

TITLE 4: ECONOMIC RESOURCES
DIVISION 8: UTILITIES

§ 8469. Arbitration of Interconnection Issues.

(a) The Commission has the authority to arbitrate any open interconnection issues pursuant to 47 U.S.C. § 252(b), as it existed on February 8, 1996.

(b) During the period from the 135th to the 160th day, inclusive, after the date on which an incumbent local exchange carrier receives a request for negotiation, the carrier or any other party to the negotiation may petition the Commission to arbitrate any open issues. A party that petitions the Commission under this section shall, at the same time as it submits the petition, provide the Commission with all relevant documentation concerning the following:

- (1) The unresolved issues;
- (2) The position of each of the parties with respect to those issues; and
- (3) Any other issue discussed and resolved by the parties.

(c) A party petitioning the Commission under this section shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the Commission receives the petition.

(d) A non-petitioning party to a negotiation may respond to the other party's petition and provide any additional information that it wishes within 15 days after the Commission receives the petition.

(e) The Commission shall limit its consideration to those issues set forth by the parties to the negotiation in the petition for arbitration and the response to the petition.

(f) The Commission may appoint a hearing examiner for arbitration proceedings under this section. The hearing examiner shall file with the Commission a proposed decision within the time set by order of the Commission. A hearing examiner must be assigned with regard to the expertise required for the particular matter. On the filing by a party, in good faith, of a timely and sufficient affidavit of personal bias, lack of independence, disqualification by law, or other disqualification of a hearing examiner or on the hearing examiner's own motion, the Commission shall determine the affidavit or motion as a part of the record in the case. The Commission may disqualify the hearing examiner and appoint another hearing examiner. The affidavit must state the facts and the reasons for the belief that the hearing examiner should be disqualified and must be filed not less than ten days before the original date set for the hearing.

(g) Participation in the arbitration proceeding must be limited to the telecommunications carrier requesting the arbitration, the telecommunications carrier from which interconnection is being sought, and the Commonwealth consumer counsel.

(h) Negotiations among the telecommunications carriers may continue,

(i) Unless otherwise agreed to by the parties, the Commission shall, within 10 days of the filing of a request for arbitration, conduct a conference with the parties for the purpose of establishing a schedule for the orderly and timely disposition of the arbitration. The schedule must include discovery deadlines and a hearing date.

(j) The Commission may issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence relevant to the issues being arbitrated and may administer oaths. Subpoenas must be served and

TITLE 4: ECONOMIC RESOURCES
DIVISION 8: UTILITIES

enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action in Superior Court. The Commission shall regulate the course of the hearings and the need for filing briefs and may direct the parties to appear and confer to consider simplification of the issues by consent of the parties pending a final decision by the arbitrator.

(k) The Commission shall issue its final decision no later than six months after the request for negotiations on a petition issued. When the Commission files its final decision or when the hearing examiner files the proposed decision with the Commission, each party must be simultaneously given a copy delivered personally or by certified mail. The decision must:

- (1) Ensure the resolution of issues presented by the parties and this section;
- (2) Establish rates for interconnection, services, or access to unbundled network elements pursuant to 47 U.S.C. § 252(d); and
- (3) Provide a schedule for implementation of the terms and conditions of the decision by the parties.

(l) If the person who conducted the hearing becomes unavailable to the Commission, the Commission is not precluded from issuing a final decision based on the record if the demeanor of the witnesses is considered immaterial by all parties.

(m) Unless required for the disposition of *ex parte* matters authorized by law, the person or persons who are charged with the duty of rendering a decision or of making findings of fact and conclusions of law in an arbitration proceeding, after issuance of notice of hearing, may not communicate with any party or a party's representative in connection with any issue of fact or law in the case unless there is notice and opportunity for all parties to participate.

Source: PL 15-35, § 2 (8450), modified.

Commission Comment: The Commission deleted figures that were mere repetitions of words in subsections (f) and (k) above pursuant to its authority by 1CMC § 3806.