

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Corrections

The Executive Board approved a reorganization of the Department of Corrections effective December 10, 1998.

The organization chart at 28 Pa.B. 6310 (December 26, 1998) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note:* The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 98-2114. Filed for public inspection December 24, 1998, 9:00 a.m.]

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

#### [52 PA. CODE CH. 69]

[M-950695]

#### Implementation of Omnibus Budget Reconciliation Act of 1993; Delete Radio Common Carrier Policy

The Pennsylvania Public Utility Commission (Commission) adopted an order to adopt a final policy statement to delete § 69.85 (relating to entry requirements for radio common carriers). The basis for this action is Congress' enactment of 47 U.S.C.A. § 332(c)(3)(A) which preempts the states' regulation of entry requirements and rates for commercial mobile radio services. The Policy Statement addressed entry requirements which are no longer applicable given the preemption. The contact person is Terrence J. Buda, Law Bureau, (717) 787-5755.

*Commissioners Present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; David W. Rolka, Dissenting; Nora Mead Brownell; Aaron Wilson, Jr.

Public Meeting held  
September 17, 1998

*In Re: Implementation of the Omnibus Budget Reconciliation Act of 1993—Declaratory Order, Interim Rules and Proposed Rulemaking; Inquiry into the Jurisdictional Status of Personal Communications Service/Personal Network Service (PCS/PCN); Doc. Nos. L-00950104; M-00950695*

#### Tentative Order

*By the Commission:*

##### A. Introduction

On June 16, 1995, the Commission entered an order in the above-captioned dockets. As declared in the order, the Commission recognized that it has been preempted by the Omnibus Budget Reconciliation Act (OBRA) of 1993 from

regulating the entry and rates of jurisdictional commercial mobile radio carriers, retaining only the responsibility to regulate the quality of radio services within its jurisdiction. Consequently, Commission staff was directed to rescind all certificates of public convenience and to cancel all Commission-approved and issued tariffs to radio common carriers.<sup>1</sup> Instead, the Commission directed all radio carriers to file completed information sheets with the Tariff Division, along with their most recent Federal Communications Commission (FCC) annual report. New entrants were also directed to file the completed information sheet. An updated information sheet and FCC tariff are also to be filed annually by each jurisdictional radio carrier (June 16, 1995 Order, pages 9–12).

In addition to these directives, a proposed rulemaking at Docket No. L-00950104 was opened to amend regulations so as to codify the interim requirements established in the order. Finally, the Commission solicited public comment at Docket No. M-00950695 regarding the issue of whether PCS/PCN<sup>2</sup> providers fall within the definition of "public utility" in 66 Pa.C.S. § 102.

On June 27, 1995, the proposed regulation was approved for form and legality by the Office of Attorney General. On August 12, 1995, the proposed regulation was published at 25 Pa.B. 32, and a 30-day comment period set.<sup>3</sup> Comments to the rulemaking were filed by the Independent Regulatory Review Commission (IRRC), Modern Communications Corporation (MCC), AT&T Wireless Services, Inc. (AT&T Wireless), and Metrocall, Inc. (Metrocall). Comments to the PCS/PCN jurisdictional issue were filed by PageMart II and its affiliate, PageMart PCS, Inc. (together PageMart), Sprint Telecommunications Venture and Phillie Co., L.P. (jointly STV), Omnipoint Communications, Inc. (Omnipoint), the Office of Consumer Advocate (OCR) and, again, MCC, AT&T Wireless, and Metrocall.

The close of the public comment period occurred on September 11, 1995. The Regulatory Review Act<sup>4</sup> requires an agency to submit its final-form regulations to IRRC and the standing committees within 2 years following the close of the public comment period.<sup>5</sup> Given the dynamics of the telecommunications industry and these wireless markets, that did not occur for L-00950104. Therefore, if an agency does not submit the final-form regulation within the 2-year time frame, it must republish the regulation as a new rulemaking and set a new public comment period. The purpose of this order is to decide whether PCS/PCN providers are jurisdictional public utilities, and whether or not to republish the regulation.

##### B. General Background

In Pennsylvania, commercial mobile radio service (CMRS) providers are commonly referred to as radio common carriers (RCCs) or radio carriers, and have traditionally been regulated by the Commission as public utilities since they fall within the definition of "public utility" under Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, which includes the following services:

<sup>1</sup> We also concluded that the OBRA preemption affected the exercise of other provisions of the Public Utility Code, such as stock and asset transfers, affiliated interest requirements, and securities regulation requirements. Finding that these provisions of the Public Utility Code involve entry or rate regulation, the regulatory approvals or requirements were eliminated (June 16, 1995 Order, page 10).

<sup>2</sup> Personal Communication Services/Personal Communication Networks.

<sup>3</sup> A 30-day comment period was also set for the PCS/PCN jurisdictional issue.

<sup>4</sup> 71 P. S. §§ 745.2–745.15.

<sup>5</sup> 71 P. S. § 745.5a.(a).



(vi) Conveying or transmitting messages or communications by telephone or telegraph or domestic public land mobile radio service including, but not limited to, point-to-point microwave radio service for the public for compensation.

However, both State and Federal activity in the 1980s and 1990s have significantly restricted the Commission's regulation in this area.

In 1982, Congress enacted the Communications Amendments Act of 1982 which amended the Communications Act of 1934, 47 U.S.C.A. §§ 151, et seq. Through Federal preemption, the 1982 amendments to the Communications Act significantly decreased the Commission's regulation of commercial mobile radio services by eliminating the regulation of private land mobile services which would otherwise be regulated under Pennsylvania law.

On August 10, 1993, the OBRA was enacted into Federal law. Section 6002(c)(3) of the OBRA amended 47 U.S.C.A. § 332 so as to redefine State authority over commercial mobile radio services. The relevant provision of 47 U.S.C.A. § 332(c)(3)(A), as amended, provides as follows in relevant part:

Notwithstanding sections 152(b) and 221(b) of this title, no state or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service. Except this paragraph shall not prohibit a state from regulating the other terms and conditions of commercial mobile services.

The phrase "other terms and conditions" is generally referred to as residual regulation, such as quality of service, including customer billing. The rate preemption became effective 1 year from enactment or on August 10, 1994. Furthermore, states which at the time of enactment regulated some or all commercial mobile radio markets were given the opportunity to file by no later than August 10, 1994, an application with the FCC to continue to regulate rates.<sup>6</sup> The Commission declined to exercise its discretion to file the State application with the FCC.

At the State level, effective May 6, 1984, the Public Utility Code was amended to create an exception to the Commission's jurisdiction over commercial mobile radio carriers. Under this enactment, the definition of "public utility" in 66 Pa.C.S. § 102 under subsection (1)(vi) was amended by subsection (2)(iv) to exclude the following service providers:

Any person or corporation, not otherwise a public utility, who or which furnishes mobile domestic cellular radio telecommunications service.

Given the Federal preemption and the cellular exemption in the Public Utility Code, the Commission's remaining jurisdiction pertained primarily to one-way paging systems, although a very limited number of two-way radio systems continued to be regulated, for example, integrated mobile telecommunications systems. The remaining jurisdictional radio carriers continued to be regulated as public utilities and, as a general rule, remained legally bound to all State regulatory requirements. However, as a practical matter, since 1984, in recognition of an increasingly competitive environment and the nonessential na-

ture of the services, the Commission has relaxed regulation over RCCs and has not actively regulated a radio carrier's rates.<sup>7</sup>

On October 1, 1993, Bell Atlantic-Pennsylvania, Inc. (BA-PA) filed a petition for an alternative form of regulation under Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001, et seq. As part of its alternative regulation petition, BA-PA requested that the Commission designate its paging services as competitive services. Services are to be deemed competitive if they meet the detailed evidentiary criteria established at Section 3005(a)(1). Under Section 3009(f), services classified as competitive are exempt from Commission rate regulation. The Commission approved with modifications BA-PA's alternative regulation plan. As part of approval of the plan, the Commission classified BA-PA's paging services as competitive and, pursuant to such classification, BA-PA's paging services were exempt from future Commission rate regulation.

#### C. June 16, 1995 Order

##### 1. Proposed Rulemaking

In the June 16, 1995 Order (page 8), the Commission noted that uncertainty remains regarding what, if any, jurisdiction over radio carriers remains residual to the preempted entry and rate regulation. Furthermore, the Commission recognized that it had not given the industry guidance regarding the nature of any future residual regulation. Through the June 16, 1995 Order, the Commission attempted to resolve this uncertainty over the application of the OBRA preemption.

Annex A to the June 16, 1995 Order was intended to implement the Federal preemption. First, the Annex proposes to eliminate the Policy Statement on Radio Common Carrier Entry Requirements which is codified under § 69.85 (relating to entry requirements for radio common carriers). Clearly, the Federal preemption of entry requirements compelled the Commission to remove any entry requirements imposed on radio common carriers. Annex A also includes § 55.150, which proposes regulation of the "quality of service provided to the public by radio common carriers or commercial mobile radio services." The regulation also proposes that each carrier annually file a form with basic information and accompany the form with a copy of the FCC annual report. Finally, new entrants are also required to file the completed form and annual report.

In initially proposing these regulations, the Commission recognized in the order (page 13) that while the OBRA limited its regulation of this particular industry, radio common carriers are still jurisdictional public utilities under State law, and Federal law still allows for Commission jurisdiction to regulate quality of service. Moreover, the Commission submitted that the filing requirements are merely ministerial tasks that do not rise to the level of an entry requirement. The original justification for imposing residual regulation of this industry was stated as follows:

As applied to Pennsylvania law, we have found that residual regulation imposes a continuing responsibility on the Commission to regulate the quality of mobile radio service. Given the foregoing, it is clear to us that 66 Pa.C.S. § 510 continues to impose on commercial mobile radio service providers the obligation to pay annual utility assessments.

<sup>6</sup> The standard for FCC rate application review is set forth at 47 U.S.C.A. § 332(c)(3)(A)(ii) and rests primarily upon whether the radio service is competitive and whether the service is relied upon by consumers as a replacement service for telephone exchange service.

<sup>7</sup> For example, it appears that the Commission has not suspended an RCC tariff filing since at least the mid 1980s.

(June 16, 1995 Order, page 13).

Given the competitive climate that pervades the entire telecommunications industry, it may be appropriate to change the Commission's regulatory perspective when it comes to the radio common carrier segment of the industry. Certainly, commentators to the 1995 rulemaking seek such a result.

## 2. PCS/PCN

The June 16, 1995 Order also raised the issue of jurisdiction over new radio technology which is provided to consumers as personal communications services and will be provided over a newly developed and constructed personal communications network. It was the Commission's understanding that these services (PCS/PCN) would eventually be marketed as comprehensive communications services which allow a consumer to combine his home, business, car and mobile communications services over a single network and one telephone number. At that time, it was the Commission's opinion that these cellular services, provided through the use of a completely separate telephone number, were only to be utilized by consumers when they did not have access to their primary home or business telephone service. However, we postulated that the technology was intended for much broader usage, including a potential replacement for all voice grade services for some consumers (June 16, 1995 Order, pages 13—14).

The Commission acknowledged that PCS/PCN technology resembles cellular technology, but noted that the services are provided over a different radio frequency spectrum which is separately licensed by the FCC as a distinct radio service. PCS/PCN has been characterized as "digital" cellular because of similarities in operation and similarities in function from the user's standpoint. PCS/PCN is used in more concentrated urban areas where the cells/towers are smaller and more compact as opposed to standard cellular with cells/towers that cover relatively larger areas.

We raised the issue that since PCS/PCN services could replace all voice grade services for some customers, the cellular statutory exception in Section 102 should not be extended to apply to PCS/PCN services. In the order, the Commission also recognized that at the time, the PCS/PCN services had not yet appeared in the marketplace. Finally, the Commission recognized that even if it determined that PCS/PCN service was jurisdictional, the OBRA preemption would limit Commission jurisdiction to regulating quality of service (June 16, 1995 Order, pages 14—15).

### D. *Comments to the Proposed Rulemaking*

AT&T Wireless' comments generally questioned the necessity for filing annual information reports, particularly when other competitors such as cellular carriers and PCS/PCN operators are not required to do so. MCC questions whether any customer billing dispute or consumer protection matter relating to paging service was ever raised before the Commission. Furthermore, MCC raises the question whether the Commission has ever had to address the issue of quality of service for mobile radio service. Finally, MCC asserts that the filing forms are outdated and a complete waste of time. MCC believes that customer choice in the marketplace is the incentive for paging companies to provide quality service.

IRRC notes that Representative Kathrynann W. Durham, Chairperson of the House Consumer Affairs Committee, questioned the necessity to implement residual regulation of radio paging service given the highly

competitive nature of the industry. Such regulation, which has not been an issue in the past, would cause unnecessary additional paperwork for Commission staff and paging service providers. IRRC also questions the need for residual regulation for radio paging services noting that its discussions with Commission staff did not indicate any history of quality of service complaints. Therefore, IRRC would limit the information filings to a minimum of information the Commission may need to identify RCCs. IRRC agreed with other commentator's concerns with the reporting requirements. IRRC also took issue with the filing requirements taking effect before the regulation completes the regulatory review process.

IRRC further requests clarification of the categories of paging services that will be required to comply with the Commission's filing requirements. IRRC submits that guidelines should be included in the regulation and recommends that definitions for RCC and CMRS must be added to the section.

According to Metrocall, Pennsylvania's least competitive RCC service, cellular, has a statutory exemption from regulation whereas radio paging will continue to be regulated as proposed in the June 16, 1995 Order, which is also allegedly contrary to the majority of State regulatory schemes. Metrocall considers service quality regulations to be unnecessary, and believes that even the FCC has done away with filing annual reports for RCCs more than 10 years ago. Furthermore, Metrocall opines that the quality of paging services is regulated by competition and the ability of consumers to choose from a large number of competitively priced service offerings. Moreover, since the FCC still regulates CMRS paging companies as common carriers, paging customers can take their formal or informal complaints concerning rates and service, which would include billing, to the FCC. Metrocall also points out that making judgments concerning the "quality" of paging services will be difficult for the Commission.

Finally, Metrocall believes it is apparent that customers are flocking to use paging and cellular mobile services for both business and personal use, and these are now essential rather than luxury services. Just like cellular carriers, but unlike local telephone monopolies, Metrocall notes that paging carriers compete for customers in every market in this Commonwealth. In short, Metrocall asserts that paging services should be entitled to the same exemption from utility regulation as cellular.

### E. *PCS/PCN Comments*

PageMart first disagrees with the view that, unlike a luxury service like cellular, PCS/PCN is intended for broader usage, perhaps a potential replacement for all voice grade services. PageMart contends that cellular is geared toward a mass market and will be a chief competitor of PCS/PCN.

PageMart submits that the FCC's creation of a regulatory framework for new and emerging wireless services under the category of CMRS was intended to cover the use of different spectrum bands which provide a wide range of services such as traditional two-way radio services utilizing frequency bands in the 150 MHz and 450 MHz range, one-way paging services utilizing 150, 450 and 900 MHz bands, cellular telephone service utilizing the 800/900 MHz bands and the emerging narrowband and broadband personal communications services utilizing spectrum at the 2,500 MHz band. According to PageMart, if the potential of these services is to be realized, regulatory parity must be maintained. PageMart

asserts that cellular and PCS will be competitors in a mass market and a level playing field should be created. Therefore, PageMart urges the Commission not to establish jurisdiction over PCS/PCN.

STV maintains that mobile domestic cellular radio telecommunications service describes PCS, and should thus be exempted from Commission jurisdiction. STV explains that service provided over the PCS spectrum that can be used while the customer is moving, is a domestic, as opposed to international service, and uses cellular technology.<sup>8</sup> Therefore, STV argues that mobile radio service provided over the PCS spectrum should not be treated differently than existing cellular services. STV believes that the Commission will be handicapping the new entrants in the competitive marketplace. Finally, STV notes that under Section 332(c)(3)(A) of the Communications Act,<sup>9</sup> State regulation can be revisited when a CMRS service is "a substitute for land line telephone exchange service for a substantial portion of the communications within the state."

AT&T Wireless also takes the position that the Commission should accord similar regulatory treatment to PCS/PCN and cellular services as competing services within the broader definition of CMRS. More specifically, AT&T Wireless submits that the legislative record in both the Senate and House confirms that this exception to the definition of "public utility" in the Public Utility Code was intended to cover services beyond what were then known as mobile cellular telephones. According to AT&T Wireless, the record demonstrates that the Senate anticipated application of radio technology to residences, like PCS/PCN services. Moreover, AT&T Wireless submits that the Commission has overlooked the similarities between these competing services which intend the use of radio spectrum, with speed mobility, frequency reuse and cell-to-cell hand-off, and roaming. In other words, AT&T Wireless sees PCS as cellular at a different location on the radio frequency spectrum. Finally, AT&T Wireless emphasizes that even if the Commission has questions about the application of the cellular exemption to PCS/PCN, the spirit of the change to the definition of "public utility" in 1984 evidences sentiment against any level of regulation in this area.

However, Metrocall believes that PCS is not necessarily another "cellular-like" service, and since PCS is in developmental stages, it is risky to predict the nature and cost of PCS services. In any event, Metrocall offers that existing paging and cellular companies will be aggressively competing against PCS providers for wireless customers, for both business and personal needs. Metrocall believes that PCS, like paging and cellular, will be a highly competitive, nonmonopolistic CMRS service offering. Therefore, Metrocall recommends that the Commission should allow marketplace forces to dictate the quality of PCS services.

The OCA is concerned with the regulation of PCS/PCN technology to the extent that such technology will displace the provision of local exchange service by wireline carriers. Therefore, the OCA believes that the Commission should not take any action so as to relinquish jurisdiction over such services while there remains the possibility that such technology may become the means of delivering basic telephone service. Considering that the

<sup>8</sup> STV explains that cellular technology is a wireless network topology where radio cells are connected to a mobility switch that allows the user to originate and terminate service in any interconnected cell and also allows transfer of calls as a customer moves through cells. While PCS uses a different portion of the radio spectrum, STV submits that it uses the same types of radio technologies as are being implemented for other cellular services.

<sup>9</sup> 47 U.S.C. § 332(c)(3)(A).

FCC has classified PCS as a form of commercial mobile radio service, 47 CFR § 20.9(11), the OCA notes that Congress reserved the authority of state regulatory commissions to regulate some commercial mobile radio services where it is necessary for a state commission to ensure universal service at affordable rates. 47 U.S.C.A. § 332(3)(A). The OCA stresses that it is market power over the provision of service that will necessitate the continued regulation of the price of that service. In conclusion, the OCA believes that the lack of effective competition for a service is more important than the manner in which that service is transmitted.

Omnipoint also urges the Commission to refrain from adopting a disparate regulatory approach among mobile service providers which would give incumbent cellular providers a competitive advantage over PCS entrants, thereby impeding the development of competition from mobile service. Therefore, Omnipoint believes that the public interest is best served by broadly interpreting the "public utility" exemption to include both cellular and PCS providers. Finally, Omnipoint maintains that in passing Chapter 30 of the Pennsylvania Code, 66 Pa.C.S. §§ 3001, et seq., the Legislature codified the State's regulatory goals of encouraging "the provision of competitive services by a variety of service providers," and, "the competitive supply of any service in any region where there is market demand."

66 Pa.C.S. § 3001(7) and (8).

#### F. Discussion

The Commission must first decide whether or not to republish the regulation. Once decided, that resolution may portend the decision to be reached on the second issue—jurisdiction over PCS/PCN providers.

It has been approximately 3 years since the Commission has revisited this matter. Therefore, the June 16, 1995 Order could not have reflected the passage and implementation of the Telecommunications Act of 1996 (TA-96), 47 U.S.C.A. §§ 251, et seq., which was enacted February 8, 1996. The purpose of TA-96 is "to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition. . . ."<sup>10</sup> Although TA-96 does not address the commercial mobile radio carrier industry,<sup>11</sup> the direction set by Congress cannot be denied. Moreover, the regulatory goal in this Commonwealth, as set forth by Chapter 30, is to encourage competition in the provision of telecommunications services.

The general sentiment of the commentators to the 1995 rulemaking is that the quality of paging services will be regulated by the large number of competitors who can offer competitively priced services should a customer be dissatisfied with his current provider of paging services. In fact, the Commission acknowledged in its June 16, 1995 Order that this environment existed even then. Given the competitive market for paging services, the Commission has not effectively regulated rates going as far back as 1984 (June 16, 1995 Order, pages 6–7). Moreover, certain commentators questioned whether billing disputes or quality of service complaints were ever raised before the Commission.

<sup>10</sup> Congressional Conference Report accompanying S. 652.

<sup>11</sup> Under the "Removal of Barriers to Entry" section of TA-96, special provision is made for radio carriers recognizing that the section did not "affect the application of section 332(c)(3) to commercial mobile service providers." 47 U.S.C. § 253(e).

The Commission must agree with the commentators that it does not receive billing or quality of service complaints on a formal or informal level. Whether or not the competitive environment for paging services is the reason, it appears that quality of service for the paging industry is not a matter that needs regulatory control. Consequently, the Commission finds that it is no longer necessary for providers of paging services to file the information forms and impose upon these commercial mobile radio service providers the obligation to pay annual utility assessments.

As a result of the Commission's decision, radio carriers will now be completely exempt from Commission regulations. In consideration of its decision on the paging industry, the Commission shall similarly decline to embark on regulating PCS/PCN services. To do so would surely create an unlevel playing field by regulating an industry that competes with radio carrier services which will go unregulated.

Essentially, the commentators argue that PCS providers should not be treated differently than cellular since cellular services are similar competing services. While we can agree that the cellular and digital cellular services compete for some of the same customers, the radio technology is clearly different and PCS/PCN can provide more comprehensive services at this time. However, the technologies can provide overlapping services and paging and cellular companies compete against PCS providers for wireless customers. A cursory review of the yellow pages in the Harrisburg market supports this competition.

PCS can provide phone service, paging, fax and voice mail whereas standard cellular can also provide phone, paging and voice mail service just as other mobile systems can provide paging and voice mail. To the extent that the Commission has concerns that this technology has displaced the provision of land line telephone exchange service, it has the ability to file a petition with the FCC to regulate the rates for any commercial mobile service. 47 U.S.C.A. § 332(c)(3)(A).

#### G. Conclusion

In summary, the Commission shall decline to regulate the terms and conditions of commercial mobile services as contemplated by 47 U.S.C.A. § 332(c)(3)(A) given the competitive market for these services. Therefore, the Commission shall decline to republish its proposed regulations at Docket No. L-00950104. The interim rules requiring commercial mobile radio carriers to file completed information forms along with FCC annual reports are, therefore, no longer in effect. Furthermore, to the extent the Commission receives informal or formal complaints involving quality of radio carrier services, it shall refer complaining customers to the FCC. Moreover, the Commission shall delete the policy statement on radio common carrier entry requirements in § 69.85. A statement of policy is not a regulation, but merely a government agency's statutory interpretation. *Central Dauphin*

*School District v. Department of Education*, 608 A.2d 576 (Pa. Cmwlth. 1992). Therefore, it will not be necessary to republish the proposed rulemaking to remove the policy statement from 52 Pa. Code. We shall merely instruct the Legislative Reference Bureau to delete § 69.85.

Finally, given the decision to refrain from regulating radio carrier services, the Commission shall decline to regulate the terms and conditions of PCS/PCN service; *Therefore,*

#### *It Is Ordered That:*

1. The proposed rulemaking at Docket No. L-00950104 is hereby marked closed.
2. The interim rules set forth at Docket No. L-00950104 are hereby revoked.
3. The policy statement on radio common carrier entry requirements in § 69.85 shall hereby be deleted and the Legislative Reference Bureau informed of our action.
4. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
5. Personal Communication Services provided over Personal Communication Networks are hereby declared to be nonjurisdictional, and Docket No. M-00950695 is hereby marked closed.
6. All persons having an interest in this proceeding shall have 20 days, from the date of entry of this tentative order, within which to file a response to this tentative order.
7. Absent adverse comment within the 20-day comment period, this tentative order shall then become final without further order of this Commission.
8. A copy of this tentative order be served on the Office of Consumer Advocate, the Small Business Advocate, all commentators, and all Pennsylvania local exchange carriers.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-200. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 52. PUBLIC UTILITIES**

#### **PART I. PUBLIC UTILITY COMMISSION**

#### **Subpart C. FIXED SERVICE UTILITIES**

#### **CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES**

#### **§ 69.85. (Reserved).**

[Pa.B. Doc. No. 98-2115. Filed for public inspection December 24, 1998, 9:00 a.m.]