COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 30, 2007

APPLICATION OF

VERIZON VIRGINIA INC.,
VERIZON SOUTH INC.
and
MCIMETRO ACCESS TRANSMISSION SERVICES
OF VIRGINIA, INC.

CASE NO. PUC-2006-00154

For Modification to Rules Governing
Certification and Regulation of Competitive
Local Exchange Carriers, 20 VAC 5-417-10 et seq.

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2007-00033

Ex Parte: Amendment of Rules Governing
the Certification and Regulation of
Competitive Local Exchange Carriers

ORDER ON APPLICATION AND ESTABLISHING PROCEEDING

On December 1, 2006, Verizon Virginia Inc., Verizon South Inc., and MCImetro Access Transmission Services of Virginia, Inc. (collectively, "Verizon") filed an application with the State Corporation Commission ("Commission") requesting "that the Commission initiate a rulemaking proceeding, pursuant to 5 VAC 5-20-100 (A), for the purpose of adopting regulations that would establish a cap on the intrastate access rates that [competitive local exchange carriers ('CLECs')] may charge."[1] Verizon "proposes that the Commission adopt a rule specifying that CLEC intrastate access rates may not exceed the access rates currently charged by the competing [incumbent local exchange carrier ('ILEC')] in the same service area."[2]

[1] Application at 14.

[2] *Id.* at 2.

Verizon asserts that the Commission "can accomplish this either by modifying the existing rule, 20 VAC 5-417-50 (D), or by creating a new rule."[3] Specifically, Verizon proposes that the Commission adopt the following language:

> A competitive local exchange carrier (CLEC) may not charge switched access rates that are higher than those of a competing incumbent local exchange carrier (ILEC) serving the same geographic location. A CLEC's aggregate charges for all of the rate elements that comprise its switched access service may not exceed the ILEC's aggregate charges for all rate elements that comprise its switched access service. If an ILEC lowers its access rates either pursuant to an order of the commission or on its own, then, no more than 90 days afterward, CLECs must adjust their access rates, as appropriate, so that they are not higher than the ILEC's new access rates. A CLEC may only impose charges for those functions that the carrier actually provides.
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> For purposes of this rule, a competing incumbent local exchange carrier shall mean the ILEC that serves the same geographic area in which the CLEC operates.[4]

On December 27, 2006, the Commission issued an Order for Notice and Comment that docketed this proceeding, provided interested persons and the Commission's Division of Communications ("Staff") an opportunity to file written comments, and allowed Verizon to file a response.

PAETEC Communications of Virginia, Inc., and US LEC of Virginia, L.L.C. (collectively, "PAETEC/US LEC") filed comments on January 31, 2007. PAETEC/US LEC assert that "it would be inappropriate for the Commission to generally revise CLEC access charges, as suggested by Verizon, so that they would be equivalent to the local ILEC's intrastate access charges."[5] In addition, "if the Commission feels constrained to act with regard to CLECs

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[3] *Id.* at 11.

[4] *Id.*

[5] PAETEC/US LEC's January 31, 2007 comments at 14.

whose access charges are significantly above the ILEC's, PAETEC/US LEC suggest: (i) that the Commission consider specifying a benchmark level of CLEC aggregate access rates, to be determined after further proceedings, that would continue to provide CLECs with adequate additional revenues and support; (ii) that any required reduction of CLEC access rates should be phased-in over a transition period of three years; and (iii) that CLECs should continue to be permitted to adopt their own access rate structures, including having a single access charge rate element."[6]

The Small Company Committee of the Virginia Telecommunications Industry Association ("Small ILECs") submitted comments on January 31, 2007.[7] The Small ILECs contend that "[t]here is no basis for the Commission to extend the issues raised in Verizon's Application as support for a separate generic proceeding regarding the access charge structure for the Small ILECs."[8]

Cavalier Telephone, LLC, NTELOS Network Inc., and XO Virginia, LLC (collectively, "Cavalier/NTELOS/XO") filed comments on February 1, 2007. Cavalier/NTELOS/XO "respectfully request that the Commission deny the Verizon Petition and defer any action on access charges at this time. . . . [T]he Commission should recognize that the existing CLEC rule is a validation of the fact that Verizon and CLECs face different economic realities and different cost structures. Unless Verizon can show that such differences are somehow mitigated by its

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[6] *Id.*

[7] The Small Company Committee's members are as follows: Buggs Island Telephone Cooperative; Burke's Garden Telephone Co., Inc.; Citizens Telephone Cooperative, Inc.; Highland Telephone Cooperative; MGW Telephone Company; New Hope Telephone Company; North River Telephone Cooperative; NTELOS Telephone Company; Pembroke Telephone Cooperative; Peoples Mutual Telephone Company; Roanoke and Botetourt Telephone Company; Scott County Telephone Cooperative; Shenandoah Telephone Company; and TDS Telecom.

[8] Small ILEC's January 31, 2007 comments at 3.

reemergence as the dominant landline and long distance monopolist, no changes to the CLEC rule should be made."[9]

Cox Virginia Telcom, Inc. ("Cox Telcom") filed comments on February 1, 2007. Cox Telcom "respectfully requests that the Commission deny Verizon's request to establish a cap on competitive LEC intrastate access charges. In the alternative, the Commission should wait until the [Federal Communications Commission's ('FCC')] proceeding on intercarrier compensation is resolved before making any adjustments to competitive LEC intrastate access rates in Virginia. If adjustments are necessary before the FCC proceeding is resolved, Cox Telcom respectfully requests in the alternative that the Commission adopt a phased-in approach of three years and remove the cap on local service rates assessed by competitive LECs."[10]

AT&T Communications of Virginia, LLC, and TCG Virginia, Inc. (collectively, "AT&T") filed comments on February 1, 2007. AT&T states that "[n]ot only should the Commission require CLECs to cap intrastate switched access rates at the Verizon Virginia rate level, it should also require Virginia's other ILECs to cap their intrastate access rates as well, at either the Verizon Virginia rate or the company's interstate rate, whichever is higher. As the Verizon Virginia and interstate rates change over time, the Virginia intrastate access cap should follow in lockstep. At the same time it implements the access cap, the Commission should also afford the CLECs and ILECs greater retail pricing flexibility."[11]

United Telephone-Southeast, Inc., and Central Telephone Company of Virginia (collectively, "Embarq") filed comments on February 1, 2007. Embarq "encourages the

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[9] Cavalier/NTELOS/XO's February 1, 2007 comments at 6.

[10] Cox Telcom's February 1, 2007 comments at 11.

[11] AT&T's February 1, 2007 comments at 16.

Commission to adopt Verizon's proposed rule changes that would cap the intrastate access charges of CLECs [and] urges the Commission not to undertake a generic proceeding to examine the appropriate levels of the intrastate access charges of ILECs."[12]

Sprint Communications Company of Virginia, Inc., ASC Telecom, Inc., Sprint Spectrum, L.P., Sprintcom, Inc., Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. d/b/a Nextel Partners (collectively, "Sprint Nextel") filed comments on February 1, 2007. Sprint Nextel states that "[i]ntrastate switched access rates should be set at cost or, at very least, at parity with interstate rates. Sprint [Nextel] encourages the Commission to take this opportunity to consider the appropriate level of intrastate switched access charges for all local exchange carriers in a generic proceeding. Further, any consideration of Verizon's retail deregulation request in PUC-2007-00008 should be linked to reform of Verizon's switched access rates."[13]

Qwest Communications Corporation of Virginia ("Qwest") filed comments on February 1, 2007. Qwest "urges the Commission to adopt the proposed modifications . . . recommended by Verizon, as supplemented by" the following language: "In addition, a CLEC's tariff and billing statements must separately identify and separately price each switched access service element for which it charges. If technically feasible, the level of disaggregation should mirror the rate element structure used by the competing ILEC."[14]

The Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel") filed comments on February 1, 2007. Consumer Counsel "agrees that some reduction in access charges towards cost may be warranted, but has concerns about Verizon's proposed

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[12] Embarq's February 1, 2007 comments at 4.

[13] Sprint Nextel's February 1, 2007 comments at 7.

[14] Qwest's February 1, 2007 comments at 5-6.

rule. If the Commission determines to reduce the level of access charges of CLECs, the Commission may also want to consider the appropriate level(s) of intrastate switched access charges for all local exchange carriers in a generic proceeding."[15]

The Staff filed comments on February 23, 2007. The Staff concluded that the "Commission should require CLECs to lower their switched access rates to levels that do not exceed those of the ILECs," and the Staff suggested modifications to Verizon's proposed rule.[16] The Staff also stated that "the Commission should implement a transition period for CLECs to phase down their existing rates to the new switched access charge ceilings. Furthermore, we suggest that the Commission modify the CLEC Rules to provide additional pricing and tariff filing flexibility."[17] In addition, the Staff asserted that: (1) "the Commission can review the intrastate access charges of LECs (or groups of LECs) in separate proceedings" and that "[s]uch an approach may be more expedient;" (2) "the Commission should initiate an investigation into the appropriate level of access charges for the Embarq companies;" and (3) "[t]he Commission should consider whether it is timely to initiate an investigation to evaluate the intrastate switched access charges of the small telephone companies (and cooperatives) where it can address various issues."[18]

Verizon filed a response on March 9, 2007. Verizon responded to the previously filed comments and "urges the Commission to proceed quickly to establish a price ceiling for CLEC

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[15] Consumer Counsel's February 1, 2007 comments at 3-4.

[16] Staff's February 23, 2007 comments at 38.

[17] *Id.*

[18] *Id.* at 38-39.

intrastate switched access rates that mirrors the comparable ILECs' access rates, and require compliance with that ceiling quickly."[19]

On March 21, 2007, PAETEC/US LEC filed reply comments and moved for leave to file the same. On March 23, 2007, Cavalier/NTELOS/XO filed reply comments and a Motion for Leave to Respond to Verizon. On March 23, 2007, Cox Telcom filed reply comments and a Motion for Leave to File Reply Comments.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the application shall be granted in part and denied in part and that we shall initiate a rulemaking proceeding as set forth herein.

Verizon's application requests "that the Commission initiate a rulemaking proceeding . . . for the purpose of adopting regulations that would establish a cap on the intrastate access rates that CLECs may charge."[20] We grant the application to the extent that we are initiating such a proceeding, which shall be docketed as Case No. PUC-2007-00033. Virginia statutory law requires that the "Commission, in resolving issues and cases concerning local exchange telephone service under [Title 56], shall, consistent with federal and state laws, consider it in the public interest to, as appropriate, (i) treat all providers of local exchange telephone services in an equitable fashion and without undue discrimination and, to the greatest extent possible, apply the same rules to all providers of local exchange telephone services; . . .."[21] We find that the disparity between Verizon's intrastate access rates and CLECs' intrastate access rates warrants initiating a proceeding to consider changes to the Commission's Rules Governing the

[19] Verizon's March 9, 2007 response at 24.

[20] Application at 14.

[21] Va. Code § 56-235.5:1.

Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq*. ("CLEC Rules").

We deny the application to the extent that the proposed CLEC Rules attached hereto do not mirror the changes requested by Verizon. In general, the proposed rules in Case No. PUC-2007-00033 amend only 20 VAC 5-417-10 (Definitions) and 20 VAC 5-417-50 (Regulation of new entrants providing local exchange telecommunications services) and: (1) require that a CLEC's intrastate access rates not exceed the higher of (a) the interstate access rates of the CLEC, or (b) the intrastate access rates of the ILEC(s) in whose service territory the CLEC is providing service; (2) provide a transition period for CLECs to meet the new intrastate access rate requirements; (3) allow CLECs to request pricing structures or rates that do not conform to the new rule; and (4) provide CLECs with additional pricing and tariff filing flexibility.

The rulemaking proceeding in Case No. PUC-2007-00033 is limited to proposed changes for CLECs. Such limitation, however, does not represent a finding that no changes are warranted for ILECs' intrastate access rates. Rather, we conclude that any proposed changes to intrastate access rates for ILECs should be considered in one or more separate proceedings.

Finally, we will not consider, in Case No. PUC-2006-00154, the unauthorized replies filed by PAETEC/US LEC, Cavalier/NTELOS/XO, and Cox Telcom.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Verizon's application is granted in part and denied in part as set forth herein.

(2) The motions for leave to file a reply by PAETEC/US LEC, Cavalier/NTELOS/XO, and Cox Telcom in Case No. PUC-2006-00154 are denied.

(3) Case No. PUC-2007-00033 is docketed for the purposes set forth herein.

(4) The Commission's Division of Information Resources shall forward the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (Chapter 417), Attachment A hereto, to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(5) On or before May 18, 2007, the Commission's Division of Information Resources shall make a downloadable version of the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, Attachment A (amending only §§ 10 and 50), available for access by the public at the Commission's website, http://www.scc.virginia.gov/caseinfo.htm. The Clerk of the Commission shall make a copy of the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers available for public inspection and provide a copy, free of charge, in response to any written request for one.

(6) On or before June 20, 2007, interested persons wishing to comment on, propose modifications to, or request a hearing on the proposed Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (amending only §§ 10 and 50) shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23218, making reference to Case No. PUC-2007-00033. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, http://www.scc.virginia.gov/caseinfo.htm. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

(7) On or before May 18, 2007, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A PROCEEDING TO ADOPT
AMENDED RULES GOVERNING THE CERTIFICATION
AND REGULATION OF COMPETITIVE
LOCAL EXCHANGE CARRIERS
CASE NO. PUC-2007-00033

The State Corporation Commission ("Commission") has initiated a proceeding to consider adopting changes to the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (20 VAC 5-417-10 et seq.) ("CLEC Rules") for the purpose of establishing caps upon the prices new entrants may charge for switched access rates. The proposed changes apply only to 20 VAC 5-417-10 and 20 VAC 5-417-50. Interested persons may obtain a copy of the proposed CLEC Rules by visiting the Commission's website, http://www.scc.virginia.gov/caseinfo.htm, or by requesting a copy from the Clerk of the Commission. The Clerk's office will provide a copy of the proposed CLEC Rules to any interested person, free of charge, in response to any written request for one.

On or before June 20, 2007, any person wishing to comment on, propose modifications to, or request a hearing on the proposed CLEC Rules shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23218, making reference to Case No. PUC-2007-00033. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, http://www.scc.virginia.gov/caseinfo.htm. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

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(8) The Staff may file comments regarding the proposed Rules on or before July 20, 2007.

(9) Case No. PUC-2006-00154 is dismissed.

(10) Case No. PUC-2007-00033 is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: the official Service List for this proceeding; all local exchange carriers certificated in Virginia as set out in Appendix A; all interexchange carriers certificated in Virginia as set out in Appendix B; and the Commission's Office of General Counsel and Division of Communications.

20 VAC 5-417, Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers (Proposed)

20 VAC 5-417-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Attestation" means a written statement regarding compliance with a requirement or condition contained in this chapter, signed by an officer, director, or comparable official of the applicant or new entrant.

"Basic telephone service" means the customer's dial tone line and local usage. Local usage can be purchased on a flat rate, measured, or on a per message basis, or some combination thereof.

"Bundled service" means a designated group of services or products offered to customers at a package or set price. A bundled service may consist of regulated and nonregulated services or products.

"Casual user service" means a local exchange telecommunications service of a competitive local exchange carrier or municipal local exchange carrier that does not require a customer to actively subscribe or contract with the competitive local exchange carrier or municipal local exchange carrier to use the service. For example, these services may require alternate billing arrangements such as a calling card to use the service.

"Commission" means the State Corporation Commission.

"Competitive local exchange carrier" ("CLEC") means an entity, other than a locality, certificated to provide local exchange telecommunications services in Virginia after January 1, 1996, pursuant to § 56-265.4:4 of the Code of Virginia. An incumbent local exchange carrier shall be considered a CLEC in any territory that is outside the territory it was certificated to serve as of December 31, 1995, for which it obtains a certificate to provide local exchange telecommunications services on or after January 1, 1996.

"Customer" means any person, firm, partnership, corporation, or lawful entity that purchases local exchange telecommunications services.

"Incumbent local exchange carrier" or "incumbent" ("ILEC") means a public service company providing local exchange telecommunications services in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity, or the successors to any such company.

"Individual customer pricing" means the offering of service or services to a specific customer at rates, terms, or conditions provided through an agreement instead of pursuant to tariff.

"Interconnection" means the point of interface between local exchange carriers' networks. Interconnection can be achieved at different points of the network.

"Interexchange carrier" ("IXC") means a carrier that provides intrastate interexchange long distance telephone service.

"Interstate service" means service that originates in one state and terminates in another state.

"Intrastate service" means service that originates and terminates within a state.

"Local exchange carrier" ("LEC") means a certificated provider of local exchange telecommunications services, whether an incumbent or new entrant.

"Local exchange telecommunications services" means local exchange telephone service as defined by § 56-1 of the Code of Virginia.

"Locality" means a city, town, or county that operates an electric distribution system in Virginia.

"Municipal local exchange carrier" ("MLEC") means a locality certificated to provide local exchange telecommunications services pursuant to § 56-265.4:4 of the Code of Virginia.

"New entrant" means a CLEC or an MLEC.

"Promotion or promotional rates" means an offering of limited duration that reduces, waives, or otherwise modifies applicable tariffed rates, terms, or conditions.

"Service charges" means charges associated with work activities performed by the LEC in conjunction with providing service. These include, but are not limited to, charges for installation, activation, order processing, line restoration, maintenance visits, or changes in service.

"Switched access charges" means the per minute rates billed by LECs to IXCs or other LECs for the use of the LEC's network when an end user makes or receives a long distance call.

20 VAC 5-417-50. Regulation of new entrants providing local exchange telecommunications services.

A. Unless otherwise allowed by the commission, tariffs are required for all local exchange telecommunications service offerings except those that are comparable to ~~"competitive"~~ offerings of any ILEC that does not require tariffs.

B. A new entrant that has received certification to provide local exchange telecommunications services shall, prior to offering such services, submit its proposed initial tariffs to the Division of Communications. A new entrant shall not offer any local exchange telecommunications services until its tariffs have been accepted by the Division of Communications and are effective.

C. A new entrant may petition the commission to consider deregulation or detariffing treatment for any of its specific service offerings.

D. Unless otherwise allowed by the commission, prices for ~~local exchange telecommunications services provided by a new entrant~~ basic telephone service and associated service charges, not purchased as part of a bundled service, shall not exceed the highest of the comparable tariffed or applicable ceiling ~~services provided by the~~ rates, as determined by the commission, of an incumbent local exchange carrier or carriers in the same ~~local serving areas~~ service territory. ~~Price ceilings shall be the highest tariffed~~

~~rates as of January 1, 1996, for comparable services of any ILEC serving the local service area of the new entrant. Price ceilings for a new entrant shall be increased if the highest tariffed rate of an incumbent is raised through applicable regulatory procedures. Unless otherwise determined by the commission, price decreases for an incumbent's service, whether initiated by the carrier or adopted by the commission, shall not require a corresponding decrease in the price ceilings applicable to the new entrant. Tariff changes pursuant to this price ceiling plan shall be implemented as follows:~~

~~1. Price decreases shall become effective on a minimum of one day's written notice to the Division of Communications.~~

~~2. Price increases below ceiling rates shall become effective after 30 days' written notice is provided to the Division of Communications and affected customers.~~

~~a. Written notice to affected customers shall be provided through bill inserts, bill messages, or direct mail.~~

~~b. Notice for price increases for a casual user or nonsubscriber service shall be provided through publication once as display advertising in newspapers having general circulation in the areas served by the new entrant. Display advertising shall only be used for notice for casual user or nonsubscriber services unless otherwise authorized by the commission.~~

~~c. A copy of the customer notice, the date or dates of such notification, and proof of publication, if applicable, shall be included with the notice to the Division of Communications.~~

~~d. A proposed rate increase below ceiling rates, if there are no current customers, shall not require customer notice. The notice to the Division of Communications shall include an attestation by the new entrant that it has no customers.~~

E. ~~A new entrant may petition the commission for approval of pricing structures or rates that do not conform with the price ceilings. The new entrant shall provide appropriate documentation and rationale to support any request. The commission may permit such alternative pricing structures and rates unless there is a showing the public interest will be harmed.~~ 1. Beginning December 1, 2007, unless otherwise allowed by the commission, prices for a new entrant's intrastate access services shall not exceed the highest of the following:

a. The new entrant's comparable interstate switched access charge rates.

b. The aggregate intrastate switched access charge rates of the ILEC in whose service territory the new entrant is providing service. A new entrant may utilize a blended or composite rate to reflect applicable price ceilings of more than one ILEC or to reflect an alternative rate structure to the ILEC.

c. An intrastate switched access charge benchmark rate of $.029 per minute for a transition period from December 1, 2007 through March 30, 2008. Under subdivision c, a new entrant may not exceed its intrastate switched access rates in effect on May 1, 2007. Effective April 1, 2008, subdivision c no longer applies.

2. A new entrant may be required to submit supporting documentation to justify its rates and structure to the Division of Communications.

3. Unless otherwise ordered by the commission, if an ILEC lowers its switched access charges on its own, such reductions shall not be reflected in applicable price ceilings and a new entrant is not required to adjust its rates in such circumstances.

4. If an ILEC lowers switched access charges pursuant to a commission order, a new entrant shall have 90 days to adjust its switched access rates to correspond to the new applicable price ceiling. The commission may approve an alternative implementation schedule for a new entrant or new entrants to adjust their switched access rates.

F. ~~The price ceiling requirements shall not apply to a new entrant's services: (i) that are comparable to services classified as competitive~~ Tariff changes for ~~the incumbent; or (ii) that have been provided regulatory treatment different than that specified by this chapter.~~ local exchange telecommunications services of new entrants shall be implemented as follows:

1. Price decreases shall be noticed to the Division of Communications no later than three days after the effective date.

2. Price increases shall become effective after at least 30 days' written notice is provided to affected customers and at least seven business days written notice to the Division of Communications.

a. Written notice to affected customers shall be provided through bill inserts, bill messages, or direct mail.

b. Notice for price increases for a casual user or nonsubscriber service shall be provided through publication once as display advertising in newspapers having general circulation in the areas served by the new entrant. Display advertising shall only be used for notice for casual user or nonsubscriber services unless otherwise authorized by the commission.

c. A copy of the customer notice, the date or dates of such notification, and proof of publication, if applicable, shall be included with the notice to the Division of Communications.

d. An allowable rate increase, if there are no current customers, shall not require customer notice. The notice to the Division of Communications shall include an attestation by the new entrant that it has no customers.

3. New service offerings shall become effective after at least three business days' written notice to the Division of Communications.

4. Administrative or nonprice changes shall become effective after at least three business days' written notice to the Division of Communications.

5. A new entrant, subject to prior approval of the Division of Communications, may seek to file tariff changes in less than the prescribed timeframe stated above.

G. ~~Tariff filings and revisions shall be submitted to~~ A new entrant may petition the ~~Director~~ commission for approval of ~~the Division of Communications and shall~~

~~include an original and two copies~~ pricing structures or rates that do not conform with price ceiling requirements in subsections D and E. The new entrant shall provide appropriate documentation and rationale to support any request. The commission may permit such alternative pricing structures and rates unless there is a showing the public interest will be harmed.

H. ~~Tariffs for new services offered~~ Unless otherwise ordered by ~~a new entrant that are~~ the commission, price ceiling requirements shall not ~~comparable~~ apply to ~~services classified as competitive for the incumbent or for which the commission has not provided regulatory treatment different~~ a new entrant's services other than ~~that~~ those specified ~~by this chapter shall be filed with 30 days' prior notice to the commission~~ in subsections D and E above. ~~Price decreases for these services shall become effective on a minimum of one day's notice to the commission. Price increases shall become effective after 30 days' prior notice to the Division of Communications and affected customers in the manner prescribed by subdivision D 2 of this section.~~

I. ~~A new entrant may, pursuant to § 56-481.2 of~~ Tariff filings and revisions shall be submitted to the ~~Code~~ Director of ~~Virginia, submit an alternative regulatory plan for~~ the ~~commission's consideration in the applicant's certification proceeding or at a later date if it desires regulation different from that specified in this section~~ Division of Communications and shall include an original and two copies.

J. A new entrant ~~providing~~ may, for a specified period of time, offer promotional rates, terms, or conditions for its local exchange telecommunications services ~~shall not abandon or discontinue such services except as prescribed~~ offerings that differ from the

rates, terms, or conditions in ~~20 VAC 4-423, Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers~~ its tariffs. Promotions may be submitted by letter and become effective after at least three business days' written notice to the Director of the Division of Communications.

K. ~~An MLEC~~ A new entrant may ~~petition the commission~~ offer individual customer pricing for ~~authority to include a subsidy in any of its~~ local exchange telecommunications services to a customer that may differ from those in its tariffs in a competitive bid situation. The ~~commission may approve such a subsidy if it is deemed~~ new entrant shall retain records of any such agreements and make same available to ~~be in the public interest~~ the Division of Communications upon request. ~~Any commission approved subsidy may not result in a price for the service lower than the price for the same service charged by the ILEC provider in the area.~~

L. A new entrant ~~requesting authority to expand its geographic service territory not covered by its existing certificate shall file a petition with the commission~~ may, pursuant to § 56-481.2 of the Code of Virginia, submit an alternative regulatory plan for the commission's consideration in the applicant's certification proceeding or at a later date if it desires regulation different from that specified in this section.

M. A new entrant providing local exchange telecommunications services shall not abandon or discontinue such services except as prescribed in 20 VAC 5-423, Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers.

N. An MLEC may petition the commission for authority to include a subsidy in any of its local exchange services. The commission may approve such a subsidy if it is deemed to be in the public interest. Any commission approved subsidy may not result in a price for the service lower than the price for the same service charged by the ILEC provider in the area.

O. A new entrant requesting authority to expand its geographic service territory not covered by its existing certificate shall file a petition with the commission.