

Regulatory Analysis Form

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(1) Agency

Public Utility Commission

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L-00030165/57-232

REVIEW COMMISSION

IRRC Number: 2393

(3) Short Title

Proposed Rulemaking - Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunication Companies

(4) PA Code Cite

52 Pa. Code §§63.1101-1111

(5) Agency Contacts & Telephone Numbers

Primary Contact: Wayne Williams 7-7137

Secondary Contact: Terrence J. Buda 7-5755

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed regulation establishes rules, procedures, and standards to provide for an orderly process when a local service provider exits the market.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Sections 501 and 1501 of the Public Utility Code, 66 PA. C.S. §§501 and 1501; sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, as amended, 45 P.S. §§1201 - 1202, and the associated regulations at 1 Pa. Code §§7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, as amended, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, as amended, 71 P.S. §745.5; section 612 of the Administrative Code of April 9, 1929, P.L. 177, as amended, 71 P.S. §232, and the associated regulations at 4 Pa. Code §7.231-7.234.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The advent of competition in the local telephone market in Pennsylvania has created situations that the Commission's current regulations do not address. Although a public utility must seek prior approval to abandon service, the Commission's rules under Chapter 63 and 64 do not cover abandonment of utility services nor do they address the notification of the end-use customers.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Customers will lose their basic telephone service if the local service provider fails to pay the underlying network service provider for the service it resells to its end-use customers. When this happens, the customer loses the ability to contact 9-1-1 in case an emergency situation should arise. Further, a customer who loses basic service, even temporarily, loses the ability to contact work, school, health facilities and other important services.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Any telephone customer, residential or business, who subscribed for service with the local service provider exiting the market will benefit from this regulation.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No one.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Any telephone company that provides local service or acts as an underlying carrier within Pennsylvania must comply with the regulation. Currently there are 200 local service providers approved for service within the Commonwealth and an unknown number of providers operating with provisional authority.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Public Utility Commission held a series of 3 collaborative sessions to discuss the issues addressed in this proposed rulemaking. Active participants included AT&T Communications of Pennsylvania, Inc. (AT&T); ATX - CoreComm (ATX); CTSI/Commonwealth Telephone (CTSI); Choice One Communications of PA, Inc. (Choice One); MCIWorldcom Network Services, Inc. (MCI); Metropolitan Telecommunications (MetTel); North Pittsburgh Telephone Company (NPT); Sprint/United Telephone Company (Sprint); Verizon Pennsylvania, Inc. and Verizon North, Inc. (Verizon PA); Z-Tel Communications (Z Tel); the Pennsylvania Telephone Association (PTA); the Pennsylvania Cable Television Association (PCTA); the Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); and the Pennsylvania Utility Law Project (PULP). Staff from the Commission's Bureau of Consumer Services (BCS), Bureau of Fixed Utility Services (FUS), Law Bureau, Office of Trial Staff (OTS), and Office of Communications also participated.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Many of the entities that will be covered by this regulation were extensively involved in the development of this regulation as they participated in collaborative sessions held to discuss the issues addressed by the regulation. As a result of this involvement, any costs to the regulated community have been minimized and the opportunity for potential savings has been maximized.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

No additional costs or savings.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Although the regulation could initially increase the Commission's regulatory costs, an estimate of these costs cannot be made at this time. On the other hand, the regulation could reduce the Commission's expenses in the long run by reducing the number of consumer complaints it handles at both the informal and formal level about the matters covered by the regulation. Again, an estimate of the savings cannot be made at this time.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/Q*					
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/Q*					
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The fiscal costs are not subject to a reasonable estimate and thus they are N/Q (not quantifiable).

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The regulation will set forth uniform procedures for local service providers to follow when they exit the market. The result will be to curtail the costs that the Commission's Bureau of Consumer Services and local service providers have faced as they dealt with problems arising from the lack of consistent procedures regarding abandonment.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The past history of not regulating these issues has resulted in the loss of local telephone service to consumers as well as a high volume of consumer complaints to both companies and to the Commission.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no alternative regulatory schemes that were considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulation is similar to regulations promulgated in New York. The proposed regulation will put Pennsylvania on a par with that state. It will not put Pennsylvania at a competitive disadvantage with other states. In the contrary, the regulation should give a competitive advantage to the Commonwealth.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will supplement the existing regulations that do not address these issues.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The regulation applies to local service providers that provide local service to residential or business customers.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The regulation will be reviewed on an ongoing basis.

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Copy below is hereby approved as to form and legality. Attorney General.

[Signature]

BY _____
(DEPUTY ATTORNEY GENERAL)

MAR 11 2004

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00030165/57-232

DATE OF ADOPTION December 18, 2003

BY *[Signature]*

James J. McNulty

TITLE (SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

[Signature]

BY _____
Bohdan R. Pankiw
Chief Counsel

12-18-03

DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00030165/57-232
Proposed Rulemaking
Establishing Local Service Provider Abandonment
Process for Jurisdictional Telecommunication Companies
52 Pa. Code, Chapter 63

The Pennsylvania Public Utility Commission on December 18, 2003, adopted a proposed rulemaking order establishing an orderly process to follow when a local service provider abandons local telephone service. The contact persons are Wayne Williams, Bureau of Consumer Services, 787-7137 and Terrence J. Buda, Law Bureau, 787-5755.

EXECUTIVE SUMMARY

L-00030165/57-232

Proposed Rulemaking

Re Establishing Local Service Provider

Abandonment Process for Jurisdictional

Telecommunications Companies

52 Pa. Code §§63.1101-1111

The advent of competition in the local telephone market in Pennsylvania has created situations that the Commission's current regulations do not address. To comply with certain aspects of the Telecommunications Act of 1996, the Commission implemented a streamlined application process to modify traditional entry procedures applicable to telecommunications carriers. Specifically, the Commission's telecommunication procedures allow new entrants to commence service upon filing and service of the application, which must contain an interim tariff. These entry procedures apply to all carriers whether they are facilities-based, interconnected or reseller competitive local exchange carriers (CLECs). CLECs that are not facilities-based and rely either completely or partially for their underlying service on the incumbent local exchange carrier (ILEC) are considered resellers. If the CLEC fails to pay the underlying ILEC for the service it resells to its end-use customers, the CLEC's wholesale telephone service will be terminated. This results in the termination of dial tone service to the end-use customer – effectively a de facto abandonment of service by the CLEC. Although a public utility must seek prior approval to abandon service, the Commission's rules under Chapter 63 and 64 do not cover abandonment of utility services nor do they address the notification of the end-use customers.

In April 2002, recognizing the need for both short-term and long-run solutions to problems associated with de facto abandonment, the Commission approved Interim Guidelines addressing the issues raised by this regulatory oversight. Later in 2002, the Commission held collaborative sessions that involved telecommunications carriers and other interested parties in discussions of the issues. The collaborative participants addressed proposals for regulations and proposed solutions to the problems created by the changing telecommunications marketplace.

By Order entered on December 23, 2003 at Docket No. L-00030165, the Commission adopted a Proposed Rulemaking Order to amend 52 Pa. Code §63, consistent with the order and recommendations of the collaborative participants, the Bureau of Consumer Services and the Law Bureau. The intent of the proposed rulemaking is to promulgate a regulation to establish general rules, procedures, and standards to provide for an orderly process when a local service provider exits the market.

The proposed regulation applies to all local service providers (LSPs) and network service providers (NSPs) operating in Pennsylvania. The proposed regulation will provide for an orderly process when a NSP intends to embargo and terminate service to a LSP, when the Commission has issued an order to revoke a LSP's certificate of public convenience and when a LSP has filed an application to abandon a certificate of public convenience for the provision of local service. In particular, the regulation will ensure that customers do not lose service when their LSP exits the market and that customers are provided ample notice and the opportunity to select a new LSP of their choice. Moreover, the regulations will ensure that an abandoning LSP provides sufficient network information so that customers are able to be migrated seamlessly and also that an abandoning LSP coordinates with 9-1-1 service providers and the North American Numbering Plan Administrator. Finally, the regulations apply to a LSP that provides local service to residential or business customers.

The contact persons are Wayne Williams (717) 787-7137 and Joan Smith (717) 783-8841 in the Bureau of Consumer Services, and Terrence J. Buda in the Law Bureau (717) 787-5755.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held December 18, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Kim Pizzingrilli
Glen R. Thomas
Wendell F. Holland

Proposed Rulemaking –
Establishing Local Service Provider
Abandonment Process for Jurisdictional
Telecommunication Companies

L-00030165

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

This proposed rulemaking order is intended to promulgate regulations to establish an orderly process when a local service provider (LSP)¹ abandons local telephone service. The proposed regulations, contemplating codification as a new subchapter in 52 Pa. Code Chapter 63, are attached as Annex A.

Procedural Background

In 1993, competition in the local telecommunications markets in Pennsylvania was initiated through the enactment of Chapter 30 of the Public Utility Code, 66 Pa. C.S. §§3001-3009. The Telecommunications Act of 1996 (TA-96) mandated the opening of local telephone service competition on a national level.²

¹ As used throughout this proceeding, "local service provider" or "LSP" refers to a company, such as a local exchange carrier, that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities, or by a combination of these methods.

² Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§151 *et seq.* (TA-96)

To comply with certain aspects of TA-96, the Commission implemented a streamlined application process to modify traditional entry procedures applicable to telecommunication carriers. Specifically, the Commission's telecommunication procedures allow new entrants to commence service upon filing and service of the application, which must contain an interim tariff. These entry procedures apply to all carriers whether they are facilities-based, interconnected or reseller competitive local exchange carriers (CLECs).

CLECs that are not facilities-based and rely either completely or partially for their underlying service on the incumbent local exchange carrier (ILEC) are considered resellers. If the CLEC fails to pay the underlying ILEC for the service it resells to its end-use customers, the CLEC's wholesale telephone service will be terminated. This results in the termination of dial tone service to the end-use customer – effectively a defacto abandonment of service by the CLEC. Although a public utility must seek prior approval to abandon service, the Commission's rules under Chapter 63 and 64 do not cover abandonment of utility services nor do they address the notification of the end-use customers. Therefore, the purpose of this rulemaking is to address this regulatory issue.

At Public Meeting on December 4, 2001, we issued four tentative orders for public comment regarding interim guidelines for jurisdictional LSPs and NSPs³. These tentative orders were designed to establish interim guidelines for Changing LSPs (M-00011582, base folder), Quality of Service (QoS) (F0002)⁴, Customer Information (F0003), and Abandonment of Local Service (F0004), pending the approval of final regulations. After

³ As used throughout this proceeding, "network service provider" or "NSP" refers to a service provider that interacts with LSPs and provides some or all of the facilities and equipment components needed to make up a customer's telecommunications service. A NSP may also be called an underlying carrier and is generally invisible to customers. A NSP may also operate as a LSP.

⁴ "QoS" as used in M-00011582, F0002, and M-00011585 refers to *how* transactions between service providers are structured rather than to measures of the quantity or character of services provided to wholesale or retail customers. A proceeding is pending at Docket No. P-00021985 to address quality of service in terms of the measures or standards of services provided to customers as mandated by *other* provisions of 52 Pa. Code Chapter 63.

a public comment period, we entered final orders at those dockets on April 23, 2002, approving interim guidelines.

As the first step in the rulemaking process, we also issued notices on December 4, 2001 that announced the commencement of four corresponding local telephone competition collaboratives. The purpose of the collaboratives was to develop proposals for regulations to address the four areas of concern identified in the interim guidelines. Notice was sent to all telecommunications carriers and other interested entities in the Commonwealth and published in the *Pennsylvania Bulletin*. The collaborative meetings began in June 2002.⁵ Active parties included AT&T Communications of Pennsylvania, Inc. (AT&T); ATX - CoreComm (ATX); CTSI/Commonwealth Telephone (CTSI); Choice One Communications of PA, Inc. (Choice One); MCIWorldcom Network Services, Inc. (MCI); Metropolitan Telecommunications (MetTel); North Pittsburgh Telephone Company (NPT); Sprint/United Telephone Company (Sprint); Verizon Pennsylvania, Inc. and Verizon North, Inc. (Verizon PA); Z-Tel Communications (Z-Tel); the Pennsylvania Telephone Association (PTA); the Pennsylvania Cable Television Association (PCTA); the Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); and the Pennsylvania Utility Law Project (PULP). Staff from the Commission's Bureau of Consumer Services (BCS), Bureau of Fixed Utility Services (FUS), Law Bureau, Office of Trial Staff (OTS), and Office of Communications also participated.

Parties were invited to make presentations and voice concerns in the collaborative sessions and submit written comments. The parties were advised that the Commission did not want the provisions of the interim guidelines to be viewed as necessary elements for the proposed rulemakings. The parties were free to use what they wanted from the interim guidelines, but they were also free to propose regulations and topics not covered

⁵ During 2002, the Abandonment Process collaborative met on June 4, July 16, and August 9.

by the interim guidelines. The Commission invited the parties to submit proposed regulatory language for consideration. Noting this latitude, the parties, nonetheless, preferred to use the interim guidelines as a starting point for the proposed regulations.

Most of the parties participated in more than one collaborative; many participated in all. During the multi-collaborative process, it became apparent that several of the topics under consideration could have been addressed in more than one of the collaboratives. Since there was also substantial overlap in terms of issues and proposals in the Changing LSPs collaborative (Docket No. M-00011583) and the QoS collaborative (Docket No. M-00011585), these two collaboratives were combined in a single rulemaking. It was further agreed that the various customer information issues should be consolidated with and addressed by the Customer Information collaborative (Docket No. M-00011584) and resulting rulemaking. The parties also agreed that transfers of customer base issues should be consolidated with and addressed in this Abandonment Process collaborative (Docket No. M-00011586) and resulting rulemaking.

Discussion

It should be noted that while every position espoused by each of the parties, whether in comments or in public collaborative sessions, may not be expressly detailed herein, each submittal was duly considered in the preparation of this Order and Annex A. Any position not expressly adopted herein is rejected without prejudice to future consideration as the parties request or the Commission deems appropriate.

Subchapter N. Local Service Provider Abandonment Process Application

Positions of the Parties

Comments provided by OCA and OSBA support the application of the rules to voice and data service. Other parties generally supported the application of the rules to voice service only.

The parties also discussed whether the rules should apply to business customers in addition to residential customers. There was general agreement among the parties that the abandonment rules would benefit both residential and business customers by providing advance notice of the cessation of service along with the opportunity to select another provider.

Disposition

On this issue, we find that the rules should not apply to LSP's providing only data service as opposed to voice and data, or voice only. Clearly, our major concern from the beginning of this process with the issuance of the December 4, 2001 Tentative Order was customers losing their telephone service when their LSP exits the market. In particular, we are concerned with customers losing their access to 9-1-1 service providers. Therefore, we shall decline to apply these regulations to data services.

We also agree with the parties that the abandonment rules should apply to LSPs who serve residential and/or business customers. (§63.1101(b)(1))

Pre-Termination Embargo Process

Positions of the Parties

The parties were generally supportive of retaining the Pre-Termination Embargo Process that was contained in the Local Service Provider Abandonment Process Abandonment Interim Guidelines. The parties noted that an embargo is a useful tool and

should be time-limited. ATX commented that there should be a clear method of determining what is a properly filed dispute that may be the basis for an embargo and requested Commission guidance on this issue. ATX advocated for greater Commission involvement in payment disputes between an underlying carrier and a local service provider who is a reseller or using unbundled network elements (UNE) with or without platform.

Disposition

We have retained a time-limited embargo process in the proposed regulations as supported by the parties. (§63.1103)(§63.1104)

On the issue of further clarification of what constitutes a properly filed dispute about the payment of charges between an underlying carrier and LSP, we refrain from offering further clarification or Commission involvement. The terms and conditions of arrangements between the underlying carrier and a LSP for wholesale services should be spelled out in an interconnection agreement between the two parties. The Commission expects that the parties will incorporate whatever specificity about disputes is desired by the parties into the interconnection agreements. The Commission does not wish to become routinely involved in contract matter disputes between the two entities.

Initiation of Abandonment

Positions of the Parties

The parties explored whether there are reliable financial or other indices that could be used as advanced signals of a likely future abandonment of LSP service. If such indications could be identified, perhaps when a LSP's indices reached the threshold levels, it would be required to file for abandonment. Such a process was believed to be preferable to situations in which LSPs have waited until they do not have the financial means to notify customers of their impending abandonment and provide call center

support for the process. The parties were not able to identify any reliable advance triggers that could be used to effectively signal an impending abandonment.

Disposition

We did not incorporate any specific advance triggers into the abandonment rules. However, we did require a LSP to file an application to abandon service not less than 90 days prior to the date when financial data or operational indices indicate there is a reasonable likelihood that the LSP will no longer be able to provide service to some or all of its customers. (§63.1105)

Alternative Notice Provider and LSP Deposit Requirements

Positions of the Parties

Based on past Commission history, the parties explored what entity could provide customers with notices in the event that a LSP abandons service without notifying its customers. Unfortunately, several LSPs have abandoned service in Pennsylvania without customer notice and without providing the necessary customer service record information that would enable other providers to easily migrate customers to their service. In these cases, the Commission's Bureau of Consumer Services, in cooperation with the NSP, provided the customer notice of abandonment. Fortunately, in these cases of irresponsible abandonment, there were not a large number of customers involved and the Commission was able to provide such notices.

The parties noted that provisions also should be made for making customer service records available as well as providing call center support for questions, billing inquiries and complaints. The collaborative discussions did not result in a consensus as to what entity could provide the customer notice, customer information and call center support in the absence of the abandoning LSP providing these functions. However, the parties agreed that it would be very difficult for another entity to effectively provide these functions without the LSP's back office operations being fully functional.

The parties discussed the issue of another entity stepping in to manage the customer service aspects of an abandonment by a LSP that exits the market in an irresponsible manner. This led to a discussion about whether the Commission could require deposits from LSPs to ensure that an abandoning LSP had the financial resources available to provide the necessary customer service functions for abandonment. While the parties discussed several ideas pertaining to deposit requirements, letters of credit and liens tied to LSP applications, no clear consensus emerged as to a workable solution to ensure the provision of necessary customer service functions for abandonment.

Disposition

We determined that it is the responsibility of the LSP that is abandoning service to provide the customer service functions of notifying customers, providing customer service records to other carriers and maintaining call center support upon abandonment. The LSP is in the unique position of having the information to provide these functions and should rightfully go about the process of abandoning service in an orderly fashion. The Commission or any other entity should not be placed in the position of carrying out the necessary customer service functions for a LSP who abandons service. Therefore, the Commission shall, through this regulation, spell out the requirements for the abandoning LSP to perform these necessary customer service functions for abandonment. We will refrain from imposing additional financial requirements in the form of deposits or letters of credit on all LSPs at this time. However, if the Commission continues to experience LSPs exiting the market in an irresponsible manner after the implementation of final abandonment rules, we may revisit the need for imposing additional financial requirements on all LSPs to ensure orderly abandonments of service. (§63.1106)

Returning NNX Codes to the Area Code

Positions of the Parties

When the Commission approved the Interim Guidelines Establishing a Local Service Provider Abandonment Process for Jurisdictional Companies, Commissioner Pizzingrilli, through a motion adopted by the Commission, directed that the abandonment collaborative promulgate regulations with provisions pertaining to the return of NXX codes. The motion stated:

1. The collaborative established to promulgate formal regulations regarding local service providers who abandon service address the disposition of these companies' NXX codes to ensure that any unused NXX codes are returned to the area code.
2. The regulations include a specific process through which local service providers who abandon service are required to return any unused NXX codes to the North American Numbering Plan Administrator (NANPA).

The collaborative parties discussed the issue and noted that a process already exists for returning unused NXX codes back to NANPA.

Disposition

We have incorporated specific provisions in the regulations that coincide with the process⁶ that already exists for returning unused telephone numbers to the number administrator. An abandoning LSP shall provide written notice to the National Number Administrator authorizing the release of all assigned telephone numbers to other

⁶ Implementation of Number Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000 – NXX Code Reclamation, M-00001373 (August 22, 2000).

companies and releasing all unassigned telephone numbers to the number administrator.
(§63.1106(d))

Abandonment Plan

Positions of the Parties

The parties reviewed and discussed a draft of the Pennsylvania Mass Migration Guidelines that was prepared by Verizon PA. The Pennsylvania draft was based on the New York Mass Migration Guidelines⁷ that were in effect and governed the abandonment process in New York. Several of the parties assisted in the development of the New York Mass Migration Guidelines and had operational experience with the guidelines.⁸ One central part of the New York guidelines is the provision for the existing local service provider to file an exit plan with the New York Public Service Commission. The parties agreed that the Pennsylvania regulations should have a similar provision that requires an abandoning LSP to file an exit plan with the Commission.

Disposition

We have incorporated a provision in the regulations for the filing of an abandonment plan with the Commission. An abandoning LSP shall file an abandonment plan with the Commission at least 90 days in advance of abandoning service. The regulation provides a checklist of information that is to be included in the abandonment plan. Further, the abandonment plan contains provisions for how customer service records will be made available to other carriers so that customers can be migrated to new service providers. The rules also require for the LSP to include plans for maintaining toll-free telephone access to the LSP's call center. (§63.1106)

⁷ New York State Public Service Commission Mass Migration Guidelines, Case No. 00-0188, revised January 2, 2003.

⁸ Although New York's Guidelines are not regulations, they are the product of a collaborative process which culminated with a Commission order adopting the Guidelines. As such, under New York law, the Guidelines warrant mandatory compliance by the industry.

There are three overall abandonment scenarios, each having implications for customer notices, customer selection periods and migration periods. The first overall scenario is when the abandoning local service provider (LSP) has made arrangements for some or all of its customers to be transferred to an acquiring LSP.

In this scenario, the abandoning LSP will send a notice 60 days in advance of the exit date advising customers subject to acquisition that they have 30 days to select another LSP or they will automatically be transferred to the new (acquiring) LSP. The 60 day timeframe allows customers to shop in the first 30 day period, the remaining 30 days provides for migration of service. Customers subject to acquisition who have not selected a new LSP in the first 30 days will automatically be migrated to the acquiring LSP. To prevent double migration, customers who are automatically migrated to the acquiring LSP will not be able to select another LSP during the 30 day migration period.

Customers who are subject to acquisition will be notified by the acquiring carrier 60 days before the exit date (commensurate with the start of the 30 day selection period) of the rates and terms of the acquiring carrier so that they can use the information in their decision-making process.

A second overall scenario is when there are customers who are not subject to acquisition but are subject to default service provisions with the network service provider (NSP). In this scenario, the abandoning LSP will send a notice 60 days in advance of the exit date, advising customers that they have 30 days to select another LSP or they will be automatically transferred to the default NSP. The 60 day timeframe allows customers to shop in the first 30 day period, the remaining 30 days provides for migration of service. Customers who do not select a new LSP in the first 30 day selection period will be automatically migrated to the NSP during the subsequent 30 day period. To prevent double migration, customers who are being automatically migrated to the NSP will not be able to select another LSP during the 30 day migration period.

The third overall scenario is when there are customers who are not subject to acquisition or default NSP service. In this scenario, the abandoning LSP will send a notice 60 days in advance of the exit date that they have 30 days to shop and select another LSP or they risk losing their local service. Customers who do not select a new LSP in the first 30 day period will receive a second notice, 30 days before the exit date, notifying them that they have 20 days to select a new LSP or they will likely lose local service.

Abandonment Program Manager

Positions of the Parties

The New York Mass Migration Guidelines provide for the appointment of a program manager to coordinate the abandonment process. The program manager works with project managers from each of the parties involved in the abandonment process. The parties noted that this was a worthwhile feature of the New York process and supported its incorporation into the Pennsylvania Abandonment Process.

Disposition

We have included language in the proposed regulations requiring the abandoning LSP to appoint a program manager to coordinate the abandonment process among the other principle entities that would be involved. The program manager will be selected from the abandoning LSP or, if applicable, from the acquiring LSP. The program manager will coordinate with a project manager from the Commission and, depending on the circumstance, a project manager from the NSP default provider. (§63.1107)

Commission Posting Abandonment Information

Positions of the Parties

One provision of the New York Mass Migration Guidelines that was discussed and generally endorsed by the parties was that the Commission post information about an

impending abandonment on its website. This feature would allow other service providers to be aware of the abandonment so that they may make a special effort to migrate any customers who may seek service with a new provider.

Disposition

We have adopted a provision that the Commission will post information of an impending abandonment on our website under the title “Local Service Telephone Provider Abandonment Notification.” (§63.1108)

Default Provider Obligations

Positions of the Parties

The parties engaged in limited discussion about the concept of a default provider for local service. The OCA commented on numerous occasions about the need for default provider coverage in Pennsylvania.

Disposition

While we have not included provisions for a comprehensive default provider function in the proposed regulations, we have adopted somewhat limited provisions that mirror in part New York’s guidelines in this area. In cases where the abandoning LSP serves its customers through resale using the NSP’s facilities and customers have not chosen a new provider in a timely manner and have not been picked up by an acquiring carrier, we have designated the NSP as the default provider so that customers will not lose their local service. In recognition of the possibility that some customers may be returning to the NSP with an outstanding balance from a previous service period with the NSP, we have sought to limit the NSP’s financial exposure by requiring that the NSP provide 30 days of provisional local service. During the 30-day provisional service period, customers who have an outstanding balance with the NSP must pay the arrearage or make arrangements with the NSP to do so. Failure to make full payment or arrangements for payment could result in the loss of default provisional basic service

from the NSP. The default provider provisions seek to strike a balance so that resale customers do not fall through the cracks and find themselves without local service and at the same time provide for the payment of outstanding arrears with the NSP. (§63.1110)

Abandonment Progress Reports

Positions of the Parties

The parties discussed a provision in the New York Mass Migration Guidelines whereby the Commission is provided with progress reports on the status of the customer migrations. The parties recommended that this provision also be incorporated into the Pennsylvania Abandonment Process.

Disposition

We have included a provision in the proposed regulations that requires the abandoning LSP to track the progress of the number of customers that have and have not migrated to a new LSP and to provide the Commission with status reports. The reports will enable the Commission to evaluate the need to potentially revise the abandoning carrier exit date should that become necessary. The progress reports could also be useful to the NSP default carrier by providing an estimate on the number of customers who may be coming to the NSP default provider for service. (§63.1111(a))

Second Customer Notification

Positions of the Parties

Another provision in the New York Mass Migration Guidelines that received support from the parties was having the abandoning LSP send a second customer notice to customers who have not taken action to select a new LSP. The purpose of a second notification would be to alert the customer to take action to select another LSP so that their local service would continue uninterrupted.

Disposition

We have incorporated a provision in the proposed regulations for the abandoning LSP to send a second customer notice under certain conditions. The second notice provision is applicable when customers have not selected another LSP within the 30 day shopping period and they will not be automatically transferred to the acquiring carrier or the NSP default provider at the close of the 30 day shopping period. (§63.1111(b))

The Commission requests that the parties provide comments as to whether the regulations should have a provision that notifies customers of the need to contact their regional and long distance carrier(s) about the change in LSP. The purpose of such a provision would be to insure that the change in LSP will not adversely affect their current regional long distance plan. The Commission seeks comments as to whether such a provision is necessary.

Conclusion

Accordingly, pursuant to sections 501 and 1501 of the Public Utility Code, 66 PA. C.S. §§501 and 1501; to sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, *as amended*, 45 P.S. §§1201 - 1202, and the associated regulations at 1 Pa. Code §§7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, *as amended*, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, *as amended*, 71 P.S. §745.5; section 612 of the Administrative Code of April 9, 1929, P.L. 177, *as amended*, 71 P.S. §232, and the associated regulations at 4 Pa. Code §§7.231-7.234, we are considering adoption of the proposed regulations regarding the abandonment process for local service providers, as set forth in Annex A: **THEREFORE**,

IT IS ORDERED:

1. That this docket be opened to consider the proposed regulations set forth in

Annex A.

2. That the Secretary shall submit this Order and Annex A to the Office of Attorney General, for review as to form and legality, and to the Governor's Budget Office, for review of fiscal impact.

3. That the Secretary shall submit this Order and Annex A for review and comment to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. That the Secretary shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.


5. That an original and 15 copies of any comments referencing the docket number of the proposed regulations be submitted within 45 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. In addition, one copy in electronic format (Microsoft Word® 2002 or readable equivalent) on diskette shall be provided to the Secretary and a second copy on diskette shall be provided to the attention of Wayne Williams, Bureau of Consumer Services, at the same mailing address.

6. That the contact persons for this rulemaking are Wayne Williams, Bureau of Consumer Services, 717-787-7137 (technical), and Terrence J. Buda, Assistant Counsel, Law Bureau, 717-787-5755 (legal). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, 717-772-4597.

7. That a copy of this Order and Annex A shall be served upon AT&T Communications of Pennsylvania, Inc.; ATX - CoreComm ; CTSI/Commonwealth

Telephone; Choice One Communications of PA, Inc.; MCIWorldcom Network Services, Inc.; Metropolitan Telecommunications; North Pittsburgh Telephone Company; Sprint/United Telephone Company; Verizon Pennsylvania, Inc. and Verizon North, Inc.; Z-Tel Communications; the Pennsylvania Telephone Association; the Pennsylvania Cable Television Association; the Office of Consumer Advocate; the Office of Small Business Advocate; the Pennsylvania Utility Law Project; and the Office of Trial Staff; and the North American Numbering Plan Administrator.

BY THE COMMISSION,


James J. McNulty
Secretary

SEAL

DATE ADOPTED: December 18, 2003

DATE ENTERED: **DEC 23 2003**

ANNEX A
TITLE 52. PUBLIC UTILITIES
PART 1. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 63. TELEPHONE SERVICE
Subchapter N. LOCAL SERVICE PROVIDER
ABANDONMENT PROCESS

§63.1101. Statement of purpose and policy.

(a) Purpose. The purpose of this subchapter is as follows:

(1) To provide for an orderly process when a network service provider (NSP) intends to embargo and terminate service to a local service provider (LSP).

(2) To provide for an orderly process when a LSP seeks to stop the provision of existing service to residential and business customers under the following circumstances:

(i) A NSP that provides part or all of the services necessary to provide local service is intending to terminate a LSP's service agreement.

(ii) The Commission has issued an order to revoke a LSP's certificate of public convenience.

(iii) A LSP has filed an application to abandon a certificate of public convenience for the provision of local service.

(3) To ensure that customers do not lose service when their LSP exits the market.

(4) To ensure that customers are provided ample notice and the opportunity to select a new LSP of their choice.

(5) To coordinate information flow and activities through a project management team.

(6) To ensure that an abandoning LSP provides sufficient network information so that customers are able to be migrated seamlessly.

(7) To ensure that an abandoning LSP coordinates with 9-1-1 service providers and the North American Numbering Plan Administrator (NANPA).

(b) *Application.*

(1) These regulations apply to a LSP that provides local service to residential or business customers.

(2) These regulations apply to a NSP that provides wholesale telephone service to a LSP and intends to embargo or terminate the LSP's service.

§63.1102. Definitions.

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

Abandon – To cease providing local service to existing customers. The term does not include discontinuance as a result of a customer's request or a temporary change in the provision of service that may arise from maintenance repair or failure of a LSP's equipment or facilities.

Abandoning local service provider – A LSP that seeks to abandon providing local service to existing customers in a service area.

Acquiring local service provider – A LSP that undertakes to provide local service to customers of the abandoning LSP after the abandoning LSP is permitted to alter or abandon providing local service.

Customer – The end-user recipient of telephone service provided by a LSP.

Customer service record - CSR – Documentation indicating the customer's name, address, contact telephone number, quantity of lines, services, features, and other information associated with a customer account.

Default local service provider – A NSP that assumes responsibility for the provision of local service when an abandoning LSP is a reseller of that NSP's service.

Embargo – The pre-termination process in which a NSP refuses to process local service change requests or initiate new local service requests because the LSP that is reselling the NSP's services or buying the NSP's unbundled network elements (UNE) or unbundled network elements with platform (UNE-P) facilities is delinquent in paying for those services or facilities.

Exit date – The date upon which an abandoning LSP intends to cease providing telecommunications service.

Local service - Telecommunications service within a customer's local calling area. Local service includes the customer's local calling plan, dial tone line, touch-tone and directory

assistance calls allowed without additional charge. It also includes services covered by the Federal Line Cost Charge, Pennsylvania Relay Surcharge, Federal Universal Service Fund Surcharge, Local Number Portability Surcharge, Public Safety Emergency Telephone Act (9-1-1) Fee and applicable federal and state taxes.

Local service provider – LSP – A company, such as a local exchange carrier (LEC), that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities, or by a combination of these methods of providing local service to a customer. NLSP indicates “new” LSP, and OLSP indicates “old” LSP. A LSP may also provide other telecommunications services, as well as non-jurisdictional services.

Local service reseller – A LSP that resells another company’s wholesale telephone services to provide local service to customers.

Network service provider – NSP – A carrier that interacts with LSPs and provides the facilities and equipment components needed to make up a customer’s telecommunications service. A NSP may be referred to as an underlying carrier, and may also be a LSP.

Wholesale customer – A LSP that provides local service by resale or by unbundled network elements (with or without platform).

§63.1103. NSP embargo process.

(a) **Authorized reasons for a NSP to embargo service.** A NSP may embargo service to a wholesale customer for the following reasons:

(1) **Failure of the wholesale customer to pay an undisputed delinquent amount for services necessary to provide customers with local service when that amount remains unpaid for 30 calendar days or more after the bill is rendered.**

(2) **Failure of the wholesale customer to abide by the terms and conditions of a Commission-approved interconnection agreement related to the provision of local service.**

(3) **Failure of the wholesale customer to comply with the terms of a payment agreement related to the provision of local service.**

(4) **Failure of the wholesale customer to comply with a Commission order related to the provision of local service.**

(b) Unauthorized reasons for a NSP to embargo service. Unless specifically authorized by the Commission, a NSP may not embargo service for the following reasons:

(1) Failure of a wholesale customer to pay a charge unrelated to the provision of local service, for example, a charge for a LSP's own directory advertising in a NSP's yellow pages directory.

(2) Failure of a wholesale customer to pay a charge that was not previously billed prior to the due date of the current bill.

(3) Failure of a wholesale customer to pay a charge that is under a payment agreement prior to the date of payment set forth in the agreement.

(4) Failure of a wholesale customer to pay a charge that is at issue in a complaint before the Commission unless an embargo is specifically authorized by the Commission.

(5) Failure of a wholesale customer to pay a charge when there is an open complaint or dispute with a NSP about the accuracy or correctness of the charge. A wholesale customer is obligated to pay amounts not under complaint or dispute.

(c) Embargo notification provisions.

(1) At least 10 days prior to the initiation of an embargo, a NSP shall issue a written notice of embargo to the wholesale customer using the following procedures:

(i) A NSP shall send the embargo notice by first class mail unless other methods of delivery have been agreed to as part of the service agreement or are provided for in an applicable tariff.

(ii) A NSP shall address the embargo notice to the wholesale customer's designee.

(iii) A NSP shall send a copy of the embargo notice to the Secretary of the Commission and to the Commission's Bureau of Consumer Services.

(2) The embargo notice to a wholesale customer shall include the following:

(i) The date that the embargo shall begin. The beginning date given for the embargo may not be less than 10 days from the date the notice is mailed or otherwise delivered.

(ii) The amount owed which forms the grounds for the embargo.

(iii) The embargo issuing NSP's contact information to be used by a wholesale customer for payment of the NSP's bill.

(iv) A statement that if the bill is not paid or other acceptable arrangements are not made prior to the embargo date, the embargo shall commence on that date and a termination notice shall be issued.

§63.1104. NSP termination process for wholesale customers.

(a) Termination process initiation.

(1) A NSP may initiate the termination process if a wholesale customer has not made payment in full or entered into a mutually acceptable written agreement for payment of outstanding debt by the embargo start date posted on the embargo notice.

(2) A NSP may not initiate the termination process for delinquent indebtedness which is the subject of an open dispute with the NSP or a pending complaint with the Commission filed by a wholesale customer.

(3) If during the termination process a wholesale customer initiates a properly filed dispute with a NSP or with the Commission, the NSP shall suspend the termination process unless it is based on other indebtedness that is not disputed.

(b) Termination notice.

(1) A termination notice from a NSP to a wholesale customer shall include the following:

(i) The date of the notification and reason for termination.

(ii) The date services shall be terminated unless payment is received or other mutually acceptable arrangements are made.

(iii) The amount owed, if applicable.

(iv) A contact telephone number and name for the NSP.

(2) A NSP shall provide a copy of the notice to the Commission's Secretary's Bureau, Bureau of Consumer Services and Law Bureau.

§63.1105. Initiation of Abandonment.

(a) A LSP shall initiate abandonment of service when a NSP initiates the termination of a LSP's service, when the Commission issues an order to revoke a LSP's certificate of public convenience or when a LSP has made proper application to the Commission to abandon service.

(1) NSP initiation.

(i) A NSP that intends to terminate the service of a LSP that serves residential or business customers shall provide prior notice to the LSP and the Commission electronically and by first class mail 110 calendar days in advance of the scheduled termination.

(ii) The Commission may require a NSP to extend a LSP's termination date until the LSP properly notifies its customers.

(2) Commission initiation. The Commission may initiate the abandonment of a LSP's service through the issuance of a Commission order that revokes the LSP's certificate of public convenience.

(3) LSP initiation. A LSP may initiate the voluntary abandonment of some or all of its local service customers by filing with the Commission an application to abandon service to some or all of its existing customers. A LSP shall file an application to abandon service not less than 90 calendar days prior to the date when financial or operational data indicates there is a likelihood that the LSP may be unable to provide service to some or all of its customers.

§63.1106. Abandoning LSP obligations for abandonment.

(a) Upon receiving a termination notice from a NSP, or upon receiving a Commission order notifying a LSP of an effective date for revoking its certificate of public convenience, or upon a LSP's voluntary filing of an application to abandon service, the abandoning LSP shall make a good faith effort to secure an acquiring carrier to serve the customers it plans to abandon.

(b) The abandoning LSP shall file an abandonment plan with the Commission not less than 90 calendar days in advance of abandoning service. The abandonment plan shall contain the following information:

- (1) Identification of the telecommunications services, either facilities-based or through resale, to be abandoned or curtailed in the associated service territory.
- (2) An explanation of reasons for the abandonment of service.
- (3) A detailed outline of the procedures a LSP shall use to ensure continuation of service for its affected customers. The abandoning LSP shall demonstrate that the abandonment will not deprive the public of necessary telecommunications services.
- (4) The notices required by this section.
- (5) A plan for an abandoning LSP to provide a list of current customers to the Commission within 60 calendar days prior to the exit date.
- (6) A draft of an initial letter to be sent to customers.
- (7) A plan for follow-up notification arrangements, for example, a second letter, phone calls, bill inserts, e-mail, and the like.
- (8) A proposed exit date if the abandonment is initiated by termination by a NSP or by Commission order. The exit date may not be later than the termination date provided by the NSP or the date the certificate of public convenience is to be revoked.
- (9) A date when customers shall select a carrier.
- (10) Contact names and telephone numbers for a LSP's Program Manager, the regulatory contact, and other pertinent contacts, for example, the contact for customer service records (CSR) or provisioning contacts.
- (11) Arrangements made for an acquiring carrier.
- (12) Procedures to be taken with NANPA to transfer NXX codes or thousand number blocks (if applicable) while preserving number portability for numbers within the code.
- (13) The name of the NSP and the current customer serving arrangements, for example, UNE-P (x carrier), resale (y carrier), UNE-L (x carrier) or Full Facilities.
- (14) Identification of customers when the abandoning carrier is the only provider of facilities to a customer or group of customers.
- (15) The number of customers impacted.
- (16) The format of the CSRs, a statement of what data elements are in the CSRs and a statement of how the CSRs will be made available to other carriers.

- (17) Details of a transfer of assets or control that requires Commission approval.
- (18) A request to modify or cancel tariffs.
- (19) A plan for processing customer deposits, credits and termination liabilities or penalties.
- (20) A plan for unlocking the E-9-1-1 records.
- (21) A plan for maintaining toll-free telephone access to an abandoning LSP's call center (including customer service and billing records) so that a customer is able to contact the LSP to inquire about or dispute final bills and refunds.
- (22) In cases when the default LSP provisions apply, a plan for providing the default LSP with the CSRs of customers who will be migrated to each default carrier. The CSRs shall be provided to the default LSP in electronic format 28 days prior to the exit date so that the default LSP shall notify the migrating customers of the terms and conditions of service.

(c) *Transfer of customers' 9-1-1/E-9-1-1 records.*

(1) *Transfers to a NLSP.* An abandoning LSP shall unlock all of its telephone numbers in the 9-1-1/E-9-1-1 records to provide a NLSP with access to the abandoning LSP's customers' 9-1-1/E-9-1-1 records. The abandoning LSP shall unlock the 9-1-1/E-9-1-1 records in compliance with the National Emergency Numbering Association's (NENA) standards.

(2) *Transfers after abandonment.* An abandoning LSP shall submit a letter to the appropriate 9-1-1/E-9-1-1 service provider authorizing the 9-1-1/E-9-1-1 service provider to unlock remaining 9-1-1/E-9-1-1 records after the LSP has abandoned the market. The abandoning LSP shall provide this letter at least 30 days prior to abandoning the market.

(d) *Notification to the Industry and NANPA.*

(1) *Industry abandonment notice.* An abandoning LSP shall provide written notice to:

(i) Telecommunications corporations providing the abandoning LSP with essential facilities or services or UNEs that affect the abandoning LSP's customers.

(ii) Telecommunications corporations providing the abandoning LSP with resold telecommunications services, if resold service is part of the telecommunications services provided to the abandoning LSP's affected customers.

(2) NANPA. An abandoning LSP shall provide written notice to:

(i) The NANPA, when applicable, authorizing the release of all assigned telephone numbers to other telecommunications companies and releasing all unassigned telephone numbers to the number administrator.

(ii) The NANPA, authorizing the release of all assigned telephone numbers to the succeeding carriers not less than 66 days prior to the abandonment.

(3) The notice shall include identification of all working telephone numbers assigned to the customers, identification of all unassigned or administrative numbers available for reassignment to other providers and the date the unassigned telephone numbers shall be available for reassignment.

(4) The abandoning LSP shall authorize the release of each individually assigned customer telephone number to the subsequent provider selected by the customer. The abandoning LSP may not abandon NXX codes or thousand block numbers if a number within the relevant range of numbers has not been completely ported.

(e) Abandoning LSP notification to customers.

(1) The abandoning LSP (and acquiring carrier if applicable) shall notify customers by letter not less than 60 days in advance of the exit date.

(2) The abandoning LSP shall provide customers with a list of the services (local basic, regional toll, long distance toll) that the abandoning LSP is currently providing to the customer. The abandoning LSP shall direct customers to choose a service provider to replace the service that it has been providing.

(3) If applicable, the abandoning LSP shall notify customers that if they do not act to obtain service from another LSP, the abandoning LSP shall automatically transfer them to a default carrier for local service provision.

(4) The notice of pending abandonment of service to residential and business customers shall contain the following:

(i) A printed teaser on the envelope and the notice containing the words "Important Notice, Loss of Local Telephone Service" printed in bold letters with a font size of at least 14 points, conspicuously displayed on the front of the envelope to attract the attention of the reader.

(ii) A statement on the notice: "At this time, (LSP name) provides you with local telephone service."

(iii) A statement on the notice: "As of (the exit date) (LSP name) will no longer provide your local telephone service and you must take action."

(iv) A statement on the notice: "To prevent the loss of your local telephone service, you must select another local telephone service provider on or before (list a specific date 30 calendar days prior to the exit date). If you act by this date there will be enough time for the new local service provider you choose to start your new service before your current service ends."

(v) A statement on the notice: "Please remember that customers may choose the provider of their local telecommunications service. You may select any company that is offering service in your area."

(vi) A statement on the notice: "This is an important notice (the word "important" in bold) about the loss of your local telephone service. If you have any questions or need more information, contact (LSP contact information including a toll-free telephone number)."

(vii) A list of alternative LSPs, including contact numbers and addresses, that serve the customer's area.

(viii) Information to customers outlining the procedure for obtaining refunds of credits and deposits, obtaining final bills and addressing questions or complaints.

§63.1107. Abandonment process management.

(a) The abandoning LSP shall appoint a program manager to coordinate the abandonment process. The program manager shall be selected from the abandoning LSP or, if applicable the acquiring LSP.

(b) The program manager shall be accountable to each of the parties involved in the abandonment. The individual parties involved in the migration may be:

(1) The abandoning LSP.

(2) The acquiring LSP.

(3) The default LSP.

(4) The Commission.

(c) The parties involved in the abandonment shall appoint a project manager who will work with the program manager to ensure that the abandonment process flows in a seamless manner.

§63.1108. Commission consideration and action.

(a) The Commission will post information of an impending abandonment on its website under “Local Service Telephone Provider Abandonment Notification.”

(b) If necessary, Commission staff may establish an industry conference call to address potential problem areas and procedures with the abandoning LSP, as well as with the acquiring, default or other LSPs as applicable.

§63.1109. Acquiring LSP provisions and obligations.

(a) An acquiring LSP shall notify customers by letter of the pending change of service providers 60 days in advance of the exit date.

(b) An acquiring LSP shall notify customers in writing of its rates and terms and conditions of service 60 days in advance of the exit date.

(c) An abandoning LSP and acquiring LSP may change the customer’s local service provider without being considered to have engaged in slamming if the acquiring LSP does not change a customer’s preferred interexchange carrier (PIC) designation without the customer’s authorization.

(d) An abandoning LSP shall reimburse the new provider (customer selected, acquiring carrier or default carrier) for the carrier change charges. The provision in this subsection does not relieve telecommunications providers of any requirements imposed by the Federal Communications Commission (FCC), including FCC anti-slamming rules and 47 Code of Federal Regulations, Section 63.71.

(e) If an acquiring LSP determines that it will be unable to provide service to a customer by the abandoning LSP's exit date, the acquiring LSP shall notify the Commission, the customer and the abandoning LSP within 24 hours of the determination. If the customer is unable to select another available LSP, the abandoning LSP shall continue to provide service until the date on which a LSP is able to provide service or a date ordered by the Commission, whichever is earlier.

§63.1110. NSP obligations to serve as the default LSP.

(a) When the following conditions are met, a NSP becomes the default LSP and shall continue to provide local service to customers who will not be served by an acquiring LSP and who have not selected another LSP:

(1) An abandoning LSP serves its customers through resale using the facilities of a NSP.

(2) There is no acquiring LSP or an acquiring LSP is not acquiring all customers from the abandoning LSP.

(3) One or more customers have not chosen a new LSP within the selection period.

(b) *Notification to customers.*

(1) A default LSP shall send a letter to customers who will be switched from an abandoning LSP to the default LSP 20 days prior to the exit date.

(2) The 20-day letter shall advise the customers that their service is being switched on a specific date and notify customers of the rates and terms and conditions of service.

(c) *Notification and service to customers with outstanding balances.*

(1) When a customer being switched to a default LSP has an outstanding balance for local service with the default LSP from a service period within the last four years, the default LSP shall provide provisional local service for at least 30 days from the exit date.

(2) A default LSP shall notify a customer that the customer has an outstanding balance, the amount of the balance and the time period over which the balance accrued.

(3) A default LSP shall inform a customer that the default carrier is obligated to provide local service only until (list a specific date that is 30 calendar days from the exit date) unless the customer pays the outstanding local service balance or makes a payment arrangement.

(4) Information shall be contained in the 20-day letter regarding how a customer may contact a default provider to make payment or enter into a payment arrangement.

(5) A customer who, upon notification of the customer's outstanding balance for local service, fails to make payment or enter into a payment arrangement for the outstanding balance may be subject to suspension and termination action by a default LSP after expiration of the 30-day provisional local service period.

§63.1111. Abandoning LSP follow-up obligations.

(a) An abandoning LSP shall track the progress of migrations and provide Commission staff with progress reports on the number of customers that have and have not migrated to a new LSP. The frequency of the updates will vary with the magnitude of the mass migration and will be determined by the Commission on a case by case basis.

(b) An abandoning LSP shall send a second abandonment notice to a customer who is not subject to acquisition or default service with a NSP and has not taken action to select a new LSP. The service notice shall be sent 30 days before the exit date. The form of the second notice is left to the discretion of the abandoning LSP and may be the following:

(1) First class mail.

(2) A telephone call.

(3) A bill insert.

(4) Any other means of direct contact with the customer.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA

TERRANCE J. FITZPATRICK
CHAIRMAN

March 18, 2004

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Re: L-00030165/57-232
Proposed Rulemaking
Establishing Local Service Provider Abandonment
Process for Jurisdictional Telecommunication
Companies
52 Pa. Code Chapter 63

Dear Chairman McGinley:

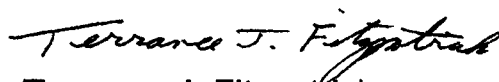
Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this proposal is to establish an orderly process to follow when a local service provider abandons local telephone service. The

contact persons are Terrence Buda, Law Bureau, 787-5755 and Wayne Williams, Bureau of Consumer Services, 787-7137.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,



Terrance J. Fitzpatrick
Chairman

Enclosures

pc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert J. Flick
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Buda
Mr. Williams
Regulatory Coordinator DelBiondo
Donna Cooper, Governor's Policy Office

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-00030165/57-232

Subject: Local Service Provider Abandonment Process for
Jurisdictional Telecommunication Companies

Pennsylvania Public Utility Commission

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
3/18/04	<i>Janice C. Lubowski</i>	HOUSE COMMITTEE Consumer Affairs
3/18/04	<i>Mary Walmer</i>	SENATE COMMITTEE Consumer Protection and Professional Licensure
3/18/04	<i>Elena Page</i>	Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau

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