

PROJECT NO. 24389

**RULEMAKING REGARDING CLEC- § PUBLIC UTILITY COMMISSION
TO-CLEC AND CLEC-TO-ILEC §
MIGRATION GUIDELINES § OF TEXAS**

**ORDER ADOPTING NEW §26.131 AS APPROVED AT THE
JULY 25, 2003 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts new §26.131 relating to Competitive Local Exchange Carrier (CLEC)-to-CLEC and CLEC-to-Incumbent Local Exchange Carrier (ILEC) Migration Guidelines (the Migration Guidelines) with changes to the proposed text as published in the April 11, 2003 issue of the *Texas Register* (28 TexReg 3031). Project Number 24389 is assigned to this proceeding.

The new rule and Migration Guidelines ensure that: (1) customers can migrate from one CLEC to another or from a CLEC to an ILEC in a seamless manner without encountering abnormal delays, service interruptions, and cumbersome procedures; (2) customers are not switched from one telecommunications provider to another without their permission (also known as "slamming"); and (3) customers do not have unauthorized charges placed on their bills (also known as "cramming"). The Migration Guidelines standardize migration procedures when a customer switches from a CLEC and were developed through a collaborative process involving telecommunications providers and emergency 9-1-1 administrators.

The commission received comments on the proposed new section from: Alliance for Telecommunications Industry Solutions (ATIS); AT&T Communications of Texas L.P. (AT&T); MCImetro Access Transmission Services, L.L.C. (MCI); Southwestern bell Telephone

, L.P. d/b/a SBC Texas (SBC); Sprint Corporation (Sprint); State of Texas (State); Southwest Competitive Telecommunications Association and Western Communications, Inc. and Logix Communications (collectively, SWCTA/Logix); Texas Telephone Association (TTA); Time Warner Telecom of Texas, Inc. and Cbeyond Communications, L.L.C. (jointly as TWTC/Cbeyond); and Verizon Southwest (Verizon).

General comments

ATIS commented that its Ordering and Billing Forum (OBF) was established in 1985 to allow representatives from the telecommunications industry to identify and resolve issues affecting ordering, billing, provisioning, and information exchange regarding access services and related matters. OBF's Local Services Ordering and Provisioning committee (LSOP) updates its Local Service Ordering Guidelines (LSOG), a collection of best practices, regularly and has enhanced its practices to address CLEC-to-ILEC and CLEC-to-CLEC customer transitions.

AT&T, SWCTA/Logix, and State generally supported adoption of proposed §26.131. State indicated that the proposed rule will reduce slamming, cramming, and abnormal migration delays and thereby elevate the standards for all consumers. The State urged the commission to provide a direct link to the Migration Guidelines from the Substantive Rules section of the commission's website, due to the volume of the Migration Guidelines.

TTA recommended the commission postpone this rulemaking until companies have adequate time to voluntarily adopt these Migration Guidelines. TTA offered its view that ILECs should have an opportunity to phase-in such system requirements over time. If a set timeframe for a phase-in is adopted, TTA suggested that the commission should then examine whether the rulemaking is necessary at its expiration.

Commission response

The commission notes that the Migration Guidelines are part of the rule, incorporated as a graphic figure, and will be electronically available through the rule on the commission's website, and also available in paper copy through the commission's Central Records Division. In addition, a hard-copy will be provided to those with a subscription to Chapter 26 of the commission's substantive rules. Although the *Texas Register* made the decision not to publish the graphic in the hard-copy of the April 11, 2003 *Texas Register* due to its cumbersome size (see Texas Government Code §2002.014), it was available through the electronic version of the *Texas Register*. The Migration Guidelines will also be available electronically through the Texas Administrative Code at the Secretary of State's website once the rule becomes effective.

The commission declines TTA's request to postpone this rulemaking to allow companies to voluntarily adopt the Migration Guidelines. The commission finds that the public interest is better served and protected by taking a proactive approach to the problems customers face when they migrate away from a CLEC. The commission also finds that standardizing the migration

process and imposing the Migration Guidelines equally on carriers provides needed certainty to the industry. The commission also declines TTA's request that ILECs should be allowed to phase-in the migration requirements. The commission finds that the timeframes set forth in the Migration Guidelines are reasonable and the result of the collaborative process. The commission finds no valid reason why the requirements imposed by the Migration Guidelines cannot be accomplished within the timeframes set forth therein.

Comments on proposed rule preamble questions

1. How do the CLEC-to-CLEC and CLEC-to-ILEC Migration Guidelines differ from the Local Service Ordering Guidelines (LSOG Issues 4 - 8) that have been developed in the ATIS-sponsored Ordering and Billing Forum (OBF)? What is the basis for any difference identified?

ATIS provided an extensive comparison of the Migration Guidelines and parallel sections of the still developing LSOG 8 guidelines which will be implemented in the near future. ATIS noted that until the development of LSOG 6 the OBF did not address CLEC-to-CLEC migration flows because these were not occurring in significant numbers. LSOG 4 was premised on CLECs ordering service from an ILEC. In addition Directory Service portions of the migration flow from CLEC-to-CLEC are being developed by industry and will be implemented as part of LSOG 8 in late 2003.

AT&T believes that the Migration Guidelines are more specific with regard to timeframes and performance metrics and provide a flow sequence not provided by the OBF guidelines. In addition, AT&T noted, the OBF guidelines are not binding and, as a result, allow companies to reach compromise or refuse to modify a process. AT&T asserted that the Migration Guidelines involved the participation of CLECs that had not previously participated in the development of the OBF guidelines.

MCI believed that the Migration Guidelines coincided with LSOG 4 guidelines, but urged that the commission update these to the guidelines adopted by LSOG during the last 12 months and those that will be adopted in the next 12 months. MCI's position was that LSOR 5.3-6 should be incorporated into the Migration Guidelines to accomplish the current industry standards (Local Service Ordering Requirements (LSOR) is the ordering document containing the business rules and coding specifications applicable to the LSOG service order forms (*see e.g., Migration Guidelines, Appendix D, Local Service Request Order Introduction at D3 thru D28*)).

SBC stated that the Migration Guidelines do not differ substantively from LSOG Issue Nos. 4-8 with the exception of the guidelines that require hot cuts vs. the generic transfer of loop facilities, (elaborated upon further in SBC's recommended revisions to the Migration Guidelines below).

Verizon noted that the Migration Guidelines do not differ substantially from the LSOG guidelines. Verizon stated that the differences between the LSOG and Migration Guidelines

consist of the following: (1) all local service providers (LSPs) in Texas participated in the development of the Migration Guidelines and will be required to meet these standards while the LSOG was developed by the OBF, a private and limited membership; (2) the OBF's guidelines were developed for all wholesale order transactions and are complex and extensive while the Migration Guidelines are simpler and will produce more accurate LSRs and performance; and (3) the OBF guidelines allow flexibility and vary slightly among ILECs and CLECs while the Migration Guidelines provide a more specific set of "rules" and therefore increase application, execution, and enforceability for all carriers. Verizon reasoned that the Migration Guidelines will be a superior method of facilitating CLEC-to-CLEC and CLEC-to-ILEC migrations.

Commission response

The commission recognizes and commends ATIS on its efforts to standardize processes and resolve industry affecting issues on a national basis. The commission also recognizes that no substantive differences between the Migration Guidelines and LSOG were identified by the commenters, including ATIS, and that the majority of commenters favored adoption of the Migration Guidelines. The commission agrees with the commenters that the Migration Guidelines add a degree of specificity and enforceability in Texas that is not found in LSOG. In response to MCI's comments regarding inclusion of "more recent versions of LSOR," the commission notes that the Migration Guidelines make LSOG 4 "the baseline document for the forms and definitions" (Migration Guidelines, Appendix D, *Local Service Request Order Introduction* at D1).

2. Should line-loss notification requirements be included in the CLEC-to-CLEC and CLEC-to-ILEC Migration Guidelines?

ATIS had no comment regarding the issue of line-loss notification although this is being studied by the OBF at present.

AT&T believed that the Migration Guidelines should continue to include line-loss notification for resale and unbundled network element platform (UNE-P) transactions (Section VII, *Notification Responses*, paragraph 4) because this approach is consistent with the OBF's LSOG requirements. Line-loss notification serves a critical function, in AT&T's opinion, by identifying actual date of switch execution so that the "old" CLEC can stop billing its end-user on the appropriate date. In addition, circuit information necessary to effect the end-user's change is not included in primary interexchange carrier (PIC) notifications but is contained in the line-loss notification.

MCI noted that the ILEC has the line-loss information because it ports the move whether from ILEC-to-CLEC or CLEC-to-CLEC. MCI asserted that CLECs do not have the necessary information to provide line-loss notification because they do not have the ILEC operating support systems (OSS). MCI regarded the current CLEC practice of providing Email notice between CLECs as a workable process. Therefore, MCI concluded that ILECs should be required to provide line-loss information but CLECs should not.

SBC does not believe that line-loss notification requirements should be included in the Migration Guidelines. SBC noted that line-loss notification is addressed in the 13 State LSOR, based upon OBF guidelines and consistent with the SBC/Ameritech Uniform OSS Plan of Record. In SBC's opinion there is no reason to address these notifications separately in the Migration Guidelines.

The State noted that some aspects of line-loss notification have been addressed in the Migration Guidelines (Section III, *Common Migration Responsibilities of Carriers*, paragraph 14) and other requirements are in commission substantive rule §26.130(m) of this title (relating to Selection of Telecommunications Utilities) as it regards additional requirements for changes involving certain telecommunications utilities. The State suggested that any further requirements related to line-loss notification be considered after the implementation of the rule and Migration Guidelines.

Verizon believes that a line-loss notification requirement is necessary to complete the Migration Guidelines.

Commission response

Among the commenters, only SBC opposes inclusion of line-loss notification, and then only due to the fact that line-loss notification is addressed in SBC's 13 State LSOR. The Migration Guidelines, however, are applicable to all CLECs and to all ILECs with more than 31,000 access

lines in the state; therefore, the commission finds inclusion of line-loss notification to be appropriate in order to add certainty and uniformity to the migration process between or among all affected carriers. The commission modifies Section III, *Common Migration Responsibilities of Carriers*, item number 14; Section VII, *Notification Responses*, item number 4; and Scenarios 2.A and 2.B of the Migration Guidelines to clarify and make consistent the provisions therein pertaining to loss notification. For purposes of the Migration Guidelines, line-loss notification is synonymous with loss notification.

Specific comments on proposed §26.131

The commission received no comments on subsections (a) through (d) of the proposed rule. SBC proposed adding a subsection to the proposed rule stating that the response intervals in the Migration Guidelines are a base that must be adhered to but do not prohibit carriers from negotiating and agreeing to more stringent response interval timelines. SBC recommended the following language be added to the rule: "The Guidelines are intended to be flexible enough to allow carriers to establish their own unique migration processes when there is a mutual agreement provided that the mutual agreement does not lengthen the end-user's migration process by extending response intervals."

Commission response

The commission agrees with SBC that the Migration Guidelines are the minimum standards for migrating customers from one CLEC to another and from a CLEC to an ILEC. In order to encourage carriers to foster relationships that would enhance the seamlessness of the migration process, the commission amends Section II, *General Principles*, paragraph 10, rather than proposed §26.131, to read:

10. The response intervals and timelines set forth in these guidelines are minimum standards and exclude weekends and holidays. Carriers are not prohibited from negotiating and agreeing to different migration processes provided that the terms thereof are made generally available to other carriers and do not lengthen the end user's migration process by extending response intervals.

Specific comments on Proposed Migration Guidelines

Proposed Migration Guidelines Section II. *General Principles*

SBC noted that numerous Texas customers have complained that their provider of choice instructed them to initiate service with SBC before migrating to the new service provider because the migration was made easier from SBC than from the old local service provider (OLSP). In SBC's opinion, this practice, which SBC refers to as "spring boarding," reflects the CLECs' inability to communicate effectively with one another and confuses the end-user who is also responsible for additional fees with the interim carrier. SBC also asserted that spring boarding harms the interim provider because it requires additional expenses and resources for an end-user that is not retained. SBC proposed language that, in its opinion, would curtail spring

boarding and benefit the industry by requiring carriers to establish and maintain procedures and information for timely migration without the use of an interim carrier. SBC recommended adding the following language as new Section II, *General Principles*, paragraph 11: "A new local service provider (NLSP) will migrate an end-user's local exchange service directly from the old local service provider (OLSP) to the NLSP, without migrating that service first to an interim service provider. A NLSP shall not instruct, advise, suggest, or require a potential end-user to migrate its local exchange service from its OLSP to an interim service provider before the ultimate migration to the NLSP."

Commission response

The commission recognizes and appreciates the potential problems caused by "spring boarding," while noting that evidence thereof appears to be somewhat anecdotal. The commission finds, however, that because the Migration Guidelines are mandatory and applicable to all CLECs, the need to include additional language to address the SBC's concerns is obviated. Accordingly, the commission declines at this time to include specific language to address "spring boarding." If circumstances warrant, the commission may choose to revisit this issue in the future.

Proposed Migration Guidelines Section II. *General Principles*, paragraph 9, and Section III. *Common Migration Responsibilities of Carriers*, paragraph 10.

TWTC/Cbeyond advised it has had a difficult time resolving migration information with carriers due to poor contact information. TWTC/Cbeyond asserted that lack of contact information is a major obstacle in migration of end-users and that porting of numbers and services should be addressed in the Guideline through a requirement that all companies provide a contact and an escalation process. TWTC/Cbeyond stated that this requirement should also apply to the wireless affiliates of wireline carriers. In addition, TWTC/Cbeyond requested that the commission open a project to deal with local number portability (LNP) and porting issues that involve wireless carriers. TWTC/Cbeyond also asked that a provision be adopted to specify that LECs act upon LNP trouble reports and compare downloaded databases to the Number Portability Administration Center's (NPAC) database within four hours of the trouble ticket.

Commission response

The commission agrees with TWTC/Cbeyond that accurate contact information and an escalation process is imperative to the migration process. As TWTC/Cbeyond points out, however, the current Migration Guidelines require such information in two different places. The commission, therefore, declines to include specific language regarding an escalation contact list for porting problems, preferring instead the broad, general language in the Migration Guidelines which the commission finds requires carriers to whom the Migration Guidelines' are applicable to provide and maintain such information.

The commission also declines to extend the Migration Guidelines to wireless carriers and declines to open a project for LNP and porting issues involving wireless carriers. Both requests, the commission finds are beyond the scope of this rulemaking. TWTC/Cbeyond is, of course, free to petition for rulemaking on these issues. The commission also declines at this time to modify the Migration Guidelines to require carriers to review their NPAC databases within four hours of receipt of a trouble report. The Migration Guidelines are purposefully silent with respect to trouble reports — the focus being on establishing procedures to effectuate successful migrations. Toward that end, Section III, *Common Migration Responsibilities of Carriers*, paragraph 13, identifies generally applicable procedures for porting numbers. Similarly, the enumerated scenarios involving LNP (see Section VIII, *Procedures for Specific Migration Scenarios*) include general steps intended to ensure proper porting of numbers. Should circumstances warrant more specific procedures, TWTC/Cbeyond or any other carrier, is encouraged to petition to amend the rule.

Proposed Migration Guidelines at Section III. *Common Migration Responsibilities of Carriers*, paragraph 16.

Verizon stated that because the available Line Verification Report is not the result of the processing of a local service request (LSR), Verizon reasoned that the word "then" should be removed from the fourth sentence to remove any inference that such is the relationship.

Commission response

The commission agrees with Verizon and modifies the language in Section III, *Common Migration Responsibilities of Carriers*, paragraph 16, to remove the word "then" from the fourth sentence in the paragraph.

Proposed Migration Guidelines at Section IV. *Exchanging Customer Service Information*

SBC recommended amending the language in Section IV to read as follows: "The existing LSP is prohibited from approaching an end-user to retain or keep that end-user solely as a result of a request for CSI/TI." SBC believes this clarification is necessary to indicate that the receipt of customer service information/transition information (CSI/TI) cannot be the sole reason for retention activity.

SBC also noted that the New York Guidelines and the OBF recommend the circuit and end-user information be obtained from the OLSP. Because the information obtained from the network service provider (NSP) is not accurate or complete in many instances, SBC recommended the addition of the following language to the Migration Guidelines: "In some instances, the ONSP may provide some of the required information. However, this information may not convey the total picture of the end-user's configuration. Further, as noted by the guidelines, provision of the Circuit ID(s) by the NSP does not constitute a representation by the NSP that the Circuit ID(s) are accurate or that associated facilities are reusable."

Verizon recommended that the Migration Guidelines be updated to specifically state that Circuit ID information is to be obtained from the OLSP.

Commission response

The commission agrees with SBC regarding insertion of the word "solely" in Section IV, *Exchanging Customer Service Information*, second non-numbered paragraph, last sentence, between the words "end user" and "as a result." By adding "solely," the commission is recognizing the latitude carriers have to make efforts to retain existing customers.

The commission declines to add the language SBC requests regarding provisioning of end user information by the NSP. The commission also declines Verizon's request to require that Circuit ID information be obtained from the OLSP. The commission notes that the Migration Guidelines allow the NLSP to obtain CSI/TI, including Circuit ID, information from either the OLSP or NSP (*see* Section IV, *Exchanging Customer Service Information*, Subsection A. Defining the CSI/TI). The information obtainable from each differs in that the OLSP must provide more extensive information, whereas the NSP is only required to provide that information which SBC identified is found in its automated CRIS Toll File Guide. The commission further notes that the requested information, regardless of its source, is required by NSPs in order to effectuate a migration. The commission therefore is interested in making available to the NLSP any source from which the information can be obtained. By enumerating

the information available from the NSP and OLSP, the commission's intent is to provide certainty to the process. Accordingly, the commission finds that the approach in the Migration Guidelines better serves the public interest by allowing an NLSP to obtain customer service information from both the NSP and OLSP, without overburdening either yet providing an incentive for the NLSP to work with the OLSP to effectuate migration.

The commission also declines to add the qualifying language SBC requests regarding Circuit ID information and the reusing of facilities. The commission notes that such qualifying language is already provided in Section V, *Exchanging End User Transition Information*.

Proposed Migration Guidelines at Section IV. *Exchanging Customer Service Information*, Subsection A. Defining the CSI/TI

SBC recommended that Section IV, Subsection A, should be deleted in its entirety and replaced with the following language: "While new local service providers (NLSPs) can utilize existing pre-order services from the NSP to obtain some CSI/TI information, the NLSP cannot request any additional information from the NSP that is not already available through existing pre-order processes. The NLSP must request information not provided by the NSP's pre-order service directly from the OLSP." SBC asserted that the OLSP has the actual business relationship with the end-user and therefore is in the best position to provide accurate and timely information about that end-user and their services. In an efficient competitive marketplace, in SBC's opinion, all LSPs must learn to communicate with other LSPs independently without relying upon the

NSP. SBC reasoned that the fact that the Migration Guidelines recognize the delay that ensues when the NLSP seeks circuit information from the NSP instead of the OLSP (Section V, *Exchanging End-user Transition Information*) supports this position.

SWCTA/Logix strongly supported the proposed rule and Migration Guidelines but recommended the addition of two categories of NSP provided information in CSR Information Provided by the Network Service Provider as follows: (1) All Vertical features (e.g., customer calling, hunting, etc.); and (2) Options (e.g., Lifeline, 900 blocking, toll blocking, remote call forwarding, off premises extensions, etc.). Logix clarifies that this information would only be required from an NSP Switch and would be limited to the features/options provisioned through the NSP Switch.

Commission response

For the reasons stated in the preceding section, the commission declines SBC's request to remove and replace Subpart A, *Defining the CSI/TI* with language the commission believes overly generalizes the type of CSI/TI information that NSPs must make available.

The commission declines SWCTA/Logix's request to add two additional categories of information that the NSP-Switch must provide. The commission notes that obtaining CSI/TI from the NSP is not intended to be a substitute for obtaining information from the OLSP, and in the case of vertical features and options from end users, but rather as a supplement to such

information. Moreover, the enumerated list of CSI/TI which NSPs must provide is derived from SBC's CRIS Toll File Guide and represents a balancing of the burdens of providing the information as between the NSP and OLSP.

Proposed Migration Guidelines at Section IV. *Exchanging Customer Service Information*, Subsection A. Defining the CSI/TI, OLSP paragraphs 9, 10, 12, and 14 and NSP paragraph 6

TWTC/Cbeyond recommended removing from the enumerated list of CSI/TI information that OLSPs must provide, items 9 - Options; 10 - Transaction Number; 12 - ID of OLSP/NSP; and 14 - Circuit ID. According to TWTC/Cbeyond, this information would be difficult for small CLECs to provide, is inefficient and would require redesigning of databases and retraining of employees. TWTC/Cbeyond noted that item 12 is not necessary information unless a customer is migrating within the same facilities. TWTC/Cbeyond also suggested that the commission re-examine its Migration Guidelines at a later date to determine the effect of carriers' operations and procedures.

Verizon recommended removal of the term "NSPs" from paragraph 6 of the information that must be provided by an NSP. According to Verizon, responding NSPs have no way of knowing the identity of the other NSPs that are being utilized to provide the end user's service.

Commission response

The commission declines TWTC/Cbeyond's request to remove paragraphs 9, 10, 12, and 14 from the list of information that OLSPs must provide. The objective of the Migration Guidelines is to ensure seamless migrations between CLECs and from a CLEC to an ILEC. In the migration scenarios, the end user's OLSP is a CLEC and therefore is in the best position to have the information necessary to migrate the end user.

The commission agrees with Verizon regarding the term "NSP" and modifies the Migration Guidelines to remove the term from Section IV, *Exchanging Customer Service Information*, Subsection A, Defining the CSI/TI, paragraph 6 of the information that must be provided by an NSP.

Proposed Migration Guidelines at Section IV. *Exchanging Customer Service Information*, Subsection C. Format of Request for CSI/TI, paragraph 1; and Appendix B at B2

AT&T stated that the Migration Guidelines require carriers to provide "BTN and/or Acct #" (the billing telephone number or account number of the end-user) in order to request CSI/TI. AT&T recommended this be changed to allow a requesting carrier to provide "WTN (working telephone number), BTN, and/or Acct #." AT&T noted that, without access to the CSI/TI, the carrier may not be able to identify the BTN or ACCT # and that the carrier should be able to obtain BTN with any working telephone number on the account.

Commission response

The commission agrees with AT&T and modifies Section IV, Subsection A, item 2 to include "(WTN);" Section IV, Subsection C, item 1, and Appendix B at B2 to include "WTN."

Proposed Migration Guidelines Section IV. *Exchanging Customer Service Information*, Subsection F. *Timing of CSI/TI*

SBC recommended amending Section IV, Subsection F, to replace the existing language with the following:

The recommended standard for CSI/TI response intervals are: (1) 95% of CSI/TI responses for business customers and 95% of CSI/TI responses for residential customers shall be provided within 48 hrs; and (2) for the remaining 5% of the CSI/TI responses that are not returned within 48 hrs, the OLSP must contact the NLSP within 24 hours to negotiate a reasonable response interval that will not exceed 5 business days. The day the request is received shall be considered day 1 if the request is received by 3:00 p.m.;

Within one year from the date of approval of the Guidelines, the OLSP/NLSP must provide 100% of CSI/TI responses for business customers and 100% of CSI/TI responses for residential customers within 24 hours.

SBC argued that these standards are consistent with Section VII of the Migration Guidelines and further argued that the Migration Guidelines should not differentiate response periods based upon the number of lines involved or whether the service is residential or business.

TWTC/Cbeyond expressed its concern over the timeline established in Section IV, Subsection F, noting that its current response period of 48 hours is an industry standard and that there is no compelling reason to adopt the 24 hour standard in this section. In addition, TWTC/Cbeyond argued that carriers that had adopted the OBF guidelines were penalized by this new standard. TWTC/Cbeyond urged the commission to adopt Migration Guidelines consistent with OBF standards and industry practice.

Commission response

The commission modifies Section IV, Subsection F, to remove all references to TI (i.e., Transition Information) as the response intervals for TI are set forth in Section V, *Exchanging End User Transition Information*. The commission further modifies Subsection F to replace the word "recommended" with "minimum" in order to clarify that (a) the response intervals are minimum requirements; and (b) the response intervals may be shortened by agreement.

The commission declines SBC's request to make wholesale changes to the response intervals for CSI. The commission notes that Section IV, Subsection F, was the result of extensive

discussions at the workshops and represents a balancing of competing interests. For the CLECs, concerns arose over the inability of their current systems to provide the CSI information that is required in the Migration Guidelines. SBC and Verizon's paramount concern dealt with having to negotiate response times with carriers each time a CSI request was for more than ten lines. To assuage SBC's and Verizon's concern, without overburdening the CLECs whose systems will likely have to be modified, language was added requiring 80% of all CSI requests to be responded to within 24 hours one year after the Migration Guidelines go into effect. Additionally, SBC's argument that the response times for CSI and for LSRs should be the same (*see* Section VII, *Notification Responses*) is not compelling in that the two activities are not synonymous. The former is a request for information from which to populate an LSR, while the latter pertains to the time in which to respond to the LSR.

The commission also declines TWTC/Cbeyond's request that CSI response time be fixed at 48 hours. As previously noted, Section IV, Subsection F, was the subject of considerable debate and is the result of balancing the interests of and burdens imposed on carriers. The commission further notes that the response times in the Migration Guidelines are appreciably longer than those in the New York Phase II End User Migration Guidelines, which require that one year after adoption 80% of CSI requests be provisioned on the day the request is received, if received by noon. Moreover, neither ATIS in its comments nor TWTC/Cbeyond at the workshops raised the issue of an industry standard. Finally, one purpose of the Migration Guidelines is to encourage CLECs to develop better systems in order to facilitate seamless, timely end user migrations.

Proposed Migration Guidelines at Section V. *Exchanging End User Transition Information*

SBC recommended removing the following language regarding an OLSP's response time for providing Circuit ID information in non-numbered paragraph 3 to Section V, *Exchanging End User Transition Information*: ". . . or within 24 hours of providing the CSI response." SBC asserted that this amendment will reduce the end-user's migration time by as much as 24 hours.

SBC also recommended deletion of any requirement that the NSP provide information to the NLSP that is not readily available through the pre-order systems and again asserted that the NLSP should obtain that information from the OLSP.

Verizon expressed concern that Section V fails to clearly identify the carrier that the NLSP should contact to obtain the required information.

Commission response

The commission declines SBC's request to delete "or within 24 hours of providing the CSI response" from Section V, *Exchanging End User Transition Information*. The commission notes that providing Circuit ID information can take longer than providing CSI. The commission therefore finds that by allowing OLSPs to provide Circuit ID with the CSI response or within 24 hours thereof, ensures that any extra time spent obtaining Circuit ID information will not delay

the CSI response. As a result, NLSPs are incented to request Circuit ID only in those instances where it is an essential part of the migration process.

The commission also declines for the reasons previously stated to alter the structure of the Migration Guidelines by generalizing the obligations of the NSP to provide CSI/TI.

The commission notes that Verizon's concerns are unfounded in that Section IV clearly states the type of information that can be obtained from the NSP and the OLSP. Section V does not alter these requirements, but merely adds specific language to the process when a request is for transition information.

Proposed Migration Guidelines Section VII. *Notification Responses*

AT&T stated that Section VII, paragraph 3, requires that 18 months after the issuance of the Migration Guidelines a completion notice must be issued after billing and provisioning are completed. AT&T recommended the addition of this sentence to paragraph 3: "No completion notice is required for stand-alone LNP (Local Number Port) orders." AT&T believed this will align the Migration Guidelines with current industry practices employing the Number Portability Administrative Council (NPAC) notification process.

TWTC/Cbeyond disagrees with furnishing an LSR response (firm order commitment (FOC) or LSRC reject or query) within 48 hours of receipt of the LSR, and the reduction of this timeframe

to 24 hours one year after adoption of the Migration Guidelines. TWTC/Cbeyond argued that 72 hours is the industry standard and that a shorter timeframe places an undue burden upon small CLECs. TWTC/Cbeyond argued that carriers that had adopted the OBF guidelines will be penalized by this new standard. TWTC/Cbeyond urged the commission to adopt Migration Guidelines consistent with OBF standards and industry practice.

TWTC/Cbeyond also disagreed with the standard requiring a completion notice. According to TWTC/Cbeyond, the OBF does not require this notice and the requirement is unnecessary, particularly when the number is being ported.

Verizon notes that it provides one combined notice for billing and provisioning events and recommended that the term "if applicable" be added after "Bill completion" in Section VII., paragraph 2, and throughout the Migration Guidelines.

Commission response

The commission agrees with the commenters regarding the addition of qualifying language. The commission modifies Section VII, numbered sentence 2 to include "if applicable" after the words "Bill completion." (Note: This is the only instance in which "bill completion" is found in the Migration Guidelines.) The commission also modifies Section VII, numbered sentence 3 to add to the end thereof the sentence: "No completion notice is required for stand-alone, local number portability (LNP) orders." (Note: With the addition of the foregoing sentence, the acronym LNP

is defined for the first time in the Migration Guidelines. Accordingly, Section VIII, *Procedures for Specific Migration Scenarios*, Subsection 2, *Bundled to Bundled*, second sentence is changed to delete the phrase "local number portability" and the parentheses surrounding the acronym "LNP.")

The commission declines TWTC/Cbeyond's request to change the LSR response time from 48 to 72 hours. The commission notes that Section VII is taken directly from the New York Phase II End User Migration Guidelines. The commission further notes that no documentation was presented at the workshops or by ATIS' in its comments to suggest the existence of an "industry standard" for response time. Finally, as previously stated, one purpose of the Migration Guidelines is to encourage CLECs to develop better systems in order to facilitate seamless, timely end user migrations, and the commission maintains that shortening response times fosters such development.

Proposed Migration Guidelines Section VIII. *Procedures for Specific Migration Scenarios*

SBC provided an extensive Attachment A to its comments that modifies all migration scenarios in Section VIII, to conform to its recommended deletion of any requirement on the NSP to provide CSI/TI that is not available through its pre-ordering systems. In particular, SBC seeks to qualify the requirements on NSPs adding "NSP will provide only information available through existing pre-order services" at specific points in every scenario.

Sprint recommended the adoption of language in the Migration Guidelines that would allow an LSP to deny customers' requests to port their numbers if the customers have outstanding unpaid charges. Sprint argued that porting customers with unpaid balances negatively impacts all customers and financially injures the carrier.

Commission response

Earlier in this Order the commission declined SBC's request to generalize and qualify the CSI/TI information that can be obtained from NSPs; for the reasons stated therein, the commission declines SBC's request to modify each of the scenarios in Section VIII regarding the obligations of NSPs to provide CSI/TI.

The commission declines Sprint's request to add language to the Migration Guidelines that would allow LSPs to refuse to port a number if the end user had outstanding unpaid charges owing to its current LSP. The commission notes that the issue of releasing telephone lines and numbers is regulated by §26.28 of this title (relating to Suspension or Disconnection of Service).

Proposed Migration Guidelines Section VIII. *Procedures for Specific Migration Scenarios*, Subsection 1. **Bundled to Bundled**

Verizon recommended replacement of the term "the same" with the word "similar" and argued that the flows are the same for the process steps despite the fact that details in the transactions are different.

Commission response

The commission declines Verizon's request and notes that the phrase "the same" is intended to identify the specific steps in the various Bundled to Bundled migration scenarios that are listed, not to denote that the transaction detail of each scenario will be precisely the same.

Proposed Migration Guidelines Section VIII. *Procedures for Specific Migration Scenarios*, Subsections 2.A., 3.A., 3.B., and 4.A.

SBC recommended the elimination of requirements for the performance of hot cuts in migration scenarios in 2.A, 3.A, 3.B, and 4.A. SBC asserted that this is inconsistent with LSOG which only requires a transfer of loop facilities. SBC maintained that the manner in which transfers occur should be left to the carriers and that by mandating that transfers occur via coordinated hot cut would reduce a carrier's choices.

Verizon recommended that the references to the "Locks E-911 database records" or "Migrates and locks E-911 database records" which appear in several places in the Migration Guidelines all be replaced to read "Update and lock E-911 database records."

Commission response

The commission agrees with SBC that the manner in which loops are transferred should be left to the discretion of the carriers and that use of the term "hot cut" in Scenarios 2.A, 3.A., 3.B, and 4.A is potentially limiting and unnecessary. The commission also notes that LSOG does not specify the manner in which a loop is transferred. Accordingly, the commission, modifies Section VIII, *Procedures for Specific Migration*, Scenarios 2A, 3A, 3B, and 4A to replace the phrases "coordinated hot cut," "hot cut," and "Hot Cut" with the phrases "transfer of Loop," or "Loop transfer." The commission also adds the term "Loop Transfer" to the terms in Appendix A—Definitions and defines it as the term "Hot Cut" in Appendix A is currently defined. The term "Hot Cut" in Appendix A is deleted.

The commission declines Verizon's request to replace language regarding the migrating, updating, and/or locking of the E-911 database records. The commission notes that specific procedures involving the E-911 database are spelled out in Section III, *Common Migration Responsibilities of Carriers*, paragraph 15, and the existing language in that section and the scenarios themselves sufficiently denote carriers' E-911 responsibilities.

Proposed Migration Guidelines Section VIII. *Procedures for Specific Migration Scenarios*, Subsections 3.A. and 3.B.

SBC requested that the Migration Guidelines should require a carrier to use either Port Option A or Port Option B in Scenarios 3A or 3B, but not both. According to SBC, the revisions it proposes in Attachment A to its comments make clearer the distinction between the proper flow of the porting and ordering LSRs when following Port Option A, assigns the responsibility of coordinating the migration to the NLSP, and recognizes the OLSP as the primary source of customer information. SBC emphasized that these changes reflect the New York State Public Service Commission's placing of responsibility on the OLSP to provide customer information.

Sprint recommended revising Section VIII, Subsection 3.A. to require the ONSP to be responsible for the information transfer necessary to port a number by requiring the NLSP, rather than the NNSP, to send a porting LSR to the ONSP.

Verizon noted that it agreed with the first draft of the Migration Guidelines which specified Port Option A, wherein the NLSP issues the LSR to port the number to the ONSP vs. the proposed Port Option B, wherein the new NNSP issues the LSR to the ONSP. Therefore Verizon recommended the following language changes on page 20 and 21, Scenario 3.A.: remove items 5.b, footnote 2, and 7.a.; re-label 7 a) through i) accordingly; establish a new item 6 and re-number respectively to incorporate the phrase "NLSP issues an LSR to the old NSP to request a number port." These same changes will then be required on pages 23-24 of the Migration Guidelines.

Commission response

Scenarios 3.A and 3.B involve the migrating of an end user from an unbundled arrangement to a bundled one. The commenters seek to require the NLSP to issue a porting LSR to the ONSP (Option A and the New York Approach). In the Migration Guidelines, the NLSP can issue an ordering LSR, including a request for porting, to either the ONSP (Option A) (*see* Scenarios 3.A. and 3.B., paragraph 5(b), footnote 2) or to the NNSP (Option B) (*see* Scenarios 3.A. and 3.B, paragraph 5). Inclusion of both options recognizes the approach in the New York Guidelines as well as the approach adopted by SBC in its CLEC User-Forum. Option B is also included due in part to implementation difficulties associated with the New York approach (which parties confirmed at the workshops). Only allowing for Option A would require numerous resellers and UNE-P providers to establish relationships with potentially unaffiliated NSPs in order to prevent ONSPs from rejecting the NLSPs' LSR. Such rejections would occur due to the fact that the NLSP would in all likelihood not have a profile with the ONSP regarding the exchange of information. As noted earlier, a primary purpose of the Migration Guidelines is to promote greater cooperation between or among all carriers, including CLECs. However, requiring resellers and UNE-P providers to establish data exchange relationships with unaffiliated NSPs rather than advance that purpose merely injects greater uncertainty and inefficiency into the migration process. The commission, therefore, declines SBC's, Sprint's, and Verizon's requests to require the NLSP in scenarios 3.A and 3.B to submit its LSR to the ONSP.

The commission modifies Section VIII, Subsection 3.A., paragraph 3, to replace the phrase "OLSP and/or ONSP" with "OLSP/ONSP" in order to clarify that the OLSP and ONSP in this scenario are the same carrier.

Additional comments

MCI recommended the addition of line-splitting scenarios in the Migration Guidelines and provided specific line splitting scenarios and applicable processes it has developed. MCI asserted that these processes minimize any adverse impact upon residential and business voice and data service for end-users.

Sprint stated that it had not had the opportunity to determine actual costs associated with the proposed Migration Guidelines and encouraged the commission to allow affected companies to provide the commission with specific costs and develop a timeframe for implementation of the Migration Guidelines. Sprint argued that the current financial status of the industry makes any additional costs a competitive burden and that affected companies should be allowed to specify their costs and propose timeframes for implementation. Sprint asserted that the timeline should be long enough to give affected companies time to implement the Migration Guidelines in a business like fashion.

SWCTA/Logix recommended changes throughout the Migration Guidelines to provide performance goals for Firm Order Confirmation (FOC) and the release of telephone numbers.

The changes Logix seeks are: (1) OLSP to provide FOC within 48 hours from receipt of an order from a NLSP; (2) If an order involves number porting and affects 100 numbers or fewer, the OLSP goal is five days; and (3) If an order involves number porting and affects more than 100 numbers, the OLSP goal is ten days.

Verizon expressed its concerns regarding timelines. Verizon recommended that timelines related to number porting be incorporated to avoid unwarranted delays.

Commission response

The commission declines to consider MCI's request to include language regarding line-splitting scenarios as the issue is beyond the scope of this rulemaking and the Migration Guidelines.

The commission declines to consider Sprints proposal to allow carriers to submit costs of implementation and a timeframe for such implementation. In the preamble to the published rule, the commission specifically requested comments regarding the costs and benefits of the rule and the Migration Guidelines so that these could be considered prior to adoption. No commenters provided specific costs/benefit analysis information. The commission notes that the Migration Guidelines have been a work-in-progress for nearly two years, which the commission finds to be ample time for carriers to develop cost estimates of implementing the Migration Guidelines. Moreover, enforcement of the rule should have no adverse economic effect on carriers that qualify as small businesses (fewer than 100 employees) or micro-businesses (fewer than 20

employees). Rather, the rule should have a positive economic effect on small or micro-businesses because reducing migration errors and delays should have a corresponding reduction on migration costs. Additionally, establishing minimum guidelines reduces the administrative costs associated with having to negotiate and implement terms of migration on a carrier-by-carrier basis. Finally, Sprint provides no cost information to controvert the commission's determination that "that the benefits accruing from implementation of the proposed section will outweigh" the economic costs of implementation.

Regarding Sprint's proposal to submit a timeframe for implementation, the commission again notes that the Migration Guidelines are the result of a nearly two year process, during which an indeterminate number of migrations have been requested and completed. The Migration Guidelines, therefore, merely provide a measure of uniformity and certainty to an existing practice. Moreover, the Migration Guidelines provide various ramp-up periods and are generally consistent with current *ad hoc* migration processes utilized by carriers.

The commission declines SWCTA/Logix's request to include "performance goals" for FOC and release of telephone numbers. The purpose of the Migration Guidelines is to establish and define minimum migration standards and processes applicable to all affected carriers. Inclusion of performance goals would add little, if anything, to these standards and processes.

The commission declines Verizon's request regarding timelines for number porting as the request is too general to be considered and was not discussed to any degree at the workshops or raised in parties' post-workshop comments.

This new section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §17.001(b) and §64.001(b) which confer on the commission the authority to adopt and enforce rules to protect customers from fraudulent, unfair, misleading, deceptive, or anticompetitive practices; §51.001 which grants the commission authority to make and enforce rules necessary to protect customers of telecommunications services consistent with the public interest; §52.001 which requires that rules, policies and principles be formulated and applied to protect the public interest and to provide equal opportunity to each telecommunications utility in a competitive marketplace; and §17.004(a) and §64.004(a) which provide that all buyers of telecommunications services are entitled to a choice of a telecommunications service provider and to have that choice honored.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 17.001, 17.004, 51.001, 52.001, 55.016, Chapter 55, Subchapter K, 62.022, 64.001, and 64.004.

§26.131. Competitive Local Exchange Carrier (CLEC)-to-CLEC and CLEC-to-Incumbent Local Exchange Carrier (ILEC) Migration Guidelines.

- (a) **Purpose.** The purpose of this section is to establish standardized procedures, general business rules, and privacy protocols governing end user or customer migrations between CLECs, or between a CLEC and an ILEC that serves 31,000 or more access lines in the state, to ensure that:
- (1) customers can migrate from one CLEC to another or from a CLEC to an ILEC in a seamless manner without encountering abnormal delays, service interruptions, and cumbersome procedures;
 - (2) customers are not switched from one telecommunications provider to another without their permission pursuant to §26.130 of this title (relating to Selection of Telecommunications Utilities); and
 - (3) customers do not have unauthorized charges placed on their bills pursuant to §26.32 of this title (relating to Protection Against Unauthorized Billing Charges ("Cramming")).
- (b) **Application.** This section applies to all CLECs and to all ILECs with 31,000 or more access lines in the state. This section does not apply to Digital Subscriber Line (DSL) services, line sharing, or line splitting arrangements as defined by the Federal Communications Commission (FCC) or the commission, or to migrations resulting from a CLEC's exit from the Texas market or a major segment of the Texas market.

- (c) **Terminology.** In this section, "CLEC" means a holder of either a certificate of operating authority (COA) or a service provider certificate of authority (SPCOA).
- (d) **Migration guidelines.** All CLECs and applicable ILECs shall follow the *Texas CLEC-to-CLEC and CLEC-to-ILEC Migration Guidelines* when an end user or customer migrates from one CLEC to another or from a CLEC to an ILEC. These guidelines may only be changed through the rulemaking process.

Figure: 16 TAC §26.131(d)

This agency hereby certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §26.131, relating to Competitive Local Exchange Carrier (CLEC)-to-CLEC and CLEC-to-Incumbent Local Exchange Carrier (ILEC) Migration Guidelines is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 18th DAY OF SEPTEMBER 2003.

PUBLIC UTILITY COMMISSION OF TEXAS

Rebecca Klein, Chairman

Brett A. Perlman, Commissioner

Julie Parsley, Commissioner