

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Stream Redesignations; Hay Creek et al.

The Environmental Quality Board (Board) proposes to amend §§ 93.9f, 93.9q, 93.9t and 93.9v to read as set forth in Annex A.

This order was adopted by the Board at its meeting of June 17, 1997.

A. *Effective Date*

These amendments are effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. *Contact Persons*

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Watershed Conservation, 10th Floor, Rachel Carson State Office Building, P.O. Box 8555, 400 Market Street, Harrisburg, PA 17105-8555, (717) 787-9637 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the DEP Web site (<http://www.dep.state.pa.us>).

C. *Statutory and Regulatory Authority*

These proposed amendments are made under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (35 P.S. §§ 691.5(b)(1) and 691.402) and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grant to the Board the authority to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law. In addition, the Federal regulation at 40 CFR 131.32 (relating to Pennsylvania) sets forth certain requirements for portions of the Commonwealth's antidegradation program.

D. *Background of the Amendments*

Pennsylvania's Water Quality Standards, which are set forth in part at Chapter 93 (relating to water quality standards), implement the provisions of sections 5 and 402 of The Clean Streams Law and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards are in-stream water quality goals which are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department of Environmental Protection (Department) considers candidates for Special Protection status or redesignation, or both, in its ongoing review of water quality standards. In general, Special Protection waters (High Quality (HQ) and Exceptional Value (EV) waters) must be maintained at their existing quality, and waste-

water treatment requirements must comply with § 95.1 (relating to general requirements). Candidates may be identified by the Department based on routine waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission (FBC), and by the general public through a rulemaking petition to the Board.

The Department evaluated the following streams in response to requests from Department and FBC staff:

Sugarcamp Run, Hay Creek and South Fork Little Conemaugh River: Department of Environmental Protection

Pine Creek, Mill and Little Mill Creeks, Sandy Run and Bens Creek: FBC

The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current designations. Aquatic surveys of these streams were conducted by the Department's Bureau of Watershed Conservation. Based upon the data collected in these surveys and information gathered from Department records and other sources, the Board recommends the designations described in this Preamble.

None of the redesignations in this proposed rulemaking conform exactly to the designations requested by the proponents of the proposed redesignations. The major differences between the requested and proposed redesignations are summarized:

Hay Creek—The Department's Southcentral Regional Office requested that Hay Creek be reviewed for redesignation as HQ-CWF. As a result of the evaluation, EV is being proposed for much of the basin. In addition, the Migratory Fishes (MF) use designation is being added.

Pine Creek—An HQ-CWF designation was sought by the FBC. The proposed redesignation includes EV for much of the basin based on outstanding ecology, with HQ-CWF proposed for the remainder, based on excellent ecological attributes.

Mill/Little Mill Creeks—The FBC requested EV for these basins. The Department's EV recommendation includes the upper watershed, including Little Mill Creek, based on outstanding ecological attributes. The remainder retains the current HQ-CWF classification.

Bens Creek—The EV designation proposed covers one-half mile less than requested by the FBC. In addition, a portion of the basin is proposed for redesignation from HQ-CWF to CWF based on historical degradation due to acid mine drainage. This was not included in the FBC request.

South Fork Little Conemaugh River—The Southwest Regional Office requested that this waterbody be reviewed for EV status. A portion of the basin is proposed for designation as EV. Some of the basin will retain its HQ-CWF designation. A section is recommended to be redesignated from HQ-CWF to CWF due to acid mine drainage. This was not requested by the regional office.

Sandy Run—The FBC requested EV designation for the basin. The lower 2.2 miles of the basin were found to qualify for EV protection based on outstanding ecological attributes.

Sugarcamp Run—The Northwest Regional Office requested that the upper portion of Sugarcamp Run be reviewed for redesignation to CWF from HQ-CWF due to a lack of flow. The evaluation revealed the presence of a viable aquatic community, so the HQ-CWF designation will be retained.

Copies of the Department's aquatic survey evaluation reports are available from Edward Brezina whose address and telephone number are listed in Section B of this Preamble.

In reviewing whether waterbodies are subject to the Special Protection Waters Program, and meet the definitions of "High Quality Waters" or "Exceptional Value Waters" in § 93.3 (relating to definitions) and applicable Federal regulations, the Department is utilizing guidance titled "Special Protection Waters Selection Criteria." This guidance appears in the Department's "Special Protection Waters Implementation Handbook."

The following is a brief explanation of the recommendations which are based on the Department's evaluations considering applicable regulatory definitions, applicable Federal regulations and the Department's Special Protection Water Selection Criteria that are referenced in the explanations:

Hay Creek—Much of the Hay Creek basin is recommended for inclusion in the Special Protection Waters program based on Criterion IV-2—Outstanding Ecology. An Exceptional Value Waters designation is recommended for the basin from the source to the Birdsboro Borough boundary with the exception of Unnamed Tributary 63882 and Beaver Run. The tributary will retain its Cold Water Fishes (CWF) designation. Beaver Run is recommended for High Quality-Cold Water Fishes (HQ-CWF). In addition, Migratory Fishes (MF) should be added to recognize the presence of American eel in the basin.

Pine Creek—Much of the Pine Creek basin is recommended to be upgraded. The Pine Creek basin from the source to Caldwell Creek is recommended for designation as HQ-CWF based on Excellent Ecology (HQ Criterion 4). The West Branch Caldwell Creek basin is recommended for EV designation based on Outstanding Ecology (Criterion IV-2). The Caldwell Creek basin from the confluence of the West Branch to its confluence with Pine Creek, and the Pine Creek basin from Caldwell Creek to the mouth, are also recommended for EV based on Criterion IV-2.

Mill and Little Mill Creeks—The Mill Creek basin from the source to SR 271 (which includes Little Mill Creek) should be designated Exceptional Value Waters (EV) based on Outstanding Ecology (Criterion IV-2). The remainder of the basin should retain its current HQ-CWF designation.

Bens Creek—This evaluation resulted in recommendations for both an upgrade and a downgrade for portions of the basin. The Bens Creek basin from the source to unnamed tributary 46099 should be designated Exceptional Value Waters (EV) based on Outstanding Ecology (Criterion IV-2). The remainder of the basin (including UNT 46099) should be designated Cold Water Fishes (CWF) because of degradation due to abandoned mine drainage. This degradation occurred prior to November 28, 1975, the date established to define "existing uses" in both the State and Federal water quality standards regulations.

South Fork Little Conemaugh River—This evaluation also resulted in recommendations for a downgrade as well as upgrades (and some for no change). The South Fork Little Conemaugh River basin from the source to the Beaverdale Reservoir Dam should be redesignated EV based on its designation by the FBC as a Wilderness Trout Stream (Category II-3) and Outstanding Ecology (IV-2). The South Fork Little Conemaugh River main stem from the Beaverdale Reservoir Dam to unnamed tributary 45928 (locally Sunshine Creek) should be designated EV based on Outstanding Ecology (IV-2). Bottle Run and unnamed tributaries in this reach should retain the current HQ-CWF designation, as should the basin from UNT 45928 to the SR 869 bridge. The South Fork Little Conemaugh River basin from SR 869 to Beaverdam Run should be designated CWF based on damage from abandoned mine drainage prior to November 28, 1975.

Sandy Run—Lower reaches of the Sandy Run basin exhibit Outstanding Ecology (Criterion IV-2). The Sandy Run basin from Flugey Hollow to the mouth should be redesignated to Exceptional Value Waters (EV). The remainder of the basin should retain the current HQ-CWF designation.

Sugarcamp Run—The Department's Northwest Field Office requested an evaluation for the possible redesignation of upper Sugarcamp Run from High Quality - Cold Water Fishes (HQ-CWF) to Cold Water Fishes (CWF) based on low or nonexistent stream flow. The evaluation revealed healthy populations of benthic macroinvertebrates which could not be present if the stream regularly goes dry. In addition, three species of fish were present. Based on these findings, the HQ-CWF designation should be retained.

These changes allow wastewater treatment requirements for dischargers to these streams to be consistent with the water uses to be protected. These proposed regulatory amendments do not contain any standards or requirements which exceed requirements of the companion Federal regulations.

E. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will reflect the appropriate designated use and maintain the most appropriate degree of protection for each stream.

2. *Compliance Costs*—Generally, the changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth or its political subdivisions. Except as noted, no costs will be imposed directly upon local government by this recommendation. However, indirect costs may result from revisions to Act 537 Sewage Facilities Plans due to consultant and other administrative fees. Political subdivisions which add a new sewage treatment plant or expand an existing plant in the basin may experience changes in cost as noted in the discussion of impacts on the private sector.

Persons proposing activities or projects which result in discharges to streams must comply with the regulatory requirements relating to current stream designations. These persons could be adversely affected by the recommended changes that increase the level of protection provided to a stream if they expand the discharge or add

a new discharge point since they may need to provide a higher level of treatment for the new or expanded discharge. These increased costs take the form of higher engineering, construction or operating costs for wastewater treatment facilities. Treatment costs are site-specific and may depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. In addition, nonpoint source controls necessary to protect High Quality and Exceptional Value Waters may add to the cost of planning and development for new or expanded nonpoint source discharges. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams which are upgraded, and potentially lower treatment costs for discharges to streams which are downgraded.

3. *Compliance Assistance Plan*—The regulatory revisions have been developed as part of an established program that has been implemented by the Department since the early 1980's. The proposal is consistent with and based on existing Department programs and current policies. Therefore, no policy changes are anticipated. The proposal extends additional protection to selected waterbodies that exhibit exceptional water quality and is consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law (35 P. S. §§ 691.1—691.1001). All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards which prevents pollution and protects existing water uses.

The proposed amendments will be implemented through the National Pollutant Discharge Elimination System (NPDES) permitting program since the stream use designation is a major basis for determining allowable stream discharge effluent limitations. These permit conditions are established to assure water quality criteria are achieved and designated uses are protected. New and expanded discharges with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with the proposed revised designated water uses.

The Department has developed technical guidance to assist the potentially affected and regulated community in understanding the impacts and requirements of the Special Protection Stream Designation Process. *The Special Protection Waters Implementation Handbook* (1992) provides guidance on the regulatory designation process, protection of candidate streams and most importantly, general considerations for proposed new or expanded discharges to Special Protection Waters. This handbook also contains appendices which present management practices and technologies relevant for point and nonpoint source discharges to Special Protection Waters. The Department has conducted various workshops, seminars and public meetings on the Special Protection Waters program. Public meetings have been held for specific stream redesignation concerns. Permitted point source discharges are regularly evaluated through discharger self-monitoring reports (DMR's) and Department inspections, to assure they are complying with permit conditions. The *Handbook* sets forth recommended Best Management Practices (BMPs) for nonpoint sources.

4. *Paperwork Requirements*—The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. These regulatory revisions are based on existing Department programs and policies. There may be some indirect paperwork requirements for new or expanding discharges to streams upgraded to Special Protection (HQ or EV). For example, NPDES general permits are not currently available for new or expanded discharges to Special Protection streams. Thus an individual permit, and its associated additional paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification (SEJ), and the nonfeasibility of nondischarge alternatives, may be required for new or expanded discharges to certain Special Protection waters.

F. *Pollution Prevention*

The antidegradation program, which applies to streams designated as HQ and EV waters, is a major pollution prevention tool because its objective is to prevent degradation by maintaining and protecting existing water quality. Although new or expanded wastewater discharges are not prohibited by the antidegradation program, nondischarge alternatives are encouraged and required, when appropriate. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

G. *Sunset Review*

These proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 5, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before publication of the regulation.

I. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by September 30, 1997 (within 45 days of

publication in the *Pennsylvania Bulletin*). Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by September 30, 1997 (within 45 days following publication in the *Pennsylvania Bulletin*). The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments A1.dep.state.pa.us. A subject heading of the proposal and return

name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by September 30, 1997.

JAMES M. SEIF,
Chairperson

(Editor's Note: Amendments to §§ 93.9f and 93.9q were adopted at 27 Pa.B. 3050 (June 28, 1997). A proposal to amend §§ 93.9f and 93.9q remains outstanding at 27 Pa.B. 1449 (March 22, 1997) and a proposal to amend §§ 93.9f, 93.9q, 93.9t and 93.9v remains outstanding at 27 Pa.B. 1459 (March 22, 1997).)

Fiscal Note: 7-324. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 93. WATER QUALITY STANDARDS

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania

Schuylkill River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Hay Creek	* * * * * Basin, Source to Unnamed tributary (UNT) 63882 at River Mile 8.1	Berks	[CWF] EV	None
4—Unnamed Tributary (63882) to Hay Creek	Basin	Berks	CWF, MF	None
3—Hay Creek	Basin, UNT 63882 to Beaver Run	Berks	EV	None
4—Beaver Run	Basin	Berks	HQ-CWF, MF	None
3—Hay Creek	Basin, Beaver Run to Birdsboro Boundary	Berks	EV	None
3—Hay Creek	Basin, Birdsboro Boundary to Mouth * * * * *	Berks	CWF, MF	None

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania

Allegheny River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
4—Pine Creek	* * * * * [Main Stem] Basin, source to Caldwell Creek	Crawford	[CWF] HQ-CWF	Add TON
[5—Unnamed Tributaries to Pine Creek]	[Basins]	[Warren-Crawford]	[CWF]	[Add TON]

PROPOSED RULEMAKING

			Water Uses	Exceptions To Specific
[5—Campbell Creek]	[Basin]	[Warren]	[CWF]	[Add TON]
[5—Dunham Run]	[Basin]	[Warren]	[CWF]	[Add TON]
5—Caldwell Creek	Basin, Source to West Branch Caldwell Creek	[Crawford]	HQ-CWF	Add TON
6—West Branch Caldwell Creek	Basin	Warren	EV	Add TON
5—Caldwell Creek	Basin, West Branch Caldwell Creek to Mouth	Crawford	EV	Add TON
[5—Henderson Run]	[Basin]	[Crawford]	[CWF]	[Add TON]
4—Pine Creek	Basin, Caldwell Creek to Mouth	Crawford	EV	Add TON
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§ 93.9t. Drainage List T.

Ohio River Basin in Pennsylvania

Kiskimineatas River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
6—Bens Creek	Main Stem, Confluence of South and North Forks to Mouth	Cambria	CWF	None
7—Mill Creek	Basin, Source to SR 0271 Bridge	[Somerset]	[HQ-CWF]	None
7—Mill Creek	Basin, SR 0271 Bridge to Mouth	Somerset	EV HQ-CWF	None
5—Little Conemaugh River	Main Stem, Source to North Branch Little Conemaugh River	Cambria	CWF	None
6—Bens Creek	Basin, Source to Unnamed Tributary (UNT) 46099 at River Mile 0.74	Cambria	[HQ-CWF]	None
7—Unnamed Tributary (46099) to Bens Creek	Basin	Cambria	CWF	None
6—Bens Creek	Basin, UNT 46099 to Mouth	Cambria	CWF	None
6—South Fork Little Conemaugh River	Basin, Source to [Beaverdam Run] Beaverdale Reservoir Dam	Cambria	[HQ-CWF]	None
6—South Fork Little Conemaugh River	Main Stem, Beaverdale Reservoir Dam to Unnamed Tributary 45928	Cambria	EV	None
7—Unnamed Tributaries to South Fork Little Conemaugh River	Basins, Beaverdale Reservoir Dam to UNT 45928	Cambria	HQ-CWF	None
7—Bottle Run	Basin	Cambria	HQ-CWF	None
7—Unnamed Tributary (45928) to South Fork Little Conemaugh River	Basin	Cambria	HQ-CWF	None
6—South Fork Little Conemaugh River	Basin, UNT 45928 to SR 0869 Bridge	Cambria	HQ-CWF	None
6—South Fork Little Conemaugh River	Basin, SR 0869 Bridge to Beaverdam Run	Cambria	CWF	None
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§ 93.9v. Drainage List V.

Ohio River Basin in Pennsylvania
Monongahela River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
5—Laurel Hill Creek	Basin, Fall Creek to [Mouth] Sandy Run	Somerset	HQ-CWF	None
6—Sandy Run	Basin, Source to “Flugey Hollow” (UNT 38620)	Somerset	HQ-CWF	None
7—Unnamed Tributary (38620) to Sandy Run	Basin	Somerset	HQ-CWF	None
6—Sandy Run	Basin, Flugey Hollow to Mouth	Somerset	EV	None
5—Laurel Hill Creek	Basin, Sandy Run to Mouth	Somerset	HQ-CWF	None

[Pa.B. Doc. No. 97-1299. Filed for public inspection August 15, 1997, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 Pa. CODE CH. 53]

[L-00940095]

Telecommunications Utilities

Commissioners present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson, concurring in result; John Hanger; David W. Rolka; Nora Mead Brownell

Public meeting held
 July 31, 1997

Second Advance Notice of Proposed Rulemaking Order

By the Commission:

Subsequent to our *Policy Statement Re Settlement Guidelines and Procedures for Major Rate Cases* at Docket No. L-00930088, order entered August 9, 1994, we ordered that the existing filing requirement regulations for general rate increases in excess of \$1 million in § 53.53 (relating to information to be furnished with proposed general rate increase filings in excess of \$1 million) be updated and revised. As such, by order entered October 18, 1994, at the above-docketed number, we initiated a rulemaking proceeding for each utility industry at the above-docketed number and solicited comments concerning revising and streamlining § 53.53 of these regulations.

Since that time, staff has initiated technical conferences in all industry groups, including telephone. With regard to the telephone industry, these conferences have been designed to assist the Pennsylvania Public Utility Commission (Commission) in developing proposed regulations for general rate increases in excess of \$1 million that are filed by telecommunications utilities. The technical group, to date, has not issued a proposed rulemaking to the Commission for review.

At the same time, it has become clear in recent months that the advent of local exchange competition and the entry of Competitive Local Exchange Carriers (CLECs) in Pennsylvania’s market for local exchange telecommunications services has created the need for revisiting other portions of the Commission’s regulatory oversight mechanisms. Although CLEC tariff filings are typically addressed by this Commission in a routine fashion, certain problems periodically arise in evaluating such filings. In addition, certain CLEC tariff filings have become the subject of formal complaints by incumbent local exchange carriers (ILECs). See *Bell Atlantic-Pennsylvania, Inc. v. TCG Pennsylvania*, Docket No. C-00967719, order entered February 28, 1997; *Pa. P.U.C. v. Eastern TeleLogic Corporation*, Docket No. R-00973881, order entered March 27, 1997. These cases are time and resource consuming, despite use of our alternative dispute resolution (ADR) process, and may be avoided with clarified and streamlined regulations. The aim of these revisions and streamlining should be to make our regulatory oversight competitively neutral while permitting the ILECs and the CLECs the requisite flexibility to respond to the changes in the marketplace for their services. Therefore, at public meeting held June 12, 1997, we directed that the above-cited rulemaking be revised and expanded to examine the filing requirements applicable to all providers of local exchange service who seek to effectuate tariff changes under section 1308(a) and (b) of the Public Utility Code, 66 Pa.C.S. § 1308(a) and (b).¹ We believe it necessary to refocus the direction taken thus far at the above-docketed proceeding to encompass both the originally contemplated revisions of the filing requirements at § 53.53 for general rate increases in excess of \$1 million, as well as revisions to filing requirements in § 53.52 for all other rate changes that are proposed by providers of local exchange telecommunications services. Accordingly, we are supplementing the initial advance notice of proposed rulemaking document to attract comments from CLECs and other interested parties. In doing so, we are seeking regulatory parity: all providers should share the benefit and burdens of regulation equally.

¹The Commission directed this rulemaking at *Pennsylvania Public Utility Commission, et al. v. MCI Metro Access Transmission Services, Inc.* Docket No. R-973866, et seq., public meeting of June 12, 1997.

The revised filing requirements should be consistent with the generic guidelines for the Chapter 30 streamlined regulation of local exchange telephone companies with less than 50,000 access lines. *In re Implementation of Chapter 30 of the Public Utility Code; Streamlined Form of Regulation*, Docket No. M-00930483, Order entered August 25, 1995. These Chapter 30 guidelines encourage participants to use pre-filing collaborative processes or the Commission's ADR procedures to minimize discovery and the time and expense customarily associated with evidentiary proceedings. In addition, we have previously directed implementation of streamlined procedures by local exchange carriers (LECs) regarding the filing of intraLATA toll service tariff filings when intraLATA "1+" presubscription becomes effective. *Investigation Into IntraLATA Interconnection Arrangements*, Docket No. I-00940034, Order entered December 14, 1995; *See also Petition of Commonwealth Telephone Company for an Alternative Regulation and Network Modernization Plan, et al.*, Docket Nos. P-00961024 & P-00961081, Order entered January 17, 1997; *In re Interexchange Carrier Regulation Under Chapter 30 of the Public Utility Code*, Docket Nos. L-00940099 & M-00930496, Final Rulemaking Order entered April 29, 1997.

In the Commission's judgment, this second advance notice of proposed rulemaking will provide an appropriate forum for all providers of local exchange telecommunications service—incumbents and new entrants—to address the issue of what filing requirements should govern section 1308(a) and (b) tariff changes, 66 Pa.C.S. § 1308(a) and (b). In particular, we request comments concerning the following:

1. *Tariff Filing Support Documentation.* Section 53.52 of our regulations requires all tariff filings to be accompanied by certain supporting documentation to assist in the timely evaluation and disposition of the associated filings by this Commission and its staff. Consider what changes, if any, should be implemented in order to reflect more appropriate supporting documentation requirements for particular types of tariff filings.

2. *Cost Support Documentation.* Tariff filings of ILECs that affect service rates are accompanied by appropriate cost support documentation that usually include both revenue analyses and cost justification of proposed rates for either existing or new services. Given the fact that CLECs are relatively new entrants in Pennsylvania's market for telecommunications services subject to this Commission's jurisdiction and regulation, discuss the accounting and administrative systems necessary to support documentation pursuant to our regulations. Discuss accounting systems available to the CLECs which may be comparable to the Federal Communications Commission's prescribed use of the Uniform System of Accounts.

3. *CLEC Services and Rates.* The rates for local exchange services that are provided by a CLEC are usually within the bounds of existing ILEC retail service rates and the interconnection and/or wholesale rates that a CLEC will pay to an ILEC(s), especially when CLECs resell ILEC retail services under the Federal Act. Consider the need for extensive cost support data for such CLEC service rates that are largely based on existing ILEC retail service rates.

4. *Local Exchange Carrier IntraLATA Toll Rates.* LECs have been accorded the flexibility to utilize filing procedures that are currently utilized only by interexchange carriers (IXCs) under the Commission's Chapter 30 guidelines. LECs will be able to avail themselves of such procedures for their intraLATA toll services and rates upon the effective implementation of intraLATA "1+" presubscription. Due to the abbreviated review period that will be accorded to such toll service tariff filings, it is imperative that uniform guidelines apply for the filing of associated support documentation that will be accompanying such tariff filings by various telecommunications carriers. Discuss uniform guidelines which will ensure the competitive neutrality of Commission oversight for LECs and IXCs in the intraLATA toll market.

5. *Tariff Filings for Service "Packages" and Supporting Documentation.* Members of the regulated telecommunications industry in Pennsylvania "package" various service for a single price. For example, CLECs meeting the conditions set out in the Section 271(e)(1) of the Federal Act can engage in the "joint marketing" of local exchange and toll services. *In re Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799, order entered June 3, 1996. In *Petition of Bell Atlantic-Pennsylvania, Inc. for Expedited Modification of Consent Order and Waiver of Certain Chapter 64 Requirements*, Docket No. C-00881727, order entered June 12, 1997, we relaxed certain "joint marketing" restrictions for Bell Atlantic-Pennsylvania, Inc., though we directed that consumer protection safeguards for "service package" offerings of ILECs and CLECs be considered under the Commission's *Rulemaking to Rescind Obsolete Regulations, 52 Pa. Code Chapters 63 and 64*, at Docket No. L-00960113. Discuss documentary support issues for tariff filings of ILECs and CLECs that purport to implement "joint service package" offerings, should be addressed in the instant Docket.

6. *Promotional Offering Tariff Filings.* Promotional tariff filings by ILECs and CLECs should be discussed in terms of providing competitively neutral regulatory guidelines and supporting documentation which would apply equally to ILECs and CLECs. Discuss the type of supporting data to be filed for individual promotional offering tariff filings. Include comments concerning the design of promotional tariffs to protect the welfare interests of end-user consumers as well as to afford the Commission and its staff the opportunity to evaluate timely whether individual promotional offerings may have anticompetitive effects.

The above questions are not intended to be all inclusive. Any other comments concerning this rulemaking are welcome; *Therefore,*

It is Ordered:

1. That a second advance notice of proposed rulemaking is hereby issued concerning filing requirements for local exchange carriers as currently delineated in §§ 53.52 and 53.53 of our regulations.

2. That this second advance notice of proposed rulemaking order be published in the *Pennsylvania Bulletin*.

3. That interested parties shall have 45 days from the publication in the *Pennsylvania Bulletin* of this second advance notice of proposed rulemaking to file written comments or proposed language, or both.

4. That an original and 15 copies of comments, proposals and proposed language be served upon the Prothonotary, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, PA 17105-3265. An additional copy should be sent to C. Barney Glunz, Supervisor, Bureau of Fixed Utility Services at the same address.

5. That the contact persons for this rulemaking are C. Barney Glunz, Supervisor, Bureau of Fixed Utility Services (717) 783-6163 (technical) and Susan T. Povilaitis, Assistant Counsel, Law Bureau (717) 787-2871 (legal).

6. That a copy of this order shall be served upon the Pennsylvania Telephone Association, all jurisdictional telecommunication utilities, all jurisdictional CLECs, the Office of Trial Staff, the Office of Consumer Advocate and the Small Business Advocate.

7. That, upon receipt of comments by interested parties, one or more informal technical conferences will be

convened by the Bureau of Fixed Utility Services for the purposes of discussing the issues raised by the rulemaking. Notice of the time, date and location of such conferences shall be forwarded to any person filing comments and shall be published in the *Pennsylvania Bulletin*. Persons wishing to make presentations at such conferences may be requested to submit written data underlying such presentations in advance of the conference date. The contact person for these conferences is C. Barney Glunz, Supervisor, Bureau of Fixed Utility Services (717) 783-6163.

JAMES J. MCNULTY
Acting Secretary

[Pa.B. Doc. No. 97-1300. Filed for public inspection August 15, 1997, 9:00 a.m.]