

7812.0200 GENERAL CERTIFICATION REQUIREMENTS.

Subpart 1. **Scope.** No person may provide telecommunications service in areas served by local exchange carriers with 50,000 or more subscribers in Minnesota without first obtaining a certificate under this part and parts 7812.0300 to 7812.0600, except to the extent the person is providing telephone service under a certificate issued by the commission before July 28, 1997.

Subp. 2. **Certification categories.** A person may seek certification in any of the following four categories:

- A. local facilities-based service;
- B. local resale service;
- C. interexchange service; or
- D. local niche service.

A certificate to provide local facilities-based service authorizes the provision of all forms of local service, interexchange service, and local niche service in Minnesota. A certificate to provide local resale service only authorizes the provision of local resale service. A certificate to provide interexchange service only authorizes the provision of interexchange service. A certificate to provide local niche service only authorizes the provision of local niche service. An applicant may request certification in multiple categories in a single petition.

Subp. 3. **Limitations on local service certification/intent to provide service.** An applicant may obtain certification to provide local service for a geographic area only if:

A. the applicant has started any necessary negotiations for resale, the purchase of network elements, or interconnection under section 252 of the federal act with the local exchange carrier (LEC) currently serving the area; and

B. the applicant plans to provide local service in the area, either through resale, the purchase of unbundled network elements, or use of its own facilities, within 36 months after the date of the applicant's petition. A certificate for local service obtained under part 7812.0300 or 7812.0350 applies only to the service area designated in the petition within the limits established in this subpart. The service area may be expanded under part 7812.0300, subpart 5, or 7812.0350, subpart 5.

Subp. 3a. **Reporting service area status.** Each local service provider (LSP) shall report to the commission within 30 months after the later of the three dates specified in part 7812.0200, subpart 4, items A to C, regarding the extent to which it is offering local service in its service area. The report must identify the portions of the LSP's service area, if any, that remain nonoperational and must provide a projected timetable for offering local service throughout the entire service area as required under subpart 4.

Subp. 4. **Automatic revocation for failure to serve.** The local service provider (LSP) certified under part 7812.0300 or 7812.0350 must offer services, consistent with part 7812.0600, throughout its entire local service area within 36 months after the later of the following three dates:

A. the date of the commission order granting the applicant's certificate of authority;

B. the date of the commission order under part 7812.1100, approving the necessary agreements resulting from the negotiations that provided the basis under subpart 3, item A, for granting the certificate; or

C. July 28, 1997. Failure to offer basic local service throughout the entire service area as required in this subpart results in the automatic revocation of the local service provider's certificate with respect to those areas in which the LSP is not offering basic local service, unless the LSP demonstrates to the satisfaction of the commission, under subpart 5, that its failure to offer basic local service throughout the entire service area results from factors beyond the local service provider's control.

Subp. 5. **Show-cause proceeding to justify failure to serve entire area.** An LSP shall file a petition with the commission to justify anticipated failure to offer basic local service within its entire local service area as required under subpart 4. The petition must be filed at least 90 days before the applicable 36-month deadline under subpart 4. The petition must include the basis for the local service provider's failure to meet the deadline and an alternative date by which the LSP expects to begin offering service in the areas for which it will not meet the 36-month deadline. The local service provider's certification for the portion of its local service area in which it does not offer basic local service does not expire until the commission has issued an order denying the local service provider's request for an extension under this subpart.

Subp. 6. **Required notification.** Petitions for certification under this chapter must be served on the department, the OAG-RUD, the Department of Administration, persons certified to provide telecommunications service within the petitioner's designated service area, and the city clerk, or other official authorized to receive service or notice on behalf of the municipality, of all municipalities within the petitioner's designated service area.

Subp. 7. **Comment periods.** Comments on a petition must be filed and served within 45 days after the petition is filed. Responsive comments must be filed and served within 20 days after the deadline for initial comments.

Subp. 8. **Factual disputes.** If the petition raises contested issues of material fact, the commission shall refer the matter to the Office of Administrative Hearings for contested case proceedings or conduct an expedited proceeding under Minnesota Statutes, section

237.61, if permitted under the commission's rules of practice and procedure under part 7829.1200, item B or C.

Statutory Authority: *MS s 216A.05; 237.10; 237.16; 237.71*

History: *22 SR 46; 22 SR 2079*

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