Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AT&T Communications of California, Inc. (U 5002 C) to Withdraw its Provision of Local Exchange Service within the Service Territory of Pacific Bell Telephone Company (U 1001 C) d/b/a AT&T California.	Application 07-02-024 (Filed February 23, 2007)

OPINION ADDRESSING APPLICATION OF AT&T COMMUNICATIONS OF CALIFORNIA, INC. FOR AUTHORITY TO WITHDRAW ITS PROVISION OF LOCAL EXCHANGE SERVICE IN AT&T CALIFORNIA SERVICE TERRITORY

1. Summary

This decision authorizes AT&T Communications of California, Inc. (Applicant) to discontinue the provision of residential local exchange telecommunications service and all related telecommunication service offerings within the incumbent local exchange (ILEC) service territory of Pacific Bell Telephone Company, doing business as AT&T California.[1] Applicant was the competitive local exchange carrier (CLEC) affiliate of AT&T Corporation (AT&T) in the state before the merger of AT&T and SBC California. Applicant has complied with the Mass Migration Guidelines (Guidelines) adopted by Decision (D.) 06-10-021. Its remaining customers who have not selected another carrier will be transferred to AT&T California. The Commission grants Applicant's

[1] Formerly known as Pacific Bell and SBC California.

requests to relinquish both its Carrier of Last Resort (COLR) status and its Eligible Telecommunications Carrier (ETC) status, in AT&T California's geographic service area (GSA).

2. Background

Applicant received its California Certificate of Public Convenience and Necessity (CPCN) to provide facilities-based local exchange services in the service territories of Pacific Bell and Verizon California Inc.[2] (Verizon) on December 20, 1995 in D.95-12-057. The Commission granted resale authority to Applicant on February 23, 1996 in D.96-02-072. At present, Applicant does not provide facilities-based residential local exchange service.

Applicant filed Application (A.) 07-02-024 on February 23, 2007, requesting authority to discontinue the provision of residential local exchange telecommunications service and all related telecommunication service offerings within the ILEC service territory of AT&T California. Notice of the application appeared in the Commission's Daily Calendar on March 2, 2007. There were no protests to the application. In the Application and its Exit Plan, Applicant notes its agreement with AT&T California to designate the ILEC as the acquiring or "Arranged" local exchange carrier pursuant to the Commission's Guidelines.

Applicant requests authority to discontinue the provision of residential local exchange service to 242,179 local residential customers within AT&T

[2] Formerly known as GTEC.

California's service territory. Applicant seeks authority to discontinue service by April 11, 2008.[3]

3. Compliance With the Guidelines

The Commission's requirements governing the discontinuance of telecommunications services by competitive carriers such as Applicant are set forth in D.06-10-021. That decision adopted Guidelines that apply when a CLEC files an application to discontinue providing local exchange services to its customers (exiting CLEC).[4] The Guidelines give the exiting CLEC's customers the opportunity to migrate to another local exchange carrier without interruption of service.

The Guidelines require the filing of an application for discontinuance of service that includes an exit plan, notification of carriers potentially affected by the discontinuance of service, and customer notification. Customers must be notified 60 days in advance of the final service termination date and a second notice must be given to customers who have not taken action to select a carrier.

The Guidelines also provide a mass migration process, including determining an overall program manager, and submitting customer list information and progress reports to Commission staff. The Guidelines

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[3] Applicant originally sought an exit date of August 31, 2007. However, the date was revised in coordination with the Commission's Communications Division (CD, formerly known as the Telecommunications Division), given the volume of customers involved in the process.

[4] Prior to adoption of D.06-10-021, we handled CLEC exit issues on a case-by-case basis, although we established requirements for utilities to provide customer notification when withdrawing service or transferring customers. (See D.02-01-038.)

incorporate procedures for transferring NXX codes[5] and unlocking telephone numbers in the E-911 database. Finally, the Guidelines establish criteria for Commission approval of a CLEC's termination of service and for appointing a default carrier in situations where the exiting carrier has not found an arranged carrier to serve the customers who have not selected another carrier. We address Applicant's compliance with the Guidelines below.

3.1. Exit Plan

An exiting CLEC must file an application to withdraw from service and must continue to provide service until the Commission approves the application. The application must contain an exit plan, and be filed with the Commission at least 90 days in advance of the proposed date for the CLEC's discontinuance of service.

Applicant filed its application and exit plan on February 23, 2007, in compliance with our requirements. The CD has reviewed the exit plan, and worked with Applicant to revise the plan.

The revised exit plan provides for "rolling" cut-off dates,[6] and an April 11, 2008 exit date to ensure Applicant's remaining customers receive adequate notice before they are migrated to AT&T California and to provide the ILEC sufficient time to undertake the migration. Here, Applicant and AT&T

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[5] An "NXX Code" is a block of 10,000 telephone numbers represented by the second set of three digits of a telephone number. An NXX Code is also referred to as a "prefix."

[6] 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 is customarily 30 days from the scheduled migration.

California developed a customer transition plan whereby Applicant's current local residential customers were to be transferred to the local service network, billing, and operational platforms of AT&T California if they did not choose another local exchange provider by their designated cut-off date. Applicant and AT&T California effectuated the customer transition via software. The first cut-off date was May 4, 2007. Given the process used, customers have experienced imperceptible effects of the platform transfer. The CD has determined that Applicant's revised exit plan satisfies our requirements. Therefore, Applicant's exit plan is adequate and timely filed.

3.2. Industry Notification

At the same time an exiting CLEC files its application and exit plan with the Commission, it must serve the documents on any carrier with whom it has arranged to assume Applicant's customers (arranged carrier), all local exchange carriers known to provide service in the affected area, all underlying network service providers used by 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 CD.

Applicant and its affiliate AT&T California have made arrangements for AT&T California to be the Arranged Carrier. Affected customers received clear and concise advance written notification beginning April 2 and continuing a rolling basis, more than 30 days prior to service transfer. On February 23, 2007, Applicant served its application and exit plan on the CLECs and counsel representing a broad range of telecommunications carriers known to provide service in its serving area as well as interested parties in the telecommunications

industry.[7] Applicant notes that AT&T California is its underlying network provider.

The CD has determined that Applicant's notification of affected entities satisfies our requirements. Thus, Applicant has satisfied our industry notification requirements.

4. Timetable for Customer Notification

The Guidelines require the exiting CLEC (and, when applicable, any arranged carriers) to jointly notify customers 60 days in advance of the final service termination date. The notification letter must comply with Federal Communications Commission (FCC) and Commission requirements including a listing of the service rates and terms of any arranged carrier named in the notice. Applicant and AT&T California jointly mailed a written notice to all of its affected customers on a rolling basis beginning April 2, 2007, and have met our requirement to notify customers 60 days in advance.

5. Contents of the Customer Notice

The Guidelines specify certain information that must be included in the exiting CLEC's customer notice letters so that customers are adequately informed of the proposed termination of service, their need to take prompt action, and their right to choose an alternative carrier. A second notice must be given to each customer who has not taken action to select a replacement carrier. If there is an arranged carrier, the second notice must provide its name and toll-free contact number. The timeframe of the second notice will depend upon the circumstances of the migration.

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[7] Applicant served the Local Competition Service List, Rulemaking 95-04-043.

We require customer notice to be provided in the language used to sell the services.[8] In addition, CLECs, arranged carriers, and/or default carriers must submit notification letters to the Commission's Public Advisor and the CD for approval.

The application included samples of the initial notice letters (English versions) containing the information required by our Guidelines. Because of the large number of customers to be transferred, Applicant states that its affected end-users will be migrated to AT&T California's local platform in phases. To reflect this phased approach, Applicant mailed the notification letters on a staggered schedule. The CD has reviewed Applicant's notices and determined that the notices complied with our requirements concerning the content of customer notifications. Following CD approval, Applicant mailed copies of its second notice, a direct-mail postcard, on a staggered schedule starting on April 27, 2007.

6. Mass Migration Process Coordination

The Guidelines require exiting CLECs to have an overall program manager responsible for coordinating the mass migration. Applicant's exit plan identifies and provides contact information for its project manager, and therefore satisfies this requirement.

7. Customer List and Customer Service Records (CSR)

At least 60 days prior to the projected cutover date, the exiting CLEC must submit its customer list to the Commission. Carriers' submission of customer lists and staff use of or disclosure of customer list information are subject to

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[8] D.96-10-076.

applicable laws and regulations relating to public disclosure of records, confidential trade secret status, and privacy protections. Applicant's customer list totals more than 240,000 entries. Therefore, Applicant first made the list available to the CD in early fall 2007 and has made the list routinely available for updated review. As a result, we find that Applicant has provided the necessary information with sufficient lead time to allow staff to assess the nature of the customers being transferred, to track the progress of the migration, and to facilitate the customer migration process.

Exiting CLECs must also have available the CSR data elements specified in the Guidelines that are needed to enable any carrier to migrate the exiting CLEC's customers seamlessly. CSRs are classified as customer proprietary network information. Applicant represented that its CSRs are being kept and maintained in computerized, data-storage inventory systems accessible and managed with adherence to strict password-protected login policies and procedures.

After the customers' cut-off date has passed for selecting an alternate carrier, Applicant stated that it would develop a list containing CSR information and provide it to AT&T California via electronic file transfer. This list will contain and identify Applicant's customers who have not actively made a selection of a local exchange carrier and will be used by AT&T California as the trigger to commence the mass migrations from Applicant's local service platform to AT&T California's local service platform. Thus, Applicant has satisfied our requirement to have available the CSR data elements needed to enable any carrier to migrate Applicant's customers seamlessly.

8. Progress Reports

Our Guidelines require an exiting CLEC to track the progress of the migrations and provide CD with progress reports. Applicant has worked cooperatively with CD in this matter, and has provided accurate and timely reports when required. Thus, Applicant has satisfied our requirements to track the progress of the migrations and provide progress reports.

9. NXX Code Transfers

An exiting CLEC must make transfer arrangements with the telephone numbering administrator at least 66 days prior to the migration (or by such earlier date as may be specified by the code administrator) for any NXX codes or thousand number blocks assigned to it. Applicant states that it does not have any NXX codes or thousand number blocks assigned to it that are used exclusively for serving its residential customers in AT&T California's service territory. All telephone numbers assigned to Applicant's affected residential customers come from AT&T California's numbering inventory and already belong to AT&T California. Thus, there is no need to transfer NXX codes.

10. E-911

Our Guidelines require an exiting CLEC to unlock all of its telephone numbers in the E-911 database, consistent with the National Emergency Numbering Association's standards. This will allow any new local service provider access to its new end-users' E-911 records. An exiting CLEC must also submit a letter to the appropriate E-911 service provider at least 30 days prior to exiting the market authorizing the E-911 service provider to unlock any remaining E-911 records after the CLEC has exited the market. According to Applicant, no action is needed to unlock the E-911 database. Applicant explains that as a part of its standard business procedures, all telephone number records

are unlocked and updated upon transfer into the appropriate E-911 databases. This will permit Applicant's customers to be properly transitioned to other local exchange services in accordance with the National Emergency Numbering Association's standards for Local Number Portability. Applicant has met our E-911 requirements.

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

A CLEC must continue providing local exchange service until its application to withdraw service is approved by the Commission. In deciding whether to approve a CLEC's application, we consider the progress made toward migrating customers, the availability of alternatives, and the nature of the customer base that is in jeopardy of losing local service.

By this application, Applicant and its arranged carrier seek to integrate and streamline their affiliated local telephone exchange companies as well as their respective local residential services portfolios. According to Applicant, the integration of affiliated companies and service portfolios will provide the opportunity for the post-merger AT&T to better provision and serve California residential customers in its service area on a single, operational platform while offering new products and services from the new, combined company.

Applicant has been gradually transitioning its more than 240,000 customers, who have not chosen another local exchange provider, to AT&T California's local service network, billing, and operational platforms. Those customers who have not switched to another local carrier should easily be able to obtain alternate local service. Also, as stated herein, Applicant has arranged with its affiliate to serve any of the remaining customers who have not

selected another carrier. We find no reason to deny Applicant's request to discontinue service.

12. The Acquiring or Arranged Carrier

According to the Guidelines, most mass migrations will involve an arranged carrier, a carrier with whom the exiting CLEC has an agreement to serve its customers. On February 23, 2007, with its application and exit plan, Applicant presented AT&T California as the acquiring or arranged carrier for those customers who do not select an alternate carrier. No party opposed the request. The CD recommends that the Commission affirm AT&T California's assumption of the role of arranged carrier. On November 27, 2007, the assigned Administrative Law Judge (ALJ) issued a ruling affirming AT&T California as the arranged carrier for Applicant's remaining customers. We affirm the ALJ's ruling.

The third-party verification requirements of Pub. Util. Code § 2889.5 do not apply to Applicant's customer base transferred to AT&T California in this mass migration. Applicant and AT&T California ask the Commission to also waive the "anti-cramming" requirements. We grant Applicant's and AT&T California's requests regarding these matters.

13. Applicability of Default Carriers' Tariff Provisions and Commission Requirements during Mass Migrations

Pursuant to the Guidelines, AT&T California's tariffed credit and collection procedures will apply to customers transferred to it as part of the mass migration process. AT&T California's other tariff provisions will apply when they do not conflict with these Guidelines and FCC requirements.

General Order (GO) 133-B exception reporting requires a carrier to file all quarterly reports addressing failure to meet service quality measures due to a

mass migration 30 days after the quarter in which the migrations are completed. These failures are not subject to penalties.

Operations Support Systems (OSS) performance measurement reports must also be filed when due, but AT&T California may request relief from incentive payments should the mass migration process associated with this proceeding result in a failure to meet applicable performance measures.[9]

Applicant seeks to voluntarily relinquish its designation as a COLR and an ETC in the arranged carrier's GSA. In October 2004, the Commission granted Applicant COLR status in the service territories of AT&T California and Verizon.[10] D.96-10-066 permits a designated COLR to opt out of its obligations in a GSA, unless it is the only carrier remaining in the GSA. Applicant is not the only COLR operating in AT&T California's GSA. In May 2005, the Commission granted Applicant ETC status in AT&T California's and Verizon's service areas so that Application could receive universal service support.[11] To facilitate Applicant's withdrawal of service and the efficient transition of its remaining customers, we shall grant Applicant's request to relinquish both its COLR status and ETC status.

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[9] D.02-03-023 adopted an OSS performance incentives plan to provide incentives for AT&T California to give CLECs equitable access to its OSS infrastructure. The plan measures, evaluates, and imposes monetary charges on AT&T California for OSS performance that could inhibit competition by disadvantaging the CLECs.

[10] Resolution T-16874, October 28, 2004.

[11] Resolution T-16909, May 29, 2005.

14. Categorization and Need for Hearings

In Resolution ALJ 176-3188, dated March 1, 2007, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings are not necessary. Based on the record, we affirm that this is a ratesetting proceeding and that hearings are not necessary.

15. Waiver of Comment Period

This is an uncontested matter in which the opinion grants the relief requested. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

16. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Jacqueline A. Reed is the assigned ALJ in this proceeding.

Findings of Fact

1. Applicant is authorized by D.95-12-057 and D.96-02-072 to provide facilities-based local exchange service, local bundled calling plans, ancillary services and calling features.
2. Applicant requests authority to discontinue service to 242,179 customers.
3. No one opposes the Application.
4. Applicant presented AT&T California as its acquiring or arranged CLEC.
5. On November 27, 2007, the assigned ALJ ruled that AT&T California is designated the arranged carrier to serve Applicant's remaining customers who have not selected another carrier.
6. Applicant's exit plan is adequate and timely filed.
7. Applicant has satisfied the regulatory and industry notification requirements.

8. Applicant has satisfied the requirements concerning the contents and timing of customer notification letters.

9. Applicant has met the mass migration process requirements.

10. Applicant has satisfied the Commission's requirements for the discontinuance of service.

11. None of Applicant's customers are in jeopardy of losing local service. As the arranged carrier, AT&T California will serve Applicant's remaining customers who have not selected another carrier.

12. Applicant is in good standing with the Commission regarding its reporting and payment of surcharges and regulatory fees.

13. Applicant is currently designated as a COLR and an ETC in AT&T California's GSA.

14. Applicant seeks to voluntarily relinquish its COLR and ETC designations in AT&T California's GSA.

Conclusions of Law

1. This is a ratesetting proceeding.

2. There is no need for hearings.

3. AT&T California should be designated the arranged carrier for Applicant's remaining customers.

4. The ALJ Ruling of November 27, 2007, designating AT&T California as the default carrier for Applicant's remaining customers should be affirmed.

5. AT&T California's tariffed credit and collection procedures should apply to any of Applicant's customers transferred to it as the arranged carrier. AT&T California's other tariff provisions should apply when they do not conflict with D.06-10-021 or FCC requirements.

6. AT&T California should be required to file all quarterly reports required under GO 133-B for failure to meet service quality measures due to a mass migration 30 days after the quarter in which the migrations are completed, but any failure to meet service quality measures due to a mass migration should not be subject to penalties.

7. OSS performance measurement reports should be filed when due, but AT&T California should be allowed to request relief from incentive payments if the mass migration process results in a failure to meet required measurements.

8. The third-party verification requirements of Pub. Util. Code § 2889.5 should not apply to Applicant's customers transferred to AT&T California.

9. Applicant's residential local services in AT&T California's service area should be withdrawn in accordance with Commission rules after adoption of this decision.

10. Applicant's request to voluntarily relinquish its COLR status and its ETC status should be granted.

11. Because this matter is uncontested, this order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The application of AT&T Communications of California, Inc. (Applicant) to discontinue the provision of residential local exchange telecommunications service and all related telecommunication service offerings within the incumbent local exchange service territory of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California) on April 11, 2008, is granted.

2. AT&T California is designated the arranged carrier for Applicant's remaining customers.

3. AT&T California's tariff and collection procedures shall apply to any of Applicant's customers transferred to it as the arranged carrier from April 2, 2007 through April 11, 2008. AT&T California's other tariff provisions shall apply when they do not conflict with Decision 06-10-021 or Federal Communications Commission requirements.

4. AT&T California shall file all quarterly General Order 133-B reports addressing failure to meet service quality measures due to migrating Applicant's customers 30 days after the quarter in which the migration is completed. Failure to meet service quality measures due to migrating Applicant's customers shall not be subject to penalties.

5. AT&T California shall file Operations Support Systems performance measurement reports when due. AT&T California may request relief from incentive payments if the mass migration process for Applicant's customers results in a failure to meet applicable performance measures.

6. The third-party verification requirements of Pub. Util. Code § 2889.5 shall not apply when Applicant's customers are transferred to AT&T California.

7. Applicant's request to relinquish both its Carrier of Last Resort status and its Eligible Telecommunications Carrier status, in AT&T California's geographic service area, is granted.

8. Application 07-02-024 is closed.

This order is effective today.

Dated _____, at San Francisco, California.