Frequently Asked Questions on Becoming a CLEC

Obtaining certification to become a competitive local exchange carrier (CLEC) may provide benefits for many communications providers and Internet service providers, including obtaining rights to interconnect with other carriers and to qualify for various government subsidies. At the same time, a CLEC must comply with regulations of the Federal Communications Commission (FCC) and state Public Utilities Commissions (PUCs).

For many companies, the benefits of CLEC status clearly outweigh the regulatory and compliance costs. Below we address some key questions regarding those benefits and costs.

What are the benefits of obtaining CLEC status?

Communications companies often decide to obtain CLEC status for the following reasons:

- *Interconnection.* Federal and state regulations provide CLECs with rights to interconnect with incumbent local exchange carriers (ILECs) on fair and reasonable terms. A CLEC and an ILEC typically enter into a negotiated interconnection agreement that must be approved by each applicable state PUC. (Agreements may cover multiple states.) If a CLEC believes the ILEC is not offering interconnection on terms that are consistent with FCC and state PUC regulations, it may seek legal recourse through arbitration or mediation by the applicable state PUC.

- *Offers of Telecommunications Services.* With a CLEC certification, companies have greater flexibility to provide telecom services, as well as Internet services, to customers and potential customers in the market. For example, an unregulated Internet service provider with a CLEC certification would have sales and marketing opportunities to provide fiber transport service or telephone service as part of its offerings to existing and new customers.

- *Federal and State Subsidies.* The FCC and state regulators administer significant subsidies for telecommunications carriers that provide broadband service to rural and underserved communities and services to schools and libraries. In order to qualify for these subsidies, a provider typically must be a CLEC (or an ILEC), among other qualification requirements. Click here for more on broadband subsidies.

- *Access to Poles and Public Rights*-of-Way. FCC and state regulations allow CLECs to gain access to utility poles and other public rights-of-way to expedite and reduce the costs of network buildout.

- *Access to Telephone Number Blocks.* CLECs can qualify for blocks of telephone numbers directly from the numbering administrator based on a transparent process and industry guidelines, and avoid relying on an ILEC or its carrier-vendor for smaller groups of numbers. A Voice over IP (VoIP) provider also may obtain number blocks, after first obtaining permission from the FCC.

What FCC regulatory fees and obligations does a CLEC typically face?

CLECs are subject to various federal regulatory obligations and approval requirements, including:

- *Universal Service Fund* (USF). The FCC requires a provider of telecommunications services, private telecommunications, VoIP, and certain other services to make contributions to the federal USF, on a quarterly basis. The contribution amounts are calculated as a percentage of each contributor's projected collected interstate and international end-user telecommunications revenues. A CLEC must file FCC Form 499A at the time it commences service and thereafter on an annual basis, and also file FCC Form 499Q on a quarterly basis. These forms are also used to calculate payments to support the federal telecommunications relay service, numbering administration, and local number portability programs.

- *Mergers, Acquisitions, and Discontinuance of Service.* While a CLEC is not required to obtain FCC approval prior to entering the domestic interstate telecommunications market, it must obtain FCC approval (sometimes referred to as Section 214 approval) prior to discontinuing interstate telecommunications service to the public, and prior to a merger or acquisition that would result in a transfer of control.

- *Truth-in-Billing.* All charges on a telephone bill must be clear and not misleading. Further, bills must be organized in a manner that is clear and not misleading, including the separation of third-party charges.

- *Open Internet.* A broadband service provider to consumers or small businesses must publicly disclose accurate information regarding its network management practices, performance characteristics, and service terms. Further, network management practices must be tailored to achieve a legitimate network management purpose, considering the CLEC's network architecture and technology.

- *Communications Assistance for Law Enforcement* (CALEA). A CLEC must have detailed written policies and procedures in place to permit the intercept of communications or call identifying information by law enforcement, if required pursuant to a court order or other lawful authorization. A CLEC must file its CALEA policies and procedures with the FCC and modify them if directed by the FCC.

- *Customer Personal Network Information* (CPNI). A CLEC may, without customer approval, use CPNI to provide or market its own service offerings among the categories of the CLEC's service to which the customer already subscribes. A CLEC, however, may not otherwise use, disclose, or permit access to CPNI without the customer's opt-in approval. Among other requirements, a CLEC must implement safeguards and procedures to ensure CPNI is protected from unauthorized access. Further, it must file an annual certification with the FCC that it has established procedures ensuring compliance with FCC CPNI rules.

- *Changes of Preferred Telecommunication Carrier.* A CLEC may not submit a request to change a subscriber's preferred provider unless it obtains both the subscriber's prior authorization and verification of that authorization. A CLEC also must provide the FCC such information as its name, address, primary contact, and the states in which it offers service.

- *E-911 Service.* A CLEC must transmit a 911 call and the caller's automatic dispatchable location to the public safety answering point (PSAP).

- *Annual Regulatory Fees.* A facilities-based CLEC must pay an annual FCC regulatory fee based on its revenues earned from providing interstate and international telecommunications services to end users.

- *Telecommunications and Broadband Deployment Reporting.* A CLEC must file a semi-annual report to the FCC regarding its deployment of local telephone, broadband, and certain other services.

What state regulatory fees and obligations apply to CLECs?

State compliance obligations and fees for CLECs vary from state to state. Below are some typical fees and obligations required by state PUCs.

- *Request for CLEC Authorization/Certification.* Unlike the FCC, states generally require a CLEC to apply for and receive a certificate (often referred to as a Certificate of Public Convenience and Necessity or CPCN) from the state PUC prior to offering intrastate telecommunications. CLEC application requirements can be extensive, including financial information (*e.g.*, balance sheets, financial arrangements with lenders and investors, etc.), an operational plan, and a description of management's experience. A CLEC generally also must obtain prior PUC approval for a transfer of control, merger, or acquisition.

- *Tariffs.* At the time it applies for a CPCN or shortly after it is approved, a CLEC may be required to file a public tariff with the State PUC setting out the rates, terms, and conditions of its intrastate telecommunications service offerings. Tariff rules often permit some flexibility to offer volume-based or other tailored service to specific customers.

- *Interconnection Agreements.* A CLEC-to-ILEC interconnection agreement must be approved by the applicable state PUC before it takes effect. If the parties are unable to negotiate a voluntary agreement, the CLEC may seek PUC mediation or arbitration.

- *State USF.* Many states have reporting and universal service contribution obligations similar to federal requirements.

- *Customer-Facing Rules.* Some state regulations include customer service obligations and customer bill presentation requirements.

- *E-911.* Many states require CLECs to provide E911 services and to connect, directly or indirectly, with the local PSAP for completing emergency calls.

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