

Chapter 21
Discontinuance or Reduction of Telecommunications Services

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Rule R21-1. Application.

(a) This rule governs both the complete cessation of telephone operations and the discontinuance or reduction of telephone service by local exchange companies (LECs) and competing local providers (CLPs), as defined in Commission Rule R17-1. It does not apply to disconnection of service to an individual customer for nonpayment in accordance with Chapter 12 of the Commission's Rules.

(b) This rule is directed toward the discontinuance or reduction of service by, or termination of service to, carriers whose customers are end users. In the event of a request for discontinuance or reduction of service by, or termination of service to, a carrier that provides both wholesale and retail service, or exclusively wholesale service, the Commission shall address such request in such manner as may be just, and shall, to the greatest possible extent, ensure that all affected parties, including but not limited to wholesale customers and end users, are afforded at least as much advance notice of cessation of service as provided for in these rules. Rule R21-3 is applicable to all bankruptcy filings, regardless of whether the bankrupt carrier provides wholesale service, retail service, or both.

(NCUC Docket No. P-100, Sub 162, 08/30/06)

Rule R21-2. Discontinuance or Reduction of Telecommunications Service by LEC's and CLP's

(a) A LEC or CLP intending to cease operations or to discontinue or reduce the provision of telecommunications service in North Carolina shall seek permission from this Commission to abandon or reduce service in accordance with G.S. 62-118. The LEC or CLP shall file a petition for authority to discontinue or reduce service with the Commission not less than forty-five (45) days prior to the date of discontinuance or reduction of telecommunications service. The petition shall include, at a minimum:

- (1) For each service offering to be discontinued, a description of the service offering, the number of customers that will be affected by the discontinuance, identification of any customers affected by the discontinuance that are themselves telecommunications carriers, identification of the underlying carrier(s), if any, for the offering, and the proposed date of discontinuance;
- (2) A description of customer notification efforts and copies of the written notice(s) sent or proposed to be sent to customers. If the notice is not consistent with the requirements of R21-4(g), the petition shall state why the proposed notice is sufficient;
- (3) A full explanation of the reasons for the proposed service discontinuance or reduction;
- (4) Details of any plan to migrate customers to other carriers and identification of the carrier(s) to whom the service(s) are to be migrated. If no migration plan is provided, the petition shall state why a plan is not necessary; and
- (5) If all North Carolina service offerings are being discontinued, a request for cancellation of the certificate(s) of public convenience and necessity of the LEC or CLP upon the approval of discontinuance. If cancellation of the certificate(s) is not requested, the carrier shall provide a concise statement explaining why the Commission should not cancel the certificate(s).

(b) Existing customers of the service(s) to be discontinued must be provided written notice sufficiently in advance of service reduction or discontinuance to allow an alternate service to be established without the customer incurring a lapse in service, and, in any event, not less than fourteen (14) days prior to the proposed service reduction or disconnection.

(c) In the event of discontinuance or reduction of local exchange service, the LEC or CLP shall include in customer notices and on its website a toll-free number that customers may call with inquiries prior to such discontinuance or reduction of local exchange service. Knowledgeable service representatives shall be available at the toll-free number to answer customers' questions.

(d) The Commission shall determine if sufficient notice has been provided or is proposed to be provided to customers and shall prescribe any additional notice or other requirements, as it deems necessary in the public interest.

(e) No discontinuance or reduction of telecommunications service shall be implemented until the Commission has ruled on the petition, issued an order, and determined that adequate notice has been provided to end user customers.

(f) Within seven (7) days following Commission approval of the discontinuance or reduction, the LEC or CLP shall post on its website, for its customers and other carriers, information that will assist in the orderly migration of customers.

(g) Unless the LEC or CLP has already arranged for all of the services which it proposes to discontinue to be transferred to another carrier, the LEC or CLP shall file with the Commission, within seven (7) days of receiving Commission approval of the discontinuance or reduction, a spreadsheet containing a list of billing names, addresses, and telephone numbers (or circuit numbers for non-switched services) for all customers affected by the discontinuation, except those with non-published numbers. For customers with non-published listings, the LEC or CLP shall provide only their billing names, addresses, and the NPA-NXX of their telephone numbers. The list shall specifically identify those end user customers who are public utilities, governmental agencies, inmate facilities or hospitals. If the LEC or CLP is facilities-based, the list shall also include circuit IDs, cable pair identification and a statement that the LEC or CLP will fully cooperate in the transfer of numbers to other providers through the Number Portability database. This list shall only be used to facilitate the transfer of the end user customers to their new service providers.

(NCUC Docket No. P-100, Sub 162, 08/30/06)

Rule R21-3. Bankruptcy

(a) A LEC or CLP that is the subject of a petition under any provision of the federal Bankruptcy Code shall immediately file with the Commission the following materials and shall keep them updated through further filings with the Commission throughout the duration of the bankruptcy proceeding:

- (1) A complete copy of the bankruptcy petition;
- (2) The name, address, and telephone number of any trustee in its bankruptcy proceeding; and
- (3) The names, addresses and telephone numbers of all attorneys representing the LEC or CLP in its bankruptcy proceeding.

(b) During the pendency of the bankruptcy proceeding, the LEC or CLP shall file with the Commission, immediately upon their being filed with or issued by the Bankruptcy Court, the following materials:

- (1) Copies of all orders or rulings of the Bankruptcy Court that have an impact on the provision of North Carolina telecommunications service by the LEC or CLP, or on the discontinuance or reduction of such service;
- (2) Copies of any plan under Chapter 11 or any other chapter of the Bankruptcy Code that is approved by the Bankruptcy Court or is formally submitted to creditors for their approval or disapproval; and
- (3) Copies of any other documents filed with or issued by the Bankruptcy Court that the Commission directs the LEC or CLP to file.

(c) Nothing contained in this Rule is intended to interfere with the jurisdiction or authority of the Bankruptcy Court under the Bankruptcy Code.

(NCUC Docket No. P-100, Sub 162, 08/30/06)

Rule R21-4. Termination of Service to CLPs by Underlying Carriers

(a) An underlying carrier shall not terminate service to a CLP except as authorized under its interconnection agreement with the CLP; provided, however, that an underlying carrier shall not under any circumstances terminate service to a CLP because of (i) a default by a third party not affiliated with the CLP or (ii) a default occurring outside North Carolina that does not constitute failure to pay for North Carolina services. For good cause shown, the Commission may authorize an underlying carrier to terminate service to a CLP for failure to pay for services provided in another state, if termination under such circumstances is expressly provided for in the parties' interconnection agreement.

(b) In the case of billing disputes between a CLP and an underlying carrier, the parties shall make a good faith effort to work with each other in determining what portion, if any, of the bill for resale, unbundled network elements, or other services provided by the underlying carrier to the CLP is disputed and which portion is undisputed. The underlying carrier shall work with the CLP to resolve the billing dispute and arrange for payment of the outstanding charges, pursuant to the interconnection agreement between the underlying carrier and the CLP.

(c) In the event that the underlying carrier intends to cease providing service to the CLP for nonpayment or any other reason, it shall send to the CLP a notice of intent to disconnect or deny services to the CLP pursuant to the current interconnection agreement between the carriers. A copy of the notice(s) shall be filed with the Commission.

(d) The underlying carrier shall state the following in the notice:

- (1) The name, address and account number of the CLP;
- (2) A plain statement of the grounds upon which the right to disconnect or deny is founded, including the total amount owed, the non-disputed amount owed, the disputed amount owed, and the amount required to be paid to avoid interruption of service. If the underlying carrier provides service to the CLP in North Carolina and also in one or more other states, the portions of these amounts applicable to North Carolina services shall be stated separately; and
- (3) The exact date and time or range of dates and times the underlying carrier seeks to have service discontinued.

(e) The underlying carrier shall not disconnect or deny service to the CLP prior to the date and time (or range of dates and times) given on the notice of intent to terminate. In no case shall disconnection be effected less than thirty (30) days from the later of the date of mailing of the notice of intent or the filing of the notice with the Commission. If the last day of the thirty (30) day period falls on a Saturday, Sunday or legal holiday, the notice period will expire at the close of the underlying carrier's next business day. In order to ensure that the interests of customers are adequately protected, the

Commission may issue directives to underlying carriers and CLPs to effectuate the intent of this Rule.

(f) The underlying carrier shall make its best efforts through coordination and timely attention to change requests from end users and other carriers involved in the services subject to discontinuation to assist in the orderly migration of customers. The underlying carrier and the CLP being disconnected shall provide the Public Staff, upon request, with the status of the customer conversions, including, to the extent available to them, the Local Service Request dates, Firm Order Confirmation dates, and Actual Installation dates.

(g) Upon the filing of the underlying carrier's notice of intent with the Commission, the Public Staff shall forthwith investigate the proposed termination of service and shall file a recommendation with the Commission concerning whether adequate notice has been or is proposed to be given by the CLP.

(h) At least fourteen (14) days before the date specified for termination, if the notice of termination has not been withdrawn and the Commission has not found the proposed termination to be without good cause, the CLP shall:

- (1) Provide the Commission with a complete list of all customers being served by the carrier, including the specific customer information referenced in Commission Rule R21-2(g); and
- (2) Notify all its affected customers, by direct mailing, of the proposed termination. The CLP shall provide this notice even if it anticipates resolving its dispute with the underlying carrier and even if it contends that the proposed termination is without good cause. The notice to the CLP's customers shall contain the following information in easily legible type:
 - (i) A clear explanation that service to the customer is being terminated by (name of carrier);
 - (ii) The date on which the service will be terminated;
 - (iii) A statement that the customer must make arrangements with an alternate carrier to continue receiving local service;
 - (iv) If basic local exchange service is to be discontinued, a statement clearly explaining that the customer must obtain a new local provider by the date of service termination in order to continue to make local calls, including 911 calls;
 - (v) A toll-free number that can be reached by customers for any questions concerning the service termination; and
 - (vi) A statement explaining that the CLP will no longer make changes to or reconnect any existing service, or accept any orders for new service.

(i) If the Commission determines that good cause for the proposed termination exists, it may authorize the termination, subject, however, to the provision that the CLP shall have first given adequate notice to its end users.

(j) If the CLP has not given adequate notice to its customers as required by subsection

(h) above, or is unwilling to do so, then the underlying carrier shall provide at least fourteen (14) days' notice of the proposed termination to the CLP's customers either by U.S. Mail, recorded announcement, or direct contact. If direct contact is employed, the underlying carrier is required to make at least three (3) attempts over a period of not less than two (2) days to contact each of the CLP's customers. The CLP shall reimburse the underlying carrier for the cost of notifying the CLP's customers of the disconnection of service.

(k) The Commission may extend the fourteen (14) day and thirty (30) day notice periods provided herein for good cause.

(l) The CLP shall return all deposits to customers and apply all appropriate credits associated with the discontinued service within thirty (30) days of the discontinuation.

(NCUC Docket No. P-100, Sub 162, 08/30/06; NCUC Docket No. P-100, Sub 162, 08/31/06.)