks and observations in such offices to assure that levels of service on any of the items included herein are being maintained.
- (4) These rules require scheduled formal reports on a quarterly basis. In addition where continuing service problems are indicated by failure to meet surveillance levels and/or complaints in individual exchange areas, the Authority may require reports of investigation and corrective action be taken. If unreasonable hardship to a utility or to a customer results from the application of any rule herein prescribed, application may be made to the Authority for the modification of the rule or for temporary or permanent exemption from its requirements. The adoption of these rules by the Authority shall in no way preclude it from altering or amending them pursuant to applicable statutory procedures, nor

(Rule 1220-4-2-.34, continued)

shall the adoption of these rules preclude the Authority from granting temporary exemptions from its regulations in exceptional cases.

Authority: T.C.A. §§65-202, 65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1982. Amendment filed August 18, 1982; Effective September 17, 1982. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.35 INSTALLATION OF SERVICE.

- (1) (a) In any area where facilities are available, eighty-five percent (85%) of the utility’s regular service order installations shall normally be completed within five (5) working days in exchanges of more than 3000 access lines. The intervals commence with the receipt of application unless a later date is requested by the applicant.
- (b) In any area where facilities are available, seventy-five percent (75%) of the utility’s regular service order installations shall normally be completed within five (5) working days in exchanges of less than 3000 access lines.
- (c) Surveillance Level - In any reporting entity of more than 3000 access lines, completion of less than seventy-five percent (75%) within five (5) working days on a continuing basis indicates a need for investigative or corrective action.
- (d) Surveillance Level - In any reporting entity of less than 3000 access lines, completion of less than sixty-five percent (65%) within five (5) working days on a continuing basis indicates a need for investigative or corrective action.
- (2) Ninety percent (90%) of the utility’s commitments to customers in a Reporting Entity as to the date of installation of regular service orders shall be met excepting customer caused delays and acts of God.
 - (a) Surveillance Level - A continued rate of less than eighty-eight percent (88%) indicates a need for investigative or corrective action.
- (3) A regrade order shall normally be filled no later than thirty (30) days where facilities are available after the customer has made application for a different grade of service except where the customer requests a later date. In the event of the utility’s inability to so fill such an order, the customer will be advised and furnished the estimated date when it will be available.
- (4) If the Authority finds an applicant and/or area should be served, viewing all the surrounding circumstances, it may direct that the company serve that area.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed August 18, 1982; effective September 17, 1982. Amendment filed March 31, 1987; effective June 29, 1987. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.36 OPERATOR HANDLED CALLS.

- (1) All operator-handled calls shall be carefully supervised. Calls requiring timing shall be carefully timed.
- (2) Each utility shall maintain adequate personnel to provide an average operator answering performance as follows on a monthly basis:

(Rule 1220-4-2-.36, continued)

- (a) Ninety percent (90%) of toll and assistance operator calls answered within ten (10) seconds (equivalent measurements may be used).
 - 1. Surveillance Level - Answering time of less than eighty-seven percent (87%) of calls within ten (10) seconds (or equivalent measurement) on a continuing basis indicates a need for investigative or corrective action.
 - (b) Eighty-five percent (85%) of calls to Directory Assistance answered within ten (10) seconds (equivalent measurement may be used).
 - (c) Surveillance Level - Answering time within ten (10) seconds (equivalent measurement may be used) on less than seventy-eight percent (78%) of calls to Directory Assistance on a continuing basis indicates a need for investigative or corrective action.
- (3) An “answer” shall mean that the operator is ready to render assistance and/or ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an answer.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule filed February 2, 1976; effective March 3, 1976.

1220-4-2-.37 LOCAL DIAL SERVICE.

- (1) Sufficient central office capacity and equipment shall be provided to meet the following requirements during the average busy season - busy hour.
 - (a) Dial tone within three (3) seconds on ninety-eight percent (98%) of calls.
 - 1. Surveillance Level - Dial tone within three seconds on less than 97.4% of calls on a continuing basis indicates a need for investigative or corrective action.
 - (b) Completion of ninety-seven percent (97%) of local dialed calls without encountering an equipment busy condition(blockage).
 - 1. Surveillance Level - When the completion rate falls below ninety-two percent (92%) on a continuing basis investigative or corrective action should be initiated.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule filed February 2, 1976; effective March 3, 1976.

1220-4-2-.38 DIRECT DISTANCE DIAL SERVICE.

- (1) Engineering and maintenance of the trunk and related switching components in the internal network shall be such as to permit attaining the following objective on properly dialed calls, during the average busy season without encountering blockages or equipment irregularities.
- (2) DDD Calls by customer (incoming trunks) – ninety-eight percent (98%).
- (3) Surveillance Level – ninety-six percent (96%).

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule filed February 2, 1976; effective March 3, 1976.

1220-4-2-.39 CUSTOMER TROUBLE REPORTS.

- (1) Service shall be maintained in such a manner that the monthly rate of all customer trouble reports not exceed the following objective levels by reporting entity:
 - (a) Exchanges having 14,000 or more access lines - 6.0 per 100 access lines.
 - (b) Exchanges having 3,000 to 14,000 access lines - 6.5 per 100 access lines.
 - (c) Exchanges having less than 3,000 access lines - 9.5 per 100 access lines.
- (2) Surveillance Level - A customer trouble rate exceeding the monthly level shown below for three consecutive months in a reporting entity indicates a need for investigation or corrective action:
 - (a) Exchanges having 14,000 or more access lines - 7.0 per 100 access lines.
 - (b) Exchanges having 3,000 to 14,000 access lines - 7.5 per 100 access lines.
 - (c) Exchanges having less than 3,000 access lines - 11.0 per 100 access lines.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule certified May 9, 1974. Amendment filed February 2, 1976; effective March 3, 1976. Amendment filed August 18, 1982; effective September 17, 1982. Amendment filed March 31, 1987; effective June 29, 1987.

1220-4-2-.40 OBLIGATIONS OF RESELLERS AND UNDERLYING CARRIERS OF LOCAL SERVICE UPON THE TERMINATION OF SERVICE.

- (1) The purpose of this rule is to protect those customers who are obtaining their local service from resellers from termination of their service without adequate notice. Because of the public safety implications, local service providers shall have additional obligations as listed below.
- (2) This rule applies to any local telecommunications reseller that ceases the provision of any telecommunications service in all or any portion of the State of Tennessee. This rule does not apply to:
 - (a) Cessation of a service when a reseller replaces the terminated service with comparable service without interruption as long as such change is in compliance with Rule 1220-4-2-.56; and
 - (b) Discontinuance of a service that has no subscribers.
- (3) No underlying carrier shall terminate local service to a reseller until the following requirements are met:
 - (a) The underlying carrier shall provide no less than thirty (30) days written notice to the reseller that service will be terminated on a date certain along with the reason(s) for such action. A copy of such written notice shall be timely provided to the Authority.
 1. Notwithstanding the above, where the underlying carrier alleges fraud, abuse, or unreasonable interference with the underlying carrier's network, the underlying carrier is allowed to disconnect the reseller after a two (2) business day notice to the Authority, unless the Authority chairman specifically orders otherwise prior to disconnection. If this emergency provision is invoked, the underlying carrier may be required to comply with the underlying carrier's service continuity plan per section (5).

(Rule 1220-4-2-.40, continued)

- (b) Within ten (10) days of receipt of the underlying carrier's written disconnection notice to the reseller, the reseller shall notify its customers advising that their service will be terminated on a day certain. Such notice shall be no less than fourteen (14) days prior to the date of disconnection. The notice shall advise end-users of the following:
 - 1. Advise its customers of the need to choose another local telecommunications service provider to continue service after a date certain; and
 - 2. Provide customers any and all relevant information, if available, that may assist the customers in selecting another local telecommunications service provider.
 - (c) If the reseller fails to fulfill its obligations under section (3)(b), the Authority will notify the reseller's customers seven (7) days prior to termination of the reseller's local service and recover costs associated with such a notice from the reseller.
- (4) Additional Local Service Obligations for Resellers:
 - (a) The reseller must provide the Authority and the underlying carrier any and all relevant information, including but not limited to its customers' names and telephone numbers to ensure that end-user customers will not experience service outage. The reseller must use its best efforts to provide timely and accurate information to the Authority and the underlying carrier.
 - (b) The reseller must file with the Authority a copy of its notice or the text of the voice message to its customers no less than fourteen (14) days prior to the date of disconnection.
 - (c) The reseller shall refund to its customers any credits due as a result of the termination of service within thirty (30) days of the termination of the service. The reseller shall provide information to its customers on how such credits will be determined and distributed.
- (5) Additional Local Service Obligations for Underlying Carriers:
 - (a) Within 60 days of the effective date of this rule, each telecommunications service provider having an agreement with a reseller of basic local exchange telecommunications service shall file a tariff which outlines a service continuity plan consistent with this Chapter and, at a minimum, contains the following provisions:
 - 1. The underlying carrier shall provide basic local exchange service, as defined in Tenn. Code Annotated § 65-5-108, to the customers of the reseller for at least seven (7) days following disconnection of the reseller's service, or until the customer selects another provider of local service, whichever is less. If a customer selects a new service provider, the underlying carrier may pass through to the new provider the charge for such service provided at the tariffed rate of the underlying carrier. The new provider may pass through this charge to the end-user customer.
 - 2. After the seven day period described in paragraph 1 above, the underlying carrier may terminate service to the customer unless the customer has either transitioned to a new service provider or has placed an order to transition to the underlying carrier.
 - (b) Should the reseller fail or refuse to provide notice to its customers as required in (3) above, the underlying carrier shall provide reasonable assistance to the Authority in notifying the customers of the reseller.
- (6) Violation of this rule, including failure to provide customer notice in (3), shall be subject to the provisions and penalties of Tenn. Code Ann. § 65-4-120.

(Rule 1220-4-2-.40, continued)

Authority: T.C.A. §§65-2-102, 65-4-104, 65-4-123 and 65-4-125. **Administrative History:** Original rule certified May 9, 1974. Repealed by Public Chapter 440; effective July 1, 1985. Original rule filed December 5, 2006; effective February 18, 2007.

1220-4-2-.41 SAFETY PROGRAM.

- (1) Each utility shall adopt and execute a safety program fitted to the size and type of its operations. At a minimum, the safety program should:
 - (a) Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.
 - (b) Instruct employees in safe methods of performing their work.
 - (c) Instruct employees, whom in the course of their work are subject to the hazard of electrical shock, asphyxiation or drowning, in acceptable methods of first aid.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974.

1220-4-2-.42 MEASURED AND MESSAGE TELEPHONE SERVICE.

- (1) The marketing representative or other salesperson of every telephone company must explain the availability of all local exchange service options for residential service to each customer who requests new local residential service or a change in the customer's existing local, residential service.
- (2) All advertising, promotional and informational materials regarding discounted or low use rates for one-party, local exchange service must contain an explanation of all available rates for discounted one-party, local service.
- (3) Each telephone company under the jurisdiction of this Authority shall file a quarterly report with the Authority demonstrating the company's compliance with Rules 1220-4-2-.42 (1) and (2). Such report shall include, but shall not be limited to, copies of all advertising, promotional, and informational materials used by the company concerning discounted or low use rates for one-party, local service.

Authority: T.C.A. §§65-2-102, 65-4-104, and 65-4-106. **Administrative History:** Original rule filed October 20, 1983; effective January 16, 1984. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.43 AUTHORIZATION TO OPERATE A PUBLIC PAY TELEPHONE SERVICE.

- (1) Every owner or prospective owner, who is not a public telephone company certified by this Authority in accordance with T.C.A. §65-4-291, of a public pay telephone instrument located in the state of Tennessee connected with or to be connected with the public network shall submit a petition for authorization to provide public pay telephone service to the Authority accompanied by the fee provided for in T.C.A. §65-2-103. Each company or individual operating a public pay telephone service prior to July 1, 1990 and required to be authorized by this rule shall submit one petition for authorization to include all existing public pay telephone locations owned or operated by said company or individual. All petitions submitted after July 1, 1990 shall be to authorize each public pay telephone service instrument.
- (2) All owners, other than certified public telephone companies, of public pay telephone instruments connected to the public network by the effective date of this rule shall have until July 1 of the year in

(Rule 1220-4-2-.43, continued)

which this rule goes into effect to submit the petition required by section (1) of this rule. Public pay telephone service to commence or to be reconnected to the network after this date shall not be authorized for service until all the requirements of rules governing public pay telephone service are met.

- (3) Public pay telephone service shall mean the resale of local service and/or intrastate toll telephone service through customer or telephone company provided equipment which are coin-operated or coinless and whose calls are sent paid or non-sent paid.

Authority: T.C.A. §§65-4-116, 65-2-102, and 65-4-101. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.44 DATA REQUIRED FOR AUTHORIZATION.

- (1) In addition to the receipt of a valid filed petition for authorization, the Authority shall require the submission of relevant data and owner certifications on forms supplied by the Authority concerning the operation of a public pay telephone service.
- (2) The following data relating to the entity owning or operating the public pay telephone service shall be submitted prior to authorization:
 - (a) The name, address and telephone number of the individual owner or the responsible individual with the entity which owns the instrument.
 - (b) Information about the structure of the business organization owning the instrument and where applicable, a copy of any Articles of Incorporation, Partnership Agreement or By Laws of any corporation owning the instrument and a copy of a license to do business in Tennessee.
 - (c) An up-to-date financial statement for the individual or entity operating the pay telephone service which includes a statement indicating revenues and expenses.
 - (d) The name, address, and telephone number of a Tennessee contact person responsible for and knowledgeable about the instrument or instruments.
 - (e) Repair and maintenance information including the name, local address, telephone number, and qualifications of the individual or company responsible for servicing the instrument(s) and supplying refunds.
 - (f) A copy of the display card to be posted on the pay instrument which contains operating instructions and other required disclosures.
- (3) The following data relative to the particular pay telephone instrument shall be submitted prior to authorization:
 - (a) A description of the instrument including the name and telephone number of the manufacturer, the model and FCC registration number, and the precise location by address and telephone number of the instrument.
 - (b) Identification of the local exchange telephone company (LEC), the inter-exchange carrier, and reseller or alternate operator service serving the instrument.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and

(Rule 1220-4-2-.44, continued)

references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.45 CERTIFICATIONS REQUIRED FOR AUTHORIZATION.

- (1) To insure uniformity throughout the state with regard to the provision of pay telephone service to the public, the owner or operator of a public pay telephone service seeking authorization to operate a pay telephone service shall agree to abide by the following terms and conditions:
 - (a) The following calls shall be provided without depositing money and free of charge to the customer: calls to the local exchange operator; 911 or emergency numbers; local and intrastate directory assistance numbers; toll-free and 800 service numbers; pay phone repair and refund numbers; and inter-exchange access numbers.
 - (b) Local call charges shall not exceed the amount authorized by the Authority for a local call from pay telephones operated by the LEC serving the area in which the pay telephone is located.
 - (c) The public pay telephone shall provide the following: two-way calling capability (unless waived by the Authority); no time limits on calls; the acceptance of nickels, dimes and quarters; and coin return for incomplete calls (coinless phones shall not be required to accept coins).
 - (d) All public pay telephone instruments installed after July 1, 1990 shall be installed in accordance with the requirements of the *American National Standards Institute for Buildings and Facilities - Providing Accessibility and Usability for Physically Handicapped People*, ANSI, A.117.1 (1986), Section 4.29, Telephones. Provided, however, that in a given location where an owner has installed more than one instrument, only one pay telephone instrument shall be required to meet those requirements.
 - (e) All public pay telephone instruments shall comply with Authority approved telecommunications industry standards and the current National Electric Code.
 - (f) Local telephone directories shall be provided at each pay telephone service location upon commencement of service.
 - (g) The owner shall read and comply with all Authority rules and regulations governing public pay telephone service.
 - (h) The owner shall charge for intrastate toll calls no more than the rates approved by the Authority for the local exchange carrier serving the instrument and the dominant interexchange carrier in the state.
 - (i) The owner shall provide an instrument capable of completing local and long distance calls. Provided however, that a coinless pay telephone is exempt from this requirement as long as it is located in close-proximity or next to a pay phone with local and long distance calling capabilities.
 - (j) The owner agrees to provide customer access to all interexchange carriers certificated to do business in Tennessee in the IXC's preferred manner as officially designated by said carrier to the Authority.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

(Rule 1220-4-2-.45, continued)

1220-4-2-.46 AUTHORITY APPROVAL OF AUTHORIZATION TO OPERATE A PUBLIC PAY TELEPHONE SERVICE.

- (1) Upon receipt of the petition, the required data and any fees required for full compliance with Authority rules and statutes, the Authority shall authorize this service by issuing an authorization number for each public pay telephone service company. The Authority shall notify the owner of said instrument of this number so service may be commenced.
- (2) The owner of the authorized public pay telephone service may commence service after doing the following:
 - (a) Displaying the charge for a local call and any operating instructions on the face of the instrument.
 - (b) Affixing the Authority authorization number in a permanent manner to the face of the instrument.
 - (c) Displaying on the face of the instrument a telephone number to be used without charge to report malfunctions and obtain refunds.
 - (d) Displaying the name of the owner of the instrument and the name of the long distance carrier serving the instrument on the face of the instrument.
- (3) Owners or operators of public pay telephone service who have previously been authorized by the Authority for operations in this state may commence service at new locations prior to submission of the required data under terms and conditions to be established by the Authority or its designee, the Chief of the Utilities Division.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.47 DENIAL OF AUTHORIZATION.

- (1) Authorization may be denied to those petitioners failing to fully comply with the applicable filing requirements or to pay the required fees as provided by Authority rule or statute.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.48 AUTHORIZATION RENEWAL.

- (1) Authorization to operate a public pay telephone service shall expire on July 1 of the year following the year in which initial authorization was obtained from the Authority and authorization renewals shall expire annually on each July 1 thereafter.
- (2) In order to renew this authorization, an application must be filed with the Authority before July 1 of each year on forms prescribed by the Authority. This authorization renewal application shall be accompanied by any annual inspection fee required by statute.

(Rule 1220-4-2-.48, continued)

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220 4-2-.49 PUBLIC PAY TELEPHONE SERVICE VIOLATIONS.

- (1) The following shall constitute violations of the Authority’s rules and requirements for authorized public pay telephone service:
 - (a) Charging an amount for local calls and intrastate toll calls which exceeds the amount authorized by the Authority.
 - (b) Imposing a time limit for local calls or failing to provide two-way calling service unless one-way service is authorized by the Authority.
 - (c) Charging for or failing to provide access without depositing money for calls to the operator, 911 or emergency numbers where 911 is not available, toll-free services, or intrastate or local directory assistance
 - (d) Attaching the instrument to any subscribed access line service other than a single public telephone access line directly connected to the LEC network and billed at the tariff rate.
 - (e) Attaching the instrument to an extension instrument without a private cut-off to automatically disconnect when the receiver is lifted for service, and operating semi-public additional sets connected to an authorized instrument in violation of the applicable tariff of the local exchange company, with the exception that such extension may have a dial or tone pad.
 - (f) Failure to display prominently on the face of the pay telephone instrument any of the following:
 1. A statement identifying the charge and operating instructions for its use.
 2. A statement indicating the name of the owner of the instrument and identifying the long distance carrier serving the instrument.
 3. A telephone number, which can be reached without charge or without having to deposit money where users can report malfunctions and obtain refunds.
 4. The Tennessee Regulatory Authority authorization number.
 - (g) Failure to meet any of the following:
 1. Requirements governing telephone service access by impaired or handicapped persons as required by Authority rule.
 2. All applicable telecommunications industry and electrical safety standards as required by Authority rule.
 - (h) Failure to provide instruments capable of accepting nickels, dimes, and quarters (waived for coinless pay phones).
 - (i) Failure to return coins to the customer for incomplete calls (waived for coinless pay phones).

(Rule 1220-4-2-.49, continued)

- (j) Failure to repair the instrument within seventy-two (72) hours of notification by the Authority, unless such repairs are the responsibility of the LEC providing access and failure to provide refunds in a timely manner.
- (k) Failure to provide access without charge to all interexchange carriers certificated to do business in Tennessee in the preferred manner designated with the Authority by each IXC, unless said instrument is owned by an interexchange carrier.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.50 INSPECTION OF PUBLIC PAY TELEPHONE SERVICE.

- (1) All authorized public pay telephone instruments shall be subject to periodic and random inspections by Authority personnel.
- (2) If upon inspection, a violation is discovered, the Authority inspector shall place an out-of-service sticker on the pay telephone instrument and shall notify the owner as soon as possible of the violation and the penalties therefore. The sticker shall contain the date and time of the inspection and name of the inspector.
- (3) If the violation is determined by the inspector to be unintentional, the owner shall have seventy-two (72) hours to correct the violation. If the violation is uncollected after this time, the provisions of Rule 1220-4-2-.51 shall apply.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.51 PENALTIES FOR VIOLATIONS.

- (1) Upon determination that a violation exists and after a reasonable attempt to notify the owner, the Authority shall through its designated representative, the Chief of the Utilities Division, direct the local telephone company to disconnect the instrument in violation.
- (2) The local telephone company providing access to the instrument shall send the instrument owner a written notice, with a copy to the Authority, within twenty-four (24) hours of the directive indicating the location of the disconnection. The notice shall also include the charges for reconnection upon correction of the violation as specified in the tariff of the local exchange company.
- (3) The Authority shall automatically revoke the authorization for any instrument found to be in intentional violation of Authority rules. If the owner disputes the violation, a hearing may be requested within a reasonable time before the Chief of the Utilities Division. If no violation is found to exist or if the violation is shown to be unintentional, then the connection charges shall be refunded to the owner by the local exchange company and authorization shall be reinstated.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

(Rule 1220-4-2-.51, continued)

1220-4-2-.52 REAUTHORIZATION AFTER VIOLATION.

- (1) After disconnection of a public pay telephone instrument for violation of Authority rules, the following procedures shall apply for reauthorization and reconnection of the instrument to provide this service:
 - (a) Temporary reconnection to the network may be ordered by the Chief of the Utilities Division or his/her designee at the request of the instrument owner for purposes of repair or verification of correction of the violation. Such reconnection may be temporarily maintained pending the filing of a new petition for authorization with the permission of the Chief.
 - (b) Authorization may be reissued upon receipt of a new petition for authorization which includes a notarized statement verifying correction and accompanied by the fee prescribed by T.C.A. §65-2-103. Up-to-date data already on file with the Authority shall not have to be resubmitted. This petition shall be filed with the Authority within ten (10) days of notification of the violation to the instrument owner.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.53 REVOCATION OF AUTHORIZATION TO PROVIDE INTRASTATE PUBLIC PAY TELEPHONE SERVICE.

- (1) The Authority may refuse to reauthorize or may permanently revoke the authorization for any public pay telephone instrument or instruments which have been disconnected for Authority rule violations on numerous occasions; or may refuse to re-authorize or permanently revoke the authorization of any public pay telephone service owner or operator who has demonstrated a willful disregard for and an inability to comply with Authority regulation of public pay telephone service. Revocation of authorization may also be ordered for any just cause.
- (2) Permanent revocation of authorization shall only be ordered by the Authority after opportunity for a hearing is provided in accordance with the provisions of T.C.A. §65-2-106 and all applicable provisions of the state Administrative Procedures Act.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.54 UNAUTHORIZED PUBLIC PAY TELEPHONE SERVICE.

- (1) Any public pay telephone service which is not authorized for service by this Authority after July 1 of the year in which this rule takes effect shall be disconnected from the network by the local exchange company until the requisite authorization is obtained from the Authority.

Authority: T.C.A. §65-4-116. **Administrative History:** Original rule filed May 17, 1990; effective July 1, 1990. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-2-.55 REGULATORY REFORM.

(Rule 1220-4-2-.55, continued)

- (1) As an alternative to traditional rate making procedures, a local exchange carrier (LEC) may elect to operate under the regulatory reform plan described below. The Authority may modify the plan in order to meet the circumstances of a particular LEC as demonstrated by the record before the agency.
 - (a) The Authority will project the carrier's earnings over a forecast test period of two to four years which will be the period of the regulatory reform plan. Neither the Authority nor the carrier will initiate proceedings to adjust the carriers earnings during the forecast period except as provided herein.
 - (b) If under appropriate circumstances and the Authority so directs, all or part of projected earnings in excess of the carriers prescribed return may be placed in an interest bearing deferred revenue account and used to implement the technology schedule described in rules 1220-4-6-.01 through 1220-4-6-.05 or for such other purposes as the Authority directs. Interest on the deferred revenues account shall be calculated using the average monthly balance based on the beginning and ending monthly balances. The interest rate for each calendar quarter used to compute such interest shall be equal to the arithmetic mean (to the nearest one-hundredth of one percent) of the prime rate value published in the Federal Reserve Bulletin or in the Federal Reserve's Selected Interest Rates for the 4th, 3rd, and 2nd months preceding the 1st month of the calendar quarter.
 - (c) During the forecast period, earnings adjustments for large LECs (70,000 or more access lines) will be made as described in this section. Other LECs may elect to operate under section (1)(c) or under Section (1)(d).
 1. If the carrier earns within sixty (60) basis points of its prescribed return on capital. no earnings adjustment will be made.
 2. If the carrier earns more than four hundred sixty (460) basis points above its prescribed return, the amount of the excess will be used to benefit the carrier's customers. If the carrier earns more than four hundred sixty (460) points below its prescribed return, the Authority will take appropriate action to make up the amount of the deficit.
 3. If the carrier earns between sixty (60) and four hundred fifty (450) points above or below the carriers prescribed return, the excess or deficit will be shared with the carrier's customer on a 40-60, 45-55, 50-50, 55-45, or 60-40 basis depending upon the carrier's service rating level as determined by the Authority in accordance with section (f) of this rule.
 - (d) For small LECs (less than 70,000 access lines) which do not choose to operate under section (1)(c), no earnings adjustment will be made unless the carrier's earned return on equity during the forecast period is more than two hundred (200) basis points above or below the carriers prescribed return. Should that occur, either the Authority or the carrier may initiate rate review proceedings for prospective relief.
 - (c) If during the forecast period, changes occur which jeopardize the interests of ratepayers or the financial stability of a carrier, the Authority or the carrier may initiate rate review proceedings for prospective relief.
 - (f) Subject to Authority review, the Utilities Divisions shall, in cooperation with the carriers, develop appropriate accounting procedures, reporting requirements, and service standards necessary to implement these rules.
 - (g) Any small LEC choosing to operate under this regulatory reform plan must so notify the Authority at least six (6) months prior to the beginning of the LEC's forecast test period. Any

(Rule 1220-4-2-.55, continued)

large LEC must notify the Authority at least nine (9) months in advance. For good cause shown, the Authority may amend these time limits.

(2) Intrastate InterLATA services.

(a) Definitions.

1. “Certificated interLATA resellers” are non-facilities based telecommunications companies providing intrastate interLATA service as a reseller which are subject to Rule 1220-4-2-.57, and any portion of this rule sub-section in which said resellers are specifically mentioned.
2. Facility-based providers of intrastate interLATA services are companies owning facilities in the state which consist of network elements, switches, or other communication transmission equipment used to carry voice, data, image, and video traffic across the LATA boundaries within Tennessee (i.e., intrastate interLATA communications) or to carry any other communications traffic approved by the Authority for these carriers.
3. “Intrastate interLATA services” are those services that provide two-way voice or data communications between points in different LATAs.
4. “Tariff or price filing date” is the date on which the Authority receives a filing.

(b) Tariff Rules and Regulations.

1. All facility-based providers of intrastate interLATA services shall file tariffs for all intrastate services. Such tariffs shall include a description of every intrastate service offered and terms and conditions for each service. The Authority shall evaluate market share based on data obtained from the Federal Communications Commission and/or other sources as the Authority may require.
2. Each service shall be made available at the rate specified in the tariffs to any customer meeting the terms and conditions for that service.
3. Tariff filings involving new services or rate increases may be suspended by the Authority only upon a showing of good cause.

(c) Rate and Price Setting Requirements.

Section (c) applies to facility-based providers with more than five percent (5%) of the intrastate interLATA market as determined by the Authority.

1. Services will be categorized as Basic Residential Services or All Other Services.
2. The Basic Residential Services category shall include 1+ traffic originated from a residential location, excluding calls made under an optional calling plan. This category shall also include 0+ and 0- calls billed to a residential calling card or residential telephone number and person-to-person residential calls, excluding calls made under an optional calling plan. Operator surcharges and per minute rates are included in this category. The Authority shall designate the associated rate schedules to be included in the Basic Residential Services category.
3. The Authority shall establish a rate cap for the Basic Residential Services category. The initial cap will be the rates in effect on the effective date of this rule. The rate cap shall be adjusted to reflect any changes in switched access charges for services in the Basic

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Residential Services category within thirty (30) days of said access adjustments. The amount of any access charge change for the Basic Residential Services category shall be the average statewide per minute access reduction multiplied by most recent twelve (12) months-to-date total minutes of use in the Basic Residential Services category of each affected provider. Each provider shall submit evidence to support its calculations of its change in switched access charges.

4. Revenue neutral adjustments within the Basic Residential Services category are permitted as long as a provider of intrastate interLATA services demonstrates to the Authority that said rate adjustments will be revenue neutral to the service provider. Revenue neutral adjustments will be determined by using the most recent twelve (12) months-to-date minutes of use by rate band for each rate in the Basic Residential Services category multiplied by the existing and proposed rates.
5. Rates for the All Other Services category may be established as the provider deems appropriate, but may be reviewed by the Authority in accordance with the provisions of this rule sub-section.
6. Upon a finding by the Authority that existing and potential competition is an effective regulator of the price of Basic Residential Service, the Authority may exempt such service from the rate cap established in 1220-4-2-.55(2)(c)3.
7. Upon a finding by the Authority that the existing competitive activity is not effectively regulating the price of a service in the All Other Services category to adequately serve the public interest, the Authority may place such service in the Basic Residential Services category.

(d) Price Adjustments.

1. Price reductions shall become effective on the tariff filing date. The Authority may, however, review these reductions upon its own motion or upon the petition of any interested party.
2. No tariff filing submitted pursuant to this rule that increases rates or changes terms and conditions which result in an increase in the billed rate of any service shall take effect sooner than thirty (30) days after notice to the Authority, unless otherwise directed by the Authority. Affected customers shall be notified in a conspicuous manner by direct mail and by publication of a notice in a newspaper of general circulation in the affected service area thirty (30) days prior to the effective date of any rate increases. A copy of such notice shall be filed with the Authority concurrent with the tariff filing.
3. Any change in the previously approved terms and conditions of a service requires thirty (30) days notice to both the Authority and the customer in order to enable the customer sufficient time to qualify for the service. At any time after a change in the terms or conditions of a customer's existing service by the carrier, a customer may cancel service without the application of termination charges.

(e) New Services.

1. New services shall become effective upon filing of tariffs with the Authority. The Authority may, however, review such tariffs upon its own motion or upon the petition of any interested party.
2. Services or calling plans that automatically convert customers from an existing service shall not be classified as a new service. New services are those that are independent from

(Rule 1220-4-2-.55, continued)

other previously approved services and are filed separately from any existing service or calling plan.

(f) Special Services or Contracts.

1. A summary of all special contracts shall be filed with the Authority. The contract shall be made available to the Authority upon request.
2. Special contracts or special pricing packages shall be permitted provided that the service being provided thereunder is available at the same rate to any customer meeting the special terms and conditions.

(g) Consumer Safeguards

1. No provider of intrastate interLATA services shall de-average rates for interLATA service without prior Authority approval.
2. No provider of intrastate interLATA services shall abandon residential services to any location in the state without prior customer notification and Authority approval.
3. Providers of intrastate interLATA services shall comply with all extended area service toll-free calling plans deemed to be in the public interest by the Authority.
4. Failure to comply with any rule or order adopted by the Authority may result in the investigation of whether a provider of intrastate interLATA services continues to operate in the public interest. The Authority may fine a provider of intrastate interLATA service pursuant to T.C.A. § 65-4-120 for violation of an Authority Order or pursue any other enforcement remedy provided by state law.
5. Nothing in this subsection precludes the Authority from acting on its own motion to suspend a tariff or initiate an investigation into any prices or tariffs filed pursuant to this rule sub-section.
6. Providers of intrastate interLATA services shall participate in any support mechanism for Universal Service as may be approved by the Authority.

(h) Reporting.

1. Providers of intrastate interLATA services are required to maintain books and records in a manner consistent with that required by the Federal Communications Commission for each company unless said reporting requirements are specifically waived or otherwise modified by the Authority.
2. The Authority shall monitor technology applications, quality of service and market share conditions through reports and oral presentations made by the providers of intrastate interLATA services. The Authority may request these reports and presentations on a periodic basis, as required, to evaluate service levels and technology deployment results and plans.
3. Providers of intrastate interLATA services shall respond to customer complaints pursuant to Authority rules.
4. Facility-based providers of intrastate interLATA services with greater than five percent (5%) of the state's interLATA market as determined by the Authority shall file reports annually by April 1st containing: (1) the previous calendar year's intrastate minutes of use and revenues for the Basic Residential Services category, and (2) the previous

(Rule 1220-4-2-.55, continued)

calendar year's total intrastate revenues and minutes of use for the service in the All Other Services category.

5. Nothing in this rule precludes the Authority from requiring additional reports.

Authority: T.C.A. §§65-2-102, 65-4-104, 65-4-111, 65-4-201, 65-5-102, and 65-5-103. **Administrative History:** Original rule filed November 25, 1992; effective January 10, 1993. Amendment filed March 28, 1995; effective June 13, 1995. Amendment to rule 1220-4-2-.55 filed July 13, 2001; to be effective September 26, 2001; however, on September 25, 2001, the Joint Government Operations Committee of the General Assembly stayed 1220-4-2-.55, paragraph (2), until November 2, 2001. On October 31, 2001, the committee again stayed this section until January 2, 2002. Section 1220-4-2-.55, paragraph (2) became effective January 2, 2002. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.56 VERIFICATION OF ORDERS FOR CHANGES FOR LOCAL AND LONG DISTANCE CARRIERS.

(1) Definitions

- (a) "Authority" refers to the Tennessee Regulatory Authority
- (b) "Authorized individual" means a person authorized to make billing and service decisions regarding a telephone account. A person under the age of eighteen (18) does not qualify as an "authorized individual" unless they are the person responsible for the telephone bill.
- (c) "A qualified and independent third party" means a person or corporation operating in a location physically separate from the telemarketing representative with no corporate affiliation with the telemarketing company that made the original sale contact with the end user.
- (d) "LEC" refers to the local exchange telephone company that renders a telephone bill to an end user. This definition is inclusive of both incumbent and competitive local providers.
- (e) "LOA" refers to a letter of agency. An LOA is a document granting permission to change a subscriber's local and/or PIC or LPIC carrier and requires the signature of an authorized individual.
- (f) "LPIC" means an end user's preferred intraLATA carrier.
- (g) "PIC" means an end user's preferred interLATA carrier.
- (h) "Slamming" refers to the changing of an end users local, PIC and/or LPIC service where the submitting carrier has not complied with Tenn. Code Ann. §65-4-125.
- (i) "Submitting carrier" means a telecommunications service provider, including but not limited to a LEC, ILEC, CLEC, CTSP, IXC, and reseller, that submits to an end-user's primary local exchange carrier a change order requesting that the end user's preferred local exchange carrier, PIC, and/or LPIC be switched.

- (2) No submitting carrier shall submit to an end user's primary local exchange carrier a change order requesting that the end user's PIC, LPIC, or primary local exchange service provider be switched unless and until the order has first been confirmed in accordance with one of the following procedures:

- (a) The submitting carrier has obtained a written Letter of Agency from the end user that conforms with this section.

(Rule 1220-4-2-.56, continued)

1. The Letter of Agency shall be a separate document, or an easily separable document containing only the authorizing language described in paragraph (d) below, whose sole purpose is to authorize a submitting carrier to initiate a local and/or interLATA or intraLATA long distance service change. The Letter of Agency must be signed and dated by an authorized individual for the telephone line(s) requesting the local and/or interLATA or intraLATA long distance service change.
2. The Letter of Agency shall not be combined with inducements of any kind involving elements of chance on the same document.
3. Notwithstanding paragraphs (1) and (2) of this section, the Letter of Agency may be combined with checks that contain only the required letter of agency language prescribed in subpart (iii) below and the necessary information to make the check a negotiable instrument. The Letter of Agency check shall not contain any promotional language or material and must comply, where appropriate, with Tenn. Code Ann. § 47-18-120 and any other lottery and gambling statutes. The Letter of Agency check shall contain, in easily readable, bold-faced type on the front of the check, a notice that the consumer is authorizing a local and/or interLATA or intraLATA long distance service change by signing the check. The Letter of Agency language also shall be placed near the signature line on the back of the check.
4. At a minimum, the Letter of Agency must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:
 - (i) The end user's billing name and address and each telephone number to be covered by the local and/or interLATA or intraLATA long distance service change order.
 - (ii) The decision to change the local and/or interLATA or intraLATA long distance service carrier from the current carrier to the prospective carrier.
 - (iii) The end user designates the telecommunications company to act as the end user's agent for the local and/or interLATA or intraLATA long distance service change. By designating a telecommunications company to act as the end user's agent, however, the end user does not permit the designated telecommunication company to change the end user's service to another telecommunications company.
 - (iv) Any carrier designated in a Letter of Agency as a preferred local exchange, preferred interLATA, or preferred intraLATA carrier must be the carrier directly setting rates for the end user, and
 - (v) The end user understands that any local exchange and/or interLATA or intraLATA carrier selection the end user chooses may involve a charge to the end user for changing the end user's local and/or interLATA or intraLATA long distance carrier.
5. Letters of Agency shall not suggest or require that an end user take some action in order to retain the end user's current local and/or interLATA or intraLATA long distance carrier.
6. If any portion of a Letter of Agency is translated into another language, then all portions of the Letter of Agency must be translated into that language. Every Letter of Agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the "Letter of Agency;" or

(Rule 1220-4-2-.56, continued)

- (b) The end user, without being prompted to do so by a third party, initiates a call to his or her primary local exchange carrier, or the end user initiates a call to an automated toll-free number. Submitting carriers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to such automated toll-free telephone numbers must connect an end user to a voice response unit, or similar mechanism that records the required information regarding the preferred local exchange service provider, PIC, or LPIC changes; or
- (c) The submitting carrier has obtained the end user's verbal approval to change their preferred local exchange service provider, PIC, or LPIC during a telemarketing sales contact. Verbal approval must be given by an authorized individual and must be confirmed by the procedure listed below:
 - 1. An appropriately qualified and independent third party verifier has obtained the end user's verbal authorization to submit the change order. The change order shall include appropriate verification data described below. The independent verifier must confirm the carrier change with the end user who was originally solicited and must include the following disclosures during the confirmation call:
 - (i) the company name of the independent third party verifier, the name of the individual verifying the change and the name of the carrier on whose behalf it is calling;
 - (ii) request whether the end user would like to verify his/her decision to switch service at the present time or wait until a later time;
 - (iii) a verification that the end user is an authorized individual for the numbers to be changed by stating the customer's birthday or other appropriate information;
 - (iv) the telephone number(s) of the service being switched;
 - (v) the following specific question must be asked to the end users by the third party verifier: "Do you approve to change your service (i.e. local, intraLATA, and/or interLATA) to (company name)?" The end user must respond "yes" to the above question. If the end user responds "no" to the question, the third party verifier must end the confirmation call;
 - (vi) an explanation of what services (i.e. local, intraLATA, and/or interLATA) are about to be changed and the approximate time frame in which the change will occur;
 - (vii) a statement whether the end user authorizes the change of carrier for the particular service to the telecommunications service provider; and
 - (viii) a statement at the end of the conversation confirming that a request will or will not be submitted to the end user's LEC to change his or her preferred local exchange service provider, PIC, or LPIC.
 - 2. The compensation paid to the qualified and independent third party verifier cannot be based upon a commission for successful conversions.

(Rule 1220-4-2-.56, continued)

3. A clear distinction is required between the telemarketing solicitation and the independent third party verification process. In order to ensure this division of labor, the following condition is required:
 - (i) No telemarketer shall participate in or listen to an independent third party verification call to an end user to confirm the end user's authorization to switch service.
 4. A copy of the third party verification script shall be provided to the Authority upon request of the Consumer Services Division.
- (d) In the case of a transfer of a customer base between two (2) or more telecommunications service providers, the Authority, upon petition by the acquiring telecommunications service provider, may deem that sufficient notice has been given and approval received from the affected customers when the following criteria are met:
1. The acquiring telecommunications service provider shall provide the Authority a copy of the self-certification letter it shall file with the Federal Communications Commission ("FCC"), as required in CC Docket No. 00-257, certifying that the customer transfer is in compliance with all FCC regulations governing such transactions.
 2. A notification letter, pre-approved by the Authority, shall be mailed by the current provider of telecommunications service to its customers describing the customer transfer and explaining that unless the customer selects another telecommunications service provider, the customers' local or long distance service will be transferred to the acquiring telecommunications service provider by a date specified in the notification letter. The notification letter shall be mailed by U.S. First Class Postage, with the logo or name of the current provider displayed on both the letterhead and the exterior envelope, no less than thirty (30) days prior to the actual customer transfer. For good cause shown, the Authority may waive any requirement of this part or order any requirement thereof to be fulfilled by the acquiring provider. Good cause includes, but is not limited to, evidence that the current provider is no longer providing service in Tennessee.
 3. The acquiring telecommunications service provider agrees to pay any fees charged to the customer associated with changing service to the acquiring telecommunications service provider. The notification letter required in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.
 4. The acquiring telecommunications service provider agrees to provide to the affected customers a thirty (30) day written notice of any rate increase that may affect their service up to ninety (90) days from the date of the transfer of customers. The notification letter mentioned in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.
- (e) To provide evidence of a valid change order, telecommunications providers may elect to audio record the verbal authorization obtained by the independent third party verifier under Rule 1220-4-2-.56(2)(c)(1). Failure to audio record or to produce such audio recording upon request of the Consumer Services Division of the Authority shall create a rebuttable presumption that the verbal authorization from the end user was not obtained.
- (f) All LOAs, recordings, or any other evidence of change orders shall be maintained by the submitting carrier and the local exchange carrier for one year for dispute resolution and shall be provided to the Authority upon request.

(Rule 1220-4-2-.56, continued)

- (3) Any telecommunications service provider, or its agent, conducting telemarketing solicitations with the purpose of seeking to change an end user's local, intraLATA, or interLATA carrier must include the following disclosures:
 - (a) identification of the name of the specific soliciting carrier the telemarketer is representing;
 - (b) a statement that the purpose of the call is to solicit verbal approval to change the end user's local, and/or intraLATA, or interLATA carrier along with the specific question to the end user, "do you want to change your service?" (i.e., local, PIC or LPIC);
 - (c) a statement that the end user's local, intraLATA, or interLATA carrier may not be changed unless and until the telemarketing sale is confirmed by at least one of the methods outlined in 2(a-c);
 - (d) a description of any charge(s) for processing the carrier change that may be imposed by the customer's local exchange carrier;
 - (e) an explanation of the type and amount of any monthly recurring fee or minimum usage fee that may be charged to the end user for the new service as well as the rate difference, if there is one, between intrastate and interstate toll charges;
 - (f) an explanation of what services (i.e. local, intraLATA, and/or interLATA) are about to be changed and the time frame when the change will occur; and
 - (g) a verification that the end user is an authorized individual.
- (4) Copies of all telemarketing scripts used by telecommunications service providers, or their agents, for the purpose of soliciting end users to change their service (i.e., local, PIC and LPIC) shall be provided to the Authority upon the request of the Consumer Services Division.
- (5) The Authority upon request of the Consumer Services Division, may require telecommunications service providers, or their agent, engaging in telemarketing to record on tape all telemarketing solicitations and/or the verbal authorization obtained by the independent third party verifier for the purpose of switching an end user's local, LPIC or PIC. These taping requirements may be invoked if it is determined that there is probable cause that the Authority's Rule 1220-4-2-.56 is not being followed. Copies of tapes between the telemarketer and end users shall be provided to the Authority upon request. Taping of telemarketing solicitations shall continue hereunder at the discretion of the Authority.
- (6) Telecommunications service providers, or their agents, engaging in telemarketing shall fully comply with all state and federal laws and rules and regulations including, but not limited to the following:
 - (a) Tenn. Code Ann. § 47-18-1526, 47 C.F.R. 64 and 16 C.F.R. 310 regarding maintaining lists of persons who do not wish to receive telephone solicitations by or on behalf of persons or entities which are commonly referred to as "don't call lists." It shall be a separate violation of this Rule Chapter for the purpose of a fine to fail to place an end user on a "don't call list" or to call a customer that is on such a list in full conformity with appropriate state and federal laws, regulations or rules.
 - (b) Telecommunications service providers shall comply with Tenn. Code Ann. §§47-18-1526(c)(1), (2)(A) and (B) as amended in Public Acts 1998, Chapter 734, which prohibit such providers from placing telephone calls to consumers from a telephone number if the telephone number of the caller is unlisted or if the telephone solicitor or verifier is using telephone equipment which blocks the caller ID function on telephone equipment.

(Rule 1220-4-2-.56, continued)

- (7) Any reseller of local, intraLATA, and/or interLATA services shall not disclose or otherwise identify which facilities-based resold services are being used unless the customer without being prompted by the telemarketer specifically requests that information.
- (8) In the event that a telecommunications service provider is notified by an end user that he or she has been reassigned a local, interLATA, or intraLATA service provider without authorization, the telecommunications service provider shall suspend collection of all change charges from the end user until the dispute is resolved and shall initiate, within one business day, the switching of the end user back to the carrier identified by the end user as the end user's preferred carrier prior to the unauthorized switch.
- (9) Telecommunications service providers are required to inform end users of their right to report slamming complaints to the Authority for investigation.
- (10) Any subscriber to telecommunications services in the State of Tennessee who wishes to file a complaint involving an allegation of slamming against a telecommunications service provider, or a person acting on behalf of a telecommunications service provider pursuant to Tenn. Code Ann. § 65-4-125 and the provisions of this Rule Chapter, may do so in the manner set forth below:
 - (a) The following procedures shall be followed with respect to subscriber complaints:
 1. A complaint must follow substantially the form of complaint provided by the Authority and must include such information, as required by that form, as necessary for the processing of the complaint, including, without limitation, whether the telecommunications service provider has been contacted and the results of any such contact.
 2. On the receipt by the Authority of any complaint, or inquiry, which appears to involve slamming, the complaint or inquiry shall be referred to the Consumer Services Division.
 3. If the complaint is filed on, or substantially in compliance with, the approved form, the Consumer Services Division will contact the person filing the complaint ("Complainant") to verify the facts alleged, and to obtain any further information deemed necessary for the processing of the complaint.
 4. If the complaint or inquiry is not filed on the approved form, the Consumer Services Division will contact the Complainant, to determine if that person wishes to proceed with a complaint, and, if so, to determine and verify such information as may be necessary for the processing of the complaint, which information shall be included in the complaint.
 5. If the Consumer Services Division determines that the complaint is without merit on its face, the Consumer Services Division will so advise the person making the complaint, and will further advise such person that he or she has the right to file a formal complaint with the Authority under the general procedures for the filing of complaints.
 6. If the Consumer Services Division determines that the complaint is in proper form for processing, and is not without merit on its face, the Consumer Services Division will serve a copy thereof, by e-mail, by facsimile, by personal delivery, or by regular mail, on the telecommunications service provider, or other person, who is alleged to have violated Tenn. Code Ann. § 65-4-125(a).
 7. Within ten (10) days after service of the complaint (three (3) additional days from the date of mailing, if service is by mail) or within such further time as may be allowed by the Consumer Services Division on the request of the Respondent, the

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- telecommunications service provider, or other person served, shall file a written response with the Consumer Services Division admitting or denying the factual allegations of the complaint, and including defenses based on any issues of law, and providing such other information, justification or argument as the Respondent may deem appropriate. A copy of that response will be served on the Complainant.
8. Promptly after the receipt of that response, the Consumer Services Division will determine if further information is necessary, and, if so, shall endeavor to obtain it; and will attempt to mediate the complaint to the satisfaction of both parties.
 9. If the parties agree to a resolution of the matter, written evidence of that resolution shall be placed in the file of the Consumer Services Division and the matter will be closed.
 10. If the Respondent fails to file a timely response to the complaint, the factual allegations thereof shall be deemed to have been admitted.
 11. If the Respondent fails to file a timely response, or if the parties fail to agree to a resolution of the matter, the Consumer Services Division shall certify the matter to the Authority, with recommendations in the premises. Any such certification shall identify the issues raised by the parties and shall include a computation of the amounts which may be due to the Complainant.
 12. The Authority shall consider the matter as certified by the Consumer Services Division in an open meeting; and shall determine whether the matter involves only legal issues or involves contested issues of fact. If the matter involves only legal issues the Authority shall set a briefing schedule and may set the matter for oral argument. If the matter involves contested issues of fact, the Authority may either convene a contested case and follow contested case procedures for its determination; or the Authority, on the basis of the investigation made by the Consumer Services Division, may issue a show cause order pursuant to Tenn. Code Ann. §65-2-106.
 13. The Authority may, however, in its discretion entertain and decide any subscriber complaints itself, without referring the matter to the Consumer Services Division, under the general procedures provided for the disposition of complaints, including, without limitation, the issuance of a show cause order pursuant to Tenn. Code Ann. § 65-2-106.
- (b) A telecommunications service provider, or person acting on behalf of a telecommunications service provider, who is found by the Authority to have violated Tenn. Code Ann. §65-4-125(a), or any provision of Rule 1220-4-2-.56 shall:
1. Be subject to the imposition of the civil penalty provided in Tenn. Code Ann. §65-4-125(f), as the Authority may determine.
 2. Provide upon request of the end user's previous carrier, all billing records to the original telecommunications service provider that are related to the unauthorized provision of service to the customer within forty-five (45) days of the end user's request to return the customer to the original telecommunications service provider.
 3. Pay the original telecommunications service provider any amount paid to it by the end user that would have been paid to the original telecommunications service provider if the unauthorized switch had not occurred, within thirty (30) days of the end user's request to return the end user to the original telecommunications service provider. If the unauthorized carrier has already made payments to the end user's original carrier

(Rule 1220-4-2-.56, continued)

pursuant to any federal laws or regulations, the payment under this rule shall be reduced by the amount already paid pursuant to such federal laws and regulations.

4. Be required to pay to the subscriber wronged by such violation any amount which the Authority is authorized by law to require to be paid.
- (c) In addition to the remedies provided by this rule to subscribers, the Authority may, on its own motion, or on the recommendation of the Consumer Services Division, or on the motion of the Consumer Advocate Division or any other interested person, order the investigation of the practices of any telecommunications service provider, or persons acting on behalf of a telecommunications service provider, to determine if such telecommunications service provider, or person acting on behalf of any telecommunications service provider, has followed a pattern of continued violation of Tenn. Code Ann. § 65-4-125(a), or of Rule 1220-4-2-.56; and if such investigation discloses such a pattern of continued violation, the Authority shall issue a show cause order with respect to such acts pursuant to Tenn. Code Ann. § 65-2-106.
- (11) Any instance in which an employee, representative or agent of a submitting carrier forges an end user's signature on an LOA or otherwise falsifies evidence of an end user's authorization of a change order shall constitute a separate violation of this rule. Enforcement of this provision shall not foreclose private actions in tort or any criminal or civil liability of the employee, representative or agent of submitting carrier.
- (12) Telecommunications service providers are required to maintain a detailed record of all slamming complaints filed against them in Tennessee for two (2) years. A telecommunications service provider shall, upon request by the Authority, file a report with the Authority stating the number of such slamming complaints they have received in Tennessee. This report shall identify the name, address and telephone number of the end user slammed along with the method used to switch the end user. The report shall also describe the action taken by the telecommunications service provider to remedy the complaint including the amount of adjustment given, as well as any other information requested. This report is to be submitted to the Consumer Services Division within twenty (20) business days of the request for the report unless additional time is granted.
- (13) Local exchange carriers are required upon request by an end user to provide a freeze on an end user's local exchange service, PIC or LPIC without charge, unless the Authority otherwise approves such a charge. This freeze is designed to afford the end user added protection against slamming. ILECs and CLECs providing local exchange service in Tennessee are required to file tariffs with the Authority describing their freeze service within ninety (90) days of the effective date of this Rule Chapter. Specific guidelines regarding a local and/or PIC or LPIC freeze are described below.
 - (a) A local, PIC or LPIC freeze shall be implemented or removed by one of the following methods:
 1. in written form by the use of a LOA which shall state how the freeze may be lifted by the end user;
 2. verbally, with the end user's ILEC or CLEC;
 3. by a three-way call with ILEC/CLEC and the long distance carrier.
 - (b) Carriers or resellers seeking to switch an end user's local, PIC or LPIC which has been frozen are required to advise the end user to remove the freeze status by one of the methods listed in 13(a)(i-iii) on the service being changed. This provision in no way nullifies the carrier or reseller's responsibility to verify the service provider change as outlined in paragraph (2) of this rule.

(Rule 1220-4-2-.56, continued)

- (c) No ILEC shall provide to any end user an intraLATA carrier freeze option until intraLATA pre-subscription has been in effect for one hundred eighty (180) days.
 - (d) No ILEC shall provide to any end user a local carrier freeze option until the ILEC's local market has been open to competition for one hundred eighty (180) days, as determined by the Federal Communications Commission pursuant to Section 271 of the Telecommunications Act of 1996 for Regional Bell Operating Companies and as determined by the Authority for all other carriers.
 - (e) Carrier selection freezes shall be administered at the jurisdictional/service level (i.e. local, PIC, LPIC).
 - (f) ILECs/CLECs must send a confirmation letter to their end users who have elected to freeze their carrier selection. The confirmation letter shall contain a statement that a carrier freeze has been applied to what jurisdiction/service/telephone number account, the name of the carrier to which the freeze applies, and instructions regarding how the end user may remove the freeze from his or her service. This process should be performed regardless of the method used to obtain a carrier freeze.
 - (g) The ILEC/CLEC must make available an entire listing of all its end users who have elected to freeze their carrier's to any Authority certified telecommunications service provider, upon request. The identification of the specific carrier selected by each end user account shall be excluded.
- (14) Local exchange carriers that bill on behalf of long distance carriers are required to place a conspicuous notice on the first page of the end user's telephone bill indicating that the end user's preferred interLATA and/or intraLATA carrier has been switched. This notice is only required on the first telephone bill after the switch is made.
 - (15) If an end user alleges that he/she has been a victim of slamming, the end user's local exchange carrier is prohibited from disconnecting the end user's local exchange service for nonpayment of intraLATA or interLATA toll charges without the prior approval of the Authority, unless the local exchange carrier has advised the end user to report the alleged slamming to the Authority and the end user has failed to do so within thirty (30) days of being so advised by the local exchange carrier and that failure to do so may result in the disconnection of the end user's service.
 - (16) Telecommunications service providers are prohibited from using misleading, deceptive, or unfair marketing acts or practices for the purpose of soliciting, verifying, or obtaining in any way the end user's permission to switch his or her local, PIC and/or LPIC.
 - (17) Nothing in this Rule Chapter shall be construed to permit a telecommunications service provider or its agents to violate any state or federal law, regulation or rule.
 - (18) This Rule Chapter is to be liberally construed for the protection of consumers of the State of Tennessee and is remedial in nature.
 - (19) Any telecommunications service provider that may have a civil penalty assessed against it by the Authority for failure to comply with Tenn. Code Ann. § 65-4-125 or any provisions of this rule, may still be subject to other civil or criminal remedies or penalties available under state or federal law including, but not limited to, the Tennessee Consumer Protection Act.
 - (20) The provisions of this chapter shall not be construed to exceed the jurisdiction accorded to the Tennessee Regulatory Authority under state and federal law.

(Rule 1220-4-2-.56, continued)

- (21) If one or more of the term(s) or provision(s) of this rule or the application thereof, to any extent, are held to be invalid or unenforceable, then the remainder of this rule, shall not be affected thereby.

Authority: T.C.A. §§4-5-201 et. seq., 65-2-102, 65-2-106, 65-4-101, 65-4-104, 65-4-123, 65-4-125 and 47 U.S.C. § 258. **Administrative History:** Original rule filed December 15, 1993; effective April 30, 1994. Amendment filed September 14, 1999; effective November 26, 1999. Amendment filed October 31, 2001; effective January 14, 2002. Amendment filed January 27, 2005; effective April 12, 2005.

1220-4-2-.57 RULES AND REGULATIONS FOR RESELLERS OF TELECOMMUNICATION SERVICE.

- (1) Definitions:
- (a) “Access code” means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.
 - (b) “Aggregator” means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for intrastate telephone calls using a provider of operator services.
 - (c) “Call Splashing” means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call.
 - (d) “Consumer” means a person initiating any intrastate telephone call using operator service.
 - (e) “Equal access” has the meaning given that term in Appendix B of the Modification of Final Judgment entered by the United States District Court in United States v. Western Electric, 569 F. Supp. 990 (D.C.D.C.; 1983).
 - (f) “Reseller” is a common carrier of telephone services other than a facilities-based carrier. The term reseller includes, but is not limited to, operator service providers.
- (2) Resellers shall not provide intrastate telecommunications services in Tennessee without a certificate of convenience and necessity awarded by the Authority pursuant to state law and these rules. In determining whether or not to award a certificate, the Authority shall consider whether granting the certificate will service the present or future public convenience and necessity. The Authority may also consider the applicant’s financial ability, character, and proposed rates, as well as such other matters as the Authority finds relevant.
- (3) Local exchange carriers (LECs) shall provide intrastate access or intrastate billing and collection only to resellers that have been granted a certificate by the Authority.
- (4) All resellers providing intrastate service at the time the rule becomes effective shall have ninety (90) days to submit an application for a certificate of convenience and necessity. Resellers providing intrastate service on the date this rule becomes effective shall not be required to discontinue service pending the outcome of their applications.
- (5) **APPLICATIONS FOR AUTHORITY.** An application for a certificate of convenience and necessity, submitted by a reseller shall include the following information which must be certified as true and correct:
- (a) the name of the reseller, the address of the reseller’s corporate headquarters, and the names and addresses of the reseller’s principal corporate officers;

(Rule 1220-4-2-.57, continued)

- (b) if different than above, the name and address of all officers and corporate officers located in Tennessee and the name(s) and address(es) of employee(s) responsible for Tennessee operations;
 - (c) a certified statement from a principal corporate officer that the reseller is operating in compliance with all applicable federal and state laws and all FCC and Authority rules. If the reseller is an operator service provider, the statement must specifically reference T.C.A. §65-5-106;
 - (d) information about the structure of the business organization and, where applicable, a copy of any articles of incorporation, partnership agreement or by laws of the resellers and any entity owning or controlling interest in the reseller, and a copy of a license to do business in Tennessee;
 - (e) an up-to-date balance sheet and income statement;
 - (f) the name, address, and telephone number of a Tennessee contact person responsible for and knowledgeable about the reseller's operations;
 - (g) repair and maintenance information including the name, local address, and telephone number of the individual responsible for servicing customers and supplying refunds;
 - (h) for operator service providers, a proposed tariff containing all operator service rates, tolls, charges, classifications and rules in compliance with Rules 1220-4-1-.01 and 1220-4-1-.02;
 - (i) a list of other states where the reseller is authorized to operate and a list of those states which have denied the requested authority;
 - (j) a description of company procedures used to verify customer-ordered changes in preferred interexchange carriers;
 - (k) a fifty dollar (\$50) registration fee; and
 - (l) such other information as the Authority may require.
- (6) The Authority may grant or deny certificates based on the certified application subject to the right of any party to request a hearing. Falsification of, or failure to disclose, any information required in the application shall be grounds for denial or revocation of a reseller's certificate.
- (7) Rates and Tariffs:
- (a) Any operator service provider whose rates are equal to or less than the maximum rates of the predominant LEC or IXC for an equivalent call, as defined in T.C.A. §§ 65-5-106(1) and (2), shall be deemed just and reasonable. Any operator service provider that desires to charge a higher rate or utilize a different pricing method than the predominant LEC or IXC shall file appropriate cost justification for the proposed charge.
 - (b) Within ten (10) days of a request from the Authority or its Staff, a reseller shall provide a tariff containing requested rates, tolls, charges, classifications, and rules.
- (8) All resellers shall recognize and give effect to customer-ordered requests made to the customers local exchange carrier that certain types of calls, such as collect, third party, and/or "900 calls, be blocked.

(Rule 1220-4-2-.57, continued)

(9) CONSUMER INFORMATION:

(a) Each provider of operator services shall:

1. identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;
2. permit the consumer to terminate the telephone call at no charge before the call is connected; and
3. disclose immediately to the consumer, upon request and at no charge to the consumer:
 - (i) a quotation of its rates or charges for the call;
 - (ii) the methods by which such rates or charges will be collected; and
 - (iii) the methods by which complaints concerning such rates, charges or collection practices will be resolved.

(b) Each aggregator shall post on or near the telephone instrument, in plain view of the consumers:

1. The name, address, and toll-free telephone number of the provider of operator services.
2. A written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the intrastate common carrier of their choice and may contact their preferred intrastate common carrier for information on accessing that carrier's service using that telephone, and
3. The name and address of the Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, Tennessee 37243-0505, to which the consumer may direct complaints regarding operator services.

(10) CALL BLOCKING PROHIBITED

(a) Each aggregator shall ensure that each of its telephones prescribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer.

(b) Each provider of operator services shall:

1. ensure, by contract or tariff, that each aggregator for which such provider is the prescribed provider of operator services, is in compliance with the requirements of subparagraphs (a) and (c) of this paragraph; and
2. withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator is blocking access to intrastate common carriers in violation of subparagraph (a) and (c) of this paragraph.

(c) Each aggregator shall ensure that any of its equipment prescribed to a provider of operator services allows the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services consistent with the unlocking schedule set forth in 47 C.F.R. Section 64.704.

(Rule 1220-4-2-.57, continued)

- (11) In instances in which the Authority has ordered facilities-based carriers to provide toll-free service, all resellers shall also provide toll-free service.
- (12) All resellers shall provide a toll-free number for customers to call regarding questions and complaints.
- (13) All resellers shall pay an inspection, control and supervision fee as required by T.C.A. §65-4-301.
- (14) All resellers shall comply with Rule 1220-4-2-.13 regarding customer complaints.
- (15) All resellers shall file ad valorem tax reports pursuant to T.C.A. §67-5-1301 *et seq.*
- (16) Violation of state law or the Authority's rules may constitute grounds for fines or revocation of a reseller's certificate as described below:
 - (a) If the Chief of the Consumer Services Division has cause to believe that a reseller is in violation of an Authority rule or state law, he/she shall notify the reseller of the alleged violation. The notice shall include copies of any documentation indicating that the reseller is in violation of the rule or statute.
 - (b) The reseller shall have thirty (30) days to provide a written response to the notice. Failure to respond to the notice shall be considered grounds for summary revocation of the reseller certificate.
 - (c) After reviewing the response the Chief may recommend to the Authority the issuance of a show cause order pursuant to T.C.A. §65-2-106.
 - (d) Upon a determination that a reseller is in violation of a statute or Authority rule, the Authority may impose fines, revoke the reseller's certificate or order such other remedies as provided by law.

Authority: T.C.A. §§65-2-102, 65-4-115, 64-4-117, 65-4-120, 65-4-201, 65-5-102, and 65-5-206. **Administrative History:** Original rule filed March 28, 1995; effective June 13, 1995. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-2-.58 BILLING REQUIREMENTS FOR CHARGES ON CONSUMER'S TELEPHONE BILLS.

- (1) Definitions
 - (a) "Authority" refers to the Tennessee Regulatory Authority
 - (b) "Authorized individual" means a person authorized to make billing and service decisions regarding a telephone account. A person under the age of eighteen (18) does not qualify as an "authorized individual" unless they are the person responsible for the telephone bill.
 - (c) "CLEC" refers to a competitive local exchange carrier.
 - (d) "Cramming" is the submission or inclusion of unauthorized, misleading, or deceptive charges for products or services on a subscriber's local telephone bill.
 - (e) "ILEC" refers to an incumbent local exchange carrier.
 - (f) "LPIC" means a subscriber's preferred intraLATA carrier.
 - (g) "PIC" means a subscriber's preferred interLATA carrier.

(Rule 1220-4-2-.58, continued)

- (h) “Submitting carrier” means a telecommunications service provider, including but not limited to a LEC, ILEC, CLEC, CTSP, IXC, and reseller, that submits to a subscriber’s primary local exchange carrier a charge for inclusion on the subscriber’s telephone bill.
 - (i) “Third Party Service Provider” refers to a company other than the subscriber’s local and/or PIC or LPIC provider that bills a subscriber for services on their telephone bill.
- (2) No telecommunications service provider, as defined in Tenn. Code Ann. § 65-4-101(c), authorized to do business in Tennessee by the Authority shall cause a charge for its services or that of another service provider to be placed on a subscriber’s telephone bill unless the following procedures are followed:
 - (a) Telecommunications service providers and/or billing agents may not bill for services provided by submitting carriers that lack any required certification by the Authority to do business in Tennessee. Obtaining a copy of the submitting carrier’s certification order issued by the Authority shall constitute compliance with this rule.
 - (b) Charges on telephone bills shall have sufficient detail and explanation to allow a subscriber to understand the charge’s purpose and origin. Lists of fees such as “service fee,” “membership,” “miscellaneous,” and “calling plan” are deemed insufficient detail and are not permitted. The charge should, at a minimum, describe the service, the date the service was provided to the subscriber, the name of the service provider and a toll-free number of the service provider.
 - (c) A toll-free number shall be listed on the telephone bill of the company billing the charge so that subscribers can inquire about the nature of the charge. This toll-free number shall be answered weekdays from 8:00 AM to 5:00 PM local time.
 - (d) Upon request by the subscriber, the submitting carrier shall provide the name of the authorized individual who approved the charge and the date of the approval. Failure to supply this information to the subscriber within three (3) business days from the initial request shall be sufficient grounds to waive disputed charges.
 - (e) Intrastate and interstate charges shall be listed on the subscriber’s telephone bill within three (3) billing cycles after the service was provided. International charges shall be listed on the subscriber’s telephone bill within four (4) billing cycles.
 - (f) Authorization for the placing of such charges for services on a customer’s telephone bill shall not be combined with inducements of any kind involving the element of chance on the same document.
 - (g) Telecommunications service providers shall place a statement on the subscriber’s telephone bill indicating that non-payment of disputed third party charges will not result in the disconnection of local service.
 - (h) Telecommunications service providers shall fully comply with Tenn. Code Ann. § 47-18-1526, 47 CFR §64 and 16 CFR §310 regarding maintaining lists of persons who do not wish to receive telephone solicitations by or on behalf of persons or entities which are commonly referred to as “don’t call lists.” It shall be a separate violation of this Rule Chapter for the purpose of a fine to fail to place a subscriber on a “don’t call list” or to call a customer that is on such a list in full conformity with appropriate state and federal laws, regulations or rules.
 - (i) Telecommunications service providers shall comply with Tenn. Code Ann. §§ 47-18-1526(c)(1), (2)(A) and (B) as amended in Public Acts 1998, Chapter 734, which prohibits

(Rule 1220-4-2-.58, continued)

placing telephone calls to a consumer from a telephone number if the telephone number of the caller is unlisted or if the telephone solicitor or verifier is using telephone equipment which blocks the caller ID function on telephone equipment.

- (3) No telecommunications service provider may submit charges for telecommunications services to be included on a subscriber's telephone bill without first having obtained the prior consent of an authorized individual for such charges to appear on the telephone bill. Casual billing, including but not limited to collect calls, third party calls and calls to a carrier's toll access number, is exempt from the provisions of this subsection. Telecommunications service providers may not use the following practices to obtain the subscriber's consent:
 - (a) Misleading, deceptive, or unfair marketing acts or practices.
 - (b) The entry to a contest or the awarding of a prize or other similar enticements involving an element of chance.
- (4) Telecommunications service providers are required to offer their customers a service that blocks the placing of monthly recurring charges on telephone bills by third party service providers. This blocking service will give the subscriber the ability to better prevent unauthorized charges appearing on his or her telephone bill by not allowing third party service providers the ability to place monthly recurring charges on the customer's bill without proper verification. Authorized casual billing of toll calls such as collect, third party and calls to a carrier's toll access number as well as authorized charges for directory advertising are excluded from this blocking service. The method of verifying charges for customers with the third party bill block service is described below:
 - (a) The third party service provider shall not submit charges to a subscriber's ILEC/CLEC without first obtaining a letter of authorization ("LOA") from an authorized individual for the telephone account. The LOA shall include the name and address of the company providing the service, a description of the service, an itemization of the cost including whether the charge is one-time or a recurring fee, and a statement confirming that the person signing up for the service is an authorized individual for the telephone service.
 - (b) The LOA shall not be combined with inducements of any kind on the same document.
 - (c) A copy of the LOA must be provided to the telecommunications service provider, if requested, as authority from the customer to place a monthly recurring charge on his or her telephone bill.
 - (d) ILECs/CLECs will not remove a third party service provider block without first calling the subscriber and obtaining his or her verbal approval.
- (5) Telecommunications service providers are required to file tariffs with the Authority describing the third party service provider block service and the procedures to remove the blocking service within one hundred eighty (180) days of the effective date of this Rule Chapter. Requests for additional time to file a tariff for this blocking service must be filed with the Authority within the one hundred eighty (180) days mentioned above. Such requests shall contain an explanation of why the telecommunications service provider cannot provide the third party service provider blocking service.
- (6) Any subscriber to telecommunications services in the State of Tennessee who wishes to file a complaint involving an allegation of cramming against a telecommunications service provider, or a person acting on behalf of a telecommunications service provider, pursuant to Tenn. Code Ann. § 65-4-125 and the provisions of this rule chapter, may do so in the manner set forth below:
 - (a) The following procedures shall be followed with respect to subscriber complaints:

(Rule 1220-4-2-.58, continued)

1. A complaint must follow substantially the form of complaint as provided by the Authority, and must include such information, as required by that form, as necessary for the processing of the complaint, including, without limitation, whether the telecommunications service provider has been contacted and the results of any such contact.
2. On the receipt by the Authority of any complaint, or inquiry, which appears to involve cramming, the complaint or inquiry shall be referred to the Consumer Services Division.
3. If the complaint is filed on, or substantially in compliance with, the approved form, the Consumer Services Division will contact the person filing the complaint ("Complainant") to verify the facts alleged, and to obtain any further information deemed necessary for the processing of the complaint.
4. If the complaint or inquiry is not filed on the approved form, the Consumer Services Division will contact the Complainant, to determine if that person wishes to proceed with a complaint, and, if so, to determine and verify, such information as may be necessary for the processing of the complaint, which information shall be included in the complaint.
5. If the Consumer Services Division determines that the complaint is without merit on its face, the Consumer Services Division will so advise the person making the complaint, and will further advise such person that he or she has the right to file a formal complaint with the Authority under the general procedures for the filing of complaints.
6. If the Consumer Services Division determines that the complaint is in proper form for processing, and is not without merit on its face, the Consumer Services Division will serve a copy thereof, by e-mail, facsimile, by personal delivery, or by regular mail, on the telecommunications service provider, or other person, who is alleged to have violated Tenn. Code Ann. § 65-4-125(b).
7. Within ten (10) days after service of the complaint (three (3) additional days from the date of mailing, if service is by mail) or within such further time as may be allowed by the Consumer Services Division on the request of the Respondent, the telecommunications service provider, or other person served, shall file a written response with the Consumer Services Division admitting or denying the factual allegations of the complaint, and including defenses based on any issues of law, and providing such other information, justification or argument as the Respondent may deem appropriate. A copy of that response will be served on the Complainant.
8. Promptly after the receipt of that response, the Consumer Services Division will determine if further information is necessary, and, if so, shall endeavor to obtain it; and will attempt to adjust the complaint to the satisfaction of both parties.
9. If the parties agree to a resolution of the matter, written evidence of that resolution shall be placed in the file of the Consumer Services Division and the matter will be closed.
10. If the Respondent fails to file a timely response to the complaint, the factual allegations thereof shall be deemed to have been admitted.
11. If the Respondent fails to file a timely response, or if the parties fail to agree to a resolution of the matter, the Consumer Services Division shall certify the matter to the Authority, with recommendations in the premises. Any such certification shall identify

(Rule 1220-4-2-.58, continued)

the issues raised by the parties and shall include a computation of the amounts which may be due to the Complainant.

12. The Authority shall consider the matter as certified by the Consumer Services Division in an open meeting; and shall determine whether the matter involves only legal issues or involves contested issues of fact. If the matter involves only legal issues the Authority shall set a briefing schedule and may set the matter for oral argument. If the matter involves contested issues of fact, the Authority may either convene a contested case and follow contested case procedures for its determination; or the Authority, on the basis of the investigation made by the Consumer Services Division, may issue a show cause order pursuant to Tenn. Code Ann. §65-2-106.
 13. The Authority may, however, in its discretion entertain and decide any subscriber complaints itself, without referring the matter to the Consumer Services Division, under the general procedures provided for the disposition of complaints, including, without limitation, the issuance of a show cause order pursuant to Tenn. Code Ann. § 65-2-106.
- (b) A telecommunications service provider, or person acting on behalf of a telecommunications service provider, who is found by the Authority to have violated Tenn. Code Ann. §65-4-125(a), or any provision of Rule 1220-4-2-.56 shall:
1. Be subject to the imposition of the civil penalty provided in Tenn. Code Ann. §65-4-125(f), as the Authority may determine;
 2. Provide upon request of the subscriber's previous carrier, all billing records to the original telecommunications service provider that are related to the unauthorized provision of service to the customer within forty-five (45) days of the subscriber's request to return the customer to the original telecommunications service provider.
 3. Pay the original telecommunications service provider any amount paid to it by the subscriber that would have been paid to the original telecommunications service provider if the unauthorized switch had not occurred, within thirty (30) days of the subscriber's request to return the subscriber to the original telecommunications service provider. If the unauthorized carrier has already made payments to the subscriber's original carrier pursuant to any federal laws or regulations, the payment under this rule shall be reduced by the amount already paid pursuant to such federal laws and regulations.
 4. Be required to pay to the subscriber wronged by such violation any amount which the Authority is authorized by law to require to be paid.
- (c) In addition to the remedies provided by this rule to subscribers, the Authority may, on its own motion, or on the recommendation of the Consumer Services Division, or on the motion of the Consumer Advocate Division or any other interested person, order the investigation of the practices of any telecommunications service provider, or persons acting on behalf of a telecommunications service provider, to determine if such telecommunications service provider, or person acting on behalf of any telecommunications service provider, has followed a pattern of continued violation of Tenn. Code Ann. § 65-4-125(b), or of Rule 1220-4-2-.58; and if such investigation discloses such a pattern of continued violation, the Authority shall issue a show cause order with respect to such acts pursuant to Tenn. Code Ann. § 65-2-106.
- (7) Telecommunications service providers shall maintain a list of subscriber complaints by service provider concerning disputed billings for services for twenty-four (24) months and shall provide this list and any other information required by the Authority upon request. This information shall be

(Rule 1220-4-2-.58, continued)

submitted to the Authority within twenty (20) days unless the request for additional time is approved by the Authority. The list shall include the following information:

- (a) the name, address, and telephone number of the subscriber;
 - (b) the name of the service provider and the amount charged to the subscriber, and a description of the disputed charge;
 - (c) the date the complaint was filed and the date the complaint was resolved; and
 - (d) a brief summary how the complaint was resolved including any adjustment awarded to the subscriber.
- (8) Telecommunications service providers are required to notify the Authority's Consumer Services Division of third party service providers that receive greater than fifty (50) subscriber complaints within one month.
- (9) Telecommunications service providers are required to provide, without charge, blocking services to their subscribers that will prevent calls to 900 number companies and international numbers. ILECs/CLECs are required to file appropriate tariffs for these services with the Authority within 90 days of the effective date of this rule chapter.
- (10) Telecommunications service providers shall inform their subscribers twice a year of their third party, 900 and international blocking services and how to subscribe to the services. This notification can accompany the subscriber's telephone bill.
- (11) Each telecommunications service provider is required to itemize the charges for its services it submits for inclusion on an subscriber's telephone bill at least twice a year, or upon the request of the subscriber, but not more frequently than once a month.
- (12) Nothing in this rule chapter shall be construed to permit a telecommunications service provider, third party service provider or their agents to violate any state or federal law, regulation or rule.
- (13) This rule chapter is to be liberally construed for the protection of consumers of the State of Tennessee and is remedial in nature.
- (14) Any telecommunications service provider that may have a civil penalty assessed against it by the Authority for failure to comply with Tenn. Code Ann. § 65-4-125 or any provisions of this rule, may still be subject to other civil or criminal remedies or penalties available under state or federal law including, but not limited to, the Tennessee Consumer Protection Act.
- (15) The provisions of this chapter shall not be construed to exceed the jurisdiction according to the Tennessee Regulatory Authority under state and federal law.
- (16) If one or more of the term(s) or provision(s) of this rule chapter or the application thereof, to any extent, are held to be invalid or unenforceable, then the remainder of this rule chapter, shall not be affected thereby.

Authority: T.C.A. §§4-5-201 et. seq., 65-2-102, 65-2-106, 65-4-101, 65-4-104, 65-4-123, 65-4-125, and 47 U.S.C. § 258. **Administrative History:** Original rule filed September 14, 1999; effective November 26, 1999.