

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

01/06/20  
04:59 PM

Order Instituting Rulemaking into the Review of the  
California High Cost Fund-A Program.

Rulemaking 11-11-007  
(Filed November 10, 2011)

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON ALJ RULING  
SEEKING COMMENT ON GENERAL GUIDELINES FOR ALLOWING WIRELINE  
COMPETITION IN AREAS SERVED BY SMALL LOCAL EXCHANGE CARRIERS**

Dated: January 6, 2020

Christine Mailloux  
Staff Attorney

The Utility Reform Network  
1620 Fifth Ave, Suite 810  
San Diego, CA 92101  
(415) 929-8876  
[cmailloux@san.rr.com](mailto:cmailloux@san.rr.com)

## I. INTRODUCTION

The Utility Reform Network (“TURN”) hereby provides comments on the November 8, 2019 *Administrative Law Judges’ Ruling Seeking Comment on General Guidelines for Allowing Wireline Competition in Areas Served by Small Local Exchange Carriers* (“Ruling” or “Competition Ruling”). On November 19, 2019, ALJ McKenzie served an electronic ruling that granted an extension of time to January 6 and January 21, 2020, respectively, to file comments in response to the Ruling; therefore, these opening comments are timely.

The Ruling determines that, “a case-by-case approach to competition [in Small LEC serving territories] appears reasonable for determining specific findings of fact,”<sup>1</sup> to determine if applications for competitive entry into specific Small LEC areas would be in the public interest. The Ruling requests comment to develop a framework and general guidelines, that the Commission will apply as part of the evaluation of these specific applications for competitive entry. TURN agrees with the Ruling’s finding that the evaluation of a request by a competitive local exchange carrier (CLEC) to offer wireline voice service in a Small LEC serving area must be case-by-case, fact-based, and specific to the conditions in each Small LEC service area and that the adopted regulatory structure must be flexible enough to accommodate the varied and unique conditions within each Small LEC area.<sup>2</sup>

---

<sup>1</sup> Ruling at p. 2.

<sup>2</sup> TURN Opening Comments on Fourth Amended Scoping Memo, May 21, 2019 at page 4-6; TURN Opening Comments on Third Amended Scoping Memo, May 1, 2017, at p. 2-3 and TURN Opening Comments on PHC issues, June 30, 2017 at p. 1-2 (Commission must tailor regulatory framework to guard against unintended impacts of competitive entry and must consider both issues simultaneously)

While TURN has not supported the blanket requests for competitive access to Small LEC areas proposed by parties in this docket,<sup>3</sup> TURN recognizes the need to adopt criteria and guidelines to support the Commission’s analysis into requests for competitive entry. Below, TURN provides comments on the questions set forth in the Ruling.

## II. DISCUSSION

### A. Competitive Entry Must Support Fundamental Federal and State Public Policy Goals (Question 1)

TURN urges the Commission to adopt a framework for competitive access into Small LEC territory that supports fundamental public policy objectives and statutory mandates that have served as the foundation for the Commission’s work on communications policy for several decades. These policies not only incorporate, but go beyond, the factors set forth in Section 253(b) of the Telecommunications Act. Expanded CLEC access into Small LEC areas should be allowed only if it clearly supports:

*Universal Service*- Much of the Commission’s work is intended to support its universal service policies that all Californians have access to affordable, high quality, and reliable communications services, including access to emergency communication services.<sup>4</sup>

---

<sup>3</sup> TURN Opening Comments on Fourth Amended Scoping Memo, May 21, 2019 at page 4-6; TURN Reply Comments on Third Amended Scoping Memo, May 15, 2017, p. 1-2 (competitive entry must be accompanied by thorough analysis, data gathering, and specific conditions).

<sup>4</sup> See, for example, In the Matter of Alternative Regulatory Frameworks (I.87-11-033), D.94-09-065 (adopting 95% penetration for universal service); Order Instituting Rulemaking to Review Telecommunications Public Policy Programs (R.06-05-028) (noting CA as a leader in adopting programs that ensure a ubiquitous and affordable telecommunications system to achieve universal service goals); OIR Regarding CHCF-B Program (R.09-06-019 (Considering Fund rules and policies to ensure telephone service remains affordable and adopt basic service definitions); OIR Regarding Revisions to CA ULTS (LifeLine Program) R.11-03-013 (noting importance of programs to achieve universal service); CPUC Annual Report on Residential Telephone subscribership and Universal Service, December 2010 (noting Commission’s commitment to universal service); OIR regarding Emergency Disaster Relief Program (R.18-03-011), D.19-08-025 (adopting rules to ensure customers maintain “vital communications services” even when natural disaster strikes).

Indeed, the state Legislature has made its intent clear on this matter and given the Commission statutory mandates that require regulations to ensure Californians enjoy communications with just and reasonable rates, non-discriminatory access, and high-quality services.<sup>5</sup>

*Competitive Choice* – For several decades, the Commission has pursued policies and regulations that assume competition benefits ratepayers.<sup>6</sup> The California Legislature also recognizes the goal of a vibrant and competitive marketplace for telecommunications.<sup>7</sup> TURN has supported the Commission’s work to ensure a fair and level playing field and to encourage the innovation and low rates that competition could bring to California. However, TURN has recognized the unique challenges presented by competitive access to Small LEC areas.<sup>8</sup> While the Commission has recognized that competition did not evolve as expected over the past twenty years,<sup>9</sup> finding there have always been guidelines and frameworks to support competition.<sup>10</sup>

*Broadband Access*- This is a more recent, but no less important, element of the California’s public policy work on communications.<sup>11</sup> The framework and structure of

---

<sup>5</sup> See, Cal. Pub. Util. Code §§451 (just and reasonable rates); 453 (non-discriminatory access); 709(a) (intent to continue universal service commitment); 871-884 (Moore Universal Telephone Service Act); 2895 et al. (Telecommunications Customer Service Act re: service quality, solicitations, emergency response communications).

<sup>6</sup> See, e.g., D. 94-09-065 (balance proper level of pricing and flexibility in the face of IntraLATA competition for universal service goals), D. 95-07-054, (adopts CLEC competition rules and consumer protection rules to facilitate competition and protect CA consumers), D. 96-03-020 (adopts resale pricing to maintain leadership in creating a competitive telecommunications market), OII into the State of Competition (I15-11-007) D.16-12-025 (finding cross-platform competition in CA with some unintended impacts).

<sup>7</sup> CA Pub. Util. Code §§709, 709.5; 871.5(d); 871.7(b) (consider factors such as competition in universal service policy) 882(c) (consider competition in advanced services).

<sup>8</sup> See, footnote 2 & 3, supra.

<sup>9</sup> D.16-12-025 (I.15-11-007) at FOF 10, 24, 27, 28; See, also, Communications Division Report pursuant to D.16-12-025 (December 2018) at p. 5 (finding highly concentrated regional broadband markets and less choice at higher broadband speeds)

<sup>10</sup> See, footnote 4, supra (sample of Commission Decisions re: competition frameworks).

<sup>11</sup> Several recent and currently pending dockets are considering issues related to broadband deployment in California: R.12-10-012 (implementation of California Advanced Services Fund statutes and prior

competitive access to Small LEC territory must not only support reliable and affordable voice communications, but should complement the ongoing efforts to ensure all parts of California have robust broadband access.<sup>12</sup>

The Commission finds itself at a crossroad as it determines whether the addition of competitive wireline voice services will support these fundamental policies for residential and small business customers in Small LEC territory. As the Commission looks at each request by a competitive carrier, the Commission must ensure that the entry itself, and the conditions placed on that entry, support these public policies. TURN urges the Commission to find that residential and small business customers in Small LEC territory must have access to reliable, high quality and affordable voice communications, with innovative and meaningful competitive choice for the largest number of consumers possible, including robust emergency services and broadband services to meet the needs of customers in these far-flung areas of the state.

As discussed below, the rate setting and regulatory structure currently applied to the Small LECs, along with changes to that structure as proposed by parties in the other tracks of this proceeding, should suffice to ensure that the Small LECs can support the above public policy considerations, including those set forth in Section 253(b). TURN further discusses conditions on competitive carrier access that are necessary to support federal and state communication policies and ensure expanded competition provides benefits to the largest number on consumers possible and is in the public interest.

---

decisions); R.11-03-013 (asking for comments regarding broadband offerings as part of LifeLine); I.15-11-007 (looking at competition in broadband markets).

<sup>12</sup> D.14-12-084 at p. 3 (Small LEC subscribers must have communications that support robust broadband which will support universal service); TURN Opening Comments on Fourth Amended Scoping Memo and Declaration of Trevor Roycroft, May 21, 2019 (importance of robust broadband in Small LEC territory and proposals to support affordable broadband).

## **B. Competitive Entry Will Likely Cause Revenue Loss for Small LECs and Conditions are More Effectively Placed on Competitors (Question 2)**

### *1. Impact on Small LEC*

Expanded voice competition in the Small LECs' service territory will likely have significant impact on the Small LECs' revenue and business opportunities. Regardless of how the Commission structures competitive entry into Small LEC territory, such entry will likely result in revenue loss for the subject Small LEC.<sup>13</sup> The extent and nature of the revenue loss will vary by Small LEC and by the business model of the competitive carrier, and can only be assessed by a fact-specific analysis of the specific request for entry. Yet, it is reasonable to assume that any competitive carrier would only make a request for entry if it expects to capture at least some existing and potential customers in the Small LEC area. Expected competitive entry will most likely result in short term and long term customer and revenue losses in light of the fact that each Small LEC has a unique but small base of customers and is much less able to absorb the resulting loss of customers or loss of future business opportunities than larger carriers such as AT&T or Frontier.<sup>14</sup> Additionally, due to prohibitions on retroactive ratemaking, competitive losses between rate cases lead to the potential for under-earning.

However, CHCF-A and other universal service programs have the potential to mitigate the impact of competitive losses. To the extent the Commission maintains its rate setting and regulatory framework for the Small LECs, as mandated by Section 275.6 and coordinated with

---

<sup>13</sup> TURN Opening Comments on Fourth Amended Scoping Ruling, May 21, 2019 at p. 4-6 and Roycroft Declaration; TURN Reply Comments on Fourth Amended Scoping Ruling, July 5, 2019 at p. 5-7

<sup>14</sup> Congress recognized this even when creating the initial competitive entry framework in 1996 by setting very different standard for competitive entry between larger Regional Bell Operating Companies and smaller rural local exchange carriers, bringing us to the delayed discussion of competitive entry into California Small LEC areas we having here. Telecommunications Act, 47 U.S.C. §251(f).

federal regulatory practice, the Small LECs will maintain their COLR responsibilities and increased A-Fund draws will be required to offset declining revenues. The regulatory compact that the Small LECs have enjoyed for decades can, and should, continue within a competitive framework. While the Small LECs receive A-Fund subsidy to keep voice rates “just and reasonable,” the Small LECs also incur costs to support COLR obligations that competitive carriers would not incur.<sup>15</sup>

## *2. Conditions on CLEC*

A key question associated with CLEC entry is the geographic extent of the services available from the CLEC. TURN does not expect that CLECs will match the service areas of the Small LECs, where the Small LECs currently serve as COLRs. TURN does not support placing COLR obligations on CLECs, especially if the fulfillment of COLR obligations requires subsidization of the CLEC.

However, TURN would support a framework that both requires CLECs to file proposed service area maps and that holds the CLEC to a rebuttable presumption that the CLEC will serve all customers within the geographic serving area it defines, within a specified timeframe.<sup>16</sup> The burden will be on the CLEC to demonstrate why it cannot hold itself out as serving all customers within its own service area within a reasonable time after entry into the market. This “must serve” obligation would not rise to the level of COLR obligations, and would not require, for

---

<sup>15</sup> This regulatory compact also assumes that the Small LECs are only receiving subsidy to support operations that incur “just and reasonable” costs and that the Small LECs are only earning a “reasonable” rate of return. See. D.95-05-016 and D.95-09-042 (A-Fund structure); CA Pub. Util. Code §276.5, §451.

<sup>16</sup> The CLEC Rules contained in D.95-07-054 currently require CLECs to serve customers requesting service within their designated service territory on a non-discriminatory basis. (Appendix A Rule 4. F.) TURN’s proposal to add a rebuttable presumption attempts to update these rules to reflect conditions within Small LEC areas while still supporting broad requirements for CLECs to serve vulnerable rural customers.

example, CLECs to offer LifeLine or stand-alone voice services. Yet, CLECs should be required to meet the Commission’s service quality standards, in-language requirements, consumer protection rules, certain notice requirements, and provide emergency calling services. Moreover, because network investments and buildout can be “lumpy,”<sup>17</sup> CLECs must have notice requirements as they build out their networks, to the Commission and their customers, to allow customers in the area to know when they could request service from a competitive provider.

The Comcast Application is instructive here. While Comcast claims its application is to “operate throughout the Ponderosa service territory,” it acknowledges that “it initially plans to offer its service only in the Tesoro Viejo area.”<sup>18</sup> This is unacceptably vague. It is not at all clear whether the Commission is being asked to approve a business plan that will result in meaningful competition for voice services throughout the Ponderosa service territory, or a narrowly focused business plan to only serve a new greenfield development with an exclusive marketing agreement. Either type of request will have a very different impact on the Ponderosa service area and will likely require the Commission to impose different conditions should it approve these requests. Therefore, the Commission should require that competitive carriers provide specific and concrete business plans and maps of proposed service areas with committed dates to offer service on a nondiscriminatory basis. If the carrier needs to make changes over time, or wants to expand (or reduce) its proposed service area, then it should come back to the Commission for approval of those changes.

---

<sup>17</sup> TURN’s Opening Comments to Fourth Amended Scoping Memo, May 21, 2019, Roycroft Declaration.

<sup>18</sup> Comcast Response to ALJ RFI at p. 5, October 11, 2019

### **C. Conditions for CLECs are Necessary to Ensure Continued Small LEC Provision of High Quality and Affordable Services (Question 3)**

While the Commission should impose conditions on CLECs' competitive entry to mitigate the impact of cream skimming and selective marketing to narrow lucrative customer groups, the impact of competitive entry on the Small LECs must be closely monitored to ensure that the Small LECs continue to provide high quality and affordable service. The existence of the rate setting and regulatory framework that currently governs the Small LECs' operations will help ensure that these incumbents can continue to offer high quality and affordable services. Indeed, it is critical that the Small LECs continue to fulfill their COLR obligations to ensure that ratepayers in Small LEC territory have access to essential voice communications services, emergency communications, service repair, and robust broadband services.

In the likely event that CLEC entry causes revenue decline, Small LECs may experience lower returns on investment between rate cases, but will eventually receive increased A-Fund draws-- even with the adoption of TURN's imputation proposal and with continued scrutiny of the Small LEC rate base during rate cases. Generally, TURN does not support the subsidization of competition, and TURN continues to believe that promoting expanded competitive entry in the Small LEC service areas will result in more subsidies flowing to the Small LECs.<sup>19</sup> With larger A-Fund draws, California ratepayers will pay increased surcharges to support Small LEC COLR obligations as competitive carriers enter the more lucrative sub-sets of these rural market areas. In light of the potential for increased burden on the ratepayers who support CHCF-A, TURN supports the Commission adopting a comprehensive and explicit mechanism to structure fair and enforceable rules for further competitive entry. Those rules should ensure that universal

---

<sup>19</sup> TURN Opening Comments on Fourth Amended Scoping Memo, May 21, 2019, p. 29.

service and broadband deployment objectives continue to be achieved, and should also ensure that new competition results in choice for significant numbers of consumers who reside in Small LEC service areas, while holding increases in CHCF-A to the minimum possible.

**D. Commission Should Look at General Framework with Broadly Applicable Conditions along with Fact-Specific Analysis and Conditions to Mitigate Competitive Impacts (Question 4)**

As discussed above, there are conditions that should be part of an overall framework for competitive entry. This framework should include the must-serve obligations within the CLEC's self-defined service area discussed above, customer notice requirements, consumer protection rules as discussed below, service quality metrics and reporting, and emergency service obligations that are consistent with this Commission's and FCC rules. The framework and conditions should also anticipate that competitive entry will entail marketing to narrow and lucrative customer groups, including attempts by the CLECs to enter into exclusive marketing arrangements with larger multi-site commercial customers, greenfield developments, multi-tenant residential and commercial customers and other similar situations.<sup>20</sup>

For example, while TURN has not been able to review the specific terms of the Comcast agreement to serve the Tesoro Viejo area, the language of Comcast's application does not rule out the potential for an exclusive service arrangement between Comcast and the developer in that new residential housing development in Ponderosa territory.<sup>21</sup> Initially, Comcast's entry will reduce growth opportunities for Ponderosa, as Comcast indicates that the company will stay

---

<sup>20</sup> TURN discussion of competitive entry, footnote 3 supra and see TURN Comments on Fourth Amended Scoping Ruling, May 21, 2019 at Roycroft Declaration pp. 25-26 (CLECs will engage in cream skimming)

<sup>21</sup> Response of Comcast Phone of California, LLC (U-5698-C) to Assigned Commissioner's Scoping Memo and Ruling, A.19-01-003, April 19, 2019, pages 2, 6.

within the boundaries of the Tesoro Viejo development.<sup>22</sup> The lost growth opportunities for Ponderosa are important to Small LECs like Ponderosa as these companies have already experienced customer declines due to existing facilities-based wireline and wireless substitution.<sup>23</sup> Over time, if Comcast expands outside of Tesoro Viejo, Ponderosa and Comcast will vie for the same customers, leading to the potential for increased customer loss for Ponderosa. Long term, depending on Comcast's success, Ponderosa could require significant increased CHCF-A support to maintain COLR obligations and provide affordable and robust services to its customers.

While the means to address the specific business models and plans of CLECs, like the Comcast Tesoro Viejo plans, should be part of the fact-specific analysis of each application for competitive entry, the general guidelines and framework discussed above should also attempt to mitigate the impacts from these exclusive arrangements and put competitive carriers on notice that entry into a Small LEC territory based solely on exclusive contracts tying up lucrative customers will not be considered in the public interest. While both federal and state regulations place limits on the nature and extent of exclusivity agreements for facilities access and rights of way,<sup>24</sup> TURN urges the Commission to adopt conditions on competitive entry that further limit the terms and conditions of exclusive arrangements (including agreements that place restrictions on marketing and advertising within a large development or multi-tenant building) or, in the alternative, require carriers that enter into these exclusive arrangements to pay a fee that will be used as a surcharge to off set A-Fund draws. TURN acknowledges that it is difficult to draw a

---

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> 47 C.F.R. §64.2000 et seq. (implementing FCC 08-87, 23 FCC Rcd. 5385, at para 12, fn 36, prohibiting exclusive agreements for facilities access to multi-tenant buildings and residential developments); D.98-10-058 (Commission Rights of Way Decision prohibiting exclusive access contracts).

direct causal link between competitive entry and the increased A-Fund draws that result from rate cases. However, the purpose behind this proposed surcharge is not to create a direct offset of revenue loss. Instead, the surcharge can be calculated as a percentage of the value of the exclusivity agreement at issue and can be used to mitigate the impact of any increases in A-Fund draws as competitive entry increases.

**E. The Commission’s Fact-Based and Region-Specific Competitive Entry Analysis Should Include a Number of Considerations (question 5)**

As discussed above, the Commission should review each application for competitive entry to ensure that the competitive entry will uphold universal service and broadband deployment objectives. The Commission should also consider the degree to which CLEC entry will promote meaningful and affordable competitive choice for voice and broadband services for consumers residing in Small LEC service areas. The Commission should closely review the business plans of the competitor to determine whether the competitor will offer a broad range of robust, reliable and affordable services throughout its identified service area, on a nondiscriminatory basis. If the Commission allows exclusive arrangements, then the Commission must take into account the competitors’ plan to “lock up” large customers such as multi-tenant properties, customers with multiple locations, and large greenfield developments which will deprive Small LEC’s of revenue growth opportunities, possibly increase customer losses, and potentially deny consumers residing in greenfield developments competitive alternatives from the Small LEC.

The Commission should also consider the size and financial health of both the CLEC and the Small LEC, along with the demographics and topography of the Small LEC territory. Numbers of LifeLine customers, churn, and cord cutters within the Small LEC area at the time of

the application may also be relevant to judge if the competitive entry will support universal service goals. Status or “maturity” of broadband deployment (as addressed in other parts of this proceeding) is also relevant, including cross technology platform offerings such as wireless, satellite and over the top services, along with the competitive carrier’s business plan to offer robust broadband services.

**F. At This Time, TURN has no Additional Recommendations for Conditions to be Placed on the Small LECs Beyond Proposals to Revise the A-Fund Implementation Pending in Other Tracks of the Docket (Question 6)**

As discussed above, the Commission must recognize that competitive entry for wireline voice communications will allow cable competitors, “traditional” wireline CLECs, and fixed wireless companies to offer a more comprehensive and marketable set of services to customers who reside in Small LEC service areas. The current A-Fund framework, with some of the adjustments proposed in other tracks such as TURN’s imputation proposal and Public Advocates’ broadband reporting proposal, are all that should be required to ensure that customers in these areas receive affordable and reliable services from either the incumbent carrier, the competitive carrier or both.<sup>25</sup> However, as discussed above, the impact of any CLEC’s plan for selective entry that targets lucrative customers in narrow geographic areas, should not solely be borne by California ratepayers and increased surcharges on wireline and wireless intrastate services, thus requirement the conditions discussed above to be placed on CLEC entry.

---

<sup>25</sup> TURN’s reliance on the Commission’s rate case process and current regulatory framework assumes that, generally, the Commission’s rate case process will determine the just and reasonable rates through an appropriate level of scrutiny of Small LEC expenses. TURN notes that the Public Advocates has several proposals pending in this docket to revise the rate case process and TURN takes no position on those proposals here.

## **G. TURN Urges the Commission to Update and Incorporate Existing CLEC Rules and other Consumer Protection Rules When Allowing Competitive Entry into Small LEC Areas (Question 7)**

TURN urges the Commission to commit these guidelines, framework and conditions discussed above to a codified set of documents, and to adopt and incorporate rules that follow the framework of D.95-07-054 (as amended by D.95-12-056) as applied to the Small LEC territory. Naturally, after almost 25 years, the rules in both Appendices A and B must be reshaped and updated to support competitive entry, while also protecting ratepayers in Small LEC serving areas. While the Ruling does not appear to request parties to provide detailed proposals for a new set of rules or specific revisions to Appendices A and B (or the updated rules at Appendix C of D.95-12-056) at this time, TURN provides some examples of changes that it believes should be made to support successful competitive entry and protect California ratepayers.

### *Appendix A- CLEC Rules*

- The Public Policy Principles and Objections section has withstood the test of time over the past twenty five and reflects much of the discussion above and in parties' comments filed thus far in this docket. There are some outdated references to unbundling and call termination policies and the "accomplishment" of local number portability, which has been in place for almost twenty years. However, the majority of the policies and objectives set out in these rules stand on their own today.
- The Scope of the Rules and the Definitions should be updated to reflect the related changes to the substantive rules.
- The Entry, Certification and Regulation of CLCs sections have also, generally, stood up to the test of time. The financial standards in Subsection B should be updated and simplified to reflect current industry standards, but the need for an overall minimum

standard of financial qualifications is just as relevant today as it was in 1995.<sup>26</sup> Indeed, in rural parts of the state, with documented higher costs to serve and vulnerable customers with limited choices, these minimum standards are even more important

- The other requirements in Subsection C, such as compliance with CEQA and annual reporting, should continue.
- The Commission should continue to maintain a list of “all current CLCs in good standing operating in California” as called for in Subsection D.
- The tariff filing requirements in Subsection E should continue, but be simplified. TURN recommends that CLECs file Tier 1 advice letters with a schedule of rates and charges for services offered in Small LEC territory, and file with the Commission individual case basis contracts that meet certain thresholds (on a confidential basis if necessary and appropriate under current Commission rules). These documents should be effective on one day’s notice, but also subject to protest. As discussed above, CLECs should be subject to further advice letter and notice requirements for network buildout, rate increases, and service withdrawal. Other filing requirements currently in these 1995 rules can be simplified.
- Requirements in Subsection F should continue, but be simplified. As discussed above, CLECs should be required to serve all customers on a nondiscriminatory basis within their own designated service area and should file maps to reflect planned service areas with a timeline for buildout. But the Commission should adopt a rebuttable presumption

---

<sup>26</sup> See, also D.13-05-035 (R.11-11-006) at Attachment A, Rules 11 & 19 (updates to CLEC entry rules and CPCN applications to include a performance bond, but keeping minimum financial qualifications the same as 1995 Rules). TURN urges the Commission to

giving carriers the burden to request and prove necessary exceptions to this requirement.

Carriers must offer 911 and E911 services, comply with service quality requirements, and file and serve notices of discontinuance. Yet, other requirements in this Subsection, should be closely reviewed and updated.

- Also as discussed above, TURN strongly urges the Commission to require the incumbent Small LECs to maintain carrier of last resort status and related obligations, as set forth in Section 5 of these rules, along with the rate setting and regulatory structures in place today.
- Provisions on interim number portability, interconnection, and call termination should be closely reviewed, updated, and simplified.

#### *Appendix B- Consumer Protection Rules*

Appendix B is also relevant, but likely needs updating. Importantly, CLECs must also be subject to other consumer protections that are not be set out in these rules or that came after these rules, such as those in G.O. 168, G.O. 96-B and other Commission rules on slamming, cramming, surcharge collection and in-language requirements that post-date these 1995 rules.

- Applicability of the rules must be updated to make clear these apply to customers with bundled service in addition to stand alone voice service.
- Definitions- will need to be updated to revise and possibly delete, for example, the definition of “major rate increase.”
- Rule 1 & 2- disclosures of key information to allow customers to understand who they are doing business with, the terms and conditions of subscribed service, and how to complain to the Commission are still critical pieces of information that must be included at key points of contact although these rules could likely be simplified.

- Rules 3, 4, 5, 7, 8, 9, 10, 12- rules around minimum standards for billing, deposit requirements, credit establishment practices, bill disputes and disconnection for non-payment practices are critical for consumer protection standards, even in today’s increasing on-line and electronic billing environments. While some may argue that detailed rules around these terms of service could be left to competitive forces, TURN disagrees. Even with competitive entry, customer choices for reliable, affordable voice and broadband services will continue to be limited and consumers will still have limited options to “vote with the pocket book” against onerous service terms. Moreover, many consumers cannot, or choose not, to critically analyze these types of terms of service when evaluating service choices, making minimum standards for consumer protection critical to ensure customers stay connected. At this time, TURN supports these rules, although recognizes that they likely will need updating.
- Rule 6- As discussed above, CLECs should have notice requirements to their customers for network buildout, rate increases, and service withdrawals. There are other rules regarding CLEC exit that should continue to be enforced.<sup>27</sup>
- Rule 11 – should be updated to the extent there are more recent rules regarding slamming and cramming. It is TURN’s understanding that the concerns around cramming and slamming are not as prevalent as they were in 1995, yet the rules remain relevant and guard against fraud and unfair business practices.

The remaining rules regarding CLEC liability, customer privacy, and information services should be updated, but should remain in place. TURN urges the Commission to provide

---

<sup>27</sup> D.06-10-021 (R.03-06-020) and updated in D.10-07-024.

additional opportunities to proposal additional rules and more specific revisions once the framework discussed above is in place.

### **III. CONCLUSION**

TURN appreciates this opportunity to provide input into the issue competitive entry for wireline voice services in Small LEC areas. TURN remains concerned regarding the impact of competitive entry on Small LEC carriers' work to provide reliable and affordable services in high cost areas. However, as discussed above, meaningful competitive choice could benefit customers in Small LEC territory, but only if the Commission can craft the proper regulatory framework that supports universal service, broadband access and meaningful competitive choices for residential and small business customers, maintains a comprehensive ratesetting process to ensure just and reasonable rates and allow Small LECs to continue to meet their COLR obligations, and imposes specific conditions addressing local conditions, consumer protections, and other requirements, competitive entry could benefit customers of Small LEC carriers.

Dated: January 6, 2020

Respectfully submitted,

/S/  
\_\_\_\_\_  
Christine Mailloux, TURN  
The Utility Reform Network  
1620 Fifth Ave, Suite 810  
San Diego, CA 92122  
619-398-3680  
cmailloux@turn.org