

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 13th day of March, 2000.

GENERAL ORDER NO. 187.19

In the matter of local exchange
telecommunications carriers' filing of
intraLATA toll dialing parity implementation
plans pursuant to FCC regulations.

and

CASE NO. 99-1449-T-PC

NET2000 COMMUNICATIONS SERVICES, INC.
Petition for consent and approval of an intraLATA toll
dialing parity plan.

COMMISSION ORDER

This proceeding deals with local exchange telecommunications carriers' compliance with prior Commission orders implementing intraLATA toll dialing parity. See, e.g., "Commission Order," General Investigation Into IntraLATA Competition, Case No. 94- 1103-T-GI (Oct. 10, 1995). IntraLATA toll dialing parity would allow toll carriers to compete equally in the intraLATA market by eliminating the need to use access codes to have carriers other than Bell Atlantic - West Virginia, Inc. (BA-WV) carry long distance telecommunications traffic within LATAs in the State. Under the Commission's orders, customers would be able to designate both a preferred interexchange carrier (PIC) to carry intrastate, interLATA toll traffic, and a carrier to carry intrastate, intraLATA toll traffic. Customers could presubscribe to two different carriers for each type of toll traffic. This option is commonly referred to as "Two-PIC" presubscription.

After the Commission's order implementing intraLATA toll dialing parity was issued, the Telecommunications Act of 1996 (TA96) was passed by Congress. See Pub. Law No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§ 151 et seq. Except for single-LATA states (which West Virginia is not) and states which had issued an order requiring intraLATA

dialing parity prior to December 19, 1995 (of which West Virginia is one), TA96 precluded states from requiring Bell operating companies (BOCs) to provide intraLATA dialing parity before the earlier of two dates: (1) the date the BOC receives authority from the Federal Communications Commission (FCC) to provide in-region, interLATA service, or (2) February 8, 1999. 47 U.S.C. § 271(e)(2). Consistent with its authority under TA96, the FCC promulgated regulations requiring local exchange carriers (LECs) to file intraLATA toll dialing parity implementation plans (DPIPs) for approval. See "Order," In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket 96-98, NSD File No. 98-121 (Rel. March 23, 1999). The FCC's March 23, 1999, order required all LECs to file DPIPs with the appropriate state commission by April 22, 1999, or file the DPIPs with the FCC by June 22, 1999, if the state commission failed to act by

that time.

A. Procedural History.

By General Order entered June 28, 1999, the Commission directed all LECs in West Virginia to file proposed intraLATA toll DPIPs by July 16, 1999. [See FootNote 1](#)-"Commission Order," General Order No. 187.19 (June 28, 1999), at 3. In addition, the Commission established an interim procedure for new entrant LECs _ i.e., those that begin offering local service after June 22, 1999 _ seeking approval of proposed DPIPs. The Commission directed a new LEC to file its proposed DPIP for Commission approval at least 30 days prior to the date the new LEC will begin offering local telecommunications service in any exchange. Id. New LECs could incorporate their DPIP in proposed local service tariffs submitted for Commission approval. Finally, the Commission directed its Executive Secretary to cause notice of this proceeding to be published statewide and to file proof of publication thereafter. Affidavits of publication were filed with the Commission on the following dates: July 8, 12, 20-21, 1999; August 24, 1999; and November 3, 1999.

In response to the Commission's June 28, 1999, order, the following LECs filed proposed DPIPs with the Commission: Hyperion Communications of West Virginia, LLC (Hyperion) on May 10, 1999; [See FootNote 2](#) Armstrong Telephone Company -- West Virginia (ATC-WV),

and Armstrong Telephone Company -- Northern Division (ATC-ND), on July 14, 1999; Hardy Telecommunications (Hardy Telecom) on July 19, 1999; and West Side Telecommunications (West Side) on Aug. 25, 1999.

On October 1, 1999, Net2000 Communications Services, Inc. (Net2000) filed a proposed DPIP with the Commission for approval. Rather than being incorporated into the Commission's on-going proceeding in General Order No. 187.19, Net2000's filing was docketed as Case No. 99-1449-T-PC.

On November 2, 1999, Commission Staff (Staff) filed an Initial and Final Joint Staff Memorandum recommending that Net2000's proposed DPIP should be approved by the Commission. Staff has not filed any memorandum regarding the DPIPs in G.O. No. 187.19.

B. Terms and Conditions of the Proposed DPIPs.

1. Proposed DPIPs filed by ATC-WV, ATC-ND, Hardy Telecom and West Side.

The proposed DPIPs filed with the Commission by ATC-WV, ATC-ND, Hardy Telecom and West Side are, except for formatting and stylistic differences, virtually identical. Briefly summarized, the key features of these proposed DPIPs are:

* Full two-PIC selection will be offered.

* Toll providers must use Feature Group D Switched Access Service to qualify as a toll provider participating in the LEC's DPIP.

* All toll providers must submit a letter of intent to the LEC, at least 45 days prior to the date on which the toll provider proposes to begin participating in the DPIP.

* New end-users (i.e., subscribers, customers) and payphone service providers will be asked to

select a primary toll provider and have 30 days to select a preferred toll carrier without charge. During the interim, subscribers are automatically assigned to BA-WV for intraLATA calls and must dial an access code to make an interLATA call. Subscribers may make the following choices during this initial 30-day period:

(1) select a toll provider as primary carrier, requiring no access code to access that carrier's service (all other toll providers' services may be utilized through use of access codes); or

(2) choose no toll provider as primary carrier, thus requiring use of an access code to obtain toll providers' services.

* After the initial 30-day period, or at any time after an initial PIC selection has been made, any PIC selection or change is subject to a nonrecurring charge of \$5 per change per line.

* If a participating toll provider elects to discontinue Feature Group D service, the toll provider must provide notice of such discontinuance, in writing, to all end users or payphone service providers who have selected the toll provider as their PIC, and request those subscribers to make a new PIC selection. The toll provider must also state that it will pay the PIC change charge. Toll providers electing to discontinue Feature Group D service must provide the LEC with written notice that subscribers have been advised accordingly.

* In resolving discrepancies regarding a subscriber's PIC selection, a signed letter of authorization takes precedence over any order other than subsequent direct customer contact with the LEC. When two or more orders are received for an end user as the result of telemarketing, the order with the latest application date determines the subscriber's choice.

* Toll providers shall not submit PIC change orders generated by outbound telemarketing unless the order has first been confirmed in accordance with the following procedures:

(1) The toll provider obtains the customer's written authorization which explains what occurs in the PIC change process and confirms: (a) the customer's billing name and address, and each telephone number subject to the PIC change; (b) the decision to change the PIC to the toll provider; and (c) the customer's understanding of the PIC change charge;

(2) The toll provider obtains the customer's electronic authorization to submit the order and which confirms the information in (a) - (c) above; or

(3) oral verification of the PIC change is obtained by an appropriately qualified, independent third party, physically separate from the outbound telemarketer, and includes appropriate verification data (e.g., customer's date of birth, password, social security number).

* Where end users contact the LEC and deny requesting a PIC change, the end users will be credited the charge assessed for the disputed change and will be switched back to the prior toll provider, at no charge.

* Where end users do not deny the authenticity of the most recent PIC change, but request to be switched back to the prior toll provider, the customers will be subject to a \$5 switchback charge per change per line.

* Customers may select a "PIC Freeze" by notifying the LEC in writing and by signing a PIC Freeze Authorization Form that notes the carrier that the freeze applies to, as well as a personal identification number or password the customer may use to "lift" the freeze. Customers may also "lift" the freeze by using a three-way call among the carrier, customer and LEC. If a customer changes the PIC, a new form will need to be completed for a freeze to be applied to the new PIC. The freeze will be completed and maintained without any customer charge.

2. Hyperion's proposed DPIP.

The proposed DPIP filed by Hyperion differs from the plans submitted by ATC-WV, ATC-ND, Hardy Telecom and West Side in several respects. Hyperion's proposed DPIP provides as follows:

* Hyperion's DPIP will apply in those exchanges where the company is a facilities-based LEC and provides end users an opportunity to designate a carrier for intraLATA toll traffic.

* Full two-PIC technology will be deployed in Hyperion's switches. All eligible end user telephone line numbers will be presubscribed and have a PIC associated with them.

* Interexchange carriers may offer intraLATA service only, or both intra- and interLATA service and may participate in all market areas or specific market areas.

* Interexchange carriers must return a completed Non-Disclosure Agreement and Participation Agreement.

* Hyperion will not participate in billing disputes for intraLATA service between an alternative, competing interexchange carrier and its customers.

* Hyperion representatives will not initiate or accept three-way calls from alternative interexchange carriers in order to discuss presubscription.

* Interexchange carriers wishing to participate in Hyperion's DPIP must submit to Hyperion the Access Service Requests/Translation Questionnaires that the carriers have submitted to the Access Tandem owner.

* Originating intraLATA traffic initially will be routed via the incumbent LEC Access Tandem. Following conversion, direct trunks between Hyperion's switch and the interexchange carrier locations may be provided when warranted by traffic volume.

* Interexchange carriers must have Feature Group D trunks in place, or ordered, between their point of presence and the incumbent LEC Access Tandem.

* Hyperion will route all originating intraLATA traffic to the designated carrier and will only block traffic at the end user's request, or in compliance with regulatory requirements. Carrier requests to block traffic or remove customers from their network will not be honored. Calls that cannot be completed to a carrier will be routed to an announcement.

* Hyperion representatives will process customer-initiated PIC selections to Hyperion or an alternative intraLATA carrier; carriers may opt to allow Hyperion representatives to process PIC requests on their behalf.

* At conversion, all customers will be PIC'd to Hyperion unless another carrier is chosen by the customer. Hyperion will not ballot or allocate its customer base.

* Responses to customer inquiries regarding intraLATA carriers will be competitively neutral; a list of participating carriers will be provided to customers, in random order, in response to requests for information regarding alternative carriers. Hyperion representatives will not discuss alternative carriers' rates or services and will not provide customers with Carrier Identification Codes or access code dialing instructions.

* If the intraLATA carrier PIC'd by the customer allows Hyperion to process orders on its behalf, Hyperion will accept the PIC change request; otherwise, Hyperion will provide the carrier's toll-free number to the customer.

* A PIC change charge of \$5 per line will be incurred, following a 90-day grace period following implementation of the DPIP. See FootNote 3. Hyperion will offer interexchange carriers the option of having the PIC charge billed to the carrier or directly to the customer.

* New customers, or customers adding lines, will be assigned no PIC unless they select a carrier. Such customers have 30 days to make a selection at no charge. Thereafter, the \$5 charge applies.

* If a Hyperion customer denies requesting an intraLATA toll carrier change, and the intraLATA carrier cannot produce a letter of agency signed by the customer or another form of verification permitted by law, the intraLATA carrier will be charged \$30 for the unauthorized PIC change and the PIC will be changed as the customer requests.

* Alternative interexchange carriers may submit PIC changes via a telefacsimile or paper interface.

* Hyperion will process intraLATA PIC selections in the same manner and time intervals as interLATA PIC changes.

* Carriers submitting PIC changes must use the Customer Account Record Exchange (CARE) format via paper medium. Hyperion will provide order confirmation and reject information under the CARE format. Specific details regarding the CARE format will be provided to participating carriers.

* For customers who switch local service from an incumbent LEC to Hyperion

but who retain their incumbent LEC telephone number(s), Hyperion will provide the selected intraLATA carrier with both the retained telephone number and the Hyperion telephone number.

3. Net2000's Proposed DPIP.

Net2000 filed a fairly simple proposed DPIP, but did not submit a tariff containing the terms and conditions of that plan. Briefly summarized, Net2000's plan:

* Offers dialing parity for all toll calls _ both intraLATA toll and interexchange toll. Net2000 intends to use the underlying carrier's two-PIC capabilities.

* Gives each customer selecting Net2000 local service an opportunity to affirmatively select a carrier for each type of toll service. A Net2000 representative will inform the customer requesting

service that Net2000 will presubscribe that customer to an intraLATA and interLATA toll carrier of the customer's choice _ if a customer does not select a toll carrier, toll service will not default to Net2000.

- * Treats all toll carriers on a non-discriminatory basis. Net2000 will maintain a list of all available toll carriers.

- * Provides that Net2000 will process a customer's PIC selection of a carrier other than Net2000 in the same fashion and time frame as requests to presubscribe to Net2000. Customers will be able to verify their toll selection by dialing a toll-free number.

- * Provides that Net2000 representatives use the CARE format to accept changes in response to communications from other intraLATA and interLATA toll carriers. Changes will be made only through a CARE request in order to ensure that changes are not made without proper authorization. Other carriers may submit a CARE request either manually or electronically.

- * States that Net2000 will comply with the FCC's anti-slamming regulations.

- * Makes a PIC freeze option available to requesting customers.

Unlike other carriers, Net2000 did not include a PIC change charge in its proposed DPIP.

DISCUSSION

The Commission needs to address several issues in this proceeding and accordingly will deal with each separately.

A. LECs That Have Not Filed Proposed DPIPs Yet.

Despite the Commission's clear directive in its June 28, 1999, order, several incumbent LECs and, the Commission suspects, a number of new entrant LECs have not submitted proposed DPIPs, either separately or as part of their local service tariffs, for Commission approval. The following incumbent LECs have not filed proposed plans: Citizens Telecommunications Company of West Virginia (CTC-WV), Citizens Mountain State Telephone Company (CTC-MS) (collectively, the Citizens LECs), Spruce Knob-Seneca Rocks Telephone Company (Spruce Knob), and War Telephone Company (War Tel.).

The Commission will direct Staff to contact these incumbent LECs, and any new entrants that (a) have been certificated, (b) have had interconnection agreements approved, and (c) have filed local service tariffs, and advise these carriers of the requirements set forth in the Commission's June 28, 1999, order. Staff shall file a report regarding its efforts, and carriers' responses, with the Commission no later than 60 days after entry of this Order.

B. Proposed DPIPs Filed by ATC-WV, ATC-ND, Hardy Telecom and West Side.

Based on its review of the proposed DPIPs or tariffs filed by these carriers, the Commission concludes that such plans should be approved, and the carriers directed to re- file, for entry only, revised tariff pages to be included in their local service tariffs.

The terms and conditions of these plans appear to be reasonable and consistent with the

Commission's orders initially requiring intraLATA toll dialing parity (Case No. 94-1103- T-GI), and those orders approving proposed DPIP's filed by BA-WV and AT&T (Case Nos. 97-0192-T-PC and 99-0553-T-PC, respectively). To the extent the carriers filed tariffs incorporating their proposed DPIP's, the carriers should be directed to file an original and two copies of such pages for inclusion in their local tariffs within thirty (30) days after this Order's entry date. The tariff revisions will be considered effective as of the date of this Order.

C. Hyperion's proposed DPIP.

Hyperion's proposed DPIP is more problematic.

As an initial matter, there are some procedural irregularities that stem from the fact

that Hyperion filed a proposed DPIP with both the Commission and the FCC.[See FootNote 4](#). The Commission needs to address these irregularities.

In response to the proposed DPIP's filed with the FCC by Hyperion, and various other carriers, AT&T filed comments objecting to certain provisions in those plans. The following provision of Hyperion's plan filed with this Commission was challenged by AT&T at the federal level:

Hyperion will route all originating intraLATA traffic to the designated carrier and will only block traffic at the request of the end user customer and/or in compliance with regulatory requirements. Requests from carriers to block traffic or to remove customers from their network will not be honored.

"AT&T Corp. Comments on Dialing Parity Plans," CC Docket 96-98, File No. NSD L-98- 121 (filed July 6, 1999), at 4-5 fn. 10; cf. Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.4 , Section 9.9.5. AT&T argued that this provision was improper, claiming that the FCC has recognized that interexchange carriers have the right to choose which end office they serve. Id. at 5, citing "Second Report and Order and Memorandum Opinion and Order," Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd. 19392, 19409-10 ¶¶ 28, 30 (1996). Although not altogether clear, AT&T seemed to be arguing that, by extension, that interexchange carriers have the right to choose which customers they serve.

The FCC never addressed the merits of AT&T's argument.[See FootNote 5](#). Instead, the FCC either deemed the challenged plans approved for one of a number of reasons[See FootNote 6](#) or dismissed the

plans, without prejudice, on the grounds that the LECs were not offering local service in a particular state at that time. The FCC concluded that Hyperion's proposed DPIP for West Virginia should be approved because it had been approved by the Commission. DA 99-1437 (July 21, 1999), at 2. Of course, this was not correct.

Thus, the provision in Hyperion's proposed DPIP, identical to the provision challenged at the federal level by AT&T, has never been ruled upon. The Commission can decide the issue two ways: (1) the easy way, or (2) the right way. The easy way to decide the issue is to simply not address the challenge raised by AT&T at the federal level since AT&T did not challenge this provision of Hyperion's proposed DPIP in this proceeding.

However, the Commission believes it would be wrong not to address the provision at issue. Even if AT&T did not challenge the provision before the Commission, that provision alone should warrant closer scrutiny on public, and regulatory, policy grounds. None of the other DPIP's approved by the

Commission contained a provision like that in question. Moreover, the Commission can certainly take notice of AT&T's arguments that the provision is improper. Therefore, the Commission will address this particular provision in Hyperion's proposed DPIP for West Virginia.

Having decided to consider AT&T's arguments, and based on its own, independent review, the Commission concludes that the particular provision in Hyperion's proposed DPIP should be rejected. For one thing, it appears to be discriminatory in its implementation. If Hyperion is the intraLATA toll carrier, and a customer does not pay his or her toll bill, Hyperion is free either to block the customer's toll service or to terminate service altogether. IntraLATA competitors, however, will likely be forced to continue carrying the traffic of non-paying customers or to block the customers' incoming calls at the toll carrier's switch.

Second, the Commission is not certain that all intraLATA toll carriers have the ability to block incoming toll traffic, nor is the Commission certain what costs intraLATA toll carriers would incur if they have to block incoming calls at the toll switch. For example, if incoming toll traffic had to be blocked at the toll carrier's switch, rather than at the LEC's serving end office, intraLATA toll carriers would have to pay for traffic carried over trunks from the LEC's switch to the toll switch. This result rewards the wrongdoer, in this case the customer who does not pay toll bills, and imposes costs on the wronged party, the toll carrier that has already gone unpaid for presumably undisputed charges. The Commission cannot conceive of any reason to sanction such a result.

Furthermore, approving this proposed provision of Hyperion's DPIP creates a scenario where an intraLATA toll carrier discontinues a delinquent customer but nonetheless remains the PIC'd carrier in Hyperion's switch. In such instances, the toll carrier may end up having to carry the delinquent customer's traffic, but would probably do so at higher base- or casual calling rates. This scenario results in the nonpaying customer being subject to higher charges and the toll carrier having a larger unpaid bill. Again, there is no apparent reason to support this result.

Finally, there are also the merits of AT&T's argument to the FCC, namely that the proposed DPIP provision is contrary to the FCC's orders. Although the Commission had an intraLATA presubscription plan in place before TA96 was enacted and arguably the FCC's local competition rulings on intraLATA dialing parity do not apply, the Commission has sought to take those FCC rulings into account and make Commission policy consistent with them. The provision in question in Hyperion's proposed DPIP appears to be inconsistent with those federal rulings cited by AT&T.

For all the foregoing reasons, the Commission believes that the following language in Hyperion's proposed DPIP should be rejected: "Requests from carriers to block traffic or to remove customers from their network will not be honored." See Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.4 , Section 9.9.5.

The Commission must also address Hyperion's proposed bill insert, advising customers of the "free PIC" period. The proposed bill insert advises customers that, after toll dialing parity is implemented, they have an initial 120-day period to select a local toll (*i.e.*, intraLATA) carrier other than Hyperion, at no charge. If a customer changes the local toll carrier after this period, or has already made an initial selection, a \$5 change charge applies. The proposed DPIP refers to a 90-day grace period. See Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.5, Section 9.9.7. The Commission concludes that the DPIP provision should control and therefore will direct Hyperion to revise its proposed bill insert to advise customers that they have a 90-day "free PIC" period after dialing parity is implemented.

Hyperion will be directed to re-file its tariff provisions setting forth its intraLATA toll dialing parity

plan, as revised in accordance with this Order, within 60 days following the date of entry of this Order. In all other respects, Hyperion's proposed DPIP will be approved. Hyperion's revised tariff will be retroactively effective to this Order's date of entry.

D. Net2000's proposed DPIP.

Net2000's proposed DPIP appears to comport with the Commission's prior rulings on intraLATA presubscription and, in accordance with Staff's recommendation, should be

approved. Net2000 will be directed to file an original and two copies of its DPIP for inclusion in the local service tariff withing thirty (30) days of this Order's date of entry.

FINDINGS OF FACT

1. By General Order entered June 28, 1999, the Commission directed all LECs in West Virginia to file proposed intraLATA toll DPIPs, for Commission review and approval, by July 16, 1999. "Commission Order," General Order No. 187.19 (June 28, 1999), at 3.

2. The Commission's June 28, 1999, order also established an interim procedure for new entrant LECs _ i.e., those that begin offering local service after June 22, 1999 _ seeking approval of proposed DPIPs. The Commission directed a new LEC to file its proposed DPIP for Commission approval at least 30 days prior to the date the new LEC will begin offering local telecommunications service in any exchange. Id. New LECs could incorporate their proposed DPIP in proposed local service tariffs submitted for Commission approval.

3. In response to the Commission's June 28, 1999, order, the following LECs filed proposed DPIPs with the Commission: Hyperion; ATC-WV and ATC-ND; Hardy Telecom; and West Side on Aug. 25, 1999.

4. The proposed DPIPs filed with the Commission by ATC-WV, ATC-ND, Hardy Telecom and West Side are, except for formatting and stylistic differences, virtually identical.

5. The proposed DPIP filed by Hyperion differs from the plans submitted by ATC-WV, ATC-ND, Hardy Telecom and West Side in several respects.

6. The following provision of Hyperion's plan filed with this Commission was challenged by AT&T at the federal level:

Hyperion will route all originating intraLATA traffic to the designated carrier and will only block traffic at the request of the end user customer and/or in compliance with regulatory requirements. Requests from carriers to block traffic or to remove customers from their network will not be honored.

"AT&T Corp. Comments on Dialing Parity Plans," CC Docket 96-98, File No. NSD L-98- 121 (filed July 6, 1999), at 4-5, n. 10; cf. Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.4 , Section 9.9.5.

7. The FCC never addressed the merits of AT&T's argument. The FCC concluded that Hyperion's proposed DPIP for West Virginia should be approved because it had been approved by the Commission. DA 99-1437 (July 21, 1999), at 2. Of course, this was not correct.

8. Hyperion's proposed bill insert, advising customers of the "free PIC" period, advises customers that, after toll dialing parity is implemented, they have an initial 120-day period to select a local toll (i.e., intraLATA) carrier other than Hyperion, at no charge. If a customer changes the local toll carrier after this period, or has already made an initial selection, a \$5 change charge applies. The proposed DPIP refers to a 90-day grace period. See Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.5, Section 9.9.7.

9. On October 1, 1999, Net2000 filed a proposed DPIP with the Commission for approval. Net2000's filing was docketed as Case No. 99-1449-T-PC.

10. On November 2, 1999, Staff filed an Initial and Final Joint Staff Memorandum recommending that Net2000's proposed DPIP should be approved by the Commission. Staff has not filed any memorandum regarding the DPIPs in G.O. No. 187.19.

11. Several incumbent LECs and, the Commission suspects, a number of new entrant LECs have not submitted proposed DPIPs, either separately or as part of their local service tariffs, for Commission approval. The following incumbent LECs have not filed proposed plans: the Citizens LECs, Spruce Knob, and War Tel.

12. The Commission adopts, as if fully restated, all recitals of fact set forth herein.

CONCLUSIONS OF LAW

1. Staff should be directed to contact these incumbent LECs, and any new entrants that (a) have been certificated, (b) have had interconnection agreements approved, and (c) have filed local service tariffs, and advise these carriers of the requirements set forth in the Commission's June 28, 1999, order. Staff shall file a report regarding its efforts, and carriers' responses, with the Commission no later than 60 days after entry of this Order.

2. The proposed DPIPs filed by ATC-WV, ATC-ND, Hardy Telecom and West Side appear to be reasonable and consistent with the Commission's orders initially requiring intraLATA toll dialing parity (Case No. 94-1103-T-GI), and those orders approving proposed DPIPs filed by BA-WV and AT&T (Case Nos. 97-0192-T-PC and 99-0553-T-PC, respectively) . These plans should be approved, and the carriers directed to re-file, within

thirty (30) days of this Order's date of entry, an original and two copies of revised tariff pages to be included in their local service tariffs. The tariff revisions will be considered effective as of the date of this Order.

3. The following language in Hyperion's proposed DPIP will be rejected: "Requests from carriers to block traffic or to remove customers from their network will not be honored." See Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.4 , Section 9.9.5.

4. Hyperion will be directed to revise its proposed bill insert in order to advise customers that they have a 90-day "free PIC" period after dialing parity is implemented. This is consistent with the provisions of Hyperion's proposed DPIP. See Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.5, Section 9.9.7.

5. Hyperion will be directed to re-file its tariff provisions setting forth its intraLATA toll dialing

parity plan, as revised in accordance with this Order, within 60 days following the date of entry of this Order. In all other respects, Hyperion's proposed DPIP will be approved. Hyperion's revised tariff will be retroactively effective to this Order's date of entry.

6. Net2000's proposed DPIP appears to comport with the Commission's prior rulings on intraLATA presubscription and, in accordance with Staff's recommendation, should be approved. Net2000 will be directed to refile, withing thirty (30) days of this Order's date of entry an original and two copies of its DPIP for inclusion in its local service tariff.

7. The Commission adopts, as if fully restated, all legal conclusions set forth herein.

ORDER

IT IS, THEREFORE, ORDERED that Commission Staff shall contact incumbent local exchange telecommunications carriers, and any new entrants that (a) have been certificated, (b) have had interconnection agreements approved, and (c) have filed local service tariffs, and advise these carriers of the requirements set forth in the Commission's June 28, 1999, order. Staff shall file a report regarding its efforts, and carriers' responses, with the Commission no later than 60 days after entry of this Order.

IT IS FURTHER ORDERED that the proposed intraLATA toll dialing parity implementation plans filed with the Commission by Armstrong Telephone Company -- West Virginia, Armstrong Telephone Company -- Northern Division, Hardy Telecommunications, West Side Telecommunications, and Net2000 Communications Services, Inc., are approved

as filed. These carriers shall re-file withing thirty (30) days of this Order's date of entry an original and two copies of revised tariff pages to be included in their local service tariffs. The tariff revisions will be considered effective as of the date of this Order.

IT IS FURTHER ORDERED that the proposed intraLATA toll dialing parity implementation plan filed with the Commission by Hyperion Communications of West Virginia, LLC is approved, in part. The following language in Hyperion's proposed DPIP is rejected: "Requests from carriers to block traffic or to remove customers from their network will not be honored." See Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.4 , Section 9.9.5.

IT IS FURTHER ORDERED that Hyperion's proposed bill insert shall be revised to advise customers that they have a 90-day "free PIC" period after dialing parity is implemented. See Hyperion W.V. P.S.C. Tariff No. 1, Original Sheet 162.5, Section 9.9.7.

IT IS FURTHER ORDERED that Hyperion shall re-file its tariff provisions setting forth its intraLATA toll dialing parity plan, as revised in accordance with this Order, within 60 days following the date of entry of this Order. Hyperion's revised tariff will be retroactively effective to this Order's date of entry.

IT IS FURTHER ORDERED that, upon entry hereof, Case No. 99-1449-T-PC shall be closed and removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

Footnote: 1 ¹ The Commission previously approved DPIPS submitted by AT&T Communications of West Virginia, Inc. ("AT&T") and BA-WV. See "Commission Order," AT&T of WV, Case No. 99-0553-T-PC (June 22, 1999); "Commission Order," BA-WV, Case No. 97-0192-T-PC (Aug. 5, 1997).

Footnote: 2 ² Hyperion previously filed a proposed DPIP with the Commission on May 10, 1999. Hyperion's petition for approval of its proposed DPIP was docketed as Case No. 99-0860-T-PC. By Order entered July 14, 1999, in that proceeding, the Commission

directed that Hyperion's proposed DPIP should be treated as filed in the proceeding under General Order No. 187.19.

Footnote: 3 ³ Hyperion's proposed bill insert, advising customers of the "free PIC" period is at odds with the company's proposed DPIP. The proposed bill insert advises customers that, after toll dialing parity is implemented, they have an initial 120-day period during which they may select a local toll (*i.e.*, intraLATA) carrier other than Hyperion, at no charge. If a customer changes the local toll carrier after this period, or has already made an initial selection, a \$5 change charge applies. The proposed DPIP refers to a 90-day grace period.

Footnote: 4 ⁴ See DA99-1246, "Public Notice," Common Carrier Bureau Seeks Comment on IntraLATA Toll Dialing Parity Plans Filed by Local Exchange Carriers, CC Docket No. 96-98, File No. NSD L-98-121 (Rel. June 23, 1999).

Footnote: 5 ⁵ The FCC issued rulings on all the proposed DPIPs filed with it in July and August 1999. See DA 99-1437, "Common Carrier Bureau Notifies Local Exchange Carriers That Have Filed IntraLATA Toll Dialing Parity Implementation Plans With The Commission Whether Those Plans Have Been Deemed Approved," CC Docket No. 96-98, File No. NSD L-98-121 (Rel. July 21, 1999); and DA 99-1554, "Common Carrier Bureau Acts On Remaining IntraLATA Toll Dialing Parity Plans Filed By Local Exchange Carriers," CC Docket No. 96-98, File No. NSD L-98-121 (Rel. Aug. 5, 1999).

Footnote: 6 ⁶ The FCC approved plans: (1) because they had been approved by the state commission, (2) because they were pending in open state dockets, or (3) on condition that

they would be re-filed with the respective state commission. DA 99-1554 (Aug. 5, 1999), at 3.