

# LOUISIANA PUBLIC SERVICE COMMISSION

## GENERAL ORDER NO. R-31839

### AT&T LOUISIANA EX PARTE

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*Docket No. R-31839 In re: Petition for Modification of Rules and Regulations Necessary to Achieve Regulatory Parity and Modernization.*

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(Decided at the Commission's November 13, 2013 Business and Executive Session.)

[Amends and supersedes, in part: Corrected General Order R-30347 dated August 14, 2009; General Order dated February 9, 2009 (Docket No. R-30480); Appendix A of Commission General Order dated March 29, 2000 (Docket No. U-24638); General Order dated February 20, 2004 (Docket No. U-24802 Sub. B).]

[Amends and supersedes all previous versions of the Regulations for Competition in the Local Telecommunications Market (See Attachment A).]

#### I. Overview

On February 28, 2011, BellSouth Telecommunications, LLC d/b/a AT&T Louisiana ("AT&T Louisiana" or the "Company") filed a Petition asking the Louisiana Public Service Commission ("LPSC or "Commission") to open a rulemaking docket in order to "modify certain regulatory obligations and requirements."<sup>1</sup> More specifically, AT&T Louisiana requested this Commission to open a rulemaking proceeding to revise its rules and regulations, as necessary, to: (1) eliminate AT&T Louisiana's Carrier of Last Resort ("COLR") obligation; (2) modify AT&T Louisiana's Price Plan to: (a) reclassify IFR and Residence LOS Option B ("LOS-B") services to the Competitive Basket, (b) provide for service and cost support parity including the elimination of TSLRIC, and (c) clarify that informational only promotional filings are no longer required in light of detariffing; (3) modernize various billing and collection rules; (4) eliminate unnecessary administrative reports filed with the LPSC by all TSPs; and (5) eliminate the rules and requirements applicable to technical and market trials.

The relief requested by AT&T Louisiana in this docket is consistent with the progression of the Commission's prior Orders regarding telecommunications service, designed to keep pace with the competitive and ever-changing marketplace while providing necessary consumer protections-balancing the interest of the consumer with that of the telecommunications service providers ("TSPs").

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<sup>1</sup> AT&T Petition at 1.

After a thorough review of the comprehensive filings and comments in this proceeding, as well as a review of prior relevant Commission dockets and recommendations issued and adopted in those dockets, the Commission Staff ("Staff") issued a Final Staff Recommendation on November 4, 2013. In the Final Staff Recommendation, Staff recommended that the LPSC grant certain relief requested: 1) eliminate AT&T Louisiana's COLR obligation; 2) modify AT&T Louisiana's Price Plan to: (a) reclassify IFR and Residence LOS-B services to the Competitive Basket, (b) provide for service and cost support parity including the elimination of TSLRIC, and (c) clarify that informational only promotional filings are no longer required in light of detariffing; 3) eliminate the requirement for certain administrative reports (SS7 and Access Lines/Revenues); and, 4) eliminate the rules and requirements applicable to technical and market trials. Commission Staff further recommended that the Commission deny AT&T Louisiana's requests to: 1) modernize various billing and collection rules (5-day notice and delinquent payment penalty), and 2) update requirements for certain administrative reports (outside service reporting). Last, with regard to AT&T Louisiana's requests regarding billing and collection rules, Staff recommended that should the Commission want to review or modify the current rules/Orders, that it do so in separate proceedings (new service requirements, restrictions on payment applications, and NSF Fee).

Notice of this proceeding was placed on the Commission's November 13, 2013 Business and Executive Session Agenda for discussion and possible vote regarding Staff's Final Recommendation. After discussion and consideration, the Commission voted to adopt Staff's primary recommendations as contained in its Final Recommendation filed November 4, 2013. Attached to this Order as Attachment A are the revised Local Competition Rules, which have been revised consistent with the Commission's actions in this proceeding as set forth in this Order.

## **II. Procedural History and Summary of Relevant Commission Orders**

### **A. *Procedural History of Docket R-31839***

AT&T Louisiana's February 28, 2011 Petition was published in the Commission's Official Bulletin No. 979, issued March 4, 2011 with a 25-day period (until March 29, 2011) to intervene. Timely interventions were filed by Lafayette Utilities System ("LUS"), MCImetro Access Transmission Services, LLC D/B/A Verizon ("Verizon"), Cox Louisiana Telcom, LLC ("Cox"), the Small Company Committee of the Louisiana Telecommunications Association

("SCC"),<sup>2</sup> the Louisiana Cable & Telecommunications Association ("LCTA"), East Ascension Telephone Company ("EATEL"), Competitive Carriers of the South, Inc. ("CompSouth"),<sup>3</sup> and Sprint Nextel ("Sprint").

On March 9, 2012, Staff issued a Scheduling Order setting forth a procedural schedule to allow for supplemental information/testimony from AT&T Louisiana on April 13, 2012, and reply comments/testimony from Intervenors on May 11, 2012. AT&T Louisiana filed redacted and confidential Comments on April 13, 2012 accompanied by the affidavit of Jon Loehman. On or before May 11, 2012, Reply Comments were filed by Intervenors Verizon, Cox, SCC, CompSouth/Sprint (joint filing), and LCTA. Neither LUS nor EATEL filed comments. AT&T Louisiana filed Reply Comments on June 3, 2013 to supplement its Petition and initial Comments and to respond to the Intervenors' Reply Comments.

Commission Staff issued its Initial Recommendation and Scheduling Order on October 4, 2013 giving the parties until October 18 to file comments and October 25 to file reply comments and advising that Staff planned to issue its Final Recommendation on or before November 1 which would permit consideration at the Commission's November 13, 2013 Business and Executive Session. Comments to the Initial Recommendation were filed by AT&T Louisiana, LCTA, CompSouth/Sprint (joint filing)<sup>4</sup>, Verizon, and the SCC. Reply comments were filed by AT&T Louisiana, CompSouth/Sprint (joint filing), and the SCC. Commission Staff issued its Final Recommendation on November 4, 2013.

***B. Summary of Prior Commission Review and Dockets Relevant to Competition in Louisiana and the Commission's Local Competition Rules***

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<sup>2</sup> Cameron Telephone Company, LLC; Campti-Pleasant Hill Telephone Co., Inc.; CenturyTel of Chatham, LLC; CenturyTel of Central Louisiana, LLC; CenturyTel of East Louisiana, LLC; CenturyTel of Evangeline, LLC; CenturyTel of North Louisiana, LLC; CenturyTel of Northwest Louisiana, Inc.; CenturyTel of Ringgold, LLC; CenturyTel of Southeast Louisiana, Inc.; CenturyTel of Southwest Louisiana, LLC; Delcambre Telephone Co., LLC; East Ascension Telephone Co., LLC; Elizabeth Telephone Company, LLC; Kaplan Telephone Co., Inc.; Lafourche Telephone Co., LLC; Northeast Louisiana Telephone Co., Inc.; Reserve Telephone Co., Inc. and Star Telephone Co., Inc. (collectively, the "SCC" or "SCC Members") (Reply Comments referred to as "SCC Comments").

<sup>3</sup> CompSouth's members participating in this docket include: Access Point Inc., Birch Communications, Cbeyond Communications, LLC, Covad Communications Company, Earthlink Business, Level 3 Communications, tw telecom inc. and XO Communications Services, Inc. (Reply Comments were jointly filed by CompSouth and Sprint and are referred to as "CompSouth/Sprint Comments"). On October 18, 2013, CompSouth filed an updated list of participating members and added the following: Birch Communications, Inc., Cbeyond Communications L.L.C., MegaPath Corporation, EarthLink Business, tw telecom inc., and XO Communications Services, Inc.

<sup>4</sup> The Joint Comments of the Competitive Carriers of the South and Sprint and the Joint Reply Comments of the Competitive Carriers of the South and Sprint to Staff's Initial Recommendation attempted to introduce a new issue into the record of this proceeding in arguing that the Commission should not rule on Staff's recommendations unless and until AT&T Louisiana negotiates an Internet Protocol-to-Internet Protocol (IP-to-IP) wholesale interconnection agreement with a competitor and files that agreement pursuant to Section 252 of the Telecom Act with the LPSC for approval. This wholesale issue was not properly before the Commission in this retail proceeding, and the Commission does not address this issue in this Order. This, of course, does not pre-determine the outcome of any proceeding in which this issue is appropriately presented to the Commission for consideration.

To put this docket in the appropriate perspective, it is necessary to briefly discuss prior Staff recommendations and Commission actions that have fostered, shaped, and recognized the vibrantly competitive communications industry in Louisiana. In March 1996, the Commission officially opened the door to competition in Louisiana's local exchange market with the adoption of Regulations for Competition in the Local Telecommunications Market ("Local Competition Rules", "Rules," or "Regulations").<sup>5</sup> These Rules, designed to "foster the transition from monopoly to competitive local telecommunications markets in Louisiana" and "encourage competitive entry," were prompted by Congress' passage of the Telecommunications Act of 1996 ("Act").<sup>6</sup> This Act spurred nondiscriminatory access by competitors to use the network of incumbents and to resell incumbents' services, and it created procedures whereby those seeking to interconnect to the incumbents' networks could arbitrate the terms of interconnection agreements. As explained below, the Act as implemented by the Commission has been effective in encouraging the competition that Congress intended in AT&T Louisiana's service territory.

In adopting these Rules, the Commission noted that consumers would benefit from competition by, among other things, "having greater choices among telecommunications products, prices and providers."<sup>7</sup> As part of these Regulations, the Commission replaced rate-of-return incentive regulation for AT&T Louisiana with the Consumer Price Protection Plan ("Price Plan").<sup>8</sup>

In September 2001, the Commission issued an Order recommending that the FCC allow AT&T Louisiana to enter the interLATA toll market pursuant to the criteria of Section 271 of the Act.<sup>9</sup> As part of this proceeding, the Commission Staff conducted a thorough review of the competitiveness of the market in AT&T Louisiana's service area and noted that "[n]umerous carriers are providing facilities-based service to business and residential customers in Louisiana."<sup>10</sup> Therefore, at least as far back as 2001, this Commission has acknowledged robust competition for business and residential services in Louisiana. Since then, competition has

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<sup>5</sup> See *In re: Regulations for Competition in the Local Telecommunications Market*, General Order R-27732, as amended October 31, 2005 and most recently amended on July 26, 2013 in Docket R-31300 (Retail Service Quality Docket).

<sup>6</sup> *Id.*

<sup>7</sup> *Local Competition Rules, Preamble*, at para. 3.

<sup>8</sup> See Section 701 of the *Local Competition Rules*.

<sup>9</sup> See Order No. U-22252-E, dated September 21, 2001. The Commission had twice before considered and approved AT&T Louisiana's request. See Order No. U-22252-A dated September 5, 1997 and Order No. U-22252-B dated July 1, 1998.

<sup>10</sup> See LPSC Order No. U-22252-E, dated September 21, 2001 at 23.

continued to thrive in Louisiana, and the Commission has continued to review and modernize its rules to stay current with the competitive and ever-changing marketplace.

1. **Docket U-24802-B (Review of AT&T Louisiana Price Plan)**

In December 2003, the Commission completed an extensive six-year review of AT&T Louisiana's Price Plan, amending and indefinitely extending the Plan with modifications that allowed AT&T Louisiana more flexibility in pricing the vast majority of its telecommunications services. Specifically, the Commission renamed the "Non-Basic Basket" as the "Competitive Basket," and it removed regulatory price caps on services in the Competitive Basket in order to "allow the competitive market place to determine price levels for these services."<sup>11</sup> In examining evidence of competition in Louisiana, the Commission found that "[c]ompetition in Louisiana continues to thrive."<sup>12</sup>

In that same docket, the Commission created a "Universal Services Basket" to include services aligned with the Commission's definition of universal service.<sup>13</sup> The Commission ordered that basic local service offerings (e.g., single line business (1FB) and residential services (1FR and LOS-B) in Zones 2 (suburban) and 3 (rural) would remain in the Universal Services Basket and any price relief needed to maintain rate levels for these services would come from the State Universal Service Fund ("State USF").<sup>14</sup> Recognizing that a State USF had not yet been established, the Commission granted AT&T Louisiana the right to increase rates on all services in the Universal Services Basket by up to 2.5% annually.<sup>15</sup> The Commission also ordered that basic local service offerings in Zone 1 (urban) could be moved to the Basic Basket, and it allowed AT&T Louisiana to adjust rates for offerings in the Basic Basket up to 10% per year.<sup>16</sup> On April 18, 2006, AT&T Louisiana exercised the authority expressly provided by the Commission in the Final Price Plan Order and moved basic local service offerings for both residential and business customers in Zone 1 to the Basic Basket.<sup>17</sup>

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<sup>11</sup> See Order No. U-24802, Subdocket B, dated February 20, 2004, at 6 ("Final Price Plan Order").

<sup>12</sup> Final Price Plan Order at 3-4.

<sup>13</sup> Final Price Plan Order at 5-6. See also Section 501 of the Local Competition Rules.

<sup>14</sup> Final Price Plan Order at 5.

<sup>15</sup> Later, in April 2005, the Commission established a State USF. In its February 9, 2009 General Order in Docket R-30480, however, the Commission determined that AT&T is not "eligible for any [State USF]," and AT&T Louisiana has since received no support from the fund, but AT&T Louisiana's prices for its services in the Universal Services Basket remain capped.

<sup>16</sup> Final Price Plan Order at 6.

<sup>17</sup> See BellSouth Telecommunications, Inc. April 3, 2006 tariff filing (made in compliance with LPSC Order in U-24802-B, dated February 20, 2004 allowing AT&T Louisiana to reclassify its services in the newly created Zone rate structure; AT&T Louisiana also exercised the option of moving the 1FR, 1FB, LOS-B, single line business LOS-B and single line business measured rate services in Zone 1 from the Universal Services Basket to the Basic Services Basket). The tariff was approved by the Commission on April 18, 2006.

## 2. Docket R-30347 (Update of Local Competition Rules)

In September 2007, AT&T Louisiana filed a Petition for *Modification of Rules and Regulations Necessary to Achieve Regulatory Parity and Modernization*, asking the Commission to allow for: a) detariffing of competitive services; b) reclassification of basic single-line business service (1FB) as competitive; c) elimination of AT&T Louisiana's service quality benchmarks and penalties applicable only to AT&T Louisiana; d) a 5% price increase on universal services; and e) elimination of the TSLRIC price floor applicable only to AT&T Louisiana. In 2008, after thoroughly examining the competitive market, the Commission granted all TSPs the option of detariffing competitive services and replacing informational tariffs with online guidebooks and price lists.<sup>18</sup> The Commission also granted AT&T Louisiana's request to reclassify 1FB throughout Louisiana (Zones 1, 2, and 3) to the Competitive Basket, thereby affording full upward pricing flexibility on all business services in Louisiana.<sup>19</sup> Adopting Staff's recommendation, the Commission found "significant competition in the local exchange market in Zones 1 and 2."<sup>20</sup> With regard to Zone 3, evidence showed that there was at least one CLEC providing business service in each exchange; therefore; upon Staff's recommendation, the LPSC granted AT&T Louisiana's request to reclassify single-line business service in Zone 3 to the Competitive Basket as well.<sup>21</sup>

## 3. Docket R-30480 (Initial Sunset Mechanism for AT&T Louisiana's COLR Obligations)

In February 2009, as part of its review of the State USF, the Commission updated its rules addressing universal service (found in Section 501 of the Local Competition Rules) to modernize and make technology neutral the definition of universal service.<sup>22</sup> In doing so, the Commission eliminated many of the remnants of legacy wireline service from its prior definition of universal service, such as residential versus business classifications and limited calling areas versus all-distance calling plans.<sup>23</sup> The Commission also ruled that it would "consider relaxing

<sup>18</sup> See *General Order dated August 14, 2009, Docket No. R-30347*.

<sup>19</sup> In 2009, when AT&T Louisiana's request for reclassification was granted, single-line business service was the last business service subject to regulatory price caps. Similarly in this docket, single line residential service 1FR and LOS-B are the last residential retail services subject to regulatory price caps.

<sup>20</sup> See *Final Staff Recommendation, Docket No. R-30347, p. 30, as adopted by Order No. R-30347*.

<sup>21</sup> See *Final Staff Recommendation, Docket No. R-30347, p. 32, as adopted by Order No. R-30347*.

<sup>22</sup> See *General Order dated February 9, 2009, Docket No. R-30480*.

<sup>23</sup> Staff also reaffirmed that a carrier designated as the COLR may satisfy its obligation to provide universal service on a technology-neutral basis. See *Staff's Final Recommendation at 11, Docket No. R-30480*.

the COLR obligations of AT&T Louisiana in Zones 1 and 2 as well as phasing-in retail pricing flexibility in those zones,” and it directed further review of AT&T Louisiana’s request.<sup>24</sup>

The Commission again denied AT&T Louisiana any State USF support, including for complying with its remaining COLR obligation. Yet, the Commission did allow AT&T Louisiana (as a non-rural ILEC) to phase-out and reduce its COLR obligations on an exchange basis when certain competitive thresholds are met.<sup>25</sup> Specifically, the Commission granted AT&T Louisiana immediate COLR relief in several urban exchanges and allowed it to make annual filings thereafter in any exchange in which the Competitive Local Exchange Carrier (“CLEC”) residential market share is equal to or exceeds 25% or the CLEC total market share is equal to or exceeds 30%.<sup>26</sup> In determining such relief was appropriate, Staff found “abundant wireline competition” in several exchanges and thus found it unnecessary to require AT&T Louisiana to continue to serve as the COLR “where competitive alternatives clearly abound.”<sup>27</sup>

#### 4. Docket R-31300 (Elimination of Retail Service Quality Metrics)

In March 2010, and pursuant to the Commission’s General Order issued in Docket R-30347, as corrected and re-issued August 14, 2009, Staff opened a “Service Quality Sub-docket” to review “performance measurements, standards, fines and report filing requirements for all TSPs operating in Louisiana.”<sup>28</sup> Staff sought comments on several issues regarding performance metrics applicable to all TSPs, including but not limited to metrics specifically applicable to AT&T Louisiana. At the time, the Commission’s regulations contained three individual sets of measurements applicable to: 1) AT&T Louisiana, 2) CLECs, and 3) all other ILECs (other than AT&T Louisiana). Recognizing the need for parity in Louisiana’s competitive marketplace, Staff recommended eliminating all unnecessary service quality metrics focused specifically on AT&T Louisiana, and instead established one metric -- Commission complaints related to residential telecommunications services – applicable across the board to all TSPs.<sup>29</sup> On July 26, 2013, the Commission issued its Order, unanimously adopting Staff’s recommendation.<sup>30</sup>

<sup>24</sup> See General Order dated February 9, 2009 at 11, *Ordering Paragraphs 17, 18*.

<sup>25</sup> See General Order dated July 22, 2009, *Docket No. R-30480*.

<sup>26</sup> General Order dated July 22, 2009, *Docket R-30480 at 2*.

<sup>27</sup> *Id.*

<sup>28</sup> See Official Commission Bulletin, dated March 19, 2010, listing *Docket R-31300, In re: Retail Service Quality Measurements Applicable to Telecommunications Service Providers*.

<sup>29</sup> See General Order dated July 26, 2013, *Docket No. R-31300 at 5*. Staff also recognized (on page 6) that most complaints received by the Commission are related to “non-jurisdictional services (i.e. wireless, internet, and cable),” rather than “residential telecommunications services”. As such, Staff noted that “the reporting requirements are specific to residential telecommunications services.”

<sup>30</sup> *Id at 2*.

### III. Commission Jurisdiction

#### A. Constitutional Power

As set forth in Article IV §21 of the Louisiana Constitution of 1974, the Commission has the authority to “regulate all common carriers and public utilities and has all other regulatory authority as provided by law.”

#### B. LPSC’s Local Competition Rules

Pursuant to its Constitutional authority, the Commission adopted the Local Competition Rules referenced throughout this Recommendation. As stated in the Preamble of the Local Competition Rules:

The Louisiana Public Service Commission hereby promulgates the following regulations (the “Regulations”) to foster the transition from monopoly to competitive local telecommunications markets in Louisiana. The Commission imposes these Regulations for competition within local service areas in order to encourage competitive entry, preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.<sup>31</sup>

### IV. AT&T Louisiana’s Petition

In its Petition, AT&T Louisiana requests a rulemaking proceeding to revise the Commission’s Local Competition Rules and regulations, as necessary, to: 1) eliminate AT&T Louisiana’s COLR obligation<sup>32</sup>; 2) modify AT&T Louisiana’s Price Plan to reclassify residential basic local service (1FR) and Residence LOS Option B services (LOS-B) to the Competitive Basket; 3) eliminate the TSLRIC price floor that applies only to AT&T Louisiana’s services; 4) provide for service and cost support parity; 5) clarify that informational only promotional filings are no longer required in light of detariffing; 6) modernize various billing and collection rules; 7) eliminate unnecessary administrative reports filed with the LPSC by all TSPs; and 8) eliminate the rules and requirements around technical and market trials. In support of AT&T Louisiana’s petition, the Company submitted Comments and Reply Comments, including the affidavit of Jon Loehman. For each of AT&T Louisiana’s requests, Section V, *infra*, contains a discussion of AT&T Louisiana’s requested relief, Intervenors’ positions, Staff’s analysis and recommendation and the Commission’s findings on each recommendation.

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<sup>31</sup> See *In re: Regulations for Competition in the Local Telecommunications Market, General Order R-27732, as amended October 31, 2005* and most recently amended on July 26, 2013 in Docket R-31300 (Retail Service Quality Docket).

<sup>32</sup> AT&T Louisiana also seeks clarification that relief from its COLR obligation also necessarily relieves it of any obligation to provide universal service under Section 501 of the Local Competition Rules and/or this Commission’s General Order dated May 22, 1995.

## V. Discussion, Analysis and Commission Findings

### A. Elimination of AT&T Louisiana's COLR Obligation

#### 1. AT&T Louisiana's Petition and Comments

AT&T Louisiana requests that the Commission eliminate its remaining non-rural ILEC COLR obligations. AT&T Louisiana requests elimination of its evolving sunset option currently set forth in Section 601.E of the Local Competition Rules.<sup>33</sup> Additionally, AT&T Louisiana seeks clarification from the Commission that with elimination of its non-rural ILEC COLR obligations, AT&T is concurrently relieved of all universal service requirements outlined in Section 501 of the Local Competition Rules.<sup>34</sup>

In support of its position, AT&T Louisiana describes the continued migration of residential retail consumers away from traditional wireline home phone service to varying alternatives such as wireless, internet, Voice Over Internet Protocol ("VoIP"), and satellite service options offered by diverse providers that meet their communications needs.<sup>35</sup> The end result, AT&T explains, is that while population and residential housing units are increasing in Louisiana, traditional residential ILEC access lines are decreasing. As shown in the chart titled "*Plain Old Telephone Service (POTS) is a Broken Business and a Broken Regulatory Model, Louisiana December 1999 – December 2012*" (based on FCC and U.S. census data) contained in AT&T Louisiana's Comments, housing units in Louisiana have increased by 8.5% from December 1999 to December 2012.<sup>36</sup> During that same timeframe, the number of residential ILEC lines has decreased 63.1%.<sup>37</sup> AT&T Louisiana argues that this is not because consumers have stopped communicating with their world, but instead it is because consumers are choosing to use a growing universe of more modern technologies, offered by a multitude of providers, to meet their evolving communications needs.<sup>38</sup> Therefore, AT&T Louisiana argues, the Commission should modernize its Rules to reflect that the existing comparison of AT&T Louisiana's lines to lines provided by CLECs – just one of many groups of competitive service providers -- no longer reflects the reality of the marketplace.<sup>39</sup>

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<sup>33</sup> AT&T Petition at 9-10.

<sup>34</sup> AT&T Petition at 10, fn. 10. See also AT&T Comments at 7, fn. 8; AT&T Reply Comments at-16.

<sup>35</sup> AT&T Petition at 9-10; AT&T Comments at 4-6.

<sup>36</sup> AT&T Comments at 3.

<sup>37</sup> *Id.*

<sup>38</sup> AT&T Petition at 9-10; AT&T Comments at 4-6.

<sup>39</sup> AT&T Petition at 5-6.

In prior Commission dockets, AT&T Louisiana requested and received from the Commission a path forward to sunset (e.g., phase-out) its legacy COLR obligations. In this docket, AT&T Louisiana seeks to evolve the path that began in 2009 and bring it to an end with a complete sunset. In support of its request, AT&T Louisiana states that there are “approximately 61 CLEC and wireless local switches located in Louisiana being used to serve customers” in all of AT&T Louisiana’s retail territory.<sup>40</sup> Moreover, AT&T Louisiana points out that competition continues to exist not only in urban areas but also in suburban and rural areas with “no less than twenty-eight (28) competitors” who market availability of service in those areas with “no less than nineteen (19) facilities based competitors” serving all areas.<sup>41</sup> AT&T Louisiana therefore seeks relief for its remaining “outdated COLR obligations” and a release from its “unfunded mandate” to install basic local service.<sup>42</sup> AT&T Louisiana argues that if its COLR obligations are ultimately eliminated, there are plenty of communication service alternatives to traditional basic local service to meet the needs of all consumers that reside in AT&T Louisiana’s legacy ILEC territory; hence, AT&T Louisiana requests that this Commission eliminate its COLR obligation in its entirety.

## 2. Summary of Intervenor Comments

### (a) Opposition

CompSouth and Sprint do not oppose AT&T Louisiana’s requested COLR relief; however, CompSouth and Sprint do oppose the Company’s request that the Commission limit its regulation of alternative technology because “it appears inconsistent that the Commission would have no regulatory authority whatsoever over a carrier utilizing ‘alternative technology’ to fulfill its Commission mandated COLR or other obligations to provide service, including to competitive carriers . . . .”<sup>43</sup>

### (b) Support/Non-Opposition

Verizon supports AT&T Louisiana’s requested relief.<sup>44</sup> Verizon comments that the “COLR obligation imposed on non-rural ILECs should not be required in a competitive environment because it imposes undue burdens that are unnecessary when consumers have many

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<sup>40</sup> *AT&T Comments at 4; See also Loehman Affidavit at Lines 214-257* (Outlining the competition that thrives in even the most remote areas of the state that are served in AT&T’s territory.)

<sup>41</sup> *AT&T Comments at 4; See also Loehman Affidavit at Lines 215-216.*

<sup>42</sup> *AT&T Comments at 8.*

<sup>43</sup> *CompSouth/Sprint Comments at 3.*

<sup>44</sup> *Verizon Comments at 1.*

service options from which to choose.”<sup>45</sup> Verizon also states that Alabama, Georgia and Mississippi all adopted legislation in 2012 that eliminates COLR obligations.<sup>46</sup>

Cox does not oppose AT&T Louisiana’s requested COLR relief. “Cox is generally supportive of the removal of retail telephone regulations which are either antiquated or no longer necessary because of effective competition.”<sup>47</sup> Cox further states that if the Company’s filing is satisfactory to the LPSC, Cox is not opposed to the relaxation or elimination of AT&T Louisiana’s COLR obligations.<sup>48</sup>

SCC does not oppose AT&T Louisiana’s (as the non-rural ILEC) request for COLR relief; however, SCC does “oppose[] any changes to its members’ status as ETCs or COLRs in any of their respective service areas in Louisiana.”<sup>49</sup>

LCTA does not oppose AT&T Louisiana’s request for elimination of AT&T Louisiana’s COLR obligation so long as CLECs are freed from the remaining obligation to provide basic local service as well as the obligation to provide equal access presubscription.<sup>50</sup>

### 3. AT&T Louisiana Reply Comments

In further support of its position, AT&T Louisiana provides additional information regarding the continued movement by consumers away from traditional landline home phone service to varying alternatives such as wireless, internet, VoIP, and satellite options to meet their communications needs.<sup>51</sup> AT&T Louisiana additionally claims that relief from its COLR obligations is necessary to eliminate the “potential to divert investment from new infrastructure and impede AT&T Louisiana from offering new and innovative services and technologies that better meet the needs and demands of today’s Louisiana consumers.”<sup>52</sup> AT&T Louisiana also supplements its argument that the Commission needs to look at all competitive services and not just CLEC access lines by pointing out that in 2011, “ILEC voice connections (traditional and VoIP) accounted for *a mere 12%* of the total voice-capable connections in Louisiana”.<sup>53</sup> (emphasis included) And of the 88% remaining total connections, CLEC voice connections (traditional and VOIP) accounted for 6% while “unregulated broadband and wireless offerings

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<sup>45</sup> *Verizon Comments at 2.*

<sup>46</sup> *Verizon Comments at 2.*

<sup>47</sup> *Cox Comments at 2.*

<sup>48</sup> *Id.*

<sup>49</sup> *SCC Comments at 3.* Staff notes that SCC members’ ETC status and COLR obligations are not being addressed in this docket.

<sup>50</sup> *LCTA Comments at 4.*

<sup>51</sup> *AT&T Reply Comments at 2.*

<sup>52</sup> *Id. at 13-14.*

<sup>53</sup> *Id. at 14.*

accounted for a whopping 82% [of the total connections made in Louisiana].”<sup>54</sup> With the relief requested, AT&T Louisiana claims that the Commission’s acknowledgement of *all* competitive communication alternatives and action to modernize the rules to reflect the current marketplace will allow “Louisiana [to compete] with other states in attracting new investment and creating new jobs, not just in telecommunications, but across the entire Louisiana economy.”<sup>55</sup>

4. **AT&T Louisiana Comments and Reply Comments on Initial Recommendation**

AT&T Louisiana supports Staff’s recommendation to eliminate its COLR and universal service obligations in its service territory.<sup>56</sup> AT&T Louisiana recommends some non-substantive edits to Appendix A.<sup>57</sup> While AT&T Louisiana supports Staff’s primary recommendation, AT&T Louisiana requests, should the Commission adopt Staff’s alternative recommendation, that it confirm that with the sunset of AT&T Louisiana’s COLR obligations, AT&T Louisiana is also relieved of all universal service requirements set forth in Section 501 of the Local Competition Rules.<sup>58</sup> AT&T Louisiana does not object to the SCC’s request for clarification that Staff’s COLR recommendations are not intended to relieve AT&T Louisiana, or any other TSP, of their separate and independent obligations to contribute to the State Universal Service Fund.<sup>59</sup>

5. **Intervenor Comments and Reply Comments on Initial Recommendation**

(a) **Opposition**

None of the Intervenors oppose the Initial Recommendation on this issue.

(b) **Support/Non-Opposition**

LCTA does not oppose AT&T Louisiana’s request for elimination of its COLR obligation so long as COLR relief is limited to those exchanges for which AT&T Louisiana is able to demonstrate significant access line loss and CLECs are freed from the remaining obligation to provide basic local service as well as the obligation to provide equal access presubscription. Further, that COLR relief does not affect interconnection and wholesale rights, duties and obligations.<sup>60</sup>

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<sup>54</sup> *Id.*

<sup>55</sup> *AT&T Reply Comments at 2.*

<sup>56</sup> *AT&T Louisiana’s Comments on Staff’s Initial Recommendation at 3.*

<sup>57</sup> *Id. at 3-5.*

<sup>58</sup> *Id. at 4.*

<sup>59</sup> *AT&T Louisiana’s Reply to Intervenors’ Comments on Staff’s Initial Recommendation at 1.*

<sup>60</sup> *Louisiana Cable & Telecommunications Association and Member Companies’ Comments to LPSC Staff’s Initial Recommendation at 4.* Note that the issues of CLECs remaining obligations to provide basic local service and equal access presubscription were not part of AT&T Louisiana’s Petition in this proceeding and Staff declined to address at this time for that reason.

Aside from its request that is addressed in footnote 4 above, CompSouth and Sprint do not oppose the Initial Recommendation regarding AT&T Louisiana's requested COLR relief.<sup>61</sup>

Verizon states that the Staff Recommendation should be adopted to the extent it proposes to grant the Petition. Verizon states that "repealing outdated regulations serves the public interest ensuring that regulated and unregulated providers can compete on more level ground."<sup>62</sup>

The SCC requests clarification that for both the Staff's primary and alternative recommendations, they are not intended to and shall not relieve AT&T Louisiana, or any other TSP, of their separate and independent obligations to contribute to the State USF as mandated by LPSC General Order dated April 29, 2005, as amended, and LPSC General Order dated February 9, 2009. Further, the SCC notes that its members are distinguished from AT&T Louisiana.<sup>63</sup>

## 6. Staff Recommendation/Analysis

### (a) Staff Recommendation

Staff recommends that the Commission grant AT&T Louisiana's requested relief and eliminate its remaining COLR obligations.<sup>64</sup> Staff further recommends the Commission confirm that with the sunset of AT&T Louisiana's COLR obligation, AT&T Louisiana is also relieved of all universal service requirements set forth in Section 501 of the Local Competition Rules. This recommendation is not intended to and shall not relieve AT&T Louisiana, or any other TSP, of their separate and independent obligation to contribute to the State USF as mandated by LPSC General Order dated April 29, 2005, as amended, and LPSC General Order dated February 9, 2009.

### (b) Analysis

Staff recommends Section 601.E be modified to eliminate AT&T Louisiana's remaining COLR and universal service obligations in light of the impact of competitive providers and services that exist in all of the AT&T Louisiana exchanges. In 2008, Staff and the Commission recognized the effect of competition in Louisiana and Staff recommended then, over five years ago, that the Commission "should consider relaxing COLR obligations."<sup>65</sup> Similarly, as supported by overwhelming evidence and a lack of opposition to AT&T Louisiana's request in this docket, the Commission should end the phase out period that began several years ago for the

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<sup>61</sup> *Joint Comments of the Competitive Carriers of the South and Sprint at 2.*

<sup>62</sup> *Verizon Comments to the Staff Initial Recommendation at 2.*

<sup>63</sup> *Comments of the Small Company Committee in Response to Staff's Initial Recommendation at 4.*

<sup>64</sup> Section 601 of the Commission's Local Competition Rules, black-lined to show Staff's proposed changes, is set out in Appendix A of Staff's Final Recommendation.

<sup>65</sup> *See Staff Recommendation, Docket R-30480 at 2.*

non-rural ILEC's COLR obligations, and sunset the remaining AT&T Louisiana exchanges still subject to COLR.

In addition to AT&T Louisiana's Petition and all of the parties' comments, Staff has studied prior Staff recommendations and ensuing Commission Orders related to the relief requested in AT&T Louisiana's Petition. AT&T Louisiana's request is consistent with Staff's prior findings that the Commission should start with partial relief and consider more comprehensive relief of AT&T Louisiana's COLR obligation, assuming the results are encouraging.<sup>66</sup> Based on the evolution of relief granted previously by the Commission to AT&T Louisiana, and the relevant tests created for providing the relief granted, Staff has determined that the evidence presented in this docket sufficiently supports a recommendation of full COLR and universal service relief for the non-rural ILEC, AT&T Louisiana.

i. *Section 601 of the Local Competition Rules*

Under Section 601 of the Local Competition Rules, AT&T Louisiana, as the non-rural ILEC, is designated as the COLR throughout its certificated area to provide basic local service, including all Section 501 universal service requirements, until relieved of this obligation by the Commission.<sup>67</sup>

ii. *Impact of Commission Implementation of COLR Sunset*

As previously evidenced in Docket R-30347, AT&T's landline loss was tremendous from 2003 to 2007.<sup>68</sup> Such landline loss has continued since then as evidenced in AT&T Louisiana's comments filed in this docket.<sup>69</sup> This trend of landline loss is not limited to

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<sup>66</sup> See Staff's Final Recommendation dated December 2, 2008 at 21, Docket No. R-30480, In re: Review of the Existing State Universal Service Fund as Established by the LPSC General Order dated April 29, 2005, as amended May 18, 2005.

<sup>67</sup> As stated *supra* in Section II.B.3, Section 601 was most recently modified in Docket R-30480, General Order dated February 9, 2009, In Re: Review of the Existing State Universal Service Fund as Established by LPSC General Order dated April 29, 2005, as amended May 18, 2005 ("COLR Reform Order 1") and subsequently in the same docket with General Order dated July 22, 2009 ("COLR Reform Order 2"). See *COLR Reform Order 1*. at ordering para. 1 (Universal service offerings may be provided "on a technology-neutral basis"); ordering para. 2.d. (replacing the name of Section 601 from "Essential Telecommunications Carrier" with "Carrier of Last Resort"); ordering para. 2.e. (obligate obligations found in Section 601 are the "appropriate obligations of carriers designated as [COLR] for State [USF] purposes."); ordering paras. 7, 9 and 16 (AT&T shall not be eligible for State USF as AT&T does not meet the eligibility criteria for State USF support.); ordering para. 17 ("The Commission shall consider relaxing the COLR obligations of AT&T in Zones 1 and 2 as well as phasing-in retail pricing flexibility in those zones."); See also Staff's Final Recommendation, Docket R-30480, filed December 2, 2008 ("[T]he Commission may wish to consider ushering in relief from AT&T's COLR obligations gradually at the outset. Once the Commission has the opportunity to assess any decision to grant partial relief, more comprehensive relief can be considered assuming the results are more encouraging."); See also *COLR Reform Order 2* (providing for new Section 601(E) to allow initial COLR sunset for AT&T's exchanges when a CLEC competitive test is met in those exchanges.)

<sup>68</sup> AT&T Reply Comments at 4-6.

<sup>69</sup> AT&T Reply Comments at 5.

Louisiana, but is occurring throughout the nation.<sup>70</sup> Clearly, AT&T Louisiana is not losing traditional landlines because consumers are no longer purchasing telecommunications services, rather consumers are choosing to purchase services from a growing universe of more modern technologies, offered by numerous providers, to meet their evolving communications needs. Accordingly, any consideration of AT&T Louisiana's continuing COLR obligations must take into account not only traditional telecommunications services (e.g. ILEC and CLEC access lines), but also the plethora of services that cable companies, wireless companies, satellite companies, and other service providers offer over wireless, VoIP, satellite and other internet-enabled technologies. Given the overwhelming evidence of AT&T Louisiana's continued landline loss, and the availability of competitive alternatives to landline phone service in Louisiana, it no longer seems necessary to regulate AT&T Louisiana as a monopoly.

Since the last Commission action in 2009 regarding COLR, AT&T Louisiana has already been relieved of COLR obligations in over 40% of its exchanges.<sup>71</sup> Staff is not aware of any increases in consumer complaints regarding an inability to obtain voice phone service in exchanges in which AT&T Louisiana has been relieved of its COLR obligations. AT&T Louisiana's COLR relief has been permitted based on the competitive test currently set forth in Section 601.E, which considers only the market share that a single group of competitors (CLECs) has attained in a particular exchange. That test was relevant and appropriate at the time it was created. However, given the number of competitors now in the market and consistent with the progression of regulation reform in previous dockets, the Commission should update and modernize the competitive test to ensure that it remains relevant and appropriate in light of the subsequent evolution of the communications marketplace in Louisiana.

Since the Commission's establishment of Section 601.E in its 2009 Order, competition in the communications industry in Louisiana has continued to grow and thrive. As evidenced in AT&T Louisiana's comments, AT&T Louisiana (the non-rural ILEC) and CLECs no longer are the only entities competing to provide the communications services consumers are demanding. As evidenced in Exhibit B to AT&T Louisiana's Reply Comments, not only are many competitors offering various services in competition with AT&T Louisiana's basic local service,

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<sup>70</sup> *AT&T Reply Comments at 5, fn. 16* (citing to *FCC's Local Competition: Status as of December 31, 2011* (rel. Jan. 2013)).

<sup>71</sup> AT&T currently retains COLR obligations in approximately 105 exchanges, down from 112 exchanges since AT&T filed its petition in 2011. See *AT&T Petition, Docket R-31839, filed February 28, 2011 at 10*; See also *AT&T Reply Comments, Docket R-31839, filed June 3, 2013 at 14*.

but consumers overwhelmingly are choosing those alternative services in lieu of AT&T Louisiana's (and CLEC's) traditional basic local service.<sup>72</sup> These competitive services such as wireless, VoIP, and internet-based services are the dominant portion of the total communications pie in Louisiana. Understandably, both the ILEC and CLECs are steadfastly competing for the same customers and their communications connections as are wireless, internet, and VoIP providers. As such, both ILECs and CLECs must be allowed to invest in new technologies and provide products and services that consumers are demanding such as broadband and wireless services rather than being required to continue investing in antiquated technologies consumers are abandoning in droves. Accordingly, the Commission's Rules should be updated to provide COLR relief based on the overall impact of competition in an exchange, and not based solely on the impact of a specific subset (CLECs) of competitors in an exchange.

iii. *Other States' Legislation Eliminating the ILEC's COLR Obligations*

Significant reforms that have occurred with respect to COLR obligations in many other states across the nation. In AT&T Louisiana's incumbent areas alone, several states have already granted COLR relief to the ILEC or have otherwise eliminated COLR because such obligations are no longer necessary in a competitive environment.<sup>73</sup> COLR obligations have been eliminated entirely in Alabama,<sup>74</sup> Arkansas,<sup>75</sup> Florida,<sup>76</sup> Georgia,<sup>77</sup> Kansas,<sup>78</sup> Indiana,<sup>79</sup> Mississippi,<sup>80</sup> North Carolina,<sup>81</sup> Tennessee,<sup>82</sup> and Wisconsin,<sup>83</sup> and they have been substantially eliminated or

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<sup>72</sup> *AT&T Reply Comments at 13-14; Id. at Exhibit B.*

<sup>73</sup> *AT&T Comments, at pp. 8-9.*

<sup>74</sup> See Alabama HB 196, which was signed in to law on April 10, 2012 as Public Act 2012-181. The Act eliminates the state residential Carrier-of-Last-Resort obligation for ILECs effective July 1, 2012. For a period of 18 months following the effective date, for a permanent residence in existence on the effective date of the Act, a customer with no voice options available can petition the public service commission, which will have the authority to designate a voice provider for that customer (likely the ILEC in the area). At the end of the 18-month period (December 31, 2013), the appeal provision sunsets.

<sup>75</sup> See Ark. Code Ann. 23-17-401 et seq.

<sup>76</sup> See Section 364.025(1), Florida Statutes (2010), and subsequent repeal of all COLR language effective July 1, 2011. See Florida Statutes, Chapter 2011-36 (2011).

<sup>77</sup> See 2011 Georgia House Bill 1115; AT&T Georgia's COLR obligation was eliminated as of the signing of the bill in to law.

<sup>78</sup> See 2013 Kan.Sess.Laws 691-92. Kansas House Bill 2201 relieved all facilities-based telecommunications and electing carriers (AT&T Kansas) of COLR obligations effective July 1, 2013.

<sup>79</sup> AT&T's obligations to serve as the COLR expire on July 1, 2014, upon filing notice to the Indiana Commission. See House Enrolled Act (HEA) 1112, P.L. 8-2012. The Indiana Commission retains authority to declare an "emergency" in an area that is not served by "any" communications service provider offering voice service through any available technology or medium, and to issue any order to protect the health, safety, and welfare of affected residents or businesses and may expedite the availability of voice service to the affected residents or businesses, through any available technology or medium determined by the communications service provider.

<sup>80</sup> See Mississippi HB No. 825

<sup>81</sup> See North Carolina G.S. Section 62-133.5.

<sup>82</sup> Tennessee state law has never imposed a traditional "COLR" obligation. See TCA 65-5-109(n)(13) carves out market regulated carriers from any obligation to extend facilities.

<sup>83</sup> See Wis. Stat. s. 196.503.

otherwise modified in Michigan<sup>84</sup>, Missouri<sup>85</sup>, Nevada,<sup>86</sup> Oklahoma,<sup>87</sup> South Carolina,<sup>88</sup> and Texas<sup>89</sup>. Accordingly, Staff's recommendation to sunset AT&T's COLR obligations in their entirety is not only consistent with Commission precedent, but it is also consistent with reforms taking place in other states.

iv. *The FCC has Also Weighed in With a Shifted Focus Away From Traditional Telephone Service*

The FCC recently addressed COLR reform in its November 18, 2011 *CAF Order*,<sup>90</sup> encouraging "states to review their respective regulations and policies . . . and revisit the appropriateness of maintaining those [COLR] obligations for entities that no longer receive federal high-cost universal service funding." The FCC further encouraged "states that still maintain voice COLR obligations . . . to review their respective regulations and policies in light of the changes [the FCC] adopt[ed] . . . and revisit the appropriateness of maintaining those obligations for entities that no longer receive either state or federal high-cost universal service funding and where competitive services are available to consumers."<sup>91</sup> The FCC is shifting its focus from legacy universal service funding for a ubiquitous telephone service to investment and subsidy for increased broadband throughout the country recognizing that "[n]etworks that provide only voice service [] are no longer adequate for the country's communication needs."<sup>92</sup> The *CAF Order* also acknowledged that regulatory systems "based on decades-old assumptions that fail to reflect today's networks, the evolving nature of communications services, or the

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<sup>84</sup> See 484 MCL 2313(1). Michigan law permits discontinuance of basic local exchange service if there are at least two alternative telecommunications providers furnishing comparable voice service to customers in the exchange using any form of technology, including VOIP and wireless.

<sup>85</sup> See Missouri HB 339 (enacted in 2011); Section 392.460 RSMo. A telecommunications company, upon notice to the MoPSC, may elect to no longer be designated as a carrier of last resort for any telecommunications service in certain portions of the state. It also allows a telecommunications company to meet its COLR obligations by providing local voice service using any technology (provided if a wireless technology is used, it must provide 911 caller location information technology that meets or exceeds the FCC's wireless Phase II enhanced 911 rules requirements).

<sup>86</sup> Nevada AB486, passed in the 2013 legislature, provided a means for large COLRs to apply for COLR relief from the state commission, based on the presence of 2 or more wireless or wireline competitors in the service area (prior to June 2015, at least one wireline alternative is required).

<sup>87</sup> On March 14, 2012, the Oklahoma Commission approved a modification to Oklahoma Administrative Code Section 165:55-13-12 to eliminate the COLR obligation AT&T Oklahoma's COLR obligations.

<sup>88</sup> See S.C. Code Ann. §58-9-576(C)(1),(2), and (3).

<sup>89</sup> Texas SB 980, effective in 2011, relieved ILECs of the obligation to serve as the Provider of Last Resort in any deregulated exchanges. Deregulated exchanges are those with a population of more than 100,000 or one where the ILEC has petitioned for deregulation and demonstrated the presence of two (2) or more unaffiliated competitors providing voice service, regardless of technology.

<sup>90</sup> *In the Matter of Connect Am. Fund A Nat'l Broadband Plan for Our Future Establishing Just & Reasonable Rates for Local Exch. Carriers High-Cost Universal Serv. Support Developing an Unified Intercarrier Comp. Regime Fed.-State Joint Bd. on Universal Serv. Lifeline & Link-Up Universal Serv. Reform -- Mobility Fund* ("CAF Order"), 26 F.C.C.R. 17663, 17694 (2011).

<sup>91</sup> *Id.* at fn. 468 (emphasis added).

<sup>92</sup> See *CAF Order*, at para. 2 ("For decades, the Commission and the states have administered a complex system of explicit and implicit subsidies to support voice connectivity to our most expensive to serve, most rural, and insular communities. Networks that provide only voice service, however, are no longer adequate for the country's communication needs.").

current competitive landscape . . . are ill equipped to address [regulatory] challenges raised by broadband, mobility, and the transition to Internet Protocol (IP) networks.”<sup>93</sup> In a separate but related matter, the FCC’s National Broadband Plan notes that legacy regulations “require certain carriers to maintain POTS – a requirement that is not sustainable – and lead to investments in assets that could be stranded;” and legacy regulations “can have a number of unintended consequences, including siphoning investments away from new networks and services.”<sup>94</sup> Given the FCC’s shift in focus away from traditional landline voice-only universal service and comments regarding the need to change the view of COLR, Staff’s recommendation also comports with national FCC policy.

v. *Conclusion*

Given the Commission’s prior decisions regarding COLR obligations, the transition away from COLR obligations across the country, the FCC’s recent change in focus from ubiquitous landline voice service, and evidence provided in this docket, it is no longer necessary or appropriate to continue singling out AT&T Louisiana as the COLR for basic local service. Therefore, Staff recommends elimination of AT&T Louisiana’s COLR and universal service obligations in its service territory.

In 2009, the Commission created a phased-in approach to sunseting AT&T Louisiana’s COLR obligations. With the Commission’s 2009 Order, a competitive test was established to allow AT&T Louisiana to sunset exchanges and relieve AT&T Louisiana of its COLR obligations when the test was met. Since that time, AT&T Louisiana has been relieved of its COLR obligations in over 40% of its exchanges. Staff is not aware of any complaints or other negative impacts related to AT&T Louisiana’s COLR relief. Staff is also unaware of any issues that have arisen in other AT&T ILEC states where AT&T has been provided similar relief from its COLR obligation. Therefore, given that four years have passed since the Commission’s initiation of a phased-in approach to granting AT&T Louisiana COLR relief, the Commission has first-hand experience that the transition away from COLR obligations has not adversely impacted consumers and, in fact, has been rather seamless. In light of this experience, coupled

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<sup>93</sup> See *AT&T Reply Comments at p. 16* (citing to *In the Matter of Connect America Fund A Nat’l Broadband Plan for Our Future Establishing Just & Reasonable Rates for Local Exch. Carriers High-Cost Universal Serv. Support Developing an Unified Intercarrier Comp. Regime Fed.-State Joint Bd. on Universal Serv. Lifeline & Link-Up Universal Serv. Reform -- Mobility Fund*, 26 F.C.C.R. 17663 (2011) (“CAF Order”) at ¶ 6).

<sup>94</sup> See *AT&T Reply Comments at 15* (citing to *Connecting America: The National Broadband Plan*, GN Docket No. 09-51 at 59 (Rel. March 16, 2010) (“National Broadband Plan”). Available at: <http://download.broadband.gov/plan/national-broadband-plan.pdf>. See generally, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, Notice of Inquiry, 24 FCC Rcd 4342 (2009)).

with the fact that the level of competition has expanded significantly since this issue was last reviewed in 2009, it is timely to transition to full COLR relief. This recommendation also signals to AT&T Louisiana that its regulator is encouraging AT&T Louisiana to make the investments necessary to upgrade its network and bring more of the advanced communications services consumers are demanding to Louisiana.

In the alternative, Staff recommends a final phase-out approach to sunseting AT&T Louisiana's remaining COLR obligations that provides a definite end date while allowing for the Commission's competitive test originally ordered in 2009 to apply in the interim; however, that test should be updated to reflect that fact that AT&T Louisiana (as the non-rural ILEC) and CLECs are no longer the only providers offering communications services to consumers in Louisiana. This continues the evolution of the Commission's Local Competition Rules to keep pace with changes in the communications industry on a more gradual basis than implementing full COLR relief at this time. This alternative recommendation is not intended to and shall not relieve AT&T Louisiana, or any other TSP, of their separate and independent obligations to contribute to the State USF as mandated by LPSC General Order dated April 29, 2005, as amended, and LPSC General Order dated February 9, 2009.

Staff's alternative recommendation is a COLR sunset of December 31, 2015, and as noted above, updating the competitive test that will apply between now and December 31, 2015 to consider more than the competitive impact of a single group of AT&T Louisiana's competitors (CLECs) and instead consider all competitors in the communications industry. Given the abundant evidence that numerous providers offer various communications services to consumers in Louisiana, Staff recommends the test for sunseting COLR obligations between now and December 31, 2015 be AT&T Louisiana's percent residential access line loss in each exchange compared to a ten-year base year of 2003. This maintains the percentage implemented in Section 601.E of the Local Competition Rules while also acknowledging that AT&T Louisiana's cumulative line loss is the result not only of services offered by CLECs, but also of services offered by wireless carriers, cable companies, satellite providers, and other providers. While this alternative would not grant full, immediate COLR relief to AT&T Louisiana, it would update the competitive test to reflect the realities of the marketplace, and provide a more gradual phase-in as opposed to immediate COLR relief. Staff further recommends the Commission confirm that with the sunset of AT&T Louisiana's COLR obligation, AT&T Louisiana is also

relieved of all universal service requirements set forth in Section 501 of the Local Competition Rules.

**7. Commission Decision**

After discussion and consideration, the Commission adopts the Staff's recommendation and analysis as discussed, *supra*, and modifies Section 601.E of the Rules to eliminate AT&T Louisiana's COLR obligation. Also, the Commission confirms that with the sunset of AT&T Louisiana's COLR obligation, AT&T Louisiana is also relieved of all universal service requirements set forth in Section 501 of the Local Competition Rules. This action does not relieve AT&T Louisiana, or any other TSP, of their separate and independent obligations to contribute to the State USF as mandated by LPSC General Order dated April 29, 2005, as amended, and LPSC General Order dated February 9, 2009.

**B. *Modifications to the Consumer Price Protection Plan – Reclassify 1FR/LOS-B***

**1. AT&T Louisiana Petition and Comments**

AT&T Louisiana seeks to reclassify the basic local residential "Flat Rate Service" ("1FR") and the Local Optional Service ("LOS-B") as competitive.<sup>95</sup> 1FR is a flat rate residential access line providing for calls within the defined basic local calling area. Basic residence access lines do not include any calling features such as caller ID, call waiting, call forwarding, etc. Residence lines with any calling features are not basic local service. LOS-B provides a reduced rate residential access line and usage package providing expanded local calling beyond the defined basic local calling area. Currently, in Zone 1 (urban), both services are in the Basic Services Basket subject to an annual 10% cap on price increases. In Zones 2 (suburban) and 3 (rural), both services are in the Universal Services Basket and are subject to a 2.5% annual increase cap. All other residential access line offerings and vertical features and all business service offerings, in all zones, are in the Competitive Basket with no cap on pricing for those services.<sup>96</sup> Thus, the only remaining residential access line services not currently in the Competitive Basket are 1FR and LOS-B. Moving these services to the Competitive Basket would eliminate the price caps presently imposed and allow the prices to be set by the competitive market place like the other services. AT&T Louisiana recognizes that if the price caps are eliminated as requested, it would not be sensible to raise prices too much or too fast

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<sup>95</sup> AT&T Petition at 10-11.

<sup>96</sup> AT&T Petition at 11. See also AT&T Comments, at 11-16; AT&T Reply Comments at 9-13.

given the level of competition for these services; AT&T Louisiana would risk the customers transferring to other carriers.<sup>97</sup>

AT&T states that the voice services and residential phone market is highly competitive and that residential consumers can choose not only from services provided by CLECs but also from services provided through varying technologies offered by multiple competitors.<sup>98</sup> AT&T Louisiana states in its comments that there are no less than 28 competitors advertising service availability in rural communities and not less than 19 facilities based competitors in those areas as well.<sup>99</sup> In light of competition and the trend by the Commission to relax or otherwise eliminate pricing restrictions on previously-restricted retail telecommunications services, AT&T Louisiana requests that the Commission complete the transition to full pricing flexibility for the two remaining retail telecommunications services. The Company has filed comments and the affidavit of its witness, Mr. Jon Loehman, addressing various forms of competition in Louisiana. Mr. Loehman reviewed several databases and publicly available information to support his testimony that "competitive services and application alternatives to AT&T Louisiana's offering of single residential basic local exchange service are available in several flavors throughout all zones."<sup>100</sup> AT&T Louisiana also requests that the Commission eliminate certain portions of Sections 301.J.2 and 401.C.1.d of the Rules to the extent they relate to retail services.<sup>101</sup>

## 2. Summary of Intervenor Comments

### (a) Opposition

No Intervenor opposes AT&T Louisiana's request to reclassify the 1FR and LOS-B services as competitive.

### (b) Support/Non-opposition

Verizon supported AT&T Louisiana's position.<sup>102</sup> Verizon states:

[h]istorically, retail local exchange services were extensively regulated because it was thought that insufficient competition existed to discipline prices and services available to consumers, but as competition has emerged, the rationale for legacy regulation has been undermined. . . . In Louisiana . . . competition has flourished[.] [C]ompetition for voice services is now offered throughout [Louisiana] by a host of competitors, including CLECs, cable companies and wireless carriers. These providers compete to

<sup>97</sup> AT&T Comments at 13.

<sup>98</sup> AT&T Petition at 7-9 (Noting the increase in competitors and competitive products and services throughout Louisiana year after year).

<sup>99</sup> AT&T Comments at 4-5.

<sup>100</sup> AT&T Comments at 11 (citing Loehman Affidavit, Lines 69-87).

<sup>101</sup> AT&T Louisiana Petition at 11.

<sup>102</sup> Verizon Comments at 1.

offer customers a variety of voice services and prices that give them an array of choices and the ability to 'vote with their feet' if they are not satisfied with a provider's service. . . . [O]bsolete retail regulation has no place and must be removed."<sup>103</sup>

Verizon further states that "[t]he Commission should grant the requested retail price modifications because they no longer serve a useful purpose not that carriers' pricing is restrained by market forces."<sup>104</sup>

LCTA did not oppose AT&T Louisiana's proposed modifications.<sup>105</sup> LCTA agrees with AT&T Louisiana "that regulations must reflect the current communications environment."<sup>106</sup> LCTA also complimented the Commission "for continually updating its rules, regulations and policies over the last several decades to remove outdated requirements, ensuring consumers the benefits from ongoing technological and competitive changes in the communications offerings and enhanced available consumer choices."<sup>107</sup>

CompSouth/Sprint did not specifically oppose or comment on AT&T Louisiana's position on reclassification of 1FR and LOS-B. CompSouth/Sprint do oppose AT&T Louisiana's request for elimination of certain language set forth in Sections 301.J.2 and 401.C.1.d of the Commission's Rules specifically related to non-discriminatory pricing.<sup>108</sup>

SCC did not specifically comment on AT&T Louisiana's request, but SCC "opposes any changes to its members' individual Price Cap Plans as part of this proceeding."<sup>109</sup>

Cox is not opposed to competitive treatment of basic local exchange service if competition is sufficient to warrant it.<sup>110</sup> Cox comments that it is "generally supportive of the removal of retail telephone regulations which are either antiquated or no longer necessary because of the presence of effective competition..."<sup>111</sup>

### 3. AT&T Louisiana Reply Comments

Most of the Intervenor comments support or otherwise do not oppose AT&T Louisiana's requested relief and support the notion that regulations must reflect the current communications environment. The most singled out negative response from Intervenors related not to the

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<sup>103</sup> *Verizon Comments at 1-2.*

<sup>104</sup> *Verizon Comments at 2.*

<sup>105</sup> *LCTA Comments at 5.*

<sup>106</sup> *LCTA Comments at 2.*

<sup>107</sup> *Id.*

<sup>108</sup> AT&T Louisiana's request regarding Sections 301.J.2 and 401.C.1.d were not addressed in Staff's Initial Recommendation, but were addressed in Staff's Final Recommendation.

<sup>109</sup> *SCC Comments at 3.* Staff notes that the SCC members' Price Cap Plans are not being addressed as part of this proceeding.

<sup>110</sup> *Cox Comments at 2-3.*

<sup>111</sup> *Cox Comments at p. 2.*

reclassification of IFR/LOS-B, but to AT&T Louisiana's request to remove TSLRIC which is discussed separately *infra* at V.C.

**4. AT&T Louisiana Comments and Reply Comments on Initial Recommendation**

AT&T Louisiana supports Staff's primary recommendation to reclassify its IFR and LOS-B retail telecommunications services as competitive and comments that many states have eliminated or significantly reduced legacy pricing restrictions on basic services. Further, that "there is no reason to continue imposing artificial pricing restraints on only one of many competitive provides, and especially not on a group of services that droves of consumers no longer want."<sup>112</sup> AT&T Louisiana addresses CompSouth/Sprint's support for retaining Sections 301.J.2 and 401.C.1.d of the Rules stating that its request relates only to retail services, and given the level of competition in Louisiana, the non-discriminatory provisions should no longer apply to retail services.

**5. Intervenor Comments and Reply Comments on Initial Recommendation**

(a) Opposition

None of the Intervenor's oppose the Initial Recommendation on this issue.

(b) Support/Non-Opposition

LCTA does not oppose reclassification of IFR and LOS-B.

CompSouth and Sprint do not oppose the Initial Recommendation regarding reclassification of IFR and LOS-B, but reiterate their opposition to removing 301.J.2 and 401.C.1.d.

Verizon states that the Staff Recommendation should be adopted to the extent it proposes to grant the Petition. Verizon states that "repealing outdated regulations serves the public interest ensuring that regulated and unregulated providers can compete on more level ground."<sup>113</sup>

(c) No position/No comment

The SCC takes no position on Staff's recommendations on this issue.

**6. Staff Recommendation/Analysis**

(a) Staff Recommendation

Staff recommends granting AT&T Louisiana's request to reclassify as competitive the only two remaining retail telecommunications services which have not been moved to the

<sup>112</sup> AT&T Louisiana Comments on Staff's Initial Recommendation at 6.

<sup>113</sup> Verizon Comments to the Staff Initial Recommendation at 2.

Competitive Basket, thereby allowing AT&T Louisiana to move its 1FR and LOS-B service in Zones 1, 2, and 3 to the Competitive Basket. In the alternative, should the Commission find that a public policy need still exists for rate caps in any of the zones even though there is a high level of competition in the market, Staff recommends that the 1FR and LOS-B for Zones 2 and 3 be moved from the Universal Services Basket (currently subject to a 2.5% annual increase price cap) into the Basic Basket with 1FR and LOS-B for Zone 1, which is subject to a 10% annual increase price cap. Further, as part of the alternative recommendation, that a one-year sunset be placed on this reclassification such that after the one-year sunset period, AT&T Louisiana may move 1FR and LOS-B for all zones to the Competitive Basket. While Staff does not recommend removal of Sections 301.J.2 and 401.C.1.d from the Commission's Rules, Staff recommends that the Commission find that to the extent these provisions currently apply to retail services, that this Commission clarify that with the level of competition that exists, these provisions are no longer applicable to AT&T Louisiana's retail services; however they continue to apply to AT&T Louisiana's other services, i.e. wholesale.

(b) Analysis

As outlined in Staff's analysis above in Section V.A.6, Staff has examined the parties' comments and evidentiary support in this proceeding, as well as prior Commission Orders and Staff recommendations and analysis. Staff has also examined the extent to which other states throughout the nation have eliminated pricing restrictions on the ILEC. In the Southeast alone, Alabama, Arkansas, Georgia, Florida, North Carolina, South Carolina, and Tennessee have all provided for pricing flexibility for basic local exchanges services.<sup>114</sup> As evidenced by AT&T Louisiana in this proceeding (notably without opposition from the industry) the public policy reasons to cap AT&T Louisiana's basic local retail telecommunications services no longer seem to exist in today's thriving, competitive environment.

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<sup>114</sup> *AT&T Comments at 11-12 and fn. 27.* Alabama has pricing flexibility for 1FR service throughout the state; the Governor recently signed legislation (HB 196) eliminating the rural/urban price equality requirement in Alabama Code section 37-2A-2(1). Mississippi HB 825 was signed into law on April 19, 2012 and became effective on July 1, 2012. The legislation removes from the jurisdiction of the Mississippi Public Service Commission the only remaining retail service that was still subject to commission authority - single-line flat rate voice communication service - for telecommunications service providers like AT&T that have opened their markets to competition. Basic local exchange rates are no longer be regulated by the Mississippi Public Service Commission. In Tennessee, pursuant to TCA 65-5-109(m), the Tennessee commission no longer regulates any AT&T Tennessee retail pricing, including pricing for 1FRs. While South Carolina allows for pricing flexibility of 1FRs, there is one remaining pricing restriction in South Carolina that applies to about 14,000 (and dwindling) grandfathered 1FR lines that: (1) were in service on October 1, 2009; (2) remain in service; and (3) appear on bills that do not contain any monthly recurring features or services from any AT&T entities. These lines are subject to an inflation-based price index. No other 1FRs (in fact, no other retail services at all) are subject to any pricing restrictions in South Carolina. See S.C. Code Ann. §58-9-576(C)(1),(2), and (3).

As discussed in detail in the following paragraphs, since the Commission's adoption of AT&T Louisiana's Price Plan as part of the Local Competition Rules in 1996, this Commission has been in an almost perpetual state of review and revision of the Price Plan. Just as the competitive marketplace in Louisiana has evolved, the LPSC has adjusted the Price Plan accordingly. Since the Price Plan was first implemented, the Commission has progressively relaxed price caps and migrated services that were previously restricted to competitive services to reflect the growing market. Changes were last made by the LPSC in the 2009 Modernization Order which reclassified all remaining business retail telecommunications services (1FB) in all zones as competitive and moved 1FR and LOS-B in Zone 1 from the Universal Services Basket to the Basic Basket. Reclassifying AT&T Louisiana's 1FR and LOS-B services as competitive is the next logical step in the Commission's continual evolution of the Price Plan.

In 1999, the Commission conducted its first review of AT&T's then-existing Price Plan. The Commission concluded that no adjustments to the plan were necessary.<sup>115</sup> Approximately one year later, on May 2, 2000, the LPSC issued Order No. U-24802, in which it extended the 0% cap on Basic services for three additional years and stayed and deferred all proceedings in Docket No. U-20883-C, involving creation of a state universal service fund for a three year period.<sup>116</sup> At the expiration of this three year period, the LPSC indicated that it "may initiate a docket to determine whether rate rebalancing is in the public interest."<sup>117</sup>

In December 2003, the Commission completed its second scheduled review of the Price Plan.<sup>118</sup> After extensive review, it concluded that AT&T Louisiana should continue indefinitely to be regulated by the Plan with certain modifications.<sup>119</sup> First, the Commission restructured the Basic Basket in order to extend the 0% rate cap for residential and single line business services through 2004, although that was otherwise set to expire in April 2003.<sup>120</sup> It also created a new "Universal Services Basket," and moved residential and single line business services into this

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<sup>115</sup> The single exception was that the 3-year price cap on interconnection services was extended to 5 years. *See LPSC Order No. U-23933, April 13, 1999.*

<sup>116</sup> *See LPSC Order No. U-24802 dated May 2, 2000.*

<sup>117</sup> *Id. at 2.*

<sup>118</sup> Prior to this time, on September 21, 2001, after extensive proceedings and analysis, the Commission recommended that AT&T Louisiana be permitted to enter the interLATA toll market pursuant to the criteria of Section 271 of the Act. *See LPSC Order No. U-22252-E, dated September 21, 2001.* As part of this proceeding, the Commission Staff conducted a review of the competitiveness of the market in AT&T Louisiana's service area and noted that "[n]umerous carriers were providing facilities-based service to business and residential customers in Louisiana." *See Staff's Final Recommendation, p. 23, adopted in LPSC Order No. U-22252-E, dated September 21, 2001.* Clearly, even as early as 2001, the retail market was competitive.

<sup>119</sup> *See LPSC Order No. U-24802-B, February 20, 2004.*

<sup>120</sup> *Id. at 5; 7, ordering para. 4.*

new basket, allowing for future limited and still capped increases for yet another three years.<sup>121</sup> For services remaining in the revised Basic Basket, the Commission allowed a 10% annual rate cap increase.

In 2006, the Commission authorized AT&T Louisiana to move to a three-tiered retail rate zone structure (Zones 1, 2, and 3 as discussed previously), and to move residential and single line business services in Zone 1 exchanges to the revised Basic Basket.<sup>122</sup> Residential and single line business services in Zones 2 and 3 were to remain in the Universal basket. “[A]ny price relief needed to maintain rate levels for these services w[as to] come from the USF.” In the absence of a State USF after Year 3, AT&T Louisiana had the right to increase rates on these Universal services up to 2.5% annually. Finally, the Commission redesignated the “Non-Basic Basket” as the “Competitive Basket” and determined that all services in the Non-Basic Basket would remain in the Competitive Basket. In examining evidence of competition in that docket, the Commission found that “[c]ompetition in Louisiana continues to thrive. As of May 31, 2003, the total number of CLEC provided access lines has increased 276.4% since the last report in 1999.”<sup>123</sup> For this reason, the Commission also eliminated the 20% annual cap on increases to services in the Competitive Basket in order to “allow the competitive market place to determine price levels for these services.”<sup>124</sup>

On April 29, 2005, the Commission established a State USF. However, the LPSC does not permit AT&T Louisiana to receive funding from the State USF, not even to support its high cost service areas; AT&T Louisiana considers as “high cost” its wire centers where the current price levels for basic residential services do not cover the cost of providing universal service. Accordingly, to the extent AT&T Louisiana is able to recover the difference of the high costs for basic local service and the low price charged for that service in these wire centers, it does so through prices it charges the rest of its customer base.

In September 2007, AT&T Louisiana filed a *Petition for Modification of Rules and Regulations Necessary to Achieve Regulatory Parity and Modernization* (Docket No. R-30347), requesting this Commission open a rulemaking docket, similar to AT&T Louisiana’s requested

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<sup>121</sup> As a limited exception, and in order to facilitate a more geographically tailored approach to pricing of universal services, AT&T Louisiana was permitted to increase residential and single line business service in Rate Groups 1-8, but only to the rate group 9 level. This was necessary in order to accommodate the planned conversion to a UNE zone structure for retail rates for universal services.

<sup>122</sup> On April 18, 2006, AT&T Louisiana exercised the authority given to it by the Commission and moved basic local service offerings for both residential and business customers in Zone 1 to the Basic basket.

<sup>123</sup> See *Order No. U-24802, Subdocket B, February 20, 2004, at 3-4.*

<sup>124</sup> *Id. at 6.*

relief in this docket, to allow more pricing flexibility for capped retail telecommunications services and elimination of the TSLRIC price floor applicable only to AT&T Louisiana, and other requested relief. In 2008, after Commission review of the competitive market, the Commission granted AT&T Louisiana's request to reclassify all single line business service in Zones 1, 2, and 3 as competitive, thereby affording full upward pricing flexibility on those services in Louisiana.<sup>125</sup> The Commission further allowed AT&T Louisiana to "increase prices for universal service by 2.5% annually".<sup>126</sup> In granting AT&T Louisiana's request, the Commission Staff found "significant competition in" Louisiana for wireline services.<sup>127</sup> Commission Staff reviewed the comments and data filed in the docket with respect to residential and business access lines provided both by CLECs and AT&T Louisiana as well as FCC data for multiple years prior to the opening of the docket.<sup>128</sup> Staff also considered standards and thresholds created by other states for defining "what constitutes a competitive market."<sup>129</sup> Based on Staff's comprehensive review, Staff recommended, and the Commission approved, reclassification of all remaining business retail telecommunications services, in all zones, to the Competitive Basket due to AT&T Louisiana having met the competitive test by a showing of its significant access line loss, evidence of at least one CLEC "providing business services" in every one of its exchanges, and a "growing presence of less traditional providers of local telephone service, including cable, VoIP and wireless".<sup>130</sup>

Since the Commission's finding in 2009 to reclassify single line business service as competitive in Docket R-30347, competition has continued to flourish -- so much so that consumers overwhelmingly are choosing wireless, VoIP, and Internet-based services offered by a myriad of competitors over traditional telephone lines.<sup>131</sup> This is not just in the urban or suburban areas -- the data presented by AT&T Louisiana shows that its landline loss to

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<sup>125</sup> See *Corrected General Order dated August 14, 2009, Docket No. R-30347, at 6, ordering para. 3.* In 2009, when AT&T Louisiana's request for reclassification was granted, single-line business service was the only business service subject to upward pricing restrictions.

<sup>126</sup> See *Corrected General Order dated August 14, 2009, Docket No. R-30347 at 6, ordering para. 4.*

<sup>127</sup> See *Final Staff Recommendation, Docket No. R-30347 at 30.*

<sup>128</sup> *Id.* at 27-28.

<sup>129</sup> See *Final Staff Recommendation, Docket No. R-30347 at 29-30* (Staff looked at tests created in Alabama, Arkansas, Kansas, Ohio, Texas, and Wisconsin). Of note, according to AT&T's comments filed in the docket, AT&T as an ILEC operates in all six states reviewed by Staff in Docket R-30347 in addition to 16 other states and has been granted full pricing relief in most states. See *AT&T Comments, Docket R-31839, filed April 13, 2012, at 12, fn. 27.*

<sup>130</sup> See *Final Staff Recommendation, Docket No. R-30347 at 30.* Staff initially recommended (at p. 30) to approve reclassification of business services to competitive in Zones 1 and 2 only, but after additional comments and evidence provided by AT&T, Staff recommended reclassification in all Zones (at p. 32).

<sup>131</sup> *AT&T Reply Comments, Exhibit A* (In the first quarter of 2013, over 92% of Lifeline subscribers chose wireless vs. 99% who chose wireline in 2008); See also *AT&T Reply Comments, Exhibit B* (Of Louisiana's "total connections" in 2011, only 18% of those connections were made up of ILEC and CLEC traditional switched access and VoIP landline services).

competitive alternatives exists in all zones and throughout all exchanges.<sup>132</sup> These alternatives are allowing customers to communicate where and when they want without being tied to a local access line. One of the more compelling points presented by AT&T Louisiana is the shift in Lifeline service from wireline requests to wireless requests. About 93% of individuals participating in the Lifeline subsidy in Louisiana, who have a choice of a landline phone over a wireless phone, chose a wireless phone in 2013 as compared to only 1% who chose wireless over wireline in 2008.<sup>133</sup> Therefore, 93% of individuals who truly have a choice between a landline phone and a wireless phone are choosing a *wireless* phone when offered the Lifeline subsidy in Louisiana. Consumers are dropping basic local service for wireless and other offerings. As a matter of public policy, it seems there is no longer a need to impose price caps on basic local service given the multiple service options that are available to consumers. Therefore, considering the support or non-opposition by all Intervenors in this docket, and given the Commission's progression of moving toward pricing flexibility to match the increasingly competitive market, Staff recommends granting AT&T Louisiana's request to move 1FR and LOS-B to the Competitive Basket. Likewise, for the reasons provided in this section and as presented in the comments in response to Staff's Initial Recommendation, Staff recommends that this Commission clarify that Sections 301.J.2 and 401.C.1.d of the Rules, to the extent these provisions currently apply to retail services, that with the level of competition that exists these provisions are no longer applicable to AT&T Louisiana's retail services; however, they continue to apply to AT&T Louisiana's other services, i.e. wholesale.

In the alternative, should the Commission find that a public policy need still exists for rate caps in any of the zones even though there is a high level of competition in the market, Staff recommends that the 1FR and LOS-B for Zones 2 and 3 be moved from the Universal Services Basket (currently subject to a 2.5% annual increase price cap) into the Basic Basket with 1FR and LOS-B for Zone 1, which is subject to a 10% annual increase price cap. Further, that a one-year sunset be placed on this reclassification such that after the one-year sunset period, AT&T Louisiana may move 1FR and LOS-B for all zones to the Competitive Basket.

## 7. Commission Decision

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<sup>132</sup> AT&T Reply Comments at 13-14; Exhibit B.

<sup>133</sup> AT&T Louisiana Reply Comments at 5, fn. 15.

After discussion and consideration, the Commission adopts the Staff's recommendation and analysis as discussed, *supra*, and grants AT&T Louisiana's request to reclassify as competitive the only two remaining retail telecommunications services which have not been moved to the Competitive Services Basket, thereby allowing AT&T Louisiana to move its IFR and LOS-B service in Zones 1, 2, and 3 to the Competitive Services Basket. With this reclassification of all remaining retail telecommunications services, the Commission removes all remaining services in the "Universal Services Basket" in Appendix 1, and removes all remaining services in the Basic Services Basket in Appendix 2 of the Local Competition Rules, as those appendices are applicable only to AT&T Louisiana. Further, the Commission clarifies that Sections 301.J.2 and 401.C.1.d of the Rules, to the extent these provisions ever applied to retail services, these provisions are no longer applicable to retail services; however, they continue to apply to other services, i.e. wholesale.

**C. *Eliminate TSLRIC Price Floor Restriction Specifically Applicable to AT&T Louisiana***

**1. AT&T Louisiana Petition and Comments**

Currently, AT&T Louisiana's rates must meet or exceed its total service long run incremental cost ("TSLRIC") as provided in Section 701.H of the Rules, unless the rate is meeting the equally low price of a competitor.<sup>134</sup> No other competitor in the marketplace is required to comply with this price floor when pricing its services - only AT&T Louisiana.

AT&T Louisiana claims that TSLRIC is unnecessary in today's highly competitive marketplace and that it should be eliminated for services in the Competitive Basket and for Contract Service Arrangements (CSAs) offered to customers so that AT&T Louisiana can fairly and effectively compete. In support of its request, AT&T Louisiana claims that state and federal antitrust and unfair competition laws provide ample protection against predatory pricing, and the Commission rules also prohibit such conduct. AT&T Louisiana states that "no competitor in recent memory has ever asserted that AT&T Louisiana is pricing below relevant cost."<sup>135</sup> AT&T Louisiana reiterates its argument that it should not be singled out given the competitive environment that exists in Louisiana.

**2. Summary of Intervenor Comments**

**(a) Opposition**

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<sup>134</sup> AT&T Petition at 10-11.

<sup>135</sup> AT&T Petition at 15.

LCTA opposes AT&T Louisiana's request claiming that the only protection consumers and competitors would have against anti-competitive behavior is antitrust action or a showing of predatory pricing which it claims are not feasible. Further, LCTA claims that the elimination of TSLRIC would effectively remove the strongest deterrent to anticompetitive conduct. LCTA therefore urges the Commission to retain this rule "to prevent predatory pricing."<sup>136</sup>

CompSouth/Sprint oppose AT&T Louisiana's request, claiming that the removal of the TSLRIC price floor would open the door to predatory pricing by AT&T Louisiana. CompSouth/Sprint further state that current Commission rules "are important tools to protect against AT&T engaging in predatory pricing at the outset, not simply after the damage is done." Finally, CompSouth/Sprint claim that "AT&T could use the freedom it seeks to launch a below-cost price war, against its competitors, who then have to spend even more resources seeking relief for AT&T's predatory behavior in court."<sup>137</sup>

Cox opposes and takes the position that the Commission has rejected a similar request in the past, and nothing warrants a different conclusion here.<sup>138</sup>

(b) Support/Non-opposition

Verizon supports.<sup>139</sup>

(c) No Comment/No position

SCC does not comment on request as applied to AT&T Louisiana, but "opposes any changes to its members' individual Price Cap Plans as part of this proceeding."<sup>140</sup>

**3. AT&T Louisiana Reply Comments**

AT&T Louisiana avers that some Intervenors mistakenly contend that despite the undeniably widespread competition in Louisiana, the Commission should continue imposing a regulatory price floor that requires AT&T Louisiana – and only AT&T Louisiana– to prove that it prices its services above AT&T Louisiana's TSLRIC unless and until a competitor has first offered a lower price to its customers.<sup>141</sup> AT&T Louisiana insists that retaining this legacy TSLRIC rule in today's highly competitive marketplace serves no legitimate regulatory goal and may well harm consumers by restricting AT&T Louisiana's ability to freely compete. Further, that the concern raised by some Intervenors over predatory pricing lacks merit both as a matter of

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<sup>136</sup> LCTA Comments at 6.

<sup>137</sup> CompSouth/Sprint Comments at 5-6.

<sup>138</sup> Cox Comments at 3.

<sup>139</sup> Verizon Comments at 1.

<sup>140</sup> SCC Comments at 3.

<sup>141</sup> AT&T Reply Comments at 7-8.

law and as a matter of practical economic reality. Predatory pricing—pricing below cost to drive rivals out of the market in order to be able to raise prices to supra-competitive levels after they have left—is simply not a realistic concern in today’s vibrantly competitive market. According to AT&T Louisiana, predatory pricing would only make sense if the predator, after driving rivals out of the market with below-cost prices, could then keep prices above the competitive level long enough to recoup all the losses it sustained in the below-cost phase. AT&T Louisiana asserts, however, that scenario is impossibility in today’s market because, “There are too many firms, with too many technology options, and with easy entry into the market, for that to occur.” As such, imposing a regulatory price floor on AT&T Louisiana to guard against an unrealistic concern can only serve to chill competition.”<sup>142</sup>

4. **AT&T Louisiana Comments and Reply Comments on Initial Recommendation**

AT&T Louisiana supports Staff’s primary recommendation to eliminate the TSLRIC price floor, and states that revisiting this issue in two years is unnecessary, as this docket is already a revisit of the issue from four years ago in Docket No. R-30347.<sup>143</sup> AT&T Louisiana comments that in the four years since the Commission’s review in Docket R-30347 that no competitor has filed a TSLRIC or predatory pricing complaint at the Commission against AT&T Louisiana. Moreover, many states have already removed similar price floors, and none of the parties advocating retention of this policy have identified adverse consequences resulting from removal of price floors in those other states. AT&T Louisiana argues that there is no longer a need to have a separate set of rules solely for AT&T Louisiana.

AT&T Louisiana states that CompSouth/Sprint’s arguments for retaining TSLRIC should be rejected. First, AT&T Louisiana argues that removing the TSLRIC legacy requirement, which applies only to AT&T Louisiana, will not result in predatory pricing. AT&T Louisiana asserts that legacy restrictions on lower prices actually chill competition rather than promote it.

In support, AT&T Louisiana cites the United States Supreme Court:

the mechanism by which a firm engages in predatory pricing - *lowering prices* - is the same mechanism by which a firm stimulates competition; because ‘cutting prices in order to increase business often is the very essence of competition...[;]mistaken inferences...are especially costly, because they chill the very conduct [of competition that] the antitrust laws are designed to protect.’<sup>144</sup>

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<sup>142</sup> *Id* at 8.

<sup>143</sup> AT&T Louisiana’s Comments on Staff’s Initial Recommendation at 6.

<sup>144</sup> AT&T Louisiana Reply to Intervenors’ Comments on Staff’s Initial Recommendation at 2-3, citing *Brooke Group Ltd. v Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 226 (1993)(*emphasis added*); citing *Cargill, Inc.*, 479 U.S. 104, 122 n.17 (1986) (quoting *Matsushita Electric Industry Co. v. Zenith Radio*, 475 U.S. 574, 594 (1986)).

Second, AT&T Louisiana comments that predatory pricing is not realistic in the Louisiana market-place because in order for this to benefit a TSP, it would have to set its prices below cost and hold them there long enough to drive competitors out of the market entirely, then raise prices and retain those customers long enough to recoup the money lost while under pricing. Given the number of carriers and easy entry into the market, it “cannot happen in today’s vibrantly competitive marketplace.”<sup>145</sup> Last, AT&T Louisiana states that removing TSLRIC does not alter or remove any jurisdiction of any forum to hear predatory pricing cases.

**5. Intervenor Comments and Reply Comments on Initial Recommendation**

**(a) Opposition**

CompSouth/Sprint object to the elimination of TSLRIC stating that by doing so, it opens the door to predatory pricing by AT&T Louisiana and shifts the burden to competitors to “catch AT&T in the act”, but competitors lack access to information to do so.<sup>146</sup> CompSouth/Sprint comment that maintaining TSLRIC is essential to maintaining competition in Louisiana’s landline market. CompSouth/Sprint note that in some states where the price floor has been removed, statutes have been enacted that grant the state commission authority to prevent anticompetitive behavior and cite statutes from other states that guard against anticompetitive behavior and/or give state commission’s the authority to adjudicate complaints regarding anticompetitive behavior and predatory pricing.<sup>147</sup> CompSouth/Sprint aver that lack of evidence of predatory pricing in states where TSLRIC has been removed does not support elimination in Louisiana.

**(b) Support/Non-Opposition**

Verizon states that the Staff Recommendation on this issue should be adopted.

**(c) No Position/No comment**

LCTA did not submit additional comments regarding elimination of TSLRIC.

The SCC takes no position on Staff’s recommendations.

**6. Staff Recommendation/Analysis**

**(a) Staff Recommendation**

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<sup>145</sup> AT&T Louisiana Reply to Intervenor’s Comments on Staff’s Initial Recommendation at 4.

<sup>146</sup> Joint Comments of the Competitive Carriers of the South and Sprint at 8.

<sup>147</sup> Joint Comments of the Competitive Carriers of the south and Sprint at. 9-11.

Staff recommends that the Commission grant AT&T Louisiana's request to eliminate the TSLRIC price floor. In the alternative, should the Commission find that removing TSLRIC is not in the public interest at this time, Staff recommends that the Commission revisit and review AT&T Louisiana's TSLRIC requirement after a two year period.

(b) Analysis

The vibrant competition that exists in the Louisiana marketplace convinces Staff to recommend that AT&T Louisiana should no longer be treated as a monopoly provider of service. Given the wide support and evidence of the competitive landscape in Louisiana, as previously outlined above in Staff's analysis regarding AT&T Louisiana's other requests, there seems to be no policy or legal necessity to retain a TSLRIC price floor solely applicable to AT&T Louisiana.

This same request was previously reviewed and denied by the Commission in its 2009 order in Docket R-30347, as Staff found that "CompSouth and LUS ha[d] valid concerns regarding the possibility of predatory pricing if no price floor is in effect."<sup>148</sup> Therefore, Staff recommended retaining the TSLRIC price floor in its 2008 recommendation because "eliminating the TSLRIC price floor will bring no benefits to consumers or competitors."<sup>149</sup> The Commission retained the TSLRIC price floor for all AT&T Louisiana services including "competitive services" except in those instances where the Company is meeting the "equally low price of a competitor."<sup>150</sup> While there are Intervenors are still opposed to the removal of TSLRIC in this docket because of the same prior concerns that removal of TSLRIC will lead to predatory pricing and price discrimination,<sup>151</sup> no Intervenor has presented any evidence that this actually has occurred in any state in which AT&T Louisiana, as an ILEC, is no longer subject to the TSLRIC obligation.<sup>152</sup> As explained above, since the Commission's 2009 Order in Docket R-30347, competition has grown tremendously throughout Louisiana. AT&T Louisiana is no longer the monopoly provider of any voice services in Louisiana.

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<sup>148</sup> Staff's Final Recommendation, Docket R-30347 at 60.

<sup>149</sup> *Id.*

<sup>150</sup> See Corrected General Order dated August 14, 2009, Docket No. R-30347 at 6, ordering para. 7. See also Section 701.H of the Local Competition Rules.

<sup>151</sup> Note these same concerns were raised in Docket R-30347 regarding AT&T Louisiana's request for detariffing as well as AT&T Louisiana's prior request to remove TSLRIC. See LUS Response Comments, Docket R-30347, at 2; CompSouth Response Comments, at 2. Staff notes that it is not aware of any Commission complaints raising these concerns since the time that AT&T Louisiana detariffed its services.

<sup>152</sup> The applicable regulations and laws of Georgia, Florida, and North Carolina were previously referenced and reviewed in Staff's recommendation in Docket R-30347. All of the foregoing states have since deregulated retail telecommunications services thus eliminating the TSLRIC price floor for AT&T's ILEC services in those states.

The Intervenors supporting retention of the TSLRIC rule argue that eliminating it would shift the burden to competitors to bring an after-the-fact legal action to prove that AT&T Louisiana engaged in predatory pricing, and it would be hard for them to prove. They argue that the Commission's current TSLRIC rules protect at the outset, rather than after-the fact, and TSLRIC should remain in place regardless of the fact that there are other state and federal laws that protect consumers and competitors from predatory pricing. AT&T Louisiana counters that competitors could attempt to manipulate the TSLRIC price floor to simply stand between a consumer and lower prices, and the Intervenors have failed to identify any specific harm that they have suffered in Louisiana or any other state in which TSLRIC and similar pricing floors have been eliminated. CompSouth/Sprint argue that the lack of evidence of predatory pricing by AT&T in states where TSLRIC has been eliminated is not sufficient support for eliminating here, but Staff finds the fact that no specific example of harm has been identified is quite telling and supports removal of this AT&T Louisiana-specific requirement.

Removal of the TSLRIC requirement does not tacitly or otherwise promote predatory pricing or unreasonably discriminatory pricing of wholesale services by AT&T Louisiana or any other carrier. Such action is still a violation of law and this Commission should emphasize that eliminating TSLRIC should in no way be considered a lack of concern or indifference on this issue. Staff is recommending retention of language in the Rules expressly prohibiting predatory and unreasonably discriminatory pricing of wholesale services (Section 301.J.2 and 401.C.1.d). Moreover, eliminating these legacy requirements would in no way prohibit CompSouth, Sprint or any other competitor from bringing predatory pricing claims against AT&T Louisiana in any forum with jurisdiction to consider them. Accordingly, no competitor is harmed by the elimination of these legacy requirements, and therefore, no additional language is needed in the LPSC's Rules against predatory pricing because those explicit prohibitions already exist.

Therefore, like the Staff's recommendation to eliminate other AT&T Louisiana-specific rules in this docket, and in furtherance of the Commission's efforts in Docket R-31300, Staff recommends removal of the TSLRIC price floor and that AT&T Louisiana should be regulated like all other TSPs. In the alternative, should the Commission find that removing TSLRIC is not in the public interest at this time, Staff recommends that the Commission review this issue again after a two-year period.

## **7. Commission Decision**

After discussion and consideration, the Commission adopts the Staff's recommendation and analysis as discussed, *supra*, and eliminates Section 701.H of the Rules and removes all other applicable references in the Rules to TSLRIC that previously applied solely to AT&T Louisiana and required AT&T Louisiana's rates to meet or exceed its TSLRIC.

**D. *Provide for Service and Cost Support Parity***

**1. AT&T Louisiana Petition and Comments**

Under AT&T Louisiana's Price Plan, it is required to file cost support data for new service offerings as provided for in Section 701.F.2. In contrast, all other TSPs are only required to produce cost support for new service offerings upon request by the Commission under Section 401.C.3.a. AT&T Louisiana asks that it be allowed to offer new Competitive Services under the same terms as is allowed for other TSPs.<sup>153</sup>

**2. Summary of Intervenor Comments**

**(a) Opposition**

LCTA opposes claiming that the only protection consumers and competitors would have against anti-competitive behavior is an antitrust action or a showing of predatory pricing. LCTA urges the Commission to retain this rule "to prevent predatory pricing."<sup>154</sup>

CompSouth/Sprint oppose stating that cost support for AT&T Louisiana's service offering must remain available to ensure compliance with the Commission's TSLRIC price floor and to protect against predatory pricing.<sup>155</sup>

Cox references the Commission's action to reject a similar request made in the Docket No. R-30347, and comments that nothing warrants a different conclusion here.<sup>156</sup>

**(b) Support/Non-opposition**

Verizon supports.<sup>157</sup>

SCC did not comment on the request as applied to AT&T, but "opposes any changes to its members' individual Price Cap Plans as part of this proceeding."<sup>158</sup>

**3. AT&T Louisiana Reply Comments**

As part of AT&T Louisiana's Reply Comments to Intervenors' opposition to TSLRIC, AT&T Louisiana states generally that in a highly competitive environment, where AT&T

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<sup>153</sup> AT&T Petition at 11-12.

<sup>154</sup> LCTA Comments at 6.

<sup>155</sup> CompSouth/Sprint Comments at 6.

<sup>156</sup> Cox Comments at 3.

<sup>157</sup> Verizon Comments at 1.

<sup>158</sup> SCC Comments at 3.

Louisiana is competing “against multi-billion dollar wireless carriers, cable companies and Internet services providers, as well as a host of other smaller, nimble niche competitors”, there is no need for additional hurdles and burdens placed solely on AT&T Louisiana.<sup>159</sup>

4. **AT&T Louisiana Comments and Reply Comments on Initial Recommendation**

AT&T Louisiana urges the Commission to adopt Staff’s recommendation on this issue. AT&T Louisiana’s reply to CompSouth/Sprint’s opposition to removal of these requirements is addressed, *supra*, in discussion of TSLRIC.

5. **Intervenor Comments and Reply Comments on Initial Recommendation**

(a) **Opposition**

CompSouth/Sprint oppose the Staff’s Initial Recommendation on this issue for the same reasons it opposes elimination of the TSLRIC price floor stating “the TSLRIC price floor and the cost support requirements work hand-in-hand.”<sup>160</sup> See discussion, *supra*.

(b) **Support/Non-Opposition**

Verizon states that the Staff Recommendation should be adopted to the extent it proposes to grant the Petition.

(c) **No position/No comment**

The LCTA did not specifically comment on this issue.

The SCC takes no position on Staff’s recommendations.

6. **Staff Recommendation/Analysis**

(a) **Staff Recommendation**

Eliminate Section 701.F.2 of the Local Competition Rules such that AT&T Louisiana is subject to the same requirements as other TSPs.

(b) **Analysis**

Competition is flourishing. As noted *supra* at Sections V.A.6.b (Staff’s COLR relief analysis), V.B.6(b) (Staff’s 1FR/LOS-B relief analysis), and V.C.6.b (Staff’s TSLRIC relief analysis), there is significant competition in Louisiana for the entire communications pie. Without rehashing the similar applicable analysis here, Staff finds that with the elimination of other AT&T Louisiana-specific requirements, this relief also should be granted. There is no policy reason to maintain this AT&T Louisiana specific-rule as a standing requirement. Should

<sup>159</sup> AT&T Reply Comments at 10.

<sup>160</sup> Joint Comments of the Competitive Carriers of the South and Sprint at 9.

the LPSC ever need AT&T Louisiana to submit this data, per 401.C.3.a of the Rules, it can request that it be provided.

## 7. Commission Decision

After discussion and consideration, the Commission adopts the Staff's recommendation and analysis as discussed, *supra*, and eliminates Section 701.F.2 of the Rules such that AT&T Louisiana is subject to the same requirements as other TSPs, which are set forth in Section 401.C.3.a.

### ***E. Clarify that Informational Only Promotional Filings are no Longer Required in Light of Detariffing***

#### **1. AT&T Louisiana Petition and Comments**

AT&T Louisiana requests the Commission clarify that when the Commission granted all TSPs the option of detariffing competitive services in its Order dated August 14, 2009 (Corrected General Order No. R-30347), the Commission also authorized all TSPs the right to discontinue filing special marketing promotions of competitive services.<sup>161</sup>

Section 401.C.1.h of this Commission's Local Competition Rules allows any TSP to offer special marketing promotions temporarily lowering rates or suspending specific charges, later returning to existing tariff rates, through letter notification to the Commission. Further, Section 401.C.1.h provides that "the filing requirement for special marketing promotions of a service will follow the same filing requirement for a tariff of the same services being promoted as set forth in 5(b)(3) and 5(b)(4) below." In 2009, the Commission granted all TSPs the option of utilizing customer service agreements and online guidebooks and price lists, in lieu of tariffs for AT&T Louisiana's Competitive Services.<sup>162</sup> AT&T Louisiana has since taken advantage of that detariffing opportunity.<sup>163</sup> Section 401.C.5.3 and 401.C.5.4 provide for the tariff filing requirements for all services, and, specifically with regard to Competitive Services, state that all TSPs have the option of filing informational tariffs, effective with one day's notice, or a publicly available online service guidebook and price list, in lieu of a tariff. AT&T Louisiana seeks clarification that when the Commission granted all TSPs the option of detariffing competitive

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<sup>161</sup> *AT&T Petition at 12. See also Corrected General Order, Docket R-30347, August 14, 2009, ordering paragraphs 1, 2; Section 401 of the Local Competition Rules; AT&T Comments at 16.*

<sup>162</sup> *See Id., and Section 401.C.8 of the Local Competition Rules; Prior to granting all TSPs the option of detariffing competitive services, the Commission required all TSPs to file "informational only" tariffs, effective with one day's notice.*

<sup>163</sup> *See letter dated September 27, 2012 from LPSC Executive Secretary Eve Gonzalez acknowledging Staff's examination finding of no concerns or complaints from customers regarding AT&T's online noticing thus confirming AT&T Louisiana's ability to stop filing retail telecommunications tariffs.*

services, it also gave all TSPs the corresponding right to discontinue filing special marketing promotions of competitive services.

**2. Summary of Intervenor Comments**

(a) Opposition

None.

(b) Support/Non-opposition

CompSouth/Sprint do not oppose but “caution the Commission to consider the implications of this request as it may allow the dominant carrier to engage in predatory pricing or unreasonable discrimination among customers.”<sup>164</sup>

Verizon supports.<sup>165</sup>

LCTA does not oppose.<sup>166</sup>

SCC does not oppose.<sup>167</sup>

Cox supports.<sup>168</sup>

**3. AT&T Reply Comments**

AT&T Louisiana states that with no substantive opposition to this request, and various Intervenor supporting this request, the Commission should adoption the clarification.<sup>169</sup>

**4. AT&T Louisiana Comments and Reply Comments on Initial Recommendation**

AT&T Louisiana urges the Commission to adopt Staff’s recommendation on this issue.

**5. Intervenor Comments and Reply Comments on Initial Recommendation**

(a) Opposition

No Intervenor specifically opposes the Staff’s Initial Recommendation on this issue.

(b) Support/Non-Opposition

Verizon states that the Staff Recommendation should be adopted to the extent it proposes to grant the Petition.

The SCC supports the Staff’s Initial Recommendation on this issue.

The LCTA does not oppose.

**6. Staff Recommendation/Analysis**

<sup>164</sup> *CompSouth/Sprint Comments at 6.*

<sup>165</sup> *Verizon Comments at 1.*

<sup>166</sup> *LCTA Comments at 3, 6.*

<sup>167</sup> *SCC Comments at 3.*

<sup>168</sup> *Cox Comments at 3.*

<sup>169</sup> *AT&T Reply Comments at 17.*

(a) Staff Recommendation

Staff recommends that this proceeding clarify that when the Commission granted all TSPs the option of detariffing competitive services in Corrected General Order No. R-30347, it also gave all TSPs the corresponding right to discontinue filing special marketing promotions of competitive services.

(b) Analysis

In Corrected General Order R-30347, the Commission granted TSPs a right to detariff its services to allow carriers to determine the best method for their own operations and customers.<sup>170</sup> The Commission clearly indicated its intent to provide more freedom when it provided all TSPs the opportunity to detariff services. In light of that, it does not make sense from a policy perspective to continue requiring the filing of special marketing promotions for services for which the TSP is no longer required to file a tariff in light of the language in 401.C.1.h of the Rules that provides that “the filing requirement for special marketing promotions of a service will follow the same filing requirement for a tariff of the same services being promoted.”

7. Commission Decision

After discussion and consideration, the Commission adopts the Staff’s recommendation and analysis as discussed, *supra*, and clarifies that when the Commission granted all TSPs the option of detariffing competitive services in Corrected General Order R-30347, it also gave all TSPs the corresponding right to discontinue filing special marketing promotions of competitive services. Therefore, if a TSP, pursuant to Section 401.C.5.3 and 401.C.5.4 of the Rules, is not required to file a tariff for a particular service, Section 401.C.1.h is clarified such that TSPs are not required to file for special marketing promotions of that service.

F. Modernize Billing and Collections Rules

1. AT&T Louisiana Petition and Comments

AT&T Louisiana states that there are many billing rules and regulations adopted by the LPSC that served a useful purpose when AT&T Louisiana was a highly regulated monopoly when customers had virtually no choices.<sup>171</sup> Today, however, customers can choose among numerous competing carriers and technologies. As such, all TSPs should be given the freedom and flexibility in billing and collection practices to effectively and efficiently operate in the

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<sup>170</sup> Staff’s Final Recommendation, dated November 21, 2008, Docket R-30347 at 11, 19.

<sup>171</sup> AT&T Comments at 16.

competitive communications market. AT&T Louisiana accordingly requests the following rules and regulations be eliminated or modified:

(a) Eliminate New Service Requirements. LPSC General Order dated December 13, 1993, the LPSC ordered that “utility companies shall not refuse to initiate new service or disconnect existing service due to the refusal of a customer to make payments on a delinquent account that has been closed, with no further services charged or payments made on it, for a period of three years or more...”<sup>172</sup> AT&T submits that no TSP should have to serve a customer who does not pay for services.

(b) Eliminate Restrictions To Payment Applications. The Commission adopted TSP billing rules in *General Order dated July 14, 2000*. Among other rules, the Commission required that all partial payments not specifying what payment is for be applied first to those charges for which “non-payment will result in disconnection of basic local service and then to charges for other services.”<sup>173</sup> The rules further provide that “no carrier shall disconnect a consumer’s Basic Local Service for nonpayment of charges not regulated by the Louisiana Public Service Commission or the Federal Communications Commission (i.e. internet charges).”<sup>174</sup> These restrictions should be eliminated.

(c) Eliminate Five (5) Day Notice. The Commission’s *General Order dated October 15, 1957* ordered that no TSP shall discontinue service to any customer without first giving five days advance notice to the customer. AT&T Louisiana argues that customers have the ability to choose among a multitude of local service providers, and with local number portability, carriers can port a local number to another provider in as little as one day, regardless of the final balance owed.<sup>175</sup> Accordingly, AT&T Louisiana requests the 5-day advance notice requirement should be eliminated.

(d) Application of Delinquent Payment Penalty. AT&T Louisiana requests elimination of the Commission General Order dated February 20, 1973, that ordered all utilities to limit penalties for delinquent payment of utility bills to not more than 5% of actual billing. The penalty could not apply until after 20 days from the date of billing.<sup>176</sup> AT&T

<sup>172</sup> See *General Order dated December 13, 1993*.

<sup>173</sup> See *General Order dated July 14, 2000, Section 301(D) at 4*.

<sup>174</sup> See *Id.*; *Section 401 at 5*.

<sup>175</sup> *AT&T Comments at 18*.

<sup>176</sup> *Id.*

Louisiana requests that this Commission eliminate the 20-day requirement as it pertains to TSPs to allow each TSP to determine the appropriate remedy.

(e) Modify NSF. AT&T Louisiana requests modification to the Commission's General Order dated January 21, 2000, that limited utilities to charge a nonsufficient funds (NSF) check charge of no greater than \$20.00. State law allows an NSF fee of \$25.00 or five percent of the face amount of the check, whichever is greater.<sup>177</sup> *See La. R.S. 9:2782(B).*<sup>178</sup> AT&T Louisiana asks that this rule be modified consistent with the State law of \$25.00 or five percent of the face amount of the check, whichever is greater.

In summary, AT&T Louisiana requests the Commission to eliminate or modify these unnecessary rules/orders.<sup>179</sup>

## 2. Summary of Intervenor Comments

### (a) Opposition

None.

### (b) Support/Non-opposition

Verizon supports.<sup>180</sup>

LCTA supports as long as such relief granted is limited to retail services or otherwise fails to address the individual sub-issues.<sup>181</sup>

CompSouth/Sprint support.<sup>182</sup>

SCC supports or otherwise states that if the Commission determines that these requirements no longer serve the public interest, then they should be eliminated for all TSPs operating in Louisiana on a competitively neutral basis.<sup>183</sup>

Cox supports.<sup>184</sup>

## 3. AT&T Louisiana Reply Comments

With no opposition by the Intervenor, AT&T Louisiana requests the relief be granted.<sup>185</sup>

## 4. AT&T Louisiana Comments and Reply Comments on Initial Recommendation

<sup>177</sup> This amount is in addition to damages of twice the amount of the check, but no less than \$100 plus attorney's fees and costs, if the drawer fails to pay a dishonored check within 15 days of written demand. *See La. R.S. 9:2782A(A).*

<sup>178</sup> *AT&T Comments at 18-19.*

<sup>179</sup> *AT&T Petition at 13-14; AT&T Comments at 16-19.*

<sup>180</sup> *Verizon Comments at 1.*

<sup>181</sup> *LCTA Comments at 2, 7.*

<sup>182</sup> *CompSouth/Sprint Comments at 7.*

<sup>183</sup> *SCC Comments at 4.*

<sup>184</sup> *Cox Comments at 4.*

<sup>185</sup> *AT&T Reply Comments at 16-17.*

AT&T Louisiana reiterates its support for its Petition, but states that it is not strongly opposed to Staff's alternative recommendation to review these issues in separate rulemakings.

**5. Intervenor Comments and Reply Comments on Initial Recommendation**

(a) Opposition

CompSouth/Sprint oppose Staff's Initial Recommendation on these issues and urge support for the requests by AT&T Louisiana in its Petition for the reasons discussed in their May 11, 2012 Reply Comments.

Verizon opposes Staff's Initial Recommendation on these issues and argues that AT&T Louisiana's Petition should be granted as to these issues.

(b) Support/Non-Opposition

The SCC supports the Staff's alternative recommendation to review these issues in separate rulemakings, and should the Commission find certain provisions are no longer in the public interest that those provisions be eliminated for all Louisiana TSPs on a competitively neutral basis.

The LCTA does not oppose.

**6. Staff Recommendation/Analysis**

(a) Staff Recommendation

Although none of the Intervenors to this proceeding oppose any of these requests, Staff recommends either no change to the existing rules or that should the Commission find that these policies need to be reviewed and/or modified, that a separate rulemaking be opened.

(b) Analysis

Each issue is discussed specifically in the following paragraphs. AT&T Louisiana and Intervenors universally support or do not oppose these requests. However, Staff recommends that many of these matters, should the Commission want to review or modify, be reviewed in a separate rulemaking proceeding, as they several affect either all TSPs or all utilities.

(i) New Service Requirements

LPSC General Order dated December 13, 1993 is applicable to *all* LPSC-jurisdictional utilities. While technically, as the in re: in this proceeding is broad enough such that it did not limit this matter to telecommunications-specific or AT&T Louisiana-specific rules, only TSPs

are parties to this proceeding. Should the Commission want to review this Order, Staff recommends that a separate rulemaking be opened for this purpose.

(ii) Restrictions to Payment Applications

The Commission's General Order dated July 14, 2000 is applicable to all TSPs and addresses other aspects of TSP billing besides the restrictions on payment applications from which AT&T Louisiana seeks relief in the instant proceeding. Therefore, Staff recommends that should the Commission want to review this Order, that a separate rulemaking be opened to review the Order in its entirety such that if there are any provisions of this Rule that need to be revised, it can be done as a whole.

(iii) Five (5) day Notice

The Commission's General Order dated October 15, 1957 applies to all utilities. Staff finds this requirement reasonable and does not recommend any change to this Order. However, should the Commission want to review and/or modify this Order, a separate rulemaking should be opened for that purpose.

(iv) Application of Delinquent Payment Penalty

The Commission's General Order dated February 20, 1973 applies to all utilities. Staff finds this requirement reasonable and does not recommend any change to this Order. However, should the Commission want to review and/or modify this Order, a separate rulemaking should be opened for that purpose.

(v) Modify NSF Fee

The Commission's General Order dated January 21, 2000 applies to all utilities. AT&T Louisiana and the Intervenors argue in this case that the LPSC should consider modifying its Order to be consistent with the legislation that permits an NSF fee that is \$25 or 5% of the face amount of check, whichever is greater. Staff recommends that a separate rulemaking be opened and a revised rule mirroring the legislation be published for comment and consideration by the Commission.

**7. Commission Decision**

After discussion and consideration, the Commission adopts the Staff's recommendations and analyses as discussed, *supra*. The Commission declines the opportunity to order a review or modification of General Orders dated December 13, 1993 (New Service Requirements), July 14, 2000 (Restrictions on Payment Applications), and, October 15, 1957 (5-day Disconnection

Notice). Thus, there are no changes to LPSC General Orders dated December 13, 1993, July 14, 2000, October 15, 1957, and February 20, 1973 (Application of Delinquent Payment Penalty). A rulemaking proceeding shall be opened regarding the Commission's General Order dated January 21, 2000 (NSF Fee) and a revised rule mirroring the current legislation, *La. R.S. 9:2782(B)*, will be published for public comment and consideration by the Commission.

**G. *Eliminate Unnecessary Administrative Reports Filed with the LPSC by all TSPs***

**1. AT&T Louisiana Petition and Comments**

AT&T Louisiana asks this Commission to eliminate the requirement that TSPs continue to supply the following specific reports to the Commission:

(a) Outside Services

In 1990, the Commission ordered that all utility companies report the total amount paid in the reporting period to each outside attorney, consultant, lobbyist, engineer, financial advisor, trade association, or telecommunications consultant.<sup>186</sup> At the time this General Order was adopted, AT&T Louisiana was subject to rate of return regulation and such costs were part of AT&T Louisiana's rate base. Today, AT&T Louisiana is not under rate of return regulation and does not have a rate base; its fees are borne by AT&T Louisiana's shareholders. Therefore, AT&T Louisiana requests this reporting requirement be eliminated.

(b) SS7 Certification

In 2000, the Commission adopted rules and regulations regarding telephonic solicitation in Louisiana, specifically to implement statutory requirements that telephone solicitors not block caller identification information and that TSPs forward the caller identification information of the solicitors<sup>187</sup>. These Commission rules and regulations, in part, require that all TSPs complete and return an annual Certificate of Compliance providing a detailed explanation of the circumstances that may prevent it from delivering calling party information to its end users. In 2000, when this General Order was adopted, Signaling System 7 ("SS7") was just being implemented by the telecommunications industry. Today, most every carrier has this system in place and thus requiring this annual certification serves no continued purpose. AT&T Louisiana asks this Commission to modify its General Order, eliminating the annual Certificate of

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<sup>186</sup> *Commission General Order dated February 28, 1990.* Companies with at least \$100 million of Louisiana jurisdictional gross annual revenues are required to report quarterly; companies below this revenue figure are required to report annually.

<sup>187</sup> *Commission General Order dated March 29, 2000, Docket No. U-24638.*

Compliance requirement, and implementing regulations to require only upon request of the Commission a detailed explanation of why a particular provider's network is not capable of providing calling party number identification. This modification is consistent with the statutory requirement added in 1999 upon which the Commission's General Order was based.<sup>188</sup>

(c) Access Lines/Revenues

Section 302 of the Local Competition Rules requires all TSPs to file annually a report of: 1) the number of customers, access lines served, and revenues subdivided by residential and business; 2) the availability of service capabilities and service offerings; and 3) all financial reports, including income statement and balance sheets.<sup>189</sup> See Section 302.A. This requirement was adopted at the introduction of competition in the local telecommunications market in 1996. Since that time, AT&T Louisiana has filed this annual report. These annual reports were important in the early years to track the progress of competition in Louisiana and the various service offerings made available to consumers. However, as demonstrated by AT&T Louisiana's annual reports, AT&T Louisiana's access lines peaked at the end of 2000 and have decreased "year-after-year for the last ten plus years."<sup>190</sup> AT&T requests elimination of this annual reporting requirement as having outlived its usefulness.

**2. Summary of Intervenor Comments**

(a) Opposition

None.

(b) Support/Non-opposition

Verizon supports.<sup>191</sup>

LCTA does not oppose.<sup>192</sup>

CompSouth/Sprint do not oppose.<sup>193</sup>

SCC states that if the Commission determines that this requirement no longer serves the public interest, then it should be eliminated for all TSPs operating in Louisiana on a competitively neutral basis.<sup>194</sup>

Cox does not oppose.<sup>195</sup>

<sup>188</sup> AT&T Comments at 20.

<sup>189</sup> See Section 302.A of the Local Competition Rules; The Rule notes that TSPs, such as AT&T Louisiana, operating under a Section 701 Price Plan are subject to similar requirements. By letter dated February 1, 2008, this Commission granted AT&T Louisiana's request for a waiver from its Section 701 financial reporting obligation.

<sup>190</sup> AT&T Comments at 21.

<sup>191</sup> Verizon Comments at 1.

<sup>192</sup> LCTA Comments at 9.

<sup>193</sup> CompSouth/Sprint Comments at 8.

<sup>194</sup> SCC Comments at 6.

<sup>195</sup> Cox Comments at 5.

3. **AT&T Louisiana Reply Comments**

With no opposition by the Intervenors, AT&T requests the relief be granted.<sup>196</sup>

4. **AT&T Louisiana Comments and Reply Comments on Initial Recommendation**

AT&T Louisiana comments that if the Commission adopts Staff's primary recommendation to eliminate SS7 and Access Lines/Revenues reports that it should also eliminate reports for Outside Service Reporting.

5. **Intervenor Comments and Reply Comments on Initial Recommendation**

(a) Opposition

The SCC supports elimination of the outside service reporting requirements for AT&T Louisiana and any other TSP on a competitively neutral basis. Read differently, the SCC opposes Staff's recommendation that these reporting requirements stay in place.

(b) Support/Non-Opposition

The SCC supports Staff's recommendations on SS7 and Access Lines/Revenues reports.

The LCTA does not oppose.

6. **Staff Recommendation/Analysis.**

(a) Staff Recommendation

Staff recommends that the Commission deny in part and grant in part.

(b) Analysis

With regard to AT&T Louisiana's request to eliminate outside service reporting requirements, this is a requirement applicable to all LPSC-jurisdictional utilities. No Intervenor opposes this request. While Staff does find merit in AT&T Louisiana's argument that since it is no longer subject to rate of return regulation that this requirement should no longer apply, Staff is reluctant to recommend a change in this proceeding as this Order is applicable to all jurisdictional utilities. Staff recommends that should Commission want to modify this requirement, that the Commission do so in a separate proceeding.

With regard to SS7 Certification annual reporting AT&T Louisiana and the Intervenors make persuasive arguments that these reports no longer are necessary given today's

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<sup>196</sup> AT&T Reply Comments at 16-17.

technologies. In the body of the Order, it states in Section 201(C), that any provider that cannot deliver calling party identification must file with the Commission within (60) days of either the Order or acquisition of the network. In the Appendix, however, it states that *all* TSPs must *annually* file a Certification of Compliance. In light of the fact that TSPs that lack this capability are the exception and not the rule, Staff recommends that the Commission's Appendix to the Order be modified to only require those TSPs that cannot provide this capability to file annually, which is consistent with Section 201(C) of the Order.

With regard to reporting for Access Lines/Revenues, AT&T Louisiana and the Intervenors make compelling arguments that these reports no longer are necessary given today's competition. This reporting requirement was put in place back in 1996 with the beginning of competition, and requiring this information is no longer seems necessary. Staff recommends that this reporting requirement be eliminated for all TSPs. In the alternative, should the Commission find that additional information is needed to make a determination on this issue, Staff recommends that this matter be considered in a generic TSP docket.

#### **7. Commission Decision**

After discussion and consideration, the Commission adopts the Staff's recommendations and analyses as discussed, *supra*. The Commission declines to order a review or modification of Commission General Order dated February 28, 1990 (Outside Service Reporting); therefore, no change is made to that General Order. With regard to SS7 Certification annual reporting, Appendix A of Commission General Order dated March 29, 2000 (Docket No. U-24638) is modified consistent with Section 201(C) of that Order to require annual filings from only those TSPs that cannot satisfy the requirements of the Order with regard to forwarding caller identification information.<sup>197</sup> With regard to reporting for Access Lines/Revenues, Section 302.A of the Rules is eliminated for all TSPs such that reporting Access Lines/Revenues is no longer required.

#### **H. *To Eliminate the Rules and Requirements Around Technical and Market Trials***

##### **1. AT&T Louisiana Petition and Comments**

AT&T Louisiana claims that the rules set forth in Section 401.C.6.A that provide for a technical or market trial should be eliminated. These rules have no applicability in today's

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<sup>197</sup> Revised Appendix A of General Order dated March 29, 2000, *Docket U-24638*, is attached to this Order and labeled Order R-31839 Attachment B

market where competitive services are detariffed and governed by a customer service agreement, not tariffs.<sup>198</sup> For this reason, AT&T Louisiana requests elimination of the rules and regulations governing technical or market trials. To the extent these trials are used by a TSP, the rules and regulations governing competitive services should apply.

2. **Summary of Intervenor Comments**

(a) Opposition

None.

(b) Support/Non-opposition

Verizon supports.<sup>199</sup>

LCTA supports.<sup>200</sup>

CompSouth/Sprint do not oppose if the TSLRIC and cost support obligations remain in force.<sup>201</sup>

SCC supports.<sup>202</sup>

Cox does not oppose.<sup>203</sup>

3. **AT&T Louisiana Reply Comments**

With no opposition by the Intervenor, AT&T Louisiana requested the relief be granted.<sup>204</sup>

4. **AT&T Louisiana Comments and Reply Comments on Initial Recommendation**

AT&T Louisiana supports Staff's primary recommendation to eliminate technical and market trial requirements.

5. **Intervenor Comments and Reply Comments on Initial Recommendation**

(a) Opposition

CompSouth/Sprint oppose the Staff's primary recommendation on this issue, as their position is that these requirements should only be eliminated if the Commission retains TSLRIC and cost support requirements. In the alternative, they support the Staff's alternate recommendation to review this in a separate rulemaking.

(b) Support/Non-Opposition

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<sup>198</sup> AT&T Comments at 21-22.

<sup>199</sup> Verizon Comments at 1.

<sup>200</sup> LCTA Comments at 2, 10.

<sup>201</sup> CompSouth/Sprint Comments at 10.

<sup>202</sup> SCC Comments at 6.

<sup>203</sup> Cox Comments at 5.

<sup>204</sup> AT&T Reply Comments at 16-17.

The SCC supports Staff's primary recommendation.

The LCTA does not oppose.

Verizon supports.

**6. Staff Recommendation/Analysis**

(a) Staff Recommendation

Staff recommends elimination of this requirement or in the alternative, this matter should be reviewed in a generic TSP docket.

(b) Analysis

AT&T Louisiana effectively argues that the modifications requested by AT&T Louisiana are related to either legacy requirements that are no longer necessary in a competitive environment or otherwise conflict with the Commission's detariffing of competitive services. With only one Intervenor opposing, and seemingly no public policy to the contrary of AT&T Louisiana's request for relief, Staff recommends this request be granted. In the alternative, Staff recommends that be reviewed pursuant to a generic TSP docket.

**7. Commission Decision**

After discussion and consideration, the Commission adopts the Staff's recommendation and analysis as discussed, *supra*, and eliminates Section 401.C.6.A of the Rules<sup>205</sup> which requires technical or market trials. To the extent these trials are used by a TSP, the rules and regulations governing competitive services will apply.

**VI. Conclusion**

With competition comes better products, services, and market-based pricing all of which ultimately benefit the public.<sup>206</sup> AT&T Louisiana has demonstrated that robust competition exists in Louisiana as its customers are leaving traditional AT&T Louisiana services en masse and not returning to traditional landline telephone services (in all exchanges and all zones of

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<sup>205</sup> There is some confusion in the formatting of the Rules. With the elimination of Section 401.C.6.A. of the Rules, the Rules will also be modified for clarification in formatting discrepancies by moving what appears to be 401.D. ("The Commission hereby establishes the following substantive tariff rules to be incorporated as rules "5", "6" and "6.A" of the tariff rules and procedures adopted by the Commission in Order No. U-20375") to an annotated endnote reflecting the added Sections and without modifying the substantive Rules.

<sup>206</sup> See *AT&T Reply Comments at 15*. ("If AT&T maintains its legacy, copper-based network to meet whatever COLR obligations might arise, the costs of doing so indisputably impede its ability to satisfy the overwhelming consumer demand for modern services (because every dollar spent on the legacy technologies is a dollar that cannot be spent on the modern ones consumers are demanding). See also *Id. at p. 14* ("AT&T Louisiana's continuing COLR obligation is a discriminatory, unfunded mandate that has the potential to divert investment from new infrastructure and impede AT&T Louisiana from offering new and innovative services and technologies that better meet the needs and demands of today's Louisiana consumers.").

AT&T Louisiana's ILEC territory). Hence, this shows that there are viable competitive alternatives to AT&T Louisiana's services in the marketplace. As the Commission most recently noted in Docket R-31300 (the Commission's "Retail Service Quality Docket"), the Commission has been successful in its endeavors to advance competitive communication offerings in Louisiana, and AT&T Louisiana no longer needs to be singled out with regulations.<sup>207</sup> Further, as the Commission eliminated all hold over service quality and reporting measurements relative to AT&T Louisiana as an ILEC in Docket No. R-31300, with the instant Order it further removes several remaining retail regulatory obligations that single out AT&T Louisiana in the Local Competition Rules and allows AT&T Louisiana to compete on the same level with the many other providers that are offering consumers throughout Louisiana the services those consumers are demanding. It is the Commission's goal that this Order provides the opportunity for Louisiana's consumers to obtain and consume those communications products and services they need and demand, while continuing to protect consumers through oversight over AT&T Louisiana.

Staff's Final Recommendation was considered at the Commission's November 13, 2013 Business and Executive Session. After discussion and deliberation, on motion of Commissioner Holloway, seconded by Commissioner Boissiere, with Commissioners Skrmetta and Angelle concurring and Commissioner Campbell opposing, the Commission voted to adopt Staff's Final Recommendation as filed into the record on November 4, 2013. Commissioner Campbell made a substitute motion to reject Staff's Final Recommendation and deny all relief requested until U-Verse is available to everyone in Louisiana. The motion was not seconded.

**IT IS THEREFORE ORDERED:**

1. Section 601.E of the Rules is hereby amended to eliminate AT&T Louisiana's COLR obligation. Also, the Commission confirms that with the sunset of AT&T Louisiana's COLR obligation, AT&T Louisiana is also relieved of all universal service requirements set forth in Section 501 of the Rules. This action does not relieve AT&T Louisiana, or any other TSP, of their separate and independent obligations to contribute to the State USF as mandated by LPSC General Order dated April 29, 2005, as amended, and LPSC General Order dated February 9, 2009.

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<sup>207</sup> See *General Order dated July 26, 2013, Docket R-31300, at p. 5* (Commission eliminated AT&T-specific service quality metrics, rules, and penalties, and instead created one metric applicable to all TSPs.)

2. AT&T Louisiana is permitted to reclassify as competitive its 1FR and LOS-B service in Zones 1, 2, and 3 and move all remaining services in the Basic Services Basket and the Universal Services Basket to the Competitive Services Basket.
3. Sections 301.J.2 and 401.C.1.d of the Rules are clarified such that, to the extent these provisions ever applied to any TSP's retail services, these provisions are no longer applicable to retail services; however, they continue to apply to other services, i.e. wholesale.
4. Section 701.H and other application references to TSLRIC in the Rules are eliminated relieving AT&T Louisiana of the requirement that its rates must meet or exceed its total service long run incremental cost ("TSLRIC") unless the rate is meeting the equally low price of a competitor.
5. Section 701.F.2 of the Rules is eliminated relieving AT&T Louisiana of the requirement to file cost support data for new services. AT&T Louisiana is now subject to the same requirements as other TSPs, which are set forth in Section 401.C.3.a. Section 401.C.3.a requires TSPs to produce cost support for new service offerings upon request of the Commission.
6. Section 401.C.1.h is clarified such that when the Commission granted all TSPs the option of detariffing competitive services in Corrected General Order No. R-30347 (August 14, 2009), it also gave all TSPs the corresponding right to discontinue filing special marketing promotions of competitive services. Therefore, if a TSP, pursuant to Section 401.C.5.3 and 401.C.5.4 of the Rules, is not required to file a tariff for a particular service, Section 401.C.1.h is clarified such that TSPs are not required to file for special marketing promotions of that service.
7. A rulemaking proceeding shall be opened regarding the Commission's General Order dated January 21, 2000 (NSF Fee) and a revised rule mirroring the current legislation, *La. R.S. 9:2782(B)*, will be published for public comment and consideration by the Commission.
8. With regard to SS7 Certification annual reporting, Appendix A of Commission General Order dated March 29, 2000 (Docket No. U-24638) is modified so that it is consistent with Section 201(C) of that Order to require annual filings from only those TSPs that cannot satisfy the requirements of the Order with regard to forwarding caller identification information. [Revised Appendix A to General Order dated March 29, 2000 (Docket No. U-24638) is attached to this Order and labeled Order R-31839 Attachment B].

9. Section 302.A of the Rules is eliminated for all TSPs removing the requirement to file annually a report of: 1) the number of customers, access lines served, and revenues subdivided by residential and business; 2) the availability of service capabilities and service offerings; and 3) all financial reports, including income statement and balance sheets.
10. Section 401.C.6.A of the Rules, which requires technical or market trials, is eliminated. To the extent these trials are used by a TSP, the rules and regulations governing competitive services will apply.
11. To the extent there is any conflict between the language in this Order and the Rules, the Rules govern. See Attachment A of this Order for the revised Rules and Attachment B for modifications made to Appendix A of Commission General Order dated March 29, 2000, Docket U-24638.

**THIS ORDER IS EFFECTIVE IMMEDIATELY.**

**BY ORDER OF THE COMMISSION  
BATON ROUGE, LOUISIANA**

March 11, 2014

*/S/ ERIC F. SKRMETTA*

DISTRICT I

CHAIRMAN ERIC F. SKRMETTA

*/S/ CLYDE C. HOLLOWAY*

DISTRICT IV

VICE CHAIRMAN CLYDE C. HOLLOWAY

*OPPOSING*

DISTRICT V

COMMISSIONER FOSTER L. CAMPBELL

*/S/ LAMBERT C. BOISSIERE*

DISTRICT III

COMMISSIONER LAMBERT C. BOISSIERE, III

  
EVE KAHAO GONZALEZ  
SECRETARY

*S/ SCOTT A. ANGELLE*

DISTRICT II

COMMISSIONER SCOTT A. ANGELLE

**LOUISIANA PUBLIC SERVICE COMMISSION**

**GENERAL ORDER**

**LOUISIANA PUBLIC SERVICE COMMISSION  
EX PARTE**

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*In re: Regulations for Competition in the Local Telecommunications Market.*

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(As most recently amended by General Order No. R-31839,  
dated March 11, 2014)

**ATTACHMENT A**

**REGULATIONS FOR COMPETITION IN  
THE LOCAL TELECOMMUNICATIONS MARKET**

**LOUISIANA PUBLIC SERVICE COMMISSION  
REGULATIONS FOR COMPETITION IN  
THE LOCAL TELECOMMUNICATIONS MARKET**

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**PREAMBLE**

The Louisiana Public Service Commission hereby promulgates the following regulations (the "Regulations") to foster the transition from monopoly to competitive local telecommunications markets in Louisiana. The Commission imposes these Regulations for competition within local service areas in order to encourage competitive entry, preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.

The Commission recognizes that, given current local telecommunications markets, competition in every segment of these markets will take time to develop. It is likely that the introduction of competitive services will occur asymmetrically, with new entrants initially targeting high volume, heavily populated urban areas and other selected high-profit areas, and therefore, the benefits resulting from competition will be seen first in those areas. However, it is the policy of the Commission that all Louisiana consumers should benefit from competition. Although a limited exemption is proposed for incumbent local exchange carriers with 100,000 access lines or less in Louisiana, the Commission encourages competition throughout Louisiana.

These Regulations are designed to ensure that Louisiana consumers in the aggregate benefit from competition. The Commission grants telecommunications services providers the opportunity to compete in local telecommunications markets under the condition that the consumers of Louisiana benefit by having greater choices among telecommunications products, prices and providers. Through the development of effective competition, which promotes the accessibility of new and innovative services at non-discriminatory prices consumers can and are willing to pay, and which results in wider deployment of existing services at competitive prices, the public interest will be promoted.

## SECTION 101. Definitions

1. **Basic Local Service** - those telecommunications services required to provide residential and single-line business customers with each of the items comprising the definition of Universal Service as specified in Section 501 of these Regulations.
2. **Basic Services Basket** - for purposes of the Price Plan set forth in Section 701 and ILECs regulated thereunder, the category of services required to provide basic local service to residential and single line business customers, including all services itemized in the Price Plan as set forth in Appendix A.
3. **Bona Fide Request** - a request to a telecommunications services provider that demonstrates a good faith showing by the requesting party that it intends to purchase the services requested within ninety (90) days of the date of the request.
4. **Central Office** - a facility within a telecommunications network where calls are switched and which contains all the necessary equipment, operating arrangements and interface points for terminating and interconnecting facilities such as subscribers' lines and interoffice trunks.
5. **Commission** - the Louisiana Public Service Commission.
6. **Commercial Mobile Radio Service (CMRS)** - a mobile service that is: (a)(1) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (2) an interconnected service; and (3) available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (b) the functional equivalent of such a mobile service described in paragraph (a) of this definition. 47 CFR § 20.3, as amended. CMRS includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500 *et seq.*
7. **Commercial Mobile Radio Service Provider** - any person or entity engaged in the provision of a service that is a commercial mobile radio service. CMRS Provider includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500 *et seq.*
8. **Competitive Access Provider (CAP)** - a telecommunications services provider offering and/or providing only exchange access services or private line services in a local service area.
9. **Competitive Local Exchange Carrier (CLEC)** - a telecommunications services provider, except a CAP, offering and/or providing local telecommunications services in competition with an ILEC.
- 9a. **Competitive Services Basket** - for purposes of the Price Plan and ILECs regulated under the provisions of LPSC Order NO. U-24802, Subdocket B, the category of all services not otherwise classified as Universal, Basic, or Interconnection Services as itemized in Appendixes 1, 2 and 3 attached hereto.
10. **Carrier of Last Resort (COLR)** - the telecommunications services provider designated by the Commission to be the obligated provider of basic local service within a particular local service area.
11. **Exchange Access Services** - the provision of switched or dedicated telecommunications services which connect an end-user to an interexchange carrier for the purpose of originating or terminating interexchange telecommunications. These services are provided by facilities in an exchange area for the transmission, switching, or routing of interexchange telecommunications originating or terminating within the exchange area.
12. **Exchange Area** - a geographic area established by a telecommunications services provider consisting of one or more central offices together with associated facilities used in furnishing local telecommunications services within the area in which telecommunications services and rates are the same.
13. **Facilities Based Telecommunications Services Provider** - a telecommunications services provider which has deployed and is using its own significant telecommunications equipment or

facilities within a particular geographic area in Louisiana to serve its Louisiana subscribers. A facilities based provider may offer services exclusively over its own facilities, or partially over its own facilities and partially through the resale of ILEC and/or CLEC wholesale offerings.

14. Gross Domestic Product-Price Index (GDP-PI) - the total value of all currently produced goods and services in the United States during any particular time period as is calculated by the United States Bureau of Economic Analysis of the Department of Commerce.

15. Incumbent Local Exchange Carrier (ILEC) - telecommunications services provider that is the incumbent and historical wireline provider of local telecommunications services within a local service area as of the effective date of these Regulations, and any intrastate regulated affiliate or successor to such entity which is engaged in the provisioning of local telecommunications services.

15a. Informational Tariff - tariff associated with competitive services only and filed with the Commission as information only and not requiring Commission acceptance.

16. Interconnection - the physical linking of networks, including signaling facilities, of telecommunications service providers that provides the reciprocal ability to handoff calls from customers on one network to customers on another provider's network in a manner that is transparent to customers, and which allows one provider to utilize unbundled basic network functions of another provider for the purpose of providing an end-to-end service to end users. Interconnection can be achieved at different points on the network.

17. Interconnection Services - for purposes of Price Plan and ILECs regulated thereunder, the category of services that allow telecommunications services providers to interconnect to an incumbent local exchange carrier's network to originate or terminate telecommunications services, including all services itemized in the Price Plan. For other purposes, those services offered by telecommunications services providers to other providers to interconnect networks in order to originate or terminate telecommunications traffic, and to interconnect at all unbundled points on another provider's network. See Appendix B for a listing of Interconnection Services Basket. See Appendix 3 for a listing of Interconnection Services Basket for ILECs regulated under the Price Plan provisions set forth in LPSC Order No. U-24802, Subdocket B.

18. Interexchange Carrier - a telecommunications services provider of interLATA telecommunications services.

19. Interexchange Telecommunications - telecommunications traffic that originates in one exchange area and terminates in a different exchange area regardless of the service or facilities used to originate and terminate traffic.

20. Intraexchange Telecommunications - telecommunications traffic that originates and terminates within the same exchange area regardless of the service or facilities used to originate and terminate traffic.

21. LPSC - the Louisiana Public Service Commission.

22. Local Exchange Carrier (LEC) - telecommunications services provider offering and/or providing local telecommunications services.

23. Long Distance - any telephone call to a location outside a local service area. Also called a toll call.

24. Local Service Area - the geographic area in which end users may place telephone calls without incurring toll charges which includes a flat rate calling area. The local service area of a CLEC may be different from the local service area of an ILEC. Nothing in this definition shall preclude the provision of toll service within the expanded Local Optional Service Area as described in Order No. U-17949-N, dated October 18, 1991.

25. Local Telecommunications Services - telecommunications services traditionally provided by an ILEC as a local service, including but not limited to, exchange access services, private line

services, basic local services, and public pay phone services.

26. Long Run Incremental Cost - the costs a company would incur (or save) if it increases (or decreases) the level of production of an existing service or group of services. These costs consist of the costs associated with adjusting future production capacity and reflect forward-looking technology and operations methods.

27. Market Trial - a trial involving paying customers that focuses on the collection of primary market research information that could impact the marketing of a product or service, such as customer acceptance of a product or service and/or willingness to pay for a product or service.

28. Mobile Service - a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: a) both one-way and two-way radio communication services; b) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and c) any service for which a license is required in a personal communications service pursuant to 47 CFR Part 24. 47 CFR Sect. 20.3, as amended. Mobile Service includes "Radio Common Carriers" as that term is defined and used in La. R.S. § 45:1500 *et seq.*

29. Non-Basic Services - for purposes of the Price Plan set forth in Section 701 and ILECs regulated thereunder, and who have not opted into the new provisions pursuant to Commission Order No. U-24802-B, all services not otherwise classified as basic or interconnection services offered by an ILEC. See Appendix A and Appendix B attached.

30. Number Portability - the ability of an end-user customer of local telecommunications services to retain his existing telephone number(s) without impairment of quality, reliability or convenience, when changing from one provider of local telecommunications services to another, as long as the user remains at the same location.

31. Private Line Service - any dedicated point-to-point, or point-to-multi point service for the transmission of any telecommunications services.

32. Private Mobile Radio Service (PMRS) - As defined at 47 CFR § 20.3, as amended.

33. Public Pay Telephone Service Provider - COCOTs as defined in Commission Orders U-16462, U-16462-A through U-16462-G, General Order dated March 30, 1995 and any subsequent Orders, including but not limited to, Orders resulting from Docket No. U-21322.

34. Rate - the price of a service either approved or accepted by the Commission. For those TSPs who choose to utilize online service guidebooks and price lists, or informational filings for competitive services, the rates contained therein shall not require Commission acceptance.

35. Resale - the offering of services, elements, features, functions, and capabilities for sale to competing telecommunications services providers.

36. Reseller - a telecommunications services provider that purchases telecommunications services from another provider for resale to end users for a fee.

37. Small ILEC - an incumbent local exchange carrier that meets the definition of a "rural telephone company" contained in the Communications Act of 1934, as amended.

38. Subscriber List Information - any information (a) identifying the listed names of subscribers of a TSP and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications, and (b) that the TSP or an affiliate has published, caused to be published, or accepted for publication in any directory format.

39. Technical Trial - a trial involving non-paying customers that focuses on assessing the

technical capabilities of a new network serving arrangement, including technologies and supporting equipment, and associated supporting systems, such as ordering, billing, provisioning and maintenance systems. Services provisioned pursuant to a technical trial may include new services and/or new ways of providing existing services.

40. Telecommunications- the bi-directional transmission of information of the user's choosing between or among points specified by the user, including voice, data, image, graphics and video, without change in the form or content of the information as sent and received, by means of an electromagnetic and/or fiber optic transmission medium, including all instrumentalities, facilities, apparatus and services (including the collection, storage, forwarding, switching and delivery of such information) essential to such transmission.

41. Telecommunications Directory Publisher (TDP) - any person or entity, including affiliates of an ILEC, engaged in the business of publishing subscriber list information, in any format.

42. Telecommunications Equipment - equipment, other than customer premises equipment, used by a telecommunications services provider to provide telecommunications services including software integral to such equipment.

43. Telecommunications Service - the offering and/or providing of telecommunications for compensation or monetary gain to the public or to such classes of users as to be effectively available to the public regardless of the facilities used to transmit the telecommunications services.

44. Telecommunications Services Provider (TSP) - a generic term used to refer to any person or entity offering and/or providing telecommunications services for compensation or monetary gain.

45. Toll Call - a call to any location outside the local service area. Also called a long distance call.

46. Total Service Long Run Incremental Cost (TSLRIC) - the total additional cost incurred by a telecommunications services provider to produce the entire quantity of a service, group of services, or basic network functions, given that the telecommunications services provider already provides all of its other services. TSLRIC is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.

47. Unbundle - disaggregation of a facilities-based telecommunications services provider's network services, including elements, features, functions and capabilities whenever technically feasible at rates as determined by the Commission.

48. Universal Service - as defined by Commission General Order dated May 22, 1995, and any subsequent modifications or amendments thereto.

49. Universal Services Basket - For purposes of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B, the category of services required to provide basic local service as itemized in Appendix 1.

### Historical Notes

**Definition 2, Basic Services, was renamed "Basic Services Basket" by General Order No. R-30347, dated April 15, 2009; modified by General Order No. R-31839, dated March 11, 2014 to delete the sentence: "For purposes of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B, the category of services required to provide basic services including all services itemized in Appendix 2 of the Price Plan." All services previously residing in the Basic Services Basket in Appendix 2 of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B, have been reclassified to the Competitive Services Basket, thereby removing all remaining services in the Basic Services Basket in Appendix 2.**

**Definition 9a, Competitive Services Basket, was added by General Order No. R-30347, dated April 15, 2009; modified by General Order No. R-31839, dated March 11, 2014 such that all services previously residing in the Universal Services Basket in Appendix 1 and the Basic Services Basket in Appendix 2 of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B have been reclassified to the Competitive Services Basket thereby removing all remaining services in the Universal Services Basket in Appendix 1 and the Basic Services Basket in Appendix 2.**

**Definition 10, Essential Telecommunications Carrier (“ETC”) was renamed “Carrier of Last Resort” by the General Order dated February 9, 2009.**

**Definition 17, Interconnection Services, was revised to include the last 2 lines, beginning with “See Appendix B” by General Order No. R-30347, dated April 15, 2009.**

**Definition 49, Universal Services Basket, was added by General Order No. R-30347, dated April 15, 2009; modified by General Order No. R-31839, dated March 11, 2014, such that all services previously residing in the Universal Services Basket in Appendix 1 of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B have been reclassified to the Competitive Services Basket, thereby removing all remaining services in the Universal Services Basket in Appendix 1.**

## **SECTION 201. Public Interest**

A. Based on the complete record before the Commission in this docket, which includes the complete records, evidence and pleadings of Subdocket "D" of Docket U-17949 and the Regulatory Track of Subdocket "E" of Docket U-17949,<sup>1</sup> and considering the present state of the telecommunications market structure, the Louisiana Public Service Commission hereby finds, determines and declares that the promotion of competition in all local telecommunications markets in Louisiana is in the public interest.

B. Because effective competition will not exist in these markets in the short-term but will require a long-term policy enabling competition to develop, the Commission likewise finds, determines, and declares that providing an appropriate regulatory framework and methodology to transition into effective competition is additionally in the public interest.

## **SECTION 202. Service Areas**

A. TSPs are permitted to provide telecommunications services in all historically designated ILEC service areas as described in existing Commission orders as of the effective dates of these Regulations, or in maps, tariffs and rate schedules reviewed and approved by the Commission prior to the effective date of these Regulations, except as provided for in Section 202 (B) with respect to the service area served by Small ILECs.

B. 1. All requests for interconnection made of a Small ILEC for interconnection described in Section 251 (c) of the Communications Act of 1934, as amended ("the Act") shall be made and addressed in accordance with the requirements stated in Section 251 (f)(1) of the Act, and with final Orders of the Federal Communications Commission.

2. Notwithstanding Section 202(B)(1) above, a Small ILEC may petition the Commission for a suspension or modification of the application of a requirement or requirements found in Sections 251 (b) and 251 (c) of the Act. The Commission shall consider and grant any such petition in accordance with the requirements of Section 251(f)(2) of the Act.

C. For Commission regulatory purposes, a Small ILEC choosing to provision telecommunications services outside its historically designated service area(s) shall segregate the assets, liabilities, revenues and expenses relating to services provisioned in its historically designated service area(s) from those relating to services offered or provided outside its historically designated service area(s). Such Small ILEC's revenues not derived, and expenses not incurred from the Small ILEC's historically designated service area(s) shall not be considered by the Commission for purposes of applying Order No. U-21181, including LECAF funding. Such Small ILEC's traditional ILEC operations shall not cross-subsidize its competitive ventures.

D. If a Small ILEC forms a subsidiary and/or other affiliate entity to provision telecommunications services outside its historically designated service area(s), for Commission regulatory purposes, including the application of Order No. U-21181 and LECAF funding, the Small ILEC shall maintain separate books and accounts which segregate the assets, liabilities, revenues and expenses of the Small ILEC from those of the subsidiary and/or other affiliate entity. The Small ILEC's traditional ILEC operations shall not cross-subsidize the operations of any subsidiary and/or other affiliate entity providing telecommunications services outside the Small ILEC's historically designated service area(s). The Small ILEC shall apply all Commission imputation rules when dealing with its subsidiary and/or other affiliate.

E. An exclusive franchise, license or certificate shall not be issued to any TSP to provide telecommunications services for a particular service or geographic area by the Commission.

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<sup>1</sup> LPSC Order No. U-17949 - Subdocket D, March 2, 1995; and LPSC Order No. U-17949 (Subdocket E), August 22, 1995.

## **SECTION 301. Certification of Telecommunications Services Providers**

A. Any TSP desiring to offer telecommunications services is required to apply to the Commission for issuance of a Certificate of Authority. This application process shall not apply to ILECs with regard to their historically designated service areas and to TSPs exclusively provisioning CMRS and/or PMRS. Providers of CMRS and/or PMRS shall continue to register with the Commission.

B. Until modified by state or federal law, or explicit Commission order, operator service providers shall remain subject to the provisions of Order Nos. U-17957 through U-17957-C, and any subsequent orders. Public Pay Telephone Service Providers shall remain subject to the provisions of Order Nos. U-16462 through U-16462-G and any subsequent orders, including General Order dated March 30, 1995.<sup>2</sup> To the extent that operator service providers and public pay telephone service providers desire to expand their service offerings of telecommunications services beyond those authorized prior to the effective date of these Regulations, such providers must apply to the Commission for authority pursuant to, and agree to be bound by, these Regulations.

C. The Commission, through its Secretary, when in the public interest and subject to and in compliance with the conditions and procedures set forth below, shall grant a Certificate of Authority to an applicant that possesses the requisite managerial, financial and technical abilities to provide telecommunications services. A color-coded Certificate of Authority suitable for framing and display in a TSP's business office will be issued by the Commission. No TSP shall offer or provide telecommunications services to any person or entity prior to obtaining a Certificate of Authority from the Commission.

D. TSPs operating under a Certificate of Authority issued prior to the effective date of these Regulations or, granted pursuant to this Section, or TSPs previously registered with the Commission, are prohibited from providing telecommunications services to or on behalf of an uncertificated TSP that is required to be certificated pursuant to this Section and which is providing telecommunications services in Louisiana.

E. Each applicant hereunder shall submit to the Secretary of the Commission an original and five (5) copies of its application along with an application fee of \$250.00 to cover the administrative costs of processing the application. The applicant shall also supply each Commissioner with a copy of its application simultaneously therewith. Upon request by the Secretary, and when reasonably feasible, an applicant shall also submit in addition to the original and five copies, a copy of its application on computer disk in a format specified by the Secretary. All applications shall include the following:

1. Legal name, and name under which the applicant intends to do business, mailing and physical addresses of the applicant, and telephone number where the applicant can be reached by the Commission.
2. The names and addresses of the applicant's principal corporate officers.
3. If different from (2) above, the names and addresses of all officers and corporate officers in Louisiana, and the names and addresses of employees responsible for Louisiana operations.
4. Information about the structure of the business organization, and, where applicable, a copy of any articles of incorporation, partnership agreement or by-laws of the applicant. An applicant shall also disclose all affiliate entities offering and/or providing telecommunications services in Louisiana.
5. A certified copy of the applicant's authorization to do business in Louisiana

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<sup>2</sup> In re: Registration and Certification of Customer-Owned Coin-Operated Telephone Service Providers. *See also* Docket No. U-21322, which shall consolidate and supersede the cited Orders as applied to public payphone service providers and operator service providers.

issued by the Secretary of State.

6. The name, address and telephone number of the applicant's Louisiana agent for service of process.

7. Documentation demonstrating managerial, financial and technical abilities, including but not limited to, the following:

(a) To demonstrate financial ability, each applicant shall provide a copy of its most recent stockholders annual report and its most recent SEC 10K, or, if the applicant is not publicly traded, its most recent financial statements. If the applicant does not have separate financial reports, it may submit applicable financial statements of an affiliate with explanation to demonstrate the financial ability of the applicant.

(b) To demonstrate managerial ability, each applicant shall attach a brief description of its history of providing telecommunications services and shall list the geographic areas in which it has been and is currently providing telecommunications services. Newly created applicants shall list the experience of each principal officer in order to show its ability to provide service.

(c) Technical ability shall be indicated by a description of the applicant's experience in providing telecommunications services, or in the case of newly created companies, the applicant may provide other documentation which supports its technical ability.

8. A description of the services proposed to be offered, the proposed exact geographic areas in which the services shall be offered and a map thereof.

9. Repair and maintenance information, including the name, address and telephone number of a Louisiana contact person responsible for and knowledgeable about the applicant's operations.

10. A list of other states where the applicant has applied to operate as a telecommunications services provider and/or to offer telecommunications services, a list of other states where the applicant is authorized to operate, and a list of those states which have denied any requested authority.

11. Illustrative tariffs in compliance with the requirements set forth in Section 401 below.

12. Such other information as the Commission Staff may specifically request of any applicant.

#### F. SECURITY REQUIREMENTS

1. The Commission, through its Executive Secretary, shall require that all certificated carriers that resell prepaid basic local service to end users shall procure a performance bond, irrevocable letter of credit or other approved form of security sufficient to cover, among other things, any customer prepayments or deposits that may be collected from its end users.

This security requirement shall be a continuing one which automatically renews and is not subject to termination without at least 60 days written advance notice provided to the Commission from the surety and Certificated carrier reselling prepaid local service.

Upon receiving notification that the security will be canceled, the certificated carrier reselling prepaid local service shall have 30 days following the notice of the cancellation to send proof of a new bond, letter of credit or other acceptable

security agreement to the Commission. Should the certificated carrier reselling prepaid local service fail to provide proof prior to the lapse of this 30-day period, the Commission may institute proceedings to revoke the carrier's certificate.

2. The performance bond, letter of credit or certificate of deposit shall be in the form approved by Commission Staff. The amount of security required shall be calculated on a sliding scale, determined quarterly by the carrier and automatically submitted to the LPSC staff, using the following formula:

$$(N^* \times \text{Deposit collected per customer}) + (N \times \text{Monthly prepaid fee}) + (N \times \$ .50^3) \\ = \text{Required amount of Security/Bond.}$$

\* N shall be the total number of end users or access lines, whichever is greater.

\$50,000.00 shall be the base or minimum amount of security a carrier is required to post with the Commission.

3. All existing certificated carriers reselling prepaid local service shall also comply with these new security requirements within 30 days of the effective date of this order.

4. A certificated carrier reselling prepaid local service shall provide the Commission with quarterly reports detailing the number of customers, number of access lines and amount of deposit and prepaid monthly fee for basic local service charged per customer. Should the number of customers, lines, or charges increase, the certificated carrier reselling prepaid local service shall automatically adjust its security on file with the Commission at the expiration of the quarterly deadline. The reports shall be due as follows: April 30 for data existing on April 15; July 30 for data existing on July 15; October 30 for data existing on October 15; and January 30 for data existing on January 15.

All carriers must provide supporting data as described above, calculate the security as provided under these regulations and post the appropriate bond within 30 days of the effective date of this order based on information from the most recent available figures. In any event, this information must not be more than 2 weeks old.

5. The penalty for failing to comply with any one of these requirements includes a fine of not greater than \$10,000.00 and /or revocation of the carrier's certificate by the Executive Secretary, following 10 days written notice of the proceeding for revocation. The Executive Secretary shall also have the authority to order the ILEC to place a freeze on the non-complying carrier's new orders until the appropriate quarterly security update is posted and requirements in this order have been met.

6. The Commission may require a bond or other security requirement at any time for those carriers excluded from these regulations, based upon the carrier's managerial, financial or technical ability.

G. A showing of public convenience and necessity shall not be required of an applicant hereunder. A showing that an ILEC's services or facilities are somehow inadequate in any local service area as a condition precedent for grant of authority to an applicant hereunder shall not be required nor considered by the Commission.

H. Applications determined by the Commission Staff to be in compliance with each of the above requirements may be approved by the Commission through its Secretary and a Certificate of Authority issued therewith, unless the Secretary elects to publish notice of any application in accordance with Rule 19 of the Commission's Rules of Practices and Procedures,

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<sup>3</sup>This figure is based upon the cost of producing and mailing notices to customers of a possible disconnection, in the event the reselling carrier fails to provide notification.

in which case a Certificate of Authority may be issued pending the resolution of any protest filed pursuant to subsection I below. Notice of approved applications will be published in the Commission's Official Bulletin.

I. Any notice of protest timely filed in accordance with Rules 19 and 20 of the Commission's Rules of Practices and Procedures shall be docketed and administered pursuant to Rules 54 through 66 of the Commission's Rules. Any applicant issued a Certificate of Authority hereunder shall be allowed to provide telecommunications services pending final resolution of any notice of protest filed pursuant to Rule 20 of the Commission's Rules.

J. TSPs obtaining a Certificate of Authority under this Section shall obtain certification subject to the following conditions and obligations:

1. TSPs shall comply with all Commission rules, regulations, orders, tariff and other requirements relevant to the provision of telecommunications service.
2. TSPs are prohibited from engaging in unreasonable price discrimination, predatory pricing, price squeezing, or tying arrangements with respect to other TSPs and end users regardless of whether services are offered pursuant to tariff and/or contract.
3. TSPs are prohibited from providing preferences related to the provisioning of telecommunications services to affiliated entities.
4. TSPs shall file with the Secretary of the Commission all reports required pursuant to section 401 and service standards as appropriate pursuant to Section 302.
5. TSPs shall maintain on file with the Commission all current tariffs and service standards, as required by these regulations.
6. TSPs shall cooperate with Commission investigations of customer complaints.
7. As required by the Commission, TSPs shall participate in and contribute to a Universal Service Fund.
8. TSPs shall comply with the mandates of Commission Order No. U-17656-B, dated October 20, 1992 regarding the Americans with Disabilities Act.
9. Following certification, TSPs are required to file tariff amendments pursuant to Section 401 regarding new service offerings and changes to the geographic areas where services are to be offered prior to provisioning a new service or implementing a change in service area(s).
10. After notice and hearing, such other obligations the Commission may require.

Failure of a TSP to comply with any of the above conditions and obligations may, after notice and hearing, result in the rescission of its Certificate of Authority and/or the imposition of monetary fines not exceeding ten thousand dollars (\$10,000) per violation.

K. In addition to the conditions and obligations applicable to all TSPs set forth above in subsection J, TSPs designated by the Commission as CLECs shall be subject to the following additional conditions and obligations:

1. Upon request a CLEC shall provide to any customer in its certificated area basic local service, and shall render adequate service within its certificated area. This does not relieve an ILEC from its obligations to subscribers arising from its status as the Essential Telecommunications Carrier.
2. Within ninety (90) days of receipt of a bona fide request, a facilities-based CLEC shall provide interconnection as close as technically possible to the end

user or at other locations more efficient, technically or economically feasible to the party requesting interconnection. A cable television system providing telecommunications services as a CLEC shall make interconnection available at its head end or at other locations more efficient, technically or economically feasible to the party requesting interconnection.

3. A facilities-based CLEC shall make all telecommunications service offerings on its facilities available for resale within the same class of service without unreasonable discrimination.
4. A CLEC shall charge non-discriminatory switched access rates which do not exceed the intrastate switched access rates of the competing ILEC in each of the CLEC's certificated areas.
5. All CLECs shall charge non-discriminatory interconnection rates.
6. All CLECs shall provide all customers equal access presubscription to their long distance carrier of choice as provided by Commission Orders.
7. Upon request a CLEC shall provide, either on its own facilities or through resale, service in accordance with its tariffs to all customers in the same service classification in its certificated areas.

Failure of a CLEC to comply with any of the above conditions and obligations may, after notice and hearing, result in the rescission of its Certificate of Authority and/or the imposition of monetary fines not exceeding ten thousand dollars (\$10,000) per violation.

L. After notice and hearing, the Commission may impose monetary fines not exceeding ten thousand dollars (\$10,000) per violation, or revoke a certificate previously issued to any applicant which:

1. Does not provide or fails to disclose information required by subsections E and F of this Section.
2. Submits false or materially misleading information in its application.
3. Is found not to possess adequate financial, managerial and/or technical abilities to provide services.
4. Fails to provide a performance bond, line of credit and/or certificate of deposit, or establish an escrow or trust account, if required as a precondition to certification or, after notice and hearing, subsequent to the granting of certification.
5. Is found to have failed to comply with any and all applicable Commission rules, regulations, orders, tariffs, and procedures, including these Regulations such as the conditions and obligations imposed in subsections J and K above.

M. 1. No TSP shall transfer control or ownership of any assets, common stock or other indicia of control of the carrier to any other person, corporation, partnership, limited liability company, utility, common carrier, subsidiary, affiliated company or any other entity or divide into two or more common carriers, where the values involved in such transaction exceed one percent (1%) of the gross assets of such regulated common carrier, or subsidiary thereof, without prior notice to the Commission. Such notice shall include information identifying the parties involved, a summary description of the transaction, and a public interest statement.

Any notice filed pursuant to subsection M (1) above shall be published in the Commission's Official Bulletin with a 15-day period for any party in interest to file an intervention or protest. If no intervention or protest is filed by a party in interest within the 15-day period, the transfer shall be deemed approved. If a timely intervention or protest is filed by a party in interest, the Commission through its Secretary shall initiate a proceeding and, after notice to and comments from the applicant(s) and party in interest, may reject, require modification of, or impose

conditions on any transfer found to be contrary to the public interest.

This section and the procedures hereunder shall apply only to TSPs other than ILECs. Nothing in this section shall affect the application of any Commission rules, regulations or orders applicable to ILECs.

2. If a TSP changes its corporate name, the TSP shall file a notice of such name change with the Commission within ten (10) business days of the name change.

## **SECTION 302. Reporting Requirements of Telecommunications Services Providers**

A. [Section 302.A was deleted by General Order No. R-31839, dated March 11, 2014.]

B. One year from the date of obtaining its Certificate of Authority, and semi-annually thereafter, all LECs shall file with the Commission retail service quality reports as follows:

1. Commission Complaints per 10,000 access lines for LECs with more than 100,000 access lines; or Commission Complaints per 100 access lines for LECs with less than 100,000 access lines regarding residential telecommunications service.

If the Commission finds as a result of monitoring that the LEC's service quality is substandard as compared to other LECs, the Commission may, after notice and hearing, take action as it deems necessary and proper to assure a desirable level of service quality, including imposing a monetary penalty not exceeding ten thousand dollars (\$10,000) per violation.

C. The Commission may modify these reporting requirements as technology and customer needs change and as competition in the local market develops.

### **Historical Notes**

**Section 301.J.2 was clarified by General Order No. R-31839, dated March 11, 2014, to the extent this provision ever applied to retail services, this provision is no longer applicable to retail services; however, it continues to apply to other services, i.e. wholesale.**

**Section 301.J.5 was revised to include the language, "as required by these regulations" by General Order R-30347, dated April 15, 2009.**

**Section 301.M was added by the General Order dated December 14, 2006.**

**Section 302.A was deleted by General Order No. R-31839, dated March 11, 2014. In addition, General Order No. R-31839 modified Appendix A of Commission General Order dated March 29, 2000 (Docket No. U-24638, *In re: Rules and Regulations Regarding Telephonic Solicitation within Louisiana*) by eliminating the requirement that all TSPs file with its annual report a certification of compliance regarding the TSPs ability to deliver party number identification. See Attachment B to General Order No. R-31839.**

**Section 302.A.1 was revised to include the language "TSPs operated under the Price Plan pursuant to Section 701 are subject to similar requirements stated in Section 701.J.2 in lieu of this requirement" by General Order No. R-30347, dated April 15, 2009.**

**Section 302.B was modified by General Order No. R-31300, dated July 26, 2013, to incorporate new reporting requirements.**

## SECTION 401. Tariffs

A. All TSPs shall file tariffs with the Commission describing the services offered and the rates charged. All such tariff filings shall be in compliance with the rules set forth in Order No. U-20375, dated November 18, 1994 as contained in these Regulations. Upon request tariffs shall be filed on a computer disk in a format specified by the Commission Secretary.

B. Providers of CMRS and providers of PMRS shall file tariffs which identify and describe the rates, terms and conditions of services offered and provided in Louisiana. Such tariff filings shall be reviewed by the Commission consistent with the mandates of the Omnibus Budget Reconciliation Act of 1993 as codified at 47 U.S.C.A. §332, as amended.<sup>4</sup> However, to ensure the universal availability of telecommunications services to Louisiana consumers at affordable rates, providers of CMRS or PMRS, where such services have become or are a substitute for land line telephone exchange service for a substantial portion of the communications within the State, shall be required to abide by and comply with these tariff filing requirements.

C. Except as modified in subsection 401.B, the Commission hereby incorporates and restates the technical tariff rules as adopted in Order No. U-20375 and as amended as shown herein.

### 1. General Requirements

- a. Except as otherwise specified herein, each regulated telecommunications services provider shall maintain on file with the Commission tariffs which set forth all of the rates and charges for customer services, the different services available to subscribers, and the conditions and circumstances under which service will be furnished. When the Commission has authorized contract rates, the conditions under which such contracts may be offered shall be clearly stated in the provider's tariff but the contracts themselves need not be part of the tariff. Upon request by the Commission, the contracts are to be made available to the Commission for its review. The tariff shall not include charges for detariffed equipment and services.
- b. Each tariff shall be Louisiana-specific and all rates, charges, and service descriptions shall be for intrastate usage, unless interstate rates are necessary to compute the intrastate portion of a customer's monthly bill; then, the interstate rates, charges and service description shall also be quoted in the tariff or referenced and readily available to the extent necessary to compute the intrastate portion of a customer's bill.
- c. Each tariff must be clearly expressed in simple words, sentences and paragraphs. It must avoid unnecessarily long, complicated or obscure phrases or acronyms so that the customer will understand that for which he is contracting or obligated to pay.
- d. Each tariff shall be written in a manner such that service will be provided on a non-discriminatory basis. No public statement of service quality, rates, or service offerings or billings should be misleading or differ from those stated in the tariff.
- e. A printed notice shall be kept posted by each company in a public and conspicuous place in each office, if any, where application for service may be made stating that its tariff and standard contract and agreement forms, are on file at that office and are open to examination by any person. In the case of telecommunications providers without an office in Louisiana the notice and tariffs will be maintained at the office of local counsel or the agent for service of process. The holder of this information shall be disclosed to the Commission.

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<sup>4</sup> See also, *In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order*, 9 FCC Rcd. 1411 (1994); and *In the Matter of Petition on Behalf of the Louisiana Public Service Commission for Authority to Retain Existing Jurisdiction over Commercial Mobile Radio Services Offered Within the State of Louisiana*, Report and Order, PR Docket No. 94-107 (1995).

- f. All proposed changes to an existing, filed tariff shall be directed to the Secretary of the Louisiana Public Service Commission, Post Office Box 91154, Baton Rouge, Louisiana 70821-9154. A filing must be received by the Commission before 4:30 P.M. of a normal Commission workday in order for it to be "filed" on that day.
- g. All tariff changes shall be submitted to the Commission in quadruplicate in substantially the same form described herein. The letter of transmittal shall be sent in duplicate with the request that the duplicate be returned. If requested, the duplicate copy stamped "Received" will be returned to the company, which shall be the notice to the company that the proposed tariff has been received. Once the tariff has been accepted by the Commission, the telecommunications services provider will be notified either by notation on the tariff transmittal letter submitted by the provider, or by separate letter from the Commission.
- h. Telecommunications services providers shall charge only the rates contained or allowed in their tariffs or publicly available Service Guide/Guidebooks. Telecommunications services providers electing to enter special marketing promotions where they desire to temporarily lower rates or suspend specific charges and later return to existing tariff rates, may notify the Commission by letter stating the specific tariff charges, a description of the customers who would be eligible for the decrease, the conditions under which customers would receive a decrease, the conditions under which customers would receive a decrease, and the beginning and ending dates of the reduction. The rules and regulations governing special marketing promotions for all TSPs are governed by the rules and regulations contained herein, notwithstanding any other order of this Commission to the contrary. The filing requirement for special marketing promotions of a service will follow the same filing requirements for a tariff of the same services being promoted, as set forth in 5(b)(3) and 5(b)(4) below.

## 2. Format

- a. All tariffs filed shall be submitted in loose leaf form on 8-1/2" x 11" sheets, typewritten on a good grade of white three hole paper of durable quality, using one side of the paper only. All copies must be clear and legible. Sufficient margin shall be allowed on each sheet for a left-hand binding edge so that when the tariff book is open all printed matter will be in view.
- b. Every page in the tariff shall be numbered in the upper right hand corner of the page.
- c. Each page shall bear the name of the filing company in the upper left-hand corner of the page.
- d. Each initially approved page in the tariff shall be marked "Original Page" in the upper right-hand corner of the page. As an example: Original Page No. 1, or Original Page No. 5.2.
- e. Revised pages in the tariff shall be marked with the number of the revision in the upper right-hand corner and the number of the page(s) it replaces. As an example: First Revised Page No. 1  
Cancels Original Page No. 1  
or  
Fourth Revised Page No. 5.2  
Cancels Third Revised Page Nos. 5.2, 5.3  
and Second Revised Page 5.4
- f. On each page shall appear the Issued Date in the upper left-hand corner of the page. The Issued Date will be the date shown on the provider's transmittal letter to the Commission referencing the tariff filing.

- g. On each page shall appear the Effective Date in the upper right-hand corner of the page. The Effective Date will be the date indicated on the provider's transmittal letter to the Commission for the tariff to go into effect.
- h. On each page shall appear the name and/or title of the issuing officer of the filing company in the upper left hand corner of the page under the Issued Date.
- i. The filed tariffs shall contain the following in the order listed:
  - (1) Title Page. The title page shall adequately identify the tariff, filed by the particular company with the Commission and will include the name, address and telephone number of the company representative responsible for providing information with respect to the company's tariff filings.
  - (2) Table of Contents. All tariffs shall have a Table of Contents identifying the page location of each section in the tariff. In tariffs of less than 30 sheets, the table of contents may serve as subject index for the entire volume.
  - (3) Symbols Used in Tariff Filings. The following symbols will be used in any proposed change to the existing tariff in the manner described herein. The symbols will appear in the right margin of each sheet to denote the line(s) to which any change has been made. In the event more than one type of change occurs on the same line, two or more types of symbols denoting the changes shall be placed next to each other on the affected line. The following are the only letters allowed to denote the following types of change:
    - C - To signify Changed Regulation
    - D - Delete or Discontinue
    - I - Change Resulting in an Increase to a rate
    - M - Moved from Another Tariff Location
    - N - New
    - R - Change Resulting in a Reduction to a rate
    - S - Matter Appearing Elsewhere or Repeated for Clarification
    - T - Change in Text But No Change to Rate or Charge
    - V - Signifies Vintage Tariff
    - Z - Correction
  - (4) Technical Terms and Abbreviation. This section shall contain full and concise information as to the meaning of all technical and special terms and abbreviations used in the tariff.
  - (5) Rules and Regulations. This section shall include all rules, regulations, practices, exceptions and conditions made or observed relative to the services provided by the company which are general and apply to allow many of the services offered. It shall contain the telecommunications provider's deposit requirements. If a general regulation does not apply to particular service, that fact should be clearly stated within the regulation or as part of the specific regulations of a particular service.
  - (6) Description of Service Offered.
    - (a) This section shall contain a description of how a billable call is timed, when timing begins and ends, and the method used to make

this determination.

- (b) This section shall also contain a description of how distance is measured for toll rating purposes and the formula used to compute it, as well as what points are used for origination and termination with respect to calculation of the distance between them.
- (c) This section shall detail all relevant information which pertains to a particular type of service, and will be subdivided into subsections for each type of service offered.
- (7) Rates. All standard rate schedules, rates and charges for all services, and other data necessary to compute a customer's monthly bills for intrastate service shall be placed in this section. If more than one type of service is offered, all information pertaining to an individual service shall be grouped together or clearly cross-referenced.
- (8) Index. To facilitate reference by subject matter, tariffs of 30 sheets or more are to include an alphabetical listing of services and the page number on which they may be found.

### 3. Information to Accompany All Tariff Filings

- a. The original and one copy of a letter of transmittal to the Commission shall accompany each tariff filing, which lists the sheets (by section, page number, and revision level) being transmitted and gives a brief description of all changes included therein and the reasons for the change(s). The letter must also include a paragraph stating I) the service or product affected, (ii) the type of customer affected, (iii) the impact on the customer of the proposed change, and (iv) whether the affected service or product is competitive or non-competitive. In addition, if the tariff filing affects an optional service the letter must specify the existing price or rate for the service and any proposed change to the price or rate. The Commission reserves the right to request additional data, including cost of service data.
- b. With each tariff filing the provider shall include four (4) copies of the tariff pages which contain proposed changes as they appear in the filed tariff.
- c. If applicable, imputation compliance and testing data shall accompany the tariff filing.

### 4. Log-In Book and Bin

- a. The Commission's Staff shall maintain a log-in book for each tariff filing. The notation for each tariff shall consist of (i) the name of the entity filing the tariff, (ii) date filed, and (iii) a general, brief description of the filing. The log-in book shall be available to the public for inspection.
- b. The Commission's Staff also shall maintain a tariff bin for copies of all filed tariffs. Copies of filed tariffs shall remain in the tariff bin until the tariff is accepted, rejected, or published, whichever occurs first. The tariff bin shall be available to the public for inspection.

### 5. General Tariff Provisions.

- a. Except as provided in 5(b)(4), all tariffs (including revised tariffs) filed with the Commission must be accepted by the Commission through its Secretary prior to implementation. Except as provided in 5(b)(4) & (5) below, a tariff is accepted once signed by the Secretary.
- b. Accepted tariffs will become effective as follows:

1. All tariffs are effective upon acceptance or later if a later date is specified in the tariff.
2. A TSP may request expedited acceptance. However, the disposition of such request shall be subject to the ability of the Commission and its Staff to accommodate such request.
3. The Commission through its Secretary must accept, reject, or elect to follow the procedure set forth in 5(c) below within ten (10) working days after the filing of a tariff. If no action is taken within the ten (10) day period the tariff is deemed accepted.
4. Effective October 1, 2005, any ILEC regulated under Price Regulation may file informational tariffs with respect to existing Competitive Services. As specified in Section 401.C.8 of these Regulations, at the option of the TSP, the TSP may provide a publicly available online service guidebooks and price lists which contain the rates, terms and conditions of their Competitive Services. An existing Competitive Service is one contained in the Competitive Services Basket. Informational tariffs shall be effective with one (1) day's notice to the Commission, and shall not require Commission acceptance. All TSPs shall be allowed to file similar informational tariffs with the Commission, provided the services are similar in nature to those ILEC services contained in the Competitive Services Basket.
5. Tariff filings made pursuant to an order of the Commission shall be effective on the date specified by the Commission.

c. The Commission through its Secretary shall have the right to publish notice of a filed tariff in the Commission's Official Bulletin and either delay acceptance of any particular tariff filing or accept the tariff filing and publish notice of the accepted tariff.

d. Inherent within the Commission's plenary power is the Commission's authority to delay the acceptance of a tariff and consider the tariff at the Commission's Business and Executive Session. Additionally, the Commission may suspend for reasonable cause after notice and hearing any tariff previously accepted.

6. Rate Decreases and Introduction of New Services.

a. All Tariffs filed for the purpose of:

(1) lowering the rate of any service offered by a TSP, or

(2) introducing a new Universal, Basic, Competitive or Interconnection Service, program or promotion offered by an ILEC regulated pursuant to the Consumer Price Protection Plan, shall be subject to review by the Commission Staff. If no action is taken within the time periods mentioned in 5(b)(3) and 5(b)(4) above, then any such tariff or promotion shall be deemed to be accepted by the Commission.

b. The Commission through its Staff shall determine the classification or re-classification of telecommunications services pursuant to Section 701. C.

c. Upon acceptance of a tariff as provided 6(a) above, the tariff filing shall not be subject to suspension pending the outcome of any challenge to the filing or acceptance. The burden of proof in such a challenge shall be on the intervenor or complainant; provided, however, that if applicable and subject to the execution of a confidentiality agreement, the TSP that filed the tariff submits cost of service data as stated in Commission Order No. U-20375.

d. Tariffs filed by an ILEC that affect its toll products shall be subject to the

imputation/pricing standard set forth in Order No. U-20710. ILEC tariffs which include monopoly features and/or functions provided to other TSPs, except Local Optional Service (LOS), must impute the cost of all such monopoly features and/or functions when provisioning such services to itself. In addition, the Commission reserves the right to develop imputation rules applicable to other ILEC services as deemed necessary in the future.

6.A. Technical and Market Trials of Non-Basic Services.

[Section 401.C.6.A was deleted by General Order No. R-31839, dated March 11, 2014.]

7. Prohibited Tariff Filings

A tariff filing that is designed to alter or modify any Commission order, rule, regulation, policy or procedure in any way is prohibited.

8. Optional Transitioning of Competitive Services from Tariffs to Online Guidebooks and Price Lists

a. All TSPs have the option to provide online guidebooks and price lists for all services they offer. TSPs that elect the option of making their guidebooks and price lists available online must notify the Commission of this fact, provide the website address to the Commission, and print the website address on all customer bills.

b. TSPs electing to provide online guidebooks and price lists for competitive services must continue to file tariffs for those services classified as Basic Services or Universal Services.

c. This dual noticing, with both tariffs and online postings, should be continued for a period of two years. If any TSP ceases to provide online access to its price lists and guidebooks during this period, it must notify the LPSC and explain why it has chosen to do so.

d. At the end of the two year period, Staff will examine whether there have been any concerns or complaints from customers regarding the online noticing. If no problems have been encountered during the transition period, tariffs will no longer be required for any retail telecommunications service that was included in the TSP's online guidebooks and price lists.

D. Intentionally Left Blank.

E. [Section 401.E was deleted by General Order No. R-31839, dated March 11, 2014.]

F. Additional Technical Tariff Rules for the termination of a delinquent telecommunications reseller

1. Purpose. The Louisiana Public Service Commission hereby promulgates the following regulations to establish a procedure whereby an incumbent local exchange carrier may terminate a delinquent Reseller as defined by the two carriers' interconnection agreement while at the same time ensuring the protection of the innocent end-user consumer from improper disconnection, slamming and other abuses.

2. All ILECs must:

a. make a good faith effort to work with a Reseller in determining what portion of the debt owed is disputed and which portion is undisputed pursuant to the parties' interconnection agreement, and shall work with the carrier to resolve the problem and arrange for

payment, if possible, pursuant to the interconnection agreement entered into between the ILEC and the Reseller.

- b. Send notice of intent to terminate by certified mail to the Reseller at its last known address, to the Commission Office located in the same district as the utility whose service is to be terminated, and to the LPSC Utilities Staff in the Main office. The failure of the District office or the LPSC Utilities Office to receive timely notice shall constitute prima facie evidence of unlawful termination.
  - c. Verify with the LPSC Utilities Staff in the Main office the correct address of the utility to be terminated (for Notice purposes.)
  - d. State the following in the content of the notice:
    - 1. the name, address and account number of the consuming utility;
    - 2. a plain statement of the grounds upon which the right to terminate is founded, including the amount owed, and;
    - 3. the exact date and time or range of dates and times service will be discontinued.
  - e. Not discontinue service to the customers of a reseller prior to the date and time (or range of dates and times) given on the notice of intent to terminate. In no case shall disconnection be effected less than twenty (20) days from date of mailing of the notice of intent. In the event service is not terminated on the date and time or range of dates and times given in the initial notice, service may not be disconnected without providing an additional notice of intent to disconnect pursuant to these regulations. If the last day of the twenty (20) day period falls on a Saturday, Sunday or legal holiday, the notice period will expire at the close of the terminating utility's next business day.
  - f. In addition to any other remedy available at civil law, be liable for all damages to ratepayers of the reseller resulting from an unlawful termination.
3. All resellers shall:
- a. make a good faith effort to work with the ILEC in determining what portion of the debt owed is disputed and which portion in undisputed pursuant to the parties' interconnection agreement, and shall work with the carrier to resolve the problem and arrange for payment, pursuant to the interconnection agreement entered into between the ILEC and the Reseller. Written documentation of reasons and support for a disputed debt must be forwarded to the ILEC with copies to the LPSC District Office and LPSC Utilities Division within five (5) days of the ILEC notice.
  - b. File, by certified mail, with the Commission District Office and LPSC Utilities Division a notarized affidavit (Attachment A) verifying that you will either pay the undisputed amount owed to the underlying carrier or that you will mail or send telephonic notice to your customers at least ten (10) days prior to the disconnection date listed on the notice, and that if that action is not completed in a timely manner then the bond will be forfeited. (Attachment A.) The Reseller shall also file a list of customer names and addresses under seal which shall be used by the Commission if the Reseller fails to provide notice to consumers as

provided by these regulations.

- c. Send a notice to end user customers which shall read in legible easy to read bold type as follows: **\*\*\*NOTICE\*\*\*** Your telephone service may be subject to disconnect on (insert date or range of dates of disconnect) due to billing issues arising between (state reseller company name) and (state ILEC name) which are unrelated to your payment status. Because your service may be disconnected, you may need to prepare other arrangements on or before the disconnect date to avoid loss of service. Any payments made for service not received should be directed to (state Reseller name) at (insert Reseller phone number which WILL be available before and after disconnect.)
- d. Immediately take those steps necessary to identify any customers who are also public utilities. A list of those customers and their account numbers and addresses shall be provided to the respective District Offices and the LPSC Utilities office under seal.

#### Historical Notes

**Section 401.C.1.a** was revised to include the language, “Except as otherwise specified herein” by General Order No. R-30347, dated April 15, 2009.

**Section 401.C.1.d** was clarified by General Order No. R-31839, dated March 11, 2014, to the extent this provision ever applied to retail services, this provision is no longer applicable to retail services; however, it continues to apply to other services, i.e. wholesale.

**Section 401.C.1.h** was revised to include the language, “or publicly available Service Guide/Guidebooks” by General Order No. R-30347, dated April 15, 2009; clarified by General Order No. R-31839, dated March 11, 2014, such that if a TSP, pursuant to Section 401.C.5.3 and 401.C.5.4 is not required to file a tariff for a particular service, Section 401.C.1.h is clarified such that TSPs are not required to file for special marketing promotions of that service.

**Sections 401.C.5, 401.C.6, and 401.C.6.A.** were adopted by the Commission in General Order No. U-20375. Formatting corrected with General Order No. R-31839, dated March 11, 2014.

**Section 401.C.6.b** was revised by General Order No. R-30347, dated April 15, 2009.

**Section 401.C.6.A** was deleted by General Order No. R-31839, dated March 11, 2014. To the extent these trials are used by a TSP, the rules and regulations governing competitive services will apply.

**Section 401.C.8** was added by General Order No. R-30347, dated April 15, 2009; moved to correct formatting with General Order No. R-31839, dated March 11, 2014.

**Section 401.D** was deleted and moved to annotated footnote regarding 401.C.5, 401.C.6 and 401.C.6.A.

**Section 401.E** was deleted by General Order No. R-31839, dated March 11, 2014.

**AFFIDAVIT**

STATE OF \_\_\_\_\_  
PARISH OF \_\_\_\_\_

BEFORE ME, \_\_\_\_\_ (NOTARY), a Notary in and for the said State and Parish, this day personally appeared \_\_\_\_\_ (Appearer), appearing herein in his capacity as \_\_\_\_\_ (Title) of \_\_\_\_\_ (Company), (the "Company") duly authorized to act on behalf of said Company, who being by me first duly sworn deposed and said that:

the foregoing instrument/ Notice of Disconnect was received by said Company with an undisputed amount listed as \_\_\_\_\_ (Dollar amount) due to the underlying carrier and a date of disconnect listed as \_\_\_\_\_ (Date or dates specified).

He/She is appearing to swear or affirm that he/she will ensure, on behalf of said Company, that:

\_\_\_\_\_ The Company can and will pay the undisputed amount owed to the underlying carrier before the disconnect date;

OR

\_\_\_\_\_ The Company will mail or send telephonic notice, pursuant to LPSC Rules and Regulations, to your customers at least five (5) days prior to the disconnection date as listed in the attached Notice from the underlying carrier (ATTACHMENT OF NOTICE REQUIRED.)

AND if I fail to do what I say that I will do (send notice or pay) then I forfeit the bond for failing to do as I have sworn I would do. (See attached affidavit)

AND if present before the Commission and duly sworn, his testimony would be the same.

\_\_\_\_\_  
Person duly authorized to Act for  
Company

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 20XX.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission expires \_\_\_\_\_.

## SECTION 501. Universal Service

A. The Commission incorporates and restates herein the definition of Universal Service as adopted by the Commission in General Order dated May 22, 1995 and as modified by the General Order dated February 9, 2009:

1. The Commission hereby defines universal service to consist of the following:

- a. Voice grade access to the public switched network;
- b. Touchtone capability;
- c. White page directory listing;

1. Provided that when the TSP participates in a Commission program authorizing the TSP to allow the customer to "opt-in" to receive a directory and the customer chooses not to "opt-in", or when the TSP participates in an "opt-out" program and the customer has chosen to "opt-out" of receiving the directory, the TSP must still provide the required listing.

- d. Access to directory assistance;
- e. The publication and distribution of at least one (1) local directory;

1. This requirement is satisfied when the TSP complies with LPSC regulations authorizing the TSP to provide the customer with an option to receive the white pages directory.

2. In all circumstances the TSP shall be required to distribute the directory to the customer within thirty (30) days following the customer's request.

3. At the customer's request, a TSP may provide directory information to the customer through the distribution of a CD-ROM, provided that the directory information is identical to that found in a physical directory.

- f. Access to emergency services;
- g. Access to long distance carriers and operator services.
- h. Access to telephone relay services;
- i. Access to 8xx services;
- j. Lifeline rate for eligible customers.

2. The Commission hereby declares that the definition of universal service shall be subject to modification by the Commission as technology and customer needs change. Also, the Commission reserves the right to modify the definition of universal service as a result of any FCC and/or federal decrees, orders, or legislation.

3. The Commission also declares that nothing contained in this Policy Statement and Definition of Universal Service is intended to undermine or impair the Commission regulatory authority."

B. The Commission hereby finds that it is in the public interest to make available universal service to all end users at affordable rates.

C. All services and functions listed as part of the universal service definition shall be required of a CLEC.

D. Depending on the results of cost studies ordered pursuant to Commission General Order dated May 22, 1995 and Subdocket A of Docket U-20883, a Universal Service Fund may be established to collect and disburse monies to insure the availability of Universal Service to all consumers in Louisiana at affordable rates. If the Commission determines that such a fund is necessary, all TSPs providing service in Louisiana shall contribute to the fund. The basis from which contributions to the fund will be determined, and the method of disbursement there from shall be established in Subdocket A of Docket U-20883.

E. The Universal Service Fund shall be a method of achieving a public policy goal. Thus, disbursements from the fund shall not be limited to economically disadvantaged individuals.

#### **Historical Notes**

**Section 501.A was modified to change the elements of Universal Service by the General Order dated February 9, 2009. The prior elements may be found in the Local Competition Regulations as attached to the General Order dated December 14, 2006.**

**Section 501.A.1.c.1 was modified to create an "opt in" program for white page directories by General Order R-31825, dated June 20, 2012.**

**Section 501 was modified by General Order No. R-31839, dated March 11, 2014, confirming that with the sunset of AT&T Louisiana's COLR obligation in that Order, AT&T Louisiana is also relieved of all universal service requirements set forth in Section 501. This modification does not relieve AT&T Louisiana, or any other TSP, of their separate and independent obligations to contribute to the State USF as mandated by LPSC General Order dated April 29, 2005, as amended, and LPSC General Order dated February 9, 2009.**

## **SECTION 601. Carrier of Last Resort**

A. ILECs are hereby designated as the Carrier of Last Resort (COLR). COLR's are obligated to provide basic local service to all customers upon request for such service within the ILECs' historically designated service areas until relieved of this obligation by the Commission. A CLEC providing basic local services in an ILEC's service area does not relieve the ILEC of its COLR obligations except as provided below.

B. Subject to 601.E below, an ILEC may petition the Commission to abandon its obligations as the COLR for a particular service area or areas if a CLEC is available to provide basic local service in such service area or areas. After a hearing, the Commission may approve the ILEC's request only if the CLEC is approved to assume all of the existing service obligations as COLR for the ILEC's service area or areas. In areas with only one LEC, the LEC is prohibited from ceasing to provide basic local service.

C. A CLEC may petition the Commission to be the COLR for a particular service area. The CLEC must be willing to fulfill all existing COLR service obligations and serve all customers requesting basic local service within the particular service area. After a hearing, the Commission shall determine whether the CLEC qualifies to serve as the COLR for the particular service area, whether the ILEC serving that same area desires to abandon its obligations as COLR and whether it will be in the public interest to switch the COLR for that particular service area.

D. Once a CLEC is designated as the COLR for a particular service area, it is prohibited from ceasing to provide basic local service unless otherwise relieved of that obligation by the Commission. Additionally, once the Commission determines that a CLEC should become the COLR the Commission shall release the ILEC from its obligations as COLR for that service area.

E. Notwithstanding the procedures established by Section 601.B, a non-rural ILEC's COLR obligations shall sunset as of December 31, 2013.

### **Historical Notes**

**Section 601 was renamed from Essential Telecommunications Carrier to Carrier of Last Resort by the General Order dated February 9, 2009.**

**Section 601.B was modified by General Order No. R-31839, dated March 11, 2014, adding "Subject to 601.E below".**

**Section 601.E was added by the General Order No. R-30480, dated July 22, 2009; Section 601.E was modified by General Order No. R-31839, dated March 11, 2014 to eliminate AT&T Louisiana's COLR obligations as of December 31, 2013.**

## **SECTION 701. Consumer Price Protection Plan**

### **A. Scope and Conditions:**

1. Effective April 1, 1996, an ILEC with more than 100,000 access lines statewide shall be regulated pursuant to the terms and conditions of this Consumer Price Protection Plan (the "Price Plan" or "Plan"). The Price Plan is based on the ILEC's rates for service rather than its rate of return. Monitoring, reporting and tracking under the Price Plan shall be directed toward the ILEC's rates for services, revenues, expenses, costs and service quality. An ILEC shall be regulated under the Plan for a period of six (6) years unless earlier terminated by the Commission.

2. A "Small ILEC" as defined in Section 101 (37) may petition the Commission to be regulated under the terms and conditions of a price cap plan in lieu of continuing to be regulated pursuant to Order No. U-21181, dated June 30, 1995. If a Small ILEC fails to petition the Commission before April 1, 1996, then the ILEC has the opportunity to elect into a price cap plan by December 1, 1996 for the year 1997 and thereafter, or on the same date in each subsequent year. Once a Small ILEC elects into a price cap plan, it will remain in the plan for a period of five years unless earlier terminated by the Commission. No Small ILEC opting into a price cap plan may receive compensation from the Louisiana Exchange Carrier Association Fund ("LECAF").

3. Under the Price Plan, the LPSC shall continue to regulate the rates, terms and conditions of all telecommunications services provisioned in the State by an ILEC regulated hereunder, unless otherwise specified in Section 401.5.b.4 and 701.G.11.d herein or in ILEC-specific Price Plan Orders. In no event will the Price Plan become effective prior to the effective date of these Regulations.

4. CLECs shall not be subject to the terms and conditions of the Price Plan at this time. However, the Commission specifically reserves the right to apply the Price Plan, or any modifications thereof, to the CLECs in the future if deemed in the public interest by the Commission following notice and hearing.

5. While operating under the Price Plan, an ILEC shall be responsible for its depreciation rates and schedules, and shall submit its Louisiana specific depreciation expenses to the Commission as part of its semi-annual reporting called for in subsection J below. All ILECs regulated under the Price Plan are prohibited from seeking any type of rate increase based on recovering any depreciation expenses or reserves. Should the Commission elect to return to traditional rate-base rate of return regulation or rate-base rate of return incentive regulation pursuant to subsection B below, the incremental effect of an ILEC's depreciation expense (i.e., assuming responsibility without customer rates) shall not be recognized in the rate base.

6. The Price Plan shall apply to all regulated services offered by the ILEC prior to the adoption of the Price Plan and to all Basic Services, Interconnection Services and Non-Basic Services introduced by the ILEC after adoption of the Price Plan. For purposes of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B, the Price Plan shall apply to Universal Services, Basic Services, Competitive Services, and Interconnection Services.

### **B. Term of Price Plan**

1. There shall be no specific term for the Price Plan. It is intended that the elements of the Plan remain in effect through the initial six (6) years of the Plan unless the Commission finds it in the public interest, after notice and hearing, to modify or eliminate the Price Plan and substitute in its place traditional rate-base rate of return regulation or rate-base rate of return incentive regulation, or any form of regulation deemed appropriate and in the public interest by the Commission.

2. The Price Plan shall be subject to complete review after three years from its effective date as to each ILEC regulated thereunder, and again during the sixth (6th) year of the Plan. As a result of its monitoring efforts and periodic Price Plan reviews, the Commission may, if deemed in the public interest after notice and hearing, modify any aspect of the Price Plan, including ordering its termination and substitution. Beyond the sixth year of the effective date of the Price

Plan, Price Plan reviews will be conducted only as deemed necessary by the Commission.

### C. Classification of Services under Price Plan

1. Each telecommunications service offered by an ILEC regulated pursuant to the terms of this Price Plan, except an ILEC regulated under the provisions of LPSC Order No. U-24802 Subdocket B, shall be classified into one of the following three categories: a) Basic Services, b) Interconnection Services, and c) Non-Basic Services.

2. The service categories are defined as follows:

a. Basic Services - are those services required to provide basic local service to residential and single line business customers, which include, among others, each of the items comprising the definition of Universal Service as specified in Commission General Order dated May 22, 1995. Initially, Basic Services shall include the services itemized on Appendix "A" attached hereto and made part hereof.

b. Interconnection Services - are those services that allow other telecommunications services providers to interconnect to an ILEC's network to originate or terminate telecommunications services. Initially, Interconnection Services shall include the services itemized on Appendix "B" attached hereto and made part hereof.

c. Non-Basic Services - are all other services which are not classified as either Basic or Interconnection Services. Initially, Non-Basic Services shall include the services not itemized on either Appendix "A" or "B" attached hereto.

3. For purposes of the Price Plan ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B, each telecommunications service offered by an ILEC shall be classified into one of the following categories: a) Universal Services, b) Basic Services, c) Interconnection Services, or d) Competitive Services.

4. As set forth in 3 above, the service categories are defined as follows:

a. Universal Services – are those services and associated service requirements aligned with the definition of Universal Service as specified in Section 501.A of these Regulations.

b. Basic Services – [Eliminated by Commission Order No. R-31839, dated March 11, 2014.]

c. Interconnection Services – are those services that allow other telecommunications service providers to interconnect to an ILEC's network to originate or terminate telecommunications services. The Interconnection Services Basket shall include the services itemized on Appendix 3 attached hereto.

d. Competitive Services – are all other services which are not classified as Universal Services, Basic Services, or Interconnection Services. The Competitive Services Basket shall include services not itemized on Appendix 1, Appendix 2, or Appendix 3 attached hereto.

### D. Initial Rates under Price Plan

1. An ILEC's initial rates under the Price Plan shall be the rates in effect immediately prior to implementing the Plan, as recalibrated to reflect the rate reductions implemented pursuant to the stipulated settlement referenced in subsection K below, for each individual Basic Service, each individual Interconnection Service, except cellular interconnection services subject to contractual arrangements, and each individual Non-Basic Service. The rate for

each individual Basic Service may be reduced from these initial rates, subject to the price floors contained in subsection H below, but cannot exceed the initial rates under any circumstance for a period of five (5) years from the date the Plan becomes effective as to the ILEC. The rate for each individual Interconnection Service shall be similarly restricted for a period of three (3) years from the effective date of the Price Plan as to the ILEC.

2. For purposes of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802 Subdocket B, the rules concerning initial rates are as follows:

The ILEC's initial rates under the Plan shall be rates in effect on 12-31-03. The rate for each individual Universal Service may be reduced from the rates on 12-31-03, subject to the price floors contained in subsection H below. For those residential and single-line business access lines in the Universal Services Basket that have different rates (e.g., rate groups), the ILEC may increase rates beginning in year 2004 (year 1) and ending in year 2006 (year 3) to move to a statewide rate equal to the highest rate effective 12-31-03. These increases in rates shall not result in the new rate exceeding the highest rate for the service as of 12-31-03. The rates for Universal Services with a single statewide rate (e.g. LOS-Option B) as of 12-31-03 shall not be increased for a period of three years. After three years, the ILEC has the option to convert the rate basis of residential and single-line business access lines in the Universal Services Category to an Unbundled Network Element (UNE) structure. Zone 1 exchanges for residential and single-line business access lines in the Universal Services Basket may be moved to the Basic Services Basket. Residential UNE Zone 2 and Zone 3 exchanges will remain in the Universal Services Basket. Effective with LPSC General Order No. R-30347, issued April 15, 2009, single-line business offerings for all UNE Zones shall be classified as Competitive Services. Effective with LPSC General Order No. R-31839, issued March 11, 2014, all remaining services in the Universal Services Basket and Basic Services Basket shall be reclassified as Competitive Services.

#### **E. Tariffs**

1. An ILEC electing to be regulated pursuant to the Price Plan shall continue to be required to file tariffs with the Commission for all services in compliance with the terms and conditions of Section 401 of these Regulations, unless tariff requirements are exempted by the Commission by past or future rule or order.

#### **F. New Services and Reclassification of Services under Price Plan**

1. A new service is defined as a service, function, feature, capability or any combination of these which is not offered by the ILEC on the date the ILEC commences to be regulated pursuant to the Price Plan.

2. [Section 701.F.2 was deleted by General Order R-31839, dated March 11, 2014.]

3. Each July 1, the ILEC shall file a "Service Category Classification Report" with the Commission, which shall address the classification of new services and the reclassification of existing services. The Report shall identify all new services introduced during the 12-month period through May 31 of that year and provide the basis for the proposed market classification. New services proposed as competitive will be exempted from these reporting requirements. The Report shall include any proposals for reclassifying any services, demonstrate the basis for the proposal and meet the requirements for reclassification as specified in the Plan.

4. The ILEC retains the burden of proof for all classifications and reclassifications of telecommunications services it proposes.

5. The Commission retains the right to approve, suspend or reject any proposal to introduce a new service, classify a new service or reclassify an existing service.

## G. Pricing Rules under Price Plan

1. The initial rate of each individual service included in the Basic Services category as determined in subsection D above shall be capped for a period of five (5) years from the date the Price Plan becomes effective as to an ILEC. This means that the rate for any individual Basic Service may be reduced from its initial rate in accordance with the price floors but cannot exceed its initial rate under any circumstance for a period of five (5) years from the effective date of the Price Plan.

2. The initial rate for each individual service included in the Interconnection Services category as determined in subsection D above, with the exception of cellular interconnection services subject to contractual arrangements, shall be capped for a period of three (3) years from the date the Price Plan becomes effective as to an ILEC. This means that the rate for any individual Interconnection Service may be reduced from its initial rate in accordance with the price floors but cannot exceed its initial rate under any circumstance for a period of three (3) years from the effective date of the Price Plan.

3. After the first five (5) years that the Price Plan is in effect as to an ILEC, and during the sixth (6<sup>th</sup>) year only, an adjustment shall be made to the Basic Service category in the aggregate based on the Gross Domestic Product - Price Index (GDP-PI) minus a productivity offset of two and one-half percent (2.5%). For purposes of the pricing formula computation, if the GDP-PI is greater than five percent (5%), GDP-PI shall be assumed to be equal to five percent (5%). After the sixth (6<sup>th</sup>) year, the productivity offset shall be reevaluated by the Commission for application in the seventh and subsequent years.

4. The sixth (6<sup>th</sup>) and subsequent year price cap adjustments shall be effective April 1 of said years, and will be calculated using data for the "Test Year." The "Test Year" shall consist of data from the four most recent consecutive quarters available.

5. During the initial five (5) years of the Price Plan, no rate of an individual service included within the Basic Services category shall be increased above its cap established in subsection D above. During the sixth (6<sup>th</sup>) and subsequent years, no rate of any individual Basic Service shall be increased by more than ten percent (10%) in any twelve month period.

6. During the initial three (3) years of the Price Plan, no rate of an individual service included within the Interconnection Services category shall be increased above its cap established in subsection D above. During the fourth (4<sup>th</sup>) and subsequent years, no rate of any individual Interconnection Service shall be increased by more than ten percent (10%) in any twelve month period.

7. Cellular interconnection is currently subject to contractual pricing arrangements between the ILECs and the cellular carriers. These contractual arrangements will remain in effect until their expiration. After expiration, cellular interconnection shall become part of the Interconnection Services category and the terms, conditions and rates shall comply with the provisions of the Price Plan.

8. The rates for the Basic and Interconnection Service categories may be reduced below their initial price caps as the ILEC deems appropriate.

9. The above price controls and price caps do not apply to rates and charges for services included in the Non-Basic Services category. Services so classified shall be rate deregulated, and the restriction that the rate for an individual service classified as Non-Basic shall not increase by more than twenty percent (20%) in any twelve-month period. Non-Basic Services shall not benefit from cross subsidy or revenue support from Basic Services.

10. Tying arrangements are prohibited.

11. For purposes of the Price Plan and ILECs regulated under the provisions of LPSC Order No. U-24802, Subdocket B, the pricing rules contained in Sections G.1 through G.9 are superseded by the following pricing rules:

a. Universal Services Basket – the rates for Universal Services may not be increased for a period of three years except as specified in Section D.2 above for services that have different rates (e.g., rate groups) as of 12-31-03. The rates for Universal Services with a single statewide rate as of 12-31-03 shall not be increased for a period of three years. Rates charged by AT&T for individual Universal Services may be increased by no more than 2.5% per 12-month period effective April 15, 2009 pursuant to General Order R-30347 (4/15/09). All remaining Universal Services previously listed in the Universal Services Basket (Appendix 1) have been reclassified to the Competitive Services Basket pursuant to General Order No. R-31839, dated March 11, 2014.

b. Basic Services Basket – the rates for each individual service included in the Basic Services category may be increased by no more than 10% in any 12-month period. All remaining Basic Services previously listed in the Basic Services Basket (Appendix 2) have been reclassified to the Competitive Services Basket pursuant to General Order No. R-31839, dated March 11, 2014.

c. Interconnection Services Basket – the rates for each individual service included in the Interconnection Services category, excluding UNEs, may be increased by no more than 10% in any 12-month period. To the extent they are required to be placed in a Basket, UNEs should be included in the Interconnection Services Basket. Inclusion in the Interconnection Services Basket does not subject UNEs to the pricing rules established for this or any other Basket. Changes in UNE prices will only be addressed in Commission dockets initiated pursuant to applicable FCC regulations (See LPSC Order No. U-24802, Subdocket B).

d. Competitive Services Basket – the rates for Competitive Services are driven by competition in the marketplace. There will be no cap established for potential rate increases to any individual service included in the Competitive Services category. Competitive Services shall not benefit from any cross-subsidy or revenue support from the services included in the Universal Services category.

#### **H. Price Floors under Price Plan**

[Section 701.H was deleted by General Order No. R-31839, March 11, 2014.]

#### **I. Contract Service Arrangements**

1. The tariffs currently in effect for Contract Service Arrangements will remain unchanged under the Price Plan; provided, however, an ILEC's contract service arrangements are subject to any applicable rules and procedures implemented in other sections of the Regulations, and all Contract Service Arrangements must specifically comply with the pricing rules and floors set forth in subsections G above.

#### **J. Monitoring and Reporting Requirements under Price Plan**

##### **1. Marketplace Data Submissions and Related Monitoring**

The Commission and its Staff shall monitor the development of competition in the telecommunications markets in Louisiana subsequent to the effective date of the Price Plan as to any ILEC. Upon request, an ILEC regulated under the Price Plan shall furnish the Commission, data related to the following:

- a. Changes in the marketplace.
- b. The impact of competition on the ILEC.
- c. The competitive status of services to determine the degree of competition in their provisioning.
- d. The impact of federal initiatives.

- e. The technical compatibility between carriers.
- f. Service performance of new market entrants.

The information will be used by the Commission to assess the impact of marketplace changes, the continued viability of the Price Plan, market impact of competition on ILECs, market impact of federal initiatives, appropriateness of service categories, technical compatibility between telecommunications services providers, service quality performance of all telecommunications services providers, and other issues arising from the entry of new providers of telecommunications services in the local market. The Commission reserves the right to establish new areas of inquiry and investigation.

## 2. Financial Reporting<sup>5</sup>

Unless otherwise exempt, an ILEC regulated pursuant to the Price Plan shall file semi-annually, Louisiana specific company basis reports excluding Commission adjustments and returns as specified in Appendix "C" hereto.<sup>6</sup> An ILEC regulated under the Price Plan shall continue to report to the Commission on an interstate, intrastate, and non-regulated basis. A Small ILEC regulated under a price plan shall continue to file all reports and data required to be filed with the Commission pursuant to Order No. U-21181, dated June 30, 1995. In addition, an ILEC regulated under the Price Plan shall furnish the Commission the following data within thirty days of issuance:

- a. Annual Reports of the ILEC and parent corporation.
- b. Forms 10Q and 10K of the ILEC and parent corporation.
- c. Proxy statements containing financial data not in annual reports.
- d. Shareholder Newsletters.
- e. ARMIS Reports.

## 3. Service Quality

ILECs regulated pursuant to the Price Plan shall furnish the Commission or its Staff the following service quality data on a semi-annual basis for monitoring by the Commission and its Staff:

- a. Commission Complaints per 10,000 access lines for ILECs with more than 100,000 access lines; or Commission Complaints per 100 access lines for ILECs with less than 100,000 access lines regarding residential telecommunications service.

If the Commission finds as a result of monitoring that the ILEC's service quality is substandard as compared to other ILECs, the Commission may, after notice and hearing, take action as it deems necessary and proper to assure a desirable level of service quality, including imposing a monetary penalty not exceeding ten thousand dollars (\$10,000) per violation.

## 4. Periodic Reviews of the Price Plan

The Commission shall review the Price Plan at the end of the third (3rd) year of the Plan with particular attention to the following issues:

<sup>5</sup> By letter dated February 1, 2008, the Commission granted AT&T Louisiana's request for a waiver from its Section 701 financial reporting obligations.

<sup>6</sup> There is no Appendix C, nor was there an Appendix C in the most recent version of these rules prior to revisions made as a result of Order No. R-31839.

- a. The status of universal service.
- b. The ILEC's compliance with Plan rules and reporting requirements.
- c. Just and reasonable rates (as determined without reference to a rate of return or other rate base proceeding).
- d. Modification to Plan parameters.
- e. Service quality.
- f. The consumer and marketplace impacts of price regulation.
- g. The status of competition in all markets and its impact on consumers and on the ILECs.
- h. The continuation of price caps on the Interconnection Services category subsequent to the third year of the Price Plan.

The Commission shall conduct a review of the following during the sixth year of the Price Plan:

- a. The status of universal service.
- b. Service quality performance.
- c. The consumer and marketplace impacts of price regulation.
- d. The degree of technological change in the marketplace.
- e. The impact of federal initiatives on Louisiana telecommunications markets.
- f. The status of competition in all markets and its impact on consumers and on the ILECs.
- g. The ILEC's compliance with Plan pricing rules and reporting requirements.
- h. Just and reasonable rates (as determined without reference to a rate of return or other rate-based proceeding).
- i. Modifications to, or termination of the Plan.
- j. The continued viability of the Price Plan.

Adjustments or modifications based on the findings resulting from the Periodic Reviews will be implemented on a prospective basis. Any further reviews of the Plan, including periodic update of Plan parameters, will be considered.

#### **K. BellSouth Annual Rate Reductions**

1. Pursuant to the terms and conditions of the stipulation entered in Subdocket E of Docket No. U-17949 (the "Stipulation"), BellSouth shall provide to its ratepayers seventy million dollars (\$70,000,000) in rate reductions over the initial three (3) years that BellSouth is regulated under the Price Plan, and shall additionally provide a one time nine million dollar (\$9,000,000) credit to its ratepayers during the first year BellSouth is regulated under the Price Plan. These reductions shall be made according to the Stipulation and applied as determined by the Commission.

#### **L. Miscellaneous Provisions**

1. During the Price Plan, an ILEC regulated thereunder shall notify its customers of any change in the rate for services offered using the same procedures in effect at the implementation of the Price Plan.

2. Rather than limit or restrict an ILEC's commitment to universal service and to the ILEC's fulfillment of Essential Telecommunications Carrier obligations, the Price Plan is intended to strengthen and reaffirm such commitments.

#### **Historical Notes**

**Section 701.A.3 was revised to include the language, "unless otherwise specified in Section 401.5.b.4 and 701.G.11.d herein or in ILEC-specified Price Plan Orders" by General Order No. R-30347, dated April 15, 2009.**

**Section 701.C.3 was added to distinguish ILECs regulated under LPSC Order No. U-24802 Subdocket B.**

**Section 701.C.4 was added to distinguish ILECs regulated under LPSC Order No. U-24802 Subdocket B.**

**Section 701.C.4.a (Universal Services Basket) was modified by General Order No. R-31839, dated March 11, 2014 with the deletion of: "The Universal Services Basket shall include services listed on Appendix 1 attached hereto." to reflect that all remaining services in the Universal Services Basket listed on Appendix 1 were reclassified to the Competitive Services Basket.**

**Section 701.C.4.b (Basic Services Basket) was modified by General Order No. R-31839, dated March 11, 2014 with the deletion of: "are those services itemized in the Basic Services Basket on Appendix 2 attached hereto." to reflect that all remaining services in the Basic Services Basket listed on Appendix 2 were reclassified to the Competitive Services Basket.**

**Section 701.D.2 was added to distinguish ILECs regulated under LPSC Order No. U-24802 Subdocket B; modified by General Order No. R-31839, dated March 11, 2014, to reflect that all remaining services in the Basic Services Basket and Universal Services Basket have been reclassified to the Competitive Services Basket.**

**Section 701.F.2 was deleted by General Order No. R-31839, dated March 11, 2014. AT&T Louisiana subject to same rules as other TSPs found in 401.C.3.a.**

**Section 701.F.3 was revised to include the language, "New services proposed as competitive will be exempted from these reporting requirements but cost support must be provided to the Commission for informational purposes when introducing such services" by General Order No. R-30347, dated April 15, 2009; revised by General Order No. R-31839, dated March 11, 2014, to remove the language "but cost support must be provided to the Commission for informational purposes when introducing such services" in conjunction with the removal of Section 701.F.2 by the same General Order No. R-31839, dated March 11, 2014.**

**Sections 701.G.8 and 701.G.9 modified to eliminate references to the TSLRIC obligation as provided for in General Order No. R-31839, dated March 11, 2014.**

**Section 701.G.11 was added to distinguish ILECs regulated under LPSC Order No. U-24802.**

**Section 701.G.11.d was revised by General Order No. R-31839, dated March 11, 2014 to delete language related to TSLRIC price floor, "The TSLRIC price floor as set forth in Section H below is retained for competitive services for AT&T, except in those cases where AT&T has lowered prices below TSLRIC to meet the equally low price of a competitor. (See LPSC General Order No. R-30347)."**

**Section 701.H was deleted by General Order No. R-31839, dated March 11, 2014.**

**Section 701.I.1 was modified to strike reference to Section 701.H which was eliminated by General Order No. R-31839, dated March 11, 2014.**

**Section 701.J.2 was revised to include the language “Unless otherwise exempt”.**

**Section 701.J.3 was revised to include the language “Unless otherwise exempt”.**

**Section 701.J.3 was revised to include the language, “or its Staff” by General Order No. R-30347, dated April 15, 2009.**

**Section 701 J.3 was revised to add a paragraph regarding the opening of a service quality subdocket pursuant to LPSC General Order No. R-30347, dated April 15, 2009.**

**Section 701 J.3 was revised to delete existing reporting requirements and replace them with those adopted by LPSC General Order No. R-31300, dated July 26, 2013.**

## **SECTION 801. Number Portability**

A. TSPs providing local telecommunications services shall provide number portability, upon receipt of a valid request, that ensures that an end-user customer of local telecommunications services, while at the same location, shall be able to retain an existing telephone number without impairing the quality, reliability, or convenience of service when changing from one provider of local telecommunications services to another. There are no exceptions to this requirement. In particular, no TSP shall withhold the porting of an end-users' number to another TSP because of unpaid bills or contractual arrangement. The type of number portability contemplated by this rule is service provider portability and not location portability. Failure to timely port a number subjects the refusing TSP to the fines and penalties as contained in Sections 301 J, K & L of these regulations.

B. The end-user customers of a CLEC shall not be required to dial the telephone number of an ILEC's end-user customer in any way other than that required of the ILEC's end-users.

C. The end-user customers of an ILEC shall not be required to dial the telephone number of a CLEC's end-user customer in any way other than that required to dial other end-users of the ILEC.

D. As of the effective date of these Regulations, and as an interim measure, remote call forwarding and direct inward dialing, as specified below, shall be made available to a CLEC according to the following guidelines: 1) within sixty (60) days of receipt of a request, an ILEC shall make the requested interim number portability solution available at a reasonable cost-based charge agreed to between the parties, or 2) if within sixty (60) days of receipt of a request, an agreement is not reached between the parties, the matter will be resolved by the Commission upon petition of either party. As part of the Commission's review of the matter, the ILEC shall provide TSLRIC and LRIC studies to the Commission which show the cost of providing the requested interim number portability solution. There is no mandate that the interim number portability solutions be provided by the ILEC to CLECs at its TSLRIC or LRIC of providing such services.

E. Once the costs studies specified in Section 901.C below are filed with the Commission, the Commission shall establish a reasonable cost-based rate at which an ILEC shall make the interim number portability solutions available to other TSPs. There is no mandate that the interim number portability solutions be provided by the ILEC to CLECs at their TSLRIC or LRIC of providing such services.

F. The CLEC is required to arrange for transport facilities to the central office where portability is sought. A CLEC shall reciprocate by offering number portability to an ILEC under the same arrangements.

G. In order to implement remote call forwarding, an ILEC's tariffed remote call forwarding service shall forward any call to a ported number to trunk groups associated with the CLEC. The central office switch where the number resides should be programmed to reroute calls from the called number to a new number located in a different switch. Both the end-user customer of, and the caller to a remote call forwarding number should be unaware of the second number. Should technology change in the future this method may be modified by the Commission.

H. In order to implement the direct inward dialing option, all incoming calls to the ported number shall be routed to the ILEC end office. From there it should then be routed via the direct trunk group to the CLEC switch. Because direct inward dialing is normally provisioned in groups of 20 numbers, ILEC policies shall be changed to allow a single number to be identified as a direct inward dialing number. Should technology change in the future this method may be modified by the Commission.

I. At the earliest possible date all TSPs shall cooperate and use their best efforts to design, develop and deploy number portability databases, associated connections and/or other arrangements to achieve a permanent number portability solution.

J. The costs associated with development and deployment of a permanent number

portability solution, such as a database, or other arrangement, shall be recovered from all TSPs using or benefiting from such a solution.

## **SECTION 901. Interconnection**

A. Interconnection of the local telephone networks at reasonable rates is essential to local telephone competition. Competing networks shall be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or doing any other such action out of the ordinary that is not required when dialing on his/her own carrier's ILEC or CLEC network. TSPs should be interconnected with the ILECs in a manner that gives the TSPs seamless integration into and use of local telephone company signaling and interoffice networks in a manner substantially equivalent to that of the ILECs. Interconnection shall include access to switches, databases, signaling systems and other facilities or information associated with originating and terminating communications.

B. Based on current traffic and market conditions in the CMRS industry, mandatory CMRS-to-CMRS interconnection is not required by the interconnection obligations of this Section (901). However, providers of CMRS and PMRS are encouraged to develop interconnection arrangements among themselves and with other TSPs which foster the Commission policy of promoting the interconnection of competing networks so that customers can seamlessly receive and place calls originating and terminating on other carriers' networks.

C. Physical Interconnection for purposes of utilizing unbundled basic network components of ILEC networks:

1. Physical interconnect charges between and among TSPs shall be tariffed and based on cost information. The cost information derived from both TSLRIC and LRIC studies shall be provided to the Commission. This information will be used by the Commission to determine a reasonable tariffed rate. There is no mandate that interconnection services be provided by the ILEC to TSPs at its TSLRIC or LRIC of providing such services. As an interim measure, until such cost studies are completed and a decision rendered thereon by the Commission in Docket No. U-22022, consolidated with Docket No. U-22093, or other pertinent Commission proceeding, interim rates for unbundled network elements are hereby established as listed on attached Appendix "D". At such time as a final order issues in Docket No. U-22022, consolidated with Docket No. U-22093, rates will be re-calibrated accordingly.

2. ILECs must conduct within ninety (90) days from the effective date of these Regulations the TSLRIC and LRIC studies on all basic network service components and file such studies with the Commission. Basic network components shall include, without limitation, network access, switching and switch functions, transport (dedicated and switched) and ancillary services.<sup>7</sup>

3. Physical interconnection tariffs shall be filed in accordance with Section 401.

4. TSPs shall utilize the "bill and keep" methodology as an interim compensation method for call transport and termination, pending establishment of permanent rates at such time as a final order issues in Docket No. U-22022, consolidated with Docket No. U-22093, or other pertinent Commission proceeding. Bill and keep arrangements compensate a carrier terminating a call originated with another carrier by requiring the carrier originating the call to, in turn, transfer and terminate calls originating from the other carrier. Under a bill and keep arrangement, no money changes hands.

D. Consistent with Section 252(a)(1) of the Telecommunications Act of 1996, upon receiving a request for interconnection, services, network elements, or reciprocal compensation pursuant to Section 251 of the Telecommunications Act, an ILEC may negotiate and enter into a

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<sup>7</sup>Re A Methodology to Determine Long Run Incremental Cost, 156 PUR 4th 1, Michigan Public Service Commission, Case No. U-10620, September 8, 1994.

binding agreement with the requesting TSP without regard to the costing standards set forth in subsection C of this Section. However, negotiated compensation arrangements for the exchange of local traffic shall provide for equal treatment and rates between competing TSPs. Rates of negotiated compensation arrangements shall be mutual, reciprocal, nondiscriminatory and cost-based, and shall be effective between the negotiating parties. Nothing in this section shall be interpreted as advocating or precluding the adoption of an in-kind rate or the adoption of an explicit rate as the negotiated compensation mechanism for the exchange of local traffic.

E. The Commission shall be notified in writing by the negotiating parties of the date the request for interconnection was submitted by the requesting TSP. The interconnection agreement shall include a detailed schedule of itemized charges for interconnection and each service or network component (element) included in the agreement. All agreements shall be submitted to the Commission for approval. Any party negotiating an agreement hereunder may, at any point in the negotiations, request the Commission to participate in the negotiation and to mediate any differences arising in the course of negotiation.

F. In accordance with Section 252(b) of the Telecommunications Act of 1996, either party to the negotiation may petition the Commission to arbitrate any open issue to the negotiation. When an ILEC and TSP are unable, through negotiations, to agree to rates for the interconnection of facilities and equipment, network elements and/or reciprocal compensation, any party to such negotiations may request the Commission to impose rates and conditions binding upon the parties to the agreement which comply with the results of the studies performed pursuant to subsection C.2 of this Section, and which are consistent with the mandates of Section 252(d) of the Telecommunications Act of 1996.

G. ILECs and CLECs shall file reports with the Commission Secretary on April 1st of each year which show by month the volume of local terminating traffic delivered to ILECs or CLECs during the previous year.

H. Interconnections arrangements established pursuant to Commission Docket No. U-18976 shall remain in effect until January 1, 1999, unless otherwise modified by the Commission.

I. TSPs shall be required to enter into reciprocal, mutual billing and collection agreements which ensure that each TSP can accept other TSPs' telephone line numbers based on nonproprietary calling cards; and, ensures that each TSP can bill and collect on collect calls and on calls billed to a third number served by another TSP.

J. The ILECs shall not limit the ability of a TSP to provide and carry operator services traffic.

K. CLECs shall have access to 911 connectivity where provided by an ILEC under the same terms and conditions enjoyed by the ILEC.

L. TSPs shall be afforded nondiscriminatory access to each other's databases as follows:

1. Directory Assistance and Line Information databases - TSPs shall be permitted to input their customers' telephone numbers and any pertinent account data into the ILEC directory assistance and line information databases. TSPs shall also be permitted to access any customer's number from the TSP directory assistance and line information databases in order to provide directory assistance service to its customers or to obtain billing name and address.

2. Public Interest Services - TSPs shall have equal access to provide their customer numbers and address information to 911 providers, whether these providers are the ILEC or independent service bureaus.

3. TSP Service Databases - TSPs shall be provided access to TSP service databases (e.g., 800, line information, AIN) through signaling interconnection, with functionality, quality, terms, and conditions equal to that provided by the TSP to itself and its affiliates. TSPs will be charged tariffed rates for database queries equal to that charged to interexchange carriers for the same functions. The TSPs will impute the tariffed rates of database access to its services.

4. No TSP shall access the customer proprietary network information ("CPNI") of another interconnecting TSP for the purpose of marketing its services to the interconnecting company's customers. Likewise, no TSP shall access the CPNI of a company reselling its services, without permission of the reseller, for the purpose of marketing services to the reseller's customers.

M. TSPs shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

N. Nothing in this Section (901) shall be construed as authorizing the concentration of access lines in contravention of the prohibitions contained in Commission Orders U-16462 and U-17957-C.

O. All TSPs holding a certificate from the Commission are prohibited from providing interconnection services to non-certificated TSPs, unless the non-certificated TSP is exempt from the Commission's certification requirements pursuant to state or federal law or explicit Commission order.

P. A TSP shall permit other TSPs to interconnect with its network at a single point within a LATA, subject to the requirement that the TSP requesting interconnection shall pay multiple access switching charges in circumstances where multiple access tandems exist. A TSP may request more than one point of interconnection within a LATA.

Q. A TSP shall permit other TSPs to interconnect with its network at a "mid-span" meet rather than an access tandem or end office, subject to the requirement that the TSP requesting such interconnection shall bear all costs prudently incurred by the TSP providing such interconnection.

R. A CLEC shall not mix different traffic types (i.e., toll and local) over the same trunk group that interconnects with the ILEC's network until such time as technology is available to provide accurate billing or until such time as the ILEC agrees to such mixing of traffic or the ILEC is actually providing such service in Louisiana or elsewhere.

S. A TSP shall, when receiving misdirected service calls intended for another TSP, indicate to the customer that he has called the TSP in error and shall inform such customer that he should contact his local service provider. If requested by the customer to do so, the TSP shall provide the name and phone number of the customer's local service provider to the customer.

T. A TSP is not required to provide other TSPs with electronic access to its customer service records. TSPs are, however, directed to accept three-way calls from a customer and another TSP and shall, if the customer's consent is expressly given to the TSP, disclose the customer's current services and features. All TSPs shall implement an electronic "switch as is" process by which it shall switch a customer to another TSP with all services and features to which the customer is currently subscribing, upon receipt of appropriate customer authorization. The "switch as is" process described above shall result in no additional cost to the end user.

U. In circumstances where there is an open connection(s) or terminal(s) in a TSP's Network Interface Device ("NID"), another TSP shall be allowed to connect its loops to such open connection(s) or terminal(s). In circumstances where there are no open connection(s) or terminal(s), TSPs may effect a NID-to-NID connection as described in the FCC's First Report and Order (Docket No. 96-98 Aug. 8, 1996), at Paragraphs 392 - 394.

V. TSPs shall provide other TSPs with access to their AIN facilities, but only subject to mediation, if such mediation is desired by the TSP whose facilities are being accessed.

W. Upon receipt of a bona fide request, an ILEC shall provide a requesting TSP with a customized electronic interface to its database. The ILEC shall provide the requested customized electronic interface within twelve (12) months of the date that the requesting TSP provides the ILEC with specifications for the interface it desires. All costs prudently incurred by the ILEC in developing this customized electronic interface shall be borne by the TSP requesting such

interface. Any other TSP utilizing such electronic interface shall reimburse the requesting TSP for its cost incurred relative to the development of such electronic interface on a pro-rata basis determined on actual usage. The pro rata basis will be determined by the Commission when TSPs cannot agree on the relative usage.

## **SECTION 1001. Unbundling**

A. All TSPs shall be able to purchase desired features, functions, capabilities and services promptly and on an unbundled and non-discriminatory basis from all other TSPs provisioning services within the State. TSPs shall be allowed to combine unbundled network elements in any manner they choose; however, when a TSP recombines unbundled elements to create services identical to the retail offerings of the TSP providing the unbundled elements, the prices charged to the requesting TSP for the rebundled services shall be the provisioning TSP's retail price less the wholesale discount established in Order NO. U-22020 (or any future modifications thereof), and offered under the same terms and conditions as the provisioning TSP offers such services. For purposes of this section, a TSP shall be deemed to be "recombining unbundled elements to create services identical to the provisioning TSP's retail offering" when the service offered by the requesting TSP contains the functions, features and attributes of a retail offering that is the subject of the provisioning TSP's properly filed and approved tariffs. Services offered by the requesting TSP shall not be considered "identical" when the requesting TSP utilizes its own switching or other substantive functionality or capability in combination with unbundled elements in order to provide a service offering. For example, a requesting TSP's provision of purely ancillary functions or capabilities, such as operator services, Caller ID, Call Waiting, etc., in combination with unbundled elements shall not constitute a "substantive functionality or capability" for purposes of determining whether the requesting TSP is providing "services identical to a provisioning TSP's retail offering."

B. Unless exempted pursuant to Section 202 above, an ILEC shall provide unbundled loops, ports, signaling links, signal transfer points, and signaling control points to a requesting TSP upon the effective date of these Regulations.

C. Unless exempted pursuant to Section 202 above, after the effective date of these Regulations, an ILEC shall provide additional unbundling within ninety (90) days of receipt of a bona fide request from a TSP. Additional unbundled basic network components shall include, but not be limited to:

1. Logical components within the loop plant, including loop distribution, loop concentration, and loop feeder.
2. End office and tandem switching.
3. Operator systems.
4. Common and dedicated transport links.

D. TSPs shall be able to interconnect with all unbundled basic network components at any technically feasible point within an ILEC's network. Access, use and interconnection of all basic network components shall be on rates, terms and conditions substantially equivalent to those an ILEC provides to itself and its affiliates for the provision of exchange, exchange access, intraLATA toll and other ILEC services.

E. As specified in Section 901 above, rates for utilizing unbundled basic network components of ILEC networks and interconnection thereto shall be tariffed and based on cost information. There is no mandate that unbundled elements be provided by the ILEC to TSPs at its TSLRIC or LRIC of providing such elements. Interim rates for unbundled network elements are hereby established, as listed on attachment "D", subject to true-up upon the setting of permanent rates at such time as a final order issues in Docket U-22022 or other pertinent Commission proceeding.

F. ILECs shall put into place a service ordering, repair, maintenance, and implementation scheduling system for use by TSPs, which is equivalent to that used by the ILECs and their affiliates for their own retail exchange services. Data pertaining to service and facility availability shall be made available to TSPs in the same manner used by the ILECs and their affiliates.

G. ILECs shall include on a non-discriminatory basis the telephone numbers of CLEC customers in the ILECs' (including ILEC affiliates') "White Pages" residential and business

listings, "Yellow Pages" listings, "Blue Pages" government listings, and directory assistance databases associated with the areas covered by such publications in which the CLECs provide local telecommunications services either through resale or its own facilities. CLEC customers requesting to be omitted from such directories shall be omitted.

H. CLECs shall provide to the ILEC (including ILEC affiliate) publishing "White Pages", "Yellow Pages", and "Blue Pages" directories the names, addresses and telephone numbers of all CLEC customers that do not wish to be omitted from such directories. The entries of CLEC customers in ILEC directories shall be interspersed alphabetically among the entries of the ILEC customers and shall be no different in style, size or format than the entries of the ILEC customers.

I. ILECs shall, upon request of a CLEC, provide White, Yellow and Blue Pages directories to CLECs' customers.

J. ILECs and CLECs providing local telecommunications services shall provide subscriber list information gathered in their capacities as local telecommunications services providers on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person or entity (including TSPs and TDPs) for the purpose of publishing directories in any format.

K. ILECs and CLECs providing local telecommunications services shall provide the names and addresses of non-published or non-listed subscribers gathered in their capacities as local telecommunications services providers on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person or entity (including TSPs and TDPs) for the purpose of directory delivery.

L. TSPs shall allow nondiscriminatory access to their poles by other TSPs for pole attachments on a first come/first serve basis and pursuant to Commission General Order dated December 17, 1984. A TSP may reserve to itself maintenance spare capacity. "Maintenance spare capacity" is capacity reserved on a pole in which the ILEC can place facilities quickly in response to emergency situations such as cut or destroyed cables. TSPs shall provide access to poles for pole attachments under standard licensing agreements complying with all pertinent rules and regulations of this Commission.

M. TSPs shall allow nondiscriminatory access to their conduits and rights-of-way by other TSPs on a first come/first serve basis for the provisioning of local telecommunications services. A TSP may reserve to itself maintenance spare capacity. "Maintenance spare capacity" is capacity reserved in a conduit in which the ILEC can place facilities quickly in response to emergency situations such as cut or destroyed cables. TSPs shall provide access to conduits and rights-of-way under standard licensing agreements complying with all pertinent rules and regulations of this Commission. TSPs shall make their right-of-way records available to other TSPs upon the execution of a mutually acceptable confidentiality agreement.

## **SECTION 1101. Resale**

A. To encourage and promote competition in the local telecommunications markets, all facilities based TSPs shall make unbundled retail features, functions, capabilities and services, and bundled retail services available for resale to other TSPs on a nondiscriminatory basis.

B. No facilities based TSP may impose any restrictions on the resale of its unbundled retail features, functions, capabilities and services, and bundled retail services, except as follows:

1. Resale must be of the same class of service and category of customer. When TSPs purchase services for resale, they must do so on the same terms and conditions that the ILEC imposes on end users that purchase such services on a retail basis.
2. Contract Service Arrangements shall be made available at the Commission determined wholesale discount rate.
3. N11, 911, and E911 services are not subject to mandatory resale.
4. Link Up and Lifeline services are available for resale, with the restriction that TSPs shall offer such services only to those subscribers who meet the criteria the ILEC currently applies to subscribers of these services. TSPs shall discount the Link Up/Lifeline services by at least the same percentage as provided by the ILEC. TSPs shall comply with all aspects of any applicable rules, regulations or statutes relative to the providing of Link Up/Lifeline programs.
5. Short-term promotions, which are those offered for 90 days or less, are not subject to mandatory resale. Promotions that are offered for more than ninety (90) days must be made available for resale, at the Commission established discount, with the express restriction that TSPs shall only offer a promotional rate obtained from the ILEC for resale to those customers who would qualify for the promotion if they received it directly from the ILEC.
6. "Grandfathered Services" (service available only to a limited group of customers that have purchased the service in the past) are available for resale by TSPs to the same limited group of customers that have purchased the service in the past.

C. TSPs shall revise their existing tariffs to remove the prohibitions not allowed by this Section on the resale of unbundled retail features, functions, capabilities and services, and bundled retail services within thirty (30) days of the effective date of these Regulations. TSPs filing initial tariffs shall not include in such tariffs any prohibitions not allowed by this Section on resale of unbundled retail features, functions, capabilities and services, and bundled retail services.

D. During the transition to a competitive local telecommunications market, ILEC unbundled retail features, functions, capabilities and services, and bundled retail services, including vertical features, shall be tariffed and provided to other TSPs at reasonable wholesale rates. Avoided costs studies will be used by the Commission to determine costs avoided by an ILEC when an ILEC's unbundled retail features, functions, capabilities and services, and bundled retail services, including vertical features, are resold by another TSP, and to establish a wholesale discount percentage. An ILEC's tariffed wholesale resale rates will be determined by discounting the ILEC's retail rates by the wholesale discount percentage. There is no mandate that resold services be provided by an ILEC to TSPs at the ILEC's TSLRIC or LRIC of providing such services.

E. As of the effective date of these Regulations, and as an interim measure until the tariffed wholesale resale rates are developed pursuant to subsection D above, the wholesale resale rates of an ILEC shall be the ILEC's current tariffed retail rates reduced by 10% to encourage and promote competition in the local telecommunications markets and to reflect the ILEC's avoidance of retail costs, including but not limited to, sales, marketing and customer services associated with

the resold items. ILEC services currently tariffed and provisioned below cost shall be available for wholesale resale in the manner described above. If deemed necessary by the Commission to ensure universal service, a subsidy mechanism may be established in Subdocket A of Docket U-20883, which would be available to an ILEC reselling services shown to be provisioned below cost for public interest purposes.

F. An ILEC shall make available non-discriminatory online access to the ILEC's operating systems at a reasonable cost-based charge per database dip to TSPs that desire to resell ILEC features, functions, capabilities and services. This access shall be made available according to the following guidelines: 1) within sixty (60) days of receipt of a bona fide request, the ILEC shall make the requested access available at a reasonable cost-based charge agreed to between the parties, or 2) if within sixty (60) days of receipt of a bona fide request, an agreement is not reached between the parties, or the ILEC responds that the request is not technically and/or economically feasible to provide, the matter will be resolved by the Commission upon petition of either party. As part of the Commission's review of the matter, the ILEC shall provide TSLRIC and LRIC studies to the Commission which show the cost of providing the requested access, including a detailed explanation of why the requested access is not technically or economically feasible to provide the requesting TSP.

G. Access shall be available to the following:

1. Direct, on-line access to the ILECs' mechanized order entry system. Access shall be considered adequate when the provided access permits the reseller to access an ILEC's mechanized order entry system to place initial orders, access information concerning service and feature availability, modify orders previously entered, schedule the installation of services and any necessary equipment, and to check on the status of all transactions that the reseller has initiated in a manner at least as efficient as the access provided the ILEC's own employees.
2. On-line access to numbering administration systems and to numbering resources.
3. Direct on-line access to the ILECs' trouble reporting and monitoring systems. Access is considered adequate if reseller can directly access remote line testing facilities, report service problems, schedule premise visits where required, and check the status of repairs. Arrangement must also provide for interception and automatic forwarding of repair calls placed by reseller customers to the reseller.
4. Customer usage data. Resellers must be provided timely on-line and printed reports pertaining to the Reseller's customer's usage of ILEC local calling and switched access services.
5. To local listing databases and updates. Resellers should be able to add, modify and delete directory listings for the Reseller's customers via on-line access to the ILEC's directory database, and new reseller customers' listings should be available from Directory Assistance on precisely the same basis and in the same time frame as applies for new ILEC retail subscribers.

This access shall equal that provided to the ILECs' own personnel. The Commission and its Staff will monitor the progress, or lack thereof, made in this area, and, if deemed necessary after notice and hearing, will impose an additional transitional resale discount on an ILEC's features, functions, capabilities and services until an ILEC's operating systems are accessible by TSPs on the terms specified herein.

H. No TSP shall access the customer proprietary network information ("CPNI") of another interconnecting TSP for the purpose of marketing its services to the interconnecting company's customers. Likewise, no TSP shall access the CPNI of a company reselling its services, without permission of the reseller, for the purpose of marketing services to the reseller's customers.

I. All ILECs shall offer an optional, unbundled version of their retail services that allows

the reseller to use its own operator services and directory assistance services.

J. All ILECs shall offer resold services to the resellers which utilize the ILEC's operators as "unbranded" services until such time as selective routing is technically feasible, as determined by the Commission.

K. An ILEC shall advise a TSP reselling ILEC's services at least 30 days in advance, or at a date mutually agreed upon by the ILEC and the TSP in the parties interconnection agreements, of any changes in the terms and conditions under which it offers telecommunications services to subscribers who are non-TSPs including, but not limited to, the introduction or discontinuance of any feature, function, service or promotion. To the extent that revisions occur between the time that an ILEC notifies TSPs reselling the ILEC's services of the change, the ILEC shall immediately notify such TSPs of the revisions consistent with the ILEC's internal notification process. The ILEC may not be held responsible for any cost incurred by a TSP as a result of such revisions, unless such costs are incurred as a result of the ILEC's intentional misconduct. The Commission reserves the right to impose a fine or other penalty, after notice and hearing, upon an ILEC for such intentional misconduct. TSPs are expressly precluded from utilizing the notice given by the ILEC under this section to market its resold offering of such services in advance of the ILEC.

L. Upon receipt of a bona fide request, an ILEC shall provide a requesting TSP with a customized electronic interface to its databases. The ILEC shall provide the requested customized electronic interface within twelve (12) months of the date that the requesting TSP provides the ILEC with specifications for the interface it desires. All costs prudently incurred by the ILEC in developing this customized electronic interface shall be borne by the TSP requesting such interface. Any other TSP utilizing such electronic interface shall reimburse the requesting TSP for its cost incurred relative to the development of such electronic interface on a pro-rata basis determined on actual usage. The pro rata basis will be determined by the Commission when TSPs cannot agree on the relative usage.

## **SECTION 1201. Consumer Protection.**

A. All TSPs shall comply with all applicable statutes and Commission rules, regulations, orders and policies regarding customer billing, deposits, provisioning of service and the handling of complaints.

B. The following additional consumer protection rules shall apply to all TSPs providing local telecommunications services:

1. Any solicitation by or on behalf of a TSP to a customer to terminate his/her service with another provider and switch his/her service to a new TSP shall include current rate information of the new provider and all other information regarding the service(s) to be provided including, but not limited to the terms and conditions under which the new provider will provide the service(s), or a check box indicating that the customer has thirty (30) days to cancel the agreement without incurring charges other than those for actual usage. Upon request of a customer, a TSP shall provide the customer information pertaining to the technical specifications of the service(s) it is offering to the customer. All information provided shall be legible and printed in a minimum point size of type of at least 10 points. Failure to provide this information to the customer shall result in a fine of \$500 for each violation in addition to any other fine and/or penalties assessed.

2. In order to switch a customer from one TSP to another TSP, the new provider must obtain a signed and dated statement from the customer prior to the switch indicating that he/she is the subscriber of the telephone service for a particular telephone account and number, that he/she has the authority to authorize the switch of service to the new provider and that he/she does authorize the switch. This signed statement must be a separate or severable document whose sole purpose is to authorize the switch of the customer's TSP. The signed statement cannot be contained on the same document as promotional material, a registration to enter a contest or a form to contribute money to a charity.

Among other fines and/or penalties, the TSP making an unauthorized switch shall be subject to a fine not exceeding ten thousand dollars (\$10,000) per unauthorized switch, required to pay the costs of switching that customer back to the customer's previous provider and required to refund to the customer amounts paid to the provider during the unauthorized service period and extinguish any other amounts due by the consumer and not billed and/or paid. Additionally, the TSP shall be liable to the customer's previously selected provider in the amount equal to all charges paid by the customer to the unauthorized TSP after the unauthorized switch. All TSPs are responsible for the actions of their agents that solicit switches in an unauthorized manner and/or result in unauthorized switches.

3. A printed bill must be supplied to each customer at least once a month.

4. All billing for local telecommunications services must be presented for payment to the consumer within sixty (60) days of the date the consumer incurs the charge.

5. The customer's bill shall show the name of the TSP rendering service on behalf of the customer as opposed to the underlying carrier.

6. An address and a toll free telephone number for billing inquiries shall appear on each bill sent to the customer.

7. Interim dispute resolution procedures including interrupt and disconnect of services procedures, detailing how a customer can dispute a charge, lodge a complaint, and/or appeal to the Commission must be filed with the Commission and supplied to the customer upon request. The Commission will remain accessible to hear customer complaints as well as to resolve disputes among carriers regarding a customer complaint or problem. Final dispute resolution procedures are currently being considered by the Commission. When developed and approved, TSPs must comply with these procedures.

8. Customers must be given 30 days notice of any increase in price which is in excess of 5% of the current price.

9. No termination fees will be permitted for residential and single line business basic local services.

10. Unless fraud is suspected, no TSP can unilaterally and arbitrarily limit the amount of charges a customer can incur on his/her account regardless of whether the charges are for local, long distance or other toll charges unless the customer has a billed, outstanding balance due. If charges have been limited due to suspected fraud, the customer shall be informed in writing within two business days of the limits placed on the account and the reason for the limitations. Credit limits may be established when service is initiated, before charges are incurred or at any time upon an agreement between the TSP and customer.

11. No TSP may release nonpublic customer information regarding a customer's account or calling record unless required to do so by subpoena or court order.

12. Unless fraud is suspected, no TSP may unilaterally place a block on its customer's telephone service when a particular amount of charges have been incurred and the customer has not been presented the opportunity and a reasonable amount of time to pay or make other payment arrangements to pay the charges. If a block has been placed on a customer's telephone service due to suspected fraud, the customer shall be informed in writing within two business days of the block placed on his/her telephone and the reason for the block. For inmate pay phone systems, a customer's telephone may be blocked from the receipt of calls from an inmate facility only if the TSP has a blocking policy submitted in a tariff format approved by the Commission.

C. TSPs must file the service standard reports delineated in Section 302 and 701.J, as applicable to each class of TSP, in order to ensure that consumers receive timely, adequate and quality service.

D. The arrival of competition will not necessarily obviate the need of those whose incomes entitle them to assistance from the Lifeline Fund or similar fund. When appropriations become available for the Lifeline Fund, all TSPs shall be required to participate therein.

E. Violation of any statute or Commission rule, regulation, order or policy applicable to regulated TSPs may result in the imposition of monetary fines, penalties and/ or the revocation of the a providers certificate.

## **SECTION 1301. Miscellaneous Provisions**

A. Application. It is the intent of the Commission that these Regulations shall apply to all TSPs over which the Commission has regulatory authority. To the extent the Commission's regulatory authority over any particular TSP or over certain conduct or services offered or provided by any particular TSP is expressly preempted, then these Regulations shall be interpreted in a manner which recognizes all such preemptions so long as such preemption remains in effect.

B. All provisions of Order No. U-17949-N, dated October 18, 1991, are unaffected by these Regulations and shall remain in effect unless contrary to or inconsistent with the goals and/or provision(s) of these Regulations, in which case the provision(s) of these Regulations shall preempt and supersede all affected provisions of Order No. U-17949-N. However, the Commission hereby rescinds Ordering Paragraph Nos. "10", "11" and "12" of Order No. U-17949-N.

C. Severability. If a court of competent jurisdiction finds any provision of these Regulations to be invalid or unenforceable as to any TSP or circumstance, such finding shall not render that provision invalid or unenforceable as to any other TSPs or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of these Regulations in all other respects shall remain valid and enforceable. In addition, in the event any provision of these Regulations is stayed in connection with a judicial review of these Regulations, the remaining provisions of these Regulations shall remain valid and enforceable.

### **Historical Notes**

**Section 1201.B.1 was revised to include the language "or a check box indicating that the customer has thirty (30) days to cancel the agreement without incurring charges other than those for actual usage" by General Order No. R-30347, dated April 15, 2009.**

**Section 1201.C was revised to add the language, "and 701.J", by General Order No. R-30347, dated April 15, 2009.**

## APPENDIX A

### LOUISIANA BASIC SERVICES

#### Local Basic Service, including calling options.

Basic Local Service  
Subscriber Line Charges  
Statewide Rate Schedules (flat, measured and message)  
Monthly Exchange Rates  
Local Measured/Message Rated Service  
Expanded Local Calling Area Service  
Link-Up Service  
Joint User Service (5 or less subscribers)  
Local Option Calling Plans (LOS and LOSB)  
Local Saver Service  
Local Tele Thrift  
Party Line Service  
Local Exceptions  
Public Telephone Service  
Semi-Public Access Line

#### Local Ordering, Installation, and Restoral

Basic Service Connection  
Trouble Determination Charges  
Dual Service  
Link Up

#### Other Services

Directory Listing  
TouchTone  
Customized Code Restriction  
Blocking Service and Emergency Network Services  
Directory Assistance (within local service area)  
Local Operator Verification/Interrupt

## APPENDIX B

### LOUISIANA INTERCONNECTION SERVICES

#### Interconnection Services

Basic Serving Arrangement  
Carrier Common Line Access  
Clear Channel Capability  
Common Channel Signaling Access Capability  
Common Switching Optional Features  
Dedicated Network Access Line (DNAL)  
Direct Inward Dialing (DID) or DID/Direct with LSBA  
DID/Direct Outward Dialing (DOD) Access with LSBSA  
DID or DID/DOD with BSA  
800 Access Service  
Line Side Basic Serving Arrangement (LSBSA)  
Local Switching  
Local Transport  
Network Blocking Charge for Feature Group D  
Network Access Register Package  
Trunk Side Access Facility  
Trunk Side BSA  
900 Access Service  
Analog Services  
Dedicated Access Lines for TSPs  
Custom Network Service  
Digital Data Service  
High Capacity Service  
Metallic Service  
Voice Grade Analog Service  
Customer Owned Coin Operator Telephone (COCOT) Services Access Line  
Interconnection for Mobile Service Providers (includes cellular mobile)

**APPENDIX 1 – Non-Rural ILEC**  
**UNIVERSAL SERVICES BASKET**

[ Appendix 1 was eliminated by General Order No. R-31839, dated March 11, 2014.]

**Historical Notes**

**With the modifications made pursuant to General Order No. R-31839, dated March 11, 2014 to: 1) modify AT&T Louisiana's Price Plan by reclassifying all remaining retail telecommunications services to the "Competitive Services Basket", and 2) confirm that with the sunset of AT&T Louisiana's COLR obligation set forth in Section 601, AT&T Louisiana is also relieved of all universal service requirements set forth in Section 501, there are no remaining services in the "Universal Services Basket" in Appendix 1 which have been reclassified to the Competitive Services Basket.**

**APPENDIX 2 – Non-rural ILEC**

**BASIC SERVICES BASKET**

[Appendix 2 was eliminated by General Order No. R-31839, dated March 11, 2014.]

**Historical Notes**

**With the modifications made pursuant to General Order No. R-31839, dated March 11, 2014, to modify AT&T Louisiana's Price Plan by reclassifying all remaining retail telecommunications services to the "Competitive Services Basket", there are no remaining services in the "Basic Services Basket" in Appendix 2.**

## APPENDIX 3-Non-Rural ILEC

### INTERCONNECTION SERVICES BASKET

#### Switched Access (SWA) Service

##### SWA Service Arrangements:

- SWA FGs
- SWA 500 Service
- SWA 8XX Toll Free Dialing Ten Digit Screening Service
- SWA 900 Service

#### SWA Basic Serving Arrangement

#### SWA Transport

#### Common Switching

#### Carrier Common Line Access Service

#### Local Switching

#### Common Channel Signaling

#### Clear Channel Capability

#### COCOT Service Access Lines

#### Interconnection for Mobile Service Providers (MSPs)

#### Directory Assistance Access Service

#### Unbundled Network Elements (UNEs)<sup>8</sup>

- Unbundled Local Loop
- Unbundled Local Exchange Ports and Features
- Unbundled Switching and Local Interconnection
- Unbundled Transport and Local Interoffice Transport
- Signaling Network, Data Bases & Service Management Systems
- Selective Routing
- Collocation
- Interim Service Provider Portability
- Advanced Intelligent Network (AIN) Services
- Access Daily Usage File (ADUF)
- Daily Usage Files
- Loop Combinations

#### Fast Packet Access Service

- Exchange Access Frame Relay Service (XAFRS)
- Exchange Access ATM (XAATM)
- BellSouth Network Visibility Service

#### Special Access Service

##### SWA Contract tariffs

- Tariff No. LA-2005-01
- Tariff No. LA-2005-02
- Tariff No. LA-2003-01

#### Optical Transport Service

- BellSouth Wavelength Service

<sup>8</sup> Subject to LPSC Order No. U-24714, Subdocket A, dated 9-21-01.

**LOUISIANA PUBLIC SERVICE COMMISSION**

**GENERAL ORDER**

**LOUISIANA PUBLIC SERVICE COMMISSION**

**EX PARTE**

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*Docket No. U-24638 - In re: Rules and Regulations Regarding Telephonic Solicitation within Louisiana.*

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(Decided at the March 22, 2000 Business and Executive Session)  
(Amendments adopted at the Commission's November 13, 2013 Business and Executive Session, Docket No. R-31839)

[Appendix A revised pursuant to  
Commission General Order No. R-31839, dated March 11, 2014.]

**APPENDIX A**

To: All Jurisdictional Telecommunications Services Providers

From: The Louisiana Public Service Commission

Re: Certification of Non-Compliance with Commission General Order dated March 29, 2000, as amended by Commission General Order R-31839, dated March 11, 2014 regarding telephonic solicitation within Louisiana.

The Louisiana Public Service Commission ("Commission") requires that any jurisdictional telecommunications services providers ("TSPs") that cannot currently deliver calling party number identification must file with the Commission's Utilities Division, within sixty (60) days of the acquisition of their network, a detailed explanation of why their network is incapable of providing such information. A TSP filing such information with the Commission's Utilities Division may use the Certification of Non-Compliance form included in Appendix A.

Section 201(C) of Commission General Order dated March 29, 2000 (Docket No. U-24638), which adopts the Rules and Regulations Regarding Telephonic Solicitation in Louisiana ("Solicitation Rules"), requires each TSP that cannot deliver party number identification to submit to the Commission a detailed explanation of circumstances that may prevent it from delivering calling party information to its end users. The Order provides that a TSP will be considered to be in compliance with the requirement that it deliver calling party information to its end users, even though its end users may not receive calling party information when:

1. The information cannot be delivered, because the calling party blocks its delivery (for example, with call blocking (\*67));
2. The information cannot be delivered, because Common Channel Signaling System 7 ("SS7") or other comparable network connectivity is not shared throughout the end-to-end calling path and/or a TSP does not receive the calling party information from a previous TSP;
3. The information cannot be delivered, because at some point in the call routing a non-SS7 trunk or other comparable network is used to carry the call;
4. The information may not be delivered, because a private branch exchange ("PBX") or other customer premises equipment does not or is not capable of delivering calling party information.<sup>1</sup>

If, in addition to one or more of these four circumstances, there are other circumstances that may prevent a TSP from delivering calling party information to its end users, then that TSP must complete the Certification of Non-Compliance and attach to the certification a detailed explanation of the reasons it does not deliver calling party information to some or all of its end users.

Neither the Solicitation Rules nor the Order require a TSP to have specific network capabilities; therefore, the mere inability to deliver calling party information is not a violation of the Solicitation Rules or the Order, and completing the Certification of Non-Compliance does not, in any way, constitute or acknowledge a violation of the Solicitation Rules or the Order.

A full text of the Solicitation Rules is available at [www.lpsc.louisiana.gov](http://www.lpsc.louisiana.gov). The Commission appreciates your assistance in completing and returning this form. If you have any questions regarding this matter, please feel free to contact the Louisiana Public Service Commission's Utility Division or Auditing Division in Baton Rouge, Louisiana at (225) 342-4416.

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<sup>1</sup>In those cases where the PBX does not send or is not capable of sending calling party information, the Order requires that the originating TSP transmit a PBX trunk number if the TSP is SS7 capable or has other comparable network capability.

**CERTIFICATION OF NON-COMPLIANCE**

The undersigned hereby certifies, on behalf of

Company name: \_\_\_\_\_

Company address: \_\_\_\_\_

\_\_\_\_\_

Company telephone: \_\_\_\_\_

For reasons in addition to or other than listed below, and as set forth in the attachment to this Certification of Non-Compliance, the Company is not capable of delivering calling party information to each of its end users in accordance with the Rules and Regulations Regarding Telephonic Solicitation Within Louisiana and the General Order of the Commission dated March 29, 2000, as amended by Commission General Order R-31839 dated March 11, 2014.

1. The information cannot be delivered, because the calling party blocks its delivery (for example, with call blocking (\*67));
2. The information cannot be delivered, because Common Channel Signaling System 7 ("SS7") or other comparable network connectivity is not shared throughout the end-to-end calling path and/or a TSP does not receive the calling party information from a previous TSP;
3. The information cannot be delivered, because at some point in the call routing a non-SS7 trunk or other comparable network is used to carry the call; and,
4. The information may not be delivered, because a private branch exchange ("PBX") or other customer premises equipment does not or is not capable of delivering calling party information.<sup>1</sup>

**NOTE: THE COMPANY MUST ATTACH TO THIS CERTIFICATION A DETAILED EXPLANATION OF CIRCUMSTANCES THAT MAY PREVENT IT FROM DELIVERING CALLING PARTY INFORMATION TO AN END USER.**

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

<sup>1</sup>In those cases where the PBX does not send or is not capable of sending calling party information, the Order requires that the originating TSP transmit a PBX trunk number if the TSP is SS7 capable or has other comparable network capability.