

PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 11, 2002

Commissioners Present:

Glen R. Thomas, Chairman, Motion attached
Robert K. Pizzingrilli
Aaron Wilson, Jr., Statement attached
Terrance J. Fitzpatrick
Kim Pizzingrilli

Final Interim Guidelines Establishing
Procedures for Changing Local Service
Providers for Jurisdictional
Telecommunication Companies

Docket No. M-00011582

FINAL ORDER¹

BY THE COMMISSION:

Background

On December 4, 2001, the Commission issued a Tentative Order proposing to adopt interim guidelines pending the promulgation of formal regulations to provide for an orderly process for customer movement between local service providers (LSPs). These voluntary interim guidelines (Interim Guidelines), which are being finalized here after the receipt of public comment, are intended to provide guidance to jurisdictional utilities when addressing the migration of customers from one LSP to another LSP. A copy of the Interim Guidelines is attached as Annex A.

Written comments were received from AT&T Communications of Pennsylvania (AT&T); ATX-CoreComm (ATX); Metropolitan Telecommunications (MetTel); the

¹ This Final Order is one of several we are adopting this day addressing: Changing Local Service Providers (LSPs) (base folder); Customer Information (F0002); Quality of Service (F0003); and Abandonment by Local Service Provider (F0004). While there may be overlap among all the orders, there is perhaps more so between the base folder and F0003. The focus of this Final Order and interim guidelines generally looks at the issues from the local service provider's (LSP's) perspective, whereas the focus of Folder 0003 generally looks at the issues from the perspective of the customer.

Pennsylvania Office of the Consumer Advocate (OCA); the Pennsylvania Cable and Telecommunications Association (PCTA); the Pennsylvania Telephone Association (PTA); and Verizon Pennsylvania, Inc. and Verizon North, Inc. (Verizon). The comments of the Office of Small Business Advocate (OSBA) and MCI WorldCom (MCI) were filed untimely.

After review and consideration of the comments,² the Commission has developed final-form Interim Guidelines. The Final Order reflects a summary of the parties' comments and our resolution of the various issues, and the regulatory analysis in support of the adoption of voluntary Interim Guidelines. Additionally, on January 17, 2002, after notice, this Commission convened a rulemaking collaborative to address the promulgation of regulations relative to changing LSPs. The work of that collaborative process is documented at Docket No. M-00011583. Information on the collaborative may also be accessed through the Commission's website at puc.paonline.com. Each of the other three Interim Guidelines proceedings also has a companion rulemaking collaborative.

Comments and Resolutions

I. Statement of Purpose, Application, and Effect.

A. Purpose

Comments of the Parties

ATX asserts that local service provider freezes (LSPFs) discourage competition and recommends that the Commission eliminate local service provider freezes to ensure that consumers can change their LSP without unnecessary confusion or delay. Verizon comments that the guidelines for changing LSPs should apply to all types of customers except for the disclosure requirements of section IV. To accommodate such an

² We are not required to consider expressly or at great length each and every contention raised by a party to our proceedings. *U. of Pa. v. Pa. PUC*, 86 Pa. 410, 485 A.2d 1217, 1222 (1984). Any comment or argument which is not specifically addressed herein shall be deemed to have been duly considered and denied for the purposes of these Interim Guidelines without further discussion but without prejudice for the parties or staff to raise in the ensuing collaboratives.

application, Verizon suggests that we replace “consumers” with “customers” in I.(A)(1) and add the following as a new section 3: “To ensure that the migration from one LSP to another LSP allows the customer the option of retaining the existing telephone number(s), as applicable and when desired by the customer.” The former section I(A)(3) would become section I(A)(4).

Resolution

The Commission will not adopt ATX’s recommendation. LSPFs are the subject of a separate collaborative. Any resolution resulting from that collaborative will modify these Interim Guidelines to the extent that they are different. We will accept Verizon’s recommendation to replace “consumers” with “customers” and to replace I(A)(3) with the following language: “To ensure that the migration from one LSP to another LSP allows the customer the option of retaining the existing telephone number(s), as applicable and when desired by the customer.” Therefore, we will change the former section I(A)(3) to section I(A)(4). We will not change the scope of these Interim Guidelines to include non-residential customers except where noted.

B. Application

Comments of the parties

The OCA states that the Commission should clarify that the Guidelines apply to all LSPs that serve customers, but relate to different groups of customers. The OCA proposes “that I(B)(1) of the guidelines should be revised, in part, as follows: ‘With the exception of E911 and Directory Listings/White Pages, which relate to all customers, these interim guidelines relate to all residential customers except those customers who want to discontinue service.’”

Verizon suggests that we remove the phrase “With the exception of E911 and Directory Listings/White Pages, which apply to all customers,” and add the phrase, “Except where specifically noted, ... to all” and remove the word “residential.”

Resolution.

The Commission accepts the OCA's recommendation that we clarify that the Guidelines apply to all LSPs that serve customers, but relate to different groups of customers. The Commission will revise section I(B) as suggested in part by OCA. We will not adopt Verizon's suggestion.

II. Definitions

General

Comments of the Parties.

The OCA submits that the definitions used in the Guidelines require some clarification and suggests that the Commission may use definitions from other regulatory requirements. The OCA also proposes that we adopt terms that are consistent among both the various collaboratives and the existing regulations.

Resolution.

We agree generally with the OCA's suggestion that we adopt terms that are consistent with the various collaborative and existing regulations. Many of the terms used in these Interim Guidelines are based on existing regulations. However, there are terms that are not easily defined by the existing regulations. Accordingly, we will attempt to use terms consistent with the regulations or Commission's collaboratives where applicable.

Definition of *Freeze & Local Service Provider Freeze (LSPF)*

Comments of the Parties

Verizon suggests that the Commission revise the definitions for *freeze* and *LSPF*.

Resolution.

The Commission will not revise the definitions of freeze and LSPF at this time. We will defer the revisions of these terms to the Commission's collaborative addressing LSPFs at Docket C-00015149, F0002, which will be concluded upon the conclusion of

Pa PUC v. Verizon PA, Docket No. M-00021592, Tentative Order entered Jan. 25, 2002, decision pending.

Definition of *Local Service*

Comments of the parties

The PTA and the PCTA contend that the proposed definition of “local service” can create confusion. The PTA suggests that the phrase “calling capacity” used in the first sentence of the proposed definition be changed to read “calling capability for telephone service” and that the word “community” in that same sentence be changed to read “exchange” in order to clarify a telephone local calling area as currently known in the industry. The PCTA expresses concerns about the term “community” and that it may inadvertently encompass service not within the Commission’s jurisdiction. PCTA also suggests that the Commission allow the parties to address this definition in the collaboratives.

Verizon suggests that the Commission revise the definition by replacing the term “calling capacity” with “telecommunications service,” replacing “between points within the community” with “local calling area,” and adding the term “applicable federal and state taxes.”

Resolution

The Commission agrees that the definition of “local service” should be changed. We will eliminate the first phrase, “Calling capacity between two points in the community” and replace it with Verizon’s language, “Telecommunications service within a customer’s local calling area.” We will also add “applicable taxes” to this definition. For clarity we will revise the term “911 emergency service fee” to “911 emergency fee.” All four of the Interim Guidelines proceedings (Changing LSPs, Customer Information, Quality of Service, and Abandonment) contain the same definition for “Local Service.” Our full discussion of the parties’ comments may be found in the Customer Information Interim Guidelines Final Order.

Definition of *Local Service Provider (LSP)*

Comments of the parties

The PCTA objects to the use of the term “local service provider” because they contend it could be misinterpreted by some entities to allow the Commission to issue regulations and directives aimed not only at local exchange service, but also at other services not currently regulated by the Commission. The PCTA suggests that the proposed definition must be clarified in order to prevent such misinterpretation.

Verizon suggests that the Commission revise the definition by adding the term “an end-user” to clarify the type of customer.

Resolution

The Commission agrees that the term “local service provider” should be clarified and accepts Verizon’s suggestion to add the words “to an end-user” to the definition. All four of the Interim Guidelines proceedings (Changing LSPs, Customer Information, Quality of Service, and Abandonment) contain the same definition for “Local Service Provider.” Further details about changes to this term are in the Customer Information Interim Guidelines Order.

Definition of *Local Service Request*

Comments of the parties

Verizon suggests that we add the term “standard industry method” to the definition.

Resolution

We accept Verizon’s suggestion in part and will add the term “standard industry format” to the definition.

Definition of *Migration*

Comments of the parties

Verizon suggests that we revise this definition.

Resolution

The Commission will revise the definition of “migration” to be consistent with the definition that appears in the companion guidelines concerning Quality of Service. We did not receive comments about the definition as it was proposed in the Quality of Service companion guidelines. For clarity, we will add the phrase “at the same customer location” to the end of this definition.

Definition of *Porting*

For clarity and consistency among the companion Interim Guidelines, we will modify the definition that appears in the proposed guidelines. The Interim Guidelines for Changing Local Service Providers and for Quality of Service Procedures will contain the same definition for this term.

Definition of *Preferred Carrier (PC)*

Comments of the parties

Verizon suggests that we replace the term “his/her” with “the customer’s,” add the term “end-user customer,” and add the phrase “lifts any freeze applicable to the service provided by the old preferred carrier” near the end of the definition.

Resolution

The Commission agrees that the definition should be revised for clarification. However, we will not adopt Verizon’s suggestions. We will revise the definition by adding the phrase “For the purposes of these Interim Guidelines” and by replacing the term “existing” with “previous.”

Definition of *Telephone Bill*

Comments of the parties

Verizon suggests that the Commission remove “rendered whether” from the definition.

Resolution

We accept Verizon’s suggestion and will remove “render whether” to clarify the definition.

Additional Definitions

Applicant, Discontinuance, End-user customer, Local Reseller, and Termination

Comments of the parties

In comments about the migration of service, the OCA asserts that “LSPs must be absolutely clear regarding their obligations to customers facing suspension or termination of service.” The OCA suggests that the definition of “termination” should be made clear in the Interim Guidelines.

Resolution

The Commission agrees that the obligations of LSPs to customers facing suspension or termination of service must be clearly articulated. Similarly, we also believe that LSPs must be clear about their obligations regarding those customers who apply for and discontinue service. The terms that the OCA suggests we define are actually existing defined terms in Chapter 64. Accordingly, for ease of reference and clarity, we will incorporate the existing definitions for “applicant”, “discontinuance”, and “termination” into these Interim Guidelines. For clarity and consistency among the companion Interim Guidelines, we will add the terms “end user customer” and “local service reseller” to the Definitions section of these Interim Guidelines.

III. Migration of Local Service.

A. Execution of Changes in Local Service Provider

Comments of the parties

The OCA comments that the Interim Guidelines should have direct references to the applicable provisions of the Federal Communications Commission (FCC) verification and authorization rules at 47 C.F.R. §§64.1100-64.1190. The OCA proposes that we should file a notification of election to administer the FCC slamming rules since we refer to FCC rules and intend to enforce those rules. The OCA believes that where our slamming rules, as outlined in the March 23, 2001 Secretarial Letter, provide additional instructions, we should enumerate those rules within these Interim Guidelines. In addition, the OCA also suggests that the Commission incorporate our penalties for slamming into the Interim Guidelines.

Verizon suggests that in section III(A) we add the term “carrier change” to better define the service order types and eliminate the term “letter of agency.”

Resolution

The Commission agrees with the OCA that LSPs are obligated to follow the FCC’s verification and authorization rules when processing a customer’s request to change LSPs. However, the Commission does not believe that it is necessary or practical to incorporate the FCC anti-slamming rules and the Commission’s slamming Secretarial Letter in these Interim Guidelines. As stated in the Commission’s March 23, 2001 Secretarial Letter that addressed “LEC Obligations for Addressing Customer Complaints About LEC Slamming and LEC Adherence to the FCC Slamming Liability,” we expect all LSPs to adhere to the FCC’s rules at 47 C.F.R. §§64.1100-1190 and we intend to enforce our Chapter 64 regulations as they pertain to local service. Therefore, we do not intend to file a notification of election to administer the FCC slamming rules at this time.

The Commission will accept Verizon’s suggestion in part by adding the term “carrier change” in III.A to clarify the type of service order.

B. Additional Obligations

Comments of the parties

AT&T and ATX disagree with the timeframes as outlined in III.B.(1) and III.B.(2). AT&T asserts that III.B is deficient because it fails to acknowledge that the new LSP is dependent on the existing LSP to meet the ten business day requirement. ATX contends that III.B places additional obligations on old and new LSPs involved in the migration of local service. ATX notes that the Interim Guidelines do not account for delays or facilities problems caused by the underlying carrier.

Verizon states that the Interim Guidelines should recognize that a prompt firm order confirmation (FOC) from the old LSP and availability of the applicable facilities are necessary for the new LSP to meet the 10-day service delivery deadline. The company suggests that the Interim Guidelines should set a deadline of 48 hours for the old LSP to provide a FOC to the new LSP. The company also suggests that language be added to clarify that the 10-day service delivery deadline is dependent on the old LSP providing the FOC within 48 hours. Verizon suggests that the Interim Guidelines should specify that the 10-day delivery deadline applies to orders of six lines or less. Verizon also suggests that the Commission eliminate the language in III.B(5) because the language is unnecessary.

Resolution

We accept many of the comments in part. We agree that a new LSP is dependent on the old LSP to provide timely service to a customer migrating from one LSP to another LSP.³ For that reason, we will change the 10 working day requirement for completion of 95 percent of migrations. In addition, we will revise III. B(2) to state that “The underlying carrier should issue a firm order commitment or rejection within five working days from the date it receives a valid order from the new LSP.”

³ The Commission’s current regulations already make allowance for exceptions beyond the control of the LSP. *See* 52 Pa. Code § 63.58. Installation of Service.

C. Removal of Local Service Provider Freeze (LSPF)

Comments of the parties

AT&T states that Verizon's LSPF is anticompetitive and inappropriate at this juncture. AT&T contends that there are better methods, consistent with the federal rules, to lift freezes than by asking the customer to contact his or her existing LSP.

ATX states that if the Commission permits the use of LSPFs, then the company suggests that the Commission mandate the previous LSP to promptly remove the LSPFs.

MetTel comments that the Commission should take steps to create a neutral third party for local and long-distance freeze administration because it would be beneficial to both carriers and customers.

The OCA states that the Commission should develop mechanisms for the efficient removal of a LSPF and proposes that the Commission coordinate this proceeding with the LSPF collaborative. For the removal of freezes, OCA recommends that the Commission require LSPs to provide customers several reasonable methods that would allow them to switch in a timely manner.

The PTA recommends that the Commission modify the language in III.C to ensure clear interpretation. The PTA suggests that the word "made" be changed to "initiated by the customer" to clarify the issue of who must arrange to have the LSPF lifted.

Verizon recommends that the Commission make several changes in section III.C. Generally, Verizon suggests that we add the term "end-user" before "applicant," and the term "local" before "service" for clarification. Verizon also suggests that in III.C we add the word "first" before "removed" and add the phrase "old LSP upon the end-user customer's request" and remove the word "customer". In III.C(3), Verizon suggests that we add the words "they must make" before the word "arrangements," remove the words "must be made," add the words "with the old LSP," and at the end of the sentence change "may" to "can." Verizon also suggests that we revise III.C(4) by changing "customer" to

“applicant” and adding the words “freeze prior to the processing of the applicable migration orders.”

Resolution

The Commission disagrees with the PTA’s proposed word change since the issue of who can initiate a LSPF change is being addressed by the LSPF collaborative. We do agree with the OCA that the LSPFs should be removed promptly and that LSPs should provide a reasonable way for customers to switch in a timely manner. These Interim Guidelines will address having LSPs inform customers that a new LSP cannot process a change in service if an existing LSPF is not removed by the customer. The Interim Guidelines will also address what to do when the customer is being involuntarily migrated to a new LSP and that customer fails to remove the LSPF. The Interim Guidelines will not address LSPFs beyond these two circumstances.

The Commission will defer a more detailed examination of LSPFs to the LSPF Collaborative and any subsequent proceedings that may develop as a result of that collaborative, or the collaborative for rulemaking relative to changing LSPs.

The Commission will adopt some of Verizon’s suggested word changes.

D. Refusal to Migrate Service

Comments of the parties

ATX comments that it seeks clarification of the three separate prohibitions presented under section III.D because it is not clear whether these three prohibitions represent the same situation or different situations.

The OCA generally supports section III.D. However, the OCA proposes that the Commission clearly establish that LSPs may not refuse to migrate service except when a customer is terminated in accordance to Chapter 64 consumer protection provisions. The OCA comments that the Commission should clarify the LSPs obligations regarding suspended customers or customers facing suspension or termination of service. In addition, the OCA suggests that the language in section III.D be revised as follows:

“Duty to Migrate Service. Where a request for migration of local service is processed in accordance with state and federal requirements, a LSP cannot refuse to either execute a customer's request to migrate an account to another LSP, or to port a number to another LSP, unless that account was terminated pursuant to Chapter 64 by the relinquishing LSP prior to the request. Where a request for migration of local service is processed in accordance with state and federal requirements, the relinquishing LSP shall under no circumstances refuse to release the local loop or other facilities required to provide service to a premises.”

The PTA disagrees with permitting customers to port their telephone number to another LSP if the account is suspended for nonpayment or if there is an outstanding balance. The PTA states that a 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.

Verizon comments that the Commission should clarify that LSPs have no obligation to continue to provide an option of number portability once a line has been finally disconnected. Verizon suggests that the Commission make the following changes. In section III.D(3), add the phrase “submitted and” before “processed” and replace “is not terminated” with the phrase “has not already been disconnected.” Verizon suggests in section III.D(3) that we remove the term “termination,” replace it with “disconnect,” and eliminate the language “until the bill is paid or otherwise resolved.” Verizon also proposes in section III.D(4) that we remove the term “terminated,” replace it with “disconnected,” and eliminate the language “on the basis of the unpaid billing.”

ASCENT comments the Commission should recognize the limited control that certain providers will have with respect to actual provisioning dates and, in those instances where a provider demonstrates that delays resulted through no fault of their own, hold underlying carriers responsible for failure to meet established provisioning dates.

AT&T agrees that ensuring the seamless migration of customers from one LSP to another and minimizing billing overlaps are worthwhile goals. AT&T believes, however,

that the imposition of unnecessary regulatory burdens such as a premature effort could actually adversely affect customer choice by over-regulating competitors out of the market.

Resolution

The Commission accepts many of the suggestions in part. As stated previously, we will incorporate existing definitions of the terms “termination,” and “discontinuance.”

We do not accept the comments that propose allowing a previous LSP to refuse to migrate a customer to a new LSP when the account is in collection or as some commentors stated when the account is in conflict. The only valid reasons for refusing to migrate a customer and/or port the number is if the account has been terminated or previously discontinued without a concurrent request to migrate, or if porting the number is not technically feasible. We will revise this section to make the duty of both the previous and new LSP clear. Even so, we retain most of our original direction to LSPs on migrating customers and porting numbers.

AT&T raises the issue of over-regulation. The Commission first promulgated Chapter 64, Standards and Billing Practices for Residential Telephone Service, 52 Pa. Code §§64.1 - 64.213, on November 30, 1984, and has amended it several times. Since 1984, there has been a marked increase in the number of competitors in the Pennsylvania telecommunications market. Consumers are moving back and forth among the various local (and toll) service providers. As a result, consumers have encountered confusion, delay, billing problems, and/or interruption of local service during the migrations between LSPs. Further, Verizon has recently received authority from the FCC and this Commission to commence offering in-region long distance service within Pennsylvania. These additional options may result in even more migration of consumers. We feel that some guidance is required on our part. However, we agree with the parties who suggest that it would be counterproductive to put the marketplace through two sets of significant changes. Such changes shall be deferred to the companion rulemaking collaborative relative to changing LSPs. We have modified the Interim Guidelines accordingly.

IV. Customer Information

A. Disclosures

Comments of the parties

Several commentators disagree with the timeframe for sending a disclosure statement. ASCENT comments that we should allow a minimum of five business days to provide initial disclosures to new customers. AT&T proposes that the Commission make the deadline for delivery of a disclosure statement no earlier than the date on which the first bill is due. ATX recommends revising to three business days.

The OCA agrees with the Commission's proposal that LSPs issue a disclosure statement to customers within one business day. The OCA believes, however, that it should be clear that these Terms of Service should be comprehensive as to all services being sold and should also apply whenever such terms of service are changed. The OCA also proposes that the disclosure at the initial purchase could be defeated by a later revision of service terms soon thereafter that may not be disclosed. The OCA maintains that the obligation to disclose terms of service should take place initially and at any other times when such service terms would change.

Verizon comments that the deadline for sending the disclosure statement should be changed to "within three business days of the fulfillment of the customer's service order." Verizon also suggests that we make the following changes to section IV.A remove "for service," add "entitled to receive it under Section IV of the Customer Information Interim Guideline," replace "it" with "the LSP," change "one day" to "three days," and add "of its fulfillment of the customer's migration order."

Resolution

We shall change the time frame for sending a disclosure statement to three working days. There is additional discussion about this issue in the companion Interim Guidelines Final Order concerning Customer Information.

B. Inquiries

Comments of the parties

The OCA proposes that the Interim Guideline should require LSPs to provide information that may assist customers with disabilities and information about universal service programs both in writing (via the disclosure statement) and over the telephone at the time of application of service.

Verizon suggests that the Commission change section IV.B by adding the words “for residential service” after “applicants.”

The OCA proposes that the Commission require LSPs to disclose terms of service to customers when they begin service and before the LSP institutes any subsequent changes to terms of service.

Resolution

We shall accept Verizon’s suggestions. There is additional discussion about this issue in the companion guidelines concerning Customer Information.

V. Discontinuance of Billing.

Comments of the parties

Verizon suggests that the Commission change section V.B by removing “should” and adding the words “shall immediately.”

Resolution

The Commission will retain the use of “should” as these are interim guidelines. We will add “immediately.”

VI. Debtor's Rights and Creditor's Remedies. These interim guidelines do not affect the customer's debtor/consumer rights or the LSP's creditor's remedies otherwise permitted by law. Additionally, customers who believe that service has not been rendered consistent with these interim guidelines may file informal complaints with the Commission's Bureau of Consumer Services.

Comments of the Parties

Verizon suggests that the Commission change VI by adding "residential" before "customers" in the second sentence.

Resolution

We accept Verizon's suggestion in part by adding "residential" before "customers." However, we will move the second sentence in VI and create a new section VIII entitled "Customer Rights." The new section will read as follows:

VIII. Customer Rights. Residential customers who believe that service has not been rendered consistent with these Interim Guidelines or applicable law or regulations may file an informal complaint with the Commission's Bureau of Consumer Services.

VII. E911 and Directory Listings/White Pages.

Comments of the parties

Verizon suggests that the Commission change section VII by adding the phrase "of residence or business customers" after "migration."

Resolution

We shall accept Verizon's suggestion.

Conclusion

We believe that the Interim Guidelines established in this order are critically important to protecting consumers. All interested parties have had an opportunity to provide public comment on the Interim Guidelines, as proposed. Therefore, we shall hereby adopt the Interim Guidelines, as modified per the discussion in this order, and offer them to local service providers and underlying carriers to provide guidance in

addressing quality of service questions. We note that this process of adopting Interim Guidelines until final regulations have been promulgated has previously been used by this Commission in a number of other instances to implement telephone and electric reform legislation. *See, e.g., Interim Guidelines for Standardizing Local Exchange Company Responses to Customer Contacts Alleging Unauthorized Changes to the Customer's Telecommunications Service Provider and Unauthorized Charges Added to the Customer's Bill*, Docket No. M-00981063 (Tentative Order entered June 5, 1998); *Chapter 28 Electric Generations Customer Choice and Competition Act – Customer Information - Interim Requirements*, Docket No. M-00960890.F0008 (Order entered July 11, 1997); *Re: Licensing Requirements for Electric Generations Suppliers – Interim Licensing Procedures*, M-00960890.F0004 (Order entered February 13, 1997).

We are hereby proposing by this Final Order Interim Guidelines to be in effect pending the promulgation of final regulations at a separate docket. Some of the commentors expressed the view that the Interim Guidelines are not enforceable since binding requirements can only be established pursuant to the Commonwealth Documents Law⁴ and the Regulatory Review Act⁵ as regulations in a rulemaking proceeding. In the Tentative Order, we contemplated that the Interim Guidelines would provide guidance to LSPs and underlying carriers when customers elect to change their local service providers. In other words, we believe that jurisdictional utilities that follow these Interim Guidelines will be acting in a reasonable and adequate manner and that compliance will result in reasonable and adequate service. Consequently, to not comply will not be a

⁴ 45 P. S. §1102.

⁵ 71 P. S. §§ 745.1, *et seq.*

violation of a specific Interim Guideline but possibly the general regulatory requirement that a jurisdictional company provide reasonable and adequate service; **THEREFORE,**

IT IS ORDERED:

1. That voluntary Interim Guidelines attached to this Final Order as Annex A are hereby adopted to provide for an orderly process in addressing Changing LSPs.

These Interim Guidelines are intended to remain in place pending the conclusion of a formal rulemaking to promulgate final regulations.

2. That this Final Order, including Annex A, be published in the *Pennsylvania Bulletin*.

3. That a copy of this order and any accompanying motions and/or statements of the Commissioners be served upon all jurisdictional local exchange carriers, the Pennsylvania Telephone Association, the Pennsylvania Cable and Telecommunication Association, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, posted on the Commission's web site at puc.paonline.com and shall be made available to all other interested parties.

4. That the contact persons for this matter are David Lewis, Consumer Services, (717) 783-5187 and Louise Fink Smith, Law Bureau, (717) 787-8866.

BY THE COMMISSION

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: April 11, 2002

ORDER ENTERED: April 23, 2002

Annex A
INTERIM GUIDELINES FOR
CHANGING LOCAL SERVICE PROVIDERS

I. Statement of Purpose, Application, and Effect.

A. Purpose. The purpose of these interim guidelines is as follows:

- (1) To ensure that customers can change their local service provider (LSP) without unnecessary confusion, delay, or interruption to their basic service.
- (2) To ensure that the migration from one LSP to another LSP should be seamless to the customer.
- (3) To ensure that the migration from one LSP to another LSP allows the customer the option of retaining the existing telephone number(s), as applicable and when desired by the customer.
- (4) To minimize overlap in billing during the transition from one LSP to another LSP.

B. Application. These interim guidelines apply to all LSPs that serve residential customers with the exception of E911 and Directory Listings/White Pages, which relate to all customers. Residential customers who discontinue service are required to provide their LSP with notice in accordance with 52 Pa. Code §64.53, Discontinuance of service, as such regulations may be changed from time to time.

C. Effect of Interim Guidelines. The requirements contained in these interim guidelines are intended to be consistent with the FCC's regulations at 47 CFR Subpart K, Changing Long Distance Service, which is also applicable to local service, and with 52 Pa. Code §64.2, Definitions; and 52 Pa. Code §64.191, Public Information.

II. Definitions.

The following words and terms in these guidelines, as well as companion guidelines concerning Quality of Service, Abandonment of Service, and Customer Information, have the following meaning unless the context clearly indicates otherwise:

Applicant—A person who applies for residential telephone service, other than a transfer of service from one dwelling to another within the service area of the local exchange carrier or a reinstatement of service following a discontinuation or termination.

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

End-user customer – A customer who has his or her telephone service provided by a local service provider.

Freeze – Designation elected by a customer that requires the customer with the freeze, including a local service provider freeze, to advise his/her previous preferred carrier of his/her intention to change preferred carriers. For customers without freezes, the new preferred carrier may relay the information to the previous preferred carrier that the customer has made a verified decision to change preferred carriers.

Local service – Telecommunications service within a customer’s local calling area. Local service includes the customer’s local calling plan, dial tone line, touch-tone, Federal line cost charge, PA Relay Surcharge, Federal Universal Service Fund Surcharge, local number portability surcharge, 9-1-1 emergency fee and applicable federal and state taxes. Local service also includes a local directory assistance allowance of two calls a month per customer account.

Local service provider (LSP) – A company, such as a local exchange carrier, that provides local service by resale, by unbundled network elements (with or without platform) or through its own facilities to an end-user customer. A local service provider may also provide other telecommunications services.

Local service provider freeze (LSPF) – The procedure which prevents a change in a customer’s local service provider without the customer notifying the local service provider to lift the freeze.

Local service request – The standard industry format used to inform a customer’s current local service provider that the customer wants to change local service providers.

Local service reseller – A local service provider that resells part or all of another company’s wholesale telephone services to provide local service to end-user customers.

Migration – The movement of an end-user customer from one local service provider to another local service provider at the same customer location.

Preferred carrier (PC) – The service provider chosen by a customer to provide particular telecommunications services. For the purposes of these guidelines, a customer’s previous provider is his/her preferred carrier until such time as the customer makes a verified choice of a new preferred carrier.

Porting – The process that allows customers to keep their telephone numbers when changing local service providers.

Telephone bill – The invoice for telecommunications products or services rendered by the local service provider or its billing agent.

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

III. Migration of Local Service.

A. Execution of Changes in Local Service Provider. Changes in a customer’s LSP should be executed in accordance with the regulations of the FCC that relate to verification of carrier change service orders, letters of agency, and preferred carrier freezes, as such regulations may be changed from time to time.

B. Additional Obligations. For any LSP or underlying carrier subject to state or federal carrier-to-carrier guidelines, if the carrier-to-carrier guidelines provide a more explicit or a narrower window for performance, the carrier-to-carrier guidelines shall control for that LSP. In addition to existing obligations in 52 Pa. Code Chapter 64, the following requirements apply:

- (1) The new LSP must provide the previous LSP with notification that the customer has requested a change by the end of the next business day.
- (2) The underlying carrier should issue a firm order commitment or rejection within five working days from the date it receives a valid order from the new LSP.
- (3) The new LSP should advise applicants of a scheduled service start date.
- (4) When applicable, the new LSP should inform all applicants for service that they can keep their same telephone numbers.

C. Removal of Local Service Provider Freeze (LSPF). The new LSP cannot process a change in service if an existing LSPF is not removed by the customer. The new LSP should do the following:

- (1) Ask applicants for local service if they have a LSPF on their basic service accounts.
- (2) Inform applicants for local service that the new LSP cannot authorize the removal of a customer’s existing LSPF.
- (3) Inform applicants that arrangements must be made to have the freeze lifted before an order to migrate the service can be processed.
- (4) If the new LSP is also seeking to provide services (*e.g.*, inter-exchange, intraLATA, interLATA, interstate, or international toll) covered by a PC freeze, the authorization to lift the freezes may be

done in the same process, but the applicant must expressly lift each particular freeze.

- D. Duty to Migrate Service :** Where a request for migration of local service is processed in accordance with state and federal requirements, a LSP should not refuse to port a number to another LSP, unless that account was terminated or discontinued pursuant to Chapter 64 by the previous LSP prior to the request. Where a request for migration of local service is processed in accordance with state and federal requirements, the previous LSP should not refuse to release the local loop or other facilities required to provide service to a premises.

IV. Customer Information.

- A. Disclosures.** The new LSP should inform applicants for residential service that it will send a written disclosure statement of the terms and conditions of service within three working days.
- B. Inquiries.** The new LSP should provide applicants for residential service with information in accordance to 52 Pa. Code Chapter 64. The new LSP should also do the following:
 - (1) Inquire whether applicants want information that may assist customers with disabilities.
 - (2) Inquire whether applicants want information about low-income assistance.

V. Discontinuance of Billing.

- A. Final Bills.** Upon notification from the new LSP, the customer's previous LSP should, within 42 days, issue the customer a final bill for services rendered.
- B. Final Payments.** Once charges are paid for those services rendered prior to the change of the customer's LSP, the previous LSP should immediately remove the customer from its billing system and discontinue billing.

VI. Debtor's Rights and Creditor's Remedies. These interim guidelines do not affect the customer's debtor/consumer rights or the LSP's creditor's remedies otherwise permitted by law.

VII. E911 and Directory Listings/White Pages. Any migration of residence or business customers will require specific and timely coordination of records between the carriers to ensure that the data bases are accurate and accessible.

VIII. Customer Rights. Residential customers who believe that service has not been rendered consistent with these interim guidelines or applicable law or regulations may file an informal complaint with the Commission's Bureau of Consumer Services.