

2600 APPLICABILITY

2600.1 The provisions of this Chapter shall apply to negotiations, mediations, and arbitrations of agreements or amended agreements among telecommunications carriers pursuant to Section 252 of the federal Telecommunications Act of 1996 (47 U.S.C. § 252) and the District Telecommunications Competition Act of 1996 (D.C. Code, 2001 Ed. § 34-2002). The provisions of this Chapter shall also apply to interpretation and enforcement of these agreements.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51DCR 2905(March 19, 2004).

**2601 NOTICE OF REQUESTS FOR VOLUNTARY
NEGOTIATION OF AGREEMENTS PURSUANT TO
SECTION 252 OF THE ACT**

2601.1 Any telecommunications carrier requesting voluntary negotiation pursuant to 47 U.S.C. § 252(a)(1) shall notify the Commission, in writing, of its request within one (1) business day of the date that it notifies the local exchange carrier of its request for negotiation, renegotiation, or extension of the negotiation time period.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2602 FILING NOTICES PURSUANT TO SECTIONS 2601

- 2602.1 The Commission's procedural rules shall not apply to notices submitted under section 2601, except as provided in this Chapter.
- 2602.2 All notices shall be signed by a duly designated representative of the telecommunications carrier filing the notice.
- 2602.3 An original and fifteen (15) copies of each notice shall be filed with the Office of the Commission Secretary.
- 2602.4 Any telecommunications carrier shall serve the notice on any other telecommunications carrier or carriers involved in the negotiation that is the subject of the notice.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2603 FILING NEGOTIATED AGREEMENTS WITH THE COMMISSION

2603.1 Within five (5) business days of the date that any telecommunications carrier executes a binding negotiated agreement pursuant to 47 U.S.C. § 252(a), the parties to the negotiated agreement shall jointly file an original and fifteen (15) copies of the negotiated agreement and any supporting documentation with the Office of the Commission Secretary.

2603.2 All negotiated agreements filed with the Commission pursuant to this section shall include a detailed schedule of itemized charges for interconnection and for each service or network element included in the negotiated agreement.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

**2604 COMMISSION PROCEEDINGS FOR REVIEW OF
NEGOTIATED AGREEMENTS**

- 2604.1 Within ninety (90) calendar days of the date that a negotiated agreement is filed with the Commission, the Commission shall either approve or reject the negotiated agreement, or any portion thereof, in accordance with the standards set forth in 47 U.S.C. § 252(e)(2). The Commission shall make written findings as to any deficiencies in the negotiated agreement if the negotiated agreement is rejected.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

**2605 FILING REQUESTS FOR MEDIATION PURSUANT TO
47 U.S.C. § 252(a)(2)**

- 2605.1 Pursuant to 47 U.S.C. § 252(a)(2), any telecommunications carrier, including the incumbent local exchange carrier, participating in voluntary negotiation pursuant to 47 U.S.C. § 252(a)(1), may, at any point in the negotiation, file a request for the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.
- 2605.2 A request for mediation shall be in writing and shall include, at a minimum, the following:
- (a) The name, address, and main telephone number of the telecommunications carrier requesting mediation;
 - (b) The name, title, business address, telephone number, fax number, and e-mail address (if available) of the person(s) who will be representing the requesting carrier during the mediation process;
 - (c) A complete list of all telecommunications carriers that participated in the negotiation that is the subject of the request for mediation;
 - (d) A statement of any issues that are unresolved by the mediating parties;
 - (e) A statement of any issues that have been resolved by the mediating parties;
 - (f) A statement of those issues for which the requesting carrier requests mediation; and
 - (g) A statement outlining the positions of each mediating party regarding the unresolved issues, listing any areas of potential compromise.
- 2605.3 An original and fifteen (15) copies of a request for mediation shall be filed with the Office of the Commission Secretary. A request for mediation shall be served on the telecommunications carrier or carriers that participated in the negotiation that is the subject of the request for mediation.
- 2605.4 The Commission's procedural rules shall not apply to the requests for mediation, except as provided in this Chapter.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2606 APPOINTMENT OF A MEDIATOR PURSUANT TO 47 U.S.C. § 252(a)(2)

2606.1 The Commission shall appoint a mediator(s). The mediator may be a Commission staff member and/or any competent, impartial, and disinterested person. The requesting carrier and all participants in the negotiation for which mediation has been requested shall be notified by the Commission Secretary of the appointment of the mediator within five (5) business days of the date on which the request for mediation is filed.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2607 DUTIES OF THE MEDIATOR

- 2607.1 The mediator functions to assist the parties to move toward a resolution of any differences arising in the course of the negotiation. The mediator may not compel agreement but shall provide assistance to the parties in reaching agreement.
- 2607.2 The mediator shall have the authority to schedule meetings of the parties; direct the parties to prepare for those meetings; determine the need for written submissions; conduct the dispute resolution process; hold separate caucuses when appropriate; upon request, assist the parties in preparing a written agreement resolving any differences; and terminate the dispute resolution process, if no agreement is reached after such period of time as the mediator deems reasonable.
- 2607.3 The mediator may take any actions deemed necessary to ensure the confidentiality of the mediation, including but not limited to excluding persons not parties to the mediation from the sessions and requiring that parties sign any confidentiality and/or proprietary agreement that is deemed reasonable by the mediator as a condition of participating in the mediation.
- 2607.4 Within seven (7) business days of the conclusion of the mediation, the mediator shall submit a report to the Commission that lists each issue submitted by the parties for mediation and states the disposition of each issue.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51DCR 2905 (March 19, 2004).

2608 MEDIATION PROCESS

- 2608.1 The parties to the mediation shall be the requesting carrier, the responding carrier, and any other telecommunications carrier that has agreed to participate in the mediation at the request of the requesting or responding party.
- 2608.2 Statements made during the mediation shall be confidential, unless the party making the disclosure waives the confidentiality of the disclosure. Any materials, which the submitting mediating party deems to be confidential and/or proprietary, shall be submitted under seal and shall not be used except in connection with the mediation. All materials submitted under seal shall be made available only to the mediator and to the mediating parties that have signed a confidentiality and/or proprietary agreement. Subsections 150.9 and 150.10 of the Commission's procedural rules shall apply to all documents submitted under seal during mediation.
- 2608.3 All parties to the mediation shall negotiate in good faith. Refusal to continue to negotiate during mediation may be considered a failure to negotiate in good faith pursuant to 47 U.S.C. § 252(b)(5) and may be considered by the Commission in its deliberations under 47 U.S.C. §§ 251 and 271.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2609 PETITIONS FOR ARBITRATION PURSUANT TO 47 U.S.C. § 252(b)

- 2609.1 Any telecommunications carrier, including the incumbent local exchange carrier, participating in voluntary negotiation pursuant to 47 U.S.C. § 252(a)(1) may, during the period between the 135th day and the 160th day (inclusive) after the date on which the incumbent local exchange carrier received the telecommunications carrier's request for negotiation, file with the Commission a petition requesting arbitration of any open issues.
- 2609.2 An original and fifteen (15) copies of the arbitration petition shall be filed with the Office of the Commission Secretary.
- 2609.3 All arbitration petitions filed with the Commission pursuant to 47 U.S.C. § 252(b)(1) shall be signed by a duly authorized representative of the petitioning carrier and shall include:
- (a) The name, address, and main telephone number of the petitioning carrier;
 - (b) The name, title, business address, telephone number, fax number, and e-mail address (if available) of the person(s) who will be representing the petitioning carrier during the arbitration proceeding;
 - (c) A complete list of all telecommunications carriers that participated in the negotiation that is the subject of the arbitration petition;
 - (d) A statement of any issues that have been resolved by the negotiating parties;
 - (e) A statement of any issues that have not been resolved by the negotiating parties;
 - (f) A statement outlining the positions of each negotiating party regarding the unresolved issues;
 - (g) All relevant documentation that supports the petitioning carrier's position concerning the unresolved issues;
 - (h) Any request for an order for the production of information pursuant to 47 U.S.C. § 252(b)(4)(B); and
 - (i) A statement as to whether the petitioning carrier requests an evidentiary hearing.
- 2609.4 The only parties to the arbitration shall be the petitioning carrier, the responding carrier, and any other carrier that participated in the voluntary negotiation that is the subject of the petition.
- 2609.5 Any petitioning carrier shall serve a copy of the arbitration petition and any supporting documentation on all other parties to the arbitration.

2609.6 The Commission may reject any arbitration petition that is not filed within the time period prescribed by subsection 2609.1. Rejected arbitration petitions shall be returned to the petitioning carrier.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51DCR 2905 (March 19, 2004).

2610 RESPONSES TO ARBITRATION PETITIONS

- 2610.1 Within three (3) business days of receipt of a timely and complete arbitration petition, the Commission Secretary shall notify, by facsimile, first class mail, or other method as the Commission Secretary deems appropriate, the other party(ies) of the date that the Commission received the arbitration petition and of the right to respond to the arbitration petition.
- 2610.2 A telecommunications carrier participating in the negotiation that is the subject of the arbitration may file a response to the arbitration petition. An original and fifteen (15) copies of the response shall be filed with the Commission Secretary within twenty-five (25) calendar days of the date that the Commission received the arbitration petition. The response shall be served on all telecommunications carriers that participated in the negotiation that is the subject of the arbitration petition.
- 2610.3 All responses to the arbitration petition shall include, at a minimum:
- (a) The name, address, and main telephone number of the responding carrier;
 - (b) The name, title, business address, telephone number, fax number, and e-mail address (if available) of the person(s) who will be representing the responding carrier during the arbitration proceeding;
 - (c) A statement of any issues that have been resolved by the arbitrating parties, if different from those stated in the arbitration petition;
 - (d) A statement of any issues that are unresolved by the arbitrating parties, if different from those stated in the arbitration petition;
 - (e) A statement outlining the positions of each participant in the negotiation regarding the unresolved issues, if different from those stated in the arbitration petition;
 - (f) All relevant documentation that supports the responding carrier's position concerning the unresolved issues;
 - (g) Any request for an order for the production of information pursuant to 47 U.S.C. § 252(b)(4)(B);
 - (h) A statement as to whether the responding carrier requests an evidentiary hearing; and
 - (i) A certificate of service attesting that a copy of the response and all supporting documentation has been served on all other parties to the arbitration.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000) as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2611 APPOINTMENT OF AN ARBITRATOR

- 2611.1 The Commission shall appoint either an arbitrator or an arbitration panel. The size and composition of the arbitration panel shall be based on the nature of the issues in dispute. If a panel is appointed, the Commission shall designate the chair for the panel. The Commission Secretary shall promptly notify the parties by facsimile, first class mail, or other appropriate communication methods of the appointment of the arbitrator or the arbitration panel.
- 2611.2 By agreement of the parties, the Commission may appoint the same person(s) who served as mediator(s) to act as arbitrator(s) if no mediated agreement was reached.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2612 POWERS OF THE ARBITRATOR

2612.1 Pursuant to 47 U.S.C. § 252(b)(4)(A), the arbitrator or arbitration panel shall consider only those issues set forth in the arbitration petition and any response thereto.

2612.2 The arbitrator or arbitration panel shall be delegated all powers necessary to conduct a fair, impartial, and expeditious proceeding, including but not limited to the power to:

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas;
- (c) Rule on motions;
- (d) Compel the production of information pursuant to 47 U.S.C. § (b)(4)(B);
- (e) Regulate the course of the proceeding consistent with this section;
- (f) Require conferences and evidentiary hearings, and set the time and place for such conferences and hearings;
- (g) Require the submission of legal memoranda and briefs;
- (h) Call and examine witnesses, including Commission staff;
- (i) Limit the number of witnesses offering testimony;
- (j) Exclude evidence and witnesses whose testimony is irrelevant, immaterial, or unduly repetitious;
- (k) Require written testimony; and
- (l) Prepare the arbitration decision in accordance with section 2617.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2613 ARBITRATION PROCEEDINGS

- 2613.1 If there is any conflict between the Commission's procedural rules and the rules of this Chapter, the rules of this Chapter shall supercede the Commission's procedural rules.
- 2613.2 Section 150 of the Commission's procedural rules shall apply to all arbitration proceedings conducted pursuant to this Chapter.
- 2613.3 Ex parte communications with the arbitrator or arbitration panel that do not relate to a matter of procedure are prohibited while the arbitration proceeding is pending. In the event of a prohibited communication, the arbitrator or arbitration panel shall be guided by section 108 of the Commission's procedural rules.
- 2613.4 The arbitrator or arbitration panel shall establish the procedural schedule.
- 2613.5 If the arbitrator or arbitration panel determines that a hearing is necessary, the hearing shall be conducted in a fair and impartial manner, in accordance with the following procedures:
- (a) The arbitrator or chair of the arbitration panel shall provide reasonable notice to the arbitrating parties of the time and place of the hearing;
 - (b) The arbitrator or chair of the arbitration panel shall give each arbitrating party an opportunity, which may be waived, to make an opening statement;
 - (c) The arbitrator or chair of the arbitration panel shall afford each arbitrating party an opportunity to present oral or written testimony and documentary evidence, and shall determine the order of the presentation of the evidence;
 - (d) In ruling on evidentiary questions, the arbitrator or chair of the arbitration panel shall be guided by, but need not strictly adhere to, the Federal Rules of Evidence;
 - (e) The arbitrator or chair of the arbitration panel shall require all witnesses to testify under oath or affirmation;
 - (f) The arbitrator or chair of the arbitration panel may permit the arbitrating parties to cross-examine witnesses;
 - (g) The arbitrator or chair of the arbitration panel may postpone any hearing upon a joint request of the arbitrating parties, sua sponte, or for good cause shown in a motion filed by any party to the proceeding at least two (2) business days before the date of any hearing;
 - (h) Each arbitrating party shall have the opportunity, which may be waived, to present a closing argument;

- (i) The arbitrator or chair of the arbitration panel may conduct the hearing in the absence of any arbitrating party or representative who, after proper notice, fails to be present or request a postponement;
- (j) The arbitrator or chair of the arbitration panel shall make a stenographic, audio, or video tape recording of the arbitration hearing;
- (k) The evidentiary record will close following closing arguments or the first business day following the deadline set for the receipt of written briefs, or at such time as the arbitrator determines; and
- (l) The arbitrator or chair of the arbitration panel shall take necessary action to avoid delay in the disposition and conduct of the hearing.

2613.6 Notwithstanding any other provision of this Chapter, the arbitrating parties may agree on different arbitration procedures, which may be accepted by the arbitrator or arbitration panel.

2613.7 If no hearing is held, then the evidentiary record shall close on the day following the date set by the arbitrator or arbitration panel as the final date for receipt of submissions from the arbitrating parties, or at some other date that the arbitrator or arbitration panel determines.

2613.8 If the arbitrator or arbitration panel directs an arbitrating party to provide information and that party fails or refuses to respond within the time limit set, the arbitrator or arbitration panel may reach a decision on the issues in the arbitration proceeding based on the best information available, from whatever source derived, as provided in 47 U.S.C. § 252(b)(4)(B).

2613.9 If the act or omission of an arbitrating party impedes the expeditious resolution of the issues, an arbitrator or arbitration panel may make such orders in regard to the act or omission as are just, including, but not limited to, an order limiting a party's claims, defenses and/or evidence; striking pleadings or parts thereof; dismissing the petition; or granting judgment by default. The arbitrator may also determine that the act or omission constitutes a failure to negotiate in good faith pursuant to 47 U.S.C. § 252(b)(5), and shall notify the Commission of that determination. The Commission may consider a determination that a party failed to negotiate in good faith in its deliberations pursuant to 47 U.S.C. §§ 251 and 271.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2614 CONSOLIDATION OF PROCEEDINGS

- 2614.1 In order to reduce administrative burdens on telecommunications carriers and/or the Commission, the Commission may, sua sponte, or upon the motion of a party in any arbitration, interpretation, or enforcement proceedings, consolidate arbitration, interpretation, or enforcement proceedings, in whole or in part, pursuant to 47 U.S.C. § 252(g).
- 2614.2 In a consolidated arbitration proceeding, all petitioning and responding carriers participating in the separate arbitration, interpretation, or enforcement proceedings shall participate as parties in the consolidated proceeding.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2615 PROPOSED FINAL RESOLUTION

- 2615.1 At the time that the arbitrator or arbitration panel determines, each arbitrating party shall file with the Commission Secretary an original and fifteen (15) copies of its proposed final resolution of each issue identified in the petition and response and the proposed schedule for implementation of those terms and conditions. The proposed final resolution shall meet the requirements of 47 U.S.C. § 251, including the regulations promulgated by the Federal Communications Commission pursuant to that section.
- 2615.2 Any arbitrating party filing a proposed final resolution shall serve a copy of the resolution on all other arbitrating parties no later than the date on which the petition is filed with the Commission. The proposed final resolution shall be accompanied by a certificate of service.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

**2616 VOLUNTARY TERMINATION OF ARBITRATION
PROCEEDINGS**

- 2616.1 If after the initiation of an arbitration proceeding, the arbitrating parties reach a negotiated agreement that resolves all of the issues submitted for arbitration, the arbitrating parties shall file a joint request to dismiss the arbitration petition. The Commission may review and grant this request.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2617 ARBITRATION DECISIONS

- 2617.1 Within thirty (30) days of the close of the record, the arbitrator or arbitration panel shall issue an arbitration decision. The arbitrator or arbitration panel shall consider all evidence presented by the parties. The arbitration decision shall explain the reasons for the decision on each issue submitted for arbitration and shall establish a deadline for executing an arbitration agreement.
- 2617.2 The arbitrator or arbitration panel shall use final offer arbitration, except as otherwise provided in this section. The final offer of each arbitrating party shall be the final resolution filed with the Commission pursuant to section 2615.
- 2617.3 The arbitrator or arbitration panel shall adopt the proposed final resolution of one of the arbitrating parties for each issue submitted for arbitration.
- 2617.4 If the arbitrator or arbitration panel determines that any final resolution does not satisfy the requirements of 47 U.S.C. § 252(c), the arbitrator or arbitration panel may take any action designed to result in an arbitration agreement that satisfies 47 U.S.C. § 252(c).
- 2617.5 The arbitrator or chair of the arbitration panel shall write the arbitration decision, which must be signed by at least a majority of the panel. The arbitrator or chair of the arbitration panel shall submit the signed arbitration decision to the Commission Secretary.
- 2617.6 The Commission Secretary shall serve a copy of the arbitration decision on the arbitrating parties by registered mail or any other appropriate method no later than the first business day following receipt of the arbitration decision from the arbitrator or chair of the arbitration panel.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

**2618 COMMISSION ACTION ON THE ARBITRATION
DECISION**

- 2618.1 The Commission shall review the arbitration decision and issue an order to adopt, reject, or modify the arbitration decision. If any arbitrating party chooses to appeal the arbitration decision, that arbitrating party shall file its appeal with the Commission within ten (10) calendar days after the filing of the arbitration decision. An original and fifteen (15) copies of the appeal must be filed with the Commission Secretary, with a copy served on the arbitrator or arbitration panel and the other arbitrating party(ies) on the same day that the petition is filed with the Commission. The Commission shall have thirty (30) days to review the appeal. The Commission shall adopt, modify, or reject the arbitration decision by order no later than nine (9) months after the date on which the telecommunications carrier requested negotiation.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2619 ARBITRATION AGREEMENTS

- 2619.1 The arbitrating parties shall have thirty (30) days from a Commission order adopting an arbitration decision to file the arbitration agreement.
- 2619.2 If the arbitrating parties are unable to agree on whether a proposed provision conforms to the arbitrated decision, either party may request that the arbitrator or arbitration panel that issued the arbitration decision determine whether a proposed provision conforms to the arbitration decision.
- 2619.3 An original and fifteen (15) copies of a request to review a proposed provision shall be filed with the Office of the Commission Secretary.
- 2619.4 The arbitrator or arbitration panel may adopt any proposed provision that conforms to the arbitration decision. Unless the arbitrating parties otherwise agree, the proposed provision adopted by the arbitrator or arbitration panel shall be incorporated into the arbitration agreement.
- 2619.5 Within five (5) business days of the date that the arbitrating parties agree to execute a binding arbitrated agreement, the parties shall jointly file an original and fifteen (15) copies of the arbitration agreement and any supporting documentation with the Office of the Commission Secretary. The parties shall serve a copy of the arbitration agreement and any supporting documentation on the arbitrator or arbitration panel on the date the arbitration agreement is filed with the Commission.
- 2619.6 The date that an arbitration agreement is filed with the Commission shall be deemed the date that the arbitration agreement was submitted for approval for the purposes of 47 U.S.C. § 252(e)(4).

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

**2620 COMMISSION PROCEEDINGS FOR REVIEW OF
ARBITRATION AGREEMENTS**

- 2610.1 Within thirty (30) calendar days of the date that an arbitration agreement is submitted to the Commission, the Commission shall either approve or reject the arbitration agreement, or portions thereof, in accordance with the standards of 47 U.S.C. § 252(e)(2). The Commission shall make written findings as to any deficiencies in the arbitration agreement when the agreement is rejected.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2621 PUBLIC INSPECTION OF AGREEMENTS

- 2621.1 Pursuant to 47 U.S.C. § 252(h), the Commission shall make a copy of each negotiated, mediated, or arbitrated agreement approved under this Chapter available for public inspection and copying within ten (10) days after Commission approval of the agreement.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2622 PETITIONS FOR INTERPRETATION OR ENFORCEMENT OF AGREEMENTS APPROVED PURSUANT TO 47 U.S.C. § 252(e)

- 2622.1 Any telecommunications carrier, including the incumbent local exchange carrier, may file with the Commission a petition requesting interpretation or enforcement of an agreement approved pursuant to 47 U.S.C. § 252(e) of the Telecommunications Act, D.C. Code, 2001 Ed. § 34-2002(h), and these rules.
- 2622.2 An original and fifteen (15) copies of the interpretation or enforcement petition shall be filed with the Office of the Commission Secretary.
- 2622.3 All interpretation or enforcement petitions filed with the Commission shall be signed by a duly authorized representative of the petitioning carrier and shall include:
- (a) The name, address, and main telephone number of the petitioning carrier;
 - (b) The name, title, business address, telephone number, fax number, and e-mail address (if available) of the person(s) who will be representing the petitioning carrier during the interpretation or enforcement proceeding;
 - (c) A complete list of all telecommunications carriers that are parties to the approved agreement;
 - (d) A statement of the disputed issues that give rise to the interpretation or enforcement petition;
 - (e) A statement outlining the positions of each party to the approved agreement regarding the disputed issues;
 - (f) All relevant documentation that supports the petitioning carrier's position concerning the disputed issues; and
 - (g) A statement as to whether the petitioning carrier requests an evidentiary hearing.
- 2622.4 The only parties to the interpretation or enforcement proceeding shall be the parties to the approved agreement.
- 2622.5 Any petitioning carrier shall serve a copy of the interpretation or enforcement petition and any supporting documentation on all other parties to the approved agreement.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2623 RESPONSES TO INTERPRETATION OR ENFORCEMENT PETITIONS

2623.1 A party to the approved agreement that is the subject of the interpretation or enforcement proceeding may file a response to the interpretation or enforcement petition. An original and fifteen (15) copies of the response shall be filed with the Commission Secretary within twenty-five (25) calendar days of the date that the Commission received the interpretation or enforcement petition. The response shall be served on all telecommunications carriers that are parties to the approved agreement.

2623.2 All responses to the interpretation or enforcement petition shall include, at a minimum:

- (a) The name, address, and main telephone number of the responding carrier;
- (b) The name, title, business address, telephone number, fax number, and e-mail address (if available) of the person(s) who will be representing the responding carrier during the interpretation or enforcement proceeding;
- (c) A statement of any disputed issues, if different from those stated in the interpretation or enforcement petition;
- (d) A statement outlining the positions of each party to the approved agreement regarding the disputed issues, if different from those stated in the interpretation or enforcement petition;
- (e) All relevant documentation that supports the responding carrier's position concerning the disputed issues;
- (f) A statement as to whether the responding carrier requests an evidentiary hearing; and
- (g) A certificate of service attesting that a copy of the response and all supporting documentation has been served on all other parties to the interpretation or enforcement proceeding.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2624 COMMISSION REVIEW OF INTERPRETATION OR ENFORCEMENT PETITIONS

- 2624.1 Upon receipt of the interpretation and enforcement petition and any response, the Commission or its designated agent shall determine the procedural schedule for the interpretation or enforcement proceeding.
- 2624.2 If the Commission determines that a hearing is necessary, then the Commission shall follow the procedures outlined in Section 2613.5. The Commission shall determine whether or not to schedule a hearing within thirty (30) days of the filing of the response to the interpretation or enforcement petition. Any hearing shall be scheduled within thirty (30) days of the date of this determination.
- 2624.3 Notwithstanding any other provision of this Chapter, the parties involved in the interpretation or enforcement proceeding may agree on different interpretation or enforcement procedures, which may be accepted by the Commission.
- 2624.4 If no hearing is held, then the evidentiary record shall close on the day following the date set by the Commission as the final date for receipt of submissions from the parties to the interpretation or enforcement proceeding, or at some other date that the Commission determines.
- 2624.5 If the Commission directs a party to the interpretation or enforcement proceeding to provide information and that party fails or refuses to respond within the time limit set, the Commission may reach a decision on the issues in the interpretation or enforcement proceeding based on the best information available, from whatever source derived.
- 2624.6 If the act or omission of a party to the interpretation or enforcement proceeding impedes the expeditious resolution of the issues, the Commission may make such orders in regard to the act of omission as are just, including, but not limited to, an order limiting a party's claims, defenses, and/or evidence; striking pleadings or parts thereof; dismissing the petition, or granting judgment by default or determine that the act or omission constitutes a failure to negotiate in good faith pursuant to 47 U.S.C. § 252(b)(5). The Commission may consider a determination that a party failed to negotiate in good faith in its deliberations pursuant to 47 U.S.C. §§ 251 and 271.
- 2624.7 After review of the documentation presented by the parties to the interpretation or enforcement proceeding and the review of the hearing transcript, if any, the Commission shall issue an order that may include, but is not limited to: interpretations of provisions of the approved agreement; orders of specific performance of any provision in the approved agreement; or amendment of the approved agreement. If the Commission designates an agent to schedule a hearing or hear testimony, the Commission's agent shall issue its interpretation or enforcement decision within thirty (30) days after the hearing date or the close of the evidentiary record, whichever is later. If the Commission chooses not to designate an agent, then the Commission shall issue an order within thirty (30) days after the hearing date or the close of the evidentiary record, whichever is later.

- 2624.8 If the Commission designates an agent, the Commission shall review any interpretation or enforcement decision by the Commission's agent and issue an order to adopt, modify, or reject the interpretation or enforcement decision within thirty (30) days of the issuance of the interpretation or enforcement decision. If any party to the interpretation or enforcement proceeding chooses to appeal the interpretation or enforcement decision to the Commission, that party shall file its appeal within ten (10) days after the issuance of the interpretation or enforcement decision. An original and fifteen copies of the appeal shall be filed with the Commission Secretary, with a copy served on the Commission's agent and the other parties to the interpretation or enforcement proceeding on the same day that the appeal is filed with the Commission. The Commission shall have thirty days from the submission of the appeal to review the appeal and issue an order adopting, modifying, or rejecting the interpretation or enforcement decision.
- 2624.9 If the Commission orders the amendment of the approved agreement, the parties shall submit a new agreement to the Commission for approval within thirty (30) days of the issuance of the Commission order requiring the amendment of the approved agreement.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2625 ASSESSMENT OF COSTS

- 2625.1 Pursuant to D.C. Code, 2001 Ed. § 34-912(b)(7)(A), the Commission may assess each participating carrier a portion of the actual costs of any mediation, arbitration, interpretation, or enforcement proceeding conducted pursuant to this Chapter. Costs shall be assessed on a nondiscriminatory basis.
- 2625.2 Pursuant to 47 U.S.C. § 252(h), the Commission may assess each participating party a portion of the costs for proceedings conducted pursuant to sections 2603 and 2604. Costs shall be assessed on a reasonable and non-discriminatory basis.

SOURCE: Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2626 **WAIVER**

2626.1 The Commission may, for good cause, waive any rule under this Chapter unless the rule contains a provision that is expressly required by statute.

SOURCE: Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).

2699 **DEFINITIONS**

The following words and terms, when used in this Chapter, shall have the following definitions unless the context clearly states otherwise:

Approved agreement – means an agreement approved by the Commission pursuant to Section 252 of the Telecommunications Act of 1996, D.C. Code, 2001 Ed. § 34-2002(h) and Section 2604.

Arbitrating party – means one of the telecommunications carriers participating in the arbitration proceeding.

Arbitration agreement – means the agreement or amended agreement reached by the arbitrating parties pursuant to the arbitration decision.

Arbitration decision – means the signed decision of the arbitrator or the arbitration panel.

Arbitration petition – means a petition filed by a telecommunications carrier requesting the Commission for arbitration pursuant to 47 U.S.C. § 252(b).

Commission – means the Public Service Commission of the District of Columbia.

Commission's procedural rules – means the Commission's Rules of Practice and Procedure that are contained in Chapter 1 of Title 15 DCMR.

Days – means calendar days, unless otherwise specified.

Enforcement petition – means a petition to enforce an approved agreement.

Ex parte communication – means an oral or written communication between the arbitrator and a telecommunications carrier's representative relating to the merits of the proceeding, which is made without providing all other telecommunications carriers participating in the arbitration proceeding the opportunity to participate.

Incumbent local exchange carrier – means, with respect to an area, the local exchange carrier that provided local exchange service in such an area on the date of enactment of the federal Telecommunications Act of 1996 (P.L. 104-104).

Interpretation petition – means a petition filed to interpret an approved agreement.

Interpretation or enforcement decision – means a signed decision of the Commission's agent in an interpretation or enforcement proceeding.

Interpretation or enforcement proceeding – means a proceeding in which the Commission interprets or enforces an approved agreement.

Local exchange carrier – means any person or entity that is engaged in the provision of telephone exchange service or exchange access. The term does not

include a person or entity insofar as the person or entity is engaged in the provision of commercial mobile service.

Mediating party – means a party participating in mediation.

Negotiated agreement – means an agreement or amended agreement between a telecommunications carrier and an incumbent local exchange carrier pursuant to 47 U.S.C. § 252 arrived at through voluntary negotiation or mediation. A negotiated agreement includes an interconnection agreement that was opted into by telecommunications service providers either in the District of Columbia or another jurisdiction.

Party – means a person, entity, individual, corporation, partnership, or association.

Petitioning carrier – means a telecommunications carrier that files a request for arbitration pursuant to 47 U.S.C. § 252(b) or that files a petition for enforcement and interpretation of an approved agreement.

Requesting carrier – means a telecommunications carrier that files a request for mediation pursuant to 47 U.S.C. § 252(a)(2).

Responding carrier – means a telecommunications carrier that responds to a request for mediation or an arbitration, enforcement, or interpretation petition.

Telecommunications – means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications carrier – means any provider of telecommunications services, except that the term does not include aggregators of telecommunications services as defined in 47 U.S.C. § 226.

Telecommunications service – means the offering of telecommunications for a fee directly to the public or to such classes of users as to be effectively available to the public, regardless of the facilities used.

SOURCE: Notice of Final Rulemaking published at 47 DCR 5242 (June 23, 2000) [EXPIRED]; as amended by Final Rulemaking published at 47 DCR 8315 (October 20, 2000); as amended by Final Rulemaking published at 48 DCR 140 (January 5, 2001); as amended by Final Rulemaking published at 51 DCR 2905 (March 19, 2004).