

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Public Utility Commission		<p>2013 MAY 28 AM 10:13</p> <p>Public Utility Commission</p> <p>IRRC Number: 2394</p>
(2) I.D. Number (Governor*s Office Use) L-00030163/57-230		
(3) Short Title Final Rulemaking Re: Changing Local Service Providers		
(4) PA Code Cite 52 Pa. Code §§63.191-222	(5) Agency Contacts & Telephone Numbers Primary Contact: M. J. Frymoyer 3-1628 Secondary Contact: Louise Fink Smith 7-8866	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The regulation establishes rules, procedures, and standards to ensure that consumers are able to migrate between local telephone service providers without confusion, delay or interruption of their basic telephone service.		
(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?

With the opening of the local telephone service market to competition, telephone customers have been faced with delay and sometimes interruption of local telephone service when they attempt to change from one local telephone service provider to another. Further, when the customer calls to report problems with obtaining service or switching service, the customer is often referred from one service provider to another as no service provider has been willing to take responsibility for resolving the customer's dilemma.

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

Too often customers lose their basic telephone service as they await being transferred to a new local service provider of their choice. 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, wanting to take advantage of telephone competition and switch local service providers 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 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 4 collaborative sessions to discuss the issues addressed in this proposed rulemaking. Active participants were: Allegiance Telecom of PA, Inc.; AT&T Communications of Pennsylvania, Inc. (AT&T); ATX - CoreComm (ATX); Choice One Communications of PA, Inc. (Choice One); CTSI/Commonwealth Telephone; Denver & Ephrata Telephone & Telegraph (D&E); MCIWorldcom Network Services, Inc. (MCI); Metropolitan Telecommunications (MetTel); North Pittsburgh Telephone Company (NPT); Sprint/United Telephone Company; Verizon Pennsylvania, Inc. (Verizon PA) and Verizon North, Inc.; XO Communications (XO); Z-tel Communications (Z-tel); the Pennsylvania Telephone Association (PTA); the Pennsylvania Cable Television Association (PCTA); the Public Utility Law Project (PULP); NeuStar; the Office of Consumer Advocate (OCA); and the Office of Small Business Advocate (OSBA). Staff from the Commission's Bureau of Consumer Services (BCS), Bureau of Fixed Utility Services (FUS), Law Bureau, Office of Trial Staff (OTS), Office of Administrative Law Judge (OALJ), and Office of Communications

(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/O*					
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/O*					
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 a customer makes the decision to switch from one local service provider to another. 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 the change of service providers.

(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. The Commission believes that problems associated with changing local service providers could provide a barrier to local telephone competition as consumers would be less inclined to leave their incumbent providers for fear that they will encounter great difficulty in making the transition from one company to another.

(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 to fill voids that the developing competitive local service market demands.

(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 all customers of local telephone service, including small business customers. This is especially important because lack of telephone service for even brief periods can adversely impact the financial well being of small businesses. In addition, it is important that small businesses be able to retain their telephone numbers when changing from one telephone company to another and this regulation clearly specifies that consumers must be able to retain their telephone numbers when they change local service providers.

(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.

**FACE SHEET
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(Pursuant to Commonwealth Documents Law)

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DO NOT WRITE IN THIS SPACE

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

BY _____
(DEPUTY ATTORNEY GENERAL)

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-00030163/57-230

DATE OF ADOPTION May 5, 2005

BY James J. McNulty
James J. McNulty

TITLE Secy
(SECRETARY)

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

BY Bohdan R. Pankiw
Bohdan R. Pankiw
Chief Counsel

5-5-05
DATE OF APPROVAL

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

L-00030163/57-230
Final Rulemaking
Changing Local Service Providers
52 Pa. Code, Chapter 63

The Pennsylvania Public Utility Commission on May 5, 2005, adopted a final rulemaking order which sets forth regulations establishing an orderly process for customer migration between local service providers within the telecommunications industry. The contact persons are Louise Fink Smith, Law Bureau, 787-8866 and M. J. (Holly) Frymoyer, Bureau of Consumer Services, 783-1628.

EXECUTIVE SUMMARY
L-00030163/57-230
Final Rulemaking
Re: Changing Local Service Providers
52 Pa. Code Chapter 63

The advent of competition in the local telephone market in Pennsylvania has created situations that the Commission's current regulations do not address. Specifically, consumers have encountered a variety of problems when they attempt to change local service providers (LSPs) in the competitive market. In April 2002, recognizing the need for both short-term and long-run solutions to problems associated with migrating local phone service, the Commission approved Interim Guidelines addressing the issues raised by the changes. Later in 2002, the Commission held collaborative sessions that involved telecommunications carriers and other interested parties in discussions of the issues. Two of the collaborative groups focused on issues related to changing local service providers and quality of service. The participants in these two groups agreed to combine the issues into one rulemaking. The collaborative participants addressed proposals for regulations and proposed solutions to the problems created by the changing telecommunications marketplace.

By Order entered on October 3, 2003 at Docket No. L-00030163, 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 was to promulgate a regulation to establish general rules, procedures, and standards to ensure that customers can migrate from one LSP to another without confusion, delay, or interruption of their basic telephone service.

Comments to the proposed rulemaking were filed, and the Commission addressed all comments and entered a final rulemaking order on February 9, 2005. A petition for reconsideration was timely filed and granted in part by the Commission by Order entered on May 5, 2005. The May 5, 2005 Order replaces the February 9, 2005 Order in its entirety.

The new regulation applies to all LSPs and network service providers (NSPs) operating in Pennsylvania. Although the new regulation does not apply to mass migrations of customers brought about by the selling or transferring of a customer base of one LSP to another, a LSP that has properly proceeded with the abandonment of service to its customer base, Digital Subscriber Line migration, or line sharing/splitting arrangements, the rules may provide guidance for those transactions.

The regulation recognizes the right of a telephone customer to migrate from one LSP to another and addresses the responsibilities of old LSPs, new LSPs and NSPs throughout the migration process. The old and new LSPs are to work together to minimize or avoid problems associated with migrating a customer's account. The Commission will establish an industry work group to develop and update migration guidelines that LSPs and NSPs are to follow to facilitate migration of a customer's local telephone service.

Prospective new LSPs will need verified authorization from a customer to obtain the customer's service information from the current LSP. The current LSP is to provide specific customer service information within a specified timeframe to the prospective new LSP when the customer has indicated a desire to switch LSPs. The prospective new LSP may not process a change in LSPs for a customer who has a local service provider freeze in effect. All LSPs are to provide various methods for customers to lift or remove local service provider freezes.

An old LSP may not refuse to port a customer's telephone number to a new LSP unless the old LSP has terminated or discontinues service for that number prior to the migration request. In addition, an old LSP must issue a final bill within 42 days to any customer who has requested to switch service providers and the old LSP must stop billing the customer for any recurring charges as of the date of the change to the new LSP.

LSPs and NSPs are to follow specific procedures when pre-existing service at a location prevents a new LSP from reusing the existing telephone facilities to serve a new customer. If the problem cannot be resolved, the new LSP is to inform the consumer of various options for obtaining service including paying for the installation of new facilities.

In the event of a migration dispute between LSPs or between a LSP and a NSP, the Commission will make available a non-adversarial, expedited dispute process within the Commission to address the dispute and suggest a resolution.

The contact persons are M. J. (Holly) Frymoyer, Bureau of Consumer Services (technical), (717) 783-1628; Lenora Best, Bureau of Consumer Services (technical), (717) 783-9090; and Louise Fink Smith, Law Bureau (legal), (717) 787-8866.

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

Public Meeting held May 5, 2005

Commissioners Present:

Wendell F. Holland, Chairman
Robert K. Bloom, Vice Chairman
Kim Pizzingrilli

Rulemaking Re Changing Local Service Providers

L-00030163

**FINAL RULEMAKING ORDER
ORDER ON RECONSIDERATION**

BY THE COMMISSION:

On October 3, 2003, the Commission entered a Proposed Rulemaking Order to promulgate regulations to establish an orderly process for customer migration between local service providers (LSPs) within the telecommunications industry. The final-form regulations apply to all LSPs and all network service providers (NSPs) operating in Pennsylvania and are not mandatory with respect to mass migrations of customers brought about by the selling or transferring of customer base from one LSP to another, to a LSP that has properly proceeded with the abandonment of service to its customer base, to Digital Subscriber Line migration, or to line sharing or line splitting arrangements.

HISTORY

The October 3, 2003 Order was published in the *Pennsylvania Bulletin* on April 3, 2004, at 34 Pa. B. 1784. The Commission received written comments from the Independent Regulatory Review Commission (IRRC); the Office of Consumer Advocate (OCA); the Office of the Attorney General (OAG), the Pennsylvania Telephone Association (PTA); AT&T Communication of Pennsylvania, LLC. (AT&T); Curry

Communications, Inc. (Curry); Full Service Network (FSN); MCI WorldCom Network Services, Inc. (MCI); and Verizon Pennsylvania Inc./Verizon North Inc. (Verizon).

On February 9, 2005, this Commission entered an Order addressing the comments and setting forth final regulations. On February 24, 2005, before the Order and final-form regulations were transmitted to IRRC for final review prior to publication, Verizon filed and served¹ a timely Petition for Reconsideration seeking review of three points:

- (1) Migration and restoration coordination responsibilities. (P/R at ¶9). Specifically, the new LSP (NLSP), rather than the network service provider (NSP), should be responsible for coordinating migrations of service and restorations of service if the migration fails.
- (2) The non-contact period by current LSPs with potentially departing customers. (P/R at ¶10). Specifically, Federal Communications Commission (FCC) regulations provide that this period does not expire.
- (3) Confirmation or rejection of a Local Service Request (LSR). (P/R at ¶11). Specifically, the §63.202(d) interval should be shortened, the section should apply to the old LSP (OLSP), and “or rejection” should be deleted from the section.

On March 15, 2005, Metropolitan Telecommunications (MetTel) filed a letter in lieu of answer generally supporting reconsideration on Verizon PA’s first and third points. MetTel did not address the second point.

The substance of Verizon’s concerns raised in its Petition for Reconsideration, coupled with MetTel’s support and the lack of any formal opposition to reconsideration or Verizon’s concerns, persuade us to consider their merit under the standard enunciated in *Duick v. Pa. Gas & Water*, 56 Pa PUC 553 (1982).

¹ Verizon served the active parties at this docket and provided a copy of the petition to IRRC.

This Final Rulemaking Order/Order on Reconsideration and Annex A replace the February 9, 2005 Order and regulations in their entirety, address the comments to the February 3, 2003 Order, address the Petition for Reconsideration, and adopt and set forth in Annex A revised final regulations.

DISCUSSION

As a preliminary matter, we note that it is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. P.U.C.*, 625 A.2d 741 (Pa. Cmnlth. 1993); *U. of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmnlth. 1984). Accordingly, any comment, issue, or request for reconsideration that we do not specifically address herein has been duly considered and rejected and will not be further discussed. Further, ministerial edits, which do not have a substantive effect, have been included in this order without specific discussion.

Subchapter M. CHANGING LOCAL SERVICE PROVIDERS

General Comments.

Several parties provided comments about some general aspects of the proposed regulations. AT&T suggested that the Commission should withdraw the proposal until the market evolves. According to AT&T, the proposed rulemaking is a bad solution in search of an unproven problem and may create problems in a process that is working well. The Commission's experience, however, has been that existing procedures for migration do not always work well. The Commission's Bureau of Consumer Services (BCS) has recorded numerous complaints from frustrated consumers for whom the process has not worked. At times, consumers are faced with the inability to migrate their local service to a LSP of their choice. Other complaints include the inability to port

telephone numbers when they change LSPs, continued billing from an OLSP after switching to a NLSP, lack of communication about the migration process, lack of cooperation among the entities involved in the migration process, delays in service migrations, and even loss of telephone service. Such complaints prompted the Commission to establish interim guidelines for changing LSPs and for quality of service, and to arrange collaborative meetings with interested parties. Additionally, numerous inter-carrier disagreements as to processes for migrations surfaced during the collaborative process. From its review of consumer complaints and the issues raised in the collaborative sessions, this Commission finds it must disagree with AT&T's suggestion and will, therefore, proceed with the rulemaking.

FSN agreed with the goal of the Commission's proposed regulations to establish consistent procedures and standards for customer migration between LSPs that will enable consumers to switch LSPs without confusion, abuse, delay, or service interruptions but feared that the proposed rules will have the opposite result. FSN alleged that "loopholes" and ambiguity in the proposed regulations could encourage abuse and discourage competition. As discussed in greater detail below, the Commission has made adjustments to the proposed rules in response to the comments of the parties. Those adjustments, as well as the protections that are already in place through other regulations and statutes, will serve to plug the "loopholes" and prevent the potential abuses about which FSN is concerned.

GENERALLY

§63.191. Statement of Purpose and Policy

IRRC commented that the final-form rulemaking should specify that the regulations apply to both residential and business customers. Based on this comment, we added language to subsection (a) and (b) to indicate that the purpose of the subchapter is

to ensure that residential and business customers can migrate from one LSP to another without confusion, delay, or interruption of local service. As discussed more fully in regard to §63.192, we replaced “basic service” with “local service” in the last sentence under subsection (a), as recommended by IRRC, and we revised the proposed regulations to use “local service” when appropriate throughout the final-form regulations.

§63.192. Definitions

IRRC noted that the proposed rulemaking uses “telephone service,” “local service,” “local basic service,” “service,” “vertical service,” “optional services,” and “telecommunications service” throughout the regulations, yet “local service” was the only term that appeared in the definitions. IRRC recommended that “local service” be used throughout the regulations. We have modified the regulations to insert “local” before service where this addition is appropriate. We also substituted “local service” in place of “local basic service” and “telecommunications service” where “local service” is appropriate. However, since “vertical services” and “optional services,” are not interchangeable with “local service,” we added definitions for “optional services,” and “vertical services” and clarified other terminology to be consistent in usage. Based on IRRC’s further recommendation, we have added a number of other terms to this section: “appropriate retained documentation,” “authorized agent,” “facilities,” “interLATA,” “intraLATA,” “LATA,” “local loop,” “network serving arrangements,” “recording verifying permission,” “third party verification,” “UNE (unbundled network element),” “UNE-P (UNE-platform),” and “unbundled loop.” We also added “line loss notification.”

We have also made numerous changes and additions to this section based on comments by IRRC, AT&T, and OAG, coupled with our own efforts to add clarity and consistency to the regulations. We deleted the definition of “LSP-to-LSP end user migration guidelines or migration guidelines” because we have removed the provisions

relating to these guidelines from the final-form regulations.² We also deleted “local service reseller” from the definitions because this term does not appear in the final-form regulations. Further, we changed “new LSP” to “NLSP” and “previous LSP” to “OLSP” in several locations.

Both the OAG and AT&T noted that the proposed definition of “applicant” did not include or make reference to applicants who would be business customers. The OAG noted that the use of the term “dwelling” within the definition connoted residential service only. We agreed with these comments and revised the definition to add that “applicant” includes “association, partnership, corporation, or government agency.” We also clarified the definition to include an entity “making a written or oral request for the commencement of local service.” Further, we inserted “local” before “service” throughout the definition and changed “dwelling” to “location” since “location” is appropriate for both residential and business classes of service. We also inserted “same” before “LSP” to improve the clarity of this definition.

Based on comments from IRRC regarding customer service records (CSRs) and network service arrangements, as well as technical clarification from industry participants, we included “network serving arrangements” in the definition of “CSR” to specify that a customer’s network serving arrangements should be part of the information that is included in the customer’s CSR. “Network serving arrangements” is now also listed as one of the 13 requisite elements of a CSR in the renumbered §63.203(e) in the final-form regulations.

Our agreement with IRRC’s suggestion to add “local” before “service” throughout the regulations was the basis for our adding “local” to the definition of “interfering station.”

² Nevertheless, we remain committed to fostering industry guidelines to respond to the needs of this technologically evolving industry. See our discussion of the former §63.203 below.

Comments of both AT&T and IRRC prompted us to revise the definition of “LOA—Letter of authorization” so as to make the definition less ambiguous and vague. We deleted the first part of the definition that appeared in the proposed rulemaking as IRRC suggested and also deleted “The term is used to indicate” from the second part. Finally, we replaced “document” with “written or electronic record” to improve the relevance of this definition to today’s environment.

IRRC commented that the definition of “LSC—Local service confirmation” in the proposed rulemaking included the undefined term “unbundled loop connections.” In response, we have modified the definition of “LSC,” replacing “telecommunications service activities such as unbundled loop connections” with “the migration of local service.” This change makes the definition simpler and clearer.

IRRC commented that the terms “NLSP (new local service provider),” and “OLSP (old local service provider)” that appeared under the definition of “LSP—Local service provider” should have stand alone definitions. AT&T suggested language for the new definitions. In response, we modified the definition of “LSP” and added “NLSP” and “OLSP” as separately defined terms. We defined “NLSP” as “The company that will provide local service to a customer after a migration.” “OLSP” is defined as “The company that provides local service to a customer prior to a migration.” Although we did not totally adopt AT&T’s suggested language, the new definitions in the final-form regulations reflect AT&T’s suggestion.

IRRC and AT&T also each noted that the definition of “LSP” contained the undefined term “nonjurisdictional services.” Upon review, we determined that the sentence containing “nonjurisdictional services” was unnecessary and did not add clarity; we therefore deleted the sentence. This revision is consistent with the definition of “LSP” that appears in the final-form regulations pertaining to the Local Service Provider

Abandonment Process (LSP Abandonment) at Docket L-00030165, as approved by the Commission on January 13, 2005

AT&T commented that the definition of “LSR—Local Service Request” inappropriately requires the LSP to issue the LSR to the NSP. We deleted the phrase “issued by LSPs to NSPs” from the first section of the definition to accommodate AT&T’s concern. We also replaced “document” with “electronic or paper form” to recognize the industry’s use of electronic transmission of information or order.

In response to IRRC’s comment that the definition of the term “NSP—Network service provider” contained the undefined term “carrier,” we replaced “carrier” with “telecommunications provider.” This change is consistent with the definition of “NSP” in the LSP Abandonment final-form regulations.

MIGRATION

§63.201. General migration standards.

AT&T commented that §63.201(a) was inconsistent with other aspects of the proposed regulations in that it says that customers have a right to migrate while §63.191(c) states that DSL customers, line share/splitting customers, and customers under special contracts do not have the right to migrate. We hasten to point out that the provisions of §§63.191(c)(1)-(3) do not preclude customers under the listed circumstances from migrating services, filing a complaint with the Commission, or porting their telephone numbers; they merely list circumstances in which the instant rulemaking is not mandatory. We find that AT&T’s interpretation misconstrues the language and intent of §§63.191(c)(1)-(3). We did not revise subsection §63.201(a).

Both IRRC and AT&T pointed out that the proposed rules at §63.202(a) restated the §63.201(b) requirement that the NLSP communicate and explain the migration process and timetable to the migrating customer. Each also expressed concern with the use of “when applicable” in the proposed §63.201(b). In response, we revised the original language in §63.201(b) and eliminated the redundancy in §63.202.

AT&T and IRRC also voiced concerns with §63.201(c). AT&T alleged that the section was confusing and that “[i]t should go without saying that a [service provider] can act in accordance with Commission regulations.” IRRC asked how an OLSP could protect itself from loss and stated that the section should include a citation to applicable regulations. Our intention in including this subsection was to make clear that an OLSP is able to use available statutes and regulations to make sure that a migrating customer cannot use migration as a tool to avoid payment for services rendered. We agree with AT&T’s comment that §63.201(c) states the obvious. As a result, we deleted §63.201(c) from the final-form regulations, rendering IRRC’s comment moot.

AT&T commented that proposed §63.201(d), now §63.201(c), should extend good faith obligations to the NSP as well as to the OLSP and the NLSP. We agree and have inserted “NSP” into the renumbered §63.201(c).

FSN commented that the word “facilities” is too broad as it is used in proposed §63.201(e), §63.201(d) and that it might be better to replace it with “loops.” Rather than replace “facilities” with “loops,” we added “facilities” to the definitions section to address FSN’s concerns. In addition, we realized that an appropriate forum for resolving conflicts over the reuse of facilities may be the expedited dispute process under §63.222 and have added a reference to that process to this subsection in the final-form regulations. IRRC recommended adding a reference to the interfering stations sections, which we have done. Conversely, AT&T advocated deleting the interfering stations provisions from the regulations, which would make the reference to the interfering station provisions

inappropriate. However, because interfering stations are continually being brought to the Commission's attention, we retained the interfering stations provisions and the cross-reference in the renumbered §63.201(d).

Based on comments from AT&T, FSN, and IRRC, we revised the language of proposed §63.201(f), now §63.201(e), to place the responsibility expressly on the NLSP for notifying the appropriate entities about 9-1-1 and directory listings. The final-form regulations direct the NLSP to notify the 9-1-1 host carrier³ and the directory listings/white pages provider of the changes. We also added language that the NLSP must notify these entities at the end of each working day regarding changes that came about as a result of the day's work. This provision now appears at renumbered §63.201(e).

Regarding proposed §63.201(g), now §63.201(f), we have incorporated the suggestion of AT&T to require each LSP and NSP to post a company contact list on a publicly accessible website and to supply the website address to the Commission. The Commission will post the addresses on its website so that they are available to any entity that needs them. The revised language appears in the renumbered §63.201(f).

§63.202. Migration responsibilities of NLSPs and NSPs.

IRRC recommended that we should also list the responsibilities of an OLSP in this section. Our purpose in §63.202 is to identify general responsibilities of the service providers involved in the migration process. Accordingly, we have revised the title and content of this section to include OLSP responsibilities when contacted by a prospective NLSP. As explained in our discussion above regarding §63.201(b), we eliminated the redundant iteration of the NLSP responsibility in §63.202(a). The revised §63.202(a)

³ The 9-1-1 host carrier is the incumbent LSP that provides service to the public service answering point (PSAP) for the end-user's geographic location.

now specifies that the OLSP is responsible for responding to a prospective NLSP's request for a CSR and that the response is to be consistent with the requirements of §63.203, which lists the required elements of a CSR. We note, however, that the listing of migration responsibilities in §63.202 does not include all the potential confirmations, inquiries, and other communications that may be part of a migration. It would be excessive to spell out scenario-specific duties for OLSPs since at present there are at least 16 different scenarios. The steps required of the OLSP vary considerably depending on the type of migration (*e.g.*, such as those involving bundled service arrangements, those involving unbundled service arrangements, those for full facilities-based LSPs, and so forth). A scenario-specific listing of duties is more appropriately left to industry migration guidelines, which can be revised more easily than regulations as industry practices change.

The proposed regulations placed responsibility on the NLSP to coordinate with the OLSP to fulfill the NLSP's LSR. In comments to the proposed §63.202(b), AT&T suggested that the NSP should have that coordination responsibility. IRRC questioned how a prospective NLSP can be responsible for coordinating a migration that depends on the cooperation of the OLSP. In light of AT&T's comments and IRRC's inquiry, we adopted AT&T's suggestion in the February 9, 2005 Order.

In its Petition for Reconsideration, however, Verizon points out that throughout Verizon territories and in the New York Migration Guidelines (which have been mandated by the NY Public Service Commission), the NLSP manages the entire migration process from start to finish. Verizon maintains that the NLSP's customer expects the NLSP to coordinate a proper and timely transition of the customer from the OLSP to the NLSP. Verizon notes that it is the NLSP who has the most incentive to ensure that the migration goes smoothly and that the NSP should not be "stuck in the middle" between the OLSP and the NLSP. Verizon suggests that it is the responsibility of the NLSP to take appropriate action to make a balking OLSP fulfill its migration

responsibilities, up to and including instituting legal action against the OLSP. Verizon further points out that an NSP has no more leverage over an OLSP regarding migration than a NLSP does. In support of the Verizon Petition for Reconsideration, MetTel states that it also believes that the NLSP is the entity that has a relationship with the customer and, as such, must engage in any necessary coordination between both the NSP and the OLSP.

Upon reconsideration, we agree with Verizon and MetTel. We find that our original proposal is the correct one – the NLSP is the entity with the contractual obligations to the customer. The NLSP has more information about the migrating customer’s services and can convey more information to the customer about the migration process when communicating directly with the OLSP as well as with the NSP. Further, as Verizon points out, the NLSP has a variety of options to ensure compliance from the OLSP and the NSP. Therefore, as we originally proposed, the NLSP shall be responsible for coordinating between the NSP(s) and the OLSP to make a customer’s service migration as seamless as possible. In the event that the entities cannot resolve a dispute, we designed the expedited process for resolution of migration disputes between service providers, to be codified at §63.222, so that LSPs could use this process to resolve such issues. Further, the Commission’s mediation process under 52 Pa. Code §§69.391-69.397 is available to the parties should the expedited dispute process fail. Accordingly, we shall retain §63.202(b) as originally proposed.

In comments to the proposed §63.202(d), IRRC suggested changing “working days” to “business days.” We note that 52 Pa. Code §§63.1-63.102 (Chapter 63) consistently uses the term “working days” rather than “business days.” To avoid confusion, we chose to continue using this term. We did, however, add “working day” to the list of terms in the definitions section and revised the proposed regulations to use the term “working days” throughout. We also retained the interval of 5 working days from the proposed regulations.

In its Petition for Reconsideration of §63.202(d), Verizon suggests that the response intervals of this subsection should apply to OLSPs as well as to NSPs since some LSRs, such as requests to port customer telephone numbers, are submitted to OLSPs. We agree with this suggestion that the response interval should apply to OLSPs as well as NSPs and have made the necessary adjustments to the language of this subsection.

Verizon also reiterates its comments that the dramatic increase in local competition plus rising customer expectations of speedy LSP changes call for a reduction in the time frame specified in the February 9, 2005 Order for processing LSRs. Verizon proposes that rather than five days, the interval for a NSP to provide a Local Service Confirmation (LSC) be set at 48 hours, and, after one year to allow time for increased mechanization, reduced to 24 hours. MetTel suggests that the time intervals be reduced progressively in 6-month intervals beginning with four days and decreasing to 24 hours to allow LSPs a phase-in period.

We agree with Verizon that consumer demand for prompt migrations calls for an accelerated migration process. However, we are concerned that some companies may not be able to process LSRs at times other than normal business hours. Further, we find that MetTel's suggestion to about give LSPs a phase-in period is valid although the suggested length of the phase-in is too lenient. As a result, we have taken a compromise position regarding the response time to a LSR. The final rulemaking specifies that for the first six months from the effective date of the final rulemaking, the NSP or OLSP shall issue a LSC within three working days. For six months to one year after the effective date, the NSP or OLSP shall issue a LSC within two working days from the date it receives a valid LSR from the prospective NLSP. Thereafter, the NSP or OLSP shall issue a LSC within one working day.

Verizon further recommends that the words “or rejection” be deleted from this subsection since it makes reference to a “valid LSR” and, thus, there would be no need to reject the request. We carefully weighed this suggestion that we delete “or rejection” from this subsection because a NSP or OLSP would not reject a valid LSR. However, our intention in this subsection is to make certain that the NSP or OLSP acts on each LSR in a timely fashion, whether or not the LSR is valid. If the LSR is not valid, the NLSP would want to be able to quickly resolve the issues that render it invalid, if possible, in order to begin serving the new customer. To do this, the NLSP must be made aware by the NSP or the OLSP that the LSR is not valid. Rather than accept Verizon’s suggestion to remove “or rejection” from this subsection, we chose to delete the term “valid” as a modifier of “LSR.” Thus, the NSP or the OLSP must issue either a LSC or a rejection for each LSR within the time frame specified in this subsection.

The proposed §63.202(e) placed responsibility for coordinating a service restoration on the NLSP. AT&T and FSN commented that the responsibility for coordinating a service restoration should be the responsibility of the NSP, not the NLSP. In light of AT&T’s comments, we adopted AT&T’s suggestion in the February 9, 2005 Order. However, Verizon maintains in its Petition for Reconsideration that, as with coordination of migrations, it should be the NLSP’s role to coordinate any service restoration that may become necessary due to difficulties caused by the migration process. The customer has entrusted the NLSP to provide the customer’s local service and, thus, expects that the NLSP will handle all migration problems, including restoration of service if that becomes necessary.

Upon reconsideration, we agree with Verizon. The customer, in fact has no interaction with an NSP and may not even be cognizant of an NSP’s existence. A customer should be able to handle any problems or questions regarding a migration of service (or restoration if the migration is problematic and the old service must be restored) with a single entity, the NLSP. Accordingly, the revised §63.202(e) gives the

NLSP the responsibility of coordinating between the customer and other entities on behalf of the customer when restoration of service is necessary.

We added §63.202(f) to specify that the old NSP has the responsibility of notifying the OLSP that the migration of the customer to the NLSP has been completed. In the industry, this is generally known as a “line loss notification.” It is the Commission’s expectation that the NSP will issue the line loss notification to the OLSP within a reasonable period of time. As noted above, we defined “line loss notification” in §63.192.

§63.203 (now deleted). Migration guidelines and industry work group.

This aspect of the proposed regulations received considerable attention during the collaboratives. While there were challenges during the collaboratives, it appeared that there was substantial interest in developing a consensus document that would not take years to amend yet could be recognized as addressing, in a standard, concise, timely, and uniform fashion, the myriad questions regarding migration as processes and systems evolve. As a result, the proposed rulemaking was designed to facilitate this process. We received, however, a number of comments about the proposed migration guidelines and industry work group provisions. These comments led us to delete this section from the final-form regulations. Nevertheless, we remain firm in our commitment to encourage the formation of an industry working group that will formulate industry guidelines to identify and address the myriad and evolving intricate details associated with customer migrations within this technologically evolving industry.

§63.204 (now §63.203). Standards for the exchange of customer service records.

IRRC and MCI commented that the title of this section should be changed to “Standards for the exchange of customer service records” since the term “customer

service record” is defined in §63.192 while “customer service information” is not. We agree and have changed the section title accordingly. Further, due to the elimination of §63.203 as it appeared in the proposed rulemaking, the proposed §63.204 is renumbered as §63.203 in the final-form regulations.

Comments from IRRC and others regarding §63.204 (a) and (d), now §63.203(a) and (d), questioned the need for a 2-year retention period for customer authorization and verification of that authorization. This length of time is necessary to allow the Commission to properly investigate customer complaints about the exchange of CSRs and migrations. The Commission’s experience is that it often takes longer than a year for a customer complaint investigation to take place and the 2-year retention period will allow the LSP to have adequate records to provide to the Commission in response to a customer complaint. Further, the FCC requires a submitting carrier to maintain and preserve certain records of verification of subscriber authorization for a minimum period of two years. 47 C.F.R. §64.1120(c)(3)(iv). For these reasons, we will retain the 2-year requirement.

FSN commented that the access to customer records afforded by renumbered §63.203(a) contains a potential for abuse that “could endanger its customers’ proprietary information and work product.” FSN noted that a carrier must have the discretion from time to time, as circumstances may warrant, to require a copy of the LOA from the requesting NLSP before releasing the customer’s CSR. FSN further noted that the provisions of this subsection discourage “commercial end user customers from developing special telecommunications arrangements to further their business knowing that their competitor . . . could fraudulently request and receive their sensitive CSR information through a competing LSP.” FSN suggested that the regulations should afford LSPs the opportunity to place a “proprietary records” protection indicator on customers’ records as a protection against unscrupulous NLSPs and other customers. IRRC further asked what guarantees are in place to protect confidential customer information. We note

in response that the Commission's regulations at §63.131-137, relating to confidentiality of customer communications and information, establish minimum standards to ensure that public utilities providing regulated telecommunication services maintain the confidentiality of customer communications and customer information. Failure to do so can lead to penalties. Additionally, the Commission does not prohibit LSPs from offering a "proprietary records" protection service to customers as may be applicable and as requested by and agreed to by individual customers.

In response to the proposed §63.204(a)(5) and §63.204(d)(4), now §63.203(a)(5) and §63.203(d)(4), IRRC questioned the use of the phrase "Additional procedures as may be authorized by the FCC or the Commission." IRRC asked why the prospective procedures from this Commission are not included in this rulemaking and how the additional procedures will be developed and communicated to affected parties. Our intention when we included this language was to recognize that the function of verification should not be constrained by the technology of today. The reference in the final-form regulations to prospective verification techniques will accommodate new methodologies as they become accepted in the ordinary course of commerce as well as in dispute resolution. We did not include a delineation of prospective verification techniques in the final-form regulations because the new methodologies have not been identified or developed. If the parties cannot resolve a specific controversy over whether a verification process not delineated is acceptable and effective, they have recourse to this Commission's dispute resolution processes. The burden would be on the party desiring to rely on an alternative method of verification to establish that the customer had actually granted the authority in question. For clarification purposes, we did make two small changes to these sections by inserting "verification" before "procedures" in the renumbered §63.203(a)(5) and §63.203(d)(4).

Regarding proposed §63.204(a)(2), (3) and (4), now §63.203(a)(2), (3) and (4), IRRC commented that we should explain or define the terms "third-party verification,"

“recording verifying permission,” and “appropriate retained documentation.” In response, we added these terms and their meanings to §63.192.

In comments to proposed §63.204(c), now §63.203(c), IRRC raised three questions: why is the protection needed? when does this prohibition expire so the LSP can attempt to regain the customer? and what constitutes contact? In the February 9, 2005 Order, we revised the proposed regulations to define “contact” and added a 45-day limit to the prohibition.

Verizon’s Petition for Reconsideration maintains that the prohibitions in the proposed regulations were designed to reflect a pre-existing federal prohibition.⁴ Verizon asserts that the federal prohibition has no expiration date or time constraint and bars only contacts to retain or keep the customer that are made as a result of carrier change information from a potential NLSP. Verizon’s request is based upon language that the FCC describes as a “rule that a carrier executing a change for another carrier ‘is prohibited from using such information to attempt to change the subscriber’s decision to switch to another carrier.’” *FCC CPNI* at para. 131. Specifically, the FCC explained in footnote 302 that:

[C]ompetition is harmed if *any* carrier uses carrier-to-carrier information . . . to trigger marketing campaigns, and consequently [the FCC] prohibit[s] such actions accordingly. . . . Thus, where a carrier exploits advance notice of a customer change by virtue of its status as the underlying network-facilities or service provider to market to that customer, it does so in violation of section 222(b) [47 USC §222(b)].

(internal citations omitted).

⁴ In footnote 7 of Verizon’s Petition for Reconsideration, the citation to paragraph 31 actually refers to paragraph 131 of the FCC’s *Customer Proprietary Network Information Third Report and Order*, FCC Dkt No. 02-214, 17 FCC Rcd 14860, 2002 FCC Lexis 3663 (July 25, 2002) (*FCC CPNI Order*).

Upon reconsideration, in melding IRRC's concerns with the parameters of the federal requirements, the final regulations prohibit any type of contact with the customer specially designed "to retain or keep the customer," consistent with federal requirements, and without a time limitation. Sending new rate information generally available to all customers of the same class of service or other mass advertising contacts could, however, be permissible under this prohibition. Accordingly, we have retained this subsection as it was originally proposed.

In its comments to proposed subsection §63.204(d), now §63.203(d), IRRC recommended that we clarify "network serving arrangements." In response, we added this term and definition to the definitions section at §63.192. In addition, we removed "network serving arrangements" from the renumbered §63.203(d) and added it to the renumbered §63.203(e)(11) in place of "service configuration information" since the two terms are interchangeable.

Regarding the renumbered §63.203(d), IRRC also asked how consumers and OLSPs will be protected from illegal business practices such as "slamming." We find that the FCC's slamming liability regulations at 47 C.F.R. §§64.1140 – 64.1180 are adequate to protect customers from the practice of "slamming." The FCC slamming liability rules take the profit out of slamming and offer incentives for other service providers to go after slammers. The FCC provisions also ensure that if the FCC finds that a slam occurred, the consumer will receive financial compensation from the unauthorized service provider. Regarding other possible illegal business practices, our response to FSN's similar concerns above is equally applicable here. The Commission's rules at §§63.131- 63.137 relating to Confidentiality of Customer Communications and Information provide prohibitions to any LSP that may be tempted to abuse its right to obtain customer information without being required to have and produce, as required, evidence of a customer's authorization to obtain the customer's service record.

In its comments to §63.204(e), now §63.203(e), IRRC noted concerns regarding the 13 items listed in the subsection as the composite parts of a CSR. IRRC suggested that there may be no need to list the items separately if the items are typically part of a CSR. If they are not typically part of a CSR, IRRC suggested that they be located in the definition of CSR at §63.192. IRRC further asked about the relationship between network serving arrangements and the 13 elements of a CSR. We appreciate IRRC's recommendation but chose to retain the list in subsections §63.203 (e)(1)-(13) in the final-form regulations. In our opinion, the items serve as a checklist for the current LSP to use when making sure that it sends the necessary information to a prospective NLSP. These items do not merely describe or define the CSR; rather they are what a LSP must provide to be in compliance with the regulations. It has been the Commission's experience that in cases where we must rely upon a definition to list required elements or actions, it is difficult to cite a company for failure to comply with requirements contained only in the definition section of regulations. The subsections as originally proposed serve a valuable purpose in identifying exactly what a current LSP must produce and send to a prospective NLSP when the prospective NLSP requests a CSR to migrate a customer's service. This construction will also aid the Commission in citing an OLS's non-compliance with this aspect of the migration process. "Network serving arrangements" is now listed as one of the 13 CSR elements, having replaced the synonymous term "service configuration information" in the renumbered §63.203(d).

IRRC commented that the final-form regulations should define several of the elements listed in proposed §63.204(e), now §63.203(e). We agree and added the following terms and definitions to §63.192: "InterLATA," "IntraLATA," "LATA," "Network serving arrangements," "Unbundled loop," "UNEs (unbundled network elements)," and "UNE-P (UNE Platform)."

MCI commented that we should add "circuit IDs" to the list of required elements. We do not agree that circuit identification information should be required on all CSRs

and, thus, did not add this to the list of required elements. Although a NLSP needs circuit identification when a loop must be migrated, it is not required for all migrations. Further, providing the circuit identification to the NLSP by the OLSP traditionally has served as notice to the NLSP that the NLSP may reuse facilities. Since the facilities are not always available for reuse, it is counterproductive for the circuit identification to be part of the CSR.

Consistent with our earlier discussion, we also removed “basic” from “local basic service” in §63.204(e)(6) and (7), now §63.203(e)(6) and (7), as recommended by IRRC, and we also replaced “service configuration information” with “network serving arrangements” in subsection §63.203 (e)(11) since we confirmed with the telephone industry that these terms have the same meaning. We defined “network serving arrangements” in §63.192.

Finally, in regard to this section, the timetable at now-renumbered §63.203(f) drew comments from several parties. IRRC queried whether the timetable applies to both CSRs and network serving arrangements, or just to CSRs. PTA commented that its member companies do not have the resources to provide requested CSRs in less than 24 hours. PTA proposed that the timetable be revised to set the 24-hour standard to be effective within 12 months. Verizon proposed that all requested CSRs be provided within two business days initially and within one business day after six months. Verizon also recommended that the final-form regulations include a provision to cover situations when an OLSP has a legitimate reason for needing more time to produce CSRs such as migrations involving a business customer with complex or numerous CSRs. IRRC asked why the proposed regulations use hours rather than days as to when the OLSP is to provide the CSR. IRRC also pointed out that in proposed subsection §63.204(f)(3) the word “day” should be modified with either “business” or “calendar.”

We made several changes to this subsection based on these comments. In the new subsections §63.203(f)(1) and (2) containing these provisions, we changed the time requirements to “working days” rather than “hours,” choosing “working” days rather than “business” days to be consistent with other subchapters of Chapter 63. Since network serving arrangements are part of CSRs, they are on the same timetable as CSRs. We did not make the change that Verizon requested that all CSRs be required within two working days initially and then within one working day at the end of six months. In addition, we did not accept Verizon’s suggestion that we develop a new subsection for exceptions such as complex CSRs that might take longer than the prescribed time limit. We structured the 80% requirement as originally proposed to allow for the exceptional cases, and thus we chose to retain this percentage in subsections (f)(1) and (f)(2). Similarly, we did not revise the language that requires all OLSPs to provide CSRs by the same day if the request is made by noon of that day, or by noon the next day if requested after noon. It is important that the migration process be as expeditious as possible in order to foster competition. We recognize that the varying capabilities of the smaller companies may require some time until they are able to meet the requirements of this subsection now at §63.203(f)(3) and that is why we gave the companies one year from the effective date of the final-form regulations to modify their systems so they can meet the terms of this subsection.

§63.205 (now §63.204). Removal or lifting of Local Service Provider Freezes (LSPFs).

We received a number of comments regarding this section of the proposed regulations. Both IRRC and FSN questioned the use of “appropriate” as modifying agent in proposed §63.205(a)(2), now §63.204(a)(2). To clarify our intentions, we substituted “appropriate” with “authorized” and have defined “authorized agent” as “any adult designated by an applicant or a customer to act on the behalf of the applicant or

customer” in the definitions at §63.192, consistent with the FCC definition at 47 C.F.R. §64.1100(h).

We note that the discussion of the removal or lifting of LSPFs in our October 3, 2003 Order created an ambiguity with respect to proposed §63.205, now §63.204. The Order indicated that a “NLSP” could act as the “appropriate agent” to contact the OLSP to have the LSPF lifted, and the proposed regulations indicated that a “prospective NLSP” could not. As specified in the federal rules, one LSP may not authorize the removal of a LSPF on behalf of a customer when that entity is acting solely as a prospective NLSP.

IRRC commented that the final-form regulations should clearly establish who can authorize lifting a LSPF and, if that authority can be delegated, the specific customer protections required in such a circumstance. Additionally, MCI pointed out that a customer does not physically remove a LSPF but rather authorizes its removal. MCI recommended that this be clarified in the regulations. At renumbered §63.204(a), we specified that the applicant or the applicant’s authorized agent must contact the OLSP to have a LSPF lifted. To protect customers, we expanded this section to require that the OLSP confirm appropriate verification data such as the customer’s date of birth, social security number, or mother’s birth name with the applicant or the applicant’s authorized agent before processing the request to lift the LSPF. An authorized agent must have this information when acting on the customer’s behalf. These revisions also clarify that the applicant or the authorized agent authorizes the “lifting” of the LSPF but does not actually “lift” the LSPF.

Curry commented that the Commission should amend this section to give the current LSP the right to refuse to remove the LSPF until an account is satisfied for past due amounts. Neither we nor the FCC agree with Curry, and we did not make the

amendment as requested. The LSPF is not a collection tool to protect the LSP; it is instead a tool available to the customer for protection against slamming.

AT&T commented that this subsection requires that a customer lift an existing LSPF at the time of application in order that the prospective NLSP may process a change in LSP; however, the customer may forget that there is a LSPF on the account. According to AT&T, the customer should be able to take steps at a later time to lift a LSPF. We agree and have removed the phrase “at the time of application” from new §63.204(a). The applicant may authorize the removal of an existing LSPF at any time. The prospective NLSP may not learn of the existence of a LSPF until it receives a CSR from the applicant’s current LSP. At that time, the prospective NLSP should contact the applicant and remind the applicant that the LSPF must be lifted before the migration can take place.

AT&T also argued against imposing a duty on each NLSP to inform prospective customers of the three requirements, as prescribed by proposed §63.205(a)(1)-(3), now §63.204(a)(1)-(3). We do not agree with AT&T. This is important information for customers to have when they are contemplating a change in LSPs. We did not make the suggested revision.

In its comments to §63.205(c), now §63.204(c), AT&T argued that it should not be necessary for a LSP to provide methods of lifting a LSPF if the LSP does not offer a LSPF. We agree with AT&T and revised subsection (c) to include language that limits the requirements of this section to LSPs that offer LSPFs to their customers.

IRRC advised that the final-form regulations should include a list of the methods of lifting freezes or provide a reference to where those methods can be found. We agree. LSPs must follow the requirements of the FCC as set forth in 47 C.F.R., Subpart K. The final-form regulations include a citation to the FCC regulations. We also deleted “the

Commission” from this subsection since the Commission has established no required methods that LSPs must offer customers for lifting freezes and we do not currently anticipate doing so.

AT&T commented that this Commission does not have jurisdiction over intra- and interLATA freezes, notwithstanding the reference to lifting them in §63.205, now §63.204)(b). Our reference to lifting intra- and interLATA freezes is not an attempt to exert jurisdiction on them but rather to recognize that the various telecommunications service providers often bundle jurisdictional and non-jurisdictional services. The reference allows service providers and customers an opportunity, if they so chose, to lift all freezes at the same time.

§63.206 (now §63.205). Porting telephone numbers.

PTA commented that a customer should not be permitted to port his or her telephone number to another LSP if the current LSP has suspended the account for nonpayment or if there is an outstanding balance owed to the current LSP. This comment is very similar in intent to the Curry comment regarding LSPFs. For the same reasons we declined to adopt the Curry suggestion, we cannot accept PTA’s recommendation. Control of porting is not a collection tool for the LSPs. Further, such a proposal conflicts with federal porting requirements.

AT&T recommended that because the old NSP receives and processes LSRs, the regulations should be amended to include the NSP. We agree and added language to the final-form regulations to also prohibit NSPs from refusing to port a number to a NLSP unless the account has been terminated or discontinued under 52 Pa. Code §§64.1-64.213 (Chapter 64). We also deleted the word “lawful” from this section as AT&T recommended.

§63.207 (now §63.206). Discontinuance of billing.

AT&T, Curry, FSN, MCI, and IRRC all commented that using the receipt of a request to migrate as the trigger for a final bill, as originally proposed, was inappropriate. Based on comments from several parties, we revised the proposed §63.207(b), now §63.206(b), to make the receipt of a line loss notification from the NSP the trigger that generates a final bill from the OLSP. We added language to renumbered §63.206(c) and §63.206(d) to cover cases in which only partial migrations occur. Finally, we added language to renumbered §63.206(d) as recommended by AT&T, to reflect the applicability of tariff or contract terms that may affect the customer's billing cycle.

§63.208 (now §63.207). Carrier-to-carrier guidelines and performance assurance plans.

AT&T commented that we should add language to this proposed section to specifically include ILECs. We note that the use of "LSP" indicates that the section includes all LECs, *i.e.*, both incumbents (ILECs) and competitive entrants (CLECs). Thus, to make this addition would be redundant and perhaps confusing. Therefore, we did not adopt this recommended change. We added the language "than otherwise specified under this subchapter" to provide a reference for the comparison.

INTERFERING STATIONS

General Comments.

AT&T commented that it finds the entire interfering stations section to be fundamentally infirm and argued that it should be deleted in its entirety. According to AT&T, the circumstances under which the problem exists are not broad enough to warrant a regulation. In response to AT&T's comments, we note that the Commission

receives a large number of consumer complaints that involve interfering station conditions that keep consumers from getting telephone service.

MCI also requested that the Commission eliminate this process from the final-form regulations because the process is not one that has been tested. MCI suggested that the Commission permit parties to use procedures that they have already developed or work together to develop new procedures. MCI also proposed that, in lieu of eliminating the procedures, the Commission give companies the option of using either the procedures outlined in regulations or procedures that the company has used successfully such as those MCI and Verizon currently use. Under the Verizon/MCI Procedure, the NLSP must call the applicant to obtain the landlord's name and telephone number if the service address is a rental property. Then the NLSP is to call the landlord to verify that the previous occupant has moved out and the new customer has taken over. If it is not a rental property, the NLSP must call the city or town assessor to verify the transfer of property ownership. Until the landlord or assessor makes the confirmation, the request for service cannot be processed. While this procedure may work for Verizon and MCI, industry participants and other interested parties discussed the procedure during the collaborative sessions but could come to no agreement about its use. In addition, representatives of consumer groups objected to aspects of the Verizon/MCI Procedure based on privacy concerns. We also envision delays in resolving the interfering station condition using the Verizon/MCI Procedure because it involves more parties (landlords and assessors). Further, certain steps in the Verizon/MCI Procedure may be beyond our jurisdiction to order. Thus, we declined to incorporate the Verizon/MCI Procedure into these regulations.

Verizon suggested that the interfering station procedures should be eliminated from the final-form rules and placed in the migration guidelines contemplated by the provisions originally proposed at §63.203, which has since been eliminated. We find that the problems involving interfering stations are extensive enough to merit enforceable

regulations rather than voluntary guidelines. The migration guidelines were conceived to be a fluid document to address items or processes that are likely to involve evolving technology over time. We do not see that an interfering station process requires such fluidity. As a result, we have retained these sections with some modifications in the final-form regulations.

§63.211. Duties of OLSPs and NSPs when an interfering station condition is identified.

AT&T commented that assigning responsibility to both the OLSP and the NSP for informing the prospective NLSP about the interfering condition may allow a situation in which neither party informs the prospective NLSP. IRRC agreed with AT&T's position and advised that we should establish parameters that would clearly indicate which party must perform the required duty. Based on these comments we made several revisions to this section and to the subsections that follow. We delegated the responsibility to the NSP of informing the prospective NLSP of the interfering station condition by the end of the next working day after the NSP identifies that the condition exists. We eliminated reference to the OLSP in §63.211(a).

Regarding §63.211(b), AT&T commented that the OLSP has no right to review the NLSP's LSR, which is submitted to the NSP. Regarding §63.211(b)(1), AT&T commented that the OLSP is not able to cancel the NLSP's LSR to the NSP because the OLSP is not a party to the transaction. Verizon suggested a revision to the language of (b)(1), replacing "is cancelled" with "cannot be fulfilled." We revised the language of §63.211(b) and (b)(1) as AT&T and Verizon proposed; accordingly, now the NSP has the responsibility of reviewing the LSR information with the prospective NLSP. As suggested by Verizon, we replaced "cancelled" with "cannot be fulfilled."

PTA commented that in §63.211(b)(2) the issuing NLSP should have the responsibility for correcting the information where an error is found in the LSR. AT&T commented that the OLSP cannot and should not have any role in correcting the NLSP's LSR. IRRC asked what the need is for the OLSP to review the LSR. Based on these comments and question, we revised this subsection to give the responsibility of correcting the LSR to the prospective NLSP who shall "correct the information and resubmit the LSR to the NSP."

§63.212. Duties of the prospective NLSP and the applicant when an interfering station condition is identified.

IRRC and PTA commented that §63.212(c) and (d) should be combined into one provision and §63.212(e) and (f) should be merged into one provision. We agree with these comments and merged the sections as proposed. We also revised the construction of §63.212(f), now §63.212(d)(1)-(3). PTA commented that former §63.212(f)(2) should be clarified to reinforce the intention that there be no disclosure of confidential proprietary customer information. We note that Commission regulations at §§63.131-63.137 ensure that regulated telecommunications services maintain the confidentiality of customer information. However, it has been our experience that the interfering station condition is sometimes caused by a departing roommate, spouse, or other individual with whom the applicant has had a shared-domicile connection. In these instances, we find that it is appropriate for the applicant to attempt to resolve the problem with the customer of record. Based on PTA's comment and for clarification, we added "if known to the applicant" to the provision in former subsection (f)(2). In addition, we clarified the pronoun "it" in §63.212(a) by replacing "it" with "NLSP." Further, in §63.212(d)(3)(ii), we deleted "lawful" as a modifier of "tariff rates."

§63.213. Duties of the OLSP if notified by the prospective NLSP that an interfering station exists at a location where existing service is provided by the OLSP and the applicant has shown proof of ownership or right of occupancy.

PTA commented that the title of this section should be modified to include the requirement that in addition to proof of ownership, the applicant has also shown proof of identity. We agree and added “identity” to the title. In §63.213(a) we added “the” before “notification.” Verizon had suggested the addition of “such,” but “such” is not consistent with proper regulatory language. For consistency with other Chapter 63 provisions, we also changed “business days” to “working days.”

IRRC queried whether seven days was a sufficient amount of time for a customer of record to respond to a termination notice. This interval is consistent with §64.71, relating to general notice provisions.

IRRC and Verizon each commented on §63.213(b). IRRC asked us to explain the reason for removing the customer of record from billing. Our response is that generally the OLSP may no longer bill a customer for services that are not being rendered. The applicant intends to become the customer of record, and sometimes an interfering station condition involves the same LSP. However, for clarification purposes, we modified this subsection to require the OLSP to “terminate the customer’s service and take appropriate action to release the customer’s facilities to the prospective NLSP.” Verizon suggested some minor language changes to this subsection so that the provision would read: “If it is not contacted by the customer of record by the termination date, the OLSP” Verizon also recommended changing §63.213(c) so as to read: “If the customer of record contacts the OLSP by the termination date” We accepted these recommendations and made the changes.

§63.214. Duties of the prospective NLSP when the OLSP is unable to resolve the interfering station condition at the applicant’s service location.

In its comments to §63.214(b)(1), MCI proposed that the regulations should expressly provide that the Commission will reject complaints that entail private disputes between customers and applicants and thus prevent companies from incurring additional and unnecessary costs and expenses associated with responding to these complaints.

The Commission understands MCI's concerns about the costs of handling consumer complaints; however, it is the Commission's policy to address every complaint separately on its merit. For this reason, we did not change this subsection based on MCI's concerns. The process for handling interfering stations complaints as established in the final-form regulations will significantly reduce the number of consumer complaints to the Commission about the issue of interfering stations. We did make some changes to the construction of §63.214(b)(2) and former §63.214(b)(3), now §63.214(b)(2)(ii), in the final-form regulations to clarify the intent of these subsections. We also deleted "lawful" as modifier of "tariff rates in §63.214(b)(3)."

DISPUTES

§63.221. Customer complaint procedures.

AT&T and MCI commented that the dispute provisions are unnecessary since similar provisions already appear in Chapter 64. We acknowledge that Chapter 64 does contain provisions for handling disputes from residential customers. However, there are no provisions that pertain to complaints from business customers. Because of this, we retained these provisions in the final-form regulations.

IRRC commented that the title of the subsection at §63.221 contains the word "consumer" which is not defined and not used anywhere in the section. IRRC

recommended changing the title to “Customer complaint procedures.” We agree and revised the title as recommended.

In its comments to our proposed regulations, the OAG suggested that in §63.221(a), “subscriber” should be replaced with “applicant” to be consistent with subsections (b) and (c). We agree with this suggestion and made the change.

Regarding the citation to Chapter 64 in subsection (b), IRRC asked if the citation should be §§64.131—64.182 rather than §§64.141—64.182. We agree and amended the citation.

IRRC and the OAG each commented that the final-form regulations should provide timeframes to indicate when the Commission or a service provider must perform the required duty as described in §63.221(c) and (d). We have responded by adding language to (c) that provides for the Commission to transmit a summary of a complaint to the LSP within one working day of receiving a complaint covered by this subchapter. Regarding the duties of LSPs, 52 Pa. Code §64.153(b)(1) specifies that, in response to residential customer complaints, LSPs are to supply information and documents to the Commission within 30 days of the date the LSP receives the complaint summary. Since commercial accounts are often more complex than residential accounts they may require a longer time to gather the information needed to respond to the complaint. Therefore, we did not require LSPs to respond with the information and documents in the same 30-day window in all cases. In those cases where the LSP will need more than 30 days, it must advise the Commission of that need and establish a reasonable timeline for the production of the information and documents. We also inserted new language into §63.221(d) to require a LSP to advise the Commission within 10 days of the resolution when a complaint has been resolved between the LSP and the complaining party. We did not insert language into the regulations specifying the time period within which the Commission will close a complaint resolved by the parties. Variations in complaint

volumes and staffing levels make it impractical for the Commission to be able to specify a timeframe in which the Commission will be able to verify and act on this information from the LSP. As with all customer complaints, the Commission will close out these complaints as expeditiously as possible.

The proposed §63.221(c) discusses a complaint from an applicant, customer or third party. IRRC asked who would be a “third party.” A “third party” might be, for example, a spouse, agent, or consenting individual designated to act on the customer’s part such as an employee of a business or the adult children of an elderly customer. Any of these individuals may contact the Commission on the part of the customer of record to file a complaint.

§63.222. Expedited process for resolution of migration disputes between service providers.

MCI commented that it supports the Commission’s proposal regarding an expedited dispute process. IRRC asked if a customer or applicant could file a complaint under this section. This process addresses only disputes between service providers, including LSPs and NSPs. To clarify our intent, we amended the title of this section to “Expedited process for resolution of migration disputes between service providers” and added similar language to §63.222(a). IRRC also asked if the contact persons designated by the Commission in this subsection will be employees of the Commission. Our response is that the Commission will designate members of its staff as contact persons. To clarify this subsection, we have added language that indicates that the Commission will designate “Commission staff as” contact persons through which LSPs may request expedited resolution of problems.

IRRC further questioned the reference in §63.222(d) of the proposed regulations to the Commission’s alternate dispute resolution process. The correct reference and citation

to this process is the Commission's mediation process under 52 Pa. Code §§69.391—69.397. We amended the language of this subsection to include the appropriate citation.

CONCLUSION

Accordingly, under 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, 45 P.S. §§1201 and 1202, and the regulations promulgated thereunder at 1 Pa. Code §§7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. §732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. §745.5; and section 612 of The Administrative Code of 1929, 71 P.S. §232, and the regulations promulgated thereunder at 4 Pa. Code §§7.231-7.235, we find that the regulations establishing general rules, procedures, and standards to provide for the orderly migration of customers between LSPs at 52 Pa. Code §§63.191-222 should be approved as set forth in Annex A, attached hereto; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reconsideration filed by Verizon Pennsylvania Inc. on February 24, 2005, is granted in part and denied in part, consistent with this Order.
2. That this Final Rulemaking Order/Order on Reconsideration and Annex A replace in their entirety the Commission's Order and Annex A entered on February 9, 2005, at this docket.
3. That the regulations at 52 Pa. Code §§63.1-63.102 are hereby amended as set forth in Annex A hereto.
4. That the Secretary shall submit this Order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

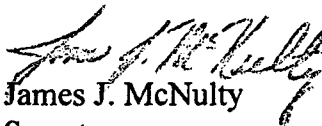
5. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for approval as to legality.

6. That the Secretary shall submit this Order and Annex A to the Governor's Budget Office for review of fiscal impact.

7. That a copy of this Order and Annex A shall be served upon the Pennsylvania Telephone Association, the Pennsylvania Cable & Telecommunications Association, The North American Numbering Plan Administrator, National Emergency Numbering Association, the Office of Trial Staff, the Office of Consumer Advocate, the Small Business Advocate, and active parties to this proceeding.

8. That the final regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

BY THE COMMISSION


James J. McNulty
Secretary

(SEAL)
ORDER ADOPTED: May 5, 2005
ORDER ENTERED: MAY 05 2005

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 63. TELEPHONE SERVICE

Subchapter M. CHANGING LOCAL SERVICE PROVIDERS

GENERALLY

§ 63.191. Statement of purpose and policy.

(a) The purpose of this subchapter is to establish general rules, procedures and standards governing the migration of customers between LSPs, including porting telephone numbers, resolving interfering stations, exchanging customer records and the transition of billing accounts. The primary objective of this subchapter is to establish standards to ensure that RESIDENTIAL AND BUSINESS customers can migrate from one LSP to another LSP without confusion, delay or interruption to their basic-LOCAL service.

(b) This subchapter applies to:

(1) LSPs and NSPs for migration of RESIDENTIAL AND BUSINESS customers between LSPs.

(2) LSPs and NSPs when interfering station conditions are encountered.

(c) This subchapter does not apply to:

(1) Mass migrations of customers brought about by the selling or transferring of a customer base of one LSP to another.

(2) A LSP that has properly proceeded with the abandonment of service to its customer base.

(3) DSL migration.

(4) Line sharing/splitting arrangements.

(d) To the extent that other regulations do not address circumstances as described in subsection (c), this subchapter may provide guidance for those transactions.

§ 63.192. Definitions.

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

Applicant--

(i) A person, ASSOCIATION, PARTNERSHIP, CORPORATION, OR GOVERNMENT AGENCY MAKING A WRITTEN OR ORAL REQUEST FOR THE COMMENCEMENT OF LOCAL ~~who applies for telephone service, other than a transfer of LOCAL service from one dwelling~~ LOCATION to another within the LOCAL service area of the SAME LSP or a reinstatement of LOCAL service following a discontinuation or termination.

(ii) The term does not apply to a customer who is subject to special contractual arrangements and has otherwise agreed to different conditions of LOCAL service that do not contradict Commission rules or regulations.

APPROPRIATE RETAINED DOCUMENTATION – PROOF ACCOMPANYING A CUSTOMER'S ORDER, REQUEST FOR A CHANGE IN TELEPHONE SERVICE OR SERVICE PROVIDERS, OR PERMISSION TO OBTAIN THE CUSTOMER'S CSR THAT USES A UNIQUE IDENTIFIER ASSOCIATED WITH THE CUSTOMER SUCH AS THE CUSTOMER'S CITY OF BIRTH, SOCIAL SECURITY NUMBER, MOTHER'S BIRTH NAME, OR TAX IDENTIFICATION CODE.

AUTHORIZED AGENT – AN ADULT DESIGNATED BY AN APPLICANT OR A CUSTOMER TO ACT ON THE BEHALF OF THE APPLICANT OR CUSTOMER.

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

Commission review--Includes informal or formal review, evaluation or adjudication, staff-level review or alternate dispute resolution.

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

DSL--Digital subscriber line--A dedicated, high-speed, always-on service, frequently used in the context of "aDSL" "ADSL" or "xDSL." "XDSL."

Discontinuation of service--The temporary or permanent cessation of service upon the request of a customer.

FACILITIES – THE EQUIPMENT (FOR EXAMPLE, LOCAL LOOP, NETWORK INTERFACE DEVICE, TRANSPORT FACILITIES, AND THE LIKE) NECESSARY TO PROVIDE LOCAL SERVICE TO A CUSTOMER.

Freeze--A designation elected by a customer that restricts a third party's ability to change a THE customer's choice of preferred service providers.

Interfering station--Preexisting LOCAL service that prevents the reuse of existing telephone facilities by a new NLSP to serve a new customer at a location where the prior customer did not notify the previous OLSP to disconnect the telephone LOCAL service. The previous OLSP and the new NLSP may be the same company.

INTERLATA – ORIGINATING IN ONE LATA AND TERMINATING IN ANOTHER LATA. FOR EXAMPLE, AN INTERLATA TELEPHONE CALL IS A CALL THAT IS PLACED FROM A TELEPHONE IN ONE LATA TO A TELEPHONE LOCATED IN ANOTHER LATA.

INTRALATA – ORIGINATING AND TERMINATING WITHIN THE SAME LATA. FOR EXAMPLE, AN INTRALATA TELEPHONE CALL IS A CALL THAT IS PLACED FROM A TELEPHONE IN ONE LATA TO A TELEPHONE LOCATED WITHIN THE SAME LATA.

LATA – LOCAL ACCESS AND TRANSPORT AREA – ONE OF THE 196 GEOGRAPHICAL AREAS DESIGNATED IN 1984 BY THE DECREE THAT BROKE UP AT&T INTO SEVEN TELEPHONE OPERATING COMPANIES. AT THAT TIME, A LATA WAS THE AREA WITHIN WHICH ONE OF THE EXISTING LOCAL SERVICE PROVIDERS COULD OFFER EITHER LOCAL OR LONG DISTANCE SERVICE.

LOA--Letter of authorization

--(i) Sometimes used in a general sense as the data or record indicating that the customer has authorized the new LSP to act as the customer's agent.

--(ii) The term is used to indicate a specific WRITTEN OR ELECTRONIC RECORD document signed by a customer granting a new NLSP the authority to act as the customer's agent.

LSC--Local service confirmation--Documentation issued by the NSP to inform the LSP of the confirmed scheduled completion date for work affecting specific telecommunications service activities such as unbundled loop connections THE MIGRATION OF LOCAL SERVICE.

LSP--Local service provider--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.

~~—(i) NLSL indicates "new" LSP, and OLSL indicates "old" LSP.~~

~~—(ii) A LSP may also provide other telecommunications services, as well as nonjurisdictional services.~~

~~—LSP to LSP end user migration guidelines or migration guidelines—A documentation of processes and procedures that establish general business rules, privacy protocols and general procedures governing the migration of end users (customers) between LSPs.~~

~~—(i) The migration guidelines were developed by consensus among telecommunications industry participants and associations, statutory advocates and the Commission.~~

~~—(ii) The migration guidelines will be amended from time to time as industry practices change.~~

~~LSPF--Local service provider freeze--A designation elected by a customer that restricts a third party's ability to change a customer's choice of preferred LSP.~~

~~LSR--Local service request--Document issued by LSPs to NSPs – THE ELECTRONIC OR PAPER FORM THAT CONTAINS ALL THE INFORMATION REQUIRED to arrange for installation of, change in or disconnection of LOCAL services.~~

~~(i) The LSR is sent by a LSP to a NSP, for example, to request the activation of number portability, the installation of an unbundled loop facility, or the disconnection of loop facilities and migration of a number.~~

~~(ii) The NSP uses the LSR to create the internal directives, for example, a service order, to cause the work to be performed as ordered.~~

~~LINE LOSS NOTIFICATION – THE REPORT THE OLD NSP ISSUES UPON COMPLETION OF A MIGRATION TO INFORM THE OLSL THAT THE OLSL NO LONGER PROVIDES LOCAL SERVICE TO A CUSTOMER ON A PARTICULAR LINE.~~

~~Line sharing--The sharing of facilities by a LSP and a NSP in the provision of voice and data services to a given location over the same facilities.~~

~~Line splitting--The sharing of facilities by two LSPs, when neither is the NSP, in the provision of voice and data services to a given location over the same facilities.~~

~~LOCAL LOOP – THE WIRES AND CABLE BETWEEN THE CUSTOMER'S PREMISE AND THE CENTRAL OFFICE OF THE LOCAL TELEPHONE COMPANY.~~

~~Local service--Telecommunications service within a customer's local calling area.~~

~~(i) The term includes the customer's local calling plan, dial tone line, touch-tone and directory assistance calls allowed without additional charge.~~

(ii) The term 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 reseller--A LSP that resells another company's wholesale telephone services to provide local service to customers.~~

Migration--The movement of a customer from one LSP to another LSP at the same service location.

NLSP--New local service provider - THE COMPANY THAT WILL PROVIDE LOCAL SERVICE TO A CUSTOMER AFTER A MIGRATION.

NSP--Network service provider--A carrier TELECOMMUNICATIONS PROVIDER that interacts with LSPs and provides the facilities and equipment components needed to make up a customer's telecommunications service.

(i) An NSP may also be referred to as an underlying carrier.

(ii) An NSP may also be a LSP.

NETWORK SERVING ARRANGEMENTS – THE SERVICE PLATFORM (FOR EXAMPLE, RESALE, UNBUNDLED LOOP, FULL FACILITIES, UNE-P) TO PROVIDE LOCAL SERVICE TO A CUSTOMER. NETWORK SERVING ARRANGEMENTS MAY ALSO BE REFERRED TO AS SERVICE CONFIGURATION INFORMATION.

OLSP--Old local service provider – THE COMPANY THAT PROVIDES LOCAL SERVICE TO A CUSTOMER PRIOR TO MIGRATION.

OPTIONAL SERVICES – TELECOMMUNICATIONS SERVICES IN ADDITION TO LOCAL SERVICE THAT ARE OFFERED BY LSPS AT A COST PER INDIVIDUAL SERVICE OR AS PART OF A PACKAGE OF SERVICES. EXAMPLES OF OPTIONAL SERVICES INCLUDE TOLL BLOCKING, 900/976 BLOCKING, INSIDE WIRING MAINTENANCE PLANS, AND EXTENSIONS OFF PREMISE. OPTIONAL SERVICES ALSO INCLUDE VERTICAL SERVICES.

Preferred service provider--The company chosen by a customer to provide particular telecommunications services. A preferred service provider is sometimes referred to as a "preferred carrier."

Porting--The process that allows customers to keep their telephone numbers when changing LSPs.

RECORDING VERIFYING PERMISSION – AN AUDITORY DOCUMENTATION OF A CUSTOMER'S VOICE MADE WHEN THE CUSTOMER ORDERED LOCAL SERVICE,

REQUESTED A CHANGE IN LOCAL SERVICE OR LOCAL SERVICE PROVIDERS, OR GRANTED PERMISSION TO A LOCAL SERVICE PROVIDER TO OBTAIN THE CUSTOMER'S CSR.

Service provider--A generic term to include LSPs and NSPs.

Termination of service--Permanent cessation of service after a suspension without the consent of the customer.

THIRD PARTY VERIFICATION – THE PROCESS BY WHICH AN INDEPENDENT ENTITY CONFIRMS THAT A CUSTOMER ORDERED LOCAL SERVICE, AUTHORIZED A CHANGE IN LOCAL SERVICE OR LOCAL SERVICE PROVIDERS, OR GRANTED PERMISSION TO A LOCAL SERVICE PROVIDER TO OBTAIN THE CUSTOMER'S CSR.

UNES – UNBUNDLED NETWORK ELEMENTS – VARIOUS PHYSICAL AND FUNCTIONAL PARTS OF A NSP'S INFRASTRUCTURE THAT MAY BE LEASED TO ANOTHER LSP. THESE COMPONENTS INCLUDE SUCH THINGS AS LOCAL SWITCHING, LOCAL LOOPS, INTEROFFICE TRANSMISSION FACILITIES, SIGNALING AND CALL-RELATED DATABASES, OPERATOR SERVICES, DIRECTORY ASSISTANCE, AND THE LIKE.

UNE-P – UNE-PLATFORM – A COMBINATION OF UNBUNDLED NETWORK ELEMENTS THAT FACILITATES END-TO-END SERVICE DELIVERY. A TYPICAL ARRANGEMENT INCLUDES AT LEAST A LOCAL LOOP AND SWITCHING.

VERTICAL SERVICES - TELECOMMUNICATIONS FEATURES AVAILABLE TO LOCAL SERVICE CUSTOMERS AT EITHER AN ADDED COST OR AS PART OF A SERVICE PACKAGE. VERTICAL SERVICES REFER TO THE WAY IN WHICH A TELEPHONE LINE WORKS AND INCLUDE CUSTOMER CALLING FEATURES SUCH AS CALL FORWARDING AND CALL WAITING.

UNBUNDLED LOOP – A LOCAL LOOP THAT IS LEASED BY ONE SERVICE PROVIDER FROM ANOTHER SERVICE PROVIDER IN ORDER TO PROVIDE LOCAL SERVICE TO A CUSTOMER.

WORKING DAY – A DAY EXCEPT SATURDAY, SUNDAY OR LEGAL HOLIDAY.

MIGRATION

§ 63.201. General migration standards.

(a) A customer has the right to migrate from one LSP to another LSP.

(b) The NLSP shall communicate and explain to the customer the migration process and the migration timetable for various services, when applicable. THE PROSPECTIVE NLSP

SHALL COMMUNICATE AND EXPLAIN TO THE CUSTOMER THE MIGRATION PROCESS AND THE MIGRATION TIMETABLE FOR THE LOCAL SERVICE AND FOR ANY OTHER SERVICE THE CUSTOMER MAY ORDER.

~~—(c) The OLSP has the right to protect itself from potential loss as permissible by Commission regulations and by its lawful tariff in instances when Commission regulations do not address a situation.~~

(d)(C) The OLSP, and the THE NLSP AND THE NSP shall work together in good faith to minimize or avoid problems associated with migrating the customer's account.

(e)(D) The OLSP may not prohibit the NLSP from reusing facilities that are no longer needed by the OLSP to provide LOCAL service to the migrating customer or other customer. If the OLSP has a conflict over the use of the facilities, it shall MAY be resolved using the interfering station procedures UNDER §63.211-214 (RELATING TO INTERFERING STATIONS) OR THE EXPEDITED DISPUTE PROCESS UNDER §63.222 (RELATING TO EXPEDITED DISPUTE PROCESS).

(f)(E) Each AT THE END OF EACH WORKING DAY, THE NLSP shall NOTIFY THE ensure that its 9-1-1 HOST CARRIER and THE Directory Listings/White Pages PROVIDERS OF THAT DAY'S CHANGES TO THESE databases are accurate, accessible and updated as appropriate.

(g)(F) Each LSP and NSP shall maintain a company contact and escalation list for use in resolving migration problems and interfering station conditions. THE COMPANIES SHALL UPDATE THE LISTS TO ENSURE THAT THE INFORMATION IS CURRENT AND ACCURATE. LSPs and NSPs shall POST THE LIST ON A PUBLICLY ACCESSIBLE WEBSITE AND SUPPLY THE WEBSITE ADDRESS TO THE COMMISSION. THE COMMISSION WILL POST THE ADDRESS ON ITS WEBSITE. exchange their lists with each other and provide copies to the Commission. The lists shall be updated as necessary to ensure that the information is current and accurate.

§ 63.202. Migration responsibilities of OLSPS, NLSPs and NSPs.

(a) The prospective NLSP shall communicate and explain the migration process and the migration timetable for various services, when applicable, to the customer. THE OLSP SHALL BE RESPONSIBLE FOR RESPONDING TO THE PROSPECTIVE NLSP'S REQUEST FOR A CSR, CONSISTENT WITH THE REQUIREMENTS OF § 63.203 (RELATING TO STANDARDS FOR THE EXCHANGE OF CUSTOMER SERVICE RECORDS).

(b) The prospective NLSP shall be responsible for coordinating the migration of the customer's local service with its NSP, if any, and with the OLSP.

(c) The prospective NLSP shall provide the LSR information to affected service providers, as applicable.

~~(d) The NSP shall issue a LSC or rejection within 5 working days from the date it receives a valid LSR from the prospective NLSP.~~ **TIMETABLE FOR ISSUING A LSC:**

(1) BY _____ (EDITOR'S NOTE: THE BLANK REFERS TO THE EFFECTIVE DATE OF ADOPTION OF THIS FINAL RULEMAKING), THE NSP OR OLSP SHALL ISSUE A LSC OR REJECTION WITHIN 3 WORKING DAYS FROM THE DATE THE NSP OR OLSP RECEIVES A LSR FROM THE PROSPECTIVE NLSP.

(2) AFTER _____ (EDITOR'S NOTE: THE BLANK REFERS TO A DATE 6 MONTHS AFTER THE EFFECTIVE DATE OF ADOPTION OF THIS FINAL RULEMAKING), THE NSP OR OLSP SHALL ISSUE A LSC OR REJECTION WITHIN 2 WORKING DAYS FROM THE DATE THE NSP OR OLSP RECEIVES A LSR FROM THE PROSPECTIVE NLSP.

(3) AFTER _____ (EDITOR'S NOTE: THE BLANK REFERS TO A DATE 1 YEAR AFTER THE EFFECTIVE DATE OF ADOPTION OF THIS FINAL RULEMAKING), THE NSP OR OLSP SHALL ISSUE A LSC OR REJECTION WITHIN 1 WORKING DAY FROM THE DATE THE NSP OR OLSP RECEIVES A LSR FROM THE PROSPECTIVE NLSP.

(e) The NLSP shall be responsible for coordinating a customer's service restoration that may become necessary due to problems with the migration.

(F) AFTER A MIGRATION HAS BEEN COMPLETED, THE OLD NSP SHALL PROVIDE NOTIFICATION TO THE OLSP THAT THE CUSTOMER HAS MIGRATED TO THE NLSP.

§ 63.203. Migration Guidelines and industry work group.

~~—(a) In addition to compliance with this subchapter, LSPs and NSPs shall follow the Migration Guidelines developed and updated by a telecommunications industry work group as a baseline set of principles, responsibilities and ground rules to facilitate migration of customer service.~~

~~—(b) The Commission will establish an industry work group to be responsible for creating and updating the Migration Guidelines and addressing issues associated with LSP migrations as industry practices change.~~

~~—(c) To the extent that the industry work group cannot agree on the details of the Migration Guidelines, the industry work group may request Commission review.~~

§ 63.20463.203. Standards for the exchange of customer service information RECORDS.

(a) Prospective NLSPs may not acquire CSRs without a verified customer authorization. The prospective NLSP shall use one of the following verification procedures and shall retain the authorization and verification for 2 years:

(1) An LOA from the customer of record to review the customer's account.

(2) A third-party verification of the customer's consent.

(3) A recording verifying permission from the customer.

(4) Oral authorization documented with appropriate retained documentation.

(5) Additional VERIFICATION procedures as may be authorized by the Federal Communications Commission (FCC) or the Commission.

(b) The prospective NLSP shall indicate to the customer's current LSP that it has a verified authorization for access to the CSR. The NLSP is not required to provide a copy of the authorization or verification to the current LSP.

(c) A current LSP may not contact a customer to retain or keep that customer as a result of a request from another LSP for the customer's CSR.

(d) When a prospective NLSP has verified authorization from the customer to switch the customer's LSP, the prospective NLSP shall request the customer's ~~network serving arrangements and a~~ CSR from the OLSP. The prospective NLSP is not required to provide proof to the OLSP of the authorization or verification at the time of migration. The prospective NLSP shall use one of the following types of verification and shall retain the authorization and verification for 2 years:

(1) An LOA from the customer to switch LSPs.

(2) A third-party verification of the customer's request.

(3) An electronic verification of the customer's request to switch LSPs that contains unique identifying information.

(4) Additional VERIFICATION procedures as may be authorized by the FCC or the Commission.

(e) A customer's current LSP shall provide the following information when the CSR is requested to migrate a customer's LOCAL service:

(1) Billing telephone number and working telephone number.

(2) Complete customer billing name and address.

(3) Complete service address, including floor, suite unit and any other unique identifying information.

(4) 9-1-1/E-9-1-1 information.

(5) Directory listing information, including address, listing type and all other pertinent information.

(6) Preferred service providers for interLATA, intraLATA, local basic service and other services.

(7) Provider freeze status by interLATA toll, intraLATA toll, local basic service and other services.

(8) Listing of all vertical services (for example, custom calling, hunting, and the like) to which the customer currently subscribes.

(9) Listing of all optional services (for example, 900 blocking, toll blocking, remote call forwarding, off-premise extensions, and the like) to which the customer currently subscribes.

(10) Tracking number or transaction number (for example, purchase order number).

(11) ~~Service configuration information~~ NETWORK SERVING ARRANGEMENTS (for example, resale, UNE-P, unbundled loop).

(12) Identification of NSPs.

(13) Identification of any line sharing/line splitting on the migrating customer's line.

(f) Timetable for providing CSRs, minimum requirements:

(1) By _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), OLSPs shall provide 80% of requested CSRs within ~~48 hours~~ 2 WORKING DAYS.

(2) After _____ (Editor's Note: The blank refers to a date 6 months after the effective date of adoption of this proposal.), OLSPs shall provide 80% of requested CSRs within ~~24 hours~~ ONE WORKING DAY.

(3) After _____ (Editor's Note: The blank refers to a date 1 year after the effective date of adoption of this proposal.), OLSPs shall provide 80% of requested CSRs the same day if the request is made by noon of that day, or by noon OF the next WORKING day if requested after noon.

§ 63.20563.204. Removal or lifting of LSPFs.

(a) ~~The~~ AN APPLICANT MUST AUTHORIZE THE REMOVAL OF AN EXISTING LSPF BEFORE A prospective NLSP may not process a change in LSP if the customer does not remove an existing LSPF at the time of application. The prospective NLSP shall inform the applicant of the following at the time of application:

(1) If the applicant has a LSPF, the APPLICANT MUST AUTHORIZE THE REMOVAL OF THE LSPF ~~must be removed before the OLSP may process the prospective NLSP's~~ request for a change of the customer's LSP CAN BE PROCESSED.

(2) The applicant or THE APPLICANT'S AUTHORIZED ~~appropriate agent shall contact the OLSP to have a LSPF lifted before an order to migrate the service may be processed.~~ BEFORE PROCESSING THE LIFTING OF THE LSPF, THE OLSP SHALL CONFIRM APPROPRIATE VERIFICATION DATA SUCH AS THE CUSTOMER'S DATE OF BIRTH, SOCIAL SECURITY NUMBER OR MOTHER'S BIRTH NAME WITH THE APPLICANT OR THE APPLICANT'S AUTHORIZED AGENT.

(3) A prospective NLSP may not authorize the removal of an applicant's LSPF.

(b) When the prospective NLSP is also seeking to provide other services, (for example, interexchange, intraLATA, interLATA, interstate or international toll) covered by freezes, ~~authorizations to lift the freezes may be transmitted in one process, if the applicant expressly requests that each freeze be lifted.~~ The prospective NLSP shall inform the applicant of the distinctions among the services and of the requirement that service may not be migrated unless the customer expressly lifts each freeze.

(c) LSPs THAT OFFER LSPFS TO THEIR CUSTOMERS shall provide various methods to customers for lifting LSPFs, as required by ~~the Commission or the Federal Communications Commission~~ AS SET FORTH IN SUBPART K – CHANGE IN PREFERRED TELECOMMUNICATIONS SERVICE PROVIDERS (47 C.F.R. §64.1100, ET SEQ.).

§ 63.20663.205. Porting telephone numbers.

An OLSP OR NSP may not refuse an otherwise valid request to port a number to a NLSP unless the number is for LOCAL service that has been terminated or discontinued under Chapter 64 (relating to standards and billing practices for residential telephone service) for residential customers or consistent with the LSP's ~~lawful~~ tariff for other customer classes.

§ 63.20763.206. Discontinuance of billing.

(a) LSPs shall minimize overlap in billing during the migration between LSPs.

(b) ~~Upon~~ WITHIN 42 DAYS OF THE RECEIPT OF A LINE LOSS notification from the NSP ~~prospective NLSP that the customer has requested to migrate service to the prospective NLSP,~~ the customer's OLSP shall, ~~within 42 days,~~ issue the customer a final bill for services rendered.

(c) Once the customer has paid the charges on the final bill the OLSP shall immediately remove the customer from its billing system and discontinue billing, UNLESS THE OLSP PROVIDES OTHER SERVICES TO THE CUSTOMER.

(d) SUBJECT TO THE TERMS OF AN APPLICABLE TARIFF OR CUSTOMER SPECIFIC PRICING ARRANGEMENT, ~~The~~THE OLSP shall stop billing the customer for any recurring charges ASSOCIATED WITH THE MIGRATED SERVICES as of the date of the MIGRATION ~~change to the NLSP.~~

(e) This subchapter does not affect a customer's debtor/consumer rights or a LSP's creditor's remedies, as may be otherwise permitted by law.

§ 63.20863.207. Carrier-to-carrier guidelines and performance assurance plans.

For a LSP or NSP subject to state or Federal carrier-to-carrier guidelines or performance assurance plans, if the carrier-to-carrier guidelines or performance assurance plan provide a more explicit or a narrower window for performance THAN OTHERWISE SPECIFIED UNDER THIS SUBCHAPTER, the carrier-to-carrier guidelines or performance assurance plan shall control for that LSP or NSP.

INTERFERING STATIONS

§ 63.211. Duties of ~~OLSPs~~ and NSPs AND NLSPS when an interfering station condition is identified.

(a) The ~~OLSP~~ or NSP shall inform the prospective NLSP of an interfering station condition by the end of the next working day after the ~~OLSP~~ or NSP identifies that an interfering station condition exists.

(b) The ~~OLSP~~ or NSP shall review the LSR information with the prospective NLSP to determine possible errors:

(1) Upon confirmation that the LSR information is correct, the ~~OLSP~~ or NSP shall inform the prospective NLSP that the LSR is ~~cancelled~~ CANNOT BE FULFILLED because there is preexisting LOCAL service at the service location.

(2) If the LSR information is incorrect, the ~~OLSP~~ or NSP PROSPECTIVE NLSP shall correct the information and ~~continue with the installation~~ RESUBMIT THE CORRECTED LSR TO THE NSP.

§ 63.212. Duties of the prospective NLSP and the applicant when an interfering station condition is identified.

(a) The prospective NLSP shall notify the applicant that there is preexisting LOCAL service at the service location within 1 business day of the date ~~it~~ THE NLSP receives notice of the interfering station condition. The prospective NLSP shall contact the applicant by telephone, email, first class mail or in person to request that the applicant verify the address at the service location.

(b) If the applicant fails to respond to the notice within 5 days, the prospective NLSP may cancel the application.

(c) If the applicant informs the prospective NLSP that the address is incorrect, the prospective NLSP shall correct the information on the application and, submit a new LSR AND PROVIDE THE NEW LOCAL SERVICE INSTALLATION DATE.

~~(d) The prospective NLSP shall provide the new service installation date.~~

(e)(D) If the applicant verifies that the address is correct, the prospective NLSP shall explain that new LOCAL service is not able to be installed using the same facilities due to preexisting LOCAL service at the address and request the applicant to provide proof of ownership or right of occupancy.

~~(f) If the applicant provides proof of ownership or right of occupancy, the prospective NLSP shall advise the applicant of the following options. The applicant may:~~

(1) ~~Authorize~~ THE APPLICANT MAY AUTHORIZE the prospective NLSP to contact the OLSP to confirm abandoned service.

(2) ~~Attempt~~ THE APPLICANT MAY ATTEMPT to resolve the interfering station condition with the customer of record, IF KNOWN TO THE APPLICANT.

(3) ~~Arrange~~ THE APPLICANT MAY ARRANGE for the installation of new facilities.

(i) If inside wiring is required, the applicant shall provide proof of installation before the prospective NLSP is able to proceed with the LSR.

(ii) If new facilities (for example, outside wiring or a network interface device (NID)), are required, the prospective NLSP shall advise the applicant that the applicant shall pay for the installation of the new facilities pursuant to lawful tariff rates and that the installation may take longer than 5 days.

(4) ~~Cancel~~ THE APPLICANT MAY CANCEL the application.

§ 63.213. Duties of the OLSP if notified by the prospective NLSP that an interfering station exists at a location where existing LOCAL service is provided by the OLSP and the applicant has shown proof of IDENTITY AND OF ownership or right of occupancy.

(a) Within 3 business WORKING days of THE notification, the OLSP shall issue a termination notice to the customer of record in the OLSP's billing system. The notice of termination shall state the reason for termination, date of termination and what the customer of record is required to do to prevent termination. The termination date shall be 7 days from the date of THE mailing of the notice by first class mail.

(b) If there is no contact from the customer of record DOES NOT CONTACT THE OLSP, the OLSP shall remove the TERMINATE THE ~~customer~~ CUSTOMER'S SERVICE from billing and take appropriate action to release the CUSTOMER'S facilities to the prospective NLSP.

(c) If the OLSP is contacted by the customer of record who CONTACTS THE OLSP BY THE TERMINATION DATE AND does not agree to the termination of service, the OLSP shall notify the prospective NLSP of the inability of the OLSP to release the facilities to be used by the prospective NLSP.

§ 63.214. Duties of the prospective NLSP when the OLSP is unable to resolve the interfering station condition at the applicant's service location.

(a) The prospective NLSP shall contact the applicant and explain that the preexisting customer will not agree to the termination of service and that the prospective NLSP is not able to use the existing facilities.

(b) The prospective NLSP shall inform the applicant of the following options TO OBTAIN LOCAL SERVICE:

(1) The applicant may pursue any disputes between co-tenants, owners and occupants before an appropriate forum for the remedy. The prospective NLSP shall inform the applicant that neither the prospective NLSP, the OLSP nor the Commission is responsible for or available to resolve private disputes between customers and applicants.

(2) THE APPLICANT MAY ARRANGE FOR THE INSTALLATION OF NEW FACILITIES.

(2) (I) If inside wiring is required, the applicant shall provide proof of installation before the prospective NSLP is able to proceed with the LSR.

(3) (II) If new facilities (for example, outside wiring or a NID) are required, the prospective NLSP shall advise the applicant that the applicant shall pay for the installation of the new facilities pursuant to lawful tariff rates and that the installation may take longer than 5 days.

DISPUTES

§ 63.221. ~~Consumer~~ CUSTOMER complaint procedures.

(a) Records of complaints. A service provider LSP covered by or operating under this title shall preserve written or recorded complaints showing the name and address of the subscriber APPLICANT or complainant, the date and character of the complaint, the action taken and the date of final disposition. Records of complaints for residential customers shall be kept in accordance with § 64.192 (relating to record maintenance).

(b) Commission review. If a customer or applicant expresses dissatisfaction with the ~~service provider's~~ LSP'S decision or explanation, the ~~service provider~~ LSP shall inform the customer or applicant of the right to have the dispute considered and reviewed by the Commission and shall provide the name, address and telephone number of the appropriate Commission bureau. This subsection shall be read in conjunction with §§ ~~64.141~~64.131--64.182 for residential service.

(c) Investigations. ~~Upon~~ WITHIN ONE WORKING DAY OF receiving a complaint covered by this subchapter from an applicant, customer or third party, the Commission will transmit a summary of the complaint to the ~~service provider~~ LSP. When complaints are referred to the ~~service provider~~ LSP through the Commission, the ~~service provider~~ LSP and the Commission will work to process and resolve the complaints. A ~~service provider~~ LSP shall make a full and prompt investigation of complaints made to it through the Commission by the applicant, customer or third party. FOR COMPLAINTS INVOLVING COMMERCIAL SERVICE, IF THE LSP NEEDS MORE THAN 30 DAYS TO RESPOND TO THE COMMISSION, THE LSP SHALL ADVISE THE COMMISSION OF THAT NEED WITHIN 30 DAYS OF THE DATE IT RECEIVES THE COMPLAINT SUMMARY AND INDICATE WHEN IT WILL SEND ITS RESPONSE TO THE COMMISSION.

(d) Resolutions. If a complaint is resolved between the ~~service provider~~ LSP and the complaining party, the ~~service provider~~ LSP shall advise the Commission WITHIN 10 WORKING DAYS OF THE RESOLUTION and submit a copy of the service order or other documentation of satisfaction which identifies the action taken by the ~~service provider~~ LSP to resolve the complaint. The ~~service provider~~ LSP may not consider the complaint closed until the Commission advises the ~~service provider~~ LSP that the Commission has closed the complaint.

§ 63.222. Expedited dispute process FOR RESOLUTION OF MIGRATION DISPUTES BETWEEN SERVICE PROVIDERS.

(a) The Commission will provide a nonadversarial, expedited dispute process to address migration disputes BETWEEN SERVICE PROVIDERS. The Commission will designate COMMISSION STAFF AS contact persons through which LSPs and NSPs may request expedited resolution for alleged problems between service providers ~~or compliance with this title and the migration guidelines pertaining to the migration of customer service~~ OR COMPLIANCE WITH THIS TITLE.

(b) A LSP or NSP that has a dispute under this subchapter with another LSP which cannot be resolved between the entities may refer the dispute to the expedited dispute process for a suggested resolution in a nonadversarial context.

(c) The Commission designee will review the dispute within 2 working days of the date the dispute was received, attempt to contact the involved entities and suggest a nonbinding resolution of the dispute, consistent with § 1.96 (relating to unofficial statements and opinions by Commission personnel).

(d) If the expedited dispute process fails to resolve the dispute, the parties may resort to the Commission's ~~alternate dispute~~ MEDIATION PROCESS UNDER 52 PA. CODE §§69.391-69.397 (RELATING TO MEDIATION PROCESS) or formal dispute resolution processes.

(e) The expedited dispute process is neither mandatory nor a prerequisite to the Commission's ~~alternate~~ MEDIATION or formal dispute resolution processes.



PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG, PENNSYLVANIA

WENDELL F. HOLLAND
CHAIRMAN

May 23, 2005

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

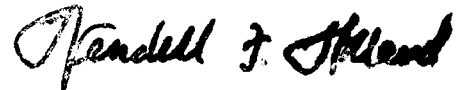
Re: L-00030163/57-230
Final Rulemaking
Changing Local Service Providers
52 Pa. Code Chapter 63

Dear Chairman McGinley:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on March 18, 2004, submitted a copy of the Notice of Proposed Rulemaking to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission (IRRC). This notice was published at 34 Pa.B. 1784, on April 3, 2004. In compliance with Section 745.5(b.1) copies of all comments received were provided to your Commission and the Committees.

In preparing this final form rulemaking, the Public Utility Commission has considered all comments received from the Committees, IRRRC and the public.

Very truly yours,

A handwritten signature in black ink that reads "Wendell F. Holland". The signature is written in a cursive style with a large initial 'W'.

Wendell F. Holland
Chairman

Enclosures

cc: 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
Regulatory Coordinator DeIBiondo
Assistant Counsel Fink Smith
Ms. Frymoyer
Donna Cooper, Governor's Policy Office

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-00030163/57-230

Subject: Changing Local Service Providers


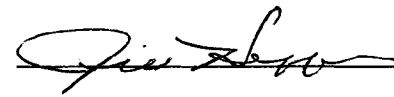
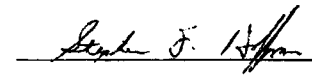
Pennsylvania Public Utility Commission

2394

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>
5/23/05		HOUSE COMMITTEE Consumer Affairs
5/23/05		SENATE COMMITTEE Consumer Protection and Professional Licensure
5/23/05		Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau

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Pennsylvania Public Utility Commission