

ATTACHMENT 1

Guidelines for CLEC Involuntary Exits from Local Exchange Services Market

These guidelines are to be used when a wholesale provider(s), either an underlying ILEC or CLEC, contacts the Commission about the need to initiate a mass migration process.

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I. Objective

When a wholesale provider(s), either an Incumbent Local Exchange Carrier (ILEC) or a Competitive Local Exchange Carrier (CLEC), contacts the Commission about the need to initiate a mass migration process for a CLEC, procedures should be followed to ensure the CLEC notifies its end-user customers that their service will be terminated at least 15 days prior to such termination. This circumstance arises because some CLECs may utilize multiple vendors in order to offer services to their end-users – for example, one for dial tone and one for unbundled local loops. Failure to pay any one of the underlying providers may result in involuntary disconnection of service.

II. Regulatory Notification

The Commission requires that a CLEC may withdraw from providing local exchange service to customers only with the filing of an application and Commission approval, in compliance with the Mass Migration Guidelines. (*See* General Order 96-B, Telecommunications Industry Rule 7.4; *see also* D.02-05-044; D.06-10-021, Attachment A, Mass Migration Guidelines.) Not all CLEC withdrawals from providing local exchange service result in the filing of an application. Where the wholesale provider's experience determines that treatment action for breach of contract or nonpayment of wholesale services will result in interruption of service to a CLEC's retail service end-users, the wholesale provider shall notify the Director of the Communications Division of the pending wholesale termination at least 30 days prior to such termination. Such notification shall include the name and contact information of the affected CLEC, the type of service being terminated, the number of lines, circuits or

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bandwidth, a copy of the termination notice sent to the CLEC, and any other information in the wholesale provider's possession that may assist Staff in assessing the potential number of impacted retail customers. The termination notice shall inform the CLEC that the CLEC, no later than 5 days following receipt of a copy of the termination notice, shall notify the Director of the Communications Division on whether nonpayment or breach of contract has been cured. The termination notice also shall inform the CLEC of its obligation to provide customer notification of the discontinuation of local exchange service in the same manner as customer bills are rendered if nonpayment or breach of contract has not been cured and to provide a copy of the customer notification letter to the Director of the Communications Division. The wholesale provider shall update Commission staff on the status of the pending wholesale termination within 10 days of the first notification.

III. Customer Notification

The CLEC must notify its end-user customers 15 days in advance of the date on which the wholesale provider will terminate wholesale service to the CLEC in the same manner as customer bills are rendered. Appendix A to these guidelines contains a sample letter that illustrates the information that must be included in the notice sent by the CLEC. The wholesale provider has no obligation to provide notification to the CLEC's retail service end-user customers. If an acquiring local exchange carrier (Acquiring LEC) is involved, the carrier shall comply with the Federal Communications Commission's required 30-day customer notice, if feasible.

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IV. Involuntary Exit Process

If Staff believes the Commission should address any issues related to termination of CLEC service on an expedited basis (including without limitation removal of preferred carrier freezes, obtaining information necessary to provide notice to CLEC end-user customers if the CLEC fails to do so, ordering the CLEC or the wholesale provider to continue to provide service to its critical services end-user customers (hospitals, nursing homes, fire stations, police stations, etc.) and/or initiating procedures to secure an acquiring LEC or require a carrier of last resort to migrate the exiting CLEC's critical services end-user customers), Staff shall prepare a resolution or an order instituting investigation for expedited Commission consideration of these issues. The Commission will use all appropriate measures, including Administrative Law Judge and/or Assigned Commissioner rulings, to consider such matters on an expedited basis. However, nothing in these guidelines requires staff to initiate a formal process to address issues related to termination of CLEC service.

The wholesale provider may proceed with termination of service to the CLEC in accordance with the wholesale provider's termination notice if nonpayment or breach of contract has not been cured. Unless the Commission rules otherwise based on a finding of extraordinary circumstances involving public health and safety and after notice and an opportunity for hearing, if the wholesale provider complies with required regulatory notification, the wholesale provider is not obligated to provide service to retail end-user customers of a CLEC after termination of service to the CLEC unless the end-user customer specifically requests service from the wholesale provider and otherwise satisfies

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eligibility requirements imposed by the wholesale provider on other customers in the normal course of business.

The filing of an application by a CLEC to exit the California local exchange services market might change an involuntary exit to a voluntary exit and require compliance with the Mass Migration Guidelines. The conversion of an involuntary exit to a voluntary exit generally will occur only when there is an Acquiring LEC and the underlying provider(s) consent to the conversion.

V. Applicability of Commission Requirements During Involuntary Exits

If the CLEC or Acquiring LEC complies with these guidelines, the failure to meet General Order 133-C Service Quality measures and standards in any reporting period as the result of a customer base transfer will not be subject to penalties and the third-party verification requirements of Pub. Util. Code § 2889.5 will not apply to the customer base transfer. If a CLEC fails to comply with these guidelines, Staff may recommend that enforcement proceedings be initiated to consider fines and/or restrictions on future operating authority of owners, partners, directors, officers and/or affiliates of the CLEC.

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Sample Customer Notification Letter

Date (15 days prior to exit)

Customer Name

Address

City, California zip

YOU MUST CHOOSE A NEW LOCAL TELEPHONE SERVICE PROVIDER BY
(Date of exit) TO AVOID POSSIBLE DISCONTINUATION OF SERVICE

Dear Customer:

We regret to inform you that XYZ Company (current company) will no longer be providing your telephone service effective (date of service discontinuation).

Your action is required! You must select a new local telephone provider as quickly as possible but no later than (date of service discontinuation).

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.

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 at (toll-free number). Finally, if you no longer want local service, please contact us to discontinue your service.

Sincerely,

(END OF ATTACHMENT 1)