

**DEPARTMENT OF STATE
PUBLIC SERVICE COMMISSION
Statutory Authority: 26 Delaware Code, Section 209(a) (26 Del.C. §209(a))**

**PROPOSED
PUBLIC NOTICE**

Reg. Docket No. 52; Relating to the Adoption of Rules to Govern Remedies Available in the Event of Alleged Breaches of Interconnection Agreements Between Regulation Docket Telecommunications Carriers

ORDER NO. 6801

This 20th day of December, 2005, the Commission determines and Orders the following:

1. In PSC Order No. 5933 (Apr. 16, 2002), the Commission felt that it might be prudent to explore whether the Commission should adopt specific rules governing what actions are, or are not, permissible in the case of an alleged breach of the terms of an interconnection agreement and what procedures, including notice to the Commission and Commission approval, might have to precede any such actions. The premise for such rules would be to ensure that consumers not suffer the consequences of contractual disputes between carriers and find themselves disconnected or limited in their choices. Therefore, the Commission opened Regulation Docket No. 52.

2. Since that time, Staff has developed a few different versions of proposed rules and have had discussions with the various telecommunications carriers concerning these rules. As a result of those discussions, Staff is now requesting the Commission to consider the rules as set forth in Exhibit "A."

3. The proposed rules simply instruct telecommunications carriers that during disputes between carriers, the companies cannot terminate or suspend service which would affect Delaware consumers and instruct telecommunications carriers who want to abandon service of the process of informing customers and relevant parties before terminating service.

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 26 Del.C. §§209 and 703(3), the Commission proposes to consider the rules as set forth in Exhibit "A" to this Order.

2. That, pursuant to 29 Del.C. §§1133 & 10115, the Secretary shall transmit a copy of this Order, with the attached exhibits, to the Registrar of Regulations for publication in the *Delaware Register of Regulations*.

3. That, pursuant to 26 Del.C. §209 and 29 Del.C. §10115(a)(2) & (b), the Secretary shall cause the form of public notice attached as Exhibit "B" to be published in two-column format, outlined in black, in the following newspapers on the following dates:

The News Journal (January 10, 2006)

Delaware State News (January 11, 2006)

In addition, the Secretary shall mail a copy of this Order, with its exhibits, to the Division of the Public Advocate and to all persons or entities who have made written requests for advanced notice of this Commission's rule-making proceedings. The Secretary shall file a certification of the completion of these tasks by February 15, 2006.

4. That interested persons or entities may submit written suggestions, compilations of data, briefs, or other written materials concerning these proposed amendments on or before Friday, March 3, 2006. Pursuant to 26 Del.C. §209(a), the Commission, through its designated Hearing Examiner, will hold a public hearing on the proposed amendments on Wednesday, March 22, 2006, beginning at 10:00 a.m. in the Commission's office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware.

5. That, pursuant to 26 Del.C. §502 and 29 Del.C. §10117, the Commission designates Hearing Examiner Ruth Ann Price to organize, classify, summarize, and make recommendations concerning the rules proposed by this Order in light of the submitted materials and public hearings. Hearing Examiner Price is specifically authorized to conduct further hearings or direct submission of additional documents if deemed necessary or appropriate.

6. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper by Order of the Commission.

BY ORDER OF THE COMMISSION:

Arnetta McRae, Chair
Joann T. Conaway, Commissioner
Jeffrey J. Clark, Commissioner
Jaymes B. Lester, Commissioner
Dallas Winslow, Commissioner

ATTEST:
Karen J. Nickerson, Secretary

PUBLIC NOTICE OF PROPOSED RULES

In PSC Order No. 5933 (Apr. 16, 2002), the Commission felt that it might be prudent to explore whether the Commission should adopt specific rules governing what actions are, or are not, permissible in the case of an alleged breach of the terms of an interconnection agreement and what procedures, including notice to the Commission and Commission approval, might have to precede any such actions. The premise for such rules would be to ensure that consumers not suffer the consequences of contractual disputes between carriers and find themselves disconnected or limited in their choices. Therefore, the Commission opened Regulation Docket No. 52.

Staff has developed rules to address the Commission's concerns by instructing telecommunications carriers that during disputes between carriers, the companies cannot terminate or suspend service which would affect Delaware consumers and instructing telecommunications carriers who want to abandon service of the process of informing customers and relevant parties before terminating service.

The text of these proposed rules are attached to PSC Order No. 6801. That Order and the exhibits are reproduced in the February 2006 edition of the *Delaware Register of Regulations*. The Order and exhibits can also be reviewed on-line at the PSC's website at www.state.de.us/delpsc. You can also obtain a paper copy of the Order at the PSC's Dover office. Those paper copies will cost \$0.25 per page.

You can file written comments, suggestions, briefs, compilations of data, or other materials concerning these proposed amendments to the Telecom Rules. Such material (10 copies) must be submitted to the Commission on or before Friday, March 3, 2006. Send the material to the Commission's Dover office at the following address:

Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building
Suite 100
Dover, Delaware, 19904
Attn: PSC Reg. Dckt. No. 52

In addition, the PSC will conduct a public hearing on these proposed changes on Wednesday, March 22, 2006, beginning at 10:00 AM. The hearing will take place in the Commission's Office located at the address denoted above. You may also submit additional materials then.

If you are handicapped and need assistance or aids in participating in this matter, please contact the PSC to discuss the needed assistance or aids. You can contact the PSC with questions or requests about this matter at the Commission's toll-free telephone number (800) 282-8574 (Delaware only) or (302) 739-4333 (including text telephone). You can also send inquiries by Internet e-mail addressed to karen.knickerson@state.de.us.

EXHIBIT "A"

RULES TO GOVERN IN THE EVENT OF ALLEGED BREACHES OF INTERCONNECTION AGREEMENTS BETWEEN TELECOMMUNICATIONS CARRIERS AND THE PROCESS FOR CARRIERS TO ABANDON SERVICE TO ITS DELAWARE CUSTOMERS

Rule 1. Unless permitted by Order of the Commission, no party to a telecommunications interconnection agreement ("party" or "carrier") may refuse to comply with the terms of the interconnection agreement in a manner that affects service to a Delaware customer (including refusal to terminate the other party's traffic, suspension of inter-carrier

services, and refusal to execute customer carrier-selection or other service orders), even if such party believes that the other party has breached their interconnection agreement.

Rule 2. Any party to a telecommunications interconnection agreement who believes that the other party has breached their agreement must promptly notify the other party and Commission Staff in writing of the dispute. The carriers shall then provide Commission Staff with a monthly status report regarding the dispute until such time that the carriers resolve the matter or until a Formal Complaint or mediation request is filed with the Commission.

Rule 3. If the carriers cannot resolve their dispute, then either carrier may file a Formal Complaint or may request mediation of the dispute in accordance with the Rules of Practice and Procedure of the Delaware Public Service Commission.

Rule 4. Any carrier who wishes to abandon its telecommunications services to end-users in Delaware must first file an application with the Commission for approval, in accordance with the Commission's Rules for the Provision of Telecommunications Services. On the same day of filing its application, the carrier shall send notification of its request for abandonment to its Delaware customers and to the Division of the Public Advocate. Such notice shall direct customers to select a replacement carrier by a specified deadline (no less than 45 days from the date of notice) and shall include a list of certificated telecommunications carriers that can be selected by the Delaware customer. No later than seven days before the deadline, the carrier shall provide to Commission Staff a list of those customers (including addresses and telephone numbers) who did not select a replacement carrier. In the event a customer cannot be reached or fails to respond, the Commission may assign a local exchange carrier on a market pro rata share basis or other basis deemed appropriate by the Commission. In no event may the abandoning carrier terminate any Delaware customer unless permitted by Order of the Commission.

9 DE Reg. 1161 (02/01/06) (Prop.)