

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Proposed Rule for)	<u>DOCKET NO. 02-R350-01</u>
Telecommunications Companies when)	
Exiting the Utah Market)	<u>NOTICE OF TECHNICAL CONFERENCE</u>

ISSUED: October 7, 2003

By The Commission:

You are hereby given notice that a technical conference shall be held in this matter on Thursday, October 16, 2003, at 2:00 p.m. in Room 427, Heber M. Wells Office Building, 160 East 300 South, Salt Lake City, Utah. A revised draft of Rule R746-350 is **Attached** hereto.

Any person wishing to participate in the technical conference by telephone should notify Julie Orchard, Commission Secretary, at (801) 530-6713 at least one hour in advance of the technical conference.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations, including auxiliary communications aids and services, during any conference or hearing in this docket should notify Julie Orchard, Commission Secretary, 160 East 300 South, Room 400, Box 45585, Salt Lake City, Utah 84145-0585, Telephone: (801) 530-6713, at least three working days in advance of the conference or hearing.

DATED at Salt Lake City, Utah this 7th day of October, 2003.

/s/ Julie Orchard,
Commission Secretary

G#35422

R746. Public Service Commission, Administration.

R746-350. Application to Discontinue Telecommunications Service.

R746-350-1. Purpose and Authority.

A. Authorization -- Section 54-4-1 provides that the Public Service Commission shall have the power to regulate utilities and to supervise their business operations. Section 54-3-1 requires that the terms and conditions of the provision of service be just and reasonable.

B. Purpose -- This rule is intended to address situations where a telecommunications corporation has determined to stop providing Basic Telecommunications Service to subscribed customers in a Utah service area. The rule will provide subscribed customers an opportunity to migrate their service to an alternative service or a different provider prior to the Exiting Provider=s discontinuance of the subscribed service. No telecommunications corporation may discontinue the provision of Basic Telecommunications Service to existing customers in a service area, or portions thereof, without first complying with this rule or receiving an exemption from the Commission.

R746-350-2. Definitions.

Terms -- The meaning of the terms used in this rule shall be consistent with their general usage in the telecommunications industry, Title 54 of the Utah Code or as defined below:

A. **Basic Telecommunications Service** means the telecommunications services defined as **Basic Telecommunications Service** in Rule 746-360-2.C.

B. **"Commission"** means the Public Service Commission of Utah.

C. **"Division"** means the Division of Public Utilities.

D. **"Exiting Provider"** means a telecommunications corporation that seeks to stop or eliminate providing **Basic Telecommunications Service** to subscribed customers in a service area, or portion thereof, located in Utah. It does not include a telecommunications corporation that discontinues telecommunications service as a result of the customer's request or pursuant to the provisions of other rules or orders of the Commission. It does not include a temporary change in the provision of service that may arise from maintenance, repair or failure of a telecommunications corporation's equipment or facilities.

E. **"Intended Date of Discontinuance"** means the date upon which an **Exiting Provider** intends to discontinue providing **Basic Telecommunications Service** pursuant to this rule.

F. **"Replacement Provider"** means a telecommunications corporation that undertakes providing **Basic Telecommunications Service** to customers of the **Exiting Provider** after the **Exiting Provider** is permitted to discontinue service.

R746-350-3. Application and Notice.

A. **Application** -- Unless subject to R746-350-4.F for exclusive facilities, an **Exiting Provider** shall file an application with the Commission and the notices identified hereafter not less than 50 days prior to the **Intended Date of Discontinuance**.

B. **Notices** -- An **Exiting Provider** shall provide written notice to the following:

1. the Division;
2. subscribed customers that will be affected by the discontinuance of service;
3. telecommunications corporations providing the **Exiting Provider** with resold telecommunications services, essential facilities or services, or unbundled network elements (UNEs), if they are part of or used to provide **Basic Telecommunications Service** to the **Exiting Provider's** affected customers;
4. the national number administrator, when applicable, authorizing the release of all assigned telephone numbers to other telecommunications companies and releasing all unassigned telephone numbers to the number administrator unless the **Exiting Provider** establishes a need to retain the telephone numbers.

R746-350-4. Application and Notice Contents.

A. **Application** -- The application to the Commission required by R746-350-3.A must include:

1. applicant's name, complete mailing address, including street, city, state, and zip code, telephone number, e-mail address, and the names under which the applicant is providing telecommunications service in Utah;
2. name, mailing address, telephone number and e-mail address of a person or persons, designated by the **Exiting Provider**, to contact for questions about the application;
3. identification of the associated service territory, or portion thereof, proposed for discontinuance;
4. the **Intended Date of Discontinuance**, which shall not be sooner than 50 days after the date on which the **Exiting Provider** files the application with the Commission;

5. acknowledgment that by signing the application, the applicant and its successors understand and agree that:

a. filing of the application does not, by itself, constitute authority to discontinue any service;

b. if the application is granted, a discontinuance is conditional upon fulfillment of conditions established by Commission order; and

c. if any portion of the application is found to be false or to contain material misrepresentations, any order granting authority to discontinue may be deemed null and void;

6. an affidavit signed by an officer or principal of the Exiting Provider attesting under penalty of perjury that the contents of the application are true, accurate, and correct; and

7. a copy of the notices required in this rule.

B. Notice to the Division -- The notice to the Division required in R746-350-3.B.1 shall be a copy of the Application submitted to the Commission.

C. Notice to Customers -- The notice to customers required in subsection R746-350-3.B.3 must, at a minimum, include:

1. the Intended Date of Discontinuance on which Basic Telecommunications Service is planned to be discontinued; and

2. information on how to contact the Exiting Provider by telephone in order to obtain information such as how customers may receive a refund on any unused service or how to contact regulatory agencies to obtain information on possible replacement providers. The Exiting Provider shall continue to provide refund information, via a customer service number, for 60 days after the date of discontinuance of service;

D. Notice to local exchange companies (LECs) and other suppliers -- The notice to LECs and suppliers required in R746-350-3.B.4 must, at a minimum, include:

1. the Intended Date of Discontinuance of Basic Telecommunications Service;

2. identification of the essential services or facilities, UNEs, or resold service element components in relationship to the service information provided to the customer when that information differs from the LEC=s or other supplier=s identification information of the services as billed to the Exiting Provider. For example, if the LEC identifies a UNE loop with a circuit identification number, the exiting telecommunications company must provide the LEC with the customer telephone number assigned to the LEC=s UNE loop circuit identification number.

3. Telephone contact information to enable the LEC or a new provider to obtain UNE service and other information needed to establish service for a customer who will no longer receive service from the Exiting Provider.

4. LECs and other suppliers shall provide the information in the notices required in this subsection to a Replacement Provider upon a request authorized by the customer,

5. LECs and other suppliers may not use the information in the notices required in this subsection to initiate marketing efforts unless the information is first made available to other telecommunications corporations for their marketing efforts.

E. Earlier Notice for Exclusive Facilities -- Notwithstanding the requirements set forth in R746-350-3.A and R746-350-4.E, if an Exiting Provider has ownership or control of the only facilities readily available to provide Basic Telecommunications Service to customers so that another telecommunications corporation would either need to acquire control of those facilities or install its own facilities in order to serve the customers of the Exiting Provider, then the following shall be required:

1. The Exiting Provider shall provide notice to the Commission, the Division and to other LECs at least 120 days prior to its Intended Date of Discontinuance. The notice shall grant other LECs 40 days to respond indicating a LEC=s

interest in obtaining the facilities and their transfer.

2. The Exiting Provider shall file its application to discontinue service with the Commission at least 75 days prior to the intended date of discontinuance.

3. The Commission shall determine the timing of any further proceedings, including the timing of further notices.

F. Notice to the National Number Administrator -- Unless the Exiting Provider has established a need to retain the telephone numbers, the notice required in R746-350-3.B.5 to the national number administrator authorizing the release of all assigned telephone numbers to the succeeding providers shall include identification of all working telephone numbers assigned to customers, identification of all unassigned or administrative numbers available for reassignment to other providers and the date the unassigned telephone numbers will be available for reassignment. The Exiting Provider shall authorize the release of each individual assigned customer telephone number to subsequent providers selected by the customer.

R746-350-5. Commission Proceedings upon Application to Discontinue Service.

A. The Commission will act upon an Application to Discontinue Service within the time period ending on the Intended Date of Discontinuance. If an Exiting Providers fails to comply with this rule and customers have not had an adequate opportunity to obtain a replacement telecommunications service or locate a Replacement Provider, if one exists, the exiting provider may be required to continue to provide service until the earlier of the date on which a Replacement Provider is able to provide service or a date ordered by the Commission. The Commission may use the proceedings on an Exiting Provider=s Application to resolve disputes between the Exiting Provider and a possible Replacement Provider to facilitate the migration of the Exiting Provider=s customers to alternative telecommunications services that may be available.

B. Nothing in this rule, however, shall be construed as shielding the Exiting Provider from any legal liability to its customers or any other person or entity, whether the liability is grounded in contract, tort or otherwise, including any obligation for any interconnection payment required to maintain service to the Exiting Provider=s customers.

C. The Exiting Provider and a Replacement Provider shall be exempted from Rule R746-349-5 and may undertake the necessary steps to change the Exiting Provider=s customer=s service provider without being considered to have engaged in slamming; provided that a Replacement Provider may not change a customer=s preferred interexchange carrier (PIC) designation, other than a designation of the Exiting Provider as PIC or local PIC, without customer authorization.

D. Neither the Exiting Provider nor the Replacement Provider shall be considered to have misused customer proprietary network information as a result of providing and receiving that customer information as is necessary to establish and provide service pursuant to this rule.

E. Nothing in this rule shall require the Replacement Provider:

a. to provide service other than the service that it has indicated it would provide to the customers of the Exiting Provider, or

b. to provide the service at rates or on terms other than those published in the Replacement Provider=s tariffs, price lists, or contract with the customer.

F. Nothing in this rule obligates the replacement provider to undertake any obligation of the Exiting Provider. To the contrary, unless expressly agreed in writing or ordered by the Commission, it shall be presumed that the Replacement Provider has not undertaken any obligation of the Exiting Provider.

**KEY: exiting provider*, replacement provider*, telecommunications, services
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