

§ 51.809

(2) Establish rates for interconnection, services, or access to unbundled network elements according to section 252(d) of the Act, including the rules prescribed by the Commission pursuant to that section; and

(3) Provide a schedule for implementation of the terms and conditions by the parties to the agreement. If a final offer submitted by one or more parties fails to comply with the requirements of this section or if the arbitrator determines in unique circumstances that another result would better implement the Communications Act, the arbitrator has discretion to take steps designed to result in an arbitrated agreement that satisfies the requirements of section 252(c) of the Act, including requiring parties to submit new final offers within a time frame specified by the arbitrator, or adopting a result not submitted by any party that is consistent with the requirements of section 252(c) of the Act, and the rules prescribed by the Commission pursuant to that section.

(g) Participation in the arbitration proceeding will be limited to the requesting telecommunications carrier and the incumbent LEC, except that the Commission will consider requests by third parties to file written pleadings.

(h) Absent mutual consent of the parties to change any terms and conditions adopted by the arbitrator, the decision of the arbitrator shall be binding on the parties.

[61 FR 45619, Aug. 29, 1996, as amended at 66 FR 8520, Feb. 1, 2001]

§ 51.809 Availability of agreements to other telecommunications carriers under section 252(i) of the Act.

(a) An incumbent LEC shall make available without unreasonable delay to any requesting telecommunications carrier any agreement in its entirety to which the incumbent LEC is a party that is approved by a state commission pursuant to section 252 of the Act, upon the same rates, terms, and conditions as those provided in the agreement. An incumbent LEC may not limit the availability of any agreement only to those requesting carriers serving a comparable class of subscribers or providing the same service (*i.e.*, local, ac-

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cess, or interexchange) as the original party to the agreement.

(b) The obligations of paragraph (a) of this section shall not apply where the incumbent LEC proves to the state commission that:

(1) The costs of providing a particular agreement to the requesting telecommunications carrier are greater than the costs of providing it to the telecommunications carrier that originally negotiated the agreement, or

(2) The provision of a particular agreement to the requesting carrier is not technically feasible.

(c) Individual agreements shall remain available for use by telecommunications carriers pursuant to this section for a reasonable period of time after the approved agreement is available for public inspection under section 252(h) of the Act.

[69 FR 43771, July 22, 2004]

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