

not located at an incumbent LEC premises.

(ii) *Potential deployment of dark fiber transport.* Where neither trigger in paragraph (e)(3)(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 dark fiber 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; 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.

(4) *State commission proceedings.* A state commission shall complete the proceedings necessary to satisfy the requirements in paragraphs (e)(1), (e)(2), and (e)(3) of this section in accordance with paragraphs (e)(4)(i) and (e)(4)(ii) of this section.

(i) *Initial review.* A state commission shall complete any initial review applying the triggers and criteria in paragraphs (e)(1), (e)(2), and (e)(3) of this section within nine months from the effective date of the Commission's *Triennial Review Order*.

(ii) *Continuing review.* A state commission shall complete any subsequent review applying these triggers and criteria within six months of the filing of a petition or other pleading to conduct such a review.

(5) *Routine network modifications.* (i) An incumbent LEC shall make all routine network modifications to unbundled dedicated transport facilities used by requesting telecommunications carriers where the requested dedicated transport facilities have already been constructed. An incumbent LEC shall perform all routine network modifications to unbundled dedicated transport facilities in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

(ii) A routine network modification is an activity that the incumbent LEC regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of

cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. They also include activities needed to enable a requesting telecommunications carrier to light a dark fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for a requesting telecommunications carrier.

(f) *911 and E911 databases.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to 911 and E911 databases on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part.

(g) *Operations support systems.* An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to operations support systems on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part. Operations support system functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by an incumbent LEC's databases and information. An incumbent LEC, as part of its duty to provide access to the pre-ordering function, shall provide the requesting telecommunications carrier with nondiscriminatory access to the same detailed information about the loop that is available to the incumbent LEC.

■ 12. Section 51.320 is added to read as follows:

§ 51.320 Assumption of responsibility by the Commission.

If a state commission fails to exercise its authority under § 51.319, any party seeking that the Commission step into the role of the state commission shall file with the Commission and serve on the state commission a petition that explains with specificity the bases for the petition and information that supports the claim that the state commission has failed to act. Subsequent to the Commission's issuing a public notice and soliciting comments on the petition from interested parties, the Commission will rule on the petition within 90 days of the date of the public notice. If it agrees that the state commission has failed to act, the Commission will assume responsibility for the proceeding, and within nine months from the date it assumed responsibility for the proceeding, make

any findings in accordance with the Commission's rules.

■ 13. Section 51.325 is amended by adding paragraph (a)(4) to read as follows:

§ 51.325 Notice of network changes: Public notice requirement.

(a) * * *

(4) Will result in the retirement of copper loops or copper subloops, and the replacement of such loops with fiber-to-the-home loops, as that term is defined in § 51.319(a)(3).

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■ 14. Section 51.331 is amended by adding paragraph (c) to read as follows:

§ 51.331 Notice of network changes: Timing of notice.

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(c) Competing service providers may object to incumbent LEC notice of retirement of copper loops or copper subloops and replacement with fiber-to-the-home loops in the manner set forth in § 51.333(c).

■ 15. Section 51.333 is amended by revising the section heading, paragraph (b), paragraph (c) introductory text, and by adding paragraph (f) to read as follows:

§ 51.333 Notice of Network Changes: Short term notice, objections thereto and objections to retirement of copper loops or copper subloops.

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(b) *Implementation date.* The Commission will release a public notice of filings of such short term notices or notices of replacement of copper loops or copper subloops with fiber-to-the-home loops. The effective date of the network changes referenced in those filings shall be subject to the following requirements:

(i) *Short term notice.* Short term notices shall be deemed final on the tenth business day after the release of the Commission's public notice, unless an objection is filed pursuant to paragraph (c) of this section.

(ii) *Replacement of copper loops or copper subloops with fiber-to-the-home loops.* Notices of replacement of copper loops or copper subloops with fiber-to-the-home loops shall be deemed approved on the 90th day after the release of the Commission's public notice of the filing, unless an objection is filed pursuant to paragraph (c) of this section. Incumbent LEC notice of intent to retire any copper loops or copper subloops and replace such loops or subloops with fiber-to-the-home loops shall be subject to the short term notice provisions of this section, but under no circumstances may an incumbent LEC