



COMMERCE COMMISSION

**Standard terms determination for the designated  
service of Chorus's unbundled copper low frequency  
service**

**Decision 738**

**The Commission:** Dr. Ross Patterson  
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<p><b>CONFIDENTIAL MATERIAL IN THE DETERMINATION IS CONTAINED IN SQUARE BRACKETS.</b></p>
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## LIST OF TERMS AND ABBREVIATIONS

Term or abbreviation	Definition or expansion
<b>Access Seeker Voice</b>	means the commercial Access Seeker Voice service
<b>Act</b>	means the Telecommunications Act 2001
<b>Amendment Act</b>	means the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011
<b>Chorus</b>	means ChorusCo (and includes any of its subsidiaries) and qualifies as the new company formed as a result of the structural separation of Telecom Corporation of New Zealand Limited
<b>HDP</b>	means handover distribution point
<b>IPP</b>	means the Initial Pricing Principle
<b>FPP</b>	means the Final Pricing Principle
<b>MDF</b>	means main distribution frame
<b>POTS</b>	means plain old telephone service
<b>RTD</b>	means residual terms determination
<b>Separation Day</b>	means the day on which Telecom Corporation of New Zealand Limited distributes 100% of the ordinary shares it holds in Chorus (a limited liability company including any of its subsidiaries) in accordance with the demerger arrangement and the applicable Order in Council made under the Amendment Act 2011
<b>SLES</b>	means the commercial sub-loop extension service
<b>STD</b>	means standard terms determination
<b>STP</b>	means standard terms proposal
<b>TCF</b>	means Telecommunications Carriers' Forum

<b>Term or abbreviation</b>	<b>Definition or expansion</b>
<b>UBA</b>	means unbundled bitstream access
<b>UBA Service</b>	means Chorus's Unbundled Bitstream Access Service that will be subject to the UBA STD dated 12 December 2007 on and after Separation Day
<b>UCLF</b>	means unbundled copper low frequency
<b>UCLF Service</b>	means Chorus' Unbundled Copper Low Frequency Service that will be subject to this STD on and after Separation Day
<b>UCLF Terms</b>	means together the UCLF General Terms and all the schedules to the UCLF General Terms as described in the first page of the UCLF General Terms
<b>UCLL</b>	means unbundled copper low frequency
<b>UCLL Service</b>	means Telecom's Unbundled Copper Local Loop Network Service that will be subject to the Commission's UCLL STD dated 7 November 2007 on and after Separation Day

Drafting notes:

In this STD references are made to Chorus's UCLF Service. This designated service is not yet in force but will be in force on Telecom's separation day at which time a new company, ChorusCo (including its subsidiaries), will be the Access Provider.

References to "Chorus" (describing Telecom in its current form) are references to the business unit within Telecom Corporation of New Zealand Limited. In contrast, references to "Chorus" in the specific context of the UCLF Service mean the new structurally separated company that will be in existence on separation day.

## **EXECUTIVE SUMMARY<sup>1</sup>**

### **Scope of the draft UCLF Service STD**

- i. This STD is in respect of the designated UCLF Service. The UCLF Service was introduced by the Amendment Act, which came into force on 30 June 2011. The Amendment Act will add the UCLF Service to the list of designated access services in subpart 1 of Part 2 of Schedule 1 of the Telecommunications Act 2001 (Act) on Telecom's separation day.<sup>2</sup>

### **Service description of the UCLF Service**

- ii. The UCLF Service is described in Schedule 3 to the Amendment Act as:
 

A service (and its associated functions, including the associated functions of operational support systems) that enables access to, and interconnection with, the low frequency (being the frequency band between 300 and 3400 Hz) in Chorus's copper local loop network (including any relevant line in Chorus's local telephone exchange or distribution cabinet) that connects the end-user's building (or, where relevant, the building's distribution frame) to the handover point in Chorus's local telephone exchange
- iii. The scope of the UCLF Service is similar to the UCLL Service, in that it allows for access to Chorus's copper local loop network. However the UCLF service only allows for the use of the low frequency band on the copper line (which can be used to deliver services such as a voice service) whereas the UCLL Service has no restriction on the frequency band (and can be used to deliver a wider range of services including broadband services).
- iv. The Commission has amended the service description for the UCLF Service so that the service is available on both lines which have been cabinetised and lines which have not been cabinetised (ie remain served directly from an exchange). Diagrams which illustrate the provision of the non-cabinetised UCLF Service have been added to the service description for the UCLF Service.
- v. The Commission has also allowed for restrictions on the availability of the UCLF Service:

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<sup>1</sup> This executive summary does not form part of the Commission's Standard Terms Determination.

<sup>2</sup> Separation day has the meaning set out in section 69B of the new Part 2A of the Act (as inserted by section 51 of the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011) provided that an Order in Council has been made under section 36 of the Amendment Act.

- the service is only available where the copper network remains in place on both sides of the distribution cabinet between the end-user and Chorus's local telephone exchange
  - the service is not available on lines where the UCLL Service or Sub-loop UCLL Service is being supplied (as it is not possible to have two services using the low frequency portion of Chorus's copper local loop network at the same time)
  - the service is not available on line where there are technical restrictions on Chorus' ability to reasonably provide the UCLF Service.
- vi. The Commission has provided that where there is limited capacity on a copper feeder, then access to the UCLF Service will be allocated on a first-come, first-served basis. The Commission considers that clause 9 of the UCLF Operations Manual satisfactorily addresses prioritisation issues. If an issue arises with the prioritisation process in future, the Commission will address the matter should the need arise.
- vii. Chorus indicated during the UCLF Service STD process that the UCLF Service would replace the existing commercial Access Seeker Voice service, but they would provide for grandfathering of the price for the Access Seeker Voice service. The Commission intends to monitor the grandfathering of the Access Seeker Voice service.
- viii. The Commission has amended the service description for the UCLF Service to provide that the service includes the capability to carry direct current that is capable of powering the operation of a standard analogue telephone, if required by the Access Seeker.

#### **Core prices for the draft UCLF Service**

- ix. The Commission is required to determine the core monthly prices according to the initial pricing principle (IPP) for the UCLF Service, which is set out in Schedule 3 of the Amendment Act as follows:

*Either—*

- (a) *the geographically averaged price for Chorus's full unbundled copper local loop network; or*
- (b) *if a person is also purchasing Chorus's unbundled bitstream access service in relation to the relevant subscriber line, the cost of any additional elements of Chorus's local loop network that are not recovered in the price for Chorus's unbundled bitstream access service*

- x. The Commission has determined that:
- under paragraph (a) of the IPP, the monthly rental price for the UCLF Service will be \$24.46<sup>3</sup>
  - a zero monthly rental price will apply in respect of the additional elements under paragraph (b) of the UCLF Service IPP. Separately, an Access Seeker would also need to pay the price for the UBA Service (without POTS) that is being purchased in relation to the relevant subscriber line. The Commission considers that the costs of billing records and cost of inventory identified by Chorus should already be recovered in the monthly rental for the UCLF Service and has not included provision for these costs to be recovered separately. In addition, making separate provision for the claimed additional costs of billing does not appear consistent with Telecom's practice of offering a bundle discount where multiple services are taken on one-line. The Commission also considers that the costs of amortised development identified by Chorus are minimal, so it is not appropriate to allow for these costs to be recovered separately.
  - the following connection charges will apply for the UCLF Service:
    - connection charge, where no site visit is required - \$74.83
    - bulk transfers - \$56.12
    - new connections, which require a site visit - \$225.
  - no charge will apply for the relinquishment of the UCLF Service MPF
  - Cabinetisation related transfer charge:
    - No charge where Chorus or another Access Seeker initiates cabinetisation
    - Price on Application where the Access Seeker initiates cabinetisation (Note that the Access Seeker that initiates cabinetisation would be responsible for all of the costs of transfers associated with

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<sup>3</sup> This geographically averaged price will be reviewed as part of the expanded review considering updating the UCLL monthly rental prices and connection charges to reflect current benchmarks for UCLL prices, to ensure that the IPP continues to apply for the UCLF Service.



cabinetisation ie all lines being transferred, for all affected Access Seekers )

- a Remote Tie Cable Service Space Rental charge of \$27.09 per month will apply.

#### **Non-core prices, non-price terms and implementation plan**

- xi. The Commission has adopted the non-core prices, non-price terms and implementation plan from the draft UCLF Service STD, with:
  - amendments proposed by the Telecommunications Carriers Forum, Chorus and made on the Commission's initiative (as discussed in Attachment 3)
  - provision for Chorus to give notice where they intend to remove the copper feeder
  - provision for a consolidated notice of cabinetisation
  - amendments to the number portability provisions to remain consistent with comparable provisions in the UCLL STD
  - amendments made on the Commission's initiative to ensure consistency with the UCLL STD (with the major changes discussed in Attachment 3).
- xii. Chorus has requested that the Commission include provisions for a lead ins clause, relating to access to and protection of Chorus property on end user land. Consistent with the Commission's decision in the consequential changes review, the Commission has made some changes to clause 10 of the UCLF General Terms (which have been noted and explained in the Commission's consequential review<sup>4</sup>) but has not required end-users of Access Seekers to enter into direct contracts with Chorus.
- xiii. The Implementation Plan for the UCLF Service STD includes requirements for:
  - a Soft Launch in the case of migrations from Chorus's UBA with Access Seeker Voice to the UCLF Service combined with UBA (without POTS), which is limited to testing the assurance and billing of the UCLF Service

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<sup>4</sup>

The consequential review was conducted under section 30R of the Telecommunications Act and sections 72 and 73 of the Amendment Act.

- Chorus to meet soft launch reporting obligations within ten working days of the soft launch being completed
- Chorus to notify Access Seekers about the (un)availability of the UCLF Service on Separation Day

There is no confidential information cited in this determination but there is confidential information in the UBA Price List (Schedule 2 to the UCLF General Terms).

Confidential information cited in this determination is subject to the confidentiality order made by the Commission under section 15(i) of the Act and section 100 of the Commerce Act 1986 (the Order).

The Order in relation to the UCLF Service STD process is dated 18 July 2011 and will have effect until 20 working days from the date on which the Commission issued this Determination.

All restricted information (RI) or additional protection information (API), including Commission only information (COI) is subject to the Order and has been extracted from the public version of this determination.

Key public documents are available on the Commission's website at:

<http://www.comcom.govt.nz/chorus-unbundled-copper-low-frequency-service-std/>

## **SECTION A. CONTENTS OF THIS UCLF SERVICE STD DECISION DOCUMENT**

### **Purpose**

1. This section outlines the scope of Chorus's unbundled copper low frequency service (UCLF Service) that is covered by this standard terms determination (STD) and summarises the contents of this STD decision document.

### **The UCLF Service STD**

2. This STD is in respect of the designated UCLF Service. The UCLF Service was introduced by the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011 (the Amendment Act), which came into force on 30 June 2011. The Amendment Act will add the UCLF Service to the list of designated access services in subpart 1 of Part 2 of Schedule 1 of the Telecommunications Act 2001 (Act) on Telecom's separation day.<sup>5</sup> Separation day is expected to be 30 November 2011.

3. The UCLF Service is described in Schedule 3 to the Amendment Act as:

A service (and its associated functions, including the associated functions of operational support systems) that enables access to, and interconnection with, the low frequency (being the frequency band between 300 and 3400 Hz) in Chorus's copper local loop network (including any relevant line in Chorus's local telephone exchange or distribution cabinet) that connects the end-user's building (or, where relevant, the building's distribution frame) to the handover point in Chorus's local telephone exchange

4. The UCLF Service will enable Access Seekers to receive access to a wholesale service that will allow a voice service to be delivered to their customers using the low frequency band on the copper line located in Chorus's copper local loop network. This service can be combined with a wholesale broadband service (such as Chorus's unbundled bitstream access (UBA) Service) to deliver broadband and voices services to Access Seeker's customers. The UCLF Service cannot be combined with Chorus's unbundled copper local loop (UCLL) service or Sub-loop UCLL service, because those services utilise the full frequency band of the copper line.

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<sup>5</sup> Separation day has the meaning set out in section 69B of the new Part 2A of the Act (as inserted by section 51 of the Amendment Act), provided that an Order in Council has been made under section 36 of the Amendment Act. (See also sections 2(2) to (4) of that Act for the commencement of the provisions relating to Telecom's separation day. Those provisions include section 68 of the Amendment Act which provides that "Schedule 1 of the Act is amended in the manner set out in Schedule 3".)

5. When Telecom structurally separates, the UCLF Service will be available to Access Seekers in accordance with the Implementation Plan.

**Contents of this STD decision document**

6. The following sections of this STD decision document provide explanations and reasons for the decisions that the Commission has made in this UCLF Service STD (including in response to submissions on the Commission's draft UCLF Service STD):
  - Section B: Service description for the UCLF Service STD: This section describes the service description for the UCLF Service and how it differs from the service description for the UCLL Service
  - Section C: Determining the core prices for the UCLF service: This section determines the core prices to apply under the initial pricing principle for the UCLF service. In particular, this section discusses issues related to the assessment of the cost of any additional elements of Chorus's local loop network that should be recovered under subparagraph (b) of the initial pricing principle
  - Section D: Sundry charges and other non-price term issues: This section addresses issues relating to sundry charges and other non-price term issues
  - Section E: Implementation Plan: This section sets out the timeframes for Chorus to implement the terms of this STD.
7. There are three attachments to this STD, setting out the details of the process that the Commission has followed prior to the release of this STD, the legal framework for this STD and a list of drafting changes from the draft UCLF Service STD in response to submissions.
8. This UCLF Service STD specifies sufficient terms to allow access to the UCLF service without the need for the Access Seeker to enter into an agreement with Chorus. The operative provisions of this UCLF Service STD are contained in the attached:
  - UCLF Service General Terms, which set out the general rights and obligations of Chorus and Access Seekers for the UCLF service; and
  - Schedules to the UCLF Service General Terms, comprising:
    - Schedule 1: UCLF Service Descriptions, describing the services that comprise the UCLF Service that Chorus must make available to Access

Seekers under the UCLF Service STD upon request and subject to the UCLF Terms

- Schedule 2: UCLF Service Price List, which specifies the prices that Chorus will charge Access Seekers for the UCLF Service under the UCLF Service STD
- Schedule 3: UCLF Service Level Terms, which sets out the specific rights and obligations of Chorus and Access Seekers where Chorus is supplying access to the UCLF Service under the UCLF Service STD
- Schedule 4: UCLF Service Operations Manual, which sets out in detail the operational procedures and technical specifications for supplying the UCLF Service that Chorus will make available to Access Seekers under the UCLF Service STD
- Schedule 5: The Interference Management Plan, which establishes performance requirements that systems must meet in order to be operated on Chorus's unbundled copper low frequency service.
- UCLF Service Implementation Plan, which sets out the implementation plan for the UCLF Service to be followed by Chorus when the UCLF Service STD comes into force.

9. In setting the UCLF Service General Terms, Schedules and Implementation Plan, the Commission has considered:

- a submission from the Telecommunications Carriers Forum (TCF) on Chorus' UCLF Service standard terms proposal (STP) (TCF submission on the UCLF Service STP).<sup>6</sup> The TCF submission on the UCLF Service STP endorsed the UCLF Service STP, subject to a number of issues that had been identified in TCF working party meetings after Chorus had submitted the UCLF Service STP
- submissions on the draft UCLF Service STD from Chorus, the TCF (including a table providing consensus industry comments) and Vodafone
- cross-submissions on the draft UCLF Service STD from CallPlus and Kordia, and Vodafone
- additional information provided by Chorus in response to issues raised in submissions and cross-submissions on the draft UCLF Service STD

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<sup>6</sup> TCF, Unbundled Copper Low Frequency Service (UCLFS) STP, 4 August 2011.

- comments from CallPlus and Vodafone on the additional information provided by Chorus.

## **SECTION B. SERVICE DESCRIPTION FOR THE UCLF SERVICE**

### **Purpose**

10. This section describes the service description for the UCLF Service and how it differs from the service description for the UCLL service. In relation to the service description, this section also summarises the Commission's draft UCLF Service STD, submissions on the draft UCLF Service STD and the Commission's decisions on those submissions.

### **Service description**

11. The service description and associated conditions for the UCLF Service are described in Schedule 3 of the Amendment Act, as follows:

*Description of service:* A service (and its associated functions, including the associated functions of operational support systems) that enables access to, and interconnection with, the low frequency (being the frequency band between 300 and 3400 Hz) in Chorus's copper local loop network (including any relevant line in Chorus's local telephone exchange or distribution cabinet) that connects the end-user's building (or, where relevant, the building's distribution frame) to the handover point in Chorus's local telephone exchange

*Conditions:* Chorus's unbundled copper low frequency service is only available where Chorus's local loop that connects the end-user's building (or, where relevant, the building's distribution frame) to the handover point in Chorus's local telephone exchange remains in place

To avoid doubt, there is no obligation on Chorus that Chorus's copper network that connects a cabinet (or equivalent facility) and Chorus's local telephone exchange remain in place or be maintained if that part of Chorus's copper network is only being used to provide Chorus's unbundled copper low frequency services

### **Comparison between the UCLL Service and the UCLF Service**

12. The scope of the UCLF Service is similar to the UCLL Service, in that it allows for access to Chorus's copper local loop network. However the UCLF service only allows for the use of the low frequency band on the copper line (which can be used to deliver services such as a voice service) whereas the UCLL Service has no restriction on the frequency band (and can be used to deliver a wider range of services including broadband services).
13. The differences between the service description for the UCLF Service (as set out above) and the UCLL service description reflect:
  - the fact that the UCLF Service provides access only to the low frequency (defined as the frequency band between 300 and 3400 Hz) of the copper local loop network whereas the UCLL service provides access to low and high frequency bands of the copper network



- the fact that the UCLF Service cannot be supplied to an Access Seeker over a line where the UCLL Service or Sub-loop UCLL Service is also being supplied
- changes required as a result of the Amendment Act.

### **Restrictions on the availability of the UCLF Service**

14. In the draft UCLF Service STD<sup>7</sup>, the Commission stated that the service description for the UCLF Service involved the following restrictions on the availability of the UCLF Service:
- the service is only available on lines which have been cabinetised<sup>8</sup>
  - the service is only available where the copper network remains in place on both sides of the distribution cabinet between the end-user and Chorus's local telephone exchange
  - the service is not available on lines where the UCLL Service or Sub-loop UCLL Service is being supplied (as it is not possible to have two services using the low frequency portion of Chorus's copper local loop network at the same time).

### ***The UCLF Service should be available on non-cabinetised lines***

#### **Submissions**

15. Chorus, the TCF and Vodafone all submitted that the UCLF Service should be available on non-cabinetised lines<sup>9</sup> and proposed the deletion of the restriction on the availability of the UCLF Service, to cabinetised lines only, from clause 1.2 of the UCLF Service Description.

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<sup>7</sup> Draft UCLF Service STD page 6, paragraph 22.

<sup>8</sup> In the draft UCLF Service STD page 6, footnote 6, the Commission stated that  
 “In this respect the UCLF Service allows access to the same elements of Chorus's copper local loop network as is provided by the Sub-loop UCLL Service in combination with the commercial sub-loop extension service. While it is theoretically possible that an Access Seeker could request the UCLF Service for a line that has not been cabinetised, practically the Commission does not consider that this is likely to occur. This is because the Commission considers that Access Seekers will prefer the UCLL service for non-cabinetised lines, where the Access Seeker has a choice between the UCLL service without frequency limitations at the same price as the UCLF Service with frequency limitations. Therefore the diagrammatic representation of the UCLF Service in Figure 1 and Figure 2 does not need to include a line that has not been cabinetised.”

<sup>9</sup> See Chorus submission on draft UCLF Service STD page 6, paragraph 19; TCF Table of comments on UCLF Service STD page 1, UCLF Service Decision Document, clause 22; Vodafone submission on draft UCLF Service STD page 1, paragraph 5a.

16. Chorus also noted that, while they agreed with the Commission that Access Seekers were more likely to prefer UCLL to UCLF Service on non-cabinetised lines, this option was not “available for New Telecom as it is restricted from taking UCLL for the period from 3 years from separation day. UCLFS will be the regulatory backstop for voice access service for New Telecom in exchange lines as well as applicable cabinetised lines.”<sup>10</sup>

#### **Commission’s decision**

17. The Commission agrees that the UCLF Service should be available on both cabinetised and non-cabinetised lines, and has modified the service description for the UCLF Service accordingly (including by adding figures 3 and 4 following paragraph 48 below, provided by the TCF<sup>11</sup>, to the UCLF Service Description).

#### ***Restriction on availability of UCLF Service in some cabinetised areas***

##### **Submissions**

18. Chorus submitted that there are “Technical issues in the Chorus access network [which mean] that UCLFS will not be available in all locations required under the proposed definition.”<sup>12</sup> Specifically Chorus submitted that there will be:<sup>13</sup>
- cabinets which support a standalone UCLF Service but which cannot support UBA with the UCLF Service, due to the physical wiring of the cabinets or where the cabinet does not contain UBA equipment
  - cabinets which do not support the UCLF Service, where the cabinet does not have a copper connection to the exchange or where the copper feeder is used only as an access bearer or for engineering purposes
  - cabinets where there is limited capacity on the copper feeder or where network activity is planned.
19. Chorus indicated that they would make information about the (un)availability of the UCLF Service available to Access Seekers and would update that information on a regular basis.<sup>14</sup>
20. Chorus requested amendments be made to:

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<sup>10</sup> Chorus submission on draft UCLF Service STD page 6, paragraph 20.

<sup>11</sup> TCF Table of comments on UCLF Service STD pages 8-9.

<sup>12</sup> Chorus submission on draft UCLF Service STD page 4, paragraph 10.

<sup>13</sup> Ibid pages 4-5, paragraphs 12-16.

<sup>14</sup> Ibid page 5, paragraphs 15 and 17.

- the UCLF Service Description to reflect the above restrictions on the availability of the UCLF Service<sup>15</sup>
- the UCLF Service Implementation Plan to reflect the provision of information about the (un)availability of the UCLF Service.<sup>16</sup>

### **Cross-submissions**

#### 21. Vodafone cross-submitted that:

- where there is limited capacity on a copper feeder, then the UCLF Service should be available to the extent of available capacity, subject to a queuing or prioritisation system<sup>17</sup>
- Chorus should be required to investigate whether current wiring constraints can be removed, as Vodafone considers these are likely to favour Telecom. Vodafone proposed a commitment be made to upgrade wiring whenever other work is done on a cabinet with wiring constraints. In the alternative, Vodafone proposed a commitment be made that Chorus made its commercial Baseband solution available instead<sup>18</sup>
- Chorus should be required to provide information on the UCLF Service (un)availability by separation day, with the reason for unavailability being provided. Vodafone also proposed changes to availability should be notified with advance notice of the change (or immediately if no notice can be given).<sup>19</sup>

#### 22. CallPlus and Kordia cross-submitted that they were concerned with the limitations on liability and in particular:<sup>20</sup>

- they need to understand the impact of services being unavailable in terms of the number of customers affected, and with reasonable notice periods
- capacity limitations are too broad a reason for non-availability and there should be provisions for allocating capacity, increasing capacity and removing capacity limitations.

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<sup>15</sup> Ibid pages 6-7, paragraph 23.

<sup>16</sup> Ibid page 6, paragraph 18.

<sup>17</sup> Vodafone cross-submission on draft UCLF Service STD page 2, paragraph 10.

<sup>18</sup> Ibid pages 2-3, paragraphs 11-12.

<sup>19</sup> Ibid page 3, paragraphs 13 and 15.

<sup>20</sup> CallPlus and Kordia cross-submission on draft UCLF Service STD page 2.

23. CallPlus and Kordia indicated that the availability constraints would introduce costs and complexities for Access Seekers that Telecom would not face. CallPlus and Kordia considered that appropriate commitments from Chorus about the availability of a commercial baseband service may obviate their concerns.<sup>21</sup>

#### **Additional information requested from Chorus**

24. In light of the issues raised in cross-submissions, the Commission requested that Chorus provide the following additional information:<sup>22</sup>

Can you please provide information on where Chorus expects that the UCLF Service STD would not be available on cabinetised lines (ie how many cabinets, in what locations and for what reasons from those noted at paragraphs 14-16 of Chorus's submission). Please provide reasons for Chorus needing 20 working days to provide this information after the UCLF Service STD is released, and if there is a change (as proposed at paragraph 35 of the Chorus submission). Please respond to the Vodafone cross-submission (pages 2-3, paragraphs 10-13) and the CallPlus and Kordia submission (page 2) regarding their concerns with the restrictions on the availability of the UCLF Service, and the timeframes for providing this information.

25. Chorus responded advising that they expected that:<sup>23</sup>

the UCLFS service will be available from all exchanges where UCLL is available, and any cabinet with a copper feeder (and where capacity is available on that copper feeder). This is the same criteria used to determine SLES availability. By definition, UCLFS is not available where an analogue path over copper between the exchange and end user premises copper path is not present; this means that UCLFS is expected to be available to:

- Approximately 84% of all Chorus lines (or 1.494m lines) on a standalone basis; or
- Approximately 82% of all Chorus lines now, and 83% in 2012 (1.45m and 1.47m lines respectively), when taken in conjunction with UBA.

26. Chorus also indicated that for approximately 46,000 lines fed through subtended locations (typically cabinets connected to other cabinets) it was unable to determine if a copper path was available from the exchange to end user premises. Chorus proposed that they would inspect these lines and cabinets in a reactive manner where an Access Seeker places an order on a

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<sup>21</sup> Ibid page 2.

<sup>22</sup> Email from Shane Kinley (Commission) to Jeremy Cain (Telecom), *UCLF Service STD: request for further information from Chorus and response to matters raised in cross-submissions*, 19 October 2011.

<sup>23</sup> Chorus *UCLFS: Commission request for further information* 28 October 2011 page 3, paragraph 1.4.

specific cabinet (as is currently the case for the commercial sub-loop extension (SLES)service).<sup>24</sup>

27. Chorus agreed with Vodafone's proposal that the UCLF Service should be made available to the extent of the available capacity, stating that they were "open to a discussion around a queuing or prioritisation system, subject to cost and proportionality consideration, and are willing to commit to working with Access Seekers on this matter after separation."<sup>25</sup>
28. Chorus advised that "UBA with UCLFS is available in all exchange areas where UCLL and UBA are available. It is also available in cabinet areas where standalone UCLFS is available and (i) there is a DSLAM supporting the UBA service in the cabinet and (ii) the cabinet is not hardwired."<sup>26</sup> Copper is hardwired to DSLAMS, due to space constraints, in approximately "134 cabinets (accounting for approximately 24,931 lines)."<sup>27</sup>
29. Chorus committed to "working through the potential alternative solutions in areas where UCLFS isn't available – such as commercial Baseband."<sup>28</sup>
30. Chorus also indicated that:<sup>29</sup>

If the Commission accepts that UCLF Service should only be available in the areas and on those lines identified and discussed above then Chorus will be in a position to provide the more detailed information by separation day. If the Commission requires availability to be set according to a different standard then we will require a period to review our data before such information can be provided to the Commission and Access Seekers. In the latter case, depending on the Commission's requirements, additional time would be required.

### **Comments on additional information provided by Chorus**

31. The Commission requested that Access Seekers provide comments on the additional information provided by Chorus.<sup>30</sup>

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<sup>24</sup> Ibid pages 3-4, paragraph 1.7.

<sup>25</sup> Ibid page 4, paragraph 1.8.

<sup>26</sup> Ibid page 4, paragraph 1.9.

<sup>27</sup> Ibid page 4, paragraph 1.10.

<sup>28</sup> Ibid pages 4-5, paragraph 1.13.

<sup>29</sup> Ibid page 5, paragraph 1.14.

<sup>30</sup> Email from Shane Kinley (Commission) to Interested parties, *UCLF Service STD - request for comment on further information provided by Chorus - comments by 5pm next Wednesday 9 November*, 2 November 2011.

32. Vodafone commented that they were generally happy with Chorus' response<sup>31</sup>, and proposed the following specific arrangements where the capacity was limited:<sup>32</sup>

- a. Chorus should use a standard 'first in, first served' approach to allocating the limited capacity.
- b. Where multiple orders for services are received at the same time, which exceed the available capacity, Chorus should use a prioritisation system based on that in section 8 of the UCLL Co-location Operations Manual.
- c. Where SLES capacity is fully allocated, Chorus should adopt a 'waiters queue' similar to that in use today for the UBA service.
- d. Alternatively Chorus could choose to make a variant of its commercial Baseband service available on the same terms as the UCLF Service.

33. CallPlus commented that given the availability of the UCLF Service indicated by Chorus, the following could mitigate the impact on Access Seekers of situations where the UCLF Service was unavailable:

- B2B Tools being made available at no cost, so Access Seekers can identify where the UCLF Service is unavailable.<sup>33</sup>
- Chorus providing assurances about the availability of a commercial baseband service to increase availability to close to 100%.<sup>34</sup>

#### **Commission's decision**

34. The Commission considers that the (un)availability restrictions for the UCLF Service, proposed by Chorus, are reasonable, as these reflect technical restrictions on Chorus' ability to reasonably provide the UCLF Service.

35. The Commission also considers it appropriate to include a prioritisation system for MPF New Connections in the UCLF Operations Manual which is similar to the same system for Bulk Transfers. The Commission has amended clause 9 of the Operations Manual to provide for prioritisation of MPF New Connections so

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<sup>31</sup> *Vodafone Comments on Chorus Response to Commission Request for Further Information on UCLFS* 9 November 2011 (Vodafone comment on Chorus additional information) page 1, paragraph 3.

<sup>32</sup> *Ibid* page 1, paragraph 4.

<sup>33</sup> *CallPlus Re: UCLFS: Commission request for further information* 9 November 2011 (CallPlus comment on Chorus additional information) page 1.

<sup>34</sup> *Ibid*.

that prioritisation applies to both Bulk Transfers and MPF New Connections. The Commission notes that this proposal is not in line with Vodafone's request for a 'waiters queue system' and a prioritisation system based on that used in the UCLL Co-location STD.<sup>35</sup> Nonetheless, the Commission considers that the amendments to clause 9 will address Vodafone's concerns in the short to medium term. Should any issues arise with the allocation of available capacity in future, the Commission will investigate whether further amendments should be made to the Operations Manual to address any concerns that are raised. w

36. The Commission has, therefore, included provisions:<sup>36</sup>
- specifying where the UCLF Service will be available (and unavailable) in line with Chorus' proposal in the UCLF Service Description
  - amending the prioritisation system requirements of the UCLF Operations Manual so that they apply to both Bulk Transfers and MPF New Connections.
37. Corresponding provisions for Chorus to provide information about the (un)availability of the UCLF Service are provided in the Implementation Plan. .

#### *UCLF Service as a replacement for Access Seeker Voice*

##### **Submission**

38. Chorus submitted that the UCLF Service should be considered as a replacement for the commercial Access Seeker Voice service. Chorus noted that the UCLF Service is priced on a geographically averaged basis while Access Seeker Voice is currently priced on a de-averaged basis, and that allowing a de-averaged Access Seeker Voice to remain in the market would undermine its ability to recover its averaged costs. Chorus indicated that they, therefore, intended to grandfather the Access Seeker Voice service.<sup>37</sup>

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<sup>35</sup> In its submission of 9 November 2011, Vodafone requested the following: (a) a standard 'first in, first served' approach to allocating limited capacity; (b) where multiple orders for services are received at the same time, which exceed the available capacity, Chorus should use a prioritisation system based on that in section 8 of the UCLL Co-location Operations Manual; (c) where SLES capacity is fully allocated, Chorus should adopt a 'waiters queue' similar to that in use today for the UBA Service; (d) Alternatively, Chorus could choose to make a variant of its commercial Baseband service available on the same terms as the UCLF Service.

<sup>36</sup> These provisions are included as clauses {xx to yy} of the {Service Description / Ops Manual}.

<sup>37</sup> Chorus submission on draft UCLF Service STD page 2-4, paragraphs 4-9.

**Cross-submissions**

39. Vodafone agreed with Chorus that the UCLF Service should be regarded as a replacement for the Access Seeker Voice service and acknowledged that grandfathering the Access Seeker Voice service was probably the most sensible solution.<sup>38</sup> Vodafone were concerned, however, that there would be complexity in grandfathering the Access Seeker Voice service from separation day, and proposed the following grandfathering criteria:

... access seekers should be eligible for the current de-averaged urban ASV pricing for end-user customers that meet the following criteria:

- (i) their lines are connected to cabinets off urban exchanges that the access seekers have unbundled prior to separation day; and
- (ii) that the access seekers have signalled an intent (prior to separation day) to migrate these customers to ASV.

40. CallPlus and Kordia also agreed with Chorus that the UCLF Service should be regarded as a replacement for the Access Seeker Voice service, subject to an appropriate grandfathering mechanism being in place.<sup>39</sup> CallPlus and Kordia proposed the following grandfathering criteria:<sup>40</sup>

Access Seekers are able to get the 'grandfathered price' on existing customers on cabinetised lines associated with exchanges that the Access Seeker has unbundled, as at separation date.

**Additional information requested from Chorus**

41. In light of the issues raised in cross-submissions, the Commission requested that Chorus provide the following additional information:<sup>41</sup>

Could you please provide information about how Chorus intends to grand-father the Access Seeker Voice commercial service (as proposed at paragraph 8 of the Chorus submission). Please respond to the proposals in the Vodafone cross-submission (page 2, paragraphs 7-8) and the CallPlus and Kordia cross-submission (page 1).

42. Chorus indicated that they intended to adopt the approach recommended by Vodafone, CallPlus and Kordia for the grandfathering of the Access Seeker Voice service. Chorus' proposed arrangements for the grandfathered prices would apply for both:<sup>42</sup>

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<sup>38</sup> Vodafone cross-submission on draft UCLF Service STD page 2, paragraphs 5-7.

<sup>39</sup> CallPlus and Kordia cross-submission on draft UCLF Service STD page 1.

<sup>40</sup> Ibid.

<sup>41</sup> See above note 22.

<sup>42</sup> Chorus additional information response pages 6-7, paragraphs 1.17-1.20.



- existing end-user customers currently consuming UBA with Access Seeker Voice
- specified end user customers that currently purchase both voice (resold plain old telephone service (POTS)) and broadband from the same Access Seeker, where that Access Seeker has notified Chorus in writing of its intention to migrate such qualifying customers.

#### **Comments on additional information provided by Chorus**

43. As discussed at paragraph 31, the Commission requested that Access Seekers provide comments on the additional information provided by Chorus.<sup>43</sup>
44. Vodafone commented that they were pleased to see that Chorus proposed to adopt the grandfathering approach recommended by Vodafone.<sup>44</sup>
45. CallPlus commented that they welcomed the approach proposed by Chorus, however, stated that they understood that the Access Seeker Voice service would be available as a stand-alone service and the grandfathered price should also apply to that stand-alone service.<sup>45</sup>

#### **Commission's decision**

46. The Commission considers that Chorus' proposal for migration of Access Seekers' customers from the commercial Access Seeker Voice service, and the grandfathering of prices for the Access Seeker Voice service, is reasonable. While this proposal is outside the scope of the STD, the Commission intends to monitor the migration of Access Seekers' customers to ensure that no market concerns arise. .

#### ***The availability of the UCLF Service is not inconsistent with the standard access principles***

47. The Commission considers that the conditions on which the UCLF Service will be available (and unavailable) will not unduly restrict access to the UCLF Service and, therefore, are not inconsistent with the standard access principles set out in subpart 1 of Part 1 of Schedule 1 of the Act. In particular, all of these

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<sup>43</sup> Email from Shane Kinley (Commission) to Interested parties, *UCLF Service STD - request for comment on further information provided by Chorus - comments by 5pm next Wednesday 9 November*, 2 November 2011.

<sup>44</sup> Vodafone comment on Chorus additional information page 2, paragraph 7.

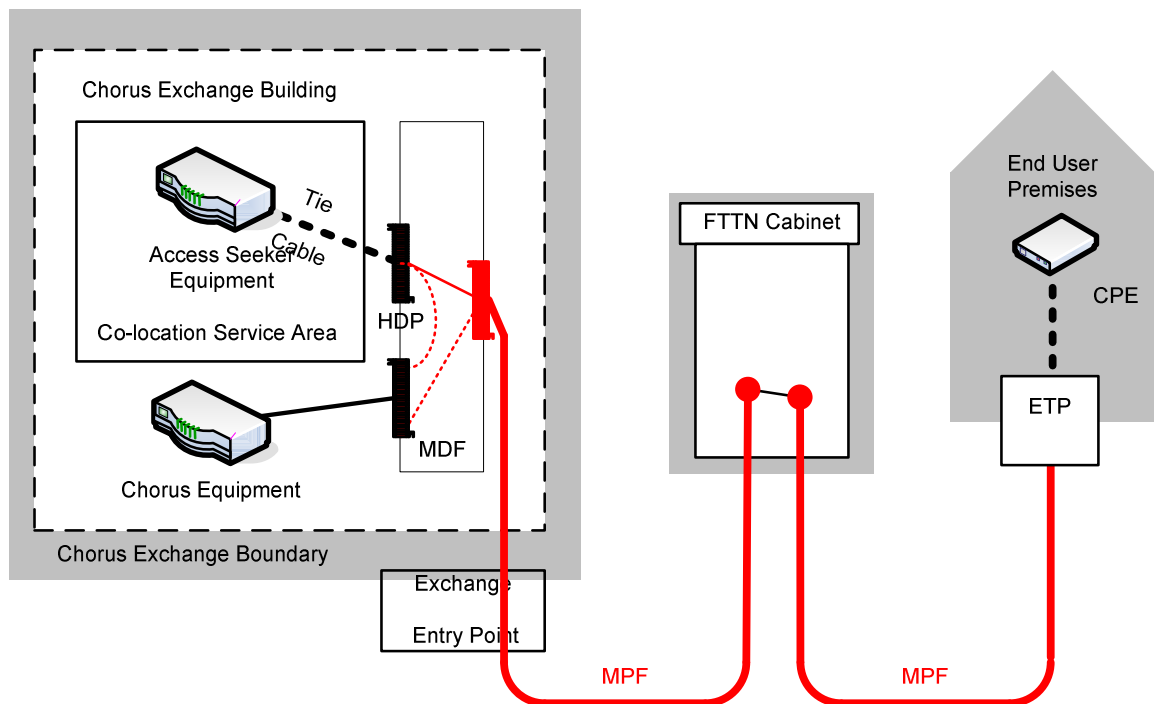
<sup>45</sup> CallPlus comment on Chorus additional information pages 1-2.

conditions constitute reasonable restrictions having regard to the "technical and operational practicability" of Chorus's network.

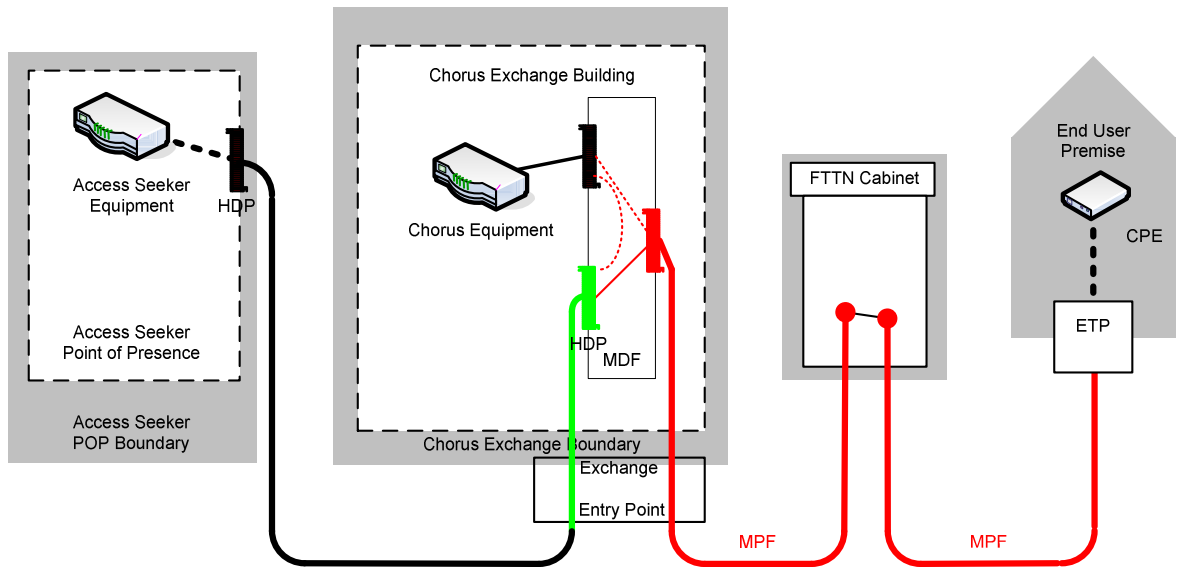
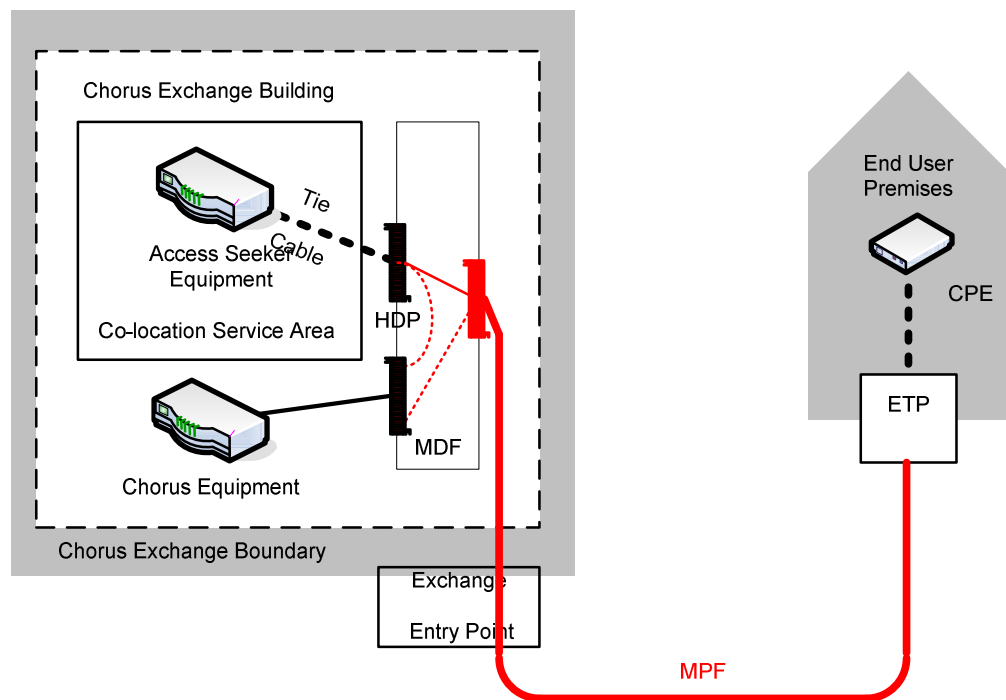
### Diagrammatic representation of the UCLF Service

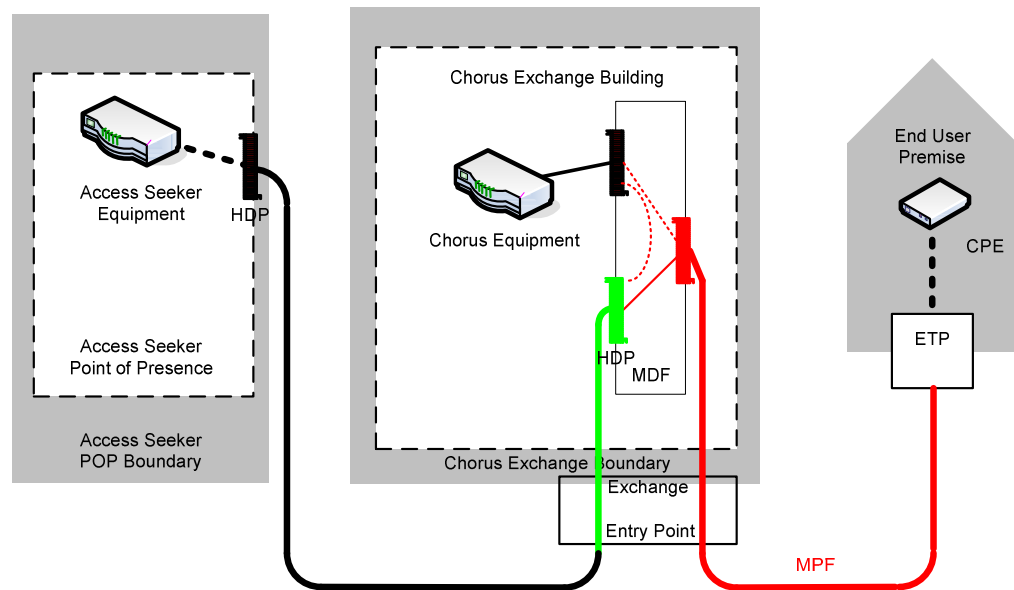
48. Figures 1 to 4 below illustrating the service description for the UCLF Service (and also set out in Appendix A to the UCLF service description, attached as Schedule 1 to the UCLL General Terms<sup>46</sup>) appropriately reflect:
- the diagrams illustrating the service description of the UCLL STD
  - the fact that additional Chorus equipment may be used to provide other services over the same line, such as the UBA service or commercial equivalents
  - the required pathways (jumpers) on a main distribution frame (MDF) between handover distribution points (HDPs) to allow for the same line to provide multiple services.

**Figure 1: MPF service – cabinetised lines**



<sup>46</sup> Figures 1 and 2 are sourced from the Chorus STP, UCLF General Terms – Schedule 1 UCLF Service Description, Appendix A. Figures 3 and 4 are sourced from TCF Table of comments on UCLF Service STD pages 8-9.

**Figure 2: MPF service and tie cable service – cabinetised lines****Figure 3: MPF service – non-cabinetised lines**

**Figure 4: MPF service and tie cable service – non-cabinetised lines****Key:**

CPE = Customer Premises Equipment (including modem)

Red = MPF Service

Green = Tie Cable Service

***Associated function – provision of direct current*****Draft STD**

49. In the draft UCLF Service STD, the Commission considered that the service description for the UCLF Service should be modified to require Chorus to provide that the service includes, as an associated function, the provision of a direct current that is capable of powering the operation of a standard analogue telephone. The Commission amended the service description for the UCLF Service to include this functionality as a part of the UCLF Service.<sup>47</sup>

**Submissions**

50. The TCF submitted that the UCLF Service did not need to include direct current, so long as it was capable of carrying direct current if the Access Seeker wishes to provide direct current over the line for the purpose of supporting an analogue phone service.<sup>48</sup>

<sup>47</sup> Draft UCLF Service STD page 8, paragraph 26.

<sup>48</sup> TCF Table of comments on UCLF Service STD page 1, UCLF Service Decision Document, clause 26 and page 4, UCLF Service Description, clause 1.3.

51. Vodafone also submitted that the UCLF Service did not need to include direct current, but should be capable of carrying direct current if the Access Seeker requires.<sup>49</sup>

**Commission decision**

52. In light of submissions, the Commission has determined that the service description for the UCLF Service should provide that the UCLF Service should be capable of carrying direct current that is capable of powering the operation of a standard analogue telephone if the Access Seeker requires. Corresponding changes have been made to clause 1.3 of the service description for the UCLF Service.

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<sup>49</sup> Vodafone submission on draft UCLF Service STD page 2, paragraph 5b.

## **SECTION C. DETERMINING THE CORE PRICES FOR THE UCLF SERVICE**

### **Purpose**

53. This section determines the core prices to apply under the initial pricing principle for the UCLF Service and discusses issues related to the assessment of the cost of any additional elements of Chorus's local loop network that should be recovered by Chorus under subparagraph (b) of the initial pricing principle. In relation to core prices, this section also summarises the Commission's draft UCLF Service STD, submissions on the draft UCLF Service STD and the Commission's decisions on those submissions.

### **The initial pricing principle for the UCLF Service**

#### *The initial pricing principle*

54. The Commission is required<sup>50</sup> to determine the core monthly prices according to the initial pricing principle (IPP) for the UCLF Service, which is set out in Schedule 3 of the Amendment Act as follows:

#### *Either—*

- (a) *the geographically averaged price for Chorus's full unbundled copper local loop network; or*
- (b) *if a person is also purchasing Chorus's unbundled bitstream access service in relation to the relevant subscriber line, the cost of any additional elements of Chorus's local loop network that are not recovered in the price for Chorus's unbundled bitstream access service*

#### *Core prices to be set by the Commission*

55. In this section the Commission has set out its decisions and supporting reasons regarding the following core prices that the Commission has determined under the IPP for the UCLF Service:

- Monthly MPF Service rental with and without Chorus's UBA Service (without POTS)
- The one-off MPF New Connection, MPF Transfer and MPF relinquishment charges, and the monthly Tie Cable Service Space Rental charges.

#### *UCLF Service Monthly rental - paragraph (a) of the IPP*

56. Paragraph (a) of the UCLF Service IPP applies in situations where there is no other service, such as the UBA Service or any commercial equivalent, being

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<sup>50</sup> Section 30P(1)(c) of the Act.

purchased in relation to the relevant subscriber line at the same time as the UCLF Service.

57. Under paragraph (a) of the IPP, the Commission is required to determine the price for the UCLF Service based on the geographically averaged price for Chorus's full unbundled copper local network.
58. The rationale for applying the same price to the UCLF Service as the UCLL service is that both services use comparable portions of Chorus's copper local loop network.<sup>51</sup>
59. In submissions, Chorus<sup>52</sup> and Vodafone<sup>53</sup> stated that they accepted the Commission's interpretation of paragraph (a) of the IPP.
60. The Commission has today released a decision for the section 30R review determining a geographically averaged monthly price for the UCLL Service, as required by the Amendment Act, which will apply from three years after separation day.<sup>54</sup>
61. In that decision the Commission determined that the geographically averaged price for Chorus's UCLL Service, based on current urban and non-urban UCLL monthly rental prices, weighted by the most recent lines data, was \$24.46.
62. Therefore, the monthly rental price for the UCLF Service under paragraph (a) of the UCLF Service IPP must also be \$24.46.
63. This geographically averaged price will, however, be reviewed as part of the expanded review considering updating the UCLL monthly rental prices and connection charges to reflect current benchmarks for UCLL prices, to ensure that the IPP continues to apply for the UCLF Service.

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<sup>51</sup> The UCLL service is available for non-cabinetised lines and uses the full copper local loop network. As discussed in paragraph 14 and footnote 8, the UCLF Service allows access to the same elements of Chorus's copper local loop network as is provided by the Sub-loop UCLL Service in combination with the commercial sub-loop extension service. In practical terms, these elements are the full copper local loop network that was used to provide the UCLL service for a line, prior to the line being cabinetised.

<sup>52</sup> Chorus submission on draft UCLF Service STD page 7, paragraph 24.

<sup>53</sup> Vodafone submission on draft UCLF Service STD page 1, paragraph 4.

<sup>54</sup> Commission, Review of the application of the initial pricing principle of the UCLL, and Sub-loop Services standard terms determinations and consequential changes to the UBA up-lift, 24 November 2011.

*UCLF Service Monthly rental - paragraph (b) of the IPP*

Approach to identifying which UBA price should be used and what the costs of additional elements are

64. Paragraph (b) of the UCLF Service IPP applies in situations where the UBA service is being purchased in relation to the relevant subscriber line in conjunction with the UCLF Service.
65. Under paragraph (b) of the UCLF Service IPP, the Commission is required to set a price for the UCLF Service based on the cost of any additional elements of Chorus's local loop network that are not recovered in the price for Chorus's unbundled bitstream access service (the additional elements).
66. The Act does not specify which UBA price charge applies when the Access Seeker is purchasing the UCLF Service in conjunction with a UBA service in relation to the relevant subscriber line. In the draft UCLF Service STD the Commission stated that its preliminary view was:<sup>55</sup>

the calculation of the costs of the additional elements should be based on the Access Seeker purchasing the Naked UBA Service, as an Access Seeker would only be purchasing the UCLF Service where they require access to the low frequency to provide services such as a voice service. An Access Seeker would not require the UCLF Service where they were purchasing the UBA Service with POTS, as they would already be purchasing a voice service ie POTS.

67. No party directly submitted on the Commission's preliminary view that the calculation of the costs of the additional elements should be based on the Access Seeker purchasing the Naked UBA Service. Chorus had, however,

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<sup>55</sup> While it is theoretically possible that one Access Seeker could request the UCLF Service and another Access Seeker could request the UBA Service (without POTS), in relation to the same subscriber line, practically the Commission does not consider that this is likely to occur. Were this combination of services to be practically likely, then the Commission would need to consider providing for a separate application of the initial pricing principle paragraph b for this combination of services (including ensuring there would be no double recovery of costs (as required by clause 4B of Schedule 1 of the Act. Clause 4B states:

**4B Application of pricing principles for designated access services**

In applying an applicable initial pricing principle or an applicable final pricing principle, the Commission must ensure that an access provider of a designated service does not recover costs that the access provider is recovering in the price of a designated or specified service provided under a determination prepared under section 27 or 30M or a designated or specified service provided on commercial terms.



proposed this approach in providing information to the Commission to determine the costs of the additional elements.<sup>56</sup>

68. The Commission, therefore, determines that it is appropriate to calculate the costs of the additional elements under paragraph (b) of the UCLF Service IPP based on the Access Seeker purchasing the Naked UBA Service. The following sub-section calculates the costs of the additional elements on this basis.

#### Commission's preliminary view on costs of additional elements

69. In the draft UCLF Service STD the Commission stated its preliminary view was:<sup>57</sup>

a zero monthly rental price should apply in respect of the additional elements under paragraph (b) of the UCLF Service IPP. Separately, an Access Seeker would also need to pay the price for the UBA Service (without POTS) that is being purchased in relation to the relevant subscriber line.

70. The Commission reached this preliminary view based on information received from Chorus regarding the costs of the additional elements, including providing the basis for how those costs had been calculated and confirming that there was no double recovery of costs (as required by clause 4B of Schedule 1 of the Act).<sup>58</sup>

71. In relation to the information provided by Chorus, the Commission's preliminary view was:<sup>59</sup>

the costs identified by Chorus are not costs of additional elements, as provided for under paragraph (b) of the UCLF Service IPP, as these costs (and in particular the costs of splitters) should be accounted for in the price for the Naked UBA Service ...

#### Submissions on costs of additional elements

72. Chorus acknowledged in their submission that the Commission had determined.<sup>60</sup>

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<sup>56</sup> Chorus, *Re: request for information to determine the UCLFS price*, 16 August 2011 (Chorus UCLFS price information letter), pages 1-2.

<sup>57</sup> Draft decision page 13, paragraph 49.

<sup>58</sup> Chorus UCLFS price information letter, pages 2-3. In response to: Commission, Chorus's unbundled copper low frequency service standard terms determination – request for information to determine price for unbundled copper low frequency service, 28 July 2011.

<sup>59</sup> Draft decision page 13, paragraph 48.

<sup>60</sup> Chorus submission on draft UCLF Service STD page 8, paragraph 26.

the costs of splitters and jumpering are not part of the additional network elements not already covered by naked UBA. We remain of the view that these splitter and jumpering costs will need to be reconsidered when the Commission embarks on the process of setting a cost-based UBA price that will apply from three years after separation.

73. Chorus also submitted that there were additional costs that they should be able to recover relating to records and management fees (discussed further in paragraphs 102 to 105 below) and sundry costs associated with operating two services on the same line. In relation to these sundry costs Chorus submitted:<sup>61</sup>

there are additional sundry costs that are not currently being recovered in the price charged for the naked UBA service where UBA is taken with another services such as UCLFS. Consistent with the cost-recovery principle, we are of the view that Chorus should be able to recover these costs. ...

As a note, usually when there are 2 services on a line there are usually additional complexities which we have not sought to quantify here. Costs increase when two services are taken on the same line when compared to taking a single service (such as UCLL, UCLF, or UBA) on that line.

74. Chorus quantified these sundry costs, associated with the cost of billing records, inventory and amortised development at 80 cents per month, per line.<sup>62</sup>
75. Vodafone indicated that they agreed with the Commission's view that the UCLF Service should have a zero incremental cost when consumed in conjunction with UBA.<sup>63</sup>

#### Cross-submissions on costs of additional elements

76. Vodafone cross-submitted that they:
- agreed with Chorus that the Commission should consider the costs associated with splitters when the Commission determines a cost-based UBA price<sup>64</sup>
  - did not agree to Chorus' proposal for sundry costs of 80 cents per month, per line, noting that:<sup>65</sup>

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<sup>61</sup> Ibid pages 8-9, paragraph 29.

<sup>62</sup> Ibid page 1, paragraph 3 and pages 8-9 paragraph 29.

<sup>63</sup> Vodafone submission on draft UCLF Service STD page 1, paragraph 4.

<sup>64</sup> Vodafone cross-submission on draft UCLF Service STD page 3, paragraph 17.

Vodafone [did] not believe the cost of a “billing record” would be materially significant when the UCLF Service is supplied to an access seeker in conjunction with UBA. ... Amortised IT development for a regulated service is not typically recovered in a monthly access charge. ... [Vodafone was] concerned that the contribution of IT development as a specific cost element to be recovered within a monthly charge could result in over-recovery over time by Chorus for supplying the UCLF Service in conjunction with UBA. ...

Chorus also notes that, when there are two services on a line, it creates additional complexities and costs in contrast to when one service is provisioned on a line. However, the more prevalent use of Chorus’ copper network is for two services to be provided over a single copper line as opposed to a single service. Telecom’s historical practice of offering a bundle discount for customers electing to take two services over the same copper line from the standalone prices of the individual services also contrasts with Chorus’ statement. This practice had been justified on cost savings Telecom benefitted from by providing services in a bundle.

77. CallPlus and Kordia also opposed the Chorus’ proposal for sundry costs of 80 cents per month, per line, stating that:<sup>65</sup>

... items such as a billing records fee, amortised developments etc should not be charged to Access Seekers. To use billing as an example it is probably more efficient for Chorus to bill a single Access Seeker for both services than bill separately.

#### **Additional information requested from Chorus**

78. In light of the issues raised in cross-submissions, the Commission requested that Chorus provide the following additional information:<sup>67</sup>

Regarding the sundry costs of operating two services (UCLF Service and UBA) over one line, set out in the table at paragraph 29 of the Chorus submission, could you please confirm that these costs are intended to be cents per month. Could you please provide additional information as to what is covered by the inventory line.

79. Chorus confirmed that the sundry costs were 80 cents per month per line and were separate to any additional network costs, and indicated that the inventory costs related to the maintenance of an inventory record, detailing what components were included in that cost.<sup>68</sup>

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<sup>65</sup> Ibid pages 3-4, paragraphs 18, 22, 23 and 25.

<sup>66</sup> CallPlus and Kordia cross-submission on draft UCLF Service STD pages 2-3.

<sup>67</sup> See above note 22.

<sup>68</sup> Chorus additional information response pages 6-7, paragraphs 1.17-1.20.

**Comments on additional information provided by Chorus**

80. As discussed at paragraph 31, the Commission requested that Access Seekers provide comments on the additional information provided by Chorus.<sup>69</sup>
81. CallPlus commented that the additional costs appeared to be an apportionment of clerical and administrative overheads, which they did not consider were warranted.<sup>70</sup>

**Commission's decision**

82. The Commission considers that the costs of billing records and cost of inventory identified by Chorus should already be recovered in the monthly rental for the UCLF Service and has not included provision for these costs to be recovered separately. In addition, making separate provision for the claimed additional costs of billing does not appear consistent with Telecom practice of offering a bundle discount where multiple services are taken on one-line.
83. The Commission also considers that the costs of amortised development are minimal, so it is not appropriate to allow for these costs to be recovered separately.

No double recovery of costs

84. In providing information about the costs of additional elements, Chorus also confirmed that there is no double recovery of costs in relation to the additional elements, as is required by clause 4B of Schedule 1 of the Act:<sup>71</sup>

... we do not consider that there is any double recovery of cost in providing information on the Additional Elements but it is unclear whether the costs of the splitter are in fact recovered at all at present.

85. For the purposes of clause 4B, the Commission is satisfied that there is no risk of double recovery of costs in relation to the additional elements.

*One-off new connection, transfer and relinquishment charges, and the monthly Tie Cable Service space rental charges*

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<sup>69</sup> Email from Shane Kinley (Commission) to Interested parties, *UCLF Service STD - request for comment on further information provided by Chorus - comments by 5pm next Wednesday 9 November*, 2 November 2011.

<sup>70</sup> CallPlus comment on Chorus additional information page 1.

<sup>71</sup> Chorus UCLFS price information letter page 3.

**Other UCLF Service core charges based on the UCLL charges**

86. In the draft UCLF Service STD the Commission provided, in addition to the monthly rental prices, for the following core charges, at the same price as was proposed for comparable services under the review to update the UCLL monthly rental prices and connection charges to reflect current benchmarks for UCLL prices:<sup>72</sup>
- connection charge, where no site visit is required - \$53.57
  - bulk transfers - \$40.18
  - new connections, which require a site visit - \$160.71.
87. The Commission noted that it intended to update these charges to reflect the final decisions made in the review of the current UCLL charges for the final UCLF Service STD.<sup>73</sup>

**Submissions on other UCLF Service core charges**

88. Chorus agreed that a consistent approach should be taken to other UCLF Service core charges and that these should be aligned with comparable charges for the UCLL service.<sup>74</sup>
89. Vodafone submitted that they agreed with the Commission's pricing generally.<sup>75</sup>

**Commission's decision**

90. As noted in paragraph 60 above, the Commission has today released a decision in relation to the section 30R review determining a geographically averaged monthly price for the UCLL Service, as required by the Amendment Act, which will apply from three years after separation day. The Commission has also indicated that it will be continuing work on the review considering updating the

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<sup>72</sup> Draft UCLF Service STD page 14, paragraphs 52-56.

<sup>73</sup> Ibid page 14, paragraph 57.

<sup>74</sup> Chorus submission on draft UCLF Service STD page 7, paragraph 24.

<sup>75</sup> Vodafone submission on draft UCLF Service STD page 2, paragraph 6b.

UCLL monthly rental prices and connection charges to reflect current benchmarks for UCLL prices.<sup>76</sup>

91. As a consequence, the prices for these core charges for the UCLL service have not been changed.
92. The Commission, therefore, determines that the following prices for other UCLF Service core charges should apply (based on comparable charges for the UCLL service):
  - connection charge, where no site visit is required - \$74.83
  - bulk transfers - \$56.12
  - new connections, which require a site visit - \$225.
93. These charges will, however, be reviewed as part of the expanded review considering updating the UCLL monthly rental prices and connection charges to reflect current benchmarks for UCLL prices, to ensure that comparable charges under both the UCLL and UCLF Service STDs remain the same.

#### Cabinetisation related transfer charge

94. Chorus provided for a cabinetisation related transfer in the UCLF Service STP and proposed that cost causation should apply to the price for this service component ie the party that initiated the installation of a new cabinet or cabinet based equipment should pay for the transfer.<sup>77</sup>
95. In the draft UCLF Service STD the Commission's preliminary view was that while cost causation is in principle appropriate for a cabinetisation related transfer, as in practical terms the UCLF Service has been limited to cabinetised lines, this service component was not required for the UCLF Service Price List.<sup>78</sup>

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<sup>76</sup> Commission, Reviews of the application of the initial pricing principle of, and updated benchmarking for, the UCLL and Sub-loop Services standard terms determinations and consequential changes to the UBA up-lift, 24 November 2011.

<sup>77</sup> Chorus Standard terms proposal for Chorus' unbundled copper low frequency service, 28 July 2011, Schedule 2 UCLF Price List, Price Component 1.4 Cabinetisation related transfers, pages 3-4 (clean version).

<sup>78</sup> Draft UCLF Service STD page 15, paragraph 59.

**Submissions on cabinetisation related transfer charge**

96. Chorus submitted that their recommendation that the UCLF Service should be available on cabinetised lines meant that a cabinetisation related charge should be provided for. Chorus submitted that cost causation should apply, such that:<sup>79</sup>

The Commission would support the view that where Chorus initiates the cabinetisation process, the charge to Access Seekers will be zero. On the same basis, in the small number of possible cases where an Access Seeker requests that an area be cabinetised, the Commission should support the view that such costs are borne by the Access Seeker(s).

**Cross-submissions on cabinetisation related transfer charge**

97. Vodafone<sup>80</sup>, and CallPlus and Kordia<sup>81</sup> all cross-submitted that the inclusion of a cabinetisation related transfer charge was appropriate, with the pricing based on cost causation principles as proposed by Chorus.

**Commission's decision**

98. In paragraph 17 above, the Commission has determined that the UCLF Service should be available on cabinetised line. The Commission also recognises that it is possible, although unlikely, that an Access Seeker could request cabinetisation of lines, and that Vodafone, CallPlus and Kordia do not object to paying the costs of cabinetisation where they request cabinetisation.
99. The Commission has, therefore, reinstated the cabinetisation related transfer charge in the UCLF Service Price List, based on the charge initially proposed by Chorus in the STP.

Additional charge for purchasing the UCLF in conjunction with the UBA Service

100. In the UCLF Service STP Chorus also provided for additional records and management fees to apply for new connections and transfers where the UCLF Service is being purchased contemporaneously with Chorus' UBA service.<sup>82</sup>

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<sup>79</sup> Chorus submission on draft UCLF Service STD page 7, paragraph 25.

<sup>80</sup> Vodafone cross-submission on draft UCLF Service STD page 3, paragraph 16.

<sup>81</sup> CallPlus and Kordia cross-submission on draft UCLF Service STD page 2.

<sup>82</sup> Chorus, Standard terms proposal for Chorus' unbundled copper low frequency service, 28 July 2011, page 9, paragraph 42.

101. In the draft UCLF Service STD the Commission's preliminary view was that no additional charges are appropriate for records and management fees, as the connection or transfer charges should already cover all costs associated with connections and transfers. Therefore, the Commission removed this additional charge from service components 1.1 - 1.3 of the UCLF General Terms - Schedule 2 UCLF Price List.

**Submissions on additional charge for purchasing the UCLF in conjunction with the UBA Service**

102. Chorus submitted they did not consider that the records and management fee was an additional network element. Rather, as prices should generally be cost-oriented, "Chorus should be able to recover additional costs as they relate to aspects of the Chorus operation that are not recovered elsewhere and that will be required to set up UCLFS."<sup>83</sup> Chorus did not quantify these additional costs.

**Cross-submissions on additional charge for purchasing the UCLF in conjunction with the UBA Service**

103. Vodafone did not specifically cross-submit on Chorus' proposed records and management fee. Vodafone did, however, cross-submit that they did not agree to Chorus' proposal for sundry costs of 80 cents per month, per line.<sup>84</sup> This could be taken as an indication that they did not agree that there were additional charges for purchasing the UCLF in conjunction with the UBA Service.
104. Similarly, CallPlus and Kordia did not specifically cross-submit on Chorus' proposed records and management fee. CallPlus and Kordia did also, however, oppose the Chorus' proposal for sundry costs of 80 cents per month, per line.<sup>85</sup> This could also be taken as an indication that they did not agree that there were additional charges for purchasing the UCLF in conjunction with the UBA Service.

**Commission's decision**

105. The Commission determines that no additional charges are appropriate for records and management fees. The connection or transfer charges should already cover all costs associated with connections and transfers. Chorus has

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<sup>83</sup> Chorus submission on draft UCLF Service STD page 8, paragraph 27.

<sup>84</sup> Ibid pages 3-4, paragraphs 18, 22, 23 and 25.

<sup>85</sup> CallPlus and Kordia cross-submission on draft UCLF Service STD pages 2-3.



not provided any evidence that this is not the case and has not, in any case, quantified what additional costs they consider are not covered by the existing connection and transfer charges.

### **Core prices for the UCLF Service STD**

106. The resulting core prices for the UCLF Service STD are:

- UCLFS monthly rental:<sup>86</sup>
  - \$24.46 per month, where Chorus' UBA service is not being purchased in relation to the relevant subscriber line
  - No monthly core charge, where the Access Seeker is purchasing Chorus's UBA service (without POTS) in relation to the relevant subscriber line.
- UCLFS connection charges:<sup>87</sup>
  - UCLF Service connection charge, where no site visit is required - \$74.83
  - bulk transfers - \$56.12
  - new UCLF Service connections, which require a site visit - \$225.
- Cabinetisation related transfer charge:<sup>88</sup>
  - No charge where Chorus or another Access Seeker initiates cabinetisation
  - Price on Application where the Access Seeker initiates cabinetisation (Note that the Access Seeker that initiates cabinetisation would be responsible for all of the costs of transfers associated with

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<sup>86</sup> This core price is for service component 2.1 MPF Service Monthly Charge of the UCLFS STD Schedule 2 - UCLFS Price List.

<sup>87</sup> These core prices are for the following service components of the UCLFS STD Schedule 2 - UCLFS Price List:

- Service component 1.1 MPF New Connection
- Service component 1.2 MPF Transfer
- Service component 1.3 Other Service to MPF Transfer.

<sup>88</sup> This core price is for 1.4 Cabinetisation related transfer of the UCLFS STD Schedule 2 - UCLFS Price List.

cabinetisation ie all lines being transferred for all affected Access Seekers )

- UCLF Service MPF relinquishment charge: no charge<sup>89</sup>
- Remote Tie Cable Service Space Rental charge: \$27.09 per month.<sup>90</sup>

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<sup>89</sup> This core price is for 1.7 MPF Relinquishment of the UCLFS STD Schedule 2 - UCLFS Price List.

<sup>90</sup> This core price is for service component 2.2 Tie Cable Service space rental charge of the UCLFS STD Schedule 2 - UCLFS Price List.

## **SECTION D. NON-CORE PRICE AND NON-PRICE ISSUES**

### **Purpose**

107. This section summarises the Commission's draft UCLF Service STD regarding non-core price and non-price terms, submissions on the draft UCLF Service STD and the Commission's decisions on those submissions. This section also specifies what terms of the STD will be able to be varied under a residual terms determination.

### **The draft UCLF Service STD generally adopted amendments to the non-core prices and non-price terms of the STP proposed by the TCF**

108. In the draft UCLF Service STD, the Commission's preliminary view was that it is generally appropriate to adopt the non-core price and non-price terms of Chorus' STP, with the amendments proposed by the TCF.<sup>91</sup>
109. Other than the issues discussed below, a number of minor drafting amendments were proposed by the TCF (with the support of CallPlus, Telecom, TelstraClear and Vodafone).<sup>92</sup> Attachment 3 sets out the amendments proposed by the TCF and the Commission's decisions on those proposed amendments.

### **The Commission has provided for Chorus to give notice where they intend to remove the copper feeder and has provided for a consolidated notice of cabinetisation**

#### *Removal of the copper feeder*

110. The conditions in the service description for the UCLF Service state:
- Chorus's unbundled copper low frequency service is only available where Chorus's local loop that connects the end-user's building (or, where relevant, the building's distribution frame) to the handover point in Chorus's local telephone exchange remains in place. To avoid doubt, there is no obligation on Chorus that Chorus's copper network that connects a cabinet (or equivalent facility) and Chorus's local telephone exchange remain in place or be maintained if that part of Chorus's copper network is only being used to provide Chorus's unbundled copper low frequency services
111. These conditions allow for Chorus to remove the copper feeder (being the portion of the copper local loop network between a distribution cabinet and a Chorus local telephone exchange).

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<sup>91</sup> Draft UCLF Service STD page 17, paragraphs 65-68.

<sup>92</sup> TCF *Draft Unbundled Copper Low Frequency Service (UCLFS) STD* 5 October 2011; TCF Table of comments on UCLF Service STD.

112. As this would affect Access Seekers, the Commission's preliminary view in the draft UCLF Service STD was that Access Seekers should be provided with 18 months notice of the removal of the copper feeder, based on the current notice timeframes for cabinetisation, unless:<sup>93</sup>

- there are unforeseen circumstances (eg an emergency situation) meaning that the copper feeder (or the relevant distribution cabinet) has significantly deteriorated or has been damaged beyond repair
- any law of a relevant authority requires that the copper feeder be removed
- Chorus gives notice to all Access Seekers of the proposed removal of the copper feeder to a distribution cabinet, giving the Access Seekers 30 calendar days to respond, and Chorus obtains a written waiver in accordance with the General Terms from Access Seekers that are purchasing or have placed an order for the UCLF Service that transits the relevant distribution cabinet, or have expressed an interest in purchasing the UCLF Service that transits the relevant distribution cabinet.

113. The Commission provided notice arrangements in the draft UCLF Service STD for the removal of the copper feeder in clause 37 of the UCLF Service General Terms, which were broadly based on the notice of cabinetisation under the UCLL STD.

#### **Commission's decision regarding removal of the copper feeder**

114. Other than a minor amendment proposed by the TCF (discussed in Attachment 3), no submissions were made regarding the removal of the copper feeder. The Commission has, therefore, adopted the notice requirements that it proposed in the draft UCLF Service STD for the removal of the copper feeder.

#### *Notice of future cabinetisation*

115. The Commission's preliminary view in the draft UCLF Service STD was that Chorus should:

- be required to issue cabinetisation notices, based on the UCLL STD, so that Access Seekers generally have 18 months notice that a line will be cabinetised<sup>94</sup>

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<sup>93</sup> Draft UCLF Service STD page 18, paragraphs 68-71.

<sup>94</sup> Draft UCLF Service STD page 18, paragraph 72.

- be able to issue a single cabinetisation notice to an Access Seeker under both the UCLL and UCLF Service STDs<sup>95</sup>
  - not be required to issue an initial notice of cabinetisation under the UCLF Service STD.<sup>96</sup>
116. In order to avoid doubt, the Commission included a new clause in the UCLF General Terms to provide that a cabinetisation notice under the UCLL STD applies for the purposes of the UCLF Service STD provided Chorus addresses the notice to the Access Seeker in respect of both the UCLL and UCLF Services.

#### **Commission's decision regarding notice of future cabinetisation**

117. No submissions were received on the Commission's proposed amendments regarding notice of future cabinetisation. The Commission has, therefore, adopted the provisions that it proposed in the draft UCLF Service STD for the notice of future cabinetisation.

#### **Number portability**

118. Chorus submitted that they considered the number portability provisions in the UCLF Service STD should be amended to be consistent with comparable provisions in the UCLL STD, which the TCF had proposed amendments to under the consequential changes section 30R review.<sup>97</sup>
119. Vodafone's cross-submission supported Chorus' proposal that the number portability provisions in the UCLF Service STD should be amended to be consistent with comparable provisions in the UCLL STD.<sup>98</sup>

#### **Commission's decision regarding number portability**

120. The Commission has made amendments to the number portability provisions in the UCLF Service STD, to be consistent with comparable provisions in the UCLL STD, given the support of the TCF, Chorus and Vodafone.

#### **Lead ins clause**

121. Chorus submitted that a new clause relating to access to and protection of Chorus property on end user land should be added to the UCLF Service STD

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<sup>95</sup> Draft UCLF Service STD page 19, paragraph 75.

<sup>96</sup> Draft UCLF Service STD page 19, paragraph 76.

<sup>97</sup> Chorus submission on draft UCLF Service STD pages 9-10, paragraph 31.

<sup>98</sup> Vodafone cross-submission on draft UCLF Service STD page 5, paragraph 29.

(described as the lead ins clause). Chorus has made similar submissions in relation to consequential changes section 30R review and noted that discussions on the proposed lead ins clause were subject to discussions between Chorus and the industry, facilitated by the TCF. Chorus submitted that the outcomes of the TCF discussions on the proposed lead ins clause should flow through to the UCLF Service STD.<sup>99</sup>

122. Vodafone cross-submitted that they were not comfortable with Chorus' proposed lead ins clause, indicating that they would provide further comment on the proposed lead ins clause in the context of the consequential changes section 30R review.<sup>100</sup>
123. CallPlus and Kordia cross-submitted that they had concerns about the inclusion of Chorus' proposed lead ins clause, which were also being discussed in the context of the consequential changes section 30R review.<sup>101</sup>

#### **Consideration of lead ins clause in consequential changes section 30R review**

124. The Commission's preliminary view in the draft decision on the consequential changes section 30R review was that Chorus had not provided sufficient evidence to satisfy the Commission that the inclusion of Chorus' proposed lead ins clause was necessary to implement the amendments required by the Amendment Act.<sup>102</sup>
125. After considering the submissions received on the Commission's draft decision on the consequential changes section 30R review, the Commission has decided not to require end-users of Access Seekers to enter into direct contracts with Chorus.<sup>103</sup> The Commission has, however made some changes to clause 10 of the UCLF General Terms which have been noted and explained in the Commission's consequentials review decision.<sup>104</sup>

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<sup>99</sup> Chorus submission on the draft UCLF Service STD page 11, paragraphs 36-37.

<sup>100</sup> Vodafone cross-submission on the draft UCLF Service STD pages 4-5, paragraphs 26-28.

<sup>101</sup> CallPlus and Kordia cross-submission on the draft UCLF Service STD page 3.

<sup>102</sup> Commission *Draft decision on consequential changes to Commerce Commission standard term determinations* 12 October 2011. .

<sup>103</sup> The submissions process is discussed in the Commission's final decision on that review: Commission *Final decision on consequential changes to Commerce Commission standard term determinations* 24 November 2011.

<sup>104</sup> The consequential review was conducted under section 30R of the Telecommunications Act and section 73(2)(a) of the Amendment Act.

**Variation of terms under a residual terms determination**

126. The Commission is required by section 30O(3) of the Act to identify which of the terms (if any) specified in the UCLF Service STD are allowed to be varied on an application for a Residual Terms Determination (RTD) made under section 30V. The purpose of an RTD is to allow the Commission to adjust the terms for the supply of a designated access service or specified service that are specified in the STD.<sup>105</sup>
127. An RTD is another regulatory tool the Commission may use to address matters that were not addressed in the STD, and to vary any terms that the Commission has identified under section 30O(3) as being allowed to be varied.<sup>106</sup>
128. In addition, an RTD provides a mechanism for an Access Seeker to seek changes to the STD that may only apply on a bilateral basis between the Access Seeker and the Access Provider. Advantages of an RTD are that it may lead to a more urgent regulatory response to resolve disputes between parties on a bilateral basis and avoid the need for generic changes to an STD applying to all parties.<sup>107</sup> The Commission has previously considered the terms that may be varied in a number of other STD processes under the Act. Consistent with prior views, the Commission proposed that all terms of the STD may be varied except for a specified list.
129. In the draft UCLF Service STD the Commission proposed that the same approach be taken in the UCLF Service STD as was taken in the UCLL STD because many of the UCLF Terms<sup>108</sup> are similar to the UCLL Terms<sup>109</sup>, except where there are differences allowing for the lower frequency utilised by the UCLF Service, the provisions of the Amendment Act and other amendments proposed by the Commission in this draft decision.
130. No submissions were received on the terms of the UCLF Service STD that the Commission proposed should not be able to be amended under an RTD.<sup>110</sup>

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<sup>105</sup> Section 30U(1) of the Act.

<sup>106</sup> Section 30U(2) of the Act.

<sup>107</sup> Other amendments to an STD can occur via other provisions such as pricing under a pricing review determination that is released in accordance with subpart 4 of Part 2 of the Act.

<sup>108</sup> The 'UCLF Terms' is defined in the UCLF STD'S General Terms as "'together, the UCLF General Terms and all the schedules to the UCLF General Terms as described in the first page of these UCLF General Terms."

<sup>109</sup> The 'UCLL Terms' is defined in the UCLL STD's General Terms as "together, the UCLL General Terms and all the schedules to the UCLL General Terms as described in the first page of the UCLL General Terms."

<sup>110</sup> Draft UCLF Service STD pages 20-21, paragraph 82.

131. Therefore, the Commission determines that all of the terms of the UCLF Service STD may be amended under an RTD with the exception of:

UCLF General Terms

- Section 2 - Guiding Principles
- Clause 7.3 - Rights not excluded
- Clause 7.4 - Amendment
- Clause 9.1 - (in section 9 - Change mechanism for UCLF Service Operations Manual and UCLF Service Level Terms)
- Section 38 - Dispute Resolution
- Section 46 Change Mechanism for the Interference Management Plan

Schedule 1 UCLF Service Description

- Clause 1.2 (in section 1 - the UCLF Service)

Schedule 2 UCLF Price List

- Service Component 1.1 - MPF New Connection
- Service Component 1.2 - MPF Transfer
- Service Component 1.3 - Other Service to MPF Transfer
- Service Component 1.8 - MPF Relinquishment
- Service Component 2.1 - MPF Service Monthly Charge
- Service Component 2.2 - Tie Cable Service Space Rental Charge.



## SECTION E. IMPLEMENTATION PLAN

### **Purpose**

132. This section summaries the Commission’s draft UCLF Service STD regarding the timeframes for Chorus to implement the terms of this STD (set out in the Implementation Plan), submissions on the draft UCLF Service STD Implementation Plan and the Commission’s decisions on those submissions.

### **Draft UCLF Service STD Implementation Plan**

133. In the draft UCLF Service STD the Commission:
- adopted the timeframes proposed by Chorus in the UCLF Service STP Implementation Plan (modelled on the Sub-loop Services Implementation Plan)<sup>111</sup>
  - amended the requirements in the UCLF Service Implementation Plan to reflect the Commission’s preliminary view that a migration from Telecom Wholesale’s UBA<sup>112</sup> with Access Seeker Voice service to UCLF Service combined with UBA (without POTS) should trigger a Soft Launch, limited to testing the assurance and billing of the UCLF Service.<sup>113</sup>
  - made minor editorial changes to other clauses in the Implementation Plan, to better reflect situations where the UCLF Service is ordered in combination with the UBA Service (without POTS) and to clarify the party that will be providing the UBA with Access Seeker Voice service.<sup>114</sup>

### **Submissions on Soft Launch migration**

134. Chorus submitted that they supported the Commission’s preliminary view that a migration from Telecom Wholesale’s UBA with Access Seeker Voice service to UCLF Service combined with UBA (without POTS) should trigger a Soft Launch, limited to testing the assurance and billing of the UCLF Service.<sup>115</sup>

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<sup>111</sup> Draft UCLF Service STD page 22, paragraph 84.

<sup>112</sup> Which will become Chorus’s UBA service as of separation day.

<sup>113</sup> Draft UCLF Service STD page 23, paragraph 88.

<sup>114</sup> Draft UCLF Service STD page 23, paragraph 89.

<sup>115</sup> Chorus submission on draft UCLF Service STD page 10, paragraph 33.

135. Vodafone cross-submitted that they supported the Chorus position on Soft Launch migration and reporting.<sup>116</sup>

#### **Commission's decision on Soft Launch migration**

136. Given the support of Chorus and Vodafone for the Commission's preliminary view, the Commission has adopted the provisions in the draft UCLF Service STD that provide that a migration from Telecom Wholesale's UBA with Access Seeker Voice service to UCLF Service combined with UBA (without POTS) should trigger a Soft Launch, although one which is limited to testing the assurance and billing of the UCLF Service.

#### **Submissions on soft launch reporting**

137. Chorus submitted that amendments made by the Commission to the soft launch reporting in the draft UCLF Service STD Implementation Plan were not feasible. Chorus, however, understood that the Commission was seeking to ensure that soft launch reporting obligations be time bound, and proposed that soft launch reporting obligations be met within ten working days of the soft launch being completed.<sup>117</sup>
138. The TCF submission<sup>118</sup> and Vodafone<sup>119</sup> cross-submission both supported Chorus' proposal that soft launch reporting obligations be met within ten working days of the soft launch being completed was reasonable.

#### **Commission's decision on soft launch reporting**

139. The Commission has adopted Chorus' proposal that soft launch reporting obligations be met within ten working days of the soft launch being completed, in light of the support from the TCF and Vodafone. This requirement has been added to the UCLF Service STD Implementation Plan at clause 6.8 and clause 6.10.

#### **Notification to Access Seekers of availability of the UCLF Service**

140. Chorus advised, as discussed in paragraph 30, that information on the availability of the UCLF Service could be provided by separation day if the Commission accepted that UCLF Service should only be available in the areas and on those lines as proposed by Chorus.

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<sup>116</sup> Vodafone cross-submission on draft UCLF Service STD page 5, paragraph 30.

<sup>117</sup> Chorus submission on draft UCLF Service STD page 10, paragraph 34.

<sup>118</sup> TCF Table of comments on UCLF Service STD page 6.

<sup>119</sup> Vodafone cross-submission on draft UCLF Service STD page 5, paragraph 30,

*Implementation Plan*

141. The Commission has determined, at paragraph 34 above, that Chorus' position on the availability of the UCLF Service is generally appropriate.
142. The Commission has, therefore, provided that Chorus should provide information on the availability of the UCLF Service on separation day, and has included a corresponding provision in the UCLF Service STD Implementation Plan. This requirement has been added to the UCLF Service STD Implementation Plan as clause 9.1.

Dated this 24th day of November 2011

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line that curves upwards at the end.

Dr Ross Patterson  
Telecommunications Commissioner  
Commerce Commission

**ATTACHMENTS TO THIS STANDARD TERMS DETERMINATION**

Attached to this draft UCLF Service STD are the following documents, which are the operative parts of this STD:

UCLF General Terms

Schedule 1: UCLF Service Description

Schedule 2: UCLF Price List

Schedule 3: UCLF Service Level Terms

Schedule 4: UCLF Operations Manual

Schedule 5: Interference Management Plan

UCLF Service Implementation Plan

## ATTACHMENT 1: LEGAL FRAMEWORK FOR THE DRAFT UCLF SERVICE STD

### Legislative framework

1. This Attachment sets out the legislative framework for the UCLF Service STD that the Commission has followed in determining the approach to the terms of this STD.
2. This STD concerns the UCLF Service which is currently described in Schedule 3 of the Amendment Act and will become part of Schedule 1 of the Act on Telecom's separation day:

### Chorus's unbundled copper low frequency service

*Description of service:* A service (and its associated functions, including the associated functions of operational support systems) that enables access to, and interconnection with, the low frequency (being the frequency band between 300 and 3400 Hz) in Chorus's copper local loop network (including any relevant line in Chorus's local telephone exchange or distribution cabinet) that connects the end-user's building (or, where relevant, the building's distribution frame) to the handover point in Chorus's local telephone exchange

*Conditions:* Chorus's unbundled copper low frequency service is only available where Chorus's local loop that connects the end-user's building (or, where relevant, the building's distribution frame) to the handover point in Chorus's local telephone exchange remains in place

*To avoid doubt, there is no obligation on Chorus that Chorus's copper network that connects a cabinet (or equivalent facility) and Chorus's local telephone exchange remain in place or be maintained if that part of Chorus's copper network is only being used to provide Chorus's unbundled copper low frequency services*

*Access provider:* Chorus

*Access seeker:* A service provider who seeks access to the service

*Access principles:* The standard access principles set out in clause 5

*Limits on access* The limits set out in clause 6

*principles:*

*Initial pricing principle:* Either—

- (a) the geographically averaged price for Chorus's full unbundled copper local loop network; or
- (b) if a person is also purchasing Chorus's unbundled bitstream access service in relation to the relevant subscriber line, the cost of any additional elements of Chorus's local loop network that are not recovered in the price for Chorus's unbundled bitstream access service

*Final pricing principle: Either—*

*the geographically averaged price for Chorus's full unbundled copper local loop network; or*

*if a person is also purchasing Chorus's unbundled bitstream access service in relation to the relevant subscriber line, the TSLRIC of any additional elements of Chorus's local loop network that are not recovered by the price for Chorus's unbundled bitstream access service*

*Requirement referred to Nil*

*in section 45 for final*

*pricing principle:*

*Additional matters that Nil*

*must be considered*

*regarding the application*

*of section 18:*

3. The UCLF Service allows access to the low-frequency portion of Chorus' copper local loop network enabling Access Seekers to provide voice services to their customers.
4. In the Commission's notice to Chorus requesting a standard terms proposal, the Commission requested Chorus to take into account the content, style and form of the existing UCLL STD but only where practicable. In particular, the Commission requested under section 30F(2) of the Act that Chorus's STP:<sup>120</sup>
  - a. where practicable, take account of the style, form and content of service descriptions, price lists and operations manuals in the existing unbundled copper local loop (UCLL) STD, excluding the core price values of the UCLL Service but including
    - i. supporting price terms reflecting the supporting price terms in the UCLL STD
    - ii. non-core prices reflecting the non-core prices in the UCLL STD.
  - b. incorporate in the terms of the UCLFS STD any changes to the terms of the UCLL STD required as a consequence of the Amendment Act 2011
  - c. include service descriptions (including the details of service components) of the UCLFS
  - d. include terms for an implementation plan to be followed by Chorus after the day on which the UCLFS STD comes into force. (This implementation plan must include and address to the extent required, but is not limited to, a timeline and milestones for delivery of the UCLFS services to access seekers.)

<sup>120</sup> Commission, Notice by the Commerce Commission under section 30F of the Telecommunications Act 2001 to submit a standard terms proposal for Chorus's unbundled copper low frequency service, 12 July 2011 (Notice to submit STP), page 3, paragraph 12.

5. In making this STD, the Commission must consider the purpose set out in section 18 of the Act.<sup>121</sup> Section 18 describes the purpose of Part 2 and Schedules 1 to 3 of the Act:

#### 18 Purpose

- (1) The purpose of this Part and Schedules 1 to 3 is to promote competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand by regulating, and providing for the regulation of, the supply of certain telecommunications services between service providers.
- (2) In determining whether or not, or the extent to which, any act or omission will result, or will be likely to result, in competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand, the efficiencies that will result, or will be likely to result, from that act or omission must be considered.
- (2A) To avoid doubt, in determining whether or not, or the extent to which, competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand is promoted, consideration must be given to the incentives to innovate that exist for, and the risks faced by, investors in new telecommunications services that involve significant capital investment and that offer capabilities not available from established services.
- (3) Except as otherwise expressly provided, nothing in this Act limits the application of this section.
- (4) Subsection (3) is for the avoidance of doubt.

6. Section 19 of the Act directs the Commission, when making a determination under Part 2, to make the determination that best gives or is likely to best give effect to the purpose set out in section 18:

- 19 Commission and Minister must consider purpose set out in section 18 and additional matters
- If the Commission or the Minister (as the case may be) is required under this Part or any of Schedules 1, 3, and 3A to make a recommendation, determination, or a decision, the Commission or the Minister must—
- (a) consider the purpose set out in section 18; and
  - (b) if applicable, consider the additional matters set out in Schedule 1 regarding the application of section 18; and
  - (c) make the recommendation, determination, or decision that the Commission or Minister considers best gives, or is likely to best give, effect to the purpose set out in section 18

#### *References to statutory definitions in the General Terms*

7. The UCLF Service will come into force, and form part of Schedule 1 to the Act, upon Telecom's separation day in accordance with the requirements of the Amendment Act. As a consequence, this STD is made under both the Act and the Amendment Act.

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<sup>121</sup> Section 19(a) of the Act.

8. The Commission has amended the UCLF General Terms to be clear that the STD does not come into force before separation day. This approach will avoid Telecom receiving requests for access to the UCLF Service from the Access Seeker before separation day.
9. The UCLF General Terms definitions, including the definitions of “Act” and “Local Loop Network”, which refer to the definitions in the Act, should therefore be read as if all of the Amendment Act provisions were in force, including those provisions that come into effect on separation day.

*Statutory requirements for an STD*

10. The Commission makes this STD in accordance with sections 30D to 30Q of the Act. Consequently, the Commission has also applied section 74(2) of the Amendment Act which requires the Commission to apply the procedure and requirements set out in section 30D to 30Q of the Act.
11. The Commission is releasing this STD under section 30M of the Act.
12. Section 30O specifies the general matters that must be included in a standard terms determination. Section 30O provides as follows:

Matters to be included in standard terms determination: general

(1) A standard terms determination must—

- (a) specify sufficient terms to allow, without the need for the access seeker to enter into an agreement with the access provider, the designated access service or specified service to be made available within the time frames specified under paragraph (b); and
- (b) state the time frames within which the access provider must make the service available to—
  - (i) every person who is already an access seeker when the standard terms determination is made; and
  - (ii) every person who becomes an access seeker after the standard terms determination is made; and
- (c) specify the reasons for the standard terms determination; and
- (d) specify the terms and conditions (if any) on which the standard terms determination is made; and
- (e) specify the actions (if any) that a party to the standard terms determination must take or refrain from taking.

(2) To avoid doubt, a standard terms determination may also include, without limitation, terms concerning any or all of the following matters:

- (a) dispute resolution procedures:
- (b) the consequences of a breach of the determination (including provision for set-off or withholding rights, or liquidated damages):
- (c) suspension and termination of the service:
- (d) procedures for, or restrictions on, assignment of the service.



- (3) The Commission must identify which of the terms (if any) specified in a standard terms determination are allowed to be varied, on an application made under section 30V by a party to that determination, under a residual terms determination.
13. Under section 30O(1)(a), the Commission must specify sufficient terms for the service to be provided by an access provider without the need for an access seeker to enter into a separate agreement with the access provider. The Commission may, in reaching a view as to the appropriate terms, take into account existing commercial arrangements between access seekers and access providers and other terms of STDs that are relevant to the UCLF Service.
  14. The Commission is required by section 30O(1)(b) to specify in the STD, the timeframes within which the access provider must make the service available to:
    - every person who is already an access seeker at the time the STD is made
    - every person who becomes an access seeker after the STD is made.
  15. The timeframes within which Chorus must make UCLF Service available are contained in the UCLF Implementation Plan.
  16. In addition, section 30O(1)(c), (d) and (e) of the Act empower the Commission to specify its reasons for the STD and the terms and conditions (or actions that a party must take or refrain from taking) in relation to this STD. The Commission has relied on these provisions for setting the terms, conditions, and 'actions' included in the STD that are necessary for the support, and provision, of the UCLF Service.
  17. The Commission is required to determine the prices for UCLF Service in accordance with the applicable IPP and other relevant requirements of the Act (including those requirements that are set out in section 30P). Section 30P provides as follows:

**30P Additional matters to be included in standard terms determination for designated access service**

- (1) In addition to the matters set out in section 30O, a standard terms determination for a designated access service must also include,—
- (a) if the price or prices payable for the service have been determined in accordance with the applicable final pricing principle in a determination made under section 51, either of the following:
    - (i) that price or those prices; or
    - (ii) an updated calculation of that price or those prices if the Commission considers it to be necessary because of a change in circumstances; or

- (b) if paragraph (a) does not apply, and the price or prices payable for the service have been determined in accordance with the applicable initial pricing principle in a determination made under section 27, any of the following:
    - (i) that price or those prices; or
    - (ii) an updated calculation of that price or those prices if the Commission considers it to be necessary because of a change in circumstances; or
    - (iii) if the price or prices referred to in subparagraph (i) or (ii) are higher than the existing price charged by the relevant access provider to the majority of its access seekers for the service, that existing price; or
  - (c) if neither paragraph (a) nor paragraph (b) applies, the price or prices determined by the Commission in accordance with the applicable initial pricing principle.
- (2) A standard terms determination for a designated access service may also include any other terms concerning the price for the service that the Commission considers relevant.
18. The Commission has relied on section 30P(2) for determining all of the terms and conditions set out in the UCLF Price List that are not directly linked to the calculation of the core charges of the UCLF Service under the IPP.<sup>122</sup>
  19. Section 30P allows the Commission to use prices determined in other determinations for the same service, but subject to the applicable criteria, to determine the UCLF Service price. In this determination, section 30P(1)(a) and (b) do not apply because this is the first determination for UCLF Service and there are no prior determinations available to determine the UCLF Service price under either the initial pricing principle or the final pricing principle.
  20. As required by section 30P(1)(c), the Commission has determined the prices in accordance with the applicable initial pricing principle for the designated access service of “Chorus’s unbundled copper low frequency service”.
  21. The UCLF Service prices determined by the Commission will not be available to Access Seekers under this STD until the close of the day before separation day.<sup>123</sup>
  22. The Commission notes that the UCLF Service IPP refers in different contexts to Chorus's UCLL Service and Chorus's UBA Service. The Commission has taken into account the relevant requirements of the UBA STD and the UCLL STD in determining the UCLF Service prices.
  23. Under section 30M, the Commission must take the following steps as soon as practicable after completing any consultation or conferences under section 30L,

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<sup>122</sup> The UCLF Price List qualifies as Schedule 2 of the UCLF General Terms and is a part of the UCLF Terms (as defined in clause 1 of the UCLF General Terms).

<sup>123</sup> Section 74(2) of the Amendment Act.

or (if there is no consultation or there are no conferences) after the closing date for submissions under section 30K(1)(e):

- (a) prepare a standard terms determination; and
- (b) provide a copy of the standard terms determination to all parties to the determination; and
- (c) give public notice of the standard terms determination.

*Commencement and expiry dates of the STD*

24. The Act does not specify any generic requirements as to the commencement date of the UCLF Service STD. In this case, section 74(2) of the Amendment Act states that the UCLF Service STD applies from “the close of the day before separation day”.
25. This determination does not include an expiry date for the determination which is consistent with section 30Q of the Act.

*Access Principles*

26. The Commission has taken into account the standard access principles and the applicable limits (as set out in clauses 5 and 6 of subpart 1 of Part 1 of Schedule 1) when making this STD along with sections 18 and 19. Those principles include access principle 3<sup>124</sup> which requires Chorus to provide the UCLF Service on terms and conditions (excluding price) that are consistent with those terms and conditions on which they provide the service to itself.
27. Clause 2.3 of the UCLF General Terms incorporates the access principles and the limits on those access principles. This clause requires Chorus to apply the standard access principles under clause 5 of Schedule 1 to the Act but subject to the limits on the application of those principles under clause 6 of the Act.
28. This STD is made on the basis that from the close of the day before separation day the Access Provider will provide the UCLF Service in compliance with the access principles but subject to the limits on the application of those principles under the Act.
29. The Commission notes that from the close of the day before separation day the separation undertakings given by Telecom in favour of the Crown for the purposes of Part 2A (before its repeal and substitution by the Amendment Act) cease to have legal effect.<sup>125</sup> As from that day a new set of undertakings

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<sup>124</sup> Clause 5(c) of subpart 1 of Part 1 of Schedule 1.

<sup>125</sup> Section 80 of the Amendment Act.

approved by the Minister on or before separation day will take effect.<sup>126</sup> These undertakings will impose obligations on Chorus to give undertakings:<sup>127</sup>

- (a) to supply wholesale services using its copper access network (called relevant services in this subpart) on a non-discrimination basis; and
- (b) to supply a subset of those services, which Chorus consumes and which it supplies to its competitors, (called relevant regulated services in this subpart) on an equivalent basis.

#### *Amendments to the UCLF Service STD*

30. The Act provides a range of mechanisms to amend and update an STD all of which have different purposes :

- a review under section 30R;
- a Residual terms determination (RTD) under section 30ZB;
- a pricing review determination under section 51;
- a clarification under section 58; and
- a reconsideration under section 59.

#### *Reviews of the UCLF Service STD*

31. Section 30R allows the Commission, on its own initiative, to commence a review at any time of all or any of the terms of an STD. After review, the Commission may replace an STD, or vary, add, or delete any of its terms, if it considers it necessary to do so. The review can also address aspects of a service not covered in an initial STD and update the terms of an STD to reflect regulatory or technological change.
32. Apart from the requirements in section 30R, the Commission may conduct the review in a manner and within a timeframe as the Commission thinks fit. This enables the Commission to assess the appropriate form and degree of consultation on a case by case basis.<sup>128</sup>

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<sup>126</sup> Section 69XC of new Part 2A of the Act (as inserted by section 51 of the Amendment Act); this Part comes into force on separation day as required by section 2 of the Amendment Act.

<sup>127</sup> Section 69X of new Part 2A of the Act (as inserted by section 51 of the Amendment Act); this Part comes into force on separation day as required by section 2 of the Amendment Act.

<sup>128</sup> This can be contrasted with the process under section 59(3) of the Act which requires that a reconsideration determination follow the same process as followed for the initial determination.

*Breach of an STD*

33. The UCLF Service STD<sup>129</sup> provides a range of dispute resolution procedures. However, this STD does not prevent any party from seeking remedies available to it under the Act. The UCLF Service STD is an enforceable matter under subpart 2 of Part 4A of the Act.<sup>130</sup> An access seeker may make a written complaint to the Commission alleging a breach of the STD. After filing a complaint, the Access Seeker, the Commission, or both may file a complaint with the High Court alleging a breach of the STD.<sup>131</sup>
34. On the application of the Commission, the High Court may, in addition to any other remedies available to the Court, order a pecuniary penalty if there has been a breach of the STD.

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<sup>129</sup> Clause 38 of the draft UCLF General Terms.

<sup>130</sup> Telecommunications Act 2001, s156N(b).

<sup>131</sup> Telecommunications Act 2001, s156P(1)

**ATTACHMENT 2: PROCESS FOR THE UCLF SERVICE STD****Background to the draft determination process**

1. On 7 July 2011, the Commission initiated a STD process in relation to the UCLF Service under section 30C of the Act.
2. The Commission is required under section 74(1) of the Amendment Act to make reasonable efforts to complete the UCLF Service STD under section 30M before separation day.
3. The Commission conducted a scoping workshop on 12 July 2011. The workshop was open to all parties to the STD. The purpose of the workshop was to provide the Commission with information to assist it in specifying a reasonable period of time within which Chorus must submit a STP under section 30F and any additional requirements for that STP under 30F(2).
4. The Commission gave written notice to Chorus on 12 July 2011 requiring it to submit to the Commission, an STP by 28 July 2011 that complied with section 30G of the Act. In the notice, the Commission specified a number of additional requirements that Chorus was required to provide in its STP including aligning the STP with the UCLL STD (where practicable) and incorporating changes to the UCLL STD required as a result of the Amendment Act.
5. On 28 July 2011, Chorus submitted a STP for this designated access service and interested parties were invited to submit on this STP.
6. Also on 28 July 2011, the Commission requested additional information from Chorus in order for the Commission to be able to determine the price for the UCLF Service under paragraph (b) of the IPP. Specifically, the Commission requested that Chorus provide information about the cost of any additional elements of Chorus's local loop network that will not be recovered in the price for Chorus's unbundled bitstream access service (Additional Elements). The information submitted in response to this request was required to:
  - specify what the Additional Elements are;
  - detail the costs associated with those Additional Elements, including providing the basis for how those costs have been calculated<sup>132</sup> and confirming that there is no double recovery of costs (as required by clause 4B of Schedule 1 of the Act); and

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<sup>132</sup> To the extent practical, these costs should be calculated in a manner consistent with the final pricing principle for the UCLFS.

- include a certification from an officer of Chorus that the information provided is accurate and accords with these requirements, in the following format.
7. On 4 August 2011, the TCF provided a submission highlighting various issues noted by the TAB STD Working Group on the draft UCLF Service STP document.<sup>133</sup> The TCF requested that the Commission consider these points further when drafting the UCLF Service draft STD documents.

#### **Release of the draft UCLF Service STD**

8. On 16 September 2011 the Commission released the draft UCLF Service STD.

#### **Submissions and cross-submissions on the draft UCLF Service STD**

9. Submissions on the draft UCLF Service STD were received on 5 October 2011 from Chorus, the TCF (including a table providing consensus industry comments) and Vodafone.
10. Cross-submissions on the draft UCLF Service STD were received on 12 October 2011 from CallPlus and Kordia, and Vodafone.

#### **No conference was held on the draft UCLF Service STD, however, additional information was requested from Chorus and comments on that additional information were requested from interested parties**

11. Based on submissions and cross-submissions on the draft UCLF Service STD, the Commission decided that it was not necessary to hold a conference. Rather, the Commission requested additional information from Chorus on 19 October 2011 in response to issues raised in submissions and cross-submissions on the draft UCLF Service STD.
12. Chorus provided this additional information on 28 October 2011, and the Commission released Chorus' response on 2 November 2011 with a request for comments from any interested parties by 9 November 2011.
13. Comments on the additional information provided by Chorus were received on 9 November 2011 from CallPlus and Vodafone.

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<sup>133</sup> TCF, Unbundled Copper Low Frequency Service (UCLFS) STP, 4 August 2011.

## ATTACHMENT 3: SUMMARY OF DRAFTING CHANGES FROM THE UCLF SERVICE STP

### Purpose

- The following table sets out the Commission's decisions in relation to changes proposed by the TCF to the substantive schedules of the draft UCLF Service STD.

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
<b>UCLFS General Terms</b>			
	General comment	The Working Group proposed that drafting notes should be retained somewhere like an appendix in the decision document.	The Commission believes that it is not necessary to keep the drafting notes. The record of the deliberative process on the UCLFS STD is sufficient to record the 'drafting notes'.
	Page 4	Add definition of 'Exchange Manhole' as described in the UCLL STD General Terms.	The following definition of "Exchange Manhole" has been added to this page: "Exchange Manhole" means the congregation point for all ducts and cables that enter the Exchange that is reasonably specified by Chorus, most commonly a manhole on the property on which the Exchange is located.
	Page 6	'Tie Cable' - include: 'means...' at the beginning of the definition.	This change has been made.
	Page 6	Add a definition for 'Internal Tie Cable in the Exchange' as follows: Internal Tie Cable in the Exchange means the tie cabinet between the HDP block on the MDF and the Access Seeker's footprint	The Commission has included a definition of "Intra-Exchange Tie Cable" in the General Terms.



Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
		provided under the UCLF Co-location Service.	
	Page 6	'UBA Service' definition refers to POTS – this term should also be included in the definition section.	This change has been made.
	Clause 37.12	<p>37.12 reads:</p> <p>37.12 Within 3 months of the planned date for cabinetisation as set out in:</p> <p>37.12.1 the Cabinetisation Notice; or,</p> <p>Chorus must terminate supply of that part of the UCLF Service in relation to MPFs that are to be cabinetised and complete the cabinetisation in accordance with the Cabinetisation Notice .</p> <p>This requires Chorus to automatically remove UCLF on cabinetisation which is not intended. The amendments below narrow this requirement to where there is no copper available i.e. fibre fed cabinet.</p> <p>Replace 37.12 with:</p> <p>37.12 Within 3 months of the planned date for cabinetisation as set out in the Cabinetisation Notice, Chorus <del>must</del> may</p>	<p>The Commission has amended clause 37.12 to change "must" to "may".. The Commission has not added the phrase "where there are no longer copper pairs feeding the cabinet from the exchange" to clause 37.12 because the right to terminate relates to the line that is to be cabinetised and is not necessarily affected by the absence of copper pairs feeding the cabinet.</p>

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
		terminate supply of that part of the UCLF Service in relation to MPFs that are to be cabinetised and complete the cabinetisation in accordance with the Cabinetisation Notice, where there are no longer copper pairs feeding the cabinet from the exchange.	
	Clause 37.11.3 (b)	'order' should have capital 'O'	This change has been made.
	Clause 37.9 & 37.18	Defined terms have been incorporated into various paragraphs here, the Working Group suggests that all defined terms should be included in the 'Defined Terms' section at the start of the document and removed from the body of the document.	The Commission has not made these stylistic changes to ensure that the overall drafting approach is consistent with the UCLL STD.
	Clause 37.9 & 37.18	'MPF' defined here but it is not referred to in the document.	"MPF" is defined in clause 37.9.2 and this defined term is used at clause 37.12 and 37.13. The definition of "MPF" is, therefore, left unchanged.
	Clause 37.18.1	'local loop network' should have capitals.	This change has been made.
	Clause 37.19.2	Check punctuation.	Punctuation has been checked and some minor amendments have been made to improve clarity.
<b>UCLFS Service Level</b>			

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
<b>Terms</b>			
	Clause 6.3	Remove new words '(publicly accessible website)' regarded as not being necessary.	This change has been made.
<b>UCLFS Price List</b>			
	Cl. 1.4	<p>This item has been deleted from the STP Price List Table and relates to the clause 58/59 of the decision doc. The industry agreed that this clause should remain with "no charge" noted if the current wording of 58/59 remains. "If the Commission does decide that no charge is appropriate, then it would be helpful to retain the item in the price list as a zero charge and/or ensure this is consistent with the service description."</p> <p>Parties will submit separately to the Commission on pricing issues.</p> <p>Note: there will be consequential changes which need to be considered in the UCLL, UBA and Sub-loop STD document. The industry requests the Commission consider these changes.</p>	The Commission has reinstated a cabinetisation related transfer charge.
<b>UCLFS Service Description</b>			
	Cl. 1.2	4 <sup>th</sup> line: change from 'or' to 'and' should be	The Commission has referred to 'or' so that the

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
		reversed back to as it was in STP.	MPF Service is now shown as available from the Chorus Exchange regardless of whether or not the Exchange is connected to a Distribution Cabinet. The Commission has also positively stated in clause 1.2 that "the UCLF Service is also available from a Distribution Cabinet."  The Commission has also amended clause 2.5 to change "must" to "may" with the effect that the UCLF Service may transit a Distribution Cabinet.
	Cl. 1.3	The sentence proposed by the Commission should be amended to read as follows: "The UCLF Service must be capable of carrying direct current."	Clause 1.3 has been amended to provide as follows: "If an Access Seeker wishes to provide direct current over the line for the purpose of supporting an analogue phone service, the UCLF Service must be made capable of providing the direct current required to power the operation of a standard analogue telephone."
	Cl. 1.5	Close bracket missing. This clause should also state that the same service provider must be taking UCLFS and UBA for the proposed construct to work. I.e. one service provider cannot take UCLFS and another UBA	Changes have been made to address these matters.

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
		on the same line.	
	Cl. 2.8.2	Abbreviated terms should be used for the services described here.	No changes have been made to address this matter.
	Cl. 2.8.3	Abbreviated terms should be used for the services described here, with the correct definitions.	No changes have been made to address this matter.
	Appendix 4:	Diagrams to be updated to reflect change to clause 1.2. Attached at end.	Two additional diagrams have been added to the UCLFS Service Description.
<b>UCLFS Operations Manual</b>			
	Cl. 6.1.11	Why delete the Sub-loop UCLL Service? It should be included so that the intention will be there are combined forecasting.  Replace the list of services in this clause with the list of services in 6.1.13.	The UCLF Operations Manual permits joint forecasting for the UCLF Service in conjunction with certain Sub-loop UCLL Orders, namely - Sub-loop MPF New Connections, Sub-loop MPF Transfer Orders and Other Service to Sub-loop MPF Transfer Orders. The Commission has, however, amended the presentation of the list of orders that are subject to joint forecasting.
	Cl. 8.1.6 / 8.1.7	These clauses should be replaced with the new number portability clauses submitted to the Commission with the draft UCLL consequential changes.	The Commission has moved the text of these clauses to appear at clauses 8.2.13 to 8.2.15 to ensure consistency with the placement in the UCLL Operations Manual. The Commission has also ensured that these clauses are consistent with the equivalent text in the UCLL Operations Manual.

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
	Cl. 8.1.5	Orphaned clause – this should be moved to become the new 8.1.1	With the movement of clauses 8.1.6, 8.1.7 and 8.1.8 (as described above), there is no need to move clause 8.1.5.
	Cl. 11.1.2	Replace 'Telecom' with 'Chorus'	This change has been made. The Commission has made the same change at clauses 5.2.1, 6.1.7(a), 6.1.13(b), 6.1.14, 6.1.18, 6.1.23, 6.1.33, 8.1.1, 8.1.22, 8.4.3, 8.11.4(b), 10.3.6, 10.3.22(c), 11.2.16 and 12.2.2
<b>UCLFS Implementation Plan</b>			
	New definition	Add a definition for the 'Sub-loop Extension Service' - to be defined as: a commercial Chorus service, the Sub-loop Extension Service is the provision in conjunction with a Sub-loop UCLL MPF of a copper MPF, where available, between a Distribution Cabinet and the relevant Exchange.	The following definition of "Sub-loop Extension Service" has been added: "Sub-loop Extension Service" means a commercial service offered by Chorus that allows the copper between the Distribution Cabinet and the relevant Exchange to be rented to assist in providing an active analogue telephone service to end-users.
	New definition	Add a definition for the 'Access Seeker Voice Service' – to be defined as: a commercial Chorus service, the Access Seeker Voice service provides a voice frequency copper path to an end-user via a cabinet to the Access	The following definition of "Access Seeker Voice Service" has been added: "Access Seeker Voice Service" means a commercial service offered by Chorus that allows a voice frequency copper path to an end-

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
		Seeker's equipment in the local exchange, and is only available where UBA is provisioned on the same line.	user via a Distribution Cabinet to the Access Seeker Equipment and which is available where the UBA Service is provisioned on the same line.
	Cl. 1.6 (d)	Include the words 'of doubt' in last line after 'avoidance'.	This change has been made.
	Cl. 6.5	Abbreviate UBA service	This change has been made.
	Cl. 6.5	Abbreviate Access Seeker Voice Service and include definition in the General Terms.	The reference to Access Seeker Voice Service in this clause has now been capitalised.
	Cl. 6.5	Line 5: move ')' to after 'General Terms'	This change has been made.
	Cl. 6.5	In the decision document it notes that the migration should trigger a soft launch and this should be reflected correctly in this clause.	The Commission's view is that this clause requires the migration from the UBA Service with Access Seeker Voice Service to the UCLF Service with the UBA Service to test the assurance and billing of the UCLF. This commitment is sufficient for testing the migration even though it falls short of a full Soft Launch.
	Cl. 6.5	Given that the Commission has deleted the reference to reporting in clause 6.8 we propose inserting a new clause 6.9 to read:  <i>"6.9 Reports relating to any soft launch will be</i>	This change has been made.

Document	Page, Clause	Comment / Change requested by the TCF	Commission's View
		<i>completed ten (10) working days after the completion of the soft launch."</i>	
	Clause 8.7 (a)	Replace 'Telecom' with 'Chorus'	This change has been made.

2. The following table summarises other drafting changes made to the UCLF Terms by the Commission on its own initiative. Many of the changes outlined in the following table qualify as consequential changes in order to ensure consistency with the UCLL Standard Terms Determination.

Reference to the UCLFS STD – General Terms and Schedules <sup>134</sup>	Reason for amendments required	Proposed new drafting for the UCLFS STD – General Terms and Schedules
<b>UCLF GENERAL TERMS</b>		
Clause 1	The definitions of "Chorus Systems", "Customer", "Exchange", "Exchange Entry Point", "Exchange Manhole", "Local Loop Network", "OFM" and "OO&T" have been amended to ensure consistency with the same definitions that are used in the Unbundled Copper Local Loop Network Standard Terms Determination ("UCLL STD") as recently amended by the review under section 30R	<p>The following definitions in the UCLF General Terms have been amended:</p> <ul style="list-style-type: none"> <li>• "Chorus Systems";</li> <li>• "Customer"</li> <li>• "Exchange";</li> <li>• "Exchange Entry Point";</li> <li>• "Exchange Manhole"; and</li> <li>• "Local Loop Network";</li> <li>• "OFM"; and</li> <li>• "OO&amp;T"</li> </ul>

<sup>134</sup> This table does not address issues that were raised, and agreed, within the Telecommunications Carriers' Forum. All agreements reached within the TCF have been separately incorporated within the UCLF General Terms and UCLF Schedules to the General Terms.



	and section 73 of the Amendment Act (the “section 73 review). Where this table refers to ensuring consistency with the UCLL STD, the Commission is referring to the section 73 consequential review.	
Clause 1	“Force Majeure Event” was not defined in clause 1 of the General Terms. The recent changes implemented for the purpose of the UCLL STD included a definition of “Force Majeure Event”. To ensure consistency with the UCLL STD, a definition of “Force Majeure Event” has been included in clause 1 of the UCLF General Terms.	A new definition of “Force Majeure Event” has been included in clause 1 of the UCLF General Terms.
Clause 1	The UCLL STD distinguished between an “Intra Exchange Tie Cable” and a “Remote Tie Cable”; the Commission has inserted these definitions in the UCLF General Terms and removed the definition of “Tie Cable”. The Commission has also inserted a new definition for “UCLL and UCLF Co-location Standard Terms Determination” in order to be consistent with the UCLL STD.	New definitions of “Remote Tie Cable”, “Intra Exchange Tie Cable” and “UCLL and UCLF Co-location Standard Terms Determination” have been added to clause 1 of the UCLF General Terms.
Clause 1	The definition of “Sub-loop UCLL Service” referred to the “Sub-loop UCLL Service Description set out in Schedule 2 to Service Appendix 1” in the Sub-	The reference to “Schedule 2” in the definition of the “Sub-loop UCLL Service” has been changed to refer to “Schedule 1”.

	loop Services Standard Terms Determination. The correct reference is, in fact, to Schedule 1 of Appendix 1.	
Clause 1	The definition of “UCLL Service” did not refer to the “UCLL STD”. A reference to the “UCLL STD” has been added to this definition.	The definition of “UCLL Service” has been amended to refer to the “UCLL STD”.
New Clause 7.5	A new clause 7.5 is added to be consistent with the UCLL STD.	A new clause 7.5 is added to the UCLF General Terms.
Clause 8.7	Clause 8.7 is made subject to clause 8.3 in order to be consistent with the UCLL STD.	A reference to “Subject to clause 8.3” is added at the beginning of this clause 8.7.
Clause 10 – new requirements	Clause 10 has been amended to settle the new requirements for contractual arrangements that Access Seekers must obtain from its End-Users.	Clause 10.2 has been amended by the addition of the words “at least to the same extent as provided to the Access Seeker”. New clauses 10.3 to 10.5 have been added to clause 10.
Clause 12	Clause 12 stated that the Access Seeker is required to pay an MPF Service monthly Charge that is set out in the UCLF Price List with the quantum of the charge dependent on whether the Exchange qualifies as an urban or non-urban Exchange. Clause 12 is not required for the purpose of the UCLFS STD. The UCLF monthly charge is not dependent on the location	Clause 12 has been deleted.

	of the Exchange.	
Clauses 22.1 and 22.3.2	Clauses 22.1 and 22.3.2 have been amended to be consistent with the equivalent clauses in the UCLL STD.	Minor amendments have been made to clauses 22.1 and 22.3.2.
New clause 23.1.1	A new clause 23.1.1 is added to clause 23	<p>A new clause 23.1.1 is added to clause 23 which states that Chorus is responsible for:</p> <p>Any faults which affect the UCLF Service and are in Chorus' Network, Chorus' Systems, or in Chorus Owned Equipment, except where a fault is the Access Seeker's responsibility under clause 23.2</p>
Clause 32.1.2	<p>To be consistent with the UCLL STD, a new obligation needs to be added to clause 32.1.2 to provide that "Chorus must maintain all necessary licences and sufficient control to provide the UCLF Service using the Chorus Systems."</p> <p>The reference to "authorised user" has also been removed as this term is no longer relevant in the context of Telecom's structural separation.</p>	<p>Clause 32.1.2 has been amended by adding the following text at the end of this clause – "and must maintain all necessary licences and sufficient control to provide the UCLF Service using the Chorus Systems."</p> <p>The reference to "authorised user" has also been removed from this clause.</p>
<b>UCLF Service Description</b>		
New Clause 1.6	Chorus requested that a new clause 1.6 be added to the Service Description. The Commission agrees.	The following new clause 1.6 has been added to the Service Description:

		1.6 The UCLF Service is only available on exchange-based lines and on those lines which are connected to a Distribution Cabinet which are notified by Chorus to Access Seekers on its website in accordance with clause 15 of the Operations Manual.
New Clause 1.7	The Commission has added a new clause 1.7 to the Service Description requiring Chorus to notify Access Seekers of the circumstances when the UCLF Service is not available either on a standalone basis or in conjunction with the UBA Service.	A new clause 1.7 has been added to the Service Description which addresses non-availability of the UCLF Service.
The Tie Cable Service	The Tie Cable Service is renamed the "Remote Tie Cable Service" in order to be consistent with the UCLL STD.	All references to the "Tie Cable Service" are renamed to be the "Remote Tie Cable Service"
Clause 3.2	To be consistent with the UCLL STD, the introductory part of the second sentence in clause 3.2 is amended.	The second sentence of clause 3 has been amended to provide that "The Access Seeker should, but is not obligated to, ensure ..."
<b>UCLF Price List</b>		
Service Component 2.1	Chorus requested that Service Component 2.1 be amended for the purpose of clarifying that the 'same' access seeker must be purchasing the UBA and UCLF Services for the UCLF charge to qualify for a zero price. The Commission	Service Component 2.1 has been amended so that a reference to 'same' is added to that part of the description where an Access Seeker is purchasing the UBA and UCLF Services together.

	agrees with this proposal	
Service Component 1.4 (Cabinetisation Related Transfers)	The Commission has reinstated the provisions relating to cabinetisation related transfers but has provided for its own charging arrangements.	New service component 1.4 has been introduced to address cabinetisation related transfers.
Clause 3.1.1	To be consistent with the UCLL STD, a reference to “or such successor index as may be designated by Statistics New Zealand from time-to-time” is added at the end of clause 3.1.1	A reference to “or such successor index as may be designated by Statistics New Zealand from time-to-time” is added at the end of clause 3.1.1.
<b>UCLF Operations Manual</b>		
Clause 6.1.3	To ensure consistency with the UCLL STD, the Commission has added some additional requirements that allow the Forecasting Template to be updated from time to time.	The following new text has been added to clause 6.1.3:  Chorus may update the Forecasting Template from time to time as may be reasonably necessary or appropriate for providing the UCLF Service. In the event that Chorus updates the Forecasting Template, it will email a copy of the updated Forecasting Template to the Access Seeker’s provisioning and forecast manager 20 Working Days prior to the date on which forecast managers will be expected to make use of the revised Forecasting Template, and update the Forecasting Template on its website.
Clause 6.1.33(A)	To ensure consistency with the UCLL STD, the Commission has deleted clauses 6.1.33(B) and (C) and added an additional clause at the end of clause	The following new text has been added to the end of clause 6.1.33(A) and clauses 6.1.33(B) and (C) have been deleted:

	6.1.33(A).	...(the 'Overforecast Reimbursement'), unless the Access Seeker has paid the Overforecast Reimbursement under another determination in which case the Overforecast Reimbursement under clause 6.1.33(A) is not payable
A new clause 15	The Commission has added a new clause 15 imposing various notice requirements on Chorus which will enable Access Seekers to understand where the UCLF Service is available and the reasons why the UCLF Service is not available either on a standalone basis or in conjunction with the UBA Service.	A new clause 15 has been added to the Operations Manual.
Appendix A - Glossary	To ensure consistency with the UCLL STD, the definitions of "Exchange", "Exchange Entry Point", "Exchange Manhole", "Tie Cable", "OFM", OO& T", "UCLF Price List" and "UCLF Service" have been deleted from the Glossary. All of these terms are located in the General Terms which apply to the Operations Manual through the application of clause 1.4 of the Operations Manual .	The definitions of "Exchange", "Exchange Entry Point", "Exchange Manhole", "Tie Cable", "OFM", OO& T", "UCLF Price List" and "UCLF Service" have been deleted from the Appendix A - Glossary.
New definitions are added to Appendix A - Glossary	To provide greater clarity, new definitions of "UCLL MPF New Connection Orders", "UCLL MPF Transfer Orders" and "Other Service to UCLL MPF Transfer Orders" have been added to Appendix A. These definitions are required for the purpose of 6.1.11 and	The following terms have been defined in Appendix A – Glossary: <ul style="list-style-type: none"> <li>- "UCLL MPF New Connection Orders";</li> <li>- "UCLL MPF Transfer Orders"; and</li> <li>- "Other Service to UCLL MPF Transfer Orders"</li> </ul>

	6.1.13.	
Other Amendments to Appendix A - Glossary	<p>To be consistent with the UCLL STD:</p> <ul style="list-style-type: none"> <li>- a new definition for “Remote Tie Cable Service” is added ;</li> <li>- an amended definition for the “Tie Cable” is introduced;</li> <li>- a new definition of UCLL and UCLF Co-location Operations Manual is introduced</li> </ul>	Amendments have been made to Appendix A to address the changes described in column two.
Remote Tie Cable Service and references to “Intra-Exchange Tie Cable”	To be consistent with the UCLF Service Description and the UCLL STD, the Commission has described the “Tie Cable Service” as the “Remote Tie Cable Service”. The Commission has also referred to an “Intra- Exchange Tie Cable” for the purposes of clarification in a number of places.	Various amendments have been made to the UCLF to give effect to these changes. Refer to clause 6.1.2(d), 6.1.21 to 6.1.23, 8.2.1, 8.10.1, 9.3.1 and 9.3.2, 11.1.1, 11.2.1, 11.2.4 to 11.2.6, 11.2.8, 11.2.11 to 11.2.14, 11.2.16, 11.3.1
<b>UCLF Implementation Plan</b>		
Clauses 6.8. and 6.10	Chorus requested that reports relating to any Soft Launch must be completed within ten working days after the completion of the Soft Launch. The Commission agrees that the reporting obligation should be time-bound. To address this matter, new clauses 6.8 and 6.10 have been added to	<p>New clauses 6.8 and 6.10 have been added to the Implementation Plan. These clauses provide as follows:</p> <p>6.8 Reports relating to any Soft Launch will be completed 10 Working Days after the completion of the Soft Launch.</p> <p>6.10 Reports relating to any</p>

	the Implementation Plan.	Additional Soft Launch will be completed 10 Working Days after the completion of the Soft Launch.
New clause 9	Chorus requested that a new section should be added to the Implementation Plan requiring Chorus to notify Access Seekers of the Exchanges and Distribution Cabinets where the UCLF Service is available. The Commission agrees with Chorus's proposal.	<p>The following new clauses 9.1 has been added to the Implementation Plan:</p> <p>9.1 Chorus will make available a list of Exchanges and Distribution Cabinets where the UCLF Service is available within 20 Workings Days from the Determination Date. Chorus will publish this list on a publicly available Chorus website.</p>