STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on May 18, 2005

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin

CASE 03-C-0922 - Proceeding on Motion of the Commission to Examine Telephone Network Reliability.

ORDER DIRECTING FILINGS CONCERNING CRITICAL FACILITIES ADMINISTRATION AND TELECOMMUNICATIONS SERVICE PRIORITY SERVICES AND REQUESTING PUBLIC COMMENT ON THIS NATIONAL SECURITY PROGRAM

(Issued and Effective June 15, 2005)

BY THE COMMISSION:

On July 28, 2004 in this proceeding, we directed all carriers to file cost support information relating to any state tariff charges for Telecommunications Service Priority (TSP) services. In addition, each local exchange carrier was directed to file information certifying and detailing its inter-carrier methods and procedures for ensuring that TSP circuits involving more than one carrier can easily be identified in its record of TSP circuits so that these circuits will receive appropriate priority treatment during an emergency. Further, we directed all facilities-based carriers to show cause why they should not be required to offer a new service, Critical Facilities Administration Service (CFA), that would provide qualifying customers with routing information on Telecommunications Service Priority (TSP) circuits.[1]

We are now requiring that all companies operating in New York have tariffs on file for TSP treatment of services provided, and any TSP rates in New York State tariffs be in accordance with the principles set forth in this Order. We are also directing carriers that provide services with TSP authorization to end users to describe how they ensure priority provisioning and restoration during emergency situations, including what is required of the end users at that time. They should also identify what methods, processes and practices they have to proactively maintain and restore circuits with such authorization even in the absence of a customer trouble report. Further, all carriers should develop through a collaborative forum uniform inter-carrier methods and procedures, and routinely test those procedures to ensure that they work. Finally, we are seeking comments from the general public on the overall workability of the TSP process itself, and whether or not end user responsibilities associated with the process are reasonable and public education of the process is sufficient.

Most facilities-based companies that have TSP subscribers have filed CFA tariffs. While these tariffs do not provide all of the options for CFA customers as originally proposed in the July Order, they all accomplish the goal of providing information to TSP users such that they can, if

[1] Case 03-C-0922, Proceeding on Motion of the Commission to Examine Telephone Network Reliability, Order Concerning Network Reliability Enhancements (issued July 28, 2004) (the July Order). Clause 4 of that Order directed carriers to show cause why they should not be required to offer CFA service. Clause 6 directed the filing of cost support information for TSP and allowed 120 days for response while Clause 7 addressed inter-carrier methods and procedures and allowed 30 days for response.

desired, make their circuits more secure against service disruption by implementing diversity in circuits routing. Three larger carriers declined to file tariffs and provided opposing comments instead, while other smaller carriers declined to offer CFA at this time because they have no TSP subscribers. We find these arguments unconvincing, and will direct all facilities-based telecommunications carriers to file CFA tariffs.

We note that non-carrier parties to the proceeding generally did not take advantage of the opportunity afforded them to comment on the carriers' CFA filings. Thus, we have no direct customer input concerning these CFA tariffs. However, based on Departmental discussions with representatives of the financial community, we believe the tariffs will largely meet an indicated need. To address the lack of customer input and determine if future tariff modifications are necessary, we will require all facilities-based carriers who have TSP subscribers to inform such subscribers of the availability of CFA, and to file specific data, described below.

BACKGROUND

In 1988, the Federal Communications Commission (FCC) established the Telecommunications Service Priority (TSP) program which requires priority restoration and provisioning for the nation’s most important national security/emergency preparedness (NS/EP) telecommunications services. TSP is to be used during emergency situations, and is intended to ensure that those communications services critical to the functionality of the government, military, public safety organizations and the economy are given priority installation and restoration. The TSP program is monitored and overseen by a federal TSP Oversight Committee. All carriers are required to recognize and process TSP requests, and all carriers, including resale, are required to ensure that underlying carriers are provided the information necessary to implement priority treatment of facilities that support TSP services.[2]

Federal government agency requests for TSP assignments are handled directly with the National Communications System (NCS). All other end-users (e.g., private financial institutions) can request assignment to the TSP system only through a Federal government agency which "sponsors" the request. The purpose of sponsorship is to ensure that a service merits NS/EP treatment. The request is forwarded to the NCS Office of Priority Telecommunications (OPT) which provides the end user with a priority authorization code. The end user then must submit that authorization code to its carrier. If that carrier uses an underlying carrier, the underlying carrier must also be provided the TSP authorization code and must confirm receipt of TSP service orders to the OPT. Annual reconciliations are to be done between OPT and the various carriers, and the regulations also require carriers to perform inter-carrier reconciliations periodically, interpreted by the NCS to mean at least once every three years.[3]

In 1988, the FCC identified the types of costs to be expected with the TSP program and the means for cost recovery. The FCC stated that as a general policy costs should be assigned to the cost-causative user, not the general ratepayer; and that TSP database development and recurring administrative costs could be reasonable components of tariff-based charges. The FCC

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[2] "Service Vendor Handbook for the Telecommunications Service Priority (TSP) Program," National Communications System, December 10, 2000, p. 3-1. A more complete description of the TSP program (including an end user or service user manual) is provided at http://tsp.ncs.gov/, and in a White Paper (see http://www.dps.state.ny.us/DPS-NetworkReliabilityRpt.pdf).

[3] Id., p. 5-3.

went on to note that states should apply regulatory oversight procedures to the rates, terms and conditions of intrastate TSP services.[4]

The July Order

Following the World Trade Center disaster, the Department of Public Service prepared a White Paper on wireline telephone network reliability and the lessons to be learned from major service outages. On the basis of that effort, on July 21, 2003, we established the Telephone Network Reliability proceeding, and asked carriers and interested parties to comment on findings identified in the White Paper. After analysis of parties' comments, we issued our July 28, 2004 Order Concerning Network Reliability Enhancements directing (July Order pp. 4-5):

(1) All facilities-based local exchange carriers to identify and report which of their central office buildings are equipped with dual entrance facilities, as well as demonstrate that critical circuits are reasonably distributed between the two entrances,

(2) All facilities-based carriers serving Manhattan to identify and report cost data per building to add a dual cable entrance to those buildings in Manhattan housing central office switching equipment that currently lack a dual cable entrance facility,

(3) All facilities-based local exchange carriers to show cause why they should not be required to provide geographic route diversity and other capabilities for most end offices,

(4) All facilities-based carriers to show cause why they should not be required to offer a new service known as Critical Facilities Administration intended to assist in the identification and maintenance of route diversity for certain types of circuits.

[4] In the Matter of National Security Emergency Preparedness Telecommunications Service Priority System, GEN Docket No. 87-505, adopted October 27, 1988, pp. 29 and 31.

(5) Staff to convene a collaborative of carriers to explore the availability and use of Verizon New York Inc.’s Switched Redirect Service by competitive local exchange carrier customers,

(6) All carriers to file cost support for any state tariff charges for Telecommunications Service Priority services, and

(7) Each local exchange carrier to certify and detail its inter-carrier methods and procedures for ensuring that Telecommunications Service Priority circuits involving more than one carrier can be easily identified in its record of Telecommunications Service Priority circuits, and that these circuits will receive appropriate priority treatment during an emergency.

Carrier Responses

With regard to Clause 4, responses to the July Order are mixed. We have reviewed 25 show cause responses from companies that did not file a CFA tariff as directed by the Commission, and comments from a non-carrier, the City of New York, in support of the proposed CFA tariff. There were also 46 tariff filings introducing a form of CFA generally consistent with the clarification issued by us in October 2004. A brief summary of carriers' responses is provided below.

The objections of carriers to offering CFA are premised on a claim of excessively high cost, and an expected low demand that could not reasonably support the associated cost. Further, some carriers reiterate security concerns that were already considered and rejected by the Commission.
Two carriers, Con Edison Communications, LLC[5] and Cablevision Lightpath, Inc., filed CFA tariffs consistent with the July

[5] On February 15, 2005, the company's assets were transferred to FiberNet in Case 04-C-1696 – Joint Petition of Con Edison Communications, LLC and FiberNet Telecom, Inc. for Approval of the Transfer of Control of Con Edison Communications to FiberNet Telecom.

Order (e.g., each would provide subscribers with full electronic access on a 24 hour by 7 day basis to routing information and other features as set forth in the July Order). Most carriers, including Verizon, Frontier Telephone of Rochester and AT&T, that serve the vast majority of existing TSP subscribers in New York, chose to rely on the clarification of the terms for CFA as issued in October 2004. That is, these carriers would provide circuit routing information on request on a manual basis, under a non-disclosure agreement and at charges based on the amount of hours required to accumulate the routing information. The format of the information provided might be hard copy or a file from a computer-based software package such as AutoCAD.[6] For companies that are unable to track changes to the circuit paths, customers would need to request updates to be certain that the routing information is current. Where multiple carriers provide underlying portions of a TSP circuit, the subscriber would be advised that the serving company would contact the other underlying carriers to obtain the requested information and pass it along to the end user along with any CFA-related costs charged by those carriers.

A total of 83 carriers and the New York State Telecommunications Association responded to Ordering Clause 6 concerning cost support for TSP state tariff rates. Of these, 28 carriers indicated they had no tariff language or rates for TSP; nine carriers including Verizon New York Inc. (Verizon) indicated they had TSP language, but no rates for TSP; three carriers indicated they had TSP language and intended to charge on an individual case basis; and 44 carriers either had language and rates or recently filed rates for TSP.

Of all the carriers responding to this clause, Sprint Communications Company L.P. (Sprint) was the sole company that

[6] AutoCAD is a registered trade mark of AutoDesk, Inc.

provided specific cost information supporting its tariff rates, while AT&T provided aggregated company-wide costs without defining how those costs support the specific rates in its tariff.

Companies without TSP tariff language and/or rates believe they have been responsive to the Commission's directive in that no cost support need be filed if no rates are applied for the service. In addition, many independent local exchange carriers (the independents) recently filed tariffs to reflect a rate for TSP mirroring the federal rate found in access tariffs maintained by the National Exchange Carrier Association[7] for average cost companies. While no cost support was provided for use of these federal tariff rates in state tariffs, these companies believe the rates are reflective of the average costs of smaller companies nationwide.

A total of 78 carriers responded to Ordering Clause 7 concerning TSP inter-carrier methods and procedures. Of these, 26 carriers indicated they only resold service of an underlying carrier and believed they need not have inter-carrier procedures in place for TSP. Another 47 carriers indicated they had no customers or services with a TSP authorization code, and thus, did not require inter-carrier methods and procedures. They intend to comply when and if they ever have customer requests for TSP. Some companies responded by simply referring to or providing copies of the NCS's manual (see footnote 2, above) as to the requirements and expectations placed by the FCC and the NCS on carriers when processing TSP requests and/or responding during an emergency to TSP priorities. A few carriers made only

[7] The National Exchange Carrier Association, NECA, is a nonprofit organization established by the FCC in 1983 to implement its access charge objectives. The FCC's rules limit participation in NECA's access tariff to those local telephone companies classified as incumbent local exchange carriers.

references to inter-carrier procedures, and some provided procedures strictly limited to intra-company rather than inter-company methods. Finally, only one carrier, Verizon, provided an internal methods and procedures document detailing how it expects inter-carrier coordination of TSP information and priority restoration/installation to be handled.

DISCUSSION

Clause 4 – Critical Facilities Administration

The introduction of a tariff for CFA service, as addressed in the July Order, is in response to an indicated need of certain customers who require detailed information regarding the physical location of critical circuits to which they subscribe. In order to control the availability of potentially critical telephone infrastructure information, we limited CFA to those circuits and customers enrolled in the federal Telecommunications Service Priority (TSP) program. The federal TSP authorization process requires that a demonstrated need be identified, and that a federal sponsor support the request before authorization is granted. TSP circuits are deemed to be the most vital of all telecommunications circuits, and are given priority restoration and provisioning treatment during major service outages.

While TSP subscribers sometimes obtain multiple circuits from differing carriers in order to better protect themselves from an outage, they have occasionally found after a service outage that their circuits were less diverse than originally thought. For example, while two individual circuits may be in physically different cables, both cables could be placed in the same conduit for a portion or even all of the distance between the customer's location and the carriers' serving central offices. Thus, any service outage that affects the common conduit could affect both circuits. Ideally, the best protection from a major outage would be geographic diversity for each of the two circuits, with separate entrances to the customer's location and termination at different central offices. While this scenario may not be entirely possible due to the physical location of facilities, the optimum geographic diversity can only be achieved by having knowledge of and taking full advantage of all circuit routing possibilities, including the use of multiple carriers and diverse conduits.

The purpose of Clause 4 of the July Order was to offer this knowledge (i.e., routing information) to TSP users through CFA, at rates to be determined under tariff. In addition, these customers would be able to receive updates to the circuit path information so that any unforeseen carrier changes to circuit paths that might compromise diversity could be identified and corrected.

The proposed CFA program also includes a provision which notes that this service would be suspended during a major telephone outage, but once service is restored, new physical path information would be made available within ninety days.

In response to the show cause order, CFA tariffs are now in effect for many companies, including Verizon, and the vast majority of TSP customers in New York have the option of determining if they are adequately protected against the loss of critical services through verifiable geographical routing information.[8] We believe that CFA will be a valuable service to

[8] We note that Ordering Clause 4 of the July Order was directed at facilities-based carriers. However, other carriers -- non-facilities-based carriers -- can also provide TSP and could offer CFA so that all qualified TSP users will have the ability to obtain routing information. We encourage these non-facility-based carriers to file a CFA tariff. Users should consider the availability of CFA when making procurement decisions.

TSP users even though the service as proposed by most carriers will involve a largely manual process for making routing information available. Some carriers opposed offering CFA and voiced objections with respect to the cost to create a database of critical information, making it available online on a 24 hour by 7 day basis, providing automatic updates after circuits rearrangements and service outages, the limited ability to recover CFA costs because of an expected low demand for the service, and concerns about securing an infrastructure database that is to be available online.

The Commission's October 2004 clarifying Order addressed most, if not all, of the carriers' objections. TSP user access to this data need not be via an online database, nor be available on a 24 hour by 7 day basis. That is, the data can be assembled on a manual basis by a carrier for a specific TSP customer at the time the customer requests it.[9] This substantially reduces the cost to the carriers of providing such information to customers. In any event, customers will be required to sign a non-disclosure agreement in order to obtain the routing information specific to their TSP circuits.

Some of the tariffs that were received did not contain all of the proposed language suggested in the July Order. For example, while most agree to provide detail within the number of days suggested following a CFA request, some tariffs offer an interval more related to the amount of work required and whether or not other carriers are involved. Also, several companies have indicated that they are unable to identify TSP-specific routing changes resulting from network grooming or major outages, and, therefore, will not be able to provide notice of such changes before or after they occur. Rather, some carriers

[9] Nothing would preclude a carrier from offering electronic access, if demand warranted.

will require customers needing to verify physical path routes to periodically request CFA service (i.e., monthly or quarterly basis etc.)[10]. In addition, two carriers, AT&T and TC Systems, Inc. (an AT&T subsidiary), will not allow the physical path detail to leave their premises.

Further, several companies are concerned that a protocol for sharing information among carriers is not in place. While the company that serves a TSP customer may provide an entire TSP circuit end-to-end, it could also provide a TSP circuit using one or more additional carriers. In the latter case, the serving company would need to obtain the physical path information from the connecting carriers, and pass that information, and possibly the costs of obtaining that information, on to the CFA customer. In these cases, each of the connecting carriers will need to work together to determine the means by which the information will be shared and delivered. Since this is a new service offering, it is not known whether difficulties may arise that may require a set protocol. For now, we believe that the carriers are capable of working out the details to be certain that the information transferred to each other is adequately protected.

We have a preference for real time routing information and would prefer CFA tariffs that adhere more closely to the suggested tariff language of the July Order. However, the CFA tariffs are in compliance with our October 2004 clarification.

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[10] Thus, the onus is placed on the customer to acquire the information to ensure that TSP circuits remain diversely arranged (if the customer so desires) by requiring the customer to routinely ask for CFA routing information to be sure company network rearrangements caused by service outages and other network needs do not result in a compromise of the customer's desired diversity. However, we believe companies could arrange to provide regular updates, if a customer so desires it.

To some degree, we expect the market will shape company offerings of CFA. Given that two carriers have filed tariffs as originally envisioned, TSP customers may choose to switch to or add critical circuits using these carriers based on the robustness of their CFA tariffs. In addition, other carriers may eventually modify their CFA tariffs in response to customer demand.

We will require that carriers provide us with information on how CFA is initially being received by their customers and if companies are cooperating with each other to meet customer CFA requests. In this regard, we will also require that facilities-based carriers individually inform their TSP users of the availability of CFA in order to ensure that potential customers are aware of it.[11] Knowing the percentages of TSP customers who order this service, how often they request an update, and identification of any problems encountered providing it will enable us to determine if any deficiencies exist in the CFA tariffs for any particular company, or if something unforeseen would require additional and/or modified tariff language for all companies.

Accordingly, we will require all facilities-based carriers who have TSP subscribers to file the following data for the periods ending September 30, 2005, and March 31, 2006, within 30 days of the end of each period, respectively: the number of TSP circuits; the number of TSP circuits where a CFA request was made but the customer declined the service; the number of TSP circuits where routing information has been provided under a CFA tariff; a narrative containing the reaction of customers inquiring about or actually making use of CFA in

[11] Many carriers did not mention any customer notification steps they may have taken when tariff modifications were made earlier this year to include CFA.

terms of their satisfaction/dissatisfaction with it; and, any internal or inter-company problems that may have been encountered with the provision of routing information under the CFA tariff. Customers may also provide their reactions to CFA rates and terms directly to the Department Staff.

Clause 6 – TSP Rate Support

We are concerned that the cost information filed in support of TSP state tariff rates is too limited to be of much value. It is not generally illustrative of the effort expended by a carrier to record and track circuits that have TSP authorization. Some carriers failed to file any support. Thus, we cannot judge if the rates are cost-based.

The concern expressed in the memorandum attached to our July Order is that TSP rates may be set too high and discourage participation in the TSP program. Some companies, however, such as Verizon do not charge for TSP. Where a company has tariff charges, the non-recurring charges vary from a low of $37.65 to a high of about $285; and monthly recurring charges vary from a low of $1.50 to a high of $4.00. There are a few carriers where state tariffs indicate a charge applies on an individual contract basis which we presume can vary by customer.

We will provide guidance by establishing TSP rate principles and requiring all carriers to follow them to support state tariff rates. We are basing these principles on the record developed by the FCC in support of its adoption of the current TSP system (as previously noted above) as well as on our expectations for incurring costs in processing and maintaining TSP information.

First, any carrier (reseller, or facilities-based) lacking tariff language addressing TSP should immediately file tariff revisions, consistent with the FCC's requirements that all carriers must offer TSP.[12]

Second, if a carrier has a state tariff addressing TSP, but lacking specified rates for it, we will interpret the tariff to mean that the carrier offers TSP services at no charge.[13] However, carriers currently lacking tariff rates for TSP will not be precluded from proposing rates in the future so long as the rates meet these principles. Further, if a carrier proposes to charge other carriers or end users for TSP treatment, that carrier must specify the rates to be charged in its state tariff. Some carriers' tariffs currently state that rates are to be established on an "individual case or contract basis." We are concerned that non-specified TSP rates could discourage interest and/or participation in the TSP program, and will require that specific rates be filed.

Third, if a carrier chooses to charge for TSP, any state tariff rates must be designed to recover no more than the incremental costs of (1) recording TSP authorization codes and associating them with customers' services and/or circuits to ensure priority treatment can be provided when necessary, and (2) auditing such codes on a routine basis as specified by the NCS and the FCC. Incremental costing is necessary because

[12] Model tariff language regarding TSP can be found by clicking on the link entitled "model retail tariff" on the Department's website (http://www.dps.state.ny.us/TSP.htm). The language is found in Section 2 of the model tariff.

[13] For example, a review of other states' tariffs shows that in Texas, the major carriers, Verizon and SBC, have no charges for TSP circuits having priority levels of 1, 2 or 3; while charges apply for priority levels 4 and 5 of the TSP system. That is, TSP is provided at no charge for circuits supporting public health, safety, law and order; national security; and national security leadership. However, charges would apply to those TSP circuits associated with general public welfare and national economic posture.

carriers' rates (whether monthly or non-recurring) for services other than TSP are designed to recover the installation and maintenance costs of those services. The TSP process is an overlay to those services and presents its own unique costs incremental to them. It is those incremental costs that we are allowing in any proposed rates for TSP.

Such incremental costs may be recovered through non-recurring charges and monthly rates. In general, non-recurring charges are appropriate for establishing or modifying a customer record of a TSP authorization code associated with a circuit. This non-recurring cost should be no greater than a service or record order charge typically applied to changes made to a customer's overall service arrangements. Recurring monthly rates should seek to recover any ongoing administration of a TSP database including routine audits of TSP information between carriers and with the NCS as required by the FCC and the NCS.[14]

Fourth, a carrier's state tariff can also provide for recovery at "charges based on cost" of any additional costs associated with the actual provision of priority treatment during an emergency. This recovery addresses incremental or additional costs over and above non-priority restoration or provisioning work and is aside from the administration and database costs previously discussed. Such costs involve maintenance and/or installation costs that cannot necessarily be identified in advance through a specified tariff rate (e.g., overtime costs incurred installing a priority circuit). Therefore, charges based on actual incremental costs incurred

[14] In order to avoid a large number of filings demonstrating rates in compliance with these costing principles, any carrier with TSP charges equal to or less than that carrier's standard service order charge and/or a TSP administrative monthly rate of less than $5 per month will be presumed to be in compliance with these principles, and no compliance filing need be made by such carrier.

will be allowed. Most state TSP tariffs already meet this principle.[15]

Finally, a carrier's state tariff rates for TSP cannot exceed those federal access tariff rates of that carrier. We note that some carriers' federal and state TSP tariffs have substantial differences in rates, with federal rates being higher than the state tariff rates. We have no reason to expect substantial jurisdictional costs differences in providing TSP functionality, and we would be especially concerned if a carrier's state tariff TSP rates exceeded those in its federal access tariff.[16] Thus, we will preclude this unlikely situation.

Clause 7 – Inter-carrier TSP Methods and Procedures

The responses of the carriers with regard to Ordering Clause 7 highlight our concern that inter-carrier procedures generally do not exist; only Verizon provided any documented inter-carrier procedures. Carriers must work cooperatively in order to ensure that workable methods and procedures are in place for TSP circuits involving more than one carrier. This is true whether the carriers are simply interconnecting to provide a service with TSP protection provided under federal and/or state tariffs, or are providing a service on a wholesale or resale basis with TSP protection.

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[15] We invite comments, however, regarding the reasonableness of imposing additional customer charges for priority restoration costs. Comments should address whether such costs should be treated as normal repair costs as for any outage, which are not normally recovered directly from affected customers.

[16] The independent local exchange carriers' use of the NECA federal access tariff non-recurring charge in state tariffs is consistent with this principle. Further, the charge of $54.63 appears generally consistent in order of magnitude with our expectation of a service order charge as specified in proposed principle number three.

Thus, we will direct staff to establish a collaborative of all carriers to develop uniform inter-carrier methods and procedures for ensuring that TSP circuits are immediately recognized by all carriers serving the end user so that priority treatment can be provided. The collaborative should address resale, wholesale and retail inter-carrier TSP procedures including specific additional requirements outlined in the NCS's vendor manual (previously addressed), particularly regarding routine inter-carrier reconciliations.[17] The collaborative should certify within 180 days of this Order, or as the Secretary may prescribe, that the procedures have been tested, and report back to us on its efforts.

Additional Information Required on the TSP Process

The White Paper expressed concern about the lack of subscribers in the TSP program and limited public awareness of the program. Further, discussions with various parties[18] over the past year indicate possible misconceptions of what efforts are required of the carriers in provisioning and restoring TSP authorized circuits as well as what is required of end users with TSP-covered circuits during outage situations.

We recognize that the NCS has made the processes and procedures of the TSP program known through the information it provides on its TSP Web site (see http://tsp.ncs.gov/), and that the NCS has increased its educational outreach efforts to targeted audiences that include carriers, government agencies, financial groups and others. Still, end users may not have a full understanding of what the carriers actually do to ensure

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[17] Once developed, we expect that these uniform procedures will be publicized among the carriers, made readily available to new entrants, and implemented by all carriers.

[18] Staff has discussed TSP issues with representatives of the financial community, the NCS, the FCC and various carriers.

priority treatment, and whether end users must be aware of and report a TSP-identified circuit outage before it will receive prioritization by the carriers. Further, we see potential benefit from carriers being required to identify what processes, practices, and procedures each may have in place to provision TSP circuits, and to proactively and reactively respond to TSP-identified circuit outages.

Therefore, we are seeking further information in order to obtain a more complete understanding of end user expectations and needs, and of the carriers' procedures to ensure that priority treatment is realized. We will direct carriers who provide services with TSP authorizations to end users to describe to us and their TSP customers, the processes, procedures and practices each uses to ensure that priority provisioning and priority restoration is provided to TSP-covered circuits. With respect to restoration, carriers should specifically describe what they do in the instance when (1) the end user reports a service problem and (2) when no report is made by the end user. Further, these carriers should describe what education and outreach they provide to end users.

Finally, we are seeking comment from the general public on the expectations and needs end users have concerning their critical telecommunications facilities, and whether the carriers' processes, procedures, and practices concerning priority treatment of TSP-covered circuits meet those needs or are consistent with those expectations. We are specifically interested in the public's views on whether the existing TSP procedures as described in the NCS's Service User Manual are sufficient, or if further education on these procedures (including the form of such education) is necessary.[19] We will request such comments after the carriers' submissions have been received.

CONCLUSION

With respect to Clause 4, the provision of CFA, carriers should provide TSP users with the means to determine whether or not their critical circuits share common routes, and thus the ability to protect these circuits from simultaneous failure by requesting circuit-path diversity, if necessary. We find opposition to filing CFA tariffs unconvincing, and repetitious of issues already addressed in a previously denied petition for reconsideration concerning CFA. While some tariffs filed thus far may not provide optimal means for obtaining routing information as originally proposed in the July Order, they conform to the clarification issued by the Commission in October 2004, and provide the ability for TSP users to obtain the basic, necessary information about the pathways for their critical circuits.

We will direct all facilities-based carriers that did not file a CFA tariff in response to the show cause order to do so. Further, all facilities-based carriers with TSP users will be directed to individually inform those users of the availability of CFA; and to file with the Commission subscriber-type information on CFA, described above, to determine if the tariffs should be modified in the future to more directly meet TSP user needs.

Our analysis of carrier responses to Ordering Clauses 6 and 7 of the July Order indicates a need for further action by the carriers to ensure that state tariff rates for the

[19] Those who desire additional information or education regarding the TSP program are invited to speak with Department Staff in the Office of Telecommunications at (518)474-4500.

Telecommunications Service Priority program are generally cost supported and do not unduly inhibit participation. Further action is also needed to ensure that carriers have inter-carrier methods and procedures in place that work, such that priority treatment is given on each circuit with the proper Telecommunications Service Priority authorization when two or more carriers are involved in providing the circuit to the end user. We are requiring further action because very little meaningful cost support has been provided for tariff rates, and the inter-carrier procedures, such as they are, do not fully address the need to communicate necessary information between the carriers to ensure priority treatment is recognized and taken.

We also desire additional information from carriers and the general public concerning the Telecommunications Service Priority process. The public is invited to comment generally on the TSP program, and specifically on the filings required by Order Clauses 3 and 4 below, within 180 days of the date of this Order. Individuals who desire access to those filings should contact the Secretary to the Commission within 60 days of this Order so their names can be included on a list of those who will be provided electronic access to a public version of those filings.

Finally, in recognition of the limited scope of the services provided and the individual contact between carriers and their customers, we will waive the requirements for newspaper publication of the CFA and TSP tariffs to be filed.

The Commission orders:

1. All carriers shall file or modify, as necessary, state Telecommunications Service Priority tariffs consistent with the rate design principles outlined in this Order, within 90 days, or as the Secretary to the Commission may prescribe.

2. Staff shall convene a collaborative of all carriers to develop uniform inter-carrier methods and procedures for Telecommunications Service Priority. Such methods and procedures should be tested and include routine reconciliation and/or audit and other requirements as specified by the National Communications System. A report describing these procedures and testing shall be filed with the Secretary to the Commission within 180 days, or as the Secretary to the Commission may prescribe.

3. All carriers that provide services with Telecommunications Service Priority authorization codes shall provide a description to the Secretary of the Commission within 90 days, or as the Secretary to the Commission may prescribe, in hard copy (5 copies) and electronic format (at case_03c0922@dps.state.ny.us) of the processes, procedures and practices used within each company to ensure priority treatment is given to provisioning new circuits, and to restoring such services when (1) the customer reports a problem with the service, or (2) when no report is received. Carriers shall also provide this information directly to their TSP customers.

4. All carriers that provide services with Telecommunications Service Priority authorization codes shall provide in hard copy (5 copies) and electronic format (at case_03c0922@dps.state.ny.us) a description to the Secretary to the Commission within 90 days, or as the Secretary to the Commission may prescribe, of the educational outreach efforts it generally makes to the end users of those services.

5. All facilities-based telecommunications carriers shall file within 30 days of this Order, or as the Secretary to the Commission may prescribe, a CFA tariff in accordance with the Commission's July 28, 2004 Order in this proceeding, as modified on October 26, 2004, if they have not already done so.

6. All facilities-based telecommunications carriers with TSP users shall individually inform each such user of the availability of CFA within 60 days of this Order.

7. All facilities-based carriers who have TSP subscribers shall file with the Director of the Office of Telecommunications, data for the periods ending September 30, 2005 and March, 31, 2006, within 30 days of the end of each period, respectively, or as the Secretary to the Commission may prescribe, consistent with this Order.

8. The requirement of Section 92(2)(a) of the Public Service Law requiring newspaper publication of the filings directed in Ordering Clauses 1 and 5 is waived.

9. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary