

#### **R21-04 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.

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