

CLEC SWITCHED ACCESS CONSTRAINTS IN TWENTY- FIVE STATES

	CLEC ACCESS CONSTRAINT
Alaska	CLEC rates must conform to the rate ceilings established in the incumbent's study area using the Area Specific Bulk Bill methodology. <i>In the Matter of the Consideration of Reform of Intrastate Interexchange Access Charge Rules, etc.</i> , Docket No. R-97-5, Order No. 7 at Appendix A, §§ 102 & 104.
California	Decision 07-12-020 December 6, 2007 Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges. Rulemaking 03-08-018 (Filed August 21, 2003): Competitive local exchange carriers will reduce their intrastate access charges to \$0.025 per minute effective April 1, 2008, and then to the higher of AT&T's or Verizon's intrastate access charges, plus 10%, effective January 1, 2009.
Colorado	CLEC switched access rates must be cost-based as determined by the Commission and they "may not exceed the average price by rate element and type of access in effect on July 1, 1987." 4 CCR 723-2-2203(f)(i) & (II); § 40-15-1-5(1) C.R.S.
Connecticut	Attachment 12.0 SNET ICA, para. 12.1, "[f]or intraLATA toll services traffic ... compensation will be ... as set forth in each Party's intrastate access service tariff, but not to exceed the compensation contained in SNET's tariff in the exchange where the end user is located."
Hawaii	Telecommunications carriers may not offer or provide access at excessive prices, and except as otherwise provided in the rule, carriers may not offer access services at rates below TSLRIC. Haw. Admin. Rules 6-80-49 (2).
Illinois	Commission appears to be enforcing a parity obligation in interconnection arbitrations. For example, an arbitration order determined that CLEC switched access rates must mirror the ILEC or the CLEC must prove that its costs justify a higher rate. TSD Metrocom, Inc., Petition for Arbitration, Arbitration Decision Docket No. 01-0338 (Aug. 8, 2001) at 50; <i>see also</i> , SBC Illinois and McLeod ICA Amendment dates Oct. 1, 2003, ¶ 11.1; <i>AT&T/TCG Verified petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with [SBC Illinois] pursuant to Section 252(b) of the Telecommunications Act of 1996</i> , Arbitration Decision, Docket No. 03-0239.
Indiana	CLEC intrastate switched access rates are deemed just and reasonable if those rates mirror the CLEC's interstate rates. § 8-1-2.6-0.1.5(c). Presumably, higher rates are subject to challenge and cost justification, but not expressly prohibited.
Iowa	A CLEC that concurs with the ITA Access Tariff No. 1 and offers service in exchanges of the ILEC whose rate is lower than the ITA rate "must deduct the CCLC from its intrastate access service tariff. 199 IAC 22.14(2)(d)(1)2.

Louisiana	CLECs shall charge non-discriminatory switched access rates that do not exceed the intrastate switched access rates of the competing ILEC in each of the CLEC's certificated areas. General Order – Appendix B, <i>Regulations for Competition in the Local Telecommunications Market</i> , § 301(K)(4).
Maine	Commission will consider corresponding decreases in intrastate access rates after any decrease in interstate access rates and by May 31, 2005, all CLEC intrastate access rates must equal their interstate rates as of January 1, 2003. MN Rev. Stat. Ann. 35-A § 7101-B(2).
Massachusetts	“CLECs that intending to charge higher terminating access rates must file supporting documentation showing their costs actually are higher than NYNEX's costs” D.T.E. 940185, at 50 (1996). Invoking FCC's VA Arb Order, permitting CLECs to charge “a comparable rate charged by the incumbent” for “the same or similar services;” extended same principle to all MA tariffed rates in D.T.E 05-4 (2006).
Maryland	Commission calculates the effective rate per MOU of the incumbent with the most access lines and all “facilities-based” carriers must offer rates at or below such rate. MD ADC 20.45.09.03(B). “Facilities-based carrier” means a LEC owning or leasing switching and transmission facilities. MD ADC 20.45.09.02(B)(3).
Michigan	A CLEC's intrastate switched access rates that mirror their interstate rates are “just and reasonable.” MI Stat. Ann. § 484.2310(2). Presumably, higher rates are subject to challenge and cost justification, but not expressly prohibited. But recent Cmmsn Order in SPRINT v. US EXCHANGE determines that all LECs w/ <250K lines are not rate-regulated (Case U-15212)
Missouri	The Commission has developed CLEC rate caps set at the directly competing ILEC rate through orders. <i>In the Matter of the Access Rates to be Charged by Competitive Local Exchange Telecommunications Companies in the State of Missouri</i> , Report and Order, Case No. TO-99-596 (June 1, 2000); <i>In the Matter of an Investigation of the Actual Costs Incurred in Providing Exchange Access Service and the Access Rates to be Charged by Competitive Local Exchange Telecom. Cos. in Missouri</i> , Report and Order, Case No. TR-2001-65 (Aug. 26, 2003).
Nebraska	“[A]bsent a demonstration of costs, a CLEC's access charges, in aggregate, must be reasonably comparable to the ILEC with whom they compete.” <i>In the Matter of the Commission, on its own motion, seeking to conduct an investigation into intrastate access charge reform and intrastate universal service fund</i> , App. No. C-1628/NUSF (Feb. 21, 2001) at ¶ 9.
New Hampshire	A CLEC shall not charge access rates greater than those charged by the ILEC. NH Admin. Code Puc 431.07.
New Mexico	The rules set forth a three-phase access reduction schedule starting 4/1/06 with subsequent reductions on 1/1/07 and ending at parity with interstate access rates on 1/1/08. LECs may move to interstate parity more rapidly if they desire. 17.11.10.8 NMAC.

New York	CLECs are authorized to charge access rates that do not exceed those of the largest carrier in the LATA without a showing that higher rates are cost-based and in the public interest. <i>Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service, etc.</i> , Opinion NO. 98-10, Case Nos. 94-C-0095 & 28425 (June 2, 1998) at 25.
Ohio	CLEC "access rates shall be capped at existing access rate levels [the levels in place in January 11, 2001], unless they can justify (with appropriate cost support) a higher access rate and receive Commission approval." <i>In the Matter of the Commission's Investigation Into the Modification of Intrastate Access Charges</i> , Opinion and Order, Case No. 00-127-TP-COI (Jan. 11, 2001) at 16 – 17.
Pennsylvania	CLEC rate may not exceed the access rates charged by the ILEC in the same service territory unless CLEC can demonstrate that higher access rates are cost justified. 66 Pa. Cons. Stat. § 3017(c).
South Dakota	Chapters 20:10:27 to 20:10:29 establish the rules for determining switched access rates. In general, a "carrier's-carrier" must file cost studies supporting rates and file waiver for average LECA rate or Qwest rate (or seek waivers of both). SD Admin. R. 20:10:27 to 20:10:29.
Texas	CLEC must mirror the "prevailing" originating/terminating rates charged by the ILEC whose territory the call originated or terminated in. Tex. Utilities Code § 52.155(a). The CLEC may charge a different rate where: (a) the Commission sets a higher rate; or (b) subject to review, the CLEC establishes a statewide average composite originating and terminating rate based upon a reasonable approximation of the traffic originating and terminating between all holders of certificates. Tex. Utilities Code § 52.155(a)(1) & (2).
Virginia	Ordered 9/27/07: 20 VAC 5-417, Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (Final): 1. Beginning December 1, 2007, unless otherwise allowed by the commission, prices for a new entrant's intrastate access services shall not exceed the highest of the following: a. The new entrant's comparable interstate switched access charge rate. b. The aggregate intrastate switched access charge rates of the ILEC in whose service territory the new entrant is providing service. A new entrant may utilize a blended or composite rate to reflect applicable price ceilings of more than one ILEC or to reflect an alternative rate structure to the ILEC.
Washington	The rates charged by a CLEC for terminating access service offered by price list must not exceed the rates charged by the incumbent local exchange company for terminating access service in the comparable geographic area. WAC 480-120-540(2).
Wisconsin	In a recent arbitration decision, the Commission capped a CLEC's intrastate access rates at the ILEC rate unless and until the CLEC could prove its "actual" costs. <i>TDS Metrocom Petition for Arbitration of Interconnection Terms, Conditions, and Prices from Wisconsin Bell, Inc., d/b/a Ameritech Wisconsin</i> , Arbitration Award, Docket No. 05-MA-123

Wyoming	SB 78 enacted May, 2007. WS 37-15-203(j) unless otherwise directed under federal law, establishes switched access cap for all LECs at \$.03/MOU by 2010. Commission may authorize higher rates after 2012 upon showing that prices are supported by a long run incremental cost study.
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Recent Action:

- Ohio: C2C Rules cap CLEC at competing ILEC; edge-out ILEC must conform to CLEC access rule.

Pending Action

- Verizon has filed petitions in Massachusetts and West Virginia asking for investigation of Intrastate Access Rates of Competitive Local Exchange Carriers

Deregulated: (*i.e.*, access tariffs and / or price lists *not* permitted).

- Oregon
- North Carolina
- Vermont