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|  | **PENNSYLVANIA****PUBLIC UTILITY COMMISSION****Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held March 11, 2010 |
| Commissioners Present: |  |
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| James H. Cawley, Chairman |
| Tyrone J. Christy, Vice Chairman |
| Wayne E. Gardner |
| Robert F. Powelson |
|  |
| Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania in the service territories of:  |  |
| Verizon Pennsylvania Inc. | A-2009-2148183 |
| Verizon North Inc., andThe United Telephone Company of Pennsylvania LLC d/b/a CenturyLink  | A-2009-2148184A-2009-2148185 |
| Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Reseller of Interexchange Toll Services to the public in the Commonwealth of Pennsylvania. | A-2009-2148186 |
| Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Facilities-based Interexchange Carrier to the public in the Commonwealth of Pennsylvania. | A-2009-2148187 |
| Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the public in the Commonwealth of Pennsylvania. | A-2009-2148188 |
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ORDER

**BY THE COMMISSION:**

On November 20, 2009, Ntelos of West Virginia Inc. d/b/a NTELOS (Applicant) filed an Application seeking Certificates of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C. § § 201, *et seq*., (TA-96) [[1]](#footnote-1) and to Chapter 11 of the Public Utility Code (Code) (66 Pa. C.S. § 1101, *et seq.*) evidencing authority to provide the following telecommunication services to the public:

1. As a Competitive Local Exchange Carrier (CLEC) in the service territories of Verizon Pennsylvania Inc., Verizon North Inc. (collectively Verizon), and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink within the Commonwealth of Pennsylvania,
2. As a detariffed Reseller and Facilities-Based Interexchange Carrier (IXC)[[2]](#footnote-2) throughout the Commonwealth of Pennsylvania, and
3. As a Competitive Access Provider (CAP) throughout the Commonwealth of Pennsylvania.

The Applicant was granted provisional authority pursuant to our Secretarial Letter of December 18, 2009 to provide the proposed IXC Reseller/Facilities-Based (detariffed) and CAP services throughout the Commonwealth of Pennsylvania and CLEC services in the Verizon service areas pursuant to its proposed CLEC tariffs during the pendency of the application process. The Applicant requested and was granted a waiver of the newspaper publication requirement for CLEC entry into the CenturyLink service territory. The assigned utility code is 3111651.

The Applicant complied with notice requirements set forth in our *TA-96* *Implementation Orders*[[3]](#footnote-3) by serving a copy of its Application upon the aforementioned incumbent local exchange carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Attorney General. No protests were filed. No hearings were held.

Information concerning the Applicant is as follows:

* The Applicant is a Virginia Corporation with its principal place of business at 401 Spring Lane, Waynesboro, Virginia 22980, telephone (540) 946-3500, facsimile (540) 946-3595.
* The Applicant complied with 15 Pa. C.S. § 4124, relating to a foreign corporation.
* The Applicant’s registered office provider within Pennsylvania is Corporate Service Company, 2704 Commerce Drive, Harrisburg, Pennsylvania 17110.
* The Applicant’s Pennsylvania Emergency Management Agency contact is Bob Berry, Operations North Manager, 524 West Broad Street, Waynesboro, Virginia 22980, telephone (540) 941-4800, facsimile (540) 943-3459.
* Correspondence to resolve complaints may be directed to Tena Turner, 1154 Shenandoah Village Drive, Waynesboro, Virginia 22980, telephone (540) 941-9800, facsimile (540) 943-5001.
* The Applicant will be using a fictitious name: NTELOS.
* The Applicant is operating as a CLEC in West Virginia.
* The Applicant has one affiliate operating as a Wireless Provider (not a public utility) within Pennsylvania: NTELOS PCS North Inc.
* The Applicant has affiliates rendering public utility service outside Pennsylvania: NTELOS Telephone Inc. (ILEC - Virginia), Roanoke & Botetourt Telephone Company (ILEC - Virginia), NTELOS Network, Inc. (CLEC - Virginia and West Virginia), R&B Network, Inc. (CLEC – Virginia), NA Communications Inc. (CLEC – Tennessee and Virginia).

The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to request authority from the Commission for permission prior to ceasing.

The Applicant will offer other carriers access to their 2,200 route-mile fiber network which provides connectivity to major cities. Also, the Applicant will sell backhaul services to major wire line and wireless carriers including connectivity to cell sites located near the company’s fiber network in their Competitive and RLEC markets. Other services offered are Metro Ethernet, IP Services and High-capacity Private Line Service.

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.[[4]](#footnote-4) A CLEC Applicant is expected to adhere to the requirements relative to universal service programs, as initially set forth or as subsequently enlarged or modified.[[5]](#footnote-5) Also, per federal rules, CLECs are required to ensure the efficient usage of their numbering resources and are required to semi-annually report their utilization and forecast data to the North American Numbering Plan Administrator. See 47 C.F.R. § 52.5 *et seq*. Any CLEC failing to comply with state and/or federal commission orders related to numbering may be subject to the reclamation of their numbering resources as well as fines pursuant to the Public Utility Code, 66 Pa. C.S. § 3301. See *Implementation of Numbering Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000 – NXX Code Reclamation,* Docket No. M-00001373 (Order entered August 22, 2000), 30 Pa. B. 4701 (September 2, 2000)(Commission established process for reclaiming NXX codes from carriers who have failed to activate them within 6 months of their availability for assignment to customers).

Further, Section 253(b) of the TA-96 permits a state Commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services, and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant’s financial fitness, tariff compliance, and rates.[[6]](#footnote-6) In this case, the Applicant has provided financial information to support its Application. We conclude that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC, an IXC Reseller/ Facilities-based Interexchange Carrier, and as a CAP.

The Commission requires that Applicants seeking to provide local telecommunications services in Pennsylvania take steps to protect the public safety of consumers. One means of ensuring the public safety of consumers in the increasingly competitive telecommunications marketplace is to ensure that new entrants provide their consumers with access to a seamless communications infrastructure for emergency services, such as 911. Therefore, in accordance with the notarized Affidavit (item #22 in the Application), the Applicant avers that it has contacted each county or municipal authority where it intends to provide CLEC telecommunications service and made the necessary arrangements for the provisioning of emergency 911 service.

We conclude that the Applicant has met the requirements for certification as a CLEC, an IXC Reseller/Facilities-based IXC, and as a CAP,[[7]](#footnote-7) consistent with this Order. Premised upon our review of the Application and the proposed tariffs, and consistent with our Orders, the Code, our Regulations and the TA-96, we conclude that the Applicant’s proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy. We note, however, deficiencies in the proposed tariffs.

We shall direct the Applicant to revise the proposed tariffs in accordance with the changes noted in Appendix A of this Order.[[8]](#footnote-8) The Applicant shall thereafter file its Initial Tariffs reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. The Applicant may file its Initial Tariffs electronically, consistent with Commission Rules.[[9]](#footnote-9) Copies of the Initial Tariffs shall also be served upon the same entities receiving service of the original Application, including the incumbent local exchange carriers. If the time required for such resolution and filing exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission’s Secretary. Thus, if the Initial Tariffs are not filed within 60 days (120 days including the extension) of the entry of this Order, the Application will be dismissed and the authority granted herein will be revoked without further Commission Order.

We note that the Commission will only approve tariff provisions regarding limitation of liability consistent with law. The Commission does not have jurisdiction to determine liability or award monetary damages. Any tariff provisions contained in the Initial Tariffs regarding limitation of liability found to be inconsistent with any applicable laws, rules and regulations will be deemed inoperative and superseded. Any claim against the public utility and/or public utility’s customer regarding liability outside the limited scope of the tariff must be filed in court for determination of liability and monetary damages.

To the extent that the proposed tariffs contain rates, the Initial Tariffs may become effective on one (1) day’s notice from the date upon which they are filed and served.

Further, the Commission makes no determination whether the Applicant’s switched access rates are in compliance with Act 183 of 2004.[[10]](#footnote-10)

**Conclusion**

Accordingly, we shall grant the Application. We shall issue Certificates of Public Convenience evidencing the Applicant’s authority to provide services as an IXC Reseller and Facilities-based IXC upon entry of this order. Also, upon the establishment of filed rates and the approval of the Initial Tariffs, Certificates of Public Convenience shall be issued evidencing the Applicant’s authority to provide services as a CLEC in the service territories of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, and as a CAP in the Commonwealth of Pennsylvania, consistent with this Order and our decisions in the *MFS Intelenet* and such other proceedings; **THEREFORE,**

**IT IS ORDERED:**

1. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket Nos. A‑2009-2148183, A-2009-2148184, and A-2009-2148185, for authority to operate as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, is granted, consistent with this Order.
2. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket No. A-2009-2148186, for authority to operate as a Reseller of Interexchange Toll Services throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order and that a Certificate of Public Convenience be issued evidencing such approval.
3. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket No. A‑2009-2148187, for authority to operate as a Facilities-based Interexchange Carrier throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order and that a Certificate of Public Convenience be issued evidencing such approval.
4. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket No. A‑2009-2148188, for authority to operate as a Competitive Access Provider throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order.
5. That the Applicant shall either eFile or submit an original and three copies of its Initial Tariffs consistent with the requisite changes noted in Appendix A of this Order within sixty (60) days (120 days including an approved extension) after the date of entry of this Order. **The Applicant is directed to identify any changes made to the proposed Initial Tariffs that are in addition to the changes noted in Appendix A.** The Applicant shall serve copies of its Initial Tariffs on each entity receiving a copy of the original Application. The Initial Tariffs may become effective on or after one (1) day’s notice from the date upon which they are filed and served.
6. That the Initial Tariff shall be labeled: “Competitive Local Exchange Carrier Tariff,” “Competitive Local Exchange Carrier Switched Access Tariff,” and “Competitive Access Provider Tariff.”
7. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, and Orders of this Commission, now in effect or as may be prescribed by this Commission, including but not limited to: the *MFS Intelenet, et al.,* Docket Nos. A‑310203F0002, *et al*.; the *Universal Service Investigation,* Docket No. I-00940035; the *Global Order,* Docket No. P-00991648, *et al*.; and the *NXX Code Reclamation,* Docket No. M-00001373.
8. That if the Applicant expands its local service into new counties in its currently authorized area of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, Applicant shall contact the appropriate 911 coordinators, complete appropriate documents for 911 service for each, and provide the service list to said 911 coordinators with its tariff revisions as verification that arrangements are underway for the provisioning of Emergency 911 service in the additional exchanges.
9. That if the Applicant should desire to expand its service territory to that of additional incumbent local exchange carriers, Applicant shall file an Application to amend its Certificate of Public Convenience and comply with all the requirements of the Application, including the completion of the affidavit and requirements thereto concerning Emergency 911 service.
10. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.
11. That the Applicant maintains accurate accounting records that segment its CLEC, IXC, and CAP revenues in the state.
12. That in accordance with Commission Orders entered on October 5, 2005 at M‑00041857 and on August 21, 2006 at L-00050176, the Applicant shall follow the reporting requirements outlined at the following website: <http://www.puc.state.pa.us/telecom/docs/Reporting_Requirements0409.doc>
13. That the Applicant shall file such affiliated interest agreements as may be necessary relative to any transactions with affiliates within thirty (30) days of entry of this Order.
14. That the Applicant shall make 711 abbreviated dialing available to access Telecommunications Relay Service and to arrange its switching equipment to translate these calls to the assigned toll-free number, (888) 895-1197, in order to route calls to the Telecommunications Relay Service Provider, in accordance with the Commission’s Order entered on February 4, 2000, at Docket No. M-00900239.
15. That in the event that the Applicant has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Application at Docket Nos. A‑2009-2148183, A-2009-2148184, A-2009-2148185, and A-2009-2148188 shall be dismissed and the authority granted herein revoked without further Commission Order.
16. That upon the approval of the Initial Tariffs, Certificates of Public Convenience shall be issued authorizing the Applicant to furnish services as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink and to furnish services as a Competitive Access Provider throughout the Commonwealth of Pennsylvania, consistent with this Order.
17. That changes and/or additions made to an approved, filed tariff shall be made in the form of supplements, consecutively numbered in the order of their filing dates, and the tariff designation shall be in the following manner: Supplement No. \_\_ to Tariff Telephone Pa. P.U.C. No.\_\_\_.
18. That the Applicant shall add its Pennsylvania tariffs to its website, if it has one. If the Applicant does not maintain a website, the Pennsylvania Public Utility Commission will host its tariffs on the Commission's website
	* Within 30 days of the filing of its Initial Tariffs, the Applicant shall add the tariffs to its website and mark them “Pending.”
	* Within 30 days of receipt of its Certificates of Public Convenience, the Applicant shall make any required modifications to the tariffs on its website and remove the “Pending” notation. Thereafter, the Applicant will continually update the website whenever any supplemental revisions to the tariffs are approved by the Commission such that the website tariffs are a true and accurate representation of tariffs on file with the Commission.
	* The Applicant shall contact Cyndi Page ((717) 787-5722; cypage@state.pa.us) of the Commission’s Communications Office to create a link from the Commission’s website to the Applicant’s website.
	* If the Applicant does not maintain a website, the Applicant shall contact Cyndi Page to have its tariffs added to the Commission's website and to update the tariffs upon subsequent approval of supplemental revisions to the tariffs.
19. That if the Applicant plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing.
20. That a copy of this Order be served on the Pennsylvania Department of Revenue, Bureau of Corporation Tax and the PEMA (Pennsylvania Emergency Management Agency) Bureau of 9-1-1 Programs.



 **BY THE COMMISSION,**

 James J. McNulty

 Secretary

(SEAL)

ORDER ADOPTED: March 11, 2010

ORDER ENTERED: March 12, 2010

APPENDIX A

NTELOS of West Virginia Inc. d/b/a NTELOS

Docket Nos. A-2009-2148183, A-2009-2148184, A-2009-2148185, and A-2009-2148188

Proposed tariffs for

Competitive Local Exchange Carrier Service and

Competitive Access Provider

The proposed tariffs contain certain deficiencies that must be addressed by the Applicant before the tariffs can be approved and the Certificates of Public Convenience issued. **The Applicant must submit a copy of this Appendix with its revised compliance tariffs. On that copy, please note the page/sheet of the compliance tariffs where the required revision is located for each item below.**

**Tariff deficiencies noted – CLEC Local Tariff No. 1**

1. Correct the Title to read:

NTELOS of West Virginia Inc. d/b/a NTELOS

COMPETITIVE LOCAL EXCHANGE CARRIER

Business Only Services

Regulations and Schedule of Charges

1. Add the following text to the Title Page after the above:
* The Company will mirror the exchange area boundaries as stated in the tariffs of Verizon Pennsylvania Inc. Telephone Pa. P.U.C. Nos. 180A; Verizon North Inc. Telephone Pa P.U.C. Nos. 1, 3, 5, and 6; and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink Pa. P.U.C. No. 27.
* The Company’s tariff is in concurrence with all applicable State and Federal Laws (including, but not limited to, 52 Pa. Code, 66 Pa. C.S. and the Telecommunications Act of 1934, as amended), and with the Commission’s applicable Rules and Regulations and Orders. Any provisions contained in this Tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.
1. All Pages: Enter issued and effective dates as per ordering paragraph.
2. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the top right corner of the header. Also, add “Competitive Local Exchange Carrier” to the bottom portion of the header and then center the text appropriately.
3. Table of Contents: Insert a comprehensive Table of Contents (TOC) at the beginning of the tariff. At the Company’s discretion, the individual TOC preceding each section may be removed or retained.
4. Check Sheet, Pages 2-3: All changes made to any original sheets will be indicated with an asterisk to the right of the page number on the Check Sheet. Therefore, place “\* - indicates pages included with this filing” above the footer on the bottom of the Check Sheet pages. Also, Change Rate Schedule to Section 13 as directed below. And finally, make appropriate changes pursuant to this order.
5. Index, Page 6-13: Remove these pages.
6. Section 1, Page 2: Remove “information” in the second paragraph. Also, remove the last paragraph as this Company is not offering service to residential customers.
7. Section 2, Pages 1-7: Only include definitions of terms used in the tariff. Either remove the following or provide a reference to Commission staff as to where in this tariff these terms are used: Apartments, Automatic Number Identification (ANI), College, Flat Rate Service, Kilobit, Referral Period.
8. Section 3.1.2 a-c, Page 5: Liability: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. S*ee* <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>
9. Section 3.1.2 a, Page 5: Remove the reference to attorneys’ fees and court costs. The Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
10. Section 3.3.2, Page 9: Specify the deposit interest rate that the company is using. Delete the last paragraph in this section as it refers to residential services which are not offered.
11. Section 3.3.3, Page 10: Expand this section to clearly specify whether, if bills are paid by mail, the date of the postmark will be considered the date of payment pursuant 52 Pa. Code §53.84.
12. Section 3.3.6, Page 11: The correct BCS number is 1-800-692-7380.
13. Section 3.5, Page 14: Change the “Per business access line charge” to $0.08 per month and state that this monthly charge is effective as of July 1, 2009.
14. Section 3.6, Page 15: Remove the last paragraph in this section as it refers to residential service.
15. Section 3.6.1, Pages 15-19: Reword this section so that it doesn’t describe Residential Service.
16. Section 3.7, Page 19: Change the first sentence to read; “In compliance with 52 Pa. Code § 63.24.”
17. Section 3.8.6, Page 23: Add appropriate Toll Presubscription charges to this section i.e. move appropriate rates from the rate section to this section.
18. Section 4.1.5, Page 2: Delete this subsection as the Commission does regulate inside wire.
19. Section 6.1.2, Page 3: Change reference to Rate Schedule to Section 13. The Rate Schedule will be renamed Section 13 as directed below.
20. Section 7.1.2, Page 3: Revise this section so that it is compliant with 52 Pa. Code § 53.60. Add language that states “promotional service offerings must not extend longer than 6 months in any rolling 12-month period.” Also, please note, Company must file a tariff supplement for any promotional offerings.
21. Section 7.1.2, Page 4: Delete subsections f. and g. as they are duplicating prior subsections.
22. Section 7.2.1, Page 4: Delete the last [duplicate] sentence.
23. Section 7.6, Page 19: Change reference to Rate Schedule to Section 13. The Rate Schedule will be renamed Section 13 as directed below.
24. Section 12, Page 2: Add “\* Not regulated under this tariff” to the bottom of this page.
25. Section 12.2.2, Page 4: Change reference to Rate Schedule to Section 13.
26. Rate Schedule, Pages 1-21: Change “Rate Schedule” to “Section 13” and make appropriate changes to the Table of Contents.

**Tariff deficiencies noted – CLEC Switched Access Tariff No. 2**

1. Correct the Title to read:

 NTELOS of West Virginia Inc. d/b/a NTELOS

COMPETITIVE LOCAL EXCHANGE CARRIER

SWITCHED ACCESS TARIFF

Regulations and Schedule of Charges

1. Add the following text to the Title Page after the above:
* The Company’s tariff is in concurrence with all applicable State and Federal Laws (including, but not limited to, 52 Pa. Code, 66 Pa. C.S. and the Telecommunications Act of 1934, as amended), and with the Commission’s applicable Rules and Regulations and Orders. Any provisions contained in this Tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.
* The Company will mirror the exchange area boundaries as stated in the tariffs of Verizon Pennsylvania Inc. Telephone Pa. P.U.C. Nos. 180A; Verizon North Inc. Telephone Pa P.U.C. Nos. 1, 3, 5, and 6; and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink Pa. P.U.C. No. 27.
* Remove “All material contained herein is new.”
1. All Pages: Enter issued and effective dates as per ordering paragraph.
2. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the top right corner of the header. Also, add “Switched Access Service” to the bottom portion of the header and then center the text appropriately.
3. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the footer.
4. Missing: The Company did not provide page explaining the Tariff Format. This page should be inserted after the Table of Contents. The Table of Contents should then reference this page. Use sample tariff Format provided in Appendix B.
5. Check Sheet, Pages 2-3: All changes made to any original sheets will be indicated with an asterisk to the right of the page number on the Check Sheet. Therefore, add; “\* - indicates pages included with this filing.” Place above the footer on the bottom of the Check Sheet pages. Also, make appropriate changes pursuant to this tariff.
6. Table of Contents, Pages 4-9: Make appropriate changes pursuant to this tariff.
7. Page 11: Remove this page.
8. Section 1, Pages 1-5: Only include definitions of terms used in the tariff. Either remove the following or provide a reference to Commission staff as to where in this tariff these terms are used: Alternate Access, Joint User, Local Access, Off-Hook, On-Hook, Premises, Shared Facilities, Signaling Point of Interface, Signaling Transfer Point Access, Special Access Service.
9. Section 2.1.4, Pages 2-5: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. S*ee* <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>.
10. Section 2.3.2, Page 11: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. *See* <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>. Also, remove reference to attorney’s fees. The Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
11. Section 2.5.2 (F), Page 16: Add telephone number for the Bureau of Consumer Services to this section. The telephone number is 1-800-692-7380.
12. Section 2.5.4 (J), Page 23: Remove reference to attorney’s fees. The Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
13. Section 2.5.7, Page 24: In keeping with the submitted CLEC tariff, add the returned check of $25.00 to this section.
14. Section 2.6.2, Page 25: Delete subparagraph (F) which duplicates the text of the preceding subparagraph.
15. Section 5, Pages 1-3: Delete this section as Subscriber Line Charges are included in FCC tariffs.

**Tariff deficiencies noted – CAP Tariff No. 4**

1. Correct the Title to read:

NTELOS of West Virginia Inc. d/b/a NTELOS

COMPETITIVE ACCESS PROVIDER CARRIER

Regulations and Schedule of Charges

1. Add the following text to the Title Page after the above:
* The Company’s tariff is in concurrence with all applicable State and Federal Laws (including, but not limited to, 52 Pa. Code, 66 Pa. C.S. and the Telecommunications Act of 1934, as amended), and with the Commission’s applicable Rules and Regulations and Orders. Any provisions contained in this Tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.
* Remove “All material contained herein is new.”
1. All Pages: Enter issued and effective dates as per ordering paragraph.
2. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the header.
3. All Pages: Rename tariff to PA P.U.C No. 3.
4. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the footer.
5. Missing: The Company did not provide page explaining the Tariff Format. This page should be inserted after the Table of Contents. The Table of Contents should then reference this page. Use sample tariff Format provided in Appendix B.
6. Section 1, Pages 1-3: Only include definitions of terms used in the tariff. Either remove the following or provide a reference to Commission staff as to where in this tariff these terms are used: “Intrastate Service,” and “Off-Net.”
7. Section 2.24, Page 2: Delete this section as the Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
8. Section 2.3, Pages 5-8: Liability: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. S*ee* <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>.
9. Section 2.3.8, Page 6: Remove or reword this section as 52 Pa. Code §63.24(b) (3) clearly states that, when service is interrupted for at least 24 hours due to such factors as storms, fires, floods or other conditions beyond the control of the Company, an allowance of 1/30 of the tariff monthly rate shall apply for each full 24 hour period during which the interruption continues after notice by the customer to the Company.
10. Section 2.11.4, Page 17: Specify the deposit interest rate that the company is using.
11. Section 2.11.6 (B), Page 18: Change the phone number for the Bureau of Consumer services to 1-800-692-7380.
12. Section 4.3, Page 3: Add language that states ICB rates are to be filed with Commission upon request.
1. Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996,* Docket No. M-00960799 (*Implementation Order*: June 3, 1996; and *Implementation Reconsideration Order*: September 9, 1996); herein *TA‑96 Implementation Orders*. [↑](#footnote-ref-1)
2. 66 Pa C.S. § 3018(b)(2) gives IXCs the option to (1) file and maintain tariffs with the Commission, (2) file and maintain price lists with the Commission, or (3) detariff. Further, 52 Pa. Code § 63.104 outlines the disclosure requirements for filing and maintaining tariffs or operating as a detariffed IXC. The Applicant was provided with these options via Secretarial Letter and has elected to operate as a detariffed IXC, subject to Pennsylvania state contract and consumer protection laws. [↑](#footnote-ref-2)
3. See Note 1, above*.* [↑](#footnote-ref-3)
4. *See, e.g., MFS Intelenet, et al.,* Docket Nos. A-310203F0002, *et al.,* (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell,* Docket No. R-00963578; *Pa. PUC v. GTE,* Docket No. R-00963666; *Global Order*, Docket Nos. P-00991648 and P-00991649; as well as other CLEC proceedings. [↑](#footnote-ref-4)
5. *Universal Service Investigation,* Docket No. I-00940035 (January 28, 1997). [↑](#footnote-ref-5)
6. *Blue Ribbon,* Docket No. A-310442 (April 25 and August 4, 1997). [↑](#footnote-ref-6)
7. CAP authority may not be used to access the Public Switched Network or toll calling. If a utility with CAP authority wishes to provide access to the Public Switched Network or to provide local or interexchange (intraLATA or interLATA) calling services to its customers, the utility must also have been granted CLEC and/or Interexchange authority by this Commission. [↑](#footnote-ref-7)
8. Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our Regulations or Orders will be deemed inoperative and superseded. [↑](#footnote-ref-8)
9. *See Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187, Order entered May 23, 2008. [↑](#footnote-ref-9)
10. Act 183, P.L. 1398 (66 Pa. C.S § 3017(c)). [↑](#footnote-ref-10)