

RULES AND REGULATIONS

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 53, 63 AND 64]

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

Public Meeting held
October 28, 2021

Commissioners Present: Gladys Brown Dutrieuille, Chairperson, Statement, Dissenting; John F. Coleman, Jr., Vice Chairperson; 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.

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

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

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.

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).

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 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 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.

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).

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 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

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

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.

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 Telecommunications 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."

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 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

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.

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 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

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.
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 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.

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 comments 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 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.

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.

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 regula-

tory 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, IIRC 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.” IIRC Comments at 3.

C. Discussion and Resolution

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

IIRC 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 IIRC’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 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.

1. *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) and large business customers generat-

²⁹ See 66 Pa.C.S. § 3019(b)(2).

ing \$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 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

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 of 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).

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 new and streamlined 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

³¹ 66 Pa.C.S. § 3012.

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 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 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 requires 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 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 intended 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.

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

³² 66 Pa.C.S. § 3016(b).

³³ See 66 Pa.C.S. § 3011(8).

³⁴ See 52 Pa. Code § 53.58(b); see generally, Reclassification Order.

³⁵ Joint Petition of Nextthink 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).

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.*

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 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 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 resi-

dential 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 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.

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.

⁴¹ Joint Petition at 3, ¶ 6.

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 rule-making, we determine that it is appropriate to have a bifurcated system of tariff requirements that may be separately applicable to retail protected and retail non-competitive 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 with-

out 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 Section 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

⁴² Reclassification Order at 79.

⁴³ *Id.*

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 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.

1. *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.

2. *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.

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

⁴⁴ Reclassification Order at 79.

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 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 Section 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 Section 63.15, to be optional for the carrier as well as the customer. TCC/CCL Comments at 12-13.

With respect to Section 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

⁴⁵ See ANPRM Order at 11.

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 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

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.

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 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 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 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 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

⁴⁸ Reclassification Order at 80.

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).

⁴⁷ See Reclassification Order at 7, 60-61.

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’ needs. Ipso 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.

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

⁵² Reclassification Order at 81, 141 (Appendix D).
⁵³ *Id.*

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.

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.

⁵⁴ Reclassification Order at 80.

⁵⁵ Id.; Final Implementation Order at 17.

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 (Systems 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 could 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 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.

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.

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.

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 re-

quest 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 retention of these regulations.

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 the act of October 30, 2017 (P.L. 806, No. 50) authorizes the Commission to enforce provisions of the state's Underground Utility Line Protection Law, the act of December 10, 1974 (P.L. 852, No. 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 (relating to underground telephone service in new residential developments).

a. *Comments and Replies*

No party has filed comments or replies regarding the Commission's proposed rescission of 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.

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 Red 1735 (2017).

⁶¹ 73 P.S. § 176 et seq.

E. Subchapter E (Telecommunications Quality 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 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 Section 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 Section 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 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 Section 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 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

⁶² Reclassification Order at 85.

⁶³ *Id.*

⁶⁴ *Id.* at 86.

⁶⁵ *Id.* at 85.

⁶⁶ *Id.* at 85.

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 Code to support 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 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 Section 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 proposed 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 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 63.56 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.

6. *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.

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.

⁶⁷ Id.

⁶⁸ Reclassification Order at 87.

⁶⁹ Id. at 87-88.

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.

7. *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.

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 non-competitive 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.

8. *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. Be-

⁷⁰ Reclassification Order at 87.

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

cause 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 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.

9. *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.

10. *52 Pa. Code § 63.61 (Local dial service),
52 Pa. Code § 63.62 (Direct distance dial 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.

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.

11. *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 proposed 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 Section 63.63. OCA Comments at 11-12. The OCA also encourages the Commission to retain “the core protection” of Section 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

⁷² Reclassification Order at 85.

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 it 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.

12. *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 do 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.

13. *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 and

⁷³ Reclassification Order at 86.

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.

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 regulations.

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.

⁷⁴ Reclassification Order at 88.

a. *Comments and Replies*

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

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 the 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.

b. *Discussion and Resolution*

The Commission fully understands Verizon’s position that the FCC’s rules and federal law and 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) (relating to additional powers and duties).

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

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.

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 that as 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 contractor” 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 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.

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

⁷⁶ Reclassification Order at 90—103.

⁷⁷ *Id.* at 93-94

⁷⁸ *Infra.* at 18—24.

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 Section 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 Section 64.2 (Definitions), as well as the corresponding provision of Chapter 63 (Section 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 Sections 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, Section 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 service 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:

- 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

⁷⁹ Reclassification Order at 95.
⁸⁰ *Infra.* at 18—24.

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.

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 Section 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 Section 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 Section 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 Section 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 (Advance 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.

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 these 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.

⁸¹ Reclassification Order at 62.
⁸² Id.

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 inter-exchange 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 Section 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 Section 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 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 discontinuation 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 interruptions) and Section 64.53 (Discontinuance 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 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

⁸³ Reclassification Order at 97.

⁸⁴ *Id.*

⁸⁵ Reclassification Order at 97.

⁸⁶ *Id.*

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 are 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; renewals);
- Section 64.105 (Restoration of service);
- 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.

⁸⁷ Reclassification Order at 98—100.

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 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

⁸⁸ *Infra.* at 18—24.

⁸⁹ Reclassification Order at 99.

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.

Verizon must meet the notice requirements of Sections 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.

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 are 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.

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

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.

⁹⁵ Reclassification Order at 99.

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 non-competitive 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.

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

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 determined 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 paragraphs (1), (2), and (3) of subsection 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

⁹⁶ Reclassification Order at 99.

⁹⁷ Reclassification Order at 99.

⁹⁸ Reclassification Order at 99.

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 Section 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.

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 the 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

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

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.

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) 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 to 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 non-competitive 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 infor-

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

mal 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 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 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 Reclassifica-

tion 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.

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.

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.

¹⁰² Reclassification Order at 99, 144.

OCA also supports the Commission's proposal to retain the 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 as 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

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, 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.

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

¹⁰⁵ Reclassification Order at 102.

¹⁰⁶ See Final Implementation Order at 32.

¹⁰⁷ ANPRM Order at 21; Reclassification Order at 103.

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 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 the 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 Code, 66 Pa.C.S. §§ 501, 504, 505, 506, 1501, 1504, 1507, 1508, 1509, and 3011—3019; Section 201 of the act of July 31, 1968 (P.L. 769, No. 240), referred to 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 That:

1. Chapters 53, 63 and 64 of Title 52 of the *Pennsylvania Code* are hereby amended as set forth in Annex A hereto.
2. The Law Bureau shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. The Law Bureau shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
4. The Law Bureau shall submit this order and Annex A to the Governor’s Budget Office for review of fiscal impact.
5. 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. The Secretary’s Bureau will serve a 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.

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).

¹⁰⁸ Reclassification Order at 22.

¹⁰⁹ *Id.*

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

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

ROSEMARY CHIAVETTA,
Secretary

ORDER ADOPTED: OCTOBER 28, 2021

ORDER ENTERED: DECEMBER 9, 2021

(*Editor's Note:* See 52 Pa.B. 3294 (June 4, 2022) for IIRC's approval order.)

Fiscal Note: Fiscal Note 57-331 remains valid for the final adoption of the subject regulations.

Statement of Chairperson 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).¹¹¹

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.¹¹²

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.¹¹³ 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.

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,¹¹⁴ 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.¹¹⁵

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(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.

The guiding principles of Sections 3019(b)(2) and 3011(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.¹¹⁶ A holistic consideration of Sections Section 3019(b)(2), 3011(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.¹¹⁷ 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

¹¹⁴ 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 600,000 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.

¹¹⁵ 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 8,633 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 https://www.epi.org/publication/briefingpapers_wrongnumber/) with Verizon Comments, pp. 2–5 and PTA Reply, and CR Comments. Cf. Comments of the OCA.

¹¹⁶ Compare e.g., Section 3011(1), (2), (8), and (11) with Verizon Comments, p. 2, n. 7 citing 3011(11). It should be noted that Section 3011(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(11). See PTA Reply Comments, p. 3.

¹¹⁷ Verizon Comments, pp. 3–10; PTA Reply Comments.

¹¹¹ 66 Pa.C.S. § 3019(b)(2).

¹¹² Comments of the Independent Regulatory Review Commission, Docket No. L-2018-3001391 (July 23, 2021), p. 3.

¹¹³ 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 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.

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 superficial reference to access line losses, the incumbents would have long ago, under Section 3016 of the Code,¹¹⁸ 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.¹¹⁹ 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.

Section 3011.

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.¹²⁰

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(13) must be balanced against preceding provisions such as Section 3011(2) addressing universal service at affordable rates, paragraph (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(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) obligations¹²¹ under state law and are Eligible Telecommunications Carriers (ETC) with obligations arising from the receipt of federal support tied to that ETC designation.¹²² 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.¹²³ IRRIC has raised this concern as well.¹²⁴

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

¹¹⁹ 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.

¹²⁰ See e.g., PTA Comments, p. 4.

¹²¹ 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.

¹²² See e.g., Comments of Claverack Communications, Docket No. L-2018-3001391 (May 25, 2021) inter alia.

¹²³ Comments of Claverack Communications, Inc., Docket No. L-2018-3001391 (May 25, 2021); Accord IRRIC Comments (July 23, 2021), p. 5.

¹²⁴ IRRIC Comments (July 23, 2021), p. 5.

¹¹⁸ 66 Pa.C.S. § 3016(a)(1)—(3).

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.¹²⁵

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.¹²⁶

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 require-

¹²⁵ 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 RuDOP 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.

¹²⁶ 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.

ment 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.¹²⁷

In conclusion, I do not support any revisions of the regulations which do not strike the appropriate balance between Sections 3011, 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

GLADYS BROWN DUTRIEUILLE,
Chairperson

Annex A

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS
TARIFF FILING REQUIREMENTS FOR A LOCAL EXCHANGE TELECOMMUNICATION COMPANY AND A COMPETITIVE 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.

*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 service—*As defined in 66 Pa.C.S. § 3012 (relating to definitions).

¹²⁷ 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.

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—A legal entity including, but not limited to, corporations, partnerships, limited liability companies, hospitals, schools, government agencies and correctional institutions with an annual total billed revenue equal to or greater than \$80,000 for telecommunications services.

LETC—Local exchange telecommunications company—A telecommunications service provider as defined in 66 Pa.C.S. § 3012 (relating to definitions).

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.

New service—A service or business activity that is not substantially the same or functionally equivalent with existing competitive or noncompetitive services.

Noncompetitive service—As defined in 66 Pa.C.S. § 3012.

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.

Nonprotected service—As defined in 66 Pa.C.S. § 3012.

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 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—As defined in 66 Pa.C.S. § 3012.

§ 53.58. Offering of competitive services.

(a) Only a local exchange telecommunication company may obtain a competitive services classification for its retail protected, retail noncompetitive and retail nonprotected services under the relevant provisions of 66 Pa.C.S. § 3016 (relating to competitive services). 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) [Reserved].

(c) [Reserved].

(d) A local exchange telecommunication company and a competitive telecommunications carrier shall:

(1) Maintain on its web site 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 web site a price list for its competitive standalone basic residential voice service.

(3) Maintain on its web site 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 4 years from their posting, and shall provide both current and archived documents to the Commission upon reasonable request.

(e) 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 shall file a petition as directed in 66 Pa.C.S. § 3016(c). 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 § 53.57 (relating to definitions), that are located in its certificated service territory.

§ 53.59. Cost support requirements and effective filing dates for tariff filings of noncompetitive services.

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

(h) [Reserved].

(i) *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.* A 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 (relating to competitive services) or § 53.58(b) (relating to offering of competitive services) 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) *Review.* 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:

(i) 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.

(ii) The competitive telecommunications carrier's tariff filing does not contain any material changes in the competitive telecommunications carrier's tariff rules, terms or conditions.

(iii) 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.

(iv) 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 is 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(n)(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 bundled service packages.

(a) *Promotional offerings.* 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) 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. Local exchange telecommunications companies and competitive telecommunications carriers shall provide a 10-day advance notice to any resellers that purchase the promotional service offering from the local exchange telecommunications company or competitive telecommunications carrier making the tariff filing.

(2) [Reserved].

(3) 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) *Bundled service packages.* Local exchange telecommunications companies and competitive telecommunications carriers are relieved from an obligation to provide cost support for tariff filings involving bundled service packages unless cost support documentation is requested by the Commission.

(1) When a local exchange telecommunications company's or competitive telecommunications carrier's 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.

(2) [Reserved].

(3) No filing requirements exist in this subpart for a local exchange telecommunications company's or competitive telecommunications carrier's bundled service packages composed entirely of competitive services.

(c) [Reserved].

CHAPTER 63. 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 utility service.

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 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 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.

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 offers retail protected, 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, telecommunications utility service to be provided at a customer location which does not have telecommunications utility service including, but not limited to, the initial connection of a new customer or the transfer of utility service of an existing customer's service to a new location.

Subscriber—A person, firm or corporation designated on public utility records as the party responsible for payment of bills for telecommunications service.

Surveillance level—A measurement of 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. [Reserved].

§ 63.13. [Reserved].

§ 63.14. Emergency equipment and personnel.

(a) 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) 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) [Reserved].

(a.1) *Customer service complaints.* The Commission's Bureau of Consumer Services shall process service complaints received from consumers in the following manner:

(1) *Automatic customer transfer.* Upon the receipt of a service-related complaint from a customer, the Commission's Bureau of Consumer Services may seek to immediately and contemporaneously transfer the customer to its jurisdictional telecommunications public utility for resolution to address the inquiry or service complaint in the following manner:

(i) The transfer will occur with the customer's explicit consent.

(ii) The transfer will be made to a live operator or customer service representative of the jurisdictional telecommunications public utility.

(iii) The jurisdictional telecommunications public utility shall maintain a dedicated toll-free telephone number for the automatic customer transfer process.

(iv) In the event that the customer's service complaint cannot be resolved, it will be referred back to the Commission's Bureau of Consumer Services for resolution in accordance with the provisions of subsection (c).

(v) The Commission's Bureau of Consumer Services 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 shall safeguard the customer's personal data and billing information from public disclosure.

(2) *Investigations.* If the customer declines to participate in automatic customer transfer resolution process set forth in paragraph (1), the jurisdictional telecommunications public utility shall make a full and prompt investigation of the service complaints made to it through the Commission by its customers. 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 jurisdictional telecommunications public utility through the Commission, the 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 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 jurisdictional telecommu-

nications public utility's decision or explanation, the jurisdictional 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—64.181 when applicable to residential utility service.

§ 63.16. [Reserved].

§ 63.18. [Reserved].

§ 63.19. [Reserved].

§ 63.20. [Reserved].

§ 63.21. Directories.

(a) When a directory is provided by the jurisdictional telecommunications public utility, it must be revised and reissued at sufficiently frequent intervals to avoid serious inconvenience to the public. A satisfactory length for a directory period 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 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) 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) [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) [Reserved].

(b) [Reserved].

(c) [Reserved].

§ 63.23. Construction and maintenance safety standards for facilities.

Overhead and underground 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 the most recent Institute of Electrical

and Electronics Engineers' (IEEE) *National Electrical Safety Code*, as amended and supplemented.

§ 63.24. [Reserved].

Subchapter C. ACCOUNTS AND RECORDS

§ 63.31. **Classification of public utilities.**

For accounting and reporting purposes, jurisdictional telecommunications public utilities are classified as follows:

(1) *Class A.* Telecommunications public utilities that are 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.* Telecommunications public utilities that are 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.* Telecommunications public utilities that provide competitive local telecommunications services and that are not the incumbent provider in any local exchange area within this Commonwealth.

§ 63.32. [Reserved].

§ 63.33. [Reserved].

§ 63.34. [Reserved].

§ 63.35. **Preservation of records.**

(a) [Reserved].

(b) Unless a different retention period is otherwise specifically addressed in this chapter, a telecommunications public utility shall be required to retain for eight years all of the following records:

(1) All records related to an audit conducted by the Commission under section 516 of the 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 Public Utility Code.

(3) Records required for those entities remaining subject to ratemaking provisions under Chapters 13 and 30 of the Public Utility Code.

Subchapter D. [Reserved]

§ 63.41. [Reserved].

**Subchapter E. TELECOMMUNICATIONS
QUALITY SERVICE STANDARDS**

§ 63.51. [Reserved].

§ 63.52. [Reserved].

§ 63.53. **General provisions.**

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) If unreasonable hardship to a jurisdictional telecommunications public utility results from compliance with this subchapter, the jurisdictional telecommunications public utility may file a petition in accordance with § 5.41 (relating to petitions generally) requesting the modification of the section or for temporary exemption from its requirements. The Commission may grant tempo-

rary exemptions of this subchapter in exceptional cases consistent with applicable statutory procedures. The jurisdictional telecommunications public utility 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 minimum 3-year period the service records related to all of 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).

(4) Service outages under § 63.22 and § 63.57 (relating to customer trouble reports) of this chapter.

§ 63.55. **Surveillance levels.**

(a) 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) [Reserved].

(c) [Reserved].

§ 63.56. [Reserved].

§ 63.57. **Customer trouble reports.**

(a) [Reserved].

(b) 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) [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 (relating to surveillance levels).

§ 63.58. [Reserved].

§ 63.59. 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:

(1) 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 utility records data for more than one call center or business office, the utility should also record the combined percent of calls answered within 30 seconds for the public utility as a whole.

(2) 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 utility should also record the combined busy-out rate for the utility as a whole.

(3) 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 utility should also record the combined call abandonment rate for the utility as a whole.

§ 63.60. [Reserved].

§ 63.61. [Reserved].

§ 63.62. [Reserved].

§ 63.63. [Reserved].

§ 63.64. Metering inspections and tests.

(a) [Reserved].

(b) [Reserved].

(c) If a meter is used in connection with telecommunications service, it shall be read, where applicable, at monthly intervals. The meter reading records from which the customers' bills are prepared shall show all of the following:

(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) [Reserved].

(e) 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 all of 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) [Reserved].

(h) [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 and Health Act (OSHA) standards, 29 CFR Parts 1910—1999 as amended from time to time.

Subchapter F. [Reserved]

§ 63.71. [Reserved].

§ 63.72. [Reserved].

§ 63.72a. [Reserved].

§ 63.73. [Reserved].

§ 63.74. [Reserved].

§ 63.75. [Reserved].

§ 63.76. [Reserved].

§ 63.77. [Reserved].

Subchapter G. [Reserved]

§ 63.91. [Reserved].

§ 63.92. [Reserved].

§ 63.93. [Reserved].

§ 63.94. [Reserved].

§ 63.95. [Reserved].

§ 63.96. [Reserved].

§ 63.98. [Reserved].

Subchapter H. [Reserved]

§ 63.101. [Reserved].

§ 63.102. [Reserved].

§ 63.103. [Reserved].

§ 63.104. [Reserved].

§ 63.105. [Reserved].

§ 63.106. [Reserved].

§ 63.107. [Reserved].

§ 63.108. [Reserved].

§ 63.109. [Reserved].

Subchapter J. CONFIDENTIALITY OF CUSTOMER COMMUNICATIONS AND INFORMATION

§ 63.131. General provisions.

(a) [Reserved].

(b) A 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 telecommunications company or its authorized 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. Telecommunications companies and 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 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 is the principal in the contractual relationship with the agent.

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 telecommunications company of communications between the point of origin and the point of reception by a telecommunications company.

Customer information—Information regarding a customer of a 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—An individual who works directly for and is paid a salary by a 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 company pursuant to a contractual relationship.

Security department—The department or individuals with responsibility for the prevention and investigation of the loss, destruction or theft of telecommunications company property, the unauthorized or unlawful use of telecommunications company equipment or services and the unlawful conduct of telecommunications company employees, agents or independent contractors which occurs during the course of employment.

Service evaluation and monitoring—Evaluation and monitoring of telecommunications company operations, including communications, to maintain or improve the quality of service to the customer. The term includes review of employee, agent or independent contractor relationships with customers, system checks and facility maintenance.

Telecommunications company—A public utility which provides telecommunication services subject to Commission jurisdiction.

Telecommunications services—The offering of the transmission of messages or communications for a fee to the public.

Wiretap Act—Title 18 of the *Pennsylvania Consolidated Statutes* §§ 5701—5781 (relating to Wiretapping and Electronic Surveillance Control Act).

§ 63.133. Confidentiality.

A telecommunications company shall 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, agent or independent contractor to maintain the confidentiality of customer communications and customer information in accordance with applicable State and Federal law.

§ 63.134. Commitment to confidentiality of customer communications and customer information.

A telecommunications company shall confirm with each employee, agent or independent contractor the responsibility to maintain the confidentiality of customer communications and customer information in accordance with applicable Federal and State law.

(1) *Securing commitment from employees, agents or independent contractors.* A telecommunications company shall, at the time a person commences employment or an agency or independent contractor relationship, instruct that person regarding 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, 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 telecommunications company where the action is taken in the normal course of employment.

(C) The protection of the telecommunications company, an interconnecting carrier, a customer or user of service from fraudulent, unlawful or abusive use of telecommunications service.

(D) Compliance with legal process or other requirements of law.

(iii) An 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, agent or independent contractor commitment.* An appropriate document shall be prepared outlining the policy summarized in paragraph (1) and stating that the telecommunications company employee, agent or independent contractor has read and understands the policy. The telecommunications company shall present the document to each employee, agent or independent contractors for signature. A telecommunications company manager shall witness and date the document, regardless of whether the employee, agent or independent contractor has agreed to sign the document. One copy shall be filed with the personnel papers of the employee, agent or independent contractors and one copy given to the employee, agent or independent contractors to keep and review.

(3) *Annual review.* A telecommunications company shall annually review with 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 access to customer information and the purposes for which this information may be used by employees, agents or independent contractors responding to requests for customer information from persons outside the telecommunications company and the recording of use and disclosure of customer information.

(1) *Access to and use of customer information.* Access to and use of customer information shall be limited to 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 telecommunications company. An 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 telecommunications company or to subsidiaries or affiliates of the 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 telecommunications company where the action is taken in the normal course of an employee's, agent's or independent contractor's activities.
- (iii) The protection of the 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 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 telecommunications company service.

(3) *Limitation on disclosures to agents, contractors, subsidiaries or affiliates.* To comply with this subchapter, a 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 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 telecommunications company by this subchapter and to maintain the same commitment to the protections in § 63.134 (relating to 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 telecommunications company's 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 telecommunications company's 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 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, agent or independent contractor or other telecommunications company representative who will produce the information. The 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, agent or independent contractor shall then comply with the legal process.

(ii) If information, including applicable records, is unavailable, the 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 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, 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 telecommunications company, subject to subparagraph (i).

(iii) Each instance in which customer information is disclosed to a governmental entity or the telecommunications company security department.

(iv) Each instance in which a record is required by other telecommunications company practices or procedures.

(7) *Annual notice of Customer Proprietary Network Information (CPNI) rights.* The 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. [Reserved].

§ 63.137. [Reserved].

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 local exchange telecommunications companies to competitive telecommunications carriers as the term is defined in this subchapter for all services and facilities local exchange telecommunications companies are obligated to provide 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 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:

Competitive service—As defined in 66 Pa.C.S. § 3012 (relating to definitions).

Competitive telecommunications carrier—

(i) A local exchange telecommunications services provider that has been certificated or given provisional authority by the Commission as a 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. § 3019(a) (relating to additional powers and duties), and its successors and assigns.

(ii) The term includes any of the competitive telecommunications carrier's affiliates, subsidiaries, divisions or other corporate subunits that provide local exchange service.

LEC—*Local exchange carrier*—A legal entity that is authorized to do business in this Commonwealth 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—As defined in 66 Pa.C.S. § 3012.

Market price—Prices set at market-determined rates.

Noncompetitive service—As defined in 66 Pa.C.S. § 3012.

Telecommunications service—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) 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 competitive telecommunications carrier any preference or advantage over any other competitive telecommunications carrier in the preordering, ordering, provisioning, or repair and maintenance of any goods, services, network elements (as defined under section 3(35) of the Communications Act of 1934 (47 U.S.C.A. § 153(35)), or facilities.

(ii) 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 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 local exchange telecommunications company from bundling noncompetitive services with other noncompetitive services or with competitive services so long as the local exchange telecommunications company continues to offer any noncompetitive service contained in the bundle on an individual basis.

(iii) local exchange telecommunications company shall offer to 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 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) A local exchange telecommunications company may not state or imply that the continuation of any requested service from the local exchange telecommunications company is contingent upon taking other services offered by the local exchange telecommunications company that are not technically necessary to provide the requested service.

(4) *Cross subsidization.*

(i) 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) 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 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 local exchange telecommunications company or the local exchange telecommunications company’s competitive local exchange affiliate or division or other corporate subunit that performs that function.

(ii) A local exchange telecommunications company’s employees, including its wholesale employees, shall use competitive telecommunications carrier proprietary information (that is not otherwise available to the local exchange telecommunications company) received in the preordering, ordering, provisioning, billing, maintenance or repairing of any telecommunications services provided to the competitive telecommunications carrier solely for the purpose of providing the services to the CLEC. Local exchange telecommunications company employees may not disclose the competitive telecommunications carrier proprietary information to other employees engaged in the marketing or sales of retail telecommunications services unless the competitive telecommunications carrier provides prior written consent to the disclosure. This provision does not restrict the use of aggregated competitive telecommunications carrier data in a manner that does not disclose proprietary information of any particular 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.* Local exchange telecommunications company's wholesale employees who are responsible for the processing of a competitive telecommunications carrier order or service of the operating support system on behalf of a competitive telecommunications carrier may not be shared with the retail portion of the local exchange telecommunications company's business, shall have offices physically separated from the 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 telecommunications service provided by an LSP.

* * * * *

Local exchange carrier—A legal entity that is authorized to do business in this Commonwealth 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 reseller—A LSP that resells another company's wholesale telecommunications services to provide local service to customers.

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.

* * * * *

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 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 telecommunica-

tions 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 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 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 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 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—

(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—Telecommunications service to a location other than a dwelling, except that service to a dwelling used for both residential and commercial pur-

poses 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 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 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. § 3018 (relating to interexchange telecommunications carriers).

LEC—Local Exchange 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 telecommunications service which is either offered or billed for by 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 offers protected, retail nonprotected and noncompetitive telecommunications services as defined by 66 Pa.C.S. § 3012.

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—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 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.

Telecommunications company—A public utility which provides telecommunications service subject to Commission jurisdiction.

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 a LEC. The term includes service that is either billed by or provided by 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. Notwithstanding the foregoing provisions, the LEC may not proceed with suspension or termination of service based on a disputed billed amount 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 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.

A LEC shall render either a paper bill or an electronic bill once every billing period to customers in accordance with the LEC's tariff, product guide or similar document.

§ 64.14. Billing information.

(a) Every bill rendered must 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) [Reserved].

(c) [Reserved].

(d) [Reserved].

§ 64.15. [Reserved].

§ 64.22. [Reserved].

§ 64.24. Provision of bundled service packages.

* * * * *

(c) *Consumer protection requirements.* A LEC that is legally obligated to offer any "protected service" under 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 these customers:

* * * * *

Subchapter C. CREDIT AND DEPOSIT STANDARDS POLICY

§ 64.31. LEC credit and deposit policies.

A LEC shall describe its credit and deposit standards, which must be reasonable under 66 Pa.C.S. § 1501 (relating to character of service and facilities), in a tariff, product guide or similar document.

§ 64.32. [Reserved].

§ 64.33. [Reserved].

§ 64.34. [Reserved].

§ 64.35. [Reserved].

§ 64.36. [Reserved].

§ 64.37. [Reserved].

§ 64.38. [Reserved].

§ 64.39. [Reserved].

§ 64.40. [Reserved].

§ 64.41. [Reserved].

Subchapter D. [Reserved].

§ 64.51. [Reserved].

§ 64.52. [Reserved].

§ 64.53. [Reserved].

Subchapter E. SUSPENSION OF SERVICE

GROUND FORS FOR SUSPENSION

§ 64.61. Authorized suspension of service.

Telecommunications service to a dwelling may be suspended for any of the following reasons:

* * * * *

(6) Fraud or material misrepresentation of identity to obtain telecommunications service.

* * * * *

(8) Unpaid indebtedness for 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.

(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 telecommunications company and, thereafter, an informal complaint with the Commission.
- (3) The procedures for resolving disputes relating to charges on the notice 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) [Reserved].
- (6) The medical emergency procedures.

(7) That upon failure to timely appeal from or comply with a 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.

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 telecommunications service must be maintained.

Subchapter F. TERMINATION OF SERVICE

GROUND FOR TERMINATION

§ 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) 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 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 operator or customer service representative of the LEC.

(3) The LEC shall maintain a dedicated toll-free telephone number for the automatic customer transfer process.

(4) In the event that the 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 and participating 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 personnel shall safeguard the customer's personal data and billing information from public disclosure.

(b) If the customer declines to participate in the automatic transfer process outlined in subsection (a.1), the informal complaint shall be docketed as "(complainant) v. (company)" and the Commission's Bureau of Consumer Services will immediately notify the 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 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'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 (relating to contents of written summary by the LEC), telephone calls, conferences, written statements, research, inquiry and investigation. Procedures shall be designed to ensure 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, 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.

(c) Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under Chapter 5 (relating to formal proceedings).

(d) 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. [Reserved].

Subchapter I. PUBLIC INFORMATION; RECORD MAINTENANCE

§ 64.191. Public information.

(a) LEC service representatives shall provide applicants who apply for residential 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 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 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 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) In addition to the notice requirements set forth in this chapter, 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. 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 telecommunications company on its bills.
- (g) [Reserved].

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 basic service.
- (3) The average number of overdue residential accounts per month.
- (4) The average overdue residential customer bill per month for 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 for basic service.
- (9) LEC gross write-offs of uncollectible residential accounts for basic service.
- (10) LEC net write-offs of uncollectible residential accounts for basic service.
- (11) The total number of Chapter 64 disputes handled.

Subchapter K. GENERAL PROVISIONS

§ 64.211. [Reserved].

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