



Agenda Date: 4/27/21
Agenda Item: 4A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF AT&T) ORDER
CORPORATION NOTICE OF INTENTION TO)
WITHDRAW RESIDENTIAL LOCAL SERVICE AND)
REQUEST FOR WAIVER OF N.J.A.C.14:10-12.1 ET)
SEQ.) DOCKET NO. TO21020385

Parties of Record:

William K. Mosca, Jr, Esq., Attorney, AT&T Corporation
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

BACKGROUND:

On March 10, 2021, AT&T Corp. ("AT&T" or "Company") filed with the New Jersey Board of Public Utilities ("Board") a formal notice, pursuant to N.J.A.C. 14:10-5.7, indicating it plans to cease providing Residential Local Service, including any Custom Calling Features, rate plans and other associated services in the State by May 3, 2021, and requesting that the Board either not apply or waive the application of N.J.A.C. 14:10-12.1 *et seq.* ("Mass Migration Rules") in connection with the withdrawal of service.¹

AT&T currently provides residential landline telephone services in the State by reselling Verizon's residential landline service. The Company will continue to provide residential toll and long distance services, as well as business services, in the State. According to the Company, it is withdrawing from residential local service based on a decline in the number of end users who use a traditional access line for voice communications, which has resulted in a reduction in customers

¹ On February 10, 2021, AT&T submitted a Letter Motion in Lieu of a formal motion revealing that it was in the process of exiting the resold residential landline market and requested the Board either waive or not apply its mass migration rules, found in N.J.A.C 12:10-12.1 *et seq.*, because in the Company's opinion, the resold market is competitive and subject only to 30-day's notice and not the more stringent requirement associated with migrating customers to another provider.

of over 61% since 2015 as customers choose Voice over Internet Protocol (“VoIP”), cable or wireless alternatives.

The Company has approximately 7065 local residential lines in service in New Jersey. Primary notices of the planned withdrawal were initially mailed to customers on or about January 25 through February 4, 2021. Additional letters were mailed on or about March 25 and April 19, 2021. The Company has also provided notice to customers throughout March and April 2021 through Bill Page Messages (“BPMs”), which are being followed up with automated calls comprised of a recorded message reminding customers that they need to act to switch to a different provider. BPMs will continue through April 2021.

In addition to notifying the Board and its customers, AT&T filed an application with the Federal Communications Commission (“FCC”) on or about March 19, 2021 for authority under Section 214(a) of the Communications Act, as amended (“the Act”), 47 U.S.C. § 214, and Section 63.71 of the FCC’s rules, 47 C.F.R. §63.71, to discontinue AT&T Residential Local Service throughout its service territory in Delaware, Massachusetts, Maryland, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia.

According to the Company, it has provided ample notice to customers who may decide to transfer to another provider and may choose from other similar service offerings including other Certified Local Exchange Carriers (“CLECs”), cable companies, wireless carriers and VoIP providers. In its quest to exit the market, the Company argues, among other things, that the Mass Migration rules are not applicable because as a reseller, it does not obtain numbering resources from North American Numbering Plan Administrator (“NANPA”) and that there is no proposed transfer of assets or control. In addition, it argues that its service withdrawal is distinguished from a mass migration because customers are not being compelled in any way to retain landline telephone service or move to a particular carrier.

On April 6, 2021, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments. Rate Counsel asserts that “discontinuance of service by a service provider triggers certain customer notice requirements under N.J.A.C. 14:10-12.3.”² Rate Counsel contends, however, that some of the requirements set forth in the Mass Migration Rules are inapplicable to AT&T’s proposed withdrawal. For example, Rate Counsel notes that AT&T does not obtain its own numbers for affected customers and does not control customer numbers for E911, and thus, the Mass Migration Rules are inapplicable in these respects.³ In general, Rate Counsel argues that the purpose of the various requirements is to “ensure[] that customers affected by the service provider’s exit of the market will be provided with meaningful notice, and sufficient time and opportunity to obtain similar services with another service provider prior to the discontinuance of service by the exiting provider.”⁴

Ultimately, Rate Counsel does not oppose AT&T’s service withdrawal or the waiver request. Rate Counsel does believe, however, that the Company should be required to file copies of the additional customer notice letters mailed, the customer BPMs mailed in customer bills and automated telephone call scripts (noting the dates and logged call times if available) accompanied by an attestation by an officer of the company that such notice has been made to all affected customers as required under N.J.A.C. 14:10-12.5(c). Additionally, Rate Counsel believes that

² Rate Counsel Comments, p.5.

³ Id. (citing N.J.A.C. 14:10-12.3(b)(2)(vi) and (xi)).

⁴ Id.

AT&T should provide the Board with confirmation that notice of its exit of the market has been provided to the incumbent local exchange carriers (“ILECs”) in its service territory as required under N.J.A.C. 14:10-12.5(c).

DISCUSSION

Before addressing the sufficiency of AT&T’s filing and the need and/or propriety of granting any waiver from the Mass Migration Rules, the Board must first address AT&T’s claim that N.J.A.C. 14:10-5.7 governs this matter and the Mass Migration Rules do not. As explained below, the Mass Migration Rules apply to AT&T’s planned withdrawal.

The Mass Migration Rules “govern[] any TSP operating in New Jersey and intending to depart a service territory therein...” N.J.A.C. 14:10-12.2(a). According to N.J.A.C. 14:10-12.1, the term “TSP” is given the same meaning as is assigned to the term “TSP” in N.J.A.C. 14:10-1.2. “TSP” is defined by N.J.A.C. 14:10-1.2 as having the same meaning as “carrier”, which means “a telephone utility, including an ILEC, an IXC, or a CLEC, and/or a reseller...” Id.

AT&T identifies itself as a reseller of residential local service, which intends to exit the residential local services market in New Jersey.⁵ There is no dispute as to this characterization. As a reseller of residential local service, AT&T is a “TSP operating in New Jersey and intending to depart a service territory,” and thus AT&T’s planned withdrawal is governed by the Mass Migration Rules. The Board **HEREBY FINDS** that the Mass Migration Rules apply to AT&T’s planned withdrawal. Absent the Board’s granting of a waiver for “good cause shown” pursuant to N.J.A.C. 14:10-12.2(d) and/or N.J.A.C. 14:1-1.2(b), AT&T must satisfy all of the applicable requirements of the Mass Migration Rules.

AT&T claims that N.J.A.C. 14:10-5.7, entitled “Withdrawal of a Competitive Service from Subscribers,” governs this matter. This regulation permits any carrier providing competitive services to “withdraw a competitive service from subscribers after 30 days notice to all of its affected customers and the Board.” To the extent Section 5.7 applies to this matter, its application is in addition to the more rigorous Mass Migration Rules, which set forth various requirements relating to the transitioning of customers to new providers under a variety of different scenarios. The more limited notice requirement of Section 5.7 is subsumed by the more rigorous requirements of the Mass Migration Rules, which must be satisfied under the circumstances here.

Having determined that the Mass Migration Rules apply, the Board must determine if the Company has materially complied with the provisions of the rules, absent strict adherence to the application process, and, if not, to what extent “good cause” exists for waiving the Mass Migration Rules under N.J.A.C. 14:10-12.2(d).

The purpose of the Mass Migration Rules is ensuring an orderly transition in the “migration and/or transfer of end users” even if there is no acquiring service provider and thus the transfer does not result in an actual transfer of the customer(s). N.J.A.C. 14:10-12.2(c) and see N.J.A.C. 14:10-12.5 (repeatedly describing requirements in situations where there is no acquiring TSP). The Board shares in Rate Counsel’s view that meaningful notice to customers that provides a reasonable opportunity to obtain similar services prior to discontinuance of the existing service is the principle underlying the exit plan requirements.

⁵ March 10, 2021 letter, p.1.

To that end, the Mass Migration Rules require a TSP that intends to depart a particular service territory to submit an application to the Board at least sixty days prior to its planned departure that sets forth the TSP's exit plan. N.J.A.C. 14:10-12.3(b). The exit plan must address eleven different items, some of which are clearly inapplicable in this matter involving the reseller of a competitive service and no acquiring TSP. N.J.A.C. 14:10-12.3(b)(2)(i)-(xi). In addition, the requirements for the transfer of NXXs and the unlocking of the 911 database are outside of a resellers' control, and therefore they do not apply to AT&T. The Mass Migration Rules also require a departing TSP to provide notice of its departure to end users at least thirty days prior to its planned departure date. N.J.A.C. 14:10-12.5(a). The notice must contain various pieces of information tailored to ensure customers receive the type of meaningful notice described above. N.J.A.C. 14:10-12.5(c)-(e).

Here, AT&T's March 10, 2021 letter formally notifying the Board of its intent to depart by May 3, 2021 falls short of the sixty day requirement set forth in N.J.A.C. 14:10-12.3(b). However, customer notifications began in January 2021 and AT&T alerted the Board as to its plan to withdraw in its February 10, 2021 filing. AT&T's averred activities in January and February 2021 provided notice to the Board and end users in excess of sixty days from the planned departure. Moreover, Board Staff has reviewed the substance of AT&T's filings, including its written notice to customers, as well as Rate Counsel's comments, and believes that the Company has substantially complied with the intent and spirit of the rules, most notably in providing timely and meaningful notice to customers and establishing a toll free number for customer inquiries. Accordingly, the Board **FINDS** that good cause exists to waive, pursuant to N.J.A.C. 14:10-12.2(d), strict compliance with the requirements of N.J.A.C. 14:10-12.3 and N.J.A.C. 14:10-12.5 consistent with and subject to the conditions set forth herein.

The Board **DIRECTS** the Company to work with the underlying carrier that provides its service, Verizon New Jersey, to ensure an orderly transition. The Board's approval of AT&T's request for permission to withdraw service is conditioned upon AT&T's filing of 1) additional customer notice letters mailed, 2) the customer BPMs mailed in customer bills and automated telephone call scripts (noting the dates and logged call times if available) accompanied by an attestation by an officer of the company that such notice has been made to all affected customers as required under N.J.A.C. 14:10-12.5(c), and 3) confirmation that notice of AT&T's exit of the market has been provided to ILECs in AT&T's service territory as required under N.J.A.C. 14:10-12.5(c).

Based upon a thorough review of the record, and consistent with the foregoing, AT&T's request for waiver and withdrawal is **HEREBY GRANTED**.

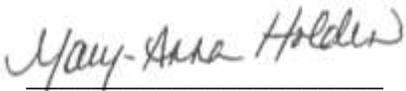
This Order shall be effective on May 7, 2021.

DATED: April 27, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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SERVICE LIST

William K. Mosca, Jr.
Bevan, Mosca, and Giudutta, P.C.
Attorney at Law
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920-2335

Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003

Stefanie A. Brand, Esq., Director
sbrand@rpa.nj.gov

Maria Novas-Ruiz, Esq.
mnovas@rpa.state.nj.us

Department of Law and Public Safety
Division of Law
Richard J. Hughes Justice Complex
25 Market Street, Post Office Box 112
Trenton, NJ 08625

Terel Klein, Esq.
Deputy Attorney General
Terel.Klein@law.njoag.gov

Meliha Arnautovic, Esq.
Deputy Attorney General
meliha.arnautovic@law.njoag.gov

Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08525-0350

Lawanda R. Gilbert, Director
Office of Cable Television and
Telecommunications
Lawanda.Gilbert@bpu.nj.gov

Harold Bond
Office of Cable Television and
Telecommunications
Harold.Bond@bpu.nj.gov

Kevin McKinney
Office of Cable Television and
Telecommunications
Kevin.McKinney@bpu.nj.gov

Carol Artale, Esq.
Deputy Chief Counsel
Carol.artale@bpu.nj.gov