

New Unbundling Rules Still Don't Go Far Enough, Telecom Association Argues

Telecom rules recently approved by the Federal Communications Commission (FCC) covering access to local networks by the competitors of incumbent carriers still have too high a threshold for what constitutes a competitive environment, according to the United States Telecom Association (USTA). The USTA petitioned D.C. Circuit for the U.S. Court of Appeals concerning the new access rules, the substance of which has been fought over almost since the federal 1996 deregulation act that required access in the first place.

“We believe that real competition does exist in more instances than the FCC apparently believes it does,” said an attorney with the USTA.

The new rules stem from a D.C. Circuit Court decision last March that struck down an earlier FCC edict covering local network access. The court said that the Commission over-reached its authority in giving the states the right to regulate access. The new rules are meant to reflect those changes.

But the USTA says that the impairment standards under the rules, used to justify a competitive carriers (CLECs) right to network access, are still way off. Under high capacity loops, for instance, CLECs are impaired without access to DS3-capacity loops except in any building within the service area of a wire center containing 38,000 or more business lines, and 4 or more fiber-based collocators. The USTA says that would mean less than one percent of CLECs would not be impaired in most instances.

“There’s a whole lot more competition going on out there,” the USTA attorney said. “We believe the FCC failed to full comply with the court’s mandate that the power of the free market will be unleashed more and more if government stops micromanaging.”

Chapter 30 Re-Authorization Headlines PUC Winter Report

Recent legislative approval of the Chapter 30 renewal takes the lead spot in a quarterly report published by the Public Utility Commission, entitled “Keystone Competition; Competition News in Pennsylvania.” The report also summarizes developments in the electric generating industry, and the natural gas distribution industry.

Other telecommunications updates include a PUC investigation into intraLATA toll rate reductions, rural network modernization plans, an update on UNEs, and summaries of rules from the Federal Communications Commission regarding competition in the phone industry.

The article addressing the Chapter 30 renewal notes that the new law seeks to encourage earlier completion of existing network modernization plans (NMPs) by the incumbent carriers, ILECs. Other key provisions of the new law include the following:

*Continuity of existing PUC-approved alternate regulation (in the form of price cap regulation), and NMPs to provide broadband (BB) to all customers by 2015;

*Options to encourage rural and nonrural ILECs to complete their NMPs earlier than 2015 by offering reduction or elimination of the productivity offset;

*Establishment of a Bona Fide Request (BFR) program by which customers may request deployment of advanced services;

*New limits on Commission-mandated general filing requirements.

The new law also permits the PUC to monitor and enforce compliance of the NMP obligations by requiring ILECs to provide semiannual reports to the PUC indicating the number of requests received for advanced services and the ILECs action taken on those requests.

The quarterly report also provides an update on the rules requiring the ILECs to make their networks available to competitive carriers, CLECs. The report notes that on December 15, 2004, the Federal Communications Commission (FCC) adopted final rules covering the availability of the networks, or UNEs. The article stated that despite the new federal rules, the PUC continues to defend the wholesale UNE rates it approved in its July 16, 2004 compliance order. The article went on to note that Verizon challenged the rates in the United States District Court for the Eastern District objecting to the PUC's decision regarding depreciation, the nonrecurring cost model, switch rates, port rate structure, and raised a constitutional takings claim.

Former PUC Chairman Glen Thomas Joins Philly Law Firm

There is no law firm in Philadelphia closer to former Pennsylvania Gov. Tom Ridge than Blank Rome. Firm chairman David Girard diCarlo is one of Ridge's closest friends and advisers. Executive partner Carl Buchholz and Blank Rome Government Relations principal Mark Holman worked with Ridge in establishing the White House's Office of Homeland Security in the wake of the Sept. 11 attacks.

So it should come as no surprise that Glen Thomas, who joined Ridge's first gubernatorial campaign directly after graduating from Dickinson School of Law in 1994 and became a senior adviser of environmental and energy issues before Ridge appointed him to chair the Pennsylvania Public Utility Commission, has joined the firm. Thomas announced his plans to step down from the PUC in December and formally completed his tenure Feb. 18.

Thomas said he explored career opportunities at law firms and in the business world, but decided that he could build a strong energy practice at Blank Rome while also becoming a principal in its Washington, D.C.-based government relations subsidiary. The Sinking Spring, Pa., native is in the process of relocating his family from Harrisburg to Philadelphia.

Thomas downplayed the Ridge connections as a major motivation for joining the firm but did say that the government relations subsidiary will fit perfectly with his practice.

"I know some people at the firm but ultimately it came down to firm leadership and vision," Thomas said. "You look at what Blank Rome has built and that they want to have a coast-to-coast firm just like I want to have a coast-to-coast practice, and it's really a perfect fit for me. They have the same entrepreneurial approach that I want to bring to my practice."

Thomas said law firms have traditionally been limited to representing companies in major rate issues before regulators. But with the number of energy companies greatly expanding, so is the role of energy lawyers. As a principal with the government relations subsidiary, Thomas envisions traveling to Capitol Hill and Harrisburg to lobby legislators and regulators on behalf of clients.

Blank Rome spokesman Topper Ray, who doubles as a principal in Blank Rome Government Relations, said the subsidiary has several lobbyists who handle energy work but no one solely dedicated to it such as Thomas.

Thomas said he plans to tap into his list of contacts, which includes California Gov. Arnold Schwarzenegger - who appointed him to serve on his transition team for energy-related issues - to aggressively build his practice.

After graduating from Colgate University with a dual degree in philosophy/religion and political science in 1991, Thomas enrolled at the Dickinson School of Law. During one of his summers in law school, he worked for a state legislator who had close ties with Ridge. Thomas went on to accept a position working on Ridge's successful campaign for governor in 1994.

He joined the administration as a policy adviser and was promoted to deputy policy director in charge of energy issues. Thomas said he had no formal training in energy matters before joining the Ridge administration. He said he learned about the topic by doing a lot of reading and speaking with experts in the field.

Thomas said he was in a policy team staff meeting in early 1996 when one of the senior advisers asked someone to look into electrical company restructuring issues.

"I raised my hand and I spent most of my time over the next six years on dealing with utilities - electrical restructuring, natural gas and telephone competition," Thomas said. "And it became more complex. Pennsylvania used to have about nine electrical companies. Now I would estimate they have around 40."

In 2001, Ridge appointed Thomas as a PUC commissioner. He was elevated to the chairmanship of the board that summer. Thomas focused on industry and reliability monitoring, dealing with Pennsylvania's transition to fully competitive markets for electricity, natural gas and local telephone service, securing utility infrastructure, educating consumers and fostering new technology.

Thomas serves as president of the Mid-Atlantic Association of Regulatory Utilities Commissioners. He is also chairman of the National Association of Regulatory Utility Commissioners Washington Action Committee and serves as a member of the U.S. Department of Energy's Electricity Advisory Board.

New Rules Aimed at Slamming Concerns

The Federal Communications Commission (FCC) has adopted new rules that will help ensure that consumers' phone service bills are accurate and that their carrier selection requests are honored and executed without undue delay. The rules specify a number of situations in which carriers must share customer information with each other.

Upon a review of the record, the Commission concluded that mandatory, minimum standards are needed to facilitate the exchange of customer account information between local exchange carriers (LECs) and interexchange carriers (IXCs). The Commission pointed to evidence demonstrating that information needed by carriers to execute customer requests in a timely and efficient manner and to properly bill customers was not being consistently provided by all LECs and by all IXCs.

Comments by a group of telephone companies reported, for example, that nearly 60 percent of approximately 3,065 wireline local service providers do not participate in any exchange of customer account information. As a result, on average, approximately 163.7 million calls per month (nearly two billion calls per year) are placed on their long distance networks by subscribers for whom the long distance provider has received no customer billing name and address information. The Commission noted that complaints to its own Consumer Centers also indicated continuing problems caused by lack of information sharing among companies.

Under the new rules, a LEC will be required to supply customer account information to an IXC when: (1) the LEC has placed an end user on the IXC's network; (2) the LEC has removed an end user from the IXC's network; (3) an end user that is presubscribed to the IXC makes certain changes to her account information via her LEC; (4) the IXC has requested billing, name and address (BNA) information for an end user who has usage on the IXC's network but for whom the IXC does not have an existing account; and (5) the LEC rejects an IXC-initiated order to change a customer's presubscribed interexchange carrier (PIC). In addition, an IXC will be required to supply customer account information to a LEC when an end user contacts the IXC directly either to select or to remove the IXC as his PIC. The Commission also required carriers to provide the required notifications promptly and without unreasonable delay.

While the Commission specified what type of information must be shared, it did not specify the method carriers should use, allowing them to share customer account information pursuant to state-mandated data exchange requirements, privately negotiated agreements with other carriers, or voluntarily-established business rules, including the voluntary, industry-developed standards known as the Customer Account Record Exchange (CARE) process. This approach should minimize the potential costs or burdens associated with implementing the information sharing requirements, particularly for small and rural carriers.

The new rules recognize a carrier's right to be compensated for the services it provides by ensuring that providers of long distance phone services receive proper notification when customers are placed on their networks.

The information sharing standards adopted today apply in situations involving an IXC and a LEC (or LECs). The Commission also issued a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on whether they should be extended to situations in which consumers change LECs. The FNPRM specifically asked whether the Commission should require all local service providers to participate in the exchange of customer account information and if so, what information local service providers should be required to supply.