

**PENNSYLVANIA
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., Motion and Statement attached
Terrance J. Fitzpatrick
Kim Pizzingrilli, Motion attached

Interim Guidelines Establishing Local
Service Provider Abandonment Process for
Jurisdictional Telecommunication
Companies

Docket No. M-00011582F0004

FINAL ORDER

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 of customer notification and call center support when a local service provider of local telephone service abandons the provisions of service to residential and small business customers. 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 abandonment process. 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

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). We also received late-filed comments from MCI WorldCom (MCI) and Office of Small Business Advocate (OSBA).

After review and consideration of all comments, the Commission has developed final-form voluntary Interim Guidelines. The following is a summary of comments and our response to the comments, and regulatory analysis in support of the adoption of voluntary Interim Guidelines.

Comments and Resolutions

I. Statement of Purpose

A. Purpose

Comments of the Parties

AT&T commented that the Commission should address the abandonment of local service on a case-by-case basis negating the need for Interim Guidelines.

Resolution

The Commission disagrees that the abandonment of local service providers should be handled on a case-by-case basis. The Commission has been handling abandonment on a case-by-case basis with the result being that the Commission has had to provide customer notification and call center support when several abandoning local service providers (LSPs) have not done so. The Commission believes that customer notification and call center support are necessary responsibilities of the LSPs that abandon service.

B. Application

Comments of the Parties

Verizon and the OCA commented that the Interim Guidelines should apply to LSPs who are resellers as well as LSPs who are providing service through

unbundled network elements (UNEs). The OCA also commented that the Interim Guidelines should apply to all LSPs that provide any telecommunications services, including data services. The PTA also provided the Commission with comments about the application of the Interim Guidelines to small business customers. The PTA commented that the Guidelines should delete any requirement to segregate some business customers into a “small” category based on the number of subscriber lines.

Resolution

The Commission agrees that the Interim Guidelines should apply to LSPs who are resellers as well as LSPs who are providing service through unbundled network elements (UNEs). Therefore, we will change the definitions of “Embargo” and “Local Service Provider” to include UNE LSPs. We shall defer to the collaboratives the issue raised by OCA as to whether the rules should apply to LSPs providing only voice service or that the rules should be extended to apply to LSPs providing data services as well. Based on the comments of PTA, we will delete the word “small” from the application statement so that the Guidelines apply to LSPs serving residential and business customers without making a distinction as to a “small” business customer.

II. Definitions

Definition of Embargo

Comments of the Parties

Verizon commented that the Commission should clarify that the embargo process contained in the Interim Guidelines apply to UNE LSPs and that the definition of “embargo” be revised accordingly.

Resolution

We agree with Verizon and shall modify the definition of “embargo” to apply to the condition where the LSP that is reselling its services or buying its UNE facilities is delinquent in paying for those services or facilities.

Definition of Local Service

Definition of Local Service Provider

Comments of the Parties

The PC&TA, PTA and Verizon provided comments on the definitions of local service and local service provider.

Resolution

This Interim Guideline, as well as the Interim Guidelines for Changing Local Service Providers, Quality of Service and Customer Information all contain the same definitions for “Local Service” and “Local Service Provider”. Please refer to the Customer Information Interim Guidelines for a generic discussion of the comments of the parties and the general resolution of the issues raised about these two definitions. In order to maintain consistency among the definitions in the four companion Interim Guidelines, we shall adopt the changes in definitions noted in the Customer Information Interim Guideline.

Definition of Small Business Customer

Comments of the Parties

As indicated previously, the PTA commented that the Interim Guidelines should delete any requirement to segregate customers.

Resolution

We shall delete the definition of “Small Business Customer” from the Annex as the primary purpose of the definition was to define the small business customer group for the purpose of having the Guidelines apply to the small business customer group, but not larger business customers. As noted in our discussion of Application, we intend the Guidelines to apply to all business customers, small and large.

Definition of Underlying Carrier

Comments of the Parties

The OCA and Verizon commented that the definition of “Underlying carrier” should be clarified to include the LSPs that use UNEs.

Resolution

We shall modify the definition of “Underlying Carrier” consistent with the proposed wording recommended by the OCA and Verizon.

III. Pre-Termination Embargo Process

A. Purpose

Comments of the Parties

ATX commented that where interconnection agreements between the underlying carrier and the competitive LSP contain dispute escalation and alternative dispute resolution processes, the parties should be required to exhaust these processes before triggering the processes provided for in the Interim Guidelines. ATX also urges the Commission to prohibit any carrier from implementing an embargo without first bringing the matter to the Commission and seeking explicit Commission authorization.

The PTA objects to the embargo and termination processes as both unnecessary and costly. PTA notes the existence of interconnection agreements which govern the matters addressed in the Guideline. The PTA also proposes that the Commission review the standard terms and conditions of interconnection agreements in the collaboratives.

Verizon commented again that the embargo/termination Guidelines should expressly apply to UNE-P and UNE-Loop as well as reseller LSPs.

Resolution

We generally agree with the comments of ATX that where interconnection agreements between the underlying carrier and the competitive LSP contain dispute escalation and alternative dispute resolution processes, these processes should be used first before reverting to the Interim Guidelines. However, when

there is an impasse among the parties and the processes in interconnection agreement do not resolve the impasse, then the provisions contained in the Interim Guidelines should be followed. However, we do not agree with ATX's statement that an embargo should not be implemented without first seeking explicit Commission authorization. We encourage the parties to try and resolve these payment disputes without the Commission's involvement.

We do not agree with the comments of PTA that the embargo and termination processes in the Guidelines are unnecessary. The existence of interconnection agreements has not always resulted in LSPs abandoning service in an orderly fashion. Therefore, the Commission believes that these processes are necessary for customers to be adequately notified about the impending cessation of their local service and accorded an opportunity to secure another LSP before their local service is interrupted. We will adopt PTA's suggestion that we review the standard terms and conditions of interconnection agreements in the collaboratives.

We agree with Verizon that the Embargo/Termination Guidelines should expressly apply to LSPs using UNEs. Our revisions to the Application section and our revisions to the definition of Local Service Reseller as discussed above should clarify our intent.

B. Authorized Reasons for an Underlying Carrier to Embargo Service.

Comments of the Parties

ATX comments that the Commission should incorporate a "materiality" standard that would prevent the initiation of an embargo for failure to follow a Commission order which is unrelated to the provision of local exchange service.

Resolution

Given the Commission's priority for addressing the provision of local service in these Guidelines, we adopt ATX's comments and will insert "related to

the provision of local service” to provisions of B.(2), (3) and (4) under Authorized Reasons for an Underlying Carrier to Embargo Service.

C. Unauthorized Reasons for an Underlying Carrier to Embargo Service.

Comments of the Parties

Verizon offered clarifying language regarding charges for directory advertising in C.(1), the payment agreement in C.(3) and nonpayment of charges at issue in a complaint in C.(4). Verizon also commented that the reference to reseller should be clarified in C.(5) and that the language should specifically reference UNE LSPs. Verizon also suggested that C.(5) be modified to substitute the word dispute for complaint and that complaints and claims be “timely, good faith and commercially reasonable” in both C.(4) and (5). Verizon further commented that the claims be “with the underlying carrier” in C.(5).

Resolution

We adopt Verizon’s suggestions for clarifying language in C.(1) and C.(3). In (C)(1) we will expand the language to read: An example of a charge that if not paid cannot form the basis of an embargo “is a charge for the local service provider’s own” directory advertising “in the underlying carriers yellow pages directories.” In (C)(3) we will revise the language to read: noncompliance with a payment agreement prior to the date of payment “set forth in” the agreement. We adopt Verizon’s language in C.(4) as to charges “at issue” but do not adopt the language of charges at issue in a “timely, good faith and commercially reasonable” complaint before the Commission in C.(4) and (5). The terms “timely, good faith and commercially reasonable” as they pertain to claims are more appropriately placed in interconnection agreements where definitions could clarify their meaning. We do adopt Verizon’s language specifying that the claim be “with the underlying carrier.” Finally, we adopt Verizon’s clarification that a “local service” reseller “or UNE local service provider” is obligated to pay all amounts not legitimately under complaint or “dispute”. The last reference as to complaint

or dispute would include an amount under “dispute” between the underlying carrier and the competitive LSP that is being addressed under the dispute resolution process of the interconnection agreement absent the Commission’s involvement. The reference to “complaint” would include an amount that is disputed in a formal complaint before the Commission.

D. Embargo Notification Process

Comments of the Parties

Verizon provided several recommendations for wording changes to section D. Verizon suggested that the underlying carrier should give “at least” ten days prior notice of the embargo and that the language in the section be clarified to apply to UNE LSPs. Other changes recommended by Verizon include allowing for other agreed upon methods for delivering the notice instead of restricting it to first class mail and allowing for “other acceptable arrangements” in addition to paying the bill. Finally, Verizon commented that if the bill is not paid or other acceptable arrangements are not made “before” the embargo date the “embargo will commence on that date.”

Resolution

We agree with Verizon’s comments as they pertain to giving the LSP at least ten days advance notice of the embargo and will add clarifying language regarding UNE LSPs. Verizon’s language about allowing for other acceptable arrangements to be made before the embargo date or the embargo will commence will also be adopted.

IV. Underlying Carrier Termination Process for Local Service Resellers

A. Termination Process Initiation

Comments of the Parties

Verizon recommended language that clarifies the application to UNE LSPs as well as language that specifies that a “written” agreement must be made for the payment of an outstanding debt. Verizon also commented that termination would not be initiated, or once initiated, would not proceed if there is an open complaint

that pertains to the debt that is the subject of the claim and was the reason the termination was initiated.

Resolution

We will adopt Verizon’s suggested language that clarifies the application to UNE LSPs and a mutually acceptable “written” agreement for payment. We will adopt Verizon’s recommended language about staying the termination process pending an open claim on the debt that is the subject of the claim and was the reason the termination was initiated.

V. Initiation of Abandonment

A. Underlying Carrier Initiation

Comments of the Parties

ATX comments that when an underlying carrier initiates abandonment, the Commission should be required to affirmatively approve the initiation of abandonment. ATX also comments that the abandoning local service provider should be given five “business days” versus five days to provide notice to customers before the underlying carrier extends the termination date.

Verizon comments that when an LSP is in financial trouble that may affect its ability to serve its customers that it should be required to file an “advance filing requirement” with the Commission. This advance filing requirement would help to limit the financial exposure of underlying carriers involved in the abandonment. Verizon also commented that in service termination situations where the LSP fails to provide customer notice within five days after receipt of the termination notice, the guidelines should specify that the Commission will provide this notice within ten days of this receipt.

Resolution

We do not adopt ATX’s comment recommending that the Commission be required to approve every abandonment initiation. The reasons for such initiation are generally a matter between the two entities that do not require Commission review or approval. The Commission’s formal complaint provisions are available

to the LSP on a case-by-case basis if needed. We decline to change the five day period for delivering the notice to five business days as suggested by ATX. We will specify that the five days are five “working” days so that an LSP has sufficient time to provide customer notices during a period that may contain a weekend and/or holiday. The Commission has defined “working” day in 63.1 as any day except a Saturday, Sunday or legal holiday. We will also clarify that we are referring to “working” days in V.A.(1) and (2), as well as in V.D.(a-e). We decline to adopt Verizon’s recommendation that when an LSP is in financial trouble that potentially affects its ability to serve customers that it be required to file an “advance filing requirement” with the Commission. We will defer discussion to the collaboratives as to whether there exists good, advance triggers that could be relied upon for early signs of an impending abandonment. We also decline to incorporate Verizon’s recommendation that the Commission should provide customer notice within 10 days when the LSP fails to provide notice within five days. We agree that the customer notice should be delivered as expeditiously as possible; however, we will not guarantee that the notice will be delivered in 10 days. This does raise the issue as to who will provide the customer notice in the event the abandoning LSP does not provide the notice. We will defer this issue for discussion to the collaborative with possible entities being the Commission, the Office of Consumer Advocate, the underlying carrier or other entities.

As a point of clarification, we will revise the wording in A.(1) to read “37” working days versus “40” working days to be consistent with the Overall Abandonment Timeframe contained in V.D.(1)(a-g) as well as Appendix A of the Annex. In other words, the timeframe adds up to 37 days rather than 40 days.

D. Local Service Provider Obligations for Abandonment
Comments of Parties

Verizon commented that the wording in this Section should delete the reference to “small” business customers. Verizon also commented that the

underlying carrier should also receive electronic and mail versions of the abandonment notice to customers as well as the letter confirming that all customers have been served with the notice.

Resolution

We adopt Verizon's suggested wording changes and will delete reference to "small" business customers and include the underlying carrier on the list of entities that should receive follow-up verification that the abandonment notices have been sent.

We will also revise D.(1)(c-e) by adding one day to each of the provisions in (c-d) to account for the fact that the day the LSP receives the termination notice from the underlying carrier is not day one on the timeline but rather day zero. With these changes the LSP is accorded the full five, six and seven days to implement the provisions as proposed. Therefore, D.(1)(C) will be changed from "four" to "five" working days, D.(1)(d) will be changed from "five" to "six" working days, and D.(1)(e) will be changed from "six" to "seven" working days.

We will also clarify the provisions in V.D.(1)(f) and (g) that pertain to how long the LSP is required to maintain call center access and the provision of local service to customers. Rather than requiring these services to be maintained "for 35 business days after the date the notice has been sent to customers," we will substitute "until the date the underlying carrier terminates the reseller's service." This clarification will provide a firm date for the customer of LSP services rather than tie the date to when customer notices are sent which could occur over a several day period. The date the underlying carrier will terminate the reseller's service is provided to the LSP in accordance with the termination notice contents in IV.B.(1)(b).

VI. A. Customer Notice Requirements

We will also clarify the customer notice provisions in VI.A.(1)(c) and (d) to be consistent with the firm date that the underlying carrier will terminate the

reseller's service. In VI.A.(1)(c) we will change "date 35 business days from the date of the notice" to read "the date the underlying carrier will terminate the reseller's service." In VI.A.(1)(d) we will change "date 25 days from the date the notice is sent to the customer" to read "a date 11 days prior to the date the underlying carrier will terminate the reseller's service."

VII. Local Service Provider Deposit Requirements and Disposition

Comments of the Parties

ATX comments that the Commission should eliminate the requirement to post a surety bond or letter of credit and apply such a requirement on a case-by-case basis when the need arises. The OCA comments that the deposits or letters of credit should be adequate to protect consumer interests, particularly those who have pre-paid for service or made a credit deposit as telecommunication companies often require payment for some services in advance. In the event the LSP can no longer provide service, end-user customers should be entitled to a full refund of the pre-paid money and the credit deposit. The OCA recommends that the surety deposits/letters of credit should be larger than initially proposed to provide for customer refunds as well as customer notification and call center support. The OCA also suggests clarifying language that the surety bond/letter of credit will be posted at the time of the initial application for a certificate of public convenience to provide service by the LSP to provide local telephone service to customers in Pennsylvania.

Verizon commented that incumbent LSPs should be grandfathered or otherwise exempted from the service abandonment deposit posting requirements as it is typically new LSPs that are vulnerable to financial or other difficulties likely to give rise to abandonment. Verizon opines that the chances are extremely remote that any incumbent LSP will be abandoning local service.

Resolution

We disagree with the comments of ATX that the Commission should apply surety bond/letter of credit requirements on a case-by-case basis. As noted above,

the Commission has had the unfortunate experience of having several LSPs abandon service without providing proper customer notice or call center support. When a LSP abandons service in such an irresponsible manner, the Commission lacks the leverage to collect a surety bond/letter of credit at that time or to enforce the customer notification and call center support activities. Therefore, the ATX proposal is unworkable. The Commission believes that by having the surety bond/letter of credit in hand at the time of application there will be sufficient financial incentive for the LSP to abandon service in a responsible fashion or forfeit the bond/letter of credit to cover the cost of providing the necessary abandonment activities.

The Commission will defer for discussion to the collaboratives the remaining issues identified by the OCA and Verizon that pertain to the amount of the deposit requirements and to whom they should or should not apply. Because these are core issues of significant importance, we will delete the entire Section VII from the Interim Guidelines with the intent of further discussing the details for inclusion in a proposed rulemaking on this topic.

New Issues

Comments of the Parties

The OCA and XO provided comments that the Commission should consider default carrier provisions so that no circumstances arise where a customer is left without the provision of local phone service. In other comments, the OCA and XO also noted that customers and the Commission should have greater access to line and circuit identification information prior to the abandonment of service to facilitate consumers being able to switch LSPs without disruptions of service. The OCA notes that this information should be provided to customers when service is initiated and to the Commission along with an application to abandon service. In their comments, XO also notes that the Commission should have notice and filing requirements for the partial abandonment of a service territory by an LSP.

Resolution

We agree with the comments of the OCA and XO that the Commission should consider default carrier provisions. We also acknowledge that the consideration of default carrier provisions will be a significant and important undertaking on its own and recommend that a separate proceeding be initiated to address this issue.

We agree with OCA and XO that there should be greater access to line and circuit identification information to facilitate customer switching without interruptions in service. Therefore, we will defer discussion of this issue to the collaboratives as to the best way to achieve this objective. Similarly, we will defer for discussion in the collaboratives the recommendation of XO that the Commission develop notice and filing requirements for partial abandonment scenarios.

In its Tentative Order at Docket No. M-00011582 F0004, the Commission sought comment as to whether we need provisions to have preferred carrier freezes routinely removed once the abandonment notices to customers are sent so that customers can quickly migrate to a new carrier (p.4). While we did not receive any comments directly on this idea, we do wish to raise it for discussion in the forthcoming collaboratives.

Conclusion

We believe that the Interim Guidelines established in this order are critically important to protecting consumers from losing their local exchange service without notice and safeguarding their rights. All interested parties have had an opportunity to provide public comment on the Interim Guidelines, as proposed. Therefore, we 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 the abandonment process. 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 (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 Law¹ and the Regulatory Review Act² as regulations in a rulemaking proceeding. In the Tentative Order, we contemplated that the Interim Guidelines would provide guidance to local service providers and underlying carriers when addressing abandonment situations. In other words, we believe that jurisdictional utilities who follow these 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 local service provider abandoned service without providing its customers with notice in order for them to secure alternative service, that could be determined to be a violation of the Public Utility Code regardless of whether it was a violation of the Interim Guidelines which require the local service provider to send the notice of abandonment. Moreover, the contents of the customer abandonment notices from local service providers or the contents of the termination notice from the underlying carrier to the local service reseller

¹ 45 P.S. §1102.

² 71 P.S. §§745.1, *et seq.*

may be inadequate if they do not follow the basic notice provisions set forth in the Guidelines. These Interim Guidelines are intended to provide guidance as to minimum standards when addressing the abandonment process; **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 of customer notification and call center support when a local service provider of local telephone service abandons the provisions of service to residential and business customers. These 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 Wayne Williams, Consumer Services, (717) 787-7137 and Terrence J. Buda, Law Bureau, (717) 787-5755.

BY THE COMMISSION

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: April 11, 2002

ORDER ENTERED: April 23, 2002

Annex A

LOCAL SERVICE PROVIDER ABANDONMENT PROCESS

I. Statement of Purpose.

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

- (1) To provide for an orderly process of customer notification and call center support when a local service provider of local telephone service abandons the provision of service to residential and business customers under the following circumstances:
 - (a) The underlying carrier that provides part or all of the services necessary to provide local exchange carrier service is terminating the local service provider's service agreement.
 - (b) The Public Utility Commission issues an order to revoke the local service provider's certificate of public convenience.
 - (c) The local service provider seeks a certificate of public convenience to voluntarily abandon the provision of local exchange carrier service.
- (2) To ensure that local service providers give adequate customer notice of the impending termination of local exchange carrier service to enable their customers to obtain service from another provider before the existing local service provider abandons service.
- (3) To provide for a minimal notification deposit requirement to be paid by local service providers prior to the initiation of services to customers to ensure that there is sufficient incentives for local service providers to provide adequate customer notification and call center access when abandoning service to customers. If the local service provider fails to provide proper notice and customer support, the deposit will be used to pay the cost of customer notices about the abandonment of services and to maintain call center access for customers who have questions.
- (4) To provide for an embargo process that precedes the termination of a local service provider's service agreement with an underlying carrier.

B. Application.

- (1) These rules apply to any local service provider, including local service providers providing service through unbundled network elements (UNEs), that are providing local exchange service to residential or business customers in Pennsylvania.
- (2) These rules apply to any underlying carrier that provides wholesale telephone service to a local service provider and intends to embargo or terminate the local service provider's service.

II. Definitions.

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

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

Embargo – The refusal by an underlying carrier to process local service change requests or to initiate new local service requests, because the local service provider that is reselling its services or buying its unbundled network elements (UNE) facilities is delinquent in paying for those services or facilities.

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

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. Pre-Termination Embargo Process.

A. Purpose.

An embargo is a pre-termination process that is intended to limit the potential financial loss of the underlying carrier when a local service provider who is a reseller or using UNE or UNE-P becomes delinquent in the payment for those services.

B. Authorized Reasons for an Underlying Carrier to Embargo Service.

- (1) Failure to pay an undisputed delinquent amount for services necessary to provide end-users with basic service when that amount remains unpaid for 30 days or more after the bill is rendered.
- (2) Failure to abide by the terms and conditions of an interconnection agreement related to the provision of local service approved by the Public Utility Commission.
- (3) Failure to comply with the terms of a payment agreement related to the provision of local service.
- (4) Failure to comply with a Public Utility Commission order related to the provision of local service.

C. Unauthorized Reasons for an Underlying Carrier to Embargo Service.

- (1) Nonpayment of charges unrelated to the provisions of local service. An example of a charge that if not paid cannot form the basis of an embargo is a charge for the local service provider's own directory advertising in the underlying carrier's yellow pages directories.
- (2) Nonpayment of charges not previously billed prior to the due date of the current bill.
- (3) Noncompliance with a payment agreement prior to the date of payment set forth in the agreement.
- (4) Nonpayment of charges at issue in a complaint before the Public Utility Commission unless specifically authorized to do so by the Public Utility Commission.

- (5) Nonpayment of charges where there is an open complaint or dispute with the underlying carrier about the accuracy or correctness of these charges. However, a reseller or UNE local service provider is obligated to pay all amounts not legitimately under complaint or dispute.

D. Embargo Notification Process.

- (1) At least (10) days prior to the initiation of the embargo, the underlying carrier must issue a written notice of embargo to the local service reseller or UNE local service provider using the following procedures:
 - (a) The embargo notice is to be sent by first class mail unless other methods of delivering notice have been agreed to as part of the service agreement.
 - (b) The notice to the reseller is to be addressed to the person designated to receive such notices.
 - (c) A copy of the embargo notice is to be sent to the Secretary of the Public Utility Commission and the Public Utility Commission's Bureau of Consumer Services.
- (2) The embargo notice to a local service reseller or UNE local service provider shall include the following:
 - (a) Date that the embargo will start. The starting date given for the embargo cannot be less than ten days from the date the notice is mailed.
 - (b) Amount owed which forms the grounds for the embargo.
 - (c) Contact information for the underlying carrier issuing the embargo notice where the local service reseller should call to make arrangements to pay the bill.
 - (d) A statement that if the bill is not paid or other acceptable arrangements are not made before the embargo date the embargo will commence on that date and a termination notice will be issued.

IV. Underlying Carrier Termination Process for Local Service Resellers.

A. Termination Process Initiation.

An underlying carrier is permitted to initiate the termination process if by the embargo start date on the embargo notice, the local service reseller or the UNE local service provider has not made payment in full or entered into a mutually acceptable written agreement for payment of the outstanding debt. An underlying carrier is not permitted to initiate termination for any delinquent indebtedness which is the subject of an open claim with the underlying carrier or pending complaint with the Commission filed by the local service reseller or UNE local service provider. If during the termination process a claim is lodged with the underlying carrier or a complaint is filed with the Commission, the underlying carrier must suspend the termination process unless it is based on other indebtedness that is not disputed.

B. Contents of Termination Notice.

- (1) A termination notice from the underlying carrier to the local service reseller must include the following:
 - (a) The date of the notification.
 - (b) The date services will be terminated unless payment is received or there is a mutually acceptable payment arrangement.
 - (c) The amount owed.
 - (d) A contact number for the underlying carrier.
 - (e) A copy of the notice must be provided to the Public Utility Commission's Secretary's Office, Bureau of Consumer Services and the Law Bureau.

V. Initiation of Abandonment.

The abandonment of service by a local service provider may be initiated by an underlying carrier, by an order of the Public Utility Commission which revokes the local service provider's certificate of public convenience, or by the local service provider itself upon proper application to the Public Utility Commission.

A. Underlying Carrier Initiation.

- (1) An underlying carrier that intends to terminate the service of a local service reseller that serves residential and/or business customers

shall provide prior notice of termination to the local service provider and the PUC electronically and by first class mail 37 working days in advance of the scheduled termination.

- (2) If the local service reseller fails to timely notify its end-user customers of the impending abandonment of service within five working days after receiving the underlying carrier termination notice, the underlying carrier will extend the local service reseller's termination date until such time as the end-user customers can be properly notified as determined by the Commission.
- (3) The extension should give end-user customers time to implement a change of local service provider so that their local service is continued in an uninterrupted manner.

B. Public Utility Commission Initiation. The Public Utility Commission may initiate the abandonment of a local service provider's service through the issuance of a Commission order that revokes the local service provider's certificate of public convenience.

C. Local Service Provider Initiation. A local service provider may initiate the voluntary abandonment of its local service provision by filing with the Public Utility Commission an application to abandon service.

D. Local Service Provider Obligations for Abandonment.

- (1) Upon receiving the prior electronic notice of termination from the underlying carrier, or upon the date the Public Utility Commission's order revoking the local service provider's certificate of public convenience becomes final, or upon the date the local service provider is issued a certificate of public convenience to voluntarily abandon its service provision, whichever occurs first, the local service provider shall have the following obligations:
 - (a) Within three working days prepare a written customer abandonment notice consistent with this order to be sent to all the local service provider's customers.
 - (b) Within three working days prepare a mailing list containing the names and billing addresses of current customers who are to receive the abandonment notice.
 - (c) Within five working days send by U.S. first class mail all its residential and business customers the notice of abandonment.

- (d) Within six working days send the Secretary of the Public Utility Commission, the Public Utility Commission’s Bureau of Consumer Services and the underlying carrier the following via electronic mail:
 - (i) A copy of the abandonment notice that was sent to customers.
 - (ii) A confirmation letter that all residential and business customers have been sent an abandonment notice.
- (e) Within seven working days send the Secretary of the PUC, the PUC’s Bureau of Consumer Services and the underlying carrier the following via U.S. first-class mail:
 - (i) A copy of the abandonment notice that was sent to customers.
 - (ii) A confirmation letter that all residential and business customers have been sent an abandonment notice.
 - (iii) A copy of the mailing list of customers that were mailed the notice.
- (f) The local service provider is required to maintain call center access for customers who have questions until the date the underlying carrier terminates the reseller’s service.
- (g) The local service provider is required to maintain the provision of local service to residential and business customers until the date the underlying carrier terminates the reseller’s service.

VI. Content of Customer Abandonment Notices from Local Service Providers.

A. Customer Notice Requirements.

- (1) The notice of pending abandonment of service to residential and business customers should contain the following information and statements:
 - (a) A title on the envelope and the notice containing the words “Important Notice, Loss of Local Telephone Service” printed in bold letters with a font size of at least 14 points, conspicuously displayed to attract the attention of the reader.
 - (b) A statement: “At this time, (local service provider name) provides you with local telephone service.”
 - (c) A statement: “As of (the date the underlying carrier will terminate the reseller’s service), (local service provider name) will no longer provide your local telephone service and you must take action.”

- (d) A statement: “To prevent the loss of your local telephone service, you must select another local telephone service provider on or before (a date 11 days prior to the date the underlying carrier will terminate the reseller’s service). If you act by this date there will be enough time for the new service provider you choose to start your new service before your current service ends.”
- (e) A statement: “Please remember that customers can choose the provider of their local telecommunications service. You may select any company that is offering service in your area.”
- (f) A statement: “This is the only notice (the words “only notice” in bold and underlined) you will receive about the loss of your local telephone service. If you have any questions or need more information, contact (local service provider contact information including a toll-free telephone number).”

APPENDIX A OVERALL ABANDONMENT TIMEFRAME

Working Day #	Activity
0	Local service reseller receives termination notice from underlying carrier; or date of PUC final order revoking local service provider's certificate of public convenience; or the local service provider receives a certificate of public convenience to abandon service.
1-3	Local service provider prepares abandonment notice for customers and prepares customer mailing list.
2-5	Local service provider sends notice to customers.
3-6	Local service provider provides an electronic copy of notice to PUC along with a confirmation letter that all affected customers have been sent an abandonment notice.
4-7	Local service provider sends PUC written notice, confirmation letter, and customer contact list.
3-10	Customers receive notice of abandonment.
3-25	Customers shop for new local service provider and make a selection. (minimum 15 working days)
13-35	Time allotted for customer migration. (minimum 10 working days)
35	Customer is provisioned to new local service provider.
36	Underlying carrier terminates reseller's service. (If applicable).
36	Local service provider ceases provision of local exchange service and call center support.