

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

Public Meeting held April 11, 2002

Commissioners Present:

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

Interim Guidelines Establishing Quality of  
Service Procedures for Jurisdictional  
Telecommunications Companies

Docket No. M-00011582, F0003

**FINAL ORDER<sup>1</sup>**

**BY THE COMMISSION:**

**Background**

On December 4, 2001, the Commission issued a Tentative Order proposing to adopt Interim Guidelines for quality of telecommunications service. These Interim Guidelines, which are being finalized herein after the receipt of public comment, are intended to provide guidance to jurisdictional utilities. A copy of the Interim Guidelines is attached as Annex A.

Written comments were timely received from Adelphia Business Solutions (Adelphia), the Association of Communications Enterprises (ASCENT); AT&T Communications of Pennsylvania (AT&T); ATX-CoreComm (ATX); Communications Workers of America (CWA); Metropolitan Telecommunications (MetTel); the Office of

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<sup>1</sup> This Final Order is one of several we are adopting this day establishing Interim Guidelines for: 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 Interim Guidelines, 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 customer's perspective, whereas the focus of the base folder generally looks at the issues from the perspective of the local service provider.

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

After review and consideration of the comments,<sup>2</sup> the Commission has developed final-form Interim Guidelines. The following is a summary of the parties' comments and our resolution of the various issues.

### **Comments and Resolutions**

#### **I. Statement of Purpose, Application, and Effect.**

##### **A. Purpose**

##### **Comments of the Parties**

In its comments, the OCA strongly supports the Commission's overall approach and specific requirements to establish minimum guidelines for quality of service procedures as set forth in the Tentative order. However, OCA also requests that the Commission expand this proceeding to evaluate all of its retail service quality standards and the Commission's programs for monitoring and analyzing service quality. In its comments, the OCA presents evidence regarding consumer service quality complaints and the commentary of Rowland L. Curry. The OCA requests that the Commission review and incorporate Mr. Curry's recommendations as it develops these Guidelines.

Verizon also voices support for the objectives of the Interim Guidelines and suggests certain revisions to the proposed Interim Guidelines.

Met-Tel and ATX comment that the Commission's proposal is untimely and will have a harmful effect on competition in the local exchange market.

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<sup>2</sup> 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.

AT&T also calls the proposal untimely and potentially harmful to competition. AT&T believes that the Interim Guidelines add an unnecessary additional layer of regulation to an already adequately regulated industry. AT&T also states that the guidelines seek to “fill a perceived void in the regulations at a time when it is unclear whether the problems the regulations seek to address will develop.” Further, AT&T warns that the proposal may act as a barrier to entry by overburdening new local service providers (LSPs) with duplicative and potentially inconsistent regulatory provisions. AT&T also argues that the resulting cost increases would be felt not once but twice if competitive local exchange carriers (CLECs) are required to comply with Interim Guidelines now and amended final regulations some number of months later.

The PTA argues that the proposed Interim Guidelines constitute “binding norms” that the Commission is establishing without first observing the notice, comment, and promulgation process required by the Regulatory Review Act and the Commonwealth Documents Law. The PTA suggests that the Commission defer to the collaborative process<sup>3</sup> started January 17, 2002, rather than finalize the Interim Guidelines.

The CWA commented that Verizon’s overall quality of service is declining.

### **Resolution**

Although the Commission is interested in the CWA’s comments about Verizon’s service quality, it does not believe that the union’s comments are relevant to this particular proceeding. The Commission monitors Verizon’s and other LSPs’ service to customers through analysis of consumer contacts to the Bureau of Consumer Services (BCS) as well as through other venues. The Commission believes these processes are adequate to address such concerns and will continue its present activity.

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<sup>3</sup> On January 17, 2002, after notice, this Commission convened a collaborative to address the promulgation of regulations relating to quality of service. The schedule and work of that collaborative process is documented at Docket No. M-00011582, F0003. Information on the collaborative may also be accessed through the Commission’s website, <http://puc.paonline.com/>. Each of the other three Interim Guidelines has a companion collaborative to promulgate regulations.

We disagree with the OCA's recommendation regarding the expansion of this interim proceeding to address the Commission's current service quality standards. The Commission believes that OCA's suggestions would be more appropriately addressed in the Quality of Service collaborative or by the Commission at a later time.

The Commission rejects AT&T's comment that these Interim Guidelines are unnecessary because the problems they address are not growing. The Commission first promulgated Chapter 63, Telephone Service, 52 PA. Code §§63.1 – 63.137, on March 25, 1946, and Chapter 64, Standards and Billing Practices for Residential Telephone Service, 52 Pa. Code §§ 64.1 - 64.213, on November 30, 1984, and has amended both chapters several times thereafter. Since 1984, there has been a marked increase in the number of competitors in the Pennsylvania telecommunications market. Customers have a plethora of telecommunications service carriers, both local and toll, to choose from. As a result, consumers have encountered confusion, delay, and/or interruption of local service in dealing with multiple LSPs. Further, Verizon has recently received authority from the Federal Communications Commission (FCC) and this Commission to commence offering in-region long distance service within Pennsylvania. These additional options may result in even more interactions between an end-user customer and multiple LSPs. As customer choice increases, the BCS continues to receive steadily increasing numbers of consumer complaints about the competitive service quality issues addressed in these guidelines. Hence, this Commission will proceed with the Interim Guidelines.

The Commission notes that AT&T's contention about the expense of first meeting the requirements of the Interim Guidelines and then, later, final regulations may have a certain degree of legitimacy. However, the promulgation of regulations is a lengthy process. Regulations that may result from the collaborative will not become effective for more than a year. In the meantime, we believe that the Interim Guidelines will help to alleviate the problems that customers are currently facing. Further, one might argue that the Interim Guidelines could actually save the LSPs money for they set forth procedures for the LSPs and underlying carriers to follow that will put customers into service more

quickly. As a result, the customers will begin generating revenue more quickly, and the LSP may avoid expenses associated with customer complaints about delays and problems in getting service. In this way, the Interim Guidelines should help foster competition.

Finally, in response to the PTA's assertion that the Interim Guidelines are "binding norms" that have not gone through the promulgation process, the Commission believes that the Interim Guidelines offer a temporary solution to a growing consumer problem until the Commission and the interested parties are able to go through the traditional regulatory process. The Commission agrees that the Interim Guidelines are not regulations. They are not "the law," but they represent the Commission's current policy on these issues, providing both customers and the LSPs with guidance as to this agency's expectations in the areas covered by the Interim Guidelines. As such, the Interim guidelines will be the policy that the Commission will follow should an informal or formal complaint about these issues come before it.

## **B. Application**

### **Comments of the Parties**

Commentors remind the Commission that it must recognize that, in a competitive environment, the goal should not be to make all carriers act the same; such sameness is directly contrary to the intent of competition. According to the comments, LSPs try to distinguish themselves through their differences in doing business, interaction with customers, billing, marketing materials, etc. Commentors encourage the Commission not to force carriers to act in an identical manner when interacting with customers.

### **Resolution**

The Commission does recognize that in a competitive environment, all carriers will not act in the same manner. However, the Commission does believe that in order to safeguard competition, it is necessary to lay out certain "ground rules" for all LSPs to reduce confusion, delay, and possibly inappropriate interruptions of local telephone service. The Interim Guidelines provide the minimum expectations for behavior. The

Interim Guidelines should not be construed as limiting a LSP from providing a higher level of service. A failure to set these minimal procedures could easily thwart competition if frustrated customers give up participating in the competitive marketplace. The Commission believes that for this reason the simple procedures as outlined in these Interim Guidelines are important, and it will proceed with putting them in place.

## **II. Definitions**

### **Additions to the Definitions**

#### **Comments of the Parties**

Some commentors suggest that the use of “discontinuance” and “termination” are confusing and that the terms should be defined.

The OSBA requests that the definition of “small business end-user customer” should include a reference to the number of access lines. The OSBA would like to pursue a study performed by the Small Business Administration in Washington, D.C., as the index. In the alternative, OSBA proposes that a business end-user with 20 or fewer access lines should be considered a “small business [end-user] customer.”

#### **Resolution**

Under Statement of Purpose, Application, and Effect, we refer to our existing definitions in Chapters 63 and 64 of Title 52. For simplification and reference, we shall copy some of those definitions into the definition section of the Interim Guidelines. In addition, for clarity and consistency among the companion Interim Guidelines, we will add the term *End-user customer* to the Definitions section of the Interim Guidelines for Quality of Service Procedures.

We do not believe it appropriate for the Commission to redefine “small business [end-user] customer” in this proceeding. We believe that such an expansion is more appropriately deferred to the collaboratives for further review.

### **Definition of *Interfering Station***

#### **Comments of the Parties**

Verizon suggests adding a definition, “*Abandoned Interfering Station* – An Interfering Station where the prior customer has abandoned the premises without notifying the old LSP to disconnect the telephone service.” Verizon would also delete “where the prior customer abandoned the premises without notifying the old local service provider to disconnect the telephone service” from the definition of *Interfering Station*.

#### **Resolution**

We find this recommendation to be redundant and choose not to modify this definition for the purposes of the Interim Guidelines.

### **Definition of *Local Service* and *Local Service Provider (LSP)***

#### **Comments of the Parties**

The PCTA, the PTA, and Verizon commented on the definition of *local service* and *local service provider* in several of these related proceedings.

#### **Resolution**

All four of these Interim Guidelines proceedings (Changing LSPs, Customer Information, Quality of Service, and Abandonment) contain the same definitions for “*Local Service*” and “*Local Service Provider*.” Our full discussion of the parties’ comments may be found in the Customer Information Interim Guidelines Final Order.

### **Definition of *Local Service Reseller***

#### **Comments of the Parties**

Verizon suggests replacing “consumers” with “end-user customers.”

#### **Resolution**

We agree and will revise the definition accordingly. We will also add a sentence that refers to local service providers providing local service obtaining UNE loops or

facilities from an underlying carrier. This addition makes the definition consistent with the definitions of the companion interim guidelines.

### **Definition of *Migration***

Although we did not receive comments about this definition, for clarity we will add the phrase “at the same location” to the end of the definition that originally appeared in the proposed guidelines.

When an end-user customer changes LSPs at the time of a move to a different location, the change will be handled as an application for new service at the new location, even if the move entails local number portability (LNP) and a provision for an in-service hot cut (a transparent change of LSP where the customer experiences no loss of services).

### **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 *Underlying Carrier***

#### **Comments of the Parties**

Verizon suggests changing the definition of *Underlying Carrier* to the following:

A company that owns or has access to transport and/or switching and/or other services and facilities and sells such services or access to such facilities to a LSP so that the LSP can provide local service. The underlying carrier may also be a LSP.

#### **Resolution**

We generally accept Verizon’s suggestion and will revise the definition of this term. The definition will be consistent with the definition of *Underlying Carrier* as it appears in the Interim Guidelines Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunications Companies.



### **III. Migration of Local Service**

#### **Comments of the Parties**

Adelphia, ASCENT, and AT&T comment that a 10 working-day migration period for the transition of a customer from one LSP to another LSP may be too short a time frame for some migration orders.

Instead of the proposed 10 working day timeframe, Adelphia recommends either: (i) a 30 calendar-day timeframe with a negotiated timeframe for migration requests of customers with a large number of lines or (ii) a timeframe based upon the number of requests an old LSP receives for a particular customer and a particular new LSP within a work-week. Adelphia offered the following timeframes:

Migration of 1 -15 lines = 10 working days

Migration of 15-30 lines = 20 working days

Migration of 30+ lines = 30 working days, or an individual negotiated timeframe.

ASCENT, AT&T, ATX, and the PTA all basically comment that migration delays may be caused as a result of circumstances beyond their direct control, *i.e.*, the ability of underlying carriers to meet service migration commitments. ASCENT recommends that underlying carriers should be held directly responsible for compliance in such instances. AT&T points out that the completion of 95% of all migration orders within ten working days of the receipt of the request rides primarily on the performance of the old LSP.

ATX further argues that the Commission cannot simply hold the old LSP and the new LSP completely responsible for meeting these additional obligations; the Commission must also mandate the prompt cooperation of the underlying carrier. In addition, ATX requests that the Commission clarify the meaning of the term “working” days.

The PTA further suggests adding the word “existing” in front of “local service.” It also suggests that the definition should make clear that this requirement applies only to

voice grade service and does not apply to data or other special types of services (*i.e.*, Centrex, foreign exchange, etc.) negotiated between a LSP and an end-user customer.

### **Resolution**

This Commission sees merit in the comments of the various parties and will revise the Interim Guidelines to accommodate the various instances that may occur in the migration of local service such as presence of an underlying carrier. In addition, we need not include a definition of “working day” but will refer to the definition in 52 Pa. Code Chapter 63.1 wherein “working day” is defined as “A day except Saturday, Sunday, or legal holiday.”

## **IV. Interfering Station Termination Procedures**

### **Comments of the Parties<sup>4</sup>**

#### **Terminology**

The OCA suggests that this Commission use “*acquiring LSP*” rather than “*new LSP*” and “*relinquishing LSP*” rather than “*old LSP*” to describe LSPs as they are addressed in the Interim Guidelines.

#### **Duty of the New LSP – Section IV.A.**

According to Verizon, in an interfering station situation, the new LSP must be responsible to first attempt to verify that a legitimate abandoned interfering station exists in order to prevent erroneous disconnects. Verizon suggests adding a series of verification steps to spell out the responsibilities of the new LSP to verify that a true abandoned interfering station condition exists before it contacts the old LSP and initiates the disconnection process.

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<sup>4</sup> We shall depart from the structure of the order for this section and set out all the comments *seriatim* followed by a combined resolution.

### **Notice Provisions – Section IV.A.(1)**

Verizon suggests these guidelines should apply only to residential customers and recommends the following language for this section based on the new LSP verifying that the interfering station condition is legitimate:

(2) If the new LSP is successful in verifying that a legitimate abandoned interfering station condition exists, the new LSP should send notice to the old LSP advising of the verified abandoned interfering station and requesting that the old LSP issue a disconnect order against the interfering station within 3 business days.

(3) If the old LSP receives notice of a verified abandoned interfering station, the old LSP should arrange to have the service terminated at the end of the 3-day period. The service must be terminated within 24 hours of the end of the 3-day period. Within 24 hours of the termination, the old LSP should notify the new LSP that the service has been terminated.

(4) If the new LSP is unable to verify that a legitimate abandoned interfering station condition exists, the new LSP should send notice to the old LSP advising of the unverified interfering station and requesting that the old LSP send a 7-day notice of termination to its listed customer of record at the customer's last known address.

(5) When an old LSP receives notice from a new LSP that an unverified abandoned interfering station condition exists and the old LSP's prior or present use of the line may be the cause of the condition, the old LSP should send a 7 day notice of termination to its listed customer of record at the customer's last known address.”

### **Contents of notice – Section IV.A.(3)**

Both the PTA and Verizon request clarification as to whether the 7-day period refers to business days or calendar days.

The PTA also notes that requiring the old LSP to send a 7-day notice adds an extra week to the installation process for the new LSP's customer. The PTA suggests that a 3-day or 5-day notice would be more appropriate, and, thus, the new customer would not be without service unnecessarily. Further, the PTA warns that leaving working service in a dwelling in the name of the previous customer could allow the new customer to move

into the premises and use the existing service, thereby, incurring charges in the name of the previous customer.

#### **Duty of the old LSP – Section IV.B.**

Verizon suggests incorporating the following language into the guidelines when a verified abandoned interfering station is found:

If the old LSP receives notice of a verified abandoned interfering station, and if the old LSP is not the underlying carrier, the old LSP must arrange to have the service terminated at the end of the 3-day period. The service must be terminated within 24 hours of the end of the 3-day period. Within 24 hours of the termination, the old LSP should notify the new LSP that the service has been terminated.

#### **Resolution**

The Commission accepts many, though not all, of the suggestions of the parties and will reformat the Interim Guidelines accordingly. We generally agree with Verizon that the new LSP should verify that the interfering station condition exists. However, we do not agree that all the procedures that Verizon suggested are necessary. We shall provide that the new LSP verify the address when an interfering station condition appears to exist. We shall also establish a timeframe of two working days in which the new LSP is to act when notified that an interfering station exists. We shall eliminate Section C.(2) because this provision appears later in Section VI.

We do not accept the OCA's recommendations to use "acquiring" and "relinquishing" LSPs rather than "old" and "new" LSPs. Instead, the Commission will retain the use of "new" but will replace "old" with "previous" in this section and throughout the guidelines.

## **V. Number Porting**

### **General**

#### **Comments of the Parties**

The OCA and Verizon agree with the guidelines as they relate to telephone number portability and the release of the line to the premises. The OCA submits that this Commission “properly considered the importance of number portability as a keystone of competitive choice.” Verizon also agrees that the proposed guidelines regarding number porting largely comport with industry practice and FCC requirements. Verizon made a few suggestions for language changes.

Meanwhile, Adelphia does not believe that the Commission should impose the proposed interim number porting guidelines for business customers. Adelphia suggests that there is a “nationwide industry practice” for business customers of refusing to port numbers when the business customer has received a “disconnection of service notice for termination of service” or when the account is in conflict.

#### **Resolution**

The Commission does not agree with Adelphia’s suggested change regarding refusing to port numbers for business customers when the account is in conflict and points out that other LSPs state the Commission’s proposal is consistent with the industry practice. It is our belief that FCC requirements clearly allow all customers to port numbers at any time prior to the actual termination of service, and, thus, we will not change the proposed guidelines to allow this practice.

We agree with many of Verizon’s suggested changes and will revise the guidelines accordingly. In addition, we will revise these sections to clarify our intent.

## **Responsibility of the Old LSP – Section V.A.(1)**

### **Comments of the Parties**

AT&T argues that the automatic obligation of the old LSP to release the telephone number to the new LSP improperly fails to account for situations in which the old LSP cannot port the number for technological reasons.

US LEC sees conflict between this section and section (2): the first section requires an old LSP to release a customer's number upon notification by a new LSP while the second suggests that the request to port a number need only come from the customer to the old LSP. US LEC asks for consistency and suggests that the guidelines require that only notice from the new LSP to the old LSP would initiate the porting requirement. US LEC contends that “an order from an LSP would be more definitive in establishing the date and time of a bona fide request for purposes of determining whether time commitments are kept and will assist in establishing with certainty whether an obligation to port exists.”

### **Resolution**

We agree that there is a need to state that this provision is applicable where there is no technological impediment to porting the number. We also will take US LEC's advice and will remove the reference to customer porting requests from the Interim Guidelines.

## **Responsibility of the Old LSP – Section V.A.(2)(a)**

### **Comments of the Parties**

Adelphia, US LEC, and the PTA comment that this section is unfair in that it discourages customers from paying what they owe to their service providers and encourages delinquent customers to move from one carrier to another, creating bad debt with each carrier. US LEC suggests allowing an old LSP to refuse to execute a customer's request to change LSPs and port a phone number if the old LSP has sent a

suspension notice for failure to pay a delinquent bill, unless the customer had registered a dispute.

### **Resolution**

We do not agree with the comments of Adelphia, US LEC, and the PTA and, therefore, will retain the right of customers to have their telephone numbers ported unless their local service has been terminated. Any other decision by this Commission would imply that a LSP has a proprietary interest in the telephone number. We believe this to be inconsistent with federal policy and believe that to provide otherwise would dampen competition. LSPs have a variety of collection tools available to them that will allow them to pursue the debt of nonpaying customers.

### **Responsibility of the Old LSP – Section V.A.(2)(b)**

#### **Comments of the Parties**

US LEC comments that this section is confusing and unnecessarily redundant since failure to keep the terms of a contract can be based on the same underlying facts as the prior section.

ATX requests clarification of the intent with this section.

### **Resolution**

We concur with the concerns of the commentators and will revise this section to address them.

### **Responsibility of the Old LSP – Section V.A.(2)(c)**

#### **Comments of the Parties**

Verizon suggests revising V.A.2(c) for clarification purposes because LSPs have no obligation to continue to provide an option of number portability once a line has been finally disconnected. Additionally, Verizon points out that the guidelines should include a section that prohibits the old LSP from attempting to retain the customer once the migration order has been submitted for processing.

US LEC agrees that no obligation to port should exist until such time as the terminated customer pays his bill in full including all basic services and toll services. US LEC notes, however, that this policy fails to advise LSPs of their obligation. US LEC opines that the clause “until the bill is paid or otherwise resolved” should be eliminated from the Interim Guidelines and a set time frame for release of the number to the number pool should be established subsequent to a customer's termination.

The OCA requests amendment of this section to make it clear that a LSP is not free in all cases to terminate a customer and thereby thwart the customer’s request to port a number. The OCA suggests language revisions to this effect.

### **Resolution**

We understand the concerns expressed in the comments and will simplify the language of this section to address them. Once a customer’s service is finally disconnected or terminated consistent with established regulations or tariff, to the extent that a tariff is not inconsistent with law or regulation, the LSP has no further obligation to that customer to release the telephone number to a new LSP.

### **Responsibility of the Old LSP - Section V.A.(2)(d)**

#### **Comments of the Parties**

The OCA suggests revised language as follows:

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 services to a premises.

### **Resolution**

We shall basically accept the OCA’s suggestion and will revise the section accordingly. We shall, however, use the term “previous” rather than “relinquishing.” We will make this change in the Annex.



## **VI. Repair Problems**

### **Comments of the Parties**

The OCA supports this Commission’s determination that LSPs that use the facilities of an underlying carrier to service customers have a duty to resolve customer quality of service problems with that underlying carrier and may not pass that obligation off to end-user customers. The OCA suggests clarifying the language of the Interim Order to make it clear that a LSP, **new or old**, has an affirmative obligation to resolve service quality issues on behalf of the end-user customers. The OCA suggests the language below:

The LSP will have the obligation, on behalf of the [end-user] customer, to contact the underlying carrier and resolve any quality of service issues. The LSP will not require the [end-user] customer to deal with the underlying carrier when there is a problem with the quality of service provided to the [end-user] customer.

### **Resolution**

We accept the OCA’s suggestion and will revise the language of this section accordingly, with an additional revision to incorporate the reference to “end-user customers” as discussed *supra*.

## **VII. Transfer of Customer Base (Involuntary Migration)**

### **Circuit Identification**

#### **Comments of the Parties**

The OCA requests that the Commission require LSPs to disclose to an [end-user] customer the line or circuit identification information that applies to that customer's account whenever an involuntary migration is to take place.

### **Resolution**

Although we agree that this information is important, we do not agree with the OCA’s recommendation that the Interim Guidelines should provide for such information release to an end-user customer prior to an involuntary migration. We shall defer

discussion of this issue to the collaborative wherein such additional issues as LSP/underlying carrier identification of such information and customer education as to the need for and uses of such information can be addressed as well.

### **Section B. (1)**

#### **Comments of the Parties**

The PTA requests that the Interim Guidelines spell out in detail the process by which a LSP may request the Commission to lift the local service provider freezes (LSPFs).

#### **Resolution**

We appreciate the PTA's comments. We further note that lifting LSPFs is the subject of a Commission-sponsored collaborative at Docket No. C-00015149, F0002. This collaborative is presently deferred pending finalization of our Tentative Order in *PaPUC v. Verizon*, Docket No. M-00021592 (Tentative Order entered Jan. 25, 2002).

We do not think it is necessary to spell out this process in the Interim Guidelines and, thus, will not revise this section.

### **Section B. (2)**

#### **Comments of the Parties**

The OCA refers to 47 C.F.R. § 64.1120(e)(3)(v) which provides that, in the event of an involuntary migration, where the LSPF of a customer is removed to facilitate that migration, that customer must contact the acquiring LSP in order to arrange for a new freeze. The OCA asserts that it is the duty of the customer to arrange a new freeze and that LSPs may not institute a freeze on their own initiative, even for those subscribers who had a freeze before an involuntary transfer took place.

The PTA objects to the requirement that the LSP must enter into a stipulation with either the OCA and/or the OSBA in order to satisfy its burden before the Commission that lifting the LSPF is appropriate under the specific circumstances involved in an

involuntary migration. The PTA asserts that only the BCS, or other Commission staff, should be involved in such a stipulation.

ATX urges the Commission not to sanction LSPFs. The company argues that LSPFs discourage competition by hampering the emergence of a competitive telecommunications environment. ATX views LSPFs as antithetical to promoting a diversity of telecommunications options.

### **Resolution**

We are talking here about a historically small percentage of affected end-user customers. By and large, we have found that the majority of end-user customers with LSPFs, when affected by involuntary migrations, respond to notices of the impending need for customer action to lift the LSPF in order to retain service.

In the case of an involuntary migration, we agree with the OCA and will change this section to state that a customer with a LSPF that is lifted pursuant to this process must contact the new LSP to reinstate any freezes after the migration takes place.

Involuntary migrations are typically initiated because of business plans of previous or “old” LSPs rather than by overt marketing activities of new LSPs. The improper change of LSPs on an end-user’s account subject to a LSPF can trigger dire consequences for a new LSP in the wake of a charge of slamming. The requirement that the previous LSP must obtain the agreement of either the OCA or the OSBA, in addition to the agreement of the BCS, allows us to substitute statutory advocate consent for actual end-user customer consent when the end-user customer is silent in response to appropriate notice. It provides the best assurance that we can discern for the new LSP should a charge of slamming result. The OCA or the OSBA and the BCS should look only to whether the previous LSP has provided adequate notice to the end-user customer with time for the end-user customer to respond and that the end-user customer has failed to respond. If the previous LSP believes that such agreement is being unreasonably withheld, it may so raise that allegation with the BCS.

The Commission's BCS receives allegations of local slamming each day. The BCS approximates that at least 50% of the allegations are legitimate instances of slamming. The practice of LSPs offering their customers an opportunity to place freezes on their local telephone service and the methods in which such LSPFs are lifted are the subject of other proceedings before this Commission. Accordingly, we shall not curtail, or expand, the general practices relative to LSPFs or the methods of lifting LSPFs in these Interim Guidelines.

### **VIII. Carrier-to-Carrier Guidelines**

#### **Comments of the Parties**

AT&T claims that the relationship between these Interim Guidelines and the state or federal carrier-to-carrier (C2C) guidelines to which this provision refers is too vague to be workable.

ATX agrees with the Commission that, if C2C guidelines provide a more explicit or a narrower window for performance, the C2C guidelines should control for that LSP, including underlying carriers.

Verizon suggests that this section be removed because the language is unnecessary.

#### **Resolution**

In this regard, "Carrier-to-Carrier (C2C) Guidelines" is a reference to metrics which include measurements and standards for inter-carrier performance. A frequent companion to C2C Guidelines is often a Performance Assurance Plan (PAP), typically a form of self-executing remedy to encourage performance meeting or exceeding articulated standards. Examples of state guidelines as referred to in the Interim Guidelines are the subject of proceedings before this Commission in *PMO I* and *PMO II*,

Docket Nos. P-0099116433 and M-00011468,<sup>5</sup> respectively. Examples of federal guidelines are the subject of proceedings before the FCC in *UNE Metrics* and *Interstate Special Access Metrics*, CC Dockets 01-318 and 01-321, respectively.<sup>6</sup> An additional federal example is the metrics set forth as a condition to the Bell Atlantic/GTE merger.<sup>7</sup>

Inasmuch as the subject Interim Guidelines are voluntary, they will not override C2C Guidelines or PAPs. We believe that the language of our Interim Guidelines is sufficiently clear and important, and we will, therefore, retain the language of this section as proposed.

### **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 Generation Customer Choice and Competition Act – Customer*

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<sup>5</sup> *Joint Pet. of NEXTLINK, et al., for Order Establishing Formal Investigation of Performance Standards, Remedies, and OSS Testing for PA-PA*, Docket No. P-00991643 (PMO I); and *Re: Performance Measures and Remedies*, Docket No. M-00011468 (PMO II), respectively.

<sup>6</sup> *Performance Measurements and Standards for Unbundled Network Elements, et al.*, CC Docket Nos. 01-318, 98-56, 98-147, 96-98, 98-141; and *Performance Measurements and Standards for Interstate Special Access Services, et al.*, CC Docket Nos. 01-321, 00-51, 98-147, 96-98, 98-141, 96-149, and 00-229 and RM 10329, respectively.

<sup>7</sup> *In re Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable License Landing*, CC Docket 98-184, Memorandum Opinion and Order, FCC 00-221 (rel. June 16, 2000).

*Information - Interim Requirements*, Docket No. M-00960890.F0008 (Order entered July 11, 1997); *Re: Licensing Requirements for Electric Generation 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 Law<sup>8</sup> and the Regulatory Review Act<sup>9</sup> 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 addressing quality of service situations. 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 violation of a specific Interim Guideline but possibly the general regulatory requirement that a jurisdictional company provide reasonable and adequate service.

For example, if a LSP accepted non-responsive end-user customers subject to LSPFs in an involuntary migration without the agreement of the appropriate statutory advocate, the underlying slam could be determined to be a violation of the Public Utility Code regardless of whether it was a violation of the Interim Guidelines. These Interim Guidelines are intended to provide guidance as to minimum standards when addressing quality of service issues; **THEREFORE,**

**IT IS ORDERED:**

1. That Interim Guidelines attached to this Final Order as Annex A are hereby adopted to provide for an orderly process in addressing quality of service matters. These

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<sup>8</sup> 45 P.S. §1102.

<sup>9</sup> 71 P.S. §§745.1, *et seq.*

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 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](http://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**  
**QUALITY OF SERVICE**

**I. Statement of Purpose, Application, and Effect.**

- A. Purpose.** The purpose of these interim guidelines is to ensure that residential and business customers of all local service providers (LSPs) receive quality telephone service. Specifically, these interim guidelines address the following:
- (1) To establish uniform procedures for all LSPs to use when handling interfering station conditions.
  - (2) To establish uniform procedures for all LSPs that will allow residential and business customers to retain their telephone lines and numbers when they change LSPs.
  - (3) To address coordination of repair problems when there is an underlying carrier.
- B. Application.** These guidelines apply to all LSPs.
- C. Effect of guidelines.** The requirements contained in these interim guidelines are intended to be consistent with and to augment 52 Pa Code, Chapters 55, 63, and 64, Non-Carrier Rates and Practices, Telephone Service, and Standards and Billing Practices for Residential Telephone Service, respectively.

**II. Definitions.**

The following words and terms in these guidelines, as well as companion guidelines concerning Abandonment of Service, Changing Local Service Providers, and Customer Information, have the following meanings unless the content clearly indicates otherwise:

***Discontinuance 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.

***Interfering station*** - Pre-existing service that prevents the reuse of the existing telephone facilities by a new local service provider to serve a new customer at a location where the prior customer abandoned the premises without notifying the previous local service provider to disconnect the telephone service. The previous local service provider and the new local service provider may be the same company.

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

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

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

**Underlying carrier** - A company that owns or has access to transport and/or switching and/or other facilities and/or services and sells access to such facilities or services to a local service provider so that the local service provider can provide local service to an end-user customer. An underlying carrier may also be a local service provider.

### **III. Migration of Local Service.**

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.

### **IV. Interfering Station Termination Procedures.**

#### **A. Duty of the New LSP.**

- (1) The new LSP is required to do the following within two working days of notification of an interfering station condition.
- (2) When a new LSP encounters an interfering station condition as reported by an underlying carrier, the new LSP should confirm the address of the new customer in order to verify that an actual interfering station exists and termination of service is appropriate.
- (3) If the new LSP verifies that an actual interfering station condition exists, the new LSP should send notice to the previous LSP advising of the abandoned interfering station and requesting that the previous LSP take steps to terminate the service.

## **B. Duty of the Previous LSP.**

### **(1) Notice Provisions.**

- (a) When a previous LSP receives notice from a new LSP that an interfering station condition exists and the previous LSP's prior or present use of the line is the cause of the condition, the previous LSP should attempt to contact the previous customer of record by telephone to seek a request for discontinuance.
- (b) If the previous LSP is unable to make telephone contact with the customer of record to discontinue the service, the previous LSP should send a seven-day notice of termination to its listed customer of record at the customer's last known address, usually the same address that is used to bill the account.
- (c) The notice must state that there has been a request for new service in the name of a different customer at the location specified in the notice.
- (d) The notice must state that, unless notified otherwise, the LSP that sent the notice (*i.e.*, the previous LSP) will terminate service in the name of the customer of record seven days from the date of the notice in order to allow for installation of new local service at the service address.

### **(2) Termination Process.**

- (a) At the end of the seven-day period, if the previous LSP has received no response from the previous customer of record, the previous LSP should terminate service to the service address.
- (b) If the previous LSP is not the underlying carrier, the previous LSP must arrange to have the service terminated at the end of the seven-day period.
- (c) The service must be terminated within one working day of the end of the seven-day period.
- (d) Within one working day of the termination, the previous LSP should notify the new LSP that the service has been terminated.

- (3) Installation of the new service.** After receiving notification from the previous LSP that the service has been terminated, the new LSP should complete the installation of the service for the customer consistent with existing regulations and guidelines for primary service orders.

**V. Responsibility of the Previous LSP for Number Porting.**

- A. Upon notification by a new local service provider that the customer has applied for service from the new LSP, the previous LSP should release the customer's telephone line and number to the new LSP.
- B. Where a request for migration of local service is processed in accordance with state and federal requirements, a LSP cannot refuse to port a number to another LSP, unless that account was discontinued or terminated pursuant to Chapter 64 for residential customers or consistent with the previous LSP's filed and approved tariff by the previous LSP prior to the request.
- C. Where a request for migration of local service is processed in accordance with state and federal requirements, the previous LSP shall under no circumstances refuse to release the local loop or other facilities required to provide service to a premise.

**VI. Repair Problems.**

The LSP will have the obligation, on behalf of the customer, to contact the underlying carrier and resolve any quality of service issues. The LSP will not require the customer to deal with the underlying carrier when there is a problem with the quality of service being provided.

**VII. Transfer of Customer Base (Involuntary Migration).**

- A. See the interim guidelines on *Local Service Provider Abandonment Process* for details on the abandonment process.
- B. These interim guidelines address the transfer of customers between LSPs. For any such LSP-initiated transfer, the Commission does require appropriate and timely notice to the affected customers and notice to the Commission prior to the transfer. If such transfers occur because a LSP is ceasing to do business in the Commonwealth, the previous LSP must additionally obtain Commission authority to abandon service.
  - (1) In most cases, the affected customers agree to transfer (affirmatively or by inaction) or make alternative arrangements with another LSP. On occasion, a customer with a LSPF may fail to lift the LSPF to allow the transfer to take place. When two LSPs agree to a transfer of customers, the transferring LSP may request that the Commission lift the LSPFs for all customers who have not timely responded to the LSP's notice of intent to transfer. The transferring LSP will provide notice to the affected customers of the request to have the LSPF lifted.

- (2) If the transfer is necessitated by the abandonment of service by the previous LSP, there should be a rebuttable presumption that the LSPF will be lifted upon request. If the transfer is predicated upon other grounds, the burden will be on the previous LSP to prove that lifting the LSPF is appropriate. The LSP may satisfy this burden by competent evidence or by stipulation to the necessity of lifting the freeze from the BCS and the OCA and/or OSBA (depending upon customer base). Upon approval of the lifting of the LSPF by the Commission, the previous LSP and the new LSP may complete the migration. Where a customer-initiated LSP freeze was lifted, consistent with these interim guidelines, the customer must be notified that their LSP freeze was lifted to facilitate the change in LSPs and that they must contact their new LSP to re-instate the freeze.

### **VIII. Carrier-to-Carrier Guidelines.**

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 or underlying carrier.