

**LOUISIANA PUBLIC SERVICE COMMISSION**

**GENERAL ORDER**

**LOUISIANA PUBLIC SERVICE COMMISSION**

**EX PARTE**

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*Docket Number R-29564. Louisiana Public Service Commission, ex parte. In re: Possible amendments to the "Local Competition Regulations", as most recently modified by the General Order dated October 31, 2005 and Possible Amendments to the General Order dated March 18, 1994 requiring Commission approval of Transfers of Control of Public Utilities Subject to the Commission's Jurisdiction.*

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**(DECIDED AT THE NOVEMBER 29, 2006 BUSINESS AND  
EXECUTIVE SESSION)**

**(Amends the Commission's Local Competition Regulations)  
(Amends the General Order dated March 18, 1994)**

*Overview*

In its Official Bulletin dated June 16, 2006, the Louisiana Public Service Commission ("Commission" or "LPSC") opened the above referenced docket to consider possible amendments to the Commission's Regulations for Competition in the Local Telecommunications Market ("Local Competition Regulations") as most recently modified by the General Order dated October 31, 2005, and the General Order dated March 18, 1994<sup>1</sup> ("3/18/94 General Order"), which requires the Commission's approval and/or non-opposition to transfers of control of public utilities subject to the Commission's jurisdiction.

Currently, the Commission's 3/18/94 General Order requires all jurisdictional utilities and common carriers to seek the Commission's prior approval or non-opposition to any sale, transfer, lease or other encumbrance of any part of the utility's operations, assets, etc., regardless of the method used to accomplish said transaction, when the values involved exceed one percent of the regulated utility or common carrier's gross assets. When this Order was enacted, competition in the local and long distance telecommunications market was essentially non-existent. Thus, the Order only applied to the small number of Telecommunications Service Providers ("TSPs") in existence at that time. Following the adoption of the Local Competition Regulations in 1996, the Commission has certificated a large number of TSPs who offer a variety of competitive services in the local, long distance, wholesale, wireless and data markets. Additionally, through the restructuring of the telecommunications industry, a large number of financing and transfer transactions have occurred involving these providers. While essentially all of these transactions are uncontested, and ultimately

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<sup>1</sup> General Order dated March 18, 1994, *In re: Commission Approval Required of Sales Leases, Mergers, Consolidations, Stock Transfers, and All Other Changes of Ownership or Control of Public Utilities Subject to the Commission's Jurisdiction.*

have no impact on end-user customers of the providers, they are nonetheless subjected to the requirements of the 3/18/94 General Order. Finally, as these transactions require approval in a number of jurisdictions, and often contain aggressive timelines for completion, time is of the essence in issuing the Commission's approval or non-opposition.

In an attempt to address the above concerns, Staff has sought comments on changes to the Commission's Local Competition Regulations and the 3/18/94 General Order. Comments were received from BellSouth Telecommunications, Inc. ("BellSouth"), Level 3 Communications, LLC ("Level 3") and Sprint Nextel. Additionally, interventions were filed, but no comments received, from the following parties: Occidental Chemical Corporation and the Small Company Committee of the Louisiana Telecommunications Association ("SCC"). Following a review of the Comments, Staff issued a proposed recommendation. BellSouth and the SCC filed additional reply comments on Staff's proposed recommendation.

### ***Jurisdiction***

As stated in Article IV § 21 of the Louisiana Constitution of 1974, the Commission has the authority to:

"regulate all common carriers and public utilities and has all other regulatory authority as provided by law. The Commission shall adopt and enforce reasonable rules, regulations and procedures which are necessary for the discharge of its duties including other powers and duties as provided by law."

Pursuant to its constitutional authority, the Commission has adopted numerous rules and regulations applying to entities subjected to its jurisdiction, including the Local Competition Regulations<sup>2</sup>, as most recently amended by the General Order dated October 31, 2005, and the 3/18/94 General Order, both of which apply to telecommunications carriers subject to the Commission's jurisdiction.

### ***Staff's Recommendation and Commission Consideration***

After careful consideration of the applicable Commission regulations and the comments received from intervenors, Staff recommended the following rule changes for the Commission's approval:

Section 301 M. shall be added to the Local Competition Regulations to read as follows:

M. (1) No TSP shall transfer control or ownership of any assets, common stock or other indicia of control of the carrier to any other person, corporation, partnership, limited liability company, utility, common carrier, subsidiary, affiliated company or any other entity or divide into two or more common carriers, where the values involved in such transaction exceed one percent (1%) of the gross assets of such regulated common carrier, or subsidiary thereof, without prior notice to the Commission. Such notice shall include information identifying the parties involved, a summary description of the

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<sup>2</sup> The actual Regulations are contained in "Appendix B" to the General Order.

transaction, and a public interest statement.

Any notice filed pursuant to subsection M (1) above shall be published in the Commission's Official Bulletin with a 15-day period for any party in interest to file an intervention or protest. If no intervention or protest is filed by a party in interest within the 15-day period, the transfer shall be deemed approved. If a timely intervention or protest is filed by a party in interest, the Commission through its Secretary shall initiate a proceeding and, after notice to and comments from the applicant(s) and party in interest, may reject, require modification of, or impose conditions on any transfer found to be contrary to the public interest.

This section and the procedures hereunder shall apply only to TSPs other than ILECs. Nothing in this section shall affect the application of any Commission rules, regulations or orders applicable to ILECs.

(2) If a TSP changes its corporate name, the TSP shall file a notice of such name change with the Commission within ten (10) business days of the name change.

Additionally, Staff proposed the March 18, 1994 General Order be modified to include the following language as section 6.

6. This Order shall be superseded by Section 301 M. of the Commission's Regulations for Competition in the Local Telecommunications Market for the classes of TSPs contained therein.

Staff's final recommendation was considered by the Commission at its November 29, 2006 Business and Executive Session. On Motion of Commissioner Blossman, seconded by Commissioner Sittig, and unanimously adopted, the Commission voted to accept Staff's final recommendation.

**IT IS THEREFORE ORDERED THAT:**

1. Section 301 M. is hereby added to the Commission's Local Competition Order, as most recently amended by the General Order dated October 31, 2006, to read as follows. The modified Local Competition Regulations are attached hereto as "Attachment A":

M. (1) No TSP shall transfer control or ownership of any assets, common stock or other indicia of control of the carrier to any other person, corporation, partnership, limited liability company, utility, common carrier, subsidiary, affiliated company or any other entity or divide into two or more common carriers, where the values involved in such transaction exceed one percent (1%) of the gross assets of such regulated common carrier, or subsidiary thereof, without prior notice to the Commission. Such notice shall include information identifying the parties involved, a summary description of the transaction, and a public interest statement.

Any notice filed pursuant to subsection M (1) above shall be published in the Commission's Official Bulletin with a 15-day period for any party in interest to file an intervention or protest. If no intervention or protest is filed by a party in interest within the 15-day period, the transfer shall be deemed approved. If a timely intervention or protest is filed by a party in interest, the Commission through its Secretary shall initiate a proceeding and, after notice to and comments from the applicant(s) and party in interest, may reject, require modification of, or impose conditions on any transfer found to be contrary to the public interest.

This section and the procedures hereunder shall apply only to TSPs other than

ILECs. Nothing in this section shall affect the application of any Commission rules, regulations or orders applicable to ILECs.

(2) If a TSP changes its corporate name, the TSP shall file a notice of such name change with the Commission within ten (10) business days of the name change.

2. Section 6 is hereby added to the Commission's General Order dated March 18, 1994 to read as follows:

6. This Order shall be superseded by Section 301 M. of the Commission's Regulations for Competition in the Local Telecommunications Market for the classes of TSPs contained therein.

3. This Order shall be effective immediately.

**BY ORDER OF THE COMMISSION**  
**BATON ROUGE, LOUISIANA**  
December 14, 2006

**/S/ C. DALE SITTIG**  
**DISTRICT IV**  
**CHAIRMAN C. DALE SITTIG**

**/S/ JAMES M. FIELD**  
**DISTRICT II**  
**VICE CHAIRMAN JAMES M. FIELD**

**/S/ JACK "JAY" A. BLOSSMAN**  
**DISTRICT I**  
**COMMISSIONER JACK "JAY" A. BLOSSMAN**

**/S/ FOSTER L. CAMPBELL**  
**DISTRICT V**  
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**/S/ LAMBERT C. BOISSIERE, III**  
**DISTRICT III**  
**COMMISSIONER LAMBERT C. BOISSIERE, III**