

Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Pennsylvania Public Utility Commission (PUC)

(2) Agency Number: 57-331

Identification Number: PUC Docket No. L-2018-3001391

INDEPENDENT REGULATORY
REVIEW COMMISSION
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MAR 28 2022

Independent Regulatory
Review Commission

IRRC Number: 3297

(3) PA Code Cite: 52 Pa. Code §§ 53.57—53.60; 63.1 – 63.137; 64.1—64.213.

(4) Short Title: Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63 and Chapter 64; Docket No. L-2018-3001391 (Order entered December 9, 2021)

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: David E. Screven, Deputy Chief Counsel, 717-787-2126, dscreven@pa.gov

Secondary Contact: Christopher F. Van de Verg, Assistant Counsel, 717-783-3459, cvandeverg@pa.gov

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This Final Form Regulation revises the PUC's existing regulations applicable to jurisdictional telecommunications carriers. It addresses the effects of increased competition which previously led the PUC to reclassify as competitive the retail telecommunications services offered to residential and business customers in certain geographic areas served by Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) (collectively Verizon), Pennsylvania's largest jurisdictional telecommunications carriers. Due to increasing competition from unregulated alternative providers in the telecommunications market, the Final Form Regulation eliminates or modifies certain reporting obligations that applied only to jurisdictional telecommunications carriers, in both competitive and noncompetitive geographic markets throughout Pennsylvania.

(8) State the statutory authority for the regulation. Include specific statutory citation.

66 Pa.C.S. §§ 501, 504, 505, 506, 1501, 1504, 1507, 1508, 1509, and 3011—3019; 45 P.S. § 1201; 71 P.S. § 732-204(b)); 71 P.S. § 745.5; and 71 P.S. § 232.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes. The Final Form Regulation is mandated by Chapter 30 of the Public Utility Code, codified at 66 Pa.C.S. §§ 3011-3019 (Chapter 30), which aims to encourage competitive entry into the local telecommunications market so that new entrants may offer competitive communications service in a competitively-neutral manner, increase the diversity of innovative and competitive telecommunication service offerings and recognize that regulatory burdens imposed on ILECs should be more consistent with those imposed on competitive alternative providers. See 66 Pa. C.S. § 3011 (Declaration of Policy).

Additionally, as part of its *Reclassification Order*, the PUC, *inter alia*, granted a five-year temporary waiver of certain of the PUC's Chapter 63 and Chapter 64 regulations to Verizon and those competitive local exchange carriers (CLECs) operating in the 153 wire centers that were reclassified as competitive. The PUC ruled that this temporary waiver would remain effective pending a rulemaking to determine the amendment of these regulations in competitive and noncompetitive wire centers on a permanent and industry-wide basis. See *Reclassification Order*. The Final Form Regulation is the culmination of that rulemaking.

However, the Final Form Regulation is not mandated by any federal court decision or deadline.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

In addition to the reasons articulated in response to Question 9 above, the PUC further notes that the telecommunications market has rapidly evolved since the initial enactment of Chapter 30 in 1993, which has resulted in the increased presence of unregulated alternative service providers in Pennsylvania. The Final Form Regulation updates the PUC's existing applicable telecommunications regulations so that they provide a meaningful balance between the reasonable exercise of the PUC's jurisdiction over service adequacy, reliability and safety, and the alleviation of some unnecessary or vestigial burdens in a competitive marketplace. The Final Form Regulation is more equitable for the industry, sufficiently protective for consumers, and user-friendly for both PUC staff and the industry. Specifically, the PUC has endeavored to reduce utility reports and other burdens while still ensuring a meaningful manner of addressing regulated services to find the right balance between relieving utilities of existing burdens while retaining an adequate layer of consumer protections.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No. The Final Form Regulation does not set forth any provisions that are more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The Final Form Regulation is consistent with actions by other states in the regulatory oversight of the telecommunications industry. Oversight of traditional retail wireline telecommunications services in the United States has been reduced over time as a result of increased competition and the transition of end-users from traditional wireline service to the more lightly regulated wireless telecommunications services and voice over Internet protocol (VoIP) services. Although traditional regulation has been reduced, the states continue to oversee telecommunications carrier operations and services under the federal Telecommunications Act of 1996 and applicable state statutes, including the following : (1) interconnection agreements (ICAs) and other wholesale access services, (2) numbering, (3) the designation of eligible telecommunications carriers (ETCs), (4) the collection and distribution of state and federal universal service funding support, (5) Lifeline, (6) basic local retail services (in some states), (7) carrier-of-last-resort obligations and services (in those states that still require it) and (8) Telecommunications Relay Services (TRS).

Several states have passed legislation limiting direct oversight of retail wireline telecommunications services provided by traditional incumbent local exchange carriers (ILECs). Other states, like Pennsylvania, also have reduced oversight, in all or part of the state, after a state utility commission formal examination proceeding finds that the availability of alternative service providers and the resulting competition, reduces or obviates the need for traditional regulatory oversight.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No. The Final Regulation will not affect any other regulations of the PUC or any other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

In 2015, based on a joint petition filed by Verizon, the PUC conducted a reclassification proceeding under 66 Pa. C.S. § 3016. In that proceeding, the PUC partially granted Verizon's petition by reclassifying retail services offered to residential and small business customers as competitive in 153 of their 504 total wire centers and also waiving certain regulations in Title 52 (Public Utilities) of the Pennsylvania Code related to service quality and billing standards. *See Reclassification Order*.

In 2018, the PUC initiated an Advance Notice of Proposed Rulemaking (ANOPR) at Docket No. L-2018-3001391, pursuant to the *Reclassification Order*. The ANOPR addressed not only those regulations that were temporarily waived due to Verizon's partial competitive reclassification determination but also those regulations that, in effect, had become less vital given the evolution of the provision of telecommunications services today.

In response to the ANOPR, the Commission received initial comments from AT&T, Coalition for Affordable Utility Services and Energy Efficiency (CAUSE-PA), Communications Workers of America (CWA), Dex Media, Inc., Pennsylvania Office of Consumer Advocate (OCA), a group of Pennsylvania rural ILECs (comprising Armstrong Telephone Company—North; Armstrong Telephone Company—

Pennsylvania; Bentleyville Communications Company; Citizens Telecommunications Company of New York, Inc.; Citizens Telephone Company of Kecksburg; Consolidated Communications of Pennsylvania Company, LLC; Frontier Communications Commonwealth Telephone Company; Frontier Communications of Breezewood, LLC; Frontier Communications of Canton, LLC; Frontier Communications of Lakewood, LLC; Frontier Communications of Oswayo River, LLC; Frontier Communications of Pennsylvania, LLC; Hancock Telephone Company; Hickory Telephone Company; Ironton Telephone Company; Lackawaxen Telecommunications Services, Inc.; Laurel Highland Telephone Company; Marianna & Scenery Hill Telephone Company; North-Eastern Pennsylvania Telephone Company; North Penn Telephone Company; Palmerton Telephone Company; Pennsylvania Telephone Company; Pymatuning Independent Telephone Company; South Canaan Telephone Company; TDS Telecom/Deposit Telephone Company; TDS Telecom/Mahanoy & Mahantango; Telephone Company; TDS Telecom/Sugar Valley Telephone Company; The United Telephone Company of Pennsylvania; LLC d/b/a CenturyLink; Venus Telephone Corporation; West Side Telephone Company; Windstream Buffalo Valley, Inc.; Windstream Conestoga, Inc.; Windstream D&E, Inc.; Windstream Pennsylvania, LLC and Yukon-Waltz Telephone Company), Tenny Journal Communications and Verizon (including non-ILEC, regulated affiliates MCI metro Access Transmission Services Corp., MCI Communications Services, Inc., XO Communications Services, LLC, Verizon Long Distance LLC, and Verizon Select Services, Inc.).

The Commission received ANOPR reply comments from Dex Media, Inc., OCA, the rural ILECs group and Verizon.

Additionally, in connection with the directive in the *Reclassification Order*, Verizon filed data for the 2015 and 2016 calendar years involving the pricing and quality of service indicators in both its competitive and non-competitive geographic areas of service. Verizon filed this proprietary data at the *Reclassification Order* docket and the *ANOPR* docket, and the PUC also invited parties to file comments regarding the confidential and proprietary market data Verizon had submitted to the PUC. No parties filed comments in response to Verizon's proprietary data.

By order entered September 21, 2020, the PUC issued its Notice of Proposed Rulemaking Order and accompanying Annex that set forth the actual proposed revisions to the pertinent regulations in Chapters 53, 63 and 64 of Title 52 of the Pa. Code, based on comments submitted in response to the ANOPR. *Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa. C.S § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63 and Chapter 64*, Docket No. L-2018-3001391 (Order entered September 21, 2020) (*NOPR Order*).

Essentially, in this *NOPR Order*, the PUC explicitly expressed its rationale for the following proposals: (1) making the temporary regulatory waivers that had been granted in the *Reclassification Order* permanent on an industry-wide basis, (2) making permanent the temporary detariffing waivers that at various times were granted to regulated telecommunications utilities operating under our jurisdiction and (3) rescinding obsolete Chapter 63 and 64 regulations.

In the *NOPR Order*, the PUC solicited comments from interested stakeholders on these proposals within the Annex so that their input could assist the PUC in determining whether the proposals were warranted. After review by the Office of Attorney General and the Governor's Office of the Budget, the *NOPR Order* and accompanying Annex were submitted to the Legislative Committees and IRRC and published in the *Pennsylvania Bulletin* on April 10, 2021, at 51 Pa.B. 1999.

On May 25, 2021, the PUC received initial comments from CAUSE-PA, OCA, Tri-Co Connections LLC and Claverack Communications LLC (collectively "TCC/CCL"), Thryv, Inc. (Thryv) and Verizon in response to the proposed regulatory modifications that were set forth in the Annex. The Pennsylvania Telephone Association (PTA), representing Pennsylvania's rural ILECs, filed a letter in lieu of initial comments. On June 24, 2021, replies were filed by the OCA, PTA, TCC/CCL, Thryv and Verizon. IRRC filed comments to the Annex on July 23, 2021.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The Final Form Regulation impacts on an ongoing basis how the PUC will regulate Verizon, 33 rural ILECs and approximately 160 CLECs that provide retail wireline telecommunications services or jurisdictional local exchange telecommunications services throughout the Commonwealth of Pennsylvania.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The affected non-rural ILECs are:

Verizon Pennsylvania LLC
Verizon North LLC

The affected rural ILECs are:

Armstrong Telephone Company - North	North-Eastern Pennsylvania Telephone Company
Armstrong Telephone Company - Pennsylvania	North Penn Telephone Company
Citizens Telecommunications Company of New York, Inc.	Palmerton Telephone Company
Citizens Telephone Company of Kecksburg	Pennsylvania Telephone Company
Consolidated Communications of Pennsylvania, LLC	Pymatuning Independent Telephone Company
Frontier Communications Commonwealth Telephone Company	South Canaan Telephone Company
Frontier Communications of Breezewood, LLC	TDS Telecom/Deposit Telephone Company
Frontier Communications of Canton, LLC	TDS Telecom/Mahanoy & Mahantango Telephone Company
Frontier Communications of Lakewood, LLC	TDS Telecom/Sugar Valley Telephone Company
Frontier Communications of Oswayo River, LLC	The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink
Frontier Communications of Pennsylvania, LLC	Venus Telephone Corporation
Hancock Telephone Company	West Side Telephone Company
Hickory Telephone Company	Windstream Buffalo Valley, Inc.
Ironton Telephone Company	Windstream Conestoga, Inc.
Lackawaxen Telecommunications Services, Inc.	Windstream D&E, Inc.
Laurel Highland Telephone Company	Windstream Pennsylvania, LLC
	Yukon-Waltz Telephone Company

Also, as of January 1, 2022, there are approximately 160 CLECs authorized to operate and provide telecommunications services within Pennsylvania as denoted on the PUC website at <https://www.puc.pa.gov/filing-resources/tariffs/telecommunications-tariffs/>. The number of CLECs varies over time as it is dependent on them entering and exiting the competitive telecommunications market.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The Final Regulation will lessen and/or streamline the regulatory burden and associated costs for providers of telecommunications services in Pennsylvania, including rural ILECs and CLECs, of which some are small businesses. The Final Form Regulation preserves essential consumer protections for the provision of adequate, reliable, and safe telecommunications services to Pennsylvania consumers. These protections will be uniform in geographic areas where the provision of such services will take place on either a non-competitive or a competitive basis.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

One of the express stated goals of Chapter 30 of the Public Utility Code is to ensure regulatory parity by reducing the regulatory obligations imposed upon ILECs so that they are more consistent with the regulatory obligations applicable to competing alternative service providers. 66 Pa.C.S. § 3011(13). The Final Form Regulation furthers this goal by rescinding unnecessary regulations in order to create a more level regulatory playing field between the regulated ILECs and CLECs and their unregulated competitors such as cable TV providers and wireless companies. The Final Form Regulation lessens and/or streamlines the regulatory burden and associated costs for providers of telecommunications services in Pennsylvania, including rural ILECs and CLECs. However, the Final Form Regulation also maintains adequate consumer protections applicable to jurisdictional telecommunications carriers and services.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The PUC does not have specific estimates of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures associated with the Final Form Regulation. However, the PUC does expect that cost-savings will arise from streamlined regulation and the elimination of obsolete regulations.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Local governments have no duties or obligations under the existing regulations and, thus, are not impacted by the Final Form Regulation.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

While the PUC's statutory obligation to oversee the telecommunications industry continues, the Final Form Regulation is expected to provide some cost savings due to the elimination of vestigial industry reporting requirements and the PUC's review of those reports and streamlining the regulatory burden and associated costs for providers of telecommunications services in Pennsylvania, including Verizon, rural ILECs and CLECs. However, these savings will likely be minimal, as the PUC's regulatory duties continue, including the duty ensure that telecommunication utilities provide safe, adequate, reliable, and reasonable service. *See* 66 Pa.C.S. § 1501.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The Final Form Regulation requires no additional reporting requirements, and existing reporting requirements will remain the same, be streamlined, or be eliminated entirely.

(22a) Are forms required for implementation of the regulation?

There are no new or revised forms required for implementation of the Final Form Regulation.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

There are no new or revised forms required for implementation of the Final Form Regulation.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	*	*	*	*	*	*
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings						
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0

Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	**	**	**	**	**	**
Total Costs						
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses						

* Savings to the regulated community are not quantifiable at this time.

** The savings to the PUC will be minimal as it continues to retain regulatory oversight of telecommunication utilities to ensure they provide safe, adequate, reliable, and reasonable service to customers.

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

The following are the PUC's cumulative annual assessment figures for the regulated telecommunications industry in Pennsylvania for the respective fiscal year.

Program	FY -3	FY -2	FY -1	Current FY
Total Annual Assessment of Telecommunications Service Providers Per 66 Pa.C.S. § 510	\$6,030,494	\$4,866,676	\$5,552,574	\$5,742,175

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the Final Form Regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the Final Form Regulation.

This Final Form Regulation will not have an adverse impact on small businesses.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

There are no special provisions in the Final Form Regulation which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The PUC duly considered all comments filed in this matter, including comments proposing alternative regulatory provisions, and ultimately selected the least burdensome acceptable alternative in each case. The proposed alternative regulatory options are fully described in the preamble to the Final Form Regulation.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

The Final Form Regulation minimizes any adverse impact on small businesses as it reduces the level of regulation to a level that is commensurate to the vibrant competitive market for telecommunications and alternative services that exists in the Commonwealth.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

There were no specific data that formed the basis for the Final Form Regulation. The confidential and proprietary market data Verizon provided for calendar years 2015 and 2016 did not indicate any troubling concerns regarding the pricing of the Verizon ILECs' basic local exchange services in the 153 Verizon wire centers that had been classified as competitive. While the data disclosed some trends for out-of-service reports in relation to the declining number of Verizon access lines, the data did not suggest any readily available explanation for the observable trends. Thus, those data are not the basis for the Final Form Regulation. Rather, this Final Form Regulation responds to an increasingly competitive telecommunications market and the consequent appropriate levels of regulatory oversight in a competitive market.

(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period: 75 days, which commenced on April 10, 2021, upon publication of the NOPR and Annex in the *Pennsylvania Bulletin*.
- B. The date or dates on which any public meetings or hearings will be held: None.
- C. The expected date of delivery of the final-form regulation: 1st quarter 2022.
- D. The expected effective date of the final-form regulation: Upon publication in the *Pennsylvania Bulletin* as final.
- E. The expected date by which compliance with the final-form regulation will be required: Upon publication in the *Pennsylvania Bulletin* as final.
- F. The expected date by which required permits, licenses or other approvals must be obtained: None required.

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

Chapter 30 of the Public Utility Code authorizes the PUC to review and revise quality of service standards contained in Title 52 of the Pennsylvania Code (Public Utilities) that address the safety, adequacy, reliability and privacy of telecommunications services and the ordering, installation, suspension, termination and restoration of any telecommunications service. In accordance with 66 Pa.C.S. § 3019(b)(2), the PUC will periodically review whether it should further revise its telecommunications regulations due to the emergence of new industry participants, technological advancements, service standards, and consumer demand.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

RECEIVED

MAR 28 2022

**Independent Regulatory
Review Commission**

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p align="center"><u>Pennsylvania Public Utility Commission (PA PUC)</u> (AGENCY)</p> <p>FISCAL NOTE NO.: <u>57-331</u> Agency ID No.: <u>L-2018-3001391</u> IRRC No.: <u>3297</u></p> <p>DATE OF PA PUC Public Meeting: <u>10/7/2021</u> DATE OF ENTRY by PA PUC: <u>12/9/2021</u></p> <p>BY: <u>/s/ Rosemary Chiavetta</u> Rosemary Chiavetta</p> <p>TITLE: <u>Secretary, PA PUC</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>/s/ Renardo L. Hicks</u> Renardo L. Hicks Chief Counsel, PA PUC</p> <p align="center"><u>3/28/2022</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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PUC Docket No. L-2018-3001391; Fiscal Note No. 57-331; IRRC No. 3297

Final-Form Rulemaking: Rulemaking Re Compliance with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63 and Chapter 64

The Pennsylvania Public Utility Commission entered a final-form rulemaking to revise its regulations in Chapters 53, 63, and 64 of Title 52 of the Pennsylvania Code to respond to competitive market conditions in the telecommunications industry in the Commonwealth.

The contact persons for this final-form rulemaking are Christopher Van de Verg, Assistant Counsel, Law Bureau, Pennsylvania Public Utility Commission, 717-783-3459, and David Screven, Deputy Chief Counsel, Law Bureau, Pennsylvania Public Utility Commission, 717-787-2126, dscreven@pa.gov.

EXECUTIVE SUMMARY

PUC Docket No. L-2018-3001391; Fiscal Note No. 57-331; IRRC No. 3297

Final-Form Rulemaking: Rulemaking Re Compliance with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63 and Chapter 64

The telecommunications market has evolved rapidly since enactment of Chapter 30 of the Public Utility Code in 1993, 66 Pa.C.S. §§ 3001-3009, and the federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56. This evolution has resulted in the removal of entry barriers for those seeking to provide competitive services in the local retail telecommunications market. In light of the substantial increase in competition in the local retail telecommunications services market, the PUC adopted a Final Rulemaking Order (Preamble and Annex) on December 9, 2021. The PUC order, with a Statement of Chairman Gladys Brown Dutrieuille, was entered and served on December 9, 2021.

This order promulgates a final-form regulation to revise and update the PUC's existing regulations applicable to jurisdictional telecommunications carriers. Specifically, the final-form regulation provides a meaningful balance between the reasonable exercise of the PUC's jurisdiction over service adequacy, reliability and safety, and the alleviation of outdated regulatory burdens. This balance is achieved by eliminating and/or modifying certain reporting obligations applicable to jurisdictional telecommunications carriers throughout the Commonwealth.

The contact persons for this final-form rulemaking are Christopher Van de Verg, Assistant Counsel, Law Bureau, Pennsylvania Public Utility Commission, 717-783-3459, and David Screven, Deputy Chief Counsel, Law Bureau, Pennsylvania Public Utility Commission, 717-787-2126, dscreven@pa.gov.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held October 28, 2021

Commissioners Present:

Gladys Brown Dutrieuille, Chairman, Statement, Dissenting
John F. Coleman, Jr., Vice Chairman
Ralph V. Yanora

Rulemaking to Comply with the Competitive
Classification of Telecommunication Retail Services
Under 66 Pa.C.S § 3016(a); General Review of
Regulations 52 Pa. Code, Chapter 53, Chapter 63 and
Chapter 64

Docket No. L-2018-3001391

FINAL RULEMAKING ORDER

BY THE COMMISSION:

This rulemaking proceeding arose out of the Pennsylvania Public Utility Commission's (Commission) decision in February 2015 to reclassify stand-alone basic telephone service as competitive in parts of the Verizon Pennsylvania and Verizon North (collectively Verizon) service territories. As part of that proceeding, the Commission granted Verizon a 5-year waiver of certain Chapter 63 and Chapter 64 regulations in competitive wire centers. The waiver was granted, pending a rulemaking to address the status of these regulations in competitive and noncompetitive areas on a permanent and industry-wide basis.

Subsequently, the Commission in July 2018 issued an Advance Notice of Proposed Rulemaking seeking feedback on a variety of options with our telecommunications regulations. After reviewing that feedback from interested stakeholders, the Commission issued a *Notice of Proposed Rulemaking Order (NPRM*

Order) and accompanying Annex which proposed amendments to the regulations in Chapters 53, 63 and 64 of Title 52 of the Pennsylvania Code (Pa. Code), 52 Pa. Code §§ 53.57—53.60, §§ 63.1 *et seq.*, and §§ 64.1 *et seq.*, that govern our jurisdictional telecommunications public utilities or jurisdictional local exchange carriers (LECs).¹

Essentially, with the issuance of the *NPRM Order* and Annex, the Commission was abiding by its statutory obligations in Sections 3019(b)(2) and (3) of the Public Utility Code (Code), 66 Pa. C.S. §§ 3019(b)(2) and (3), which require it to review and revise the quality of service standards contained in 52 Pa. Code that address the safety, adequacy, reliability and privacy of telecommunications services and the ordering, installation, suspension, termination and restoration of any telecommunications service taking into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand. In the *NPRM Order*, the Commission specified the need to balance attempting to create a more level regulatory playing field for our regulated incumbent local exchange carriers (ILECs) that are competing against alternative voice service providers operating in the Commonwealth with the countervailing principle of ensuring that consumers retain adequate protections.

Specifically, the Commission offered proposals in the Annex that eliminated certain regulations as unnecessary either due to the increasing presence of competition in the Pennsylvania telecommunications services market or their general obsolescence given changes to the market and technology. The Commission requested input from interested stakeholders on its proposed revisions set forth in the Annex. This order constitutes the preamble to the final rulemaking process and the accompanying Annex sets forth the final revisions to Chapters 53, 63 and 64 of Title 52 of the Pa. Code.

¹ *Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63 and Chapter 64*, Docket No. L-2018-3001391 (Order entered September 21, 2020).

BACKGROUND

I. Verizon Reclassification Proceeding

On October 6, 2014, pursuant to Section 3016(a) of the Code, 66 Pa.C.S. § 3016(a), our two non-rural incumbent local exchange carriers (ILECs), Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) (hereinafter collectively referred to as “Verizon”), filed a joint petition requesting the Commission to grant a competitive classification to all of its remaining retail protected services (excluding special access service and intrastate switched access service), and any other telecommunications service offered to residential and business customers that had yet to be classified as competitive.² Essentially, Verizon requested this specific regulatory relief for its basic standalone telephone service, commonly referred to as basic local exchange service offered in its wire centers³ located in the metropolitan areas of Philadelphia, Erie, Scranton/Wilkes-Barre, Harrisburg, Pittsburgh, Allentown, and York.⁴

In this same petition, Verizon also requested an eleven-year waiver of certain parts of Chapter 63 and all of Chapter 64 of our regulations.⁵ Verizon requested that this regulatory waiver should apply to all the wire centers where the services above were classified as “competitive” by the Commission in the proceeding.⁶

² See *Joint Petition of Verizon Pennsylvania LLC And Verizon North LLC for Competitive Classification of all Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services*, Docket Nos. P-2014-2446303 and P-2014-2446304 (Joint Petition).

³ A local exchange is a geographic area where all local exchange service subscribers can call each other without incurring any sort of toll or long distance fees. The term “wire center,” which is a group of local exchange customers all served by the same central office or remote terminal, was a term utilized in the *Verizon Reclassification* proceeding since it was specific to Verizon’s network design. For example, although many exchanges are comprised of just one wire center, there are exchanges that are comprised of multiple wire centers.

⁴ Specifically, Verizon sought competitive classification of its remaining services not currently classified as competitive in 194 of its total 504 wire centers in Pennsylvania.

⁵ See generally *Joint Petition*.

⁶ *Id.*

The Commission conducted a full evidentiary proceeding on the Joint Petition and allowed interested stakeholders to intervene and present testimony regarding Verizon's specific request for a competitive classification of certain retail protected services in these specific geographic areas. By an Order entered March 4, 2015, the Commission partially granted the Joint Petition by reclassifying Verizon's retail basic standalone telephone service and other services (except special access and intrastate switched access service) offered to both residential and business customers as competitive in 153 of the 194 wire centers where Verizon had requested regulatory relief.⁷

The *Reclassification Order* also granted, in part, Verizon's waiver request by giving Verizon a temporary waiver of certain of the telecommunications regulations within Chapter 63 and Chapter 64 of Title 52 of the Pa. Code in the 153 newly-classified competitive wire centers.⁸ This temporary waiver was set to be in effect for a period of five years or could expire earlier pending the initiation and completion of a rulemaking to determine whether the temporary regulatory waivers should become permanently codified through amendment of our applicable regulations set forth in Chapter 63 and Chapter 64 of our regulations.⁹

One of the primary purposes of the temporary waivers¹⁰ was to afford the Commission time to collect pertinent data regarding the market conditions present in the aftermath of the competitive reclassification, particularly in the areas of affordability and quality of service, so that this data would help the Commission to assess the market

⁷ See *Joint Petition of Verizon Pennsylvania LLC And Verizon North LLC for Competitive Classification of all Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services*, Docket Nos. P-2014-2446303 and P-2014-2446304 (Order entered March 4, 2015) (*Reclassification Order*).

⁸ *Id.* at 103.

⁹ *Id.* at 76, 103 and 127 (Ordering Paragraph 17).

¹⁰ The temporary waivers that were granted to Verizon were also applicable to Competitive Local Exchange Carriers (CLECs) operating in the 153 competitive wire centers. *Reclassification Order* at 124 (Ordering Paragraph 4).

conditions present in the 153 “competitive” wire centers.¹¹ Thus, the Commission directed Verizon to report annually for a period of two years data under two categories: (1) Affordability of Basic Service; and (2) Quality of Service as further directed by the Commission and that, after receiving input from interested parties, the Commission’s Bureau of Technical Utility Services (TUS) would advise Verizon of the specific data to be provided, form requirements, and schedule for the reporting of this data.¹²

II. Verizon Proprietary Data Submissions (2015-2016)

In accordance with the directives set forth in the *Reclassification Order*, the *2015 Tentative Implementation Order*, *Final Implementation Order* and the *Reporting Order*, Verizon was directed to submit two separate reports for calendar years 2015 and 2016 in the docket of the reclassification proceeding.¹³ This data represented a “snapshot” of the market conditions that may have arisen as a result of the “competitive” classification of the 153 wire centers, including the impact of the competitive classification on the affordability of basic local exchange service, the number of certain access lines and quality of service statistics. Verizon was further directed to submit these calendar year reports no later than April 1, 2016, and April 1, 2017, respectively. Verizon submitted both annual reports to the Commission in a timely manner.

¹¹ *Id.* at 56, 76, 104.

¹² *Id.* at 126-27.

¹³ See also *Tentative Implementation Opinion and Order at Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of All Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services*, Docket Nos. P-2014-2446303 and P-2014-2446304 (Order entered June 1, 2015) (*2015 Tentative Implementation Order*); *Final Implementation Opinion and Order at Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of All Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services*, Docket Nos. P-2014-2446303 and P-2014-2446304 (Order entered September 11, 2015) (*Final Implementation Order*); and *Reporting Order at Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of All Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services*, Docket Nos. P-2014-2446303 and P-2014-2446304 (Order entered September 11, 2015) (*Reporting Order*); see also Docket Nos. P-2014-2446303, P-2014-2446304, Secretarial Letters entered December 8, 2016 and January 10, 2017.

III. Advance Notice of Proposed Rulemaking

The Commission stated in the *Reclassification Order* that it would initiate a rulemaking proceeding to determine whether the temporary regulatory waivers that were granted in the *Reclassification Order* should become permanently codified through amendment of our applicable and governing telecommunications regulations in Chapters 63 and Chapter 64 of the Title 52 of the Pa. Code.¹⁴ To accomplish this objective, the Commission issued an Advanced Notice of Proposed Rulemaking Order (*ANPRM Order*) at the above-captioned docket on July 12, 2018.¹⁵ The *ANPRM Order* was intended to address not only those telecommunications regulations that were temporarily waived in the wire centers where Verizon had obtained a competitive classification of its retail services, but also, those that, in effect, had become less vital given the evolution of the provision of telecommunications services today.

Specifically, the Commission requested comment on whether to expand the waivers granted in the *Reclassification Order* beyond any wire center that had been classified as competitive or whether to rescind or amend any Chapter 63 and 64 regulations for noncompetitive wire centers, and whether to create a separate chapter in our regulations to address service provided in competitive wire centers. The Commission also asked for comment on whether we should make permanent any waivers of regulations granted outside of the reclassification decision and invited any reasonable alternative proposals to our existing telephone regulations. The *ANPRM Order* was published in the *Pennsylvania Bulletin* and comments were solicited by the Commission.¹⁶

¹⁴ *Reclassification Order*, at 76, 103 and 127 (Ordering Paragraph 17).

¹⁵ *Rulemaking to Comply with the Competitive Classification of Telecommunications Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 63 and 64*, Docket No. L-2018-3001391, (Advanced Notice of Proposed Rulemaking Order entered July 12, 2018), 48 Pa.B. 4792 (Aug. 4, 2018).

¹⁶ 48 Pa.B. 4794.

The Commission received comments and replies to its *ANPRM Order* from several parties.¹⁷ The comments addressed the proposed treatment of certain aspects of Chapters 53, 63 and 64 of the Commission's regulations by suggesting that the Commission should eliminate all obsolete and unnecessary telecommunications regulations in the context of a rulemaking. Essentially, the parties were suggesting that the Commission should immediately proceed with initiating a Notice of Proposed Rulemaking to address the waived regulations and any other pertinent matters that need to be resolved given the existence of competitive and noncompetitive wire centers in Pennsylvania.¹⁸

IV. Extension of Regulatory Waivers and Access to Verizon Market

The issue of access to Verizon's 2015 and 2016 proprietary data reports was raised by several parties in their comments to *ANPRM Order*. Also, the temporary regulatory waivers that the Commission granted to Verizon in the *Reclassification Order* were set to expire March 4, 2020. Following the formal closure of the *ANPRM Order* comment

¹⁷ Verizon, AT&T Corp. and Teleport Communications America, LLC (collectively AT&T); Coalition for Affordable Utility Services and Energy Efficiency (CAUSE-PA); Communications Workers of America (CWA); Dex Media, Inc. d/b/a "Dex YP" (Dex Media); Pennsylvania Office of Consumer Advocate (OCA); Tenny Journal Communications (Tenny Journal); and the following companies hereafter referred to as the Rural ILECs or RLECs: Armstrong Telephone Company – North; Armstrong Telephone Company – Pennsylvania; Bentleyville Communications Company; Citizens Telecommunications Company of New York, Inc.; Citizens Telephone Company of Kecksburg; Consolidated Communications of Pennsylvania Company, LLC; Frontier Communications Commonwealth Telephone Company; Frontier Communications of Breezewood, LLC; Frontier Communications of Canton, LLC; Frontier Communications of Lakewood, LLC; Frontier Communications of Oswayo River, LLC; Frontier Communications of Pennsylvania, LLC; Hancock Telephone Company; Hickory Telephone Company; Ironton Telephone Company; Lackawaxen Telecommunications Services, Inc.; Laurel Highland Telephone Company; Marianna & Scenery Hill Telephone Company; The North-Eastern Pennsylvania Telephone Company; North Penn Telephone Company; Palmerton Telephone Company; Pennsylvania Telephone Company; Pymatuning Independent Telephone Company; South Canaan Telephone Company; TDS Telecom/Deposit Telephone Company; TDS Telecom/Mahanoy & Mahantango Telephone Company; TDS Telecom/Sugar Valley Telephone Company; The United Telephone Company of Pennsylvania, LLC d/b/a CenturyLink; Venus Telephone Corporation; West Side Telephone Company; Windstream Buffalo Valley, Inc.; Windstream Conestoga, Inc.; Windstream D&E, Inc.; Windstream Pennsylvania, LLC and Yukon-Waltz Telephone Company.

¹⁸ In our *NPRM Order*, we determined to use the "wire center or other geographic area defined by the public utility" to encompass networks that are not broken into wire centers."

period, the Commission undertook further actions on the regulatory waivers by issuing a Tentative Order on February 6, 2020, that addressed the following issues: 1) granting an extension of the five-year waiver of select Chapter 63 and Chapter 64 Regulations that had been granted to Verizon in the *Reclassification Order*; and 2) allowing parties participating in the ANPRM proceeding to access and review the 2015 and 2016 reports that contained Verizon's proprietary or confidential market data and further allowing them to file supplemental comments on the reports in the related ANPRM proceeding.¹⁹

Following the receipt of comments from Verizon, the OCA and CAUSE-PA, the Commission issued a Final Order on February 27, 2020, further extending the temporary regulatory waivers granted to Verizon in the *Reclassification Order* and granting interested stakeholders access to the proprietary market data Verizon had submitted to the Commission for the 2015-2016 time frame.²⁰ Specifically, the Commission held that it would maintain the regulatory waivers until December 31, 2022, or the completion of a Rulemaking regarding Chapters 53, 63 and 64 of the Commission's regulations, whichever is sooner. The Commission determined that it was more appropriate to maintain the *status quo* of the temporary regulatory waivers rather than rescind or end the temporary regulatory waivers it had granted to Verizon in the *Reclassification Order*.²¹

¹⁹ *Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of All Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services; Rulemaking to Comply with the Competitive Classification of Telecommunications Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 63 and 64*, Docket Nos. P-2014-2446303, P-2014-2446304, L-2018-3001391 (Order entered February 6, 2020) (*February 2020 Tentative Order*).

²⁰ *Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of All Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services; Rulemaking to Comply with the Competitive Classification of Telecommunications Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 63 and 64*, Docket Nos. P-2014-2446303, P-2014-2446304, L-2018-3001391 (Order entered February 27, 2020) (*February 2020 Final Order*).

²¹ *Id.* at 8-9.

Additionally, the Commission addressed the availability of Verizon's 2015-2016 proprietary market data that had been submitted to the Commission. The Commission determined that it would make this data available to the participating parties in the ANPRM proceeding in order to provide them with an opportunity to review the data, perform an independent analysis of the data and assist the Commission in assessing the market conditions of these 153 competitive wire centers and to help address the regulatory impact of continuing the regulatory waivers on a permanent and industry-wide basis for any additional areas determined to be competitive, subject to parties' executing a Non-Disclosure Agreement.²²

The Commission also determined that once its review of Verizon's historic proprietary data was completed, the parties would have the opportunity to file supplemental comments and replies in the pending ANPRM proceeding.²³ Lastly, the Commission directed the Bureau of Consumer Services (BCS), with the assistance of the Law Bureau, TUS and other bureaus, to complete an analysis of Verizon's data and prepare conclusions regarding the data and recommendations on moving forward with a Notice of Proposed Rulemaking no later than June 30, 2020.²⁴

Following the issuance of the *February 2020 Final Order*, the Commission received supplemental comments and replies from the Pennsylvania Office of Consumer Advocate (OCA), the Pennsylvania Telephone Association (PTA) on behalf of the Rural ILECs,²⁵ Thryv, Inc. (f/k/a Dex Media) and Verizon. However, none of these parties presented substantive analysis of the 2015-2016 Verizon proprietary data submissions in their respective comments.

²² *Id.* at 9-10.

²³ *Id.*

²⁴ *Id.* at 12.

²⁵ Concurrently with the filing of their October 3, 2018, initial comments in response to the ANPRM, the participating 35 Rural ILECs also jointly filed a petition at Docket No. P-2018-3005224 seeking the

V. Evaluation of Verizon's Proprietary Data

Although the Commission did not receive any substantive analysis of the proprietary 2015-2016 Verizon market data from any of the interested stakeholders in the ANPOR proceeding, it performed its own analysis of the data. The Commission acknowledged that the requested 2015-2016 Verizon market data was limited in scope, granularity and timeframe. Because the data was submitted on a proprietary basis, the Commission provided general observations on an aggregate basis regarding some trends that both the raw numerical data and certain ratios indicated. The Commission's primary focus was on the specific quality of service metrics, based on its belief that the pricing of individual rate elements for basic local exchange services in Verizon's competitive wire centers (i.e., dial tone line and local usage options) had followed the same pricing trends as in Verizon's noncompetitive wire centers.²⁶

The Commission noted that the collected data did not present any direct causative links to or readily available explanations for the observable trends regarding certain quality of service metrics. The Commission determined that it could not draw any specific conclusions from the limited data presented by Verizon on whether its network in noncompetitive wire centers – which include a lesser number of major urban areas – experienced more quality of service issues than its network in competitive wire centers, or whether Verizon had increased the concentration of its operational maintenance activities in the competitive wire center areas. Accordingly, the Commission concluded that the data was inconclusive as to whether there was any significant downward trend in service quality issues in competitive wire centers, which could have been an indicator that it should consider eliminating entirely the quality of service regulations where

temporary waiver of certain Chapter 63 and 64 regulations (*RLEC Petition*). The *RLEC Petition* sought the waiver of certain Chapter 63 and 64 regulations “until such a time as the Commission completed its rulemaking proceeding at Docket No. L-2018-3001391.” The Commission granted in part and denied in part, the *RLEC Petition* at its July 20, 2020, Public Meeting. See *Petition of the Rural Incumbent Local Exchange Carriers for Temporary Waiver of Certain Chapter 63 and 64 Regulations*, Docket No. P-2018-3005224 (Order entered July 28, 2020) (*RLEC Directory and Toll Presubscription Order*).

²⁶ OCA Comments at 6-7.

consumers have multiple options for communications services, including wireline, cable-voice, and wireless options.

VI. Notice of Proposed Rulemaking

While the Verizon market data was inconclusive, the Commission determined that due to the competitive conditions that existed in the residential and business telecommunications marketplace in Pennsylvania, there was still a valid basis to propose revisions to its regulations that govern jurisdictional telecommunications public utilities and their services. Consequently, at the August 27, 2020 Public Meeting, the Commission adopted the Motion of Vice Chairman David W. Sweet to issue a Notice of Proposed Rulemaking at the above-captioned docket that proposed amendments to certain regulations set forth in Chapters 53, 63 and 64 of Title 52 of the Pa. Code.

Concomitantly, at this same Public Meeting and at the same docket, Chairman Gladys Brown Dutrieuille issued a Statement indicating her support for a Notice of Proposed Rulemaking that proposed modifications to our applicable telecommunications regulations, but the Chairman's Statement also offered a series of questions in order to gain additional input from interested stakeholders on the Commission's proposed modifications to the Chapters 53, 63 and 64 telecommunications regulations.

By order dated September 21, 2020, the Commission issued its Notice of Proposed Rulemaking Order (*NPRM Order*) and accompanying Annex that set forth the actual proposed revisions to the pertinent regulations in Chapters 53, 63 and 64 of Title 52 of the Pa. Code. Essentially, in this *NPRM Order*, the Commission explicitly expressed its rationale for the following proposals: (1) making the temporary regulatory waivers that had been granted in the *Reclassification Order* permanent on an industry-wide basis, (2) making permanent the temporary detariffing waivers that at various times were

granted to regulated telecommunications utilities operating under our jurisdiction and (3) rescinding obsolete Chapter 63 and 64 regulations.²⁷

In the *NPRM Order*, the Commission solicited comments from interested stakeholders on these proposals within the Annex so that their input could assist the Commission in determining whether the proposals were warranted. The *NPRM Order* and accompanying Annex were published in the Pennsylvania Bulletin on April 10, 2021.²⁸

On May 25, 2021, the Commission received initial comments from CAUSE-PA, OCA, Tri-Co Connections LLC and Claverack Communications LLC (collectively “TCC/CCL”), Thryv and Verizon in response to the proposed regulatory modifications that were set forth in the Annex. The PTA filed a letter in lieu of filing initial comments. On June 24, 2021, replies were filed by the OCA, PTA, TCC/CCL, Thryv and Verizon. The Independent Regulatory Review Commission (IRRC) filed Comments to the Annex on July 23, 2021.

DISCUSSION

In this section of the Preamble, the Commission discusses some of the general comments we received from interested parties on the proposed modifications to Chapters 53, 63 and 64 of Title 52 of the Pa. Code. We also discuss some of the responses we received in relation to the questions posed in Chairman Dutrieuille’s Statement. In addressing the comment and replies filed in response to our *NPRM Order* and the proposed regulations within the accompanying Annex, we are reminded that we are not required to consider expressly or at great length each and every contention raised by a

²⁷ *Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa. C.S § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63 and Chapter 64*, Docket No. L-2018-3001391 (Order entered September 21, 2020) (*NPRM Order*).

²⁸ 51 Pa.B. 1999.

party to our proceedings. *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984). Any comment or reply comment that is not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion.

A. Preliminary Comments and Replies

CAUSE-PA generally supports retention of many of the Commission's proposed rules, consistent with prior filed comments from the OCA in response to the ANPRM and the present NPRM. CAUSE-PA Comments at 2. CAUSE-PA notes that "while telecommunications technology has and continues to evolve, and increased options are available in many areas of the state, there remains a significant divide between those who have access to stable and affordable telecommunication service and those who do not." CAUSE-PA Comments at 2-3.

CAUSE-PA further notes that "[f]or many Pennsylvanians, especially those in rural and low-income communities, basic wireline telecommunication service still provides a very real lifeline[.]" CAUSE-PA Comments at 3. Finally, CAUSE-PA argues that "the sheer fact that a competitive service provider offers service in a given area does not ensure that the service offered is affordable or accessible to those in need," noting that "[i]ndividuals in rural communities... often do not have access to alternatives that offer reliable service to their homes" and that in "urban areas, where mobile and broadband service is relatively ubiquitous, many households – especially seniors and homebound individuals – still rely on wireline service as their primary mode of communication." CAUSE-PA Comments at 4.

The OCA supports the Commission's efforts to update and simplify its rules and have them apply to all telecommunications public utilities in order to protect consumers. OCA Comments at 1. OCA proposes that the Commission promulgate "reliability standards" to address pertinent aspects of today's telecommunications networks through to the meet point with the customer's premises. OCA Comments at 2.

TCC/CCL state that, as “relatively new entrants into the Pennsylvania communications and broadband services markets,” they “can provide input on how the existing regulations correspond with the current marketplace and technologies.” TCC/CCL Comments at 3. TCC/CCL argue that “[i]ncumbent carriers and competitive carriers are different and could be subject to different regulations[.]” TCC/CCL Comments at 4. TCC/CCL posit that, as competitive carriers, they have no business reason or technical capability to offer, and cannot be required to offer, “basic service” as defined in Commission rules or to otherwise “unbundle” their competitive broadband/voice services offerings to provide standalone voice. TCC/CCL Comments at 4-5.

Verizon supports the Commission’s initiative to update its rules but urges a more aggressive approach. Verizon Comments at 1. Verizon posits that the Commission’s telephone service regulations are by and large outdated. Verizon Comments at 2. Verizon states that the marketplace for telephone service is fully competitive and many of the Commission’s rules are no longer necessary. Verizon Comments at 3. In Verizon’s view, the Commission should approach this proceeding not by identifying which existing rules should be eliminated but rather asking whether any existing rules should be continued. Verizon Comments at 4.

Verizon states that, when the Commission’s existing telecommunications rules were first adopted, the Commission regulated all voice lines in Pennsylvania, but today, “the vast majority of voice connections in Pennsylvania” are not regulated by the Commission. Verizon Comments at 5-6. According to Verizon, the Federal Communications Commission (FCC) access line count data from 2019 shows that 10.6 percent of voice lines in Pennsylvania are regulated, a percentage that has declined rapidly since 2014. Verizon Comments at 7-8. Verizon also notes that the FCC’s line counts do not account for certain forms of Internet-based voice communications, such as FaceTime, Zoom, WebEx and the like. Verizon Comments, at 9. Verizon argues that

there can be no justification for the Commission to retain its legacy rules when most voice connections today are completely unregulated. Verizon Comments at 9.

Verizon argues that the Commission is required by Pennsylvania law, 66 Pa. C.S. §§ 3011(13) and 3019(b)(2), to “presume elimination of all of its rules and justify each new rule under the Chapter 30 standard” and that “[a]ny new regulations should narrowly address only what is absolutely necessary.” Verizon Comments at 11. Verizon argues that “[a]t the very least, the Commission should eliminate – for all providers statewide – all of the rules that have been waived in Verizon’s competitive exchanges for the past 6 years.” Verizon Comments at 11. According to Verizon, “[e]ven with a shorter and more streamlined set of regulations, the Commission will retain its statutory authority over service quality and customer interactions for regulated services under 66 Pa. C.S. § 1501, as the [NOPR] recognizes.” Verizon Comments at 12.

Specifically, Verizon states that it appreciates that the Commission’s NPRM proposes to remove many outdated provisions of Chapter 63 and supports all of those deletions. However, it asserts that more work is needed to streamline Chapter 63 into modern, forward-looking rules appropriate for the competitive market of today and tomorrow. Verizon Comments at 14.

Verizon asserts that under Chapter 30’s requirement for justifying new regulations, 66 Pa. C.S. § 3019(b)(2), the Commission should only promulgate a new service quality regulation if it has facts to demonstrate that it is necessary, beneficial and in the public interest, “tak[ing] into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand.” Verizon Comments at 18. Verizon argues that the benefits of any new regulation must outweigh the burden. *Id.*

Verizon asserts that given that many of the Chapter 63 service quality regulations would only apply to a small and shrinking set of regulated providers and services, not to their VoIP and wireless competitors that serve the vast majority of lines, and the fact that 66 Pa.C.S. § 1501 will continue to require regulated providers to “furnish and maintain adequate, efficient, safe, and reasonable service and facilities,” there is no need for prescriptive service quality standards, metrics, or reporting in the Commission’s new regulations and new service regulations generally cannot be justified. *Id.* Lastly, Verizon asserts that the Commission should simply eliminate most of Chapter 63 and offers its proposals for a new Chapter 63. Verizon Comments at 19-26.

In response to Verizon’s general comments regarding the Commission’s proposed modifications to the Chapters 53, 63 and 64 regulations, the OCA opposes “the framework and phrasing of Verizon’s alternative proposal to revise Chapters 53, 63 and 64.” OCA Reply Comments at 3. Specifically, the OCA comments that it opposes Verizon’s “alternative version of the Chapter 63 regulations.” OCA Reply Comments at 8. The OCA asserts that Verizon’s proposal is nothing more than an attempt “to rescind or water down many of the Chapter 63 service quality standards” because in OCA’s view, Verizon’s proposal “would remove meaningful standards and regulatory guidance that is still needed to promote and protect today’s complex and important telecommunications network.” OCA Reply Comments at 10. Lastly, the OCA avers that Verizon “presumes that competitive alternatives abound throughout the Commonwealth” and that Verizon’s proposal “provides little guidance as to service quality required of all telecommunications carriers.” OCA Reply Comments at 3.

In its comments, IRRC notes that “[w]hile not all commentators agree with the PUC’s approach, there is consensus that this review of the regulatory provisions of 52 Pa. Code Chapters 53 (Tariffs for Noncommon Carriers), 63 (Telephone Service) and 64 (Standards and billing practices for residential telephone service) is much needed and long overdue,” and “[c]ommentators expressed viewpoints ranging from the proposal

does not go far enough in eliminating outdated and overly prescriptive rules to concerns that it goes too far in removing important consumer protection provisions.” IRRC Comments at 1.

IRRC also notes that “[c]ommentators assert that the PUC’s proposal, which retains a large portion of its existing regulations, makes only minor changes and ‘falls short of bringing about meaningful change,’” that “[t]he PUC’s approach to ‘redlining’ existing regulations and reinstating a number of waived regulations, [commentators] say, does not fulfill its statutory obligation” under 66 Pa. C.S. §§ 3011(13) and 3019(b)(2), and that “[c]ommentators point out that the proposal lacks data or a comparative analysis to justify increasing regulation.” IRRC Comments at 2.

In its Comments, IRRC also asks the Commission “to explain the reasonableness of its approach in determining what regulations were needed and how it comports with Chapter 30 of the Public Utility Code.” IRRC Comments at 2.

B. Responses to Chairman Dutrieuille’s Questions

In its responses to the Chairman Dutrieuille’s questions, CAUSE-PA states that it supports “ongoing regulatory standards to address the inspection, testing, surveillance, and interference minimization on the providers’ networks to ensure the safety and reliability of our network...regardless of the technology deployed.” CAUSE-PA Comments at 3.

Additionally, CAUSE-PA states that it supports “Commission-approved standards for documentation and reporting of response times, resolutions, trouble reports, interference, and service outages, as this information will be critical to monitoring the integrity and stability of our networks and the quality of our providers’ services.” CAUSE-PA Comments at 3. CAUSE-PA also urges the Commission to retain “regulations imposing standards for installation, interference, trouble reports, and service

outages, and [to] impose new regulatory standards imposing automatic remedies that do not impose undue hurdles for consumers to access relief.” CAUSE-PA Comments at 3-4.

Further, CAUSE-PA posits that “there should be a threshold for service quality standards for installations, interference, trouble reports, and service outages that trigger notification to consumers – as well as reports documenting the source of the problem and the resolution” and further proposes that “[r]eports filed with the FCC should be automatically filed with the Commission to allow for close monitoring of service quality standards and each companies’ adherence thereto[.]” CAUSE-PA Comments at 4. CAUSE-PA states that “the Commission should require providers to continue offering robust consumer education for new *and* existing customers[.]” CAUSE-PA Comments at 4.

CAUSE-PA advocates that the Commission retain rules governing automatic call devices, noting that “[r]obocalls are a problem in Pennsylvania, and there must be regulatory restrictions to prevent a resurgence of nuisance calls” which “often target vulnerable lower income consumers and Seniors, who are especially susceptible to predatory offers of savings and other scams[.]” CAUSE-PA Comments at 4. CAUSE-PA supports retaining operator assistance rules, noting that although “[t]he number of households that require operator assistance is likely small... it is likewise the case that those who require operator assistance are likely to have unique vulnerabilities that require additional help to connect...with ease, and without long wait times.” CAUSE-PA Comments at 4.

CAUSE-PA argues that “[t]he quality of service that a consumer receives should not vary based on the technology deployed – whether that technology is through a traditional or fiber network.” CAUSE-PA Comments at 4.

In its response to Chairman Dutrieuille’s questions, the OCA states that it also supports “development of Commission-approved standards that address the inspection, testing, surveillance, and interference minimization on the providers’ networks, through to the consumer’s Network Interface Device (NID) – or other meet point between the network and customer premises.” OCA Comments at 3. OCA further supports standards that ensure the availability of information about the quality and reliability of networks, for the benefit of consumers, businesses and public safety. OCA Comments at 4.

The OCA further states that it supports retaining rules that require local exchange carriers to document how consumer trouble reports are resolved. OCA Comments at 4. OCA supports retaining rules that provide for bill adjustments to account for out-of-service conditions and is open to consideration of alternative means to ensure consumers do not pay for service quality they do not receive. OCA Comments at 4-5. However, the OCA notes that bill adjustments for individual consumers may distract from resolution of underlying network quality issues impacting a larger class of consumers. OCA Comments at 5. OCA also supports retaining service quality standards to include surveillance levels and reporting requirements. OCA Comments at 5. OCA posits that 66 Pa.C.S. § 504 provides the Commission with authority to require carriers to file with the Commission copies of reports made to the FCC. OCA Comments at 5.

Furthermore, the OCA states that it supports a requirement for carriers and Commission staff to educate consumers about their options to resolve service quality and billing issues. OCA Comments at 6. The OCA further states that it supports revision, not elimination, of the existing rule addressing Automatic Dialing Devices, subsection 63.60. OCA Comments at 6. The OCA advocates that consumers be able to easily reach an operator or customer service representative to answer questions and address service quality issues and supports the Commission’s proposed “warm transfer” option. OCA Comments at 6. Lastly, the OCA posits that consumers should receive uniform service quality no matter what technology is used to deliver service. OCA Comments at 7.

With respect to Chairman Dutrieuille’s Statement, IRRC opines that the Commission “should have posed the nine questions to the regulated community, accepted comments on those questions, drafted a proposed rulemaking based on the feedback received, and then commenced the formal rulemaking process,” while noting that “[i]t is unclear whether or not the PUC will be considering the responses to these questions for a future rulemaking or if they are intended to help formulate the final version of this rulemaking.” IRRC Comments at 3.

C. Discussion and Resolution

1. IRRC’s concerns about Chairman Dutrieuille’s questions

IRRC asserts that the Commission would have been better positioned to commence this rulemaking and proposed modifications to its Chapters 53, 63 and 64 regulations after receiving feedback from the regulated community on Chairman Dutrieuille’s questions. We note that these questions are the questions of Chairman Dutrieuille alone, not the Commission. While notice is always a valid concern, we disagree with IRRC’s observation at this stage of our NPRM for the following reason. In short, we believe that with the issuance of both the *ANPRM Order* and *NPRM Order*, the Commission has received adequate input from the relevant stakeholders regarding our Chapters 53, 63 and 64 telecommunications regulations.

As outlined in the Background section *supra*, in 2018, the Commission issued an *ANPRM Order* in order to initiate this promised rulemaking regarding the continuation of the waivers of the Chapters 63 and 64 regulations. In the *ANPRM Order*, the Commission specifically requested parties to address the following four topics:

- (i) whether to make any previously-granted waivers permanent in a wire center currently classified as competitive or that may be classified as competitive in the future;
- (ii) whether there are any obsolete or outdated regulations in noncompetitive wire centers that should be modified or eliminated;
- (iii) whether to create separate chapters in our regulations for competitive versus noncompetitive wire centers; and
- (iv) whether there

are any reasonable alternative regulations or regulatory structure/scheme that the Commission should consider and adopt.

The Commission opined that input from stakeholders on the four questions posed in the *ANPRM Order* plus the proprietary market data that Verizon had submitted for its competitive and noncompetitive wire centers for the 2015-2016 timeframe, would assist it in making a reasoned and well-informed decision about the need to revise the Chapters 63 and 64 regulations. The Commission received input to its *ANPRM Order* via the receipt of both comments and reply comments. Thereafter, we issued the *NPRM Order* and Annex and solicited further input on our proposed modifications to the Chapters 53, 63 and 64 regulations. As with the *ANPRM*, the Commission received both comments and reply comments to its *NPRM Order*.

The Commission had already received input from the regulated telecommunications community at the *ANPRM* stage which resulted in the *NPRM Order*. The input we received on the question in the *ANPRM Order* was beneficial and gave us the proper foundational approach for revising our telecommunication regulations. This underscores the fact that the Commission has taken the necessary and deliberate steps to propose revisions to the Chapters 53, 63 and 64 regulations. The Chairman's decision to pose questions seeking additional input on the proposed modifications after the issuance of the *ANPRM Order* and during the issuance of the *NPRM Order* creates no need to delay moving forward with this final rulemaking. In fact, it is of no real procedural consequence.

There should be no concerns about the validity of proposals we issued in the *NPRM Order* and Annex to revise our Chapters 53, 63 and 64 regulations as we already solicited and received input from the regulated community in 2018 with the *ANPRM Order*, which initiated this rulemaking process. Thus, there is no valid reason not to

move forward at this time or to delay taking further action on the proposed revisions to our telecommunications regulations.

Moreover, the Commission is mindful of the fact that all interested stakeholders were given an opportunity to submit comments and replies to the Chairman's nine questions. In the likelihood that the Commission determines to utilize those responses to assist it in its consideration of whether to adopt or reject its proposed modifications to the Chapters 53, 63 and 64 regulations in the final-form regulation, no party has been prejudiced as the entire regulated community was given notice and an opportunity to respond to the Chairman's questions. It is beyond dispute that with these deliberate steps in this rulemaking process, the Commission has given the regulated telecommunications community ample opportunity to weigh on the proposed modifications to the Chapters 53, 63 and 64 regulations.

2. Response to Commentators' General Comments

The Commission agrees with the commentators on the necessity of updating our existing telecommunications regulations. Many of these regulations were promulgated when only one telecommunications company operated and provided monopoly local telephone service to all customers in its respective certificated service territory. During this era, consumers had no competitive choices and were unable to obtain voice service from any other local telephone company.

In 1993, the General Assembly enacted the original Chapter 30 of the Public Utility Code (Code), which fundamentally restructured Pennsylvania's retail local telecommunications services market by allowing new market entrants to provide competitive local telephone service to residential customers and businesses within the service territories of the former monopoly providers. Likewise, three years later, the United States Congress passed the Telecommunications Act of 1996, which essentially restructured the local telecommunications market on a national level in a similar manner

as Chapter 30 had already accomplished in Pennsylvania. Both legislative actions resulted in the creation of two types of local service providers or local exchange carriers (LECs)—the new-entrant competitive local exchange carriers (CLECs) and the former monopolistic incumbent voice service providers, the ILECs, as both types of entities were able to provide telephone service in the same local calling area.

Since that time, a technological paradigm shift has occurred in the telecommunications marketplace, and other non-traditional competitive entrants (e.g., mobile wireless carriers, cable companies and satellite providers) now provide competitive voice service offerings. This increased competition has resulted in innovation, which led to a sweeping technological transition in how retail wired telecommunications services are provisioned. Currently, wireline service customers are served by two distinct but similar technologies – “end-user” switched access lines and interconnected VoIP “subscriptions.” Additionally, many consumers have “cut the cord” and now obtain their voice service exclusively from mobile wireless carriers.

The Commission acknowledges that competition works to enhance consumer choice and service and should be a consideration when evaluating regulations applicable to telecommunications service in Pennsylvania. However, the Commission does not subscribe to the premise that competition singularly justifies eliminating all our Chapter 63 and 64 regulations at this time. Even though Section 1501 of the Code requires telecommunications carriers to provide reasonable service among other requirements and remains a critical regulatory backstop, the Commission is of the opinion there are circumstances where *specific* and *uniform* standards better serve carriers and customers because of the greater predictability they provide. The Commission has determined this is true for both competitive and noncompetitive areas of the Commonwealth: Based upon the review of the comments and reply comments submitted in response to the proposed regulations in the Annex accompanying the *NPRM Order*, the Commission has concluded that there are additional opportunities to modernize our Chapter 63 and 64

regulations without compromising the important consumer protections contained in the regulations. Therefore, the Commission has set forth a surgical approach to modernizing its regulations applicable to telephone service in the final-form regulation.

Lastly, to bolster its claim that the vast majority of Chapters 63 and 64 should be eliminated for Title 52 of the Pa. Code, Verizon advocates for the first time in this proceeding a new interpretation of the Chapter 30 statutory criteria. Specifically, Verizon argues that Chapter 30 requires the Commission “to entirely eliminate all of its existing service quality regulations and it must justify creating or imposing any new service quality regulations only if it has facts to demonstrate that it is necessary, beneficial and in the public interest tak[ing] into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand.” This novel interpretation reads into the statute an interpretation not supported by the words of the statute itself. Upon review, Chapter 30 does not specifically require the Commission to eliminate its telephone service quality regulations. Rather, Chapter 30 expressly preserves the Commission’s power to “review and revise” these regulations and in doing so, preserves the Commission’s power to maintain them.²⁹ Thus, as discussed in greater detail below, we have taken a pragmatic and reasoned approach in revising, modifying and further streamlining our Chapters 53, 63 and 64 regulations as set forth in the attached Annex.

I. Chapter 53 Tariffs for Noncommon Carriers: 52 Pa. Code §§ 53.57—53.60

In the *ANPRM Order*, the Commission explicitly discussed the past and periodic temporary regulatory waivers involving the tariffing requirements under Section 53.58. Specifically, over time, the Commission had granted Verizon and other CLECs tariffing relief regarding the retail services they offered to enterprise (business, or non-residential)

²⁹ See 66 Pa. C.S. § 3019(b)(2).

and large business customers generating \$10,000 or more in annual revenues.³⁰ These waivers existed prior to and were unrelated to Verizon's reclassification proceeding. The Commission also granted periodic extensions of these temporary regulatory waivers based on the rationale that it would initiate a rulemaking proceeding to address whether Sections 53.58 and 53.59 should be modified by adopting the periodically renewed temporary waivers as a permanent regulatory change. Accordingly, we solicited comments whether such waivers should become permanent and embodied in revised regulations going forward. *ANPRM Order* at 27-28, 48 Pa.B. 4799.

The Commission received comments to its *ANPRM Order* from various stakeholders. Based upon its review of those comments, the Commission determined that it would propose revisions to relevant regulations in Chapter 53 in order to provide clarity as to the tariff filing requirements and reporting obligations applicable to the retail, protected and noncompetitive telecommunications services offered by incumbent telecommunications service providers and competitive services providers. Consequently, while the Commission did not propose to eliminate all applicable tariff filing

³⁰ *Petition of MCI Metro Access Transmission Services LLC d/b/a Verizon Access Transmission Services for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers*, Docket No. P-2009-2082991 (Order entered June 3, 2009); *Petition of MCI Metro Access Transmission Services LLC d/b/a Verizon Access Transmission Services for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers*, P-2011-2267522 (Order entered April 26, 2012); *Petition of AT&T Communications of Pennsylvania, LLC, for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers*, Docket Nos. P-2009-2137972, P-2010-2164470, P-2010-2164472 (Order entered June 21, 2012); *Petition of Windstream Communications, Inc. for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 To Permit Detariffing Services to Enterprise and Large Business Customers*, Docket No. P-2012-2327799 (Order entered December 5, 2012); *Petition of MCI Metro Access Transmission Services LLC d/b/a Verizon Access Transmission Services for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers*, Docket No. P-2016-2556207 (Order entered September 1, 2016) and *Petition of AT&T Corp. and Teleport Communications of America, LLC for Extension of Waiver of Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers*, Docket No. P-2016-2575097 (Order entered February 9, 2017).

requirements within Chapter 53 for noncompetitive and protected services, including basic local exchange services, in its *NOPR Order*, the Commission did determine it would update the regulatory language in Chapter 53 to align with the current statutory language of Chapter 30 of the Code. Accordingly, the Annex to the *NPRM Order* set forth the proposed revisions to Sections 53.57-53.60 of the Commission’s regulations.

A. 52 Pa. Code § 53.57

Section 53.57 sets forth the definition of the terms used in 52 Pa. Code §§ 53.57—53.60. In the Annex to the *NPRM Order*, the Commission, *inter alia*, proposed to replace the current definitions within Section 53.57 so as to be consistent with the statutory terms set forth in the current version of Chapter 30 of the Code, 66 Pa.C.S. §§ 3011—3019.

1. Comments and Replies

IRRC recommends that the Commission “should adopt a definition for the term ‘*joint or bundled service package*’ that is consistent with ‘*bundled service package*’ contained in § 64.2 (relating to Definitions).” IRRC Comments at 4.

TCC/CCL note that Chapters 53 and 64 of the Commission’s rules use different terms to describe “service offerings that contain multiple services at a single price” and recommends that the Commission adopt its proposed single definition that has been modified to include references to a “product guide or similar document” as well as services being provided by an affiliate and incorporate this proposed definition within Section 53.57. TCC/CCL Comments at 5-6.

Verizon offers proposals for a new and streamline Chapter 53 regulations in the Attachment to its Comments. With respect to Verizon’s proposed definitional terms for Section 53.57, OCA concurs with Verizon’s proposed amended definitions of “competitive service,” “local exchange telecommunications company,” “noncompetitive service,” and “protected service” to indicate that the Section 53.57 definition mirrors the

relevant statutory Section 3012 definition. OCA Reply Comments at 4. While OCA agrees with Verizon that subsection 53.57 should define the terms “competitive wire center” and “noncompetitive wire center,” it argues its definitions of those terms (as set forth in OCA Comments for subsections 63.1 and 64.2) – not Verizon’s – should be used. OCA Reply Comments at 4-5.

The OCA opposes Verizon’s proposal to eliminate the phrase “subject to the jurisdiction of the Commission and” from the Commission’s proposed definition of “competitive telecommunications carrier” because “[t]he jurisdictional element is appropriate.” OCA Reply Comments at 4. The OCA also opposes Verizon’s proposed definitions of “dwelling” and “noncompetitive stand-alone basic residential service” insofar as “they are tied to Verizon’s proposal to sunset regulatory protections by end of 2023,” and notes that a rejection of Verizon’s “arbitrary phase out proposal” could well moot these definitions. OCA Reply Comments at 5.

Lastly, the OCA opposes Verizon’s proposed elimination of the term “Lifeline plan” and notes that “the obligation to offer Lifeline service – as defined by federal regulations, Commission orders designating an entity as an eligible telecommunications carrier (ETC), and relevant Chapter 30 Plan provisions – does not turn on the competitive or noncompetitive classification of the residential service or the geographic area where offered.” OCA Reply Comments at 6. The OCA urges the Commission to “provide affirmative guidance and regulation of more than just residential stand-alone basic service in a noncompetitive area.” OCA Reply Comments at 6.

2. Discussion and Resolution

Taking into consideration the comments from IRRC and TCC/CCL, we will ensure that the definition of the regulatory term “joint or bundled package” is consistent in both this section and Section 64.2 in Chapter 64 of our final-form regulations.

We acknowledge that a few of our proposed definitions in this rule are inconsistent with the statutory language of Chapter 30 of the Code. To ensure accuracy and consistency with Chapter 30, the Commission agrees with Verizon's rationale that the proposed definitions of "competitive service," "local exchange telecommunications company," "noncompetitive service," and "protected service" in Section 53.57 should be defined in a manner that mirrors the relevant statutory language in Section 3012 of the Code, which explicitly defines the terms "competitive service," "noncompetitive service" and other terms.³¹ However, we reject Verizon's suggested definitions for the terms "competitive wire center" and "noncompetitive wire center," in favor of the OCA's proposed definitions of those terms in Section 53.57. We will adopt the OCA's definitions in our final-form regulation as the OCA's definitions are more inclusive than Verizon's regarding the manner in which a retail service may become a competitive service under Section 3016 of the Code.

Lastly, we reject Verizon's proposal to eliminate the phrase "subject to the jurisdiction of the Commission and" from our proposed definition of "competitive telecommunications carrier" because as stated by the OCA, the jurisdictional element is appropriate and the reference to our jurisdiction over such entities should remain within the definition in Section 53.57. We reject all the other proposed definitions that Verizon has submitted in its comments. Accordingly, we will incorporate the foregoing approved revisions to our proposed Section 53.57 in the final-form regulation.

We also take steps to clarify the definition of "enterprise and large business customer," as currently proposed because it is somewhat ambiguous. As currently proposed, the definition appears to limit its applicability to legal entities "organized by charter, agreement or other similar instrument" but then includes "schools, government agencies and correctional institutions," which are entities typically created by statute, not

³¹ 66 Pa.C.S. § 3012.

charters or agreements. Since it was our intent that the definition of “enterprise and large business customer” encompass both private business and public institutions, we will amend the definition to provide clear delineation between public institutions and private business. Accordingly, in the final-form regulation, we will also amend our proposed definition of “enterprise and large business customer” so that the regulatory definition includes both private business and public institutions.

B. 52 Pa. Code § 53.58

In the Annex to the *NPRM Order*, the Commission proposed to clarify references to the term “product guide” where the reference remained applicable. The Annex also set forth proposed revisions to Section 53.58(a) by adding language that permitted a CLEC to declare any retail nonprotected services as competitive without filing a petition and demonstrating competitiveness.

Additionally, in the Annex to the *NPRM Order*, the Commission proposed revisions to Section 53.58(c) so that it would reflect that the temporary detariffing waivers the Commission had granted to some incumbent and competitive telecommunication service carriers in relation to certain services they offer to enterprise and large business customers would be made permanent and such waivers would apply on an industry-wide basis.

Further, the Annex set forth proposed revisions that removed language in Section 53.58(d) that required competitive and incumbent telecommunications service providers that are offering competitive services to file “informational tariffs, price lists, and ministerial administrative tariff changes” with the Commission and proposed to allow these entities to make rates and terms of basic local exchange service available through a product guide or similar document on the carrier’s website subject to the carrier’s maintaining an archive of any outdated rates, terms, and conditions that were available in

a product guide or similar document for a period of four years. This archived document must be provided to the Commission upon reasonable request.

In the Annex, the Commission proposed to modify Section 53.58(e)(4) to align with the current statutory criteria as set forth in Section 3016 of the Public Utility Code. In the *NPRM Order*, the Commission had determined that it would not eliminate tariff filing requirements for retail noncompetitive and protected telecommunications services, including basic local exchange services.

1. Comments and Replies

With respect to proposed Section 53.58(a), IRRC states that “[p]roposed § 53.58(a) includes a local exchange telecommunications company’s ‘protected services’ that have been declared or determined to be competitive” but that “the proposed definition of “*protected service*,” under § 53.57 (relating to Definitions), states that it is a service that has not been determined to be competitive,” and recommends that the Commission “should revise this section to make it consistent with the definition of ‘*protected service*’ or explain why it is unnecessary to do so.” IRRC Comments at 4.

In regard to proposed Section 53.58(d), IRRC asks whether the Commission intends “for the [outdated product guide] archives to be available on carrier websites so the public has access to them” and if it does, then IRRC recommends that the Commission “should specify, in the Annex to the final rulemaking, the location of where the archive is to be housed [and] how the public will access it.” IRRC Comments at 5.

Finally, IRRC asks the Commission “to clarify in § 53.58(d), whether ‘by the Commission as competitive’ should be removed from the bracket and retained so that the amendment reads “Local exchange telecommunication companies and competitive telecommunications carriers offering services determined by the Commission as competitive or declared as competitive[.]” IRRC Comments at 10.

The OCA opposes the Commission's proposed modification to Section 53.58(d) that eliminates the requirement that LECs file price lists applicable to competitive services with the Commission, and instead only require LECs to post their rates in a product guide and keep an archive of historical rates. OCA Comments at 9. The OCA argues that filing price lists allows "for assessment of the impact – if any – of the availability of documented competitive alternatives on the LEC's pricing of competitive services." OCA Comments at 9. The OCA expresses concern that rates posted in price guides on LEC websites "diminishes the ability to monitor the competitive marketplace." OCA Comments at 10.

TCC/CCL also propose modifications to the Commission's proposed Section 53.58 to clarify that, in TCC/CCL's view, (1) revised Chapter 30 contains a "presumption that all services provided by a competitive local exchange carrier (CLEC) or competitive telecommunications carrier are by definition 'competitive,'" TCC/CCL Comments at 6-7, and (2) under Chapter 30, the Commission should not specify the types of voice service offering a competitive carrier shall offer its customers to include "basic" service. TCC/CCL Comments at 8.

Verizon agrees with the Commission's proposal to revise the tariffing rules relating to telephone service but argues that the Commission's proposed new version of Sections 53.57—60 is still "unduly and complex." Verizon Comments at 12-13. According to Verizon, the Commission's proposal for Section 53.58(e) is flawed because it repeats or restates the statutory language of Chapter 30, when a reference to the statutory language would suffice. Verizon Comments at 13. Verizon also urges further streamlining or elimination of tariffing requirements with respect to competitive local exchange carrier offerings and services provided to enterprise and large business customers. Verizon Comments at 13.

The OCA opposes Verizon's proposed elimination of the steps for reclassification of a competitive service as noncompetitive and challenges Verizon's statement that "[a]ll retail telecommunications services offered... in competitive wire centers are classified as competitive." OCA Reply Comments at 7.

2. Discussion and Resolution

IRRC comments that the Commission should revise proposed Section 53.58(a) to make it consistent with the definition of "protected service" in Section 53.57 or explain why it is unnecessary to do so. The Commission will make this necessary clarification to Section 53.58 in the final-form regulation so that the reference to "protected service" in both Sections 53.57 and 53.58 is consistent with each other and the statutory language of Chapter 30 of the Code.

Next, we address TCC/CCL's proposed modifications to proposed Section 53.58 based on their premise that the revised Chapter 30 contains a presumption that all services provided by a competitive local exchange carrier or competitive telecommunications carrier are by definition "competitive" services under Chapter 30. TCC/CCL's statutory interpretation is inconsistent with the plain language of Chapter 30 of the Code as it does not establish a standalone or independent statutory mechanism for a competitive telecommunications carrier to classify its telecommunications services as "competitive." Rather, Section 3016 of the Code gives the authority to obtain competitive classifications for their respective retail protected services to incumbent carriers only. Under 3016(a) of the Code, the Commission may determine the retail *protected* or retail *noncompetitive* services of a local exchange telecommunications company (defined as an "ILEC") to be competitive upon the filing of petition and notice and hearing thereupon as outlined in the statutory language. Section 3016(b) of the Code gives a local exchange telecommunications company the right to bypass the Section

3016(a) petition process and self-declare its retail *nonprotected* services “competitive.”³² Contrary to TCC/CCL’s assertion, there is no express rebuttable presumption in Chapter 30 of the Code that all services offered by competitive entrants are automatically deemed competitive services.

For this same reason, we also reject TCC/CCL’s assertion that the Commission should not specify the types of voice service offerings a competitive carrier shall offer its customers to include “basic” voice service. Local exchange telecommunications service is defined as a protected service in Chapter 30 of the Code.³³ It remains a protected service whether it is offered on a standalone basis or in a joint or bundled package. In a prior rulemaking proceeding, the Commission merely determined to streamline filing requirements for bundled service packages, not to eliminate any obligation to provide protected service.³⁴ Essentially, when a LEC bundles “basic” local exchange (or standalone) voice service with other services as a joint or bundled service package, the LEC is afforded some pricing flexibility *for the package, which includes the standalone service*.³⁵ However, the obligation still exists to provide the service.

We take action in this final rulemaking to ensure that Section 53.58 is consistent with plain language of Chapter 30 of the Code and its policy objectives. Only a local exchange telecommunication company has the express statutory authority under Section 3016 of the Code to obtain a competitive classification for its retail protected services or self-declare any of its retail *nonprotected* service as competitive by filing its declaration with the Commission.³⁶ Thus, the Commission will make it explicitly clear in Section 53.58 of the final-form regulation that only local exchange telecommunications

³² See 66 Pa.C.S. §§ 3012 and 3016(a)(1).

³³ See 66 Pa.C.S. § 3012.

³⁴ *Rulemaking Re Updating and Revising Existing Filing Requirement Regulations 52 Pa. Code §§ 53.52-53.53 – Telecommunication Utilities*, Docket No. L-00940095 (Order entered June 2, 2000); see also 30 Pa.B. 6202.

³⁵ *Id.*

³⁶ 66 Pa.C.S. § 3016(b).

companies or ILECs may obtain competitive classifications for their retail services under Chapter 30 of the Code.

Notwithstanding, the Commission acknowledges that one of the stated goals of Chapter 30 is to promote and encourage the provision of competitive services by a variety of service providers on equal terms throughout all geographic areas of this Commonwealth.³⁷ This is our understanding of the way in which the General Assembly intend for the Chapter 30 to operate. To maintain this objective and ensure tariff parity amongst all local telecommunications service providers operating in Pennsylvania, the Commission will explicitly state in the final-form regulation that a competitive services classification obtained by a local exchange telephone company's telecommunication service via a Commission reclassification proceeding or a self-declaration process automatically applies to the operations of any competitive carrier operating within that incumbent's service area.

In other words, when a local exchange telecommunications service either receives a competitive classification in accordance with the Section 3016(a) petition process for certain services, or the ILEC makes a self-declaration via Section 3016(b) for the nonprotected service, that same functionally equivalent service may then be offered by any competitive carrier without the need for any further evidentiary showing to the Commission, as a competitive service in the relevant service territory.³⁸ In the final-form regulation, Section 53.58(a) will codify the concept that a competitive telecommunications carrier may classify its retail service as competitive only after the local exchange telecommunication company has obtained a competitive classification for a similar or functionally equivalent retail service.

³⁷ See 66 Pa.C.S. § 3011(8).

³⁸ See 52 Pa. Code § 53.58(b); *see generally*, *Reclassification Order*.

Additionally, in the final-form regulation, the Commission will amend Section 53.58 in such way so as to permit all local exchange telecommunications companies to obtain detariffing relief for their retail protected, nonprotected and noncompetitive services offered to enterprise and large business customers. In 1999, the Commission in the *Global Order* determined that specific retail services offered by Verizon Pennsylvania Inc. (Verizon PA) to enterprise and large business customers that exceeded a certain total billed revenue (TBR) level were now competitive and could be offered under individual case basis (ICB) contracts.³⁹ Specifically, the Commission had determined that Verizon's business services for customers with greater than \$80,000 in annual TBR were competitive, and that Verizon could provide ICB pricing for business customers generating between \$40,000 and \$80,000 in annual TBR. Over the years, the Commission has modified the established applicable TBR levels for competitive business services. Currently, \$10,000 and above in annual TBR is competitive and is priced in Tariff No. 500, and below \$10,000 in annual TBR is noncompetitive and priced in Tariff No. 1. In short, the manner in which we are amending Section 53.58 of the final-form regulation allows the other local exchange telecommunications companies to self-declare that their retail *nonprotected, noncompetitive* services that they offer to enterprise and large business customers are competitive. Accordingly, we modify Section 53.58 in the final-form regulation so that the detariffing relief that had been granted solely to Verizon PA via the *Global Order* is expanded to the other Chapter 30 ILECs.

The Commission acknowledges that over time, consistent with its prior action in the *Global Order*, it had granted similar relief to additional carriers, specifically, competitive local exchange companies, via temporary waivers. In light of Chapter 30's stated goal of promoting and encouraging the provision of competitive services by a

³⁹ *Joint Petition of Nextlink Pennsylvania, Inc., et al.*, Docket Nos. P-00991648, P-00991649, Order entered September 30, 1999, at 246-249, 196 PUR4th 172, 279-80 (*Global Order*), *aff'd*, *Bell Atlantic-Pennsylvania, Inc. v. Pa. Pub. Util. Comm'n*, 763 A.2d 440 (Pa. Cmwlth. 2000), *vacated in part sub nom. MCI Worldcom Inc. v. Pa. Pub. Util. Comm'n*, 844 A.2d 1239 (Pa. 2004).

variety of service providers on equal terms throughout all geographic areas of this Commonwealth, the Commission sees no reason for a competitive local exchange telecommunications company to have to file a petition with the Commission requesting a competitive designation for its retail noncompetitive services offered to enterprise and large businesses. Once a local exchange telecommunications company makes a self-declaration that the retail *nonprotected, noncompetitive* services it offers to enterprise and large business customers are competitive, this same competitive classification designation would apply to any competitive carrier operating in the service territory of the local exchange telecommunications company. Thus, in this circumstance, competitors would now be permitted to offer the same or functionally equivalent service to an enterprise or large business as a competitive service without first having to file a petition seeking a temporary waiver from the Commission since the ILEC has obtained such detariffing relief in accordance with the final-form regulation.⁴⁰

The OCA opposes the Commission's proposal in Section 53.58 to eliminate the requirement that LECs file price lists applicable to competitive services with the Commission, and to instead only require that LECs post their rates in a product guide and keep an archive of historical rates. OCA Comments at 8-10. The rationale for this opposition to our proposal is OCA's concern that the rates posted in price guides on LEC websites diminishes the ability to monitor the competitive marketplace. *Id.* We disagree with the OCA on this point, particularly in light of our archival requirement.

Chapter 30 gives the Commission the discretion to require the filing of price lists that contain the rates, terms and conditions of service for competitive services. 66 Pa.C.S. § 3016(d)(4). The overall purpose of this rulemaking is to streamline our regulations and the intent of the proposed regulation was to establish that it is only

⁴⁰ To be clear, this same tariff parity would apply to competitive entrants for any retail service classified as competitive under Section 3016(a) or (b) of the Code.

necessary for a jurisdictional LEC to post a price list for competitive services on its website unless the Commission directs the company to do otherwise. Thus, in Section 53.58(d) of the final-form regulation permits jurisdictional LECs to either post a price list or product guide setting forth the rates, terms and conditions for their retail competitive services on their websites.

However, in taking such action to streamline our regulations for our jurisdictional LECs, the Commission is mindful it may be necessary for carriers to maintain price lists for their competitive basic dial tone service offerings to residential customers. First, the Commission recognizes that residential customers may not have easy access to the Internet. Secondly, it is in the public interest for the Commission in order to ensure the utility is not engaging in unlawful discrimination or any other unlawful activity. Acknowledging this distinction between residential customers and nonresidential customers, the Commission determines that Section 53.58(d) of the final-form regulation will also set forth an exception to the default detariffing directive for retail competitive services by requiring jurisdictional LECs to continue to file price lists for their competitive *residential* standalone basic voice service with the Commission.

IRRC also recommends that proposed Section 53.58 should specify the location of where the archive for the outdated product guides is to be housed and how the public will access this archive. IRRC Comments at 5. We will adopt IRRC's recommendation regarding archived product guides and make this clarification in Section 53.58(d) of the final-form regulation in order to specify the location of the outdated price guide archive and the manner in which the public will gain access to it.

IRRC asks the Commission to clarify the placement of the bracket in proposed Section 53.58(d) because it causes ambiguity as to the intent of the regulation. IRRC recommends that we remove the bracket in proposed modification to Section 53.58(d) so that it reads as follows: "Local exchange telecommunication companies and competitive

telecommunications carriers offering services determined by the Commission as competitive or declared as competitive[.]” However, IRRC’s proposed construction of Section 53.58(d) does not comport with the principles of the statute.

The overall intent of the Commission’s proposed modifications to Section 53.58(d) was simply to convey that both local exchange telecommunications companies and competitive telecommunications carriers may offer competitive services and not an attempt to expand the scope of 66 Pa.C.S. § 3016. Thus, to alleviate any confusion that might have ensued from its proposed modifications to Section 53.58, the Commission has deleted all extraneous references to 66 Pa.C.S. § 3016 in Section 53.58 in the final-form regulation.

We do not agree with Verizon’s characterization of our proposed modifications to Section 53.58 as being unduly long and complex. Additionally, we recognize that Verizon overreaches in proposing to eliminate steps for obtaining a reclassification of a competitive service as noncompetitive and also asserting that all retail telecommunications services offered in competitive wire centers are classified as competitive. These assertions are contrary to Verizon’s own verified and averred statements in its reclassification petition where it explicitly stated that it was not seeking a competitive classification for switched access or special access in these requested 194 wire centers.⁴¹

To date, Verizon has not averred or demonstrated that switched access or special access is competitive in its 153 competitive wire centers. Nonetheless, we believe that our actions taken in this final rulemaking to modify Section 53.58 are consistent with the statutory language embedded within Chapter 30 of the Code. Accordingly, the Commission’s regulatory intent regarding the offering of retail competitive services is

⁴¹ Joint Petition at 3, ¶ 6.

reflected in the final-form regulation and it has largely adopted its prior proposed modifications to Section 53.58 in the final-form regulation subject to certain necessary revisions for clarification purposes.

C. 52 Pa. Code § 53.59

In the Annex to the *NPRM Order*, the Commission, *inter alia*, proposed this rule to address the tariff filing regulations therein.

1. Comments and Replies

Verizon posits that tariffing is a burdensome, outdated regulatory process that does not benefit consumers and does not apply to unregulated competitors. Verizon Comments at 13. Instead, Verizon proposes “a phased-out approach” whereby the tariffing requirement is immediately limited to standalone basic residential service in noncompetitive areas and eliminated entirely by the end of 2023. Verizon Comments at 13. Verizon recommends that the Commission adopt Verizon’s proposed “streamlined version of Section 53.57-60” set forth in Attachment 1 to its comments. Verizon Comments at 13.

With respect to Verizon’s comments regarding Section 53.59, the OCA avers that Verizon’s proposal is “confusing” because Verizon “makes no mention whether these [tariffing] provisions conform with ILEC Chapter 30 plans” and OCA opposes Verizon’s proposal insofar as it requires that the Commission “cease to exercise its authority and discretion” in this area. OCA Reply Comments at 7-8. Additionally, the OCA opposes Verizon’s proposal to immediately limit carriers’ obligations to file price lists except where residential standalone basic service is offered in noncompetitive wire centers which is to be eliminated entirely by the end of 2023. OCA Reply Comments at 7.

2. Discussion and Resolution

Verizon proposes that the Commission adopt its “phased out approach” whereby the tariffing requirement is immediately limited to standalone basic residential service in noncompetitive areas and eliminated entirely by the end of 2023. We affirmatively approved a two-tiered regulatory structure for Verizon in the *Reclassification Order*, where currently, 153 of Verizon’s wire centers are classified competitive while 351 remain noncompetitive. For these noncompetitive wire centers, basic local exchange service remains a protected service. Moreover, switched access and special access remain protected services subject to tariffing requirements in both competitive and noncompetitive wire centers. Thus, in regard to our proposed retention of tariffing requirements in this rulemaking, we determine that it is appropriate to have a bifurcated system of tariff requirements that may be separately applicable to retail protected and retail noncompetitive services.

In addition, Chapter 30 already provides a process to obtain relief from tariffing requirements. We note that when an ILEC ultimately decides to undergo the competitive classification statutory process for its remaining retail protected or retail noncompetitive services, if it is successful, it shall then have the legal right to move from under the tariff regime requirements and utilize price lists as outlined in Chapter 30 and as set forth in final-form Section 53.58(d). The ILECs’ comments reflect a belief that we are unilaterally preventing or prohibiting them from seeking to obtain the statutory relief outlined in Section 3016 of Chapter 30. While the main goal of this rulemaking exercise is to adopt amendments that reduce certain regulatory burdens, we also remain cognizant that the General Assembly has already established the means to obtain wholesale detariffing relief—the Section 3016 process.

Thus, we are not persuaded at this time to adopt a detariffing regime for all services except basic local exchange service in noncompetitive wire centers, especially when Chapter 30 of the Code provides for the means for an ILEC to obtain such relief

including the regulatory freedom to provide competitive services without having to file a tariff. Accordingly, we reject Verizon's phased out approach, and we will adopt our proposed modifications to Section 53.59 in the final-form regulation subject to certain necessary revisions for clarification and formatting purposes.

D. 52 Pa. Code § 53.60

In the Annex to the *NPRM Order*, the Commission proposed some slight terminology revisions to Section 53.60 but did not eliminate the tariff filing requirements for noncompetitive and protected services, including basic local exchange service, in this section of the regulation.

1. Comments and Replies

IRRC recommends that, in the Commission's proposed language for subsection 53.60(b), the "a" after "local exchange telecommunications companies" should be "and." IRRC Comments at 10.

TCC/CCL propose that the Commission clarify the obligations of competitive telecommunications carriers relative to tariff filings, either by (1) modifying the Commission's proposed subsection 53.60 (Supporting documentation) to include references to competitive services and carriers; or (2) addressing tariff filings for competitive services (whether offered by a local exchange telecommunications carrier or a competitive telecommunications carrier) in a new or repurposed subsection 63.104. TCC/CCL Comments at 8-11.

2. Discussion and Resolution

Based on their comments regarding Section 53.60, it appears that TCC/CCL are working under the presupposition that a competitive telecommunications carrier is automatically deemed competitive upon its entry and operation in a local calling area located within an ILEC's service territory. As established above, this presupposition is

incorrect. While a competitive telecommunications carrier is competing against an ILEC, it cannot be deemed to be truly offering a “competitive” service until the ILEC has first obtained a competitive classification of its service in the service territory (either through self-declaration or the petition process). Until that occurs, a competitive telecommunications carrier is deemed to be offering nothing more than a “competitive” version of a *noncompetitive or protected retail service* in the service territory of the ILEC. Thus, a competitive telecommunications carrier is subject to the tariffing requirements under Section 53.58(d) unless it is offering a bundled service package, in which case Section 53.60 would apply.

We adopt our prior proposed modifications to Section 53.60 subject to certain necessary revisions for clarification purposes and incorporate them into the final-form regulation set forth in the Annex.

II. CHAPTER 63. TELEPHONE SERVICE

In the *Reclassification Order*, we granted Verizon’s request for waiver of Chapter 63 Subchapters B, C, E, F, and G for the wire centers that the Commission determined may be reclassified as competitive under 66 Pa.C.S. § 3016(a).⁴² However, all remaining Subchapters of Chapter 63 remained in full force for these newly-classified competitive wire centers, including Subchapter D. Underground Service, Subchapter K. Competitive Safeguards, Subchapter L. Universal Service, and Subchapter M. Changing Local Service Providers.⁴³

In making our proposed amendments to the regulations within Chapter 63, we reviewed the comments to the *ANPRM* and the proprietary market data related to the competitive wire centers Verizon had submitted for the 2015-2016 period. Based upon our review of the submitted comments and the Verizon proprietary market data, the

⁴² *Reclassification Order* at 79.

⁴³ *Id.*

Commission reached the determination that it could not eliminate all regulations in Chapter 63 on the wholesale basis that Verizon sought. Instead, in the Annex to the *NPRM Order*, the Commission followed a granular approach, making specific proposals to retain those Chapter 63 regulations that continue to serve a purpose in today's market, to eliminate those Chapter 63 regulations that are no longer necessary or appropriate in today's market, to revise certain Chapter 63 regulations in need of modernization, and to have its Chapter 63 regulations apply to all geographic areas served by our jurisdictional LECs.

**A. Subchapter A (General Provisions)
52 Pa. Code § 63.1 (Definitions)**

The Commission proposed to amend this regulation consistent with its determinations to eliminate all unnecessary and obsolete regulations set forth in Chapter 63. For example, since the Commission proposed to rescind Section 63.60, which relates to automatic dialing-announcing devices, we had also proposed to remove the definition of automatic dialing-announcing device from Section 63.1.

a. Comments and Replies

With respect to the definitions of "Competitive wire centers" and "Noncompetitive wire centers," IRRC recommends that the Commission "should make certain that the definitions for these terms are consistent with the definitions in Section 64.2." IRRC Comments at 5.

The OCA proposes edits to ensure "that the respective definitions are worded consistently." OCA Comments at 11. The OCA proposes the addition of definitions of "Competitive wire center" and "Noncompetitive wire center," consistent with proposed definitions of the same terms in subsection 64.2. OCA Comments at 11. The OCA also supports the Commission's proposal that any Chapter 63 regulation that is retained apply in all geographic areas, whether competitive or noncompetitive. OCA Comments at 10.

Verizon proposes several definitional terms for Section 63.1 in its Attachment to its Comments. The OCA opposes Verizon's proposals regarding subsection 63.1 because those proposals would limit carriers' obligations and customers' remedies to noncompetitive basic local service on a stand-alone basis. OCA Reply Comments at 9-10. OCA avers that "Verizon's proposal to limit regulatory obligations and protections for consumers and the public based upon whether the subscribed service is noncompetitive basic stand-alone service and whether the date is before or after December 31, 2023, is unworkable and not in the public interest." OCA Reply Comments at 10.

b. Discussion and Resolution

In response to IRRC's and OCA's comments concerning the definitions of "Competitive wire centers" and "Noncompetitive wire centers," the Commission has already determined that it would adopt the OCA's proposed definitions of these terms and incorporate them into Section 53.57 of our regulations. Accordingly, we also will incorporate those definitions and other of the OCA's edits to proposed Section 63.1 in the final-form regulation. We reject any other changes to Section 63.1 proposed by commentators as unnecessary or contrary to the public interest or applicable law.

B. Subchapter B (Services and Facilities)

**1. 52 Pa. Code § 63.12
(Minimizing interference and inductive effects)**

As currently written in our regulations, Section 63.12 speaks to interference that is traditionally recognized in relation to the provision of analog service transmitted over copper transmission facilities, which is being replaced as providers migrate their wireline networks to fiber optic transmission facilities and as a result increasingly offer digital services.

In the *Reclassification Order*, the Commission had waived the applicability of this Section of Chapter 63 for Verizon in its 153 competitive wire centers.⁴⁴ In light of comments that had been filed in response to the *ANPRM Order* and our determination that even after having transitioned their existing networks to a fiber optic based distribution network provisioning jurisdictional telecommunications service, our jurisdictional LECs remain statutorily obligated to provide service that is reasonable, efficient, safe, adequate, and reasonably continuous without unreasonable interruption or delay under Section 1501 of the Code. Thus, in the *NPRM Order* and Annex, the Commission had proposed to eliminate Section 63.12 as a standalone regulation and address all relevant matters of interference initially set forth in Section 63.12 under Section 63.63 of our regulations.

a. Comments and Replies

No party filed comments or replies to the Commission's proposed elimination of this rule.

b. Discussion and Resolution

Our proposal essentially eliminates Section 63.12 as a standalone regulation but incorporates the interference standard within Section 63.63. Since no party has filed any adverse comments regarding our proposed elimination of Section 63.12 as a standalone regulation, we will adopt our proposal to eliminate it from Chapter 63 of Title 52 of the Pa. Code. Accordingly, the permanent rescission of Section 63.12 from Chapter 63 will be reflected in the final-form regulation set forth in the Annex. We note that the proposed incorporation of the interference standard into Section 63.63 of the Commission's regulations is addressed elsewhere in this Order.

⁴⁴ *Reclassification Order* at 79.

2. 52 Pa. Code § 63.13 (Periodic Inspections) and § 63.14 (Emergency Equipment and Personnel)

As currently written in our regulations, Section 63.13 requires utilities to adopt a program of tests and inspections and Section 63.14 addresses telecommunications network operational matters during emergencies. In the *NPRM Order*, using the same rationale that led to our proposal to eliminate Section 63.12 from Chapter 63 of our regulations, we proposed to eliminate Section 63.13 because the subject matter of the regulation will be adequately addressed through our proposed modifications to Section 63.63. Moreover, jurisdictional LECs' plans of inspections likely will play a role in their ability to maintain continuous and efficient network operations, which is still required under Section 63.64 of our regulations.

However, we proposed to retain Section 63.14 in its entirety because of our belief that this regulation is essential for the provision of adequate, reliable and resilient telecommunications services during various conditions including emergency situations such as natural disasters experienced by all local calling areas, in all geographic areas in which our jurisdictional utilities serve.

a. Comments and Replies

Verizon proposes that Section 63.14 should be eliminated from Chapter 63 because the regulatory mandate for metering, testing, inspections and preventative maintenance is intrusive micro-managing that is completely unnecessary. Verizon Comments at 22. Verizon argues that competitive pressure is sufficient to require regulated providers to conduct whatever inspections and maintenance are necessary to keep service at a level that meets customer expectations without the need for a stated rule because if providers do not meet the level of service that customers expect, then customers will abandon them for a competitor. *Id.* Lastly, Verizon asserts that the Commission still has authority to enforce reasonable service under Section 1501 if issues arise.

The OCA supports the Commission's proposal to retain subsection 63.14 and its applicability to all telecommunications public utilities and geographic areas. In opposition to Verizon's proposal regarding Section 63.14, the OCA specifically urges the Commission to retain this rule as it currently exists because it is the OCA's contention that "its elimination or even its modification as proposed in the Annex to the *NPRM Order* would remove all meaningful standards and regulatory guidance that is still needed to promote and protect today's complex and important telecommunications network." OCA Reply Comments at 10-12.

b. Discussion and Resolution

The regulated community agrees that jurisdictional LECs must have the ability and capability to remain functional in emergency situations. As the Commission, we are obligated to work with our regulated partners to ensure that critical infrastructure and services are operational at all times. However, we are reluctant to abandon a level of specificity in our regulations to ensure critical infrastructure and services are operating at times when they are needed most. In this docket, Verizon proposes a streamlined version of Section 63.14 in Attachment 1 to its comments. Verizon's "bare bones" proposal simply restates the requirement but does not outline how the requirement of continued functionality is to be achieved or maintained by the LEC. Verizon also has not presented any substantial evidence or compelling reason as to why the Commission should not continue its regulatory obligation to specify standards to ensure the LEC's continued operations and functionality when emergencies arise, such as a severe weather event or natural disaster, since voice service may be interrupted during this event.

We acknowledge our statutory directive and regulatory obligation to review and revise our Chapter 63 telecommunications regulations and to streamline them where necessary so that we do not "micro-manage" LECs. Therefore, when we are proposing modifications to the existing regulations it is our goal to ensure that (1) there is a demonstrated need to regulate, and (2) the most efficient measure is selected to achieve

the regulatory objective. Concerning the topic of continued operation in emergencies, the Commission determines that it is reasonable to continue to specify the back-up power requirements for line-powered voice service from the LECs' central offices to ensure their ongoing functionality and to require LECs to reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations.

We had proposed to retain Section 63.14 in its entirety because it is essential for the provision of adequate, reliable and resilient telecommunications services under conditions of various emergency situations. Thus, we determine that Section 63.14 should be retained in a streamlined form in the final-form regulation set forth in the Annex.

However, similar to our rescission of Section 63.12, we adopt our proposal to eliminate Section 63.13 as a standalone regulation, and we note that the issue of whether specific inspection/maintenance standards are still needed in Chapter 63 is addressed as part of our Section 63.64 discussion elsewhere in this Order.

3. 52 Pa. Code § 63.15 (Complaint Procedures)

Consistent with our prior determination in the *ANPRM Order*, we determined that Section 63.15 continues to serve a legitimate purpose by giving definition to a viable complaint process.⁴⁵ However, we also determined that this regulatory section could be further modernized and streamlined. The Commission noted that it had established a “warm transfer” program for Verizon, by which BCS had the option to transfer any customers who contacted BCS about a service or billing complaint directly to the company's representative in an effort to address the customer's issues and avoid the filing of an informal complaint. We acknowledged that this option promoted efficiency for both customers and LECs. Thus, we proposed to amend Section 63.15 to add new

⁴⁵ See *ANPRM Order* at 11.

language to provide all telecommunications public utilities, most particularly our ILECs, with the option to participate in a warm transfer or similar program for service and/or billing-related disputes made to the Commission's BCS.

a. Comments and Replies

With respect to the Commission's proposed warm transfer process, IRRC opines that "[t]he description provided by the [Commission] is a general overview of the process and does not provide sufficient detail about the implementation or technical requirements needed to participate" and "does not explain how it promotes efficiency for both the customers and ILECs." IRRC Comments at 6. IRRC recommends that "[t]he [Commission] should provide greater detail pertaining to the process and technical requirements of this section" and "it should also describe how the automatic customer transfer option promotes efficiency for both customers and service providers." IRRC Comments at 6.

The OCA supports the Commission's proposal to retain subsection 63.15 and to add the warm transfer option. OCA Comments at 12. TCC/CCL suggest that the Commission modify its proposed warm transfer procedure for customer complaints in subsection 63.15, to be optional for the carrier as well as the customer. TCC/CCL Comments at 12-13.

With respect to subsection 63.15, Verizon argues that the existing BCS informal complaint process does not apply to competitive services and does not benefit consumers because it focuses carrier resources on generating reports instead of resolving complaints. Verizon Comments at 14. Verizon posits that the Commission's proposed warm transfer option would not significantly reduce the reporting burden or expedite complaint resolution. Verizon Comments at 15.

Verizon proposes an alternative complaint process whereby (a) BCS shall only accept informal complaints relating to noncompetitive standalone basic residential local exchange service, and utilize the warm-transfer option upon agreement of the carrier; (b) BCS shall refer all complaints relating to competitive services to the carrier and shall not accept any complaint relating to a competitive service or service outside the Commission's jurisdiction; and (c) after the end of 2023, BCS shall no longer accept informal complaints relating to telecommunications service and shall refer all such complaints to the carrier. Verizon Comments at 15.

The OCA specifically opposes Verizon's proposals regarding Section 63.15. The OCA asserts that Verizon's proposal would limit carriers' obligations and customer's remedies to "noncompetitive basic local service on a stand-alone basis." OCA Reply Comments at 9-10.

b. Discussion and Resolution

It is puzzling that Verizon is so highly critical of the proposed warm transfer process. In 2009, the Commission's BCS initiated a "Warm Transfer Trial" because Verizon had specifically requested this option.⁴⁶ In the absence of establishing an industry-wide warm transfer process, a jurisdictional LEC would be subject to the Commission's usual informal complaint process prescribed in Section 63.15 as well as the recordkeeping duty set forth in Section 63.22. Typically, if a customer were to file an informal complaint regarding a jurisdictional issue against its local telecommunications carrier, BCS would direct the company to report the date, time, and service affected, and the nature of the trouble report, along with the results of the investigation, resolution, and the date and time that the trouble report was cleared. This information is required for all

⁴⁶ On March 31, 2010, the Commission extended the Trial for an additional twelve months or until April 2011. Although the Trial officially ended more than a year ago, BCS continues to offer Verizon customers, and Verizon continues to use the warm transfer option.

trouble reports related to the complaint filed with BCS. These reports can be long and technical.

However, using the warm transfer process, the BCS utility complaint interviewer gives the customer the option either to file an informal complaint that would normally be processed by BCS or be directly and immediately transferred to Verizon for resolution of the service issue. If the customer chooses the latter, the BCS utility complaint interviewer logs that call as an “informal complaint” but then transfers the customer to Verizon for resolution. Also, when a LEC participates in the warm transfer process, the information required in response is abbreviated. While the LEC is required to provide BCS with sufficient information regarding the disposition of the matter in a timely manner, BCS only asks the LEC to provide enough information to indicate that the trouble report or issue was cleared and that the customer was satisfied. The LEC is not expected to provide any further detailed response. Thus, the warm transfer process imposes no additional reporting requirements on LECs and nullifies the need for a LEC to go through the Commission’s informal complaint process, greatly simplifying that process.

Additionally, the warm transfer process allows BCS to continue to comply with its statutory obligation to take in all informal complaints from customers as set forth in Section 308(d) of the Code, 66 Pa.C.S. § 308. Under Section 308.1(a) of the Code, the Commission is required to promulgate regulations allowing for a consumer to make an informal complaint with the Commission’s BCS. Moreover, under a plain reading of Section 308(d) of the Code, BCS is required to receive, investigate and issue final determination on “all informal complaints.” During the warm transfer process, the BCS utility complaint interviewer logs that call as an “informal complaint,” but also has the discretion to hold the informal complaint process in abeyance and allow the LEC to quickly resolve the matter via the warm transfer process. Thus, the proposed warm

transfer allows BCS to satisfy the statutory obligation set forth in Section 308(d) of the Code but with a lesser burden on both the carrier and the customer.

Our primary effort in this rulemaking is to modify our regulations so that our regulatory process is more efficient and streamlined for our regulated carriers while still maintaining necessary consumer protections. Consumers calling BCS are looking for an efficient resolution to their issues. Our proposal to make universally available the warm transfer process facilitates this as it gives LECs the opportunity to address and resolve issues and short-circuit the existing informal complaint process, which can be intensive in both time and reporting. The Commission submits that benefits accrue through promptly addressing a customer's service-related issue:

- Increases customer satisfaction and loyalty: when customers are satisfied, they are likely to stay with a business for long-term, which boost sales and profitability.
- Gives competitive advantage: customer satisfaction helps telecommunication operators achieve competitiveness because their customers are less interested in a competitor.
- Increases word of mouth awareness and reduces marketing expenses: Satisfied customers are likely to recommend the business and products to their personal connections including friends and families, thus, become advocates and "unofficial" brand ambassadors. This "word of mouth" advertising can help generate new customers.
- Increases sales and ensures success with new product when your customers are satisfied, they repeat business and reduce churn and look forward to new products and services, which, in turn, increases your sales.

We note IRRC's observations regarding the perceived absence of the necessary technical requirements and sufficient details pertaining to the process. As to the technical requirements of the proposed 63.15, it is important to note that currently almost all of our ILECs and larger CLECs already participate in the Commission's data and web exchange

programs. BCS and the LECs already use electronic communication to share case information, informal utility reports, and closing information. The most challenging requirement for the LEC's will be providing a dedicated telephone number to receive calls from BCS and having the staff available to answer BCS calls. Since the warm transfer process is voluntary, any provider that found those requirements too burdensome would not be required to participate in the program. No further detail or technical specificity about the warm transfer process is necessary.

Consumers require a means to have their service-related complaints addressed, and we have determined that our proposed warm transfer process is the most efficient measure to meet this specific regulatory objective. Accordingly, we will incorporate our proposed Section 63.15 in the final-form regulation set forth in the Annex.

4. **52 Pa. Code § 63.16 (Traffic measurements),
52 Pa. Code § 63.18 (Multiparty line subscribers), and
52 Pa. Code § 63.19 (Interoffice lines)**

We recognized in our *ANPRM Order* and *Reclassification Order* that Subchapter B includes a few provisions that relate to services that essentially no longer exist, including multiparty lines, and also provisions relating to traffic measurements and recordkeeping that are largely manual in nature and predate the use of computers. Accordingly, in the Annex to the *NPRM Order*, we proposed to permanently rescind Sections 63.16, 63.18, and 63.19 from Chapter 63 of our regulations since they are outdated and obsolete.

a. Comments and Replies

No party filed comments or replies to the Commission's proposed modification to this rule.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposed rescission on these regulations, we permanently rescind Sections 63.16, 63.18 and 63.19 from Chapter 63 of Title 52 of the Pa. Code in the final-form regulation set forth in the Annex.

5. 52 Pa. Code § 63.20 (Line Extensions)

In the *NPRM Order*, the Commission retained Section 63.20 (Line extensions) because of continued relevance to the carrier of last resort (COLR) obligation that remains in effect, including in competitive wire centers. *Reclassification Order* at 80-81. For this same reason, we proposed to retain Section 63.20 and made it apply throughout a jurisdictional LEC's geographic service area.

a. Comments and Replies

OCA supports the Commission's proposal to retain this rule, for the same reasons the Commission denied Verizon's request for a waiver thereof in the *Reclassification Order*. OCA Comments at 13.

TCC/CCL suggest that the Commission add a reference to product guides to this rule, in recognition that the substance of the rule could be addressed in a tariff or in a product guide, in the case of a competitive, detariffed service. TCC/CCL Comments at 13.

Verizon urges the Commission to eliminate this rule because COLR obligations derive from the Public Utility Code and the rule is therefore superfluous and/or lacking statutory support. Verizon Comments at 20.

The OCA opposes Verizon's proposal regarding this rule because it asserts that its elimination would remove meaningful standards and regulatory guidance that is still

needed to promote and protect today's complex and important telecommunications network." OCA Reply Comments at 10-12.

b. Discussion and Resolution

This regulation was adopted in 1946 and last amended in 1969. As we have stated previously, our prevailing goal of this proceeding is to propose regulations that set forth the most efficient measure to achieve the regulatory objective. Thus, we agree with Verizon that COLR obligations derive from the Public Utility Code and the rule is therefore not necessary.⁴⁷ Even in the absence of this regulation, a statutory obligation exists under Section 1501 of the Code to make reasonable line extensions, and this obligation applies to all LECs. Thus, the Commission has the ability under the Code to ensure that a LEC readily makes line extensions servicing applicants within its certificated territory.

Additionally, the LEC must include a section in their tariff or price guide that details their duty and statutory obligation to make reasonable line extensions within the territory in which it is authorized to operate and also the conditions under which it will make line extensions servicing applicants within its charter territory. Accordingly, we agree that it is unnecessary to attempt to restate the Section 1501 obligation to make reasonable line extensions in our regulation, and thus, we will delete Section 63.20 from Chapter 63 in the final-form regulation.

6. 52 Pa. Code § 63.21 (Directories)

We noted in the *Reclassification Order* that Verizon no longer provides a residential White Pages directory in paper form automatically.⁴⁸ We also noted in the *ANPRM Order* that both Verizon and CenturyLink were specifically granted relief to end saturation delivery of paper copies of residential and business White Pages and business

⁴⁷ See *Reclassification Order* at 7, 60-61.

⁴⁸ *Reclassification Order* at 80.

Yellow Pages directories, except for those customers likely to use or specifically request the directories.⁴⁹

Additionally, the Commission recently granted our thirty-five RLECs a temporary waiver of 52 Pa. Code Section 63.21 regarding directories that is subject to the same conditions, terms, limitations, and requirements attached to prior Commission waivers granted under this regulation.⁵⁰ In granting this temporary waiver during the pendency of this rulemaking process, we determined that this regulation may be obsolete for end-user consumers that receive retail services, including protected basic local exchange services in all geographic areas.

However, we are also cognizant of the fact that not all end-user consumers of regulated telecommunications services may simultaneously have broadband access to electronic directory information. Therefore, we proposed to amend Section 63.21 to comport with and codify the temporary waivers of directory distribution and availability that were granted to Verizon, CenturyLink, and Frontier ILECs,⁵¹ which by virtue of our order entered July 28, 2020, at Docket No. P-2018-3005224, were also extended to the remaining Pennsylvania RLECs.

a. Comments and Replies

With respect to the Commission's proposed modified subsection 63.21, IRRC recommends that the Commission should explain how the benefits of the regulation outweigh any cost and adverse effects. IRRC Comments at 6. IRRC also notes that "paragraph (3) reads 'print directories shall be distributed to consumers who are more

⁴⁹ *Joint Petition and Notice of the United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, Verizon Pennsylvania LLC and Verizon North LLC and Dex Media, Inc. to reduce Distribution of Print Telephone Directories and Transition to Digital Publication or, Alternatively, for Relief of 52 Pa. Code § 64.191(g)*, Docket No. P-2017-2610359 (Order entered August 31, 2017) (*2017 Directories Order*).

⁵⁰ *See RLEC Directory and Toll Presubscription Order*.

⁵¹ *Joint Notice and Petition of the Frontier Communications Companies to Reduce Mass Distribution of Printed Telephone Directories*, Docket No. P-2019-3007831 (Order entered April 11, 2019).

likely to use them” and avers that “[t]his is nonregulatory language and it should be replaced with a clear, enforceable standard.” IRRC Comments at 6.

The OCA supports the continuing availability and distribution of updated directory information “in a way that meets the needs of consumers.” OCA Comments at 13. However, with respect to subsection 63.21, the OCA does support elimination of the requirement to distribute directories to subscribers, as required by subpart 63.21(b).

According to Thryv, “[t]he traditional directory market is now small enough, and competitive options ubiquitous enough, that no further regulation of any sort is in the public interest.” Thryv Comments at 2. Thryv points to comments it submitted to the Commission in 2018 and states “[t]he trends discussed in 2018 have continued unabated.” Thryv Comments at 2. Thryv argues that “the only impact of regulations has been to drive up [its] costs” and “[a]dvertising revenues from paper directories continue to decline and no regulations can stop or slow those trends.” Thryv Comments at 2. Thryv posits that the Commission’s prior regulatory waivers have permitted it to target communities which want to receive directories with great success, but also that the Commission should completely eliminate regulation of directories in order to facilitate further targeting as the market for directories continues to shrink. Thryv Comments at 3-4.

Verizon opposes the Commission’s proposal to codify its previous waiver conditions relating to provision of white pages directories and urges the Commission instead to eliminate any requirement for ILECs to provide directories. Verizon Comments at 15-16. Verizon posits that there is no public demand for directories, that continuing publication of directory information on an opt-out basis creates privacy concerns, that directories are obsolete because the same information can be obtained online and by calling toll-free directory services, that the current requirement to provide directories is anti-competitive because unregulated carriers have no obligation to provide

them, whereas ILECs do, and that producing directories creates unnecessary environmental issues. Verizon Comments at 16-17.

b. Discussion and Resolution

The Commission agrees with OCA that we should not rescind this regulation at this time. As noted in the *NPRM Order*, not all end-user consumers of regulated telecommunications services may simultaneously have broadband access to electronic directory information. The Commission also agrees with IRRC's comments that we need to have an enforceable standard for directory distribution. However, we believe this regulation is on the path to obsolescence. As noted in comments, print requests statewide have declined almost by half since 2017 despite the 50% reduction in automatic deliveries. And, at the current trend, requests for print would be near zero in another four years. Thryv Comments at 4. Therefore, to address these issues raised in comments, we shall revise Section 63.21(b)(3) in the final-form regulation to state that distribution of directories beyond an "upon request" basis shall be at the discretion of the public utility and add a new Section 63.21(f) that sets forth a sunset provision of January 1, 2026 for the directory distribution requirement.

7. 52 Pa. Code § 63.22 (Service Records)

In the *NPRM Order*, we proposed to eliminate Sections 63.22(a)(1) and (a)(4), 63.22(b), and 63.22(c) of this regulation on the same bases we have set forth addressing Sections 63.12, 63.13, and 63.63. However, we also proposed to retain Sections 63.22(a)(2) and (3). Complaints involving service generally and outages specifically cut to the core of our regulatory oversight over consumer protections, especially when safety is involved. Retention of records required to be made under this and other service-related sections is further addressed in our discussion of Section 63.54, below.

a. Comments and Replies

With respect to subsection 63.22, Verizon urges the Commission to eliminate this rule as unnecessary and obsolete in today's competitive environment. Verizon Comment at 23.

The OCA supports the Commission's proposal to retain Section 63.22. OCA Comments at 12.

b. Discussion and Resolution

The gravamen of Verizon's request for the Commission to eliminate this rule is its contention that their competitors are not required to keep such records and there is no evidence that competitive providers are failing to keep records sufficient to meet their customers' need. *Ipsa facto*, jurisdictional LECs should be on the same footing as their unregulated competitors in this regard.

To be clear, the primary goal here is to eliminate all obsolete and unnecessary regulations and retain those that protect the public interest but at the same time do not overburden or "micro-manage" the regulated telecommunications community. We disagree with Verizon about eliminating this record retention regulation, especially as we are retaining regulations that require LECs to keep certain records involving service generally and outages specifically, especially when safety is involved. Accordingly, since some recordkeeping is still necessary, the Commission will adopt its proposal regarding Section 63.22 in the final-form regulation set forth in the Annex.

**8. 52 Pa. Code § 63.23
(Construction and maintenance safety standards for facilities)**

We concluded in the *Reclassification Order* that some of our regulations are outdated, such as Section 63.23 requiring compliance with the 1981 National Electrical Safety Code (NESC). *Reclassification Order* at 77. We agreed with the

Communications Workers of America (CWA) that the regulation addresses safety and is intended to protect workers and the public, and we decided to condition the temporary waiver upon the requirement that Verizon construct and maintain equipment and facilities, and wire or cable crossings, in compliance with the safety standards provided in the current version of the NESC⁵². We also noted that the OCA supported such an amendment to Section 63.23.⁵³

The Commission agreed with the OCA that instead of just granting the temporary waiver of Section 63.23 conditionally upon Verizon's construction and maintenance standards conforming with the current and most up-to-date version of the NESC, we proposed to revise the section to reflect that the most up-to-date safety standards will apply to all jurisdictional LECs in all areas throughout the Commonwealth.

a. Comments and Replies

IRRC recommends that the Commission clarify this subsection by referring to "the most recent IEEE National Electric Safety Code" instead of "safe and reasonable standards." IRRC Comments at 7.

The OCA supports the Commission's proposal to retain this rule, modified to ensure that public utilities construct and maintain facilities in accordance with the most recent IEEE National Electric Safety Code. OCA Comments at 14. OCA argues that this clarification is necessary in light of recent regulatory developments at the FCC and the Commission which are designed to enable carriers and third parties to attach facilities to existing public utility poles. OCA Comments at 14.

⁵² *Reclassification Order* at 81, 141 (Appendix D).

⁵³ *Id.*

b. Discussion and Resolution

The need for safety and consistent standards should apply to all jurisdictional LECs. Since the goal of this provision is maintaining safety and reliability, the regulation remains relevant to ensure that the most up-to-date safety standards will apply to all jurisdictional LECs in all areas throughout the Commonwealth. However, we agree with the recommendation from IRRC and will clarify this rule by referring to “the most recent IEEE National Electric Safety Code” instead of “safe and reasonable standards.” in the final-form regulation set forth in the Annex.

9. 52 Pa. Code § 63.24 (Service interruptions)

As a result of our conclusion that a competitive market can offer a dissatisfied customer an alternative service from another provider and a satisfactory financial remedy, the Commission granted a temporary waiver of this regulation that allows a credit on a customer’s bill when telecommunications service is interrupted for at least twenty-four hours.⁵⁴ Moreover, we noted in the *Reclassification Order* that Verizon’s Product Guide, Section 1, Original Sheet 6 addresses the issue by providing credits.⁵⁵

In the *NPRM Order*, we determined that since we were not persuaded that Section 63.24 has become irrelevant for the provision of service to end-user consumers that receive retail services, including basic local exchange services, we proposed to retain Section 63.24.

a. Comments and Replies

TCC/CCL suggest that the Commission add a reference to product guides to this rule, in recognition that the substance of the rule could be addressed in a tariff or in a product guide, in the case of a competitive, detariffed service. TCC/CCL Comments at 13.

⁵⁴ *Reclassification Order* at 80.

⁵⁵ *Id.*; *Final Implementation Order* at 17.

Verizon opposes the Commission's proposal to continue this regulation and to reinstate it in competitive areas. Verizon Comments at 20-21. Verizon argues that competition renders this rule obsolete and that it does not meet "the Chapter 30 regulatory standard." Verizon Comments at 21.

The OCA opposes Verizon's proposal regarding this rule because it asserts that its elimination or even its proposed modification as set forth in the Annex to the *NPRM Order* would remove meaningful standards and regulatory guidance that is still needed to promote and protect today's complex and important telecommunications network." OCA Reply Comments at 10-12.

b. Discussion and Resolution

Section 63.24 of our regulations provides a schedule of mandatory credits for service outages. In the *NPRM Order*, we had proposed to retain this regulation. However, upon further review, we agree with Verizon that this regulation is no longer necessary in today's environment and should be rescinded. As noted by Verizon, a dissatisfied customer can obtain service from other carriers if the carrier does not adequately address the customer's concerns by fixing the problem and/or by providing appropriate financial compensation for any resulting service interruption. Verizon Comments at 20-21. Moreover, Section 1501 provides sufficient regulatory coverage here. If an outage occurs and a customer is not reimbursed for service that is not received, the customer can pursue a Section 1501 action, which could result in the telephone utility being directed to issue a credit/refund to the customer for providing unreasonable service.⁵⁶ Therefore, we shall rescind Section 63.24 in the final-form regulation.

⁵⁶ Section 1312 of the Code, 66 Pa. C.S. § 1312, addresses the Commission's authority to direct refunds in a proceeding.

C. Subchapter C (Accounts and Records)

1. 52 Pa. Code §§ 63.31—63.35

In the *Reclassification Order*, we temporarily waived Section 63.31 (Classification of public utilities); Section 63.32 (System of accounts); Section 63.33 (Integrity of reserve accounts to be preserved); Section 63.34 (Reclassification of telephone plant to original cost); and Section 63.35 (Preservation of records) in Verizon’s 153 competitive wire centers.⁵⁷

Although the majority of the ILECs operate in Pennsylvania under alternative regulation with price cap formulas that are tied to changes in the rate of inflation (Chapter 30 Plan), the *interstate* operations for some of these same state price cap companies, all RLECs, are subject to an overall method of rate base (RB) and rate of return (ROR) regulation (i.e., they are “federal ROR” RLECs).⁵⁸ Furthermore, many Chapter 30 NMPs and price stability mechanisms contain provisions that may trigger certain exogenous event revenue adjustments that may be attributable to federal or state regulatory changes or other actions outside the ILECs’ control. It was unclear to us how such effects can be correctly tracked in the absence of an identifiable, consistent, and proper uniform system of accounts that can consistently and correctly address issues of jurisdictional separations.

In the *NPRM Order*, we determined that maintenance of accounting information on revenues, expenses, and capital investment under a uniform system and being able to perform relevant and necessary accounting separations was still relevant and necessary. Thus, we proposed to retain and update Section 63.32 so that it explicitly detailed the use of any other accounting methods that would accurately preserve the accounting

⁵⁷ *Reclassification Order* at 82.

⁵⁸ We note that conventional methods of RB/ROR regulation are still relevant not only for some RLECs under Chapter 30 in Pennsylvania but also in the computation of wholesale interconnection unbundled network element costs and rates that are derived through the total element long-run incremental cost method.

separations between the regulated and unregulated operations of a telecommunications utility, as well as the jurisdictional separation of its regulated operations in terms of appropriately classified categories of revenues, expenses and capital investments.

a. Comments and Replies

Verizon opposes the Commission's proposed continuance of Sections 63.31 and 63.32 because in Verizon's view, these rules perpetuate the FCC's traditional Universal System of Accounts (USOA), a system which does not apply to price-cap carriers like Verizon and which the FCC has itself concluded is no longer justified. Verizon Comments at 23. With respect to subsection 63.35, Verizon opposes reinstatement of this rule because in Verizon's view it merely restates FCC rules and has no legal consequence, other than creating a potential conflict in the event the FCC waives or otherwise decides to not apply those rules. Verizon Comments at 23.

b. Discussion and Resolution

The Commission is persuaded by Verizon's contention that Section 63.32 is no longer relevant to the regulation of jurisdictional LECs under Chapter 30 of the Code and its elimination would not impede the Commission's ability to regulate those companies. Generally accepted accounting principles or "GAAP" are the common set of accounting concepts, standards, procedures and conventions which are recognized by the accounting profession as a whole and upon which most nonregulated enterprises base their external financial statements and reports. GAAP directs the recording of financial events and transactions and relates to how assets, liabilities, revenues and expenses are to be identified, measured, and reported. Thus, GAAP allows companies to determine their own system of accounts subject to certain principles.

We note that the FCC had intended the Uniform System of Accounts (USOA), which was codified in Part 32 of its regulations, 47 C.F.R. Part 32, to complement GAAP to the extent regulatory considerations permit and Part 32 specified a chart of accounts

and the types of transactions to be maintained in each account. In essence, the USOA was designed to complement rate-of-return regulation and the system of tariffed interstate access charges that incumbent LECs were required to follow at that time.⁵⁹

In 2017, the FCC took steps to streamline the various accounting requirements for all carriers and eliminated certain accounting requirements for its price cap carriers.⁶⁰ Specifically, the FCC eliminated the requirement that large carriers keep a separate set of regulatory accounting books in addition to their financial accounting books. Additionally, the FCC reduced the extent of FCC-specific accounts that must be maintained by all carriers. Lastly, the FCC gave price cap carriers the option to elect generally accepted accounting principles, or GAAP, subject to certain conditions under its rules. GAAP allows companies to determine their own system of accounts subject to certain principles in the form of an overarching system of broad accounting guidelines that address the recording of assets, liabilities, and stockholders' equity.

In the *NPRM Order*, we stated that absent information that explicitly details the use of any other accounting methods that would accurately preserve the accounting separations between the regulated and unregulated operations of a telecommunications utility, as well as the jurisdictional separation of its regulated operations in terms of appropriately classified categories of revenues, expenses and capital investments, we would retain Section 63.32. However, we now determine here that financial accounting that conforms to GAAP will still provide us with the requisite data required for all regulatory purpose, including the revenue, expense and capital investment classification that governs the submission of annual financial reports under Section 63.36. Accordingly, we will eliminate Section 63.32 from Chapter 63 of our regulations in the final-form regulation.

⁵⁹ *Verizon v. FCC*, 770 F.3d 961, 962 (D.C. Cir. 2014).

⁶⁰ See *Comprehensive Review of the Uniform System of Accounts, Jurisdictional Separations and Referral to the Federal-State Joint Board*, Report and Order, WC Docket No. 14–130, CC Docket 80–286, 32 FCC Rcd 1735 (2017).

We previously temporarily waived Sections 63.33 and 63.34 in the *Reclassification Order* and see no further purpose for their reinstatement in Chapter 63. Therefore, we will permanently rescind Sections 63.33 and 63.34 from Chapter 63 of our regulations in the final-form regulation.

In the *NPRM Order*, we contemplated that Section 63.35 had room for modernization though not full repeal. We proposed to retain Section 63.35(a) while amending it to reflect the requirement that records be maintained per the requirements of the FCC and applicable Code of Federal Regulations (CFR) sections “as amended from time to time” or an equivalent. However, after reviewing comments and reply comments, we no longer see a need for this regulation. As Verizon has indicated, to the extent the FCC rules apply, then companies are required to comply with them whether or not states have their own regulation. Moreover, if the Commission chooses to request a copy of any of the reports requested by the FCC, it has statutory authority under Sections 504 and 506 of the Code, 66 Pa.C.S. §§ 504, 506, to obtain them. We now deem Section 63.35(a) to be unnecessary and superfluous and will eliminate it from Chapter 63 in the final-form regulation.

However, to be clear, we are not eliminating all of the Subchapter C regulations. As we stated in the *NPRM Order*, telecommunications public utilities may continue to have a need for these or similar records for other regulatory purposes. Therefore, we are retaining our modified version of 63.35(b) in the final-form regulation subject to certain necessary revisions for clarification purposes.

2. 52 Pa. Code § 63.36—63.37

We still consider Section 63.36 (Filing of annual financial reports) necessary since there are statutory reporting mandates under 66 Pa.C.S. § 3015(e) including requiring LECs to file an annual financial report. Additionally, we noted that there were no objections to retaining Section 63.37 (Operation of the Telecommunications Relay

Service System and Relay Service Fund) as the information required by the regulation is necessary to calculate the annual surcharge to support the relay service programs and, therefore, remains relevant. For these reasons, the Commission proposed to retain Sections 63.36 and 63.37.

a. Comments and Replies

No party has filed comments or replies regarding our proposed modification to this rule.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposed retention of Sections 63.36 and 63.37 in Chapter 63 of Title 52 of the Pa. Code, we will retain them “as is” and not incorporate them within the final-form regulation set forth in the Annex.

D. Subchapter D (Underground Service)

1. 52 Pa. Code § 63.41(a)–(l)

This regulation was not waived in the *Reclassification Order*. However, in the *NPRM Order*, we determined that Act 50 of 2017 authorizes the Commission to enforce provisions of the state’s Underground Utility Line Protection Law, Act 287, also known as the “One Call Law.”⁶¹ We noted that these laws and applicable contractual agreements will govern the interactions and any potential disputes between the developer and the LEC that is being requested to place its facilities underground in order to provision telecommunications service within the development. Accordingly, in the Annex to the *NPRM Order* we proposed to rescind Section 63.41.

⁶¹ 73 P.S. § 176 *et seq.*

a. Comments and Replies

No party has filed comments or replies regarding the Commission’s proposed modification to this rule.

b Discussion and Resolution

Since no party has filed any adverse comments regarding our proposed rescission on this regulation, we will adopt our proposal to permanently rescind Section 63.41 from Chapter 63 of Title 52 of the Pa. Code. Accordingly, the permanent rescission of this rule will be reflected in the final-form regulation set forth in the Annex.

**E. Subchapter E (Telephone Quality of Service Standards)
52 Pa. Code §§ 63.51—63.65**

As currently constructed, Subchapter E contains the provisions related to quality of service, *i.e.*, the performance standards for trouble reports, service installations, operator calls, dial tone connection, completion of correctly dialed calls, as well as a safety program for its employees. Our rationale for temporarily waiving many of the Chapter 63, Subchapter E regulations in the *Reclassification Order* was the fact that customers can switch to an alternate service provider or “vote with their feet,” if Verizon’s service quality becomes unacceptable.⁶² We also further recognized that Verizon’s Section 1501 statutory obligation to provide certain standards of service was confirmed in Verizon’s Chapter 30 plan and the record developed in the reclassification proceeding.⁶³

Moreover, we considered Verizon’s obligation to comply with the reasonable and adequate service requirements of Section 1501 as a “regulatory back-stop of quality

⁶² *Reclassification Order* at 85.

⁶³ *Id.*

service” and that customers can still file quality of service complaints as the Code still requires Verizon to provide reasonable service in competitive areas.⁶⁴

**1. 52 Pa. Code § 63.51 (Purpose),
52 Pa. Code § 63.52 (Exceptions)**

In the *Reclassification Order*, the Commission temporarily waived Sections 63.51 and 63.52 of this Subchapter E of its regulations for Verizon in the 153 competitive wire centers.⁶⁵ Based on our determination regarding Chapter 64 of our regulations in the *NPRM Order*, and because Section 63.51 operates in conjunction with our Chapter 64 regulations, we proposed in the *NPRM Order* to retain it. We also determined that Section 63.52 covering interexchange carriers is no longer relevant as that service is adequately addressed under Chapter 30. Therefore, we also proposed to rescind Section 63.52.

a. Comments and Replies

TCC/CCL suggest that the Commission modify subsection 63.51 to eliminate reference to “regulated simple residential or business voice grade services” as that term is not actually defined in the Commission’s rules. TCC/CCL Comments at 14.

Verizon opposes the Commission’s proposed continuance of subsection 63.51 (Purpose) because in Verizon’s view it “establishes no standard or requirement” and is “outdated” and “not necessary.” Verizon Comments at 21.

b. Discussion and Resolution

We agree with Verizon that Section 63.51 is simply a general statement about the purpose of the Subchapter E. The Commission determines that the rule is of no substantive or regulatory value and unnecessary. We also have not changed our opinion

⁶⁴ *Id.* at 86.

⁶⁵ *Id.* at 85.

regarding Section 63.52 and no party offered adverse comment to our proposal to rescind. Therefore, we propose to rescind Sections 63.51 and 63.52 for Chapter 63 of our regulations in the final-form regulation.

2. 52 Pa. Code § 63.53 (General provisions)

In the *Reclassification Order*, we temporarily waived Sections 63.53 of Subchapter E of our regulations for Verizon in the 153 competitive wire centers.⁶⁶ In the *NPRM Order* we proposed to retain certain portions of Section 63.53. Specifically, we proposed to retain Section 63.53(a) and (e) because of ongoing surveillance obligation and the availability of relief from unreasonable hardship provided under Section 63.53(e), but we proposed the rescission of Section 63.53(c) that requires maintenance of operator services and Section 63.53(d) that requires forecasting customer demand. Also, in our continual balancing of burdens and benefits, we proposed to rescind the reporting requirement in Section 63.53(b) as unnecessary in light of other protections since we had determined to retain reporting requirements regarding service levels in other sections of Chapter 63.

a. Comments and Replies

Verizon opposes the Commission's proposed continuance of subsection 63.53 (General provisions) in modified form because in Verizon's view it is not "necessary," and Verizon believes its proposed modified rule is preferable because service quality is subject to Section 1501 and because it preserves the "unreasonable hardship" section. Verizon Comments at 21.

b. Discussion and Resolution

Section 63.53 of our regulations contains various provisions related to quality of service. In the *NPRM Order*, we proposed to retain parts of this section, including

⁶⁶ *Id.* at 85.

Section 63.53(a) requiring telephone utilities to provide service in accordance with their tariffs or product guide. Upon review, the Commission shall instead rescind Section 63.53(a) from our regulations. Current Section 63.53(a) essentially restates an already-existing legal obligation, and there is no need to repeat it in a regulation.

No party filed comment or replies regarding the Commission's additional proposals to this rule. Therefore, we shall rescind Sections 63.53(b), (c) and (d) from Chapter 63 in the final-form regulation. Also, we shall retain Section 63.53(e) because of ongoing surveillance obligation and the availability of relief from any unreasonable hardship to comply with the Commission's Subchapter E quality of service regulations.

3. 52 Pa. Code § 63.54 (Record Retention)

In light of the several other changes that we had proposed in our regulations with respect to reports and record keeping, we proposed to amend Section 63.54 to retain the language that currently exists and incorporate it as a new Section 63.54(a). Thus Section 63.54(a) retains the current 90-day retention period for undisputed billing records and a retention of records related to bills disputed until the dispute is resolved.

In the Annex to the *NPRM Order*, we also proposed a new Section 63.54(b) that establishes a five-year record retention period for the following specific service records: (1) records related to call answering times, a subject currently addressed under Section 63.56 of our regulations and proposed to be amended in proposed Section 63.59 below; (2) records related to service complaints and trouble reports under Section 63.22 as proposed to be amended below; (3) records related to surveillance level investigations under Section 63.55 as proposed to be amended below; and (4) records related to service outages addressed under Sections 63.22 and 63.57.

In the *NPRM Order*, we had determined that these amendments, in concert with the other proposed amendments to Sections 63.22, 63.55, and 64.57, would allow us to

retain sufficient guidelines on the types of records related to service that utilities should continue to keep, thereby continuing consumer protections in core service-related matters, while at the same time also providing relief from what are multiple mandatory reporting requirements under our regulations as they currently exist.

a. Comments and Replies

IRRC notes that “[a] commentator suggests that rather than a five-year period requirement, the PUC should adopt a three-year time frame for retaining records,” and recommends that the Commission “should explain its rationale for the time period contained in this section and explain why it is reasonable.” IRRC Comments at 7.

TCC/CCL challenge the Commission’s proposed reliance on Section 1509 of the Public Utility Code to supports their proposed new record retention requirements. TCC/CCL Comments at 14. TCC/CCL urge the Commission to adopt a three-year retention period in lieu of the proposed five-year period. TCC/CCL Comments at 14-15.

b. Discussion and Resolution

In light of the comments from IRRC and TCC/CCL the Commission modifies the record retention period in this rule to a three-year time frame. The Commission will incorporate an amended version of Section 63.54 in the final-form regulation.

4. 52 Pa. Code § 63.55 (Surveillance levels)

The Commission did not waive Section 63.55 of this Subchapter in the Verizon reclassification proceeding.⁶⁷ In the *NPRM Order*, the Commission proposed to retain Section 63.55(a) addressing surveillance levels and amended it so that we may always request a service report. However, in lieu of requiring a carrier to file reports to the Commission as set forth in Sections 63.55(b) and 63.55(c), we proposed to rescind those

⁶⁷ *Id.*

provisions and amend Section 63.55(a) to provide that a report of the investigation into a breach of a surveillance level shall be provided to the Commission upon request.

a. Comments and Replies

Verizon opposes the Commission’s proposed continuance of subsection 63.55 (Surveillance levels) because in Verizon’s view the rule is obsolete and does not meet customer expectations. Verizon Comments at 21. Verizon proposes an alternative rule which it says preserves the Commission’s Section 1501 authority and ability to investigate failures to meet the Section 1501 standard. Verizon Comments at 21.

b. Discussion and Resolution

In response to comments and reply comments to the *NPRM Order* and accompanying Annex, the Commission will further amend Section 63.55(a) so that the trigger for the reporting requirement shall be violations of Chapter 15 of the Code and violations of Subchapter E of Chapter 63 of the Commission’s regulations. That way, it is clear the Commission retains the authority to request investigative reports for violations of important quality of service regulations like service outage trouble reports.

5. 52 Pa. Code § 63.56 (Measurements)

In the *NPRM Order*, we noted that because of amendments that we had propose to Sections 63.54 and 63.59, we had also proposed to delete this regulation as it currently exists.

a. Comments and Replies

No party filed comment or replies regarding the Commission’s proposed modification to this rule.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposed rescission on this regulation, we will adopt our proposal to permanently rescind Section 63.56 from Chapter 63 of Title 52 of the Pa. Code. Accordingly, the permanent rescission of this rule will be reflected in the final-form regulation set forth in the Annex.

4. 52 Pa. Code § 63.57 (Customer trouble reports)

In the *Reclassification Order*, we found it important that certain consumer protections relating to service outages be applied during the period of transition from a protected, noncompetitive service territory to a competitive service territory.⁶⁸ We noted that the current language under Section 63.57(b) permits a LEC and the customer to “agree to another arrangement” other than a “substantial action within 24 hours” time frame for nonemergency outage calls. Thus, we reasoned that such flexibility in a competitive environment made sense, particularly for customers who have wireless service and can schedule an appointment at a more convenient time other than within 24 hours of reporting the trouble.⁶⁹

In the *NPRM Order*, we determined that it was necessary to minimize utility burdens where possible when complying with out-of-service reporting requirements and addressing trouble reports without sacrificing necessary customer protections. Thus, we propose to amend Section 63.57 to afford more flexibility to the customer and the telecommunications carriers. Specifically, in the Annex to the *NPRM Order*, we proposed to combine Sections 63.57(a) and 63.57(b) to impose a requirement that telecommunications public utilities respond to out-of-service trouble reports within 24 hours unless a different period of time is agreed to by the customer and proposed an amendment to Section 63.57(f) and eliminated Section 63.57(e). In the *NPRM Order*, we also proposed to retain Sections 63.57(c) and 63.57(d) as they currently exist.

⁶⁸ *Reclassification Order* at 87.

⁶⁹ *Id.* at 87-88.

a. Comments and Replies

IRRC recommends that the Commission “should explain the rationale for and the reasonableness of removing the existing weekend exclusion from this section.” IRRC Comments at 7.

TCC/CCL urge the Commission to retain an exception to this performance requirement for isolated weekend outages affecting fewer than 15 customers in an exchange. TCC/CCL Comments at 15. According to TCC/CCL, “it is not reasonable to expect the carrier to dispatch technical support for that isolated report” on a weekend. TCC/CCL Comments at 15.

Verizon opposes the Commission’s proposed continuance of this rule in modified form because in Verizon’s view it is “a prime example of micro-managing that is unnecessary and counterproductive in a competitive market.” Verizon Comments at 21. Verizon proposes an alternative that limits the rule to standalone residential service in noncompetitive areas, and sunsets the rule entirely by end of 2023. Verizon Comments at 21.

Again, like its criticism of Verizon’s proposals regarding Sections 63.1 and 63.15 *supra*, the OCA specifically opposes Verizon’s proposals regarding Section 63.57 because it asserts that Verizon’s proposal would limit carriers’ obligations and customer’s remedies to “noncompetitive basic local service on a stand-alone basis.” OCA Reply Comments at 9-10.

b. Discussion and Resolution

We disagree with Verizon that retention of a modified version of Section 63.57 is unnecessary and counterproductive in a competitive market. Section 1501 of the Code states the following in pertinent part:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. *Such service also shall be reasonably continuous and without unreasonable interruptions or delay.*

66 Pa.C.S. § 1501(emphasis added). For service outages and other similar service troubles, we believe the most efficient measure to meet the specific statutory objective of ensuring a LEC provides service that is *reasonably continuous and without unreasonable interruptions or delay* in both competitive and noncompetitive wire centers is to specify the standard in a regulation.

While we are mindful of both IRRC's and TCC/CCL's observations that the rule should retain an exception for weekends, we disagree. We acknowledge that a LEC is handling many issues during a major service outage as it attempts to determine the cause of the outage (if unknown) and quickly take steps to resolve it, but a LEC's customer base is dealing with far greater stress during this difficult situation. Customers are detrimentally impacted by the outage, and they also have far less information about what is happening. Recovery of the ability to communicate is just too important to ignore. The Commission determines that it cannot be put on a slow track even when it is an isolated weekend outage affecting fewer than 15 customers in the local exchange. Initiation of service recovery must be prioritized, and the statute requires a fast, efficient and effective service recovery process. Accordingly, we will incorporate our modified version of Section 63.57 as it was proposed in the final-form regulation.

5. 52 Pa. Code § 63.58 (Installation of service)

In the *Reclassification Order*, we reached the conclusion “that information on the timing of service installations, including any standards applicable to service installation

times, should be readily available to customers in some form other than a regulation” and thus we temporarily granted Verizon a “waiver of Section 63.58 conditionally upon the requirement that Verizon include in its Product Guide applicable to competitive services its rules regarding timing of service installations and any commitments that Verizon is willing to make to customers on the subject.”⁷⁰

In the *NPRM Order*, we determined it was best to propose a revision to Sections 63.58(a) and 63.58(b) so that the regulation would now provide that the respective five-day and twenty-day rules apply unless a later date is agreed to by the customer. This was the same rationale we used to the proposed amendment to Section 63.57, which was to provide more flexibility in the carrier/customer relationship and allow a public utility and its customer to agree to a different installation date.

a. Comments and Replies

IRRC notes that “[f]or companies that are still in the construction phase of building their network, fulfilling a customer order for new service may require additional construction to the customer’s premises,” and asks the Commission to consider a commentator’s request “to amend this section to account for delays in the installation of service due to construction.” IRRC Comments at 7.

TCC/CCL request that the Commission modify its proposal for this rule to provide an exception to service installation metrics when construction is required “from the backbone to the customer’s premises,” noting that both TCC and CCL are in the process of building or planning to construct fiber networks in areas where broadband was previously underserved. TCC/CCL Comments at 16. TCC/CCL state that the Commission’s current rules “recognize that construction may delay connection of service.” TCC/CCL Comments at 17.

⁷⁰ *Reclassification Order* at 87.

Verizon opposes the Commission's proposed continuance of this rule because in Verizon's view it is artificial, unnecessary and not based on customer expectations and there is no evidence regulated providers are failing to meet customer expectations for installing service. Verizon Comments at 22. Verizon proposes an alternative that limits the rule to standalone residential service in noncompetitive areas, and sunsets the rule entirely by end of 2023. Verizon Comments at 22.

b. Discussion and Resolution

Section 63.58 contains standards for installation of service. In the *NPRM Order*, we proposed to revise Section 63.58 so that the time requirements apply unless a later date is agreed to by the customer. The rationale for this change was to provide more flexibility in the carrier/customer relationship and allow a public utility and its customer to agree to a different installation date.

However, upon further review, we will rescind this regulation. In today's competitive market, carriers have every incentive to install service as quickly and competently as possible. Moreover, Code Section 1501 provides regulatory coverage for any failures in this regard. To the extent a telephone utility does not perform a service installation to the customer's satisfaction, the utility's conduct can be adequately addressed under Section 1501, which requires that service installations be reasonable among other things. We note that rescinding this regulation is consistent with Verizon's comments that this regulation is artificial, unnecessary and not based on customer expectations. Verizon Comments at 22. Accordingly, we rescind Section 63.58 from Chapter 63 of our regulations in the final-form regulation.

6. 52 Pa. Code § 63.59 (Operator-handled calls)

We conditionally and temporarily granted Verizon a waiver of Section 63.59 in all competitively classified wire centers.⁷¹ In the *NPRM Order*, we determined that certain and uniform performance standards governing the ability of end-user consumers to make prompt and direct contact with ILEC repair and business offices should be maintained. We noted that our review information in our BCS UCARE Reports, persuaded us that there is a continuous need for call answering performance standards. Accordingly, in the Annex to the *NPRM Order*, we proposed the following actions: (1) permanently rescind Sections 63.59(a) and 63.59(b)(1), and (2) revise Sections 63.59(b)(2), (3) and (4) to mirror the Section 54.153(b)(1) framework by incorporating the specific wording and definitional changes necessary to make the Section 54.153(b)(1) framework applicable to all telecommunications utilities and services throughout Pennsylvania. Because of these proposed amendments to Sections 63.54 and 63.56, our proposed amendments to Section 63.59 also addressed the following points:

- Renaming Section 63.59 as “Call answering measurements.” Specifically including the phrase: “A public utility shall take measures necessary and keep sufficient call answering records to monitor answering times for calls as follows” in the beginning of the amended Section 63.59.
- Utilizing the word “records” instead of “reports” and “provide” in the proposed amendments in line with our goal of endeavoring to reduce utility reports and other burdens while still ensuring a meaningful manner of addressing regulated service by reducing reporting requirements and replacing them with clearer rules on service requirements and attendant record keeping.

a. Comments and Replies

Verizon opposes the Commission’s proposed continuance of this rule in modified form because in Verizon’s view “continued monitoring of call answer times in perpetuity

⁷¹ *Reclassification Order* at 85, 88, and 124 (Ordering Paragraph 2).

is not necessary.” Verizon Comments at 22. Alternatively, Verizon proposes a modified rule that sunsets by the end of 2023. Verizon Comments at 22.

b. Discussion and Resolution

We note that Verizon’s modified version of this rule is verbatim with our proposed rule except for the language setting forth a sunset provision. We disagree with Verizon’s insertion of a sunset date. As discussed above, we believe there is a continuous need for call answering performance standards. Accordingly, we will incorporate our proposed Section 63.59 in the final-form regulation.

7. 52 Pa. Code § 63.60 (Automatic Dialing Announcing Devices (ADAD))

An automatic dialing announcing device is automatically used to place calls and play a recorded message. This regulation was developed and originally implemented when ADADs would initiate automated voice calls through networks that largely utilized the time division multiplexing or TDM communications protocol and addresses standards when an ADAD is used. However, the evolution of telecommunications and broadband access networks and technologies have provided pathways for today’s unwanted and unlawful “robocalls” that utilize caller identification (caller ID) “spoofing” in order to initiate and propagate such traffic. As indicated previously, we specifically and temporarily waived Section 63.60 under our *Reclassification Order*.

In light of enacted federal legislation, actions by the FCC and states to pursue generic rulemakings and enforcement actions against entities that initiate unwanted and unlawful “robocall” traffic, and our existing statutory authority to independently combat entities that initiate and propagate unwanted and unlawful “robocall” traffic, we proposed to rescind Section 63.60 in its entirety.

a. Comments and Replies

The OCA posits that the Commission’s proposed elimination of this rule “be accorded more scrutiny, as suggested by the Chairman’s statement.” OCA Comments at 15.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposed rescission on this regulation, we will adopt our proposal to permanently rescind Section 63.60 from Chapter 63 of Title 52 of the Pa. Code. Accordingly, the permanent rescission of Section 63.60 from Chapter 63 will be reflected in the final-form regulation set forth in the Annex.

**8. 52 Pa. Code § 63.61 (Local dial service),
52 Pa. Code § 63.62 (Direct distance service)**

These regulations deal with central office, interoffice channel, trunk, and switching facilities capacity to handle certain types of telecommunications traffic. In the *Reclassification Order*, the Commission granted Verizon a temporary waiver of the Section 63.61 and 63.62 regulations.⁷² In the *NPRM Order*, we acknowledged that LEC facilities are currently utilizing more modern telecommunications technologies (e.g., soft switches, fiber optic circuits) that are not subject to capacity constraints of the more distant past (e.g., when analog central office switching equipment was in use). Accordingly, consistent with our proposed rescission of Section 63.12 and further amendments in Chapter 63, we proposed to rescind both Section 63.61 and 63.62 in their entirety.

⁷² *Reclassification Order* at 85.

a. Comments and Replies

No party filed adverse comments to the Commission's proposal regarding Sections 63.61 and 63.62 of its regulations.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposed rescission of Sections 63.61 and 63.62, we will adopt our proposal to permanently rescind them. Accordingly, the permanent rescission of Sections 63.61 and 63.62 from Chapter 63 will be reflected in the final-form regulation set forth in the Annex.

9. 52 Pa. Code § 63.63 (Transmission requirements and standards)

In the *NPRM Order*, the Commission had determined that Section 63.63(a) remains relevant to each wire center or other geographic area defined by the jurisdictional LEC where the utility has fully deployed a jurisdictional fiber-optic network while we also proposed to amend this Section to provide a new Section 63.63(b) to provide sufficient guidance under Section 1501 of the Code to ensure that our jurisdictional LECs provide reasonable service that is free from distortion, noise, and cross talk. Additionally, the Commission had proposal to rescind Section 63.12 addressing interference but incorporate it within the amended Section 63.63.

a. Comments and Replies

The OCA supports the Commission's proposal to address interference and other transmission issues in revised subsection 63.63. OCA Comments at 11-12. The OCA also encourages the Commission to retain "the core protection" of subsection 63.63 (Transmission requirements and standards). OCA Comments at 15.

Verizon opposes the Commission's proposed reinstatement and continuance of subsection 63.63 because in Verizon's view Section 1501 is sufficient to ensure service

of “good quality” and competition provides adequate incentive to ensure quality service. Verizon proposes that the rule be eliminated. Verizon Comments at 22.

The OCA opposes Verizon’s proposal regarding this rule because it asserts that its elimination in its entirety or even its proposed modification by the Commission as set forth in the Annex would remove meaningful standards and regulatory guidance that is still needed to promote and protect today’s complex and important telecommunications network.” OCA Reply Comments at 10-12

b. Discussion and Resolution

Section 63.63 deals with transmission requirements and standards for jurisdictional local exchange carriers. As stated above, in our *NPRM Order*, we had proposed to retain and revise Section 63.63 of our regulations, which as revised would impose certain reliability requirements like requiring telephone service to be provided at adequate volume levels and free of excessive interference, distortion, noise and cross talk.

Upon further review, we have decided to rescind Section 63.63 from our regulations. In today’s competitive market, carriers are incentivized to provide reliable service. If not, they will lose customers. Moreover, Code Section 1501 provides regulatory coverage for any failures in this regard, as failing to provide service that is free from distortion, noise and cross talk is a potential violation of Section 1501. We note that rescission is consistent with Verizon’s comments that this regulation can be eliminated because Section 1501 is sufficient to ensure service of “good quality.” Verizon Comments at 22.

Also, in the *NPRM Order* we had proposed to eliminate Section 63.12 addressing interference as a standalone regulation and incorporate its subject matter of interference in Section 63.63 of our regulations. Verizon essentially is advocating for the entire

elimination of the interference standard set forth in Chapter 63 because of its belief that it is no longer necessary. Verizon asserts that Section 1501 of the Code is sufficient to require regulated service to be of good quality without the need to state such in a rule. Verizon further asserts that if providers do not meet the level of service that customers expect, then customers will abandon them for a competitor. We agree with Verizon and see no need to address interference specifically in a regulation. Rather, interference issues can be addressed adequately under Section 1501, as the statutory “reasonable service” obligation includes the obligation to provide service that is free from interference. Accordingly, we rescind Section 63.63 from Chapter 63 of our regulations in the in final-form regulation.

10. 52 Pa. Code § 63.64 (Metering inspections and tests)

Sections 63.64(a) and (b) of our regulations impose obligations on telecommunications utilities to carry out periodic tests, inspections, and preventive maintenance, and to maintain and test the performance of equipment and facilities. Sections 63.64(c) to (h) require the use of metering equipment for a variety of purposes including, for example, the measurement of call duration for billing purposes. This regulation was temporarily waived for the competitive wire centers of Verizon under our *Reclassification Order*.

In the *NPRM Order*, we determined that matters such as periodic tests, inspections, and preventive maintenance as well as the performance testing of telecommunications network equipment and facilities should operate under standards that are uniformly applicable to all services. We noted that operational failures to perform preventive maintenance or adequate testing can and does lead to service outages that can also affect public health and safety, e.g., loss of 911/E911 emergency calling capabilities, or loss of the technical ability to route 911/E911 emergency call traffic to the appropriate public safety answering point, and that such service outages can easily and simultaneously affect the provision of all retail services.

Nevertheless, in the *NPRM Order*, we proposed to retain Section 63.64(a) and to amend Section 63.64(b), both of which address testing, inspections, and preventive maintenance. We also proposed to amend Sections 63.64(c), 63.64(e), and 63.64(f) and to rescind Sections 63.64(d), 63.64(g), and 63.64(h), all of which address metering.

a. Comments and Replies

The OCA supports retaining this rule for all geographic areas. OCA Comments at 15. The OCA posits that the rule's requirements "are needed to guard again[st] the potential for service outages which might affect public health and safety, such as the loss of 911/E911 calling service and impact the provision of retail services." OCA Comments at 16.

Verizon opposes the Commission's proposed reinstatement and continuance of this rule because in Verizon's view Section 1501 and competitive pressure would suffice to ensure customers receive "whatever inspections and maintenance are necessary to keep service at a level that meets customer expectations[.]" Verizon Comments at 22. Verizon proposes that the rule be eliminated. Verizon Comments at 22.

b. Discussion and Resolution

Section 63.64 addresses two main subject matters: (1) systems, tests, inspections, and preventative maintenance and (2) meter inspections and testing. We will stay the course and adopt our proposed amendments to Sections 63.64(c), 63.64(e), and 63.64(f) and rescind Sections 63.64(d), 63.64(g), and 63.64(h) addressing metering. Upon further review, however, we will rescind Sections 63.64(a) and (b) as no longer necessary in today's competitive environment. We no longer see a need for specific testing/inspection/preventative maintenance standards to be included in a regulation. Verizon's contends that Section 1501 and competitive pressure are sufficient to require regulated providers to conduct inspections and maintenance necessary to keep service at a level that meets customer expectations without the need to state this in a rule. We agree.

Section 1501 mandates that a jurisdictional LEC “furnish and maintain adequate, efficient, safe and reasonable service[.]” 66 Pa.C.S. § 1501. Thus, we need not rely on competition alone to compel a LEC to perform whatever system tests, inspections and preventative maintenance are necessary to maintain service that is reliable and meets consumer expectations.

11. 52 Pa. Code § 63.65 (Safety)

In the *Reclassification Order*, we recognized that the CWA and the International Brotherhood of Electrical Workers (IBEW, collectively CWA – IBEW) sought retention of Section 63.65 (Safety) but we concluded instead that workplace safety is adequately regulated at the federal level.⁷³ In temporarily waiving this regulation for Verizon, we noted that this provision is enforced by other agencies, but at the same time, violations of FCC and/or OSHA workplace safety regulations are also subject to our jurisdiction and require compliance with Section 1501 of the Code.

Consequently, in the *NPRM Order*, we proposed the permanent rescission of Section 63.65(1) to 63.65(4). However, we also proposed to retain the first part of this section, which requires telecommunications public utilities to adopt and implement a safety program fitted to their size in conformance with Occupational Safety Health Act standards, which we propose be amended to add the words “as amended from time to time” or an equivalent.

a. Comments and Replies

The OCA supports retaining “the first part” of this, to ensure that public utilities implement a safety plan that conforms to OSHA standards, as updated. OCA Comments at 16.

⁷³ *Reclassification Order* at 86.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposal for this rule, we will incorporate our proposed Sections 63.65 in the final-form regulation set forth in the Annex.

F. Subchapter F (Extended Area Service) – 52 Pa. Code §§ 63.71—63.77

We specifically and temporarily waived the following Subchapter F (Extended Area Service) regulations for Verizon under our *Reclassification Order*:⁷⁴

Section 63.71 (Definitions);
Section 63.72 (Traffic usage studies);
Section 63.72(a) (InterLATA traffic studies);
Section 63.73 (Optional calling plans);
Section 63.74 (EAS polls);
Section 63.75 (Subscriber polls);
Section 63.76 (EAS complaints);
Section 63.77 (Evaluation criteria).

In the *NPRM Order*, we determined that these regulations were outdated and no longer purposeful or relevant in today's regulatory environment. Accordingly, we proposed to rescind Subchapter F regulations in their entirety.

a. Comments and Replies

No party has filed comment or replies regarding the Commission's proposed modification to these rules.

⁷⁴ *Reclassification Order* at 88.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding on our proposed rescission on these regulations, we will adopt our proposal to permanently rescind Subchapter F from Chapter 63 of Title 52 of the Pa. Code. Accordingly, the permanent rescission of Subchapter F will be reflected in the final-form regulation set forth in the Annex.

G. Subchapter G (Public Coin Service) – 52 Pa. Code §§ 63.91—63.98

We also temporarily waived the following Subchapter G (Public Coin Service) regulations for Verizon:

Section 63.91 (Purpose);
Section 63.92 (Definitions);
Section 63.93 (Conditions of service);
Section 63.94 (Coin telephone requirements);
Section 63.95 (Sufficiency of public telephone service);
Section 63.96 (Service requirements for coin telephones);
Section 63.97 ([Reserved]); and
Section 63.98 (Compliance).

In the *NPRM Order*, we determined that these regulations were outdated and no longer purposeful or relevant in today’s regulatory environment. Accordingly, we proposed to rescind Subchapter G in its entirety.

a. Comments and Replies

No party has filed comments or replies regarding the Commission’s proposed modification of these rules.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposed rescission on these regulations, we will adopt our proposal to permanently rescind Subchapter G

from Chapter 63 of Title 52 of the Pa. Code. Accordingly, this permanent rescission of these rules will be reflected in final-form regulation set forth in the Annex.

H. Chapter 63 Subchapters H, I, J, K, L M, N and O

Subchapters K, L M, N and O of Chapter 63 remained in full force for all geographic areas.⁷⁵ In the *NPRM Order*, we proposed to retain these subchapters but proposed amendments to certain provisions in Subchapter J in the Annex. In the *NPRM Order*, we also discussed Subchapters H and I of Chapter 63 and proposed to eliminate them.

a. Comments and Replies

The OCA supports the Commission's proposal to retain Subchapter J, with minimal changes "to better describe that the responsibilities extend to agents as well as employees." OCA Comments at 10-11. OCA supports the Commission's proposal to retain Subchapters K, L, M, N and O. OCA Comments at 11.

Verizon opposes retention of Subchapter J rules (§§ 63.131-37), relating to confidentiality of customer data, on grounds that federal law, 47 U.S.C. § 222, and FCC implementing rules are sufficient to address the issue. Verizon Comments at 25. Similarly, Verizon opposes retention of subchapter K (§§ 63.141-144) because competition is largely facilities-based and any remaining CLEC wholesale customers may rely upon interconnection agreements and federal law to address unfair treatment. Verizon Comments at 25-26.

⁷⁵ While we had proposed to rescind Subchapter H and I as obsolete, Subchapter I of Chapter 63 has already been reserved in a previous rulemaking; thus, there is no reason to rescind it in this rulemaking proceeding.

b. Discussion and Resolution

The Commission fully understands Verizon's position that the FCC's rules and federal law are sufficient to address the LEC's preservation and maintenance of the confidentiality of customer data. However, given that the rising trend in data breaches continues to angle upwards, and as a result, making proprietary and confidential customer information and records vulnerable to exposure, the Commission has determined that this consumer protection remains necessary to continue to give specific instructions to our jurisdictional telecommunications companies or LECs so that they adequately comply with the privacy-related requirements at 66 Pa.C.S. § 3019(d).

However, there are no compelling reasons to retain Sections 63.136 and 63.137 in Subchapter J. The Commission determines it is not necessary to retain them in order to continue to give specific instructions to our jurisdictional telecommunications companies considering the circumstances regarding recent data breaches. Moreover, jurisdictional LECs remain subject to state laws even absent certain specific requirement being outlined in Subchapter J.

The Commission also has considered the OCA's comments requesting us to incorporate some minimal revisions to our proposed modifications to Subchapter J so as to better describe that the responsibilities therein extend to agents as well as employees. We agree with OCA and will make the clarification that the operational restrictions that apply to a telecommunications company itself, its employee, agent regarding the handling of customer communications and customer information or independent contractors, also apply to the agents, independent contractors, subsidiaries or affiliates of a party that has entered into a contractual relationship with the telecommunications company.

Additionally, Section 63.132 defines "agent" as "an individual or entity that performs work on behalf of a telecommunications public utility as the principal and is subject to this subchapter." We acknowledge as is currently drafted, the definition is

ambiguous since “as the principal” could be construed as applying to the agent, rather than the public utility, making it appear as though the agent is the principal, rather than acting on behalf of the actual principal (i.e., the public utility). We modify the definition to clarify and cure this issue.

Further, Section 63.132 defines “independent contractor” as “an individual or entity that performs work on behalf of a telecommunications public utility that is subject to this subchapter.” In order to sufficiently distinguish an independent contractor from an employee, or an agent the Commission will revise the definition of “independent so that it clearly distinguishes and clarifies that an independent contractor is not an employee or agent of the public utility. Accordingly, we will clarify aspects of proposed modifications to Subchapter J and adopt them as final which will be reflected in the Annex.

We reject any adverse comments regarding on our proposed retention of Subchapters K, L, M, N, and O, and we adopt our proposal to retain these respective Subchapters in Chapter 63 of Title 52 of the Pa. Code.

Accordingly, we need not take any further action to modify the final-form regulation for these Subchapters.

III. CHAPTER 64. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL TELEPHONE SERVICE

The Chapter 64 regulations are titled “Standards and Billing Practices for Residential Telephone Service” and address the following items involving interactions with customers: billing and payment, credit and deposit, termination, restoration of service, and complaint handling. In the reclassification proceeding, Verizon requested a

waiver of the entire Chapter 64 regulations at 52 Pa. Code §§ 64.1—64.213.⁷⁶ However, we concluded that certain protections were still needed, and we addressed the regulations individually and granted, in part, and denied, in part, Verizon’s request to waive our entire Chapter 64 regulations in competitive wire centers.⁷⁷

Likewise, because Verizon’s proprietary data was inconclusive, we again concluded that certain protections were still needed and in the *NPRM Order* we proposed to retain most of the Chapter 64 regulations and have them apply in all local calling areas, whether competitive or noncompetitive. We also proposed to rename the Chapter as “Standards and Billing Practices for Residential Telecommunications Service.” We set forth these proposals to the Chapter 64 regulations in the Annex.

a. Comments and Replies

The OCA supports the Commission’s proposal to retain “the majority of the Chapter 64 regulations” in all geographic areas, competitive and noncompetitive, and to forego a bifurcated set of rules. OCA Comments at 16. OCA posits that these rules are necessary to protect consumers relative to suspension or disconnection of service and to promote continuity of service. OCA Comments at 17. According to OCA, “[t]he public benefits of the Chapter 64 regulations extend beyond just the LEC and consumer relationship.” OCA Comments at 17.

Verizon opposes the Commission’s proposal to reinstate “large portions of its Chapter 64 regulations” because in Verizon’s view, the rules are unnecessary and obsolete in a competitive environment and because, in the absence of the rules, the Commission would retain authority to rein in unreasonable practices pursuant to Sections 1501 and 1509 of the Code. Verizon Comments at 26-27. Verizon notes that the Commission previously waived the rules in competitive areas based on its finding that

⁷⁶ *Reclassification Order* at 90-103.

⁷⁷ *Id.* at 93-94

market forces provide Verizon with sufficient incentive to meet reasonable customer expectations. Verizon Comments at 27. Verizon argues that the rules are “anti-competitive” because they do not apply to unregulated carriers and because ILEC customers are “often confused” by bills that conform to the rules. Verizon Comments at 27-28. Verizon proposes that the Commission eliminate the rules entirely, or else apply them only to residential basic local exchange service, with a sunset date of end of 2023. Verizon Comments at 28.

b. Discussion and Resolution

For the same reasons set forth in our discussion of the parties’ general comments with respect to this rulemaking overall,⁷⁸ we conclude that wholesale elimination of our Chapter 64 regulations is not appropriate. We note that the Chapter 64 regulations address the concrete essentials of the carrier-customer relationship that includes billing and payment, suspension/termination of service, restoration of service, and customer complaints. We find that having specific standards in these technical subject areas provides useful guidance to both our regulated utilities and their customers. Also, no party has submitted substantial evidence which would reasonably persuade us to abandon those regulations overall. Although Verizon states that customers are “often confused” by bills that conform to the rules, Verizon provides no facts to support this assertion, e.g., (1) what percentage of its customers are “confused,” (2) in what manner the rules may have caused confusion, and (3) how elimination of the Chapter 64 regulations might resolve that confusion. Verizon Comments at 27. Our discussion relative to individual Chapter 64 regulations, set forth below, sheds further light on our overall determination not to eliminate these regulations entirely.

⁷⁸ *Infra.* at 18-24.

A. Subchapter A (Preliminary Provisions)

**1. 52 Pa. Code § 64.1 Statement of purpose and policy;
52 Pa. Code § 64.2 Definitions**

As currently constructed, Section 64.1 is the Chapter 64 statement of purpose and policy, and Section 64.2 contains definitions. In the *Reclassification Order*, we granted a temporary waiver of the first sentence of Section 64.1 because that description of the purpose was no longer an accurate statement for the areas served by Verizon's competitive wire centers while the rest of Section 64.1 remained relevant even for Verizon's competitive wire centers.

In the *NPRM Order*, we concluded it was not feasible to establish a two-tiered regulatory structure that would impose different regulations and standards in competitive and noncompetitive areas. Consequently, we proposed the retention of Section 64.1 in its present form applied uniformly to all geographic areas where telecommunications services are offered by the jurisdictional LECs. We also proposed to rename Chapter 64 as "Standards and Billing Practices for Residential Telecommunications Service" and to replace the term "Telephone" with "Telecommunications" throughout this chapter as appropriate and where the word "telephone" appears in the existing text of the regulation.

Also, in the *NPRM Order*, we proposed to retain the definitions contained in Section 64.2 that remained relevant and updated references within this regulatory definitional section to be consistent with current state statutory language (e.g., Chapter 30 of the Public Utility Code).

a. Comments and Replies

IRRC notes that in the Commission's proposal for section 64.2, "*competitive wire center*" reads in part "services have been declared or determined to be competitive by the Commission as competitive under 66 Pa.C.S. § 3016 (relating to competitive services)," and suggests that either "to be competitive" or "as competitive" be removed. IRRC Comments at 10.

The OCA supports the Commission's proposal to retain subsection 64.1 (Statement of purpose and policy) in its present form. OCA Comments at 17. The OCA also supports the Commission's proposed modifications to the subsection 64.2 (Definitions), as well as the corresponding provision of Chapter 63 (subsection 63.1, Definitions) to conform with Chapter 30. OCA Comments at 18. The OCA proposes minor, non-substantive edits to the Commission's proposed definitions of "Competitive wire center" and "Noncompetitive wire center" in both subsections 63.1 and 64.2, to make the corresponding definitions uniform in each subsection. OCA Comments at 18-19.

TCC/CCL propose that the Commission adopt a definition for joint or bundled service package that is consistent with the definition adopted for Chapter 53, subsection 53.57. TCC/CCL Comments at 17.

b. Discussion and Resolution

Consistent with our rejection of a bifurcated regulatory structure that would impose different regulations and standards in competitive and noncompetitive areas, we will retain the language of Section 64.1 in its present form, to be applied uniformly to all geographic areas where telecommunications services are offered by the jurisdictional LECs in the final-form regulation. We also will rename Chapter 64 as "Standards and Billing Practices for Residential Telecommunications Service" and replace the term "Telephone" with "Telecommunications" throughout the text of Chapter 64 as

appropriate. This will be reflected in the final-form regulation. We also determine that the definitions contained in Section 64.2 that remain relevant shall be retained and updated as necessary to be consistent with the terminology set forth in the current applicable statutory language.

Regarding IRRC's comment relative to the definition of "Competitive wire center," we agree with IRRC that clarification is warranted, and we find that the final form definition shall eliminate the words "as competitive" and shall read, in relevant part: "services have been declared or determined to be competitive by the Commission under 66 Pa.C.S. § 3016 (relating to competitive services)."

We have already determined in our discussion regarding Section 53.57 of Chapter 53 of our regulations and Section 63.1 of Chapter 63 of our regulations *supra* that we would adopt the OCA's proposed definitions of these terms "Competitive wire centers" and "Noncompetitive," and incorporate them into the final-form regulation.

Likewise, taking into consideration the comments from TCC/CCL, we will ensure that the definition of the regulatory term "joint or bundled package" is consistent in Section 53.57 of Chapter 53 of our regulations and Section 64.2 in Chapter 64 in the final-form regulation.

**B. Subchapter B (Payment and Billing Standards)
52 Pa. Code §§ 64.11—64.24**

Subchapter B of Chapter 64 governs the payment and billing relationship between customers and LECs. In the *Reclassification Order*, we temporarily waived the following Subchapter B regulations for Verizon's competitive wire centers⁷⁹:

⁷⁹ *Reclassification Order* at 95.

Section 64.11 (Method of payment);
Section 64.12 (Due date for payment);
Section 64.13 (Billing frequency);
Section 64.14 (Billing information);
Section 64.15 (Advance payments);
Section 64.16 (Accrual of late payment charges);
Section 64.17 (Partial payments for current bills);
Section 64.18 (Application of partial payments between past and current bills);
Section 64.19 (Rebilling);
Section 64.20 (Transfer of accounts);
Section 64.21 ([Reserved]); and
Section 64.22 (Billing service for interexchange carriers).

Concomitantly, we also retained the applicability of the following sections in Subchapter B both for the competitive and the noncompetitive wire centers of Verizon:

Section 64.23 (Cramming/Slamming); and
Section 64.24 (Provision of bundled service packages)

In the *NPRM Order*, we proposed to retain most of Subchapter B. We credited OCA's observation that the statutory "Billing Procedures" protection of Section 1509 of the Code, 66 Pa.C.S. § 1509, still apply in competitive and noncompetitive areas and the Payment and Billing Standards will assist the Commission in determining whether the LECs are following both Section 1501 and Section 1509 of the Code.

a. Comments and Replies

Verizon opposes the Commission's proposal to reinstate the Subchapter B rules because in Verizon's view, they are unnecessary and obsolete in today's competitive marketplace, which the Commission recognized when it granted waivers from these rules in competitive exchanges in 2015. Verizon proposes that the Commission eliminate them entirely, or else apply them only to residential basic local exchange service, to sunset at the end of 2023. Verizon Comments at 28.

b. Discussion and Resolution

For the same reasons set forth in our discussion of the parties' general comments with respect to this rulemaking overall,⁸⁰ and consistent with OCA's comments in response to the *ANPRM Order*, we conclude that wholesale elimination of our Chapter 64, Subchapter B regulations is not appropriate. Instead, we think it is beneficial to have specific standards that provide specific guidance to the industry and consumers on LEC payment and billing practices, and having specific standards helps the Commission determine whether LECs are following Code Sections 1501 and Section 1509. Moreover, our retention of Subchapter B maintains the protections Pennsylvania consumers enjoy today. Of note, we would have been open to viable alternatives that maintained but modernized/streamlined our existing Subchapter B regulations on a granular level, but no such alternatives were proposed as part of the rulemaking process. Rather than eliminating all of Subchapter B of Chapter 64 of Title 52 of the Pa. Code, we decide instead to review individual regulations or sets of regulations on their own merits, in response to specific concerns raised by commentators.

1. 52 Pa. Code § 64.11 (Method of payment)

In the *NPRM Order*, we proposed the retention of Section 64.11 in all geographic areas where our jurisdictional LECs serve and, in the Annex, proposed a revision to the regulation to specify that returned check charges are permissible, if included in the carrier's approved tariff, Product Guide or similar document.

⁸⁰ *Infra.* at 18-24.

a. Comments and Replies

IRRC notes that “[t]his section appears to allow the LEC to impose both a returned check charge and a handling charge, in the event of a failed payment transaction,” and recommends that “[t]he PUC should clarify the intent of this provision and, if necessary, revise it to be consistent with the intent.” IRRC Comments at 7. With respect to the Commission’s proposed language for this subsection, IRRC recommends that the “be” after “set forth” should be deleted. IRRC Comments at 10.

OCA supports the Commission’s proposal to retain this rule in all geographic areas. OCA Comments at 19-20. OCA posits that the rule’s references to “payment by check” does not foreclose “electronic payments as another option.” OCA Comments at 20. OCA objects to the Commission’s proposed modified rule insofar as it would permit a LEC to impose both a “returned check charge” and a “handling charge” and proposes edits to clarify that a single handling charge should apply and be set forth in the LEC’s tariff or product guide, as appropriate. OCA Comments at 20-21.

Verizon opposes retention of this rule because in Verizon’s view, market forces are sufficient to incent carriers to offer diverse methods of payment. Verizon Comments at 29. At most, Verizon posits that any payment method obligation be set forth in a product guide or similar document. Verizon Comments at 29.

b. Discussion and Resolution

We will retain this regulation in all geographic areas where our jurisdictional LECs serve. We note that this regulation allows for payment to be made in any reasonable manner, and we reiterate our position from the *NPRM Order* that this includes electronic payment. However, we adopt our proposal to amend Section 64.11 to clarify that a LEC may impose a returned check charge if such a charge is set forth in the LEC’s tariff, Product Guide, or similar document in the final-form regulation. We also agree with IRRC that the word “be” as it appears after the phrase “as long as the charge is set

forth” in our proposed language for Section 64.11 is superfluous and should be eliminated in the final form regulations.

Finally, consistent with the comments of IRRC and OCA (which were not opposed by any other party), we decide to eliminate the references to the superfluous and undefined “handling charge” as it appears in the last two sentences of Section 64.11, specifically by eliminating the second to last sentence of the regulation and by deleting the phrase “or impose a handling charge” in the last sentence. These changes shall be reflected in the final form regulations.

**2. 52 Pa. Code § 64.12 (Due date for payment),
52 Pa. Code § 64.13 (Billing frequency), and
52 Pa. Code § 64.14 (Billing information)**

In the *NPRM Order*, we proposed to retain Sections 64.12 and 64.13 and to revise them so that the regulations incorporate the availability and use of electronic billing in lieu of paper bills.

Also, in the *NPRM Order*, we proposed to retain Sections 64.14(a) and (c) and to rescind Sections 64.14(b) and 64.14(d). We noted that the information provided in Section 64.14(c) is sometimes at the heart of consumer disputes and thus a requirement that a utility inform the customer of charges to be incurred for new or additional services and then retain that information for 90 days, or approximately 3 billing cycles, is necessary should a dispute arise from either party.

a. Comments and Replies

With respect to Section 64.12, IRRC recommends “that this section be modified to provide for the date of transmittal for bills generated and conveyed to the consumer electronically.” IRRC Comments at 8. With respect to Section 64.13, IRRC recommends that “this section should be amended to reflect the option to detariff

competitive services by adding ‘product guide or similar document posted on the LEC’s website’ to the end of the regulation,” or the Commission should “explain why it is unnecessary to do so.” IRRC Comments at 8.

The OCA supports the Commission’s proposal to retain these rules in all geographic areas. OCA Comments at 21. According to OCA, these rules “implement the billing procedure and consumer protection provisions of Section 1509” and provide transparency to consumers of LEC services. OCA Comments at 21-22. With respect to subsection 64.12 (Due date for payment), OCA proposes edits to clarify that the 20-day bill due date period should begin, in the case of an electronic bill, “on the date of transmittal.” OCA Comments at 22. Similarly, OCA proposes to clarify that the date of payment for electronic payments is “the date the consumer made the electronic payment.” OCA Comments at 22-23.

TCC/CCL propose that the Commission modify its proposed language for subsection 64.12 (Due date for payment) to acknowledge that electronic bills are “transmitted” not “mailed.” TCC/CCL Comments at 18. Additionally, TCC/CCL propose that the Commission modify its proposed language for subsection 64.13 (Billing frequency) to reflect the fact that detariffed competitive services may be offered in a product guide. TCC/CCL Comments at 18.

TCC/CCL also propose that the Commission modify its proposed language for subsection 64.14 (Billing information) to reflect the fact that “bundled service packages have become a standard product option,” and recommends deletion of subpart (c) of this rule because “in the current telecommunications marketplace... customers purchase ‘all-in’ bundled service.” TCC/CCL Comments at 19.

Verizon opposes retention of these rules because in Verizon’s view, section 1509 of the Code is sufficient to address due date for payment and other billing issues.

Verizon does agree with the Commission's proposal to clarify that electronic billing is permissible. Verizon Comments at 29.

b. Discussion and Resolution

We find that Sections 64.12, 64.13 and 64.14 remain important consumer protections, and we decide to retain these regulations in all geographic areas where our jurisdictional LECs serve. We note these rules clarify various aspects of the billing process and thus, protect both the carrier and the consumer in most respects. We also note that we impose similar obligations on our other regulated entities such as electric distribution companies, natural gas distribution companies and water companies when they issue bills to their residential customers. In fact, one of the main reasons we proposed to retain these billing practices was that similar rules are also imposed for electric, gas, and water residential customers and these utility markets are all subject to competition too.

As a step towards modernization, we amend Sections 64.12 and 64.13 to include our proposed language relative to electronic bills, and we accept various parties' suggestion to modify our proposed language for Section 64.12 to recognize that the due date shall be, in the case of electronic bill, twenty days from the date the bill was "transmitted"—not "mailed." We also agree with the OCA in its comments that Section 64.12 should be amended to state a convention for identifying the payment date for electronic payments, which we agree should be the date the consumer made the electronic payment. Just as consumers cannot control the length of time for delivery of a mailed payment, consumers may not know the utility's internal process for receipt and posting of an electronic payment. OCA Comments at 22-23.

We further agree with parties that suggested Section 64.13 should acknowledge that LECs may in some cases offer service through a Product Guide in lieu of an approved tariff and accordingly we will replace the term "approved rate schedules" at the end of

Section 64.13 with the phrase “tariff, Product Guide or similar document” in the final-form regulation.

We also decide to adopt our proposed modifications to Section 64.14 as set forth in the Appendix, with one modification. We find TCC/CCL’s proposed change to subsection (a)(4) to be unnecessary: if a customer does not subscribe to “basic service,” nothing in the subsection would appear to require a LEC to state any “amount due for basic service.” However we shall rescind Section 64.14(c). We agree with TCC/CCL that deletion of this rule makes sense in the current telecommunications marketplace, given the popularity and proliferation of service bundles. TCC/CCL Comments at 19.

Accordingly, based on the above discussion these changes will be reflected in the final-form regulation set forth in the Annex.

**3. 52 Pa. Code § 64.15 (Advanced payments) and
52 Pa. Code § 64.16 (Accrual of late payment charges)**

In granting Verizon a temporary waiver of Section 64.15, we determined that customers in competitive wire centers who do not want to pay the price for Verizon’s services have alternate services to choose from to replace their services.⁸¹ Similarly, if Verizon customers in competitive wire centers are not satisfied with their terms of service for late payments, they can choose another provider with different terms of service.⁸²

Using this same rationale, we determined in the *NPRM Order* that we could rescind Section 64.15 and proposed its rescission in the Annex to the *NOPR Order*. However, for the reasons outlined in the *NPRM Order*, we determined that it was necessary that we propose to retain Section 64.16 for all geographic areas.

⁸¹ *Reclassification Order* at 62.

⁸² *Id.*

a. Comments and Replies

The OCA supports the Commission's proposal to rescind subsection 64.15 entirely. OCA Comments at 23.

OCA supports retaining subsection 64.16 (Accrual of late payment charges) but proposes edits thereto to clarify that this rule applies to "tariffed residential local exchange service," in recognition that LECs with pricing discretion in competitive wire centers may fix a different late payment charge that does not comply with this rule. OCA Comments at 24-25.

Verizon opposes retention of subsection 64.16 (Accrual of late payment charges) because in Verizon's view the rule is unnecessary and obsolete in a competitive environment. Verizon Comments at 29.

b. Discussion and Resolution

Consistent with the *NPRM Order*, we find that Section 64.15 shall be eliminated from our regulations. However, Section 64.16 remains an important consumer protection that we decide to retain in all geographic areas where our jurisdictional LECs serve. Accordingly, these determinations will be reflected in the final-form regulation set forth in the Annex.

4. 52 Pa. Code § 64.17 (Partial payments for current bills) and 52 Pa. Code § 64.18 (Application of partial payments between past and current bills)

In view of our decision regarding Section 64.16, we proposed the permanent retention of Section 64.17 and 64.18 for all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to retain these rules in all geographic areas. OCA Comments at 25.

TCC/CCL propose that the Commission modify its proposed language for subsection 64.17 (Partial payments for current bills) to incorporate a carveout for bundled service packages. TCC/CCL Comments at 19.

TCC/CCL propose that the Commission modify its proposed language for subsection 64.18 (Application of partial payments between past and current bills) to reflect the fact that bundled services are exempt from this rule. TCC/CCL Comments at 19.

Verizon opposes retention of these rules because in Verizon's view these rules are unnecessary and obsolete in a competitive environment. Verizon Comments at 29.

b. Discussion and Resolution

Consistent with the *NPRM Order*, we find that Sections 64.17 and 64.18 remain important consumer protections, and we decide to retain both regulations in all geographic areas where our jurisdictional LECs serve. We reject TCC/CCL's suggested changes as unnecessary. Since, as TCC/CCL states, our current regulations exempt "bundled service packages" from Sections 64.17 and 64.18, there is no reason to restate that exemption in the text of each regulation. TCC/CCL Comments at 19. Accordingly, the retention of Sections 64.17 and 64.18 in Chapter 64 of Title 52 of the Pa. Code will be incorporated in the final-form regulation set forth in the Annex.

5. 52 Pa. Code § 64.19 (Rebilling)

As currently constructed, Section 64.19(a) addresses a four-year limit for the issuance of a make-up bill for unbilled services resulting from a LEC's billing error. Section 64.19(b) provides consumer protections through a remedy for over-billing by requiring the LEC to provide an appropriate credit to the customer's account including taxes. Section 64.19(c) requires a LEC to provide notice to the Commission "of rebilling affecting more than 10% of its residential customers within 90 days of the rebilling."

For the reasons outlined in the *NPRM Order*, we proposed the permanent retention of Section 64.19 in all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to retain this rule in all geographic areas, for the reasons set forth in OCA's comments to the ANPRM relative to this rule. OCA Comments at 25.

Verizon opposes retention of this rule because in Verizon's view it is unnecessary and obsolete in a competitive environment. Verizon Comments at 29.

b. Discussion and Resolution

Consistent with the *NPRM Order*, we find that Section 64.19 remains an important consumer protection and we decide to retain both regulations in all geographic areas where our jurisdictional LECs serve. Accordingly, the retention of Section 64.19 in Chapter 64 of Title 52 of the Pa. Code will be reflected in the final-form regulation set forth in the Annex.

**6. 52 Pa. Code § 64.20 (Transfer of account) and
52 Pa. Code § 64.33 (Payment of outstanding balance)**

Both regulatory sections are interrelated. Section 64.20 addresses transfer of accounts and outstanding balances associated with discontinuance or termination to a new or existing customer. Section 64.33(a) allows a LEC to condition the provision of service to a new applicant upon payment of an outstanding balance “for which the applicant is legally responsible[.]” In addition, Section 64.33(b) prohibits a LEC from requiring an applicant for service to pay an outstanding balance incurred in another person’s name, absent a legal order determining the applicant’s obligation to pay. Both Section 64.20 from Subchapter B and Section 64.33 from Subchapter C were temporarily waived as to Verizon’s provision of residential local service in competitive wire centers.

For the reasons outlined in the *NPRM Order*, we proposed to retain these regulations in all geographic areas.

a. Comments and Replies

The OCA supports the Commission’s proposal to retain these rules in all geographic areas, for the reasons set forth in OCA’s comments to the ANPRM relative to this rule. OCA Comments at 26.

Verizon opposes retention of subsection 64.20 (Transfer of accounts) because in Verizon’s view these rules are unnecessary and obsolete in a competitive environment. Verizon Comments at 29.

b. Discussion and Resolution

The OCA believes that these regulations protect the affordability and continuity of residential local service by providing specific guidance as to a LEC's collection practices applied to a customer, where the charges were incurred in another account or by another person. The OCA submits that the important balancing of interests contained in the regulations is unlikely to appear in the terms and conditions of a Product Guide. OCA recommends that these regulations should be preserved and apply to residential service in both competitive and noncompetitive areas. *Id.* at 34.

Considering our rejection of a two-tiered regulatory approach, and in consideration of our balancing of interests as explained above and asserted by the OCA, we decide to retain Sections 64.20 and 64.33 in all geographic areas where our jurisdictional LECs serve. Accordingly, the retention of Sections 64.20 and 64.33 in Chapter 64 of Title 52 of the Pa. Code will be reflected in the final-form regulation set forth in the Annex.

7. 52 Pa. Code § 64.22 (Billing services for interexchange carriers)

We granted Verizon a temporary waiver of Section 64.22 in competitive wire centers. In the *NPRM Order*, we determined that this regulation is obsolete. Therefore, we proposed the permanent rescission of Section 64.22 in all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to rescind this rule entirely. OCA Comments at 26.

b. Discussion and Resolution

Since no party has filed any adverse comments regarding our proposal for this rule, we will adopt our proposal to permanently rescind Section 64.22 from Chapter 64 of

Title 52 of the Pa. Code. Accordingly, this permanent rescission will be reflected in the final-form regulation set forth in the Annex.

**8. 52 Pa. Code § 64.23 (Cramming/Slamming) and
52 Pa. Code § 64.24 (Provision of bundled service packages)**

In the *Reclassification Order*, we retained the applicability of Section 64.23 and Section 64.24 to Verizon's provision of service in its competitive areas.

In the *NPRM Order*, consistent with our proposed actions regarding Sections 64.14, 64.17 and 64.18, we proposed the permanent retention of existing Sections 64.23 and 64.24 for all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to retain subsection 64.23 (Cramming/Slamming) in all geographic areas, noting that protection against cramming and slamming remains relevant today. OCA Comments at 26. OCA also supports the Commission's proposal to retain subsection 64.24 (Provision of bundled service packages) in all geographic areas and argues that this rule permits consumers to default to basic local exchange service if they cannot pay the full price for a bundle of services and serves the statutory goal of preserving universal service and does not undermine pricing flexibility for bundled services as set forth in 66 Pa.C.S. § 3016(e). OCA Comments at 26-27.

TCC/CCL urges the Commission "to eliminate Section 64.24(c) for all telecommunications carriers" or, at a minimum, "the conversion to basic service should be limited to incumbent local telecommunications companies that have the obligation to offer 'protected services' under Chapter 30." TCC/CCL Comments at 21. TCC/CCL argue that "bundled packages are competitive offerings" that should not be subject to the "extra step" that this rule imposes, especially when unregulated carriers (to include

wireless) are not subject to the rule. TCC/CCL Comments at 22. Finally, TCC/CCL posit that “Chapter 30 does not authorize the Commission to require alternative service providers to provide a specific product to customers, especially one that mirrors the legacy incumbent product” and that the Commission’s previous offer to consider waiver requests “does not provide the certainty that new entrants need.” TCC/CCL Comments at 23.

Verizon opposes retention of subsection 64.24 (Provision of bundled service packages) because in Verizon’s view the rule undermines the flexibility afforded carriers to offer bundled service by 66 Pa.C.S. § 3016(e), and because the rule is unnecessary, obsolete, and unfairly discriminatory in a competitive environment in which unregulated carriers need not comply. Verizon Comments at 29.

b. Discussion and Resolution

Consistent with the *NPRM Order*, we adopt our proposal to retain Sections 64.23 and 64.24 for all geographic areas. We acknowledge the concerns raised by TCC/CCL with respect to the interplay between bundled service packages and basic local exchange service in situations where the LEC offering bundled service has no obligation to offer (and likely does not offer) basic service. Accordingly, we will modify the language of Section 64.24 in the final form regulations by replacing the initial sentence of existing subsection (c) with the following: “An LEC that is legally obligated to offer any “protected service” pursuant to Chapter 30, 66 Pa.C.S. §§ 3011 *et seq.*, to certain residential customers shall comply with the following requirements when offering any bundled service package that includes basic service to such customers[.]” We find that this limited modification answers TCC/CCL’s concern without unduly weakening the existing regulation’s protection of consumers’ need for basic local exchange service.

**C. Subchapter C (Credit and Deposit Standards Policy)
52 Pa. Code §§ 64.31—64.41**

In our *Reclassification Order*, we granted Verizon a temporary waiver for the entirety of regulations in Subchapter C of Chapter 64 in its competitive wire centers.⁸³ However, this waiver was conditioned on the requirement that Verizon provide information in its Product Guide concerning the consequences if an applicant for service is not deemed to be creditworthy. This reflected our belief that disclosure of credit and deposit standards would help manage reasonable customer expectations.⁸⁴

In the *NPRM Order*, we proposed the retention of the Subchapter C regulations in all geographic areas, noting that credit and deposit rules remain important consumer protections in today's marketplace and that, lacking any competitive analysis or substantive evidence otherwise, the scale tilts in favor of retaining these regulations.

a. Comments and Replies

The OCA supports the Commission's proposal to retain Subchapter C in all geographic areas but notes that subsection 64.33 (Payment of outstanding balance) was omitted from the Commission's proposal, apparently due to error. OCA Comments at 27-28.

Verizon opposes the Commission's proposal to reinstate the Subchapter C rules because in Verizon's view, they are unnecessary and obsolete in today's competitive marketplace, which the Commission recognized when it granted waivers from these rules in competitive exchanges in 2015. Verizon proposes that the Commission eliminate them entirely, with one exception. Verizon proposes to retain subsection 64.31 (LEC credit and deposit policies), modified to clarify that "a LEC shall describe its credit and deposit policies for noncompetitive stand-alone basic services" in a product guide or similar

⁸³ *Reclassification Order* at 97.

⁸⁴ *Id.*

document and that a LEC's credit and deposit practices shall comply with applicable state and federal law. Verizon Comments at 30.

b. Discussion and Resolution

In the *NPRM Order*, we had proposed to retain this subchapter. However, based upon input received in response to the NPRM, we shall rescind Subchapter C except for a revised Section 64.31. Specifically, we hereby revise Section 64.31 to clarify that a LEC shall describe its credit and deposit standards, which must be reasonable under Section 1501 of the Code, in a tariff, product guide, or similar document. Based on the information contained in our Utilities Consumer Activities Report and Evaluation from recent years, the Commission finds that credit/deposit standards have not been a major issue for our telephone utilities and their customers. Moreover, Section 1501 along with the requirement that these rules be tariffed, etc., adequately protects Pennsylvania consumers against unreasonable telephone utility credit and deposit practices.

**D. Subchapter D (Interruption and discontinuance of service)
52 Pa. Code §§ 64.51—64.53**

In the *Reclassification Order*, we recognized that Verizon's Product Guide applies to basic local exchange services in competitive wire centers in Verizon's service territories in Pennsylvania and addresses refunds for service interruptions and customer-initiated discontinuation of service.⁸⁵ Consequently, we temporarily waived the Subchapter D regulations Section 64.52 (Refunds for service interruption) and Section 64.53 (Discontinuation of service) for Verizon.⁸⁶ Concomitantly, we also decided to retain Section 64.51 in the *Reclassification Order*.

In the *NPRM Order*, we proposed the retention of this subchapter in its entirety in all geographic areas in recognition of the need to balance the interests of consumer

⁸⁵ *Reclassification Order* at 97.

⁸⁶ *Id.*

protection with the ability of a LEC to operate efficiently and in a streamlined manner in the competitive marketplace.

a. Comments and Replies

Verizon opposes the Commission's proposal to reinstate the Subchapter D rules because in Verizon's view, they are unnecessary and obsolete in today's competitive marketplace, which the Commission recognized when it granted waivers from these rules in competitive exchanges in 2015. Verizon proposes that the Commission apply these rules only to residential basic local exchange service, to be sunset at the end of 2023, with the proviso that section 1501 of the Code shall continue to govern all aspects of regulated carrier services. Verizon Comments at 31.

b. Discussion and Resolution

This subchapter addresses scheduled interruptions of service by the utility and voluntary discontinuations of service by the customer. Subchapter D contains notification procedures and refund amounts for service interruptions and contains the general procedures for customers to discontinue service. In the *NPRM Order*, we proposed to retain this subchapter. However, based upon input received in response to the NPRM, we hereby rescind Subchapter D in its entirety. We agree with Verizon that Subchapter D is unnecessary and obsolete in today's competitive marketplace. Verizon Comments at 31. To the extent a telephone utility does not provide adequate service in one of the areas addressed by Subchapter D, the utility's conduct can be adequately addressed under Code Section 1501.

**E. Subchapter E (Suspension of Service)
52 Pa. Code §§ 64.61—64.111**

Subchapter E regulates grounds for suspension of service and notice procedures prior to suspension of service. In the *Reclassification Order*, we temporarily waived several of our Subchapter E regulations for Verizon but also concluded that several regulations remained relevant for competitive service.⁸⁷

Specifically, we decided to temporarily waive the following Subchapter E regulations for Verizon pertaining to grounds for suspension of service and certain notice procedures:

Section 64.61 (Authorized suspension of service);
Section 64.63 (Unauthorized suspension of service), *except* for subsection (10) relating to medical certificates;
Section 64.72 (Suspension notice information);
Section 64.73 (Notice when dispute pending);
Section 64.74 (Procedures upon customer contact before suspension); and
Section 64.81 (Limited notice upon noncompliance with report or order).

However, we denied Verizon's temporary waiver request for the following Subchapter E regulations, which we acknowledged remained relevant and should continue to apply in a competitive environment:

Section 64.62 (Days suspension or termination of service is prohibited);
Section 64.63(10) (Unauthorized suspension of service) relating to medical certificates;
Section 64.71 (General notice provisions);
Section 64.75 (Exception for suspension based on occurrences harmful to person or property);
Section 64.101 (General provision);
Section 64.102 (Postponement of suspension pending receipt of certificate);
Section 64.103 (Medical certification);
Section 64.104 (Length of postponement);
Section 64.105 (Restoration of service);

⁸⁷ *Reclassification Order* at 98-100.

Section 64.106 (Duty of customer to pay bills);
Section 64.107 (Suspension upon expiration of medical certification);
Section 64.108 (Right of LEC to petition the Commission);
Section 64.109 (Suspension prior to expiration of medical certification); and
Section 64.111 (Third-party notification).

In the *NPRM Order*, we noted that in the absence of sufficient data evidencing decreased customer reliance on these emergency-related provisions or to support a determination that the alleged utility burden is greater than the consumer benefit, it was prudent to retain the Subchapter E emergency provisions at Section 64.101—64.111, given the potential impacts of suspension of service on customers with serious medical conditions, throughout all geographic areas.

a. Comments and Replies

The OCA supports the Commission’s proposal to retain Subchapter E rules in all geographic areas, especially “given the potential impacts of suspension of service on customers with serious medical conditions, throughout all geographic areas.” OCA Comments at 30.

Verizon opposes the Commission’s proposal to reinstate the Subchapter E rules because in Verizon’s view, they are unnecessary and obsolete in today’s competitive marketplace, which the Commission recognized when it granted waivers from these rules in competitive exchanges in 2015. Verizon proposes that the Commission apply these rules only to basic residential telephone service, to be sunset at the end of 2023, with the proviso that section 1501 of the Code shall continue to govern all aspects of regulated carrier services. Verizon Comments at 31.

b. Discussion and Resolution

For the same reasons set forth in our discussion of the parties' general comments with respect to this rulemaking overall,⁸⁸ and consistent with OCA's comments in response to the *ANPRM Order*, we conclude that wholesale elimination of our Chapter 64, Subchapter E regulations is not appropriate, and would substantially weaken the protections Pennsylvania consumers enjoy today. Rather than eliminating all of Subchapter E, we decide instead to review individual regulations or sets of regulations on their own merits, in response to specific concerns raised by commentators.

1. 52 Pa. Code § 64.61 (Authorized suspension of service)

Section 64.61 states eight separate grounds for authorized suspension of service. In the *Reclassification Order*, the Commission determined that Section 64.61 was no longer relevant in a competitive market as these terms of service for grounds for suspension and termination are addressed in Verizon's Product Guide at Section 1, Original Sheets 4 and 4.1, while termination is covered in Section 29 of their Product Guide. Thus, we temporarily waived this regulation for Verizon.⁸⁹

In the *NPRM Order*, we expressed our concern regarding the suitability of having potentially different standards govern the suspension of residential services, including basic local exchange services.

Also, in the *NPRM Order*, we noted that OCA brought to our attention that Verizon has utilized Section 64.61(3) in the context of network transitions from conventional copper-based connections to fiber optic ones for residential customers. OCA indicates that Section 64.61(3) permits a LEC to suspend residential service upon "[u]nreasonable refusal to permit access to service connections, equipment and other

⁸⁸ *Infra.* at 18-24.

⁸⁹ *Reclassification Order* at 99.

property of the LEC for maintenance or repair,” and references the *Altman* case.⁹⁰ In the *Fox* copper to fiber transition case the presiding Administrative Law Judge determined that Mr. Fox’s refusal to provide Verizon PA with access to his dwelling was unreasonable and put Mr. Fox at risk of suspension of service, and that Verizon must meet the notice requirements of Section 64.71 and 64.72 before proceeding with a service suspension.⁹¹

OCA pointed out that the Commission’s denial of Mr. Fox’s complaint noted that “[w]hen migrating telephone service from a copper to fiber-based service, Verizon also must comply with the relevant customer notice requirements regarding suspension/termination of service in Chapter 64 of the Commission’s regulations.”⁹² OCA recommends that “the Commission should not, through this rulemaking, diminish or dismantle such important, inter-related Chapter 64 provisions that relate to suspension of service and timely notice of how the customer may cure the potential suspension,” and that the copper to fiber transition of network connections should be accomplished in a manner that does not confuse consumers or result in the avoidable suspension of vital residential basic local exchange services.⁹³ OCA supports the retention of the Section 64.61 regulation for both competitive and noncompetitive areas.⁹⁴

Thus, for the reasons set forth by OCA, we proposed to retain Section 64.61 for all geographic areas.

⁹⁰ OCA Comments at 39-40, citing *Neil and Gilda Altman v. Verizon Pennsylvania LLC*, Docket No. C-2015-2515583 (Order entered November 18, 2016) (*Altman*). OCA indicates that Verizon cited Section 64.61(3) as support for the possible suspension of service, but the presiding Administrative Law Judge found Section 64.61(3) inapplicable on the particular facts. OCA Comments at 40, citing the *Altman* Initial Decision at 14-15.

⁹¹ OCA Comments at 40-41, citing to *Irwin Fox v. Verizon Pennsylvania LLC*, Docket No. C-2016-2576094 (Order entered July 18, 2018) (*Fox*).

⁹² OCA Comments at 40-41, citing to *Fox* at 9.

⁹³ OCA Comments at 41, citing *Altman* at 4, Ordering Paragraph 5. OCA also notes that the FCC has eliminated the requirement of a “direct notice to retail customers” in copper retirement network transitions. *Id.* at 41, n.79.

⁹⁴ OCA Comments at 39.

a. Comments and Replies

The OCA supports the Commission's proposal to retain this rule in all geographic areas, noting the need for guidance "in matters such as the continuing transition of network connection from copper-based to fiber optic facilities thus avoiding the suspension or even the loss of vital basic local exchange services." OCA Comments at 31.

IRRC notes with approval that "[a] commentator states that Section 64.61 should recognize the ability of the telecommunications service provider to suspend services to prevent other types of abuse, or illegal activities." IRRC Comments at 9.

TCC/CCL propose that the Commission modify its proposed language for this rule to permit carriers to suspend service based on "abusive, illegal or fraudulent activity." TCC/CCL Comments at 27.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we decide to adopt our proposed retention of Section 64.61 in all geographic areas.

We find reasonable TCC/CCL's suggestion that LECs be permitted to suspend service based on "abusive, illegal or fraudulent activity" and we will add new subsection (9) to the existing regulation in the final form regulations to capture these grounds for suspension. Accordingly, the retention of Sections 64.61 in Chapter 64 of Title 52 of the Pa. Code will be reflected in the final-form regulation set forth in the Annex.

**2. 52 Pa. Code § 64.62
(Days suspension or termination of service is prohibited)**

In the *Reclassification Order*, we denied Verizon’s waiver request for Section 64.62 on the basis that identifying the dates service cannot be suspended or terminated is relevant and should apply in a competitive market.⁹⁵ We determined that rather than Verizon’s Product Guide’s determining these dates, it was best to continue to have these dates controlled by regulation. Accordingly, Section 64.62 was retained and made to apply in all geographic areas.

a. Comments and Replies

The OCA supports the Commission’s proposal to retain this rule in all geographic areas. OCA Comments at 31.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we will adopt our proposal to retain Section 64.62 in Chapter 64 of Title 52 of the Pa. Code for competitive and noncompetitive local calling areas. Accordingly, we take no further action to modify our prior determination regarding Section 64.62 in Chapter 64 of Title 52 of the Pa. Code in the final-form regulation set forth in the Annex.

**3. 52 Pa. Code § 64.63
(Unauthorized suspension of service)**

Section 64.63 identifies the reasons for which “basic service may not be suspended, and a suspension notice may not be sent[.]” This regulation, except for subsection (10) addressing medical certifications, was temporarily waived for Verizon in our *Reclassification Order*.

⁹⁵ *Reclassification Order* at 99.

In the *NPRM Order*, we stated that we did not believe the processes and procedures governing unauthorized suspensions for residential services, including basic local exchange services, should be governed by different standards when and where the same services are provided in competitive and noncompetitive wire centers by the same telecommunications utility. Furthermore, we stated it was unclear how potentially differing standards for dealing with unauthorized suspensions would operate with respect to select residential customer groups in the competitive and noncompetitive wire centers or equivalent geographic areas of the same utility, e.g., low-income consumers and households that are eligible for Lifeline services. For these reasons, we concluded that the uniformity of treatment of unauthorized suspensions was a better resolution, and we proposed to retain the Section 64.63 regulation for all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to retain this rule in all geographic areas. OCA Comments at 31-32.

TCC/CCL propose that the Commission modify its proposed language for this rule to recognize that the Commission previously waived certain provisions relative to bundled service packages. TCC/CCL Comments at 28.

b. Discussion and Resolution

OCA notes that the regulation protects against unauthorized suspension of service for nonpayment of other telephone services or use of suspension to collect unpaid charges, from four or more years earlier. Also, OCA cites subsection (7) stating that basic local service is protected from suspension, based upon nonpayment by a third party, unless a court order or administrative agency establishes the customer is legally obligated to pay the outstanding balance. OCA Comments at 41-42.

OCA argues that that the preservation of Sections 64.63(1) through (9) provides consumer protections by preventing LECs from using suspension of residential basic exchange services to collect payments owed for other services, owed by other parties, or that may have already been written off. OCA recommends that the Commission preserve the regulation arguing that the regulation provides important consumer protections that should apply in all areas, competitive or noncompetitive. OCA Comments at 42.

We agree with OCA's position. In addition to our rejection of a two-tiered regulatory approach, we do not believe processes and procedures governing unauthorized suspensions for residential services, including basic local exchange services, should be governed by different standards when and where the same services are provided in competitive and noncompetitive wire centers by the same telecommunications utility. Furthermore, it is unclear how potentially differing standards for dealing with unauthorized suspensions would operate with respect to select residential customer groups in the competitive and noncompetitive wire centers of the same utility, e.g., low-income consumers and households that are eligible for Lifeline services. For these reasons, we conclude that the uniformity of treatment of unauthorized suspensions is a better resolution, and we propose to retain the Section 64.63 regulation for all geographic areas.

We reject TCC/CCL's suggestion to modify this regulation as unnecessary. Accordingly, we take no further action to modify our prior determination regarding Section 64.63 in Chapter 64 of Title 52 of the Pa. Code in the final-form regulation set forth in the Annex.

4. 52 Pa. Code § 64.71 (General notice provisions)

In the *Reclassification Order*, the Commission retained Section 64.71 containing the notice requirements prior to suspension of service. The Commission considered the

regulation relevant for application in a competitive environment.⁹⁶ In similar vein, in the *NPRM Order*, we concluded that the uniformity of treatment of unauthorized suspensions is a better resolution, and thus, we proposed to retain Sections 64.71 as it presently exists for all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to retain this rule in all geographic areas. OCA Comments at 32.

b. Discussion and Resolution

The Commission will adopt our proposal to retain Section 64.71 in Chapter 64 of Title 52 of the Pa. Code for competitive and noncompetitive local calling areas. However, consistent with our goal of modernizing our rules to reflect current technology, we shall modify Section 64.71 in the final-form regulation to permit electronic transmittal of telephone suspension notices as long as the customer consents specifically to receiving suspension notices electronically. We note that TCC/CCL recommends allowing electronic transmittal of termination notices in Section 64.123, TCC/CCL Comments at 28, we agree with that recommendation, and we see no reason why we cannot and should not allow the same for suspension notices. We further note that our rules allow a LEC to transmit bills electronically so this outcome is entirely consistent what we allow for billing.

⁹⁶ *Reclassification Order* at 99.

5. 52 Pa. Code § 64.72 (Suspension notice information)

The Commission temporarily waived this regulation for Verizon finding that the provision is no longer necessary in a competitive market.⁹⁷ We took this action based on our understanding that the grounds for suspension and termination of service are addressed in Verizon’s Product Guide. However, in the *NPRM Order*, we determined that there was no compelling reason why suspension notice information for the same residential services should be subject to different standards. Thus, we proposed to retain the Section 64.72 in all geographic areas.

a. Comments and Replies

The OCA supports the Commission’s proposal to retain this rule in all geographic areas, noting that LEC customers “may need clear notice of the steps to take to prevent suspension of service.” OCA Comments at 32-33.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we adopt our proposal to retain this regulation for all geographic areas. Accordingly, we take no further action to modify our prior determination regarding Section 64.72 in Chapter 64 of Title 52 of the Pa. Code in the final-form regulation set forth in the Annex.

6. 52 Pa. Code § 64.73 (Notice when dispute pending)

Section 64.73(a) and (b) essentially direct that a LEC cannot mail or deliver a notice of suspension if a notice of dispute has been filed and the failure to comply with this requirement shall render the suspension notice “void.” This regulatory section was temporarily waived for Verizon.⁹⁸

⁹⁷ *Reclassification Order* at 99.

⁹⁸ *Reclassification Order* at 99.

In the *NPRM Order*, we expressed our reluctance to adopt different standards for notices when disputes are pending between essentially the same residential services, including basic local exchange services. Nonetheless, we determine that the Section 64.73 regulation needed to be simplified. Therefore, we proposed the following: (1) the retention of Sections 64.73(a) and (b) for all geographic areas; and (2) proposed the elimination of the part “except where toll usage exceeds the following usage in a billing period after the filing of the notice of dispute or informal complaint.”

a. Comments and Replies

IRRC notes that the Commission’s proposed language for this rule eliminates subparts (1) and (2) of subsection 64.73(a), but “does not address existing subsection (3),” and recommends that the Commission “should make the necessary edits to clarify this provision.” IRRC Comments at 9.

The OCA supports the Commission’s proposal to retain this rule in all geographic areas but modified to eliminate outdated references to “toll usage.” OCA Comments at 33. OCA further proposes that the Commission eliminate “toll usage” references in subsection (3) of subpart (a) of this rule, in addition to subparts (1) and (2). OCA Comments at 33.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we adopt our proposal to retain this regulation for all geographic areas but clarify in this Preamble that subsections (1), (2), and (3) of Section 64.73(a) are being eliminated too. Accordingly, the retention of Sections 64.73 in Chapter 64 of Title 52 of the Pa. Code as modified will be reflected in the final-form regulation set forth in the Annex.

**7. 52 Pa. Code § 64.74
(Procedures upon customer contact before suspension)**

In the *NPRM Order*, we stated that these procedures outlined in Section 64.74 are of material help to consumers and can substantially contribute to the avoidance of undesirable service suspensions and even terminations, as well as in a consequent reduction of informal and formal complaints that reach this Commission for adjudication and resolution. We also determined that these procedures are equally applicable to residential services, including basic local exchange services, that are provided in both competitive and noncompetitive wire centers of the same telecommunications utility and of particular benefit to low-income consumers and households that are eligible and receive Lifeline services in both competitive and noncompetitive wire centers. Lastly, we also determined that the regulation should be changed with respect to its references to interexchange carrier (IXC) services and billings. Therefore, we proposed the retention of Section 64.74 and its uniform applicability in all geographic areas and proposed an amendment to Section 64.74 to eliminate the term “other than IXC toll charges” in subsection 64.74(a)(3) and to eliminate subsection 64.74(a)(5).

a. Comments and Replies

The OCA supports the Commission’s proposal to retain this rule in all geographic areas, modified to eliminate outdated references to “toll” and “IXC” services, noting that the rule’s procedures “can substantially contribute to the avoidance of undesirable service suspensions and even terminations, as well as in a consequent reduction of informal and formal complaints that reach this Commission for adjudication and resolution.” OCA Comments at 34.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we adopt our proposal to retain this regulation for all geographic areas. Accordingly, the retention of Sections

64.74 in Chapter 64 of Title 52 of the Pa. Code will be reflected in the final-form regulation set forth in the Annex.

8. 52 Pa. Code § 64.75 (Exceptions for suspension based on occurrences harmful to person or property)

In the *NPRM Order*, we stated that based on the exigent circumstances that this regulation addresses, the regulation should be retained and uniformly apply in all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to retain this rule in all geographic areas. OCA Comments at 34.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we will adopt our proposal to retain Section 64.75 in Chapter 64 of Title 52 of the Pa. Code for competitive and noncompetitive local calling areas. Accordingly, we take no further action to modify our prior determination to retain Section 64.75 in Chapter 64 of Title 52 of the Pa. Code in the final-form regulation set forth in the Annex.

9. 52 Pa. Code § 64.81 (Limited notice upon noncompliance with report or order)

Section 64.81 addresses the circumstances where a customer does not comply with a dispute, informal or formal complaint resolution, and the original grounds for suspension are then revived, and the LEC can suspend subject to a 24-hour advanced notice by telephone. We temporarily waived this regulation in the *Reclassification Order*

for Verizon.⁹⁹ Consistent with our approach for this entire regulatory Chapter, we proposed that Section 64.81 be retained in its entirety and apply in all geographic areas.

a. Comments and Replies

The OCA supports the Commission's proposal to retain this rule in all geographic areas. OCA Comments at 32 and 35.

b Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we will adopt our proposal to retain Section 64.81 in Chapter 64 of Title 52 of the Pa. Code for competitive and noncompetitive local calling areas. Accordingly, we take no further action to modify our prior determination to retain Section 64.81 in Chapter 64 of Title 52 of the Pa. Code in the final-form regulation set forth in the Annex.

10. 52 Pa. Code §§ 64.101—64.109 (Emergency provisions) and 52 Pa. Code § 64.111 (Third Party Notification)

In the *NPRM Order*, we noted that these regulations were retained in both competitive and noncompetitive wire centers in the *Reclassification Order* and further noted that no valid reasons had been presented to convince us that customers do not rely on these important provisions. Therefore, we proposed to retain these regulations without amendment.

a. Comments and Replies

The OCA supports the Commission's proposal to retain these rules in all geographic areas. OCA Comments at 35.

⁹⁹ *Reclassification Order* at 99.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we will adopt our proposal to retain Sections 64.101—64.109 in Chapter 64 of Title 52 of the Pa. Code for competitive and noncompetitive local calling areas. Accordingly, we take no further action to modify our prior determination to retain Sections 64.101—64.109 in Chapter 64 of Title 52 of the Pa. Code in the final-form regulation set forth in the Annex.

**F. Subchapter F (Termination of Service)
52 Pa. Code §§ 64.121—64.123**

The Commission temporarily waived all the Subchapter F provisions for Verizon concluding that these provisions were no longer necessary in a competitive market and noting that Verizon’s grounds for suspension and termination are covered in their Product Guides.¹⁰⁰ However, for these reasons outlined in the *NPRM Order*, we proposed the retention of Subchapter F in its entirety and the uniform applicability of the subchapter in all geographic areas.

a. Comments and Replies

The OCA supports the Commission’s proposal to retain these three regulations and their applicability to all geographic areas, noting that they “are interrelated with other provisions and important consumer protections, including the need for the utility to provide notice of the medical certificate process[.]” OCA Comments at 35-36.

TCC/CCL propose that the Commission modify its proposed language for subsection 64.123 (Termination notice) in two ways: (1) to clarify that termination notices may be transmitted electronically; and (2) to eliminate the reference to amount due for basic service only, since in TCC/CCL’s view, competitive carriers may choose not to offer basic service. TCC/CCL Comments at 28-29.

¹⁰⁰ *Reclassification Order* at 99; *ANPRM Order* at 19-20.

Verizon opposes the Commission's proposal to reinstate the Subchapter F rules because in Verizon's view, they are unnecessary and obsolete in today's competitive marketplace, which the Commission recognized when it granted waivers from these rules in competitive exchanges in 2015. Verizon proposes that the Commission to apply these rules only to residential basic local exchange service, to be sunset at the end of 2023, with the proviso that section 1501 of the Code shall continue to govern all aspects of regulated carrier services. Verizon Comments at 31.

b. Discussion and Resolution

For reasons previously explained, the Commission rejects Verizon's adverse comments to its proposed retention of Subchapter F, and we will adopt our proposal to retain Subchapter F in Chapter 64 of Title 52 of the Pa. Code for competitive and noncompetitive local calling areas, consistent with our discussion in the *NPRM Order*.

We reject TCC/CCL's suggested change with respect to basic local exchange service as unnecessary because the current regulation does not require a LEC to specify an amount past due for basic service if the LEC does not provide basic service. However, we agree with TCC/CCL's recommendation that we allow electronic transmittal of termination notices. TCC/CCL Comments at 28. Consistent with our goal of modernizing our rules to reflect current technology, we shall modify Section 64.123 to permit electronic transmittal of telephone termination notices as long as the customer consents specifically to receiving termination notices electronically. We further note that our rules allow a LEC to transmit bills electronically so this outcome is entirely consistent what we allow for billing.

**G. Subchapter G (Disputes; Informal and Formal Complaints)
52 Pa. Code §§ 64.151 – 64.154**

We did not grant a waiver of Subchapter G in the *Reclassification Order* for Verizon since a customer has a legal right to file an informal or a formal service complaint with the Commission, and we wanted to ensure and control the complaint process.¹⁰¹ However, the Commission proposed a streamlined warm transfer process available for all Verizon retail customers in competitive wire centers who submitted an informal complaint to BCS about service and also added billing-related complaints.

In the *NPRM Order*, we determined that we should preserve the full scope and protections provided to residential basic local exchange service customers, whether in competitive or noncompetitive areas. Thus, in consideration of our determination that we should have uniform standards across all geographic areas on matters affecting customer service suspension or termination, we proposed to retain the entirety of Subchapter G throughout all geographic areas. Notwithstanding, we also proposed amendments to relevant Subchapter G regulations to add new language to provide all jurisdictional LECs with the option to participate in a warm transfer or similar program for service and/or billing-related disputes made to BCS.

a. Comments and Replies

The OCA supports the Commission’s proposal to retain these informal complaint procedures and to add a warm transfer option, noting that the option could allay “consumer frustration when the consumer is unable contact an actual utility customer service representative to address a service or billing concern.” OCA Comments at 37.

Referring to the Commission’s proposed “warm transfer” option, TCC/CCL refer the Commission to our comments relative to subsection 63.15 (Complaint procedures)

¹⁰¹ *Reclassification Order* at 100-01; see 66 Pa.C.S. §§ 308(b)(1) and 701.

and “question whether the new process should be specified in both Chapter 63 and Chapter 64, or whether a single reference is more appropriate.” TCC/CCL Comments a 29.

Verizon opposes retention of Chapter 64 dispute and complaint process, even in the modified form proposed by the Commission. Verizon Comments at 31. Verizon proposes to eliminate subchapter G and replace it with “a much simpler and customer friendly dispute resolution framework” by which BCS will accept informal complaints only relating to residential standalone noncompetitive service, utilize the warm transfer option, and refer any other complaints relating to regulated service directly to the carrier. Verizon Comments at 31-32. Verizon proposes to sunset the informal complaint process entirely by the end of 2023. Verizon further proposes to replace the formal complaint process with a new process whereby all formal complaints relating retail telecommunications service shall be subject to mandatory mediation. Verizon Comments at 32.

b. Discussion and Resolution

The Commission rejects any adverse comments to its proposed retention of Subchapter G, and we will adopt our proposal to retain Subchapter G in Chapter 64 of Title 52 of the Pa. Code for competitive and noncompetitive local calling areas, consistent with our discussion in the *NPRM Order*. We also adopt our proposal to add a warm transfer process to the Subchapter G regulations in the final form regulations. We agree with OCA’s assessment that the warm transfer process will facilitate more and higher quality interactions between consumers and LEC customer-facing representatives.

We disagree with Verizon that we should restrict the informal complaint process to residential standalone noncompetitive service, and we find no legal or factual support for such a restriction. Nor do we find any merit to Verizon’s suggestion that we sunset the informal complaint process entirely or require that all formal complaints be subject to

mediation. As previously discussed, the Commission is required under the Code to promulgate regulations that allow for a consumer to make an informal complaint with the Commission's BCS, and BCS is required under the Code to receive, investigate and issue final determination on all informal complaints. And, the Commission's existing rules provide for mediation when appropriate but without mandating it on any party, particularly residential customers. Accordingly, we retain Subchapter G in Chapter 64 of Title 52 of the Pa. Code as modified in the final-form regulation set forth in the Annex.

**H. Subchapter H (Restoration of Service)
52 Pa. Code §§ 64.181—64.182**

In the *Reclassification Order*, the Commission temporarily waived all of Subchapter H as to Verizon's provision of residential service in competitive wire centers.¹⁰² In the *NPRM Order*, we determined that Section 64.182 is unnecessary and proposed to rescind it. However, consistent with our previous proposals to permanently retain the applicability of certain service suspension and termination regulations for both competitive and noncompetitive wire centers, we proposed the following: (1) the retention of Section 64.181 for all geographic areas; (2) the amendment of Section 64.181 to include reference to "product guides or other similar documents" in addition to a LEC's lawful tariff to the extent those terms are applicable to the particular service.

a. Comments and Replies

The OCA supports the Commission's proposal to retain Section 64.181 in all geographic areas, with minor revisions to acknowledge existence of a pricing guide or tariff, and to eliminate Section 64.182. OCA Comments at 37.

Verizon opposes the Commission's proposal to reinstate the Subchapter H rules because in Verizon's view, they are unnecessary and obsolete in today's competitive

¹⁰² *Reclassification Order* at 99, 144.

marketplace, which the Commission recognized when it granted waivers from these rules in competitive exchanges in 2015. Verizon Comments at 31. Verizon proposes that the Commission to apply these rules only to basic residential telephone service, to be sunset at the end of 2023, with the proviso that section 1501 of the Code shall continue to govern all aspects of regulated carrier services. Verizon Comments at 31.

b. Discussion and Resolution

The Commission rejects Verizon’s adverse comments to its proposed retention of Subchapter H, Section 64.181 for reasons previously stated, and we will adopt our proposal to retain this regulation for competitive and noncompetitive local calling areas, consistent with our discussion in the *NPRM Order*. We also adopt our proposal to modify Section 64.181 as set forth in the Annex to the *NPRM Order*. Finally, we adopt our proposal to rescind Section 64.182 noting that no party opposes that rescission. Accordingly, the retention of Section 64.181 as modified, and the rescission of Section 64.182 from Chapter 64 of Title 52 of the Pa. Code will be incorporated in the final-form regulation set forth in the Annex.

**I. Subchapter I (Public Information; Record Maintenance)
52 Pa. Code § 64.191 (Public Information);
52 Pa. Code § 64.192 (Record Maintenance)**

The two separate regulations in Subchapter I address the requirements of fair marketing. In the *Reclassification Order* we temporarily waived Section 64.191(f) and (g) for Verizon as no longer necessary in a competitive environment. However, we concluded that Sections 64.191 (a)—(d) provide necessary regulatory provisions governing applications for service and disclosure of information about available services to potential customers. Since many customers receive bundled services, the Commission

previously granted Verizon a waiver of Section 64.191(e) which addresses toll presubscription.¹⁰³

In the *NPRM Order*, we determined that it is necessary that both parties, the customer and the LEC, know their rights and responsibilities when entering a new service arrangement and thus, we proposed the permanent retention of Sections 64.191(a)—(d) and (f)—(g) for all geographic areas. However, in the Annex to the *NPRM Order*, we also proposed to amend 64.191(g) to require this information be made only to new customers and thereafter only upon request.

With regard to Section 64.191(e) and being cognizant of the fact that many of our ILECS were previously granted a temporary waiver of this regulatory section,¹⁰⁴ we determined that this regulation was no longer relevant and proposed its rescission in the *NPRM Order*.

Additionally, we concluded that the record retention requirement in Section 64.192 can and does assist when various disputes arise as well as in the resolution of informal and formal complaints. We determined that since such record generation, retention and storage are being performed through electronic means in the ordinary course of business of telecommunications utilities by their respective billing and operational support systems, that the requirement to maintain such records uniformly for residential services provided in both competitive and noncompetitive wire centers does not appear to constitute an administrative burden. Thus, we proposed to retain Section 64.192 for all geographic areas.

¹⁰³ *Joint Petition of Verizon Pennsylvania, Inc. and Verizon North, Inc. for a Waiver of the Commission's Order Dated May 9, 1997, et al.*, Docket Nos. I-00940034 and P-00072348 (Tentative Order entered September 24, 2008 and Final Order entered October 6, 2008: see also Secretarial Letter dated January 22, 2009) (*May 9, 1997 Implementation Order*).

¹⁰⁴ *RLEC Directory and Toll Presubscription Order* at 10-11.

a. Comments and Replies

With respect to subparts (a) and (b) of subsection 64.191, IRRC notes with approval a commentator's suggestion that "basic service" should be replaced with "of service for which the applicant is eligible" "since some LECs may not provide 'basic service' as contemplated in this regulation." IRRC Comments at 9.

Additionally, with respect to subpart (f) of subsection 64.191, IRRC agrees with a commentator that "this provision can be deleted as it is no longer relevant given the movement away from saturation delivery of white page directories." IRRC Comments at 9.

The OCA supports the Commission's proposal to retain this rule in all geographic areas, and to revise the rule to eliminate reference to toll presubscription and to only require that information be provided to new customers. OCA Comments at 38. OCA further proposes to eliminate the reference to "telephone directory" in subsection 64.191(f)(4) as "no longer relevant." OCA Comments at 38. OCA also supports the Commission's proposal to retain Section 64.191 rule in all geographic areas, noting that "this regulation and information covered is still needed and relevant, given the use of the "warm transfer" approach to management of consumer disputes as well consumer concerns arising from the copper to fiber network transition." OCA Comments at 39.

TCC/CCL propose that the Commission modify its proposed language for this rule to eliminate references to basic service, since in TCC/CCL's view, competitive carriers may choose not to offer basic service. TCC/CCL Comments at 29.

Verizon opposes the Commission's proposal to retain the Subchapter I rules because in Verizon's view, they are unnecessary and obsolete in today's competitive marketplace. According to Verizon, "consumers today value the streamlined interactions

typical of unregulated providers” but the rules force regulated carriers “to communicate in an annoying and confusing manner.” Verizon Comments at 32.

b. Discussion and Resolution

Ensuring that both parties to a new service know their rights and responsibilities affords protection to both the customer and the provider. However, in our continual effort to balance burdens on providers with protections for customers, we narrowed the provision of this information to new customers only to reduce our providers’ burdens while still protecting all parties to the transaction.

The Commission rejects Verizon’s adverse comments to its proposed retention of Subchapter I, Sections 64.191 and 64.192 for competitive and noncompetitive local calling areas, for reasons previously stated and consistent with the discussion in the *NPRM Order*. However, we agree with the comments of TCC/CCL relative to basic service and we will further modify Section 64.191(a) and (b) to replace the word “basic” with the generic term “telecommunications.” Accordingly, the retention of Sections 64.191 and 64.192 in Chapter 64 of Title 52 of the Pa. Code as modified will be incorporated in the final-form regulation set forth in the Annex.

**J. Subchapter J (Annual Reporting Requirements)
52 Pa. Code §§ 64.201—64.202**

1. 52 Pa. Code § 64.201 (Reporting Requirements)

The Commission granted Verizon a temporary waiver of many, but not all, of the Section 64.201(b) reporting requirements for the 153 competitive wire centers.¹⁰⁵ However, Verizon remained subject to the Section 64.201(a) annual reporting requirement that imposes on each LEC with residential accounts the obligation to file a report providing information that is set forth in Section 64.201(b).¹⁰⁶ Specifically,

¹⁰⁵ *Reclassification Order* at 102.

¹⁰⁶ *See Final Implementation Order* at 32.

Verizon was required to continue to comply with Section 64.201(a) and the following Section 64.201(b) provisions: (b)(2)(i), (b)(4)(i), (b)(5), (b)(6), (b)(7), (b)(8)(i), (b)(9)(i), and (b)(10)(i).

In the *NPRM Order*, the Commission determined that these reporting requirements for residential account information relative to non-basic and toll service data are no longer necessary in any area. Consequently, in the Annex to the *NPRM Order*, we proposed to rescind 64.201(b)(2)(ii), (iii), and (iv); 64.201(b)(4)(ii), (iii), and (iv); 64.201(b)(8)(ii), (iii), and (iv); 64.201(b)(9)(ii), (iii), and (iv); 64.201(b)(10)(ii), (iii), and (iv); and 64.201(b)(11) and thereby limit each reporting requirement to basic local exchange service.

However, because we also determined that the retention of the other reporting provisions in this subchapter continued to provide useful information regarding the status and assist our understanding of changes in the residential telecommunications services market, we proposed to retain the remaining reporting requirements in Section 64.201, including the previously temporarily waived subsections (b)(1) and (3) for all geographic areas.

Additionally, since we have retained some Chapter 64 regulations, Section 64.202 (Petition for waiver) remained relevant.¹⁰⁷ Thus, we proposed to retain this regulation in all geographic areas.

¹⁰⁷ *ANPRM Order* at 21; *Reclassification Order* at 103.

a. Comments and Replies

Noting that “[r]etaining [Section 64.201] will assist in providing useful information regarding the impact of... ‘warm transfer’ arrangements,” IRRC asks the Commission “to explain the need and rationale for eliminating this periodic reporting.” IRRC Comments at 10.

Noting a commentator’s objection to the reporting requirements of §§ 64.201(b)(2), 64.201(b)(4), 64.201(b)(9) and 64.201(b)(10) as “outside the jurisdiction” of the Commission, IRRC asks the Commission to “explain the need for these provisions in a revised Preamble to the final-form rulemaking.” IRRC Comments at 10. IRRC also notes a commentator’s suggestion that “where ‘basic service’ appears in § 64.201(relating to reporting requirements), it should be replaced with ‘telecommunication services,’ and recommends that the Commission “should make certain that it is consistent in its use of terms throughout the text of the regulation.” IRRC Comments at 10.

The OCA opposes the Commission’s proposal to rescind subsection 64.201(b)(11), requiring reporting of the total number of Chapter 64 disputes, because “that this tally is an important measure which should be retained [and] is particularly important given the Commission’s proposed option for LECs to participate in a ‘warm transfer’ arrangement to expedite receipt and resolution by the LEC of consumer complaints to the Bureau of Consumer Services.” OCA Comments at 40. OCA supports the remainder of the Commission’s proposal to retain this rule with substantial modifications to eliminate reporting of non-basic and toll service that is no longer necessary. OCA Comments at 39-40.

TCC/CCL propose that the Commission modify its proposed language for this rule in two ways: (1) to eliminate several reporting requirements which, in TCC/CCL’s view, “do not implicate the areas over which the Commission retains jurisdiction”; and (2) to

replace references to “basic service” with “telecommunications service,” since in TCC/CCL’s view, competitive carriers may choose to offer services other than basic service. TCC/CCL Comments at 30.

The OCA also supports the Commission’s proposal to retain Section 64.202 in all geographic areas. OCA Comments at 40.

Verizon opposes the Commission’s proposal to retain the Chapter 64, Subchapter J rules because in Verizon’s view, they are unnecessary and obsolete in today’s competitive marketplace, provide no benefit to consumers, and impose burdens that unregulated carriers do not bear. Verizon Comments at 33. According to Verizon, these rules and related reports “belong to the now nonexistent rate-of-return structure” and unduly burden regulatory carriers only. Verizon Comments at 33. Verizon posits that the Commission may continue to monitor affordability of basic residential service by reviewing publicly available price guides. Verizon Comments at 33.

b. Discussion and Resolution

The Commission rejects any adverse comments to its proposed retention of Subchapter J, Sections 64.201 and 64.202, and we will adopt our proposal to retain these regulations and limit their application to basic local exchange service for competitive and noncompetitive local calling areas, consistent with our discussion in the *NPRM Order*. We also adopt our proposal to modify Section 64.201 as set forth in the Annex to the *NPRM Order*.

Consequently, we reject the comments of TCC/CCL and IRRC relative to replacing the term “basic” service with “telecommunications” service in the final form regulations because our intent is to limit Section 64.201’s reporting obligations to basic local exchange service only. Using “telecommunications” would broaden, not limit, the reporting obligations. As previously noted, the Commission in the Annex to the *NPRM*

Order proposed to limit the Section 64.201 reporting requirements to basic local exchange service. We will maintain this approach, as the retained reporting requirements could provide useful information to assist our understanding of changes in the residential telecommunications services market in general and the basic service market in particular. We also agree with the comments of OCA relative to retention of subsection (11) regarding total number of disputes handled. We will revise Section 64.201 accordingly in the final form regulations.

**K. Subchapter K (General Provisions)
52 Pa. Code §§ 64.211—64.213**

In the *Reclassification Order*, we temporarily waived Section 64.211 in Verizon’s competitive wire centers.¹⁰⁸ In the *NPRM Order*, we proposed to rescind Section 64.211. However, since we retained certain Chapter 64 regulations, we also proposed to retain Sections 64.212 and 64.213 as they currently exist because Section 64.212 governs waiver requests and Section 64.213 governs the effect of tariff provisions that are inconsistent, and these regulations potentially remained useful.”¹⁰⁹

a. Comments and Replies

The OCA supports the Commission’s proposal to rescind 64.211 in all geographic areas as unnecessary. OCA Comments at 40. Additionally, OCA supports the Commission’s proposal to retain Section 64.212 and 64.213 in all geographic areas. OCA Comments at 41.

b. Discussion and Resolution

Consistent with our discussion in the *NPRM Order*, we will adopt our proposal to retain Subchapter K, Sections 64.212 and 64.213 for competitive and noncompetitive local calling areas, and to rescind Section 64.211. Accordingly, the retention of Sections

¹⁰⁸ *Reclassification Order* at 22.

¹⁰⁹ *Id.*

64.212 and 64.213 and the rescission of Section 64.211 from Chapter 64 of Title 52 of the Pa. Code will be incorporated in the final-form regulation set forth in the Annex.

CONCLUSION

We again thank those interested parties who filed comments on the proposed subsections of the regulation. The determinations the Commission has made in this Final Rulemaking and the changes we have adopted to our telecom regulations in the final-form regulation set forth in accompanying Annex are driven by multiple factors, including the presence of competition, industry technological changes, and consumer demand for convenience with their telecommunications services. The Commission concedes that there may be work left to do, as our Chapter 63 abandonment, change of control, and universal service fund regulations for example will remain unchanged after this proceeding. Nevertheless, this rulemaking represents a significant step forward in modernizing our telecommunications regulations, including eliminating regulatory obligations that are no longer necessary or appropriate and modifying regulatory obligations to better reflect today's market realities. In our view, the proposed changes from this proceeding bring Pennsylvania ILECs closer to regulatory parity with their competitors, which is one of the stated policy goals in Chapter 30 of the Code.¹¹⁰

At the same time, the Commission needs to balance the needs of utilities and consumers when making decisions. The surgical approach that we have taken with our telecommunications regulations does just that; it allows our jurisdictional carriers to better compete in today's marketplace, while still maintaining the consumer protections necessary to ensure the provision of reasonably continuous, modern, and safe service. Accordingly, under Sections 501, 504, 505, 506, 1501, 1504, 1507, 1508, 1509, and 3011—3019 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 505, 506, 1501, 1504,

¹¹⁰ Chapter 30 recognizes that "the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers. 66 Pa. C.S. § 3011(13).

1507, 1508, 1509, and 3011—3019; Section 201 of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law (45 P.S. § 1201), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; Section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732 204(b)); Section 5 of the Regulatory Review Act (71 P.S. § 745.5); and Section 612 of The Administrative Code of 1929 (71 P.S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we amend the regulations at 52 Pa. Code §§ 53.57—53.60 and 52 Pa. Code Chapters 63 & 64, as set forth in Annex A; **THEREFORE,**

IT IS ORDERED:

1. That Chapters 53, 63 and 64 of Title 52 of the Pennsylvania Code are hereby amended as set forth in Annex A hereto.
2. That the Law Bureau shall certify this order and Annex A and deposit them with the Legislative Bureau for publication in the *Pennsylvania Bulletin*.
3. That the Law Bureau shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
4. That the Law Bureau shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
5. That the Law Bureau shall submit this order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

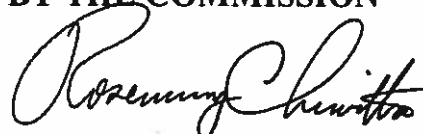
6. That the Secretary's Bureau will serve copy of this Order and Annex A upon the Pennsylvania Telephone Association, all the participating parties in the Advanced Notice of Proposed Rulemaking, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Commission's Bureau of Investigation and Enforcement.

7. That the contact persons for this rulemaking are Deputy Chief Counsel David E. Screven, Law Bureau, (717) 787-2126, dscreven@pa.gov, and Assistant Counsel Christopher Van de Verg, (717) 783-3459, cvandeverg@pa.gov. Alternate formats of this document are available for persons with disabilities and may be obtained by contacting Karen Thorne, Regulatory Coordinator, (717) 772-4597, kathorne@pa.gov.

8. That a copy of this Order will be published on the Commission's website at <http://www.puc.pa.gov>.

9. That the final regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: October 28, 2021

ORDER ENTERED: December 9, 2021

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**PROPOSED RULEMAKING
ORDER - COMPETITIVE
CLASSIFICATION OF
TELECOM RETAIL SERVICES**

**PUBLIC MEETING OCT. 28, 2021
3001391-LAW
DOCKET NO. L-2018-3001391**

STATEMENT OF CHAIRMAN GLADYS BROWN DUTRIEUILLE

The matter before us is a recommendation for adopting final form regulations revising Sections 63 and 64 of our Code governing telecommunications. This arose as part of the Commission's earlier *Reclassification Order* and addresses Section 3019(b)(2) of the Public Utility Code (Code).¹

As an initial matter, I support following the Independent Regulatory Review Commission's (IRRC) suggestion that we reissue the proposed regulations and solicit additional input on the issues raised by my earlier statement.²

I do not agree with the proposition that the mere existence of competition and technological updates warrants the elimination of the vast majority of the many customer protections included in our existing service quality and billing regulations. The reference to cable voice service as a substitute for regulated stand-alone voice service is unpersuasive. While I applaud the great progress that has been made in providing cable internet and cable voice services, I am reminded that we still struggle with the availability of access to reliable and affordable cable service in rural and urban areas in our Commonwealth.³ Also, cable voice is not classified as a telecommunications service and, even if it were, it is rarely offered as the stand-alone voice service regulated by the Commission. Wireless service is also not a substitute to regulated stand-alone voice service because it has capacity constraints that limit its usefulness. Satellite service is too nascent to consider as a substitute today.

¹ 66 Pa.C.S. § 3019(b)(2).

² *Comments of the Independent Regulatory Review Commission*, Docket No. L-2018-3001391 (July 23, 2021), p. 3.

³ *Section 706 Report*, Docket No. 17-199 (February 2, 2018), Appendix D-2. Of Pennsylvania's 12,774M residents cited, 82.4% of rural residents and 98.2% of urban residents have no access to fixed and mobile broadband. This translates into approximately 179,000 urban residents and 481,000 rural residents without broadband. This totals over 600,000 Pennsylvanians.

A more moderate approach to updating our regulations is preferable to one that cuts far deeper than necessary, at this time, when true competition is not ubiquitous and the technological advancements,⁴ that do exist, are not universally available. Even if ubiquitous competition existed and technological advancements were universally available, there would still be issues like network reliability, public safety, adequacy, privacy, and service quality that are sufficiently critical to require detailed regulations and not reliance on Section 1501 of the Code.⁵

Section 3019(b)(2) expressly directs the Commission to take into consideration the emergence of new industry participants, technological advancements, service standards and customer demand when revising our regulations. Section 3011(a)(13) recognizes that regulatory burdens on carriers subject to Chapter 30 should be reduced to level more consistent with those of an alternative service provider.

⁴ Interconnected VoIP service, not classified by the FCC as telecommunications, has proven as reliable as traditional plain old telephone service (POTS) only if the customer possesses a high-speed Internet connection at their residence or business since it works via ethernet cable, Wi-Fi, and even LTE. For the approximately 6000,000 consumers without broadband in PA, VoIP is not an option in the absence of cable internet service unlike POTS, which we regulate and which still works in the event of a power outage, a lost internet connection also means the consumer loses voice service unless they have a cellphone. Cellphone service also has less capacity and can be quickly overwhelmed as in an emergency. Cable voice service also requires consumers to keep service by investing in an established backup power source. Technologies like low-earth orbiting satellites (LEOs) or fixed wireless are in their infancy, have capacity constraints, can be expensive like requiring a \$500 equipment fee upfront. The parties also overlook that these require access to Internet broadband service that unfortunately many Pennsylvanians still lack.

⁵ Competition must be ubiquitous to be an effective replacement for regulations. Verizon notes that competition replaces regulatory oversight in formerly monopoly markets. *Accord Verizon Comments* at 5. The record does not define competition nor how to measure it except for an incomplete discussion of lost access lines noted *infra*. *Compare Verizon Comments* at 3-10 citing *FCC Voice Subscription* (April 2021) with *FCC Voice Subscription Report* (April 2021) Table 1, pp. 8-9 showing ILEC over-the-top VoIP grew from 67 to 70, ILECs coaxial cable grew from 55 to 56, and ILEC fiber-to-the-premises grew from 8,590 to 8633 while CLEC ability to compete to provide service declined from 3,514 to 3,082 using last mile facilities and reliance on UNE-L declined from 1,529 to 1,352. Professor Harry Trebing, a former FCC economist and Michigan State Public Utility Institute Director, defined effective competition to exist when there are at least five providers of the service and no one provider has more than 40% of market share. Anything less makes competition ineffective by making consumers price takers not price makers. *Compare Harry Trebing* (Michigan Institute of Public Utilities Lectures, 1993) and David S. Schwartz, *Crossing the Rubicon with Harry Trebing* (2002) <https://ipu.msu.edu/wp-content/uploads/2019/08/Crossing-the-Rubicon-with-Harry-Trebing.pdf> and William G. Shepherd, *Wrong Numbers* (May 2000)(discussing a proposed MCI-T-Mobile merger in light of Trebing's approach available at [Wrong Numbers—MCI WorldCom, Sprint, and monopoly power in the long-distance market | Economic Policy Institute \(epi.org\)](#) with *Verizon Comments*, pp. 2-5 and *PTA Reply*, and *CR Comments*. Cf. *Comments of the OCA*.

The guiding principles of Sections 3019(b)(2) and 3011(a)(13) should be the *primus inter pares* considerations in the present rulemaking. Those principles must be considered *in pari materia* with other *preceding* provisions in the statute emphasizing the importance of universal service, affordable rates, nondiscrimination, and the deployment of broadband be it mandated or by competition.⁶ A holistic consideration of Sections Section 3019(b)(2), 3011(a)(11) and (13), and Section 3016(a) does not support substantial deviation from the final form regulation before us today.

Section 3019(B)(2).

A. Emergence of New Industry Participants

Our 35 Chapter 30 Companies, which are the traditional incumbent service providers in Pennsylvania and referred to as local exchange telecommunications companies (LETCS) in Chapter 30 of the Code, assert that they continue to experience significant losses in the number of voice service access lines to unregulated competitors over the past few years.⁷ They argue that this competition from these unregulated competitors should result in the Commission rescinding a substantial portion of our regulations addressing the safety, adequacy, reliability, and privacy of telecommunications services and the ordering, installation, suspension, termination, and restoration of any telecommunications service. However, a Section 3019(b)(2) proceeding is to consider new industry participants, technological advancements, service standards and consumer demand. But, the commentators have made competition a component of the statutory criteria and, even then, have presented no real substantial evidence to support their claim other than aggregate figures on line losses set forth in the Federal Communication Commission's *Voice Subscription Report* (April 2021) which also show competition increases and declines. These partial references, moreover, fail to address the extent to which these "lost" incumbent stand-alone access lines used to provide stand-alone voice have been, or will be, replaced by the incumbents' own modernized "multiservice" last-mile lines that are providing not only voice, but also internet and video service, backhaul service, and mobile services as well.

I note that the current version of Chapter 30 enacted seventeen years ago incorporated a statutory provision that permitted our LETCs to obtain pricing regulatory relief once the LETC presents evidence that competition from alternative service providers is no longer nascent in their service territory. If competition were a criteria in Section 3019(b)(2), which it is not, and were as pervasive as claimed, beyond the

⁶Compare e.g., Section 2011(a)(1), (2), (8), and (11) with Verizon Comments, p. 2, n. 7 citing 2011(a)(11). It should be noted that Section 3011(a)(11) must be read in conjunction with (a)(9) addressing competition in any region where there is market demand. That has occurred in 153 of Verizon's 504 exchanges and in none of the exchanges operated by all the remaining ILECs who also rely on Section 3011(a)(11). See PTA Reply Comments, p. 3.

⁷ *Verizon Comments*, pp. 3-10; *PTA Reply Comments*.

superficial reference to access line losses, the incumbents would have long ago, under Section 3016 of the Code,⁸ petitioned to obtain “competitive” classification in their remaining exchanges by presenting these claims and additional evidence beyond that made here. That has not occurred except for Verizon’s attempt to reclassify 196 of its 504 exchanges. This illustrates that competition is not ubiquitous.

I support the overall approach in Sections 63.22 to 63.44 on Service Quality Measurements because the existing rules retain a minimum amount of regulation as needed to ensure information about network reliability and quality of service. The proposed regulations governing Service Records (63.22), Service Interruptions (63.24), Accounts and Records (63.35), and Surveillance (63.51-63.55), Trouble Reports (63.57), Installation (63.58), Transmission (63.63), and Inspections and Metering (63.64) should be retained. I support modification of our earlier approach to now state that reports are to be provided upon Commission request except in some limited instances like the Annual Report.

I support substantial revisions of Automatic Dialing Device, Extended Area Service, Payphone, Underground Utility Service, Long-Distance Utility Service, Operator Supported Services, and Wholesale Service portions of the regulations with a backstop provision that should the public interest demand, the Commission retains the appropriate jurisdiction to serve the public interest.

B. Service Standards and Consumer Demand.

Section 3019(b)(2) of the Code also requires the Commission to consider service standards and consumer demand. On these points, a recent event involving over 140 informal complaints against one incumbent provider suggests that consumer demand for network reliability, adequacy, and public safety continues to exist.

An even more recent letter from the General Assembly, whose standing committees will comment on our final form rules, asked the Commission to investigate outages and network reliability.⁹ While those matters and allegations have been appropriately referred to our independent enforcement authority under the *Lyness* doctrine, their existence illustrates the extent to which consumers expect this Commission to regulate telecommunication service standards. I do not support revisions to our rules that rescind the practice of requiring notice to the Commission of any outage reported to the FCC, providing customer credits based on the length of a service outage in any exchange, or eliminating the need for reports and metrics measuring network reliability. The Pennsylvania public relies on the Commission to continue to address these matters.

⁸ 66 Pa.C.S. § 3016(a)(1)-(3).

⁹ See attached Letter. Under the *Lyness* doctrine, a regulatory agency cannot be prosecutor and judge. The Commission’s independent enforcement arm, BI&E, is looking into those claims.

Section 3011(a).

Many commentators called for a reduction in our rules to those imposed on alternative service providers (or CLECs) due to the presence of competition. They view the rules imposed on LETCS or ILECs as harmful to their ability to compete everyday with CLECs for a consumer's business.¹⁰

This call for the wholesale rescission of our existing telecom regulations or for the incorporation of sunset provision for telecom regulations contains no substantial evidence of ubiquitous competition. But, even if it did, the call fails to address the fact that Chapter 30 also recognizes that the obligations and duties imposed on an ILEC are not identical with those expected of a CLEC. For this reason, the statute expects that the Commission *should* reduce regulations to levels *more consistent with* those of an ILEC. Section 3011(a)(13) must be balanced against *preceding* provisions such as Sections 3011(a)(2) addressing universal service at affordable rates, (a)(8)'s concern that competitive service be deployed without jeopardizing universal service, and that the promotion of advanced and broadband services not jeopardize universal service in Section 3011(a)12).

The call for absolute regulatory parity between ILECs and CLECs fails to account for the fact that incumbent LETCs, or ILECs, like incumbent providers in the water, electric, and gas public utilities, have universal service Carrier of Last Resort (COLR) obligations¹¹ under state law and are Eligible Telecommunications Carriers (ETC) with obligations arising from the receipt of federal support tied to that ETC designation.¹² The competitor LETCs, or CLECs do not.

Pennsylvania's Basic Service versus Federal Stand-Alone Service. The comments to Section 53.57, *inter alia*, state that Pennsylvania's definition and requirements for intrastate "basic" service should be reconciled with federal rules requiring stand-alone voice as a condition of federal support when there are technological limitations.¹³ IRRC has raised this concern as well.¹⁴

¹⁰ See e.g., *PTA Comments*, p. 4.

¹¹ That anticipation, at least in Pennsylvania, was accompanied by an equally important commitment to universal service, assurances that rates remained just and reasonable, and that eligible consumers could get Lifeline service from LECs subject to Chapter 30. Section 3011(a) and 3019(f). The comments recognize this interplay of universal service/COLR and competition. See e.g., *PTA Reply Comments*, pp. 5-6.

¹² See e.g., *Comments of Claverack Communications*, Docket No. L-2018-3001391 (May 25, 2021) *inter alia*.

¹³ *Comments of Claverack Communications, Inc.*, Docket No. L-2018-3001391 (May 25, 2021); *Accord IRRC Comments* (July 23, 2021), p. 5.

¹⁴ *IRRC Comments* (July 23, 2021), p. 5.

The “basic” service definition set forth in our current rules reflects a monopoly era when the Commission regulated intrastate voice service and the FCC regulated interstate voice. Since then, voice service is now usually blended into a packaged voice service that combines intrastate and interstate voice. This packaged voice service is often bundled with broadband service where broadband is available. The FCC requires recipients of federal support to provide “stand alone” voice service, usually a packaged voice service, as well as bundled voice and broadband service. The final rules should retain the definition of “basic” service limited to intrastate voice but should also be revised to include package voice services that provide unlimited local and long-distance calling, 911, and telecommunications relay service provided by new entrants. This allows those providers to comply with the ancillary requirements while reconciling our “basic” service for those without a package voice in a way that also ensures compliance with FCC mandates. This also ensure that all consumers, not just Lifeline consumers, will have access to stand-alone voice service if it is a “basic” intrastate voice service or a packaged voice service offered to comply with federal mandates.¹⁵

Tariffs, Product Guides, or Similar Documents. The comments calling for reliance on Section 1501 and the Commission’s current rules as well as tariffs, price lists, or other documentation for noncompetitive stand-alone service, and then only through December 31, 2023, are unpersuasive. This ignores the language in the VoIP Freedom Bill retaining Commission authority over VoIP if it is a protected service provided under tariff. That may not be the case if it is protected voice service but is offered using a price list or a similar document. That is because allowing protected service provided under tariff to be done using a price list or a similar document circumvents these provisions and deregulates VoIP without the proceeding mandated for protected services in Section 3016. A better approach is to reconcile Chapter 30 with the VoIP Freedom Bill and our *Reclassification Order* by revising the rules to allow regulatory compliance by tariff, product guide, or similar document. However, a product guide or similar document should only be allowed when the LETC is not providing a protected service or the service does not implicate COLR or ETC Designation. In that case, the LETC must use a tariff. All providers, however, should be allowed to post their information electronically so long as it is approved by the Commission’s Bureau of Consumer Services.¹⁶

¹⁵ *Accord, Comments of Claverack Communications, Inc.*, Docket No. L-2018-3001391 (May 25, 2021), p. 4, n. 2. Claverack provides this only to Lifeline consumers and although most consumers prefer a voice and internet bundle, there may be other consumers interested in this voice package. Importantly, this voice package meets the “stand alone voice service” required by the FCC in the recent RuDOF auction in which the Commission grants providers ETC designation consistent with that rule. *See also Comments of the Office of Consumer Advocate*, Docket No. L-2018-3001391 (May 25, 2021) at p. 3 citing *Comments of Cause*.

¹⁶ Consumers seeking information on regulated voice service face a daunting task trying to locate that information or obtain access to a human customer service representative (CSR). Commission review would ensure predictability while promoting consumer education.

Section 3016.

Sunset of All Regulations. The commentators rely on an incomplete reference to lost access lines to support an assertion that competition warrants the wholesale elimination of regulations. They make those claims in this quasi-adjudicatory rulemaking proceeding as opposed to a quasi-judicial Section 3016 proceeding. The commentators also rely on the same claims about competition to support a mandatory sunset date.

This approach circumvents the process set out in Section 3016(a) governing how an ILEC with a universal service/COLR obligation or ETC Designation must proceed. An agency order cannot by fiat obviate a requirement for a proceeding set forth in law by the General Assembly. That will happen here if we provide relief based on competition claims that have not been substantiated. A better approach is to revise the regulations to, in the incremental manner prescribed by Chapter 30, Section 3019(b)(2), reflect new industry participants and technological advancements without addressing further relief based on competition claims that are not supported by persuasive evidence.¹⁷

In conclusion, I do not support any revisions of the regulations which do not strike the appropriate balance between Sections 3011(a), 3019(b)(2), and Section 3016 while recognizing the universal service mandate and the need to address new industry participants and technological advancements in Section 3019(b)(2). Any other result constitutes an end-run around the petition process set out in Section 3016 of the Code. The quasi-adjudicatory proceeding set out by the General Assembly to test the reality of claims that competition in Pennsylvania is ubiquitous, therefore meriting complete rescission or substantial elimination of our rules, should not be supplanted by this rulemaking.



October 28, 2021

Date

Gladys Brown Dutrieuille, Chairman

¹⁷ The claim that universal service and COLR go to a service and not the underlying rules adopted by the Commission fails to explain how a statutory mandate like Section 3016, universal service, COLR, or an ETC Designation can be enforced. However, the observation that COLR is an integral part of universal service under Chapter 30 is consistent with recognition that universal service in the energy and gas industries also use COLR as a means to attain universal service. Compare *PTA Reply Comments*, pp. 5-6 with Section 3011 and 1501 of the Public Utility Code.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
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March 28, 2022

**Compliance with the Competitive Classification of Telecommunication Retail Services
Under 66 Pa.C.S. § 3016(a); General Review of Regulations,
52 Pa. Code, Chapter 53, Chapter 63 and Chapter 64**

**Pennsylvania Public Utility Commission (PUC) Docket No. L-2018-3001391
Fiscal Note No. 57-331; Independent Regulatory Review Commission No. 3297**

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IRRC No. 3297; March 28, 2022

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

**TARIFF FILING REQUIREMENTS FOR ~~INCUMBENT LOCAL EXCHANGE CARRIERS~~ A LOCAL EXCHANGE TELECOMMUNICATION COMPANY
AND A COMPETITIVE ~~LOCAL EXCHANGE CARRIERS~~
TELECOMMUNICATIONS CARRIER**

§ 53.57. Definitions.

The following words and terms, when used in this section and §§ 53.58—53.60, have the following meanings, unless the context clearly indicates otherwise:

***BUNDLED SERVICE PACKAGE*—(I) A PACKAGE, WHICH INCLUDES NONCOMPETITIVE OR PROTECTED AND COMPETITIVE SERVICES, INCLUDING SERVICES OF AN AFFILIATE, IN COMBINATIONS AND AT A SINGLE RATE OR CHARGE THAT IS OFFERED AND BILLED ON ONE BILL BY A COMPETITIVE TELECOMMUNICATIONS CARRIER OR A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.**

(II) THE TERM DOES NOT INCLUDE A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR COMPETITIVE TELECOMMUNICATIONS CARRIER TARIFF FILING THAT INVOLVES SIMULTANEOUS CHANGES IN RATES AND CHARGES FOR

NONCOMPETITIVE SERVICES IN A REVENUE NEUTRAL MANNER.

~~{CLEC—Competitive local exchange carrier—A telecommunications company that has been certified by the Commission as a CLEC under the Commission’s procedures implementing the Telecommunications Act of 1996, the act of February 8, 1996 (Pub.L. No. 104-104, 110 Stat. 56), or under the relevant provisions of 66 Pa.C.S. § 3009(a) (relating to additional powers and duties).}~~

~~Competitive service—A service or business activity offered by {an ILEC or CLEC} a local exchange telecommunications company or a service or business activity offered by a competitive telecommunications carrier that has been {classified as} determined or declared to be competitive by the Commission under the relevant provisions of 66 Pa.C.S. § {3005} 3016 (relating to competitive services). AS DEFINED IN 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).~~

~~CTC—Competitive telecommunications carrier—an entity that provides telecommunications services subject to the jurisdiction of the Commission and in competition with a local exchange telecommunications company.~~

COMPETITIVE WIRE CENTER – A WIRE CENTER OR OTHER GEOGRAPHIC AREA THAT IS DEFINED AND SERVED BY A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY WHERE ALL OF ITS PROTECTED, RETAIL NONPROTECTED AND RETAIL NONCOMPETITIVE TELECOMMUNICATIONS SERVICES HAVE BEEN DECLARED OR DETERMINED TO BE COMPETITIVE BY THE COMMISSION UNDER 66 PA.C.S. § 3016 (RELATING TO COMPETITIVE SERVICES).

~~*Enterprise and large business customer*—any legal entity organized by charter, agreement or other similar instrument, including, BUT NOT LIMITED TO, corporations, partnerships, limited liability companies, or other similar organizations of more than one person, including, but not limited to hospitals, schools, government agencies and correctional institutions with AN annual TOTAL BILLED revenue that exceeds EQUAL TO OR GREATER THAN \$500,000.00 gross revenue or that employs more than 50 full-time equivalent employees and obtains telecommunications service by means of customized or individually negotiated contractual agreements \$80,000 FOR TELECOMMUNICATIONS SERVICES.~~

~~*ILEC*—Incumbent local exchange carrier—A telecommunications company deemed to be an ILEC under section 101(a)(h) of the Telecommunications Act of 1996 (47 U.S.C.A. § 251(h)).~~

~~*Joint or bundled service packages*—~~

~~(i) Service packages composed of one or more distinct categories of noncompetitive and competitive services and service options or features, inclusive of toll services, when the service packages are offered by [CLECs and ILECs] competitive telecommunications carriers and local exchange telecommunications companies under a single rate or charge and a unified set of terms and conditions for service as defined in a tariff approved by the Commission.~~

~~(ii) The term does not include [ILEC or CLEC] local exchange~~

~~**telecommunications company or competitive telecommunications carrier**~~

~~tariff filings that involve simultaneous changes in rates and charges for noncompetitive services in a revenue neutral manner.~~

Lifeline plan—A tariffed service offering, approved by the Commission, which provides telecommunications services to qualified low-income end-user consumers at reduced rates and charges in accordance with applicable State or Federal law or regulations.

~~*LETC*—**Local exchange telecommunications company**—An incumbent carrier authorized by the Commission to provide local exchange telecommunications service.~~

~~The term includes a rural telecommunications carrier defined under section 3 of the Telecommunications Act of 1996 (47 U.S.C.A. § 153(44)) and a nonrural incumbent local exchange carrier under section 101(a)(h) of the Telecommunications Act of 1996 (47 U.S.C.A. § 251(h)).~~ **A TELECOMMUNICATIONS SERVICE PROVIDER AS**

DEFINED IN 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).

New service—A service **OR BUSINESS ACTIVITY** that is not substantially the same or functionally equivalent with existing competitive or noncompetitive services.

Noncompetitive service—A ~~[protected telephone]~~ **telecommunications** service as defined in 66 Pa.C.S. § ~~[3002]~~ **3012** (relating to definitions) or a **regulated**

telecommunications service **or business activity** that has **not** been determined **or declared to be competitive** by the Commission ~~[as not a competitive service].~~ **AS**

DEFINED IN 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).

***NONCOMPETITIVE WIRE CENTER*—A WIRE CENTER OR OTHER**

GEOGRAPHIC AREA THAT IS DEFINED AND SERVED BY A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY WHERE THE JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY OFFERS PROTECTED, RETAIL NONPROTECTED AND RETAIL NONCOMPETITIVE TELECOMMUNICATIONS SERVICES AS DEFINED BY 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).

~~*Nonprotected service*—A telecommunications service as defined in 66 Pa.C.S. § 3012 or any telecommunications service provided by a local exchange telecommunications company that is not a protected service.~~ AS DEFINED IN 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).

PRICE LIST—A DOCUMENT THAT SHALL CONTAIN THE PRICES OR RATES OF RETAIL COMPETITIVE SERVICES OR PRODUCTS. THE PRICE LIST MAY BE SET FORTH IN THE PRODUCT GUIDE OR SIMILAR DOCUMENT OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR COMPETITIVE TELECOMMUNICATIONS CARRIER.

PRODUCT GUIDE—A DOCUMENT THAT SHALL CONTAIN THE DESCRIPTION, TERMS, CONDITIONS AND PRICES OF RETAIL COMPETITIVE SERVICES OR PRODUCTS.

Promotional service offerings—A service OR BUSINESS ACTIVITY offered by a ~~{CLEC or ILEC}~~ competitive telecommunications carrier or local exchange telecommunications company at rates, terms and conditions that are designed to promote usage and available for a duration of no longer than 6 months in any rolling 12-

month period.

~~*Protected service—A telecommunications service as defined in 66 Pa.C.S. § 3012 that is offered by a local exchange telecommunications company and has not been determined to be a competitive service by the Commission.*~~ AS DEFINED IN 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).

§ 53.58. Offering of competitive services.

(a) ~~HLEC~~ ONLY A local exchange telecommunication company's COMPANY MAY OBTAIN A COMPETITIVE SERVICES CLASSIFICATION FOR ITS RETAIL protected, retail noncompetitive and retail nonprotected services that have been declared or determined to be competitive under the relevant provisions of 66 Pa.C.S. § ~~3005~~ 3016 (relating to competitive services), may also be offered by ~~CLECs~~ competitive telecommunications carriers as competitive services without prior competitive determination and classification by the Commission subject to this section. THE COMPETITIVE CLASSIFICATION THAT A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OBTAINS FOR ITS RETAIL SERVICES UNDER 66 PA.C.S. § 3016 (A) OR (B) SHALL BECOME APPLICABLE TO THE SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT RETAIL SERVICE OF THE COMPETITIVE TELECOMMUNICATIONS CARRIER OPERATING IN THE SAME GEOGRAPHIC REGION AS THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

(b) Under § 53.59 (relating to cost support requirements and effective filing dates for tariff filings of noncompetitive services), a ~~{CLEC} competitive telecommunications carrier~~ may offer services classified as noncompetitive in ~~{an ILEC} a local exchange telecommunications company's~~ service territory when the ~~{CLEC} competitive telecommunications carrier~~ has been certificated to offer service. (RESERVED).

(c) ~~{When the Commission approves a CLEC petition under the relevant provisions of 66 Pa.C.S. § 3005 for classification of a noncompetitive service to a competitive service, the ILEC serving that petitioning CLEC's service territory and other certificated CLECs within the petitioning CLEC's service territory may offer the service approved by the Commission as a competitive service subject to this section.}~~ ~~A local exchange telecommunications company and a competitive telecommunications carrier may declare retail nonprotected services that they offer to enterprise and large business customers throughout their service territories as competitive without first filing a petition with the Commission and making a demonstration of competitiveness.~~ (RESERVED).

(d) ~~{CLECs and ILECs} Local exchange telecommunication companies and competitive telecommunications carriers~~ offering services ~~{determined by the Commission as competitive shall file with the Commission appropriate informational tariffs, price lists, and ministerial administrative tariff changes. These filings will become effective on 1 days' notice} declared as competitive under 66 Pa.C.S. §§ 3011 – 3019 (relating to alternative form of regulation of telecommunications services) will not be required to file tariffs with the Commission~~

~~for these services but the carrier may be required to maintain price lists with the terms and conditions in a product guide or similar document made available on the carrier's web site.~~

~~(1) A local exchange telecommunications company and a competitive telecommunications carrier shall file a price list for stand-alone basic residential service.~~

~~(2) A local exchange telecommunications company and a competitive telecommunications carrier may provide rates and terms of basic dial tone service available through a product guide or similar document on its web site instead of maintaining a price list or formal tariff with the Commission. The carrier shall maintain an archive of outdated rates, terms and conditions that were available in a product guide or similar document for a period of 4 years, and shall remain obligated to provide both current and archived documents to the Commission upon reasonable request.~~ A LOCAL EXCHANGE TELECOMMUNICATION

COMPANY AND A COMPETITIVE TELECOMMUNICATIONS CARRIER SHALL:

(1) MAINTAIN ON ITS WEBSITE A PRICE LIST FOR ITS RETAIL COMPETITIVE TELECOMMUNICATIONS SERVICES OR A PRODUCT GUIDE OR SIMILAR DOCUMENT SETTING FORTH THE RATES, TERMS AND CONDITIONS OF ITS RETAIL COMPETITIVE TELECOMMUNICATIONS SERVICES.

(2) FILE WITH THE COMMISSION AND MAINTAIN ON ITS WEBSITE A PRICE LIST FOR ITS COMPETITIVE STANDALONE BASIC RESIDENTIAL VOICE SERVICE.

(3) MAINTAIN ON ITS WEBSITE AN ARCHIVE OF OUTDATED RATES, TERMS AND CONDITIONS FOR ITS RETAIL COMPETITIVE TELECOMMUNICATIONS SERVICES THAT WERE AVAILABLE IN ITS PRICE LIST, PRODUCT GUIDE OR SIMILAR DOCUMENT FOR A PERIOD OF FOUR YEARS FROM THEIR POSTING, AND SHALL PROVIDE BOTH CURRENT AND ARCHIVED DOCUMENTS TO THE COMMISSION UPON REASONABLE REQUEST.

(e) Under Chapter 5 (relating to formal proceedings), ~~the Commission~~ a party may petition the Commission to initiate a proceeding for the potential reclassification from competitive to noncompetitive a service that is offered by ~~either or both an ILEC and CLECs~~ a local exchange telecommunications company or competitive telecommunications carriers in a specific service territory under the relevant provisions of 66 Pa.C.S. § ~~3005(d)~~ 3016(e).

(1) The Commission will decide which competitive service of ~~an ILEC or CLEC~~ a local exchange telecommunications company or a competitive telecommunications carrier warrants reclassification to noncompetitive status under relevant provisions of 66 Pa.C.S. § ~~3005(d)~~ 3016(e).

(2) The Commission will provide an opportunity to participate in the proceeding to the ~~ILEC and to those CLECs~~ local exchange telecommunications company and

~~those competitive telecommunications carriers~~ that offer substantially the same or functionally equivalent competitive service within the service territory of the ~~[ILEC or specific CLEC]~~ local exchange telecommunications company for which there is a reclassification proceeding.

(3) ~~The Commission will separately determine whether the substantially same or functionally equivalent service that is offered by [the competing ILEC or CLECs]~~ a local exchange telecommunications company and a competitive telecommunications carrier in the relevant service territory will continue to be classified as a competitive service for the local exchange telecommunications company or competitive telecommunications carrier.

(4) ~~When reviewing whether a service should be reclassified, the Commission will consider the following factors:~~

~~(i) [The ease of entry by potential competitors into the market for the specific service at issue] (Reserved).~~

~~(ii) The presence of other existing telecommunications carriers in the market for the specific services at issue.~~

~~(iii) [The ability of other telecommunications carriers to offer the service at competitive prices, terms and conditions.] (Reserved).~~

~~(iv) The availability of like or substitute service alternatives in the relevant geographic area for the service at issue.~~

~~(v) [Whether the service is provided under conditions that do not constitute unfair competition.]~~

~~(vi) Whether the service, including its availability for resale under the relevant provisions of the Telecommunications Act of 1996, the act of February 8, 1996 (Pub.L. No. 104-104, 110 Stat. 56), is provided on a nondiscriminatory basis. (Reserved).~~

(vii) Other factors deemed relevant by the Commission. A PARTY SEEKING THE RECLASSIFICATION OF A RETAIL TELECOMMUNICATIONS SERVICE OR OTHER BUSINESS ACTIVITY THAT HAS BEEN DESIGNATED AS A COMPETITIVE SERVICE UNDER 66 PA.C.S. § 3016 OF THE PUBLIC UTILITY CODE SHALL FILE A PETITION AS DIRECTED IN 66 PA.C.S. § 3016(C) OF THE PUBLIC UTILITY CODE. THE COMMISSION WILL USE THE FACTORS SET FORTH IN 66 PA.C.S. § 3016(C)(3) TO MAKE ITS DETERMINATION OF WHETHER RECLASSIFICATION OF THE COMPETITIVE SERVICE TO A NONCOMPETITIVE SERVICE IS WARRANTED. A RECLASSIFICATION DETERMINATION OF A COMPETITIVE SERVICE SHALL BE APPLICABLE TO BOTH THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY AND A COMPETITIVE TELECOMMUNICATIONS CARRIER THAT IS OFFERING A SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT SERVICE IN THE SAME GEOGRAPHIC AREA.

(F) A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY MAY DECLARE AS COMPETITIVE THE RETAIL NONPROTECTED AND RETAIL NONCOMPETITIVE TELECOMMUNICATIONS SERVICES IT OFFERS TO

ENTERPRISE AND LARGE BUSINESS CUSTOMERS, AS DEFINED IN 52 PA. CODE § 52.57, THAT ARE LOCATED IN ITS CERTIFICATED SERVICE TERRITORY.

§ 53.59. Cost support requirements and effective filing dates for tariff filings of noncompetitive services.

(a) ~~{CLEC services} Services priced below {ILEC} the rates of a local exchange telecommunications carrier. [A CLEC] A competitive telecommunications carrier that offers services that are substantially the same or functionally equivalent with noncompetitive services by [an ILEC] a local exchange telecommunications company in the service territory of the {ILEC} local exchange telecommunications company, at rates and charges that are at or below the level of the corresponding rates and charges of the {ILEC} local exchange telecommunications company for these services, is not required to provide cost support for tariff filings and rate changes involving these services. These tariff filings will be effective on 1 day's notice if the following apply:~~

(RESERVED).

~~(1) The {CLEC} competitive telecommunications carrier offers these services in the same service territory as the {ILEC} local exchange telecommunications company.~~

~~(2) The {CLEC} competitive telecommunications carrier tariff filing does not contain any material changes in the {CLEC's} competitive telecommunications carrier's tariff rules, terms or conditions.~~

(3) The ~~{CLEC} competitive telecommunications carrier~~ specifically states in its accompanying cover letter that the filing is being made on 1-day's notice in accordance with this subsection, and that the tariff filing does not contain material changes in the ~~{CLEC} competitive telecommunications carrier's~~ tariff rules, terms or conditions.

(4) The ~~{CLEC} competitive telecommunications carrier~~ provides copies of the ~~{ILEC's} local exchange telecommunications company's~~ effective tariffs designating the corresponding rates and charges of the same or functionally equivalent noncompetitive services.

(b) ~~{CLECs} Competitive telecommunications carriers operating in multiple {ILEC} territories~~. When ~~{a CLEC} a competitive telecommunications carrier~~ offers services in the service territories of more than one ~~{ILEC} local exchange telecommunication company~~, and the rates and charges for these services satisfy the criteria of subsection (a), the ~~{CLEC} competitive telecommunications carrier~~ may file separate tariff schedules when the rates and charges for these services correspond to the rates and charges of the different ~~{ILECs} local exchange telecommunications companies~~ in their respective service territories. ~~-(RESERVED).~~

(c) ~~{CLEC services} Services~~ priced above ~~{ILEC} the rates of a local exchange telecommunications company~~ and ~~{CLEC} competitive telecommunications carrier~~ new services. ~~-(RESERVED).~~

(1) ~~{CLEC} A competitive telecommunications carrier~~ tariff filings for services that are substantially the same or functionally equivalent with noncompetitive services

offered by ~~[an ILEC] a local exchange telecommunications company~~ in the same service territory of the ~~[ILEC] local exchange telecommunications company~~, at rates and charges that are higher than the corresponding rates and charges of the ~~[ILEC] local exchange telecommunications company~~, will become effective as filed if the Commission does not take any action within 30 days from the date when all consumers subject to the rate increase shall have received individual notice.

(2) ~~[CLEC] Competitive telecommunications carrier~~ tariff filings for new services will become effective as filed if the Commission does not take any action within 30 days from the date the tariff filing is filed with the Commission.

(3) The tariff filings in this subsection shall be received by the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission's ~~[Office of Trial Staff] Bureau of Investigation and Enforcement~~ on the date of filing with the Commission's Secretary's Bureau.

(4) The Commission may extend the review period in this subsection by up to an additional 30 days upon notice to the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission's ~~[Office of Trial Staff] Bureau of Investigation and Enforcement~~ and the affected ~~[CLEC] competitive telecommunications carrier~~.

(5) The ~~[CLEC] competitive telecommunications carrier~~ shall include the following summary documentation for tariff filings involving the services:

(i) A brief statement indicating whether the ~~[CLEC] competitive telecommunications carrier~~ offers these services solely on the basis of resale of an ~~[ILEC's] local exchange telecommunications company's~~ retail services;

through its own facilities, or a combination of both.

(ii) A brief statement indicating whether the tariff filing represents an increase or decrease in existing rates and charges.

(iii) A summary justification of the tariff filing, including an explanation of whether the proposed changes have been caused by a corresponding change in rates and charges of the resold services of the underlying ~~{ILEC}~~ local exchange telecommunications company.

(d) ~~{CLEC} Competitive telecommunications carrier ministerial administrative changes.~~

~~{CLEC} Competitive telecommunications carrier ministerial administrative tariff filings for services that are substantially the same or functionally equivalent with noncompetitive services offered by {an ILEC} a local exchange telecommunications company in the same service territory of the ~~{ILEC}~~ local exchange telecommunications company, will be effective on 1-day's notice. (RESERVED).~~

(e) ~~Cost support for {CLEC} filings. When new or revised {CLEC} competitive telecommunications carrier rates for service are higher than those of the ~~{ILEC}~~ local exchange telecommunications company in that ~~{ILEC's}~~ local exchange telecommunications company's service territory, the Commission may request relevant documentary support, including cost support and a statement of compliance with applicable guidelines. The requests can be made either before or after the rates become effective, and will only occur when it is necessary to protect consumers such as, without limitation, when the service is targeted to the economically disadvantaged or customers with poor credit histories. (RESERVED).~~

(f) ~~{HLEC} Local exchange telecommunications company rate changes.~~(RESERVED).

~~(1) Rate reductions. {HLEC} Local exchange telecommunications company~~
tariff filings for noncompetitive services that represent rate reductions from current rates
and charges of that ~~{HLEC} local exchange telecommunications company~~, will become
effective as filed if the Commission does not take any action within a 10-day notice and
review period. To obtain the 10-day notice and review period, the ~~{HLEC} local~~
~~exchange telecommunications company~~ shall provide copies of its current tariff for the
noncompetitive service for which it seeks a rate reduction.

~~(2) Rate increases. {HLEC} Local exchange telecommunications company~~ tariff
filings for noncompetitive services that represent rate increases from current rates and
charges of that ~~{HLEC} local exchange telecommunications company~~ will become
effective as filed if the Commission does not take any action within 30 days from the date
when all consumers subject to the rate increase shall have received individual notice.

~~(3) New services. {HLEC} Local exchange telecommunications company~~ tariff
filings for new services will become effective as filed if the Commission does not take
any action within 30 days from the date the tariff filing is filed with the Commission.

~~(4) Ministerial administrative changes. {HLEC} Local exchange~~
~~telecommunications company~~ ministerial administrative tariff filings for
noncompetitive services will be effective on 1-day's notice.

~~(5) Notice.~~ The tariff filings in this subsection shall be received by the Office of
Consumer Advocate, the Office of Small Business Advocate and the Commission's
~~{Office of Trial Staff} Bureau of Investigation and Enforcement~~ on the date of filing

with the Commission's Secretary's Bureau.

~~(6) *Extension of review period.* The Commission may extend the review period in this subsection by up to an additional 30 days upon notice to the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission's **Office of Trial Staff** **Bureau of Investigation and Enforcement** and the affected **{ILEC} local exchange telecommunications company**.~~

~~(7) *Documentary support.* Nothing in this subsection affects the type of documentary support, including cost support and a statement of compliance with all applicable regulations, that will be necessary for an **{ILEC} local exchange telecommunications company** to file with the Commission for approval of tariff filings involving noncompetitive service offerings.~~

~~(g) *Executive overview.* **{ILECs and CLECs} Local exchange telecommunications companies and competitive telecommunications carriers** that file tariff filings in accordance with subsection (e) or (f) shall file an executive overview summarizing the reason for the filing. The executive overview shall include relevant information regarding the safety, adequacy, reliability and privacy considerations related to the proposed or revised service. **(RESERVED)**.~~

~~(h) *Lifeline plan statement.* When a **{CLEC} competitive telecommunications carrier** proposes increases in rates and charges for any of its basic local exchange services, the **{CLEC} competitive telecommunications carrier** shall also state whether it has implemented a Lifeline Plan that has been approved by the Commission.~~

(RESERVED).

~~(i) *Enterprise and large business customers.* A local exchange telecommunications company and a competitive telecommunications carrier are not required to file a tariff setting forth the rates and terms for retail protected basic dial tone service offered to enterprise and large business customers but may maintain information regarding the rates, terms, and conditions for these services in an online guide on its Internet web site as it would have been available in a paper tariff.~~ **MINISTERIAL**

ADMINISTRATIVE CHANGES. A LOCAL EXCHANGE

TELECOMMUNICATIONS COMPANY OR A COMPETITIVE

TELECOMMUNICATIONS CARRIER TARIFF FILING THAT REPRESENTS

ONLY MINISTERIAL ADMINISTRATIVE REVISIONS TO A

NONCOMPETITIVE SERVICE SHALL BE EFFECTIVE ON 1-DAY'S NOTICE.

(J) A NONCOMPETITIVE AND NEW NONCOMPETITIVE SERVICE OF A

LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY. ANY RETAIL

SERVICE THAT A LOCAL EXCHANGE TELECOMMUNICATIONS

COMPANY OFFERS TO THE PUBLIC THAT HAS NOT BEEN CLASSIFIED

AS A COMPETITIVE SERVICE UNDER 66 PA.C.S. § 3016 OF THE PUBLIC

UTILITY CODE (RELATING TO COMPETITIVE SERVICES) OR SECTION

53.58(B) OF THIS SUBPART IS CLASSIFIED AS A NONCOMPETITIVE

SERVICE. THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY

SHALL MAINTAIN A TARIFF ON FILE WITH THE COMMISSION FOR ALL

OF ITS RETAIL NONCOMPETITIVE SERVICES.

(K) LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY RATE CHANGES

TO A NONCOMPETITIVE SERVICE. UNLESS A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S RATES CHANGE FOR ITS NONCOMPETITIVE SERVICES ARE GOVERNED BY ITS APPROVED ALTERNATIVE REGULATION AND NETWORK MODERNIZATION PLAN, THE FOLLOWING APPLY TO THE RATES FOR ITS RETAIL NONCOMPETITIVE SERVICES:

(1) RATE REDUCTION. A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S TARIFF FILING FOR NONCOMPETITIVE SERVICES THAT SETS FORTH RATES THAT ARE LOWER THAN THE CURRENT RATES AND CHARGES FOR THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S RETAIL NONCOMPETITIVE SERVICES SHALL BECOME EFFECTIVE ON 1-DAY'S NOTICE.

(2) RATE INCREASE. A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S TARIFF FILING FOR NONCOMPETITIVE SERVICES THAT REPRESENTS RATE INCREASES FROM THE CURRENT RATES AND CHARGES OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY RETAIL NONCOMPETITIVE SERVICES SHALL BECOME EFFECTIVE ON 30-DAY'S NOTICE.

(3) NEW SERVICE. LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY TARIFF FILINGS FOR NEW RETAIL NONCOMPETITIVE

SERVICES SHALL BECOME EFFECTIVE ON 30-DAY'S NOTICE.

(4) THE COMMISSION MAY EXTEND THE REVIEW PERIOD IN THIS SUBSECTION BY UP TO AN ADDITIONAL 30 DAYS UPON NOTICE TO THE OFFICE OF CONSUMER ADVOCATE, THE OFFICE OF SMALL BUSINESS ADVOCATE, THE COMMISSION'S BUREAU OF INVESTIGATION AND ENFORCEMENT AND THE AFFECTED LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

(L) *NONCOMPETITIVE SERVICE OF A COMPETITIVE TELECOMMUNICATIONS CARRIER.* A COMPETITIVE TELECOMMUNICATIONS CARRIER MAY OFFER NEW RETAIL NONCOMPETITIVE SERVICES THAT ARE SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT TO THE NONCOMPETITIVE SERVICES OF A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY IN THE SERVICE TERRITORY OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY ONCE THE COMPETITIVE TELECOMMUNICATIONS CARRIER HAS RECEIVED PROVISIONAL AUTHORITY OR HAS BEEN CERTIFICATED BY THE COMMISSION TO OFFER JURISDICTIONAL TELECOMMUNICATIONS UTILITY SERVICE IN THAT PARTICULAR GEOGRAPHIC AREA.

(M) *NONCOMPETITIVE SERVICE OF A COMPETITIVE TELECOMMUNICATIONS CARRIER PRICED AT OR BELOW THE RATES OF A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.*

(1) A TARIFF FILING OF A COMPETITIVE TELECOMMUNICATIONS CARRIER THAT SETS FORTH A RATE OR CHARGE FOR A RETAIL NONCOMPETITIVE SERVICE THAT IS AT OR BELOW THE LEVEL OF THE CORRESPONDING RATE AND CHARGE OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT RETAIL NONCOMPETITIVE SERVICE SHALL BE EFFECTIVE ON 1-DAY'S NOTICE AND DOES NOT REQUIRE THE COMPETITIVE TELECOMMUNICATIONS CARRIER TO PROVIDE COST SUPPORT.

(2) THE TARIFF FILING SHALL BE EFFECTIVE ON 1-DAY'S NOTICE AND NOT REQUIRE COST SUPPORT ONLY IF THE FOLLOWING APPLY:

(A) THE COMPETITIVE TELECOMMUNICATIONS CARRIER OFFERS THE SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT RETAIL NONCOMPETITIVE SERVICE IN THE SAME SERVICE TERRITORY AS THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

(B) THE COMPETITIVE TELECOMMUNICATIONS CARRIER'S TARIFF FILING DOES NOT CONTAIN ANY MATERIAL CHANGES IN THE COMPETITIVE TELECOMMUNICATIONS CARRIER'S TARIFF RULES, TERMS OR CONDITIONS.

(C) THE COMPETITIVE TELECOMMUNICATIONS CARRIER SPECIFICALLY STATES IN ITS ACCOMPANYING COVER LETTER

THAT THE FILING IS BEING MADE ON 1-DAY'S NOTICE IN ACCORDANCE WITH THIS SUBSECTION, AND THAT THE TARIFF FILING DOES NOT CONTAIN MATERIAL CHANGES IN THE COMPETITIVE TELECOMMUNICATIONS CARRIER'S TARIFF RULES, TERMS OR CONDITIONS.

(D) THE COMPETITIVE TELECOMMUNICATIONS CARRIER PROVIDES COPIES OF THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S EFFECTIVE TARIFFS DESIGNATING THE CORRESPONDING RATES AND CHARGES OF THE SAME OR FUNCTIONALLY EQUIVALENT RETAIL NONCOMPETITIVE SERVICES.

(3) WHEN A COMPETITIVE TELECOMMUNICATIONS CARRIER OFFERS SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT RETAIL NONCOMPETITIVE SERVICES IN THE SERVICE TERRITORIES OF MORE THAN ONE LOCAL EXCHANGE TELECOMMUNICATION COMPANY, AND THE RATES AND CHARGES FOR ITS NONCOMPETITIVE SERVICES CORRESPOND TO THE RATES AND CHARGES OF THE DIFFERENT LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES IN THEIR RESPECTIVE SERVICE TERRITORIES, THE COMPETITIVE TELECOMMUNICATIONS CARRIER MAY FILE SEPARATE TARIFF SCHEDULES FOR ITS RETAIL NONCOMPETITIVE SERVICES.

(N) *NONCOMPETITIVE SERVICE OF A COMPETITIVE*

TELECOMMUNICATIONS CARRIER THAT ARE PRICED ABOVE THE RATES OF A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S NONCOMPETITIVE OR NEW SERVICE.

(1) A COMPETITIVE TELECOMMUNICATIONS CARRIER TARIFF FILING THAT SETS FORTH RATES AND CHARGES FOR A RETAIL NONCOMPETITIVE SERVICE THAT IS HIGHER THAN THE CORRESPONDING RATES AND CHARGES OF A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT NONCOMPETITIVE SERVICE SHALL BECOME EFFECTIVE ON 30-DAY'S NOTICE.

(2) THE COMMISSION MAY REQUIRE A COMPETITIVE TELECOMMUNICATIONS CARRIER TO SUBMIT RELEVANT DOCUMENTARY SUPPORT INCLUDING COST SUPPORT AND A STATEMENT OF COMPLIANCE WITH APPLICABLE GUIDELINES UPON REQUEST FOR ANY TARIFF FILING THAT SETS FORTH RATES AND CHARGES FOR A RETAIL NONCOMPETITIVE SERVICE THAT IS HIGHER THAN THE CORRESPONDING RATES AND CHARGES OF A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S SUBSTANTIALLY SIMILAR OR FUNCTIONALLY EQUIVALENT NONCOMPETITIVE SERVICE. THE COMMISSION MAY REQUEST THIS DOCUMENTATION EITHER BEFORE OR AFTER THE HIGHER RATE BECOMES EFFECTIVE, BUT ONLY WHEN IT IS NECESSARY TO PROTECT CONSUMERS SUCH AS,

WITHOUT LIMITATION, WHEN THE SERVICE IS TARGETED TO THE ECONOMICALLY DISADVANTAGED OR CUSTOMERS WITH POOR CREDIT HISTORIES.

(3) THE COMPETITIVE TELECOMMUNICATIONS CARRIER SHALL INCLUDE THE FOLLOWING SUMMARY DOCUMENTATION FOR THE TARIFF FILING SETTING FORTH THE HIGHER RATE FOR ITS RETAIL NONCOMPETITIVE SERVICE AS DESCRIBED IN § 53.59 (E)(1):

(I) A BRIEF STATEMENT INDICATING WHETHER THE COMPETITIVE TELECOMMUNICATIONS CARRIER OFFERS THESE SERVICES SOLELY ON THE BASIS OF RESALE OF A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S RETAIL SERVICES, THROUGH ITS OWN FACILITIES, OR A COMBINATION OF BOTH.

(II) A BRIEF STATEMENT INDICATING WHETHER THE TARIFF FILING REPRESENTS AN INCREASE OR DECREASE IN EXISTING RATES AND CHARGES.

(III) A SUMMARY JUSTIFICATION OF THE TARIFF FILING, INCLUDING AN EXPLANATION OF WHETHER THE PROPOSED CHANGES HAVE BEEN CAUSED BY A CORRESPONDING CHANGE IN RATES AND CHARGES OF THE RESOLD SERVICES OF THE UNDERLYING LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

(4) THE COMMISSION MAY EXTEND THE REVIEW PERIOD IN THIS SUBSECTION BY UP TO AN ADDITIONAL 30 DAYS UPON NOTICE TO THE OFFICE OF CONSUMER ADVOCATE, THE OFFICE OF SMALL BUSINESS ADVOCATE, THE COMMISSION'S BUREAU OF INVESTIGATION AND ENFORCEMENT AND THE AFFECTED LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

(O) *NOTICE.* THE TARIFF FILINGS MADE PURSUANT TO THIS SUBSECTION SHALL BE SERVED ON THE OFFICE OF CONSUMER ADVOCATE, THE OFFICE OF SMALL BUSINESS ADVOCATE AND THE COMMISSION'S BUREAU OF INVESTIGATION AND ENFORCEMENT ON THE DATE THE TARIFF OR TARIFF SUPPLEMENT IS FILED WITH THE SECRETARY'S BUREAU.

(P) *DOCUMENTARY SUPPORT.* NOTHING IN THIS SUBSECTION AFFECTS THE TYPE OF DOCUMENTARY SUPPORT, INCLUDING COST SUPPORT AND A STATEMENT OF COMPLIANCE WITH ALL APPLICABLE REGULATIONS, THAT WILL BE NECESSARY FOR A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR A COMPETITIVE TELECOMMUNICATIONS CARRIER TO FILE WITH THE COMMISSION FOR APPROVAL OF TARIFF FILINGS INVOLVING NONCOMPETITIVE SERVICE OFFERINGS.

(Q) *LIFELINE PLAN STATEMENT.* WHEN A COMPETITIVE TELECOMMUNICATIONS CARRIER PROPOSES INCREASES IN RATES

AND CHARGES FOR ANY OF ITS BASIC LOCAL EXCHANGE SERVICES, THE COMPETITIVE TELECOMMUNICATIONS CARRIER SHALL ALSO STATE WHETHER IT HAS IMPLEMENTED A LIFELINE PLAN THAT HAS BEEN APPROVED BY THE COMMISSION.

§ 53.60. Promotional offerings and ~~joint or~~ bundled service packages. ~~and toll services~~.

(a) *Promotional offerings.* ~~{CLECs and ILECs}~~ Competitive telecommunications carriers and local exchange telecommunication companies are not required to provide cost support for tariff filings involving a promotional service offering for noncompetitive services so long as the promotional offering does not result in any type of price increase to customers UNLESS REQUESTED BY THE COMMISSION.

(1) ~~{ILEC and CLEC}~~ A local exchange telecommunications company and competitive telecommunications carrier tariff filings involving a promotional service offering for noncompetitive services will become effective on 1-day's notice. ~~{ILECs and CLECs}~~ Local exchange telecommunications company COMPANIES and competitive telecommunications carriers shall provide a 10-day advance notice to any resellers that purchase the promotional service offering from the ~~{ILEC or CLEC}~~ local exchange telecommunications company or competitive telecommunications carrier making the tariff filing.

(2) ~~The Commission may request relevant documentary support, including cost support for tariff filings involving promotional service offerings for noncompetitive~~

services.—(Reserved).

(3) ~~{CLECs and ILECs}~~ Competitive telecommunications carriers and local exchange telecommunications companies that file promotional service offerings for noncompetitive services under this subsection shall confirm in their filing that subscribers to the promotional service offerings will be required to respond affirmatively at any time the promotional service is being offered if they wish to continue the service beyond the promotional period.

* * * * *

(b) ~~Joint or bundled service packages.~~ **BUNDLED SERVICE PACKAGES.** ~~{CLECs and ILECs}~~ Local exchange telecommunications companies AND competitive telecommunications carriers are relieved from an automatic obligation to provide cost support for tariff filings involving ~~the offering of joint or bundled service packages~~ **UNLESS COST SUPPORT DOCUMENTATION IS REQUESTED BY THE COMMISSION.**

(1) When ~~{ILEC}~~ a local exchange telecommunications COMPANY'S OR COMPETITIVE TELECOMMUNICATIONS CARRIER'S ~~joint or bundled service packages~~ include both competitive and noncompetitive services, these **BUNDLED** service packages shall meet any applicable State law or regulation regarding cost justification, **THE PROHIBITION FROM USING REVENUES EARNED OR EXPENSES INCURRED IN CONJUNCTION WITH NONCOMPETITIVE SERVICES TO SUBSIDIZE COMPETITIVE SERVICES AND THE STANDARDS REGARDING** discrimination and unfair pricing ~~in joint or bundled~~

service package offerings, and their component competitive and noncompetitive services.

(2) ~~[-The Commission may request relevant documentary support, including cost support, for tariff filings involving joint or bundled services.]~~ (Reserved).

(3) No filing requirements exist ~~for the offering of joint or~~ **IN THIS SUBPART FOR A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY'S OR COMPETITIVE TELECOMMUNICATIONS CARRIER'S bundled service packages composed entirely of competitive services.**

~~[(c) Toll services. CLECs and ILECs may file tariffs with changes in their rates and charges for existing noncompetitive toll services alone that can become effective on 1-day's notice. A 16-day notice period is required for the filing of a new toll service or the specific noncompetitive services defined in 66 Pa.C.S. § 3008(a) (relating to inter-exchange telecommunications carrier). For tariff filings and rate changes involving noncompetitive toll services, the Commission may request relevant documentary support, including cost support.]~~ (Reserved).

CHAPTER 63. ~~[TELEPHONE]~~ TELECOMMUNICATIONS SERVICE

Subchapter A. GENERAL PROVISIONS

§ 63.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Applicant—A person, association, partnership, corporation or government agency

making a written or oral request for the commencement of or changes in its public utility service.

Application—A written or oral request to a **JURISDICTIONAL TELECOMMUNICATIONS** public utility for the commencement of or changes in public utility service.

~~*Automatic dialing-announcing device*—Automatic equipment used for solicitation which has a storage capability of multiple numbers to be called or a random or sequential number generator that produces numbers to be called and has the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the number called.~~

Automatic customer transfer—The process through which the Commission's Bureau of Consumer Services is able to immediately and contemporaneously transfer a customer inquiry or service or billing complaint to a JURISDICTIONAL TELECOMMUNICATIONS public utility that has voluntarily elected to participate in such an arrangement.

Busy hour—The continuous 1-hour period of the day during which the volume of traffic is greater than during another continuous 1-hour period of the same day.

Busy season—The calendar month or 30-day period of the year during which the greatest volume of traffic is handled in the office.

Calls—A customer ~~{telephone}~~ telecommunications message attempted.

Central office—An operating unit equipped with switching apparatus by means of which telephonic communication is established between telephones connected to it or by the

additional aid of trunk lines between the telephones and telephones connected to other central offices.

Competitive wire center—A wire center or other geographic area that is defined and served by a local exchange telecommunications company where all of its PROTECTED, retail NONPROTECTED AND RETAIL NONCOMPETITIVE telecommunications services have been DECLARED OR determined to be competitive by the Commission under 66 Pa.C.S. § 3016 (relating to competitive services).

Customer—A person, association, partnership, corporation or government agency provided with ~~{telephone}~~ **telecommunications** service by a regulated public utility.

Exchange—A unit established by a JURISDICTIONAL TELECOMMUNICATIONS public utility for the administration of communication services under its specific local exchange service tariff provisions consisting of one or more central offices with associated plant facilities used in furnishing services and having one point designated for the purpose of rating toll calls for customers.

~~*Interexchange carrier*—A carrier which provides interexchange {telephone} telecommunications services to the public under [66 Pa.C.S. § 3008] 66 Pa.C.S. § 3018 (relating to interexchange telecommunication carrier).~~

JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY—A PERSON OR CORPORATION OWNING OR OPERATING EQUIPMENT OR FACILITIES IN THIS COMMONWEALTH FOR CONVEYING OR TRANSMITTING MESSAGES OR COMMUNICATIONS TO THE PUBLIC FOR COMPENSATION.

THE TERM DOES NOT INCLUDE EITHER A PERSON OR CORPORATION NOT OTHERWISE A PUBLIC UTILITY WHO OR WHICH FURNISHES SERVICE ONLY TO HIMSELF OR ITSELF OR A BONA FIDE COOPERATIVE ASSOCIATION WHICH FURNISHES SERVICES ONLY TO ITS STOCKHOLDERS OR MEMBERS ON A NONPROFIT BASIS.

Local service area—The area within which customers may call without assessment of toll charges.

Message—A completed customer or user call.

Message unit—A unit of measurement used for a form of exchange service under which originated messages are measured and charged for in accordance with the local exchange tariff.

Metering—The metering of data concerning a customer's calls which is used in preparation of the customer's bill for service which is made by operators, automatic message accounting, message registers or other acceptable data recorder methods.

Noncompetitive wire center—A wire center or other geographic area that is defined and served by a local exchange telecommunications company where the jurisdictional telecommunications public utility ~~continues to offer~~ OFFERS protected, retail nonprotected and noncompetitive TELECOMMUNICATIONS services as defined by 66 Pa.C.S. § 3012 (relating to definitions).

Nonprimary service order—An application for simple residential or business, voice grade, public utility service which is not primary service.

Primary service order—An application for simple residential or business, voice grade,

public TELECOMMUNICATIONS utility service to be provided at a customer location which does not have public TELECOMMUNICATIONS utility service including, but not limited to, the initial connection of a new customer or the transfer of public utility service of an existing customer's service to a new location.

~~Public utility—A person or corporation owning or operating equipment or facilities in this Commonwealth for conveying or transmitting messages or communications over the telecommunications network for the public for compensation. The term does not include either a person or corporation not otherwise a public utility who or which furnishes service only to himself or itself or a bona fide cooperative association which furnishes services only to its stockholders or members on a nonprofit basis.~~

Subscriber—A person, firm or corporation designated on public utility records as the party responsible for payment of bills for ~~{telephone}~~ telecommunications service.

Surveillance level—A measurement of ~~{telephone}~~ telecommunications service which indicates a need for the public utility to investigate the cause of the problem, to remedy the problem and to inform the Commission of the problem.

Trouble report—A written or oral report delivered to an authorized public utility representative by a customer or user of public utility services which relates to a defect, difficulty or dissatisfaction with the public utility's regulated service.

Trunk—A communication channel between central offices, switching units or private branch exchanges.

Working day—A day except Saturday, Sunday or legal holiday.

Subchapter B. SERVICE AND FACILITIES

§ 63.12. ~~{Minimizing interference and inductive effects}~~ (Reserved).

~~(a) *Interference.* A public utility system shall be so constructed as to eliminate cross-talk and noise resulting from faulty construction, to the extent that these factors interfere with the satisfactory transmission of messages}~~

~~(b) *Induction.* A public utility shall use reasonable means to minimize inductive effects between adjacent power and communication circuits.}~~

§ 63.13. ~~{Periodic inspections}~~ (Reserved).

~~{A public utility shall adopt a program of periodic tests, inspections and preventive maintenance aimed at achieving continuous efficient operation of its system in a manner satisfactory to the Commission.}~~

§63.14. Emergency equipment and personnel.

~~(a) *Emergencies.* A TELECOMMUNICATIONS public utility shall take reasonable measures to meet emergencies, such as fire, storm, illness of personnel, power failure or sudden increase in traffic, by making available to the extent practicable the following:~~

~~(1) Emergency sources of ringing, lighting and other power.~~

~~(2) Other reserve equipment.~~

~~(i) The reserve equipment shall include a minimum of 3 hours battery reserve for central offices equipped with permanently installed standby power~~

facilities.

~~(ii) Central offices shall have adequate provisions for standby power. A central office which is without stationary standby power facilities shall have available a portable power unit which can be delivered and connected on short notice.~~

~~(iii) Exchanges exceeding 5,000 lines shall be equipped with stationary standby power facilities.~~

~~(3) Qualified personnel for emergency operating and repair work].~~ A

JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY SHALL TAKE REASONABLE MEASURES TO ENSURE THE CONTINUOUS OPERATION OF ITS TELECOMMUNICATIONS SERVICE IN ALL GEOGRAPHIC AREAS AND THIS CONTINUOUS FUNCTIONALITY OF ITS TELECOMMUNICATION INFRASTRUCTURE WILL ALSO ALLOW FOR ROBUST COMMUNICATION AND INFORMATION SHARING ACROSS ALL LEVELS OF GOVERNMENT, WITHIN COMMUNITIES, AND BETWEEN PUBLIC AND PRIVATE ORGANIZATIONS DURING EMERGENCIES SUCH AS FIRE, ILLNESS OF PERSONNEL, SUDDEN INCREASE IN TRAFFIC OR LOSS OF POWER DUE TO EXTREME WEATHER EVENTS AND DISASTERS CAUSED BY NATURAL HAZARDS.

~~(b) [Emergency service. If the volume of traffic does not require that the central office be attended during the full 24 hours, emergency service shall be provided during the period in which the switchboard is unattended by the use of suitable alarm signals and~~

~~conveniently available personnel.}~~ THE JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY SHALL MAINTAIN QUALIFIED PERSONNEL FOR EMERGENCY OPERATING AND REPAIR WORK AND HAVE RESERVE EQUIPMENT OR A PORTABLE POWER SUPPLY THAT WILL GIVE IT THE REASONABLE CAPABILITY TO MAINTAIN POWER AT ITS CENTRAL OFFICE SO THAT IT HAS THE ABILITY TO REMAIN FUNCTIONAL DURING THE EMERGENCY SITUATION.

§ 63.15. Complaint procedures.

(a) ~~*Investigations.* A public utility shall make a full and prompt investigation of service complaints made to it through the Commission by its customers or third parties. Upon receiving a service complaint from a customer of a utility, the Commission will transmit a summary of the service complaint to the utility. If a service complaint is resolved, the utility may terminate the investigation by submitting or transmitting a copy of the service order which identified the action taken by the utility to resolve the service complaint. When complaints are referred to the public utility through the Commission, the public utility and the Commission shall work to process and resolve all complaints} (Reserved). (a1) AUTOMATIC CUSTOMER TRANSFER.~~ THE COMMISSION'S BUREAU OF CONSUMER SERVICE SHALL PROCESS SERVICE COMPLAINTS RECEIVED FROM CONSUMERS IN THE FOLLOWING MANNER:

(1) Upon the receipt of a customer complaint related to service or billing SERVICE-RELATED COMPLAINT FROM A CUSTOMER, the COMMISSION'S Bureau of Consumer Services of the Commission can MAY seek to immediately and contemporaneously transfer the customer to a- ITS JURISDICTIONAL TELECOMMUNICATIONS public utility for resolution to address the inquiry or service complaint in the following manner:

(1) (A) The transfer will occur with the customer's explicit consent.

(2) (B) The transfer will be made to a live public-utility operator or customer service representative OF THE JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY.

(3) (C) The JURISDICTIONAL TELECOMMUNICATIONS public-utility shall maintain a dedicated toll-free telephone number for the automatic customer transfer process.

(4) (D) In the event that the customer inquiry or CUSTOMER'S service or billing complaint cannot be resolved, it will be referred back to the COMMISSION'S Bureau of Consumer Services of the Commission for resolution in accordance with the provisions of subsection (c).

(5) (E) The COMMISSION'S Bureau of Consumer Services of the Commission and participating public utilities may establish automated electronic communication links, electronic data interfaces, or appropriate web page access, for the exchange of information and data in the automatic customer transfer. These links shall be used only by authorized Commission

and THE JURISDICTIONAL TELECOMMUNICATIONS public utility's personnel and shall safeguard the customer's personal data and billing information from public disclosure.

~~(a2)~~ (2) *Investigations.* If the customer declines to participate in automatic customer transfer resolution process set forth in subsection ~~(a-1)~~ (1) ABOVE, the JURISDICTIONAL TELECOMMUNICATIONS public utility shall make a full and prompt investigation of THE service ~~or billing~~ complaints made to it through the Commission by its customers ~~or third parties~~. Upon receiving a service ~~or billing~~ complaint from a customer of a utility, the Commission will transmit a summary of the service complaint to the utility. If a service ~~or billing~~ complaint is resolved, the utility may terminate the investigation by submitting or transmitting a copy of the service order which identified the action taken by the utility to resolve the service ~~or billing~~ complaint. When complaints are referred to the JURISDICTIONAL TELECOMMUNICATIONS public-utility through the Commission, the public utility and the Commission shall work to process and resolve all complaints.

(b) *Records of complaints.* A JURISDICTIONAL TELECOMMUNICATIONS public utility shall preserve **COPIES OF** written or recorded service or billing complaints showing the name and address of the subscriber or complainant, the date and character of the complaint, the action taken and the date of final disposition. Records of complaints shall be kept in accordance with § 64.192 (relating to record maintenance).

(c) *Commission review.* If a customer or applicant expresses dissatisfaction with the

utility company's JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY'S decision or explanation, the JURISDICDTIONAL TELECOMMUNICATIONS PUBLIC utility shall inform the customer or applicant of the right to have the problem considered and reviewed by the Commission and shall provide the name, address and telephone number of the appropriate Commission Bureau. This subsection shall be read in conjunction with §§ ~~64.141—64.182~~ 64.141—64.181 when applicable to residential utility service.

§ 63.16. ~~{Traffic measurements}~~ (Reserved).

~~{Traffic measurements shall be taken of sufficient extent, frequency and character to determine that central office equipment and personnel are adequate to handle traffic without unreasonable delay.}~~

§ 63.18. ~~{Multiparty line subscribers}~~ (Reserved).

~~{A multiparty line subscriber may be required to take service of a different grade if his use of service interferes unreasonably with the necessary service of the other subscribers on the line. The number of subscribers connected to a multiparty line shall be limited to a maximum of four.}~~

§ 63.19. ~~{Interoffice lines}~~ (Reserved).

~~{A public utility furnishing, singly or jointly with other telephone companies, channels for communication between different central offices, may not connect~~

~~stations of subscribers to these channels. Sufficient interoffice channels shall be provided to handle the traffic without unreasonable delay.~~

§ 63.20. ~~Line extensions.~~ (RESERVED).

~~(a) Duty of public utility to make line extensions. A public utility shall make reasonable line extensions within the territory in which it is chartered to operate.~~

~~(b) Tariffs to include line extension rule. As part of its tariffs each public utility shall file rules with the Commission setting forth the conditions under which it will make line extensions servicing applicants within its charter territory.~~

§ 63.21. Directories.

(a) When a directory is provided by the JURISDICTIONAL TELECOMMUNICATIONS public utility, it ~~[shall]~~ MUST be revised and reissued at sufficiently frequent intervals to avoid serious inconvenience to the public. A satisfactory length for a directory period ~~[shall]~~ MUST be determined by the volume of changes and new listings and the facilities available for supplying new numbers to calling parties and for intercepting calls to numbers which have been changed.

(b) One copy of each new directory issue shall be furnished to ~~each subscriber and one copy sent to~~ the Commission by the issuing JURISDICTIONAL TELECOMMUNICATIONS public utility at the time of its distribution to subscribers. The JURISDICTIONAL TELECOMMUNICATIONS public utility shall furnish a

new directory to customers and subscribers in the following manner:

(1) A JURISDICTIONAL TELECOMMUNICATIONS public utility shall include a bill message no less than once annually advising customers that paper copies of that market's or service area's affected directories are available upon request. The notice must provide customers with a toll-free number to call to obtain a paper directory at no cost and must include the JURISDICTIONAL TELECOMMUNICATIONS public utility's Internet address where customers can find the online directory. The JURISDICTIONAL TELECOMMUNICATIONS public utility also shall post the notice on its web site.

(2) A JURISDICTIONAL TELECOMMUNICATIONS public utility shall make paper directories or USB thumb drive directories available at no charge to customers in that market or service area on an "upon request" basis by calling a toll free number maintained by the public utility.

(3) ~~Print directories shall be distributed to consumers who are more likely to use them.~~ DISTRIBUTION OF DIRECTORIES BEYOND AN "UPON REQUEST" BASIS SHALL BE AT THE DISCRETION OF THE JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY.

(4) Requests for printed directories shall be treated as standing orders but may be reconfirmed by the JURISDICTIONAL TELECOMMUNICATIONS public utility every 2 years.

(5) Directories shall be made available online in digital format at a web site maintained by the JURISDICTIONAL TELECOMMUNICATIONS public utility.

(6) Printed, USB and online versions of directories must meet all regulatory form and content requirements of this section and § 64.191(g) (relating to public information).

(c) A directory shall contain the following:

(1) The name of the issuing JURISDICTIONAL TELECOMMUNICATIONS public utility.

(2) The month and year issued.

(3) A statement of the area covered by the directory.

(4) Necessary instructions to enable users to place calls efficiently, including, but not limited to, telephone company local, toll, emergency and operator-assistance calls. Necessary instructions to transact business with the telephone company, such as payment of bills, ordering changes in service and reporting service difficulties.

(5) A separate section containing social service organization, school and government listings.

* * * * *

(e) Upon receiving a customer complaint alleging misleading, deceptive or confusing directory listings, a JURISDICTIONAL TELECOMMUNICATIONS public utility shall investigate the complaint under § 63.15 (relating to complaint procedures). If the

utility determines that a directory listing is misleading, deceptive or confusing, the utility shall delete the listing from future directories. After reaching its decision the **JURISDICTIONAL TELECOMMUNICATIONS** public utility shall advise interested parties in writing of its opinion and shall inform them of the right to file a complaint with the Commission.

(F) THE PROVISIONS OF THIS SECTION SHALL BE IN EFFECT UNTIL JANUARY 1, 2026 WHEREUPON DIRECTORY DISTRIBUTION IS NO LONGER REQUIRED.

§ 63.22. Service records.

(a) A public utility shall keep sufficient records to reflect the following:

(1) [~~Tests and inspections showing data as to date, facilities tested or inspected, conditions of the facilities and action taken~~] **(Reserved)**.

(2) Service complaints and trouble reports.

(i) A **JURISDICTIONAL TELECOMMUNICATIONS** public utility shall provide for the receipt of trouble reports at all hours and make a full and prompt investigation of, and response to, complaints, with the exception of isolated outages beyond normal working hours affecting fewer than 15 customers in an exchange.

(ii) A **JURISDICTIONAL TELECOMMUNICATIONS** public utility shall maintain an accurate record of customer trouble reports which shall include:

- (A) Identification of the customer affected.
- (B) Service affected.
- (C) Time, date and nature of the report.
- (D) Results of investigation.
- (E) Action taken to remedy the situation.
- (F) Time and date of trouble clearance or other disposition.

(3) Service interruptions affecting 300 or more customers, including the date, cause, extent and duration of the interruption.

~~(4) [Location and description of its plant, including maps, as appropriate.]~~

(Reserved).

~~(b) [Records required by this chapter shall be kept within this Commonwealth at an office of the utility located in the territory served by it, and shall be open for examination by the Commission or its representative] **(Reserved).**~~

~~(c) [Records pertaining to reasonableness and adequacy of utility service, as required by this chapter, shall be filed with the Commission and released to the public upon request. A utility may petition the Commission for waiver of this subsection for particular public requests] **(Reserved).**~~

§ 63.23. Construction and maintenance safety standards for facilities.

Overhead and underground ~~public utility~~ equipment or facilities and crossings of the wires or cables of every **JURISDICTIONAL TELECOMMUNICATIONS** public utility over or under the facilities of other public utilities, cooperative associations or

electric utilities—including parallel or random installation of underground electric supply and communication conductors or cable—shall be constructed and maintained in accordance with safe and reasonable standards as set forth in the ~~{*National Electrical Safety Code, 1981 edition*}~~ **THE MOST RECENT Institute of Electrical and Electronics Engineers' (IEEE) *National Electrical Safety Code (NESC), 2017 edition, as amended and supplemented.***

§ 63.24. ~~[Service interruptions.]~~ (RESERVED).

(a) ~~[*System maintenance.* Each public utility shall endeavor to maintain its entire system in such condition as to make it possible to furnish continuous service and shall take reasonable measures to prevent interruptions of service and to restore service with a minimum delay if interruptions occur.]~~

(b) ~~[When main telephone service is interrupted for a period of at least 24 hours, the public utility, after due notice by the customer, shall apply the following schedule of allowances except in situations as provided for in paragraph (3):]~~

(1) ~~[One thirtieth of the tariff monthly rate of services and facilities furnished by the public utility rendered inoperative, useless or impaired for each of the first three full 24-hour periods during which the interruption continues after notice by the customer to the public utility conditioned that the out-of-service extends beyond a minimum of 24 hours.]~~

(2) ~~[Two thirtieths of each full 24-hour period beyond the first three 24-hour periods. However, in no instance may the allowance for the out-of-service period~~

~~exceed the total charges in a billing period for the service and facilities furnished by the public utility rendered useless or impaired.]~~

~~(3) [When service is interrupted for a period of at least 24 hours due to such factors as storms, fires, floods or other conditions beyond the control of the public utility, an allowance of 1/30 of the tariff monthly rate for all services and facilities furnished by the public utility rendered inoperative or substantially impaired to the extent of being useless shall apply for each full 24 hours during which the interruption continues after notice by the customer to the public utility.]~~

~~(4) [The allowances set forth in paragraphs (1) — (3) may not be applicable where service is interrupted by the negligence or willful act of the customer to service or where the public utility, pursuant to the terms of the contract for service, suspends or terminates service for nonpayment of charges or for unlawful or improper use of the facilities or service or for any other reason provided for in the filed and effective tariff.]~~

Subchapter C. ACCOUNTS AND RECORDS

§ 63.31. Classification of public utilities.

For accounting and reporting purposes, ~~{telephone}~~ **JURISDICTIONAL telecommunications** public utilities are classified as follows:

(1) *Class A.* ~~{Telephone}~~ **Telecommunications** public utilities that are ~~{incumbent local exchange carriers}~~ **LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES** subject to an alternative form of regulation, including, but not

limited to, price cap formulas, under 66 Pa.C.S. Chapter 30 (relating to alternative form of regulation of telecommunications services).

(2) *Class B.* ~~{Telephone}~~ Telecommunications public utilities that are

~~{incumbent local exchange carriers}~~ LOCAL EXCHANGE

TELECOMMUNICATIONS COMPANIES subject to rate base/rate of return regulation or the Plan B Simplified Ratemaking Plan approved by the Commission under 66 Pa.C.S. Chapter 30.

(3) *Class C.* ~~{Telephone}~~ Telecommunications public utilities that provide competitive local ~~{telephone exchange}~~ TELECOMMUNICATIONS services and that are not the incumbent provider in any local exchange area within this Commonwealth.

§ 63.32. ~~Systems of accounts.~~ (RESERVED).

~~(a) Class A and Class B {telephone} telecommunications public utilities shall keep their accounts in conformity with the requirements prescribed by the Federal Communications Commission (FCC), under “Common Carrier Services; Revision; Uniform System of Accounts (USOA); Classes A, B, and C Telephone Companies,” {51 Fed. Reg. 43498 (December 2, 1986) (to be codified at 47 CFR Part 32)} 47 CFR Part 32 (relating to Uniform system of accounts for telecommunications companies). The symbol “32” which forms the initial component of each account number in the system of accounts, as published, may not be considered as a prescribed part of the account number for accounting and reporting purposes.~~

~~(b) A Class C [telephone] telecommunications public utility which is not required by the FCC to conform to the USOA and does not do so, shall inform the Commission of this fact on its annual financial report. The Class C utility shall also state the method of accounting utilized to compile the financial information reported, including the Generally Accepted Accounting Principles (GAAP).~~

~~§ 63.33. [Integrity of reserve accounts to be preserved] (Reserved).~~

~~[With respect to those companies which keep their accounts in conformity with the requirements prescribed by the Federal Communications Commission under the "Common Carrier Services; Revision; Uniform Systems of Accounts (USOA); Classes A, B and C Telephone Companies," 51 FR 43498 (December 2, 1986) (to be codified at 47 CFR Part 32), amounts in Class A and Class B accounts 169—173 inclusive, and in Class C accounts 185 and 190, reserved as of the effective date of the appropriate system of accounts prescribed in § 63.32 (relating to systems of accounts), may not, except by permission of the Commission, be used for any purpose other than the specific purpose for which reserved.]~~

~~§ 63.34. [Reclassification of telephone plant to original cost] (Reserved).~~

~~[Before making entries in its books of account to reclassify its telephone plant to original cost when first devoted to the public service, as required by the text of accounts 100:1, 100:2, 100:3, 100:4 and 100:7 of the uniform accounting system prescribed by § 63.32 (relating to systems of accounts), each telephone public utility~~

~~subject to such system of accounts shall submit to the Commission, for approval, a draft of the entries which it proposes to make accompanied by all of the following data, sworn to or affirmed by the officer of the utility responsible for the preparation of such entries:~~

~~(1) *Statement A.* Statement A shall be a comprehensive statement of the procedures and methods followed by the utility in the determination of the original cost of its telephone plant at the effective date of the uniform accounting system prescribed by § 63.32. If procedures or methods or both differed with respect to classes of plant, such differences should be set forth clearly.~~

~~(2) *Statement B.* Statement B shall be a comprehensive index for the utility and for each of its predecessors of ledgers, journals and other books of account, of vouchers, work orders, contracts covering the purchase or construction of utility plant, time reports, payrolls and summaries and other original records which are the sources of entries in the books of account for telephone plant transactions and relevant reserves, and of other books and memoranda, such as minute books, operating maps and records, and similar items, which may be useful in the establishment of the historical development of the telephone plant and related reserves of the company. With the exception of mass records—such as material tickets, vouchers, work orders, time reports, payrolls, and similar items—the index shall describe each record, indicate the period covered by it, show the physical location of it, and~~

~~give the name of the person in charge of it. For mass records, the index shall be so prepared to show, for each type of record, the periods covered thereby at each location and identified, as appropriate, by the first and last serial number of the record for each period.~~

~~(3) *Statement C.* Statement C shall be an outline of the origin and the development of the utility, including a description of each consolidation and merger to which the utility or predecessors were parties, and each acquisition by the utility or by a predecessor of property comprising a substantially complete telephone system, exchange line, or toll line. (Reserved).~~

~~(4) *Statement D.* Statement D shall be a summary by years for the utility and for each of its predecessors of the gross debits and the gross credits to the telephone plant account from the date of origin of the telephone plant of the utility to the effective date of the system of accounts prescribed by § 63.32, setting forth all of the following:~~

~~(i) Plant acquired by merger or consolidation.~~

~~(ii) Plant constructed by the utility.~~

~~(iii) Plant acquired by purchase.~~

~~(iv) Total.~~

~~(v) Retirements of the plant which cannot be classified by subparagraphs (i) — (iii).~~

~~(vi) Balance at the effective date of the system of accounts.~~

~~(5) *Statement E.* Statement E shall be a statement showing the following for~~

~~each acquisition by the utility or by a predecessor through consolidation, merger or purchase of property comprising a substantially complete telephone system, exchange line, or toll line:~~

~~(i) A description of the property acquired.~~

~~(ii) The names of parties to the transaction and whether the parties were affiliated with each other.~~

~~(iii) The date of incorporation of the merged constituent or vendor.~~

~~(iv) The date physical property was acquired.~~

~~(v) A balance sheet of the predecessor at the date its plant was acquired.~~

~~(vi) The book value of the plant acquired, by primary accounts, as recorded by the predecessor or vendor, at the date the physical property was acquired.~~

~~(vii) The cost of the plant to the acquirer, and how the cost was determined.~~

~~(viii) Entries recording the acquisition.~~

~~(ix) The amount recorded by the acquirer in subaccounts of 100:1, "Telephone plant in service," of the uniform system of accounts prescribed by § 63.32.~~

~~(x) The amount of depreciation reserve applicable to the plant acquired, as shown in the books of account of the predecessor or vendor.~~

~~(xi) The adjustment of the depreciation reserve, if any, by the vendee with respect to the plant acquired, and the basis. (Reserved).~~

~~(xii) If the capital stock of the predecessor was acquired prior to the acquisition of its property, the date or dates such capital stock was acquired, from whom acquired, the consideration paid, and whether the vendor was an affiliate of the utility or of a predecessor.~~

~~(xiii) If the parties referred to in subparagraphs (ii) and (xii) were affiliates, the following additional information shall be furnished:~~

~~(A) With respect to subparagraph (ii), the name of the affiliated interest which acquired the property at arm's length, and the consideration paid by it shall be given.~~

~~(B) With respect to subparagraph (xii), the name of the affiliated interest which acquired the capital stock at arm's length, and the consideration paid by it shall be given.~~

~~(6) *Statement F.* Statement F shall be a statement for the accounting utility or its predecessors showing any increases in plant accounts resulting from the recording of appraised values. The statement should give the full journal entry together with a comparative balance sheet showing the accounts prior and subsequent to the journal entry at the time the appraisal was recorded.~~

~~(7) *Statement G.* Statement G shall, with respect to increments, that is, differences between paragraph (5) (vi) and (ix) and also the amounts shown by Statement F under paragraph (6) in plant accounts of the utility or its~~

~~predecessors arising from plant acquisitions or from the recording of appraised values, state the amounts of the increments remaining in the plant account as of the reclassification date.~~

~~(8) *Statement H.* Statement H shall be a statement with detailed accounts showing telephone plant per books as of the date as of which telephone plant will be reclassified to original cost.~~

~~(9) *Statement J.* A statement J shall be a statement, by years of plant installation, of the original cost of the telephone plant proposed to be classified in the subaccounts of account 100:1, "Telephone plant in service," of the uniform system of accounts prescribed in § 63.32.~~

~~(10) *Statement K.* Statement K shall be a comparative balance sheet, as of the effective date of the system of accounts, setting forth the accounts and the amounts appearing in the books of account both before entries to adjust the telephone plant to original cost have been made, and to give *pro forma* effect to the proposals of the utility for adjusting the telephone plant to original cost.~~

~~(11) *Statement L.* Statement L shall be a reconciliation of the book value of the telephone plant immediately before reclassification to original cost (as shown by Statement H in paragraph (8)) and the utility determined original cost as of the effective date of the system of accounts (as shown in Statement J in paragraph (9)). The reconciliation shall show all adjustments by nature of adjustment in detail.~~

~~(12) *Statement M.* Statement M shall be an analysis of Account 100:4, “Telephone plant acquisition adjustment,” and of Account 100:7, “Telephone plant adjustment,” showing character and the basis for computation of each amount included and proposed to be included.~~

~~(13) *Statement N.* Statement N shall be a suggested plan for depreciating, amortizing, or otherwise disposing of, in whole or in part, the amounts included and includible, as of the effective date of the system of accounts, in Account 100:4, “Telephone plant acquisition adjustment,” and Account 100:7, “Telephone plant adjustment,” of the uniform system of accounts prescribed by § 63.32.]~~

§ 63.35. Preservation of records.

(a) ~~[A telephone] telecommunications public utility shall keep and preserve its records in conformity with “Part 45—Preservation of Records of Telephone Carriers,” adopted by Federal Communications Commission on August 16, 1950 (47 CFR Part 42)] as amended from time to time. (RESERVED).~~

~~(b) [Telephone public utilities which maintain the original cost of their plants in continuing property records which conform with the requirements of the Commission may apply for permission to dispose of books and records related to transactions dated 20 years or more prior to the date of the application] Unless a different retention period is otherwise specifically addressed in this chapter, a~~

telecommunications public utility shall be required to retain for eight years the following records: (1) all records related to an audit conducted by the Commission under section 516 of the ~~code~~ PUBLIC UTILITY CODE, such as but not limited to financial and management audits; (2) records required for review under sections 505 and 506 of the ~~code~~ PUBLIC UTILITY CODE; ~~records required under the system of accounts followed pursuant to subsection (a);~~ and (3) records required for those entities remaining subject to ratemaking provisions under Chapters 13 and 30 of the ~~code~~ PUBLIC UTILITY CODE.

Subchapter D. ~~{UNDERGROUND SERVICE}~~ (Reserved)

§ 63.41. ~~{Underground telephone service in new residential developments}~~
(Reserved).

~~{(a) For the purpose of this section only, the following words and terms, have the following meanings, unless the context clearly indicates otherwise:~~

~~(1) Applicant for telephone service—The developer of a recorded plot plan consisting of five or more lots, or one or more five-unit apartment houses.~~

~~(2) Developer—The party responsible for constructing and providing improvements in a development, that is, streets, sidewalks and utility-ready lots.~~

~~(3) Development—A planned project which is developed by a developer/applicant for telephone service set out in a recorded plot plan of five or more adjoining unoccupied lots for the construction of single-family residences, detached or otherwise, mobile homes, or apartment houses, all of which are intended for year-~~

~~round occupancy, if telephone service to the lots necessitates extending the utility's distribution lines.~~

~~(4) Distribution line—A main line facility directly or indirectly connecting the customers in a development to the telephone central office.~~

~~(5) Service line—A line from the distribution line to the residence of the subscriber.~~

~~(6) Subdivider—The party responsible for dividing a tract of land into building lots which are not to be sold as utility ready lots.~~

~~(7) Subdivision—A tract of land divided by a subdivider into five or more adjoining unoccupied lots for the construction of single family residences, detached or otherwise, or apartment houses, all of which are intended for year around occupancy, if telephone service to the lots necessitates extending the utility's existing distribution lines.~~

~~(b) Distribution and service lines, except pedestals, installed as the result of an application for the telephone service within a development shall be installed underground; shall conform to the utility's construction standards; and shall be owned and maintained by the utility. Excavating and backfilling shall be performed by the applicant for telephone service or by another agent the applicant may authorize. Other installation shall be performed by the utility or by another agent the utility may authorize. The utility may not be liable for injury or damage occasioned by the wilful or negligent excavation, breakage or other interference with its underground lines occasioned by anyone other than its own employes or agent. Nothing in this section shall prohibit a utility from performing its own~~

~~excavating and backfilling for greater system design flexibility. No charges other than those specified in subsections (c) and (d) is permitted.~~

~~(c) The applicant for telephone service to a development shall do the following:~~

~~(1) At its own cost, provide the utility with a copy of the recorded development plot plan identifying property boundaries, and with easements satisfactory to the utility for occupancy and maintenance of distribution and service lines and related facilities.~~

~~(2) At its own cost, clear the ground in which the service lines and related facilities are to be laid of trees, stumps and other obstructions, provide the excavating and backfilling according to utility specifications and subject to the inspection and approval of the utility, and backfill within 6 inches of final grade. Utility specifications for excavating and backfilling shall be set forth by the utility in written form and presented to the applicant at the time of application for the service and presentation of the plot plan to the utility. If the utility's specifications have not been met by the applicant's excavating and backfilling, the excavating and backfilling shall be corrected or redone by the applicant or its authorized agent. Failure to comply with the utility's construction standards and specifications permits the utility to refuse utility service until the standards and specifications are met.~~

~~(3) Request the installation of distribution and service lines at the time that the lines may be installed before curbs, pavements and sidewalks are laid; carefully coordinate scheduling of the utility's line and facility installation~~

~~with the general project construction schedule including coordination with another utility sharing the same trench; keep the route of lines clear of machinery and other obstructions when the line installation crew is scheduled to appear; and otherwise cooperate with the utility to avoid unnecessary costs and delay.~~

~~(4) Place with the telephone company, in advance or upon other terms that the company may require, the following charges:~~

~~(i) A prepayment in aid of construction in an amount not in excess of 60% of the company's costs of the distribution line for the development.~~

~~(ii) The prepayment in aid of construction will be refunded on a proportionate basis for each contract for telephone service rendered. The basis for total refund shall be 100% refund upon receipt of telephone contracts for telephone service from 50% of the total development within a 10-year period.~~

~~(d) If the applicant changes the plot plan after installation of the telephone utility's lines has begun, or requests deviation from the utility's established underground construction practices, the additional costs shall be borne by the applicant. No charges other than those described in this subsection and in subsection (e) may be borne by the applicant for telephone service or by another utility sharing the same trench, even if the utility elects to perform its own excavating and backfilling.~~

~~(e) The Commission believes that there should be joint use of trenches whenever~~

~~economically and technologically feasible. However, the Commission realizes that the economic advantages which can result from the joint use of trenches may at times be obviated by the technological disadvantages of joint occupancy. Therefore, the Commission will not make the joint use of trenches mandatory but will require the joint use of trenches whenever the circumstances indicate that the use would be feasible and parties agree thereto.~~

~~(f) This section applies to all requests for distribution facilities for telephone service to developments which are filed after June 9, 1984.~~

~~(g) Amounts the public utility receives under subsection (c)(4)(i) shall be credited to Accounts 174-Other deferred credits.~~

~~(h) Whenever the public utility or an affected person believes that the application of the tariff rule works an undue hardship, involves a physical impossibility, or is otherwise inappropriate, the utility or person may request an exception from the undergrounding requirements of this section by following the procedure set forth in § 57.86 (relating to exceptions).~~

~~(i) Exceptions, as granted by the Commission for electric distribution lines under § 57.86 shall also apply to telephone facilities. If an exception request initiated by an applicant for telephone service is granted and the applicant thereafter desires underground service, then this section shall apply as if no exception had been granted.~~

~~(j) Telephone utilities shall file a tariff supplement adding this section to its tariff. The tariff supplement shall become effective on the date filed.~~

~~(k) Telephone utilities shall file undergrounding construction and specification standards and revisions thereto with the Commission's Bureau of Fixed Utility Services.~~

~~(l) Underground facilities in new residential developments are only required by this section when a bona fide developer exists, that is only when utility ready lots are provided by the developer. A mere subdivision is not required to have underground service. However, should the lot owner or owners in a subdivision desire underground service, the service shall be provided by the utility if the lot owner or owners, at his option, either complies with subsection (c) or pays to the utility the charges that are contained in the utility's tariff for underground telephone service not required by this title.~~

Subchapter E. ~~{TELEPHONE}~~ TELECOMMUNICATIONS QUALITY SERVICE
STANDARDS

§ 63.51. Purpose: (RESERVED).

~~This subchapter establishes, regulates and enforces uniform, fair and reasonable service objectives and surveillance levels of {telephone} telecommunications service offered within this Commonwealth. This subchapter applies to regulated simple residential or business voice grade services offered by a public utility as defined in § 63.1 (relating to definitions). This subchapter does not preclude, supersede or amend Chapter 64 (relating to standards and billing practices for residential~~

~~{telephone} telecommunications service). This subchapter shall be applied in conjunction with Chapter 64.~~

§ 63.52. ~~{Exceptions} (Reserved).~~

~~{This subchapter does not apply to services offered by interexchange carriers as defined in § 63.1 (relating to definitions).}~~

§ 63.53. General provisions.

(a) ~~{A public utility shall provide {telephone} telecommunications service to the public in its service area in accordance with its tariff on file with the Commission or product guide or similar document listed on its web site. The quality of service shall meet or exceed the minimum standards set forth in this subchapter.} (RESERVED).~~

(b) ~~{If a public utility fails to meet a standard service surveillance level in a reporting entity as described in this subchapter, the service data for the standard not met in that reporting entity shall be filed with the Commission} (Reserved).~~

(c) ~~{A public utility shall provide access to operator-assisted services for all exchanges at all hours} (Reserved).~~

(d) ~~{A public utility shall provide equipment and facilities designed and engineered in accordance with realistic forecasts of customer demand and shall maintain, or have access to, a stock of associated equipment to meet the demand} (Reserved).~~

(e) If unreasonable hardship to A JURISDICTIONAL TELECOMMUNICATIONS PUBLIC utility results from compliance within WITH this subchapter, THE

JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY application
may FILE A PETITION IN ACCORDANCE WITH 52 PA. CODE § 5.41 ~~be made to~~
~~the Commission for~~ **REQUESTING THE** modification of the section or for
temporary exemption from its requirements. ~~The adoption of this subchapter by~~
~~the Commission will not preclude the altering or amending of the provisions in a~~
COMMISSION MAY ~~manner consistent with applicable statutory procedures, nor~~
~~will the adoption of this subchapter preclude the Commission from granting~~
GRANT temporary exemptions **OF THIS SUBCHAPTER** in exceptional cases
CONSISTENT WITH APPLICABLE STATUTORY PROCEDURES. ~~A person or~~
THE JURISDICTIONAL TELECOMMUNICATIONS PUBLIC utility ~~that files an~~
~~application under this section~~ shall provide notice to a person who may be affected
by the modification or temporary exemption, **IF GRANTED.** Notice may be made
by a bill insert or in another reasonable manner.

§ 63.54. Record retention.

(a) A JURISDICTIONAL telecommunications public utility shall retain for at least 90
days the information contained in customer bills and used by the public utility in
compiling customer bills. Billing information on an account for which a dispute is
pending shall be retained until the dispute has been finally resolved.

(b) A JURISDICTIONAL telecommunications public utility shall retain for at least
a 5-year MINIMUM 3-YEAR period the service records related to the following: (1)
call answering times under § 63.59 (relating to call answering measurements); (2)

service complaints and trouble reports under § 63.22 (relating to service records);
(3) surveillance level investigations under § 63.55 (relating to surveillance levels);
and (4) service outages under § 63.22 and § 63.57 (relating to customer trouble
reports) of this chapter.

§ 63.55. Surveillance levels.

(a) ~~|When the level of operation of a telecommunications public utility fails to meet a stated average level of operation required by this subchapter for a period of 3 consecutive months, the public utility immediately shall:~~

~~(1) Initiate an investigation into the cause of the inadequate performance.~~

~~(2) |Inform the Commission of the substandard performance and of steps, studies and investigations commenced and undertaken by the public utility to determine the cause and to remedy the inadequate performance|~~

~~(3) On request from the Commission, the telecommunications public utility shall provide to the Commission a report detailing the results of the investigation into a breach of a surveillance level substandard performance and any steps, studies and further action undertaken or commenced by the public utility to determine the cause and to remedy the inadequate performance.~~ | ON REQUEST FROM THE COMMISSION, A

JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY SHALL PROVIDE TO THE COMMISSION A REPORT DETAILING THE RESULTS OF ANY INVESTIGATION INTO A FAILURE TO MEET THE

QUALITY OF SERVICE STANDARDS SET FORTH IN CHAPTER 15 OF THE PUBLIC UTILITY CODE, OR VIOLATIONS OF SUBCHAPTER E OF CHAPTER 63 OF THE COMMISSION'S REGULATIONS, AND ANY STEPS, STUDIES AND FURTHER ACTION UNDERTAKEN OR COMMENCED BY THE UTILITY TO DETERMINE THE CAUSE AND TO REMEDY THE INADEQUATE PERFORMANCE.

~~(b) [In addition to the requirements set forth in subsection (a), a public utility shall file with the Commission, within 5 working days from its initial contact with the Commission as provided for in subsection (a)(2), a report which contains the following information: (Reserved).~~

~~(1) The nature of the problem;~~

~~(2) The cause of the problem;~~

~~(3) The duration of the problem;~~

~~(4) The result of studies and investigations which have been taken;~~

~~(5) The remedial action taken].~~

~~(c) [A public utility shall monitor the stated service problem area for a period of 1 month. At the end of this 1-month period the public utility shall file an updated status report with the Commission] (Reserved).~~

§ 63.56. ~~[Measurements] (Reserved).~~

~~(a) [A public utility shall utilize measuring devices, methods and practices generally recognized and accepted by the communications industry to obtain or to allow the~~

~~calculation of the service objectives detailed in this subchapter.]~~

~~(b) [Equipment arrangements permitting, each public utility shall have an objective of attaining at least 300 local dial service measurements per month on originating entities serving more than 10,000 access lines that are a part of a local dial network of 15,000 access lines.]~~

~~(c) [A public utility shall provide, maintain and operate a dial tone speed measuring device for originating entities serving more than 3,000 access lines.]~~

~~(d) [A public utility shall provide, maintain and operate load or service indicating devices on originating equipment for entities not equipped with a dial tone speed measuring device.]~~

~~(e) [A public utility shall monitor the answering time for calls received at customer contact locations, including, but not limited to, repair service, business offices and toll operator office. The monitoring required by this subchapter may be accomplished through measuring devices, random sampling or statistically valid customer satisfaction surveys. The Commission retains the right to determine the appropriateness of utility monitoring methods in particular circumstances.]~~

~~(f) [A public utility shall establish and maintain a performance record for each central office or other appropriate entity which shall be kept current and shall show applicable service results hourly, daily, monthly, as appropriate.] (Reserved).~~

~~(g) [Records and measurements required by this section shall be retained by the public utility for a minimum period of 3 years.]~~

§ 63.57. Customer trouble reports.

(a) ~~{A public utility shall respond to and take substantial action to clear out-of-service trouble of an emergency nature whenever the outage occurs, within 3 hours of the reported outage consistent with the needs of customers and personal safety of utility personnel.}~~ (Reserved).

(b) ~~{A public utility shall respond to and take substantial action to clear other out-of-service trouble, not requiring unusual repair, within 24 hours of the report, except for isolated weekend outages affecting fewer than 15 customers in an exchange or where the customer agrees to another arrangement}~~ A

JURISDICTIONAL TELECOMMUNICATIONS PUBLIC UTILITY SHALL RESPOND TO OUT-OF-SERVICE TROUBLE REPORTS WITHIN 24 HOURS UNLESS A DIFFERENT PERIOD OF TIME IS AGREED TO BY THE CUSTOMER.

(c) A JURISDICTIONAL TELECOMMUNICATIONS public utility shall keep commitments made to its customers and applicants, unless timely notice of unavoidable changes is given to the customer or applicant or a reasonable attempt is made to convey the notice.

(d) If unusual repairs are required or other factors preclude the prompt clearing of reported trouble, reasonable efforts shall be made to notify affected customers.

(e) ~~{A report received by the public utility shall be counted as a separate report even though it may be a duplication of, or may involve a progress inquiry of, a previous report.}~~ (Reserved).

(f) It shall be substandard performance for a **JURISDICTIONAL TELECOMMUNICATIONS** public utility to receive more than 5.5 customer trouble reports per 100 lines per month. A **JURISDICTIONAL TELECOMMUNICATIONS** public utility receiving greater than 5.5 customer trouble reports per 100 lines per month is subject to the reporting requirements set forth in § 63.55(a) (relating to surveillance levels).

§ 63.58. ~~Installation of service.~~ (RESERVED).

(a) ~~[Ninety five percent of a TELECOMMUNICATION public utility's primary service order installation shall be completed within 5 working days of receipt of an application unless a later date is requested by the applicant or when construction is required] or unless the customer agrees to a later date.]~~

(b) ~~[Ninety percent of a public utility's nonprimary service orders shall be completed no later than 20 days of receipt of an application unless a later date is requested by the applicant. If the utility company is unable to fill a nonprimary service order within the requisite time, the utility shall so inform the applicant and provide the applicant with the date nonprimary service will be available.]~~

(c) ~~[Ninety percent of a public utility's commitments to applicants as to date of installation of service orders shall be met, except for applicant caused delays, adverse weather conditions and other supervening causes beyond the utility company's control.]~~

§ 63.59. [Operator-handled calls] Call Answering Measurements.

A JURISDICTIONAL TELECOMMUNICATIONS public utility shall take measures necessary and keep sufficient call answering records to monitor answering times for calls as follows:

(a) ~~{A public utility supplying operators shall establish practices for operators and the public utility shall establish practices for its representatives with the stated objective of providing efficient and pleasing service to its customers. Operators and other representatives shall be instructed to be courteous and considerate, and to comply with the Communications Act of 1934 (47 U.S.C.A. §§ 157—611) in maintaining the secrecy of communications.}~~ The percent of calls answered at each JURISDICTIONAL TELECOMMUNICATIONS public utility’s call center or business office, or both, within 30 seconds with the public utility representative ready to render assistance and to accept information necessary to process the call. An acknowledgment that the customer or applicant is waiting on the line does not constitute an answer. If the public utility records data for more than one call center or business office, the public utility should also record the combined percent of calls answered within 30 seconds for the public utility as a whole.

(b) ~~{A public utility supplying operators shall maintain adequate personnel and equipment to assure an average operator answering performance on a monthly basis as follows: (Reserved).~~

~~(1) Ninety percent of toll and operator assistance calls shall be answered within 10 seconds.~~

~~(2) Eighty five percent of calls seeking repair service or to the business office~~

~~during normal working hours shall be answered within 20 seconds.~~

~~(3) For purposes of this section, an “answer” means that the operator or other representative is ready to render assistance and to accept information necessary to process the call. An acknowledgement that the customer or applicant is waiting on the line does not constitute an answer.~~

~~(4) A public utility may measure its compliance with paragraphs (1) and (2) through the use of measuring devices, random sampling, statistically valid customer attitude surveys or a combination of these compliance measuring techniques. The Commission retains the right to determine the appropriateness of utility monitoring methods in particular circumstances.}~~

The average busy-out rate for each call center or business office, or both. If the JURISDICTIONAL TELECOMMUNICATIONS public utility records data for more than one call center or business office, the public utility should also record the combined busy-out rate for the public utility as a whole.

(c) The call abandonment rate for each call center or business office, or both. If the JURISDICTIONAL TELECOMMUNICATIONS public utility records data for more than one call center or business office, the public utility should also record the combined call abandonment rate for the public utility as a whole.

§ 63.60. ~~{Automatic Dialing Announcing Devices (ADAD)}~~ {Reserved}.

~~{(a) Upon receipt of a complaint in which the complainant can identify the ADAD user, the public utility shall inform the ADAD user of the service standards set forth~~

~~in subsection (b). A subsequent complaint may result, after notice, in suspension of the ADAD user's service.~~

~~(b) A public utility may not knowingly permit an ADAD to be connected or operated over its network unless one of the following applies:~~

~~(1) A prior written agreement exists between the called and calling parties.~~

~~(2) The ADAD is used in accordance with the following standards:~~

~~(i) Within 10 seconds after the called party terminates the call, the ADAD automatically shall create a disconnect signal or an on-hook condition allowing the called party's line to be released. The ADAD shall terminate calls completed and a disconnect or an on-hook condition shall be created within 15 seconds of termination.~~

~~(ii) The recorded message shall begin with, or be preceded by, a statement announcing the name, address and call back telephone number of the calling party, the nature and purpose of the ensuing message, and the fact the message is a recording.~~

~~(iii) No calls are permitted to be made to emergency telephone numbers of hospitals, fire departments, law enforcement offices or other entities providing emergency services.~~

~~(iv) No calls may be made on a Sunday before 1:30 p.m. or after 9 p.m. or before 9 a.m. or after 9 p.m. during the remainder of the week.~~

~~(v) The public utility shall make a determination either at the time of application for use or at the time the utility becomes aware of the use of~~

~~the ADAD that no substantial impairment of service will occur as a result of the use of ADAD.~~

§ 63.61. ~~{Local dial service}~~ (Reserved).

~~{(a) A public utility shall operate and maintain central office and interoffice channel capacity and equipment adequate to achieve the following minimum service requirements during the average busy season, busy hour:~~

~~(1) Ninety-eight percent of calls shall be provided a dial tone within 3 seconds.~~

~~—— (2) Ninety-seven percent of correctly dialed intraoffice calls shall be completed.~~

~~(3) Ninety-six percent of correctly dialed interoffice calls shall be completed.~~

~~(b) For purposes of this section, completion is accomplished when either a ringing or busy signal resulting only from use of the called line occurs.~~

§ 63.62. ~~{Direct distance dial service}~~ (Reserved).

~~{(a) A public utility shall operate and maintain trunk and related switching components in the intertoll network adequate to achieve the following minimum service requirements for operator unassisted, properly dialed, direct distance dialed calls during the average busy season:~~

~~(1) Ninety-seven percent of outgoing calls by customers shall be completed to the trunk group.~~

~~(2) Ninety-eight percent of incoming calls by customers shall be completed~~

~~from the trunk group.~~

~~(b) This section applies only to calls placed exclusively over the facilities of the public utility or over which the utility leases for the completion of local exchange calls.]~~

§ 63.63. ~~[Transmission requirements and standards]~~ (RESERVED).

~~(a) [A telecommunications public utility shall furnish, operate and maintain facilities adequate to provide acceptable transmission of communications. Transmission shall be at adequate volume levels and free of excessive interference, distortion, noise and cross talk.]~~

~~(b) [The transmission standards shall be based upon the use of telephone sets connected to a 48 Volt dial central office, measured at a frequency of 1000 Hertz (Hz)] The provisions of this subsection shall apply to each wire center or other geographic area defined by the jurisdictional telecommunications public utility where the utility has fully deployed a jurisdictional fiber-optic network.~~

~~(c) [A telephone line terminating at a customer's premises shall have a loop resistance not exceeding the operating design of the associated central office equipment.]~~

~~(d) [Overall transmission loss on a customer loop shall not exceed 15 decibels.]~~

§ 63.64. Metering inspections and tests.

~~(a) [A telecommunications public utility shall adopt a program of periodic tests, inspections and preventive maintenance aimed at achieving efficient operation of its~~

~~system and the rendition of safe, adequate and continuous service.] (RESERVED).~~

(b) ~~[A telecommunications public utility shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of equipment and facilities, both for routine maintenance and for trouble location. The actual transmission performance of the network shall be monitored in order to determine if the established objectives and operating requirements are met. The monitoring function shall consist of circuit order test prior to placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic noise tests of a sample of customer loops in each exchange and special transmission surveys of the network.]~~

~~(RESERVED).~~

(c) If a meter is used in connection with ~~[telephone]~~ telecommunications service, it shall be read, where applicable, at monthly intervals. The meter reading records from which the customers' bills are prepared shall show:

- (1) Identifying number or means to determine readily the customer's name, address and service classification.
- (2) Meter readings.
- (3) Date of meter reading.
- (4) Multiplier or constant if used.

~~(d) [A meter or other recording device used to record data and prepare customers' bills shall be in good mechanical and electrical condition, shall be accurately read and may not involve approximations. A meter or recording device shall accurately perform the following: (Reserved).~~

~~(1) For message rate service, if timing the length of message is not involved, the meter or recording device shall show the number of completed messages sent by the station or trunk which it is measuring.~~

~~(2) For measured rate or toll service when, in addition to recording a call, it is necessary to time the call, the recording device shall show the number of calls, and the chargeable time involved in each call and the station or trunk making the call. If a meter is associated with the station making the call, the meter shall accumulate the number of message units for these calls.~~

~~(3) If the recording equipment provides customer bills, accurate interpretation of the coded information is required.~~

(e) ~~[A telephone]~~ **A telecommunications** meter and recording device shall be tested prior to installation or when released for service and at regular intervals, or both, either by the manufacturer, the public utility or an approved organization equipped for the testing. The utility shall comply with the following:

(1) A public utility furnishing service, if local exchange billing is based on the number or duration of messages, shall provide the necessary facilities, instruments and equipment for testing its metering or recording equipment.

(2) The overall accuracy of the test equipment and test procedure shall be sufficient to enable testing of meter and record equipment within the requirements of this chapter.

(3) A meter and recording device tested under this subchapter for routine or complaint shall be tested in its normal operating location and wiring mode prior to

removal or adjustment.

(4) A record of meter and recording equipment tests and adjustments and data sufficient to allow checking of the results shall be recorded. The record shall include the identifying number of the meter and recording device, its type, the date and kind of test and the results of each test.

(f) A public utility shall perform periodic testing and maintenance of its controlling trunk equipment associated with the meters or recording devices, or both, to assure the integrity of their operation upon request or complaint.

(g) ~~{Upon request of a customer, a public utility shall make a test of a meter and recording device related to the billing. The requests may not be made more often than once every 3 months unless unusual circumstances exist.}~~ **(Reserved)**.

(h) ~~{A customer, by request to the Commission, may have a test conducted by the public utility in the presence of a Commission representative.}~~ **(Reserved)**.

§ 63.65. Safety.

A public utility shall adopt and implement a safety program fitted to the size and type of its operation and shall conform to the Occupational Safety Health Act (OSHA) standards, 29 CFR Parts 1910—1999 ~~{which:~~

~~(1) Require employees to use suitable tools and equipment and to perform their work in a safe manner.~~

~~(2) Instruct employees in safe work practices.~~

~~(3) Instruct employees as to proper methods of artificial respiration for use in~~

~~accidents, such as electric shock, asphyxiation and drowning.~~

~~(4) Exercise reasonable care in minimizing hazards to which employees, customers and the general public may be subjected} as amended from time to time.~~

Subchapter F. ~~{EXTENDED AREA SERVICE}~~ (Reserved).

§ 63.71. ~~{Definitions}~~ (Reserved).

~~{The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:~~

~~*EAS—extended area service*—The expansion of a local calling area to include additional exchanges.~~

~~*Exchange*—An area served by one or more central offices which has a unique local calling area and a defined rate center from which toll distances are measured.~~

~~*Full billing and collection agreement*—An agreement under which an interexchange carrier contracts with the local exchange carrier to bill and collect the revenues for message toll service calls placed by end users through the interexchange carrier as the presubscribed carrier.~~

~~*Interexchange toll rates*—Telephone rates, usually based in part on the length of a telephone call, which are applied to calls between exchanges that are not in the same local calling area.~~

~~*LATA*—A local access and transport area as designated by Federal law.~~

~~*Local calling area*—The area, consisting of one or multiple telephone exchanges,~~

~~between which calls may be completed without having interexchange toll rates applied.~~

~~*Local exchange carrier*—A public utility which is certificated to provide intraexchange telephone service.~~

~~*Optional calling plan*—A tariff provision which establishes the rate option to be offered to residential and business subscribers in exchanges which qualify for alternatives to EAS under § 63.73 (relating to optional calling plans).~~

~~*Qualified noncontiguous exchanges*—Exchanges with toll rate centers within 16 miles of each other which do not geographically border each other but which meet the following criteria:~~

~~(i) The call frequency standards between the exchanges established under § 63.74 (relating to EAS polls) are met in at least one direction.~~

~~(ii) The local calling area of the calling exchange is contiguous to the receiving exchange.~~

~~*Subscriber*—A person or entity which contracts directly with a telephone utility for telephone service.~~

~~*Traffic study interexchange carriers*—The five most active interexchange carriers in the service territory of a local exchange carrier as determined by a biennial review of interLATA access charge levels.} (Reserved).~~

§ 63.72. {Traffic usage studies} (Reserved).

~~{A local exchange carrier shall conduct a biennial interexchange toll traffic usage study. The study shall measure traffic over both intraLATA and interLATA routes. The study shall measure the average calling frequency between contiguous exchanges and between each exchange and each noncontiguous exchange having a toll rate center within 16 miles. On intraLATA routes only, the study shall also measure the percentage of total access lines within the exchange over which the calls are placed. In measuring calling frequency, all calling classes shall be considered collectively, including those who have elected optional calling plans under § 63.73 (relating to optional calling plans). The study shall measure usage in a representative 30-day period within the 12-month period preceding the study. The local exchange carrier shall prepare a report containing results of the study. The report is required to address only routes which equal or exceed 1.50 calls per access line per month. The report shall be filed with the Commission with a copy to the Office of Consumer Advocate on or before October 1 of each survey year. The report will be treated as proprietary and shall be filed under protective seal. The Commission and the Office of Consumer Advocate will release the results of the report, upon request, on a route specific basis to customers or customer representatives. Traffic usage data for routes with less than 1.50 calls per access line per month shall be submitted by local exchange carriers upon request by the Commission or the Office of Consumer Advocate.}~~

§ 63.72a. ~~{InterLATA traffic studies}~~ (Reserved).

~~{(a) By January 31 of each year in which a biennial traffic study is due, each local exchange carrier will identify and formally notify the Commission of the traffic study interexchange carriers in its service territory. The identity of the traffic study interexchange carriers shall be based upon review of the access charge levels from the most recent 12-month period available. Each local exchange carrier shall concurrently notify each traffic study interexchange carrier of the following:~~

~~(1) That the interexchange carrier's traffic will be included in the local exchange carrier's traffic study under this subchapter.~~

~~(2) The format which the local exchange carrier will utilize in its traffic usage study.~~

~~(3) The representative month the local exchange carrier will use in its study.~~

~~(b) Each traffic study interexchange carrier shall provide the local exchange carrier with data which identifies the relevant interexchange traffic completed by the interexchange carrier and which originated in the local exchange carrier's service territory for the representative month used by the local exchange carrier. The data shall be submitted to the local exchange carrier by June 1 of each year in which a biennial traffic usage study is due. The data submitted by traffic study interexchange carriers may not include traffic for which the interexchange carrier bills through the local exchange carrier under a full billing and collection agreement.~~

~~(c) The data submitted by each traffic study interexchange carrier shall be organized consistent with the following:~~

~~(1) The data shall be in the format specified by the local exchange carrier for the traffic usage study.~~

~~(2) The data shall identify the total number of calls completed by the traffic study interexchange carrier and which originated in each exchange in the local exchange carrier's service territory for each interLATA route which requires study under § 63.72 (relating to traffic usage studies) for the representative month.~~

~~(3) The data shall identify the total number of access lines presubscribed to the traffic study interexchange carrier in each exchange for which data is submitted under paragraph (2).~~

~~(4) Data submitted by a traffic study inter-exchange carrier to a local exchange carrier shall be considered proprietary to the traffic study interexchange carrier and may not be used by the local exchange carrier for a purpose other than preparing its traffic usage study.~~

~~(5) Each traffic study interexchange carrier may petition the Commission to waive the submission of a portion of the data required to be submitted under this section. Each waiver petition shall include the estimated costs of submitting the data and the relative amount of traffic which the data represents. The Commission will approve a waiver petition only if it finds that the costs to the interexchange carrier outweigh the value of the data to the traffic usage study.~~

~~(d) Upon receiving the traffic study interexchange carrier data, each local exchange~~

~~carrier shall complete the following in preparing the interLATA component of the traffic usage study:~~

~~(1) Collect and analyze the traffic data for each traffic study interexchange carrier for calls completed by the interexchange carrier which are billed through the local exchange carrier under a full billing and collection agreement.~~

~~(2) Aggregate the traffic data it collects and analyzes under full billing and collection agreements with the traffic data it receives from each traffic study interexchange carrier. Each local exchange carrier shall report the aggregate interexchange carrier. Each local exchange carrier shall report the aggregate results of the interLATA traffic study to the Commission in its biennial traffic usage study filed under § 63.72.~~

§ 63.73. ~~{Optional calling plans}~~ (Reserved).

~~{(a) When biennial interexchange toll traffic usage studies reveal an average monthly calling frequency of 2.00 or more calls per access line from one exchange to another and where at least 25% of the access lines in the calling exchange have been used for 1.00 or more calls per month to the receiving exchange over a route for which a local exchange carrier provides toll service, a local exchange carrier shall offer one of the following rate options to each residential and business subscriber within the calling exchange:~~

~~(1) The ability to purchase for a flat fee a block of time for calls and a continuing discount for all usage exceeding the initial block of time to the receiving exchange during each billing period.~~

~~(2) Another alternative rate option approved by the Commission.~~

~~(b) When an exchange qualifies for an optional calling plan over a route served by a local exchange carrier, the local exchange carrier shall notify each residential and business subscriber within 60 days of the availability of the optional calling plan and shall provide to each subscriber a general description of the rates and benefits of the optional calling plan.~~

~~(c) When biennial interexchange toll traffic usage studies reveal an average monthly calling frequency of 2.00 or more calls per access line from one exchange to another over an interLATA route, each traffic study interexchange carrier serving the route shall offer one of the following rate options to each residential and business subscriber to whom the traffic study interexchange carrier provides toll service within the calling exchange:~~

~~(1) The ability to purchase a block of time for calls for a flat fee and a continuing discount for usage exceeding the initial block of time to the receiving exchange during each billing period.~~

~~(2) Another alternative rate option approved by the Commission.~~

~~(d) When an exchange qualifies for an optional calling plan over an interLATA route, each traffic study interexchange carrier serving the route shall notify each residential and business subscriber it serves in the exchange within 60 days of the~~

availability of the optional calling plan and shall provide a description of the rates and benefits of the optional calling plan.

~~(c) A local exchange carrier and a traffic study interexchange carrier, serving a route which qualifies for an optional calling plan under a traffic usage study shall maintain in its tariff a provision which provides for establishment of an optional calling plan. The optional calling plan shall be consistent with subsection (a) or (b) and may establish flat fees to be charged for the installation of the optional calling plan.~~

~~(f) A local exchange or traffic study inter-exchange carrier may not terminate an optional calling plan to an exchange without express Commission approval.~~

§ 63.74. ~~{EAS polls}~~ (Reserved).

~~{Whenever a traffic usage study between contiguous exchanges or between qualified noncontiguous exchanges qualifies for EAS under paragraphs (1) and (2), a subscriber poll of the calling exchange shall be conducted by the local exchange carrier serving the calling exchange to determine if the local calling area should be extended.~~

~~(1) For intraLATA routes, a route qualifies for extended area service if it has an average monthly calling frequency of 5.50 or more calls per access line from one exchange to another and where at least 50% of the access lines in the calling exchange have been used for 1.00 or more calls per month to the receiving exchange.~~

- ~~(2) For interLATA routes, a route qualifies for EAS if it has an average monthly calling frequency of 5.50 or more calls per access line from one exchange to another.~~
- ~~(3) A subscriber request for polling will not be considered a legal pleading and will not be subject to response by a utility or another party.~~
- ~~(4) A poll is not required if subscribers have affirmatively rejected the implementation of EAS from the calling exchange to the receiving exchange during the preceding 2 years.~~
- ~~(5) Two-way balloting will not be required unless usage standards are met in both directions.~~
- ~~(6) If two-way balloting is required and if the same telephone utility serves each exchange, the utility shall poll subscribers in each exchange for EAS into the other exchange. If different telephone utilities serve each exchange, each utility shall poll its own subscribers.~~
- ~~(7) A poll is not required when usage standards are met on a specific route and there will be no increase in the local service charge for extending the local calling area of an exchange. In this instance, one-way EAS shall be implemented over the qualifying route.~~
- ~~(8) When usage standards are met in both directions, two-way balloting is not required if there will be no increase in the local service charge for extending the local calling area for one of the two exchanges. If one of the two exchanges will receive an increase, than that exchange shall be polled and, if~~

~~the exchange polled adopts EAS two-way EAS shall be implemented.~~

~~Otherwise, one-way EAS shall be implemented on the route where there will be no increase.~~

~~(9) If circumstances require, the Commission may specify additional conditions under which polls shall be conducted.~~

~~(10) A local exchange carrier may petition the Commission for waiver of a provision of this section to address unique circumstances.~~

§ 63.75. ~~{Subscriber polls}~~ (Reserved).

~~{The following rules apply to EAS subscriber polls:~~

~~(1) Within 180 days of the submission of traffic usage data indicating that a route qualifies for EAS under § 63.74 (relating to EAS polls), a local exchange carrier shall file a petition with the Commission requesting approval of a proposed transmittal letter and ballot which includes an estimate of the increase in the charge for local service to the Commission as a result of extending the local calling area. The Commission will approve a transmittal letter and ballot which shall include an estimate of the increase in the charge for local service, if any, due to the expansion of the local calling area.~~

~~(2) The local exchange carrier shall mail one approved ballot to each subscriber in the calling exchange. The local exchange carrier may tabulate the ballots itself but shall submit to the Bureau of Safety and Compliance a list of customers to be polled and their telephone numbers prior to sending out ballots.~~

~~Upon completion of tabulation by a local exchange carrier, the local exchange carrier shall submit the original returned ballots to the Bureau of Safety and Compliance and shall submit a verified report to the Commission detailing the results of the poll. If the local exchange carrier does not tabulate the ballots itself, the ballots sent by the local exchange carrier to the subscribers shall be preaddressed, postage prepaid postcards to be returned to the Commission for tabulation.~~

~~(3) At least 50% of the ballots from an exchange shall be returned for a poll to be considered valid.~~

~~(4) In a valid poll, if 50% of the ballots returned from an exchange are in favor of EAS, the affected local exchange carriers shall implement EAS to the receiving exchange.~~

~~(5) In cases where interLATA EAS is implemented, telephone service between the calling exchange and the receiving exchange shall be transferred from the interexchange carriers serving the calling exchange to the local exchange carrier serving the calling exchange.~~

~~(6) In cases where the local exchange carrier is prohibited from providing service between the calling exchange and the receiving exchange by Federal antitrust consent decree restrictions and a waiver is necessary to implement EAS, the local exchange carrier shall apply for a waiver of Federal antitrust restrictions to allow it to implement EAS. The request for waiver will be made within 60 days of a Commission order or Secretarial Letter approving EAS. The Commission will file~~

~~a statement affirmatively supporting the waiver application.~~

§ 63.76. ~~{EAS complaints}~~ (Reserved).

~~{A formal complaint may be filed seeking the implementation of EAS. A complaint will be evaluated according to the criteria in § 63.77 (relating to evaluation criteria). If multiple telephone utilities are involved, each affected utility shall be an indispensable party to the proceeding. An administrative law judge may, as part of an initial decision, recommend the conduct of subscriber polls under § 63.75 (relating to subscriber polls) to determine if EAS should be implemented. The provisions of this subchapter do not prohibit the filing of complaints seeking the implementation of EAS between nonecontiguous exchanges.}~~

§ 63.77. ~~{Evaluation criteria}~~ (Reserved).

~~{The Commission will consider the following criteria in evaluating EAS complaints:~~

- ~~(1) The amount of toll charge traffic between the two exchanges.~~
- ~~(2) The cost to the utility of implementing extended area service.~~
- ~~(3) The potential increase in local service charge due to implementation of EAS versus the current cost to subscribers for interexchange toll calls.~~
- ~~(4) The demography and the proximity of the exchanges as indicating community of interest.~~
- ~~(5) The availability of alternatives to EAS.~~
- ~~(6) The economic effect on the community if the local service area is not~~

extended.}

Subchapter G. ~~{PUBLIC COIN TELEPHONE SERVICE}~~ (Reserved).

§ 63.91. ~~{Purpose}~~ (Reserved).

~~{The purpose of this subchapter is to promote competition in the coin telephone market, assure accurate price disclosure and provide for public interest coin telephones.}~~

§ 63.92. ~~{Definitions}~~ (Reserved).

~~{The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:~~

~~*Coin telephone*—A telephone which includes a coin mechanism which accepts coins for payment of rates or charges associated with placing local or interexchange calls from the telephone. The term does not include a telephone which requires insertion of a credit card to pay for using or placing calls from the telephone and does not include a telephone without a coin mechanism.~~

~~*Local exchange carrier*—A telephone company certificated by the Commission to provide service within a local calling area.~~

~~*Payphone service provider*—A corporation, association, partnership or person who manufactures, vends, owns or leases coin telephones and is not required to be certificated by the Commission for the provision of coin telephone service.}~~

§ 63.93. ~~{Conditions of service}~~ (Reserved).

~~{A payphone service provider shall provide service in accordance with this subchapter to be eligible for access to a public utility's intrastate telephone facilities and services, and these services shall be denied when a payphone service provider does not comply with the requirements of this subchapter.}~~

§ 63.94. ~~{Coin telephone requirements}~~ (Reserved).

~~{(a) A coin telephone shall be registered with the Federal Communications Commission when required under 47 CFR Part 68 (relating to the connection of terminal equipment to the telephone network).}~~

~~(b) A coin telephone shall provide a dial tone without the insertion of a coin to permit access to the operator. A coin telephone shall comply with the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) usability standards where compliance with usability standards is required by the Americans With Disabilities Act of 1990 (ADA). It shall provide call completion for 911 service if available, access to telecommunication relay services, and per call blocking of any caller identification service when the caller initiates the blocking service by dialing *67. As an alternative to the per call blocking service, the coin telephone shall offer callers free operator service to block caller identification.~~

~~(c) A coin telephone shall be capable of accepting and registering nickels, dimes and quarters for the payment of applicable charges for local exchange, message toll and other services.~~

~~(d) Coin telephones shall provide message toll service. The coin telephone shall be capable of completion of toll free numbers without the payment of a coin, that is, either without the insertion of a coin or with the return of the coin inserted.~~

~~(e) No more than one coin telephone may be connected to a single coin telephone access line. If a noncoin extension telephone is connected to the line, the instruments shall be wired so as to disconnect the extension telephone when the coin telephone hand set is off the hook.~~

~~(f) A local exchange carrier shall provide access lines to a payphone service provider. The payphone service provider shall be responsible for charges properly attributable to the installation, connection and use of the line. The charges may not include a charge for unpublished numbers for coin telephone listings. The charges may include the following:~~

~~(1) Nonrecurring installation charges.~~

~~(2) Connection and reconnection charges.~~

~~(3) Service call charges.~~

~~(4) Recurring monthly flat rate and measured metered charges.~~

~~(5) Directory assistance charges.~~

~~(6) Improperly or erroneously accepted collect message toll charges, third number billing charges and credit card billing charges unless the non-public utility is paying a charge to the local exchange carrier for screening calls.~~

~~(g) A coin telephone shall display instructions and notices which are prominently posted on, or in the immediate vicinity of, the coin telephone clearly stating the~~

following:

~~(1) The charge for local coin calls and dialing instructions to obtain rates for other types of calls.~~

~~(2) The name, address and telephone number of the owner, lessee or supplier of the telephone.~~

~~(3) Dialing and other instructions applicable to the use of the coin telephone.~~

~~(4) The telephone number of the coin telephone.~~

~~(5) Notice that the coin telephone provides one-way service only, if applicable.~~

~~(6) Notice of the per-call blocking option by dialing *67 or, as an alternative, free operator service to block any caller identification service.~~

~~(7) The procedure for registering service complaints and obtaining refunds.~~

~~(h) A coin telephone may not be connected to a type of line other than a payphone service provider access line. Existing connections using business or residential access lines shall be converted by the local exchange carrier to utilize payphone service provider access lines. Each local exchange carrier shall maintain provisions in its tariff providing for payphone service provider access line service offerings. Through these tariff provisions, each local exchange carrier shall offer payphone service provider access lines and associated optional features to all payphone service providers on a nondiscriminatory basis.]~~

§ 63.95. ~~{Coin telephone service in the public interest}~~ (Reserved).

~~{The Commission may require a payphone service provider to place or replace a coin telephone at a particular location if it is determined that a placement or replacement is in the public interest.}~~

§ 63.96. ~~{Service requirements for coin telephones}~~ (Reserved).

~~{(a) A coin telephone shall provide two-way service and may be converted to one-way outgoing service only under extraordinary circumstances when the Commission determines that the action is justified based on public health, safety or welfare concerns, and is in the best interest of the public.~~

~~(b) A local exchange carrier, payphone service provider or other interested party may seek Commission review of whether conversion of a coin telephone from two-way service to one-way is justified by extraordinary circumstances. Conversion requests shall be made in writing and shall identify the telephone number and location of the coin telephone, and describe the circumstances which justify conversion.~~

~~(c) The Commission's Bureau of Consumer Services shall determine whether a conversion request is justified within 10 days of its receipt unless the information provided by the requesting party is inadequate to make a determination. The Bureau will notify the requesting party and the owner of the coin telephone of its determination by telephone. The Bureau will provide the requesting party and the owner of the coin telephone written notice of its determination. The Bureau will limit the duration of the conversion authorization if it appears that the~~

~~circumstances justifying the conversion are temporary in nature.~~

~~(d) A party may appeal the Bureau's determination, or request that a coin telephone previously approved for one-way conversion be returned to two-way service, by filing a formal complaint with the Commission.~~

~~(e) In instances where a conversion request involves allegations of drug trafficking from a coin telephone or other emergency circumstances pertaining to public health, safety or welfare concerns, the Bureau may telephonically authorize the owner of the coin telephone to convert the telephone to one-way service on the same day the emergency conversion request is received. Following an emergency conversion authorization, the Bureau will review the conversion request under the procedures established in subsection (e).}~~

§ 63.98. ~~{Compliance}~~ (Reserved).

~~{(a) The Commission may direct a payphone service provider to submit data or other information to ensure compliance with this subchapter and may direct a local exchange carrier to terminate service to a payphone service provider found by the Commission to be in violation of this subchapter. The owner of a coin telephone shall be primarily responsible for assuring compliance with this subchapter.~~

~~(b) The Commission may direct payphone service providers to participate in the implementation of a self-enforcement program for payphone service provider coin telephones.~~

~~(c) This subchapter supersedes conflicting provisions of previously issued~~

~~Commission orders.~~

Subchapter H. ~~{INTEREXCHANGE TELECOMMUNICATIONS CARRIERS}~~
(Reserved)

§ 63.101. ~~{Statement of purpose and policy}~~ (Reserved).

~~{On December 1, 2004, the General Assembly enacted Chapter 30 of the code (relating to alternative form of regulation of telecommunications services), which provided for the regulatory reform of the telephone industry in this Commonwealth. Sections 3018 and 3019(b) of the code (relating to interexchange telecommunications carriers; and additional powers and duties) have significant effect on the future regulation by the Commission of intraState interexchange telecommunications carriers, which include interexchange resellers. The purpose of this subchapter is to codify the application of Chapter 30 of the code to intraState, inter-exchange telecommunications carriers and to codify the modification of procedures to address the application of Chapter 30 of the code.}~~

§ 63.102. ~~{Definitions}~~ (Reserved).

~~{The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:~~

~~*Clear and conspicuous manner*—Information that is legible, stated in plain language and printed in 10-point type or larger.~~

~~*Code*—The Public Utility Code. (66 Pa.C.S. §§ 101—3316).~~

~~*Competitive services*—Interexchange services other than noncompetitive services.~~

~~*Interexchange facilities-based carrier*—A person or entity whose facilities carry intraState interexchange service on a wholesale or retail basis through line, wire, cable, microwave, radio wave, satellite or other analogous facilities owned or operated by it.~~

~~*Interexchange reseller carrier*—A person or entity which directly or indirectly acquires intraState interexchange service capacity and establishes rates to sell interexchange service through the use of technology to a residential or nonresidential subscriber or consumer.~~

~~*Interexchange services*—The transmission of interLATA or intraLATA toll messages or data outside the local calling area.~~

~~*Interexchange telecommunications carrier*—~~

~~(i) A public utility, including both interexchange reseller carrier and interexchange facilities-based carrier, as those terms are defined in this section, authorized by the Commission to provide intraState interexchange service on a wholesale or retail basis.~~

~~(ii) The term does not include a local exchange telecommunications company authorized by the Commission to provide intraState, interexchange services.~~

~~*Noncompetitive services*—The term only includes those interexchange services or business activities that have been determined expressly by the Commission to be noncompetitive under § 63.105 (relating to reclassification of services).}~~

§ 63.103. ~~Jurisdiction of interexchange reseller carriers~~ (Reserved).

~~Under the definition of "public utility" in section 102 of the code (relating to definitions), a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transmitting intraState interexchange services is subject to Commission jurisdiction as a public utility. Interexchange reseller carriers operate equipment or facilities utilized for the transmission of interexchange services and therefore, under the statutory definition of "public utility," are jurisdictional.~~

§ 63.104. ~~Disclosure requirements for competitive services~~ (Reserved).

~~(a) All services, new or existing, offered by interexchange telecommunications carriers are deemed competitive.~~

~~(b) An interexchange telecommunications carrier may maintain tariffs and file tariff supplements with the Commission that set forth the rates, charges and service description information relating to each of its tariffed competitive services. If an interexchange telecommunications carrier files a tariff or a tariff supplement with the Commission for its competitive services, it shall become effective on 1 day's notice.~~

~~(c) If an interexchange telecommunications carrier chooses to detariff its competitive services, it shall make available for public inspection information concerning the rates, charges, terms and conditions for its competitive services in an~~

~~easily accessible and clear and conspicuous manner at the following locations:~~

~~(1) At the interexchange telecommunications carrier's principal office, if it is located within this Commonwealth, or at any local business office of the utility during regular business hours.~~

~~(2) At the web site of the interexchange telecommunications carrier. An interexchange telecommunications carrier has the flexibility to structure and present information concerning the rates, charges, terms and conditions for its competitive services on its internet web site in any manner that it chooses, as long as the information is easily accessible to the public.~~

~~(d) An interexchange telecommunications carrier shall update information concerning changes in rates, charges, terms and conditions for its detariffed competitive services either at its principal office or any local business office within 5 days and on its Internet web site no later than 48 hours after the effective date of the change so it provides the current information concerning service offerings.~~

~~(e) An interexchange telecommunications carrier that chooses to detariff its competitive services shall disclose to customers their right to request information concerning the rates, charges, terms and conditions for its competitive services and shall provide contact information for this purpose.~~

~~(f) This section supersedes Chapter 53 (relating to tariffs for nonecommon carriers) to the extent that Chapter 53 is inconsistent with this section.~~

§ 63.105. ~~{Reclassification of services}~~ (Reserved).

~~{(a) The Commission has authority, under section 3018(e) of the code (relating to interexchange telecommunications carriers), after notice and an opportunity for a hearing, to reclassify the services of an interexchange telecommunications carrier as a noncompetitive service.~~

~~{(b) The Commission will review whether a competitive service should be reclassified as a noncompetitive service within the scope of a Commission investigation conducted under section 331(a) of the code (relating to powers of commission and administrative law judges), or upon consideration of a complaint filed under section 701 of the code (relating to complaints). The notice to the interexchange telecommunications carrier may contain the information deemed relevant by the Commission in holding a reclassification proceeding.~~

~~{(c) When reviewing whether a service should be reclassified, the Commission will consider all relevant information submitted to it, including the following factors:~~

~~(1) The ease of entry by potential competitors into the market for the specific service at issue.~~

~~(2) The presence of other existing interexchange telecommunications carriers in the market for the specific service at issue.~~

~~(3) The ability of other interexchange telecommunications carriers to offer the service at competitive prices, terms and conditions.~~

~~(4) The availability of like or substitute service alternatives in the relevant geographic area for the service at issue.~~

§ 63.106. ~~{Nonecompetitive services and tariffs}~~ (Reserved).

~~{(a) A noncompetitive service, as defined in § 63.102 (relating to definitions), offered by an interexchange telecommunications carrier shall be included in a tariff filed in compliance with sections 1302 and 1303 of the code (relating to tariffs; filing and inspection; and adherence to tariffs).~~

~~(b) Modifications to the rates, terms or conditions of the noncompetitive service set forth in the interexchange carrier's tariff shall be implemented through the filing of a tariff supplement and verified supporting documentation. The interexchange telecommunications carrier shall serve the tariff supplement on the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission's Office of Trial Staff. The interexchange telecommunications carrier shall provide notice to the customer of the proposed change to the noncompetitive service 45 days prior to the filing of the tariff supplement with the Commission.~~

~~(c) The tariff supplement and verified supporting documentation must contain the following information:~~

~~(1) An indication on each page of the tariff supplement that the page pertains to the noncompetitive service.~~

~~(2) A description of the noncompetitive service.~~

~~(3) The rates proposed for the noncompetitive service.~~

~~(4) Supporting data justifying the proposed rates for the noncompetitive service.~~

~~(5) An executive overview summarizing the reason for the filing which includes relevant information regarding the safety, adequacy, reliability and privacy~~

~~considerations related to the proposed service.~~

~~(6) Other reasonable justification or any relevant data that is requested by the Commission after its initial review.~~

~~(d) The interexchange telecommunications carrier is not required to submit cost justification, cost of service or revenue data relating to the proposed change as directed in subsection (c)(4) if one of the following applies:~~

~~(1) The proposed change does not purport to increase an existing rate or surcharge.~~

~~(2) The proposed change to the noncompetitive service is designed to make the rates, terms or conditions for that service comparable to the rates, terms and conditions that have been approved by several other state commissions.~~

~~(e) The noncompetitive service tariff supplement shall be filed to become effective on 16 days' notice by the interexchange telecommunications carrier.~~

~~(f) Review of noncompetitive service tariff supplements shall be conducted consistent with the following procedures:~~

~~(1) Within 14 days of the date of filing of the tariff supplement with the Commission, the Commission will issue a notice allowing the tariff supplement to become effective or issue a report that explains why the tariff supplement may not become effective without modification. The report must identify modifications which would eliminate inadequacies in the tariff supplement. The Commission will deliver or transmit the notice or report to the filing interexchange telecommunications carrier at the time of issuance.~~

~~(2) When the Commission issues a notice allowing the tariff supplement to go into effect, the tariff supplement shall become effective, without modification, 16 days after the filing date. If the Commission does not issue a notice or report on the tariff supplement within the 14-day period, the tariff supplement will go into effect by operation of law at the end of the 16 days' notice period.~~

~~(3) When the Commission prohibits a tariff supplement from going into effect and issues a report addressing the inadequacies in the tariff supplement, the tariff supplement shall be suspended pending consideration of the tariff supplement under paragraphs (4) and (5).~~

~~(4) The filing interexchange telecommunications carrier may file a response to the suspension of the carrier's tariff supplement. The response shall be filed within 7 days of the issuance of the report.~~

~~(5) In the alternative, the interexchange telecommunications carrier may withdraw the tariff supplement and file a new tariff supplement which adopts the modifications addressed in the report or which reflects a version of the tariff supplement that has been agreed to by the carrier and the Commission. When a modified tariff supplement is filed, the modified tariff supplement shall become effective on 1-day's notice.~~

~~(g) An interexchange telecommunications carrier requesting rate decreases for its existing nonecompetitive services shall be permitted to put them into effect at the end of the specified 16-day notice period without further review or approval by the Commission.~~

~~(h) An interexchange telecommunications carrier requesting changes in the terms and conditions of its existing noncompetitive services, when the changes do not result in any rate changes, shall be permitted to put them into effect at the end of the specified 16-day notice period without further review or approval by the Commission.~~

~~(i) This section supersedes Chapter 53 (relating to tariffs for noncommon carriers) to the extent that Chapter 53 is inconsistent with this section.~~

§ 63.107. ~~{Applications for authority}~~ (Reserved).

~~{(a) An applicant shall specifically indicate in the application for authority to commence service that it is requesting authorization to provide interexchange services to the public and comply with § 3.551 (relating to official forms).~~

~~(b) If an applicant is offering noncompetitive services to the public, it shall attach a proposed tariff to its application containing the proposed rates of the noncompetitive services and the rules and policies under which the interexchange telecommunications carrier intends to provide its service. Rates for noncompetitive services provided for in the proposed tariff may not exceed the reasonable charge for a noncompetitive interexchange call.~~

~~(c) In addition to review of the general evidentiary criteria applicable to interexchange telecommunications carrier application proceedings, the Commission will review the proposed tariff to determine if it complies with subsection (b). The~~

~~Commission will grant applications only upon a finding that the proposed tariff complies with subsection (b). If the proposed tariff contains rates for noncompetitive services that do not exceed the reasonable charge for a noncompetitive interexchange call, the Commission will presume that the rates for the noncompetitive services are just and reasonable.~~

~~(d) Upon the grant of an application for authority to commence interexchange service, the applicant proposing to offer noncompetitive services shall file an initial tariff with the Commission for its noncompetitive services only. The initial tariff must contain the same rates, rules and policies for the noncompetitive services as set forth in the proposed tariff reviewed by the Commission. The initial tariff must become effective immediately upon filing. Initial tariffs must comply with §§ 53.1—53.10 and 53.21—53.26 (relating to filing regulations; and form and content of tariffs).~~

~~(e) Upon the grant of an application for authority to commence interexchange service, a new interexchange telecommunications carrier may file or maintain with the Commission tariffs containing the rates, terms and conditions for its competitive services. If the new interexchange telecommunications carrier files a tariff with the Commission, the tariff shall become effective on 1 day's notice.~~

~~(f) If a new interexchange telecommunications carrier chooses to detariff its competitive services, the information regarding the rates, terms and conditions for its competitive services shall be made available at the public disclosure locations established in § 63.104(e) (relating to disclosure requirements for competitive~~

~~services). The new carrier shall post the information at the public disclosure locations within 48 hours of the date that its application to commence interexchange service has been approved by the Commission.~~

~~(g) This section supersedes Chapter 53 (relating to tariffs for nonecommon carriers) to the extent that Chapter 53 is inconsistent with this section.~~

§ 63.108. ~~{Reporting requirements}~~ (Reserved).

~~{(a) Interexchange telecommunications carriers shall file affiliated interest and affiliated transaction agreements with the Commission unless the agreements involve services declared to be competitive. The filings constitute notice to the Commission only. The Commission may use the filings to audit the accounting and reporting systems of interexchange telecommunications carriers for transactions with their affiliates.~~

~~(b) On or before May 31 of a calendar year, a certificated interexchange telecommunications carrier, as defined in § 63.102 (relating to definitions), shall file with the Commission an annual report for the preceding calendar year. The annual report shall be filed with the Commission's Bureau of Fixed Utility Services.~~

~~(c) The annual report must contain aggregate total revenue and traffic volume data measured in minutes of use for the carrier's intraState operations during the preceding calendar year.~~

~~(d) The interexchange telecommunications carrier shall provide disaggregated information in its annual report if it is technologically feasible for the interexchange~~

~~telecommunications carrier to collect the data. Some examples of the information that shall be disaggregated in the carrier's major service categories are:~~

~~(1) Message toll service (MTS) and associated services including operator assisted and calling card services.~~

~~(2) Services corresponding to outbound Wide Area Telecommunications Services (WATS).~~

~~(3) Services corresponding to inbound WATS or "800" type services.~~

~~(4) Private line or dedicated communication path services.~~

~~(5) Dedicated network type services, including virtual network type services.~~

§ 63.109. ~~[Enforcement]~~ (Reserved).

~~{(a) For the purpose of enforcement of consumer complaints regarding competitive services, the Commission will have jurisdiction to enforce consumer complaints that involve violations of the applicable public notice requirements established in this subchapter. The Commission will have jurisdiction to enforce consumer complaints regarding the provisioning of service by interexchange telecommunications carriers, including customer privacy, ordering, installation, restoration and disconnection, as well as the quality of service issues. Other consumer complaints, including those complaints involving violations that fall under the Unfair Trade Practices and Consumer Protection Law (73 P.S. §§ 201-1—209-9.3), will be referred by the Commission's Bureau of Consumer Services to the Office of Attorney General's Bureau of Consumer Protection.~~

~~(b) For the purpose of enforcement of consumer complaints related to noncompetitive services, the Commission will utilize the dispute and informal complaint procedures prescribed for residential billing disputes under Chapter 64 (relating to standards and billing practices for residential telephone service). The Bureau of Consumer Services will have primary jurisdiction over informal complaints arising under this subchapter for designated noncompetitive services.~~

Subchapter J. CONFIDENTIALITY OF CUSTOMER COMMUNICATIONS AND INFORMATION

§ 63.131. ~~{Purpose and general}~~ General provisions.

(a) ~~{This subchapter establishes appropriate minimum standards to ensure that public utilities providing regulated telecommunication services maintain the confidentiality of customer communications and customer information}~~ (Reserved).

(b) ~~{A telephone}~~ A [jurisdictional] telecommunications company subject to this subchapter shall treat customer communications and customer information as confidential. Except for the limited instances provided in this subchapter, release of customer information to the public shall be permitted only on the authority of the customer. When a ~~{telephone}~~ telecommunications company or its authorized ~~{employees}~~ employees, agents or independent contractors utilize customer information, they shall do so only when necessary and only to the extent necessary to accomplish legitimate and authorized purposes, as set forth in this subchapter.

~~{Telephone}~~ Telecommunications companies and ~~{telephone company employees}~~

their employees, agents or independent contractors shall make every reasonable effort to avoid the unauthorized dissemination of customer information to the public. A TELECOMMUNICATIONS COMPANY, ITS EMPLOYEE, ITS AFFILIATES OR SUBSIDIARIES, OR AN AGENT OR INDEPENDENT CONTRACTOR THAT HAS ENTERED INTO A CONTRACTUAL RELATIONSHIP WITH THE TELECOMMUNICATIONS COMPANY AND HANDLES CUSTOMER COMMUNICATIONS AND CUSTOMER INFORMATION IS SUBJECT TO THIS SUBCHAPTER.

(c) Nothing in this subchapter supersedes the Wiretap Act, or permits a ~~{telephone}~~ telecommunications company service or activity which is otherwise prohibited by the Wiretap Act.

§ 63.132. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Agent—An individual or entity that performs work on behalf of a telecommunications public utility WHO as IS the principal IN THE CONTRACTUAL RELATIONSHIP WITH THE AGENT. ~~and is subject to this subchapter.~~

Customer communications—A customer voice or data communication made in whole or in part by wire, cable, microwave or other means for the transmission by a ~~{telephone}~~ telecommunications company of communications between the point of origin and the

point of reception by a ~~{telephone}~~ telecommunications company.

Customer information—Information regarding a customer of a ~~{telephone}~~ telecommunications company or information regarding the services or equipment ordered and used by that customer. The term includes a customer's name, address and telephone number, occupation, information concerning toll calls, collect calls and third-party billed calls, local message detail information and information concerning services ordered or subscribed to by a customer. The term also includes bills, statements, credit history, toll records whether on paper, microfiche or electromagnetic media; computer records; interexchange carrier selection, service problems and annoyance call records.

Destruction—The mutilation of documents in a manner which insures that their content is obliterated by sufficiently tearing or shredding prior to collection by public waste or trash collectors or by appropriately erasing information stored electromagnetically.

~~{Employee}~~ Employee—An individual who works directly for and is paid a salary by a ~~{telephone}~~ telecommunications company subject to this subchapter.

Independent contractor—An individual or entity that IS NOT AN EMPLOYEE OR AGENT OF THE TELECOMMUNICATIONS COMPANY BUT performs work on behalf of a telecommunications public-utility COMPANY PURSUANT TO A CONTRACTUAL RELATIONSHIP that is subject to this subchapter.

~~{Pen register}~~—~~A device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted with respect to wire communications on the telephone line to which the device is attached. The term~~

~~does not include a device which is excluded from the definition of pen register by the Wiretap Act.~~

Security department—The department or individuals with responsibility for the prevention and investigation of the loss, destruction or theft of ~~{telephone}~~ telecommunications company property, the unauthorized or unlawful use of ~~{telephone}~~ telecommunications company equipment or services and the unlawful conduct of ~~{telephone}~~ telecommunications company ~~{employees}~~ employees, agents or independent contractors which occurs during the course of employment.

Service evaluation and monitoring—Evaluation and monitoring of ~~{telephone}~~ telecommunications company operations, including communications, to maintain or improve the quality of service to the customer. The term includes review of ~~{customer/employee relations}~~ employee, agent or independent contractor relationships with customers, system checks and facility maintenance.

TELECOMMUNICATIONS SERVICES—THE OFFERING OF THE TRANSMISSION OF MESSAGES OR COMMUNICATIONS FOR A FEE TO THE PUBLIC.

~~{Telephone}~~ Telecommunications company—A public utility which provides **regulated** telecommunication services subject to Commission jurisdiction.

~~{Trap and trace device}~~—~~A device which captures incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted. The term does not include a device which is excluded from the definition of trap and trace device by~~

~~the Wiretap Act.~~

~~*Wiretap*—A device which is used to intercept and record or aurally monitor telephone communications whether from a local or remote site under a court order or other lawful process.~~

Wiretap Act—Title 18 of the *Pennsylvania Consolidated Statutes* §§ 5701—5781 (relating to Wiretapping and Electronic Surveillance Control Act).

§ 63.133. Confidentiality.

A ~~{telephone}~~ telecommunications company shall ~~{establish}~~ distribute a written statement of its fundamental policy and obligation to maintain the confidentiality of customer communications and customer information to its customers annually. The written statement shall declare the responsibility of each ~~{employee}~~ employee, agent or independent contractor to maintain the confidentiality of customer communications and customer information in accordance with applicable State and Federal law.

§ 63.134. ~~{Employee commitment}~~ Commitment to confidentiality of customer communications and customer information.

A ~~{telephone}~~ telecommunications company shall confirm with each ~~{employee}~~ employee, agent or independent contractor the responsibility to maintain the confidentiality of customer communications and customer information in accordance with applicable State and Federal law.

(1) *Securing commitment from ~~{employee}~~ employees, agents or independent contractors*. A ~~{telephone}~~ telecommunications company shall, at the time a person commences employment or an agency or independent contractor relationship, instruct that person regarding ~~{telephone}~~ telecommunications company policy covering the following points:

(i) State and Federal law generally prohibits the interception, disclosure and use of customer communications.

(ii) An ~~{employee}~~ employee, agent or independent contractor is prohibited from intercepting, using or disclosing customer communications except in those limited instances which are a necessary incident to:

(A) The provision of service.

(B) The protection of the legal rights or property of the ~~{telephone}~~ telecommunications company where the action is taken in the normal course of employment.

(C) The protection of the ~~{telephone}~~ telecommunications company, an interconnecting carrier, a customer or user of service from fraudulent, unlawful or abusive use of ~~{telephone}~~ telecommunications service.

(D) Compliance with legal process or other requirements of law.

(iii) An ~~{employee}~~ employee, agent or independent contractor is prohibited from using or disclosing customer information except when the use or disclosure is authorized by this subchapter.

(iv) Improper interception, use or disclosure of customer communications or customer information may result in disciplinary action, including dismissal or criminal and civil proceedings, or both.

(2) *Documentation of ~~{employee}~~employee, agent or independent contractors commitment.* An appropriate document shall be prepared outlining the policy summarized in paragraph (1) and stating that the ~~{telephone}~~ telecommunications company ~~{employee}~~ employee, agent or independent contractor has read and understands the policy. The ~~{telephone}~~ telecommunications company shall present the document to each ~~{employee}~~ employee, agent or independent contractors for signature. A ~~{telephone}~~ telecommunications company manager shall witness and date the document, regardless of whether the ~~{employee}~~ employee, agent or independent contractor has agreed to sign the document. One copy shall be filed with the ~~{employee's}~~ personnel papers of the employee, agent or independent contractors and one copy given to the ~~{employee}~~ employee, agent or independent contractors to keep and review.

(3) *Annual review.* A ~~{telephone}~~ telecommunications company shall annually review with ~~{employees}~~ employees, agents or independent contractors the commitment to confidentiality of customer communications and customer information, and shall make a record of that annual review.

§ 63.135. Customer information.

This section describes procedures for determining ~~{employee}~~ access to customer

information and the purposes for which this information may be used by ~~{employees}~~ **employees, agents or independent contractors** responding to requests for customer information from persons outside the ~~{telephone}~~ **telecommunications** company and the recording of use and disclosure of customer information.

(1) ~~{Employee access}~~ **Access to and use of customer information.** Access to and use of customer information shall be limited to ~~{employees}~~ **employees, agents or independent contractors** who have a legitimate need to use the information in the performance of their work duties and, because of the nature of their duties, need to examine the data to accomplish the legitimate and lawful activities necessarily incident to the rendition of service by the ~~{telephone}~~ **telecommunications** company. An ~~{employee}~~ **employee, agent or independent contractor** shall be prohibited from using customer information for personal benefit or the benefit of another person not authorized to receive the information.

(2) *Requests from the public.* Customer information that is not subject to public availability may not be disclosed to persons outside the ~~{telephone}~~ **telecommunications** company or to subsidiaries or affiliates of the ~~{telephone}~~ **telecommunications** company, except in limited instances which are a necessary incident to:

(i) The provision of service.

(ii) The protection of the legal rights or property of the ~~{telephone}~~ **telecommunications** company where the action is taken in the normal course of an ~~{employee's}~~ **employee's, agent's or independent contractor's** activities.

(iii) The protection of the ~~{telephone}~~ **telecommunications** company, an

interconnecting carrier, a customer or a user of service from fraudulent, unlawful or abusive use of service.

(iv) A disclosure that is required by a valid subpoena, search warrant, court order or other lawful process.

(v) A disclosure that is requested or consented to by the customer or the customer's attorney, agent, ~~employee~~ employee or other authorized representative.

(vi) A disclosure request that is required or permitted by law, including the regulations, decisions or orders of a regulatory agency.

(vii) A disclosure to governmental entities if the customer has consented to the disclosure, the disclosure is required by a subpoena, warrant or court order or disclosure is made as part of ~~{telephone}~~ telecommunications company service.

(3) *Limitation on disclosures to agents, contractors, subsidiaries or affiliates.* To comply with this subchapter, a ~~{telephone}~~ telecommunications company may not allow disclosure of customer information to an agent, contractor, subsidiary or affiliate **IT HAS ENTERED IN A DIRECT CONTRACTUAL RELATIONSHIP WITH OR TO THE AGENTS, INDEPENDENT CONTRACTORS, SUBSIDIARIES OR AFFILIATES OF A PARTY IT HAS ENTERED INTO A CONTRACT** with absent the prior establishment of terms and conditions for the disclosure pursuant to a written agreement that requires:

(i) Treatment of the information as confidential.

(ii) Use of the information by the contracting party or any of its respective

~~{employee}~~ employees, agents or independent contractors for only those purposes specified in the contract or agreement. The contract shall require the contracting party to establish a confidentiality statement which provides confidentiality protections which are no less than those required of the ~~{telephone}~~ telecommunications company by this subchapter and to maintain the same ~~{employee}~~ employee commitment to the protections in § 63.134 (relating to ~~{employee}~~ employee, agent or independent contractor commitment to confidentiality of customer communications and customer information). The contract may not allow the interception or use of the customer information or customer communications in a manner not authorized with respect to a ~~{telephone}~~ telecommunications company COMPANY'S ~~{employee}~~ employee, agent or independent contractor. The contracting party shall also be subject to the operational restrictions specified in this subchapter with regard to the handling of customer communications and customer information as would otherwise apply to a ~~{telephone}~~ telecommunications company COMPANY'S ~~{employee}~~ employee, agent or independent contractor.

(iii) Nondisclosure of the customer information and customer communications to third parties except as required by law.

(4) *Requests from law enforcement agencies and civil litigation.* Government administrative, regulatory and law enforcement agencies and parties in civil litigation may be able to compel the ~~{telephone}~~ telecommunications company to disclose customer information by serving upon the utility a subpoena, search warrant, court order

or other lawful process.

(i) In response to legal process requiring the disclosure of customer information, the security department shall make the necessary arrangements with the government agency or attorney who caused the legal process to be issued regarding the information to be produced and the identity of the ~~{employee}~~ employee, agent or independent contractor or other ~~{telephone}~~ telecommunications company representative who will produce the information. The ~~{employee}~~ employee, agent or independent contractor assigned to produce this information shall secure the information, including applicable records, from the department having possession of the information and records and shall ascertain the meaning of a code word or letters or nomenclature which may appear on the records, to explain the meaning, if requested to do so. The ~~{employee}~~ employee, agent or independent contractor shall then comply with the legal process.

(ii) If information, including applicable records, is unavailable, the ~~{employee}~~ employee, agent or independent contractor selected to respond to the legal process shall be prepared to explain the unavailability of the information requested.

(iii) When a request for customer information is presented by a law enforcement agency, but that request is not accompanied by legal process, the request shall be referred to the security department. Absent legal process, the

security department may not make disclosure of customer information to a law enforcement agency, except as required or permitted by law. Written, oral or other communication to law enforcement officials to indicate whether obtaining legal process would be worthwhile is prohibited by the Commission.

(5) *Safeguarding customer information.* A ~~{telephone}~~ telecommunications company is responsible for implementing appropriate procedures to safeguard customer information and prevent access to it by unauthorized persons. Tangible customer records such as paper or microfiche records and electromagnetic media shall be stored in secure buildings, rooms and cabinets, as appropriate, to protect them from unauthorized access. Data processing and other electronic systems shall contain safeguards, such as codes and passwords, preventing access to customer information by unauthorized persons.

(i) *Transmission of customer information.* Customer information shall be transmitted in a manner which will reasonably assure that the information will not be disclosed to persons who are not authorized to have access to it.

(ii) *Reproduction.* Customer records may not be reproduced unless there is a business need for the reproduction. Only sufficient copies shall be made to satisfy the business purpose for the reproduction.

(iii) *Destruction of customer records.* Customer records shall be disposed of by the most advantageous method available at each location when retention of the records is no longer required by applicable Federal Communications Commission (FCC) regulations, other legal requirements, contract provisions such as government contract requirements or appropriate document retention

guidelines.

(6) *Recording use and disclosure of customer information.* Because of the frequency with which customer information is used and disclosed in the ordinary course of business, it is neither practical nor desirable to record each instance in which customer information is used or disclosed by an ~~{employee}~~ **employee, agent or independent contractor**. However, the importance of some forms of customer information and the circumstances under which the information may be used or disclosed dictate that a record is required of the use or disclosure of customer information, as follows:

(i) Each instance in which customer information is used or disclosed for purposes other than to furnish service to the customer, to collect charges due from the customer or to accomplish other ordinary and legitimate business purposes.

(ii) Each instance in which information is disclosed to persons outside of the ~~{telephone}~~ **telecommunications** company, subject to subparagraph (i).

(iii) Each instance in which customer information is disclosed to a governmental entity or the ~~{telephone}~~ **telecommunications** company security department.

(iv) Each instance in which a record is required by other ~~{telephone}~~ **telecommunications** company practices or procedures.

(7) *Annual notice of Customer Proprietary Network Information (CPNI) rights.*

The ~~{telephone}~~ **telecommunications** company shall provide an annual written notice of CPNI rights, as defined by the FCC, to customers with less than 20 access lines. The

notice shall be submitted to the Commission's Bureau of Consumer Services for plain language review prior to issuance.

§ 63.136. ~~Use of certain customer communications or customer information for debt collection purposes~~ (Reserved).

~~[Notwithstanding another provision of this subchapter, neither the telephone company nor an agent or contractor of the telephone company may use itemized call information, including toll call information, which states the name or number of a person called by a customer, or customer communications with a person other than the telephone company, for the purpose of identifying and contacting the person to locate the customer to collect a debt owed by the customer to the telephone company. If the customer disputes liability for charges associated with a particular call, the telephone company may contact the person whom its records indicate was called to ascertain whether a call actually was placed from the customer's service to that person.]~~

§ 63.137. ~~Service monitoring and related matters~~ (Reserved).

~~[This section sets forth procedures for service evaluation and monitoring; use of pen registers and trap and trace devices; and responses to government requests for assistance in conducting wiretap, pen register, trap and trace and other types of investigations.~~

~~(1) *Compliance with State and Federal laws.* The telephone company shall comply with State and Federal laws regulating the recording, interception, disclosure or use of customer communications and the use of pen registers and trap and trace devices. Other recording of conversations is prohibited.~~

~~(2) Service evaluation and monitoring.~~ The telephone company may evaluate and monitor these aspects of its operations, including customer communications, necessary for the provision of service to its customers.

~~(i) Service evaluation.~~ A telephone company may engage in the sampling of customer communications by telephone company employees or automated equipment to measure service quality. This sampling of customer communications shall be kept to the minimum needed to measure service quality. Service evaluation facilities may not have monitoring access points outside official evaluation quarters. Entry to evaluation quarters shall be strictly controlled. During periods when evaluation quarters are not in use or when otherwise considered appropriate, the quarters shall be securely locked or the equipment rendered inoperative or accessible only by authorized personnel. Access to service evaluation documents that contain individual employee customer contact information shall be closely guarded to protect the customer's privacy.

~~(ii) Maintenance monitoring.~~ A telephone company may engage in the monitoring of telephone company facilities by an employee entering the circuit to listen and carry out tests to determine whether noise, "cross talk," improper amplification, reproduction or other problems may exist. This includes the mandatory routines covered by equipment test lists, tracing of circuits for corrective action and other similar activities. The monitoring may not interfere with the voice or data information being carried.

~~(iii) *Administrative monitoring.*—A telephone company may engage in the monitoring of telephone company employee contacts with customers and with other employees which have a direct bearing on the quality of service provided to customers. The monitoring equipment shall be secure at all times and only used by authorized persons. The monitoring may be performed from a remote location. When the equipment is in a remote location and is not in use, it shall be secured or made inoperative or accessible only by authorized personnel.~~

~~(3) *Security department monitoring.*—To the extent permitted by applicable State and Federal law, the security department may conduct monitoring, including recording of conversations, in conjunction with the investigation of toll fraud or other unlawful uses of the telephone network. The security department shall maintain complete records of monitoring performed. At a minimum, the records shall include the date and times between which the monitoring was conducted, the name, address and telephone number of the person from whose service the communication was placed and by whose service it was received, the name of the person making the communication, the duration of the communication and information derived from the monitoring. The records shall be retained for the period of time required by telephone company document retention guidelines.~~

~~(4) *Use of pen registers and trap and trace devices.*~~

~~(i) Pen register and trap and trace devices may be used by telephone company employees in accordance with applicable State and Federal law.~~

~~(ii) In each instance in which pen register or trap and trace devices are used~~

~~for a purpose other than for the operation, maintenance or testing of the network, for billing purposes or for the provision of service, a record shall be made showing the dates and times between which the pen register or trap and trace device was used, the names of the persons by whom the use was authorized, directed to be performed and conducted, and the name, address and telephone number of the person whose service was subject to use of the pen register or trap and trace device. The record shall be retained for the time required by applicable telephone company document retention guidelines.~~

~~(5) *Employee authorization.*—An employee may not perform service evaluation, maintenance monitoring or administrative monitoring or direct that these activities be performed unless the employee is authorized and has a need to do so as part of the employee's work duties. An employee may not use pen register or trap and trace facilities or direct that such a device or facilities be used unless the employee is authorized and has a need to do so as part of regular work duties.~~

~~(6) *Government orders.*—Orders from courts and other lawful process requiring the telephone company to assist in the performance of pen register searches, trap and trace searches, wiretap searches and other types of investigations shall be handled in accordance with applicable State and Federal law. The telephone company shall maintain a record of each investigation conducted under this subsection. The record shall be retained for the time required by applicable telephone company document retention guidelines.]~~

Subchapter K. COMPETITIVE SAFEGUARDS

§ 63.141. Statement of purpose and policy.

(a) This subchapter establishes competitive safeguards to:

(1) Assure the provision of adequate and nondiscriminatory access by ~~HLECs to CLECs~~ local exchange telecommunications carriers COMPANIES to competitive telecommunications carriers as the term is defined in this subchapter for all services and facilities ~~HLECs~~ local exchange telecommunications companies are obligated to provide ~~CLECs~~ competitive telecommunications carriers under any applicable Federal or State law.

(2) Prevent the unlawful cross subsidization or support for competitive services from noncompetitive services by ~~HLECs~~ local exchange telecommunications companies.

(3) Prevent LECs from engaging in unfair competition.

(b) These competitive safeguards are intended to promote the Commonwealth's policy of establishing and maintaining an effective and vibrant competitive market for all telecommunications services.

(c) The code of conduct in § 63.143 (relating to code of conduct) supersedes and replaces the code of conduct adopted by Commission order entered September 30, 1999, at P-00991648, et al.

§ 63.142. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

~~{CLEC—Competitive local exchange carrier}~~ Competitive telecommunications carrier

(i) A local exchange telecommunications {company} services provider that has been certificated or given provisional authority by the Commission as a ~~{CLEC}~~ competitive telecommunications carrier under the Commission's procedures implementing the Telecommunications Act of 1996, the act of February 8, 1996 (Pub. L. No. 104-104, 110 Stat. 56), or under the relevant provisions in 66 Pa.C.S. § ~~{3009(a)}~~ 3019(a) (relating to additional powers and duties), and its successors and assigns.

(ii) The term includes any of the ~~{CLEC's}~~ competitive telecommunications carrier's affiliates, subsidiaries, divisions or other corporate subunits that provide local exchange service.

~~Competitive service—A service or business activity offered by an {ILEC or CLEC} local exchange telecommunications company or competitive telecommunications carrier that has been classified as competitive by the Commission under the relevant provisions of 66 Pa.C.S. § {3005} 3016 (relating to competitive services).—AS DEFINED IN 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).~~

~~{ILEC—Incumbent local exchange carrier—~~

~~(i) A telecommunications company deemed to be an ILEC under section 101(h) of the Telecommunications Act of 1996 (47 U.S.C.A. § 251(h)), and its successors and assigns.~~

~~(ii) The term includes any of the ILEC's affiliates, subsidiaries, divisions or other corporate subunits that provide local exchange service.~~

~~LEC—Local exchange carrier— [A local telephone company] exchange telecommunications service provider that provides telecommunications service within a specified service area. LECs encompass both [ILECs and CLECs] local exchange telecommunications companies and competitive telecommunications carriers.]~~ A LEGAL ENTITY THAT IS AUTHORIZED TO DO BUSINESS IN

PENNSYLVANIA BY THE DEPARTMENT OF STATE AND HAS BEEN CERTIFICATED BY THE COMMISSION TO OFFER LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE WITHIN A SPECIFIED SERVICE AREA. LECS ENCOMPASS BOTH LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES AND COMPETITIVE TELECOMMUNICATIONS CARRIERS.

~~Local exchange telecommunications company—~~

~~(i) A local exchange telecommunications services provider deemed to be an incumbent carrier under section 101(h) of the Telecommunications Act of 1996 (47 U.S.C.A. § 251(h)), and its successors and assigns.~~

~~(ii) The term includes any of the local exchange telecommunications company's affiliates, subsidiaries, divisions or other corporate subunits that provide local exchange service.~~ AS DEFINED IN 66 PA.C.S. § 3012

~~(RELATING TO DEFINITIONS).~~

Market price—Prices set at market-determined rates.

Noncompetitive service—~~[Any protected telephone] telecommunications service as~~

~~defined in 66 Pa.C.S. § 3002~~ 3012 (relating to definitions), or a service that has been determined by the Commission as not a competitive service. AS DEFINED IN 66 PA.C.S. § 3012 (RELATING TO DEFINITIONS).

Telecommunications service— ~~A utility service, involving the transmission of messages, which is subject to the Commission's jurisdiction~~ The offering of the transmission of messages or communications for a fee to the public.

§ 63.143. Code of conduct.

All LECs, unless otherwise noted, shall comply with the following requirements:

(1) Nondiscrimination.

(i) ~~An ILEC~~ A local exchange telecommunications company may not give itself, including any local exchange affiliate or division or other corporate subunit that performs that function, or any ~~CLEC~~ competitive telecommunications carrier any preference or advantage over any other ~~CLEC~~ competitive telecommunications carrier in the preordering, ordering, provisioning, or repair and maintenance of any goods, services, network elements (as defined under section 3(29) of the Communications Act of 1934 (47 U.S.C.A. § 153(29)), or facilities.

(ii) ~~An ILEC~~ A local exchange telecommunications company may not condition the sale, lease or use of any noncompetitive service on the purchase, lease or use of any other goods or services offered by the ~~ILEC~~ local exchange telecommunications company or on a written or oral agreement not to deal with

any CLEC. In addition, a LEC may not condition the sale, lease or use of any noncompetitive service on a written or oral agreement not to deal with any other LEC. Nothing in this paragraph prohibits an ~~HLEC~~ local exchange telecommunications company from bundling noncompetitive services with other noncompetitive services or with competitive services so long as the ~~HLEC~~ local exchange telecommunications company continues to offer any noncompetitive service contained in the bundle on an individual basis.

(iii) ~~An HLEC~~ local exchange telecommunications company shall offer to ~~CLECs~~ competitive telecommunications carriers for resale any bundled competitive and noncompetitive services it provides to end-users at the same price it offers the bundled services to end-users less any applicable wholesale discount approved by the Commission, and shall make the unbundled network elements associated with those services available to ~~CLECs~~ competitive telecommunications companies as may be required by any applicable State or Federal law.

(2) Employee conduct.

(i) A LEC employee, while engaged in the installation of equipment or the rendering of services to any end-user on behalf of a competitor, may not disparage the service of the competitor or promote any service of the LEC to the end-user.

(ii) A LEC employee, while processing an order for the repair or restoration of service or engaged in the actual repair or restoration of service on behalf of a competitor, may not either directly or indirectly represent to any end-user that the

repair or restoration of service would have occurred sooner if the end-user had obtained service from the LEC.

(3) Corporate advertising and marketing.

(i) A LEC may not engage in false or deceptive advertising with respect to the offering of any telecommunications service in this Commonwealth.

(ii) A LEC may not state or imply that the services provided by the LEC are inherently superior when purchased from the LEC unless the statement can be factually substantiated.

(iii) A LEC may not state or imply that the services rendered by a competitor may not be reliably rendered or are otherwise of a substandard nature unless the statement can be factually substantiated.

(iv) ~~{An ILEC}~~ **A local exchange telecommunications company** may not state or imply that the continuation of any requested service from the ~~{ILEC}~~ **local exchange telecommunications company** is contingent upon taking other services offered by the ~~{ILEC}~~ **local exchange telecommunications company** that are not technically necessary to provide the requested service.

(4) Cross subsidization.

(i) ~~{An ILEC}~~ **A local exchange telecommunications company** may not use revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize or support any competitive services.

(5) Information sharing and disclosure.

(i) ~~{An ILEC}~~ **A local exchange telecommunications company shall**

~~simultaneously make available to [CLECs] competitive telecommunications carriers network information not in the public domain that is used for sales purposes by the [HLEC] local exchange telecommunications company or the [HLEC's] local exchange telecommunications company's competitive local [exchange] telecommunications services affiliate or division or other corporate subunit that performs that function.]~~

A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SHALL SIMULTANEOUSLY MAKE AVAILABLE TO COMPETITIVE TELECOMMUNICATIONS CARRIERS NETWORK INFORMATION NOT IN THE PUBLIC DOMAIN THAT IS USED FOR SALES PURPOSES BY THE LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR ITS LOCAL EXCHANGE AFFILIATE OR DIVISION OR OTHER CORPORATE SUBUNIT THAT PERFORMS THAT FUNCTION.

(A) The term “network information” means information concerning the availability of unbundled network elements or information necessary for interconnection to the [HLEC's] local exchange telecommunications company's network.

(B) Network information does not include information obtained during the processing of an order or service on behalf of the [HLEC] local exchange telecommunications company or the [HLEC's] local exchange telecommunications company's competitive local exchange affiliate or division or other corporate subunit that performs that function.

(ii) ~~{An HLEC's}~~ A local exchange telecommunications company's employees, including its wholesale employees, shall use ~~{CLEC}~~ competitive telecommunications carrier proprietary information (that is not otherwise available to the ~~{HLEC}~~ local exchange telecommunications company) received in the preordering, ordering, provisioning, billing, maintenance or repairing of any telecommunications services provided to the ~~{CLEC}~~ competitive telecommunications carrier solely for the purpose of providing the services to the CLEC. ~~{HLEC}~~ Local exchange telecommunications company employees may not disclose the ~~{CLEC}~~ competitive telecommunications carrier proprietary information to other employees engaged in the marketing or sales of retail telecommunications services unless the ~~{CLEC}~~ competitive telecommunications carrier provides prior written consent to the disclosure. This provision does not restrict the use of aggregated ~~{CLEC}~~ competitive telecommunications carrier data in a manner that does not disclose proprietary information of any particular ~~{CLEC}~~ competitive telecommunications carrier.

(iii) Subject to customer privacy or confidentiality constraints, a LEC employee may not disclose, directly or indirectly, any customer proprietary information to the LEC's affiliated or nonaffiliated entities unless authorized by the customer under § 63.135 (relating to customer information).

(6) Sharing of employees and facilities. The ~~{HLEC's}~~ local exchange telecommunications company's wholesale employees who are responsible for the processing of a ~~{CLEC}~~ competitive telecommunications carrier order or service of

the operating support system on behalf of a ~~{CLEC}~~ competitive telecommunications carrier may not be shared with the retail portion of the ~~{LEC's}~~ local exchange telecommunications company's business, shall have offices physically separated from the ~~{LEC's}~~ local exchange telecommunications company's retail employees and shall have their own direct line of management.

(7) Adoption and dissemination. Every LEC shall formally adopt and implement the applicable code of conduct provisions as company policy or modify its existing company policy as needed to be consistent with the applicable code of conduct provisions. Every LEC shall also disseminate the applicable code of conduct provisions to its employees and take appropriate steps to train and instruct its employees in their content and application.

Subchapter N. LOCAL SERVICE PROVIDER ABANDONMENT PROCESS

§ 63.302. Definitions.

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

* * * * *

Customer—The end-user recipient of ~~{telephone}~~ telecommunications service provided by ~~{a}~~ an LSP.

* * * * *

LOCAL EXCHANGE CARRIER— A LEGAL ENTITY THAT IS AUTHORIZED TO DO BUSINESS IN PENNSYLVANIA BY THE DEPARTMENT OF STATE

AND HAS BEEN CERTIFICATED BY THE COMMISSION TO OFFER LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE WITHIN A SPECIFIED SERVICE AREA. LECS ENCOMPASS BOTH LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES AND COMPETITIVE TELECOMMUNICATIONS CARRIERS.

* * * * *

~~{Local service—Telecommunications service within a customer’s local calling area.~~

~~(i) The term includes the customer’s local calling plan, dial tone line, touch-tone and directory assistance calls allowed without additional charge.~~

~~(ii) The term also includes services covered by the Federal Line Cost Charge, Pennsylvania Relay Surcharge, Federal Universal Service Fund Surcharge, Local Number Portability Surcharge, Public Safety Emergency Telephone Act (9-1-1) Fee and applicable Federal and State taxes.†~~

LOCAL TELECOMMUNICATIONS SERVICE—TELECOMMUNICATIONS SERVICE WITHIN A CUSTOMER’S LOCAL CALLING AREA, INCLUDING:

(I) THE CUSTOMER’S LOCAL CALLING PLAN, DIAL TONE LINE, TOUCH-TONE AND DIRECTORY ASSISTANCE CALLS ALLOWED WITHOUT ADDITIONAL CHARGE.

(II) SERVICES COVERED BY THE FEDERAL LINE COST CHARGE, PENNSYLVANIA RELAY SURCHARGE, FEDERAL UNIVERSAL SERVICE FUND SURCHARGE, LOCAL NUMBER PORTABILITY SURCHARGE,

**PUBLIC SAFETY EMERGENCY TELEPHONE ACT (9-1-1) FEE AND
APPLICABLE FEDERAL AND STATE TAXES.**

Local service reseller— A LSP that resells another company’s wholesale ~~{telephone}~~
telecommunications services to provide local service to customers.

* * * * *

**TELECOMMUNICATIONS SERVICE—THE OFFERING OF THE
TRANSMISSION OF MESSAGES OR COMMUNICATIONS FOR A FEE TO
THE PUBLIC.**

**CHAPTER 64. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL
~~{TELEPHONE}~~ TELECOMMUNICATIONS SERVICE**

Subchapter A. PRELIMINARY PROVISIONS

§ 64.1. Statement of purpose and policy.

The purpose of this chapter is to establish and enforce uniform, fair and equitable residential ~~{telephone}~~ telecommunications service standards governing account payment and billing, credit and deposit practices, suspension, termination and customer complaint procedures. The purpose of this chapter is to assure adequate provision of residential ~~{telephone}~~ telecommunications service; to restrict unreasonable suspension or termination of or refusal to provide service; and to provide functional alternatives to suspension, termination or refusal to provide service. Every privilege conferred or duty required by this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to ensure justice for all concerned.

§ 64.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Applicant—A person who applies for residential ~~{telephone}~~ telecommunications service, other than a transfer of service from one dwelling to another within the service area of the LEC or a reinstatement of service following a discontinuation or suspension.

Basic service—The transmission of messages or communications by a telephone device between points within a local calling area as established in the tariff of ~~{an}~~ a LEC, including installation service, providing and restoring access lines, touch tone service and handling of unpaid checks as addressed in § 64.11 (relating to method of payment). The term includes charges for 911 service, telecommunications relay service and subscriber line service, but does not include ~~{premise}~~ premises visits for installation of new service.

Billing period—A period of at least 26 days and not more than 35 days, except in the following circumstances:

- (i) An initial bill for a new customer may be less than 26 days or greater than 35 days. The initial bill may never exceed 60 days.
- (ii) A final bill due to discontinuance or termination may be less than 26 days or greater than 35 days but may not exceed 42 days. A bill may be rendered after the final bill for an additional toll, lost equipment or other similar charge.

(iii) Bills for less than 26 days or more than 35 days will be permitted if they result from a rebilling initiated by the company or by a customer dispute to correct a billing problem.

~~Bundled service package—A package of services offered and billed on one bill by an a LEC, as defined in this section, which includes nontariffed, competitive, noncompetitive or protected services, including services of an affiliate, in combinations and at a single price selected by the LEC.~~ (I) A PACKAGE OF SERVICES, WHICH INCLUDES NONCOMPETITIVE OR PROTECTED AND COMPETITIVE SERVICES, INCLUDING SERVICES OF AN AFFILIATE, IN COMBINATIONS AND AT A SINGLE RATE OR CHARGE THAT IS OFFERED AND BILLED ON ONE BILL BY A COMPETITIVE TELECOMMUNICATIONS CARRIER OR A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.

(II) THE TERM DOES NOT INCLUDE A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR COMPETITIVE TELECOMMUNICATIONS CARRIER TARIFF FILING THAT INVOLVES SIMULTANEOUS CHANGES IN RATES AND CHARGES FOR NONCOMPETITIVE SERVICES IN A REVENUE NEUTRAL MANNER.

~~CTC—COMPETITIVE TELECOMMUNICATIONS CARRIER—AN ENTITY THAT PROVIDES TELECOMMUNICATIONS SERVICES SUBJECT TO THE JURISDICTION OF THE COMMISSION AND IN COMPETITION WITH A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY.~~

~~Commercial service—Telephone Telecommunications service to a location other than~~

a dwelling, except that service to a dwelling used for both residential and commercial purposes shall be considered commercial service if concurrent residential service is provided.

Competitive wire center—A wire center or other geographic area that is defined and served by a local exchange telecommunications company where all of its PROTECTED, retail-NONPROTECTED AND RETAIL NONCOMPETITIVE telecommunications services have been declared or determined to be competitive by the Commission as competitive under 66 Pa.C.S. § 3016 (relating to competitive services).

Cramming—The submission or inclusion of unauthorized, misleading or deceptive charges for products or services on an end-user customer's local telephone bill.

Customer—An applicant in whose name a residential service account is billed.

Delinquent account—Charges for ~~{telephone}~~ **telecommunications** service which have not been paid in full by the due date stated on the bill or otherwise agreed upon. The contested portion of an account may not be deemed delinquent if, before the due date, payment arrangements with the LEC have been entered into by the customer, a timely filed notice of dispute is pending before the LEC or an informal or formal complaint is timely filed with and is pending before the Commission.

Discontinuation of service—The temporary or permanent cessation of service upon the request of a customer.

Dispute—A grievance of an applicant, customer or customer's designee about a utility's application of one or more provisions covered by this chapter, including credit

determinations, deposit requirements, the accuracy of amounts billed or the proper party to be charged, which remains unresolved after the initial contact or utility follow-up response when the applicant, customer or customer's designee consents to the utility reviewing pertinent records or other information and calling back. The term does not include a disagreement arising from matters outside the scope of this chapter, or failure to negotiate a mutually satisfactory payment agreement regarding undisputed amounts, or a disagreement over billing data provided to the local exchange carrier by an interexchange carrier.

Dwelling—A house, apartment or other location where a person resides.

Emergency—An unforeseen combination of circumstances requiring temporary discontinuation of service either to effect repairs or maintenance or to eliminate an imminent threat to life, health, safety or property.

Interexchange carrier—A carrier which provides interexchange services to the public under 66 Pa.C.S. § ~~{3008}~~ 3018 (relating to interexchange telecommunications ~~{carrier}~~ carriers).

LEC—Local Exchange Carrier— ~~[A public utility which provides basic service either exclusively or in addition to toll service as an incumbent or a competitive carrier.]~~

A JURISDICTIONAL TELECOMMUNICATIONS public utility which provides basic service either exclusively or in addition to toll service. A LOCAL EXCHANGE CARRIER CAN BE EITHER A LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY OR A COMPETITIVE TELECOMMUNICATIONS CARRIER.

**LETC—LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY—A
TELECOMMUNICATIONS SERVICE PROVIDER AS DEFINED IN 66 PA.C.S. §
3012 (RELATING TO DEFINITIONS).**

Nonbasic service—A service or a product other than ~~{telephone}~~ telecommunications service which is either offered or billed for by ~~{an}~~ a LEC. The term includes the sale or lease of customer premises equipment, inside wiring maintenance plans, repair services, premises visits for service installation, nonrecurring charges for nonbasic services, restoral charges for nonbasic services, custom calling services, audiotex services, pay-per-call services and international information or entertainment services.

Noncompetitive wire center—A wire center or other geographic area that is defined and served by a local exchange telecommunications company where the jurisdictional telecommunications public utility ~~continues to offer to its customer OFFERS~~ protected, retail nonprotected and noncompetitive telecommunications services as defined by 66 Pa.C.S. § 3012 (relating to definitions).

Occupant—A person who resides at a location to which residential service is supplied.

Payment agreement—A mutually satisfactory agreement between the customer and the LEC whereby a customer who admits liability for billed service is permitted to pay the unpaid balance of the account in one or more payments over a reasonable period.

Physician—An individual permitted under the statutes of the Commonwealth to engage in the practice of medicine and surgery or in the practice of osteopathy or osteopathic surgery.

Residential service—~~{Telephone}~~ Telecommunications service supplied to a dwelling,

including service provided to a location used for both residential and commercial purposes if no concurrent commercial service is provided. The term does not include ~~{telephone}~~ telecommunications service provided to a hotel or motel.

Service provider—Facilities-based interexchange carrier, interexchange reseller or information service provider initiating the service or charges to end-user customers.

Slamming—The unauthorized changing of a customer's telecommunications provider, whether for local exchange service, intraLATA toll or interLATA toll.

Suspension of service—A temporary cessation of service without the consent of the customer.

~~{Telephone}~~ Telecommunications company—A public utility which provides ~~{telephone}~~ telecommunications service subject to Commission jurisdiction.

~~{Telephone}~~ Telecommunications service—The transmission of messages or communications by telephone. The term includes basic service and toll service.

Termination of service—Permanent cessation of service after a suspension without the consent of the customer.

Toll service—The transmission of messages or communications by telephone between points which are not both within a local calling area as established in the tariff of ~~{an}~~ a LEC. The term includes service that is either billed by or provided by ~~{an}~~ a LEC, toll restoral charges and presubscription interexchange carrier change charges.

Subchapter B. PAYMENT AND

BILLING STANDARDS

§ 64.11. Method of payment.

Payment may be made in any reasonable manner including payment by personal check, unless the customer within the past year has tendered a check which has been returned unpaid to the LEC by a financial institution for a reason for which the customer is at fault. When a tendered personal check is returned unpaid to the LEC by a financial institution for a reason for which the customer is at fault, the LEC may treat such unpaid check as a payment never made by the customer and, if it does so, shall not be obligated to halt suspension or termination action based on its receipt of this check from the customer. The LEC may impose a charge for a returned check as long as the charge is set forth in the LEC's approved tariff, Product Guide or similar document.

~~The LEC also may impose a handling charge, the amount of which shall be set forth in the carrier's approved tariff.~~ Notwithstanding the foregoing provisions, the LEC may not proceed with suspension or termination of service based on a disputed billed amount ~~or impose a handling charge~~ if the customer stops payment on a check due to a good faith billing dispute.

§ 64.12. Due date for payment.

The due date for payment of a monthly bill, whether it be a paper bill or an electronic bill generated instead of a paper bill, shall be at least 20 days from the date of mailing **OR, IN THE CASE OF AN ELECTRONIC BILL, FROM THE DATE OF**

TRANSMISSION by the LEC to the customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday or bank holiday or another day when the offices of the LEC which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The LEC may not impose a late payment charge unless payment is received more than 5 days after the due date.

(iii) The LEC may not mail or deliver notice of suspension until at least 5 days after the stated due date.

(3) *Date of payment [~~to branch office or authorized payment agent~~] **MADE IN PERSON OR ELECTRONICALLY.*** The effective date of payment to a branch office or authorized payment agent is the date of actual payment at that location. **THE EFFECTIVE DATE OF THE PAYMENT MADE ELECTRONICALLY TO THE UTILITY IS THE DATE THE CUSTOMER MADE THE ELECTRONIC PAYMENT.**

(4) *Multiple notifications.* When a LEC advises a customer by multiple notices or contacts and they contain different due dates, the date on or before which payment is due shall be the latest date contained in the notices listed in this section.

§ 64.13. Billing frequency.

~~{An}~~ A LEC shall render either a paper bill or shall generate an electronic billing instead of paper bills OR AN ELECTRONIC BILL once every billing period to customers in accordance with ~~approved rate schedules~~ **THE LEC'S TARIFF, PRODUCT GUIDE OR SIMILAR DOCUMENT.**

§ 64.14. Billing information.

(a) Every bill rendered must ~~{state clearly}~~ clearly state the following information:

- (1) The date of the bill.
- (2) The due date on or before which payment shall be received to avoid an account being considered delinquent.
- (3) The beginning and ending dates of the billing period for service, excluding toll usage and equipment.
- (4) The amount due for basic service, nonbasic service, and taxes and applicable surcharges, during the current billing period.
- (5) An itemized statement of toll charges listing the date, time, destination, duration and rate period for each toll call unless the customer subscribes to an unlimited toll service plan or toll service is included as part of the customer's bundled service package.
- (6) The amounts for security deposits owed by or credited to existing customers. This amount shall be separately stated on each bill if a security deposit remains unpaid.
- (7) The total amount of payments and other credits made to the account during the current billing period.
- (8) The amount of late payment charges.

(9) The total amount due.

(10) A statement directing the customer to register a question or complaint about the bill prior to the due date, with the address and telephone number where the customer may direct questions or complaints.

(11) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill, and an explanation of the various charges, if applicable, can be obtained by contacting the business office of the LEC.

~~(b) [At least annually, and upon request of the customer, the LEC shall provide an itemization of all service equipment and other recurring charges]~~ **(Reserved).**

~~(c) [Upon request for new or additional services, the LEC shall inform the customer of the monthly recurring charge for service and each item of equipment ordered by the customer and shall provide a minimum and maximum estimate of applicable nonrecurring charges. The LEC shall maintain a record of the estimates given for 90 days or approximately 3 billing cycles. The LEC shall have available a printed explanation of alternative rates and services.]~~ **(RESERVED).**

~~(d) [Every final bill must contain a statement that a subsequent bill will be rendered if needed to collect charges, such as additional tolls or lost equipment.]~~ **(Reserved).**

§ 64.15. ~~[Advance payments]~~ **(Reserved).**

~~[Payment may be required before furnishing any of the following services:~~

~~(1) The construction of facilities and furnishing of special equipment.~~

~~(2) Temporary service for short term use.]~~

§ 64.22. ~~{Billing service for interexchange carriers}~~ (Reserved).

~~{A LEC may provide billing services for interexchange carriers when the LEC applies its deposit rules.}~~

§ 64.24. Provision of bundled service packages.

* * * * *

(c) *Consumer protection requirements.* ~~An LEC that offers bundled service packages is subject to the following consumer protection requirements:~~ **A LEC THAT IS LEGALLY OBLIGATED TO OFFER ANY “PROTECTED SERVICE” PURSUANT TO CHAPTER 30, 66 PA.C.S. §§ 3011 ET SEQ., TO CERTAIN RESIDENTIAL CUSTOMERS SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS WHEN OFFERING ANY BUNDLED SERVICES PACKAGE THAT INCLUDES BASIC SERVICE TO SUCH CUSTOMERS:**

Subchapter C. CREDIT AND DEPOSIT STANDARDS POLICY

§ 64.31. LEC credit and deposit policies.

~~[An essential ingredient of the credit and deposit policies of each LEC shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area or a part thereof. Deposit policies shall be based on the credit risk of the applicant or customer rather than upon the credit history of the affected premises or upon the collective credit reputation or experience in the area in which the applicant or customer lives without regard to race, religion, gender, age if over~~

~~18, national origin or marital status.] A LEC SHALL DESCRIBE ITS CREDIT AND DEPOSIT STANDARDS, WHICH MUST BE REASONABLE UNDER SECTION 1501 OF THE CODE, IN A TARIFF, PRODUCT GUIDE, OR SIMILAR DOCUMENT.~~

~~§64.32. [Credit standards] (RESERVED).~~

~~[A LEC shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:]~~

~~(1) [Earlier LEC payment history. The applicant had service with a LEC within a period of 24 consecutive months before the date of application and the following conditions exist:]~~

~~(i) [Service was furnished in the name of the applicant, and there is no unreturned equipment.]~~

~~(ii) [Service was not suspended for nonpayment nor terminated during the last 12 months of service.]~~

~~(iii) [The applicant does not have an unpaid balance from earlier service.]~~

~~(iv) [The applicant was not required to pay a security deposit under § 64.35 (relating to deposit requirements for existing customers) for the earlier service.]~~

~~(2) [Ownership of real property. The applicant verifies the ownership of or the entry into an agreement to purchase real property located in the area served by the LEC or is renting a residence under a lease of 1 year or longer, unless the applicant has an otherwise unsatisfactory payment history as a LEC customer within 2 years before the application for service as described in paragraph (1).]~~

(3) [~~Prior utility payment history. The applicant has prior satisfactory credit history for use of utility service under § 56.32 (relating to credit standards). In all instances, the utility shall obtain from the applicant authorization as a condition for completing the utility credit search. If the applicant elects not to authorize completion of the credit search, the utility shall conduct a credit search in the manner prescribed under paragraph (4).~~]

(4) [~~Credit information. The applicant provides information and verification demonstrating that he is not an unsatisfactory credit risk.~~]

(i) [~~The absence of prior credit history does not, of itself, indicate an unsatisfactory credit risk and does not constitute grounds for requiring a deposit.~~]

(ii) [~~The LEC may request and consider information including the following:~~]

(A) [~~The applicant's social security number.~~]

(B) [~~The name of the employer of the applicant.~~]

(C) [~~The place and length of employment.~~]

(D) [~~Residence during the previous 5 years.~~]

(E) [~~Letters of reference.~~]

(F) [~~Credit cards.~~]

(G) [~~A significant source of income other than from employment.~~]

(iii) [~~If a credit investigation is expected to take longer than 3 business days the LEC shall provide service pending completion of the investigation.~~]

§ 64.33. [Payment of outstanding balance] (RESERVED).

(a) [~~The LEC may require, as a condition for furnishing residential service to an~~

~~applicant, the payment of an outstanding residential account with the LEC which accrued within the past 4 years, for which the applicant is legally responsible and for which the applicant was billed properly. However, the outstanding residential account with the LEC may be spread out over a reasonable period of time. Factors to be taken into account shall include, but not be limited to, the size of the unpaid balance, the payment history of the customer, and the length of time over which the bill accumulated.]~~

~~(b) [A LEC may not require, as a condition for the furnishing of residential service, payment for residential service previously furnished under an account in the name of persons other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished.]~~

~~(c) [This section may not affect the creditor's rights and remedies of the LEC otherwise permitted by law.]~~

~~§ 64.34. [Written procedures] (RESERVED).~~

~~[Each LEC shall establish written procedures for determining the credit status of an applicant. Each LEC employe processing applications or determining the credit status of an applicant shall be familiar with and have ready access to a copy of the written procedures of the LEC. A copy of the procedures shall be maintained on file in each business office of the LEC and be made available, upon request, for inspection by the public and the Commission.]~~

~~(1) [*Informing applicants of procedures.* The LEC personnel shall provide an explanation of applicable credit and deposit procedures to each customer or applicant for~~

service.]

(2) [~~Reasons for deposit request. If a deposit or payment of an outstanding residential account is required before furnishing service, the LEC shall inform the applicant in writing of the reasons for denial of credit and how to obtain service. Existing customers will be informed of the reasons for denial of credit before suspension of service.~~]

§ 64.35. [Deposit requirements for existing customers] (Reserved).

[Deposits may be required to secure the account of an existing customer if any of the following conditions exist:]

(1) [~~Delinquent account. A customer has made payment of two consecutive bills, or of more than two bills within the proceeding 12 months, after the payment due date. Before requesting a deposit under this paragraph, the LEC shall give the customer written notification of its intent to request a deposit if current and future bills continue to be paid after the due date.~~]

(i) [Notification shall clearly indicate that a deposit is not required at this time but that, if bills continue to be paid after the due date, a deposit will be required.]

(ii) [Notification may be mailed or delivered to the customer together with a bill for telephone service.]

(iii) [Notification shall set forth the address and telephone number of the LEC office where complaints or questions may be registered.]

(iv) [The subsequent request for deposit shall clearly indicate that a customer should register a question or complaint about that matter prior to the date the deposit is due in order to avoid having service suspended pending resolution of a dispute. The request

shall include the telephone number of the LEC office where questions or complaints may be registered.]

(2) [~~Condition to the reconnection of service. A LEC may require a deposit as a condition for reconnection of service after suspension or termination of service for nonpayment.~~]

(3) [~~Failure to comply with payment agreement. A LEC may require a deposit when a customer fails to comply with the terms and conditions of a payment agreement, whether or not service has been suspended or terminated.~~]

§ 64.36. [Method of making deposit] (RESERVED).

[An LEC's request for deposit may be satisfied by one of the following:]

(1) [~~Posting a cash deposit. The following conditions apply:~~]

(i) [~~Applicants. The amount of cash deposit required from an applicant may not exceed the estimated average 2-month bill for basic service plus the average 2-month toll charges for existing residential customers in the applicant's exchange during the immediately preceding 12-month period. Deposits may be adjusted to maintain a level equal to the estimated average 2-month bill. No more than one half of the deposit amount may be required prior to the providing of service by the utility with the balance of the deposit due no less than 30 days from the initial deposit payment.~~]

(ii) [~~Existing customers. The amount of a cash deposit required from an existing customer may not exceed the customer's average 2-month bill, including toll charges, during the preceding 12-month period. Deposits may be adjusted to maintain a level~~]

~~equal to the average 2-month bill. The deposit shall be paid within 20 days of the request for deposit.]~~

~~(2) [Furnishing a written third-party guarantee. Another customer who has met or can meet the credit standards of § 64.32 (relating to credit standards) may furnish a written guarantee to secure payment in an amount equal to the cash deposit required from the applicant or customer. The guarantor shall be discharged when the applicant or customer meets the terms and conditions of § 64.37 (relating to refund of deposits)]~~

~~§ 64.37. [Refund of deposits] (RESERVED).~~

~~[An LEC shall refund the cash deposit, plus accrued interest, under the following conditions:]~~

~~(1) [Termination or permanent discontinuance of service. Upon termination or discontinuance of service, the LEC shall apply the deposit of a customer, including accrued interest, to the outstanding balance and refund the remainder to the customer. A transfer of service from one location to another within the service area may not be deemed a discontinuance within the meaning of this paragraph.]~~

~~(2) [Credit established. At the customer's request, when a customer establishes credit under § 64.32 (relating to credit standards), the LEC shall refund the cash deposit plus accrued interest.]~~

~~(3) [Prompt payment of bills. After a customer has paid bills for service for 12 consecutive months without having service suspended or terminated and without having paid bills subsequent to the due date on more than two occasions, the LEC shall refund the cash deposit, plus accrued interest, so long as the customer is not currently~~

delinquent.]

(4) [~~Optional refund: At the option of the LEC, a cash deposit, including accrued interest, may be refunded, in whole or in part, at any time before the expiration of the time period stated in paragraph (3).~~]

§ 64.38. [Application of deposit to bills] (RESERVED).

[~~The customer may elect to have a deposit applied to reduce bills for telephone service instead of a cash refund.~~]

§ 64.39. [Periodic review] (RESERVED).

[~~If a customer is not entitled to a refund under § 64.37 (relating to refund of deposits), the LEC shall review the account of the customer each succeeding quarter and shall make appropriate disposition of the deposit in accordance with § 64.37 and § 64.38 (relating to application of deposit to bills).~~]

§ 64.40. [Refund statement] (RESERVED).

[~~When a cash deposit is refunded, the LEC shall either mail or deliver to the customer a written statement showing the amount of the original deposit plus all accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit, and the remaining balance.~~]

§ 64.41. [Interest] (RESERVED).

~~[Interest calculated under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known to as the Loan Interest and Protection Law, shall be payable on deposits without deductions for taxes thereon. Interest shall be paid annually to the customer or, at the option of either the LEC or the customer, shall be applied to the customer's bill.]~~

Subchapter D. ~~[INTERRUPTION AND DISCONTINUATION OF SERVICE]~~ (Reserved).

§ 64.51. ~~[Temporary interruption]~~ (RESERVED).

~~[The LEC may temporarily interrupt service when necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency. Each LEC shall establish procedures to be followed by its employes to prevent or mitigate interruption or impairment and provide prompt notification to affected customers.]~~

~~(1) *[Notification procedures.* When the LEC knows in advance of the circumstances requiring the service interruption, it shall take all reasonable steps, such as personal contact and use of the mass media, to give earlier notice of the cause and expected duration of the interruption to all customers who may be affected. When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration shall be given as soon as possible thereafter.]~~

~~(2) *[Permissible duration.* Service may be interrupted only as long as necessary to~~

~~protect the health or safety of the public, to protect property, or to remedy the situation which necessitated the interruption. Service shall be resumed as soon as possible thereafter.]~~

§ 64.52. [Refunds for service interruptions] (RESERVED).

~~(a) [When main service is interrupted for a period of at least 24 hours, the LEC, after notice by the customer, shall apply the following schedule of allowances except in situations provided for in subsection (b):]~~

~~(1) [One thirtieth of the tariff monthly rate of all services and facilities furnished by the company rendered inoperative, useless or substantially impaired for each of the first three full 24-hour periods during which the interruption continues after notice by the customer to the company if the out of service extends beyond a minimum of 24 hours.]~~

~~(2) [Two thirtieths of the tariff monthly rate for each full 24-hour period beyond the first three 24-hour periods referred to in paragraph (1). However, in no instance shall the allowance for the out of service period exceed the total charges in a billing period for the service and facilities furnished by the company rendered useless or impaired.]~~

~~(b) [When service is interrupted for a period of at least 24 hours due to storms, fires, floods or other conditions beyond the control of the company, an allowance of 1/30 of the tariff monthly rate for all services and facilities furnished by the company rendered inoperative or substantially impaired shall apply for each full 24 hours during which the interruption continues after notice by the customer to the company.]~~

~~(c) [The allowances described in this section are not applicable when service is~~

~~interrupted by the negligence or willful act of the customer to service or where the company, under the terms of the contract for service, suspends or terminates service for nonpayment of charges, or for unlawful or improper use of the facilities or service, or for another reason provided for in the filed and effective tariff.]~~

§ 64.53. [~~Discontinuance of service~~] (RESERVED).

~~[A customer who wishes to have service discontinued shall give at least 5 days oral or written notice to the telephone company, specifying the date on which it is desired that service be discontinued. The customer shall retain responsibility for service and equipment charges until the day and time on which service is requested to be discontinued. If the customer fails to provide the LEC with proper notice or access to the premises, the customer shall continue to be responsible for equipment and service rendered.]~~

Subchapter E. SUSPENSION OF SERVICE

GROUND FOR SUSPENSION

§ 64.61. Authorized suspension of service.

~~{Telephone}~~ Telecommunications service to a dwelling may be suspended for any of the following reasons:

* * * * *

(6) Fraud or material misrepresentation of identity to obtain ~~{telephone}~~

telecommunications service.

* * * * *

(8) Unpaid indebtedness for ~~telephone~~ telecommunications service previously furnished by the LEC in the name of the customer within 4 years of the date the bill is rendered.

(9) ABUSIVE, ILLEGAL OR FRAUDULENT ACTIVITY.

NOTICE PROCEDURES PRIOR TO SUSPENSION

§ 64.71. General notice provisions.

The LEC shall mail or deliver written notice to the customer at least 7 days before the date of proposed suspension regardless of the grounds upon which suspension is sought, with the exception of the following: Failure to comply with the material terms of a payment agreement for toll or nonbasic service, or both. In these cases, the LEC shall comply with § 64.81 (relating to limited notice upon noncompliance with report or order). **IN LIEU OF MAILING OR OTHERWISE PHYSICALLY DELIVERING WRITTEN NOTICE OF SUSPENSION, THE LEC MAY TRANSMIT THE NOTICE ELECTRONICALLY, SO LONG AS THE LEC OBTAINS THE PRIOR WRITTEN CONSENT OF THE CUSTOMER TO RECEIVE SUSPENSION NOTICES ELECTRONICALLY.**

§ 64.73. Notice when dispute pending.

(a) A LEC shall not mail or deliver a notice of suspension if a notice of dispute, as defined in § 64.2 (relating to definitions), has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed suspension. ~~except where toll usage exceeds the following usage in a billing period after the filing of the notice of dispute or informal complaint:~~

~~(1) For customers who have received service for 3 months or less—150% of the average use of the customer's exchange during the previous 12 months.~~

~~(2) For customers who have received service for greater than 3 months but less than 12 months—150% of the customer's average use.~~

~~(3) For customers who have received service for more than 12 months—150% of the customer's average use during the previous 12 months~~ for customers who have received service for more than 12 months—150% of the customer's average use during the previous 12 months.

(b) A notice mailed or delivered contrary to the requirements of this section shall be void.

§ 64.74. Procedures upon customer contact before suspension.

(a) If, at a time after the issuance of the suspension notice and before the suspension of service, a customer contacts the LEC concerning the proposed suspension, an authorized LEC employee shall fully explain, when applicable, the following:

(1) The reasons for the proposed suspension.

(2) The available methods of avoiding a suspension including:

(i) Tendering the past due amount as specified on the suspension notice or otherwise

eliminating the grounds for suspension.

(ii) Entering a payment agreement.

(iii) The right of the customer to file a dispute with the ~~{telephone}~~ telecommunications company and, thereafter, an informal complaint with the Commission.

(3) The procedures for resolving disputes relating to charges on the notice ~~{other than IXC toll charges}~~ and the procedures for filing informal complaints to request payment terms on the basic service portion of the account, including the address and the telephone number of the nearest regional Commission office.

(4) The duty of the customer to pay a portion of a bill not honestly disputed.

(5) ~~{The duty of the customer to restrict toll usage to 150% of average normal toll usage.}~~ (RESERVED)

(6) The medical emergency procedures.

(7) That upon failure to timely appeal from or comply with a ~~{telephone}~~ telecommunications company report, as defined in § 64.142 (relating to contents of written summary by the LEC), an informal complaint report, or an order from a formal complaint—the LEC is not required to give further written notice before suspension so long as the LEC makes a reasonable attempt to contact the customer personally at least 24 hours prior to suspension.

EMERGENCY PROVISIONS

§ 64.103. Medical certification.

Certifications initially may be written or oral, subject to the right of the LEC to verify the certification by calling the physician or to require written confirmation within 7 days. All certifications, whether written or oral, shall include all of the following information.

(1) The name, address and telephone number of the customer in whose name the account is registered.

* * * * *

(5) The specific reason why access to ~~telephone~~ telecommunications service must be maintained.

Subchapter F. TERMINATION OF SERVICE

§ 64.123. Termination notice.

Immediately after service is suspended, a termination notice which conforms substantially to the suspension notice and which indicates how the customer may arrange to have service restored shall be mailed to the customer's billing address. **IN LIEU OF MAILING WRITTEN NOTICE OF TERMINATION, THE LEC MAY TRANSMIT THE NOTICE ELECTRONICALLY, SO LONG AS THE LEC OBTAINS THE PRIOR WRITTEN CONSENT OF THE CUSTOMER TO RECEIVE TERMINATION NOTICES ELECTRONICALLY.** The termination notice must include:

(1) The amount past due for basic service which the customer shall pay to avoid the termination of basic service.

(2) A medical emergency restoration notice substantially in the form set forth in

Appendix B (relating to Medical Emergency Restoration Notice).

(3) A statement that service will be terminated on or after a specified date and a clear explanation that the customer shall request service as a new applicant, subject to additional charges, if termination occurs.

Subchapter G. DISPUTES; INFORMAL AND FORMAL COMPLAINTS

INFORMAL COMPLAINT PROCEDURES

§ 64.153. Commission informal complaint procedures.

(a) The timely filing of an informal complaint acts as a limited stay and the LEC may not suspend or terminate service based on the complaining party's nonpayment of any billed amount which is contested in the informal complaint until the complaint is resolved. The LEC may not suspend or terminate service based on the complaining party's nonpayment of additional billed amounts that reflect the same underlying problem, other than a claimed inability to pay, as the billed amounts contested in the informal complaint. This limited stay does not prevent the LEC from suspending or terminating service based on the complaining party's nonpayment of other billed amounts, where the suspension or termination is otherwise permitted under this chapter. **THIS SUBSECTION SHALL BE READ IN CONJUNCTION WITH §§ 64.141—64.171 WHEN APPLICABLE TO RESIDENTIAL UTILITY SERVICE.**

(a.1) (B) Upon the filing of an informal complaint related to a billing dispute that complies with §§ 64.131 – 64.133, the Bureau of Consumer Services of the Commission can seek to immediately and contemporaneously transfer the customer

to the ITS LEC for resolution to address the complaint in the following manner:

(1) The transfer will occur with the customer's explicit consent.

(2) The transfer will be made to a live public utility operator or customer service representative. THE TRANSFER WILL BE MADE TO A LIVE OPERATOR OR CUSTOMER SERVICE REPRESENTATIVE OF THE LEC.

(3) The public utility LEC shall maintain a dedicated toll-free telephone number for the automatic customer transfer process.

(4) In the event that the customer inquiry or service or CUSTOMER'S billing complaint cannot be resolved BY THE LEC OR THE CUSTOMER EXPRESSES DISSATISFACTION WITH THE LEC'S ATTEMPT TO RESOLVE THE BILLING DISPUTE, it will be referred back to the Bureau of Consumer Services of the Commission for resolution in accordance with the provisions of subsection (c).

(5) The COMMISSION'S Bureau of Consumer Services of the Commission and participating public utilities LECs may establish automated electronic communication links, electronic data interfaces, or appropriate web page access, for the exchange of information and data in the automatic customer transfer. These links shall be used only by authorized Commission and THE LEC'S public utility personnel and shall safeguard the customer's personal data and billing information from public disclosure.

~~{(b) Upon the filing of an}~~ (C) If the customer declines to participate in the

automatic transfer process outlined in subsection (a.1)(B), the informal complaint ~~is~~ ~~which~~ shall be docketed as “(complainant) v. (company)~~is~~” and ~~THE Commission~~ ~~staff~~ **COMMISSION’S BUREAU OF CONSUMERS SERVICES** will immediately notify the utility LEC, review the dispute **AND MAKE A FULL AND PROMPT INVESTIGATION OF THE BILLING COMPLAINT MADE TO IT BY THE CUSTOMERS**, and, within a reasonable period of time, issue to the utility LEC and the complaining party an informal report with findings and a decision. The reports shall be in writing and a summary will be sent to the parties if a party requests it or if the ~~Commission-staff~~ **COMMISSION’S BUREAU OF CONSUMER SERVICES** finds that a summary is necessary.

(1) *Review techniques.* Review shall be by appropriate means, including LEC written summaries **PREPARED IN ACCORDANCE WITH § 64.142**, telephone calls, conferences, written statements, research, inquiry and investigation.

Procedures shall be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute. Information and documents requested by Commission staff as part of the review process shall be provided by the LEC within 30 days of the request **AS RECORDS OF COMPLAINTS SHALL BE KEPT IN ACCORDANCE WITH § 64.192 (RELATING TO RECORD MAINTENANCE).**

(2) *Settlement.* Before the issuance of its report, ~~Commission-staff~~ **THE COMMISSION’S BUREAU OF CONSUMER SERVICES** may negotiate with the parties in an attempt to settle the matters in dispute. **IF THE BILLING**

**COMPLAINT IS RESOLVED, THE COMMISSION'S BUREAU OF
CONSUMER SERVICES SHALL TERMINATE ITS INVESTIGATION
OF THE ISSUE.**

~~{(e)}~~ (D) Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under Chapter 5 (relating to formal proceedings).

~~{(d)}~~ (E) Subsection (b) supersedes § 3.112 (relating to action on informal complaints).

Subchapter H. RESTORATION OF SERVICE

§ 64.181. Restoration of service after suspension.

If service has been suspended, the LEC shall reconnect service by the end of the first full working day after the customer has complied with or provided adequate assurance of compliance with an applicable provision of Subchapter C (relating to credit and deposit standards policy) and one of the following:

- (1) Full payment of outstanding charges plus the reconnection fee listed in the LEC's lawful tariff, pricing guide or similar document. The payment may not exceed the total of applicable rates and reconnection fees specified in the LEC's tariff, pricing guide or similar document. Payment of outstanding charges and the reconnection fee may be spread out over a reasonable period. Factors to be taken into account include the size of the unpaid balance, the payment history of the ratepayer and the length of time over which the bill accumulated.
- (2) Payment of amounts currently due according to a payment agreement, plus a

reconnection fee, which may be a part of the settlement or payment agreement.

(3) Payment of an amount deemed appropriate by Commission staff upon its review of an informal complaint.

(4) Adequate assurances that unauthorized use or practice will cease, plus full payment of the reconnection fee of the LEC, which reconnection fee may be subject to a payment agreement.

§ 64.182. ~~{Restoration of service after termination}~~ (Reserved).

~~{When service has been terminated, the customer shall reapply for service as an applicant.}~~

Subchapter I. PUBLIC INFORMATION; RECORD MAINTENANCE

§ 64.191. **Public information.**

(a) LEC service representatives shall provide applicants who apply for residential ~~{telephone}~~ telecommunications service in person with a concise, easy-to-understand printed price list showing all available service and equipment options. The price of the least expensive single-party ~~basic~~-**TELECOMMUNICATIONS** service option shall be clearly and conspicuously displayed on the list.

(b) If an applicant applies for service by telephone, the LEC service representative shall:

(1) Explain and give the price of the least expensive type of single-party ~~basic~~ **TELECOMMUNICATIONS** service.

(2) Determine whether the applicant wants information about services for customers with disabilities.

* * * * *

(d) The LEC service representative shall inform applicants when services discussed are optional and shall include the price with the description of each optional service.

~~(e) [The explanations of toll-presubscription, whether interLATA, intraLATA, or both, shall be objective and unbiased.]~~ The LEC service representative shall inform each applicant that they will be sent a confirmation letter, which will include:

(1) An itemization of the services ordered.

(2) The price of each service ordered.

(3) Identification of the services that are optional.

(4) Information instructing the applicant that a more thorough explanation and price list of services of interest to residential customers, and instructions on how to obtain the information, may be found in the telephone directory, when applicable.

~~(f) [The LEC service representative shall inform each applicant that they will be sent a confirmation letter, which will include:~~

~~(1) An itemization of the services ordered.~~

~~(2) The price of each service ordered.~~

~~(3) Identification of the services that are optional.~~

~~(4) Information instructing the applicant that a more thorough explanation and price list of services of interest to residential customers, and instructions on how to~~

~~obtain the information, may be found in the telephone directory, when applicable.~~

In addition to the notice requirements set forth in this chapter, ~~{before July 1, 1985,}~~ each LEC shall prepare a summary of the rights and responsibilities of the LEC and its customers under this chapter. This written information shall be subject to Commission review and approval and shall be reproduced by the LEC, displayed prominently, available at LEC locations open to the general public, printed in each telephone directory, and made available to each new customer and shall be available thereafter only upon request. ~~{Thereafter, the information shall be delivered or mailed to each new customer when service begins and shall be available at all times upon request.}~~ The written information shall indicate conspicuously that it is being provided in accordance with this chapter and shall contain information including, but not limited to, the following:

- (1) Billing procedures.
- (2) Methods of customer verification of billing accuracy.
- (3) Payment requirements and procedures.
- (4) Security deposit and guarantee requirements.
- (5) Procedures for suspension, termination and reconnection of service.
- (6) Dispute, informal complaint and formal complaint procedures.
- (7) Third-party notification procedures.
- (8) Telephone numbers and addresses of the LEC and of the nearest Regional Office of the Commission where further inquiries may be made.
- (9) Definitions of terms or abbreviations used by the ~~{telephone}~~

telecommunications company on its bills.

~~(g) In addition to the notice requirements set forth in this chapter, before July 1, 1985, each LEC shall prepare a summary of the rights and responsibilities of the LEC and its customers under this chapter. This written information shall be subject to Commission review and approval and shall be reproduced by the LEC, displayed prominently, available at LEC locations open to the general public, printed in each telephone directory, and made available to each customer. Thereafter, the information shall be delivered or mailed to each new customer when service begins and shall be available at all times upon request. The written information shall indicate conspicuously that it is being provided in accordance with this chapter and shall contain information including, but not limited to, the following: (Reserved).~~

~~(1) Billing procedures.~~

~~(2) Methods of customer verification of billing accuracy.~~

~~(3) Payment requirements and procedures.~~

~~(4) Security deposit and guarantee requirements.~~

~~(5) Procedures for suspension, termination and reconnection of service.~~

~~(6) Dispute, informal complaint and formal complaint procedures.~~

~~(7) Third-party notification procedures.~~

~~(8) Telephone numbers and addresses of the LEC and of the nearest Regional Office of the Commission where further inquiries may be made.~~

~~(9) Definitions of terms or abbreviations used by the telephone company on~~

~~its bills.~~

Subchapter J. ANNUAL LEC REPORTING REQUIREMENTS

§ 64.201. Reporting requirements.

(a) *Annual report.* Within 90 days after the end of each calendar year, each LEC with residential accounts shall file with the Commission an annual report containing residential account information as listed in subsection (b) for the previous calendar year.

(b) *Elements of periodic reporting.* The following must be included in periodic reporting as required under this section:

- (1) The average number of residential accounts per month.
- (2) The average residential customer bill per month for ~~each of the following:~~
 - ~~(i) Basic service.~~
 - ~~(ii) Nonbasic service.~~
 - ~~(iii) Toll service.~~
 - ~~(iv) Total amount due ((i) + (ii) + (iii))~~ basic service.
- (3) The average number of overdue residential accounts per month.
- (4) The average overdue residential customer bill per month for ~~+~~
 - ~~(i) Basic service.~~
 - ~~(ii) Nonbasic service.~~
 - ~~(iii) Toll service.~~
 - ~~(iv) Total amount overdue ((i) + (ii) + (iii))~~ basic service.
- (5) The average number of residential basic service suspension notices sent per

month.

(6) The average number of residential basic service suspensions per month.

(7) The average number of residential basic service terminations per month.

(8) LEC gross revenue from all residential accounts ~~{separated as follows:~~

~~(i) Basic service.~~

~~(ii) Nonbasic service.~~

~~(iii) Toll service.~~

~~(iv) Total revenue ((i) + (ii) + (iii))} for basic service.~~

(9) LEC gross write-offs of uncollectible residential accounts ~~{separated as follows:~~

~~(i) Basic service.~~

~~(ii) Nonbasic service.~~

~~(iii) Toll service.~~

~~(iv) Total gross write-offs ((i) + (ii) + (iii))} for basic service.~~

(10) LEC net write-offs of uncollectible residential accounts ~~{separated as follows:~~

~~(i) Basic service.~~

~~(ii) Nonbasic service.~~

~~(iii) Toll service.~~

~~(iv) Total net write-offs ((i) + (ii) + (iii))} for basic service.~~

~~{(11) The total number of Chapter 64 disputes handled.}~~ (11) THE TOTAL NUMBER OF CHAPTER 64 DISPUTES HANDLED.

Subchapter K. GENERAL PROVISIONS

§ 64.211. ~~{Availability of normal Commission procedures}~~ (Reserved).

~~{Nothing in this chapter will be deemed to prevent a customer of a LEC from pursuing other Commission procedures in a case not described in this chapter.}~~



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120

March 28, 2022

Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

Via EMAIL: Stephen Hoffman, shoffman@irrc.state.pa.us, Read Receipt Requested

Re: PUC Docket No. L-2018-3001391; Fiscal Note No. 57-331; IRRC No. 3297
Final-Form Rulemaking: *Rulemaking Re Compliance with the Competitive
Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a);
General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63 and
Chapter 64*

Good Day:

Enclosed are regulatory documents concerning the captioned final-form rulemaking as promulgated by the Pennsylvania Public Utility Commission (PUC). The PUC entered and served its final rulemaking order in this matter on December 9, 2021.

Regulatory documents for this final-form rulemaking are also being delivered via email on this date to the majority and minority chairs of the Senate Committee on Consumer Protection and Professional Licensure and to the majority and minority chairs of the House Consumer Affairs Committee (collectively, Legislative Committees).

On March 15, 2021, the PUC delivered regulatory documents for the Notice of Proposed Rulemaking (NOPR) that gave rise to this final-form rulemaking to the majority and minority chairs of the Legislative Committees, the Legislative Reference Bureau, and IRRC. The NOPR was published at 51 Pa.B. 1999 (April 10, 2021).

In compliance with 71 P.S. § 745.5(c), the PUC has previously provided the Legislative Committees and IRRC with copies of all public comments and reply comments received by the PUC regarding this rulemaking. In preparing this final-form rulemaking, the PUC has considered all comments received from IRRC, the Office of the Attorney General, and the public regarding this rulemaking.

IRRC

Final-form Regulation: PUC Docket No. L-2018-3001391; Fiscal Note No. 57-331; IRRC No. 3297

March 28, 2022

Page 2

A copy of the PUC's final-form rulemaking order was served on all public commentators and reply commentators in this rulemaking on December 9, 2021, the date on which the PUC entered the final rulemaking order.

Sincerely,

Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

Face Sheet & Executive Summary

Regulatory Analysis Form

Final Rulemaking Order

Statement of Chairman Gladys Brown Dutrieuille

Annex

List of Commentators/Parties of Record Names and Addresses

Acknowledgements of Receipt of Delivery from the Legislative Committees

Transmittals with enclosures to:

The Honorable Robert M. Tomlinson, via email c/o Tammy Blauch,
tblauch@pasen.gov

The Honorable Lisa Boscola, via email c/o Jerry Livingston,
jerry.livingston@pasenate.com

The Honorable Jim Marshall, via email c/o Nancy Lane, nlane@pahousegop.com

The Honorable Robert F. Matzie, via email c/o Laurie Fouse Miller,
lfouse@pahouse.net

Transmittals without enclosures to:

List of Commentators/Parties of Record

cc: June Perry, PUC Legislative Affairs Director, juperry@pa.gov

David Screven, PUC Deputy Chief Counsel, dscreven@pa.gov

Christopher F. Van de Verg, PUC Assistant Counsel, cvandeverg@pa.gov

Karen Thorne, PUC Regulatory Review Assistant, kathorne@pa.gov

Stephen Hoffman

From: Blanch, Tammy
Sent: Tuesday, March 29, 2022 9:39 AM
To: Fink Smith, Louise
Subject: RE: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

Yes, thank you for double checking. Karen sent the email yesterday late afternoon. Have a great day.

Tammy Blanch
Executive Secretary
Office of Senator Robert M. Tomlinson
Room 286 Main Capitol Building
Harrisburg, PA 17120
(717)-787-5072
Fax: (717)772-2991
tblauch@pasen.gov

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MAR 28 2022

Independent Regulatory
Review Commission

From: Fink Smith, Louise <finksmith@pa.gov>
Sent: Tuesday, March 29, 2022 9:33 AM
To: Blanch, Tammy <tblauch@pasen.gov>
Cc: Thorne, Karen <kathorne@pa.gov>
Subject: FW: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

Ⓞ CAUTION : External Email Ⓞ

Good morning –
Karen Thorne at the PUC is out of the office today.
This is to confirm that you did receive delivery of her email from yesterday and that you have been able to open all the documents.
Thank you.
– Louise

Louise Fink Smith
PA PUC Law Bureau
717-787-8866

From: Thorne, Karen <kathorne@pa.gov>
Sent: Monday, March 28, 2022 4:48 PM
To: Perry, June <JUPERRY@pa.gov>; tblauch@pasen.gov
Cc: Fink Smith, Louise <finksmith@pa.gov>; Screven, David <DSCREVEN@pa.gov>; Van de Verg, Christopher <cvandeverg@pa.gov>
Subject: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail

Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

Good afternoon,

Please find enclosed the above-referenced final rulemaking documents.

Karen Thorne, RRA
PO Box 3265
Harrisburg, PA 17120
Ph: (717) 772-4597

Stephen Hoffman

From: Livingston, Jerry
Sent: Tuesday, March 29, 2022 9:41 AM
To: Fink Smith, Louise
Cc: Thorne, Karen
Subject: RE: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

Received, thank you!

J.J. Livingston

**Executive Director
Senate Consumer Protection & Professional Licensure Committee**

**Senator Lisa M. Boscola, Democratic Chair
458 Main Capitol Building
Harrisburg, PA 17120
(O) 717-787-4236
(C) 717-480-0108**

Jerry.Livingston@pasenate.com

This message and any attachment may contain privileged or confidential information intended solely for the use of the person to whom it is addressed. If the reader is not the intended recipient then be advised that forwarding, communicating, disseminating, copying or using this message or its attachments is strictly prohibited. If you receive this message in error, please notify the sender immediately and delete the information without saving any copies.

From: Fink Smith, Louise <finksmith@pa.gov>
Sent: Tuesday, March 29, 2022 9:32 AM
To: Livingston, Jerry <Jerry.Livingston@pasenate.com>
Cc: Thorne, Karen <kathorne@pa.gov>
Subject: FW: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

■ EXTERNAL EMAIL ■

Good morning –

Karen Thorne at the PUC is out of the office today.

This is to confirm that you did receive delivery of her email from yesterday and that you have been able to open all the documents.

Thank you.

-- Louise

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MAR 28 2022

**Independent Regulatory
Review Commission**

Louise Fink Smith
PA PUC Law Bureau
717-787-8866

From: Thorne, Karen <kathorne@pa.gov>

Sent: Monday, March 28, 2022 4:37 PM

To: Livingston, Jerry <Jerry.Livingston@pasenate.com>; Perry, June <JUPERRY@pa.gov>

Cc: Fink Smith, Louise <finksmith@pa.gov>; Screven, David <DSCREVEN@pa.gov>; Van de Verg, Christopher <cvandeverg@pa.gov>

Subject: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

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Stephen Hoffman

From: Stephen Hoffman
Sent: Wednesday, March 30, 2022 10:35 AM
To: IRRC
Subject: FW: Pa PUC L-2018-3001391; 57-331; 3297- Final-form Rulemaking 52 Pa. Code, Chapters 53, 63, & 64 -- delivery to Rep. Marshall

From: Fink Smith, Louise <finksmith@pa.gov>
Sent: Wednesday, March 30, 2022 10:32 AM
To: Stephen Hoffman <shoffman@irrc.state.pa.us>
Cc: Thorne, Karen <kathorne@pa.gov>
Subject: Pa PUC L-2018-3001391; 57-331; 3297- Final-form Rulemaking 52 Pa. Code, Chapters 53, 63, & 64 -- delivery to Rep. Marshall

CAUTION: ****EXTERNAL SENDER**** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Steve –

Karen Thorne spoke this morning by telephone with Nancy Lane in Rep. Marshall's office.

Ms. Lane confirmed that the final-form rulemaking packet of regulatory documents for L-2018-3001391, 57-331, 3297 was delivered by email as reflected in the automated notice of delivery dated Monday March 28, 2022.

As of now, what we have is today's verbal confirmation of delivery and the automated notice of delivery dated March 28, 2022.

Please let us know if there are questions or something further we can do.

– Louise

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**Independent Regulatory
Review Commission**

Stephen Hoffman

From: Fouse Laurie
Sent: Tuesday, March 29, 2022 9:48 AM
To: Fink Smith, Louise
Subject: RE: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

Good morning – I just emailed Karen to let her know I received the email.

Thank you.

Laurie Fouse-Miller

Office of State Representative Robert F. "Rob" Matzie
PA House of Representatives

121 Irvis Office Building
Harrisburg, PA 17120-2016
717-787-4444
FAX: 717-780-4772

lfouse@pahouse.net

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MAR 28 2022

**Independent Regulatory
Review Commission**

From: Fink Smith, Louise <finksmith@pa.gov>
Sent: Tuesday, March 29, 2022 9:34 AM
To: Fouse, Laurie <LFouse@pahouse.net>
Cc: Thorne, Karen <kathorne@pa.gov>
Subject: FW: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

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-- Louise

Louise Fink Smith
PA PUC Law Bureau
717-787-8866

From: Thorne, Karen <kathorne@pa.gov>
Sent: Monday, March 28, 2022 4:53 PM
To: Perry, June <JUPERRY@pa.gov>; Fouse, Laurie <LFouse@pahouse.net>
Cc: Fink Smith, Louise <finksmith@pa.gov>; Screven, David <DSCREVEN@pa.gov>; Van de Verg, Christopher <cvandeverg@pa.gov>

Subject: L-2018-3001391 57-331 Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa.C.S. § 3016(a); General Review of Regulations of 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64;

Good afternoon,

Please find enclosed the above-referenced final rulemaking documents.

Karen Thorne, RRA
PO Box 3265
Harrisburg, PA 17120
Ph: (717) 772-4597