

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE SALE, RESALE, )  
AND OTHER PROVISIONS OF INTRASTATE )  
TELECOMMUNICATIONS SERVICES ) PSC REGULATION DOCKET NO. 10  
(OPENED MAY 1, 1984; REOPENED )  
NOVEMBER 17, 1998) )

IN THE MATTER OF THE DEVELOPMENT OF )  
REGULATIONS FOR THE FACILITATION OF )  
COMPETITIVE ENTRY INTO THE TELECOM- ) PSC REGULATION DOCKET NO. 45  
MUNICATIONS LOCAL EXCHANGE SERVICE )  
MARKET (OPENED NOVEMBER 21, 1995; )  
REOPENED NOVEMBER 17, 1998) )

**ORDER NO. 5391**

**AND NOW**, to-wit, this 28<sup>th</sup> day of March, 2000;

**WHEREAS**, in Public Service Commission ("PSC" or the "Commission") Order No. 3283 (June 18, 1991) entered *In the Matter of the Sale, Resale and Other Provisions of Intrastate Telecommunications Services*, PSC Regulation Docket No. 10, the Commission issued its "Rules for the Provision of Competitive Intrastate Telecommunications Services" to govern telecommunications carriers offering intrastate telecommunications services for public use within the State; and

**WHEREAS**, by PSC Order No. 4468 (April 8, 1997) issued *In the Matter of the Development of Regulations for the Facilitation of Competitive Entry into the Telecommunications Local Exchange Service Market*, PSC Regulation Docket No. 45, the Commission issued "Interim Rules Governing Competition in the Market for Local Telecommunications Services" to govern competitive local exchange telecommunications services within the State; and

**WHEREAS**, the Commission Staff recommended amendment of both the Rules for the Provision of Competitive Intrastate Telecommunications Services (the "Docket

10 Rules") and the Rules Governing Competition in the Market for Local Telecommunications Services (the "Docket 45 Rules") to lessen regulatory burdens on the telecommunications carriers, as well as the Commission; to reflect the changing regulatory environment; to harmonize the provisions of the Docket 10 and 45 Rules; and to conform, where practicable, the requirements of these rules with other regulatory provisions; and

**WHEREAS**, by PSC Order No. 4949 (Nov. 17, 1998), the Commission reopened the proceedings captioned *In the Matter of the Sale, Resale and Other Provisions of Intrastate Telecommunications Services*, PSC Regulation Docket No. 10 and *In the Matter of the Development of Regulations for the Facilitation of Competitive Entry into the Telecommunications Local Exchange Services Market*, PSC Regulation Docket No. 45, to consider amendment of the Rules promulgated therein, in a single consolidated proceeding; and

**WHEREAS**, the Commission arranged for the publication of notice of the proceeding and of the text of the proposed amended Docket 10 and 45 Rules, as well as the text of Rules in their current form, in the Register of Regulations as required by 29 Del. C. §§ 1133 and 10115 and also arranged for publication of legal notice of the proceeding in the *The News Journal* and *Delaware State News* newspapers in accordance with 29 Del. C. § 10115; and

**WHEREAS**, the Hearing Examiner, designated by the Commission, received comments and suggestions for further or differing proposed revisions to the Rules and also conducted public hearings on the proposed amendments, at which participants were given the opportunity to present evidence and comments, cross-examine witnesses, and make further arguments; and

**WHEREAS**, on September 7, 1999, the Hearing Examiner issued a Report to the Commission recommending the Commission adopt certain proposed amendments to the Docket 10 and 45 Rules, which Report and Recommendations the Commission considered at its October 26, 1999 public meeting; and

**WHEREAS**, by PSC Order No. 5277 (Nov. 16, 1999), the Commission identified specific policies to be implemented by any revised Rules and remanded the proceeding to the Hearing Examiner for further consideration, including the opportunity for further comment by participants; and

**WHEREAS**, after receiving further comments and proposals and conducting a further evidentiary hearing, the Hearing Examiner issued a second report to the Commission recommending that the Commission adopt a consolidated set of *Rules for the Provision of Telecommunications Service* and proposing the text for such a unitary set of Rules; and

**WHEREAS**, the Commission thereafter afforded the participants an opportunity to submit written exceptions to the Report and Recommendations of the Hearing Examiner; and

**WHEREAS**, the Commission considered the Hearing Examiner's Report, the Hearing Examiner's Proposed Rules, and the exceptions of the participants at its public meeting of February 28, 2000 and, after deliberations, deemed it appropriate to propose repeal of the present Docket 10 and 45 Rules in their entirety and adoption of consolidated *Rules for the Provision of Telecommunications Services* as have been proposed by the Hearing Examiner, but with certain modifications approved by the Commission; and

**WHEREAS**, given that *Rules for the Provision of Telecommunications Services*,

as now being proposed, differ, in substantive nature, from the proposed revisions previously published in the Delaware Register of Regulations, the Commission believes it necessary, in light of 29 Del. C. § 10118(c), to reinstate the procedures for amendment of agency regulations as set forth in §§ 10113-10119 and to withdraw the previously proposed revisions;

Now, therefore, **IT IS HEREBY ORDERED:**

1. That the Commission proposes to amend its rules and regulations by: (a) repealing, in their entirety, the "*Interim Rules Governing Competition in the Market for Local Telecommunications Services*," adopted in PSC Order No. 4468 (April 8, 1997); (b) repealing in their entirety, the "*Rules for the Provision of Competitive Intrastate Telecommunications Services*," as adopted in PSC Order No. 3283 (June 18, 1991); and (c) adopting *Rules for the Provision of Telecommunications Service* as set forth in Attachment 3 to Exhibit "A" of this Order.

2. That the Commission withdraws the proposed revisions adopted in PSC Order No. 4949 (Nov. 17, 1998) in light of the action proposed in paragraph one above.

3. That the Commission seeks public comment and input concerning its proposal to repeal the present Docket 10 and 45 Rules and to adopt the proposed *Rules for the Provision of Telecommunications Services* and, for this purpose, to comply with the requirements of 29 Del. C. §§ 1133 and 10115, the Commission hereby issues the Notices of Proposed Repeal and Adoption of Rules for the Provision of Telecommunications Services attached hereto as Exhibits "A" and "B" for publication, respectively, in the Register of Regulations and in two (2)

newspapers of general circulation in the State.

4. That the Secretary shall transmit the Notice of Proposed Repeal and Adoption of Rules for the Provision of Telecommunications Services attached as Exhibit "A," together with copies of the existing text of the Docket 10 and 45 Rules and the proposed *Rules for the Provision of Telecommunications Services*, to the Registrar of Regulations for publication in the Register of Regulations on May 1, 2000, as required by 29 Del. C. 10115. In addition, the Secretary shall, contemporaneous with such transmittal, cause a copy of the Notice attached as Exhibit "A" and the existing Docket 10 and 45 Rules and the proposed *Rules for the Provision of Telecommunications Services* to be sent by United States Mail to: (1) all prior participants in this proceeding; (2) all persons who have made timely requests for advance notice of such proceedings; and (3) the Division of the Public Advocate.

5. That the Secretary shall cause the publication of the Notice of Proposed Repeal and Adoption of Rules for the Provision of Telecommunications Services attached hereto as Exhibit "B" to be made in *The News Journal* and the *Delaware State News* newspapers on the following dates, in two column format, outlined in black:

May 1, 2000 (for *The News Journal*)

May 1, 2000 (for the *Delaware State News*)

6. That the Commission will conduct a public hearing on the proposed repeal of the present Docket 10 and 45 Rules and the adoption of the proposed *Rules for the Provision of Telecommunications Services* during its regular public meeting at its Dover office on Tuesday, June 6, 2000, beginning at 1:00 PM.

7. That the telecommunications service providers regulated by the Commission are notified that they may be charged for the cost of this proceeding under 26 Del. C. § 114.

8. That the Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper by Order of the Commission.

PSC Regulation Docket No. 10 and 45, Order No. 5391 Cont'd.

BY ORDER OF THE COMMISSION:

/s/ Robert J. McMahon  
Chairman

/s/ Joshua M. Twilley  
Vice Chairman

/s/ Arnetta McRae  
Commissioner

/s/ Donald J. Puglisi  
Commissioner

\_\_\_\_\_  
Commissioner

ATTEST:

/s/ Karen J. Nickerson

Secretary

**E X H I B I T "A"**

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE SALE, RESALE )  
AND OTHER PROVISIONS OF INTRASTATE )  
TELECOMMUNICATIONS SERVICES ) PSC REGULATION DOCKET NO. 10  
(OPENED MAY 1, 1984; REOPENED )  
NOVEMBER 17, 1998) )

IN THE MATTER OF THE DEVELOPMENT OF )  
REGULATIONS FOR THE FACILITATION OF )  
COMPETITIVE ENTRY INTO THE TELECOM- ) PSC REGULATION DOCKET NO. 45  
MUNICATIONS LOCAL EXCHANGE SERVICE )  
MARKET (OPENED NOVEMBER 21, 1995; )  
REOPENED NOVEMBER 17, 1998) )

**NOTICE OF PROPOSED REPEAL AND ADOPTION OF  
RULES FOR THE PROVISION OF TELECOMMUNICATIONS SERVICE**

The Delaware Public Service Commission (the "PSC" or the "Commission") proposes to repeal its existing "Rules for the Provision of Competitive Intrastate Telecommunications Services" first adopted *In the Matter of the Sale, Resale and Other Provisions of Intrastate Telecommunications Services*, PSC Regulation Docket No. 10 ("the Docket 10 Rules") and its existing "Interim Rules Governing Competition in the Market for Local Telecommunications Services" first adopted *In the Matter of The Development of Regulations For The Facilitation of Competitive Entry Into the Telecommunications Local Exchange Service Market*, PSC Regulation Docket No. 45 (the "Docket 45 Rules"), and to adopt in their place a consolidated set of *Rules for the Provision of Telecommunications Services*. The proposed new Rules are intended to reflect the changes in the regulatory environment since the adoption of the Docket 10 and 45 Rules; to consolidate the Docket 10 Rules and Docket 45 Rules into a single set of rules; and to harmonize

the provisions of these Rules with other regulatory provisions, where practicable. The proposed new Rules will, overall, lessen the regulatory burdens and costs, both to regulated carriers and the PSC.

Significant proposed changes to the Rules include provisions: allowing carriers to file price lists in place of tariffs; eliminating the requirement that tariffs (or price lists) be accompanied by cost studies; allowing changes to existing rates to be implemented upon three days notice, rather than the current fourteen or five days notice; adding a new rule to govern customer election of preferred carriers consistent with the Federal Communications Commission's preferred carrier election rules; and adding a new rule governing enforcement of the *Rules for the Provision of Telecommunications Services*..

The PSC derives its legal authority to make and amend regulations governing the conduct of public utilities from 26 Del. C. §§ 201 and 209. In addition, under 26 Del. C. § 703, the PSC is authorized to modify its regulation of telecommunications services where such modifications will, among other things, promote efficiency in public and private resource allocations and encourage economic development. The process under which the PSC acts to make and amend regulations is set forth by 29 Del. C. §§ 10111 through 10119.

The text of the present Docket 10 Rules is attached as Attachment 1. The text of the present Docket 45 Rules is attached as Attachment 2. The text of the proposed Public Service Commission *Rules for the Provision of Telecommunications Services* is attached hereto as Attachment 3. The text of the existing and proposed Rules, along with summaries of the proposed changes, may be inspected at the Commission's office, located at 861 Silver Lake Boulevard, Cannon Building,

Suite 100, Dover, DE 19904 during the Commission's normal business hours, Monday to Friday, 8:00 AM to 4:30 PM. Copies of the present and proposed Rules are available at a fee of \$0.25 per page. The present and proposed rules may also be inspected and copied at the Commission's website - <http://www.state.de.us/govern/agencies/pubservc/delpsc.htm>.

The PSC solicits written comments, compilations of data, briefs, or other written materials addressing repeal of the Docket 10 Rules and Docket 45 Rules and adoption of the proposed *Rules for the Provision of Telecommunications Services*. Twelve (12) copies of such written materials shall be filed with the Commission at its office at the above address on or before May 30, 2000. In addition, any comments should include proposed text of any further or alternate amendments supported by the party submitting comments. The Public Service Commission shall conduct a public hearing upon the proposed repeal of the Docket 10 Rules and Docket 45 Rules and adoption of the proposed *Rules for the Provision of Telecommunications Services* and all comments and materials received on June 6, 2000, commencing at 1:00 PM at the Commission's Dover office. Persons who wish to participate in such hearing should notify the Commission in writing by May 30, 2000.

The repeal of the present Docket 10 and Docket 45 Rules and adoption of the new *Rules for the Provision of Telecommunications Services* proposed in this notice supersede the proposed revisions in the Docket 10 and Docket 45 Rules previously noticed in 2 DE Reg. 946-959 (Dec. 1998).

Telecommunications service providers subject to the jurisdiction of the Public Service Commission are notified that they may be charged for the costs of

this proceeding under 26 Del. C. § 114.

Individuals with disabilities who wish to participate in these proceedings may contact the Commission to discuss auxiliary aids or services needed to facilitate such participation. Contact may be in person, by writing, telephonically, by use of the Telecommunications Relay Service, or otherwise. The Commission's toll free number is 800-282-8574.

Persons may also obtain more information by contacting the Commission at (302) 739-4247. That number can also be used for Text Telephone Calls. Inquiries can also be sent by Internet e-mail to [cmcdowell@state.de.us](mailto:cmcdowell@state.de.us).



A T T A C H M E N T 1

DELAWARE PSC RULES  
FOR THE PROVISION OF COMPETITIVE  
INTRASTATE TELECOMMUNICATIONS SERVICES

Applicability: Any person (carrier) offering intrastate telecommunications services for public use within the State of Delaware (originating and terminating within the State, without regard to how the person decides to route the traffic) is subject to the regulation of the Public Service Commission (hereafter, "Commission") of the State of Delaware.

Persons subject to these regulations (i.e., carriers offering service for public use) include resellers of **WATS** and other bulk telecommunications services and facilities-based carriers. Persons providing telephone service through customer owned, coin operated (or pay) telephones (**COCOTS**) are governed by the Commission Rules in Regulation Docket No. 12 regarding (**COCOTS**) as the same may from time to time be amended. The Commission reserves the right to exempt any person otherwise subject to these Rules from the operation of any portion of such rules for good cause shown after notice and hearing. To the extent that existing tariffs of The Diamond State Telephone Company as of the effective date of these

Rules establish rules and regulations inconsistent with these Rules then, and in that event, the tariff shall control.

Rule 1 - Definitions

- a. **"COCOT"** means Customer Owned, Coin Operated (i.e., pay) Telephone.
- b. **"TELECOMMUNICATION SERVICE" OR "TELEPHONE SERVICE"** means the transmittal of information, by means of electronic or electromagnetic, including light, transmission with or without benefit of any closed transmission medium, including all instrumentalities ancillary thereto, equipment, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) used to provide such transmission including directory, information and operator service. "Telephone Service" does not include, however:
  1. the rent, sale, or lease, or exchange for carrier certificated prior to the effective date of these Regulations and only then to the extent that the regulation of its provision is not Federally preempted.
  2. telephone or telecommunications answering services, paging services and physical

pickup and delivery incidental to the provision of information transmitted through electronic or electromagnetic media, including light transmission.

3. Community antenna television service or Cable Television Service to the extent that such service is utilized solely for the one-way distribution of such entertainment services with no more than incidental subscriber interaction required for selection of such entertainment service.

c. **"REGULATED TELECOMMUNICATIONS CARRIERS"** - means persons who provide telephone service for public use within the State of Delaware. For purposes of regulation by the Delaware Public Service Commission the term "Regulated Telecommunications Carrier" specifically does not include:

1. telephone service that is provided by or owned and operated by any political subdivision, public or private institution of higher education or municipal corporation of this State or operated by their lessees or operating agents for the sole use of such political subdivision, public or private institution of higher learning or municipal corporation.

2. a company which provides telecommunications services solely to itself and its affiliates or members or between points in the same building, or between closely located buildings which are affiliated through substantial common ownership and does not offer such services to the available general public.
3. providers of telephone service by either primarily cellular technology or by domestic public land mobile radio service.
- d. **"INTRASTATE"** means telecommunications services that originate and terminate within the State of Delaware, without regard to how the call is switched or routed.

Rule 2 - **Certification Requirement.** All persons (carriers) wishing to provide public intrastate telecommunications services within the State of Delaware are required to file with the Commission an original and ten (10) copies of an Application for Certificate of Public Convenience and Necessity. Such application shall contain all the information and exhibits, hereinafter required and may contain such additional information as the Applicant deems appropriate to demonstrate to the Commission that it

possesses the technical, financial and operational ability to adequately service the public interest and that the public convenience and necessity requires or will require the operation of such business.

Rule 3 - **Notice.** Notice of the filing of such an application shall be given by the Applicant at the time of filing to each Commission-certificated telephone company (excluding each holder of a **COCOT** Certificate), the Public Advocate, and to such other entities as may be required by the Commission. Each applicant shall publish notice of the filing of the application in two (2) newspapers having general circulation throughout the State in a form to be prescribed by the Commission.

Rule 4 - **License Requirement.** Each applicant for a Certificate shall demonstrate that it is legally authorized and qualified to do business in the State of Delaware, including having received all licenses required by the Division of Revenue of the State of Delaware and by local authorities within the area of proposed operation within the State.

Rule 5 - **Identification and Billing of Intrastate and Interstate Traffic.** Persons (carriers) seeking to

provide intrastate telecommunications service within the State of Delaware shall be required in their filings to set forth an effective plan for identifying and billing intrastate versus interstate traffic, and shall pay the appropriate Local Exchange Company for access at its prevailing access charge rates. If adequate means of categorizing traffic as interstate versus intrastate are not or cannot be developed, then, for purposes of determining the access charge to be paid to the local exchange company for such undetermined traffic, the traffic shall be deemed to be of the jurisdiction having the higher access charges and billed at the higher access charges.

Rule 6 - **Additional Requirements.** Applicants shall be required to present substantial evidence supporting their financial, operational and technical ability to render service within the State of Delaware. Such evidence shall include, but is not limited to:

a. Certified financial statements current within twelve (12) months of the filing. Publicly traded Applicants must file their most recent annual report to shareholders and SEC Form 10-K.

Other indicia of financial capability may also be filed.

b. Brief narrative description of Applicant's

proposed business in Delaware and its operations in other states. Identifications of states in which Applicant presently is providing service, and for which service applications are pending.

- c. Three year construction, maintenance, engineering and financial plans for all services intended to be provided within the State of Delaware with a technical description of the equipment which will be used to provide such services.
- d. Relevant operational experience of each principal officer responsible for Delaware operations.
- e. Specific description of Applicant's engineering and technical expertise showing Applicant's qualification to provide the intended service including the names, addresses and qualifications of the officers, directors and technical or engineering personnel who will be operating and/or maintaining the equipment to be used to provide such service.
- f. Description and map of the Applicant's owned, leased, and optioned facilities existing and planned to exist within the State of Delaware in the next three years. Also, map showing points of presence within the State of Delaware. All such descriptions and maps shall at all times be kept current and are to be updated as changes are

known to the Applicant during the processing of the application and thereafter if the application is approved.

- g. If the applicant does not require deposits, advance payments, prepayments, financial guarantees or the like from customers and charges only for service after it has been provided, then no bond shall be required. Otherwise, applicant shall file a bond with a corporate surety licensed to do business in Delaware guaranteeing the repayment of all customer deposits and advances upon the termination of service. The Bond need not be filed with the application but no certificate will be issued to an Applicant and no Applicant may commence business until Applicant files such Bond with the Commission. The amount of the Bond will be the greater of (1) 150% of the projected balance of deposits and advances at the end of three years of operations or (2) \$50,000. If at any time the actual amount of deposits and advances held by the holder of a Certificate issued after the effective date of this regulation exceeds the amount projected, the amount of the Bond with surety shall be increased to comply with the requirement in the preceding sentence. Continuation of the Bonding

requirement after the first three years will be at the discretion of the Commission which upon application may dispense with the Bond requirement for good cause shown.

- h. Copies of State Business License issued by Delaware Division of Revenue.

Rule 7 - **Tariffs and Cost Studies.** Each application for a Certificate of Public Convenience and Necessity shall include proposed initial tariffs, rules, regulations, terms and conditions of service specifically adapted for the State of Delaware. Initial tariffs shall be accompanied by cost studies or other supporting data establishing the reasonableness and sufficiency of the proposed rates and charges. Other supporting data filed in lieu of a cost study must clearly establish the economic basis for management's decision to enter the Delaware market for each of the proposed services. Copies of Applicant's tariffs, and terms and conditions of service in other jurisdictions must be provided to the Commission upon request. Applicant's tariffs must include specific policies for customer deposits and advances, for prompt reconciliation of customer billing problems and complaints, and for timely correction of service problems. Applications must provide and keep current the name, address and telephone number of Applicant's Delaware Resident Agent.

Rule 8 - **New Options or Offerings.**

- a. Competition exists - Persons (carriers) seeking to introduce a service option or offering under this section shall file information sufficient to

establish the existence of actual competition for the services and customer categories to which the tariff applies.

After initial certification, a person (carrier) may introduce new options or offerings ten (10) days after making a tariff filing with the Commission. A change to an existing tariff can be implemented upon fourteen (14) days notice for price increases and five (5) days notice for price decreases. The tariff filing shall be accompanied by cost studies or other supporting data establishing the reasonableness and sufficiency of the proposed rates and charges. Other supporting data filed in lieu of a cost study must clearly establish the economic basis for management's decision to propose the option, offering or tariff change.

- b. **Competition does not exist** - After initial certification, a person (carrier) may introduce new options or offerings, or change an existing tariff, 60 days after making a tariff filing with the Commission. The tariff filing shall be accompanied by cost studies or other supporting data establishing the reasonableness and sufficiency of the proposed rates and charges. Other supporting data filed in lieu of a cost

study must clearly establish the economic basis for management's decision to propose the option, offering or tariff change. New options, offerings or tariff changes may be suspended in appropriate cases but normally will be allowed to take effect upon 60 days notice; however, the Commission may for good cause shown waive this requirement and allow the tariffs to go into effect upon shorter notice.

Rule 9 - **Abandonment or Discontinuation of Service.** No person (carrier) shall abandon or discontinue service, or any part thereof, established within the State of Delaware without prior Commission approval and without having previously made provision, approved by the Commission, for payment of all relevant outstanding liabilities (deposits) to customers within the State of Delaware.

Rule 10 - **Reports to be provided to the Commission.** All persons (carriers) certificated to provide Intrastate telephone service for public use after the effective date of these Rules shall provide such information concerning Delaware operations to the Public Service Commission as the Commission may from time to time request.

a. The accounting system to be used is the Uniform

System of Accounts of the Federal Communications Commission or other uniform system of account previously approved in writing by the Chief Accountant of the Commission.

- b. All reports required by these rules to be submitted to the Commission shall be attested to by an officer or manager of the carrier, under whose direction the report is prepared, or if under trust or receivership, by the receiver or a duly authorized person, or if not incorporated, by the proprietor, manager, superintendent, or other official in charge of the carrier's operation.
- c. All periodic reports required by this Commission must be received on or before the following due dates unless otherwise specified herein, or unless good cause is demonstrated by the carrier:
  - 1. Annual reports: one hundred twenty (120) days after the end of the reported period.
  - 2. Special and additional reports: as may be prescribed by the Commission unless good cause to the contrary is demonstrated.
- d. The annual report shall include standard financial reports (balance sheet, statement of operations, supporting schedules, etc.). This report shall also include (i) the same after-the-

fact information that management is provided concerning the measurement of performance provided in Delaware, (ii) the information used to determine the Delaware Income Tax liability, and (iii) financial and operating information for the smallest management unit that includes Delaware. Additional information to be provided includes:

1. Intrastate revenues (net of uncollectibles) by service category;
2. Intrastate access and billing and collection cost by service category;
3. Total number of customers by service category;
4. Total intrastate minutes of use by service category;
5. Total intrastate number of calls by service category;
6. A description of service offered;
7. A description of each complaint received by service category (in the form of a single Complaints Log); and,
8. Verification of deposits, customer advances, the bond requirement and the bond with surety.

**NOTE:** All reports filed pursuant to the requirement of this section may be deemed to be non-public records within the contemplation of the exemption from public record status accorded by 29 Del. C. § 10002 (d)(2) for trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature. Such reports to receive confidential treatment must be clearly and conspicuously marked on the title page as containing proprietary information. Each page with the report containing information deemed by the Company to be proprietary in nature shall be so marked.

Rule 11 - **Discrimination Prohibited.** No person (carrier) shall unreasonably discriminate among persons requesting a tariffed service within the State of Delaware. The Commission directs that the operating rule shall be service pursuant to tariff. If, in specific instances, a carrier wishes to provide service pursuant to contract as a response to direct competition, that carrier is required to demonstrate affirmatively that (i) the request is in response to actual rather than potential competition and (ii) that the proposed contract structure and rates are at least equal to incremental cost.

Any finding of unreasonable discrimination shall be grounds for suspension or revocation of the Certificate of Public Convenience and Necessity granted by the Commission as well as the imposition of monetary and other penalties pursuant to 26 Del. C. Sections 217, 218.

Rule 12 - **Suspension or Revocation of Certificate.** Excessive subscriber complaints against a person (carrier) shall be a basis for suspension or revocation of a carrier's Certificate of Public Convenience and Necessity if, after hearing, the Commission determines such complaints to be meritorious. In all proceedings, the Commission shall give to the person (carrier) notice of the allegations made against it and afford the carrier with an opportunity to be heard concerning those allegations, prior to the suspension or revocation of the carrier's Certificate of Public Convenience and Necessity or other formal action. The burden of establishing the adequate provision of service is upon the utility.

Rule 13- **Blockage.** Persons (carriers) who intentionally or otherwise carry intrastate telecommunications traffic within the State of Delaware on facilities or equipment available to the public are required:

- a. To file for a Certificate of Public Convenience and Necessity under these rules, unless already certified by the Commission; or
- b. To immediately block such intrastate traffic so that certification is no longer required.

Rule 14 - **Service Quality.** All persons subject to these Rules

shall provide telephone service in accordance with such Telephone Service Quality Regulations as the Commission has adopted in PSC Regulation Docket No. 20, Order No.

3232. An Applicant seeking to be exempted from any portion of those Rules should file an appropriate application for exemption with the Commission, pursuant to Rule 1.2.3 of the rules adopted by the Commission in Order No. 3232 (PSC Regulation Docket No. 20).

Upon a Commission determination that a specific service of a person (carrier) meets the requirements of Rule 8.a establishing the existence of actual competition, then the shortened notice requirements in Rule 8.a shall apply to that specific service of that person (carrier) and the 60-day notice requirement of Rule 3.5.1.G, as adopted in the Commission's Order No. 3232 (Docket No. 20) shall no longer apply to it, pending future Commission action.

A T T A C H M E N T 2

DELAWARE PUBLIC SERVICE COMMISSION

INTERIM RULES  
GOVERNING COMPETITION IN THE MARKET  
FOR LOCAL TELECOMMUNICATIONS SERVICES  
PSC REGULATION DOCKET NO. 45

CERTIFICATION AND REGULATION OF  
COMPETITIVE LOCAL EXCHANGE CARRIERS

## TABLE OF CONTENTS

Section 1:	Definitions
Section 2:	Application of Rules to ILEC
Section 3:	Certification of Competitive Local Exchange Carriers
Section 4:	Post Certification Requirements of CLECs
Section 5:	Enforcement

**DELAWARE PUBLIC SERVICE COMMISSION  
REVISED INTERIM RULES**

Governing Competition in the Market  
for Local Telecommunications Services  
PSC Regulation Docket No. 45

**CERTIFICATION AND REGULATION OF COMPETITIVE  
LOCAL EXCHANGE CARRIERS**

**Section 1:     Definitions**

- (1) The Act - means the federal Communications Act of 1934, as amended by the Telecommunications Act of 1996, Public Law No. 104-104, 110 Stat. 56.
- (2) COCOT - customer owned, coin operated (i.e., pay) telephone.
- (3) CPCN - Certificate of Public Convenience and Necessity.
- (4) Commission - the Delaware Public Service Commission.
- (5) Competitive Local Exchange Carrier (CLEC) - a telecommunications services provider, other than the incumbent local exchange carrier, offering and/or providing local telecommunications exchange services, pursuant to a Certificate of Public Convenience and Necessity that is issued pursuant to this Order.
- (6) Incumbent Local Exchange Carrier (ILEC) - telecommunications services provider that is the incumbent and historical wireline provider of local

telecommunications services within a local service territory 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; the ILEC in Delaware is Bell Atlantic-Delaware until further action by the Commission.

- (7) Interconnection - the linking of two networks for the mutual exchange of traffic. This term does not include the transport and termination of traffic.
- (8) Facilities-based Carrier - a local exchange carrier which directly owns, controls, operates, or manages plant and equipment through which it provides local exchange service to consumers within the local exchange portion of the public switched network.
- (9) Intrastate Telecommunications Services - telecommunications services that originate and terminate within the State of Delaware, without regard to how the call is switched or routed.
- (10) Local Exchange Carrier or Carrier - an entity offering and/or providing local telecommunications exchange services; includes both facilities-based and non-facilities-based providers. Providers of telephone service

by either cellular technology or by domestic public land mobile radio service shall not be considered local exchange carriers for purposes of these Rules.

- (11) Local Telecommunications Exchange Service - Local telecommunications exchange service includes non-toll, intrastate telecommunications services provided over a local exchange carrier's network, including but not limited to, exchange access services, private line services, basic local services, and public pay phone services.

Local telecommunications exchange service, however, does not include:

- a. telephone service that is provided by or owned and operated by any political subdivision, public or private institution of higher education, or municipal corporation of this State, or operated by their lessees or operating agents for the sole use of such political subdivision, public or private institution of higher learning or municipal corporation.
- b. telecommunications services provided by a company solely to itself or its affiliates, or between points in the same building or between closely located buildings which are affiliated through substantial

common ownership, and where such services do not include access to the public switched network.

- c. the rent, sale, or lease, or exchange for other value received, of customer premises equipment except for customer premises equipment owned or provided by a telecommunications carrier certificated prior to the effective date of these regulations and only then to the extent that the regulation of its provision is not Federally preempted.
- d. telephone or telecommunications answering services, paging services and physical pickup and delivery incidental to the provision of information transmitted through electronic or electromagnetic media, including light transmission.
- e. community antenna television service or Cable Television Service to the extent that such service is utilized solely for the one-way distribution of such entertainment services with no more than incidental subscriber interaction required for selection of such entertainment service.

(12) Resale - the sale to an end user of any telecommunications service purchased from another carrier.

- (13) Rules - these Interim Rules Governing Competition In The Market For Local Telecommunications Services.
- (14) Telecommunications - the transmission, between or among points specified by the user, of information of a user's choosing, without change in the form or content of the information as sent and received.
- (15) Telecommunications Service - the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**Section 2:      Application of Rules to ILEC**

- (1) The ILEC will remain subject to the Telecommunications Technology Act (TTIA), 26 Del. C. Sub. Ch. VII-A, during the term of its initial election thereunder.
- (2) The ILEC shall have carrier of last resort obligations in its service territory until a final decision is reached regarding universal service issues.

**Section 3: Certification of Competitive Local Exchange Carriers**

- (1) Certification Requirement. All entities wishing to provide local telecommunications exchanges services within the State of Delaware are required to file with the Commission an original and twelve (12) copies of an Application for Certificate of Public Convenience and Necessity. Such application shall contain all the information and exhibits, hereinafter required and may contain such additional information as the Applicant deems appropriate to demonstrate to the Commission that it possesses the technical, financial, managerial and operational ability to adequately service the public interest and that the public convenience and necessity requires or will require the operation of such business.
- (2) Notice. Notice of the filing of such an application shall be given by the Applicant at the time of filing to the Public Advocate, and to such other entities as may be required by the Commission. Each applicant shall publish notice of the filing of the application in two (2) newspapers having general circulation throughout the State in a form to be prescribed by the Commission.

- (3) License Requirement. Each applicant for a Certificate shall demonstrate that it is legally authorized and qualified to do business in the State of Delaware, including having received all licenses required by the Division of Revenue of the State of Delaware and by local authorities within the area of proposed operation within the State.
- (4) Additional Requirements. Each applicant shall be required to present substantial evidence supporting their financial, operational, managerial and technical ability to render service within the State of Delaware. Such evidence shall include, but is not limited to:
- a. Certified financial statements current within twelve (12) months of the filing. Publicly traded Applicants must file their most recent annual report to shareholders and SEC Form 10-K. Other indicia of financial capability may also be filed.
  - b. Brief narrative description of Applicant's proposed business in Delaware and its operations in other states. Identifications of states in which Applicant presently is providing service, and for which service applications are pending.

- c. One-year construction, maintenance, engineering and financial plans for all services intended to be provided within the State of Delaware with a technical description of the equipment which will be used to provide such services. The plan will be filed within six (6) months of the date on which final certification is granted. All such plans will be considered proprietary.
- d. Relevant operational experience of each principal officer responsible for Delaware operations.
- e. Specific description of Applicant's engineering and technical expertise showing Applicant's qualification to provide the intended service including the names, addresses and qualifications of the officers, directors and technical or engineering personnel who will be operating and/or maintaining the equipment to be used to provide such service.
- f. Description and map of the Applicant's owned, leased, and optioned facilities existing within the State of Delaware. Also, map showing points of presence or location where Applicant is serving customers within

the State of Delaware. All such descriptions and maps shall be updated annually.

- g. If the applicant does not require deposits, advance payments, prepayments, financial guarantees or the like from customers and charges only for service after it has been provided, then no bond shall be required. Otherwise, applicant shall file a bond with a corporate surety licensed to do business in Delaware guaranteeing the repayment of all customer deposits and advances upon the termination of service. The Bond need not be filed with the application but no certificate will be issued to an Applicant and no Applicant may commence business until Applicant files such Bond with the Commission. The amount of the Bond will be the greater of (1) 150 percent of the projected balance of deposits and advances at the end of three (3) years of operations; or (2) \$50,000. If at any time the actual amount of deposits and advances held by the holders of a Certificate issued after the effective date of this regulation exceeds the amount projected, the amount of the Bond with surety shall be increased to comply with the requirement in the

preceding sentence. Continuation of the Bonding requirement after the first three (3) years will be at the discretion of the Commission which, upon application, may dispense with the Bond requirement for good cause shown.

- h. All new applicants seeking CPCNs for authority to become facilities-based CLECs shall demonstrate in their applications that they possess a minimum of \$100,000 of cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up costs.
- i. All new applicants seeking CPCNs for authority to become non-facilities-based CLECs shall demonstrate in their applications that they possess a minimum of \$25,000 of cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up costs.
- j. Applicants for CPCNs as CLECs who have profitable interstate operations or operations in other states may meet the minimum financial requirement by submitting an audited balance sheet and income

statement demonstrating sufficient cash flow to meet the above requirement.

k. Demonstration of cash or cash equivalent can be satisfied by the following:

1. Cash or cash equivalent, including cashier's check, sight draft, performance bond proceeds, or traveler's checks;
2. Certificate of deposit or other liquid deposit, with a reputable bank or other financial institution;
3. Preferred stock proceeds or other corporate shareholder equity, provided that use is restricted to maintenance of working capital for a period of at least twelve (12) months beyond certification of the applicant by the Commission;
4. Letter of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;
5. Line of credit, issued by a reputable bank or other financial institution, irrevocable for a

period of at least twelve (12) months beyond certification of the applicant by the Commission;

6. Loan, issued by a qualified subsidiary, affiliate of applicant, or a qualified corporation holding controlling interest in the applicant, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission, and payable on an interest-only basis for the same period;
7. Guarantee, issued by a corporation, copartnership, or other person or association, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;
8. Guarantee, issued by a qualified subsidiary, affiliate of applicant, or a qualified corporation holding controlling interests in the applicant, irrevocable for a period of at least twelve (12) months beyond the certification of the applicant by the Commission.

(5) Tariffs. Each application for a Certificate of Public Convenience and Necessity shall include proposed initial

tariffs, rules, regulations, terms and conditions of service specifically adapted for the State of Delaware. Copies of Applicant's tariffs, and terms and conditions of service in other jurisdictions must be provided to the Commission upon request. Applicant's tariffs must include specific policies of customer deposits and advances, for prompt reconciliation of customer billing problems and complaints, and for timely correction of service problems. Applicants must provide and keep current the name, address and telephone number of Applicant's Delaware Resident Agent.

**Section 4: Post-Certification Requirements of CLECs**

- (1) New Options or Offerings. A CLEC may introduce new options or offerings, or change an existing tariff, by filing a supplemental or revised tariff with the Commission. A CLEC intending to offer a new telecommunications service shall provide the Commission with notice of its intention to do so no less than twenty (20) days before the proposed implementation date. The Commission may extend the proposed implementation date for any new service for good cause shown; provided, however, that notwithstanding such

extension, the CLEC may offer its new service as described in its original filing unless the Commission shall have, by final Order entered within ninety (90) days of such original filing determined that the proposed new service as described is not in compliance with these Rules. A CLEC filing notice of the offering of a new service pursuant to this Rule shall serve a copy of such notice on all interexchange telecommunications carriers and service providers who have requested it as well as the Office of the Public Advocate.

- (2) Abandonment or Discontinuation of Service. A CLEC may abandon or discontinue a service or any part thereof, established within the State of Delaware after having provided the Commission and its customers subscribing to such service with thirty (30) days' written notice. Such notice shall also contain proposed provision for payment of all relevant outstanding liabilities (deposits), if any, to customers within the State of Delaware. If the Commission takes no action within the thirty (30) day notice period, then the abandonment or discontinuation shall be deemed approved. Prior to the expiration of the thirty (30) day notice period, the Commission may act to continue the

provision of service for up to an additional sixty (60) days.

- (3) Reports to be provided to the Commission. All CLECs certificated to provide local telecommunications exchange service for public use after the effective date of these Rules shall provide such information concerning Delaware operations to the Public Service Commission as the Commission may from time to time request. Information provided pursuant to this paragraph and designated "proprietary" or "confidential" in accordance with paragraph 5(7) of these Rules shall be afforded proprietary treatment subject to the provisions of the Rules, Commission regulations and Delaware law.
- a. The accounting system to be used shall be in accordance with Generally Accepted Accounting Principles or any uniform system of accounts approved in writing by the Chief of Technical Services of the Commission.
  - b. All reports required by these rules to be submitted to the Commission shall be attested to by an officer or manager of the CLEC, under whose direction the report is prepared, or if under trust or receivership, by the

receiver or a duly authorized person, or if not incorporated, by the proprietor, manager, superintendent, or other official in charge of the CLEC's operation.

- c. All periodic reports required by this Commission must be received on or before the following due dates unless otherwise specified herein, or unless good cause is demonstrated by the CLEC:
  - 1. Annual reports: one hundred twenty (120) days after the end of the reported period.
  - 2. Special and additional reports: as may be prescribed by the Commission unless good cause to the contrary is demonstrated.
- d. The annual report shall include standard financial reports (balance sheet, statement of operations, supporting schedules, etc.). This report shall also include (i) the same after-the-fact information that management is provided concerning the measurement of performance provided in Delaware, (ii) the information used to determine the Delaware Income Tax liability, and (iii) financial and operating information for the

smallest management unit that includes Delaware.

Additional information to be provided includes:

1. Intrastate revenues (net of uncollectibles) by service category;
2. Intrastate access and billing and collection cost by service category;
3. Total number of customers by service category;
4. Total local minutes of use by service category;
5. Total local number of calls by service category;
6. A description of service offered;
7. A description of each complaint received by service category (in the form of a single Complaints Log); and,
8. Verification of deposits, customer advances, the bond requirement and the bond with surety.

(4) Discrimination Prohibited. No CLEC carrier shall unreasonably discriminate among persons requesting a tariffed service within the State of Delaware.

(5) Blockage. CLECs cannot interconnect or resell to carriers who are not authorized to provide service in the State of Delaware.

- (6) Pricing Standard. All CLECs shall provide local end user services at rates that generate sufficient revenue to cover the incremental cost of offering such service.
- (7) Universal Service Fund. The Commission may, upon completion of an appropriate proceeding, require CLECs and other telecommunications carriers to contribute to a Universal Service Fund.

(8) Services to be Provided. CLECs shall offer access to the public switched network and at a minimum, the following telecommunication services to its customers:

- Dial tone line services
- Local usage services
- Access to all available long distance carriers
- TouchTone service
- White pages listing
- Access to 911 enhanced emergency system
- Local directory assistance service
- Access to telecommunications relay service

(9) Written Authorization Forms Required. A CLEC must obtain a customer's written authorization in order to change his or her local exchange service provider. Such written authorizations must be separate from inducements such as prizes and contests. The written authorization forms provided by the CLEC must be limited strictly to authorizing a change in local service and it must be clearly identified as an authorization form for such change.

(10) Negotiation and Mediation Guidelines. All CLECs must abide by the Commission's Guidelines for Negotiations, Mediation,

Arbitration and Approval of Agreements between Local  
Exchange Telecommunications Carriers (Order No. 4245).

11) Resale Prohibitions.

(a) Cross-Class Selling. A CLEC that makes a service available only to residential customers or a limited class of residential customers may prohibit the purchaser from offering such services to classes of customers that are not eligible for such services from the providing CLEC.

(b) Other. With respect to any restrictions on resale not permitted under this paragraph, a CLEC may impose a restriction only if the Commission determines that the restriction is reasonable and nondiscriminatory.

(12) Previous Regulation Dockets. CLECs shall be subject to all previously established rules relating to telecommunications service providers in Delaware, except where such rules are inconsistent with these Rules, and/or the Act. As consistent with the provisions of existing rules and regulations, CLECs may petition the Commission to waive any provision in such rules previously established and regulations, as may be permitted by those rules or regulations.

(13) Customer Complaint Investigations. CLECs shall cooperate with Commission investigations of customer complaints.

**Section 5:        Enforcement**

(1) Commission Oversight:    Nothing in these Rules shall be deemed to limit the authority granted the Commission under the Telecommunications Regulatory Authorization Act of 1992, 26 Del. C. §§ 701-703.

(2) Violation and Penalties:    Failure of a CLEC to comply with any provision of these Rules may result in the suspension or revocation of its CPCN, and/or of the imposition of monetary or other penalties as authorized by 26 Del. C. § 217, 218.

(3) Proceedings:    Upon application by any person affected, including the Office of the Public Advocate or another carrier, or upon its own motion, the Commission may conduct a proceeding to determine whether a CLEC has violated any provision of the Rules.    Such proceedings shall be conducted according to the requirements of 29 Del. C. c. 101, the Delaware Administrative Procedures Act.

(4) Investigations:    For the purpose of determining whether it is necessary or advisable to commence a proceeding described by Rule 5(3) above, the Commission or its Staff may, at any time, investigate whether a CLEC is in compliance with the Rules.    Upon request, the CLEC shall provide to the Commission or its Staff sufficient information to demonstrate its compliance with

the Rules, including such data as shall demonstrate that the CLEC's services are provided at rates that generate sufficient revenue to cover the incremental cost of offering that service.

- (5) Subscriber Complaints as Ground for Proceeding or Investigation: The Commission may hold a proceeding to determine whether to suspend or revoke the certificate of, or otherwise penalize, any CLEC for reason of subscriber complaints. The Commission may investigate any subscriber complaints received.
- (6) Exemption: If unreasonable hardship results to a CLEC from the application of any of the Rules contained in Section 3 (Certification of Competitive Local Exchange Carriers) and Section 4 (Post Certification Requirements of CLECs) hereof, or if unreasonable difficulty is involved in compliance, the CLEC may make application to the Commission for temporary or permanent exemption from such Rule or Rules. The CLEC shall submit with such application a full and complete statement of its reasons for such application.
- (7) Proprietary Information: Under Delaware's Freedom of Information Act, 29 Del. C. ch. 100 ("FOIA"), all information filed with the Commission is considered of public record unless it contains ?trade secrets and

commercial or financial information obtained from a person which is of a privileged or confidential nature." 29 Del. C. § 10002(d)(2). To qualify as a non-public record under this exemption, materials received by the Commission must be clearly and conspicuously marked on the title page and on every page containing the sensitive information as "proprietary" or "confidential" or words of similar effect. The Commission shall presumptively deem all information so designated to be exempt from public record status. However, upon receipt of a request for access to information designated proprietary or confidential, the Commission may review the appropriateness of such designation and may determine to release the information requested. Prior to such release, the Commission shall provide the entity which submitted the information with reasonable notice and an opportunity to show why the information should not be released.

- (8) Re-evaluation of Rules after 18 Months: The Commission will re-evaluate these Rules and the need for any revisions

thereto approximately eighteen (18) months from the date of approval by the Commission of said Rules.

A T T A C H M E N T 3

PUBLIC SERVICE COMMISSION OF DELAWARE

RULES

FOR THE PROVISION OF

TELECOMMUNICATIONS SERVICES

**PART A**  
**CERTIFICATION AND REGULATION OF CARRIERS**

**Rule 1. Definitions.**

- (a) Rules shall mean these Rules, including PARTS A and B, governing the provision of telecommunications services in Delaware.
- (b) Carrier shall mean any person or entity offering to the public Telecommunications service that originates or terminates within the State of Delaware. The term "Carrier" does not include:
  - (i) any political subdivision, public or private institution of higher education or municipal corporation of this State or operated by their lessees or operating agents that provides telephone service for the sole use of such political subdivision, public or private institution of higher learning or municipal corporation;
  - (ii) a company that provides telecommunications services solely to itself and its affiliates or members or between points in the same building, or between closely located buildings which are affiliated through substantial common ownership and does not offer such services to the available general public;
  - (iii) providers of domestic public land mobile radio service provided by cellular technology excluded from the Commission's jurisdiction under 26 *Del. C.* § 202(c); and

- (iv) Payphone service providers regulated by this Commission under Rules promulgated in Regulation Docket No. 12. <sup>±</sup>
- (c) CPCN shall mean a Certificate of Public Convenience and Necessity issued by the Commission.
- (d) Commission shall mean the Public Service Commission of Delaware.
- (e) Competitive Local Exchange Carrier ("CLEC") shall mean a Carrier, other than the Incumbent Local Exchange Carrier, offering and/or providing local telecommunications exchange services within the State of Delaware.
- (f) Incumbent Local Exchange Carrier ("ILEC") shall mean in Delaware Bell Atlantic-Delaware, Inc., and any successor thereto.
- (g) Facilities-based Carrier shall mean a Local Exchange Carrier that directly owns, controls, operates, or manages plant and equipment through which it provides local exchange services to consumers within the local exchange portion of the public switched network.
- (h) Local Exchange Carrier ("LEC") shall mean a Carrier offering and/or providing local telecommunications exchange services (i.e., CLECs and ILECs); including both facilities-based and non-facilities-based Carriers.
- (i) Local Telecommunications Exchange Service shall mean non-toll, intrastate Telecommunications Services provided over a Local

Exchange Carrier's network, including, but not limited to, exchange access services and basic local services.

- (j) Resale shall mean the sale to an end user of any telecommunications service purchased from another Carrier.
- (k) Telecommunications shall mean the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form and content of the information as sent and received.
- (l) Telecommunications Service shall mean the offering of telecommunications for a fee directly to the public within the State of Delaware (originating or terminating within the State, without regard to how the Carrier decides to route the traffic), or to such classes of users as to be effectively available to the public, regardless of the facilities used.

"Telecommunications Service" does not include:

- (i) the rent, sale, lease, or exchange for other value received, of customer premises equipment, except for specialized terminal equipment as defined in 48 U.S.C. § 610(g);
- (ii) telephone or telecommunications answering services, paging services, and physical pickup and delivery incidental to the provision of information transmitted through electronic or electromagnetic media, including light transmission;

- (iii) The one-way distribution of entertainment services or informational services with no more than incidental customer interaction required for selection of such entertainment or information services; and
- (iv) Telecommunications service provided by either primary cellular technology or by domestic public land mobile radio service, even in the event that such transmission originates or terminates in a wireline telephone.

**Rule 2. Applicability.**

These Rules shall apply to all Carriers, as defined by these Rules, and shall be construed consistently with Rule 3 of these Rules.

**Rule 3. Application of and Conflict With Other Rules, Regulations, Tariffs and/or Price Lists.**

(a) The ILEC.

- (i) The ILEC will remain subject to the Telecommunications Technology [Investment] Act (TTIA), 26 Del. C. sub. Ch. VII-A, and any implementing regulations promulgated by the Commission during the term of its election thereunder. During such term, the ILEC shall not be subject to the requirements of these Part A. Rules; and
- (ii) The ILEC has Carrier of last resort obligations in its service territory.

(b) Telephone Service Quality Regulations (Docket No. 20).

All Carriers shall provide telephone service in accordance with the Telephone Service Quality Regulations the Commission adopted in PSC Regulation Docket No. 20, by Order No. 3232 (January 15, 1991) as such may from time to time be amended, except to the extent these Rules impose obligations or grant privileges inconsistent therewith.

(c) Negotiation and Mediation Guidelines.

All Carriers must abide by the Commission's Guidelines for Negotiations, Mediation, Arbitration and Approval of Agreements between Local Exchange Telecommunications Carriers (Order No. 4245).

(d) Rules of Practice and Procedure

The practice and procedure governing any proceedings required or authorized by these Rules shall be as set forth by the Commission's Rules of Practice and Procedure adopted in PSC Docket No. 99-9, by Order No. 5057 (April 6, 1999) as the same may be hereafter from time to time amended.

(e) Other Rules and Statutes.

These Rules shall prevail over any inconsistent requirements imposed by prior Order or regulation of the Commission, except for Rule 3(a) preceding and where expressly authorized by a Commission Order granting a waiver. All Carriers remain subject to any and all applicable provisions of state and federal law.

(f) Tariffs or Price Lists.

To the extent that a tariff or price list of any Carrier is inconsistent with these Rules, then, and in that event, these Rules shall control, subject to Rule 3(a) preceding, unless where expressly authorized by a Commission Order granting a waiver.

**Rule 4. Certification.**

(a) Certification Requirement.

No person or entity shall offer public intrastate or local exchange telecommunications service within the State of Delaware without first obtaining from the Commission a Certificate of Public Convenience and Necessity authorizing such service. A Carrier offering telecommunications service within the State of Delaware without a CPCN duly issued by this Commission is acting unlawfully and shall immediately cease offering such service until a CPCN is granted.

(b) Application.

An applicant for a CPCN shall file with the Commission an original and ten (10) copies of an Application for Certificate of Public Convenience and Necessity, together with the statutory filing fee set forth in 26 Del. C. § 114, as the same may from time to time be amended. Such application shall contain all the information and exhibits hereinafter required and may contain such additional information as the applicant

deems appropriate to demonstrate to the Commission that it possesses the technical, financial and operational ability to adequately serve the public and that the public convenience and necessity requires or will require the operation of such business.

(c) Notice.

The applicant shall serve a notice of the filing of such an application upon the Public Advocate, and to such other entities as may be required by the Commission. The applicant shall provide public notice of the filing of the application in two (2) newspapers having general circulation throughout the county or counties where service is to be offered in a form to be prescribed by the Commission.

(d) Business License and Registered Agent.

An applicant shall demonstrate that it is legally authorized and qualified to do business in the State of Delaware, including that it has received authorization to do business issued by the Secretary of State. An applicant shall provide the name, address, and telephone number of its Delaware Resident Agent. Following certification, all Carriers shall promptly notify the Commission in writing of changes of Resident Agent or the name, address, or telephone number thereof.

(e) Identification and Billing of Intrastate and Interstate Traffic.

An applicant shall be required to set forth an effective plan for identifying and billing intrastate versus interstate traffic, and shall pay the appropriate LEC for access at the LEC's prevailing access charge rates. If adequate means of categorizing traffic as interstate versus intrastate are not or cannot be developed, then, for purposes of determining the access charge to be paid to the LEC for such undetermined traffic, the traffic shall be deemed to be of the jurisdiction having the higher access charges and billed at the higher access charges.

(f) Bonds.

(i) Applicants with assets under \$250,000.

An applicant with total assets less than \$250,000 must post a \$10,000 performance bond with Delaware surety and renew such bond annually until the Carrier's assets exceed \$250,000.

(ii) Carriers requiring deposits, or any form of payment in advance for service.

No Carrier shall require its customers in Delaware to pay a deposit or pay or otherwise provide any security or advance as a condition of service unless that Carrier first has filed with the Commission a bond, issued by a

corporate surety licensed to do business in Delaware, guaranteeing the repayment of all customer deposits and advances upon the termination of service. The bond need not be filed with the application, but no CPCN will be issued until such bond is filed with the Commission. The amount of the bond shall be the greater of: (A) 150% of the projected balance of deposits and advances at the end of three years of operation; or (B) \$50,000. If at any time the actual amount of deposits and advances held by a Carrier exceeds the bond, then the Carrier promptly shall file with the Commission a bond with surety to comply with the requirement of the preceding sentence. A Carrier may petition for waiver of the bond requirement three years from the date the certificate was issued and such waiver will be granted upon a demonstration of an adequate operating history and financial resources to insure the repayment to customers of any advance payments or deposits held.

(g) Minimum Financial Requirements for LECs.

- (i) Any applicant for certification as a facilities-based CLEC shall demonstrate in its application that it possesses a minimum of \$100,000 of cash or cash equivalent, reasonably liquid and readily available;

- (ii) Any applicant for certification to do business as a non-facilities-based CLEC shall demonstrate in its application that it possesses a minimum of \$25,000 of cash or cash equivalent, reasonably liquid and readily available;
- (iii) Any applicant that has profitable interstate operations or operations in other states may meet the minimum financial requirements of subparagraphs (i) and (ii) above by submitting an audited balance sheet and income statement demonstrating sufficient cash flow to meet the above requirements; and
- (iv) An applicant may demonstrate cash or cash equivalent by the following:
  - (A) Cash or cash equivalent, including cashier's check, sight draft, performance bond proceeds, or traveler's checks;
  - (B) Certificate of deposit or other liquid deposit, with a reputable bank or other financial institution;
  - (C) Preferred stock proceeds or other corporate shareholder equity, provided that use is restricted to maintenance of working capital for a period of at least twelve (12) months beyond certification of the applicant by the Commission;

- (D) Letter of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least (12) months beyond certification of the applicant by the Commission;
- (E) Line of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;
- (F) Loan, issued by a qualified subsidiary, affiliate of applicant, or a qualified corporation holding a controlling interest in the applicant, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission, and payable on an interest-only basis for the same period;
- (G) Guarantee, issued by a corporation, copartnership, or other person or association, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;
- (H) Guarantee, issued by a qualified subsidiary, affiliate of the applicant, or a qualified corporation holding controlling interests in the applicant irrevocable for a period of at least

twelve (12) months beyond the certification of the applicant by the Commission.

(h) Initial Tariffs or Price Lists.

An applicant shall file proposed initial rates, prices, rules, regulations, terms and conditions of service specifically adopted for the State of Delaware. Upon an investigation into unjust and unreasonable pricing practices, the Commission Staff may require the applicant to provide cost data demonstrating that rates are reasonably expected to cover the incremental cost of offering the service. Copies of the applicant's rates and terms and condition of service in other jurisdictions must be provided to the Commission upon request.

Any applicant's tariff or price lists must include at a minimum specific policies regarding:

- (i) customer deposits and advances;
- (ii) prompt reconciliation of customer billing problems and complaints; and
- (iii) timely correction of service problems.

(i) Demonstration of Fitness.

An applicant shall be required to demonstrate to the Commission its financial, operational, and technical ability to render service within the State of Delaware. Such demonstration shall include, but is not limited to, the following:

- (i) The applicant's certified financial statements current within twelve (12) months of the filing, and, where applicable, the most recent annual report to shareholders and SEC Form 10-K;
- (ii) A brief narrative description of the applicant's proposed operations in Delaware, any present operations in all other states, and states for which service applications are pending;
- (iii) A description of the relevant operations experience of applicant's personnel principally responsible for the proposed Delaware operations;
- (iv) A specific description of the applicant's engineering and technical expertise showing its qualifications to provide the intended service, including the names, addresses, and qualifications of the officers, directors, and technical or engineering personnel or contractors who will be operating and/or maintaining the equipment to be used to provide such service; and
- (v) A description, including location, of the applicant's facilities that the applicant will use to provide the proposed service in the next three years. Upon written request of the Commission Staff, the applicant shall provide a one year construction, maintenance, engineering, and financial plan for all services

intended to be provided within the State of Delaware with a technical description of the equipment which will be used to provide such service.

**Rule 5. New Options or Offerings; Changes to Existing Rates, Prices or Terms and Conditions.**

(a) Notice Required for New Service Options and Offerings.

No Carrier shall offer new telecommunication service options or offerings except ten (10) days after filing with the Commission the proposed tariff or price list.

(b) Notice Required to Revise Existing Tariff or Price List.

No Carrier shall revise an existing tariff or price list except three (3) days after filing with the Commission the proposed tariff or price list.

(c) Service of Notice.

A Carrier filing a new service or changes to an existing service pursuant to this Rule shall serve the filing on:

- (i) the Public Advocate; and
- (ii) all interested persons that submit a written request to the Commission to receive such notice.

A Carrier shall file with the Commission a certificate of service as part of its notice requirement. To the extent that any such documents contain information claimed to be proprietary and interested persons have submitted a written request for notice, but

have not executed an appropriate proprietary agreement, the Carrier shall provide an expurgated version of the notice to such parties.

(d) Investigation of Filings.

A filing made pursuant to this rule shall not preclude the Commission or its Staff from an informal or formal investigation into the filing in order to protect fair competition, including requiring the Carrier to provide cost data demonstrating that rates are reasonably expected to cover the incremental cost of offering the service.

(e) Special Contracts

A Carrier shall file under this rule all contracts with a customer to the extent the contract changes the terms or conditions generally offered to the public in the carrier's tariff or price list on file with the Commission.

**Rule 6. Discrimination Prohibited.**

No Carrier shall unreasonably discriminate among persons requesting a service within the State of Delaware. Any finding of unreasonable discrimination shall be grounds for suspension or revocation of the Certificate of Public Convenience and Necessity granted by the Commission, as well as the imposition of monetary and other penalties pursuant to 26 *Del. C.* §§ 217 and 218.

**Rule 7. Abandonment or Discontinuation of Service.**

A Carrier may abandon or discontinue service, in whole or in part, in accordance with the terms of 26 *Del. C.* § 203A(c). The Carrier

shall provide notice of its application to discontinue or abandon service to its customers subscribing to such service and to the Division of Public Advocate. Such notice shall describe the options available to the customers. The Carrier's application to abandon or discontinue a service shall contain proposed provision for payment of all relevant outstanding liabilities (deposits and advance payments), if any, to customers within the State of Delaware.

**Rule 8. Services to be Provided By CLECs Providing Voice Telephone Service.**

Any CLEC providing voice telephone service shall offer, at a minimum, the following telecommunication services to its customers:

- (a) access to the public switched network;
- (b) dial tone line services;
- (c) local usage services;
- (d) access to all available long distance Carriers;
- (e) TouchTone services;
- (f) White page listing;
- (g) Access to 911 enhanced emergency system;
- (h) Local directory assistance service;
- (i) Access to telecommunications relay service.

**Rule 9. Resale Prohibitions.**

- (a) Cross-Class Selling.

A Carrier that by tariff or price list makes a service available only to residential customers or a limited class of residential customers may prohibit the

purchaser from offering such services to classes of customers that are not eligible for such services from the providing Carrier.

(b) Other.

With respect to any restrictions on resale other than cross-class selling as described in paragraph (a) above, a Carrier may impose a restriction only if the Commission determines that the restriction is reasonable and nondiscriminatory.

**Rule 10. Reports to the Commission.**

(a) Annual and Periodic Reports.

All Carriers shall file with the Commission an Annual Report as described below and such other reports or information as the Commission may from time to time require to fulfill its statutory obligations. The Annual Report shall include standard financial reports (balance sheet, statement of operations, supporting schedules, etc.). This report shall also include:

- (i) the same after-the-fact information that management is provided concerning the measurement of performance provided in Delaware;
- (ii) the information used to determine Delaware income tax liability;
- (iii) financial and operating information for the smallest management unit that includes Delaware;
- (iv) intrastate revenues (net of uncollectible) by service category;

- (v) intrastate access and billing and collection cost by service category;
- (vi) total number of customers by service category;
- (vii) total intrastate minutes of use by service category;
- (viii) total intrastate number of calls by service category;
- (ix) a description of service offered;
- (x) a description of each complaint received by service category (in the form of a single Complaints Log); and
- (xi) verification of deposits, customer advances, the bond requirement and the bond with surety, where applicable.

(b) Accounting System.

All Carriers shall use an accounting system in accordance with Generally Accepted Accounting Principles or such other uniform system of accounts previously approved in writing by the Chief of Technical Services of the Commission.

(c) Attestation.

All Carriers shall file all reports required by these Rules with a sworn statement by the person under whose direction the report was prepared, that the information provided in the

report is true and correct to the best of the person's knowledge and belief.

(d) Time for Filing.

All periodic reports to be filed with this Commission must be received on or before the following due dates, unless otherwise specified herein, or unless good cause is demonstrated by the Carrier:

- i. Annual Report: one hundred twenty (120) days after the end of the reported period; and
- ii. Special and additional reports: as may be prescribed by the Commission unless good cause to the contrary is demonstrated.

**Rule 11. Enforcement.**

(a) Commission Oversight.

The Commission shall have the authority and the discretion to take such action, upon complaint, motion, or formal or informal investigation, to remedy any alleged violations of these Rules. The Commission shall have available to it all remedies and enforcement powers bestowed by statute and consistent with due process.

(b) Violation and Penalties.

Failure of a Carrier to comply with any provision of these Rules may result in the suspension or revocation of its CPCN, and/or of the imposition of monetary or other penalties as

authorized by 26 Del. C. §§ 217 and 218.

(c) Proceedings.

Upon application by any person affected, including the Division of the Public Advocate or another Carrier, or upon its own motion, the Commission may conduct a proceeding to determine whether a Carrier has violated any provision of these Rules. Such proceedings shall be conducted according to the Commission's Rules of Practice and Procedure.

(d) Investigations.

For the purpose of determining whether it is necessary or advisable to commence a proceeding, the Commission or its Staff may, at any time, investigate whether a Carrier is in compliance with these Rules. Upon request, the Carrier shall provide to the Commission or its Staff sufficient information to demonstrate its compliance or noncompliance with the Rules, including such data as shall demonstrate that the Carriers' services are provided at rates that generate sufficient revenue to cover the incremental cost of offering that service.

(e) Customer Complaints as Ground for Proceeding or Investigation.

The Commission may hold a proceeding to determine whether to suspend or revoke the certificate of, or otherwise penalize any Carrier for reason of customer complaints. The Commission may investigate any customer complaints received.

**Rule 12. Waiver of Rules Upon Petition.**

A Carrier may petition the Commission for waiver of a Rule or Rules on a temporary or permanent basis by demonstrating to the satisfaction of the Commission that a waiver is in the public interest or for other good cause, including unreasonable hardship or burden. The Carrier shall comply with all Rules until the petition for waiver has been granted.

**PART B  
CUSTOMER ELECTION OF PREFERRED CARRIER**

**Rule 13. Additional Definitions.**

For purposes of this PART B, in addition to the Definitions set forth by PART A, the following definitions shall apply:

- (a) Submitting Carrier shall mean a Carrier that: (i) requests on the behalf of a customer that the customer's telecommunications Carrier be changed; and (ii) seeks to provide retail services to an end user customer. A Carrier may be treated as a Submitting Carrier, however, if it is responsible for any unreasonable delays in the submission of Carrier change requests or for the submission of unauthorized Carrier change requests, including fraudulent authorizations.
- (b) Executing Carrier shall mean a Carrier that effects a request that a customer's telecommunications Carrier be changed. A Carrier may be treated as an executing Carrier, however, if it

is responsible for any unreasonable delays in the execution of unauthorized Carrier changes, including fraudulent authorizations.

- (c) Preferred Carrier shall mean the Carrier providing service to the customer at the time of the adoption of these Rules, or such Carrier as the customer thereafter designates as the customer's Preferred Carrier.
- (d) Preferred Carrier Change Order shall mean generally any order changing a customer's designated Carrier for local exchange service, intraLATA intrastate toll service or both.

**Rule 14. Applicability.**

Any Carrier offering intrastate and/or local exchange service for public use within the State of Delaware, including the ILEC, Bell Atlantic-Delaware, Inc., shall be subject to the provisions of these Part B Rules.

**Rule 15. Verification of Orders for Telecommunications Service.**

No Carrier shall submit a Preferred Carrier Change Order unless and until the Order has been first confirmed in accordance with one of the following procedures:

- (a) The Carrier has obtained the customer's written authorization in a form that meets the requirements of Rule 16; or
- (b) The Carrier has obtained the customer's electronic authorization to submit the Preferred Carrier Change Order. Such authorization must be placed from the telephone number(s)

on which the Preferred Carrier is to be changed and must confirm the information required in Rule 16(e). Carriers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the Preferred Carrier change, including automatically recording the originating automatic numbering identification; or

- (c) An appropriately qualified independent third party has obtained the customer's oral authorization to submit the Preferred Carrier Change Order that confirms and includes appropriate verification data (e.g., the customer's date of birth or social security number). The independent third party must: (1) not be owned, managed, controlled, or directed by the Carrier or the Carrier's marketing agent; (2) must not have any financial incentive to confirm Preferred Carrier Change Orders for the Carrier or the Carrier's marketing agent; and (3) must operate in a location physically separate from the Carrier or the Carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a Preferred Carrier change.

**Rule 16. Letter of Agency Form and Content.**

- (a) A Carrier may use a letter of agency to obtain written authorization and/or verification of a customer's request to change his or her Preferred Carrier selection. A letter of agency that does not conform with this Rule is invalid.
- (b) The letter of agency shall be a separate document (or an easily separable document) containing only the authorizing language described in paragraph (e) of this Rule having the sole purpose of authorizing a Carrier to initiate a Preferred Carrier change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the Preferred Carrier change.
- (c) The letter of agency shall not be combined on the same document with inducements of any kind.
- (d) Notwithstanding paragraphs (b) and (c), a letter of agency authorizing a preferred Carrier selection affecting the customer's intrastate service provider only, may be combined with checks that contain only the required letter of agency as prescribed above together with the necessary information to make the check a negotiable instrument. Such a letter of agency check shall not contain any promotional language or material. Such a letter of agency check shall contain in easily readable, boldface type on the front of the check, a notice that the customer is authorizing a Preferred Carrier change by signing the check. The letter of agency language

shall be placed near the signature line on the back of the check.

- (e) At a minimum, the letter of agency must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:
  - (i) The customer's billing name and address and each telephone number to be covered by the Preferred Carrier change order;
  - (ii) The decision to change the Preferred Carrier from the current Carrier to the soliciting Carrier;
  - (iii) That the customer designates the Submitting Carrier to act as the customer's agent for the Preferred Carrier change;
  - (iv) That the customer understands that only one Carrier may be designated as the customer's local exchange or intrastate Carrier for any one telephone number; and
  - (v) That the customer understands that any Preferred Carrier selection the customer chooses may involve a charge to the customer for changing the customer's Preferred Carrier.
- (f) Any Carrier designated in a letter of agency as a Preferred Carrier must be the Carrier directly setting the rates for the customer.
- (g) Letters of agency shall not suggest or require that a customer

take some action in order to retain the customer's current telecommunications Carrier.

- (h) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions, or instructions provided with the letter of agency.

**Rule 17. Submission and Execution of Changes in Customer Carrier Selections.**

- (a) A Submitting Carrier shall maintain and preserve records of verification of customer authorization for a minimum period of two years after obtaining such verification.
- (b) An Executing Carrier shall not verify the submission of a change in customer's selection of a provider of telecommunications service received from a Submitting Carrier.  

An Executing Carrier shall promptly execute, without an unreasonable delay, any changes that have been verified and submitted by a Submitting Carrier.
- (c) Where a Carrier provides more than one type of telecommunications service (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll), that Carrier must obtain separate authorization from the customer for each service sold, although the authorizations may be made within the same

solicitation. Each authorization must be verified separately from any other authorization obtained in the same solicitation. Each authorization must be verified in accordance with the verification procedures prescribed in these Rules.

**Rule 18. Preferred Carrier Freezes.**

- (a) A Preferred Carrier freeze prevents a change in a customer's Preferred Carrier selection unless the customer has given the Carrier from which the freeze was requested his or her express consent. All Carriers who offer Preferred Carrier freezes must comply with the provisions of this Rule.
- (b) All Local Exchange Carriers that offer Preferred Carrier freezes shall offer freezes on a nondiscriminatory basis to all customers, regardless of the customer's Carrier selections.
- (c) Preferred Carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a Preferred Carrier freeze. The Carrier offering the freeze must obtain separate authorization for each service for which a Preferred Carrier freeze is requested.
- (d) All Carrier-provided solicitation and other materials

regarding Preferred Carrier freezes must include:

- (i) An explanation, in clear and neutral language, of what a Preferred Carrier freeze is and what services may be subject to a freeze;
  - (ii) A description of the specific procedures necessary to lift a Preferred Carrier freeze; and explanation that these steps are in addition to the Commission's verification rules for changing a customer's Preferred Carrier selections; and an explanation that the customer will be unable to make a change in Carrier selection unless he or she lifts the freeze; and
  - (iii) An explanation of any charges associated with the Preferred Carrier freeze.
- (e) No Carrier shall implement a Preferred Carrier freeze unless the customer's request to impose a freeze has first been confirmed in accordance with one of the following procedures:
- (i) The Local Exchange Carrier has obtained the customer's written and signed authorization in a form that meets the requirements of these Rules; or
  - (ii) The Local Exchange Carrier has obtained the customer's electronic authorization, placed from the telephone number(s) on which the Preferred Carrier freeze is to be imposed, to impose a Preferred Carrier freeze. The electronic authorization should confirm appropriate

verification data (e.g. the customer's date of birth or social security number) and the information required in these Rules. Carriers electing to confirm Preferred Carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the Preferred Carrier freeze request, including automatically recording the originating automatic number identification; or

- (iii) An appropriately qualified independent third party has obtained the customer's oral authorization to submit the Preferred Carrier freeze and confirmed that appropriate verification data (e.g. the customer's date of birth or social security number) and the information required in these Rules. The independent third party must: (A) not be owned, managed, or directly controlled by the Carrier or the Carrier's marketing agent; (B) must not have any financial incentive to confirm Preferred Carrier freeze requests for the Carrier or the Carrier's marketing agent; and (C) must operate in a location physically separate from the Carrier or the Carrier's marketing agent. The content of the verification must include

clear and conspicuous confirmation that the customer has authorized a Preferred Carrier freeze.

(f) A Carrier may accept a customer's written and signed authorization to impose a freeze on his or her Preferred Carrier selection. A written authorization that does not conform to this Rule is invalid and may not be used to impose a Preferred Carrier freeze.

(i) The written authorization shall comply with these Rules concerning the form and content for letters of agency.

(ii) At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(A) The customer's billing name and address and the telephone number(s) to be covered by the Preferred Carrier freeze;

(B) The decision to place a Preferred Carrier freeze on the telephone number(s) and particular service(s). The authorization must contain a separate statement for each service to be frozen;

(C) That the customer understands that she or he will be unable to make a change in Carrier selection unless she or he lifts the Preferred Carrier freeze; and

- (D) That the customer understands that any Preferred Carrier freeze may involve a charge to the customer.
- (g) All Carriers who offer Preferred Carrier freezes must, at a minimum, offer customers the following procedures for lifting a Preferred Carrier freeze:
  - (i) A Local Exchange Carrier administering a Preferred Carrier freeze must accept a customer's written and signed authorization stating her or his intent to lift a Preferred Carrier freeze; and
  - (ii) A Local Exchange Carrier administering a Preferred Carrier freeze must accept a customer's oral authorization stating her or his intent to lift a Preferred Carrier freeze and must offer a mechanism that allows a submitting Carrier to conduct a three-way conference with the Carrier administering the freeze and the customer in order to lift a freeze. When engaged in oral authorization to lift a Preferred Carrier freeze, the Carrier administering the freeze shall confirm appropriate verification data (e.g., the customer's date of birth or social security number) and the customer's intent to lift the particular freeze.

**Rule 19. Customer Protection.**

- (a) Procedures To Be Followed By The Customer.

A customer who believes his or her Carrier or Carriers have been changed, without the customer's authorization, and/or that the customer has been billed for charges not authorized by the customer, should first attempt to resolve the matter with the Carrier or Carriers responsible for the unauthorized changes and/or charges. If the customer is not satisfied with the resolution offered by the Carrier, the customer may file a complaint with the Commission.

(b) Procedures To Be Followed By Carriers.

A Carrier who is informed by a customer that the customer believes the Carrier has caused or allowed a change in the customer's Carrier without the customer's authorization, or that the Carrier has caused or allowed the customer to be billed for charges not authorized by the customer shall attempt to resolve the complaint promptly and in good faith. If the customer and Carrier are not able to resolve the complaint, then the Carrier shall inform the customer orally or in writing of the right to file a complaint with the Commission and shall provide the customer with the Commission's address and telephone number.

(c) Carriers to Maintain Record of Complaints.

Each Carrier shall maintain a record of the complaints received by it alleging that the Carrier has caused or allowed a customer's Carrier to be changed without the customer's

authorization or has caused or allowed the customer to be billed for charges not authorized by the customer. The Carrier shall maintain the record of each complaint for a period of two years following initial notification of the complaint. Upon request by the Commission or its staff, a Carrier shall furnish a copy of its complaint records and such other information as the Commission Staff may require. A Carrier's complaint records shall include at least the following information:

- (i) name, address, and telephone number of complainant and the date and manner received by the Carrier; and

- (ii) a chronological summary of the dispute and its current status, including any resolution and date of resolution.

(d) Refund and Penalties.

In the event the Commission determines that a Carrier has caused a customer's Carrier for a service to be changed without the customer's authorization obtained in exact compliance with these Rules, or has caused the customer to be billed for charges imposed without exact compliance with these Rules, then the Commission may require the Carrier to promptly refund or void to the customer any charges the Carrier has caused to be billed as a result of the unauthorized change or charge, and/or any other remedies available for violation of these Rules as allowed by law.

**E X H I B I T "B"**

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE SALE, RESALE )  
AND OTHER PROVISIONS OF INTRASTATE )  
TELECOMMUNICATIONS SERVICES ) PSC REGULATION DOCKET NO. 10  
(OPENED MAY 1, 1984; REOPENED )  
NOVEMBER 17, 1998) )

IN THE MATTER OF THE DEVELOPMENT OF )  
REGULATIONS FOR THE FACILITATION OF )  
COMPETITIVE ENTRY INTO THE TELECOM- ) PSC REGULATION DOCKET NO. 45  
MUNICATIONS LOCAL EXCHANGE SERVICE )  
MARKET (OPENED NOVEMBER 21, 1995; )  
REOPENED NOVEMBER 17, 1998) )

**NOTICE OF PROPOSED REPEAL AND ADOPTION OF  
RULES FOR THE PROVISION OF TELECOMMUNICATIONS SERVICE**

The Delaware Public Service Commission (the "PSC" or "Commission") proposes to repeal its existing "Rules for the Provision of Competitive Intrastate Telecommunications Services" first adopted *In the Matter of the Sale, Resale and Other Provisions of Intrastate Telecommunications Services*, PSC Regulation Docket No. 10 ("the Docket 10 Rules") and its existing "Interim Rules Governing Competition in the Market for Local Telecommunications Services" first adopted *In the Matter of The Development of Regulations For The Facilitation of Competitive Entry Into the Telecommunications Local Exchange Service Market*, PSC Regulation Docket No. 45 (the "Docket 45 Rules"), and to adopt in their place a set of *Rules for the Provision of Telecommunications Services*. The proposed new Rules are intended to reflect the changes in the regulatory environment since the adoption of the Docket 10 and 45 Rules; to consolidate the Docket 10 Rules and Docket 45 Rules into a single set of rules; and to harmonize the provisions of these Rules

with other regulatory provisions, where practicable. The proposed new Rules will, overall, lessen the regulatory burdens and costs, both to regulated carriers and the PSC.

Significant proposed changes to the Rules include provisions: allowing carriers to file price lists in place of tariffs; eliminating the requirement that tariffs (or price lists) be accompanied by cost studies; allowing changes to existing rates to be implemented upon three days notice, rather than on fourteen or five days notice; adding a new rule to govern customer election of preferred carriers consistent with the Federal Communications Commission's preferred carrier election rules; and adding a new rule governing enforcement of the *Rules for the Provision of Telecommunications Services*.

The PSC derives its legal authority to make and amend regulations governing the conduct of public utilities from 26 Del. C. §§ 201 and 209. In addition, under 26 Del. C. § 703, the PSC is authorized to modify its regulation of telecommunications services where such modifications will, among other things, promote efficiency in public and private resource allocations and encourage economic development. The process under which the PSC acts to make and amend regulations is set forth by 29 Del. C. §§ 10111 through 10119.

The text of the existing and proposed Rules, along with summaries of the proposed changes, may be inspected at the Commission's office, 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904 during the Commission's normal business hours, Monday to Friday, 8:00 AM to 4:30 PM. Copies of the present and proposed Rules are available at a fee of \$0.25 per page. The present and proposed rules may also be inspected and copied at the

Commission's website -

<http://www.state.de.us/govern/agencies/pubservc/delpsc.htm>.

The PSC solicits written comments, compilations of data, briefs, or other written materials addressing repeal of the Docket 10 Rules and Docket 45 Rules and adoption of the proposed *Rules for the Provision of Telecommunications Service*. Twelve (12) copies of such written materials shall be filed with the Commission at its office at the above address on or before May 30, 2000. In addition, any comments should include proposed text of any further or alternate amendments to the Rules supported by the party submitting comments. The Public Service Commission will conduct a public hearing upon the proposed repeal of the Docket 10 and 45 Rules and adoption of the proposed *Rules for the Provision of Telecommunications Services* and all comments and materials received on June 6, 2000, commencing at 1:00 PM at the Commission's Dover office. Persons who wish to participate in these proceedings may contact the Commission in writing by May 30, 2000.

Individuals with disabilities who wish to participate in these proceedings may contact the Commission to discuss auxiliary aids or services needed to facilitate such participation. Contact may be in person, by writing, telephonically, by use of the Telecommunications Relay Service, or otherwise. The Commission's toll free number is 800-282-8574.

Persons may also obtain more information by contacting the Commission at (302) 739-4247. That number can also be used for Text Telephone Calls. Inquiries can also be sent by Internet e-mail to [cmcdowell@state.de.us](mailto:cmcdowell@state.de.us).

---