Decision **DRAFT DECISION OF ALJ GRAU** (Mailed 8/22/2006)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Rules Governing the Transfer of Customers from Competitive Local Carriers Exiting the Local Telecommunications Market.	Rulemaking 03-06-020 (Filed June 19, 2003)

OPINION ADOPTING MASS MIGRATION GUIDELINES

I. Summary

Today's decision adopts the Mass Migration Guidelines attached to this decision as Attachment A. The Mass Migration Guidelines apply when a Competitive Local Exchange Carrier (CLEC) files an application to discontinue providing local exchange services to its customers. The procedures give the CLEC's customers the opportunity to migrate to another local exchange carrier without interruption of service. The guidelines address regulatory notification, including the filing of an exit plan along with the Commission-required application at least 90 days in advance of the proposed date for the CLEC's discontinuance of service, industry notification, including notification of carriers affected by discontinuance of service, and customer notification. Customer notification includes CLEC notice 60 days in advance of the final service termination date and a second notice for customers who have taken no action to select a carrier. The guidelines provide a mass migration process, including determining an overall program manager and submitting customer list information and progress reports to Commission staff. The mass migration

process also incorporates procedures for transferring NXX codes and unlocking telephone numbers in the E-911 database. Finally, the Mass Migration Guidelines establish criteria for Commission approval of a carrier's termination of service and for soliciting and appointing a default carrier in those circumstances where the exiting CLEC has not found an arranged carrier to assume the customers who have not selected another carrier.

II. Background

We opened this Order Instituting Rulemaking (OIR) to establish rules governing the transfer of customers from a CLEC exiting the local telecommunications market. The OIR requested comments on whether we should: 1) adopt rules or guidelines, 2) adopt the New York Public Service Commission's rules on an interim basis, 3) require Incumbent Local Exchange Carriers (ILEC) to be the default provider, 4) suspend service quality rules and penalties during mass migrations, 5) establish rules on coordinating our proceedings with bankruptcy proceedings, terminating CPCN's and payment of regulatory fees, and 6) facilitate CLEC to CLEC migration rules.

AT&T Communications of California, Inc. (AT&T), Covad Communications Company (Covad), Pacific Bell Telephone Company (SBC California), The Utility Reform Network (TURN), Verizon California Inc. (Verizon), and WorldCom, Inc. (MCI) filed opening comments on August 22, 2003.[1] AT&T, MCI, the Office of Ratepayer Advocates (ORA), SBC California, TURN, and Verizon filed reply comments on September 22, 2003.[2] Verizon included proposed Mass Migration Guidelines,

---

[1] Since this rulemaking issued, AT&T and SBC California have merged, as have Verizon and MCI. This decision summarizes the comments the parties filed pre-merger.

[2] ORA requested and received a one-day extension to file its reply comments.

based on the revised Mass Migration Guidelines adopted by the New York Public Service Commission, in its comments. (*See* Order Adopting Revised Mass Migration Guidelines, *Proceeding on Motion of the Commission to Examine the Migration of Customers Between Local Carriers,* C.00-C-0188, January 2, 2003.) Verizon's proposed Mass Migration Guidelines were modified to reflect procedures used in California.

An Assigned Commissioner Ruling (ACR) and Scoping Memo issued on May 4, 2004, attached proposed Mass Migration Guidelines and requested comments on them. AT&T, MCI, Inc. (MCI), SBC California, Sprint Communications Company L.P. (Sprint), TURN, and Verizon filed comments on June 2, 2004. Representatives of those parties participated in a June 30, 2004 workshop; Cox Communications Inc. and Surewest also participated. At the workshop, parties requested the opportunity to submit further comments on default carrier and other issues, because the proposed Mass Migration Guidelines placed responsibilities on default carriers that other states do not. A July 23, 2004 ACR requested comments on different treatment for differing types of default carriers, additional end-user notice, competitively neutral default carrier compensation, protections for default carriers, notification procedures' conformity with in-language requirements, and streamlined approval of applications.

AT&T, Cox, MCI, SBC California, TURN, and Verizon filed comments on these additional issues on August 23, 2004. AT&T, MCI, SBC California, Surewest, TURN, and Verizon filed reply comments on September 7, 2004.

Verizon agreed to prepare a draft workshop report, circulate the draft among the parties, and file and serve the workshop report on or before July 30, 2004. Verizon submitted the Workshop Report on July 30, 2004.

III. Discussion

We adopt the Mass Migration Guidelines attached to this decision as Attachment A. They will apply when a CLEC with customers exits the local exchange market. They provide a comprehensive approach to that potentially difficult process. The parties to this proceeding support the guidelines' goals, discussed below, and the process contained in the guidelines. Most provisions of the proposed Mass Migration Guidelines are not controversial, and we adopt those provisions, summarized below, without change.

Some provisions of the guidelines are controversial. The parties disagree on whether we should designate a default carrier when customers have not selected another carrier. Parties also disagree on whether we should suspend service quality rules during mass migrations. We discuss these provisions below.

A. Goals of the Mass Migration Guidelines

The objective of the guidelines is to enable a CLEC leaving the market to give its customers the opportunity to select another carrier without interruption of service. To accomplish that objective the guidelines include the following goals:

- Ensure customers do not lose local voice service
- Maintain regulators' ability to monitor events and assist parties
- Avoid double migrations where the first migration is to a carrier the customer did not choose
- Provide ample notice to customers
- Comply with federal and state laws and regulations
- Coordinate information flow and activities through a project management team
- Ensure the CLEC provides sufficient network information to the underlying network service provider or the customer's new carrier to permit a seamless migration

B. The Mass Migration Process

The adopted guidelines blend existing regulations with a process designed to streamline the migration of a CLEC's customers. The parties support this process. An exiting CLEC must include an exit plan with its application to withdraw from providing service. The exit plan must include information on customer notification, the deadline for selecting a new carrier, service date termination, the number of customers involved, contact information, customer service arrangements with any arranged carrier (carrier with whom CLEC has negotiated to assume remaining customers) or underlying service provider, customer serving arrangements, need for a default carrier, customer service record information, and plans for handling customer deposits and unlocking the E-911 database.

The guidelines specify that the CLEC serve its application and exit plan on the Commission's Telecommunications Division, the arranged carrier, local exchange carriers, and underlying network service providers. The required customer notification includes CLEC notice 60 days in advance of the final service termination date and a second notice for customers who have taken no action to select a carrier.[3] Sample notice letters are attached to the Mass Migration Guidelines.

The guidelines provide a mass migration process. Each mass migration must have an overall program manager. The CLEC must submit its customer list information and progress reports to Commission staff. The mass migration process also incorporates procedures for transferring NXX codes and unlocking telephone numbers in the E-911 database. Finally, the Mass Migration

[3] This notice is consistent with that required for withdrawals via advice letter. (D.02-01-038.)

Guidelines establish criteria for Commission approval of a carrier's termination of service. Under the guidelines, the Commission will use several factors when deciding whether to grant a CLEC's application to withdraw, including progress of customer migrations, availability of alternatives, and the nature of the customer base. We next discuss the areas of disagreement below.

C. Default Carrier

The need for a default carrier, a carrier who is appointed to serve customers who do not choose another provider, will most often arise when the exiting CLEC is a facilities-based carrier or offers specialized services or when there is only one other provider offering service in the CLEC's service area. Most mass migrations will involve an arranged carrier, a carrier with whom the exiting CLEC has an agreement to serve those customers.

Although the parties disagree on whether we should require a default carrier, an essential goal of the mass migration process is ensuring that customers do not lose local voice service. To meet that goal, a default carrier sometimes will be necessary. In addition, we have recognized that a fundamental universal service goal is access to local voice service, a basic service, and that provisioning local voice service imposes obligations as well as opportunities in a competitive environment. (*See* Decision (D.) 95-07-050, 60 CPUC 2d 536.) Ideally, customers will choose their new provider. However, that may not be possible in all circumstances. The goal of continuous access to local voice service reflects that commitment; the need for default carriers can be an opportunity or an obligation, consistent with that commitment. Consistent with the goals of avoiding double and promoting seamless migrations, the migration process utilized by default carriers should be as efficient as possible.

We can best achieve the goal of ensuring continuing local voice service for customers of exiting carriers by soliciting providers to volunteer to be a

default carrier and assisting default carriers in the transition by suspending certain regulatory requirements during the mass migration. We will incorporate in the guidelines provisions governing the selection of a default carrier when the CLEC does not have an arranged carrier to assume its customer base. We first will solicit carriers to serve as default carriers. To minimize any burden associated with being a default carrier, we will waive our slamming and service quality rules during the migration to a default carrier. We will facilitate reimbursement of default carriers' migration costs by an exiting carrier or a subsequent arranged carrier. The tariffed service establishment costs serve as benchmark for reimbursement. We decline to order any other compensation. The guidelines we adopt for selecting a default carrier will make the process for migrating customers more efficient.

1. Mandatory or Voluntary

Although default carriers will be needed in limited circumstances, ILECs are concerned about the cost of being a default carrier and, therefore, oppose a mandatory default carrier.[4] SureWest, SBC California, and Verizon state some mass migrations will impose significant costs. Two scenarios, mass migrations from facilities-based CLECs, where the CLEC provides insufficient information, and CLECs serving a niche market, pose difficulties in the mass migration process. In these circumstances, no arranged carrier is likely and costs will be high. Verizon also cautions that substantial implementation burdens in migrating customers exist even in a resale environment. The financial risks associated with potentially unrecoverable migration costs and end user payment defaults have increased, because the Federal Communications Commission

[4] Underlying carriers may also lose revenues associated with wholesale services when CLECs exit the market.

(FCC) precludes carriers from assessing nonrecurring carrier change charges to end users for mass migrations.[5] As such, Verizon asserts the burdens of a default carrier policy substantially outweigh any public interest benefits.

Some carriers support imposition of a default carrier in a competitively neutral manner. Cox states that automatically selecting ILECs as default carriers gives them a competitive advantage. Therefore, the Commission must adopt a competitively neutral mechanism for choosing the default carrier. Although Verizon opposes a default carrier policy, Verizon believes Cox's proposal is the best.

Other carriers and consumer groups support default carriers under certain circumstances. MCI proposes the ILEC be the default carrier only where no other facilities-based carrier has agreed to be one. ORA supports a mandatory default carrier if there are no alternate carriers. TURN proposes a default carrier requirement where there is only one carrier besides the exiting CLEC or where there are no facilities other than the CLEC's. MCI states if no carrier has agreed to be a default carrier, the underlying default carrier in a resale, UNE-P or UNE-L environment is the logical choice. AT&T states the default carrier process should not differ depending on the status of the service.

Default carrier obligations impose costs and risks. However, we have had migrations where we needed to intervene and appoint a default carrier

---

[5] First Order on Reconsideration and Fourth Order on Reconsideration, *In the Matter of 2000 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers,* CC Docket Nos. 00-257, 94-129, 19 FCC Rcd 12432, ¶ 10, released July 16, 2004.

to continue customers' service. We anticipate we will have to intervene in the future to ensure that an exiting CLEC's customers are able to migrate to another carrier without interruption in service. Guidelines that address that eventuality are preferable to an *ad hoc* approach. Ideally, a default carrier should be willing to migrate the exiting CLEC's customers. Therefore, we first will request carriers to volunteer to act as default carriers and will select the carrier using criteria we will adopt for that purpose. If we receive no volunteers, we will appoint a default carrier.

2. Selection Criteria

We can establish a process for selecting a default carrier only if the exiting carrier files an application and exit plan containing the information necessary to meet mass migration goals. SBC California proposes that the guidelines include a provision that default carriers will be under no obligation to migrate customers if the exiting CLEC fails to abide by the obligations imposed on it by the Mass Migration Guidelines. Where the exiting carrier has failed to substantially comply with these guidelines, we lack the means to impose procedures on this aspect of the mass migration process. The procedures listed below only will apply when the exiting carrier has substantially conformed to the Mass Migration Guidelines.

If the CLEC has no customer service arrangements with an arranged carrier, the CLEC shall state in its exit plan whether a default carrier will be necessary. Initially, the responsibility for identifying the situation where local voice customers are at risk of losing their service rests with the exiting CLEC. The CLEC knows how many of its customers have found or are likely to find another carrier. Where the exiting CLEC states that a default carrier is necessary, ILECs and CLECs willing to be default carriers shall notify the Director of the Telecommunications Division of their willingness to serve as a default carrier

within 15 days of the filing of the application and exit plan.[6] Carriers not currently serving the exiting carrier's service areas might volunteer in order to increase their areas of service. However, prospective default carriers shall note if they have any limitations on service, whether geographic or type of service.

Commission staff will use the following criteria to select a default carrier for customers of an exiting CLEC where there is no arranged carrier:

- The ILEC or CLEC must be in compliance with Commission rules and regulations.
- The ILEC or CLEC has not reduced or eliminated local services in California within the last two years.
- Preference will be given to carriers able to serve the entire geographic service area of the exiting CLEC.
- Preference will be given to carriers that provide the type of service provided by the exiting carrier.
- Preference will be given to a carrier that has not previously been selected to be a default carrier under the Mass Migration Guidelines.
- For exiting carriers with a larger customer base or that provide a specific type of service, more than one default carrier might be selected.

The Commission staff will notify the selected default carrier as soon as practicable to ensure the timely migration of the exiting CLEC's customers. The Commission will approve the selection of the default carrier in the decision approving the CLEC's request to withdraw from providing local exchange service.

[6] The Mass Migration guidelines require exiting carriers to serve the application and exit plan on all local exchange carriers operating in the affected service areas.

If no carrier volunteers to be a default carrier and a significant number of the exiting carriers' customers have not found another carrier, the Commission will take additional steps to find a carrier who will assume the customers of the exiting carrier. We will order either the underlying network service provider or carrier of last resort to be a default carrier should no carrier volunteer. To expedite the selection of a default carrier, the administrative law judge (ALJ) can order the exiting carrier to meet and confer with the prospective default carrier in order to establish terms and conditions, including compensation, for the carrier to assume the customers of the exiting carrier. The decision approving the exit application will order the default carrier to assume the exiting carrier's remaining customer base.

3. Compensation

We examined several options to compensate default carriers when either the exiting carrier or an acquiring carrier cannot compensate the default carrier, including exogenous factor recovery and use of the high cost fund. The parties generally did not favor those options, although some preference was expressed for use of a public purpose fund because of its competitive neutrality. Those options present difficulties, including the competitive advantage of limited applicability of exogenous factor recovery and of the high cost fund. Exogenous recovery only is available to carriers operating under the New Regulatory Framework. CLECs cannot use that mechanism. We decline to adopt a mechanism that confers a competitive advantage on one class of carriers. The high cost fund is not targeted for this type of recovery and migrations would be eligible only if customers were located in high cost areas. Similarly, the universal service fund is not designed to provide this type of compensation. Because there are limited circumstances when compensation for a default carrier

is necessary, expanding the use of existing public purpose funds for that purpose presents difficulties, and we decline to do so.

Because the FCC has determined that subscribers shall not bear the cost of the service provider change in involuntary transfers, the parties offer alternate compensation proposals—the exiting carrier should pay the costs, CLECs should have a letter of credit or post a bond, or no compensation because new customers' recurring charges will generate sufficient revenue. There is no consensus on these options. The parties hold differing views on whether the exiting carrier should pay the costs. TURN believes the exiting carrier should pay the costs of transfer unless circumstances such as bankruptcy or owing money to the default carrier make that impossible. Cox states payments from the exiting carrier are not appropriate or likely. AT&T states the exiting carrier only should pay the default carrier's costs if it has not complied with the Mass Migration Guideline's two notice requirements. The exiting CLEC should not be penalized for the customers' failure to act. SureWest states primary recovery should be from the exiting carrier. Sprint opposes exiting carriers paying migration costs because without clear direction on what costs are eligible exiting carriers may be faced with a significant unexpected expense.

SBC California proposes a letter of credit or bond requirement. AT&T notes that requirement is not competitively neutral and is a barrier to entry to CLECs wanting to do business in California. AT&T states the recurring revenue from a new customer should more than make up for lost nonrecurring charges.

Mass migrations, especially those involving migrations to a default carrier, will involve extra costs. Default carriers' costs will vary. The costs of more complex migrations will not be fully quantifiable until after the migration has occurred. Verizon states migration costs will be higher because employee

resources will need to be diverted to handle the volume of customers involved in a mass migration. SBC California submitted costs it incurred as the result of a mass migration. Most of the costs were incurred in processing orders to disconnect the exiting CLEC's customers. Verizon states that, at a minimum, recoverable costs would include tariffed nonrecurring charges for connecting new customers.

The option of using a bond or a letter of credit is beyond the scope of this proceeding. We established the financial requirements for CLECs to obtain certification in D.95-12-056. Bonds and letters of credit are two options. Either increasing that financial requirement or mandating a different means for achieving that financial requirement is beyond the scope of this proceeding. The final option, assuming that carriers will recover their nonrecurring costs over time, is an assumption we are unwilling to make in light of the comments received in this proceeding. Migration costs will exceed nonrecurring charges in all but the simplest migrations. It is also likely that the more profitable CLEC customer bases will attract arranged carriers and will not be subject to the need for a default carrier.

Of the feasible options for reimbursing default carriers, reimbursement from the exiting carrier or a subsequent arranged carrier, if a default carrier is necessary because the migration of customers to the arranged carrier cannot be made in time, is most realistic. Although the exiting carrier may not have sufficient resources to pay default carriers' costs, since financial difficulties are one reason carriers curtail service offerings, exiting carriers who have those resources should reimburse default carriers' migration costs. Exiting carriers' reimbursement of default carriers' costs should be considered on a case-by-case basis. The threshold for our consideration of requests for reimbursement is the ability of the exiting carrier to pay those costs. The exiting carrier who

notes in its exit plan that a default carrier might be necessary shall state whether there are any limitations on reimbursement of that carrier, such as bankruptcy proceedings. At a minimum, the default carrier's tariffed nonrecurring charges for new customers or their equivalent should be reimbursed by the exiting carrier if that carrier has the means to do so. We will determine whether reimbursement is feasible in the application approval process and will examine alternate compensation on a case-by-case basis if reimbursement is not feasible.

4. Default Carriers' Tariff Provisions Shall Apply During Mass Migrations

We requested comments on whether tariff provisions adequately protect default carriers. SBC, Verizon, SureWest, and AT&T agree that tariffed credit and collection provisions should apply to customers transferred to default carriers. These provisions, including requiring identification to perform a credit check, protect carriers from payment default and determine whether the customer already has defaulted on payment obligations to the carrier. Performing a credit check permits the carrier to determine whether a deposit or toll and credit limits are necessary. SureWest and Verizon state default carriers may not have sufficient information to perform a credit check without cooperation from the exiting carrier. Otherwise, ILECs state there are no specific tariff provisions that would protect default carriers.

We concur that tariffed credit and collection procedures should apply to mass migrations. Customers who are credit risks should not receive different treatment under the mass migration process. The exiting carrier shall cooperate with the default carrier and supply necessary information for the default carrier to perform credit checks.

D. Waiver of Service Quality Rules

To ensure that carriers can transfer customers and continue their voice service when a CLEC stops providing service, we will waive our service quality rules in certain circumstances during the mass migration process. Parties generally agree that service quality rules, as required by General Order (GO) 133-B and Operations Support Systems (OSS) performance measurements, can be suspended during the mass migration process. Parties differ on whether that suspension should be automatic or reviewed on a case-by-case basis.

AT&T, MCI, TURN, and ORA state the Commission should grant that relief on a case-by-case basis. ORA states carriers should affirmatively demonstrate that we should waive applicable standards. SBC California and Verizon state service quality obligations should be suspended during a mass migration process. Verizon notes that mass migrations increase call activity. SBC California states a waiver request is an unnecessary expenditure of time.

We concur that the mass migration process can impose administrative and technical difficulties that can temporarily cause degradation in service quality. Service quality measures and standards are intended to reflect a carrier's normal business operations, not a one-time event such as a mass migration. Although we should continue to monitor service quality results affected by mass migrations, we should not deem the failure to meet measures and standards as reflective of the carrier's normal business operations.

OSS performance deficiencies result in incentive payments. Performance measurements are based on industry averages and are designed to reflect overall industry effects. The mass migration process does not reflect normal business operations and should not be included in performance measurements subject to incentive payments. OSS performance measurement reports should be filed when due. Carriers can request relief from incentive

payments should the mass migration process result in a failure to meet required measurements.

GO 133-B exception reporting shall be modified to require a carrier to file all quarterly reports for failure to meet measures and standards due to a mass migration 30 days after the quarter in which the migrations are completed.

E. Waiver of Slamming Requirements

Verizon, SBC California, and SureWest support waiver of certain slamming requirements in mass migrations. Cox states waiver of slamming requirements will expedite the migration process.

When customer notice procedures have been followed, we have determined in prior decisions that the third-party verification requirements of Pub. Util. Code § 2889.5 do not apply to the customer base transfer of an exiting CLEC to the incumbent local exchange carrier and carrier of last resort. (*See*, *e.g.*, D.97-12-119, 1997 Cal. PUC LEXIS 1146*2.) We adopt customer notice procedures as part of the guidelines; thus, when carriers provide the notice required under the guidelines, third-party verification is not required.[7] This waiver applies to transfers to acquiring carriers, as the rationale for declining to apply slamming rules to customer base transfers is equally applicable here.

F. In Language Requirement

Parties generally concur that D.96-10-076's in language requirement, that notice is provided in the language used to sell the services, applies to notices that the customer's carrier is exiting the market. AT&T and MCI recommend that this issue be addressed in the Consumer Protection Rulemaking. AT&T

[7] The notice requirements adopted herein also comply with the FCC's requirements.

notes the in-language requirement costs are high and exiting carriers may not be able to pay those costs.

The mass migration exit notice is a Commission-mandated notice within the scope of D.96-10-076. No exception to our in-language requirement is necessary for exiting carriers' customer notices. This cost is one the exiting carrier should bear. Notification of customers in their language of record will assist those customers in finding another carrier, the objective of the mass migration process.

G. Streamlined Approval of Applications

Parties support streamlined approval of applications. Cox recommends an expedited process in order to encourage exiting carriers to promptly provide sufficient information to a default carrier in order to facilitate the migration process. SureWest also recommends the Commission expedite the approval process for selecting a default carrier.

A streamlined approval process is desirable from all viewpoints—the exiting carrier's, the acquiring or default carrier's and the customer's. Many applications will be approved on an *ex parte* basis. However, in order to determine whether we should develop a specific process to expedite approval of these applications we would need first to have some experience with the guidelines. Likely, candidates for expedited approval would be applications where the exit plan is complete and conforms to these guidelines and there is an acquiring carrier. Assigned commissioner and ALJ rulings also can implement aspects of these guidelines on an interim basis, subject to approval in the final decision.

These guidelines should streamline the application process for a CLEC exiting the local exchange market. However, it is premature to establish an expedited approval process under these guidelines in this decision.

H. Industry Notification of Exit

Covad suggests we compile information on exiting carriers similar to the New York Commission's on our website. That information would include the date of anticipated service discontinuance and a list of alternate carriers with contact name that provide service in the same service area. This information would permit customers to make an informed choice in selecting an alternate carrier. We do not compile information on CLECs by service area, so it is not possible to provide lists of alternate providers at this time. Instead, the notification letter should refer customers to the Customer Guide Section of their local white page directory, where we have required advertising space be made available for local exchange companies who offer or would like to offer service in the exchanges covered by the directory.

I. Additional Notice Procedures

Parties generally support the current notice requirements and do not believe additional notice procedures are necessary. Verizon and SBC California urge the Commission to ensure exiting carriers take all possible steps to ensure their customers select an alternate provider. Verizon believes the Mass Migration Guidelines should be clarified to say that exiting CLECs must use their best efforts to notify end users of prospective withdrawal of service. SBC California states such a "best efforts" approach should require the CLEC to follow-up with end users who do not respond to written notices, either by additional correspondence, telephone calls, e-mail, or other reasonable means. A CLEC's withdrawal from the market should be conditioned on the CLEC's successful satisfaction of such requirements. Verizon asserts the "best efforts" approach would accomplish a goal of this proceeding—the seamless transfer of end users when their carrier exits the market.

We do not know whether a "best efforts" requirement will be more effective than the required notification. Further notice might result in more customers choosing alternate carriers, but that might depend on the customer base involved. We encourage CLECs to use all means of communication, in addition to the required notices, customarily used to contact their customers in order to ensure those customers have the opportunity to transfer to the carrier of their choice. However, we will not condition granting the CLEC's application to exit the market on these further attempts at notification.

J. Other Issues

The parties agree that these procedures should apply to voluntary exits. Parties suggest we address involuntary exits, specifically disconnection due to default payments, at a later time. Parties generally support CLEC-to-CLEC migration rules but disagree as to when they should be considered. Covad, Verizon, and SBC California support adopting CLEC to CLEC migration rules at this time. AT&T states the Commission should not adopt CLEC to CLEC migration guidelines, because the New York process resulted in unworkable guidelines. Covad proposes the Commission also consider ILEC to CLEC guidelines and guidelines applicable to data services. No other party supports expanding the scope of this proceeding. At this time, no state has expanded the scope of migration guidelines to involuntary exits, CLEC to CLEC migrations, or ILEC to CLEC migrations. Although these expansions of the guidelines might prove beneficial, we do not find it reasonable to initiate a second phase of this proceeding to consider such guidelines.

Parties generally agree that the Commission should coordinate its adopted mass migration process with pending bankruptcy proceedings. Bankruptcy proceedings potentially can complicate the mass migration process

due to various legal requirements. CLECs shall identify existing bankruptcy court requirements in its application.

Verizon requests clarification regarding notice to staff of planned ILEC disconnection of CLEC service due to nonpayment. The mass migration process requires an ILEC or a carrier providing service to or interconnecting with the CLEC to notify staff 30 days prior to suspending or terminating interconnection, network elements, or services to the exiting CLEC. This notification is intended to ensure customers do not lose essential voice services. Commission rules require 30 days' notice of service termination. If the CLEC has provided notice to its customers that it is exiting the market in accordance with the guidelines, earlier termination of service renders the notice void. We would require new notice. In addition, termination of service to the CLEC by another carrier turns a voluntary exit into an involuntary exit. If the CLEC already has received a disconnection notice from a carrier, it shall provide that information in its application and exit plan and shall state when the disconnection is effective.

Parties suggest that a link be made to the exit plans on our website. A link would assist in prompt industry access to the exit plans and would assist a goal of the guidelines, industry notification. Commission staff shall develop a means of providing a link on the Commission's website.

IV. Motion for Protective Order

SBC filed its Motion for Leave to File Confidential Materials Under Seal to protect from public disclosure the confidential Attachment A to its Notice of Errata to Additional Opening Comments in Response to the July 23, 2004 Assigned Commissioner's Ruling Requesting Further Comments. Attachment A is a spreadsheet which contains proprietary and confidential company-specific information regarding labor rates. We have granted requests for confidential treatment in this circumstance. We will issue an appropriate protective order.

V. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

VI. Assignment of Proceeding

President Michael R. Peevey is the Assigned Commissioner, and Janice Grau is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The parties support most provisions of the Mass Migration Guidelines, appended to this decision as Attachment A. The parties support the goals of the Mass Migration, including:

- Ensure customers do not lose local voice service
- Maintain regulators' ability to monitor events and assist parties
- Avoid double migrations where the first migration is to a carrier the customer did not choose
- Provide ample notice to customers
- Comply with federal and state laws and regulations
- Coordinate information flow and activities through a project management team
- Ensure the CLEC provides sufficient network information to the underlying network service provider or the customer's new carrier to permit a seamless migration

2. No party has requested hearings.

3. Most mass migrations will involve an arranged carrier, a carrier with whom the exiting CLEC has an agreement to serve its customers. The need for a default carrier will arise when there is no arranged carrier and customers have not chosen another provider.

4. The cost of being a default carrier could be high, especially for migrations from facilities-based CLECs and from CLECs serving a niche market.

5. The exiting carrier, or the arranged carrier when the exit plan has not been followed, is in the best position to compensate the default carrier.

6. Customers who are credit risks should not receive different treatment in the mass migration process.

7. The mass migration process can impose administrative and technical difficulties that can temporarily cause degradation in service quality.

8. In prior proceedings, the Commission has determined that the third party verification requirements of Pub. Util. Code § 2889.5 do not apply to the customer base transfer of an exiting CLEC to the ILEC and carrier of last resort.

Conclusions of Law

1. We should adopt guidelines, which apply when a CLEC files an application to discontinue providing local exchange services to its customers.

2. We should adopt the Mass Migration Guidelines appended to this decision as Attachment A.

3. It is reasonable to solicit carriers to volunteer to be a default carrier when customers of the exiting CLEC have not chosen another carrier.

4. It is reasonable to require that a carrier, generally the underlying network service provider or carrier of last resort, serve as a default carrier when no carrier volunteers to serve as a default carrier.

5. It is reasonable to require an exiting carrier to reimburse a default carrier's costs of assuming the exiting carrier's customers.

6. To ensure carriers can transfer customers and continue their essential voice services, we will require that tariffed credit and collection procedures apply to mass migrations and will waive our service quality rules and slamming requirements.

7. D.96-10-076's in language requirement applies to customer notification letters.

8. These guidelines should apply to voluntary exits from the local exchange market.

9. Due to the confidential and proprietary nature of certain materials contained in Attachment A to SBC California's Notice of Errata to the July 23, 2004 Assigned Commissioner's Ruling Requesting Further Comments, it is reasonable that they remain under seal for two years unless a request made prior to the expiration of that time demonstrates a need for further protection.

10. In order to ensure the continuation of essential voice services to customers of CLECs discontinuing local exchange service, this order should be effective today.

O R D E R

IT IS ORDERED that:

1. The Mass Migration Guidelines, appended to this decision as Attachment A, are adopted as set forth herein.

2. Pacific Bell Telephone Company's (SBC California) motion for a protective order for the confidential version of Attachment A to its Notice of Errata to Additional Opening Comments in Response to the July 23, 2004 Assigned Commissioner's Ruling Requesting Further Comments is granted.
SBC California's confidential Attachment A shall remain under seal and not be accessible or disclosed to persons other than Commission staff absent an order of the Commission, the assigned Commissioner or administrative law judge (ALJ) or the law and motion ALJ, for a period of two years. If protection beyond that date is required, SBC California shall file a motion prior to the expiration of that period, explaining why further protection is needed.

3. This decision shall be sent to all telecommunications utilities currently holding certificates of public convenience and necessity (CPCN) as Competitive Local Exchange Carriers (CLEC).

4. The standard Attachment A, appended to decisions granting CPCNs to CLECs, shall be modified to include the following language: "Applicant is subject to the Mass Migration Guidelines adopted in Decision 06-09-XXX (Rulemaking (R.) 03-06-020) when a CLC files the required application to discontinue providing local exchange services to its customers."

5. R.03-06-020 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

Mass Migration Guidelines

These guidelines are to be used when a CLEC is exiting the local exchange services market, or a portion of its market, and has a customer base to migrate to other carriers. Such a mass migration may require special cutover procedures to accommodate a large number of service orders over a short period of time. Specifically, carriers will need to suspend normal order processing for the customers involved in a mass migration and follow the processes outlined in these guidelines.

ATTACHMENT A
Cont'd

Table of Contents

Sections **Page No.**

I. Objective 2
II. General Principles 2
III. Regulatory Notification 3
IV. Industry Notification 5
V. Customer Notification 6
VI. Mass Migration Process 9
VII. NXX Code Transfers 12
VIII. E-911 13
IX. Criteria for Commission Approval of a Carrier's Termination of Service 13
X. Selection of a Default Carrier 15
XI. Compensation for Underlying Network Service Providers or Default Carriers Who Provide Service to Customers Beyond the Cutoff Date 16
XII. Applicability of Default Carriers' Tariff Provisions and Commission Requirements During Mass Migrations 17

Appendices:

A. Sample Customer Letters
B. Mass Migration Process

ATTACHMENT A
Cont'd

I. Objective

When a Competitive Local Exchange Carrier (CLEC) discontinues local exchange services, that CLEC must give its customers the opportunity to migrate to another local exchange carrier without interruption of service.

II. General Principles

The goals of these mass migration guidelines are to:

1. Ensure that customers do not lose essential local voice service when their local service provider exits the market.
2. Maintain the ability of regulators to monitor events and assist parties if needed.
3. Avoid double migrations whenever possible. Double migrations are generally the product of timing constraints where the customer is migrated initially without their action to an "Arranged Carrier" or a "Default Carrier" and then again to the carrier of the customer's choice. For purposes of these guidelines, an "Arranged Carrier" is a carrier with whom the exiting CLEC has negotiated a lawful and feasible business arrangement to serve those customers of the exiting CLEC who do not voluntarily choose a replacement carrier in the time provided under these Guidelines. A "Default Carrier" is either a carrier who has agreed, at the Commission's request, to serve those customers of the exiting CLEC who do not voluntarily choose a replacement carrier or is the underlying carrier or carrier of last resort selected by the Commission to serve those customers.
4. Require that the CLEC give its customers ample notification to allow the customers to select the carrier of their choice.
5. Comply with federal and state laws and regulations.
6. Coordinate information flow and activities through a project management team.
7. Ensure that the exiting CLEC provides sufficient network information for each facilitating ILEC or other underlying Network

ATTACHMENT A
Cont'd

Service Provider and each customer's new retail carrier to migrate its customers seamlessly.

III. Regulatory Notification

The Public Utilities Commission of the State of California requires that a CLEC may withdraw from providing local exchange service to customers only with Commission approval. The CLECs must seek such approval by way of an Application, and must continue to provide service until the Commission approves the Application. (*See* General Order 96-A, § XIV; *see also* D.02-05-044.)

Along with the Application, the Commission will now require the CLEC to file an Exit Plan. The Exit Plan should contain the information noted in the checklist below. Staff will review the Exit Plan and provide feedback to the exiting CLEC. Staff will not approve Exit Plans, but Staff will advise a CLEC whether the Exit Plan contains sufficient information to put the CLEC in a position where the Commission is likely to approve the CLEC's Application. Staff will also advise the exiting CLEC regarding any obligations to cancel or modify its tariffs and/or its certificate of public convenience and necessity.

The Application and Exit Plan should be filed at the Commission at least 90 days in advance of the proposed date for the CLEC's discontinuance of service. If a CLEC is unable to meet this 90-day advance notice requirement, it may request permission from the Director of the Telecommunications Division to submit its Exit Plan less than 90 days in advance of the proposed date of discontinuance; if the Director of the Telecommunications Division approves the request, the CLEC shall submit its Exit Plan by the date specified. Whatever the advance notification period is, it must be provided with sufficient time for the carrier to migrate its customers to other carriers. As a result, it is expected that

ATTACHMENT A
Cont'd

complex migrations will require more advance notification than simple migrations.

The Exit Plan filed with the Commission must include:

1. A sample of the initial letter to be sent to the customers.
2. Plans for follow-up notification arrangements such as a second letter, phone calls, bill inserts, e-mails, etc.
3. A cutoff date when customers must select a carrier.
4. A proposed final termination date.
5. Contact names and telephone numbers for the cutover coordinator, the regulatory contact and any other pertinent contacts such as customer service records (CSR) and/or provisioning contacts, if separate.
6. A description of the customer service arrangements the exiting CLEC has made with the Arranged Carrier(s), if any.
7. Steps to be taken with the number code and/or pooling administrator to transfer NXX or thousand number blocks (if applicable) while preserving number portability for numbers within the code.
8. The current customer serving arrangements and the underlying service provider, e.g. UNE-P (x carrier), resale (y carrier), UNE-L (x carrier) or Full Facilities.
9. The arrangements made with underlying Network Service Providers for transfer of underlying service, where the exiting CLEC has made customer service arrangements directly with another carrier.
10. The number of customers impacted.
11. Identification of customers where the exiting CLEC is the only provider of facilities to a customer or group of customers.
12. A summary of how (in what format) the CSRs are being kept, a statement of what data elements are in these CSRs, and a statement

ATTACHMENT A
Cont'd

about how the CSRs will be made available to other carriers. (The data elements required to migrate a customer are specified below in Section VI.)

13. Anticipated need for a Default Carrier. A statement addressing how information to perform customer credit checks will be provided to the Default Carrier.
14. Any transfer of assets or control that requires Commission approval.
15. Plans to modify/cancel tariff(s).
16. Plans for handling customer deposits, credits, and/or termination liabilities or penalties.
17. Plans for unlocking the E-911 database, including the letter detailed in Section VIII.
18. If bankruptcy proceedings are pending, existing bankruptcy court requirements.

IV. Industry Notification

At the same time the exiting CLEC files its Application and Exit Plan with the Commission, it shall also serve the documents on:

- The Arranged Carrier(s), if any;
- All local exchange carriers known to provide service in the
- affected area;
- All underlying Network Service Providers (NSPs) used by the exiting CLEC to provide service (addressed to the NSP account representative for the exiting CLEC);
- Any other parties to whom the exiting CLEC is required to give notice under related interconnection, resale, or service agreements; and
- The Telecommunications Division of the Commission.

ATTACHMENT A
Cont'd

The Telecommunications Division may instruct the exiting CLEC to serve additional parties in the industry.

This industry notification is important, as it will help all parties manage the migration process. Specifically, all carriers should be aware that there are special order processing procedures associated with mass migrations. In order to avoid duplicate orders and confusion, when a carrier is notified of a mass migration, it should process any associated end user customer orders on a cutover coordination basis. To determine how to process orders, the carrier should check with the project manager for the exiting CLEC.

If necessary, an industry conference call may be established by Staff in order to address potential problem areas and procedures to resolve them.

V. Customer Notification

A. Timeline

Carriers involved in mass migrations must meet the following timelines in order to ensure enough time to migrate customers:

- Exiting CLEC (and, when applicable, any Arranged Carriers) must (jointly) notify customers 60 days in advance of the final service termination date. This letter must comply with FCC and Commission requirements including a listing of the service rates and terms of any Arranged Carrier named in the notice.
- In accordance with FCC requirements, any Arranged Carrier or Default Carrier named in a customer notice must provide its potential end user customers 30 days to make an informed decision before it begins migrating customers. Thus, the first 30-day segment after the initial notification will be the FCC mandated 30-day decision period. The next 30-days after the 60-day notice will be used by the Arranged Carrier or Default

ATTACHMENT A
Cont'd

Carrier to begin migrating customers who have not made other carrier selections.

If the exiting CLEC or any Arranged Carrier or Default Carrier is unable to meet one or more of these deadlines, it may request that the Director of the Telecommunications Division waive the deadline(s). If the Director of the Telecommunications Division waives the above-prescribed deadline(s), the CLEC and its Arranged Carrier(s) or Default Carrier(s) shall meet any other deadline(s) as may be prescribed.

B. Contents

Appendix A to these guidelines contains two sample letters that illustrate what information must be included in the letter to be sent by the exiting CLEC that is notifying the customer of discontinuing service. Letter 1 represents the information that the exiting CLEC must send to the customer when there is an Arranged Carrier named as a potential service provider. Letter 2 represents the information that the exiting CLEC must send to the customer when the exiting CLEC has not made any customer service arrangements with any other Arranged Carrier. Decision 96-10-076's in-language requirement, that notice is provided in the language used to sell the services, applies to these notices.

The appropriate customer notification letter should include the following elements at a minimum:

- Identify the new Arranged Carrier, if applicable.
- State the customer's right to choose an alternative carrier in all types of mass migrations and refer the customer to the Customer Guide Section of the local white pages directory for listings of alternative carriers.

ATTACHMENT A
Cont'd

- State the customer's need to take prompt action when there is no Arranged Carrier or the customer will be assigned to another carrier.
- Provide clear instructions to the customer regarding the choice of an alternative provider, including a list of the services impacted by the change in service provider.
- Provide a toll-free number for the exiting carrier and the Arranged Carrier(s), if any.
- Clearly state time deadlines for customer action in accordance with the Commission's Mass Migration Guidelines.
- Applicable information about long distance service and whether it may be impacted by the cutover.
- State the customer's responsibility for payment of telephone bills during the migration period.
- Describe the changes, if any, in rates, charges, terms, or conditions of service.

A second notice must be given to each customer who has not taken action to select a carrier. The timeframe of the second notice will depend upon the circumstances of the migration. The form of the second notice generally will be left to the discretion of the exiting carrier and could include any, or all of, the following: a follow-up letter, a telephone call to the customer, a bill insert, or any other effective means of direct contact with the customer. If there is a default carrier, the second notice must provide its name and toll-free contact number. CLECs, Arranged Carriers, and Default Carriers must submit notification letters to the Commission's Public Advisor and to the Telecommunications Division for approval.

ATTACHMENT A
Cont'd

Mass migrations involving an Arranged Carrier must identify a cut-off date. The cut-off date is defined as the date after which customers will have to wait until the mass migration is completed before they can obtain local exchange service from a different provider. When the customer is notified 60 days in advance of the proposed service termination date, the cut-off date will be 30 days from the scheduled migration. This cut-off date is intended to ensure that the customer has adequate time to make a decision and that the Arranged Carrier has adequate time to send out notification information concerning the scheduled migration. Customers who have not selected an alternative provider by the cut-off date will then be transferred to the Arranged Carrier. If pursuant to Section V. A, above, the Commission permits a customer notice interval of less than 60 days, the Commission will also establish a cut-off date. Regardless, the notification process must allow the customer 30 days to select a new local carrier.

Customer notice for mass migrations involving a Default Carrier also must include a cut-off date.

VI. Mass Migration Process

Each mass migration must have an overall program manager responsible for coordinating the overall migration. In addition, each of the parties involved in the migration must have a project manager who works with the overall program manager and is accountable to the overall program manager for the project manager's company's mass migration efforts. The overall program manager is accountable to each of the parties involved in the migration. The individual parties involved in the migration could be:

- The exiting CLEC

ATTACHMENT A
Cont'd

- The underlying Network Service Provider(s)
- If applicable, any Arranged Carrier(s)
- If applicable, any new Network Service Provider(s)
- If applicable, any Default Carrier
- Commission Staff

The overall program manager will generally be provided by the exiting CLEC.

C. Customer Lists

At least sixty days prior to the projected cutover date, the exiting CLEC must submit its customer list to the Commission. This customer list is required so Commission Staff can assess the nature of the customers being cutover, track the progress of the cutover, and facilitate as needed the customer migration process through identification of impacted customers. Specifically, Staff needs to determine the size of the customer base and to identify health and safety related customers. Additionally, Staff will be using the list for customer contact purposes to identify and avoid migration problems. Where the cutover is of a simple resale serving arrangement with few customers, Staff may waive this requirement at the exiting carrier's request, if Staff determines that the customer list will not be needed for these or any other purposes.

Carriers' submission of customer lists and Staff use of or disclosure of customer list information will be subject to applicable laws and regulations relating to public disclosure of records, confidential trade secret status, and privacy protections.

ATTACHMENT A
Cont'd

The customer list should include: customer name, telephone number(s), address, class of service, and type of serving arrangements (UNE-Platform, resale, UNE-Loop, full facilities, etc.). To the extent possible, customer lists shall also include an identification of "priority" or "essential" customers. For purposes of these Guidelines, "priority/essential" customers will be defined as any: hospital, ambulance, police, fire, national security, civil defense, or any customer who has obtained Telecommunications Service Priority (TSP) authorization from the federal government. Also, to the extent possible, customer lists should also identify any "at risk" customers whose particular serving arrangements may create cutover problems.

Additionally, the exiting CLEC must have available the CSR data elements to enable any carrier(s) to migrate the exiting CLEC's customers seamlessly. Staff may request CSR data elements for "at risk" customers. Specifically, the data elements required to migrate a customer are:

- Type of service configuration information (e.g., resale, UNE-Platform, UNE-Loop, full facilities, etc.)
- Class of service
- Complete customer billing name and address (including floor, suite, unit, etc.)
- Customer directory listing information, including address, listing type, and stand alone listings if applicable
- Complete Customer service address
- Billing telephone number and associated telephone numbers (e.g., working telephone number)
- If applicable, circuit Ids
- Current PICs (inter/intraLATA toll), including freeze status

ATTACHMENT A
Cont'd

- Local freezes (if applicable)
- All vertical features (e.g., custom calling, hunting, etc.)
- Options (e.g., Lifeline, 900 blocking, toll blocking, remote call forwarding, off premises extensions, etc.)
- Tracking number or transaction number (e.g., purchase order number)
- Identification of the Network Service Provider(s)
- Identification of any line sharing/line splitting on the migrating end user's line

D. Progress Reports

The exiting CLEC must track the progress of the migrations and provide Staff with progress reports. The frequency of the updates will vary with the magnitude of the mass migration cutover as well as customer risk factors.

When processing orders for migrations, it should be emphasized that all parties need to be flexible. In this regard, there will be circumstances where the framework outlined in this project management section will need to be modified to accommodate unique circumstances. This framework is not intended to preclude parties from negotiating special procedures aimed at facilitating customer service. A model of the mass migration process steps is identified in Appendix B.

VII. NXX Code Transfers

If the exiting CLEC has any NXX codes or thousand number blocks assigned, it must make transfer arrangements with the code administrator at least 66 days prior to the migration (or by such earlier date as shall be specified by the code administrator). If arrangements are not made, calls may not be

ATTACHMENT A
Cont'd

completed. For specific information, refer to the Central Office Code (NXX) Assignment Guidelines and Thousands-Block (NXX-X) Pooling Administration Guidelines developed by the Industry Numbering Committee. In addition, neither NXX codes nor thousand number blocks can be disconnected by the exiting CLEC if any number within the relevant range of numbers has not yet been completely ported.

VIII. E-911

A CLEC discontinuing service must unlock all of its telephone numbers in the E-911 database. This will provide any new local service provider access to its new end user's E-911 record. Unlocking the E-911 database is required by the National Emergency Numbering Association's (NENA) standards to which all carriers must adhere. In addition, the exiting CLEC must submit a letter to the appropriate E-911 service provider authorizing the E-911 service provider to unlock any remaining E-911 records after the CLEC has exited the market. This letter must be provided at least 30 days prior to the CLEC exiting the market.

IX. Criteria for Commission Approval of a Carrier's Termination of Service

A CLEC must continue to provide local exchange service until its Application to withdraw is approved by the Commission. (*See* General Order 96-A, § XIV; *see also* D.02-05-044.)

A CLEC who has not filed an effective Exit Plan or has not executed its Exit Plan properly is unlikely to receive Commission approval to leave the market. However, even in the best case scenario where an Exit Plan has been properly followed, there may be customers who will not be fully migrated, or migrated at all, at the time the exiting carrier would like to terminate service. In

ATTACHMENT A
Cont'd

deciding whether to approve a CLEC's Application to withdraw, the Commission will be guided by its view of what is in the public interest. Specifically, the Commission will consider the following factors when deciding upon a CLEC's Application to withdraw:

> Progress of Customer Migrations – The Commission will consider the number of local service customers that have not yet switched to an alternate local service carrier, or have not made firm arrangements to switch to another local carrier. The greater the number of customers who are in jeopardy of losing their local service altogether, the higher the likelihood that the exiting CLEC's request for termination on a specified date will be denied.
>
> Availability of Alternatives – The Commission will consider the ease with which customers who have not switched to another local carrier will be able to obtain alternate local service based on facilities available in the absence of the exiting carrier.
>
> Nature of the Customer Base – The Commission will consider the nature of the customer base that is in jeopardy of losing local service, despite the best efforts of the exiting carrier. In particular, the Commission will not ordinarily approve the exit from the market by any carrier where the result will be loss of local service to the following types of end users: a) national security or civil defense authorities, b) hospitals, c) police, d) fire departments, e) ambulance and rescue corps, and f) any customer who has obtained Telecommunications Service Priority (TSP) authorization under FCC regulations from the federal government.

These Guidelines place additional requirements on CLECs voluntarily exiting the California market. Nothing in these Guidelines shall limit the right to exercise any right that an ILEC, or any other carrier providing service to or

ATTACHMENT A
Cont'd

interconnecting with a CLEC, may have under an interconnection or resale agreement, a tariff, a court order, or otherwise, to suspend or terminate its provision of interconnection, network elements, or services, to a CLEC. If the CLEC has received such a notice, it should provide that information in its application. Some termination notices might change a planned voluntary exit to an involuntary exit; these Guidelines do not apply to involuntary exits. Once an exiting carrier has an Application and Exit Plan on file with the Commission, the ILEC or other carrier providing service to or interconnecting with a CLEC must notify Staff 30 days prior to suspending or terminating interconnection, network elements, or services to the exiting CLEC when such suspension or termination will result in customers losing essential voice services. If the exiting carrier does not have an Application and Exit Plan on file, the underlying carrier should notify Staff of the planned suspension or termination as soon as possible, so Staff can take necessary steps, which could include the preparation of a Resolution, to ensure the underlying carrier arranges customer notification and continues essential voice services to affected customers.

X. Selection of a Default Carrier

When there is no Arranged Carrier and customers have not selected a new carrier in a reasonable period of time, the Commission may require that a Default Carrier provide service. The Commission first will solicit volunteers to serve as the Default Carrier(s). CLECs and ILECs that want to be the Default Carrier shall file a response to the Exit Plan noting the need for a Default Carrier within 15 days of the filing of the Application and Exit Plan. Prospective Default Carriers shall note if they have any limitations on service, either by geographic

ATTACHMENT A
Cont'd

area or type of service. The Commission staff will use the following criteria to select a Default Carrier for customers of an exiting CLEC where there is no arranged carrier:

- The Default Carrier must be in compliance with Commission rules and regulations.
- Preference will be given to carriers able to serve the entire geographic service area of the exiting CLEC. Preference also will be given to carriers that provide the type of service provided by the exiting carrier.
- For exiting carriers with a larger customer base or that provide a specific type of service, more than one Default Carrier might be selected.
- The Commission staff will notify the selected Default Carrier as soon as practicable to ensure the timely migration of exiting carriers' customers.

The Commission will approve the selected Default Carrier in the decision approving the request to withdraw from providing local exchange service. If no carrier volunteers, the Default Carrier would be either the Underlying Network Service Provider, the Carrier of Last Resort in the area being served, or a carrier that offers the same type of service as the carrier going out of business.

XI. Compensation for Underlying Network Service Providers or Default Carriers Who Provide Service to Customers Beyond the Cutoff Date

When the Arranged Carrier is unable to provide service in conformance with the Exit Plan and the Underlying Network Service Provider or Default Carrier must provide service temporarily, the Arranged Carrier must negotiate an agreement with the Underlying Network Service Provider or Default Carrier to compensate that provider for its costs during that period as part of the Exit

ATTACHMENT A
Cont'd

Plan or Mass Migration Process. If the Exit Plan fails, the Commission may require that the Arranged Carrier compensate the Default Carrier for the costs of continuing to provide service and transferring customers until the customers have migrated to the Arranged Carrier. In any circumstance where the Commission has designated a Default Carrier to provide service and compensation cannot be arranged, the Commission can order the exiting CLEC to compensate the Default Carrier. If ordering the exiting CLEC to compensate the Default Carrier is not feasible, the Commission can examine other alternatives on a case-by-case basis.

XII. Applicability of Default Carriers' Tariff Provisions and Commission Requirements During Mass Migrations

Default Carriers' tariffed credit and collection procedures will apply to customers transferred to them as part of the Mass Migration process.

General Order 133-B Service Quality exception reporting is modified to require a carrier to file all quarterly reports for failure to meet measures due to a mass migration 30 days after the quarter in which the migrations are completed. These failures will not be subject to penalties. Operations Support Systems (OSS) performance measurement reports should be filed when due, but the Default Carrier can request relief from incentive payments should the Mass Migration process result in a failure to meet required measurements. The third-party verification requirements of Pub. Util. Code § 2889.5 will not apply to the customer base transfer in mass migrations.

ATTACHMENT A
Cont'd

Appendix A

Letter #1-Sample Customer Notification Letter (with Arranged Carrier)

This letter should be coordinated with the Arranged Carrier for appropriate timeframes and rates and terms to be included in the letter.

Date (60 days prior to exit)
Customer Name
Address
City, CA zip

YOUR SERVICE WILL BE TRANSFERRED TO (name of arranged carrier) UNLESS YOU CHOOSE A NEW LOCAL TELEPHONE SERVICE PROVIDER BY (30 days prior to discontinuance of service Date)

Dear Customer:

We regret to inform you that — subject to the approval of the California Public Utilities Commission (CPUC) — XYZ Company will no longer be providing your local telephone service effective (insert discontinuance of service date). (Insert explanation of specific company circumstances.)

If you do not select a new local telephone service provider on or before (30 days prior to discontinuance of service date), (name of arranged carrier) may automatically become your local telephone service provider effective (date). If you wait to select an alternative provider after (30 days prior to discontinuance of service date), your choice can only be put into effect after the change to (name of arranged carrier) and will therefore be delayed. You will not incur any charges for the change to (name of arranged carrier). If you select another provider of your choice, you may incur additional charges. In the transfer of service to (name of arranged carrier), all efforts will be made so your local telephone number will remain the same and your existing local service and calling features will be transferred to (name of arranged carrier). Please be aware that you are responsible for paying all bills rendered to you by XYZ Company during this transition. You may be subject to suspension or termination of your

ATTACHMENT A
Cont'd

phone service in accordance with CPUC rules if you fail to pay your telephone bill.

If you do not want service from (name of arranged carrier), your action is required! You must select a new local telephone provider as quickly as possible but no later than (30 days prior to the proposed discontinuance of service date) to avoid the possibility of your telephone service being transferred to (name of arranged carrier). If you no longer want any local service, please contact XYZ Company to disconnect service.

After selecting a new local telephone provider, you should also contact your current long distance provider to ensure that your current long distance calling plan is not changed as the result of your change in local service. If you do not contact your long distance provider, you may be charged basic rates (non-calling plan rates) for long distance calls.

[Insert information on arranged carrier's services and rates, terms, and conditions, and on the means by which arranged carrier will notify the customer of any changes to these rates, terms and conditions.]

[Insert any other useful information regarding mass migration process, e.g., plans for refund of customer deposits, transfer, removal or abandonment of any XYZ Company-owned equipment or facilities located on the customer's premises, etc.]

[Insert any information required by the CPUC, FCC, or any other applicable law.]

If you have any questions regarding the discontinuance of XYZ Company's local telephone service, please call (toll free number). Questions regarding (arranged carrier) should be directed to (toll free number of primary new carrier). XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

ATTACHMENT A
Cont'd

Letter # 2-Sample Customer Notification Letter (without an arranged carrier)

Date (60 days prior to exit)
Customer Name
Address
City, California zip

YOU MUST CHOOSE A NEW LOCAL TELEPHONE SERVICE PROVIDER BY (30 days prior to the proposed discontinuance of service date) TO AVOID POSSIBLE DISCONTINUATION OF SERVICE.

Dear Customer:

We regret to inform you that — subject to the approval of the California Public Utilities Commission (CPUC) — XYZ Company will no longer be providing your local telephone service effective (proposed discontinuance of service date). (Insert explanation of specific company circumstances)

Your action is required! You must select a new local telephone provider as quickly as possible but no later than (30 days prior to the proposed discontinuance of service date). If you do not select a new local telephone provider on or before (30 days prior to discontinuance of service date), the CPUC may require that you be assigned to another carrier.

Please be aware that you are responsible for paying all bills rendered to you by XYZ Company during this transition. You may be subject to suspension or termination of your phone service in accordance with CPUC rules if you fail to pay your telephone bill.

After selecting a new local telephone provider, you should also contact your current long distance provider to ensure that your current long distance calling plan is not changed as a result of your change in your local service. If you do not contact your long distance provider, you may be charged basic rates (non-calling plan rates) for long distance calls.

ATTACHMENT A
Cont'd

[Insert any other useful information regarding mass migration process, e.g., plans for refund of customer deposits, transfer, removal or abandonment of any XYZ Company-owned equipment or facilities located on the customer's premises, etc.]

[Insert any information required by the CPUC, FCC, or any other applicable law.]

Generally, you can find a list of most local telephone service providers in your local telephone directory. If you require assistance, please contact XYZ Company (current company) at (toll free number). Finally, if you no longer want local service, please contact us to disconnect your service.

XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

APPENDIX B

Day	Milestone
90	▪ Exiting CLEC files an Application to Withdraw from Service and Exit Plan with the Commission and serves interested parties. Exiting CLEC encouraged to submit draft Exit Plan to Commission staff in advance of filing. ▪ Commission staff informs exiting CLEC of any other industry parties that should be served. (*See* Section IV) ▪ Exiting CLEC to begin process to transfer its NXX codes in accordance with proper industry procedures. (*See* Section VII) ▪ Exiting CLEC gives notice of its proposed discontinuance of service to any Network Service Provider used by the exiting CLEC to provide service. Exiting CLEC encouraged to notify Network Service Provider in advance of filing Application and Exit Plan.
60	▪ Exiting CLEC notify customers that CLEC is exiting the market, subject to Commission approval. Inform them that if they do not select another carrier within 30 days: 1. they will be transferred to the Arranged Carrier (if there is one), or 2. they will be transferred to a Default Carrier (if there is no Arranged Carrier and the Default Carrier provides the service offered by the CLEC) ▪ Exiting CLEC provides customer information lists to Commission and Arranged Carrier.
30	▪ Arranged Carrier, if any, notifies customers of their status. ▪ Arranged Carrier notifies its Network Service Provider Account Manager of its need for a Mass Migration Project Manager. (This is the minimum allowable timeframe. The Arranged Carrier should notify the Network Service Provider as early as possible regarding a Mass Migration.) Arranged Carrier notifies the Network Service Provider of the total number of lines and the Central Offices or collocations involved in the

	migration. (Note there is a maximum of lines that can be worked per night per geographical area).
30	▪ If there is an Arranged Carrier, any customers who have not selected a carrier will be migrated to the Arranged Carrier.
17	▪ Project Manager advises Arranged Carrier of the due dates and the number of lines per Central Office per due date.
15	▪ Arranged Carrier issues valid LSRs to facilitating ILEC or other Network Service Provider no later than 15 business days prior to due date, if required. (If exiting CLEC has obtained Network Service Provider's consent for Arranged Carrier to reuse existing loop facilities, exiting CLEC must provide reusable circuit ID with the associated telephone number.) ▪ The Arranged Carrier's Network Service Provider Project Manager provides specifics to be included on LSRs, e.g., Frame Due Times. Due Dates on any LSRs sent to Network Service Provider after this interval must be negotiated with the Project Manager. Late LSRs may not be included in Project.
12	▪ Upon receipt of valid LSR, the Arranged Carrier's Network Service Provider to provide LSR Confirmation to Arranged Carrier.
10	▪ If no Arranged Carrier, cut-off date. ▪ Where appropriate (i.e. loop migrations), Arranged Carrier provides its Network Service Provider's Project Manager with spreadsheet or other negotiated document for each CO. Spreadsheet will include CO, PON, BTN, WTN, CLEC Cable and Pair, Circuit ID, and Out and In order numbers (obtained from LSRC). ▪ The Arranged Carrier's Network Service Provider performs all pre-work to ensure migration's smooth progress (e.g. prewiring, ANAC, etc.) consistent with provisioning requirements of specific type of service.
2	▪ The Arranged Carrier's Network Service Provider notifies Arranged Carrier of any discrepancies.

	▪ Arranged Carrier takes appropriate actions required to correct discrepancies.
1	▪ Unresolved service order discrepancies rescheduled for evaluation.
0	▪ Target discontinuance of service date. All scheduled orders worked. When there is no Arranged Carrier or sufficient network service provision arrangements are not in place to allow Arranged Carrier to provide uninterrupted service, exiting CLEC must receive Commission approval to terminate local service. (*See* Sections III, IX) If there is no Arranged Carrier or migration to the Arranged Carrier fails, customers will be migrated to a Default Carrier if that provider offers the same service.

(END OF ATTACHMENT A)