

The Public Staff and the NCTIA are in agreement on all issues addressed in the matrix.¹ CompSouth was provided with the matrix, but later filed comments. On September 8, 2011, the Commission issued an Order seeking comments on the Public Staff's Report. CompSouth was the only party to file comments on the Public Staff's Report. On October 24, 2011, the Commission issued an Order seeking responses to CompSouth's comments from the Public Staff and any interested party.

COMPSOUTH'S COMMENTS

On October 3, 2011, CompSouth filed comments regarding the Public Staff Report. While not seeing any basis for the Commission to deviate from its previous general approach concerning the implementation of the recent retail deregulatory statutes, CompSouth offered several sets of comments.

The first was that the Commission has preserved authority over wholesale services. CompSouth did not disagree with this.

The second set of comments was more complicated. CompSouth noted that the Public Staff had recommended identical language in Item (iii) for Issues 23, 27, and 38. That language stated that "no constraints can be placed on the rates of the Subsection (l) company's services that were subject to full pricing as of the date of its election."² The Public Staff said that the justification for this recommended language is the new G.S. 62-133.5(l)(1)(c).³ CompSouth characterized the new Item (iii) language as an interpretation of G.S. 62-133.5(l)(1)(c). The Public Staff, moreover, does not identify with specificity what rates are at issue. CompSouth's conclusion was that the statement seems to be in the nature of a declaratory ruling of unspecified scope and application.

To the extent that the Commission's Order in this proceeding will be taken as endorsing the various narrative statements in the report, CompSouth urged that the better course would be to either delete the language inserted into the Public Staff's Report or modify it consistent with the previous Commission Order interpreting Session Law 2009-238.⁴ In the first place, CompSouth asserted that the interpretative language is

¹ On September 8, 2011, the Public Staff filed a clarification with respect to Item 6 of the Matrix (G.S. 62-81, Special Procedure in Hearing and Deciding Rate Cases). The Public Staff noted that Item 6 indicated that the item was not affected by S.L. 2011-52, however, the item should have indicated that it was not applicable to Subsection (l) entities.

² Issue 23 relates to G.S. 62-138, Issue 27 relates to G.S. 62-148, and Issue 38 relates to Rule R9-4. These concern, respectively, the requirements to file rates, service regulations and contracts; rates on leased or controlled utility rates - retail; and the filing of telephone and telegraph tariffs and maps.

³ G.S. 62-133.5(l)(1) reads in pertinent part: "(1) Beginning on the date the local exchange company's election under this subsection becomes effective, the Commission shall not... c. impose any tariffing requirements on any of the local exchange company's services that were not tariffed as of the date of the election, or impose any constraints on the rates of the local exchange company's services that were subject to full pricing flexibility as of the date of election."

⁴ Order Concerning Working Group Report, Docket No. P-100, Sub 165, March 30, 2010 (involving implementation of Session Law 2010-238 concerning Subsection (h))(Report Order).

not responsive to the specific issue—which is the applicability of the referenced regulatory requirements (i.e., G.S. 62-138, G.S. 62-148, and Rule R9-4) to Subsection (l)—electing entities. In addition, that statutory language, of course, speaks for itself; and CompSouth argued that a Commission order interpreting that language is beyond the scope of the instant proceeding, which is limited to identifying those regulatory requirements that are no longer applicable to Subsection (l)—electing companies. Should the statutory directive need interpretation, CompSouth argued that such interpretation is best addressed in the context of specific facts where the Commission is able to fully consider the impact of its conclusion.

The third set of comments of CompSouth was that AT&T has now achieved a greater degree of deregulation (as a Subsection (l) company) than the parties against which it competes. The Commission should re-examine the need for continued regulation of the retail services of competitive carriers. While the Commission has rejected this argument previously in the context of Subsection (h) implementation, the matter needs to be revisited.

NCTIA RESPONSE

On November 10, 2011, the NCTIA filed a Response to CompSouth’s Comments. The NCTIA opposed the CompSouth suggestion that the Public Staff’s Report should be consistent with the previous Subsection (h) Report Order. The NCTIA argued that this suggestion ignored the fact that the legislation which is the subject of this proceeding (SB 343) was the product of the General Assembly’s actions taken *after* the Commission issued its March 30, 2010, Order Interpreting House Bill 1180 (HB 1180), S.L. 2009-238 in Docket No. P-100, Sub 165. Moreover, on August 2, 2010, House Bill 466 (HB 466), S.L. 2010-173, “An Act to Amend the Consumer Choice and Investment Act of 2009” was signed by Governor Perdue. HB 466 included technical corrections to HB 1180 that directly impacted a number of the responses prepared by the working group in the Subsection (h) docket which were approved by the Commission in its March 30, 2010 Order (including Issues 23, 27, and 38). The relevant technical correction included the addition of a Subsection “c” to G.S. 62-133.5(h)(3).

That very same language was carried over into SB 343 in preparing G.S. 62-133.5(l)(1)(c) for Subsection (l) electing carriers. Thus, the current recommendations in the Public Staff’s Subsection (l) Report accurately reflect the actions of the General Assembly since the Subsection (h) Report Order. The NCTIA also noted that the Commission continues to have authority under Subsection (l) as to the rates, terms, and conditions of wholesale services.

Lastly, the NCTIA noted that CompSouth had revived its previous arguments made in the Subsection (h) docket that CLPs should not be subject to any of the requirements set forth in Subsection (h) or (l), apparently wanting to avoid any regulation of any CLP retail service offerings. The Commission has always rejected this argument. The NCTIA view is that it was the intent of these various legislative actions to level the regulatory playing field between LECs and CLPs. The Commission’s rejection of this line of argument by CompSouth is consistent with legislative intent.

PUBLIC STAFF RESPONSE

On November 10, 2011, the Public Staff filed its Response to CompSouth's Comments which focused on Issues 23, 27, and 38 in the present docket.⁵ The Public Staff agreed that in the instant case each of those issues includes as Item (iii): "No constraints can be placed on the rates of the Subsection (l) company's services that were subject to full pricing as of the date of its election." The previous Subsection (h) Report Order, by contrast, included the following language with respect to these issues: "Tariffing of non-retail services that have been detariffed in accordance with an earlier regulatory plan will be addressed in future comments on non-retail regulation of Subsection (h) entities."

The Public Staff pointed out that the Subsection (h) Report Order language is not applicable to companies electing regulation under Subsection (l) since the imposition of tariffing requirements on any services that were not tariffed as of the date of the election is expressly prohibited by G.S. 62-133.5(l)(1)(c). It is also, for that matter, no longer applicable to companies electing regulation under Subsection (h), since the identical language prohibiting tariffing requirements was added as G.S. 62-133.5(h)(3)(c) in S.L. 2010-173 subsequent to the Report Order. Substantively, G.S. 62-133.5(l)(3)(c) also bars the Commission from imposing constraints on the rates of services of a Subsection (l) local exchange company that were subject to full pricing flexibility as of the date of the Subsection (l) election.

The Public Staff stated that its intention in proposing the language set forth in Item (iii) of Issues 23, 27, and 38 was simply to incorporate this portion of G.S. 62-133.5(l)(1)(c). The Public Staff stated that it agrees with CompSouth that the statute speaks for itself, but disagrees with CompSouth's assertion that including the statutory language should be construed as a declaratory ruling.

The Public Staff further noted that another concern expressed by CompSouth was the continued application of regulatory requirements, such as service quality and billing and collection rules, to CLPs, while LECs may elect a form of alternative regulation (Subsection (h) or Subsection (l)) that exempts them from those rules. CompSouth asked the Commission to reconsider its decision in Docket No. P-100, Sub 165, which rejected CompSouth's request to consider the alteration of the regulation of retail services of CLPs.

The Public Staff responded that the Commission should take the same position in this docket as it did previously. The advantages offered to LECs under Subsection (l) are available to any LEC and any CLP, conferring thereby the same degree of deregulation on CLPs as on LECs. G.S. 62-133.5(h) and (l) were enacted to promote a "level playing field" with respect to the treatment of all local exchange companies. Hence, there is no reason to alter the regulation of retail services of CLPs beyond the options available to all local exchange companies under Subsections (h) and (l).

⁵ The Public Staff noted that Issues 23, 27, and 38 of the matrices submitted in Docket No. P-100, Sub 165 concerning Subsection (h) and this proceeding concerning Subsection (l) are identical except for the language of Item (iii) under discussion here.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that good cause exists to adopt the Public Staff Matrix attached to the Public Staff's September 6, 2011, Report, subject to the amendment proposed in the Public Staff's September 8, 2011 letter, with reference to Item 6 (G.S. 62-81: Special Procedure in Hearing and Deciding Rate Cases)—namely, that the wording "Not Affected by S.L. 2011-52" is replaced by the wording "Not applicable to Subsection (l) entities." This amended matrix which is adopted herein is attached as Appendix A.

With respect to the comments of CompSouth, the Commission concurs with the Public Staff's analysis—and that of the NCTIA along the same lines. That is, in proposing the language set forth in Item (iii) of Issues 23, 27, and 38, the purpose was to incorporate the portion related to G.S. 62-133.5(l)(1)(c) regarding the imposition of tariff requirements. The Commission also concurs with the Public Staff that including the statutory language with reference to this item should not be construed as a declaratory ruling.

In addition, the Commission concurs with the Public Staff's and the NCTIA's view that those CLPs that desire to be freed of what they view to be an inordinate degree of regulation have a simple recourse, since they, too, can easily adopt Subsection (h) or Subsection (l) regulation.

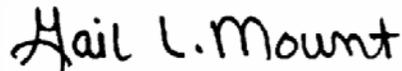
Finally, as noted in Item 56 of the Matrix concerning Rule R17-2(f), the Commission needs to amend the CLP application for a certificate of public convenience and necessity so that, if desired, a CLP can file an application for certification and Subsection (l) election at the same time. Attached hereto as Appendix B is an amended CLP application form.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of November, 2011.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Deputy Clerk

APPENDIX A

	<i>NCUC RULE/STATUTE OR OTHER</i>	<i>Description:</i>		Public Staff and NCTIA Position
1	<i>G.S. 62-35(c)</i>	<i>System of Accounts - Depreciation</i>		Not applicable to Subsection (I) entities.
2	<i>G.S. 62-45</i>	<i>Determination of Cost and Value of Utility Property</i>		Not applicable to Subsection (I) entities.
3	<i>G.S. 62-51</i>	<i>To Inspect Books and Records of Corporations Affiliated with Public Utilities</i>		Not applicable to Subsection (I) entities.
4	<i>G.S. 62-73</i>	<i>Complaints</i>		Not applicable to retail services offered by Subsection (I) entities.
5	<i>G.S. 62-73.1</i>	<i>Complaints</i>		(i) Public Staff and Commission have authority under this section to determine if actions of Subsection (I) entities are reasonable. (ii) Subsection (I) entities are required to provide customers with contact information per the language of the statute.
6	<i>G.S. 62-81</i>	<i>Special Procedure in Hearing and Deciding Rate Cases</i>		Not Applicable to Subsection (I) entities.
7	<i>G.S. 62-110</i>	<i>Certification Requirements for Long Distance Providers, Payphone Service Providers, STS and Other Providers</i>		Not Affected by S.L. 2011-52.
8	<i>G.S. 62-110(f1) and P-100, Sub 133</i>	<i>Arbitrations and Interconnection Agreements</i>		Not Affected by S.L. 2011-52.
9	<i>G.S. 62-110(f1)</i>	<i>Universal Service</i>		Not Affected by S.L. 2011-52.
10	<i>G.S. 62-110(f4), (f5), (f6) and P-100, Sub 152b</i>	<i>Carrier of Last Resort (COLR) obligations and COLR Relief Report</i>		Subsection (I) entities do not have carrier-of-last-resort (COLR) obligations under state law, but may continue to have ETC obligations under federal law.
11	<i>G.S. 62-111</i>	<i>Transfers of Franchises; Mergers, Consolidations and Combinations of Public Utilities</i>		Not applicable to Subsection (I) entities.
12	<i>G.S. 62-118</i>	<i>Abandonment or Reduction of Service</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicable to non-retail services of Subsection (I) entities.
13	<i>G.S. 62-130</i>	<i>Commission to Make Rates for Public Utilities; Customer Refunds</i>		Not applicable to Subsection (I) entities.
14	<i>G.S. 62-131</i>	<i>Rates Must be Just and Reasonable; Service Efficient</i>		Not applicable to Subsection (I) entities.

	<i>NCUC RULE/STATUTE OR OTHER</i>	<i>Description:</i>		Public Staff and NCTIA Position
15	<i>G.S. 62-132</i>	<i>Rates Established under this Chapter Deemed Just and Reasonable; Remedy for Collection of Unjust or Unreasonable Rates</i>		Not applicable to Subsection (I) entities.
16	<i>G.S. 62-133</i>	<i>Establishment of Rates</i>		Not applicable to Subsection (I) entities.
17	<i>G.S. 62-133.5(f)</i>	<i>Retail Promotions</i>		Not applicable to retail services offered by Subsection (I) entities.
18	<i>G.S. 62-133.5(g)</i>	<i>Price Regulation Exemptions</i>		Applies to Subsection (I) entities.
19	<i>G.S. 62-134</i>	<i>Change of Rates; Notice; Suspension and Investigation</i>		Not applicable to Subsection (I) entities.
20	<i>G.S. 62-135</i>	<i>Temporary Rates Under Bond</i>		Not applicable to Subsection (I) entities.
21	<i>G.S. 62-136</i>	<i>Investigation of Existing Rates, Changing Unreasonable Rates, etc.</i>		Not applicable to Subsection (I) entities.
22	<i>G.S. 62-137</i>	<i>Scope of Rate Case</i>		Not applicable to Subsection (I) entities.
23	<i>G.S. 62-138</i>	<i>Utilities to File Rates; Service Regulations and Service Contracts with Commission</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicable only to currently tariffed non-retail services of Subsection (I) entities. (iii) No constraints can be placed on the rates of the Subsection (I) company's services that were subject to full pricing as of the date of its election.
24	<i>G.S. 62-139</i>	<i>Rates Varying from Schedule Prohibited; Refunding Overcharges; Penalty</i>		Not applicable to Subsection (I) entities.
25	<i>G.S. 62-140</i>	<i>Nondiscrimination</i>		Not applicable to retail services offered by Subsection (I) entities.
26	<i>G.S. 62-142</i>	<i>Contracts as to Rates - Retail</i>		Not applicable to Subsection (I) entities.
27	<i>G.S. 62-148</i>	<i>Rates on Leased or Controlled Utility - Retail</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicable only to currently tariffed non-retail services of Subsection (I) entities. (iii) No constraints can be placed on the rates of the Subsection (I) company's services that were subject to full pricing as of the date of its election.
28	<i>G.S. 62-153</i>	<i>Contracts of Public Utilities</i>		Not applicable to Subsection (I) entities.
29	<i>G.S. 62-300, 62-302, R15-1 and M-100, Sub 118</i>	<i>Fees and Charges Including Regulatory Fee</i>		Will apply to Subsection (I) entities.

	<i>NCUC RULE/STATUTE OR OTHER</i>	<i>Description:</i>		Public Staff and NCTIA Position
30	<i>G.S. 62-310</i>	<i>Violations</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicable to non-retail services of Subsection (I) entities.
31	<i>R1-15</i>	<i>Investigation and Suspension Proceedings</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicability to non-retail services will be addressed in future proceedings.
32	<i>R1-17</i>	<i>Filing of Increased Rates</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicability to non-retail services will be addressed in future proceedings.
33	<i>R1-18</i>	<i>Reparations and Undercharges</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicability to non-retail services will be addressed in future proceedings.
34	<i>R1-32, R9-9</i>	<i>Form M report & other financials</i>		(i) Public LECs and CLPs should provide link to SEC filings on an annual basis. (ii) Non-public LECs and CLPs should submit audited financials on an annual basis.
35	<i>R9-1</i>	<i>Safety Rules and Regulations</i>		Not Affected by S.L. 2011-52.
36	<i>R9-2</i>	<i>Uniform System of Accounts (USOA)</i>		Subsection (I) entities should be exempted.
37	<i>R9-3</i>	<i>Annual Filing of Construction Plans and Objectives</i>		Rescinded by Commission Order in Docket Nos. P-100, Sub 19 and P-100, Sub 168.
38	<i>R9-4</i>	<i>Telephone and Telegraph Tariffs and Maps - Retail</i>		(i) Not applicable to retail services offered by Subsection (I) entities. (ii) Applicable only to currently tariffed non-retail services of Subsection (I) entities. (iii) No constraints can be placed on the rates of the Subsection (I) company's services that were subject to full pricing as of the date of its election. (iv) ILEC boundary maps should continue to be filed.
39	<i>R9-5 and P-100, Sub 142, Sub 150 and Sub 153</i>	<i>N11 Services and Tariffs except 711</i>		Only rules and Orders relating to 711 service will be applicable to Subsection (I) entities.
40	<i>R9-6, P-100, Sub 133f</i>	<i>Lifeline/Linkup Service, Reports and Tariffs, Lifeline Toll Restriction</i>		Not Affected by S.L. 2011-52.
41	<i>R9-7</i>	<i>Extended Area Service</i>		Not applicable to Subsection (I) entities.
42	<i>R9-8 and P-100, Sub 99</i>	<i>Service Quality and Service Quality Results Reports</i>		Not applicable to Subsection (I) entities.

	NCUC RULE/STATUTE OR OTHER	Description:	Public Staff and NCTIA Position
43	R12-1	<i>Deposit Policy - Declaration of Public Policy</i>	Not applicable to Subsection (I) entities.
44	R12-2	<i>Establishment of Credit for Consumers</i>	Not applicable to Subsection (I) entities.
45	R12-3	<i>Reestablishment of Service for Consumers</i>	Not applicable to Subsection (I) entities.
46	R12-4	<i>Deposit and Interest on Deposits</i>	Not applicable to Subsection (I) entities.
47	R12-5	<i>Deposit Refund Policy</i>	Not applicable to Subsection (I) entities.
48	R12-6	<i>Deposit Records</i>	Not applicable to Subsection (I) entities.
49	R12-7	<i>Appeal by Applicant or Customer in Connection with Billing Decisions</i>	Not applicable to Subsection (I) entities.
50	R12-8	<i>Discontinuance of Service for Nonpayment</i>	Not applicable to Subsection (I) entities.
51	R12-9	<i>Uniform Billing Procedure</i>	Not applicable to Subsection (I) entities.
52	R12-12	<i>Definitions</i>	Not applicable to Subsection (I) entities.
53	R12-14	<i>Advertising by Telephone Companies</i>	Not applicable to Subsection (I) entities.
54	R12-16	<i>Bill inserts - Costs shall not be passed to Customers</i>	Not applicable to Subsection (I) entities.
55	R12-17	<i>Disconnection, Denial and Billing of Telephone Service</i>	Not applicable to Subsection (I) entities.
56	R17-2(f)	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Access to services and compliance with rules)</i>	(i) Rule R17-2(f)(1-3 and 5-7) are not applicable to Subsection (I) entities. (ii) Rule R17-2(f)(4 and 8) are unaffected by S.L. 2011-52. (iii) Rule R17-2(f)(2) requirement for CLPs to provide directories should not be applicable in areas where ILEC is Subsection (I) company and no longer has requirement to publish directory. (iv) Commission should amend CLP application form so that, if desired, a CLP can file an application for certification and Subsection (I) election at the same time.
57	R17-2(g)	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Access to services and compliance with rules)</i>	Not applicable to Subsection (I) entities.
58	R17-2(i)	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Access to services and compliance with rules)</i>	Subsection (I) entities should be exempted.

	<i>NCUC RULE/STATUTE OR OTHER</i>	<i>Description:</i>		Public Staff and NCTIA Position
59	<i>R17-2(j)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Access to services and compliance with rules)</i>		Not applicable to retail services offered by Subsection (l) entities.
60	<i>R17-2(k)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Access to services and compliance with rules)</i>		Access line information should be filed pursuant to the Commission Order issued June 30, 2011 in Docket No. P-100A, Sub 133.
61	<i>R17-2(l)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (TRS and G.S. 62-157)</i>		Not Affected by S.L. 2011-52.
62	<i>R17-2(m)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Adherence to Chapter 62A)</i>		Not Affected by S.L. 2011-52.
63	<i>R17-2(n)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Compliance with Rule R12-17)</i>		Not applicable to Subsection (l) entities.
64	<i>R17-2(p)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Billing of third party services)</i>		Not applicable to Subsection (l) entities.
65	<i>R17-2(q)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Rate increase notice)</i>		Not applicable to Subsection (l) entities.
66	<i>R17-2(r)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Billings for pay-per-call services)</i>		Not applicable to Subsection (l) entities.
67	<i>R17-2(s)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Timing of calls)</i>		Not applicable to Subsection (l) entities.
68	<i>R17-2(t)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Compliance with R13)</i>		Not Affected by S.L. 2011-52.
69	<i>R17-2(u)</i>	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Regulatory Fee)</i>		Not Affected by S.L. 2011-52.

	NCUC RULE/STATUTE OR OTHER	Description:	Public Staff and NCTIA Position
70	R17-2(v)	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Service provided in unlawful manner)</i>	Not Affected by S.L. 2011-52.
71	R17-2(w)	<i>Requirements and Limitations Regarding Certification of Competing Local Providers (Penalty for disconnection)</i>	Not applicable to Subsection (l) entities.
72	R17-6(a)	<i>Prepaid Local Exchange Service (Exemptions from Rule R17-2(f))</i>	The only exemption still applicable to Subsection (l) entities is the exemption from R17-2(f)(4) found in R17-6(a)(3).
73	R17-6(b)	<i>Prepaid Local Exchange Service (Terms and Conditions for service)</i>	Not applicable to Subsection (l) entities except for R17-6(b)(1)(iv).
74	R17-6(c)	<i>Prepaid Local Exchange Service (Customer Service Agreement)</i>	Not applicable to Subsection (l) entities.
75	R17-7	<i>Dialing Parity</i>	Not Affected by S.L. 2011-52.
76	R20-1(a)(b)(e)	<i>Slamming - Marketing Activity Regulations other than Federal Requirements</i>	Not Affected by S.L. 2011-52.
77	R20-1(d)	<i>Cramming</i>	Not applicable to Subsection (l) entities.
78	R20-2	<i>Fair Competition Among Local Providers</i>	Not Affected by S.L. 2011-52.
79	R21-1	<i>Discontinuance or Reduction of Telecommunications Services - Application</i>	(i) Not applicable to retail services offered by Subsection (l) entities. (ii) Applicable to non-retail services of Subsection (l) entities.
80	R21-2	<i>Discontinuance or Reduction of Telecommunications Services By LECs and CLPs</i>	(i) Not applicable to retail services offered by Subsection (l) entities. (ii) Applicable to non-retail services of Subsection (l) entities.
81	R21-3	<i>Bankruptcy</i>	(i) Not applicable to retail services offered by Subsection (l) entities. (ii) Applicable to non-retail services of Subsection (l) entities.
82	R21-4	<i>Termination of Service to CLPs by Underlying Carriers</i>	(i) Applies to underlying carrier providing service to CLP. (ii) Will not apply to CLP discontinuing service that has no COLR obligation. (iii) Company with COLR obligation will have to notify Commission.
83	HB1180	<i>Annual Report of Company Operations</i>	Not applicable to Subsection (l) entities on and after the third anniversary following the date of the LEC's election.
84	HB1180	<i>Monitoring Compliance with GDPPI</i>	Not applicable to Subsection (l) entities.

	<i>NCUC RULE/STATUTE OR OTHER</i>	<i>Description:</i>		Public Staff and NCTIA Position
85	<i>HB1180</i>	<i>Public Staff Shall Keep Records of All Complaints</i>		(i) Public Staff is to maintain record of all complaints and status of resolution. (ii) Inform customer that complaints can be referred to Commission.
86	<i>P-100, Subs 65 and 72</i>	<i>ITORP and Associated Tariffs and Intercarrier Compensation</i>		Not Affected by S.L. 2011-52.
87	<i>Price Reg Dockets</i>	<i>Price Reg Annual Filing for Regulated Services</i>		(i) Not applicable to retail services offered by Subsection (l) entities. (ii) Applicability to non-retail services will be addressed in future proceedings.
88	<i>Standing Data Request</i>	<i>Central Office Equipment Report</i>		Information will be supplied in the event of a Commission or Public Staff request.
89	<i>Tariff Requirement</i>	<i>White Pages Directories</i>		Requirement to publish white pages directories not applicable to Subsection (l) entities.
90	<i>Price Reg Dockets</i>	<i>Price Reg Reports - Monthly</i>		(i) Not applicable to retail services offered by Subsection (l) entities. (ii) Applicability to non-retail services will be addressed in future proceedings.
91	<i>P-55, Sub 1013</i>	<i>Price Reg Service List Report - AT&T Only</i>		Report has been terminated.
92	<i>Commission Memo</i>	<i>Station Development Report</i>		Access line information should be filed pursuant to the Commission Order issued June 30, 2011 in Docket No. P-100A, Sub 133.

**APPLICATION FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO OFFER
LOCAL EXCHANGE AND EXCHANGE ACCESS
TELECOMMUNICATIONS SERVICE
AS A COMPETING LOCAL PROVIDER**

To Be Completed by Chief Clerk:

DOCKET No. P-_____, Sub _____

Filing Fee Received \$ _____

Note: To apply for a Competing Local Provider (CLP) Certificate, Applicant must submit a filing fee of \$250.00, payable to N.C. Department of Commerce/Utilities Commission, and the typed original and 9 copies of this document to the North Carolina Utilities Commission at the following address:

Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

The application must be properly completed and correctly verified. If it is not, a copy of the application will be returned to the Applicant, and the application will not be further processed. If the Applicant wishes to continue with the certification process, a correct application must be resubmitted with a new filing fee. The original filing fee will not be returned.

A copy of the completed application must be served on each incumbent Local Exchange Company (LEC) in North Carolina. A service list may be obtained from the Chief Clerk.

Any information which the Applicant claims is “confidential” or constitutes a “trade secret” should be clearly marked as such and filed under “SEAL.” Two copies of the confidential information should be provided.

Falsification of or failure to disclose any information in this application for certification may be grounds for denial of or delay in the award of the certificate requested.

The undersigned certifies to the North Carolina Utilities Commission as follows:

NAME AND CONTACTS

1. **APPLICANT**

(NAME)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(d/b/a NAME(S))

FOR: QUESTIONS ON THE APPLICATION

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER) (FACSIMILE NUMBER)

FOR: GENERAL REGULATORY MATTERS

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE))

(EMAIL ADDRESS)

(TELEPHONE NUMBER) (FACSIMILE NUMBER)

FOR: COMPLAINT INQUIRIES BY COMMISSION

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: REGULATORY FEE PAYMENT

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: RESPONSIBILITY FOR NORTH CAROLINA OPERATIONS

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: CONTACT BY POTENTIAL RESIDENTIAL SUBSCRIBERS

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: CONTACT BY POTENTIAL BUSINESS SUBSCRIBERS (IF DIFFERENT FROM RESIDENTIAL)

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: BILLING FOR PSP LINES AND PSP NOTICE REQUIREMENTS

Complete only if the Applicant intends to provide pay telephone service as a Payphone Service Provider (PSP). Provide the information to be used by the serving CLP or local exchange company (LEC) in billing for PSP lines or trunks and by the Applicant in meeting PSP notice requirements:

((NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

IDENTITY AND BUSINESS STRUCTURE

2. Type of Organization: (Check as appropriate)

LLC ___ Individual (sole proprietor)
Partnership ___ Limited Partnership (LP)
Corporation ___ Public ___ Private ___ S ___ C

Other: Please Specify

3. Provide the information as specified below for the specific type of organization identified in Item 2.

- a) If a limited liability company, attach a copy of the articles of organization and the operating agreement, marked **Exhibit A**. Also attach a list of members, marked **Exhibit B**. If Applicant was not organized in North Carolina, attach a copy of the certificate of authority to do business in North Carolina, issued by the Secretary of State, marked **Exhibit C**.
- b) If a partnership or limited partnership, attach a copy of the partnership agreement, marked **Exhibit A**. Also attach a list of partners and officers and the percentage of equity interest of each, marked **Exhibit B**, and give names, positions and addresses of the principal officers.
- c) If a corporation, attach copy of the articles of incorporation and all amendments, if any, marked **Exhibit A**. Also attach a list of all directors and principal stockholders with the number of shares held by each, marked **Exhibit B**, and give names, positions and addresses of the principal corporate officers.
- d) If a corporation, state and date of incorporation: State: ___ Date: _____. If Applicant was not organized in North Carolina, attach a copy of the certificate of authority to do business in North Carolina, issued by the Secretary of State, marked **Exhibit C**.

4. If an office is not maintained in North Carolina, please provide the name and address of Applicant's agent for service of process in North Carolina.

5. If any individuals, directors, partners, officers, or members are affiliated with (i.e., own at least a 10% interest in or serve as directors, partners, or members of) any other telecommunications company, provide, as **Exhibit D**, a list of the company(ies) and a description of the affiliation.

6. If the Applicant has a parent, affiliate(s) or subsidiary(ies), provide an organizational chart as **Exhibit E** which identifies each entity and its relationship to the Applicant.

FINANCIAL CAPABILITY

7. Provide an SEC 10K or audited financial statements for the most recent twelve months, marked as **Exhibit F**. If neither is available, provide Items (a) and (b) below. Item (c) must be provided if the Applicant is relying on a parent company or equity partner for its financial resources.
 - a) Provide a current Balance Sheet, marked as **Exhibit F**.
 - b) Provide an Income Statement, marked as **Exhibit F**, reflecting current and prior year balances for the twelve months ended as of the date of the Balance Sheet, or, if more readily available, for the period since the close of the preceding calendar year.
 - c) Provide the parent company's or equity partner's financial information as listed in this item (SEC 10K or audited financial information; or balance sheet and income statement), marked as **Exhibit F1** or **Exhibit F2** and **F3**, respectively, and a letter of commitment, marked as **Exhibit F4**, signed by an officer of the parent company or equity partner.
8. If the information in Item 7 is not available, please provide the information below. Applicants may file the appropriate portions of their plans and forecasts if they are sufficiently similar to the items below rather than generating new documents.
 - a) Annual projected income statement and statement of projected cash flows for each year until net cash is provided by the operating activities of the applicant or three years, whichever period is longer, as **Exhibit G1**.
 - b) Detailed description of the assumptions for each item reflected in the projected income statement and cash flow statement. The description should provide information on key assumptions, including, but not limited to: number of customers, payroll costs, the number of persons employed (including independent contractors), and sources of external funds (banks, investors) as **Exhibit G2**.
 - c) Narrative description of the applicant's plan(s) for achieving the projected cash flow amounts set forth in the statement of projected cash flows above as **Exhibit G3**.
 - d) Commitment letters, letters of intent, etc. from lenders and investors to provide funds through the first 12 months of operations as **Exhibit G4**.

EXPERIENCE AND MANAGERIAL CAPABILITY

9. a. Please list all states in which the Applicant or any of its affiliates have been authorized to operate and the name under which authority is held, and describe the services offered in those states.

- b. Please list all states in which the Applicant or any of its affiliates have been denied authority to operate, and the name under which authority was held or requested, and explain the reason for such denial.

- c. Please list all instances in which the Applicant has been penalized for slamming, cramming or providing inadequate service and explain each instance.

- d. If the Applicant is a newly created entity, list the experience of each principal officer, manager, or managing partner and provide other documentation in order to show that person's managerial and technical ability to provide services. Mark this documentation as **Exhibit H**.

PROPOSED SERVICE

10. Please described the proposed geographic area or areas to be served.

11. Please state the types of local exchange and exchange access services to be provided.

COMPLIANCE

12. Yes No In accordance with Commission Rule R17-2((b)(7), has the application been served on each of the LECs that provide local exchange service in North Carolina?
13. In accordance with Commission Rule R17-2(f), is the Applicant willing, either directly or through arrangements with other carriers, to provide as a condition to certification:
- a) Yes No Access to emergency service and access to services for the hearing and speech impaired?
 - b) Yes No Access to local and long distance directory assistance and provision of local telephone directories to end-users?
 - c) Yes No Access to operator services?
 - d) Yes No Access to all standard dialing patterns to all interLATA and intraLATA long distance carriers, including 1+ and 0+ access to the customer's carrier of choice for interLATA and intraLATA long distance calls, using a full 2-PIC methodology, as further described in 47 CFR 51.209 and Commission Rule R17-7?
 - e) Yes No Compliance with basic service standards as defined in any applicable rules and decisions of the Commission?
 - f) Yes No Free blocking of 900- and 976-type services and other pay-per-call services, including but not limited to calls to 700 and 800 numbers, for which charges are made by the service provider and billed by the Applicant?

- g) Yes No Free per-call and per-line blocking in accordance with the Orders of the Commission applicable to LECs, and to advise subscribers by insert or direct mailing of the availability of these free features at least once per year?
- h) Yes No Number portability where technically and economically feasible?
14. Yes No Does the Applicant intend to offer prepaid local exchange service as defined by the Commission in R17-1, either now or in the future? If yes, please answer questions 14(a) through 14(b).
- a) Yes No Does the Applicant understand and agree to the terms and conditions specified in Commission Rule R17-6 in the provision of prepaid local exchange service?
- b) Yes No Does the Applicant understand that the exemption from a portion of the requirements of Commission Rule R17-2(f) would apply only in the provision of prepaid local exchange service(s), and that the Applicant must abide by all parts of Commission Rule R17-2(f) in the provision of any other basic local exchange service(s)?
15. Yes No Does the Applicant agree to abide by all applicable statutes, and all applicable Orders, rules and regulations entered and adopted by the North Carolina Utilities Commission?
16. Yes No Does the Applicant plan to employ agents of any type, including independent sales agents, in offering its intrastate services? If yes, please answer questions 16(a) and 16(b).
- a) Yes No Does the Applicant understand that its agents must make it clear to prospective customers that they are only marketing the Applicant's services rather than offering service themselves?
- b) Yes No Does the Applicant understand it is responsible for ensuring that its agents comply with the Commission's rules and regulations?
17. Yes No Does the Applicant agree to provide support for universal service in a manner determined by the Commission?

18. Yes No Does the Applicant understand and agree to abide by Commission Rule R9-8 and Commission Rules R12-1 through R12-9?
19. Yes No Does the Applicant agree to maintain its books of account in accordance with Generally Accepted Accounting Principles (GAAP)?
20. Yes No Does the Applicant agree to file by the 15th day of each month a report with the Chief Clerk of the North Carolina Utilities Commission reflecting the total number of local access lines subscribed to at the end of the preceding month, listing separately for business and residential service, the number of local access lines that are providing prepaid local exchange service and the number of lines providing traditional local exchange telephone service in each respective geographic area that the Applicant serves?
21. Yes No Does the Applicant agree to participate in the telecommunications relay service in accordance with G.S. 62-157 and applicable orders, rules and regulations entered and adopted by the Commission?
22. Yes No Does the Applicant agree to be subject to the provisions of Chapter 62A of the General Statutes, the Public Safety Telephone Act, regarding emergency 911 service, applicable to service providers?
23. Yes No Does the Applicant understand and agree to abide by all applicable provisions adopted by the Commission for disconnection, partial payments, global toll denial, nonregulated charges, 900 and similar charges, treatment of stale debts, and disconnect notices and billing statements, as set forth in Commission Rule R12-17?
24. Yes No Does the Applicant agree to offer billing services for intrastate long distance calls only to long distance carriers certified by the Commission or to clearinghouses acting on behalf of certified long distance carriers? Please note that the name of the service provider shall be clearly stated on each page of the bill, and a contact telephone number for questions on the service shall appear on the bill. If billing is done through a clearinghouse, the name of the clearinghouse shall also appear on each page of the bill.

25. Yes No Will the Applicant give a notice by bill insert or direct mailing to all affected customers at least 14 days before any public utility rates are increased and before any public utility service offering is discontinued? Please note that notice of a rate increase shall include, at a minimum, the effective date of the rate change, the existing rates and the new rates.
26. Yes No Does the Applicant agree not to apply usage charges and per-call rates for switched local exchange services unless the call is answered? Please note that timing of a call shall not begin until the call is answered and shall end when either the calling party or the answering party disconnects.
27. Yes No Does the Applicant intend to offer pay telephone service? If so, please note that the provisions of Commission Rule R13, with the exception of Commission Rule R13-3(a), (b) and (c), shall apply to the offering of pay telephone service by a CLP. A CLP has the authority by virtue of its CLP certificate to offer both non-automated collect and automated collect service under the provisions of Commission Rule R13. When the term COCOT or PSP Certificate Number is referred to in Commission Rule R13, the docket number in which the CLP was certified shall be utilized, and when the term COCOT certificate, PSP certificate, or certificate, is referred to in Commission Rule R13, the CLP certificate shall be used.
28. Yes No Does the Applicant agree to be responsible for payment of the regulatory fee in accordance with G.S. 62-302 and Commission Rule R15?
29. Yes No Does the Applicant agree to notify the Commission, of any change in its (1) address, either physical or mailing, (2) Commission contacts, or (3) name under which the Applicant does business (d/b/a) within thirty (30) days of the effective date of any such change by mailing a notice of such change to the address shown on page 1 of this application?
30. Yes No Does the Applicant elect regulation under G.S. 62-133.5(h)? If so, the Applicant must comply with the "CERTAIN SUBSECTION (H) REQUIREMENTS AFTER SESSION LAW 2010-173" as set forth in Appendix B of the Commission's August 5, 2010 Order in Docket No. P-100, Sub 165.
31. Yes No Does the Applicant elect regulation under G.S. 62-133.5(l)? If so, the Applicant must comply with the requirements outlined in

COMPLETING THE CLP APPLICATION

1. This application is to be used to apply for a Certificate of Public Convenience and Necessity from the North Carolina Utilities Commission which, when granted, will authorize the holder to provide local exchange and local exchange access services as a **Competing Local Provider (CLP)** in the State of North Carolina. Applications for authority to provide other types of service must be filed in accordance with other Commission regulations.

2. The spaces in the shaded block on page 1 will be completed by the Chief Clerk when the application is received at the Commission's offices. The remainder of the application is to be completed by the Applicant and verified before a notary public.

3. Company Identity.

(a) The name of the Applicant must be the real name, as distinguished from a trade name or assumed name (d/b/a), of the individual, partnership, limited liability company or corporation applying for certification. If the Applicant is operating or intends to operate under a d/b/a in North Carolina, that name should also be provided in this application.

(b) If the Applicant intends to operate under a name other than the exact name that appears on the partnership agreement, articles of organization, articles of incorporation, or a name other than its real name, this must be a name that has been certified according to G.S. 66-68.

4. Signature.

This block in the verification is for the signature of the Applicant's responsible party: the individual or sole proprietor, one of the general partners, one of the members or managers of the limited liability company, or an officer of the corporation. The title of the responsible party must be specified, e.g., sole proprietor, general partner, member, president.

5. Verification.

A verification page is provided in the application. The name of the person who completes and signs the application must be typed or printed by the notary in the space provided in the verification. The notary's name must be typed or printed below the notary's seal. The verification must be affixed to the original and each of the 9 copies.

6. The following is a list of exhibits which may be required for a successful application. See the body of the form for further instruction on which exhibits are required for your particular case.

LIST OF EXHIBITS

- EXHIBIT A:** If a limited liability company, attach a copy of the articles of organization and the operating agreement; if a partnership or limited partnership, attach a copy of the partnership agreement; if a corporation, attach copy of the articles of incorporation and all amendments, if any.
- EXHIBIT B:** If a limited liability company, attach a list of members; if a partnership or limited partnership, attach a list of partners and officers and the percentage of equity interest of each; if a corporation, attach a list of all directors and principal stockholders with the number of shares held by each, and the names, titles, and addresses of the principal corporate officers.
- EXHIBIT C:** If a limited liability company or corporation and not organized in North Carolina, attach a copy of the **certificate of authority to do business** in North Carolina, issued by the Secretary of State.
- EXHIBIT D:** If Applicant has directors, partners, officers, or members affiliated with any other telecommunications company, attach a list of the companies and a description of the affiliation.
- EXHIBIT E:** If Applicant has a parent, affiliate(s) or subsidiary(ies), provide an **organizational chart** which identifies each entity and its relationship to the Applicant.
- EXHIBIT F:** Applicant's most recent **annual report to stockholders**, most recent **SEC 10k**, or **audited financial statements** for the most recent twelve months; or a current **Balance Sheet** and an **Income Statement** reflecting current and prior year balances for the twelve months ended as of the date of the Balance Sheet or, if more readily available, for the period since the close of the preceding calendar year;
- EXHIBIT F1:** The parent company's or equity partner's most recent **annual report to stockholders**, most recent **SEC 10k** or **audited financial statements** for the most recent twelve months;
- EXHIBIT F2:** A current **Balance Sheet** for a parent company or equity partner;
- EXHIBIT F3:** An **Income Statement** for a parent company or equity partner reflecting current and prior year balances for the twelve months ended as of the date of the **Balance Sheet** or, if more readily available, for the period since the close of the preceding calendar year;

- EXHIBIT F4:** A letter of commitment from a parent company or equity partner for financial resources if Applicant is relying on such a commitment.
- EXHIBIT G1:** Annual projected income statement and statement of projected cash flows for each year until net cash is provided by the operating activities of the applicant or three years, whichever period is longer.
- EXHIBIT G2:** Detailed description of the assumptions for each item reflected in the projected income statement and cash flow statement. The description should provide information on key assumptions, including, but not limited to: number of customers, payroll costs, the number of persons employed (including independent contractors), and sources of external funds (banks, investors).
- EXHIBIT G3:** Narrative description of the applicant's plan(s) for achieving the projected cash flow amounts set forth in the statement of projected cash flows (**EXHIBIT G1**).
- EXHIBIT G4:** Commitment letters, letters of intent, etc. from lenders and investors to provide funds through the first 12 months of operations.
- EXHIBIT H:** If the Applicant is a newly created entity, a description of the experience of each principal officer, manager, or managing partner and any other documentation which would demonstrate managerial and technical ability.
- EXHIBIT I:** If the Applicant is electing regulation under G.S. 62-133.5(h), an election filing in accordance with the "CERTAIN SUBSECTION (H) REQUIREMENTS AFTER SESSION LAW 2010-173" set forth in Appendix B of the Commission's August 5, 2010 Order in Docket No. P-100, Sub 165.
- EXHIBIT J:** If the Applicant is electing regulation under G.S. 62-133.5(l), an election filing in accordance with the Commission's May 17, 2011 Order in Docket No. P-100, Sub 165a.