

Dedicated DS3 transport consists of incumbent LEC interoffice transmission facilities that have a total digital signal speed of 44.736 megabytes per second and are dedicated to a particular customer or carrier.

(i) *Triggers for dedicated DS3 transport.* A state commission shall find that a requesting telecommunications carrier is not impaired without access to unbundled dedicated DS3 transport along a particular route where either of the triggers in paragraphs (e)(2)(i)(A) or (e)(2)(i)(B) of this section is satisfied.

(A) *Self-provisioning trigger for dedicated DS3 transport.* To satisfy this trigger, a state must find that three or more competing providers not affiliated with each other or with the incumbent LEC, including intermodal providers of service comparable in quality to that of the incumbent LEC, each satisfy the conditions in paragraphs (e)(2)(i)(A)(1) and (e)(2)(i)(A)(2) of this section.

(1) The competing provider has deployed its own transport facilities and is operationally ready to use those transport facilities to provide dedicated DS3 transport along the particular route. For purposes of this paragraph, the competing provider's DS3 transport facilities may use dark fiber facilities that the competing provider has obtained on a long-term, indefeasible-right of use basis and that it has deployed by attaching its own optronics to activate the fiber.

(2) The competing provider's facilities terminate at a collocation arrangement at each end of the transport route that is located at an incumbent LEC premises and in a similar arrangement at each end of the transport route that is not located at an incumbent LEC premises.

(B) *Competitive wholesale facilities trigger for dedicated DS3 transport.* To satisfy this trigger, a state must find that two or more competing providers not affiliated with each other or with the incumbent LEC, including intermodal providers of service comparable in quality to that of the incumbent LEC, each satisfy the conditions in paragraphs (e)(2)(i)(B)(1) through (e)(2)(i)(B)(4) of this section.

(1) The competing provider has deployed its own transport facilities, including transport facilities that use dark fiber facilities that the competing provider has obtained on an unbundled, leased, or purchased basis if it has attached its own optronics to activate the fiber, and is operationally ready to use those facilities to provide dedicated DS3 transport along the particular route.

(2) The competing provider is willing immediately to provide, on a widely available basis, dedicated DS3 transport along the particular route.

(3) The competing provider's facilities terminate in a collocation arrangement at each end of the transport route that is located at an incumbent LEC premises and in a similar arrangement at each end of the transport route that is not located at an incumbent LEC premises.

(4) Requesting telecommunications carriers are able to obtain reasonable and nondiscriminatory access to the competing provider's facilities through a cross-connect to the competing provider's collocation arrangement at each end of the transport route that is located at an incumbent LEC premises and through a similar arrangement at each end of the transport route that is not located at an incumbent LEC premises.

(ii) *Potential deployment of dedicated DS3 transport.* Where neither trigger in paragraph (e)(2)(i) of this section is satisfied, a state commission shall consider whether other evidence shows that a requesting telecommunications carrier is not impaired without access to unbundled dedicated DS3 transport along a particular route. To make this determination, a state must consider the following factors: local engineering costs of building and utilizing transmission facilities; the cost of underground or aerial laying of fiber or copper; the cost of equipment needed for transmission; installation and other necessary costs involved in setting up service; local topography such as hills and rivers; availability of reasonable access to rights-of-way; availability/feasibility of similar quality/reliability alternative transmission technologies along the particular route; customer density or addressable market; and existing facilities-based competition.

(iii) *Cap on unbundled DS3 circuits.* A requesting telecommunications carrier may obtain a maximum of 12 unbundled dedicated DS3 circuits for any single route for which dedicated DS3 transport is available as unbundled transport.

(3) *Dark fiber transport.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to dark fiber transport on an unbundled basis except where the state commission has found, through application of either paragraph (e)(3)(i) of this section or the potential deployment analysis in paragraph (e)(3)(ii) of this section, that requesting telecommunications carriers are not impaired without access to unbundled dark fiber transport along the particular route. Dark fiber transport consists of unactivated optical interoffice transmission facilities.

(i) *Triggers for dark fiber transport.* A state commission shall find that a

requesting telecommunications carrier is not impaired without access to dark fiber transport along a particular route where either of the triggers in paragraph (e)(3)(i)(A) or paragraph (e)(3)(i)(B) of this section is satisfied.

(A) *Self-provisioning trigger for dark fiber transport.* To satisfy this trigger, a state commission must find three or more competing providers not affiliated with each other or with the incumbent LEC, each satisfy paragraphs (e)(3)(i)(A)(1) and (e)(3)(i)(A)(2) of this section.

(1) The competing provider has deployed its own dark fiber facilities, which may include dark fiber facilities that it has obtained on a long-term, indefeasible-right of use basis.

(2) The competing provider's facilities terminate in a collocation arrangement at each end of the transport route that is located at an incumbent LEC premises and in a similar arrangement at each end of the transport route that is not located at an incumbent LEC premises.

(B) *Competitive wholesale facilities trigger for dark fiber transport.* To satisfy this trigger, a state commission must find that two or more competing providers not affiliated with each other or with the incumbent LEC, each satisfy paragraphs (e)(3)(i)(B)(1) through (e)(3)(i)(B)(4) of this section. In applying this trigger, the state commission may consider whether competing providers have sufficient quantities of dark fiber available to satisfy current demand along that route.

(1) The competing provider has deployed its own dark fiber, including dark fiber that it has obtained from an entity other than the incumbent LEC, and is operationally ready to lease or sell those facilities for the provision of fiber-based transport along the particular route.

(2) The competing provider is willing immediately to provide, on a widely available basis, dark fiber along the particular route.

(3) The competing provider's dark fiber terminates in a collocation arrangement at each end of the transport route that is located at an incumbent LEC premises and in a similar arrangement at each end of the transport route that is not located at an incumbent LEC premises.

(4) Requesting telecommunications carriers are able to obtain reasonable and nondiscriminatory access to the competing provider's dark fiber through a cross-connect to the competing provider's collocation arrangement at each end of the transport route that is located at an incumbent LEC premises and through a similar arrangement at each end of the transport route that is