# WEST VIRGINIA CODE CHAPTER 24 ARTICLE 2E

## §24-2E-1. Transfer of phone service providers.

(a) No telephone public utility may submit a change on behalf of a subscriber in the subscriber's selection of a provider of telephone service, except in accordance with the requirements of this section and the rules adopted by the Public Service Commission.

(1) The telephone public utility, its representatives or agents shall thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) The telephone public utility, its representatives or agents shall specifically establish whether the subscriber intends to make any change in his or her telephone service provider, and explain any charges associated with that change. The Public Service Commission may by rule establish additional requirements for disclosure of services or fees and any additional appropriate requirements relating to disclosure or cancellation of services, as the commission deems appropriate.

(3) Except as provided in subsection (b), the subscriber's decision to change his or her telephone service provider may be confirmed by an independent third-party verification company. For purposes of this provision, the confirmation by a third-party verification company shall be made as follows:

(A) The third-party verification company shall meet each of the following criteria:

(i) Not be directly or indirectly managed, controlled, or directed, or owned, wholly or in part, by the telephone public utility or its marketing agent;

(ii) Operate from facilities physically separate from those of

the telephone public utility that seeks to provide the subscriber's new service; and

(iii) Not derive commissions or compensation based upon the number of sales confirmed.

(B) The telephone public utility seeking to verify the sale shall do so by connecting the subscriber by telephone to the third-party verification company or by arranging for the third-party verification company to call the subscriber to confirm the sale.

(b) As an alternative to third-party verification, the telephone public utility may authenticate the transaction by one of the following methods:

(i) Verifying the subscriber's change in his or her telephone service provider by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document whose sole purpose is to explain the nature and extent of the action; or

(ii) Obtaining the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent; or

(iii) Obtaining the subscriber's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data.

The verification record shall be available to the subscriber upon request. Information obtained from the subscriber through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved subscriber against the person or persons responsible for the violation.

(4) Where the telephone public utility obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action in accordance with this section and the rules adopted by the Public Service Commission.

(5) The telephone public utility shall retain a record of the verification of the sale for at least two years. These records shall be made available to the subscriber, the Attorney General, or the commission upon request.

(c) Any telephone public utility that violates the provisions of this section shall be liable to the telephone public utility previously selected by the subscriber. The violating telephone public utility shall refund to the properly authorized telephone public utility all charges collected by the violating telephone public utility. The properly authorized telephone public utility shall then refund any overcharges due the subscriber. The Public Service Commission shall adopt regulations to govern credits to subscribers pursuant to subsection (f) of this section.

(d) The remedies provided by this section are in addition to any other remedies available by law. Violations of this section shall be subject to orders and other actions consistent with the Public Service Commission's authority as provided in this chapter. This section is intended to supplement and be in addition to federal laws and regulations regulating phone transactions.

(e) Nothing in this section shall be construed to impose any obligation or liability on a local exchange telephone public utility that executes, in good faith, an order for a change in a subscriber's telephone service provider submitted to it by the subscriber or by another telephone public utility.

(f) The Public Service Commission shall promulgate rules consistent with and necessary to effectuate the purposes of this section.

## §24-2E-2. Telephone services agreements.

(a) Limitation on termination fees. -- On and after the effective date of this section, no telephone public utility may, in connection with its continued provision of landline telephone service pursuant to an automatic renewal provision contained in a customer service agreement with a business customer, impose a termination fee that is greater than the charges for one month's service, which fee shall be computed by averaging the service charges invoiced to the terminating customer during the preceding four months.

(b) Service agreements already automatically renewed. –- If, as of the effective date of this section, a telephone public utility is providing landline telephone service to a customer pursuant to an automatic renewal provision contained in a customer service agreement with a business customer, the telephone public utility may not impose a termination fee that is greater than the charges for two months' service, which fee shall be computed by averaging the service charges invoiced to the terminating customer during the preceding four months.

(c) Limitation on applicability. --

(1) Nothing herein shall be construed as preventing a telephone public utility and its business customers from entering into customer service agreements, governing, among other matters, any termination fee that may be imposed on the customer for terminating the service agreement during its initial term.

(2) The provisions of this section do not apply to service agreements between one telephone public utility and another telephone public utility.

## §24-2E-3. Telephone conduit; prohibition; rulemaking.

(a) A telephone public utility may not prohibit, either by contract or service tariff, a customer who has provided conduit or other underground construction provided at the customer's expense from using the conduit or other underground construction for purposes other than services provided by the telephone company. A customer who provides the conduit or other underground construction is the owner of that apparatus: *Provided*, That the customer and all occupants of the conduit or other underground apparatus shall comply with the national electrical safety code and all other reasonable standards and practices to be established by the Public Service Commission.

(b) The Public Service Commission shall promulgate rules pursuant to article three, chapter twenty-nine-a of this code necessary to effectuate the purpose of this section.