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Ancillary Specialized Telecommunications Services

Sec. 16-247c-1.

Repealed, June 3, 1998.

Telecommunications Regulations

Sec. 16-247c-2. Definitions

As used in Sections 16-247c-2 to 16-247c-5, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Telecommunications Company” means any person, firm or corporation certified by the department to provide intrastate telecommunications services pursuant to section 16-247g of the Connecticut General Statutes.

(2) “Customer” means any person or entity who has contracted with a certified telecommunications company for intrastate telecommunications services.

(3) “Complaint” means any allegation of error in billing, disputed charge or claims of discriminatory or unfair practices, procedures or policies made against a certified telecommunications company.

(4) “Facilities-based Provider” means any person, firm or corporation that is certified by the department pursuant to section 16-247g of the General Statutes and owns any of the instrumentalities, facilities, or apparatus, except for customer premises equipment, which are used for the provision of its telecommunications service.

(Effective August 1, 1988; amended June 3, 1998)

Sec. 16-247c-3. Certificate of public convenience and necessity

(a) Any person, firm or corporation may apply to the department for an initial certificate of public convenience and necessity to offer and provide intrastate telecommunications services pursuant to section 16-247g of the Connecticut General Statutes. Any initial application for a certificate of public convenience and necessity shall contain the following information:

(1) Full legal name, principal address and telephone number of the applicant and the applicant’s agent for service;

(2) Each state under which the applicant is organized, the form of organization (person, firm, partnership, association, or corporation) and the date of organization;

(3) Documentation of registration in Connecticut as a foreign corporation, if applicable, and a sworn statement of intent to pay any required corporate or sales taxes;

(4) The name and address of a contact for regulatory and legal matters;

(5) A brief description of any intrastate telecommunications service the applicant intends to offer, including designation of the geographic areas for which authority to serve is sought;

(6) A general description of the facilities of others, if any, to be used in the provision of the proposed intrastate telecommunications services;

(7) A one-year capital construction plan, if seeking certification as a facilities-based provider;

(8) A copy of the applicant’s annual report, annual return or a summary financial statement, including filings made with the securities and exchange commission such as 10-K or 10-Q and 8-K filings and audited financial statements and annual reports;

(9) Information regarding the status of the applicant’s operations in other states, including a list of each state in which the applicant currently provides or is authorized

to provide service and a list of any jurisdictions in which the applicant's application was denied or in which any negative action is pending;

(10) An affidavit listing any sanctions or fines imposed by other jurisdictions;

(11) An exhibit demonstrating the applicant's technical qualifications, which may include information regarding:

(A) Prior business experience, experience in the telecommunications business, and formal training of employees;

(B) FCC operating licenses and approvals; or

(C) The provision of the same or similar services in other jurisdictions, either independently or in conjunction with other telecommunications companies or entities;

(12) The applicant's customer service plan, including security deposit and refund requirements, termination of service policies, late payment charge policies, complaint procedures, and office hours;

(13) A description of the actions taken by the applicant to ensure that new customers affirmatively select the applicant, a description of letters of authorization used to confirm a customer's affirmative selection or other indicia of such a selection, and a description of sales agents' training and supervision;

(14) Proposed tariffs; and

(15) Any other information the department may deem necessary.

(b) Any initial application for a certificate of public convenience and necessity shall also contain a filing fee of \$1000.00. Any applicant may object to the fee as provided in subsection (a) of section 16-247g of the General Statutes.

(c) Objections to any application for a certificate of public convenience and necessity shall be filed in writing with the department no later than fifteen days after submission of a complete application. The department may approve or deny the application after holding a hearing with notice to all interested parties. The hearing shall be conducted in accordance with applicable provisions and standards of Sections 4-176 through 4-182 of the General Statutes (Connecticut Uniform Administrative Procedure Act) and sections 16-1-11 through 16-1-44 of the Regulations of Connecticut State Agencies (Rules of Practice of the Department of Public Utility Control).

(d) (1) A certified telecommunications company may petition the department to expand the authority granted in its certificate of public convenience and necessity to the provision of a previously-authorized service in an additional geographic area or to the provision of a service not previously authorized, or to both.

(2) An initial petition by a certified telecommunications company to expand the authority of its certificate of public convenience and necessity shall include the following information:

(A) A statement of intent, including a description of the services to be provided and the geographic areas to be served;

(B) A one-year capital construction plan, if a facilities-based provider; and

(C) A copy of the company's annual report, annual return or summary financial statement, including filings made with the Securities and Exchange Commission such as 10-K or 10-Q and 8-K filings and audited financial statements and annual reports.

(3) Objections to any initial petition for expanded authority shall be made no later than thirty days after the petition for expansion of authority is filed. The department may, on its own motion or upon receipt of a written petition, order a public hearing on the proposed expansion of authority.

(4) Subsequent petitions by a certified telecommunications company to expand the authority of its certificate of public convenience and necessity shall include the following information:

(A) The tariff filing information required by section 16-247f (e) of the Connecticut General Statutes; and

(B) An amended statement of intent, including a description of the services to be provided and the geographic areas to be served.

(5) Objections to subsequent petitions for expanded authority filed pursuant to subdivision (4) of this subsection shall be made no later than thirty days after the petition for expansion of authority is filed. The department may, on its own motion or upon receipt of a written petition, order a public hearing on the proposed expansion of authority.

(e) The department may, as a precondition to certification or to expansion of authority, require any applicant to:

(1) procure a performance bond sufficient to cover moneys due or to become due to other telecommunications companies for the provision of access to local telecommunications networks, to protect any advances or deposits it may collect from its customers if the department does not order that such advances or deposits be held in escrow or trust, and to otherwise protect customers; or

(2) hold customer deposits or advances in escrow or trust.

(f) No certificate granted herein shall be deemed to grant approval to install, maintain, operate, manage, or control facilities which occupy any public right of way. Approval to utilize the public right of way shall be obtained pursuant to section 16-247c-5 of the Regulations of Connecticut State Agencies.

(g) Applicants may petition the department for a waiver of any requirements in this section upon good cause shown.

(Effective August 1, 1988; amended June 3, 1998)

Sec. 16-247c-4. Post-certification filing requirements and service standards

(a) Any certified telecommunications company shall comply with the following post-certification filing requirements and service standards:

(1) File with the department, on an annual basis, the company's annual financial report, annual return or a summary financial statement.

(2) File with the department current listings of rates and charges for all certified services.

(3) File with the department annual reports on its Connecticut operations within 60 days of the close of its fiscal year. Such annual reports shall describe the status of its Connecticut operations and shall include at a minimum the following information:

(A) The number of customers for each certified service;

(B) A description of physical changes in or additions to existing facilities expected for the next fiscal year and any changed uses of those facilities;

(C) Any changes in the information which was filed with the department in the certification proceeding pursuant to section 16-247c-3 of the Regulations of Connecticut State Agencies.

(4) A corporation which is required to file a Form 10-K with the Securities and Exchange Commission shall provide copies of the Form 10-K and any other informational filings to the department at the time they are filed with the SEC.

(5) Make a prompt and reasonable investigation of each complaint including complaints regarding service requests, whether made in writing, in person, or by telephone.

(6) Provide with each bill to customers a toll-free telephone number and address of the certified telecommunications company to which complaints may be addressed. The accompanying message should include the following sentences: “either initially or upon dissatisfaction with our resolution of your complaint, you may notify the Department of Public Utility Control, Consumer Assistance, 10 Franklin Square, New Britain, CT 06051. The department may also be reached toll-free within Connecticut at 1-800-382-4586 or (860) 827-2622 from out of state.” These complaints will be resolved by the department so as to provide a fair and reasonable determination of the dispute and to prevent discretionary, arbitrary or abusive practices by the provider of the service. The department may, upon showing of good cause by the certified provider, exempt one or more of the provider’s services from the requirements of this paragraph.

(7) The certified telecommunications company shall issue a receipt to every customer from whom a deposit is received and shall provide means whereby the depositor will be refunded if the receipt is lost. Deposits shall be returned, with accrued interest, when good credit is established. The rate of interest paid by a certified telecommunications company on any security deposit received from a customer for each calendar year shall be not less than the deposit index as defined in section 16-262j (d) of the Connecticut General Statutes for that year and rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent. The deposit shall cease to draw interest on the date it is returned, on the date that service is terminated, or on the date that notice is sent to the customer’s last known address that the deposit is no longer required. A record of each unclaimed deposit and the interest thereon shall be maintained until the funds are paid over to the state treasurer under the escheat provisions of the Connecticut General Statutes.

(b) All certified providers of competitive telecommunications services shall comply with any additional filing requirements and service standards established by the department pursuant to section 3 of Public Act 87-415.

(Effective June 20, 1991; amended June 3, 1998)

Sec. 16-247c-5. Access to the public right of way by certified competitive providers

(a) No certified telecommunications company shall install, maintain, operate, manage or control facilities under or over any public highway or street for the provision of telecommunications service without the approval of the department for each such facility.

(b) Applications for approval to install, maintain, operate, manage or control facilities over or under any public street or highway shall be filed at least 90 days prior to the commencement of construction, and shall include the following information:

- (1) the specific location of the proposed facilities;
- (2) a detailed description of the proposed facilities, including:
 - (A) all applicable National Electric Safety Code design standards and;
 - (B) construction standards;
- (3) the purpose, intended use and need for the proposed facilities;

(4) proposed specifications, plans and procedures to protect the public safety during the construction, operation and maintenance of the proposed facilities.

(c) The department shall grant or deny the application within 60 (sixty) days following receipt of all information required in Secs. 16-247c-5 (b)(1)—16-247c-5c (b)(4).

(d) No certified telecommunications company shall commence any related or additional construction of facilities under or over the public rights of way prior to obtaining approval from the department.

(e) Applicants shall provide any additional information that the department deems necessary to determine whether the proposed facilities meet appropriate design and construction standards and specifications to protect the public safety and implement the purposes of section 16-247h of the Connecticut General Statutes.

(Effective August 1, 1988; amended June 3, 1998)

Sec. 16-247c-6. Contracts for access and wiring between telecommunications providers and owners of occupied buildings

(a) In contracts pertaining to access and wiring between telecommunications providers and owners of occupied buildings, the following terms shall not be included:

(1) Any term that unreasonably restricts the ability of a telecommunications provider to enter an occupied building to restore service to a tenant in the event of a service interruption.

(2) Any term that interferes with the ability of the owner of an occupied building to guarantee building safety and security and which unreasonably interferes with the operation of existing tenants.

(3) Any term that grants an exclusive license to any telecommunications provider.

(4) Any term that precludes any telecommunications provider from negotiating with the owner of an occupied building at a tenant's request pursuant to subsection (c) of section 16-247l of the Connecticut general statutes.

(5) Any term that has the effect, directly or indirectly, of diminishing or interfering with the right of tenants to use or receive telecommunications service from other telecommunications providers.

(6) Any term that discriminates in favor of any one telecommunications service provider with respect to the provision of access or compensation requested.

(b) In contracts pertaining to access and wiring between telecommunications providers and owners of occupied buildings, the following terms may be included:

(1) Any term that requires a telecommunications provider to follow reasonable procedures before entering an occupied building to restore service in the case of a service interruption, such as contacting the occupied building's security officer prior to entering the occupied building.

(2) Any term that reasonably limits the ability of a telecommunications provider to enter an occupied building to install or upgrade service, so long as such limitation(s) are related to building safety and security.

(3) Any term that establishes liquidated damages in the event that a telecommunications provider fails to complete an installation and, after an opportunity to cure, the telecommunications provider fails to remove any and all wiring installed by the provider or otherwise fails to restore the occupied building to its preinstallation condition.

(4) Any term that limits the application or operation of indemnification provisions in situations of gross negligence or willful misconduct on the part of the owner of an occupied building.

(5) Any term that exempts a building owner from liability to telecommunications providers with respect to interruptions in building services, damage to wiring or equipment, or failures of wiring or equipment unless such interruptions, damage or failure result from the gross negligence or willful misconduct of the building owner.

(6) Any term that requires the telecommunications provider to supply the owner of an occupied building with detailed plans and specifications for all wiring, equipment and construction work for approval by owner. The terms of approval shall specify that such approval shall not be unreasonably withheld.

(7) Any term that requires the owner of an occupied building to provide, if reasonably available, building and riser conduit or cabling for the use of the telecommunications provider, at a rate of compensation agreed to by the parties and in compliance with the provisions of subsection (f) 16-247l of the Connecticut general statutes and Section 16-247d-7 of the Regulations of Connecticut State Agencies.

(8) Any term that requires the telecommunications provider to construct additional building and riser conduit, provided that the entire cost of such wiring is assumed by the telecommunications provider pursuant to Subsection (c) 16-247l of the Connecticut general statutes.

(9) Any term that requires, upon voluntary termination of telecommunications service by a tenant, a telecommunications provider to give the owner of the occupied building the opportunity to acquire the wiring at the replacement cost before removing installed inside wiring.

(Effective October 26, 1995)