

139.195 Definitions for KRS 139.105, 139.200, 139.215, and 139.775.

As used in KRS 139.105, 139.200, 139.215, and 139.775:

- (1) "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including caller ID services, detailed telecommunications billing, directory assistance, vertical services, conference bridging services, and voice mail services;
- (2) "Air-to-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;
- (3) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls;
- (4) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;
- (5)
 - (a) "Communications service" means telecommunications services and ancillary services.
 - (b) "Communications service" does not include the sale of communications service to a communications provider that is buying the communications service for sale or incorporation into a communications service for sale if:
 1. The seller separately itemizes the charges for these services on the bill provided to the purchaser; or
 2. The seller can identify, by reasonable and verifiable standards, the charges for these services from its books and records kept in the regular course of business for other purposes including nontax purposes. These services include:
 - a. Carrier access charges, excluding user access fees;
 - b. Right of access charges;
 - c. Interconnection charges paid by the provider of mobile telecommunications services or other communications providers;
 - d. Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is provided on an unbundled basis in accordance with 47 U.S.C. sec. 251(c)(3); and
 - e. Charges for use of facilities for providing or receiving communications service;
- (6) "Conference bridging services" means an ancillary service that links two (2) or more participants of an audio or video conference call and may include the provision of a telephone number. "Conference bridging services" does not include the telecommunications services used to reach the conference bridge;
- (7) "Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the

communications service, but only as it applies to the sourcing of the sale of communications services as provided in KRS 139.105. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area;

- (8) "Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications;
- (9) "Detailed telecommunications billing service" means an ancillary service of separately stated information pertaining to individual calls on a customer's billing statement;
- (10) "Directory assistance" means an ancillary service of providing telephone number information or address information;
- (11) "End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity;
- (12) "Fixed wireless service" means a telecommunications service that provides radio communications between fixed points;
- (13) "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5);
- (14) "International" means a service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a United States territory or possession;
- (15) "Interstate" means a service that originates in one (1) state of the United States or a United States territory or possession and terminates in a different state of the United States or United States territory or possession;
- (16) "Intrastate" means a service that originates in one (1) state of the United States or a United States territory or possession and terminates in the same state of the United States or a United States territory or possession;
- (17) "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7);
- (18) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and termination points or the origination or termination points of the transmission, conveyance, or routing are not fixed, including, by the way of example only, telecommunications services that are provided by a commercial mobile radio service provider;
- (19) "Paging service" means a telecommunications service that provides a transmission of coded radio signals for the purpose of activating specific pagers. Such transmissions may include messages or sounds;
- (20) "Pay telephone service" means a telecommunications service provided through any pay telephone;
- (21) "Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the

residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider;

- (22) "Postpaid calling service" means a telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid service except that it is not exclusively a telecommunications service;
- (23) "Prepaid calling service" means the right to access exclusively telecommunications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;
- (24) "Prepaid wireless calling service" means a telecommunications service that:
 - (a) Provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services;
 - (b) Must be paid for in advance; and
 - (c) Is sold in predetermined units of dollars of which the number declines with use in a known amount;
- (25) "Private communications service" means a telecommunications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels;
- (26) (a) "Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.
 - (b) If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.
 - (c) If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use;
- (27) "Telecommunications nonrecurring charges" means an amount billed for the installation, connection, change, or initiation of telecommunications service received by the customer;
- (28) (a) "Telecommunications service" means the electronic transmission, conveyance,

or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(b) "Telecommunications service" includes but is not limited to:

1. The transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice over Internet protocol (VOIP) services or is classified by the Federal Communications Commission as enhanced or value-added;
2. Paging service;
3. Telegraph and teletypewriter services;
4. Local and long distance telephone services;
5. Fixed wireless service;
6. Mobile wireless service;
7. Private communications service;
8. Telecommunications nonrecurring charges;
9. Value-added nonvoice data service;
10. 800 service; and
11. 900 service.

(c) "Telecommunications service" does not include:

1. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information;
2. Installation or maintenance of wiring or equipment on a customer's premises;
3. Tangible personal property or digital property;
4. Advertising, including but not limited to directory advertising;
5. Billing and collection services provided to third parties;
6. Internet access service as defined in 47 U.S.C. sec. 151;
7. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable services as defined in 47 U.S.C. sec. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;
8. Ancillary services;
9. Digital products delivered electronically, including but not limited to software, music, video, rating materials, or ring tones; or

10. Telephone answering services;

- (29) "Value-added nonvoice data service" means a service that otherwise meets the definition of telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for the purpose other than transmission, conveyance, or routing;
- (30) "Vertical service" means an ancillary service that is offered in connection with one (1) or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services;
- (31) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service;
- (32) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800," "855," "866," "877," and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission; and
- (33) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live serve. "900 service" does not include the charge for collections services provided to the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service and any subsequent numbers designated by the Federal Communications Commission.

Effective: July 1, 2009

History: Amended 2009 Ky. Acts ch. 73, sec. 3, effective July 1, 2009. -- Amended 2007 Ky. Acts ch. 141, sec. 3, effective July 1, 2007. -- Amended 2005 Ky. Acts ch. 168, sec. 126, effective January 1, 2006. -- Created 2003 Ky. Acts ch. 124, sec. 8, effective July 1, 2004.

Legislative Research Commission Note (7/1/2007). Under the authority of KRS 7.135(1)(h), during codification a manifest clerical or typographical error occurring in 2007 Ky. Acts ch. 141, sec. 3(1), has been corrected by changing "detailed communications billing" to "detailed telecommunications billing" to conform with definitions for that section.