

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CuraTel, LLC d/b/a La Curacao (U6610C) to Withdraw Provision of Local Exchange and Interexchange Services, including Basic Service, and Relinquish Eligible Telecommunications Carrier Designation.

Application 16-09-002
(Filed September 1, 2016)

DECISION ADDRESSING THE APPLICATION OF CURATEL, LLC D/B/A LA CURACAO (U6610C) TO DISCONTINUE PROVISION OF LOCAL EXCHANGE AND INTEREXCHANGE SERVICES, AND RELINQUISH ITS ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

Summary

This decision authorizes CuraTel, LLC, d.b.a. La Curacao (CuraTel) to relinquish its eligible telecommunications carrier designation; discontinue provision of basic local exchange telephone service in the service territories of AT&T California and Frontier California, Inc.; and discontinue provision of interexchange services to customers in California. This decision authorizes mass migration of CuraTel's remaining customers, who have not selected a new carrier by February 13, 2017, to AT&T California or Frontier California as Default Carriers. CuraTel has complied with the Mass Migration Guidelines adopted in Decision 06-10-021.¹ This proceeding is closed.

¹ Decision 06-10-021, issued in Rulemaking 03-06-020, set forth the Commission's "Mass Migration Guidelines," and service providers' market-exiting procedures.

1. Background

CuraTel, LLC, d.b.a. La Curacao (U6610C) (CuraTel or Applicant) is a Delaware corporation with its principal place of business at 1605 W. Olympic Boulevard, Suite 600, Los Angeles, California 90015. CuraTel is a wholly-owned subsidiary of Adir International Export, Ltd. (Adir).

On December 28, 2001, the California Public Utilities Commission (Commission) granted Adir a California Certificate of Public Convenience and Necessity (CPCN) in Decision (D.) 01-12-033 to provide limited facilities-based and resold interexchange services in California. On January 8, 2004, the Commission authorized Adir CPCN authority to provide limited facilities-based and resold local exchange telecommunications services in D.04-01-010. In 2005, Adir transferred its CPCN to CuraTel.

In Resolution T-17383 (December 20, 2012), the Commission designated Adir/CuraTel an Eligible Telecommunications Carrier (ETC) and authorized CuraTel to provide Federal Lifeline support to customers in California.

CuraTel participated in the California LifeLine program and provided limited facilities-based residential basic local exchange telephone service to customers in the service territories of AT&T California (AT&T) and Frontier California, Inc. (Frontier), and interexchange services in California. As of November 2016, CuraTel had approximately 4,631 customers in California, including approximately 1,071 LifeLine customers.

Originally, CuraTel filed Application 16-09-002 on September 1, 2016. The original Application failed to include information needed to substantively evaluate CuraTel's request, and the application was determined incomplete by the Assigned Administrative Law Judge (ALJ). On October 24, 2016, the ALJ directed CuraTel to amend its Application and provide the missing information.

CuraTel complied by filing its First Amended Application on November 15, 2016.

On December 5, 2016, CuraTel informed the Commission that it intends to amend its Application again. CuraTel filed its Second Amended Application with the Commission on December 16, 2016. The Second Amended Application supersedes the original and the First Amended applications and, thus, the Second Amended Application is evaluated herein. Accordingly, all references to “Application” in this decision are to the Second Amended Application unless otherwise indicated.

In its Application, CuraTel requested Commission authorization: (1) to discontinue provision of local exchange basic telephone service and interexchange services to customers in California effective February 13, 2017,² and (2) relinquish its eligible telecommunications carrier designation and stop participating in the California LifeLine program. CuraTel submitted an Exit Plan with its Application that designated Time Warner Cable and Charter Communications (herein together referred to as “Spectrum”) as the acquiring or the arranged local exchange carrier (Arranged Carrier), as required by D.10-07-024.

With its December 16, 2016 Second Amended Application, CuraTel also amended its Exit Plan to provide that all of its customers who fail to select a new carrier by the deadline set in the customers’ notice will be migrated to AT&T and

² In the original application, the service discontinuation date was originally set for November 30, 2016. It was updated to December 22, 2016 (in the First Amended Application) and was further updated to February 13, 2017 in the Second Amended Application.

Frontier as Default Carriers.³ Both AT&T and Frontier have agreed to act as Default Carriers for these customers.

CuraTel contends that granting this Application will have minimal impact on its small number of customers as it has provided for an orderly transition of its customers to an Arranged Carrier and/or Default Carriers. In addition, CuraTel's customers will have the opportunity to obtain California LifeLine service from other carriers including Charter Communications, incumbent local exchange carriers (AT&T or Frontier) serving the area, and other wireless California LifeLine providers including Access Wireless, Blue Jay Wireless, enTouch Wireless, and SafeLink Wireless, among others. There were no protests to the application.

2. Compliance with the Guidelines

The Mass Migration Guidelines (Guidelines) governing the discontinuance of telecommunications services by a competitive local exchange carrier (CLEC) such as Applicant are set forth in D.06-10-021.⁴ The Guidelines give the exiting CLEC's customers the opportunity to migrate to another local exchange carrier without interruption of service.

The Guidelines require that an application filed for discontinuance of service include an Exit Plan, customer notification, and notification of carriers

³ During its review of the application, the Commission's Communications Division (CD) discovered that CuraTel's customers may not be successfully migrated to the Arranged Carrier without customers' cooperation due to equipment/systems compatibility issues. Accordingly, CD recommended that AT&T and Frontier, the incumbent local exchange carriers, serve as Default Carriers for CuraTel to ensure a smooth migration of customers. CuraTel agreed with CD's recommendation and initiated contact with both AT&T and Frontier for this purpose.

⁴ Prior to adoption of D.06-10-021, CLEC exit issues were dealt with on a case-by-case basis with the requirement that utilities provide customer notification when withdrawing service or transferring customers. (See D.02-01-038.)

potentially affected by the discontinuance of service. 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 established a mass migration process, including determining an overall program manager, and submitting customer list information and progress reports to Commission staff. The Guidelines incorporate procedures for transferring NXX codes⁵ 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 in the following sections.

2.1. 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.

CuraTel filed its original application and Exit Plan on September 1, 2016, and revised and submitted an updated Exit Plan with its Second Amended Application herein discussed. The Commission's Communications Division (CD) reviewed CuraTel's Exit Plan and worked with CuraTel to modify its Exit Plan to ensure that all of CuraTel's customers were successfully migrated to new

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."

carriers. Pursuant to the Exit Plan, CuraTel sent notification letters to its customers on October 1, 2016, and posted a follow-up notice on its website on November 10, 2016. During the week of November 14, 2016, CuraTel provided additional notices to its customers via electronic mail and sent updated notice to its customers during the week of December 12, 2016.

The notices provide that CuraTel has arranged for Spectrum to serve as its Arranged Carrier. Further, the notices provide that CuraTel's customers have until January 14, 2017, to select a carrier and that if customers do not choose a new service provider by January 14, 2017, their phone service will be transferred to a Default Carrier (Frontier or AT&T) on or after February 13, 2017.

The notifications ensure that Applicant's customers received adequate notice before transferring their services to another carrier. CD determined that the Applicant's Exit Plan satisfies our requirements. Applicant's Exit Plan was adequate and timely filed.

2.2. Industry Notification

At the same time an exiting CLEC files its application and Exit Plan with the Commission, it must serve the documents on the Arranged Carrier and/or Default Carriers that will assume Applicant's customers, 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.

CuraTel made arrangements for Spectrum to be the Arranged Carrier, and discussed it with both AT&T and Frontier – the Default Carriers. Affected customers received clear and concise advance written notification beginning on October 1, 2016, and a follow-up website posting and electronic mail beginning

and/or around October 14, 2016. CuraTel provided an updated notice to its customers during the week of December 12, 2016.

In addition, CuraTel served its Application and Exit Plan on the Arranged Carrier (Spectrum), the Default Carriers who are the local exchange carriers known to provide service in the affected area (AT&T and Frontier), all underlying Network Service Providers used by the exiting CLEC to provide service (AT&T and Frontier), and CD. CD determined that Applicant satisfies our industry notification requirements, and Applicant's notification of affected entities satisfies our requirements.

3. Timetable for Customer Notification

The Guidelines require the exiting CLEC to notify customers 60 days in advance of the final service termination date.⁶ The service termination notification letter must comply with Federal Communications Commission (FCC) and Commission requirements and include a listing of the service rates and terms of the Arranged Carrier named in the notice. Applicant mailed written notices of its intended service termination (service discontinuation notice), which identified Spectrum as the Arranged Carrier, to all of its affected customers beginning October 1, 2016. The amended Exit Plan notified customers that AT&T and Frontier will act as Default Carriers. The October 2016 and the December 12, 2016 service discontinuation notices included the required FCC language. Beginning on or around October 2016, CuraTel posted its service discontinuation notice on its website and sent a second notice to its customers through electronic mail and text messages. With the October 2016 notices and

⁶ When applicable, any arranged carriers should notify customers jointly with applicant 60 days in advance. *See*, Guidelines at Section V (A) at 6.

web posting, Applicant meets our requirement for customers' notification 60 days in advance of final service termination. .

4. 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 or subsequent notice must provide its name and toll-free contact number and must allow customers 30 days to select a new local exchange carrier.

The Commission requires customer notice to be provided in the language used to sell the services.⁷ In addition, the CLECs, Arranged Carriers and/or Default Carriers must submit the notification letter to the Commission's Public Advisor and CD for approval.⁸

The Application included copies of the initial notice letters⁹ containing the information required by our Guidelines. The Public Advisor and CD reviewed Applicant's notices and determined that the notices comply with our requirements concerning the content of customer notifications. CuraTel mailed and/or sent notices to customers beginning on October 1, 2016.

⁷ D.96-10-076.

⁸ See Article V (B) at 8, of the Guidelines.

⁹ In English and Spanish.

5. 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.

6. Customer List and Customer Service Records (CSR)

At least 60 days prior to the projected cut-off 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 applicable laws and regulations relating to public disclosure of records, confidential trade secret status, and privacy protections. On November 15, 2016, within the required 60 days, Applicant submitted its customer count list to CD and updated the count list on November 30 and December 15, 2016. CuraTel indicated that it will continue to submit biweekly customer counts to Commission staff to ensure the Commission is informed of the number of customers impacted. Applicant made the list available for updated review and, as a result, we find Applicant 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 Customer Service Record (CSR) data elements specified in the Guidelines that are needed to enable any carrier to migrate the exiting CLEC's customers seamlessly. CuraTel's CSRs¹⁰ are

¹⁰ In compliance with the Guidelines, CuraTel's CSR data elements contain information necessary to enable another carrier to migrate CuraTel's customers seamlessly. Among others,

Footnote continued on next page

maintained in electronic format, searchable by account number and phone number, and kept on a server and in physical form in its offices. Applicant advises that based on its existing relationships with AT&T or Frontier, it does not anticipate obstacles for customers to select a carrier of their choice, be it the Arranged Carrier, the Default Carriers who are also the incumbent carriers on whose territories CuraTel provided its local exchange services, or other carriers.

These existing relationships would enable the Arranged Carrier and/or the Default Carriers to identify customers who have not actively made a selection of a local exchange carrier for mass migration from CuraTel's local service platform to the Arranged Carrier or Default Carriers' local service platforms. Accordingly, Applicant satisfies our requirement to have available the CSR data elements needed to enable any carrier to migrate Applicant's customers seamlessly.

7 Progress Reports

The Guidelines require an exiting CLEC to track the progress of the migrations and provide CD with progress reports. CuraTel agreed to submit biweekly customer counts to Commission staff to ensure the Commission is informed of the number of customers impacted. Applicant worked cooperatively with CD in this matter, and provided accurate and timely reports. On November 15, 2016, Applicant submitted its customer count list to CD. CuraTel updated the count list on November 30 and December 15, 2016,

these includes information about service configuration; class of service; customer billing name, address, and telephone number; working telephone number(s); customer directory listing information; applicable circuit identities; current Primary Interexchange Carriers; applicable local freezes; service features and options; tracking/transaction number; Network Service Provider(s) identification; and, identification of any line sharing/line splitting on the migrating end user's line.

January 10 and 31, 2017, and April 6 and 11, 2017. Thus, Applicant satisfies our requirements to track the progress of the migrations and provide progress reports.

8. 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 has been in contact with North American Numbering Plan Administrator (NANPA) and will work with NANPA to transfer numbers assigned to CuraTel while preserving number portability. Applicant satisfies our requirements under this heading.

9. 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. CuraTel indicates it has complied with all applicable E-911 requirements under the Mass Migration Guidelines and will provide confirmation of its applicable compliance to Commission staff prior to discontinuance. Applicant meets our E-911 requirements.

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

A CLEC must continue providing local exchange service until the Commission approves its application to withdraw service. 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.

In its Application, CuraTel indicated that customers who do not choose an alternate carrier will be migrated to their underlying Default Carrier (AT&T or Frontier) starting on February 13, 2017, and committed to maintain services to its customers until all customers are successfully migrated to their respective Default Carrier.

CuraTel provided several progress reports and customer counts to CD regarding its migration efforts. CuraTel submitted its first customer count to CD on November 15, 2016. CuraTel updated the on November 30 and December 15, 2016 and January 10 and 31, and April 6 and 11, 2017. In the April 2017 counts, Curatel indicated that it completed the migration of all of its customers and that no customer remained on the CuraTel network.¹¹ Given that CuraTel successfully migrated all of its customers, we find no reason to deny Applicant's request to discontinue service.

11. 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

¹¹ In a letter sent on April 11, 2017, CuraTel provided confidential data which supported this assertion.

serve its customers. In its application and Exit Plan, Applicant presented Spectrum as the Arranged Carrier for those customers who do not select an alternate carrier. No party opposed the request. CD recommends that the Commission affirm Spectrum's assumption of the role of Arranged Carrier. In addition, CD recommends and CuraTel agrees to designate CuraTel's Network Service Providers (AT&T and Frontier) as Default Carriers to ensure a smooth migration of customers.

The requirements under Pub. Util. Code § 2889.5 for third-party verification do not apply to Applicant's customer base transferred to Spectrum or the Default Carriers in this mass migration. Applicant, Spectrum, and the designated Default Carriers ask the Commission to waive the "anti-cramming" requirements. We grant their requests regarding these matters.

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

Pursuant to the Guidelines, if a Default Carrier is designated by the Commission, the Default Carrier's tariffed credit and collection procedures will apply to customers transferred to it as part of the mass migration process. The Default Carrier's other tariff provisions will apply when they do not conflict with these Guidelines and FCC requirements.

General Order (GO) 133-D exception reporting requires a carrier to file all quarterly reports addressing failure to meet service quality measures. Due to the mass migration, the Arranged Carrier and Default Carriers will file all quarterly reports required under GO 133-D for failure to meet service quality measures 30 days after the quarter in which the migrations are completed. Any failure to meet service quality measures due to a mass migration will not be subject to

penalties. Applicant is not a Carrier of Last Resort in AT&T or Frontier's service territories, but it is an Eligible Telecommunications Carrier in California.

13. Categorization and Need for Hearings

In Resolution ALJ 176-3384, dated September 15, 2016, 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.

14. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2) and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

15. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Adeniyi A. Ayoade is the assigned ALJ in this proceeding.

Findings of Fact

1. The Commission authorized Applicant to provide basic local exchange telephone service in the service territories of AT&T and Frontier, interexchange services to customers in California, and designated Applicant as an eligible telecommunications carrier (ETC) to provide Federal Lifeline support to customers in California.

2. Applicant requests authority to discontinue local exchange telephone service and interexchange services, and relinquish its ETC designation.

3. The application to discontinue service effective February 13, 2017 and to relinquish ETC designation is unopposed.

4. The Application designated Time Warner Cable and Charter Communications (Spectrum) as the Arranged Carrier for Applicant's customers and no party opposed the designation.

5. The Application requests that AT&T and Frontier be designated as the Default Carrier for Applicant's customers and no party opposed the designation.

6. CuraTel's customers will have the opportunity to obtain California LifeLine service from other carriers including Charter Communications, incumbent local exchange carriers serving the area (AT&T or Frontier), and other wireless California LifeLine providers including Access Wireless, Blue Jay Wireless, enTouch Wireless, and SafeLink Wireless, among others.

7. Applicant's Exit Plan is adequate and timely filed.

8. Applicant has satisfied the regulatory and industry notification requirements.

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

10. The third-party verification requirements of Pub. Util. Code § 2889.5 does not apply to Applicant's customers transferred to the Arranged Carrier or Default Carriers.

11. Applicant has met the mass migration process requirements.

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

13. None of Applicant's customers are in jeopardy of losing local service as Applicant's customers can select the Arranged Carrier or the Default Carriers will serve Applicant's remaining customers who have not selected another carrier.

Conclusions of Law

1. Applicant should be authorized to discontinue provision of local exchange telephone service and interexchange services effective February 13, 2017, or after the effective date of this decision, whichever is later.

2. Applicant should be authorized to relinquish its eligible telecommunications carrier designation.

3. The Commission should confirm Time Warner Cable and Charter Communications (Spectrum) as the Arranged Carrier for Applicant's customers.

4. The Commission should designate AT&T and Frontier as Default Carriers for Applicant's customers who did not take action to select a new carrier.

5. CuraTel should be allowed to relinquish its eligible telecommunications carrier designation because CuraTel's LifeLine customers will have the opportunity to obtain LifeLine service from several other carriers.

6. The Default Carrier's tariffed credit and collection procedures will apply to customers transferred to it as part of the mass migration process. The Default Carrier's other tariff provisions will apply when they do not conflict with D.06-10-021 or FCC requirements.

7. The Arranged Carrier and Default Carriers should be required to file all quarterly reports required under GO 133-D 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.

8. The third-party verification requirements of Pub. Util. Code § 2889.5 should not apply to Applicant's customers transferred to the Arranged Carrier or Default Carriers.

9. Because timing is essential to the mass migration of telephone customers, this order should be effective immediately.
10. No party opposed the Application and there is no need for hearings.
11. This is a ratesetting proceeding.
12. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. The application of CuraTel, LLC d/b/a La Curacao (U6610C) for authority to discontinue the provision local exchange and interexchange services, including basic service, is granted and effective on the date of this decision.
2. The application of CuraTel, LLC d/b/a La Curacao for authority to relinquish its eligible telecommunications carrier designation is granted and effective on the date of this decision.
3. Time Warner Cable and Charter Communications (herein referred to as Spectrum) are designated as the Arranged Carrier for Applicant's customers..
4. AT&T California and Frontier California, Inc. are designated as Default Carriers for Applicant's customers who did not select another carrier during the time provided in the Customer notices.
5. The Default Carrier's tariffed credit and collection procedures shall apply to any of Applicant's customers transferred to such Default Carrier as part of this mass migration. The Default Carrier's other tariff provisions shall apply when they do not conflict with Decision 06-10-021 or Federal Communications Commission requirements.
6. The Arranged Carrier (Time Warner Cable and Charter Communications) and the Default Carriers (AT&T California and Frontier California, Inc.) shall file all quarterly General Order 133-D 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.

7. The third-party verification requirements of Public Utilities Code Section 2889.5 shall not apply when Applicant's customers are transferred to Time Warner Cable and Charter Communications (the Arranged Carrier), or the Default Carriers (AT&T California or Frontier California, Inc.) as part of this mass migration.

8. This decision does not release CuraTel, LLC d/b/a La Curacao (CuraTel) from any preexisting obligations and CuraTel must honor all of its preexisting obligations arising from its telecommunications services in California including credit refunds to its customers or debt repayments to other carriers and/or repayment to the Commission of any overpayment from its participation in the California Lifeline Program.

9. Nothing in this decision shall prevent the Commission from investigating or adjudicating or initiating proceeding against CuraTel, LLC d/b/a La Curacao (CuraTel) regarding whether CuraTel complied with all Commission's laws, rules, decisions, and orders applicable to telephone corporations; or whether CuraTel complied with the California Lifeline programs' rules during its participation in the program; or whether CuraTel should be required to repay any overpayment from the California Lifeline Program to the Commission.

10. Application 16-09-002 is closed.

This order is effective today.

Dated _____, at Sacramento, California.