

ORDER NO. 15 056

ENTERED FEB 24 2015

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

CP 1126

In the Matter of

X5 PDX, LLC

Petition for Waiver of Notice Requirement of  
OAR 860-032-0020(11).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on February 24, 2015, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



*Becky L. Beier*

**Becky L. Beier**  
Commission Secretary

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

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ITEM NO. CA7

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: February 24, 2015

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: February 13, 2015

TO: Public Utility Commission

FROM: Kathy Shepherd *(Signature)*

THROUGH: *JE HV* Jason Eisdorfer, *Bryan KM* Bryan Conway, and *KM* Kay Marinos

SUBJECT: X5 PDX, LLC: (Docket No. CP 1126) Petition for Waiver of Notice Requirement of OAR 860-032-0020(11).

**STAFF RECOMMENDATION:**

The Commission should grant the petition by X5 PDX, LLC (X5 PDX) seeking waiver of the 90-day time period for customer and Commission notification of abandonment of service under OAR 860-032-0020(11), and permit a notice period of approximately 45 days.

**DISCUSSION:**

On February 6, 2015, X5 PDX and X5 OpCo, LLC (X5 OpCo) filed notice with the Commission that X5 PDX will be transferring its assets and customers to X5 OpCo, a new company formed specifically to effect the proposed transfer. The transfer is scheduled to take place on or after March 16, 2015. X5 PDX is a competitive telecommunications provider certificated to provide intraexchange and interexchange services in Oregon. X5 PDX was granted a certificate of authority on March 20, 2003. See Docket No. CP 1126, Order No. 03-167. X5 OpCo is not currently authorized to provide telecommunications service in Oregon. However, X5 PDX and X5 OpCo have filed a joint application to transfer X5 PDX's certificate of authority to X5 OpCo.

OAR 860-032-0020(11) governs the abandonment or transfer of customers by competitive telecommunications service providers. This rule requires the provider to give 90 days' notice to both the affected customers and the Commission prior to the abandonment of service or transfer of customers. X5 PDX requests a waiver of the rule requiring 90 days' notice.

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In its Petition to Waive the Notification Time Periods, X5 PDX states that the sale of X5 PDX's assets and customers to X5 OpCo is part of a multi-state transaction that involves compliance with FCC and other state notification requirements, some of which require notice of 30 days or less. Customers were notified of the transaction in a mass mailing on approximately January 30, 2015, at least 45 days prior to the planned transfer. Therefore, X5 PDX filed its request for waiver of OAR 860-032-0020(11)(a) and (b), specifically the 90-day notification period for customers and the Commission. OAR 860-032-0020(16) allows the Commission to grant a petition to waive any time period or requirement of the rules for good and sufficient reason.

X5 PDX states that the transfer will be transparent to customers and will not affect the services available to customers or result in a change to the rates, terms, and conditions of their service. Customers also have the option of discontinuing service and selecting a different provider if they choose.

Because the transfer involves a multi-state transaction that is planned to occur on or after March 16, 2015, compliance with the 90-day notice requirement would delay the transfer and impose a significant burden on X5 PDX and X5 OpCo. X5 PDX asserts that the public interest will not be harmed by granting the waiver and allowing approximately 45 days for customer notice. Staff agrees in this case, based on the fact that there is minimal impact to customers as a result of this merger, and customers will have ample time to make a decision regarding their telecommunications service.

**PROPOSED COMMISSION MOTION:**

X5 PDX, LLC's petition for waiver of the 90-day notice period for customer and Commission notification of abandonment of service under OAR 860-032-0020(11) be granted and a notice period of approximately 45 days be permitted.

CA7-X5 PDX LLC 90-Day Notice Waiver