

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own)	
motion, to promulgate rules required by)	Case No. U-16063
MCL 484.2202(1)(c)(ii) and (iii).)	
_____)	

At the February 8, 2010 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Greg R. White, Commissioner

ORDER APPROVING RULES

On August 25, 2009, the Commission commenced this case to deal with two related rulemakings. One rule set involves the provision of unbundled network elements and local interconnection, #2008-032 LG; the other involves rules governing the transfer of customers from one provider to another, #2008-033 LG. The August 25, 2009 order set forth a schedule for a public hearing and the receipt of comments. Notice of the public hearing was published in the *Oakland Press* on September 10, 2009, and in the *Grand Rapids Press* and *The Mining Journal* on September 15, 2009.

The scheduled October 6, 2009 hearing was held in the Commission's Lansing offices with Administrative Law Judge Daniel E. Nickerson presiding. Although several members of the public and the Commission Staff attended the hearing, no party desired to offer comments at that time, and the hearing was closed. By October 20, 2009, the Commission had received written

comments from AT&T Michigan, Midwest Association of Competitive Carriers (MACC), Verizon North Inc., Contel of the South, Inc. d/b/a Verizon North Systems and MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (collectively, Verizon), and the Michigan Cable Telecommunications Association (MCTA).

#2008-032 LG Unbundled Network Elements and Local Interconnection

The only comments received concerning this rule set support the Commission's adoption of the rules as proposed. The Commission finds that this rule set should be approved as drafted and sent to the Legislative Service Bureau (LSB), the State Office of Administrative Hearings and Rules (SOAHR), and the Joint Committee on Administrative Rules (JCAR) to complete the processing.

#2008-033 LG Customer Migration

The MCTA, AT&T Michigan, and the MACC all suggest that the Commission delay this proceeding or wait until the Federal Communications Commission (FCC) completes its consideration of various issues pertinent to the migration of customers from one provider to another provider. These parties point out that in FCC Order 09-41, the FCC has adopted a national porting standard for simple ports. The MCTA notes that the FCC has set specific benchmarks and standards that will be effective as of July 31, 2010 for larger carriers. Small carriers will have until January 31, 2011. Further, the FCC delegated to the North American Numbering Council (NANC) the task to develop and submit industry processes to implement the federal porting standard. That implementation plan was due at the FCC on October 31, 2009. The NANC delegated the task of completing a recommended implementation plan to its Local Number Portability Administration Working Group (LNPWG). At this juncture, additional FCC action is pending with regard to the implementation of FCC Order 09-41. Although it is not possible to

predict with certainty the likely date of FCC action, these parties state that the process should be concluded within a year.

These parties further argue that the Commission's promulgation of rules for migration of customers at this time could create conflicts with the emerging federal standards and term definitions. For example, differences in defining a "simple port" request, a "complex port" request, or even "business day" could lead to confusion and conflict. Moreover, they argue that confusion and economic waste will result if Michigan providers are required to alter their networks or working rules to meet Commission standards just before having to alter those same things for the federal rules.

AT&T Michigan argues that waiting nine months for the FCC to provide clarification with regard to the interval permitted for simple ports would permit the Commission to easily incorporate the FCC's rules into these rules. The MACC and AT&T Michigan state that if the Commission determines to go forward with these rules, there are certain revisions that should be made.

It is not legally permissible for the Commission to delay this proceeding to wait for the FCC to clarify what that agency intends to do with its own rules because MCL 484.2213 provides that the Commission must complete a rulemaking proceeding within 180 days of the date that the proceeding was commenced. Thus, the parties' request for a nine-month delay is outside the legislative mandate for rulemaking timelines. Rather than withdrawing consideration of #2008-033 LG, the Commission is persuaded that the proposed rules can be modified to limit or eliminate potential conflict with federal rules not yet promulgated, and now turns to the modifications needed for that purpose.

Part 1

Rule 2

The MACC suggests that the Commission add “Compliance with the FCC porting intervals set forth in 47 CFR 52.35 exempts a provider from complying with these rules.” The Commission is not persuaded that the addition would be advisable or lawful. The additional language appears to exempt a provider from compliance with all migration rules if it has complied with federal porting requirements. Moreover, MCL 484.2201 requires the Commission to ensure consistency with federal law in its orders and rules. Thus, any implementation or enforcement of these rules would of necessity be consistent with federal law.

Rule 3

The MCTA argues that the definition of business day in R 484.83(1)(c) of the proposed rules conflicts with the NANC working group definition. The MCTA neither states what the differing language is nor how it directly conflicts with the proposed definition in this rule. Therefore, the Commission finds that there is no current conflict in definitions and no need to revise the definition used in these rules. Moreover, to alter the proposed language to coincide with the NANC definition, which is still subject to change, would merely be aiming at a moving target. Therefore, the Commission rejects this recommendation.

Verizon proposes that the Commission add a definition for “local wholesale arrangement” that says: “‘Local wholesale arrangement’ means an interconnection agreement or any other agreement that the Federal Act requires the Commission to approve.” Verizon states that this definition would make the meaning of Rules 5(8), 6(1)(b), and 8(3) clearer.

The Commission finds that local wholesale arrangement as used in the rules does not need further clarification. The industry is well aware of the meaning of that phrase. Moreover,

Verizon's proposed definition might actually add some confusion, as it assumes there are local wholesale arrangements that are not under interconnection contracts subject to the Commission's jurisdiction.

AT&T Michigan proposes that the Commission should define "simple stand alone port request" to mean "a simple port as defined by the FCC." In the Commission's view, defining the phrase is unnecessary. Even AT&T Michigan admits there is little doubt that this term refers to the type of number portability requests that were the focus of the FCC's order that refers to "simple ports."

The Commission is persuaded that rather than adding to the numerous definitions already in the proposed rules, the phrase "simple stand alone number portability" should be replaced with "simple port" in each instance in which it occurs in Rule 8(2)(b).

Part 2

Rule 5

The MACC suggests that the Commission delete "publicly accessible" from Rule 5(1) and after "website," add the phrase "accessible to other providers" in an effort to reduce confusion for retail customers.

The Commission finds that there is no need for this change. A properly worded web page will identify information that is applicable to providers.

Verizon argues that Rule 5(3), 5(5), and 5(6) should be clarified to reflect that they do not apply to mass migrations that could occur through the sale or transfer of a customer base, which must comply with the FCC notice requirements for mass migrations. Verizon suggests that the Commission effect this clarification by adding to the beginning of Rule 5(3) the phrase "With the exception of mass customer migrations."

The Commission finds that it should modify this rule to be consistent with the provisions of 47 USC 64.1120(e), although it does so with language a little different than that proposed by Verizon. The Commission finds that it should modify Rule 5(3) by adding the phrase “Except for migrations described in 47 CFR 64.1120(e)” to the beginning of Rule 5(3). That federal regulation provides for notification for mass transfers of customers due to a sale or transfer of assets.

The MACC argues that the Commission should modify Rule 5(6) to require providers to follow industry standards as well as federal law when porting an end-user’s number.

The Commission finds this proposed change should be made although all providers are required to follow federal law. This change makes this subrule consistent with Rule 5(2).

The MACC requests that the Commission move Rule 5(7) to a new subrule of Rule 8 so that all service quality standards are together. It states that the rule should clarify that providers are permitted to collect and use statistically relevant samples to ensure appropriate data is kept and meaningful compliance occurs.

The Commission is persuaded that it should move Rule 5(7) to make a new subrule, Rule 8(3). However, the Commission is not persuaded that it should add “statistically relevant” to this rule. The service quality rules already require that providers keep records of all installations and local number portability requests that are not completed by the commitment date. This rule does nothing to add to that responsibility, but deletes any misses due to the fault of the new local service provider or the number portability administration center from affecting the performance measurement results. No further limitation appears needed.

The MACC argues that Rule 5(11) is ambiguous and should be “streamlined” to avoid confusion. It suggests replacing subrule (11)(a) and (b) with an addition to (11) of “and an upgrade or downgrade of existing facilities is not required.”

The Commission rejects this suggestion. The MACC does not provide sufficient reason for making the proposed change, and it appears unnecessary.

Rule 6

The MCTA states that mandating a request for a customer service record (CSR) directly conflicts with the NANC working group recommendations. The MACC agrees and argues that the rule appears to make the new provider responsible to receive the CSR response, but whether the old provider sends the CSR is not within the new provider's control. Further, it argues, there should be no requirement that all providers send the circuit identification (CID) number. It states that in a transfer involving two competitive local exchange carriers (CLECs), this requirement is burdensome and unnecessary. Further, it argues many CLECs do not have a method to populate the CID information into a CSR. Therefore, it argues, the rule should be changed to permit a provider to request the information, but not be mandated as part of the CSR or the firm order confirmation (FOC).

The Commission finds that it should grant the request of the MCTA and the MACC to not mandate this information. Therefore, Rule 6(1)(a) shall read:

The new local service provider may request and receive the customer service record information, which may include a request for circuit identification with associated telephone number from the old local service provider as part of the customer service record or firm order confirmation.

The Commission finds that modifying this subrule will permit flexibility and avoid potential conflict with the federal rules. Further modifications, if necessary, may be addressed in future rulemaking proceedings.

The MCTA and the MACC argue that Rule 6(1)(e) conflicts with the proposed NANC working group recommendations. The MACC states that the rule is ambiguous, and that the first sentence should be revised to clarify that it is the response to the CSR request that must be

provided within 24 hours, rather than indicate the request must be submitted within 24 hours. The MACC argues that because “mass migration” and “complex migration” are not defined, disputes may arise as to whether a CSR request relates to one of these categories.

The MACC suggests that the Commission modify the proposed rule to read as follows:

All responses to customer service record requests shall be provided promptly and without unreasonable delay and consistent with federal law.

The Commission finds that it should adopt the modification suggested by the MACC to ensure that the rules will be consistent with federal law.

The MCTA and the MACC argue that establishing a 24-hour time limit in Rule 6(1)(g) is inconsistent with the NANC working group recommendations. The MACC proposes that the Commission modify the language of this rule to read:

Upon receiving a local service request, the receiving provider shall issue either a confirmation or rejection of an electronic request within the time frame required by federal law.

The Commission finds that the proposed language should be adopted with slight modification (deleting “frame”) to ensure consistency with federal law.

Rule 6(1)(h) lists the items that shall be included in a customer service record request. The MCTA says that the rule establishes items to be included, which are at issue in the federal proceeding concerning customer migration. The MACC argues that it is not necessary for the Commission to mandate specific information be provided when a provider submits a CSR request to another provider. It states that the proposed rule might mandate that a provider re-engineer its existing systems to accept additional information that may not be needed for it to process a CSR request. It states that many carriers can process a CSR request without requiring all 9 items set forth in this subrule. It suggests rewording the language to permit a provider to require that the CSR request include some or all of the listed items.

The Commission finds that making the contents of the CSR request discretionary rather than mandatory is reasonable at this juncture, while the FCC is working out the standards to be applied across all providers. Moreover, the proposed language permits a provider to require all of the fields that it reasonably could need in order to respond to the CSR request. Therefore, the Commission concludes that it should modify the language of Rule 6(1)(h) to read as follows:

(h) A provider may require a customer service record request to include some or all of the following:
...

Rule 6(1)(i) requires that the old local service provider provide certain listed information to the new local service provider. The MACC argues that the rule should be modified to be clear that the information is required only to the extent that the information is found in the old local service provider's CSRs. To that end, the MACC proposes that the Commission add "To the extent it is available in its customer service record," to the beginning of this subrule.

The Commission is not persuaded that it should modify the rule as the MACC requests. In the Commission's view, the required information should be a part of the customer service record, and thus available to share.

The MACC argues that Rule 6(1)(j) may require information that the old local service provider does not have in its possession. It recommends that the Commission modify the requirement to "available" network information.

The Commission finds that this modification is not appropriate. The network information is available even if it is not in the immediate possession of the old local service provider. If the information is requested by the new local service provider, it should be provided by the old local service provider.

The MACC argues that Rule 6(1)(k) mandates allowing the transmission of customer service requests by facsimile, an outdated process. The MACC argues that the last sentence of this subrule should be deleted, thereby permitting 2 providers to agree to facsimile transmissions.

The Commission rejects the MACC's proposed modification. Although facsimile is not the ideal method of transmission, providers should be permitted to use this method of hard copy record, especially should there be an electronic ordering system failure.

Rule 7

AT&T Michigan argues that the Commission should add language to this rule to clarify and avoid potential ambiguity. Its proposed additional language would further clarify that federal law preempts any conflicts with Rules 3, 5, 6, and 8.

The Commission finds that AT&T Michigan's proposed modifications are not necessary. The rule as it currently reads is clear without further modification. Federal preemption is already codified in MCL 484.2201.

Rule 8

The MCTA argues that the due dates defined in Rule 8 are obsolete given the 24-hour port intervals mandated by the FCC for simple ports and the ongoing inquiry by the FCC for non-simple ports. It argues that the Commission's best efforts are unlikely to result in rules that are consistent with the federal standards, once they are established.

The MACC argues that, as written, Rule 8(1) will likely lead to loss of service for up to 5 days before it may be restored. It states that problems can arise where the migration is from CLEC to CLEC, both of whom use unbundled loops from the incumbent to provide service. The MACC states that TDS Metrocom, LLC, estimates that 15% of customers transferring from a CLEC to another CLEC would lose service if this rule is left unchanged.

The Commission finds that this subrule should be deleted from this group of proposed rules. It is nearly identical to existing Rule 58(2) of the Telecommunications Service Quality Rules, R484.558(2), and there appears to be no purpose to restate it here. The issue described by the MACC can be further addressed during the formal proceeding to revise the service quality rules, which will commence soon. Therefore, the remainder of Rule 8 should be renumbered accordingly.

Verizon argues that Rule 8(2) uses the term “installation” when “migration” would be the correct term. It states that when an existing customer requests a new provider, it is a migration. The MACC agrees that use of migration and installation as interchangeable may cause confusion.

The Commission agrees with Verizon and the MACC and modifies the language of Rule 8(2)(a) and (b) [now Rule 8(1)(a) and (b)] to replace “installation” with “migration” in the places where it occurs in these subrules.

The MACC also argues that the term “lines” should be changed to “telephone numbers” to avoid having it mean the same as “lines” as defined in the Act. There appears to be no reason that the definition found in the Act would be inappropriate for this rule. A line or access line is defined as “the medium over which a telecommunications user connects into the local exchange.” MCL 484.2101(n). This is not an inappropriate definition for how the term lines is used in this rule.

The MACC further argues the interval provided for simple ports in Rule 8(2)(b) is antiquated in light of the FCC’s requirement that a simple port be completed in 24 hours.

The Commission is persuaded that the MACC’s proposed change to require compliance with 47 CFR 52.35 is appropriate for this rule.

Verizon argues that Rule 6 defines a project as 19 or more lines. However, Rule 8(2)(b) defines a project as 31 or more lines. Verizon recommends that Rule 8(2)(b) should be modified to reflect that a project is “19 or more lines.”

The Commission is not persuaded that Verizon’s recommendation should be adopted. In this subrule, the greater number of lines for a project is reflective of the fact that it is a simple number portability request, without a loop involved. Because that is simpler than a request with other facilities such as a loop, a greater number should be able to be done in the shorter time frame.

Rule 9

The MACC complains that this rule places a significant burden on small providers to collect, analyze, and maintain records regarding customer migrations. It argues that small providers do not have systems in place to make the required measurements and requiring new installations would be unreasonable. It argues that to the extent these requirements are imposed, the rule should clarify that it only applies to the standards set forth in Rule 8.

The Commission is not persuaded that it should adopt the modification proposed by the MACC, because it would effectively nullify the standards in every other rule in this set. These rules combine existing industry standards and federal law with which all carriers should be complying. If a small company needs a temporary waiver for extra time to obtain equipment, the Commission may entertain an application for such a waiver under Rule 10.

Effective Date

In its comments, the MACC requests that if the rules are adopted that the Commission delay their effect until at least 90 days after the order adopting them. It argues that seven days is not sufficient to implement the changes. It points out that recommendations to the FCC for

implementing its one business day simple port suggests that large carriers have until July 31, 2010 and small carriers be permitted to delay implementation until January 31, 2011.

The Commission is not persuaded that it should permit all carriers to wait 90 days to implement the rules after it files them with the Secretary of State. The draft rules have been available to the carriers for several months for review, so potential changes to their respective systems should have been anticipated and planned for. However, there is Commission precedent for granting temporary waivers for implementation of new rules. *See*, the Commission's January 29, 2008 order in Case No. U-14962. The Commission is willing to entertain requests for temporary waivers of up to 60 days after the effective date. To enable providers time to seek such waivers, the Commission will extend the effective date to 30 days after filing with the Secretary of State.

THEREFORE, IT IS ORDERED that:

A. The proposed rules governing the provision of unbundled network elements and local interconnection, #2008-032 LG, which are attached to this order as Exhibit A, are approved and shall be submitted to the Legislative Service Bureau and the State Office of Administrative Hearings and Rules for their formal approvals.

B. The proposed rules governing the transfer of customers from one provider to another, #2008-033 LG, which are attached to this order as Exhibit B, are approved and shall be submitted to the Legislative Service Bureau and the State Office of Administrative Hearings and Rules for their formal approvals.

C. Upon formal approval of each set of proposed rules by the Legislative Service Bureau and the State Office of Administrative Hearings and Rules, the proposed rule shall be transmitted to the Joint Committee on Administrative Rules.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Greg R. White, Commissioner

By its action of February 8, 2010.

Mary Jo Kunkle, Executive Secretary

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

UNBUNDLED NETWORK ELEMENT AND LOCAL INTERCONNECTION SERVICES

Filed with the Secretary of State on
These rules become effective 7 days after filing with the Secretary of State.

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213)

R 484.71, 484.72, 484.73, 484.74, and 484.75 are added to the Michigan Administrative Code.

PART 1. GENERAL PROVISIONS

R 484.71 Applicability.

Rule 1. These rules apply to the provision of unbundled network elements and local interconnection services by an incumbent local exchange carrier to other providers which are used in the provision of basic local exchange service. These rules do not alter the scope or terms of any preexisting performance remedy plan and performance measurements approved by the commission.

R 484.72 Definitions.

Rule 2. (1) As used in these rules:

- (a) "Act" means 1991 PA 179, MCL 484.2102 et seq.
 - (b) "Federal act" means the telecommunications act of 1996, 101 stat. 101 (1996).
 - (c) "Incumbent local exchange carrier" or "ILEC" means that term as defined in 47 USC 251(h) and required to comply with the additional obligations set forth in 47 USC 251(c).
 - (d) "Interconnection agreement" means an agreement between 2 or more providers entered into under sections 251 and 252 of the federal act.
 - (e) "Provider" means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act.
- (2) A term defined in the act has the same meaning when used in these rules.

R 484.73 Expiration.

Rule 3. These rules expire 3 years from the effective date of the rules. The commission may, prior to the expiration of the rules, promulgate new rules.

PART 2. PROVISION OF UNBUNDLED NETWORK ELEMENTS AND LOCAL INTERCONNECTION

R 484.74 Quality standards.

Rule 4. (1) The quality standards for the provision of unbundled network elements and local interconnection by an ILEC shall be either of the following:

(a) Those standards in a preexisting performance remedy plan for an ILEC and performance measurements approved by the commission in an industry-wide proceeding in Michigan, regardless of whether all providers participate in the plan.

(b) If a plan specified in subrule (1)(a) of this rule does not exist for the ILEC, then the performance remedy plan and performance measurements negotiated or arbitrated by the parties in an interconnection agreement approved by the commission.

(2) Nothing in this rule shall entitle a provider to participate in a plan if the plan is not incorporated into its commission-approved interconnection agreement.

R 484.75 Remedies.

Rule 5. Nothing in this rule shall add to or detract from the remedies available to a provider under the plans referenced in Rule 484.74, the act, or the federal act.

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

BASIC LOCAL EXCHANGE SERVICE CUSTOMER MIGRATION

Filed with the Secretary of State on

These rules become effective 30 days after filing with the Secretary of State

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213)

R 484.81, 484.82, 484.83, 484.84, 484.85, 484.86, 484.87, 484.88, 484.89, and 484.90 are added to the Michigan Administrative Code.

PART 1. GENERAL PROVISIONS

R 484.81 Applicability.

Rule 1. These rules apply to the timely and complete transfer of an end user from 1 provider of basic local exchange service to another provider.

R 484.82 Exclusions.

Rule 2. Nothing in these rules prohibits providers from adopting more stringent standards in an interconnection agreement or other stand alone agreement.

R 484.83 Definitions.

Rule 3. (1) As used in these rules:

- (a) "Act" means 1991 PA 179, MCL 484.2101 et seq.
- (b) "Basic local exchange service" or "local exchange service" or "service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.
- (c) "Business day" means a day on which a provider's office is scheduled to be open for business.
- (d) "Business hours" means the times that a provider's office is scheduled to be open for business. As scheduled business days and hours may vary, the schedule to be followed by each provider is the one posted on its website.
- (e) "Commission" means the Michigan public service commission.
- (f) "Customer service record" or "customer service information" means account information including, but not limited to, the customer's address, features, services, equipment, directory listings, and network information, as appropriate.
- (g) "Directory service provider" means the entity that receives or implements the local service provider's directory service requirements for the end user, including white page listings, and may also include providing end user directory assistance.
- (h) "End user" means the retail subscriber of a telecommunication service.

(i) "End user's authorization" means the data or record indicating that the end user has authorized a new local service provider to change the end user's service provider or view the end user's customer service record.

(j) "Federal act" means the telecommunications act of 1996, 101 Stat 101 (1996).

(k) "Interconnection agreement" means an agreement between 2 or more providers entered into under sections 251 and 252 of the federal act.

(l) "Line level" means features or activities associated with a specific line.

(m) "Local service provider" means the provider that administers and bills local exchange and related services for the end user, and includes both of the following:

(i) "New local service provider" means the planned or actual provider of record following the completion of the migration process.

(ii) "Old local service provider" means the provider of record prior to the migration process or the current local service provider prior to service migration.

(n) "Local service request" means an industry standard document used among providers to request installation, changes, or disconnections of local services.

(o) "Loop" or "Unbundled loop" means the transmission facility between the network interface on a subscriber's premises and the main distribution frame in the servicing central office.

(p) "Loss notification" means provider notification initiated by the underlying network service provider at the completion of a service migration to notify the old local service provider of the loss of end user facilities.

(q) "Number portability" means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from 1 telecommunications provider to another.

(r) "Plain old telephone service" means the provision of a standard telephone line and telephone number, as subscribed to by a residential or small business end user.

(s) "Primary interexchange carrier" or "primary interexchange carriers" means the provider or providers designated by a wire line end user to carry intraLATA and/or interLATA long distance traffic.

(t) "Provider" means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act.

(u) "Service configuration" means identification of the type of serving arrangement used by the local service provider to provide service to the end user, including resale, facility based service, and other arrangements.

(v) "Service provider" means each provider involved in supplying service to an end user, including local service providers and/or underlying network service providers.

(w) "Underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user's local telecommunications service, including both of the following:

(i) "New underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user's local telecommunications service following the completion of the migration process or the potential network service provider prior to service migration.

(ii) "Old underlying network service provider" means a provider that provides some or all of the facilities and equipment components used to make up an end user's local telecommunications service prior to the migration process or the current network service provider prior to service migration.

(2) A term defined in the act has the same meaning when used in these rules.

R 484.84 Expiration.

Rule 4. These rules shall expire 3 years from the effective date of the rules. The commission may, prior to the expiration of the rules, promulgate new rules.

PART 2. TRANSFER OF END USER BY PROVIDERS

R 484.85 Migration responsibilities of local service providers.

Rule 5. (1) Each service provider shall maintain a publicly accessible website with all of the following information:

(a) All applicable processes and procedures for end user migration.

(b) Company contact escalation list, which shall include a company contact for operational issues and a contact for escalation of those issues.

(2) The old local service provider shall release any assigned telephone numbers associated with the end user's service that are properly requested in accordance with industry standards and federal law.

(3) Except for migrations described in 47 CFR 64.1120(e), the new local service provider shall communicate directly with the end user, receive the end user's authorization to switch service providers, and provide all pertinent information to the end user associated with the end user migration.

(4) The new local service provider shall be responsible for the coordination required to migrate the end user. The underlying network service providers shall promptly provide necessary support and assistance to migrate the end user. Neither the old local service provider nor underlying network service provider shall interfere in the transfer or otherwise use this opportunity to win back the customer.

(5) Before requesting a customer service record, the new local service provider or authorized agent shall have obtained an end user's authorization.

(6) All providers shall follow industry standard procedures and federal law for porting an end user's telephone number upon receipt of an accurate request from the new local service provider. For requests received outside of business hours, the date and time of receipt shall be considered to be the beginning of the next business day.

(7) When local exchange service to be migrated is currently provided using resale or local wholesale arrangements, the old underlying network service provider shall provide a loss notification to the old local service provider upon completion of a request.

(8) Upon completion of the service order, the old underlying network service provider shall unlock the end user's E911 records that are being migrated, within industry standard or federally mandated timeframes, whichever is earlier. The new underlying network service provider shall assure the new E911 database record is accurately entered into the E911 database and that the database is locked.

(9) Directory listing information shall be submitted by the new local service provider to the directory service provider using a local service request or other mutually agreeable format. If the old local service provider is a facilities based provider and directory listing migration capabilities are not available from the directory service provider, then the old local service provider shall remove its listings upon completion of a local service request to migrate local service. The new local service provider shall ensure that the directory listing information is accurate.

(10) The new local service provider may reuse an unbundled loop upon request if reuse is technically feasible. Any of the following exclusions shall apply:

(a) The new local service provider has made all reasonable efforts to obtain the circuit identification for reuse, and the circuit identification information was not provided by the old local service provider.

(b) Upgrade or downgrade of existing facilities is required.

(11) The old local service provider shall release the circuit identification and facilities for reuse when the existing circuit or facilities are no longer needed by the old local service provider to provide service to the migrating end user or any other end user that is currently using those facilities.

(12) The old local service provider shall not retain a requested facility for possible future use.

(13) An unbundled loop shall be considered released for reuse when the old local service provider provides the circuit identification for release.

(14) Subject to subrule (10) of this rule, when requested, and reuse of the unbundled loop facility is available, the old local service provider shall provide the circuit identification number with the associated telephone number for the requested unbundled loop facility to the new local service provider as part of the customer service record or firm order confirmation response. To order the reuse of an unbundled loop facility, the new local service provider shall furnish the circuit identification number on the local service request issued to the new underlying network service provider.

(15) If the new local service provider requests reuse of the unbundled loop facility, and it is not available, then the old local service provider shall use best efforts to indicate as part of the customer service record or firm order confirmation response the reason why the unbundled loop is not reusable.

(16) The local service providers and underlying network service providers involved in the transfer shall maintain accurate unbundled loop circuit identification information and customer service record content, as applicable, to the end user service to facilitate migration activity as described within these rules.

(17) The underlying network service provider shall notify the local service providers involved in the transfer of changes affecting information contained in this rule within 5 business days of completion of the transfer.

R 484.86 Exchanging customer service information.

Rule 6. (1) Unless otherwise agreed to by the providers involved, all of the following shall be the responsibility of the local service providers in any migration of an end user's local service.

(a) The new local service provider may request and receive the customer service record information, which may include a request for circuit identification with associated telephone number from the old local service provider as part of the customer service record or firm order confirmation.

(b) To the extent resale and local wholesale arrangement information is available via current pre-order functionality in the underlying network service provider's operational support systems and is made available under current local business practice, it shall be made available to all new local service providers upon request and acknowledgement of end user permission. Underlying network service provider customer service record information might not reflect all end user services subscribed and received from the old local service provider.

(c) Customer service record requests shall only be submitted after proper authorization from the end user to review the end user's account and only with the intent to obtain information to facilitate the migration of local service.

(d) A customer service request or local service request shall not be used by a local service provider to trigger retention activity. The new local service provider shall not be required to share a copy of the end user's authorization with the old local service provider, prior to receipt of the records, but shall retain records for a reasonable period of time to resolve issues about proper use of operational support systems or to assist in the resolution of a claim of unauthorized transfer, should one arise.

(e) All responses to customer service record requests shall be provided promptly, without unreasonable delay, and consistent with federal law.

(f) The deadline for submitting service requests shall be posted on a provider's website.

(g) Upon receiving a local service request, the receiving provider shall issue either a confirmation or rejection of an electronic request within the time required by federal law.

(h) A provider may require a customer service record request to include some or all of the following:

(i) Billed assigned telephone number.

(ii) Acknowledgement of end user consent to review the customer service record or customer service information.

(iii) End user name.

(iv) Contact information detailing to whom, how, and where to respond with the customer service record or customer service information.

(v) A telephone number and person to contact for questions about the customer service record or customer service information request.

(vi) The name of the company requesting the customer service record or customer service information.

(vii) The date and time the request was sent.

(viii) Indication whether circuit identification with associated telephone number is requested for loop reuse.

(ix) Indication whether directory information is requested.

(i) The old local service provider shall provide to the new local service provider all of the following information:

(i) Account level information including the following:

(A) Billing telephone number.

(B) Complete customer billing name and address.

(C) Directory listing information, including address and listing type, to the extent that it is maintained by the old local service provider.

(D) Complete service address including floor, suite, unit, or similar designation.

(E) Type of service.

(ii) Line level information shall include all services and features associated with the service provider, including the following:

(A) Assigned telephone number, which identifies all telephone numbers that are billed on the account.

(B) Current primary interexchange carrier selections including freeze status.

(C) Local freeze status, if offered.

(D) All vertical features such as custom calling features identified in a manner so that the new local service provider can understand to which products and services the end user currently subscribes.

(E) Other service options, such as lifeline, 900 blocking, toll blocking, remote call forwarding, and off premises extensions, if applicable.

(F) Service configuration information.

(G) Identification of the local service or underlying network service provider when different from the provider providing the response.

(H) Identification of any data services on the migrating end user's line or any other services such as alarm services that utilize the unbundled loop.

(I) Circuit identification with associated telephone number, provided with the customer service record, when requested and the unbundled loop is not being used for other services.

(J) Indication as to whether any circuit identifications are not reusable and therefore not provided.

(K) Type of service.

(j) If requested, the old local service provider shall provide the network information, including loop circuit identification (when the unbundled loop is available for reuse) and associated telephone number, with the customer service record or firm order confirmation. When service components such as loop and directory services are currently being provided to the end user by an entity other than the local service provider or the underlying network service provider the customer service record shall also include identification of those components and the associated service provider.

(k) The transmission of customer service records and customer service information requests and information shall be through electronic facsimile, electronic mail, electronic data interchange, graphical user interface, or any other means negotiated between the 2 providers. The transmission of customer service records and customer service information requests shall not be by voice telephone call. All providers shall, at a minimum, allow transmission of customer service record requests by facsimile.

Rule 484.87 Order process requirements.

Rule 7. All migration and ordering processes between providers shall follow the applicable industry standards and comply with federal law.

Rule 484.88 Service quality standards.

Rule 8. (1) The old local service provider shall port the telephone number and transfer the unbundled loop to the new local service provider within the specified time period listed in subdivisions (a) and (b) of this subrule, unless a later due date is requested. If the provider reschedules the original due date without consent of the requesting provider, the original due date shall be the one measured against. The following apply to due dates:

(a) Due dates for migrations involving number portability with or without a loop. For a migration request involving 1 to 18 lines, the due date is a monthly average of 5 business days after a request is made. Any migration request involving 19 or more lines involving number portability with or without a loop is a project for which a due date shall be negotiated.

(b) Due dates for migrations involving a simple port request only, for example, not for orders that require other facilities, such as loops. For a migration involving a simple port, the due date is the date required by 47 CFR 52.35. For migration involving simple ports for 2 to 30 lines, the

old local service provider shall send a firm order confirmation within 24 hours and complete the porting of the telephone number to the new local service provider within 3 business days of the firm order confirmation. Any migration request that involves simple ports for 31 or more lines is a project for which a due date shall be negotiated.

(2) The provider shall keep records on provisioning due dates not met. This measurement shall be reported by the provider at an order level for resale plain old telephone service, and at a feature or circuit level for resale specials and local wholesale arrangements.

(3) Data used to measure performance concerning due dates shall not include misses caused by either of the following:

- (a) Action or inaction of the new local service provider or the end user.
- (b) The number portability administration center.

PART 3. REMEDIES, WAIVER, AND GENERAL EXEMPTIONS

R 484.89 Remedies.

Rule 9. (1) If, after 3 consecutive months, a provider fails to meet 1 or more of the standards as set forth by these rules for each of the 3 months, then the provider shall notify commission staff within 10 days of such failure and the commission may require the provider to take corrective action. This corrective action shall include, but is not limited to, the 2-part report described as follows:

(a) Part 1 of the report shall be a “root-cause” analysis of the reported level of performance, explaining why the reported performance failed to meet applicable service quality standard(s).

(b) Part 2 of the report shall be a “corrective action plan.” The plan shall be based on the causes for substandard performance identified in part 1, and it shall define actions proposed to bring performance up to a level at or above the applicable standard. This plan shall also have a timeline within which the provider expects to bring its performance up to a level at or above the applicable standard.

(2) A provider shall deliver its 2-part report to the commission staff within 30 days after it receives a request from the commission staff. Unless otherwise requested by the commission staff, the provider shall also provide a status report for each month thereafter until the provider meets the applicable service quality standard.

(3) This rule does not prohibit a provider from seeking commission action against another provider, nor does it prohibit the commission from investigating a provider’s compliance under its own motion under the Michigan telecommunications act, 1991 PA 179, as amended, MCL 484.2201 et seq.

(4) Violation of these rules may result in penalties issued under Section 601 of the act, MCL 484.2601.

Rule 484.90 Waiver and general exemptions.

Rule 10. (1) A provider may petition for a permanent or temporary waiver or exception from these rules when qualifying circumstances beyond the control of the provider render compliance impossible or when compliance would be unduly economically burdensome or technologically infeasible.

(2) Qualifying circumstances include any of the following:

(a) The problem is or was attributable to an "act of God." The term "act of God" shall include events such as any of the following:

- (i) Flood.
- (ii) Lightning.
- (iii) Tornado.
- (iv) Earthquake.
- (v) Fire.
- (vi) Blizzard.
- (vii) Ice storm.
- (viii) Widespread electrical power outage.
- (ix) Other unusual natural or man-made disasters.

(b) There is a work stoppage or other work action, beyond the control of the provider, that causes or caused a significant reduction in hours worked.

(c) The problem occurs or occurred during a major failure. A major failure is a single event or occurrence that is not the direct result of action taken by the provider and that generates out-of-service reports affecting 100 or more access lines.

(d) The problem is or was caused by either the end user or by malicious damage to facilities by a third party outside the control of the provider.

(3) A provider may request a temporary waiver in order to have sufficient time to implement procedures and systems to comply with these rules.

(4) The provider shall notify the commission, in writing, within 20 business days of such an event that it intends to invoke the occurrence of an event described in subrule (2) of this rule.

The notification to the commission shall include all of the following information:

- (a) Specific description of the event and general impact.
- (b) Date or dates of the event.
- (c) Location affected, such as exchanges or wire centers.
- (d) Estimated number of customers affected.

(5) The commission staff shall have 10 business days following the notification to advise the provider, in writing, of a dispute concerning the validity of the company's invocation of an event described in subrule (2) of this rule and the reasons for such dispute. If the dispute cannot be resolved within 10 business days of the commission staff's advice, then the provider shall file an application with the commission within 10 business days thereafter for resolution of the dispute.

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-16063

County of Ingham)

Mignon Middlebrook being duly sworn, deposes and says that on February 8, 2010 A.D. she served a copy of the attached Commission orders by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Mignon Middlebrook

Subscribed and sworn to before me
This 8th day of February 2010

Gloria Pearl Jones
Notary Public, Ingham County, MI
My Commission Expires June 5, 2016

Service List U-16063

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William Linsmeier
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Ste. 301
Elm Grove, WI 53122

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-16063

County of Ingham)

Lisa Felice being duly sworn, deposes and says that on February 8, 2010 A.D. she served a copy of the attached **Commission Order (Commission's Own Motion) via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Lisa Felice

Subscribed and sworn to before me
this 8th day of February 2010

Sharron A. Allen
Notary Public, Ingham County, MI
My Commission Expires August 16, 2011

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