

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

COPY

Proposed Rulemaking :
Changing Local Service Providers : Docket No. L-00030163

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: May 18, 2004
79205

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I. INTRODUCTION

On October 2, 2003, the Pennsylvania Public Utility Commission (Commission) adopted a Proposed Rulemaking order that set forth regulations establishing an orderly process for customer migration between local service providers within the telecommunications industry. On April 3, 2004, the Commission requested comments on those proposed regulations as published in the Pennsylvania Bulletin on that date. The Office of Consumer Advocate (OCA) is pleased to provide these comments in response to the Commission's Proposed Rulemaking. The OCA files these Comments concerning the method by which consumers may drop their local service freeze.

II. SUMMARY

The Local Service Provider Freeze (LSPF) issue presents difficulties to both competing carriers and customers. Customers and competitive carriers may find the LSPF frustrating because, in fulfilling its purpose to prevent slamming, it may also present a serious obstacle when consumers genuinely wish to switch and enjoy local competition.

Customers seeking to change local service providers may find that this easily-obtained protection against slamming becomes a troublesome predicament if they should choose to shop for a different local service provider. First, consumers may later not realize that they "froze" one of their telecommunications services. In addition, with the various freeze options, local, local toll, and long distance, consumers may not understand which is the appropriate freeze to lift, or even how. The process is now a complicated one. For these reasons it is important that the Commission make the process of lifting a local freeze a relatively painless one for consumers. Consumer frustration with the

shopping experience will lead to diminished vitality within the market for local telecommunications services.

These Comments contain suggestions that preserve the effectiveness of the LSPF to prevent the problem of slamming, and at the same time support the Commonwealth's policy of fostering competitive telecommunications markets. To achieve that goal, the OCA suggests that these rules apply to all carriers subject to competition for local telephone service that use the LSPF.

Specifically, the OCA suggests that the Commission require all such carriers to employ consumer oriented methods of lifting a LSPF. These methods should include, in addition to business hours calling and written consumer correspondence, evening calling hours, and the use and acceptance of Letters of Agency (LOA) from New Local Service Providers (NLSPs). OCA also recognizes the importance of optional web-based freeze lifting mechanisms for some consumers. While it is important to protect consumers from the problems associated with slamming (whether accidental or by design), it is equally important for the Commission to foster an environment in which consumers may participate in the local telecommunications services market with ease.

III. COMMENTS

The OCA strongly supports the Commission's overall approach to establish minimum guidelines governing procedures to change a customer's Local Service Provider (LSP) as set forth in the Commission's Proposed Rulemaking. Clear regulations establishing minimum requirements here are crucial to the operation of competitive markets for local telephone service. Consumer interest and satisfaction with participation

in the competitive telecommunications market requires seamless and efficient procedures allowing customers to change from one LSP to another. To that end, the OCA states as follows.

1. The Final Regulations Should Clearly Define Acceptable Procedures For The Use of A Letter of Agency to Lift the Local Service Provider Freeze On A Customer's Account.

a. Introduction

The proposed regulations regarding the use of a Letter of Agency to lift the local service provider freeze, as proposed, are not sufficiently clear, contradict the Commission's discussion in the Order, and conflict with the Federal Communication Commission's (FCC) slamming rules. These problems must be addressed in the final form of the rule. Unclear regulations will hinder Pennsylvania's telecommunications markets and will not achieve the competitive end that the Commission seeks. OCA submits that the consumer should be able to select the NLSP using an LOA in order to simplify lifting the freeze and moving to the NLSP for local service.

b. FCC Slamming Rules

Pennsylvania's regulations governing the LSPF mechanism should not conflict with the FCC slamming regulations. Such conflicts are impermissible and also have the potential to generate unnecessary litigation among carriers and customers. The OCA suggests that the Commission should resolve this matter by opting to abide by the FCC procedures for using an LOA to lift a LSPF.

Specifically, the issue of an NLSP acting as an agent features prominently in the Commission's Order and is addressed by the PUC's proposed section 63.205 of the

proposed rules. Regarding which party may act as an agent for a consumer seeking to lift a LSPF, the Commission wrote:

As to who may lift a LSPF, we note that migration of "frozen" service requires affirmative action by the customer to lift the LSPF. It is clear under the FCC regulations that a customer can delegate authority to a third party to place and lift freezes on service. The controversy is whether a customer could make such a delegation to a prospective NLSP [New Local Service Provider]. At this point, we believe that status as a prospective NLSP should not preclude an entity from exercising an explicit delegation of freeze-lifting authority from its prospective customers. Under appropriately documented circumstances, a customer should be able to choose to delegate such authority to a prospective NLSP. Such a delegation must expressly state that it is a delegation of authority to lift a LSPF. Documentation of such authority will, however, be extremely important. The question of whether a prospective NLSP actually had the customer's authority is a matter that should not trouble the OLSP [Old Local Service Provider]. It will be the prospective NLSP who is at risk if it cannot prove the existence of authority.¹

Thus, the PUC seems to clearly endorse the use of the LOA by the NLSP. This language cited above largely agrees with the FCC anti-slamming regulations on this topic, found at title 47, section 64.1130 of the Code of Federal Regulations. OCA supports the PUC's determination in the Order on this point. That section of the federal regulations concerning Letter of Agency form and content, in pertinent part, states:

- (a) A telecommunications carrier may use a written or electronically signed letter of agency to obtain authorization and/or verification of a subscriber's request to change his or her preferred carrier selection. A letter of agency that does not conform with this section is invalid for purposes of this part.
- (b) The letter of agency shall be a separate document (or an easily separable document) or located on a separate screen or webpage containing only the authorizing language described in paragraph (e) of this section having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the preferred carrier change.

¹ Pa. Bull. Vol. 34 at 1788 (citation omitted).

The FCC regulations further contain other regulatory requirements related to how such a letter may be drafted and used. Subsection (e)(4) of the federal regulations explain that Letters of Agency are acceptable as a way to lift the local service freeze, and that the NLSP may serve as an agent for that customer provided the NLSP has proper authorization in accord with the rest of the rule.

The Commission's proposed regulation, however, provides as follows:

§ 63.205. Removal or lifting of LSPFs.

(a) The 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 LSPF must be removed before the OLSP may process the prospective NLSP's request for a change of the customer's LSP.

(2) The applicant or appropriate agent shall contact the OLSP to have a LSPF lifted before an order to migrate the service may be processed.

(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 shall provide various methods to customers for lifting LSPFs, as required by the Commission or the Federal Communications Commission.²

The OCA emphasizes that section 63.205(a)(3) provides that “[a] prospective NLSP may not authorize the removal of an applicant's LSPF.” This language seems to contradict the federal regulation cited above concerning the use of an LOA by the NLSP.

² Pa. Bull. Vol. 34 at 1793 (emphasis added).

c. Internal Conflicts of 63.205

The language of the PUC regulations at section 63.205(c) also conflicts with section 63.205(a)(3) of that same regulation. That is true because subsection (c) provides that “LSPs shall provide various methods to customers for lifting LSPFs, as required by the Commission or the Federal Communications Commission.” This language would seem to permit a NLSP to use an LOA as is allowed by 47 C.F.R. § 63.1130. Further, the Order states that: “LSPs are expected to adhere to the FCC’s anti-slamming rules”³

However, as noted above, 63.205(a)(3) provides that “[a] prospective NLSP may not authorize the removal of an applicant’s LSPF.” This language seems to prohibit that same LOA authorization. The Commission should resolve this apparent conflict in favor of the use of the LOA.

d. Adoption of the Letter of Agency

The PUC should clearly authorize LOAs in its regulations just as it does in its Order. The OCA suggests it is not necessary for the Commission to develop its own regulations on this matter when the requirements contained at section 63.1130 of the FCC’s slamming rules are sufficient to protect consumers.

The Commission should resolve the conflict presented by its Order and proposed rules by simply adopting the LOA mechanism as is contained in 47 C.F.R. section 63.1130. The OCA recognizes the LSPF as a protection against slamming. However, the OCA does not wish to prohibit the NLSP from acting to lift the freeze through an LOA. The OCA suggests that the federal LOA regulations strike the appropriate balance in that regard.

³ Pa. Bull. Vol. 34 at 1790 (emphasis added).

2. The Options for Lifting an LSPF May Be Impractical For Many Consumers And Consumers Should Be Able to Speak With a Service Representative in the Evening Hours in Order to Lift the LSPF.

As noted above, there are various ways a consumer may act to lift the LSPF. Consumers may send a written request to the Old Local Service Provider (OLSP), sign an LOA authorizing the NLSP to lift the freeze, or attempt to do this through a phone call to the OLSP during day time business hours. Further, Verizon has developed a Web-based option for lifting the LSPF. However, the OCA submits that the most convenient additional method for consumers would be to simply allow the consumer to call the OLSP during evening hours to allow the customer to have personal contact with the customer service representative to discuss the LSPF and allow it to be lifted.

In its Notice, the Commission discussed the Web-based option for lifting a LSPF, and in particular, discussed the methods used by Verizon companies.

Verizon PA initiated its website freeze lifting mechanism in December 2002. ... We believe that the website, which provides "24/7" access to Verizon PA customers, and their designees, to lift LSPFs is sufficient, in conjunction with normal business office operation. ...

...
LSPs offering LSPFs shall provide appropriate customer access, as may be defined by this Commission or the Federal Communications Commission (FCC), to their customers for lifting LSPFs. Disputes between LSPs as to the appropriateness of customer access to the OLSP for lifting LSPFs or the speed with which the OLSP lifts the freeze may be referred to the Commission. ...⁴

The OCA submits that carriers using the LSPF that are subject to local competition, such as Verizon, should expand their evening consumer calling hours from the current closing time of 6:00 PM to 9:00 PM. Further, Verizon may offer an optional graphic user

⁴ Pa. Bull. Vol. 34 at 1788.

interface (GUI) to lift an LSPF on the Verizon website. Otherwise, it is too difficult to lift the LSPF.

The OCA appreciates the use of an Internet Application as a means to lift the LSPF. However, the GUI mechanism should not be the only way to do this after hours. The most obvious drawback of web-based GUI applications as a method to lift a LSPF is that not all local telephone consumers have access to the Internet. Thus, those customers without Internet access must call Verizon during regular business hours or use other methods. Verizon's policy is too restrictive in this regard. OCA suggests that when a customer decides to switch LSPs it is best to be able to complete that process over the telephone in the same evening. Consumers will want to lift their LSPF at the time the consumer decides to switch to a new local provider and should not have to overcome unnecessary administrative hurdles.

Based upon investigation, the OCA has determined that for those customers with Internet access, locating the GUI to lift a LSPF on the Verizon website is very difficult. There are no direct links to local freeze information on the Verizon home page.⁵ There are no direct links to LSPF information among the topics on the Verizon website Online Help & FAQ website.⁶

To reach the correct site, or to find information on the LSPF, it appears to be necessary to search in the detailed search area of the Verizon website using the term "freeze."⁷ Once that search is performed, it is possible to find information regarding the

⁵ Verizon Inc., home page (May 11, 2004) at <https://www22.verizon.com> .

⁶ Verizon Pennsylvania Inc., Online Help For Your Home , May 11, 2004) at http://www22.verizon.com/CustomerHelp/CGI-BIN/SmartHelp.asp?St=161&E=000000000002499871&K=708&Sxi=14&varset_statename=PAE&varset_coast=East&command=restart&problem=36174

⁷ Verizon Pennsylvania Inc., Search (May 11, 2004) at <http://www22.verizon.com/Search/Results>

LSPF, including information on how to lift a LSPF from an account.⁸ Thus, simply finding the Verizon Internet site that would allow the lifting of a freeze is no easy matter.

Locating the proper site is only the first step of the process. When the consumer has arrived at the correct web site, the consumer must then establish an account on the Verizon Website through the use of temporary user ID and password information contained on Verizon billing statements.⁹ Given the above, it is clear that Verizon's web-based LSPF-lifting mechanism is cumbersome and many consumers may not wish to go through such a process in order to change their LSP.

While the OCA does not advocate that Verizon eliminate its processing of LSPF lift requests through its website, the OCA urges the Commission to adopt more consumer-oriented approaches to augment Verizon's proposal of using its website, business hours calling, and consumer letters. An obvious example of a more consumer oriented approach would be the requirement of evening calling hours.

The easiest method to develop a more consumer-oriented approach would simply be to provide for after-hours three-way calls. Given the complexity of lifting a LSPF, e.g. identifying what service is frozen and what services the consumer is now attempting to switch, live interpersonal service is simply the best method to ensure accurate and effective changes of carrier where a LSPF is involved. Consumers will likely wish to speak with a live customer service representative before they attempt to change their phone service by clicking buttons on the Internet.

⁸ Verizon Pennsylvania Inc., Search Results (May 11, 2004) at http://www22.verizon.com/Search/detailed/?searchText=freeze&searchState=PA&searchSite=consumer&searchType=1&txtNPA=717&txtNXX=737&collection=olh_consumer&s=26241066

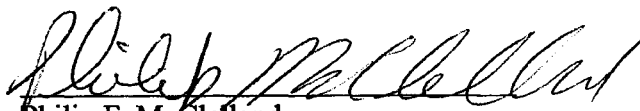
⁹ Verizon Pennsylvania Inc., Can I remove a carrier freeze from one of my providers? (May 11, 2004) at http://www22.verizon.com/customerhelp/cgi-bin/smarthelp.asp?env=www22&new&kb=consumer&varset_statename=PAE&varset_coast=East&case=27293.

The OCA understands that Verizon's ordinary business hours conclude at 6:00 PM. This is not conducive for consumers to exercise competitive choice. Forcing a consumer to call Verizon during the business day may cause her to call Verizon from her workplace. This may be difficult. It would be better if consumers could simply call Verizon from home during the evening hours in order to lift the LSPF.

IV. Conclusion

The OCA requests that the Commission consider these Comments as it develops final rules governing changes in local service providers.

Respectfully submitted,



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Date: May 18, 2004

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CERTIFICATE OF SERVICE

Re: Proposed Rulemaking Changing Local Service Providers
Docket No. L-00030163

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 18th day of May, 2004.

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A handwritten signature in black ink, appearing to read "Philip F. McClelland", written over a horizontal line.

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May 18, 2004

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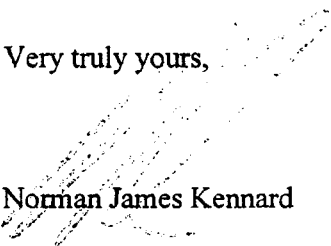
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Re: Proposed Rulemaking—Changing Local Service Providers;
Docket No. L-00030163; **COMMENTS OF THE PENNSYLVANIA
TELEPHONE ASSOCIATION**

Dear Secretary McNulty:

Enclosed please find an original and fifteen (15) copies of the Comments of The Pennsylvania Telephone Association regarding the above-captioned matter. A copy of the Comments is also provided on the enclosed disk as directed by the Proposed Rulemaking.

If you have questions, please do not hesitate to contact the undersigned.

Very truly yours,

Norman James Kennard

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cc: Louise Fink, Law Bureau (Comments and disk)
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Rulemaking--Changing Local Service
Providers

Docket No. L-00030163

**COMMENTS OF THE
PENNSYLVANIA TELEPHONE ASSOCIATION**

I. INTRODUCTION

The Pennsylvania Public Utility Commission ("Commission"), on October 2, 2003, adopted a Proposed Rulemaking Order which sets forth proposed regulations establishing an orderly process for customer migration between local service providers within the telecommunications industry. The Pennsylvania Telephone Association ("PTA")¹ files these comments before the Commission in response to the publication of the Proposed Rulemaking in the Pennsylvania Bulletin on Saturday, April 3, 2004 (34 Pa.B. 1784).

¹ The Pennsylvania Telephone Association is the state's oldest trade organization for the local exchange carrier industry. PTA represents more than 30 telecommunications companies that provide a full array of services over wire line networks. PTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities. As referenced herein, PTA represents its member companies that have not filed comments individually on this topic.

II. COMMENTS²

A. Porting Where Service Is Suspended

§63.206. Porting telephone numbers.

An OLSP may not refuse an otherwise valid request to port a number to a NLSP unless the number is for 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.

Comment: A customer should not be permitted to port his/her telephone number to another LSP where the account is suspended for nonpayment by the current LSP or if there is an outstanding balance owed to the current LSP. A customer may be permitted to obtain service from another LSP if he/she has an unpaid bill with another LSP, but to allow the customer to port the same number after suspension occurs appears to encourage customers to easily jump from LSP to LSP each time they find themselves suspended for not paying a bill.

While the majority of telephone subscribers are good paying customers, there is a percentage of customers who will use this loop-hole to avoid both payment and a continued suspension. Once the number is ported, the opportunity for the old LSP to collect is severely restricted. As a result, there will be an adverse economic impact to both customers and consumers associated with increased write-offs and bad debt.

There is no reason that would rationally justify permitting a customer with past due payments with the telephone company and who has been suspended for nonpayment (after receiving the requisite notices, etc.) to port the telephone number under which the customer failed to pay the charges. Typically, there is no dispute over the amount due and owed or the customer's liability for that amount. In 99% of the cases, the customer is simply declining to pay. The

² For the convenience of the reader, before each Comment the PTA has repeated (or paraphrased) the Interim Guideline (or portion thereof) to which Comments are being made.

customer should not be permitted to escape the suspension by taking the telephone number which is the subject of the suspension to another carrier. The PTA believes that regulations should be consistent -- if a customer's service is suspended or terminated,³ porting the current number to another LSP should not be permitted. The customer should be required to pay off any unpaid balances owed to the old LSP in order to keep his/her same telephone number when migrating service to a new LSP.

The PTA has reviewed FCC regulations regarding wireline to wireline porting and finds no federal policy relating to withholding porting pending resolution of a suspension on an arrearage underlying the suspension.⁴ In the event the Commission feels that the FCC has occupied this field such that it has been preempted, it should not undertake any regulation of this matter. For the reasons set forth above, the Commission should not endorse the FCC's point of view. On the other hand, in as much as there is no FCC regulation found on this point, it is appropriate, the PTA believes, for the Commission to undertake the regulation suggested here by the PTA.

B. CSR Timeframes

§63.204. Standards for the exchange of customer service information.

(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) 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.

(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

³ Unless a suspended customer pays his bill or makes arrangements to pay, he/she usually will be a terminated customer within approximately 15 days of suspension.

⁴ Except as referenced in the Memorandum Opinion and Order providing clarification of Wireless-to-Wireless Porting Issues. *In the Matter of Telephone Number Portability Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, Memorandum Opinion and Order Released October 7, 2003 at 4-6.

by noon of that day, or by noon the next day if requested after noon.

Comment: The PTA supports the Commission's proposed provisions regarding the sharing of customer service records ("CSRs") between the OLSP and the NLSP. The information required is appropriate and the procedures reasonable.

However, the PTA member companies will be unable to comply with the CSR provisioning timetable proposed at § 63.204(f)(3). A maximum standard of 24 hours is the most that should be required and the PTA member companies will commit to meet that standard at the 80% threshold. However, requiring same day or less than 24 hour provision as contemplated at subsection (f)(3) is unreasonable. The PTA member companies, simply stated, do not have the resources to be able to turn around a request that quickly and new personnel hires will be required in order that they be able to do so.

On the other hand, the proposed 24 hour standard is reasonable. No customer could reasonably expect that the information be exchanged sooner than that. There is no basis put forward by the Commission in the order describing why a truncated, quicker provisioning interval is required.

Therefore, the PTA suggests that (f)(3) be deleted and that (f)(2) be revised so that the 24 hour standard becomes effective within twelve (12) months.

C. Interfering Stations

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

(b)(2) If the LSR information is incorrect, the OLSP or NSP shall correct the information and continue with the installation.

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

(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.

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

(e) If the applicant verifies that the address is correct, the prospective NLSP shall explain that new service is not able to be installed using the same facilities due to preexisting 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 prospective NLSP to contact the OLSP to confirm abandoned service.

(2) Attempt to resolve the interfering station condition with the customer of record.

(3) Arrange for the installation of new facilities.

§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.

Comment: For the most part, the PTA supports the interfering station procedures established by the Commission. The PTA offers the following improvements to the interfering station process.

Proposed Section 63.211 requires first that the local service request (“LSR”) issued by the NLSP be reviewed for possible errors before the conclusion is made that an interfering station condition exists. This is a reasonable way to proceed. However, subsection (b)(2) would require, in the event that the LSR is in error, that the OLSP or NSP, neither of whom issued the LSR in the first place, to correct the LSR. The PTA believes that after the collaborative discussions between the NLSP

and OLSP/NSP, it should be the responsibility of the issuing NLSP to correct the information where an error is found in the LSR.

In Section 63.212, as drafted, subparagraphs (c) and (d) should be combined into one subsection and (e) and (f) should be similarly condensed into a single provision, inasmuch as they are part of the same scenario (i.e., the first is the “if” provision and the second is the “then” provision).

Moreover, in Section 63.212(f), in addition to providing proof of ownership, the customer also should be required to prove of identity. Further, subsection (f)(2) should be clarified to reinforce the intention that there be no disclosure of confidential proprietary customer information.

Finally § 63.213 should also be modified, in the caption, to include the requirement that identity also be established in addition to proof of ownership.

Respectfully submitted,

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DATED: May 18, 2004

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May 18, 2004

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The Honorable James J. McNulty
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2004 MAY 19 AM 8:45
SECRETARY'S BUREAU

In Re: Proposed Rulemaking Regarding Changing Local
Service Providers
Docket No. L-00030163

Dear Mr. McNulty:

Please find enclosed for filing an original and four copies of MCI's Comments in response to the above-captioned matter. Please return a time-stamped copy of the Comments to me via the Courier who delivered the filing.

If you have any questions regarding this filing, please do not hesitate to contact me.

Very truly yours,

DALEY, ZUCKER, & GINGRICH, LLC

Kathleen Misturak-Gingrich

KMG/smh
Enclosures

cc: Service list (w/enclosures)
Michelle Painter, Esquire (w/enclosures)

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In Re: Proposed Rulemaking Regarding :
Changing Local Service Providers :
: :
: :

Docket No. L-00030163

AND NOW COMES, MCI WorldCom Network Services, Inc. ("MCI") and offers these comments in response to the Pennsylvania Public Utility Commission's ("Commission or PUC") proposed rulemaking involving changing local service providers, published at 34 Pa.B. 1784, on April 3, 2004.

1. MCI is a competitive local exchange carrier ("CLEC") offering local telephone service to residential and business customers within the Commonwealth of Pennsylvania. At the public meeting held on December 4, 2001, the PUC issued four tentative orders for public comment regarding interim guidelines for jurisdictional local service providers ("LSP") to address updating and revising several of the Commission's regulations which were developed, in large measure, prior to the advent of competition in the provision of local telephone service in Pennsylvania.

2. Thereafter, the PUC issued notices announcing the commencement of four (4) industry collaboratives to develop proposals for regulations to address the four identified areas of concern. Industry notices were served by the PUC and public notice was provided by means of publication in the Pennsylvania Bulletin. Collaborative meetings began in June 2002. MCI participated in the various collaboratives. Subsequently, by PUC Order entered on October 3, 2003, at Docket No. L-00030163, the PUC adopted a Proposed Rulemaking order to amend the

PUC's regulations at 52 Pa. Code Chapter 63, consistent with the order and the recommendations of the collaborative industry participants, the Bureau of Consumer Services and the Law Bureau.

3. The proposed rulemaking was again published in the Pennsylvania Bulletin on April 3, 2004 and said notice requested comments be provided within forty-five (45) days of the date of publication.

4. Accordingly, MCI thereby offers its comments on the proposed regulations.

As an initial matter, MCI supports the Commission's efforts to update its regulations to address the technological and logistical challenges facing jurisdictional telecommunications carriers operating in the competitive local telephone service marketplace in Pennsylvania and the PUC's recognition of the changing telecommunications climate in Pennsylvania.

MCI's specific comments on the proposed regulations follow:

§ 63.203(a)-(c). MIGRATION GUIDELINES and industry work group.

As an initial matter, MCI is concerned about the incorporation of Industry Guidelines into regulations and the confusion which may result to have guidelines as regulations. To avoid confusion, MCI suggests that the Guidelines be removed from the proposed regulations and expressly be labeled as Guidelines for purposes of compliance. It is also confusing to have regulations subject to industry work group decisions that have not yet occurred.

MCI does support the Commission's efforts to develop industry work groups to be responsible for creating and updating the migration guidelines and addressing issues associated with local service provider migrations as industry practices change. MCI, as a major CLEC in Pennsylvania, desires to participate in the industry work group and to provide support and recommendations from the CLEC perspective.

MCI notes that it is critical that the Commission establish these work groups as soon as possible. With respect to migrating customers from one unbundled loop provider to another, there is a substantial amount of work that needs to be done to permit that process to flow smoothly. MCI recommends that the Commission specifically include loop-to-loop migrations as part of the industry work groups, and require CLECs and ILECs to develop procedures to address the myriad of issues concerning such migrations by a date certain. The Commission should also ensure that any staff reports and/or Commission orders required to adopt industry work group consensus items, and even disputed items are issued within a short and established time frame. This industry work group process, however, should remain separate from regulations and should be part of Commission guidelines more finalized rules are established.

§ 63.204. STANDARDS FOR THE EXCHANGE OF CUSTOMER SERVICE INFORMATION.

MCI believes that this regulation should not discuss the exchange of customer service “information” but rather it should specifically discuss the exchange of customer service “records” (“CSR”). MCI requests this clarification because the CSRs are the mechanism by which the customer service information is actually exchanged between a new local service provider (“NLSP”) and an old local service provider (“OLSP”). Without this clarification in the proposed regulation, MCI is concerned that confusion may develop respecting the exchange of customer service information by means other than the CSRs. MCI believes this clarification is essential to the smooth and efficient transition of information, by utilizing established industry information exchange methodologies.

With respect to § 63.204(e), which lists the information which shall be included on the CSR, MCI requests that Circuit IDs be added to make certain that all information required to effect a smooth and efficient transition of the customer's local service is contained on the CSR.

§ 63.205. REMOVAL OR LIFTING OF LOCAL SERVICE PIC FREEZES ("LSPF").

MCI provides local service freezes to local service customers in Pennsylvania and believes that the regulation should be clarified to reflect that the customer service records ("CSR") of all LSPs must clearly indicate on the CSR the existence of an LSPF on the customer's account. In this fashion, the existence of the LSPF is clearly noted on the customer records to be exchanged between the carriers and the LSPs can react accordingly once the information is made available.

Further, subsection (a) should be clarified. The customer does not physically remove the freeze – the OLSP must place the order to remove the freeze. The customer must first authorize the removal of the local freeze from his/her account with the OLSP. At that point, the OLSP must place an order with the NLSP to remove the freeze. The regulations should state that an OLSP must place an order to remove the freeze within twenty-four (24) hours of receiving a request from the customer. No carrier shall remove any freezes without first receiving an order to remove such freeze from the OLSP. Further, the rules should clearly state that it is a violation of the regulations to transfer the customer's service until the local freeze has been properly removed pursuant to this Section.

These clarifications are necessary because MCI has experienced problems with Verizon removing local service freezes and transferring MCI customers to Verizon without first receiving an order from MCI to remove the freeze. It is MCI's position that Verizon should be required to modify its systems such that Verizon automatically receives a reject and cannot physically

transfer a customer from MCI to Verizon if that customer's local freeze has not first been removed by MCI. When MCI places an order to obtain a Verizon customer, MCI's order will reject if that customer has a local freeze on his/her account and MCI cannot physically obtain that customer until the freeze is lifted through Verizon's systems. On the other hand, because of Verizon's control over the network with UNE-P customers, Verizon is able to remove the local freeze even without receiving an order from MCI. That situation creates serious parity concerns, and also creates concerns of Verizon unlawfully removing freezes and transferring customers without first ensuring that such freeze was lifted by the old local service provider.

§ 63.207. DISCONTINUANCE OF BILLING.

MCI concurs with the PUC's well stated intention to prevent overlap or duplication in billing during the migration process between LSPs. However, the proposed regulation at § 63.207(b) requires the OLSP, within 42 days of the date on which the prospective NLSP requested to migrate the customer's service, to issue a final bill to the customer. This section fails to recognize the necessity to receive notice from Verizon when a UNE-P customer has transferred away from MCI. Specifically, in order for MCI to know that a customer has transferred its service to another carrier, MCI must first receive a line loss notice from Verizon. Until MCI receives that line loss notice, there is no way for MCI to know that the customer has transferred away from MCI and, therefore, that billing should cease.

MCI is concerned that there will be situations in which a line loss report has not been timely received. This deficiency may prevent the OLSP from issuing the bill in a timely fashion under the proposed regulation. Therefore, to eliminate any possible problems with compliance, MCI suggests that the 42 days be triggered from the date of receipt of either the customer's

request or the receipt of the line loss notice, whichever comes later. In this fashion, the OLSP has the proper authorization to terminate the service and issue the final bill.

§ 63.211. DUTIES OF OLSP's and NSP's WHEN AN INTERFERING STATION CONDITION IS IDENTIFIED.

MCI requests that the Commission eliminate the interfering station process delineated in this section. The process in this section to address interfering stations is not a process or procedure that has been tried and tested in the industry. On the other hand, MCI has worked closely with Verizon Pennsylvania, Inc. ("Verizon") for the past several years to develop a process to be used by both parties whenever an interfering station situation is encountered. MCI has provided an attachment to these comments showing the MCI/Verizon process. Both parties have worked cooperatively to develop the process, and to modify it when required to ensure that interfering station situations are addressed promptly and efficiently.

As this Commission is well aware, it is not that often that MCI and Verizon are able to work so closely to develop a procedure that works for both parties. If required to adopt the PUC's proposed process, MCI and Verizon would have to make substantial modifications to implement an unproven process that has never been tested or implemented. There is no reason to require MCI and Verizon to abandon a process that both parties agree works in order to adopt a process that no party in the industry has ever used or tried. MCI requests that the Commission not establish a set process that parties are required to adopt, but instead permit the parties to either use procedures that have already been developed, or to work together to develop new procedures.

As an alternative, the PUC could give carriers the option to either adopt the Commission's recommended process, or to utilize procedures that have been successfully tested

and developed in the industry such as the MCI/Verizon process. Realistically, it is not necessary to require a specific process where existing processes are already in place, but certainly allowing a carrier to choose between either the PUC's recommended process or to adopt the MCI/Verizon process (or another proven process) is an equitable alternative. However, it is critical that the Commission give the parties flexibility to continue modifying and tweaking their procedures should the parties determine that a better methodology is available, or that changes to the process are necessary. MCI and Verizon have often made changes to their procedures as different situations in the business world develop. The parties should not be constrained by regulation from making such positive changes. If parties cannot agree on a process to address interfering stations, the Commission should permit the parties to bring such a dispute to the Commission via the alternative dispute resolution process.

§ 63.214. DUTIES OF THE PROSPECTIVE NLSP WHEN THE OLSP IS UNABLE TO RESOLVE THE INTERFERING STATION CONDITION AT THE APPLICANT'S SERVICE LOCATION.

MCI submits that with respect to the regulation proposed at § 63.214(b)(1), in the event that the prospective NLSP informs the applicant that neither the prospective NLSP, the OLSP nor the Commission is responsible to resolve private disputes between customers and applicants, and in the event that a formal complaint is filed against a carrier as a result of that notification, the Commission should decline to entertain such a customer complaint. Otherwise, the carriers are prejudiced by the need to expend valuable, yet limited, company resources, as well as be required to be represented by Counsel for what is essentially an unjustifiable and unwarranted complaint for which the Commission has no available remedy. Therefore, MCI requests that the regulation direct the Commission to reject these types of complaints in the first instance and not

cause the companies to have to incur additional, and unnecessary, costs and expenses to defend them.

§ 63.221. CONSUMER COMPLAINT PROCEDURES.

With respect to consumer complaints, MCI suggests that an additional section dealing with consumer complaint procedures is unwarranted, unnecessary, and duplicative of existing regulations. In essence, the Commission already has regulations addressing consumer complaints, handling of consumer complaints, records keeping requirements with respect to consumer complaints, etc. and the proposed regulations are cumulative and unnecessary. As such, MCI suggests that the Commission change the proposed regulation to make clear that the existing consumer complaint procedures as set forth in the Commission's existing regulations are equally applicable to consumer complaints involving the change of local service providers.

To the extent that the Commission makes any changes to the formal complaint process, MCI recommends that the Commission notify customers when filing complaints, and before serving such complaints on the utility, that Commission regulations and Pennsylvania state law do not permit the Commission to grant the complainant any monetary remedy. Based on MCI's experience, Pennsylvania has more formal complaints than any other state in the country. Many times, these formal complainants are requesting remedies that cannot be granted by the Commission. Customers often are not aware that the filing of formal complaints at the Commission cannot lead to their receipt of money from the utility. Even if MCI were to file a motion to dismiss the complaint, or to ultimately prevail in the complaint, MCI is still required to expend considerable resources and money to defend these complaints.

Further, to the extent that a complainant has violated a previously Commission-ordered payment arrangement (established through the Bureau of Consumer Services), the Commission

should not permit the complainant to file a formal complaint requesting to establish a new payment arrangement. This process leads to substantial arrearages as the complainant often refuses to pay while complaints are pending. While the Commission can order that the complainant provide “make up” payments, this often does not assist either party as the complainant is not able to realistically make such large payments.

Similarly, if the customer is no longer an MCI customer, the Commission should not permit formal complaints to be filed to establish payment arrangements as the Commission has no jurisdiction to establish payment arrangements for former customers.

§ 63.222. EXPEDITED DISPUTE PROCESS.

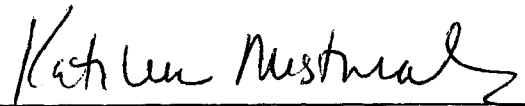
MCI supports the Commission’s proposal to provide a non-adversarial, expedited dispute process to address migration disputes between carriers. In this fashion, misunderstandings and disputes among industry participants can be resolved in an efficient and less costly process, that conserves the industry’s as well as the Commission’s resources.

CONCLUSION:

MCI appreciates the Commission’s efforts in clarifying and updating regulations with respect to changing local service providers and anticipates that the Commission will give due consideration to the important changes and considerations raised by MCI in these comments.

Respectfully submitted,

DALEY, ZUCKER & GINGRICH, LLC



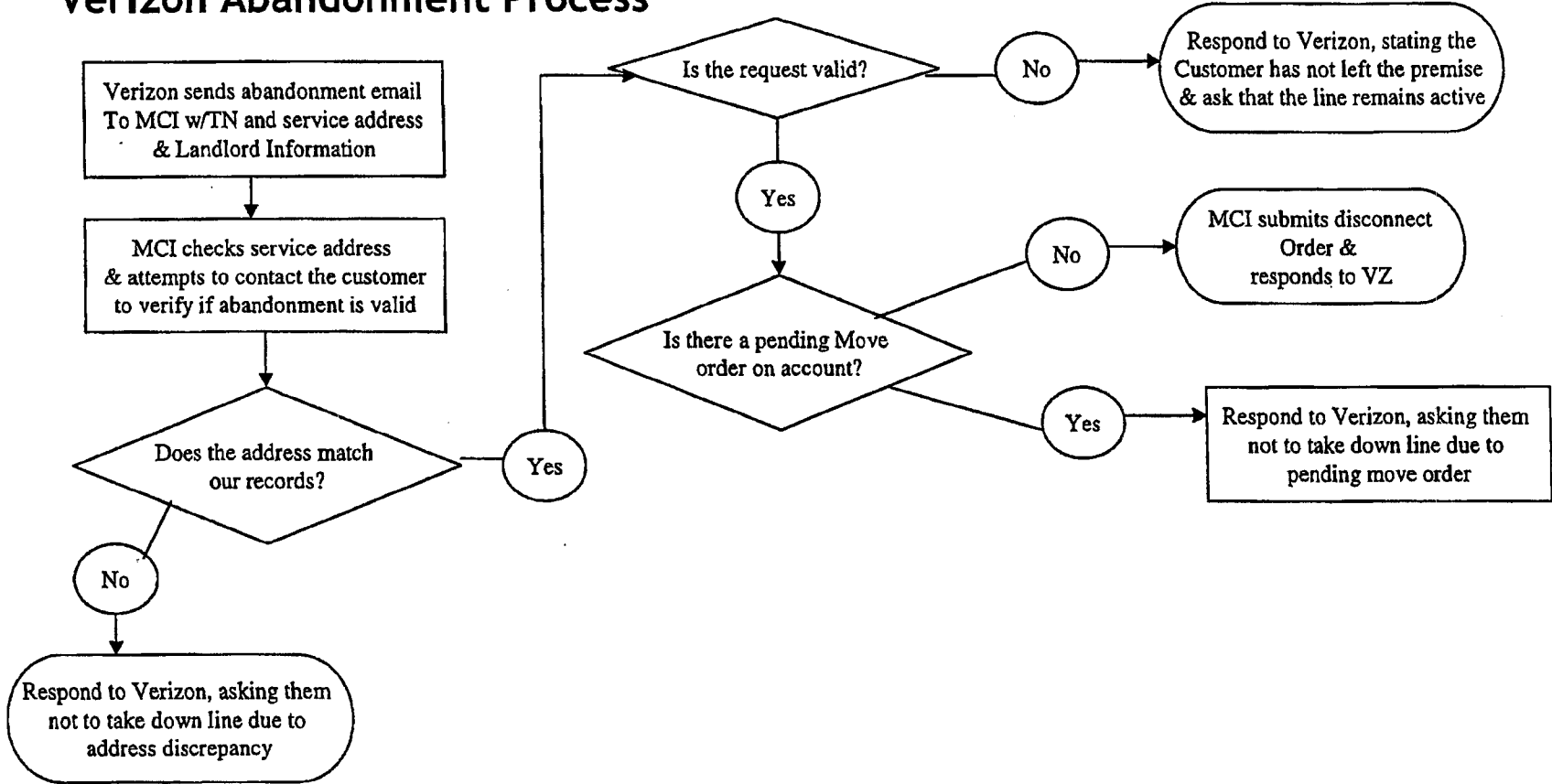
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Date: May 18, 2004

Counsel for MCI Network Services, Inc.

Verizon Abandonment Process



MCI has 3 business days to research and respond with actions taken. On the 4th day Verizon will disconnect the line unless there is a pending Move order. If there is a pending Move order, MCI has 5 business days

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of May, 2004 caused a true copy of the attached Comments to be served upon the parties of record in the above-referenced docket, in accordance with the requirements of 52 Pa. Code §§ 1.52 and 1.54 in the manner and upon the parties listed below:

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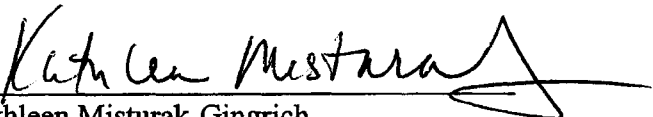
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May 19, 2004

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

Dear Chairman McGinley:

Re: Proposed Rulemaking Changing Local Service Providers Docket No. L-0030163

Please find enclosed a copy of Verizon's Reply Comments that were filed with the Public Utility Commission May 18, 2004 regarding the above proposed regulation.

We appreciate your consideration as it goes into final form and, as always, the assistance we receive on all regulations is most appreciated.

Sincerely,

A handwritten signature in black ink that reads "RF Weigel".

Attachment

Daniel E. Monagle
Assistant General Counsel
Pennsylvania



2004 MAY 19 PM 2:40

REVIEW COMMENTS

May 18, 2004

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VIA UPS OVERNIGHT DELIVERY

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Propose Rulemaking – Changing Local Service Providers,
Docket No. L-00030163

Dear Mr. McNulty:

Enclosed please find an original and fifteen (15) copies of the Comments and Proposed Regulation Changes of Verizon Pennsylvania Inc. and Verizon North Inc. in the above-captioned proceeding.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Daniel E. Monagle". The signature is fluid and cursive, with a long horizontal line extending to the right.

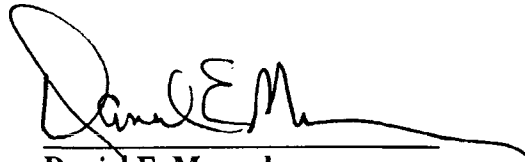
Daniel E. Monagle

DEM/meb

Enclosure

Via Electronic Mail
cc: Louise Fink Smith
Attached Certificate of Service

I certify that, on the 18th day of May 2004, I caused copies of the foregoing Comments and Proposed Regulation Changes of Verizon Pennsylvania Inc. and Verizon North Inc. to be served upon the parties on the attached service list by electronic mail.



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Rulemaking -- :
Changing Local Service Providers : **Docket No. L-00030163**

**COMMENTS OF VERIZON PENNSYLVANIA INC.
AND VERIZON NORTH INC.**

Verizon Pennsylvania Inc. and Verizon North Inc. (“Verizon”) appreciate the opportunity which the Commission afforded Verizon and other interested parties in the collaborative that preceded the issuance of these Changing Local Service Provider regulations to shape the content of the regulations. As with the Local Service Provider Abandonment proposed regulations which were concurrently issued following another parallel collaborative, these regulations reflect a consensus of ILECs, CLECs and other parties on most of the myriad issues addressed in the regulations. Accordingly, Verizon PA will have only limited comments on these regulations.

A. NLSPs Cannot Be Agents for Lifting LSPFs.

The proposed regulation for Local Service Provider Freeze (LSPF) lifting states at Section 63.205(c) that Local Service Providers (LSPs) “shall provide various methods to customers for lifting freezes, as required by the Commission or the Federal Communications Commission.” Section 63.205(a)(2) provides that the applicant “or appropriate agent” shall contact the Old LSP (OLSP) to have the LSPF lifted. While the regulation itself does not specify who such an “appropriate agent” might be, the promulgating Order in its discussion of this section concludes that the New LSP

(NLSP) can be such an agent. Order at §63.205. But such an interpretation runs squarely afoul of FCC freeze lifting rulemaking orders and associated regulations that make clear that local freeze lifting at the OLSP generally must be done directly by the NLSP applicant himself, and that this is not a responsibility that the applicant can delegate by any type or oral or written authorization to the NLSP. The reason for this prohibition on NLSP agency in the LSPF-lifting arena is obvious: it is a “bad” (i.e., slamming) NLSP that the FCC’s strict LSPF-lifting requirement is designed to protect a customer with an LSPF against, and therefore blanketly permitting any NLSP to claim that it has an applicant LSPF-lifting authorization would largely vitiate the LSPF protection.¹ The Commission should not sanction a rule, or rule interpretation that cites the promulgating Order, that is at odds with federal law in the area of LSPF lifting.

Suggested regulation revisions that would avoid this conflict and clarify that NLSPs cannot be agents for lifting their applicants’ LSPFs are set forth in Attachment B hereto.

¹The promulgating Order (at fn. 17) correctly cites the “subscriber” definition in the FCC Rules at 47 CFR Sec. 64.1100(h) to include “any person contractually or otherwise lawfully authorized to represent” the party “responsible for payment of the telephone bill.” While this provision might authorize typical subscriber representatives (e.g., relatives with power of attorney) to lift a LSPF with the OLSP as part of shifting the subscriber to a NLSP, the FCC is very explicit in its LSPF-lifting orders and rules that the LSPF-lifting cannot be done by the NLSP even with some sort of third-party verification (such as the “.wav file” MCI suggested in an underlying collaborative). A detailed analysis of the pertinent FCC orders and rules that prevent NLSPs from engaging in LSPF-lifting with or without the customer’s authorization was presented by Verizon in the collaborative and is set forth in Attachment A hereto.

B. The Commission Should Place the Interfering Station Procedure in the Migration Guidelines.

During the collaborative, Verizon PA proposed a detailed interfering stations procedure that was based on a lengthy and still continuing trial between Verizon PA and MCI in Pennsylvania. That trial through March 2004 has been extraordinarily successful, resulting in only two erroneous disconnects since June 2001 out of 8,867 interfering station conditions (success rate of 99.98%). The MCI/Verizon PA procedure imposes specific obligations on NLSPs to contact landlords, do property deed searches and contact taxing authorities as necessary to help promptly clear interfering stations conditions. Faced with opposition from the majority of other parties to these measures, the Commission declined to adopt them in the proposed regulations on the ground that they are too burdensome and go beyond a utility's traditional role in the application process. Promulgating Order at §§63.301-63.304. The downside of proposing a less stringent procedure is that some applicants in interfering station situations will face delays of two weeks or more in getting their service installed or will have to incur the costs of installing a new line to avoid such a delay.

While Verizon PA does not again ask that the MCI/Verizon PA interfering station procedure be adopted as the rule binding all OLSPs and NLSPs, Verizon PA does request that the Commission consider not adopting any rule in this area and instead direct that the procedure now proposed in the regulations be instead incorporated in the Migration Guidelines referenced in Section 63.203. Placing this procedure in the Guidelines developed and updated by the industry will permit flexibility in adapting and fine tuning the procedure with experience. Moreover, the industry is beginning

to examine the problem of interfering stations on a regional basis in the CLEC User Forum (CUF). To the extent a uniform industry solution spanning numerous jurisdictions is arrived at, it will be much easier to modify the Guidelines to reflect this solution than to amend the Commission's regulations locking in one specific procedure.²

A proposed regulation language change to accomplish this result is set forth in Attachment B hereto.

C. The Timetables for Providing CSRs
and LSR Responses Should Be Revised.

The dramatic increase in local competition and rising customer expectations of speedy LSP changes since the underlying collaborative here occurred starting in 2002 call for migration process intervals that may have seemed reasonable back in 2002 to be reexamined. More specifically, Section 63.202 now permits a NSP to take up to 5 working days to provide a Local Service Confirmation (LSC) after it receives a valid LSR. Verizon proposes that this interval be reduced to 48 hours, and after one year to allow time for increased mechanization, to 24 hours.³ Similarly, in Section 63.204(f), OLSPs are required to provide 80% of Customer Service records (CSRs) to NLSPs in a step-down over one year from 48 hours to the same or next day after the OLSP request is received. Verizon proposes that all CSRs be provided within 2

² The Guidelines are the "nitty-gritty" substrata of detailed procedures governing carrier interactions in at least 16 identified LSP customer migration scenarios. Since Section 63.203(a) mandates that all LSPs and NSPs follow the Migration Guidelines, it is of course essential that the Commission promptly reconvene the industry and other interested parties to finalize the Guidelines as quickly as possible and not later than the effective date of these regulations referencing them.

Regardless of whether the Commission opts to retain the interfering station procedure in the final-form regulations or move it to the Migration Guidelines, Verizon proposes that a few minor clarifying changes be made to the procedure. These suggested changes are set forth in Attachment B hereto.

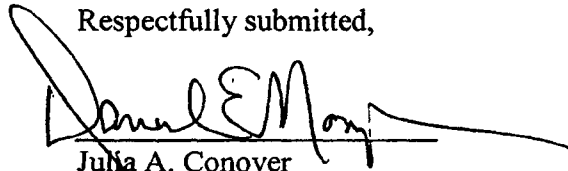
business days initially and within 1 business day after 6 months, unless the OLSP has a legitimate reason for needing more time, such as having to produce business customer CSRs that are complex and/or numerous. For these limited exceptions, the OLSP and new NLSP will negotiate a date for the OLSP's provision of the CSR.

Suggested regulation language revisions that make these changes are set forth in Attachment B hereto.

CONCLUSION

For the foregoing reasons, Verizon respectfully requests that the Commission adopt the amended language set forth in Attachment B in promulgating its final-form regulations.

Respectfully submitted,



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Dated: May 18, 2004

³Since Section 63.203 makes reference to a "valid LSR," Verizon also recommends that the words "or rejection" be deleted in this section.

ATTACHMENT A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

LOCAL FREEZE COLLABORATIVE

Docket No. C-00015149F0002

**VERIZON COMMENTS ON .WAV FILE AND LOA FREEZE
LIFTING AND THE FCC DEFINITION OF "SUBSCRIBER"**

Verizon's opposition to WorldCom's and other parties' proposals for the use of .wav files and/or letters of authorization/agency (LOAs) springs from FCC orders and rules. These orders and rules make clear that freeze lifting can be done only by direct contact between the subscriber and the executing carrier, and they expressly rule out freeze lifting by the carrier change submitting carrier.

In a 1998 order, the FCC stated that "[b]y definition, preferred carrier freezes create an additional step (namely, that subscribers **contact directly the LEC** that administers the preferred carrier freeze program) that customers must take before they are able to obtain a change in their carrier selection."¹ The FCC further stated that a written and signed authorization from the subscriber to the executing LEC, which it approved as a freeze lifting mechanism, "is clearly consistent with the purpose of the preferred carrier freeze because it permits the subscriber to **notify the LEC directly** of her or his intention to lift a preferred carrier freeze."² The FCC also noted that three-way calls, like two-way

¹*Implementation of the Subscriber Carrier Selection Change Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order, Order released Dec. 23, 1998, para. 114 (emphasis added). NOTE: This paragraph 114 was mislabeled as paragraph 115 in the Verizon "direct contact" position email the Law Bureau circulated to the Collaborative on November 30, 2001.

calls which it also authorized for freeze lifting, establish “**direct contact** between the LEC and the subscriber.”³

In a 2000 order the FCC hammered home its requirement of direct subscriber contact with the executing carrier for freeze lifting, and expressly ruled out any submitting carrier or TPV as a middle man in this process. More specifically, the FCC reaffirmed that only a subscriber can lift a freeze, and that he or she must do so through **contact** with the executing carrier.⁴ It also expressly ruled that carrier change submitting carriers (including their TPV agents) are prohibited from submitting preferred carrier freeze lift orders to executing carriers, even if those lift orders are first verified by a neutral third party. The FCC found that prohibiting such carrier-submitted freeze lifts and limiting the submission of freeze lift requests to subscribers would preserve the protective effect of the freeze (which is derived from the requirement for direct communication between the customer and the executing carrier to lift the freeze), curb the potential for abuse by slamming carriers, and avoid undermining the effectiveness of freezes.⁵

Against this backdrop of clearly delineated orders and rules, and after having argued for and lost at the FCC having TPV carrier change authorizations suffice for

²*Id.* at para. 127 (emphasis added). It is also consistent with the FCC’s freeze rule which requires that a freeze lifting subscriber give “the carrier from whom the freeze was requested his or her express consent.” 47 C.F.R. Sec. 64.1190(a).

³ *Id.* (emphasis added). The FCC emphasized that “the essence of the preferred carrier freeze is that a subscriber must specifically communicate his or her intent to . . . lift a freeze.” *Id.* at para. 130.

⁴*Implementation of the Subscriber Carrier Selection Change Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket No. 94-129, Third Report and Order, Order released Aug. 15, 2000, paras. 69-70.

⁵*Id.* at paras. 70-71.

lifting any associated freezes the customer might have,⁶ WorldCom is now pushing a TPV variant it calls "Electronic Authorization," which would extend the carrier change TPV contact⁷ to record the subscriber's consent (with some verifier) to having any associated freeze lifted and then make a .wav file of the recording available to the executing carrier via an email attachment or on the Internet. While the .wav file is all gussied up by WorldCom in a vain attempt to make it appear to be a direct communication between the subscriber and the executing carrier, with WorldCom's TPV akin to the U.S. Postal Service delivering a written, signed freeze lift authorization from the subscriber to the executing carrier,⁸ it would be nothing of the sort. The .wav file would reflect direct communication only between the TPV and the subscriber. Making that .wav file available to the executing carrier via a second (email) communication or on a website somewhere would at best be a second-hand indirect communication coming not the subscriber, but from WorldCom's TPV. As such, it would plainly run afoul of the FCC's requirements that freeze lifting requests come to executing carriers directly from subscribers, and not from or through submitting carriers or their TPVs, even with verification. It is for this reason, among others,⁹ that to Verizon's knowledge

⁶*Second Report and Order* at para. 130.

⁷While not specifically addressing TPV freeze lifting contacts, the FCC did prohibit TPVs from discussing the submitting carrier's freezes during the TPV contact, noting, *inter alia*, that "incorporating information about preferred carrier freezes into the verification script is likely to be confusing to subscribers and would prolong the verification process unnecessarily." *Third Report and Order* at para. 42.

⁸This is a blatantly false analogy. The USPS, unlike WorldCom and its TPV agent, is not competing with the recipient of the letter for the telephone business of the subscriber covered by the letter and accordingly has no incentive to skew the freeze lifting process for its own competitive advantage. See *Third Report and Order* at para. 71 for discussion of some of the competitive concerns cited by the FCC in keeping carriers and TPVs out of the freeze lifting process.

⁹WorldCom blithely assumes that watching the .wav's roll in would be just another day at the beach for Verizon and other executing carriers. However, listening to the recordings would require Verizon and presumably other carriers as well to devote people and special equipment to this task, which

WorldCom's "Electronic Authorization" proposal has not been approved by any commission in the country.

For the same reasons a .wav file freeze lift request is not authorized by the FCC, neither is a freeze lift request by a submitting carrier or TPV that purports to be supported by an LOA from the subscriber authorizing the carrier to lift the freeze on the subscriber's behalf. Under the FCC orders and regulations, the carrier or TPV cannot lift a freeze by LOA or otherwise. The subscriber himself must directly contact the requesting carrier and ask that the freeze be lifted. The inability to use LOAs for freeze lifting is made clear in the FCC's rules, where LOAs are expressly permitted in connection with making preferred carrier changes¹⁰ but are not included in the rule listing freeze lifting methods.¹¹ The latter omission was purposeful; the FCC did not want submitting carriers or their agents to circumvent the subscriber direct contact requirement that lies at the heart of the freeze protection by using an LOA to eliminate that direct contact.

Finally, the very expansive reading of the FCC's rule definition of "subscriber"¹² that some parties have urged in the Collaborative in arguing for the legality of submitting carrier/TPV LOAs from subscribers to lift freezes is unsupported by the FCC rulemaking record. The extensive discussion of this definition in the *Third Report and Order* (at

for Verizon would require a substantial amount of time and money. Inevitably, some recordings would be garbled or inaudible, and thus additional time would be lost in trying to decipher them, or ultimately in obtaining replacement recordings. Even if this mechanism were legal, which it is not, its efficacy is questionable.

¹⁰47 C.F.R. Sec. 64.1160.

¹¹*Id.* at Sec. 64.1190(e).

¹²"Subscriber" has been defined in 47 C.F.R. Sec. 64.1100 as "[t]he party identified in the account records of a common carrier as responsible for payment of the telephone bill, any adult person authorized

paras. 46-52) makes crystal clear that the ambit of the definition was designed to include persons who controlled the entire telephone account either informally (e.g., adult household members) or formally (guardians, caretakers, business telecommunications vendors, etc., pursuant to powers of attorney or other written authorizations), and does not extend to submitting carriers or their TPV agents in a freeze lifting (or even initial placement) context. Attempting to read the definition so overbroadly would permit submitting carriers to obtain overbroad LOAs from subscribers granting them complete control over the subscribers' accounts for freeze lifting and other purposes and vitiate the carefully crafted regulatory scheme the FCC has put together in the freeze area.

In summary, under the FCC's orders and rules (including its definition of "subscriber"), .wav files or LOAs from submitting carriers or their TPV agents are not permitted to lift freezes. Even if they were legal, they would not be needed since Verizon PA's proposed 24/7 website for freeze lifting, combined with the other lifting methods it already offers, should be more than adequate to handle its and resellers' freeze lifting for the foreseeable future.

Respectfully submitted,

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by such party to change telecommunications services or to charge services to the account, and any person contractually or otherwise lawfully authorized to represent such party."

ATTACHMENT B

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 63. TELEPHONE SERVICE

Subchapter M. CHANGING LOCAL SERVICE PROVIDERS

GENERALLY

Sec.

- 63.191. Statement of purpose and policy.
- 63.192. Definitions.

MIGRATION

- 63.201. General migration standards.
- 63.202. Migration responsibilities of NLSPs and NSPs.
- 63.203. Migration guidelines and industry work group.
- 63.204. Standards for the exchange of customer service information.
- 63.205. Removal or lifting of LSPFs.
- 63.206. Porting telephone numbers.
- 63.207. Discontinuance of billing.
- 63.208. Carrier-to-carrier guidelines and performance assurance plans.

INTERFERING STATIONS

- ~~63.211. Duties of OLSPs and NSPs when an interfering station condition is identified.~~
- ~~63.212. Duties of the prospective NLSP and the applicant when an interfering station condition is identified.~~

~~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.~~

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

DISPUTES

63.221. Consumer complaint procedures.

63.222. Expedited dispute process.

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 customers can migrate from one LSP to another LSP without confusion, delay or interruption to their basic service.

(b) This subchapter applies to:

(1) LSPs and NSPs for migration of 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 who applies for telephone service, other than a transfer of service from one dwelling to another within the service area of the LSP or a reinstatement of 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 service that do not contradict Commission rules or regulations.

*CSR--Customer service record--*Documentation indicating the customer's name, address, contact telephone number, quantity of lines, services, features 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" or "xDSL."

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

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

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

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 for purposes other than lifting the customer's LSPF.

(ii) The term is used to indicate a specific document signed by a customer granting a new LSP the authority to act as the customer's agent for purposes other than lifting the customer's LSPF.

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.

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) NLSP indicates "new" LSP, and OLSP 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 NLSP's or other -third party's ability to change a customer's choice of preferred LSP.

LSR--Local service request--Document issued by LSPs to NSPs to arrange for installation of, change in or disconnection of 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 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 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.

*NSP--Network service provider--*A carrier 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.

OLSP--Old local service provider.

*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.

*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.

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.

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

(e) The OLSP may not prohibit the NLSP from reusing facilities that are no longer needed by the OLSP to provide service to the migrating customer or other customer. If the OLSP has a conflict

over the use of the facilities, it shall be resolved using the interfering station procedure.

(f) Each LSP shall ensure that its 9-1-1 and Directory Listings/White Pages databases are accurate, accessible and updated as appropriate.

(g) Each LSP and NSP shall maintain a company contact and escalation list for use in resolving migration problems and interfering station conditions. LSPs and NSPs shall 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 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.

(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) For one year after the effective date of this section, the NSP shall issue an LSC or rejection within 5 working days from the date it receives 48 hours after its receipt of a valid LSR from the prospective NLSP. Thereafter, the LSC shall be issued within 24 hours

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

§ 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.

§ 63.204. Standards for the exchange of customer service information.

(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 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 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 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 (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 a CSRs, minimum requirements:

(1) For the first six months after the effective date of this rule, and subject the exception in subsection (3), By _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal), an OLSPs shall provide 80% of requested a CSRs within 48 hours two business days after it is requested.

(2) After six months from the effective date of this rule, and subject the exception in subsection (3), After _____ (Editor's Note: The blank refers to a date 6 months after the effective date of adoption of this proposal), an OLSPs shall provide 80% of requested a CSRs within 24 hours, one business day after it is requested.

(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 the next day if requested after noon. Where the OLSP cannot meet the applicable deadline in subsections (1) and (2) due to the complexity of the requested CSR or any other reasonable cause, the OLSP shall notify the NLSP of that fact within one business day after the CSR is requested. The OLSP and NLSP shall then negotiate a reasonable due date for the OLSP's provision of the CSR.

§ 63.205. Removal or lifting of LSPFs.

(a) The 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 LSPF must be removed before the OLSP may process the prospective NLSP's request for a change of the customer's LSP.

(2) The applicant or ~~appropriate~~authorized agent other than the prospective NLSP shall contact the OLSP to have a LSPF lifted before an order to migrate the service may be processed.

(3) A prospective NLSP may not authorize the removal of an applicant's LSPF with or without the applicant's authorization to do so.

(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 shall provide various methods to customers for lifting LSPFs, as required by the Commission or the Federal Communications Commission.

§ 63.206. Porting telephone numbers.

An OLSP may not refuse an otherwise valid request to port a number to a NLSP unless the number is for 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.

§ 63.207. Discontinuance of billing.

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

(b) Upon notification from the 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.

(d) The OLSP shall stop billing the customer for any recurring charges as of the date of the 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.

§ 63.208. 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, the carrier-to-carrier guidelines or performance assurance plan shall control for that LSP or NSP.

Verizon's principal proposal is that the Commission remove Sections 63.211 through 63.214 from the regulations and direct that the interfering stations procedure set forth in these provisions be incorporated into the industry-maintained Migration Guidelines referenced in Section 63.203. Regardless of whether the Commission opts to retain the interfering station procedure in the final-form regulations or move it to the Migration Guidelines,

Verizon proposes that a few minor clarification changes be made

to the procedure.]

[INTERFERING STATIONS

§ 63.211. Duties of OLSPs and NSPs 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 service at the service location.

(2) If the LSR information is incorrect, the OLSP or NSP shall correct the information and continue with the installation.

§ 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 service at the service location within 1 business day of the date it 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.

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

(e) If the applicant verifies that the address is correct, the prospective NLSP shall explain that new service is not able to be installed using the same facilities due to preexisting 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 prospective NLSP to contact the OLSP to confirm abandoned service.

(2) Attempt to resolve the interfering station condition with the customer of record.

(3) 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 application.

§ 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.

(a) Within 3 business days of such 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 mailing of the notice by first class mail.

(b) If ~~thereit~~ is not contacted from by the customer of record by the termination date, the OLSP shall terminate the customer's service, remove the customer 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:

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

(3) 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 complaint procedures.

(a) *Records of complaints.* A service provider covered by or operating under this title shall preserve written or recorded complaints showing the name and address of the subscriber 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 decision or explanation, the service provider 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--64.182 for residential service.

(c) *Investigations.* Upon 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. When complaints are referred to the service provider through the Commission, the service provider and the Commission will work to process and resolve the complaints. A service provider shall make a full and prompt investigation of complaints made to it through the Commission by the applicant, customer or third party.

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

§ 63.222. Expedited dispute process.

(a) The Commission will provide a nonadversarial, expedited dispute process to address migration disputes. The Commission will designate 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.

(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 or formal dispute resolution processes.

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

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May 18, 2004

BY OVERNIGHT MAIL

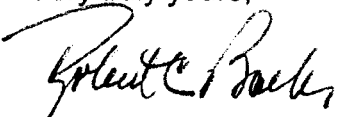
James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Proposed Rulemaking –
Changing Local Service Providers
Docket No. L-00030163

Dear Mr. McNulty:

Please find enclosed for filing in the above-captioned matter the original and fifteen (15) copies of the Initial Comments of AT&T Communications of Pennsylvania, LLC. Also enclosed is a diskette containing an electronic version of those Comments.

Please do not hesitate to contact me with any questions regarding this submission.

Very truly yours,

Robert C. Barber

Enclosures

cc: (w/ enclosure and diskette)
Louise Fink Smith, Esq.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PROPOSED RULEMAKING –
CHANGING LOCAL SERVICE PROVIDERS**

Docket No. L-00030163

**INITIAL COMMENTS OF
AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC.**

However well intentioned in its inception, this proposed rulemaking is an example of a bad solution in search of an unproven problem. Indeed, and paradoxically, if adopted in their current form the proposed regulations would actually engender problems in a voluntary migration process that currently appears to be operating well.

As a predicate matter, this rulemaking is clearly premature. There is no record of any systemic, widespread difficulties resulting from the migration of customers from one CLEC to another that would necessitate formal and strict regulation of that process at this time. That is plainly a function of the nascent state of competition in the local exchange market. Indeed, it appears that those CLEC-to-CLEC migrations that are now occurring are being processed without demonstrable difficulties in accordance with voluntary interim processes. There thus does not appear to be an overriding and immediate need to set those processes in regulatory concrete.

Indeed, any effort to formalize the process through the establishment of regulations –with attendant enforcement provisions and penalties – will undoubtedly fail to account for the emerging and evolutionary state of local exchange competition in the Commonwealth. This evolution can be seen in the Order proposing the rule itself. There, the Commission notes Verizon's proposal in last year's collaborative meetings to use New York migration guidelines as a foundation for similar rules in Pennsylvania. Developments since that time, however, have shown those New York processes to be unsound. In the meantime,

other parties, including AT&T, have been considering the development of comprehensive guidelines in national fora, such as the OBF working group.

In short, there is no good reason to proceed with the development of final rules now. In contrast, there are a number of reasons not to adopt these particular proposed regulations. As AT&T describes below, the proposed rules are flawed in myriad and fundamental respects.

Chief among those flaws is Section 63.203. Under that rule, local service providers would be required to comply with a set of Migration Guidelines that are to be developed outside of the formal rulemaking process. Stated another way, this section not only makes it a rule to follow a guideline, but it makes it a rule to follow a guideline that does not yet exist, and that will be developed by an undefined industry work group in a manner that bears none of the hallmarks – including none of the due process protections – of a rulemaking.

This is plainly improper. The Commission cannot delegate its authority to an industry group in this manner. And even if it could, the due process problems posed by a procedure that requires every industry participant to follow the as yet unwritten guidelines, under penalty of the Commission's enforcement powers, and at the risk of violating those inchoate "rules," are patent. It is easy to see, for example, how one carrier with the resources to staff and forcefully press its position – such as the incumbent carrier – could commandeer that informal guidelines process. This problem also is not cured by the fact that the proposed rule notes that, in case of disagreement, the work group "may" request Commission review. This possibility of Commission review obviously does not carry with it the same procedural protections that are inherent in the process of establishing formal rules.

That is not to say that the guidelines process should be brought into the rulemaking ambit. It is that the Commission should reconsider this rulemaking altogether. Given the lack of a compelling need for those rules in the first instance, compounded by the problems in the draft rules themselves, the Commission should withdraw the proposal and defer this rulemaking until such time as evolutions in the market warrant formal regulations. Absent such a step, however, the Commission must address the problems described below by revising the proposed rules, and publishing the revised rules for a new round of review and comment.

Section 63.192 Definitions

There are a number of problems in the proposed definitions reflecting vague and inconsistent terminology.

Applicant: The definition refers to a “person who applies for telephone service.” As such, it is unclear whether the term (and the regulations) is also intended to apply to corporate “persons,” such as businesses. Presumably the Commission intends these rules to apply to the migration of residential and business customers. If so, that needs to be clarified in the definition.

The apparent “limitation” of the rule to “telephone service” is also unclear, and indeed inconsistent with the use elsewhere in the regulations of the terms “telecommunications service,” “basic service,” “local service,” and “jurisdictional service.” Obviously, these proposed regulations can only extend to those services and carriers over which the Commission possesses regulatory authority. The regulations and definitions thus must be revised to reflect that fact.

Finally, the proposed exclusion from the rules of a “customer who is subject to special contractual arrangements” is problematic. Certainly, a customer-specific contract may dictate the service arrangements between the customer and its carrier, including the

terms under which the contract may be terminated. It is not clear why those arrangements between the customer and the carrier, however, should put the migration of that customer to another carrier beyond of the reach of the proposed regulations.

Interfering station. It is far from clear --almost to the point of incomprehensibility, what is being described in this proposed definition. Specifically it is unclear if the "preexisting service" in the definition means service that was previously and is currently being provided, or if it refers only to service that previously was, but no longer is, offered. Subsequent text seems to suggest that the regulations are referring to service provided to a customer who, unbeknownst to the original local service provider, has effectively "skipped town," thus preventing the subsequent occupant from getting service over the facilities that had been used to provide the service to now-absent customer. Again, however, it is not clear if this is the scenario that is being addressed by the regulations, and, if so, why rules would be necessary for this situation or even how frequently it occurs.

In any event, and as will be discussed below in connection with Sections 63.211-214, the order provides little or no meaningful justification for the proposed "interfering station" regulations, which should be eliminated. At a minimum, the proposal never seems to address the obvious issue of whether the OLSP is getting paid for the service at issue. If they are not, the situation presumably should be self-correcting.

LOA – Letter of Authorization. This term is defined by reference to two apparently distinct subparts. Later uses in the regulations would need to clarify which version of the term applies in a particular instance. Absent such a revision, AT&T recommends revising the rule to use the term "End User Authorization." That term, which appears to be used in other states, is more generic and further defined in the content of the rule, based on the application. There are two different types of authorization needed

in the end-to-end process. One for CSR and the other for local service migration. The same terminology and application should be used here.

LSP – local service provider. The definition suggests that an entity other than a local exchange carrier could be a customer's local service provider. Obviously, only certificated local exchange providers subject to the Commission's jurisdiction would be subject to these rules. The definition thus should give a far more straightforward definition, including incumbent and competitive local exchange providers.

The Definition also states that "An LSP may also provide "other telecommunications services, as well as nonjurisdictional services." This seems circular. Since "local service" is defined as "Telecommunications service within a customer's local calling area." And since an LSP is defined as a company that provides local service, it is unclear to what "other telecommunications" services the definition refers. Is it telecommunications services other than the telecommunications services in local services? Finally, the reason why "nonjurisdictional services" is referenced in the definition is, at best, unstated.

AT&T thus recommends that the definition be revised as follows:

LSP - The provider that administers and bills local exchange and related services for the end user. The LSP interacts directly with the end user. The following terms identify LSPs with specific roles during the migration process:

- *New Local Service Provider (New LSP) - The provider of record following the completion of the migration process.*
- *Old Local Service Provider (Old LSP) - The provider of record prior to the migration process.*

LSR – Local Service Request – This definition's requirement that the document be issued "by an LSP" is inappropriately defining the process to be used in the migration process. This terms should be removed, and the language of the definition revised as follows:

LSR--Local service request--Document issued to an NSP to arrange for installation of, change in or disconnection of services.

(i) The LSR is sent to an 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.

Section 63.201 General Migration Standards

Subpart (a) of this proposed rule provides that “A customer has the right to migrate from one LSP to another LSP.” However, this apparently straightforward rule is in fact subject to many exceptions that can only be gleaned through careful review of other sections of the proposed regulations. For example, under the proposal DSL customers, line share/line splitting customers, and customers under special contracts seemingly do NOT have a right to migrate to another provider. The inconsistency should be expressly resolved in the rule.

Subpart (b), in turn, establishes an obligation to “communicate and explain to the customer the migration process and the migration timeline for various services, when applicable.” This provision is both impermissibly vague and overbroad. As to the first point, is it the obligation to “communicate and explain” that is limited by the phrase “when applicable,” or is it the inchoate migration process/timeline that is so constrained? If it is the latter, the provision is plainly overbroad. There is no apparent reason to burden the customer with the minutiae of the carrier-to-carrier migration processes. The customer only needs to know about actions steps he/she needs to take in connection with the migration, if any, and the possible visible impacts during the migration, such as a transitional outage during a hot cut.

Subsection (c) is yet another example of vague and confusing drafting. It should go without saying that a carrier can act in accordance with Commission regulations. And is it not the nature of a tariff that has been approved by the Commission to be lawful, such that it is not necessary to limit the rule to “lawful tariffs?” Even beyond the drafting, the

justification for this provision is elusive. It simply is not clear what situation or perceived problem is being addressed. For example, is this an attempt to limit the means by which a carrier can seek to “protect itself?” What “potential loss” is at issue? And why is it only the OLSP whose right to “protect itself” is being addressed?

Subsection (d) limits the good faith obligations established in that provision to the new and old local service providers. It should be amended to extend that obligation to the network service providers (NSP) as well. For example, in a UNE-L to UNE-P migration, the key player is the NSP who is responsible for moving the loop. That carrier, who in almost all cases will be the incumbent, should be obligated to act in good faith in that transaction.

As discussed further below in connection with Sections 63.211-214, the “interfering station” regulations proposed there should be deleted in their entirety. That would entail the elimination of Subsection (e) as well. In any event, and at a minimum, the second sentence of this subsection should be stricken in its entirety, since, among other issues, it is likely to be the NLSP, not the OLSP, that is the party seeking to reuse a facility.

There are also numerous and substantial problems with Subsection (f) of the proposed rule, which states that “Each LSP shall ensure that its 9-1-1 and Directory Listings/White Pages databases are accurate, accessible and updated as appropriate.” First, CLECs typically do not have 9-1-1 or White Pages databases per se, but provide such functionality indirectly through the ILEC. This raises any number of questions in terms of the applicability of the proposed rule. For example, does this obligation apply to the incumbent LEC when it is acting as an intermediary for the CLEC’s information? Similarly, are CLECs made liable under the rule for the incumbent’s errors? Second, what constitutes an “accurate” 9-1-1 database? Perfection, obviously, is always a goal in connection with the provision of 911 services, but perfection is not always attainable.

Presumably something less than perfect would not be a violation, but just how far less than perfect would still be considered “accurate?” The proposed rules must provide clear and enforceable standards, and not develop them after the fact. Third, what does the requirement that the 9-1-1 database “be accessible” actually mean? Accessible to whom? Likewise, to the extent a CLEC possessed a White Pages database, to whom would that have to be accessible and why? What constitutes “appropriate” accuracy, accessibility, and updating? In sum, there are numerous problems with vagueness that must be addressed and clarified.

Finally, Subsection (g) requires that each and every LSP and NSP not only maintain contact and escalation lists, but that they exchange them with every other LSP and NSP. This latter requirement is not only grossly inefficient, but it is almost certainly unworkable and unenforceable. A far better alternative would be to have the companies maintain this information on a publicly accessible website, and supply the URL to the Commission to be placed on its website.

Section 63.202 Migration responsibilities of the NLSPs and NSPs

This section is also beset by numerous problems that require its elimination or, at a minimum, its complete revision.

At the outset, Subsection (a) is essentially a verbatim restatement of Subsection (b) in section 63.201, and should be deleted for the same reasons set forth above. This provision requires an NLSP to provide its retail customers with information that those customers do not need and likely do not want, or information that NLSP would provide absent the rule. The “when applicable” problem identified above is also present here. And fundamentally, the requirement “to communicate and explain” leaves an open question as to how much is enough, and how much is too little. An NLSP seeking to comply with this ambiguous rule thus could respond by providing information to every

customer concerning each potential possible scenario and the associated possible timelines, rather than risk an inadvertent violation of the rule.

Subsection (b) poses an even more direct problem for the NLSP. That proposed provision puts the onus on the NLSP of coordinating the activities of two carriers – the OLSP and the NSP – over whom the NLSP has no leverage or control. The OLSP, for example, is the NLSP's retail competitor and has no incentive to cooperate, especially since it is losing the customer. The NSP, on the other hand, is the wholesale vendor, and thus is in the best position to ensure the proper coordination and completion of that wholesale order. This subsection thus should be revised to provide as follows:

The prospective NLSP shall be responsible for coordinating the migration of the customers' local service with its NSP. "The NSP will be responsible for any coordination, necessary to fulfill the NLSP's LSR with the OLSP.

Subsection (c) of the proposed rule also inappropriately puts the onus on the NLSP to provide the LSR information to "affected service providers." At a minimum, this provision is at odds with LNP order flows recently approved by the North American Numbering Council ("NANC"). Under that process, the NLSP provides the UNE-P LSR to the NSP as the wholesale provider, and it is then the NSP's wholesale obligation to provide the service ordered. As a customer, the NLSP purchases the network switch and loop as a bundled product. When applicable, the NSP should be responsible for the steps to acquire the TN. In that instance it would be the NSP that issued the port out request to the old LSP/NSP. Similarly, loop reuse conditions should also be the responsibility of the NSP. This is a facility management issue for which the facility owner – the NSP – properly is accountable. In contrast, the language in the proposed rule places the NLSP in a coordination role between the two providers that need to have their activities coordinated, and over which – again – the NLSP has no authority. In that scenario there is a higher likelihood that the end-user will be negatively affected.

The proposed rule thus should be revised to read as follows:

All service providers shall follow North American Numbering Council (NANC) industry standard procedures for porting of a subscriber's telephone number upon request from the NLSP, the acquiring company.

Subsection (d) gives the NSP "5 working days" from the date its receives a valid LSR to issue a LSC or a rejection. Not surprisingly, there are significant issues with this provision. The first is that the time period established here may be inconsistent with the NLSP's interconnection agreement with the NSP/incumbent, and/ or with the Commission's approved Carrier to Carrier metrics. The term "working days" also is undefined. For example, it is not clear how this differs from business days, or whether and which Holidays and weekends are excluded. AT&T thus recommends that the provision be revised to provide as follows:

Unless otherwise provided for under the terms of an applicable interconnection agreement or Commission approved Carrier-to-Carrier metrics, the NSP shall issue an LSC or rejection within two (2) business days from the date it receives a valid LSR from the prospective NLSP.

The fundamental problems identified above in connection with Subsections (b) and (c) also pertain to Subsection (e) of the proposed rule. Accordingly, AT&T proposes the following revision:

The NSP will be responsible for any coordination with the old service provider(s) necessary to restore the customer's service that may become necessary due to problems with the migration. The NLSP is responsible for coordination with the customer and the NSP.

Section 63.203 Migration Guidelines and industry work group

As AT&T has described in the introduction to these comments, this specific provision is fundamentally and irretrievably flawed, and should be deleted in its entirety. Put in its best light, the provision is oxymoronic, making it a **rule** –presumably subject to the enforcement powers of the Commission – to follow a **guideline**. But the provision is

not even that benign. At its heart, the provision would require all service providers to abide by a set of guidelines – now elevated to the status of regulations –that are crafted and established not by the Commission, but rather by an industry group. And it is done outside due process protections of the formal rulemaking process.

At a minimum, the provision is void for vagueness, since the service providers would be subject to a set of guidelines that are, at this point, completely inchoate. More to the point, this rule represents an improper delegation of the Commission's authority, and an improper abrogation of the formal rulemaking process. It should be stricken in its entirety.

Section 63.204 *Standards for the exchange of customer service information*

Subsection (a) requires the retention of records for a period of 2 years. There does not appear to be any ready justification for such an extensive period, and AT&T recommends that the period be shortened to one (1) year. The subsection also could be read as to permit only one of the five verification procedures listed there to acquire CSRs. The provision should be revised to ensure that NLSPs are able to use any of those available procedures, and in any combination.

With respect to Subsection (d), the requirements listed are to migrate the local service. Thus, the references in this section to “network serving arrangements” and the CSR are unnecessary, since they are addressed in Subsection (a). In contrast to subsection (a), however, 2 years is an appropriate retention period for this type of authorization. Moreover, as with Subsection (a), Subsection (d) also could be read as to permit only one of the four verification procedures listed. The provision should be revised to ensure that NLSPs are able to use any of those available procedures, and in any combination.

The provisions of Subsection (e) should be revised to add that, in the case of resold accounts, the NSP also will be required to share CSR information for account, services provisioned and directory listing information.

Section 63.205 *Removal or lifting of LSPFs*

It bears noting in the context of this rule that AT&T remains opposed to the concept of a "local" freeze, especially given the nascent state of competition in Pennsylvania's local exchange market. With that said, there are a number of issues that are implicated by this proposed rule.

First, Subsection (a) purports to bar a NLSP from accepting a customer's LOA to lift a LSPF other than "at the time of application." This is unreasonable; if it comes up the customer should be able to issue the LOA to the NLSP at a later time, such as if the customer had forgotten that he had an LSPF, which is a likely situation.

The second sentence of Subsection (a) also imposes an affirmative duty on each NLSP to proactively inform every one of its prospective customers of the three requirements set forth in §63.205(f)(1)-(3). This is also unreasonable, especially given the record in the supporting order indicating that Verizon only has 20,000 customers with LSPF out of millions of customers and "with so few other LSPs offering LSPFs, we do not perceive a need to adopt stringent rules at this time...." This rule, however, does exactly that, establishing an affirmative obligation to inform every applicant of the three listed requirements, even though it will be irrelevant to literally 99 percent of potential customers.

Subsections (a)(2) and (3) also appear to be contradictory. Subpart (2) expressly allows the NLSP to act as an agent in the lifting of the LSPF. Subpart (3), on the other hand, states a prospective NLSP may not authorize the removal of an applicant's LSPF. Obviously, the Commission does not mean in Subpart (3) to preclude the NLSP from

exercise the LOA, but rather from acting unilaterally by granting itself such LOA. This should be clarified to be clear and to be consistent.

Subsection (b) poses its own unique set of problems by inappropriately dragging freezes for other services, such as long distance service, into this process. The resulting rule is only likely to generate considerable confusion because a customer can change local carriers at any time without having to lift their LD freezes. The proposed rule improperly mixes the two concepts by combining local and LD freezes.

To see why this is the case, it is important to understand how the long distance ("LD") freeze process works, using AT&T, MCI and Verizon as examples. Say the customer chooses AT&T (UNE-P carrier) as their local carrier and can choose to place a local freeze and LD freeze on that line. AT&T marks in our records that the customer has the LD freeze. For an LD freeze, AT&T does not need to let Verizon know. However, for the local freeze, AT&T must send the LSR appropriately marked to "add a local freeze" to Verizon for them to administer the local freeze on the network.

If MCI sends an LD order to AT&T in a situation in which the customer has an LD freeze, AT&T will reject that order unless previously MCI has followed the applicable regulatory requirements for lifting of the LD freeze. In contrast, if MCI attempts to port away (or PLOC away) the AT&T customer that has a local freeze, that order will go to Verizon. Verizon will reject that port away or PLOC away. MCI must then follow the applicable regulatory requirements with AT&T for lifting of the local freeze. Then AT&T will send the LSR appropriately marked to "lift the local freeze" to Verizon. Verizon can then accept the port away or PLOC away from MCI.

What this shows is that a customer currently can change local carriers at any time without having to lift their LD freezes. The proposed rule, however, fumbles this distinction by having the disconnection of local service effectively serve to disconnect both

local and LD services. This problem needs to be addressed and corrected in the revised rules.

Finally, Subsection (c), by its terms, requires every LSP to provide methods for lifting an LSPF. This would appear to apply even to those providers, like AT&T, that do not offer an LSPF. This overbreadth needs to be corrected. At the same time, the provision is unduly narrow, in that it omits NSPs from its ambit. The NSPs must be included because they are involved in the provisioning of the service. Indeed, in the case of resold accounts it is the NSP that controls the provisioning and maintenance of LD services. They are also the provider who receives and processes the LSR from the new provider. The provision thus should be amended to add the following language: "*To the extent that an LSP offers LSPFs, such LSPs and NSPs, when different from the LSP, shall provide. . . .*"

Section 63.206 *Porting telephone numbers*

Because it is the NSP that receives and processes Port-out LSRs, this rule should be amended as follows to include those providers within its scope:

An OLSP or ONSP may not refuse an otherwise valid request to port a number to a NLSP unless the number is for services that have been terminated or disconnected under Chapter 64 (relating to standards and billing practices for residential telephone services) for residential customers or *have been terminated or disconnected* consistent with the LSP's lawful tariff for other customer classes.

Section 63.207 *Discontinuance of billing*

Subsection (a) establishes an obligation that "LSPs shall minimize overlaps in billing during the migration between LSPs." The NSPs should have a concurrent obligation, since LSPs rely on NSPs for critical and time-sensitive functionality to finalize billings such as the issuance of a line loss report, and receipt of a BCN (Billing

Completion Notifier). This provision thus should be amended to add the following

language:

The NSPs shall perform so as to enable the LSPs to achieve this minimization of overlap in billing, to the extent that a LSP relies on the NSP for necessary notifiers, reports, or other wholesale data in order to timely bill and avoid overlaps in billing.

There are a number of problems with Subsection (b) that relate back to the issues identified in connection with section 63.202. In particular, this provision triggers the countdown for issuance of a final bill by the OLSP to “notification from the prospective NLSP that the customer has requested to migrate service to the prospective NLSP. . . .” It is unlikely, however, that the NLSP will have any communication with the OLSP other than a preorder query, which may or may not result in a subsequent LSR to the NSP. Moreover, there is no industry standard for the notice contemplated by this subsection. The key to this provision, as with Section 63.202, is to bring the NSP/wholesale providers into this process. Accordingly, AT&T recommends that the provision be revised to trigger issuance of the final bill from 42 days following *completion*, i.e. notice to the OLSP from the NSP of the loss of line or completion notice; otherwise, “notifications” that did not result in a “completion” would trigger an unintentional disconnection within 42 days.

Finally, Subsection (d) must be clarified to reflect the applicability of tariff or contract terms that may affect the customer’s billing cycle. This would be accomplished by adding the following language to the provision: “*Subject to the terms of any applicable tariff or customer specific pricing arrangement, the OLSP shall. . . .*” Further, the proposed rule should be clarified to allow for a partial migration, such as in cases in which a customer migrates some service to the NLSP but leaves some service with the OLSP. This might occur for supplier diversity, to satisfy minimum term or volume commitments

with the OLSP, or contract provisions. The rule as written, however, would appear to impair that ability.

Section 63.208 Carrier-to-carrier guidelines and performance assurance plans

This provision is ostensibly intended to ensure that incumbent carriers such as Verizon whose wholesale performance is governed by Carrier-to-Carrier metrics and Performance Assurance Plans comply with the more stringent of the applicable requirements. As such, the rule should be amended to clarify this relationship by adding the following language to the beginning of the proposed rule: *"For an incumbent local exchange carrier (ILEC) LSP or NSP*

Interfering Stations

As AT&T has noted previously, this entire section of the proposed rules is fundamentally infirm and should be deleted in its entirety. As with so many other aspects of this rulemaking, the circumstances that these provisions appear intended to address do not appear to justify a rulemaking. For example, the apparent intent of these rules is to address is the case where all the following criteria apply:

- where a prior tenant/owner has vacated a premise, and
- where that prior tenant/owner did not notify his LSP to disconnect telephone service, and
- Where the subsequent tenant/owner orders service from a LSP (these LSPs may be the same carrier or different carriers; one of the LSPs may also be the NSP; there could be 1, 2, or 3 carriers involved, depending), and
- Where the subsequent tenant/owner's order for service cannot be provisioned by the LSP (or by the LSP's NSP) by reusing the same facilities which were used to provide the continuing (preexisting) service for the now-

vacated prior tenant customer because those facilities are still tied up providing telephone service for the now-vacated prior tenant;

- and presumably where there are no spare facilities at the premise that could otherwise provide the service.

These are very narrow circumstances, and it is unclear from the less than a single page record in the rulemaking order with what frequency – if any– these problems are occurring that it would warrant a rulemaking. It is also unclear from the record why an *ad hoc* approach would be inadequate in these exceptional circumstances. Nor is it clear what benefit is expected from the compulsory requirements in the order.

This lack of record support is compounded by the fact that the proposed rules appear to make the CLECs responsible for uncompensated management of the ILEC's loop facilities. The specific problems with each proposed rule are addressed below.

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

As a predicate matter, Subsection (a) states that "The OLSP or the NSP shall inform the prospective NLSP of an interfering station condition" In assigning to the responsibility to one of the two parties, however, the regulation has effectively assigned the responsibility to neither party, since each party may be entitled to assume that the other has provided the notification. Moreover, the triggering event for this notification is "identification" of the interfering condition. It is not at all clear how this provision would be enforced, much less what constitutes "identification" for purposes of enforcing the rule.

Subsection (b) in turn states that "The OLSP or NSP shall review the LSP information with the prospective NLSP to determine possible errors." But the OLSP has no right to review the NLSP's LSR, which is submitted to the NSP. That is a proprietary business transaction pursuant to contract terms in the NLSP's interconnection agreement

with the NSP. The NSP is not authorized to share the LSR with other competitors. In the ordinary flow of orders, the NLSP's LSR would never— and should never—flow to the OLSP.

Similarly, Subsection (b)(1) indicates that if either the OLSP or the NLSP determine the NLSP's LSR information is "correct", then the OLSP or the NSP shall inform the prospective NLSP that the LSR is cancelled. . ." Once again, however, the OLSP cannot "cancel" the NLSP's LSR to the NSP because the OLSP is not a party to that transaction. And Subsection b(2) actually gives the OLSP the right to correct an "incorrect" LSR "and continue with the installation." Here again the OLSP cannot and properly should not have any role in correcting the NLSP's LSR, much less in installing the new provider's wholesale service.

Disputes

Section 63.221 Consumer complaint procedures

This provision should be eliminated in its entirety as unnecessary and duplicative. As the provision itself indicates, regulations already exist in Chapter 64 establishing procedures for consumers to resolve disputes with their telephone service providers. There is thus no need, much less justification, for inserting a new consumer complaint process into Chapter 63, especially in the context of rules that are intended to address the business-to-business relationships between carriers. The proposed rule does not even purport to draw a nexus between its provisions and the CLEC-to-CLEC migration process that is purportedly the general focus of this rulemaking. And there is no showing that a customer who has a dispute with his or her provider that is somehow connected to the migration process cannot obtain adequate redress through the Chapter 64 complaint

process. Given the patent absence of any record support for this provision, it should be

stricken,

Respectfully submitted,

**AT&T COMMUNICATIONS
OF PENNSYLVANIA, LLC.**

By its Attorneys,



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Oakton, VA 22185
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Of Counsel:
Mark Keffer

Dated: May 18, 2004

Curry Communications, Inc.

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Ph 412.380.8700 Fax 412.380.8701

Original: 2394

May 7, 2004

Mr. James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RECEIVED
MAY 21 11 00 20

RE Changing Local Service Providers 52 PA. CODE CH. 63
Docket No. L-00030163

Dear Mr. James J. McNulty, Secretary

Curry Communications, Inc. files these comments for consideration on the development of Guidelines being established for Changing Local Service Providers.

We support and agree a development and implementation of guidelines for OLSP, and NSP to follow when consumers migrate between LEC's and CLEC's. Curry Communications, Inc. would suggest the following for consideration.

Amendment of 63.205 to add if the Working Telephone Number is past due, the current LSP has the right to suspend the account and not remove the LSPF until account is satisfied for past due amounts.

When NLSP requests a CSR (Customer Service Record) from the LSP. The information contained in the CSR will be complete with Working Telephone Number, Vertical Features, Blocks or Restrictions, and Hunting Arrangements. At this time the NLSP will be advised the LSPF will not be removed until Account is brought to Current Balance.

Clarification of 63.207 b. to not rely on the request of migration as the trigger for issuing a final bills a firm order confirmation, or a line loss report.

If account is Resale or UNE-P with CLEC it is imperative for the development or implementation of a Metric to be associated with Metric OR 11-01 to include a measurement of "Accuracy of the Line Loss Report". Curry Communications, Inc. often is challenged to accurately determine end bill date for consumers who decide to move to another carrier.

Respectfully

John Curry

IRRC

From: Schalles, Scott R.
Sent: Friday, May 21, 2004 8:44 AM
To: IRRC
Subject: FW: Curry Communications, Inc

2004 MAY 21 PM 8:44

REVIEW COMMUNICATION

Comments on #2394

-----Original Message-----

From: john curry [mailto:john@currycommunications.com]
Sent: Thursday, May 20, 2004 5:31 PM
To: Schalles, Scott R.
Subject: Curry Communications, Inc

Attached you should find our comments in regards to changing LSP.

John Curry
Desk 412-380-8708
Fax 412-380-8701

150 Dexter Dr.
Monroeville, Pa. 15146

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