**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  | Public Meeting held February 26, 2015 |
| Commissioners Present:  Robert F. Powelson, Chairman  John F. Coleman, Jr., Vice Chairman  James H. Cawley, Dissenting Statement  Pamela A. Witmer, Statement  Gladys M. Brown, Statement, dissent |  |
| 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 | P-2014-2446303  P-2014-2446304 |
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**OPINION AND ORDER**

**BY THE COMMISSION:**

**I. Matter Before The Commission**

Before the Commission for consideration and disposition is the Joint Petition (Petition) of Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) (collectively Verizon, Company, or Companies) for competitive classification of all retail services in certain geographic areas pursuant to Section 3016(a) of the Public Utility Code (Code), 66 Pa. C.S. § 3016(a), and for an eleven year waiver of parts of Chapter 63 and all of Chapter 64 of our Regulations in Title 52 of the Pennsylvania Code (Regulations). The Petition was filed on October 6, 2014, pursuant to 66 Pa. C. S. § 3016(a)(2), 66 Pa. C. S. § 501, and 52 Pa. Code § 5.43. The Petition was assigned Docket Nos. P-2014-2446303 and P-2014-2446304.[[1]](#footnote-1)

**II. Verizon’s Petition**

**A. Introduction**

Pursuant to Section 3016(a) of the Code, an Incumbent Local Exchange Carrier (ILEC) may petition the Commission for a determination whether a protected or retail noncompetitive telecommunications service in the ILEC’s service territory, or a particular geographic area therein, is competitive. The Commission may permit the ILEC to reclassify the protected service as competitive where the ILEC has demonstrated the “availability of like or substitute services or other business activities provided or offered by alternative service providers[.]”[[2]](#footnote-2)

Since the passage of Act 183 of 2004, P.L. 1398 (66 Pa. C.S. §§ 3011-3019) (Chapter 30), most of Verizon’s jurisdictional retail services that were previously considered noncompetitive services have been classified or declared “competitive” under Section 3016(b) of the Code or predecessor provisions.[[3]](#footnote-3) Verizon’s current list of competitive services includes all residential services except its protected basic stand-alone telephone service, commonly referred to as basic local exchange service,[[4]](#footnote-4) and all protected services to business customers generating $10,000 or more in annual revenues (i.e., enterprise/large business customers).[[5]](#footnote-5) Moreover, Verizon has declared all service bundles[[6]](#footnote-6) to residential and business customers to be competitive.

Through its Petition, Verizon seeks a Commission determination that all of its remaining services not currently classified as competitive should be reclassified as competitive in 194 of its 504 wire centers in Pennsylvania. Specifically, the 194 Pennsylvania wire centers included in the Petition (Petition Area) are located within certain areas in Verizon’s Philadelphia, Erie, Scranton/Wilkes-Barre, Harrisburg, Pittsburgh, Allentown, and York service regions.[[7]](#footnote-7) Verizon St. 1.0 at 1. According to Verizon, its Petition Area is limited to Pennsylvania’s major population centers, where, ostensibly, the presence of competition is not disputed. The noncompetitive, protected services at issue in this proceeding consist of basic local exchange service to residential customers and to business customers generating less than $10,000 in annual revenues. Verizon does not propose to reclassify its intrastate switched access service or any portion of its special access service that is not currently classified as competitive. Thus, these services are excluded from the Verizon’s request for relief. Petition at ¶ 11, n. 8.

In addition to a Commission determination that its basic local exchange service to its residential and business customers in its Petition Area is competitive, Verizon also concurrently requests a waiver within its Petition Area of certain Commission Regulations under Chapter 63 and all Regulations under Chapter 64 for an eleven-year period ending December 31, 2025. Petition at ¶ 15.

Section 3016(a) of the Code reads, in pertinent part, as follows:

**§ 3016. Competitive services.**

**(a) Commission determination of protected, retail nonprotected and retail noncompetitive services as competitive.--**

(1) A local exchange telecommunications company may petition the commission for a determination of whether a protected or retail noncompetitive service or other business activity in its service territory or a particular geographic area, exchange or group of exchanges or density cell within its service territory is competitive based on the demonstrated availability of like or substitute services or other business activities provided or offered by alternative service providers. The commission, after notice and hearing, shall enter an order granting or denying the petition within 60 days of the filing date or within 150 days of the filing date where a protest is timely filed, or the petition shall be deemed granted.

\* \* \*

(3) In making its determination, the commission shall consider all relevant information submitted to it, including the availability of like or substitute services or other business activities, and shall limit its determination to the service territory or the particular geographic area, exchange or group of exchanges or density cell in which the service or other business activity has been proved to be competitive.

(4) The burden of proving that a protected or retail noncompetitive service or other business activity is competitive rests on the local exchange telecommunications company.

66 Pa. C. S. § 3016(a).

Section 3012 of the Code, 66 Pa. C. S. § 3012, defines “protected service” as follows:

**“Protected service.”** The following telecommunications services provided by a local exchange telecommunications company unless the commission has determined the service to be competitive:

(1) Service provided to residential consumers or business consumers that is necessary to complete a local exchange call.

(2) Touch-tone service.

(3) Switched access service.

(4) Special access service.

(5) Ordering, installation, restoration and disconnection of these services.

66 Pa. C.S. § 3012 (Definition of “protected service”).

Although Chapter 30 lists five protected services, we have previously noted that Verizon has not requested that its access services (either switched or special) be declared competitive. Therefore, the following protected services are relevant to this proceeding:

* Service provided to residential consumers or business consumers that is necessary to complete a local exchange call.
* Touch-tone service.

These two services (call completion and touch-tone) are interrelated and, when taken together, allow local calling via a touch-tone phone.[[8]](#footnote-8) Thus, Verizon is seeking a determination that its basic local exchange service, including the ordering, installation, restoration, and disconnection of the service, is competitive in its Petition Area.

At the outset, we find it pertinent to state what this proceeding is not about. This proceeding is not a request by Verizon to cease offering its basic local exchange service in the wire centers for which it seeks a competitive determination. Under its Petition, Verizon does not seek to abandon any of its service offerings, and we grant no such permission.[[9]](#footnote-9) Likewise, Verizon has not presented any plans to cease operation of its legacy copper network. If Verizon sought to do so, it would be required to comply with applicable requirements of federal law.[[10]](#footnote-10) These requirements include providing public notice of any plans to abandon and allowing the opportunity for any interested party to comment on any proposed copper network abandonment. [[11]](#footnote-11)

Any determination we reach under this proceeding also will not diminish Verizon’s statutory duty to provide “adequate, efficient, safe, and reasonable service and facilities” as well as service that is “reasonably continuous and without unreasonable interruptions or delay[.]”[[12]](#footnote-12) In any wire center that we determine to be competitive, Verizon will remain fully obligated to comply with this important consumer protection. Further, as part of its obligation under Section 1501 of the Code, Verizon also remains the carrier of last resort (COLR) in the entirety its service territories, including in any wire centers deemed to be competitive. As we have previously found, an ILEC’s COLR obligation is rooted in this important statutory section.[[13]](#footnote-13)

Several other important regulatory requirements, also wholly unaffected by any ruling on Verizon’s Petition, include:

* Verizon’s 911 obligations;
* Verizon’s Chapter 30 Plan commitments, including the provision of ubiquitous broadband service;
* Verizon’s Lifeline responsibilities under Chapter 30;[[14]](#footnote-14)
* The wholesale obligations of federal law under which many competitive local exchange carriers (CLECs) and interexchange carriers (IXCs) operate;[[15]](#footnote-15)
* Verizon’s intrastate switched and special access rates and services and the ordering, installation, restoration, and disconnection of such access services; and
* Verizon’s payment of regulatory assessments[[16]](#footnote-16) and contribution to the Pennsylvania Universal Service Fund (USF).[[17]](#footnote-17)

Nothing about our consideration of Verizon’s Petition here affects these important legal and policy safeguards.

The requested ruling is legally straightforward. Verizon has filed a Petition seeking a determination that its basic local exchange service in certain wire centers is competitive in accordance with the provisions of Chapter 30. According to Verizon, there is sufficient competition to allow the marketplace to control prices and quality of service. If the Petition is granted, Verizon would be permitted under Sections 3016(d)(1) and 3016(e)(1) of the Code to price all competitive services at its discretion as long as the price it charges is not less than the cost to provide the service. Verizon would also be permitted to detariff basic local exchange service, in accordance with Section 3016(d)(2) of the Code. Further, Verizon would no longer be required to comply with any of our Chapter 64 Regulations or certain of our Chapter 63 Regulations, including certain quality of service standards under Chapter 63, Subchapter E.

**B. Background**

Verizon PA and Verizon North are “local exchange telecommunications companies” under Section 3012 of the Code. This statutory section defines a local exchange company as, “[a]n incumbent carrier authorized by the commission to provide local exchange telecommunications services. The term includes a rural telecommunications carrier and a nonrural telecommunications carrier.”

Each Company operates under the terms of a Commission-approved alternative regulation plan under Chapter 30 of the Code, 66 Pa. C. S. § 3014. *See* Verizon St. 1.0 at 2. Verizon PA has operated pursuant to a Commission-approved alternative regulation plan under Chapter 30 of the Code since 1994. *See Alternative Regulation Plan of Verizon Pennsylvania LLC*, Docket Nos. P-00930715, P-00930715F1000 and R-00051228 (Order entered June 28, 1994); modified in compliance with the Commission’s Opinion and Orders entered May 20, 2005, March 22, 2007, April 25, 2007, May 27, 2008, and December 14, 2011. (Verizon PA Chapter 30 Plan).

Verizon North has operated under a Commission-approved alternative regulation plan since 2001. *See* *Final Alternative Regulation and Network Modernization Plan of Verizon North LLC,* Docket Nos. P-00981449, P-00001854F1000 and R-00051227 (Order entered July 26, 2001); finalized in compliance with the Commission’s Order entered April 11, 2002, and revised by Orders entered October 10, 2002; further revised in compliance with the Commission’s Orders entered May 20, 2005, April 25, 2007, April 14, 2008, May 27, 2008, and December 14, 2011. (Verizon North Chapter 30 Plan)

**C. History of the Proceeding**

On October 6, 2014, Verizon PA and Verizon North filed this Petition. By Secretarial Letter dated October 6, 2014, the Commission published notice of the Petition in the *Pennsylvania Bulletin.* *See* 52 Pa. Code § 5.14. This notice appeared in the Saturday, October 11, 2014 issue. Pursuant to 66 Pa. C.S. § 501(a), the Commission established a ten-day period for the filing of formal protests. Parties wishing to file formal protests, answers, or as applicable, petitions to intervene, were directed to file, either electronically or in-hand with the Commission’s Office of the Secretary, no later than close of business (4:30 p.m. EDT) on Tuesday, October 21, 2014.

The October 6, 2014 Secretarial Letter further advised Verizon to publish notice of the Petition once in a newspaper of general circulation in each geographic region of the Commonwealth of Pennsylvania affected by the Petition on or before Saturday, October 11, 2014, and to file proof of publication with the Commission on or before Tuesday, October 21, 2014.[[18]](#footnote-18)

Thereafter, the Petition was assigned to the Office of Administrative Law Judge (OALJ) for expedited processing. The letter further directed the OALJ to certify the record to the full Commission after the submission of main and reply briefs. A prehearing conference was scheduled for Thursday, October 23, 2014.

On October 9, 2014, presiding Administrative Law Judge (ALJ) Joel H. Cheskis, issued a Prehearing Conference Order scheduling the initial Prehearing Conference for October 23, 2014, and establishing the procedures for the participating parties to follow.

On October 17, 2014, the Office of Consumer Advocate (OCA) filed a Protest and Public Statement regarding the Petition. On October 20, 2014, the following parties filed various pleadings: (1) Communications Workers of America (CWA) and International Brotherhood of Electrical Workers (IBEW) (collectively CWA-IBEW) filed a Protest and Answer to the Petition; (2) the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene and Answer to the Petition; (3) AT&T Corp. and Teleport Communications America, LLC (AT&T) filed a Petition to Intervene in the proceeding; and (4) Full Service Network LP (FSN) filed a Petition to Intervene.

On October 21, 2014, the following parties filed responsive pleadings: 1) the Pennsylvania Telephone Association (PTA) filed a Petition to Intervene; 2) the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, Verification, Public Statement, Notice of Appearance and Prehearing Memorandum; and 3) the Pennsylvania Burglar & Fire Alarm Association (PBFAA) filed a Protest to the Petition. The record also indicates receipt of a letter-protest from a “Richard Simpson.” *See also*,Tr. at 6.

At the October 23, 2014 Prehearing Conference, a procedural schedule was established and a service list compiled, based on the participants. All responding parties, with the exception of Mr. Richard Simpson and the PBFAA, appeared and participated at the Prehearing Conference.

On December 17, 2014, an evidentiary hearing was held pursuant to the ALJ’s October 23, 2014 Scheduling Order. At that time the Parties previously served prepared, written testimony of their witnesses was admitted into the record subject to timely motions, objections, and cross-examination. The hearing generated a transcript consisting of 169 pages. Also admitted were several cross-examination exhibits of the Parties.

On January 8, 2015, Verizon, AT&T, FSN, PTA, CAUSE-PA, the OCA and CWA-IBEW filed Main Briefs. On January 16, 2015, Verizon, AT&T, FSN, CAUSE-PA, the OCA and CWA-IBEW filed Reply Briefs.

By Order dated January 16, 2015 (*Certification Order*), ALJ Cheskis certified the following record to the Commission:

**Verizon**

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, dated October 6, 2014 at Docket Numbers P‑2014-2446303 and P-2014-2446304

Verizon Statement Number 1.0 (Vasington Direct)

Verizon Statement Number 2.0 (Vasington Rebuttal)

Accompanying attachments

Cross-Examination Exhibit Numbers 1 through 9, Rejoinder Exhibits Number 1 and Supplemental Exhibit Numbers 1 through 5

Verizon Main and Reply Briefs

**AT&T**

Statement Number 1.0 (Panel Direct Testimony of Nurse and Oyefusi)

Statement Number 1.1 (Panel Rebuttal Testimony of Nurse and Oyefusi)

Statement Number 1.2 (Penal Surrebuttal Testimony of Nurse and Oyefusi)

Accompanying attachments

AT&T Main and Reply Briefs

**CWA-IBEW**

Statement Number 1 (Direct Testimony of Baldwin)

Statement Number 1S (Surrebuttal Testimony of Baldwin)

Statement Number 2 (Direct Testimony of Dvorak)

Statement Number 3 (Direct Testimony of Gardler)

Statement Number 4 (Direct Testimony of Dezzi)

Accompanying attachments

Cross-Examination Exhibit Numbers 1 through 5

CWA-IBEW Main and Reply Briefs

**OCA**

Statement Number 1 (Direct Testimony of Loube)

Statement Number 1-R (Rebuttal Testimony of Loube)

Statement Number 1-S (Surrebuttal Testimony of Loube)

Accompanying attachments

OCA Main and Reply Briefs

**FSN**

Statement Number 1 (Direct Testimony of Honeywill)

Statement Number 1-SR (Surrebuttal Testimony of Honeywill)

Accompanying attachments

FSN Main and Reply Briefs

**CAUSE-PA**

Statement Number 1 (Direct Testimony of Miller)

Statement Number 1-SR (Surrebuttal Testimony of Miller)

Statement Number 2 (Direct Testimony of Pinsker)

Accompanying attachments

CAUSE-PA Main and Reply Briefs

**PTA**

PTA Main Brief

*Certification Order* at 5-6.

Pursuant to the *Certification Order*, the Petition is presently before the Commission for decision.[[19]](#footnote-19)

**D. Legal Standards**

We note at the outset that any issue that we do not specifically address shall be deemed to have been duly considered and will be denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the Parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally*, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

Verizon bears the burden of proof in this proceeding, both as the proponent of a rule or order and also pursuant to the terms of Section 3016 of the Code establishing Verizon’s right to file this Petition. 66 Pa. C.S. §§ 332(a), 3016(a)(4). Courts have held that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied,* 529 Pa. 654, 602 A.2d 863 (1992). That is, Verizon’s evidence must be more convincing, by even the smallest amount, than that presented by the opposing Parties. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

Once the party with the burden of proof presents evidence sufficient to initially satisfy that burden, the burden of going forward with the evidence sufficient to rebut that evidence shifts to opposing parties. If the evidence presented by opposing parties is of co-equal value or “weight,” the burden of proof has not been satisfied. The party with the burden of proof now has to provide some additional evidence to rebut that of the opposing parties. *See, e.g., Burleson v. Pa. PUC,* 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff’d,* 501 Pa. 433, 461 A.2d 1234 (1983).

While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC,* 768 A.2d 1217 (Pa. Cmwlth. 2001). Having filed the Petition seeking a competitive determination by the Commission, Verizon is obliged to carry the burden of proving that the services for which it seeks such a determination are competitive under the standards set forth in Section 3016(a) of the Code.

**III. Discussion**

**A. Determination Whether Protected Services in Certain Wire Centers Are Competitive under Section 3016(a) of the Public Utility Code**

**1. Competitiveness of the Market**

We begin this section by summarizing the positions of the Parties regarding the competitiveness of the market, the role of “infra-marginal” customers, and the definition and availability of “like” or “substitute” services separately. Because we find these issues to be inextricably interrelated and intertwined, we shall dispose of them simultaneously in a single disposition at the conclusion of these three subsections.

**a. Competitiveness of the Market in Verizon’s Petition Area**

**i. Positions of the Parties**

**1. Verizon**

Citing to the Local Telephone Competition Status Report issued by the Federal Communications Commission (FCC) on June 30, 2013, Verizon argues that statistics indicate that competition in the telecommunications market is robust on both a state and national level. Specifically, Verizon points out that ILECs in Pennsylvania serve less than half of the access lines than they did fifteen years ago because consumers have migrated to facilities-based competitors, most of which are cable companies, for their wireline service or have switched to a wireless service provider. Verizon Petition at ¶10. However, despite its assertion that competition is present throughout the Commonwealth, Verizon’s Petition is limited to wire centers that are located in urban, suburban, and population-dense areas where it is undisputed that competition is vigorous, as evidenced by a wide array of competitive alternatives and consumers’ demonstrated willingness to migrate to them. Verizon M.B. at 1; Verizon St. 1.0 at 3-4, Attachment A.

Verizon asserts that each of the 194 wire centers for which it seeks reclassification has the availability of cable telephony and is covered by at least one unaffiliated wireless telecommunications provider, thereby meeting the statutory standard for competitive reclassification. Additionally, Verizon argues that two-thirds of the households in its Petition Area obtain service from such alternative providers. In Verizon’s view, this represents a conservative measure of the actual competition present in each wire center because it does not factor in any evidence of competition from traditional CLECs, or competition from alternative networks other than those of cable and wireless telephony. Verizon St. 1.0 at 4-5; Verizon M.B. at 6, 10, 13; Verizon R.B. at 3; Tr. at 36-37. In light of the competition it alleges is present, Verizon submits that market forces, and not regulation, should govern its services and set the rates it charges in its Petition Area. Verizon St. 1.0 at 44-45.

In response to the arguments of the opposing Parties that Verizon continues to retain a large share of the market, Verizon asserts that Chapter 30 does not address a local exchange carrier’s (LEC) market share in the context of a Section 3016(a) reclassification proceeding. Consequently, Verizon avers that its market share is irrelevant to determining whether a wire center should be reclassified as competitive. Verizon R.B. at 12. Moreover, Verizon contends that even if a LEC’s market share were a relevant criterion, the market share numbers specifically set forth by CWA-IBEW are inflated by thirteen to fourteen percent because its (CWA-IBEW’s) witness inaccurately imputed that one-third of all Verizon customers who have opted to discontinue their subscription to basic local exchange service, and to wireline service in general, receive their wireless service from Verizon Wireless. *Id.* at 13. Additionally, Verizon submits that the fifty percent market share threshold that CWA-IBEW utilizes as an indicator for determining whether sufficient competition exists is one that is arbitrary and was presented for the first time in CWA-IBEW’s Main Brief with no support in either the Code or the record. *Id.* at 11-12.

Verizon also submits that market share indicates less about the competitiveness of the market when such market share is the result of regulation, as is the situation in the matter before us. Verizon opines that market share, in and of itself, is not indicative of market competitiveness when considering the multiple providers that provide “like” or “substitute” services but do not face any significant barriers to entry. Verizon St. 2.0 at 31-32. Finally, Verizon argues that the wire centers that the opposing Parties portray as having the highest “share” are those with high penetration of FiOS Digital Voice packages,[[20]](#footnote-20) indicating that there is customer demand for bundled services and a willingness of customers to switch to unregulated services offered by Verizon. Verizon R.B. at 13.

**2. AT&T**

AT&T agrees that Verizon faces competition for telecommunications service in the geographic areas at issue and that reclassifying its services as competitive will promote competition and benefit consumers. AT&T does not oppose Verizon’s Petition as long as the Commission directs Verizon simultaneously to reduce its intrastate originating switched access rates to parity with its interstate originating switched access rates. AT&T points out that Section 3016(f)(1) of the Code prohibits ILECs from using revenues earned or expenses incurred from noncompetitive services to subsidize competitive services.[[21]](#footnote-21) AT&T St. 1.0 at 5; AT&T M.B. at 1-4.

**3. OCA**

The OCA contends that in determining whether to grant Verizon’s Petition, the Commission must be sure to review the competitiveness of the relevant market. In this regard, the OCA submits that the market for basic local exchange service for which Verizon seeks reclassification is a separate and distinct market from that of cable telephony and wireless telecommunications and must be looked at separately. OCA M.B. at 27-28. The OCA asserts that if sufficient competitive alternatives are present, prices should *decrease*to a competitive level (emphasis by OCA). However, the OCA argues that despite its claimed presence of competition, Verizon’s current pricing for basic local exchange service is above marginal cost, indicating that Verizon has market power and maintains the ability to sustain price increases beyond a competitive level, thereby signifying that sufficient competition is not present to restrain prices. Further, the OCA submits that even if the telecommunications market is viewed as one market, Verizon has not provided evidence that the market for cable telephony bundles or wireless services has restrained the price for basic local exchange service to a competitive level. OCA M*.*B. at 29-32.

As additional support for its position, the OCA points out that in other states[[22]](#footnote-22) where Verizon has sought, and has been granted, competitive classification and pricing flexibility for basic local exchange service, it has been able to maintain at least a “small but significant and non-transitory increase in price.” OCA M.B. at 32. In this regard, the OCA submits that subsequent to having been granted competitive reclassification in each of these states, Verizon has been able to sustain price increases of five percent or greater in areas where it retains market power. *Id.* at 32-34. Accordingly, the OCA argues that the market is, at best, an oligopoly. OCA St. 1 at 7, 18-25.

**4. CWA-IBEW**

CWA-IBEW argues that the national and statewide statistics Verizon uses in support of its Petition are irrelevant to the Commission’s determination in this proceeding because Section 3016(a)(3) of the Code requires that consideration under the Petition be limited to the geographic area for which Verizon seeks reclassification. CWA-IBEW M.B. at 5. CWA-IBEW also submits that because the wire centers in Verizon’s Petition Area vary in size, data on each wire center must be examined individually. CWA-IBEW reasons that examining all 194 wire centers in the aggregate would conceal important differences that exist among the wire centers. CWA-IBEW R.B. at 4. Specifically, CWA-IBEW alleges that Verizon’s Petition Area includes forty-one wire centers in which customers lack universal access to cable telephony, despite Verizon’s assertions to the contrary. Similarly, CWA-IBEW argues that, based upon a comparison of a map from the Center for Rural Pennsylvania, submitted into the record as CWA-IBEW Exhibit 1, and a map of the wire centers Verizon included as Attachment C to its Direct Testimony,[[23]](#footnote-23) twelve wire centers for which Verizon seeks reclassification are actually located in rural areas. As such, CWA-IBEW submits that these wire centers should be excluded from consideration under the Petition because they contradict Verizon’s assertion that its Petition Area consists of wire centers located solely in urban, suburban, and population dense areas. *Id.*; CWA-IBEW M.B. at 10-13.

Similar to the OCA, CWA-IBEW asserts that a sufficiently competitive market does not exist in the majority of the Petition Area to take the place of regulation. According to CWA-IBEW, if one supplier has a market share of fifty percent or greater, this is indicative that actual competition is not present because this supplier retains the ability to raise and sustain price increases or to permit service quality to deteriorate. In Table 3 of its Main Brief, CWA-IBEW outlines seventy-five such wire centers where it submits that Verizon remains the dominant provider of voice service and controls fifty percent of the market or greater. CWA-IBEW argues that the wire centers outlined in this table should not be deemed competitive. CWA-IBEW M.B. at 15-19. Moreover, CWA-IBEW contends that only twenty-one of the wire centers for which Verizon seeks reclassification in its Petition pass its test for competitive reclassification. *Id.* at 2-3, 28, Table 7.

**5. CAUSE-PA**

Like other Parties opposed to Verizon’s Petition, CAUSE-PA argues that, despite Verizon’s claim that its loss in total telecommunications market share is proof of robust competition, the proprietary data Verizon uses in support of its claims reveal that it maintains a large share of the telecommunications market, particularly the market for protected basic local exchange service. As a result, CAUSE-PA contends that granting Verizon permission to reclassify the 194 wire centers in its Petition Area as competitive would have the effect of driving out the few competitors that exist in these wire centers. CAUSE-PA echoes the OCA’s statement that the ability to retain market share despite increasing costs and decreasing access lines indicates that the telecommunications market is, at best, an oligopoly. CAUSE-PA, likewise, points to other states where Verizon raised prices above a competitive level after it was granted reclassification. Therefore, CAUSE-PA argues that the Commission must launch an investigation into the market in Verizon’s Petition Area to determine if it is competitive as opposed to granting the relief requested in Verizon’s Petition. CAUSE-PA M.B. at 10, 24-25.

**6. FSN**

As a reseller CLEC, FSN asserts that resale is a competitive alternative to Verizon’s service and one of the principal methods of competitive entry set forth in the Federal Telecommunications Act of 1996. FSN submits that any approval of all or part of Verizon’s Petition must be subject to reasonable conditions to ensure the continued availability of resale to customers in the future. FSN M.B. at 4-5, 11. FSN specifies these conditions as follows: (1) that any waivers granted to Verizon apply equally to FSN; (2) that Verizon provide wholesale customers thirty-days’ advance notice of any changes to the retail products it reclassifies as competitive; (3) that for any services Verizon chooses to detariff, it must continue to file notice of changes to its Price List for Competitive Services; and (4) that the Commission enforce Verizon’s obligation to make all reclassified retail services available at the currently applicable wholesale discount rate.[[24]](#footnote-24) FSN M.B. at 11-12; FSN R.B. at 1.

**7. Other Parties**

PTA does not address this issue.

**b. Role of “Infra-marginal” Customers**

**i. Positions of the Parties**

**1. Verizon**

Citing data from a study that CWA-IBEW submitted into evidence,[[25]](#footnote-25) Verizon points out that ninety-eight percent of the households in its Petition Area have access to cable telephony. Verizon also asserts that one hundred percent cable coverage in a wire center is a requirement to receive competitive reclassification. Verizon M.B. at 8. Verizon reasons that in every competitive market there are certain “infra-marginal” groups who do not consider alternatives and will not switch providers under any circumstances. Verizon initially notes that there is a misperception among opposing Parties that the term “infra-marginal” is meant as a pejorative to certain customer groups in an attempt to marginalize them. Verizon explains that the term “infra-marginal” is simply an economic term which means “within the margin” on the demand curve for a service, as opposed to “at the margin” where firms in a competitive market base their pricing and service quality decisions. Tr. at 41.

In Verizon’s view, such “infra-marginal” customers do not drive the reclassification request it is making under its Petition because Section 3016(a) of the Code does not require that a carrier demonstrate that all customers within a geographic area have, or recognize that they have, options in a market in order for a service to be determined to be competitive. Verizon asserts that in competitive markets, prices and service quality are set at the margin according to the behavior of consumers with the highest likelihood of switching service providers. Verizon contends that the vast majority of customers in its Petition Area is willing to switch providers, thereby creating a competitive market. Accordingly, Verizon posits that the “infra-marginal” customers in its Petition Area will still benefit from this competitive market even if they do not switch providers themselves. Verizon M.B. at 12, 21; Verizon R.B. at 9; Verizon St. 2.0 at 17‑18; Tr. at 40-41.

**2. OCA**

The OCA refutes Verizon’s assertion that it is not necessary for all customers in a market to have access to competitive options in order for a service to be classified as competitive. The OCA reasons that if this is not a criterion, Verizon will have the ability and the incentive to increase prices in areas where consumers have no competitive alternatives. As discussed elsewhere in this Opinion and Order, the OCA argues that the record indicates that there are significant pockets within wire centers in Verizon’s Petition Area in which customers do not have abundant access to alternative service providers and, therefore, would not have sufficient protection if Verizon’s Petition is granted. OCA M.B. at 26-27.

**3. CWA-IBEW**

CWA-IBEW does not specifically address Verizon’s use of the term “infra-marginal” customers. However, as noted, *supra,* CWA-IBEW alleges that forty-one of the wire centers in Verizon’s Petition Area lack sufficient access to cable telephony. In this regard, CWA-IBEW contends that these wire centers contain pockets in which at least three percent of households do not have access to broadband cable. Accordingly, CWA-IBEW asserts that these wire centers may not properly be considered competitive and should not be reclassified. CWA-IBEW M.B. at 14-15.

**4. CAUSE-PA**

CAUSE-PA asserts that Verizon’s use of the term “infra-marginal” customers is actually a reference to several “vulnerable” groups, including low-income customers, victims of domestic violence and other crimes, and the elderly. CAUSE-PA asseverates that these groups encompass a significant segment of the population that cannot be overlooked when making a decision regarding whether to grant competitive reclassification. CAUSE-PA contends that Verizon’s view is based upon the erroneous assumption that service reliability is a preference as opposed to a necessity. CAUSE-PA contends that accepting Verizon’s view could have perilous consequences because “vulnerable” groups potentially would be forced to pay higher costs for access to an essential service that meets basic reliability standards. In CAUSE-PA’s view, alternative services are not truly available to “vulnerable” groups if they are not reliable, safe, and affordable. CAUSE-PA M.B. at 15-16; CAUSE-PA R.B. at 3-4; CAUSE-PA St. 1-S at 10.

**5. Other Parties**

AT&T, FSN, and PTA do not specifically address this issue.

**2. Definition and Availability of “Like” or “Substitute” Services**

**a. Positions of the Parties**

**i. Verizon**

According to Verizon, a service may be classified as a “substitute” if consumers consider the service of a competitor to be *similar enough* that such consumers would increase their use of the competitor’s service in response to either an increase in the incumbent’s price above competitive levels or a decrease in the incumbent’s service quality or output. Verizon St. 1.0 at 5. Verizon argues that the statutory criterion for reclassification is to examine the services offered by alternative providers in order to determine whether such services are “like” or “substitute” services. Verizon professes that, in deciding the wire centers for which to seek reclassification under its Petition, it applied an objective test that demonstrates that at least one provider of cable telephony and at least one unaffiliated provider of wireless service is present in each wire center in its Petition Area. In Verizon’s view, such evidence is sufficient and appropriate to indicate the availability of “like” or “substitute” services. Verizon M.B. at 10-11; Tr. at 36.

Verizon is also of the opinion that two services need not be identical in order to be considered “like” or “substitute” in an economic sense. Instead, Verizon contends that these services are properly considered substitutes for each other if consumers view them as being *similar enough* that they are willing and able to switch from one service to the other. Verizon M.B. at 11-12 (emphasis by Verizon). Verizon avers that, in the present telecommunications landscape, telecommunications carriers typically compete to supply customers’ overall communications needs, making it necessary to define the telecommunications market as a whole rather than to place each service in its own separate market. Verizon restates that large numbers of consumers in Pennsylvania have migrated from Verizon’s basic local exchange service to wireless telephony and bundled packages from cable providers. On this basis, Verizon argues that it is clearly evident that these consumers consider such services to be “like” or “substitutes” for basic local exchange service. *Id*. at 14.

Further, Verizon asserts that consumers have and are able to switch from basic local exchange service to one of these “like” or “substitute” services for a small or non-existent incremental cost. For example, Verizon argues that VoIP services are marketed as less expensive replacements for the traditional landline telephone services and can be used with existing handsets when utilizing a broadband internet connection. In Verizon’s view, this means that Verizon’s prices must compete with the incremental charges (if any) for VoIP, and not the full cost of the broadband plus VoIP. *Id.* at 19-20.

Verizon also questions the accuracy of the data relied upon by the OCA’s witness, discussed, *infra,* in tabulating the wire centers claimed to have less than one hundred percent cable telephony coverage. Verizon M.B. at 8-9. For example, Verizon highlights the Locust wire center in downtown Philadelphia, where it does not believe that it is likely that households in dense urban or suburban areas are not served by cable. Additionally, Verizon contends that the OCA’s witness did not remove from his analysis unpopulated areas that would not be expected to have telephone service at all. *Id.*, citing Tr. at 111.

**ii. AT&T**

AT&T agrees with Verizon that it faces competition for its basic local exchange service from alternative service providers in its Petition Area and that such alternative services are properly considered to be “like” or “substitute” services. AT&T reiterates its position that the Commission must ensure that Verizon is compliant with the provisions of Section 3016(f) of the Code before granting Verizon’s Petition.[[26]](#footnote-26) AT&T M.B. at 1.

**iii. OCA**

The OCA contends that, although Verizon has proffered a definition for “substitute” service, it has failed to show that cable or wireless telephony function as “like” or “substitute” services for the purpose of granting Verizon’s competitive reclassification of its basic local exchange service under Section 3016(a) of the Code. OCA M.B. at 12, 21. The OCA asserts that such alternative services are not properly considered to be “like” or “substitute” services because neither is equal or superior to Verizon’s basic local exchange service in terms of meeting the standards of adequate, reliable, and safe service; nor do they constrain Verizon from pricing basic local exchange service above competitive levels. OCA St.1 at 4; OCA M.B. at 13. Further, the OCA argues that basic local exchange service, cable telephony, and wireless telephony meet different needs and preferences. For these reasons, the OCA restates that basic local exchange service, cable telephony, and wireless telephony must be classified in separate, distinct markets. OCA St. 1 at 15-16.

The OCA also submits that Verizon has not demonstrated the availability of these alternative services throughout the wire centers in its Petition Area. OCA M.B. at 22. The OCA notes that Verizon does not specifically identify who the alternative providers are in each wire center. Instead, the OCA asserts that Verizon points to information from Warren Communications Advanced TV FactBook with respect to the availability of cable telephony for each wire center and to the National Broadband Map with respect to the availability of wireless coverage. *Id.* at 23, citing Verizon Petition at ¶ 12. *Also see, e.g.* CWA-IBEW Cross Exh. 4; Verizon Supplemental Exhs. 2 and 3. The OCA contends that when the wire centers in the Petition Area are examined, it becomes apparent that many customers within the Petition Area will lack access to the competitive alternatives that Verizon claims exist. *Id.*

Citing the analysis by its witness of data published by the FCC and the United States Census Bureau, the OCA points out that in 181 of the 194 wire centers in Verizon’s Petition Area, there exists at least one populated census block that is not served by a cable provider. Thus, the OCA argues that the mere “presence” of a cable operator in a wire center does not ensure the availability of service to all customers. OCA M.B. at 24-25; OCA St. 1-S at 8-10, Exh. RL-2; Tr. at 96-100. Likewise, the OCA asserts that wireless service is not necessarily available to all customers in the entirety of Verizon’s Petition Area due to the diverse landscape in Pennsylvania and the differing definitions of wireless coverage that exist. OCA M.B. at 25. Thus, in the OCA’s view, one hundred percent of the households in a wire center must have access to both cable and wireless telephony before the wire center may be granted competitive reclassification. *Id.* at 22-23, citing OCA St. 1 at 13-14.

**iv. CWA-IBEW**

CWA-IBEW proffers that, in the absence of an understanding of the characteristics of basic local exchange service, it is impossible to properly evaluate other services to determine whether they are “like” or “substitute” services as required by Section 3016(a) of the Code. CWA-IBEW M.B. at 6; CWA-IBEW R.B. at 3. As noted, *infra,* CWA-IBEW argues that cable and wireless telephony lack the basic safety and reliability characteristics that are inherent to basic local exchange service. CWA-IBEW M.B. at 6-7. CWA-IBEW concurs with the OCA that basic local exchange service, cable telephony, and wireless telephony all satisfy different consumer needs and preferences and must, therefore, be placed in separate product markets. Likewise, CWA-IBEW agrees with the OCA that there is no evidence to demonstrate that the availability of wireless service or cable telephony constrains the price for basic local exchange service. *Id.* at 8-9; CWA-IBEW St. 1 at 23. In addition, CWA-IBEW asserts that the majority of consumers use *both* wireless and wireline service, indicating that consumers do not view the two services as substitutes. CWA-IBEW St. 1.0 at 23 (emphasis by CWA-IBEW). Based on the foregoing, CWA-IBEW is of the opinion that neither of the alternative services Verizon points to in support of its Petition should be considered a “like” or “substitute” for basic local exchange service. CWA-IBEW M.B. at 6.

Similar to the OCA’s arguments, *supra*, CWA-IBEW asserts that the mere presence of cable telephony somewhere in a wire center is not an indicator that all customers within the wire center actually have access to it.[[27]](#footnote-27) CWA-IBEW M.B. at 14. According to CWA-IBEW, the analysis Verizon used in choosing the wire centers in its Petition Area failed to accurately identify the availability of cable telephony to all customers in a wire center. Further, CWA-IBEW points out that Verizon’s witness agreed that he did not rely on any U.S. Census data, and did not rely on any data to attempt to determine how many households and businesses in a wire center actually have access to cable telephony. *Id.* at 13, citing Tr. at 150-51. For these reasons, CWA-IBEW contends that the wire centers it outlines in Table 2 of its Main Brief should be excluded from any competitive reclassification that the Commission grants to Verizon in this proceeding. As noted elsewhere in this Opinion and Order, CWA-IBEW explains that this table outlines forty-one wire centers in Verizon’s Petition Area in which three percent or more of the households do not have access to broadband cable. CWA-IBEW M.B. at 14-15, Table 2; CWA-IBEW Cross Exh. 5.

**v. CAUSE-PA**

CAUSE-PA argues that in many areas subject to the Petition, the alternative services Verizon claims exist are not comparable to the current protected telecommunications services in terms of availability, quality, reliability, safety, and affordability and therefore must not be considered “like or substitute services.” CAUSE-PA M.B. at 10. CAUSE-PA asserts that Verizon’s argument that the cost of basic, stand-alone service should be compared only to the incremental cost of adding voice service to an existing cable service package is inapposite. CAUSE-PA argues that critical terms and conditions also must be factored into the comparison, including the possibility that the most vulnerable of Pennsylvania’s consumers may not be able to afford the underlying high-speed internet service. CAUSE-PA also asserts that without sufficient evidence regarding the affordability of wireless service for all Pennsylvanians, such services are not properly classified as alternatives. *Id.* at 18-21. CAUSE-PA points out that a majority of consumers continues to keep their wireline service, in addition to using wireless service, indicating that households view wireless service as a supplement to, but not a substitute for, wireline service. CAUSE-PA R.B. at 6.

**vi. Other Parties**

FSN and PTA do not address this issue

**3. Combined Disposition of Competitiveness of the Market and Definition and Availability of “Like” or “Substitute” Services**

On consideration of the record evidence and the positions of the Parties, we shall adopt Verizon’s position on these issues, except as set forth below. At the outset, we note that we do not believe that the arguments set forth by CWA-IBEW that Verizon’s Petition seeks reclassification of wire centers located in rural areas is relevant to our determination in this proceeding. Nothing in Chapter 30 limits the competitive designation to the suburban and urban areas of a LEC’s service territory. Rather, the key inquiry is the presence of alternative service providers offering like or substitute services. Further, even if this issue were relevant, Verizon points out that all of the wire centers subject to the Petition are located in areas the Center for Rural Pennsylvania considers “urban” based on its map of “Pennsylvania Rural Counties.” Verizon R.B. at 7-8, citing Verizon Supplemental Exh.1. Accordingly, we decline to exclude any areas from consideration based solely upon its classification by the Center for Rural Pennsylvania as “rural.”

**a. Market Share**

We decline to exclude any wire centers in Verizon’s Petition Area from consideration for competitive reclassification based upon the arguments of the opposing Parties regarding Verizon’s market share. In our view, market share alone is not determinative of whether a wire center should be classified as competitive. Instead, we find that the relevant criterion for the purpose of reclassification under Section 3016(a) of the Code is whether competitive service offerings are “available” in a wire center and not the extent to which consumers are actually taking advantage of those competitive offerings. This is consistent with our conclusion regarding the energy supply markets where, despite the less-than-majority percentages of customers actually receiving supply service from competitive suppliers, these markets are considered competitive.[[28]](#footnote-28) Therefore, without some other evidence showing that cable telephony or wireless service is not widely available in a wire center, we find that consideration of Verizon’s market share alone is not a valid reason to deny the competitive classification of a wire center.

Nonetheless, even if we were to consider market share as a probative criterion, we view the market share analysis set forth by the opposing Parties, particularly that of CWA-IBEW, to be deficient in several respects. As noted above, Verizon contends that, by including Verizon Wireless market share data in its analysis, CWA-IBEW has overstated Verizon’s market share by approximately thirteen to fourteen percent. We agree. The entities seeking relief in this proceeding are Verizon PA and Verizon North, not their wireless affiliate. As such, we find that the examination of any market share data should be limited solely to these entities. In our view, it is not appropriate to include the estimated market share of an unregulated affiliate.

Moreover, as Verizon observed, CWA-IBEW first raised this matter in the briefing stage. As a result, no record was developed to support any specific penetration level. Therefore, we do not support using a simple majority market share standard to determine market dominance. Rather, a more adequately supported showing should be required in order to reject a competitive classification of a wire center based upon Verizon’s market share alone.

Finally, we note that CWA-IBEW relies on the fifty percent cap for electric generation supplier (EGS) market share of default service load set forth in our *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, (Order entered March 2, 2012), to support its arguments regarding a fifty percent standard for measuring telephone competition. CWA-IBEW M.B. at 15-16. We are of the opinion that the analogy CWA-IBEW makes is inapposite.  The fifty percent load caps in place for certain wholesale auctions pertaining to default electric supply service were never intended to serve as a barometer for determining whether Pennsylvania’s electric generation markets are competitive. Rather, the fifty-percent caps were intended to balance the need to ensure supplier diversity versus price. Moreover, the General Assembly restructured Pennsylvania’s electric market by statute and created a competitive generation market, which remains competitive today, even though the electric distribution company (EDC), as the default service provider, remains the dominant supplier of electricity in all but one of the major EDC service territories in Pennsylvania.[[29]](#footnote-29) Consequently, we do not believe it is appropriate to use an analogy of the fifty-percent electric load cap as a proxy to help define the extent of competition in the telecommunications market.

**b. “Like” or “Substitute” Services (Relevant Market)**

Turning to the positions of the Parties regarding the appropriate definition of a “like” or “substitute” service, we agree with Verizon that competing services need not be identical to be considered “like” or “substitute” under Section 3016(a) of the Code. As several Parties observe, since Chapter 30 does not define either of these terms, we must construe them according to their common and approved usage.[[30]](#footnote-30) Black’s Law Dictionary, 7th Ed. defines “substitute” as “one who takes the place of another” and defines “substitution” as “the process by which one person or thing takes the place of another person or thing.” Black’s defines “like” as “similar or substantially similar.” Based on these definitions, “similar” or “substantially similar” does not mean identical under its ordinary meaning. Likewise, the definition of “substitute” under its ordinary meaning does not require that the one thing replacing another be identical.

As noted above, Verizon argues that a relevant measure for determining if two products are substitutes for one another is whether the services are similar *in the eyes of the consumer.* We concur with Verizon that the most probative evidence on the record reflecting consumer preference is that of *actual consumer purchasing decisions*. Thus, we find that the appropriate measure for whether one product is a substitute for another is whether such products are “good substitutes for one another in the eyes of the buyer.” Verizon M.B. at 12, citing CWA-IBEW St. 1 at 18-19. The incontrovertible evidence in this proceeding, including evidence of actual consumer purchasing decisions, indicates that the numerous competitive choices offered by cable telephony, wireless, and other service providers are like or substitute services for Verizon’s copper network-based, basic local exchange service.

Verizon argues that competition exists in the current telecommunications landscape in the requested wire centers because of cascading access line losses, sea changes in customer preferences, the marketplace’s embrace of new forms of communicating, and the rise of many new entrants with independent service platforms. We agree. The credible evidence is that customer demand in the Verizon’s service territories for communication services, including basic local exchange service, is being met by other carriers using other technologies. With the proliferation of service bundles that typically include a basic local exchange service component and the rising popularity of both wireline and wireless providers offering competing products and services, Verizon argues that consumers now have an array of options to meet their communications needs. In particular, we note the following information presented by Verizon:

* As of mid-2014, non-ILEC wireline providers (mostly cable telephony providers) served almost one-half of the wirelines in Pennsylvania, a percentage that continues to grow. In addition, a CLEC presence in Pennsylvania remains prominent, including a majority share of the business lines in the Commonwealth. Overall, landline subscribership is down, but number of lines served by carriers other than Verizon is up. Verizon M.B. at 2; Verizon St. 1.0 at 11-12; Verizon St 2.0 at 16.
* At the same time, customer acceptance of wireless service has greatly increased. As of mid-2014, forty-four percent of households nationally have no landline service whatsoever (*i.e.* no ILEC, CLEC, or cable telephony). Moreover, approximately 15 percent of American households received all, or almost all, calls on wireless telephones despite also having a landline telephone. Together, Verizon argues that these statistics mean that almost three out of five American households either have no landline service at all or have a landline service, but rely mostly on wireless. Verizon St. 1.0 at 11; Verizon Cross Exh. 4.

We note that these statistics are illustrative of the current telecommunications landscape *generally* within Pennsylvania and nationwide. Under Section 3016(a)(3) of the Code, we must limit our determination regarding the competitiveness of Verizon’s basic local exchange service to the area addressed by the Petition. Consequently, these statistics should not be construed as probative evidence of the presence of competition within Verizon’s Petition Area. Rather, they constitute evidence that in Pennsylvania, which includes the 194 wire centers subject to the Petition, and nationwide, consumers view cable telephony and wireless voice service as adequate replacements for their basic local exchange service.

In addition, we note that internet-based Voice over Internet Protocol services (often referred to as “VoIP” or “over the top VoIP” providers) are widely accepted replacements for the traditional voice minutes offered by landline basic local exchange service. We note that Skype, Vonage, MagicJack, Gmail voice, and similar service providers are an important aspect of the marketplace. As previously noted, one hundred percent of the wire centers subject to the Petition are broadband-enabled, thereby indicating that all of the Verizon subscribers in these wire centers have access to internet-based voice services. Further, as Verizon also points out, voice is now not even the exclusive, or maybe even dominant, form of communicating. Verizon St. 1.0 at 8-9. Wireless text messages and emails are now among the primary means of communication, and have severely cut into the amount of voice minutes on the networks, often in complete substitution for voice calling.

At the same time that these competing services have gained significant traction in the marketplace, the evidence also indicates a significant reduction in demand for Verizon’s basic local exchange service. Verizon M.B. at 15-17, citing Verizon St. 2.0 at 12, 16. Although some of these customers have stayed with Verizon under a Verizon package or bundle, or FiOS, the record indicates that most have switched to a wireless, cable telephony, or over-the-top VoIP provider or a CLEC. Verizon M.B. at 16, citing Verizon St. 2.0 at 12. Taken together, this evidence demonstrates that consumers have substitutes for basic local exchange service in the marketplace and are willing to use them. If this were not the case, we find that it is likely that the number of customers for Verizon’s basic local exchange service would have remained relatively stable. However, as the record indicates, since 2006, the number of Verizon basic local exchange service customers has decreased dramatically, while, at the same time, the number of customers choosing competitive alternatives has increased significantly. Verizon M.B. at 16.

Based on the foregoing, we are of the opinion that the credible evidence proves that *in the eyes of consumers*, the voice services offered by competing providers, including cable telephony and wireless providers in the wire centers subject to the Petition, fulfill the same functions as Verizon’s basic local exchange service. We conclude that these competing services are *similar enough* that consumers are willing and able to switch to them. Therefore, we find these services to be “like” or “substitute” services to basic local exchange service under Section 3016(a) of the Code.

**c. Availability**

In light of our above discussion regarding “like” or “substitute” services, we also are of the opinion that there are a significant number of alternative service providers offering voice services to consumers in the wire centers subject to the Petition. Our review of the credible evidence indicates that cable telephony is abundantly available and there is coverage by at least one unaffiliated wireless provider. Verizon St. 1.0 at 4-5, 10-11, and 24-26; Verizon St. 2.0 at 3-4; Verizon M.B. at 1-4, 6-10; Tr. at 36-37.[[31]](#footnote-31) Meanwhile, CLEC services are widely available in the relevant wire centers. Verizon St. 1.0 at 18-20, 26-28. In short, both residential and business customers in the areas subject to the Petition have many options when it comes to choosing a provider of voice service.

Nonetheless, we find it prudent to consider the appropriate threshold of cable overlay necessary to grant competitive reclassification in light of the evidence set forth by opposing Parties that cable telephony is not universally available throughout each wire center. As noted *supra*, the OCA contends that *each and every customer* in a wire center must have access to cable telephony before the wire center is determined to be competitive. We disagree. As Verizon observed, in a competitive market, such as the one that we find to exist in the wire centers in Verizon’s Petition Area, pricing and service quality are set at the margin and not on the circumstances of an individual customer. Therefore, even without personal access to cable service, all customers in wire centers benefit from the competitive pressures created by the widespread availability of cable and wireless service. We are of the opinion that the discipline afforded by competition, coupled with Verizon’s continued commitment to maintaining its COLR obligation, helps ensure that all consumers located in the wire centers subject to the Petition will have access to affordable basic local exchange service.

Additionally, businesses such as cable companies, that have no COLR obligation, build out their networks based upon an analysis of whether such deployment is profitable. Consequently, we are reluctant to use a one hundred percent standard because we believe it holds the competitive determination hostage to the cable companies’ proprietary deployment plans. We also acknowledge that it has become increasingly difficult to identify, with precision, the alternative service providers that are present in Pennsylvania, including providers of cable telephony. This is especially true when attempting to identify competitors at the wire center level. Verizon St. 1.0 at 22-23. Accordingly, we reject the argument that cable service must be one hundred percent available in a wire center for this wire center to be declared competitive.

Notwithstanding the above, we also acknowledge the need to be as granular as reasonably possible when determining a cable telephony coverage standard, given the evidence indicating that cable telephony is the primary facilities-based competitor of basic local exchange service for residential customers in many of the wire centers in Verizon’s Petition Area. Therefore, we will consider cable telephony as sufficiently available for purposes of this proceeding when ninety-seven percent or more of the households in a wire center have access to it. CWA-IBEW M.B. at 14-15. Based on the data admitted into the record regarding the availability of cable telephony, we will not classify the forty-one wire centers listed in the Table 2 of CWA-IBEW’s Main Brief as competitive, given the percentage of households in those wire centers that appear to lack access to cable telephony.[[32]](#footnote-32)

As previously noted, the matter before us in this proceeding is a case of first impression as it relates to basic local exchange service. Availability is clearly part of the competitive test set forth in Section 3016 of the Code, but the statute establishes no threshold or bright-line test on availability. The ninety-seven percent cable overlay standard that we adopt today is based upon the evidentiary record developed by the Parties in this proceeding under a compressed time schedule. As telecommunications technology and market dynamics continue to evolve, the Parties are free to present alternative standards in accordance with the Commission’s administrative procedures, and we reserve the opportunity to revisit this standard in future proceedings.

**4. Safety and Reliability**

**a. Positions of the Parties**

**i. Verizon**

Verizon argues that the position of opposing Parties that alternative services lack the reliability of Verizon’s basic local exchange service ignores the fact that consumers are choosing to purchase such alternative services. Verizon points out that, despite the concerns of opposing parties regarding reliability during commercial power outages, many of the households in its Petition Area have chosen services that are not provided over a copper network. Likewise, Verizon argues that the position of opposing Parties that alternative services lack the safety of Verizon’s basic local exchange service ignores the fact that consumers are choosing to purchase such alternative services. Verizon notes that seventy percent of 911 calls are placed from a wireless device. Verizon R.B. at 4-5; Verizon St. 2.0 at 4.

**ii. OCA**

The OCA submits that both cable and wireless networks fail to meet or exceed the reliability standards for voice services because they do not have the ability to remain viable in the event of an electrical outage in the area. The OCA notes that Comcast and other cable providers expressly caution their consumers that their VoIP services, including the ability to dial 911, may not be functional in the event of a commercial power outage that lasts for an extended period of time. Therefore, the OCA professes that these services are not “like” services when compared to basic local exchange service. Likewise, the OCA argues that unlike Verizon’s network, wireless networks are not designed to handle high spikes in demand that overload wireless networks in times of emergency or large public events. The OCA posits that based on these shortcomings, the Commission should conclude that neither cable telephony nor wireless services are “like” or “substitute” services for Verizon’s basic local exchange service. OCA M.B. at 15-16; OCA St. 1.0 at 12-13.

**iii. CWA-IBEW**

Like the OCA, CWA-IBEW argues that both cable telephony and wireless telephony lack the basic safety and reliability characteristics of basic local exchange service, including the ability to operate without an independent electric power supply, a dedicated access connection to the local wire center, and a reliable 911 service. CWA-IBEW also points out that cable companies include information on their websites to warn consumers that the services they provide may not function after an extended commercial power outage, thereby inhibiting the ability of customers to dial 911 emergency services. As such, CWA-IBEW asserts that neither of these “alternatives” can operate reliably during power outages. CWA-IBEW M.B. at 7; CWA-IBEW St. 1.0 at 31-32.

**iv. CAUSE-PA**

CAUSE-PA points out that Verizon presented no testimony to address the safety of the alternatives it asserts are “like” or “substitute.” Instead, CAUSE-PA argues that Verizon relied on customer migration as evidence that wireless and cable/VoIP services are sufficient to act as a substitute to basic local exchange service. CAUSE-PA contends that although safety is a basic necessity that needs to be protected, wireless and cable telephony fail to provide a comparable level of safety to that of protected telecommunication services, particularly with respect to 911 emergency services. Further, CAUSE-PA asserts that VoIP and wireless services are easily subject to interference and interception by a third party. CAUSE-PA argues that these safety concerns make wireless and VoIP services unavailable to those concerned about their safety and personal privacy, particularly victims of domestic violence and similar crimes. CAUSE-PA M.B. at 22-24; CAUSE-PA R.B. at 4.

CAUSE-PA alleges that the wireless service coverage map Verizon relied upon to demonstrate the availability of wireless service in all wire centers in its Petition Area is misleading because the service areas represented on this map indicate that service may not be available in every location of a home or building.  Further, CAUSE-PA states that customers simply do not experience the same level of connectivity available from a basic local exchange service.  Similar to other opposing Parties, CAUSE-PA professes that wireless and interconnected VoIP services have several shortcomings with regard to 911 calls. CAUSE-PA echoes the concerns of the OCA and CWA-IBEW that cable telephony may not work during a commercial power outage or when the internet connection upon which this technology depends fails or becomes overloaded. Further, CAUSE-PA maintains that Verizon has set forth no evidence that wireless is a substitute for, as opposed to a supplement to, wireline service. Thus, CAUSE-PA submits that the Commission should deny Verizon’s Petition without further evidence regarding the quality and safety of these alternative services. CAUSE-PA M.B. at 10-13; CAUSE-PA R.B. at 5-9.

**v. Other Parties**

AT&T, FSN, and PTA do not address this issue.

**b. Disposition**

Consistent with our determination, *supra,* that cable and wireless telephony constitute “like” or “substitute” services, we disagree with the opposing Parties’ positions that the reliability differences between these services render them dissimilar. In our view, excluding cable telephony solely based upon power requirements or excluding wireless voice service solely based upon 911 locational accuracy creates a standard that can only be met if a competing service is identical in all respects, including the technology and network. We find that in today’s market, such a standard would predetermine the outcome, considering that the new wireline networks being constructed are fiber-based and utilize IP protocol and packet switching, while voice service provided over a wireless network, whether fixed or mobile, is also provisioned differently than traditional wireline voice service. Such a standard also would contradict our above determination,and the actual statutory standard, which does not require that the services be identical, only similar.[[33]](#footnote-33)

Such a determination also would not depict actual consumer behavior in the marketplace. As previously noted, the overwhelming evidence indicates that consumers clearly view these services as a substitute for Verizon’s basic local exchange service regardless of any technological differences that may exist with these services. For the vast numbers of customers who have migrated to wireless voice, for example, the wireless company that they have chosen offers adequate voice services regardless of the limitation of battery issues and locational (911) accuracy. As Verizon points out, seventy percent of all 911 calls now originate from a cell phone.

For the above reasons we decline to adopt the position of the opposing Parties that cable and wireless telephony should be excluded from consideration as a “like” or “substitute” for basic local exchange service on the basis of safety and reliability characteristics.

**5. Service Quality and Fiber Deployment**

**a. Positions of the Parties**

**i. Verizon**

Verizon avers that service quality should be a function of market forces and customer expectations rather than regulatory requirements. Tr. at 37-38. Verizon asserts that opposing Parties have failed to demonstrate that the standards they have submitted into the record to judge Verizon’s performance are meaningful to actual customers in today’s market. Verizon argues that the declining rate of customer complaints indicates that it is meeting customer expectations. Further, Verizon notes that if customers are not satisfied with Verizon’s service, they are free to choose another provider of telecommunications service. Verizon R.B. at 14.

Also in rebuttal testimony, and in the context of explaining a reference to the rationale of the Washington Utilities and Transportation Council concerning a similar proceeding, Verizon’s witness stated “other parties essentially argue that bundles and packages are not substitutes for Verizon’s basic voice service, which would mean that there will be no competition unless alternative providers offer their own services that look exactly like Verizon’s basic services. . . . service from a competitor in today’s market likely will never look exactly like the basic stand-alone voice service that is a vestige from the pre-divestiture Bell System.” Verizon St. 2.0 at 13-14.

**ii. OCA**

The OCA attacks Verizon’s premise for meeting its obligations under Section 3016(a) of the Code. That premise, *inter alia*, is that the decrease in Verizon protected local calling service accounts and increase in the number of cable telephony and wireless subscribers are *prima facie* evidence that such services are competitive substitutes. The OCA attacks this premise as both flawed and lacking in support.

Regarding the comparability of service quality of “like” or “alternative” providers with Verizon’s basic local exchange service, the OCA’s witness identified six elements that characterize safe voice service: (1) the ability of the public to reach 911, first responders, and other emergency response authorities; (2) the ability to participate in public alert systems and to provide emergency information to the public in adverse conditions; (3) the protection of essential public safety and national security communications services; (4) the provision of assistance to law enforcement; (5) ensuring network security; and (6) ensuring that there is adequate backup power at the central office. OCA St. 1 at 11-12.

According to the OCA’s witness, Verizon’s telephone network is designed to meet certain transmission standards under conditions that have evolved over time to include, among other attributes, back-up power. Therefore, the OCA contends that “like” or “alternative” services should also meet or exceed the safe voice service aspects of Verizon’s protected basic local calling services. OCA St. 1 at 12. To qualify as a reliable voice service equivalent to basic local exchange service, the OCA’s witness emphasized that reliable voice service must be able to work during emergencies, whether due to commercial power outages or periods of very high demand. *Id*.

The OCA submits that wireless networks do not currently provide safe voice service at the same high level as Verizon’s basic local exchange service, especially with regard to 911 dispatchers and their ability to identify a wireless caller’s location. The OCA asserts that public safety responders cannot identify the location of wireless calls to 911 with the same level of accuracy as Verizon’s basic local exchange network. Similarly, the OCA notes that FCC consumer reports on safety and reliability have indicated that cable VoIP services may not function during power outages or when an internet connection becomes overloaded. OCA M.B. at 15-16; OCA St. 1.0 at 11-12.

**iii. CWA-IBEW**

CWA-IBEW cautions that approval of Verizon’s Petition would eliminate quality of service oversight. CWA-IBEW argues that customers experience poor service quality in numerous locations within Verizon’s Petition Area, including locations in Philadelphia, Pittsburgh, and Erie. CWA-IBEW M.B. at 23; CWA-IBEW St. 1.0 at 66, 82-84, Exh. SMB-10, Exh. SMB-11. CWA-IBEW contends that this is an indicator that competitive forces are not present so as to provide an incentive for Verizon to ensure adequate service quality. CWA-IBEW argues that customers in these wire centers experience, *inter alia*, high trouble report rates and slow repair times. Based on the foregoing, CWA-IBEW opines that these wire centers should be removed from consideration for competitive reclassification. CWA-IBEW M.B. at 20-23, Tables 4 and 5.

CWA-IBEW further argues that the failure to deploy fiber by Verizon should also result in the exclusion of other wire centers. CWA-IBEW M.B. at 24-25, Table 6. CWA-IBEW alleges that ninety-nine wire centers in Verizon’s Petition Area do not have Verizon FiOS widely available. CWA-IBEW posits that because Verizon’s decisions about fiber deployment affect the safety and reliability of the service its customers receive, the lack of availability of a state-of-the-art network is a further indicator of a lack of sufficient competition. CWA-IBEW theorizes that Verizon should not be given an incentive, through permissive reclassification, to allow its network to deteriorate further, thereby creating the illusion of competition. Accordingly, CWA-IBEW contends that Verizon’s failure to deploy fiber in certain geographic areas should result in their exclusion from the wire centers that are competitively reclassified. *Id.* at 23-28, Table 6.

**iv. CAUSE-PA**

CAUSE-PA argues that Verizon’s reliance on the substantial decline in the rate of consumer complaints as evidence that it is meeting the needs of customers is inapposite. CAUSE-PA points out that in 2009, the Commission’s Bureau of Consumer Services (BCS) implemented changes in its complaint intake practices, specifically by implementing a program referred to as the “Warm Transfer Program,” in which Verizon customers who contact BCS are initially given the option to be transferred to a Verizon representative in an effort to address the issues raised by the customer prior to BCS’s addressing the complaint. CAUSE-PA asserts that it is this added process, and not Verizon’s service delivery, that has been successful in lowering justified complaints. CAUSE-PA M.B. at 30-31, citing CAUSE-PA St. 1-SR at 7-8.

**v. Other Parties**

AT&T, FSN, and PTA do not address this issue.

**b. Disposition**

On consideration of the positions of the Parties, we conclude that evidence of, alleged, poor service quality in the service territory or particular geographic areas encompassed by Verizon’s Petition and evidence depicting the lack of fiber deployment are not probative of the statutory standard for reclassification pursuant to Section 3016(a)(3) of the Code. In our view, the evidence presented by the OCA, CWA-IBEW, and CAUSE-PA, concerning the superiority of Verizon’s basic local exchange service in the areas of 911 and commercial back-up power during power outages does not counter our conclusion, *supra¸* that Verizon has demonstrated the availability of “like” or “substitute” services or other “business activities” that are provided, or offered, by alternative service providers in its Petition Area in accordance with Chapter 30. Such information, by statute, must be adjudged “relevant information” pursuant to the law. We do not believe that service quality in and of itself is a relevant criterion under the Code for determining whether a wire center should be granted competitive reclassification

As previously noted, the record indicates that seventy percent of all 911 calls are placed from wireless telephones, a percentage that is growing. The Parties opposing Verizon’s Petition point out the relative superiority of Verizon’s basic local exchange service during periods of emergency due to, *inter alia*, back-up power requirements. We generally agree with Verizon that service from a competitor in today’s market is not likely to have the same redundancies and contingencies built into the system as Verizon’s basic local exchange service. Verizon’s basic local exchange service and the costs for emergency system redundancies and contingencies is a vestige from the pre-divestiture (and monopoly regime) Bell System. The accessibility of 911 from cable telephony, fixed and nomadic VoIP, wireless services, and alternative service providers in the current market is of sufficient quality and reliability for us to conclude that this information is not persuasive that Verizon’s Petition should be rejected on this basis.[[34]](#footnote-34)

Also, we remind the opposing Parties that our approval of this Petition, consistent with our discussion in this Opinion and Order, expressly acknowledges our inherent authority under Section 1501 of the Code to require any utility to furnish and maintain, “adequate, efficient, safe, and reasonable service and facilities[.]”

Finally, we do not believe that the extent of Verizon’s fiber deployment, in and of itself, is relevant under the Code for determining the availability of like or substitute services from competitors and whether a wire center should be granted a competitive classification under Section 3016 of the Code. Simply stated, we believe fiber deployment has no conclusive bearing on a determination of the availability of like or substitute services from competitors. Moreover, using fiber deployment as a Section 3016(a) criterion runs counter to the consideration of Section 3014(n)(1) of the Code, which provides as follows:

(n) *Construction.* --Nothing in this section shall be construed:

(1) As giving the commission the authority to require a local exchange telecommunications company to provide specific services or to deploy a specific technology to retail customers seeking broadband or advanced services.[[35]](#footnote-35)

In light of the above, we find no basis to exclude any wire centers from being considered competitive based solely on quality of service or fiber deployment data.

**6. Affordability**

**a. Positions of the Parties**

**i. Verizon**

Verizon asserts that the opposing Parties’ contention that the services offered by alternative service providers are too expensive is contrary to the reality that large numbers of consumers already have chosen such alternatives. Verizon R.B. at 6. Verizon reasons that a Commission determination of whether a wire center should be deemed competitive should be irrespective of price. Verizon points out that the plain language of Section 3016(a)(1) of the Code requires the Commission to base a competitive determination on the availability of like or substitute services or other business activities that alternative service providers offer, but states nothing about price. Although Verizon acknowledges that Section 3016(a)(3) of the Code instructs the Commission to consider all relevant information in making a competitive determination, Verizon submits that this statutory provision must not be construed as creating open-ended criteria for evaluation under which other Parties may introduce items such as an evaluation of pricing and cost. Verizon further contends that if it is permitted to reclassify all services in a wire center as competitive, Section 3019(g) of the Code would prohibit the Commission from regulating such services based on price. *Id.*; Verizon St. 2.0 at 30-31.

Verizon also posits that, even if alternative services are “expensive,” customers classified by opposing Parties as “vulnerable groups” are just as likely, if not more so, to subscribe to a package or bundle offered by Verizon or a cable provider or to switch to a wireless service, as they are to continue subscribing to Verizon’s basic local exchange service. Citing cable television subscriber statistics, Verizon asserts that although the elderly are on fixed incomes, they are more likely than any other demographic group to switch to wireless or bundled cable telephony services.[[36]](#footnote-36) Verizon M.B. at 21; Verizon St. 2.0 at 35. Similarly, citing a Commission report on Lifeline activity, Verizon contends that ninety-two percent of low-income customers in Pennsylvania that are eligible for Lifeline services subscribe to such services via wireless telephony. Verizon asserts that this evidence makes it clear that low-income customers prodigiously prefer wireless service over wireline service. Verizon St. 2.0 at Attachment E; Verizon M.B. at 22-23; Verizon R.B. at 6; Tr. at 41.

**ii. OCA**

The OCA points out that the General Assembly set forth a policy statement under Section 3011 of the Code, including a statement under Section 3011(2), that it is the policy of the Commonwealth to “[m]aintain universal service at affordable rates.” OCA St. 1 at 14. Accordingly, the OCA stresses that the Commission should be concerned regarding the affordability of basic local exchange service for all Pennsylvania citizens. The OCA reasons that if the “like” or “substitute” services that Verizon claims exist in its Petition Area do not constrain the Company’s ability to increase the price it charges for basic local exchange service above affordable levels, consumers in Pennsylvania will be harmed. OCA M.B. at 35. The OCA notes that in the *Rural Access Charge Investigation*, it submitted direct testimony in which its witness set forth a methodology for determining an affordable total local telephone bill[[37]](#footnote-37) for rural customers in Pennsylvania. To combat its concerns regarding the affordability of Verizon’s basic local exchange service in the matter before us, the OCA recommends that the Commission determine an affordable total local telephone bill for urban customers in Pennsylvania based upon the general principles that its witness set forth in the *Rural Access Charge Investigation*. Upon completion of this determination, the OCA requests the Commission to establish whether it can assure that Verizon will not increase rates such that the resulting increases would raise the total urban telephone bill above the affordable level if its Petition is granted. OCA M.B. at 35; OCA St. 1 at 14-15; Tr. at 100-01.

The OCA is also of the opinion that the Commission should consider the impact that granting Verizon pricing flexibility would have on its Lifeline customers. The OCA notes that such customers, who currently receive a $9.25 credit[[38]](#footnote-38) to their bill for basic service to make it more affordable, would be impacted because the Lifeline rates they pay would increase dollar-for-dollar with any increases to the rate for basic local exchange service. The OCA submits that if the Commission grants Verizon’s Petition, the Commission should also cap all Lifeline rates at their current levels so that these customers are not burdened by paying rates that are not just, reasonable, or affordable. OCA M.B. at 36; OCA St. 1 at 52-53.

**iii. CWA-IBEW**

CWA-IBEW asserts that, although consumers in Verizon’s Petition area have migrated to other voice services, a substantial amount of households and small businesses continues to depend on Verizon’s basic local exchange service. CWA-IBEW points out that among the households in Verizon’s Petition Area that would be impacted by a competitive reclassification of this service are several vulnerable groups, including the elderly, the disabled, and those with low incomes. CWA-IBEW St. 1 at 3. As such, CWA-IBEW cautions that granting Verizon’s Petition would permit Verizon to raise rates, without limit, for an essential service that is linked directly to the safety and welfare of the public, resulting in a decrease in disposable income for those Commonwealth citizens who can least afford it. CWA-IBEW maintains that this is contrary to the goals envisioned under Chapter 30 that include ensuring that all customers have access to universal service at affordable rates and pay only reasonable charges for protected services on a nondiscriminatory basis. CWA-IBEW M.B. at 10; CWA-IBEW St. 1.0 at 66, 73-74, 90. Further, CWA-IBEW notes that cable telephony often is not sold as a stand-alone product and that even when it is offered as part of a bundled package, its price greatly exceeds the price of basic local exchange service. CWA-IBEW M.B. at 8-9. CWA-IBEW points out that cable companies also offer introductory promotional rates that expire in a short amount of time, leading to an even larger gap between the prices for cable telephony and basic local exchange service. CWA-IBEW St. 1 at 49.

**iv. CAUSE-PA**

Similar to the arguments raised by the OCA and CWA-IBEW, CAUSE-PA submits that a principle goal of Chapter 30 is to ensure that all citizens of Pennsylvania have access to universal service at affordable rates. CAUSE-PA argues that because the cost of alternative services exceeds that of protected basic local exchange service, information regarding the affordability of the additional costs of alternative services is necessary in order for the Commission to ensure that these services are affordable for all citizens of the Commonwealth. CAUSE-PA restates that Verizon has offered very little data regarding the affordability of wireless service. Similarly, CAUSE-PA reiterates that even when cable telephony is offered as a stand-alone product, its price is not comparable to basic local exchange service. Using Comcast’s stand-alone service as an example, CAUSE-PA notes that this service is offered at an introductory rate of $29.99 per month. However, CAUSE-PA asserts that additional costs also must be factored into this price, including a service charge for Comcast’s XFINITY service, an activation fee, and standard data charges, in addition to the need for an underlying broadband connection. When combined, CAUSE-PA notes that these costs are well in excess of the price for basic local exchange service, which is devoid of any of these additional costs. Consequently, CAUSE-PA is of the opinion that the affordability of packaged services is beyond the reach of many low-income consumers who struggle to pay bills for food, shelter, heat, and electricity, and would therefore struggle to pay for cable, internet, or wireless service. Accordingly, CAUSE-PA endorses the recommendation of the OCA, *supra*, that the Commission determine a reasonable competitive price for a total telephone bill in urban areas before it permits Verizon to reclassify any wire centers in its Petition Area as competitive. CAUSE-PA M.B. at 16-22.

CAUSE-PA also shares the concerns of the OCA with respect to the potential adverse effects that granting Verizon’s Petition could have on Lifeline customers. Like the OCA, CAUSE-PA also asserts that Lifeline customers receive a discount of $9.25 per month from the federal government. Consequently, any increase in the cost of basic local exchange service without an equal increase in the amount of the Lifeline discount would result in an increase in the price of basic local exchange service for Lifeline customers. CAUSE-PA St. 1 at 20. CAUSE-PA also refutes Verizon’s argument that Lifeline customers prodigiously prefer wireless service over wireline service. CAUSE-PA claims that the ninety-two percent Lifeline customer subscription rate to wireline service that Verizon cites is misleading because it is a state-wide figure that may not accurately represent Verizon’s Petition Area. Specifically, CAUSE-PA contends that Lifeline subscribership is not indicative of all low-income individuals in the Commonwealth. CAUSE-PA points out that although four and one-half percent of the statewide population subscribes to Lifeline service, between twenty and thirty percent of customers in Verizon’s Petition Area are *eligible* for this service. Therefore, CAUSE-PA maintains that evidence indicates that alternative services, including wireless Lifeline services, are not affordable and grant of Verizon’s Petition may have a harmful effect on those who adopt this service as their only means of communication. *Id.* at 21-22; CAUSE-PA R.B. at 7-8.

**v. Other Parties**

AT&T, FSN, and PTA do not address this issue.

**b. Disposition**

We are not persuaded by the arguments of the opposing Parties that the present and future price of Verizon’s basic local exchange service is a relevant criterion when determining market competitiveness under Section 3016(a) of the Code. Chapter 30 mandates that a Commission decision on reclassification be based on the demonstrated availability of like or substitute services offered by alternative service providers as well as a consideration of “all relevant information.” We concur with Verizon that, in instructing the Commission to consider all relevant information, it was not the intent of the General Assembly to create open-ended criteria for evaluation. In our view, pricing and cost study evaluations regarding Verizon’s basic local exchange service are not relevant information necessary to reach this determination. Instead, what may be relevant to determining market competitiveness under Section 3016(a) of the Code is the current pricing of competing services if such services are priced in a manner that influences consumer purchasing decisions. However, based upon the evidence in this proceeding, the price of such alternative services has not been a deterrent for the large number of consumers in Pennsylvania who have replaced tariffed basic local exchange service with a non-tariffed Verizon bundled service, cable telephony, or wireless voice service.

Moreover, the General Assembly in other contexts has declared that competitive market forces are more effective than economic regulation in controlling the cost of service.[[39]](#footnote-39) This is evident, for example, in examining the numerous product offerings and opportunities for consumer savings that are present in Pennsylvania’s competitive electricity market. Applying this principle to the matter before us today, we are of the opinion that the increased competition that we have seen and will, most likely, continue to see in the telecommunications market benefits customers by keeping prices in check and spurring innovation. As discussed previously, the evidence indicates there are many different providers of voice service offerings present in the wire centers subject to the Petition that will gain market share in the event that Verizon prices itself out of the market.

We also are not persuaded by the arguments of the opposing Parties that there exists a core of vulnerable customers who only desire Verizon’s basic local exchange service and who will be disproportionately impacted if Verizon’s Petition is granted. As Verizon points out, ninety-two percent of low-income Lifeline customers prefer wireless service over wireline service. As Verizon also indicates, the elderly are more than willing to subscribe to cable television services, putting them in play for cable telephony, and are also willing to cut the cord from wireline service. Thus, evidence undercuts the opposing Parties’ speculation that these customer groups disproportionately favor basic local exchange service and will be disproportionately impacted if the Petition is granted.

Notwithstanding the above, we are mindful of the policy goals that the General Assembly envisioned in outlining its declaration of policy in Section 3011 of the Code. As several opposing Parties observed, Section 3011(2) states that it is the policy of the Commonwealth to “[m]aintain universal telecommunications service at affordable rates.” Although we view the opposing Parties’ testimony regarding the potential impact of a competitive determination of basic local exchange service on the price of this service as speculative at this time, we also are of the opinion that it is important to monitor this issue on a going forward basis. For this reason, we intend to commence a collection of data to aid in our assessment of the market conditions present in the aftermath of the competitive reclassification that we permit to occur herein, including the impact of our decision, if any, on the affordability of basic local exchange service. As part of this data collection, we shall instruct Verizon to continue to comply with the annual reporting requirements set forth in Section 64.201 of our Regulations for basic local exchange service customers that are not waived by this Opinion and Order. Additionally, we shall require Verizon to maintain price lists with the Commission for basic local exchange service in the wire centers for which we permit competitive reclassification in the event that Verizon elects to detariff this service. Such price lists shall include information regarding the pricing for residential dial tone rates and local usage rates.[[40]](#footnote-40)

**7. Impact on Universal Service**

**a. Positions of the Parties**

**i. Verizon**

Verizon’s witness testified that there will be no impact on the Commission’s Universal Service Fund established at 52 Pa. Code §§ 63.161 *et seq*. because revenue from services Verizon petitions to reclassify as competitive will continue to be included in the calculation of Verizon’s USF assessment. Verizon St. 1.0 at 42. In response to other Parties’ arguments that the services provided by cable, wireless, and other VoIP and alternative providers are too expensive to be considered like or substitute services, Verizon addresses affordability, a counterpart of universal service, contending that “consumers obviously do not agree” and “arguments seeking pricing conditions evince a fundamental disagreement with the will of the Legislature.” Verizon R.B. at 6. Also, in response to contentions by the OCA and CWA-IBEW that Verizon may charge higher prices in wire centers “unserved” by cable facilities, Verizon commits to continue its practice of uniform pricing throughout its rate centers, which are individual wire centers or groups of wire centers, even after exchanges are classified as competitive. Verizon R.B. at 10. During the course of the proceeding, Verizon also noted that in other jurisdictions where it was granted pricing flexibility, it did not change its product offerings and that it has continued to offer its services to any customer in its service territories who requested it. Tr. at 122-23.

**ii. OCA**

Citing to Sections 3011(8) and (12) of Chapter 30,[[41]](#footnote-41) the OCA contends that the Commission must remain mindful of the preservation for all consumers of universal telecommunications service and affordability on any competitive determination. As noted, *supra*, the OCA asseverates that the availability of like or substitute services must constrain prices to an affordable level, which should be determined based on the principles set forth by the OCA’s witness in the *Rural Access Charge Investigation*.According to the OCA, the evidence proves that the market for basic telephone services is not sufficiently competitive to constrain prices for basic residential telephone service. OCA R.B. at 20.

**iii. CWA-IBEW**

CWA-IBEW also argues that the policy goals of Section 3011 include the maintenance of universal service at affordable rates. As CWA-IBEW contends, granting Verizon’s Petition would allow Verizon to raise rates without constraint as it has done in other reclassified jurisdictions. CWA-IBEW points out that, for an essential service tied to public safety and welfare, this result that does not square with these public policy goals. CWA-IBEW M.B. at 6, 10, 19. CWA-IBEW is of the opinion that any reclassification should be consistent with the public policy goals of Section 3011 of the Code, and should be granted only where Verizon or any other carrier has deployed a state-of-the-art network to avoid a “state filled with technological haves and have-nots.” CWA-IBEW M.B. at 27.

**iv. CAUSE-PA**

CAUSE-PA professes that Verizon’s reduction of the legal standard for a Section 3016(a) competitive determination for protected services to the “mere *presence* of other calling services in a given geographic area ignores both the letter and the intent of Chapter 30 that telecommunication service remain universally available in Pennsylvania.” CAUSE-PA M.B. at 7-8. In CAUSE-PA’s view, reclassification based on the mere presence of alternative providers without consideration of the quality or affordability of those alternatives would enable Verizon to price vulnerable customers out of the market for reliable service. According to CAUSE-PA, Chapter 30’s declaration of policy ensures that all Pennsylvanians remain able to access quality service that is affordable and safe. Citing Sections 3011(5)[[42]](#footnote-42) and (8), CAUSE-PA argues that Chapter 30 intends to assure the continued nondiscriminatory delivery and universal accessibility of service. CAUSE-PA M.B. at 9-10; CAUSE-PA R.B. at 3. Moreover, contends CAUSE-PA, “[u]niversal service – the ability for all consumers to access basic utility services – is a polestar principle of Chapter 30[,] a critical component to each and every major state and federal telecommunications law ‘[s]ince the dawning of the telecommunications industry[.]’” CAUSE-PA M.B. at 16, citing66 Pa. C.S. §§ 3011(2), (3), (8), and (12) (footnotes omitted). CAUSE-PA further contends that granting Verizon’s Petition could have a critical and detrimental effect on universal service programs, leaving vulnerable populations without access to basic service at just, reasonable, and affordable rates. CAUSE-PA St. 1 at 6-7.

Responding to Verizon’s conclusion that universal service will not be impacted because Verizon has not included the Commission’s USF regulations within the scope of its Petition, CAUSE-PA’s witness distinguishes the USF specifically from universal service generally as follows:

It is easy to confuse the Universal Service Fund, a fee collected under state law to subsidize rural communication services, with Universal Services, a term for the principle that all individuals should have access to basic utility services. Mr. Vasington’s statement intimates that the fact it does not ask for waiver of its Universal Service Fund requirements means that there will not be an impact on Universal Services. But the fact that Verizon did not request to waive its requirement to contribute to the Universal Service Fund does not also mean that programs designed to deliver Universal Services in the Commonwealth, such as the Lifeline program, will be unaffected. As I explained above, Verizon s Petition does have the potential to impact Lifeline, as lifting the regulation may raise the overall cost of basic telephone service.

CAUSE-PA St. 1 at 21.

CAUSE-PA’s witness concluded that federal and state goals of universal service remain practical and promote the availability to all customers of quality service at just, reasonable and affordable rates. Thus, CAUSE-PA opines that granting Verizon’s Petition would be contrary not only to the public interest, but also the applicable statutes, as it would threaten the continued accessibility of basic local exchange service without sufficient proof that reliable and affordable alternatives are truly available to all Pennsylvanians. CAUSE-PA St. 1 at 23.

**v. Other Parties**

AT&T, FSN, and PTA do not address this issue.

**b. Disposition**

We acknowledge that maintaining universal service is one of the key policy objectives of Chapter 30.[[43]](#footnote-43) However, we disagree with those Parties who argue that reclassifying as competitive the specific wire centers identified herein will adversely impact that policy objective. For one matter, as previously discussed, Verizon will continue to have the COLR obligation in the wire centers that we have determined to be competitive. We have previously described this COLR obligation as follows:

ILECs are required universally to provide adequate, safe and reliable service and facilities for the convenience of the public and the interconnected telecommunications carriers throughout their respective service areas. Such COLR obligations extend to the provision of retail telecommunications services anywhere within the RLEC’s service territory, include service quality requirements and public safety obligations in terms of handling 911/E911 call traffic, and telecommunications carrier connectivity requirements that are governed by both Pennsylvania and federal law. Other competitive wireline (CLECs) and wireless carriers often depend and rely on the RLECs’ switched access and “last mile” transport and distribution facilities for respectively originating or completing wireline and wireless call traffic. Under applicable federal law that is enforced by this Commission, the RLECs also have federal eligible telecommunication carrier (ETC) designations and thus qualify for the receipt of certain types and amounts of support from the federal USF.[[44]](#footnote-44)

Consistent with this obligation, Verizon affirmed that each Verizon Company will continue to connect all customers located in their service territories upon request. Verizon also points out that in other states where it has been granted pricing flexibility for basic local exchange service, it has not changed its product offerings.

We interpret this testimony to be a commitment by Verizon to continue serving all customers in competitive wire centers and to continue offering basic local exchange services to customers in competitive wire centers. We view offering basic local exchange service as part of Verizon’s COLR obligation existing under state and federal law. We shall require this result absent a clear, future ruling by this Commission or the FCC to the contrary.

Moreover, we reinforce our belief that prices for basic local exchange service are better regulated by market forces than economic regulation. As the record shows, consumers have a choice of many different service providers that they can use to replace their basic local exchange service if Verizon prices its service too expensively in the eyes of consumers.

**8. Summary of Dispositions Regarding Verizon’s Request for Reclassification**

Section 3016(a) of Chapter 30 permits the Commission, after a review of all relevant evidence presented, to declare a “protected service” as competitive where an ILEC has demonstrated the availability of like or substitute services or other business activities provided or offered by alternative service providers. The incontrovertible evidence in this case shows that, *in the eyes of consumers,* the numerous competitive choices offered by cable telephony and wireless providers are like or substitute services for Verizon’s basic local exchange service. Thus, regardless of any technological or economic differences that may exist between traditional basic local exchange service and the competing cable telephony and wireless voice services, consumers clearly view these competing services as adequate replacements for basic local exchange service.

For the reasons discussed above, Verizon has demonstrated widespread availability of cable telephony and wireless voice service in 153 of the 194 wire centers subject to the Petition. The Commission’s analysis on availability of competing services was conducted on a per-wire center basis and required widespread availability of both cable telephony and wireless voice service in each wire center determined to be competitive. The record evidence shows that in each wire center determined to be competitive, at least 97 percent or more of the households have access to cable telephony, while wireless voice service is also ubiquitously available throughout each wire center. Therefore, the Commission classifies as competitive the 153 wire centers listed in Appendix B and will not classify as competitive the 41 wire centers that appear in Appendix C.

**B. Regulatory Impact of a Competitive Determination**

Once a wire center is determined to be competitive, we must next contemplate the regulatory impact of that determination on the operations of the wire center. Chapter 30 is clear that the primary impact of a competitive determination is that (1) Verizon may price the service at its discretion; and (2) Verizon may maintain a price list of a competitive service rather than maintaining a Commission-approved tariff.[[45]](#footnote-45) Thus, a competitive determination serves to provide pricing flexibility of basic local exchange service and allows Verizon to detariff that service. A competitive determination, however, does not mean complete deregulation of the service.[[46]](#footnote-46)

With the exception of rate regulation and tariffing, the Commission’s authority under the Public Utility Code is retained over landline telecommunications services[[47]](#footnote-47) determined to be competitive. This includes retaining jurisdiction over quality of service standards that address the safety, adequacy, reliability, and privacy of telecommunications services and the ordering, installation, suspension, termination, and restoration of any telecommunication service.[[48]](#footnote-48) The only specific mandates by the General Assembly for competitive services are that rates may not be regulated by the Commission,[[49]](#footnote-49) and the Commission may not require tariffs for competitive services. Instead, the Commission may require that a price list for competitive services be maintained at the Commission, which, as discussed, *infra*, the Commission is ordering here.[[50]](#footnote-50) This outcome is similar to the principle of detariffing, which is the elimination of the requirement to file and maintain tariffs, including not only the rates for service set by the regulatory authority but also the terms and conditions of service approved by the regulatory authority.[[51]](#footnote-51)

We note that a tariff is a legally enforceable contract-like document that defines company and customer duties and obligations, as noted in Section 102 of the Code. The Commonwealth Court has previously explained that “[t]ariffs filed with a state regulatory agency, such as the PUC, are not mere contracts but have the force of law and are binding on the consumer and the utility.”[[52]](#footnote-52) With no tariff governing competitive services, the question becomes what then defines company and customer duties and obligations in a competitive environment.

**1. Positions of the Parties**

**a. FSN**

Only one party addressed the regulatory impact of a competitive determination in terms of its impact on Verizon’s tariff filings. FSN contends that if services are determined to be competitive and are detariffed, sufficient advance notice of changes to products or pricing must be made available. FSN M.B. at 6-8.

**2. Disposition**

To ensure that the terms and conditions of basic local exchange service are memorialized for customers in competitive wire centers, we direct Verizon to use the Terms and Conditions of service contained in its “Product Guide” [[53]](#footnote-53) as the governing document for basic local exchange service customers in competitive wire centers in the Verizon PA and Verizon North service territories.[[54]](#footnote-54) Thus, the Product Guide will be the controlling document that defines Company and customer duties and obligations for competitive services, including basic service in competitive wire centers. We direct Verizon to notify its customers in writing of this change from tariff to contract status.

We are of the opinion that Verizon should undertake affirmative action to ensure customer agreement with terms and conditions of service contained in its Product Guide even if they remain the same as when previously tariffed. These non-tariff agreements will become an implied-in-fact contract based upon the provision of service and the payment of the invoices each month. This type of contract is created by the conduct of the parties rather than by a specific verbal or written contract. A letter with a negative option (“contact us if you do not accept the website terms…”) may form the basis of constructive knowledge by the customer. Affirmative acceptance by the customer will not be required, although Verizon may wish to do so to ensure proper contract formation.

While rates will not be regulated in competitive wire centers, we shall require Verizon to maintain at the Commission price lists for basic local exchange service, including dial-tone and usage rates, and to file changes upon one day’s notice as we have done with other competitive services.[[55]](#footnote-55) In the event of a change in local service rates in a competitive exchange, Verizon shall be required to give thirty days’ advance notice to retail customers receiving such service. This same thirty days’ notice of a retail price change shall be given to CLECs purchasing discounted local service in competitive wire centers.

**C. Verizon’s Petition for Waiver of Regulations in 52 Pa. Code Chapters 63 and Chapter 64**

In its Petition, Verizon requests a waiver until December 31, 2025, of the following Subchapters of Chapter 63 of the Commission’s Regulations found in Title 52 of the Pennsylvania Code: B (Services and Facilities); C (Accounts and Records); E (Quality of Service); F (Extended Area Service); and G (Public Coin Services). Verizon also requests an eleven-year waiver for the entirety of Chapter 64 of the Commission’s Regulations.

**1. Legal Standard for Waivers**

**a. Positions of the Parties**

**i. Verizon**

Relying primarily on Section 3019(b)(2)[[56]](#footnote-56) of the Code, but also Sections 3019(g)[[57]](#footnote-57) and 3011(13),[[58]](#footnote-58) 66 Pa. C.S. §§ 3019(b)(2), 3019(g), and 3011(13), Verizon contends that the Commission should waive outdated regulations that are not applied equally to Verizon’s competitors and that are no longer necessary in a competitive market. Verizon M.B. at 24-25. Verizon avers that the competitive market will ensure that it meets reasonable customer expectations, and that even regulated customers no longer seek Commission intervention to the extent they used to, citing a steep decline in customer complaints. *Id.* at 26, 28. Moreover, Verizon contends that “the waiver does not (and cannot) remove the Commission’s authority over Verizon’s service quality under 66 Pa. C.S. § 1501.” Verizon points out that this is also referenced in Verizon’s Chapter 30 Plan, specifically including competitive services. *Id.* at 28. Verizon reasons that waiving these Regulations would merely provide the Commission greater flexibility to evaluate issues brought before it in light of changes in technology and customer demands.

Verizon asserts that the Parties that oppose its request for waiver articulate no credible reason why these regulations should remain in place. Verizon M.B. at 27-29. Verizon contends that those Parties admit that many of the current Commission Regulations are outdated, particularly in light of changed technological and market conditions. As for the Commission’s authority to waive its Regulations, Verizon argues that it is not limited to an unreasonable hardship standard. Rather, Verizon contends, under authority of Section 501 of the Code, 66 Pa. C.S. § 501, the Commission may rescind or modify any Regulation. Verizon also again points to Section 3019(b)(2) of Chapter 30, on which the Commission relied in 2008 in waiving equal access subscription requirements; in 2009 in waiving its call recording prohibition for telephone companies; and in other proceedings involving CLEC tariffs and call answer time rules. Verizon asserts that even if the unreasonable hardship and exceptional circumstance standards are the only ones that apply, the market distortion and devotion of resources to compliance with outdated regulations that are out of sync with customer expectations satisfy those standards. Finally, with respect to the decrease in customer complaints, Verizon responds that line loss is not the cause of this decrease as CAUSE-PA asserts, *infra.* Further, Verizon alleges that CAUSE-PA’s opinions about the necessity of maintaining the Regulations are based on remote, not recent, experience. Verizon R.B. at 14-17.

**ii.** **OCA**

The OCA’s opposition to Verizon’s requested waivers is grounded upon three general factors. First, the OCA contends that the legal standard for determining whether to waive any or all Regulations is found in Chapters 63 and 64 themselves, citing to the applicable Subchapters of the Regulations to argue that the applicable legal standard for determining whether a request for regulatory waiver is proper is whether the regulation causes an “unreasonable hardship” to a person or utility. *See* OCA M.B. at 38. The OCA also asserts that the Regulations provide for consideration of whether a waiver is temporary in nature and for exemptions to be granted in “exceptional” cases. *Id*.

The OCA points out that Chapter 64 of the Commission’s Regulations contains a specific waiver provision at 52 Pa. Code §§ 64.212 (a) and (b). OCA M.B. at 37-38. With regard to Chapter 63, the OCA notes that this Chapter does not contain a general waiver provision. However, Subchapter E (Telephone Service Quality Standards) of the Chapter contains a specific provision for analyzing a proposed waiver of that subsection. *See* 52 Pa. Code § 63.53 (e) (Temporary exemption request and standard). Section 63.53(e), provides as follows:

(e) If unreasonable hardship to a person or to a utility results from compliance within this subchapter, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this subchapter by the Commission will not preclude the altering or amending of the provisions in a manner consistent with applicable statutory procedures, nor will the adoption of this subchapter preclude the Commission from granting temporary exemptions in exceptional cases. A person or utility that files an application under this section shall provide notice to a person who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

OCA M.B. at 38.

The OCA asserts that Verizon has not claimed or proven that either it or its customers are enduring an unreasonable hardship by complying with Chapters 63 and 64 of our Regulations, that the requested ten-year waiver is not consistent with a temporary waiver, and that no exceptional circumstances have been demonstrated. Citing the testimony of CAUSE-PA’s witness Miller, the OCA states that a decade-long waiver would essentially undo years of consumer education of their rights under Chapters 63 and 64. The OCA cautions that this would so firmly entrench Verizon’s competitive business practices and alter consumer expectations as to render the waiver essentially permanent. OCA M.B. at 37-39, citing CAUSE-PA St. 1 at 16.

The OCA clarifies that it does not oppose review of the Regulations. However, the OCA contends that such a review should be done in a proper rulemaking with sufficient time, and not crammed into a compressed proceeding with an exceptionally accelerated time frame. The OCA references the testimony of its witness to assert that there are procedural and substantive hindrances to the development of sufficient record evidence to analyze both the competitive classification claims of Verizon and the impact on Pennsylvania consumers of the waiver. Moreover, the OCA asseverates that Section 1501 provides insufficient consumer protection if Chapters 63 and 64 are waived. According to the OCA, it is only through the rules set forth in these Regulations that the Commission can hold regulated providers responsible for meeting basic reliability and affordability standards. Finally, in response to Verizon’s contention that the number of justified complaints decreased, the OCA avers that many reasons explain this, including the success of Chapters 63 and 64. OCA M.B. at 39-45.

In reply to Verizon’s argument in its Main Brief, the OCA restates that Verizon has failed to satisfy the legal standards established in Chapters 63 and 64 for a waiver, and that the Company presented no evidence of benefit that will flow from waiver of these Regulations. To the contrary, the OCA asserts that the evidence points to significant issues of safety, reliability, and consumer protections if the waivers are granted, as witnesses for both the OCA and CWA-IBEW testified. Without these Regulations, there are no standards by which to measure and protect consumers, since Chapters 63 and 64 are complementary standards aiding enforcement of Section 1501 of the Code and cannot be replaced by Section 1501 alone. The OCA continues to recommend that the Commission undertake a rulemaking at the proper time and in the proper proceeding to evaluate the impact of waivers on consumers. OCA R.B. at 21-25.

**iii. CWA-IBEW**

CWA-IBEW contends that the Commission has authority to waive its own Regulations as a power reserved generally at 52 Pa. Code § 5.43 and also in Chapters 63 and 64 themselves at 52 Pa. Code §§ 63.53(e) and 64.212, respectively. Relying on *Township of Collier v. Pennsylvania-American Water Company*, 2004 Pa. PUC LEXIS 26 (May 3, 2004), CWA-IBEW concludes that under any standard to waive its Regulations, the Commission should base such a waiver on either a change in the enabling statute or a clear demonstration that the party seeking relief cannot reasonably comply with the Regulation. CWA-IBEW M.B. at 36. In CWA-IBEW’s view, this standard is tantamount to the “unreasonable hardship” standard. CWA-IBEW M.B. at 37.

Notwithstanding the above, CWA-IBEW contends that by failing even to mention how continuing to comply with Regulations with which it has been required to comply for years can be a hardship let alone an unreasonable hardship, Verizon has presented neither facts nor circumstances that would meet either standard. Therefore, as the party with the burden of proof on this issue, CWA-IBEW asserts that the waivers must be denied for failure even to attempt to prove an unreasonable hardship or any sound justification. Moreover, CWA-IBEW argues that maintaining authority under Section 1501 of the Code, as Verizon contends the Commission will, loses meaning if Verizon is granted exemption from the very Regulations that implement this section of the Code. Although CWA-IBEW would not oppose the initiation of a rulemaking, it maintains that an eleven-year waiver for one utility should not be granted in the context of this proceeding. CWA-IBEW M.B. at 35-39.

CWA-IBEW also asserts that Verizon ignores that Section 3019(b)(2) of the Code specifically identifies safety, adequacy, reliability, and privacy of services and the implementation and termination of any services as essential provisions that the General Assembly granted authority to review and revise; however in light of their specific mention in Chapter 30, CWA-IBEW maintains they should not be waived. Further, CWA-IBEW argues that while Verizon recognizes the continued applicability of Section 1501 of the Code, Verizon ignores that it is only through Chapters 63 and 64 that that authority is exercised. CWA-IBEW R.B. at 4-5.

**iv. CAUSE-PA**

CAUSE-PA contends that Verizon relies solely on Section 3011(13) of the Code, a policy declaration CAUSE-PA finds woefully vague. In addition to arguing that the legal standards of “unreasonable hardship” and “exceptional circumstances” should apply to the Commission’s review of the Verizon waiver request, CAUSE-PA also makes an analogy between the provisions set forth in Chapter 56 of the Commission’s Regulations pertaining to waivers (generally), 52 Pa. Code § 56.222,[[59]](#footnote-59) and this proceeding. *See* CAUSE-PA M.B. at 27, n. 73 citing *Investigation into Financial and Collections Issues Regarding the Philadelphia Gas Works*, Docket Nos. P-00042090, R-00049157, M-00021612, P-00032061, P-00042117 (Order entered September 30, 2004) at 25-26.

CAUSE-PA also asserts that, separate from the issue of Verizon’s burden regarding the waiver of Commission Regulations, is the fact that consumers rely on the protections outlined in the applicable Regulations and that any waiver of these Regulations would impose an undue hardship on customers. CAUSE-PA points out that it has taken years to educate consumers about the provisions of and their rights under these Chapters. CAUSE-PA M.B. at 26, 28-30. CAUSE-PA contends that, by claiming that Chapters 63 and 64 have sat untouched for decades as relics of the past, Verizon has, in fact, proven that it has not experienced any unreasonable hardship under these Regulations. Accordingly, CAUSE-PA asserts that a rulemaking where all affected parties would be heard would be appropriate. CAUSE-PA argues that, as evidenced by the thousands of complaints that the BCS hears every year, customers have come to expect and rely on the rights contained in Chapters 63 and 64. CAUSE-PA M.B. at 26‑29.

Additionally, CAUSE-PA refutes Verizon’s assertion that Section 1501 of the Code will provide sufficient protection. CAUSE-PA submits that this statutory provision is not an adequate replacement for Chapter 63 and 64 Regulations as these are meant to work in a complementary manner with Section 1501. CAUSE-PA M.B. at 31‑32.

CAUSE-PA also contends that Verizon failed not only to articulate the proper standard to support a waiver, unreasonable hardship, but also to present evidence to support that standard. CAUSE-PA submits that Verizon goes so far as to wrongly place the burden of proving the reasonableness of a waiver on opposing parties to prove justification for “foist[ing] these costs and inconveniences upon Verizon and its customers to achieve a standard that customers do not expect or demand.” CAUSE-PA R.B. at 9.

**v.** **FSN**

FSN does not oppose Verizon’s requested waivers on the condition that any waivers are equally applicable to all CLECs so that Verizon does not obtain a competitive advantage. FSN M.B. at 13-14.

AT&T and PTA do not address this issue.

**b. Disposition**

As we have previously discussed, complete deregulation is not required under Pennsylvania law where a service is declared “competitive.” Consequently, whether to grant Verizon’s requested waiver of certain Chapter 63 Regulations and all Chapter 64 Regulations in competitive wire centers is discretionary, with the Commission considering the relevant circumstances. The issue presented here is whether we should revise the degree and type of service regulation to be imposed in wire centers determined to be competitive.

We acknowledge that the Regulations for which Verizon seeks waiver have not been revised for many years, beyond our effort in 2006 to comply with certain statutory changes to reporting requirements in Chapter 30.[[60]](#footnote-60) Verizon is requesting that we waive part of our Chapter 63 Regulations, including our Regulations on service quality, and all of our Chapter 64 Regulations on standards and billing practices in competitive wire centers. In deciding this case, we shall exercise our discretion to address those quality of service and billing Regulations that should continue to apply where basic local exchange service is determined to be competitive.

Fundamentally, the General Assembly has given the Commission the tools needed to level the regulatory playing field by reducing regulation for the incumbent carrier where “like and substitute” services are available from alternative suppliers. Specifically, the General Assembly in its 2004 Chapter 30 amendments declared that one of the key policy objectives of Chapter 30 is to reduce the regulatory obligations imposed on traditionally regulated companies “to levels more consistent with those imposed upon competing alternative service providers.”[[61]](#footnote-61) Here, granting a waiver from certain Regulations in competitive wire centers brings Verizon closer to regulatory parity with competing providers whose retail services are not subject to Commission jurisdiction.

We are of the opinion that many of the monopoly-era Regulations in Chapters 63 and 64 that do not apply to Verizon’s competitors do not make sense in a competitive marketplace. Regulation does not exist for regulation’s sake. Rather, regulation seeks to produce a competitive result where there is no competition to do the same. Where sufficient competition exists, regulation is not needed and should be reduced or perhaps even discontinued. As discussed elsewhere in this Opinion and Order, the record clearly demonstrates that sufficient competition exists in certain wire centers subject to the Petition to substantially reduce our regulation.

We find that the burdens of complying with outdated Regulations with which Verizon’s competitors do not have to comply is an “unreasonable hardship” that justifies granting a waiver. Therefore, in accordance with our authority at Sections 501, 1501, and 3019(b)(2) of the Code,[[62]](#footnote-62) as well as Sections 5.43, 63.53(e), 64.202, and 64.212 of our Regulations,[[63]](#footnote-63) we agree that waiver of certain of our Chapters 63 and 64 Regulations in wire centers found to be competitive is, in our discretion and under the aforementioned standards, appropriate, except where such Regulations are preserved below. Our action on Verizon’s waiver request is not intended to serve as an abandonment of our regulatory responsibilities. Rather, our action is intended to streamline our regulation of Verizon’s basic local exchange service to reflect the environment that exists in the competitive wire centers determined under this Petition.

As discussed in more detail, *infra*, the waiver period for those specific Regulations that we shall waive will be for a period not to exceed five years, pending data collection and a rulemaking to address the status of these chapters for noncompetitive and competitive services on a permanent and industry-wide basis.

**2. Waiver of Select Subchapters of Chapter 63[[64]](#footnote-64)**

**a. Subchapter B (Services and Facilities) 52 Pa. Code §§ 63.12‑63.24**

**i. Positions of the Parties**

**1. Verizon**

Verizon asserts that this Subchapter focuses on services that no longer exist, such as obligations for multiparty lines and traffic measurements, and record keeping that was largely manual in nature before computers were utilized. Verizon M.B. at 29. Contesting CWA-IBEW’s assertion, *infra,* that Sections 63.23 and 63.24 are important, Verizon explains that Section 63.24 contains construction and maintenance safety standards for facilities pursuant to the National Electric Safety Code, 1981 Edition, and is, therefore, outmoded. Verizon argues that Section 63.24, pertaining to mandated customer credits for service outages should not apply in a competitive market because the Commission may not have the authority under Section 3019(g) of the Code to require credits for outages of competitive services. Verizon St. 2.0 at 29. Verizon specifically asserts that CWA-IBEW offers no proof that these and other regulatory standards under this Subchapter are valued by customers or influence their purchasing decisions. Verizon M.B. at 29. Verizon maintains that the provisions of this Subchapter are already reasonably accounted for under Section 1501 of the Code. Verizon St. 1.0 at 40.

**2. OCA**

The OCA opposes a waiver of the provisions of Subchapter B. The OCA argues that this section contains rules, such as obligations for multiparty lines, that may need to be updated at the appropriate time, but that multiple subsections of the Regulation reference the customer service relationship and are critical to adequate consumer protections. The OCA also references CWA-IBEW witness Gardler’s testimony in asserting that Subchapter (B) also contains critical safety measures. OCA M.B. at 44-45, citing CWA-IBEW St. 3 at 6.

**3. CWA-IBEW**

CWA-IBEW strongly opposes granting any waiver of the Regulations in Subchapter B (Service and Facilities) of Chapter 63. CWA-IBEW argues that these Regulations deal directly with the safety and reliability of the network and are designed to protect utility workers and members of the public who come in contact with those facilities. CWA-IBEW M.B. at 39. CWA-IBEW witness Dvorak unequivocally testified that, in his view the waiver of Subchapter B would jeopardize the safety of himself and other similarly-situated Verizon employees or contractors who have to work on Verizon’s network. This is in addition to the general public that might come into contact with these lines. *See* CWA-IBEW M.B. at 40, *quoting* CWA-IBEW St. 2 at 7-8. These concerns were shared by CWA-IBEW witnesses Gardler and Dezzi. *See*, CWA-IBEW St. 3 at 5; CWA-IBEW St. 4 at 6.

**4. CAUSE-PA**

CAUSE-PA takes the position that Section 3011(13) does not provide Verizon a sufficient basis on which essentially to obtain a wholesale waiver of Chapter 63 in this Petition. CAUSE-PA also argues that Verizon must show that it will suffer an unreasonable hardship or that exceptional circumstances apply so as to justify the grant of a waiver. CAUSE-PA M.B. at 25-26. CAUSE-PA maintains that a general waiver of whole subparts of this Chapter should not be granted in this proceeding. CAUSE-PA M.B. at 29.

**5. Other Parties**

FSN, AT&T, and PTA do not address this issue.

**ii. Disposition**

Before specifically addressing Verizon’s request for a waiver of Subchapter B, we note at the outset that we shall grant, in part, Verizon’s request for waiver of certain sections of Chapter 63 to the extent consistent with this Opinion and Order and as addressed specifically by individual Subchapter below. Only the enumerated Regulations set forth in Subchapters B, C, E, F, and G, are addressed by our ruling in this Opinion and Order. All remaining portions of Chapter 63 shall remain in full force in the wire centers determined to be competitive in this proceeding, including the Code of Conduct (Section K – “Competitive Safeguards”), Universal Service (Section L), and Changing Local Service Provider procedures (Section M).

With respect to Verizon’s request for Chapter 63, Subchapter B waivers, we shall specifically waive the following Subchapter B Regulations: Section 63.12 (Minimizing interference and inductive effects); Section 63.16 (Traffic measurements); Section 63.17 ([Reserved]); Section 63.18 (Multiparty line subscribers); Section 63.19 (Interoffice lines); Section 63.21 (Directories); Section 63.23 (Construction and maintenance safety standards); and 63.24 (Service interruptions).

This Subchapter includes provisions that are outdated, such as Section 63.23, which requires compliance with National Electrical Safety Code standards from 1981. This subchapter also includes provisions relating to services that no longer exist, as a practical matter, including multiparty lines and provisions relating to traffic measurements and record keeping that are largely manual in nature and predate the use of computers. Verizon M.B. at 29. Moreover, regarding directories, we note that Verizon no longer provides a residential White Pages directory in paper form automatically to customers. Rather, residential White Pages directory information is available on Verizon’s website and, upon request, in paper form or through CD-ROM at no charge, a practice that shall continue throughout the waiver period.

CWA-IBEW argues that the Section 63.24 provision requiring bill credits for service outages should not be waived. CWA-IBEW St. 4 at 6. The provisions at 52 Pa. Code § 63.24(b)(1)-(b)(3) provide for a schedule of “allowances,” or credits, to a customer’s bill when telephone service is interrupted for a period of at least twenty-four hours. We are of the opinion, however, that the market is sufficiently competitive such that a dissatisfied customer can obtain service from other providers if Verizon’s service quality to the customer is unacceptable and Verizon does not adequately address the customer’s concerns by fixing the problem and/or providing appropriate financial compensation for any resulting service interruption. In addition, we note that Verizon PA’s and Verizon North’s Product Guide, Section 1, Original Sheet 6, that will be applicable to basic local exchange service in competitive wire centers, addresses this issue by also providing credits for service interruptions.

We shall specifically retain 52 Pa. Code § 63.13 (Periodic inspections), which governs preventative maintenance, and 52 Pa. Code § 63.14 (Emergency equipment and personnel), which governs measures to be taken by utilities in an emergency, including battery back-up. We conclude that these Regulations are not outdated and remain relevant in a competitive world. We also retain 52 Pa. Code § 63.15 (Complaint procedures), and 52 Pa. Code § 63.22 (Service records), because we are of the opinion that they, too, remain relevant to the Commission-approved complaint process that will continue to apply in competitive wire centers. We note that these Regulations shall also be subject to the reporting requirements, which we shall require herein. Additionally, we retain 52 Pa. Code § 63.20 (Line extensions), which we believe is relevant to Verizon’s Section 1501-based COLR obligation that will remain in competitive wire centers.

Moreover, although we waive Section 63.23, we also agree with CWA-IBEW that this Regulation directly addresses safety and reliability and is intended to protect utility workers and members of the public who come in contact with Verizon’s facilities. Thus, we also conclude that the goal of this provision remains relevant in today’s market. Therefore, we grant our waiver of Section 63.23 conditionally upon the requirement that Verizon construct and maintain its public utility equipment, facilities, and wire or cable crossings in accordance with the safety standards as set forth in the most up-to-date version of the National Electrical Safety Code.[[65]](#footnote-65)

**b. Subchapter C (Accounts and Records) 52 Pa. Code §§ 63.31‑63.37**

**i. Positions of the Parties**

**1. Verizon**

Verizon notes that this Subchapter C (Accounts and Records) references accounting and reporting-related requirements, much of which are applicable only to “rate of return carriers.” Verizon asserts that because it is governed by alternative regulation and not rate base/rate of return regulation, the appropriate reporting requirements to be maintained are those pursuant to requirements of Chapter 30. Thus, according to Verizon, the provisions of this Subchapter are unnecessary. Verizon M.B. at 29.

**2. Other Parties**

Aside from objections to waivers in general, no Party specifically addresses the waiver of this specific Subchapter.

**ii. Disposition**

On consideration of the positions of the Parties, we shall grant Verizon’s request for a waiver of this Subchapter, consistent with our discussion in this Opinion and Order. As noted by Verizon, the regulations contained in Subchapter C (Accounts and Records) apply directly to companies that are under rate of return regulation, and not to the Verizon Companies, which are subject to an alternative form of regulation under Chapter 30.[[66]](#footnote-66) In this regard, we note that the establishment of Verizon’s overall revenue requirement has been subject to a non-cost, revenue-based, form of regulation in accordance with Section 3015 of Chapter 30.[[67]](#footnote-67) Consequently, we find that those Regulations in Subchapter C that are applicable under rate base/rate of return regulation are no longer necessary. Accordingly, we shall specifically waive Section 63.31 (Classification of public utilities); Section 63.32 (System of accounts); Section 63.33 (Integrity of service accounts to be preserved); Section 63.34 (Reclassification of telephone plant to original cost); and Section 65.35 (Preservation of records).

We note, however, that we specifically retain Section 63.36 (Filing of annual financial reports).  Determining that a wire center is competitive under Section 3016(a) of the Code does not change the statutory reporting mandates in Section 3015(e) of Chapter 30, which includes requiring LECs to file an annual financial report with the Commission.

We also shall retain 52 Pa. Code § 63.37 regarding the funding of telephone relay service. The information required to be submitted by LECs under this section is necessary for determining the eligible intrastate costs associated with the operation of three separate programs for individuals with hearing and deaf impairments, namely, the Pennsylvania Telecommunications Relay Service (TRS), the Telecommunications Devices for the Deaf Program and the Print Media Access System Program. Without the information required by this section, we would have difficulty calculating the annual surcharge to support these programs. Accordingly, Section 63.37 remains relevant and shall continue in effect.

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

**i. Positions of the Parties**

**1. Verizon**

Verizon argues that this Subchapter references standards of telephone service that are no longer needed in today’s marketplace, including “dial tone speed” and “efficient and pleasing” operator-dialed services. Verizon M.B. at 29. In response to concerns that certain Regulations under this Subchapter are needed to ensure worker safety (*i.e.* Section 63.35),[[68]](#footnote-68) Verizon asserts that it will continue to operate its network in a manner that is safe for its workers and the public. *Id.* at 31. Verizon points out that even if its Petition is granted, it will still be governed by work place safety regulations set forth by the United States Occupational Safety and Health Administration (OSHA). Verizon claims that, unlike the outdated Regulations cited by opposing Parties under this Subchapter, OSHA’s standards are far more comprehensive. Verizon St. 2.0 at 27-29. Further, Verizon maintains that the provisions of this Subchapter are already reasonably accounted for under Section 1501 of the Code. Verizon St. 1.0 at 41.

**2. OCA**

The OCA argues that this Subchapter should be retained because it contains important Regulations that provide significant protections to consumers, including the requirement that Verizon restore service to customers after an interruption in service. OCA M.B. at 44-45; OCA R.B. at 26. OCA contends that Verizon has failed to provide assurances or guidelines regarding how it will provide similar levels of service or how service quality will be maintained if its waiver is granted. OCA R.B. at 26.

**3. CWA-IBEW**

CWA-IBEW is strongly opposed to granting any waiver of Chapter 63, Subchapter E (Telephone Quality Service Standards) requirements. CWA-IBEW submits that this Subchapter contains important Regulations that deal directly with the safety and reliability of Verizon’s network, including Regulations regarding electrical standards, metering inspections and testing, and the requirement that Verizon clear customer trouble reports and install service within a specified period of time. CWA-IBEW asserts that these Regulations are intended to protect utility workers and members of the public who come in contact with Verizon’s facilities and must be maintained. CWA-IBEW M.B. at 39-41; CWA and IBEW St. 2 at 8.

**4. Other Parties**

FSN, AT&T, and PTA do not address this issue.

**ii. Disposition**

The provisions related to quality of service in this Subchapter contain, among other things, 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. We specifically waive the following Subchapter E regulations: Section 63.51 (Purpose); Section 63.52 (Exceptions); Section 63.53 (General provisions); Section 63.54 (Record retention); Section 63.56(a)-(e) (Measurements); Section 63.58 (Installation of service); Section 63.59 (Operator-handled calls);[[69]](#footnote-69) Section 63.60 (Automatic Dialing Announcing Devices (ADAD)); Section 63.61 (Local dial service); Section 63.62 (Direct distance dial service); Section 63.63 (Transmission requirements and standards); Section 63.64 (Metering inspections and tests); and Section 63.65 (Safety).

Overall, we are of the opinion that the market is sufficiently competitive that a customer can obtain service from other providers if Verizon’s service quality is unacceptable. In essence, customers can “vote with their feet,” which we believe provides sufficient incentive for Verizon to provide quality service in most cases. Therefore, we believe many of our quality of service regulations are no longer necessary in competitive wire centers.

Notwithstanding the ability of customers in competitive wire centers to opt for other service providers if they find Verizon’s service unacceptable, these customers also have the option to complain to the Commission about poor service. Waiving the regulations of Subchapter E does not, in any way, modify Verizon’s statutory obligation under the Code to provide “adequate, efficient, safe, and reasonable service” to customers in competitive wire centers. This point has been confirmed in Verizon PA’s and Verizon North’s Chapter 30 Plans and also in the testimony in this case. *See* Verizon St. 1.0 at 41

Neither does a waiver of these Regulations impact the Commission’s ability to adjudicate a customer complaint alleging poor service quality. Verizon remains statutorily required to provide reasonable service in competitive areas. Granting Verizon’s waiver requests does not change this or the Commission’s ability to address a quality of service complaint. Thus, we view our Section 1501 jurisdiction and authority as a regulatory back-stop on quality of service.

We note that CWA-IBEW singles out Section 63.65 governing worker safety as a regulation to retain. CWA-IBEW M.B. at 40. Upon review, we conclude that workplace safety is adequately regulated at the federal level. Section 63.65 of this Subchapter incorporates the National Electrical Safety Code for poles and conduits, which, themselves are regulated by the FCC and the workplace safety regulations of OSHA, respectively. We find no reason to continue our enforcement of this provision when such provision is enforceable by other agencies that are in charge of such standards.

Nevertheless, our waiver of this Regulation should not be construed as a concession that the Commission does not have jurisdiction or authority to enforce federal law standards, where appropriate. Our waiver of this Regulation also should not be construed as impacting our ability under Section 1501 of the Code to address safety issues, including safety issues that result from a violation of a federal safety standard. In other words, the Commission retains its jurisdiction and authority under Section 1501 of the Code to hear an allegation that a violation of FCC and/or OSHA workplace safety regulation also violates Section 1501.

Regarding our waiver of Section 63.58 (Installation of service), we conclude 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. This will help manage reasonable customer expectations on the subject. Therefore, we shall grant waiver of Section 63.58 conditionally upon the requirement that Verizon include in its Product Guide applicable to competitive services its rules regarding the timing of service installations and any commitments that Verizon is willing to make to customers on the subject.

At the same time, we recognize the need to maintain through our Regulations certain consumer protections related to service outages, especially as we continue with the transition of basic local exchange service from a protected, noncompetitive service to a competitive one. Accordingly, we will retain the following Regulations: Section 63.55 (Surveillance levels); Section 63.56 (f) and (g) (Measurements); and Section 63.57 (Trouble reports). We view these Regulations as necessary to assist the Commission in ensuring Verizon’s continued compliance with Section 1501 of the Code and to manage reasonable customer expectations regarding service outages even in a competitive environment.

We acknowledge the changing telecommunications landscape and how competition has changed reasonable customer expectations regarding service, including the handling of service outages. We believe the existing Section 63.57(b) language provides Verizon sufficient flexibility to accommodate this changing landscape. Specifically, for outage calls that are non-emergency in nature, Section 63.57(b) expressly permits Verizon and the customer to “agree to another arrangement” than the “substantial action within 24 hours” time frame. In our view, this flexibility makes sense in a competitive environment, particularly for those customers that have wireless service and, thus, do not rely exclusively on the ILEC’s wireline service and would prefer to schedule a repair appointment at a more convenient time than within twenty-four hours of reporting the trouble.

Lastly, we note that, as part of its approval of a prior settlement with Verizon PA in the *Quality of Service Order*, we granted Verizon PA’s request to waive Section 63.59(b)(2) for purposes of calls to the business office.[[70]](#footnote-70) In lieu of following Section 63.59(b)(2), we permitted Verizon PA, for calls to its business office, to comply with the telephone access reporting requirements at 52 Pa. Code § 54.153(b)(1) applicable to electric distribution companies until such time that Section 63.59(b)(2) either is changed or repealed.[[71]](#footnote-71) In light of our granting a waiver of Section 63.59, in full, pending a rulemaking, we will no longer require Verizon to comply with the telephone access reporting requirements in Section 54.153(b)(1) of our Regulations.

**d. Subchapter F (Extended Area Service)**

**52 Pa. Code §§ 63.71‑63.77)**

**Subchapter G (Public Coin Service)**

**52 Pa. Code §§ 63.91-63.98**

**i. Positions of the Parties**

No Party objected to Verizon’s request for a waiver of Subchapters F and G, related to Extended Area Service and Public Coin Service, respectively.

**ii. Disposition**

We shall specifically waive the following Subchapter F Regulations: 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); 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).

We find that these Regulations, in particular, are very outdated and serve no purpose in today’s regulatory environment. Our extended area service (EAS) regulations, which were developed before the existence of competition in the local market, are no longer enforced by the Commission. The EAS regulations are a vestige of an era when local calling areas were limited in regard to the number of persons that could be called without having to incur a per-minute based long-distance toll charge. Local calling areas expanded significantly during the 1990’s and early 2000’s in part due to the automatic implementation clause of the EAS regulations that required LECs to implement EAS on a toll route of a contiguous exchange whenever the average calling frequency on a specific route and the number of access lines making at least one call per month on that route reached a certain threshold. We take administrative notice that no LEC has implemented an EAS route in accordance with our EAS regulations nor has any customer filed an EAS formal complaint against any LEC within at least the last five years. We note that EAS regulations have been rendered useless, in part, by their success, which led to the more expansive local calling areas in place today, but especially by competition that evolved in the telecommunications market, especially over the last ten years that led to an abundance of flat rate calling plans (*e.g*., nation-wide calling for a fixed rate), bundled service packages, and competitive alternatives that are not measurable, including those from wireless and VoIP providers.

Similarly, the competitive telecommunications market eliminated the need for payphone service in Pennsylvania and throughout the nation. Verizon notes that it no longer provides payphone services in Pennsylvania and that payphones also have been rendered obsolete, particularly due to the proliferation of wireless services across the Commonwealth. Verizon M.B. at 29.

**3. Waiver of Chapter 64 in its Entirety**

**a. Positions of the Parties**

**1. Verizon**

Verizon requests a waiver of the entire Chapter 64 of our Regulations, 52 Pa. Code §§ 64.1 – 64.213, addressing Standards and Billing Practices for Residential Telephone Service. Verizon M.B. at 27. These Regulations pertain to a LEC’s interaction with customers involving billing, payments, and complaints. Verizon claims that when these Regulations were enacted in the 1980’s, Verizon was the only provider in its service territory and that it had no competitive pressure from other carriers to discipline its customer relations. However, given that in the present telecommunications landscape, that two-thirds of households affected by this Petition are served by unregulated providers not subject to Chapter 64, Verizon contends that the “Commission should eschew outdated mandates designed for the landline-only world of the past and instead rely on the powerful forces of competition to deliver high quality service and billing practices for consumers.” *Id.* at 32. Verizon claims that competitive pressures now serve to discipline Verizon’s interactions with customers, making the regulations no longer necessary. Verizon St. 2.0 at 21-23; Verizon M.B. at 30-31.

Verizon contends that the only party to submit testimony favoring retention of Chapter 64 was CAUSE-PA, testimony that Verizon characterizes as coming from the retired director of BCS who, it alleges, has had no experience with telecommunications since 2009 and, therefore, “fails to recognize that the world has changed” and that the Regulations no longer serve a useful purpose. Verizon M.B. at 32*.* Verizon asserts that this is particularly so in light of the evidence that its customer complaints are decreasing. CWA-IBEW is of the opinion that Section 64.51[[72]](#footnote-72) should be retained because it is essential in order to make necessary or emergency repairs. In response to CWA-IBEW’s position, Verizon submits that like any other voice provider, it would be able to make reasonable service interruptions, if needed, to repair or maintain service even without this regulation. Verizon St. 2.0 at 30.

**2. OCA**

The OCA contends that Chapter 64 offers critical customer protections, especially for low-income customers, and that Verizon’s request to waive Chapter 64 in its entirety should be rejected. OCA M.B. at 45-46. In reply to Verizon’s arguments in its Main Brief, the OCA contends that the statement of purpose and policy of Chapter 64 makes it clear the critical importance these protections offer since they provide consumers with protections necessary to establish and maintain essential telecommunications services. The OCA contends that waiver of the entire Chapter would expose consumers to significant harm. OCA R.B. at 26-27.

**3. CWA-IBEW**

CWA-IBEW contends that if the Commission considers waiving any of its Chapter 64 Regulations, it should not waive the provisions of Section 64.51, which addresses interruptions of service to address emergency conditions and critical maintenance, and which, therefore, has important public safety implications. CWA-IBEW M.B. at 41. CWA-IBEW’s witness Baldwin also noted that Section 64.24 addresses bundled services and allows customers with bundled service who fail to pay their bills in full to retain their basic service component, as opposed to having their entire package terminated. CWA-IBEW St. 1 at 11.

**4. CAUSE-PA**

CAUSE PA argues that Chapter 64 provides essential consumer protections, particularly in areas regarding maintenance of service that have an impact on vulnerable populations such as the low-income and elderly, and should be retained. Specifically responding to Verizon’s claim that Chapter 64 Regulations are no longer necessary because the level of justified complaints has decreased dramatically, CAUSE-PA claims that Verizon skews the data. CAUSE-PA explains that the only significant decrease in the justified complaint rate was between 2008 and 2009, when Verizon implemented a “warm transfer” program wherein customers were transferred to Verizon to address the complaint directly. CAUSE-PA argues that as a result of the warm transfer, from 2009 to 2013 these calls were not included as consumer complaints, thus lowering the rate of justified complaints. CAUSE-PA asserts that if the rate of justified complaints is reviewed closely, and not just the number of complaints as Verizon argues, the rate of justified complaints has remained relatively unchanged over the past ten years. CAUSE PA further claims that telecommunications complaints continue to outpace justified complaints in the electric and gas industries. In CAUSE-PA’s view, this proves that Verizon’s internal policies and procedures are insufficient to protect customers and that Chapter 64 remains a necessary consumer protection. According to CAUSE-PA, the general consumer protection under Section 1501 of the Code is insufficient to provide adequate direction to individuals who, without the guidance of Chapter 64, will be forced to revert to the pre-Chapter 64 process of prosecuting full investigations in order to prove a violation under Section 1501. CAUSE-PA M.B. at 29-32.

In response to Verizon’s arguments that the fact that customers are leaving landline services in droves and that those who remain no longer seek Commission intervention proves that Chapter 64 is no longer necessary, CAUSE-PA contends that even if such evidence were true, which CAUSE-PA disputes, it would lead any reasonable person to conclude that Verizon’s continued compliance with Chapter 64 is not even a minor inconvenience let alone an unreasonable burden. CAUSE-PA R.B. at 9‑11. CAUSE-PA again contends that while the number of overall complaints may have declined, the rate of justified complaints remained consistently higher, both within the telecommunications industry and across other regulated industries, demonstrating the continued need for Chapter 64 Regulations to resolve customer complaints. CAUSE-PA asserts that, although Verizon presented no evidence to support its assertion that continued compliance is costly, any significant cost of compliance may be readily reduced simply by complying. *Id.* at 12-13.

**5. Other Parties**

FSN, AT&T, and PTA do not address this issue.

**b. Disposition**

Chapter 64 contains Regulations pertaining to telephone utility interactions with customers, including billing and payment, credit and deposit, suspension, termination, and restoration of service, and complaint handling among other items. We agree that many of these Chapter 64 consumer protections were necessary in a monopoly market where Verizon was the lone, dominant facilities-based provider of basic local exchange service. The importance of many of these Regulations has diminished in areas where the competitive market provides sufficient incentive for Verizon to meet reasonable customer expectations. We are also of the opinion that Verizon’s Product Guide applicable to competitive services in Pennsylvania may adequately address certain issues, thereby providing additional support for a waiver.

As with our waiver of the quality of service Regulations, waiving our Chapter 64 Regulations does not mean that we are abandoning our oversight of Verizon’s billing and collections practices in competitive wire centers. Similar to our ruling on quality of service, Verizon will still be required to abide by Section 1501 of the Code to provide reasonable service in competitive wire centers. This includes ensuring that Verizon will continue to provide reasonable billing services. Although we are precluded under Section 3016(e) of the Code from hearing a complaint solely about a price for a competitive service, we are not precluded from hearing a customer complaint on certain billing-related issues not involving price. This is consistent with our previous discussion involving Chapter 64, Subchapters B (Payment and Billing Standards) or C (Credit and Deposit Standards Policy).

On the other hand, some of these protections may be necessary even in a competitive market. Therefore, as addressed individually, *infra*, we shall grant, in part, and deny, in part, Verizon’s request to waive our Chapter 64 Regulations in those wire centers determined to be competitive.[[73]](#footnote-73)

**Subchapter A (Preliminary Provisions)**

**52 Pa. Code §§ 64.1 and 64.2**

Section 64.1 is the statement of purpose and policy regarding Chapter 64. Section 64.2 contains definitions. We are of the opinion that most of Section 64.1 is relevant even in a competitive exchange. Therefore, we shall waive the first sentence, but retain the rest of the statement of policy.[[74]](#footnote-74) Section 64.2 will be retained to the extent certain provisions elsewhere are retained and that retention implicates the definitions contained in Section 64.2.

**Subchapter B (Payment and Billing Standards)**

**52 Pa. Code §§ 64.11-64.24)**

Subchapter B governs payment and billing. Specifically, we shall waive the following Subchapter B Regulations as no longer needed in a competitive environment: 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). We note, for example, that Verizon’s Product Guide, Section 1 Original Sheets 5 and 6, applicable to basic local exchange services in competitive wire centers in both Verizon service territories in Pennsylvania address several of these Subchapter B payment-related issues, including method of payment and late payment charges.

We also recognize that Subchapter B includes some important consumer protections related to slamming and cramming that remain relevant in a competitive market. Therefore, we do not waive Section 64.23 (cramming/slamming). Additionally, we note that Verizon is required to comply with the federal truth-in-billing requirements at 47 C.F.R. § 64.2401 applicable to bills issued by telecommunications carriers containing charges for intrastate or interstate services. The stated purpose of these regulations is to reduce slamming and other telecommunications fraud by setting standards for bills for telecommunications service. These rules are also intended to aid customers in understanding their telecommunications bills and to provide them the tools they need to make informed choices in the market for telecommunications service.[[75]](#footnote-75)

At the same time, we agree with CWA-IBEW that Section 64.24, addressing preservation of basic local exchange service upon the termination of a bundled package, contains an important consumer protection that remains relevant in a competitive market where there has been a proliferation of bundles service packages. Accordingly, we shall deny Verizon’s waiver request for this specific Regulation.

**Subchapter C (Credit and Deposit Standards Policy)**

**52 Pa. Code §§ 64.31-64.41**

Subchapter C governs credit and deposit standards. Specifically, we shall waive the following Subchapter C Regulations: Section 64.31 (LEC credit and deposit policies); Section 64.32 (Credit standards); Section 64.33 (Payment of outstanding balance); Section 64.34 (Written procedures); Section 64.35 (Deposit requirements for existing customers); Section 64.36 (Method of making deposit); Section 64.37 (Refund of deposits); Section 64.38 (Application of deposit to bills); Section 64.39 (Periodic review); Section 64.40 (Refund statement); and Section 64.41 (Interest).

We recognize, especially as we transition to a competitive market for basic local exchange service, that there is value in ensuring that interested customers have access to relevant information about their services, including Verizon’s credit and deposit standards. We believe that making this information readily available will help to manage reasonable customer expectations. We take notice of Section 1, Original Sheet 1 of Verizon’s Product Guide in both of its service territories in Pennsylvania, which applies to competitive services and which specifies that Verizon will use a credit check to determine creditworthiness. To the extent that the Product Guide does not address Verizon’s policies and procedures applicable to applicants for service that are not deemed creditworthy, we believe such information should be added to the Product Guide. Therefore, we shall grant a waiver of this Subchapter conditionally upon the requirement that Verizon provide information in its Product Guide concerning the consequences if an applicant for service is not deemed to be creditworthy.

**Subchapter D (Interruption and Discontinuation of Service) 52 Pa. Code §§ 64.51-64.53**

Subchapter D governs temporary service interruptions and discontinuation of service. Specifically, we shall waive the following Subchapter D Regulations: Section 64.52 (Refunds for service interruptions) and Section 64.53 (Discontinuance of service). We note that Verizon’s Product Guide, Section 1 Original Sheet 6, applicable to basic local exchange services in competitive wire centers in both Verizon service territories in Pennsylvania, addresses refunds for service interruptions and customer-initiated discontinuation of service.

As noted previously, CWA-IBEW argues that Section 64.51, which allows Verizon to interrupt service to a customer under emergency conditions and for critical maintenance purposes, should be retained. The Regulation requires Verizon to give notice to customers (if possible) and to keep the interruption as short as possible. We agree that Verizon must have the ability to interrupt service to perform essential maintenance or repair work, and should make sure that work is done quickly and safely. Therefore, we agree that this Regulation should not be waived.

**Subchapter E (Suspension of Service)**

**52 Pa. Code §§ 64.61‑64.111)**

**Subchapter F (Termination of Service)**

**52 Pa. Code §§ 64.121-64.123)**

**Subchapter H (Restoration of Service)**

**52 Pa. Code §§ 64.181 and 64.182)**

Subchapter E governs grounds for suspension of service and notice procedures prior to suspension of service, including Section 64.61 (Authorized suspension of service); Section 64.62 (Days suspension or termination of service are prohibited); Section 64.63 (Unauthorized suspension of service); Section 64.71 (General notice provisions); Section 64.72 (Suspension notice information); Section 64.73 (Notice when dispute pending); Section 64.74 (Procedures upon customer contact before suspension); Section 64.75 (Exception for suspension based on occurrences harmful to person or property); Section 64.81 (Limited notice upon noncompliance with report or order); Section 64.101 (General provision); Section 64.102 (Postponement of suspension pending receipt of certificate); Section 64.103 (Medical certification); Section 64.104 (Length of postponement); Section 64.105 (Restoration of service); 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).

Subchapter F governs grounds for termination of service and the termination process, including Section 64.121 (Authorized termination of service); Section 64.122 (Unauthorized termination of service when dispute pending); and Section 64.123 (Termination notice).

Subchapter H governs restoration of service, including Section 64.181 (Restoration of service after suspension) and Section 64.181(Restoration of service after termination).

Upon review, we shall waive the following Subchapter E Regulations pertaining to grounds for suspension of service and certain notice procedures: Section 64.61; Section 64.63, *except* for subsection (10) relating to medical certificates; Section 64.72; Section 64.73; Section 64.74; and Section 64.81. We shall also waive all provisions in Subchapters F and H. In short, we conclude that these provisions are no longer necessary in a competitive telecommunications market. We note that grounds for suspension and termination of service are addressed in Verizon’s Product Guide applicable to competitive services in both service territories in Pennsylvania at Section 1, Original Sheets 4 and 4.1, while termination of service is addressed in Section 29 of the Product Guide.

We shall deny Verizon’s waiver request for the following Subchapter E Regulations, which we believe remain relevant and should apply in a competitive environment: Section 64.62 (Days suspension or termination of service is prohibited); Section 64.63(10) relating to medical certificates; Section 64.71 containing notice requirements prior to suspension of service; and Section 64.75 that creates an exception to suspension of service based on occurrences harmful to persons or property. As part of providing reasonable service, we believe that Verizon should continue to comply with the days services cannot be suspended or terminated under Section 64.62 and the written notice requirement prior to suspending service under Section 64.71. We also shall retain the Subchapter E emergency provisions at Sections 64.101-64.111, given the potential impacts of suspension of service on customers with serious medical conditions. Without any data evidencing decreased customer reliance on these emergency-related provisions, we are reluctant to waive them.

**Subchapter G (Disputes; Informal and Formal Complaints)**

**52 Pa. Code §§ 64.131-64.171**

Subchapter G governs informal and formal complaint procedures. Specifically, Subchapter G Regulations are as follows:

* General Provisions-Section 64.131 (Dispute procedures); Section 64.132 (Time for registering dispute); Section 64.133 (Termination stayed); and Section 64.134 (Effect of failure to timely register a termination dispute);
* Telephone Company Dispute Procedures-Section 64.141 (General rule); and Section 64.142 (Contents of written summary by the LEC);
* Informal Complaint Procedures- Section 64.151 (Time for filing); Section 64.152 (Informal complaint filing procedures); Section 64.81 (Limited notice upon noncompliance with report or order); Section 64.153 (Commission informal complaint procedures); and Section 64.154 (Bureau of Consumer Services);
* Formal Complaints- Section 64.161 (General rule); Section 64.162 (Time for filing); and Section 64.163 (Formal complaint procedures)
* Payment of Bills Pending Resolution of Disputes and Complaints- Section 64.171 (Duties of parties; undisputed portion of bills; interest on overpayments).

We do not believe granting a waiver of Subchapter G is appropriate. Customers have a right to file either an informal complaint or a formal complaint with the Commission about their service.[[76]](#footnote-76) Maintaining these regulations will ensure that a process remains in place to handle both formal and informal complaints. Therefore, in the absence of any proposal for alternative or streamlined processes to take the place of those in Subchapter G, we shall deny Verizon’s request for a waiver of the Regulations in Subchapter G.

In order to streamline the process, we will make the “warm transfer” option, discussed, *supra,* available for all retail customers in competitive wire centers who contact the Commission’s BCS to make informal complaints about service or billing-related issues against Verizon.[[77]](#footnote-77) As previously noted, under this process, a retail customer who calls BCS to file an informal complaint against Verizon would be given the option to transfer the call to Verizon who will attempt to resolve the customer’s concerns and eliminate the need for the customer to file an informal complaint.

**Subchapter I (Public Information; Record Maintenance)**

**52 Pa. Code §§ 64.191 and 64.192**

Subchapter I contains two provisions: Section 64.191 (Public information) and Section 64.192 (Record maintenance). We shall waive Section 64.191(f) and (g)[[78]](#footnote-78) and Section 64.192 as no longer necessary in a competitive environment. However, we shall retain Section 64.191(a)-(d). These regulatory provisions govern applications for service and specify what the LEC must disclose to a potential customer about its available services. We believe this Regulation is still relevant in competitive wire centers and is similar to the requirement of fair marketing, which we also require of electric generation suppliers and natural gas suppliers.[[79]](#footnote-79)

**Subchapter J (Annual Reporting Requirements)**

**52 Pa. Code §§ 64.201 and 64.202**

Subchapter J contains two provisions: Section 64.201 (Reporting requirements) and Section 64.202 (Petition for waiver). We shall waive parts of Section 64.201 as no longer necessary in a competitive environment. However, we believe the parts of this Regulation requiring the reporting of certain information related to basic local exchange service remain relevant and should apply in competitive wire centers. Therefore, in competitive wire centers we shall continue to require Verizon 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). All remaining Section 64.201(b) provisions are waived.

Given that we retain some Chapter 64 Regulations, we shall also retain Section 64.202 as continuing to remain relevant.

**Subchapter K (General Provisions)**

**52 Pa. Code §§ 64.211-64.213**

Subchapter K contains three provisions: Section 64.211 (Availability of normal Commission procedures); Section 64.212 (Applications for modification or exception); and Section 64.213 (Repealers). We shall waive this general provision section but not Sections 64.212 and 64.213. Because certain Chapter 64 provisions are retained, Section 64.212, governing waiver requests, and Section 64.213, governing the effect of tariff provisions that are inconsistent, potentially remain useful.

**4. Waiver Process**

As previously discussed, the Regulations we waive in this Opinion and Order will be waived for five years in competitive wire centers, pending the collection of data and the undertaking of a rulemaking to address the status of these Chapters for noncompetitive and competitive services on a permanent and industry-wide basis. Moreover, as discussed in more detail, *infra*, the waiver shall also apply to CLECs operating in competitive wire centers.

We are of the opinion that granting a waiver of certain Regulations in wire centers determined to be competitive does not violate applicable law governing the promulgation of regulations.[[80]](#footnote-80) Our conclusion is based on the limited scope of the waiver, as applying only to Verizon and CLECs operating in the 153 Verizon wire centers that are found to be competitive. Moreover, the waivers we grant today are not permanent. Rather, as noted, the waivers are granted temporarily for the earlier of the length of five years or the completion of a rulemaking proceeding in this Opinion and Order, in order to provide Verizon time to experience competitive operations in these wire centers, to allow Verizon and other interested parties to track data they believe pertinent to our review of those operations, and to allow the Commission time to undertake a rulemaking to determine what service Regulations, if any, should apply in competitive and non-competitive wire centers.

On data collection, we will seek two years of data to help us and interested parties assess the market conditions present in the 153 wire centers determined to be competitive. The Commission will subsequently seek comment from interested parties on the specific data and information that we should require to assess how the market is developing. However, at this juncture, we plan to seek data from Verizon related to two main topics: affordability of basic service and quality of service. On affordability, we will seek comment on what additional information, if any, should be collected in addition to the information contained in Verizon’s price list and its Section 64.201 Annual Report. In terms of timing, we expect responses to the data/information requests will cover calendar years 2015 and 2016 individually and will be due on or around April 1, 2017.

**D. Issues Raised by Other Parties**

**1. Price Change Opportunity**

Verizon’s Chapter 30 Plans each contain a Price Stability Mechanism (PSM) which restrains Verizon’s revenue increases resulting from tariffed rate changes for its noncompetitive services. These PSMs are a complete substitute for rate base/rate of return regulation. Under each Verizon Company’s PSM, the PCO calculates the allowable change (increase or decrease) in rates for noncompetitive services based on the annual change in the Gross Domestic Product Price Index (GDP‑PI) less an inflationary offset of 0.5 percent.

In accordance with its Chapter 30 Plans, Verizon makes its PCO filings annually.[[81]](#footnote-81) If the PCO calculated for the year is positive, Verizon has the option of either filing tariffed rate changes for its noncompetitive services to recover revenue increases up to the amount allowed under the PCO or foregoing all or part of its allowed revenue increases and applying them in future years. Additionally, each Verizon Company’s Chapter 30 Plan states that increases for protected residential services are limited to twenty percent of the average rate adjustment under each Company’s annual PCO filing. If the PCO calculated for the year is negative, Verizon must either file tariff rate changes to reduce its revenues by an amount equal to that year’s PCO or forego all or part of its mandated revenue decreases until future years.[[82]](#footnote-82) Verizon PA Chapter 30 Plan at Part 1; Verizon North Chapter 30 Plan at Part 3; OCA St. 1 at 8.

**a. Positions of the Parties**

**i. OCA**

The OCA points out that even if the Commission grants Verizon’s Petition, rates for protected services for customers located in the 310 wire centers that are not part of Verizon’s Petition Area will continue to be set according to Verizon PA’s and Verizon North’s PCO formulas. OCA St. 1 at 49. Accordingly, the OCA believes that the Commission should consider the future impact that a grant of competitive reclassification would have on such customers. OCA M.B. at 47. The OCA notes that although intrastate switched access revenues are included in Verizon’s non-competitive revenue base upon which its PCO is calculated, federal and state regulatory policies prevent Verizon from increasing rates for this service. As such, the OCA submits that the entirety of any revenue increases Verizon obtains from its annual PCOs are the result of increases to rates for its residential and business basic local exchange service. The OCA cautions that reducing the number of wire centers that are subject to price cap regulation under Verizon’s PCO may result in larger rate increases for such wire centers. OCA St. 1 at 49-50.

To remedy the possible adverse effects resulting from the reduction in the number of wire centers remaining under regulation, the OCA contends that if Verizon’s Petition is granted, a *pro rata* share of switched access revenues attributable to Verizon’s competitively reclassified wire centers should be removed from the calculations it makes in future annual PCO filings when submitting future rate change requests for the geographic areas not covered by its Petition. The OCA acknowledges that its concerns are somewhat tempered by Verizon’s statement, discussed, *infra,* that access revenues will decline per the FCC’s November 18, 2011 *USF/ICC Transformation Order.*[[83]](#footnote-83) Nonetheless, the OCA maintains that the Commission must consider the effects that granting Verizon’s Petition would have on Verizon’s remaining noncompetitive wire centers via the PCO. *Id.* at 50; OCA M.B. at 46-47

**ii. Verizon**

Verizon refutes the OCA’s assertion that its PCO formulas should be adjusted as a condition of granting its Petition. Verizon points out that these formulas have always included all of its intrastate switched access revenue in the “total noncompetitive revenue” base, including switched access revenue attributable to lines that purchase competitive retail services. Verizon argues that nothing in Chapter 30 requires its price cap formulas to be altered when a geographic area is deemed competitive. Further, Verizon submits that its intrastate terminating switched access revenues will continue to decline as the FCC’s *USF/ICC Transformation Order* is implemented. Verizon notes that all such intrastate terminating switched access rates will be reduced to zero by July 1, 2018, in accordance with the FCC’s directive, thereby reducing the impact of Verizon’s switched access revenues on the PCO formula. Verizon M.B. at 33-34. Further, Verizon points out that the Commission and the OCA will have the ability to review Verizon’s future PCO filings and to address any concerns at that time. Verizon R.B. at 17.

**iii. AT&T**

AT&T asserts that directing Verizon to reform its originating intrastate switched access rates by directing Verizon to reduce such rates to parity with its originating interstate switched access rates would shrink the base of noncompetitive revenues that would otherwise drive local rate increases under the PCO. AT&T M.B. at 5.

**iv. Other Parties**

CAUSE-PA, CWA-IBEW, FSN, and PTA do not address this issue.

**b. Disposition**

On review and consideration of the positions of the Parties, we are of the opinion that we need not address this issue in the context of this proceeding. As Verizon observed, neither the Code nor Verizon’s Chapter 30 Plans require Verizon to alter its PCO formulae in the event that it makes a competitive declaration of any geographic areas within its service territories. Moreover, as noted above, each Verizon Company is required under its respective Chapter 30 Plan to make its PCO filings annually. Under the terms of these Plans, a copy of each such filing is served upon the OCA and other interested parties, after which these parties have the opportunity to raise any concerns. Thus, in our view, the impact that converting 153 wire centers in Verizon’s service territories to a competitive status has upon the rates established under Verizon’s price cap formulae in Verizon’s remaining non-competitive wire centers is best addressed when each Verizon Company makes its next PCO filing.

**2. Wholesale Issues**

**a. Position of the Parties**

**i. Verizon**

Verizon points out that it is not requesting any changes to its wholesale and interconnection obligations, nor is it seeking reclassification of any wholesale services and unbundled network elements it makes available to CLECs pursuant to 47 U.S.C §§ 251 and 252. Accordingly, Verizon submits that wholesale issues need not be addressed in this proceeding. Verizon also is not requesting any changes to its resale obligations. Verizon M.B. at 34; Verizon R.B. at 17-18.

Verizon notes that it agrees with FSN that the waivers of regulations it seeks should also be applicable to FSN and other CLECs, although it does not believe a waiver for FSN is either relevant or should be a precondition to Verizon’s requests in this proceeding. Verizon M.B. at 34-35. In response to FSN’s argument that the Commission should require notice to FSN of rate changes to competitive services, Verizon contends the Commission has already addressed this issue. Verizon asserts that if the Commission grants its Petition for reclassification of services as competitive and if the Company chooses to detariff those services under Section 3016(d)(2) of the Code, it will continue to file price lists for those services, which are publicly available on its website, on one day’s notice as provided in Chapter 30. Verizon points out that this is the process the Commission previously found acceptable in *Pa. PUC v. Verizon Pennsylvania LLC and Verizon North* LLC, Docket Nos. R-2011-2244373 *et seq*. (Order entered November 14, 2011). Accordingly, Verizon asserts that it will abide by the Commission’s previously approved detariffing process. Verizon M.B. at 35.

**ii. FSN**

FSN contends that granting Verizon’s Petition will have the potential to adversely impact itself and other carriers that offer resale of Verizon’s services. FSN asserts that its ability to offer resale of Verizon’s services is dependent upon its ability to purchase Verizon’s products and services on a nondiscriminatory and reasonable wholesale basis. FSN argues that, with the reclassification of Verizon’s services from “protected” to “competitive,” Verizon will be able to detariff such services, thereby removing those services from the Commission’s and any wholesale customers’ purview. FSN M.B. at 8, 14-15.

FSN asserts that if the Commission grants any waivers requested by Verizon, these waivers should also be made applicable to the CLECs operating in those wire centers. FSN also argues that the Commission should require Verizon to continue to make available all of its retail services at the current wholesale discount rates in the reclassified wire centers. Additionally, FSN posits that Verizon should be directed to provide thirty days’ advance notice of any changes to its retail products in the reclassified wire centers declared competitive, instead of the current one day’s notice requirement. Further, FSN submits that the Commission should require Verizon to continue to file notice with the Commission of any subsequent changes to the pricelist and Product Guides of the newly reclassified services. FSN R.B. at 1.

**iii. Other Parties**

AT&T, OCA, CWA-IBEW, CAUSE-PA, and PTA do not address this issue.

**b. Disposition**

As previously discussed, we agree that any waiver of our Regulations in competitive wire centers shall apply to CLEC operations in those wire centers s as well.[[84]](#footnote-84) We also confirm that Verizon seeks no change to the wholesale services and unbundled network elements it makes available to CLECs pursuant to 47 U.S.C §§ 251 and 252. Therefore, we need not address this issue at this time.

Regarding the notice required for changes to price lists that implicate a reseller’s wholesale discount rate provided by Verizon, we shall require Verizon to file with the Commission price lists for basic services effective on one day’s notice as we have done with other competitive services. In the event of a change in local service rates in a competitive wire center, Verizon shall give thirty days’ advance notice to retail customers receiving such service consistent with Verizon’s current practice. This same thirty days’ advance notice of a retail price change shall be given to CLECs purchasing discounted local service in the wire centers as requested by FSN. In this way, Verizon will provide the same notice to both its affected retail customers and affected CLECs, whose wholesale prices are tied to Verizon’s retail rates.

**3. Intrastate Originating Switched Access Charges**

**a. Positions of the Parties**

**i. AT&T**

While not directly implicated in Verizon’s filing, AT&T’s participation in this proceeding was designed largely to continue its advocacy before this Commission opposing Verizon’s and all ILECs’ intrastate originating switched access charges. AT&T asserts that Verizon’s access charges continue to subsidize basic local exchange service. As Section 3016(f) of the Code prohibits competitive services from subsidizing non-competitive services, AT&T contends that the Commission is compelled to complete the process of the access reform that remains pending before it. AT&T St. 1 at 5. As AT&T’s panel witnesses affirmed, “[t]his is the reason for AT&T’s interest in this case.” *Id.* While AT&T acknowledges that its proposal in this case is aimed at Verizon, it contends that it would facilitate comparison and enforcement if CLECs were required to mirror Verizon’s access rate structure. *Id.* at 9, n.3. Further, AT&T contends that, “for consistency and fairness it would make sense” to require all Rural ILECs to reduce their intrastate originating access charges to parity as well. *Id.* at 17, n.11. According to AT&T, only by requiring Verizon, as a condition of this case, to reduce its intrastate originating access rates to parity with its interstate originating access rates can grant of Verizon’s Petition comply with Section 3016(f) of Chapter 30, which prohibits noncompetitive services from subsidizing competitive services. AT&T claims that this is “part of the price of admission to competitive reclassification.” AT&T M.B. at 1.

AT&T proposes to accomplish this through a one-time, immediate, flash-cut reduction of Verizon’s intrastate originating switched access charges to its interstate levels and rebalancing those lost revenues on a revenue-neutral basis against its current base of protected services. AT&T is of the opinion that this would “produce a minimal per-line increase of pocket change” with “the resulting local rate for revenue neutrality [still] far below the $30 residential rate ceiling adopted by the Commission” in the *Rural Access Charge Investigation*. AT&T St. 1.0 at 11. In AT&T’s view, doing so would reduce IXCs’ costs of producing retail long distance service, which “could well lead to a decrease in retail prices.” *Id.* at 11. Further, AT&T posits that it would “help level the competitive playing field” in terms of both IXC services and competition with Verizon for local service. *Id.* at 11-12. Finally, according to AT&T, unifying intra- and interstate originating switched access rates would reduce incentives and opportunities for arbitrage such as call pumping, phantom traffic, and other schemes. *Id*. at 12. In exchange, while AT&T could not project all ways its long-distance pricing would change, it affirms that it would reduce its $0.51 per line In-State Connection Fee (ISCF) applicable to its stand-alone long-distance customers and reduce its prepaid calling card (PPC) intrastate-to-interstate decrement ratio from 5:1 to 1:1. *Id.* at 12-13.

AT&T further contends that reducing Verizon’s intrastate originating switched access charges would continue the progress originally begun at the state level by the Commission in the 1999 *Global Order* and at the federal level by the FCC in the *USF/ICC Transformation Order*. AT&T M.B. at 2. Quoting language from, *inter alia*, the *Global Order* and the *USF/ICC Transformation Order* that acknowledges the historic telecommunications public policy of using contributions from access rates to ensure affordable local service in high cost areas, AT&T argues that only the OCA challenges the premise that intrastate originating access charges subsidize local service but that OCA’s challenge is done through an “erroneous recalculation of local exchange service costs which removed a significant amount of fixed costs and improperly reallocated them elsewhere.” *Id.* at 7. AT&T argues that this would result in the implication that “nothing in telecommunications could ever subsidize anything else, because in telecommunications fixed costs are high and incremental costs are low.” *Id.* at 7.

AT&T contends that for decades industry and regulators have long-recognized that as a matter of policy access rates have traditionally subsidized local rates in order to the promote universal service, and that this has been acknowledged “without requiring a complex theoretical or cost-study debate based on differing views of the costs to be allocated to local service.” AT&T M.B. at 7-8. AT&T further contends that the OCA’s claim, *infra,* that originating access charges cannot be subsidizing local service because local service is already priced too high “turns regulatory history on its head,” *Id*. at 8. Similarly, AT&T claims that the OCA’s 38% allocation of common costs to local service overlooks the FCC’s cost separations rules, which require a 75% allocation of common costs to the state jurisdiction. *Id*. at 8-9. According to AT&T, correcting just that one factor would result in an alleged cost of local service of almost $40, not the $21 the OCA’s witness calculated, far above Verizon’s current local service rates. AT&T M.B. at 9.

AT&T maintains that while Verizon acknowledged the contribution that access rates provide to local rates, Verizon’s claims that AT&T did not prove that the access charges subsidized Verizon local rates in the areas subject to this Petition fail because it was Verizon’s burden under Section 3016(f) to show there was no subsidy, a burden Verizon failed even to attempt to satisfy. Instead, as AT&T claims, aside from other *de minimus* or federally-regulated services, local service is the only major service remaining that could logically benefit from subsidies from access rates. In AT&T’s view, if Verizon could have proved that there were no subsidy, it would have. To the contrary, AT&T argues that after ignoring the issue and its past statements in other proceedings, Verizon’s only evidence that there was no subsidy came in oral rejoinder and was to the effect that access does not subsidize local because local rates cover the direct cost, not the total cost, of providing that service. AT&T professes that the clear path to eliminating any prospect of a subsidy is to eliminate it at its source as AT&T proposes. AT&T M.B. at 9-11.

In response to Verizon’s contention that this issue does not belong in this proceeding, AT&T argues that Section 3016(f) prohibits revenues and expenses from noncompetitive services from subsidizing competitive services, and that because Verizon’s intrastate originating access rates subsidize local rates, the Commission must address the issue now. AT&T contends that, as the party seeking a competitive determination under Section 3016, Verizon must satisfy all requirements under that Section. Because AT&T claims that it provided evidence of a subsidy that Verizon did not refute, it contends the Petition cannot be granted unless Verizon’s access rates are lowered now. Further, AT&T argues that the pendency of the issue in AT&T’s complaint proceeding against Verizon’s access charges at Docket No. C-20027195[[85]](#footnote-85) is irrelevant because that does not change the requirements of Section 3016. AT&T M.B. at 12-13.

Recognizing recent action by the New York Public Service Commission to bring its intrastate access rate levels to parity with interstate levels, as well as the history of access reductions commenced in Pennsylvania in the *Global Order*, recommended in the Recommended Decision pending in *AT&T’s Verizon Access Complaint Proceeding*, and furthered in the *Rural Access Charge Investigation*, which was interrupted only by the intervention of the FCC’s *USF/ICC Transformation Order*, AT&T argues that there is no basis to wait any further. Verizon must remove the subsidy in order to receive the competitive determination. AT&T M.B. at 13-16.

In response to Parties’ criticisms that AT&T failed to define “subsidy,” AT&T contends that the plain dictionary meaning of “subsidy” is money paid, usually by a government, to keep the price of a product low or keep a business functional. AT&T argues that this is “*exactly* what access subsidies have been.” AT&T R.B. at 1, n.1 (emphasis in original). In AT&T’s view, there is no doubt that subsidies exist, because Verizon’s intrastate originating switched access rates are “almost *three times* higher” than its terminating rates. *Id*. at 2 (emphasis in original). Moreover, AT&T argues that “[t]his government-created money flow from one company to another” through the historic development of access rates, the existence of which Verizon has in the past consistently admitted, further proves the existence of a subsidy, which while not a problem then is now that carriers compete and must be eliminated under Chapter 30. *Id*. at 2, 5-8*.* AT&T contends that the logic of those Parties that oppose revenue-neutral access to local rebalancing is puzzling. In AT&T’s view, because such rebalancing is revenue-neutral, Verizon should not object. Further, AT&T asserts that the impact on local rates would not “genuinely impact either affordability or universal service, especially given Verizon’s remarkably low local exchange rate.” *Id.* at 3. According to AT&T, “Verizon simply wants it both ways: to maintain monopoly subsidies while it enjoys the benefits of expanded competitive classification. That is contrary to Pennsylvania law.” *Id*. at 4.

In response to criticism of other Parties regarding the lack of cost support, AT&T contends that neither Verizon nor the OCA identifies any state that has required a cost study or required a stand-alone cost test to prove a subsidy. AT&T further contends that this Commission “can take notice that reciprocal compensation and switched access involve materially the same network functionality, yet the FCC (prior to adopting bill-and-keep) found that a reasonable reciprocal compensation rate was $0.0007 cents per minute.” AT&T R.B. at 8. AT&T asserts that a simple comparison of rates “indicates that the access rate is being used to subsidize local service[.]” *Id*. In response to the OCA’s argument that access rates must exceed the stand-alone cost of access service before they can provide a subsidy, AT&T contends that from an economic perspective, a subsidy exists when the price of a product X is insufficient to cover its incremental cost, but the firm prices its other products sufficiently to cover their incremental costs and the other firm costs. AT&T concludes that there is no doubt that Verizon’s originating access rates are priced above incremental costs and a subsidy is provided. AT&T R.B. at 9-10.

Further, AT&T contends that because there is a subsidy, and because Section 3016(f) is a mandatory provision that prohibits noncompetitive services from subsidizing competitive services, the issue of the subsidy must be addressed in this proceeding. AT&T proffers that the pendency of the access charge issue in other proceedings is irrelevant. AT&T R.B. at 10-14. Finally, AT&T repeats its contention that implementation of access to local rebalancing is straightforward and would not harm consumers. AT&T contends that the OCA’s aspersions on AT&T’s calculations are nothing more than an attempted diversion, and even if accepted would still result in a local increase that is minimal. AT&T R.B. at 14-16.

**ii. Verizon**

In response to AT&T, Verizon contends that AT&T is attempting to “shoe-horn [this] irrelevant issue into this docket,” and accuses AT&T of “invent[ing] the legal theory that Verizon must show in advance that it will not violate” Section 3016(f)(1), a “bridge too far” according to Verizon. Verizon M.B. at 36. Verizon submits that because this issue is complex and contentious, it should be resolved in the proceeding in which it is already appropriately pending, *AT&T’s Verizon Access Complaint Proceeding*. Even if addressed here, however, Verizon contends that as the proponent of the rule or order, the burden is on AT&T to prove that Verizon is or will violate this provision if its Petition is granted, a burden AT&T failed to sustain. Verizon points out that AT&T produced no cost studies or actual evidence proving that Verizon’s originating access rates are providing a subsidy or that the basic local services Verizon seeks to have determined competitive here are receiving a subsidy, a term AT&T failed to even define. Verizon notes that it, on the other hand, produced testimony that while the Company is not covering total costs, revenues do cover direct costs, and therefore there is no subsidy.

Verizon also accuses AT&T of presenting an oversimplified theory that assumes that access revenues could only be used to support basic service rates notwithstanding that the historic pricing system was much more complex and involved urban and rural, business and residential, retail long distance, vertical services, payments to other providers, and other regulatory obligations, and not a simple balancing between access and basic services. Verizon M.B. at 37. Finally, Verizon contends that even if basic services in the affected areas were subsidized, Verizon could simply cure the subsidy by raising rates as it is free to do for competitive services. Verizon M.B. at 37-38. Verizon concludes that AT&T is actually seeking a reconsideration of the Commission’s August 9, 2012 Order in the *Rural Access Charge Investigation* that held in abeyance further access reform pending further action at the FCC, that in the interim AT&T has received substantial expense savings as a result of FCC-mandated reductions, and that further reductions are not necessary or required here. Verizon M.B. at 38-39.

In reply to AT&T’s arguments in its Main Brief, Verizon contends that it has made its necessary competitive showings under Section 3016(a) and that nothing in Section 3016 requires that all requirements of the section be satisfied before the Commission may grant a competitive determination. Verizon repeats that even if the Commission were to read this as a prerequisite, AT&T failed to satisfy its burden of proving that Verizon’s originating access services provide a subsidy to Verizon’s stand-alone basic services in the areas affected by the Petition. Verizon claims that reliance on a “description of ‘regulatory history’ without any cost studies or current facts,” is insufficient evidence to support a finding by the Commission that Verizon’s access rates will subsidize the competitive local rates in the affected wire centers. Verizon reiterates that the issue is complex and requires an industry-wide focus not appropriate in this proceeding. Verizon R.B. at 18-20.

**iii. OCA**

The OCA also argues that AT&T’s position regarding originating intrastate access charges is misplaced in this proceeding. OCA contends that this proceeding is too narrow in focus, the process is too short in time, and that the issues are already pending in *AT&T’s Verizon Access Complaint Proceeding*. The OCA claims that because Verizon’s originating access charges are protected services at tariffed rates, the proper process is for AT&T to file a complaint against the access charges pursuant to Section 701 of the Code and under the terms of Verizon’s Chapter 30 Plans. OCA M.B. at 48-49.

The OCA argues that in the event that the Commission entertains AT&T’s proposal, it should be denied because, as the proponent of the proposal, the burden of proving a subsidy rested with AT&T, and AT&T provided no cost study to support its claim. The OCA points out that AT&T instead relied on the historic regulatory practice of pricing access rates at levels that supported affordable basic local services. Using the industry definition that “service is subsidized if its price is less than the incremental costs and the service pays a subsidy if its price is above stand-alone cost,” the OCA concludes that AT&T has not provided any evidence to prove either that originating access rates are above their stand-alone cost of service or that Verizon’s local rates are below the incremental costs of such service. According to the OCA, AT&T therefore failed to meet its burden of proving its claim that access must be reduced to parity with interstate originating levels. OCA M.B. at 50.

The OCA also questions AT&T’s claimed benefits that might accrue through a reduction in access rates, arguing AT&T’s witness conceded that the arbitrage opportunities about which AT&T complained were not present with respect to originating access and that Verizon had no call pumping complaints filed against it. Moreover, the OCA claims that AT&T’s professed minimal financial impact on basic local service rates was unclear and not supported by credible evidence. As the OCA concludes, the issues of access reductions and revenue-neutral rate adjustments are complex, are insufficiently developed on this record, and have been raised without appropriate notice of proposed rate changes and with no proposed tariffs. As such, the OCA asserts that AT&T’s position should be denied. OCA M.B. at 50-51.

In further response to AT&T’s argument in brief, the OCA contends that AT&T’s insertion of the Section 3016(f) prohibition as a prerequisite to any finding under Section 3016(a) not only is not required before a competitive determination is made, but also wrongly interjects into this abbreviated classification process a rate setting mandate that is properly addressed elsewhere. The OCA argues that, were rate setting to be either a prerequisite to or part of a Section 3016 determination, the statute would have specifically provided for it as it has in Section 3016(c), which it has not. Moreover, the OCA claims that AT&T has failed to prove, as is its burden, that a subsidy that needs to be remedied even exists, and if it does, what the appropriate remedy or its impact would be. The OCA argues that the calculations AT&T provided in its Main Brief were made at the last minute and were not previously submitted in any of the rounds of testimony or at the hearing. As such, the OCA characterizes these calculations as untimely, unfair, and unsupported, and concludes that they should be afforded no evidentiary weight. The OCA reasserts that neither the evidence nor the statute supports AT&T’s position, which should be denied. OCA R.B. at 27-33.

**iv. PTA**

PTA argues that AT&T’s “unjustified and rash attempt to stretch the parameters of this limited and statutorily expedited proceeding” is not relevant to the relief requested in Verizon’s Petition. PTA M.B. at 4. Characterizing AT&T’s position as relying on a “broad and unsubstantiated assertion that revenues from originating access charges have been and continue to be used to subsidize basic local exchange service,” PTA contends that nothing in Section 3016 contemplates or permits the imposition of conditions as a prerequisite for approval of a competitive classification petition. *Id*. at 5‑6. Claiming that further access reform on the state level is intermingled with actions pending at the FCC, and in light of the fact that AT&T failed to meet its burden of proving any of the claims that it made, PTA argues that the Commission should continue the course of conduct last determined in the *Rural Access Charge Investigation* to forego further reform pending movement at the FCC. *Id*. at 6-7. Finally, PTA claims that attempting to impose any access charge changes on the Pennsylvania rural ILECs in this Verizon proceeding would constitute a denial of reasonable notice and opportunity to be heard as required under the Commonwealth’s Administrative Agency Law. According to PTA, only “through a properly initiated action in which all interested parties have been afforded due process, should the Commission address originating switched access rate reform.” PTA M.B. at 8.

**v. Other Parties**

CAUSE-PA, CWA-IBEW, and FSN do not address this issue.

**b. Disposition**

We agree with Verizon, the OCA, and PTA that the intrastate originating switched access charge issue raised by AT&T should not be addressed as part of our decision on the Petition. First, as noted, Verizon’s Petition does not seek a finding in this proceeding that its intrastate switched and special access rates and services and the ordering, installation, restoration, and disconnection of such access services are competitive.

Second, we have, on various recent occasions, previously deferred the generic topic of originating switched access rates to the FCC’s open docket on this matter and are not yet inclined to revise that position.[[86]](#footnote-86) While this investigation has been delayed because of actions at the FCC, we note that AT&T and other IXCs have already experienced benefits resulting from some of the originating access charge reforms already implemented at the federal level (*e.g.*, the FCC: (1) capped Verizon’s rates; (2) reduced certain originating transport rates; and (3) set rates and adjustments to VoIP-PSTN originating access so that VoIP-PSTN toll calls will be charged at interstate originating access rates beginning in July 2014). We also note that the FCC concluded in the *USF/ICC Transformation Order* that “originating charges for all telecommunications traffic subject to our comprehensive intercarrier compensation framework should ultimately move to bill-and-keep[.]”[[87]](#footnote-87) Thus, contrary to AT&T’s suggestion, the issue of originating access has not been indefinitely delayed. Moreover, continued deference at this time ensures that Pennsylvania ratepayers will not lose the benefit of any revenue that may be recovered from a national fund rather than through increases in basic local service rates.

Finally, even if we were so inclined, by relying solely on broad and general historical regulatory proclamations and failing to present any cost data or studies at all with respect to the services provided in the wire centers affected by our decision today, we do not believe that AT&T has satisfied its burden of proof, as the proponent of the rule or order, that those affected wire centers’ basic local exchange services are subsidized by Verizon’s intrastate originating switched access charge revenues received in those centers.

**IV. CONCLUSION**

Based on the forgoing, we shall grant, in part, and deny, in part, Verizon’s Petition and grant its request to reclassify 153 of the 194 wire centers for which it is seeking competitive status. We conclude the overwhelming evidence indicates that competing providers of cable and wireless telephony are “like or substitute services” to Verizon’s basic local exchange service and that the competing services are widely available in those 153 wire centers. Therefore, we shall grant Verizon reclassification of the 153 wire centers listed in Appendix B to this Opinion and Order as competitive. We shall deny Verizon reclassification of the 41 wire centers listed in Appendix C to this Opinion and Order.

Likewise, we shall grant, in part, and deny, in part, Verizon’s request to waive certain Subchapters of Chapter 63 and the entirety of Chapter 64 of our Regulations. This request will also apply to CLEC operations in the 153 wire centers determined to be competitive. We find that the burdens imposed on Verizon in complying with outdated regulations that are not applicable to its competitors is an “unreasonable hardship” that justifies granting a waiver of those Regulations. At the same time, we are maintaining certain consumer protection regulations that remain necessary as we transition basic local exchange service from a protected, noncompetitive service to a competitive service; **THEREFORE,**

**V. ORDER**

**IT IS ORDERED:**

1. That the Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of all Retail Services in certain of its wire centers located in its respective service territories, filed on October 6, 2014, at Docket Nos. P-2014-2446303 and P-2014-2446304, is granted, in part, and denied, in part, consistent with this Opinion and Order.
2. That the waiver request of Verizon Pennsylvania LLC and Verizon North LLC of the Commission’s Regulations at 52 Pa. Code Chapter 63, Subchapter B, Subchapter C, Subchapter E, Subchapter F, and Subchapter G, until December 31, 2025, for services in those wire centers determined to be competitive is granted, in part, and denied, in part, consistent with the discussion and appendices contained in this Opinion and Order.
3. That the waiver request of Verizon Pennsylvania LLC and Verizon North LLC of the Commission’s Regulations at 52 Pa. Code Chapter 64 until December 31, 2025, for services in those wire centers determined to be competitive is granted, in part, and denied, in part, consistent with the discussion and appendices contained in this Opinion and Order.
4. That the waiver requests granted in Ordering Paragraphs 2 and 3 shall also be applicable to all competitive local exchange carriers operating in those wire centers of Verizon Pennsylvania LLC and Verizon North LLC determined to be competitive.
5. That the Commission shall retain jurisdiction over quality of service standards that address the safety, adequacy, reliability, and privacy of telecommunications services and the ordering, installation, suspension, termination, and restoration of any telecommunication service of Verizon Pennsylvania LLC and Verizon North LLC in those wire centers determined to be competitive in this Order and Opinion.
6. That Verizon Pennsylvania LLC and Verizon North LLC shall continue to hold their obligations as the Carriers for Last Resort in those wire centers determined to be competitive in this Opinion and Order.
7. That Verizon Pennsylvania LLC and Verizon North LLC shall use the terms and conditions of service contained in its “Product Guide”as the governing document for basic local exchange service customers in those wire centers determined to be competitive in this Opinion and Order.
8. That Verizon Pennsylvania LLC and Verizon North LLC shall notify its customers in writing of this change from tariff to contract status within thirty days of entry of this Opinion and Order.
9. That Verizon Pennsylvania LLC and Verizon North LLC shall be permitted, at their discretion, to price basic local exchange services and associated local retail services in those wire centers determined to be competitive in this Opinion and Order.
10. That Verizon Pennsylvania LLC and Verizon North LLC shall maintain price lists including dial-tone and usage rates for their basic local exchange service with the Commission. Such information shall also be posted on each Company’s website.
11. That Verizon Pennsylvania LLC and Verizon North LLC shall be permitted to file price changes for their basic local exchange services and associated local retail services in those wire centers determined to be competitive in this Opinion and Order upon one day’s notice.
12. That, in the event of any retail price changes in the wire centers determined to be competitive in this Opinion and Order, Verizon Pennsylvania LLC and Verizon North LLC shall provide thirty days’ advance notice to retail customers receiving such service consistent with current practices. This same thirty days’ advance notice shall be provided to competitive local exchange carriers purchasing discounted local service in these wire centers.
13. That all retail customers located in wire centers determined to be competitive under this Opinion and Order shall have the “warm transfer” option available to them when contacting the Commission’s Bureau of Consumer Services to make informal complaints. This option shall be available to such customers with regard to both service and billing-related issues.
14. That Verizon Pennsylvania LLC and Verizon North LLC shall continue to file reports with the Commission that are required of LECs under Section 64.201 and as required in this Opinion and Order.
15. That Verizon Pennsylvania LLC and Verizon North LLC shall collect and 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.
16. That, after receiving input from interested parties, the Commission’s Bureau of Technical Utility Services shall advise the Companies of the specific data to be provided, form requirements, and schedule for the reporting of this data.
17. That a rulemaking docket shall be opened to revise and amend the Regulations at [52 Pa. Code Chapters 63](http://www.lexis.com/research/buttonTFLink?_m=4d4e98c646110850fd92d98a03f1f9c2&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b2010%20Pa.%20PUC%20LEXIS%20657%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=19&_butInline=1&_butinfo=52%20PA%20CODE%2063.137&_fmtstr=FULL&docnum=5&_startdoc=1&wchp=dGLzVzB-zSkAl&_md5=38a46234d883c72ef00c01cc515001e8) and 64 consistent with the discussion contained in this Opinion and Order.
18. That Verizon Pennsylvania LLC and Verizon North LLC shall comply with all recommendations, directives, and conclusions in this Opinion and Order that are not the subject of individual ordering paragraphs as fully as if they were the subject of specific ordering paragraphs.
19. That a copy of the Final Commission Opinion and Order shall be published in the *Pennsylvania Bulletin*.

**BY THE COMMISSION,**



Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: February 26, 2015

ORDER ENTERED: March 4, 2015

**APPENDIX A**

|  |  |
| --- | --- |
| **Wire Centers for which Verizon seeks competitive reclassification\*** | |
| **WIRE CENTER** | **CLLI** |
| ALQUIPPA, PA | ALQPPAAL |
| **ALLENTOWN PA** | **ALTWPAAL** |
| **ALLENTOWN-PITT PA** | **PITBPAAL** |
| **AMBLER PA** | **AMBLPAAM** |
| **AMBRIDGE PA** | **AMBRPAAM** |
| ANNVILLE PA | ANVLPAAN |
| ARDMORE PA | ARMRPAAR |
| **AVONDALE PA** | **AVDLPAAV** |
| **BADEN PA** | **BADNPABA** |
| **BALA CYNWYD PA** | **BCYNPAVBC** |
| **BALDWIN PA** | **PHLAPABA** |
| **BEAR CREEK PA** | **BRCKPAES** |
| BEDMINISTER PA | BMNSPABM |
| **BELLEVUE PA** | **BLLVPABE** |
| BETHAYRES PA | BTHYPABH |
| BETHEL PARK PA | BTPKPABP |
| **BETHLEHEM PA** | **BHLHPABE** |
| **BRADDOCK PA** | **BRDDPABR** |
| **BRIDGEVILLE PA** | **BGVLPABR** |
| **BRISTOL PA** | **BRSTPABR** |
| BRYN MAWR PA | BRYMPAVM |
| **BUCKINGHAM PA** | **BCHMPABU** |
| **CAMP HILL PA** | **CPHL PACH** |
| **CARNEGIE PA** | **CARNPACA** |
| **CARRICK PA** | **PITBPACA** |
| **CARVERSVILLE PA** | **CRVVPACA** |
| **CATASAUQUA PA** | **CTSQPACT** |
| **CENTER POINT PA** | **CNPNPACE** |
| CHESTER A PA | CHESPACA |
| **CHESTER B PA** | **CHESPACB** |
| **CHESTER HEIGHTS PA** | **CHTTPACT** |
| **CHESTER SPRINGS PA** | **CSSPPACS** |
| **CHESTNUT HILL PA** | **PHLAPACH** |
| CHURCHVILLE PA | CHVLPACH |
| **WIRE CENTER** | **CLLI** |
| **CLAIRTON PA** | **CLRTPACL** |
| **COATESVILLE PA** | **CTVLPACV** |
| **COLLEGEVILLE PA** | **CGVLPACL** |
| **CONSHOHOCKEN PA** | **CNSHPACN** |
| **CORAOPOLIS PA** | **CPRPLPACO** |
| **CRAFTON PA** | **CRAFPACR** |
| **DAUPHIN PA** | **DAPHPADA** |
| **DAVENPORT PA** | **PHLAPADB** |
| **DEWEY PA** | **PHLAPADE** |
| **DORMONT PA** | **DRMTPADO** |
| **DORSEYVILLE PA** | **DRVLPADO** |
| **DOVER** | **DOVRPAXD** |
| **DOWNINGTOWN PA** | **DWTWPADT** |
| **DOWNTOWN PA** | **PITBPADT** |
| **DOYLESTOWN PA** | **DYTWPADB** |
| **EAGLE PA** | **EAGLPAEG** |
| **EAST LIBERTY PA** | **PITBPAEL** |
| **EASTON PA** | **ESTNPAEA** |
| **EASTWICK PA** | **PHLAPAEW** |
| EDDINGTON PA | EDTNPAED |
| **ELIZABETH TOWNSHIP PA** | **ELZTPAET** |
| **EMMAUS** | **EMMSPAXE** |
| ENOLA PA | ENOLPAEN |
| **ERIE EAST** | **ERIEPAXE** |
| **ERIE MAIN** | **ERIEPAXM** |
| **ERIE SOUTH** | **ERIEPAXS** |
| **ERIE SOUTHEAST** | **ERIEPAXT** |
| **ERIE WEST** | **ERIEPAXW** |
| **EVERGREEN PA** | **PHLAPAEV** |
| **EXTON PA** | **EXTNPAEX** |
| **FAIRVIEW** | **FRERPAXF** |
| **FISHING CREEK PA** | **FSCKPAFC** |
| **GERMANTOWN PA** | **PHLAPAGE** |
| **GLENMOORE PA** | **GLNMPAGL** |
| **GLENOLDEN PA** | **GLLDPAGN** |
| **GLENSHAW PA** | **GLNSPAGL** |
| **GREEN LANE PA** | **GRLAPAGL** |
| GREENSBURG PA | GNBGPAGR |
| **HARLEYSVILLE PA** | **HRLVPAHV** |
| **WIRE CENTER** | **CLLI** |
| **HARRISBURG PA** | **HRBGPAHA** |
| HATBORO PA | HTBOPAHB |
| **HELLERTOWN PA** | **HLTWPAHE** |
| **HERSHEY** | **HRSHPAXH** |
| **HOMESTEAD PA** | **HMSTPAHO** |
| **HUMMELSTOWN PA** | **HUMLPAHM** |
| **IMPERIAL PA** | **IMPRPAIM** |
| **IRWIN PA** | **IRWNPAIR** |
| **IVYRIDGE PA** | **PHLAPAIV** |
| JEANNETTE PA | JNNTPAJE |
| **JEFFERSON PA** | **PHLAPAJE** |
| JENKINTOWN PA | JENKPAJK |
| **KEMBLESVILLE PA** | **KMVLPAKV** |
| **KENNETT SQUARE PA** | **KNSQPAKS** |
| **KING OF PRUSSIA PA** | **KGPRPAKP** |
| **KINGSTON PA** | **KGTNPAES** |
| **KIRKLYN PA** | **KRLNPAKL** |
| **KNIGHTS ROAD PA** | **PHLAPAKR** |
| **KUHNSVILLE PA** | **KHVLPAKU** |
| **LANDENBERG PA** | **LDNBPALB** |
| LANGHORNE PA | LANGPALA |
| LANSDALE PA | LNDLPALD |
| **LANSDOWNE PA** | **LNSDPALD** |
| LARCHMONT PA | LARCPALM |
| LEBANON PA | LBNNPAES |
| **LINE LEXINGTON PA** | **LNLXPALN** |
| LOCUST PA | PHLAPALO |
| **MARKET PA** | **PHLAPAMK** |
| **MAYFAIR PA** | **PHLAPAMY** |
| **MCKEES ROCKS PA** | **MCRKPAMR** |
| **MCKEESPORT PA** | **MCPTPAMK** |
| **MCMURRAY PA** | **MCMRPAMC** |
| MECHANICSBURG PA | MBRGPAME |
| **MEDIA PA** | **MEDIPAME** |
| **MENDENHALL PA** | **MNDNPAMH** |
| MIDDLETOWN PA | MDTNPAMI |
| **MIDLAND PA** | **MDLDPAMI** |
| **MILLVALE PA** | **MLVAPAMI** |
| MONROEVILLE PA | MOVLPAMO |
| **WIRE CENTER** | **CLLI** |
| MOOSIC PA | MOSCPAMC |
| **MORRISVILLE PA** | **MRSLPAMV** |
| MOUNT GRETNA PA | MTGRPAMG |
| **MOUNTAINVILLE PA** | **ALTWPAMT** |
| NEW CUMBERLAND PA | NCLDPANC |
| **NEW HOPE PA** | **NWHPPANH** |
| **NEW KENSINGTON PA** | **NWKNPANK** |
| **NEWTOWN PA** | **NWTWPANW** |
| **NORRISTOWN PA** | **NRTWPANR** |
| NORTH SIDE PA | PITBPANS |
| NORTH WALES PA | NWLSPANW |
| **OAKDALE PA** | **OKDLPAOA** |
| **OAKLAND PA** | **PITBPAOK** |
| **OAKMONT PA** | **OKMTPAOA** |
| **OLYPHANT PA** | **OLYPPAOL** |
| **ORCHARD PA** | **PHLAPAOR** |
| PALMYRA PA | PLMYPAPA |
| **PAOLI PA** | **PAOLPAPA** |
| PARKERFORD PA | PRFDPAPF |
| PARKESBURG PA | PRBGPAPB |
| **PAXTANG PA** | **PXTGPAPG** |
| **PAXTONIA PA** | **PXTNPAPA** |
| **PENN HILLS PA** | **PEHLPAPH** |
| **PENNSBURG PA** | **PNBGPAPB** |
| **PENNYPACKER PA** | **PHLAPAPE** |
| **PERKASIE PA** | **PRKSPAPE** |
| **PERRYSVILLE PA** | **PYVLPAPE** |
| **PHOENIXVILLE PA** | **PXVLPAPV** |
| **PILGRIM PA** | **PHLAPAPI** |
| **PINEVILLE PA** | **PIVLPAPV** |
| PITTSTON PA | PTTNPAPI |
| **PLEASANT HILLS PA** | **PLHSPAPH** |
| **PLUMSTEADVILLE PA** | **PSVLPAPV** |
| **PLYMOUTH PA** | **PLMOPAPL** |
| **POPLAR PA** | **PHLAPAPO** |
| **POTTSTOWN PA** | **PTTWPAPT** |
| **PUGHTOWN PA** | **PGTWPAPT** |
| QUAKERTOWN PA | QKTWPAQT |
| **RED LION** | **RDLNPAXR** |
| **WIRE CENTER** | **CLLI** |
| **REGENT PA** | **PHLAPARE** |
| **REIGELSVILLE PA** | **RGVLPARI** |
| **RIDLEY PARK PA** | **RDPKPARP** |
| **ROBINSON TWP PA** | **RBTPPART** |
| **ROCHESTER PA** | **ROCHPARC** |
| **ROYERSFORD PA** | **RYFRPARF** |
| **SARATOGA PA** | **PHLAPASA** |
| **SCHWENKSVILLE PA** | **SCHWPASV** |
| **SCRANTON PA** | **SCTNPASC** |
| **SEWICKLEY PA** | **SWKYPASE** |
| **SHARPSBURG PA** | **SHSAPASH** |
| **SHERWOOD PA** | **PHLAPASH** |
| **SOUDERTON PA** | **SDTNPASD** |
| SPRING GROVE | SPGVPAXS |
| **SPRINGDALE PA** | **SPDLPASP** |
| **SPRINGFIELD PA** | **SPFDPASF** |
| **SPRINGTOWN PA** | **SPTWPASP** |
| **SQUIRREL HILL PA** | **PITBPASQ** |
| **STEELTON PA** | **SLTNPAST** |
| **TAYLOR PA** | **TAYLPATA** |
| TRINITY PA | PHLAPATR |
| **TROOPER PA** | **TRPRPATR** |
| TULLYTOWN PA | TULYPATU |
| TURTLE CREEK PA | TRCKPATC |
| **WARRINGTON PA** | **WGTNPAWR** |
| WATERFORD | WTFRPAXW |
| **WAVERLY PA** | **PHLAPAWV** |
| **WAYNE PA** | **WAYNPAWY** |
| **WEST CHESTER PA** | **WCHSPAWC** |
| WEST GROVE PA | WGRVPAWG |
| **WEST MIFFLIN PA** | **WMFLPAWM** |
| **WEST VIEW PA** | **WSVWPAWE** |
| **WILKES BARRE PA** | **WLBRPAWB** |
| **WILKINSBURG PA** | **WKBGPAWK** |
| **WILLOW GROVE PA** | **WLGRPAWG** |
| **WYOMING PA** | **WYNGPAWY** |
| **YARDLEY PA** | **YRDLPAYL** |
| **YORK EAST** | **YORKPAXE** |
| **YORK MAIN** | **YORKPAXM** |
| **WIRE CENTER** | **CLLI** |
| **YORK NORTH** | **YORKPAXN** |
| YORK SOUTH/LOGANVILLE | YORKPAXS |
| YORK WEST | YORKPAXW |
| **ZELIENOPLE PA** | **ZLNPPAZE** |
| \*Wire Centers that are granted reclassification are listed in bold | |

**APPENDIX B**

|  |  |
| --- | --- |
| **Wire Centers in Verizon’s Petition Area that are granted competitive reclassification** | |
| **WIRE CENTER** | **CLLI** |
| **ALLENTOWN PA** | **ALTWPAAL** |
| **ALLENTOWN-PITT PA** | **PITBPAAL** |
| **AMBLER PA** | **AMBLPAAM** |
| **AMBRIDGE PA** | **AMBRPAAM** |
| **AVONDALE PA** | **AVDLPAAV** |
| **BADEN PA** | **BADNPABA** |
| **BALA CYNWYD PA** | **BCYNPAVBC** |
| **BALDWIN PA** | **PHLAPABA** |
| **BEAR CREEK PA** | **BRCKPAES** |
| **BELLEVUE PA** | **BLLVPABE** |
| **BETHLEHEM PA** | **BHLHPABE** |
| **BRADDOCK PA** | **BRDDPABR** |
| **BRIDGEVILLE PA** | **BGVLPABR** |
| **BRISTOL PA** | **BRSTPABR** |
| **BUCKINGHAM PA** | **BCHMPABU** |
| **CAMP HILL PA** | **CPHL PACH** |
| **CARNEGIE PA** | **CARNPACA** |
| **CARRICK PA** | **PITBPACA** |
| **CARVERSVILLE PA** | **CRVVPACA** |
| **CATASAUQUA PA** | **CTSQPACT** |
| **CENTER POINT PA** | **CNPNPACE** |
| **CHESTER B PA** | **CHESPACB** |
| **CHESTER HEIGHTS PA** | **CHTTPACT** |
| **CHESTER SPRINGS PA** | **CSSPPACS** |
| **CHESTNUT HILL PA** | **PHLAPACH** |
| **CLAIRTON PA** | **CLRTPACL** |
| **COATESVILLE PA** | **CTVLPACV** |
| **COLLEGEVILLE PA** | **CGVLPACL** |
| **CONSHOHOCKEN PA** | **CNSHPACN** |
| **CORAOPOLIS PA** | **CPRPLPACO** |
| **CRAFTON PA** | **CRAFPACR** |
| **DAUPHIN PA** | **DAPHPADA** |
| **DAVENPORT PA** | **PHLAPADB** |
| **DEWEY PA** | **PHLAPADE** |
| **WIRE CENTER** | **CLLI** |
| **DORMONT PA** | **DRMTPADO** |
| **DORSEYVILLE PA** | **DRVLPADO** |
| **DOVER** | **DOVRPAXD** |
| **DOWNINGTOWN PA** | **DWTWPADT** |
| **DOWNTOWN PA** | **PITBPADT** |
| **DOYLESTOWN PA** | **DYTWPADB** |
| **EAGLE PA** | **EAGLPAEG** |
| **EAST LIBERTY PA** | **PITBPAEL** |
| **EASTON PA** | **ESTNPAEA** |
| **EASTWICK PA** | **PHLAPAEW** |
| **ELIZABETH TOWNSHIP PA** | **ELZTPAET** |
| **EMMAUS** | **EMMSPAXE** |
| **ERIE EAST** | **ERIEPAXE** |
| **ERIE MAIN** | **ERIEPAXM** |
| **ERIE SOUTH** | **ERIEPAXS** |
| **ERIE SOUTHEAST** | **ERIEPAXT** |
| **ERIE WEST** | **ERIEPAXW** |
| **EVERGREEN PA** | **PHLAPAEV** |
| **EXTON PA** | **EXTNPAEX** |
| **FAIRVIEW** | **FRERPAXF** |
| **FISHING CREEK PA** | **FSCKPAFC** |
| **GERMANTOWN PA** | **PHLAPAGE** |
| **GLENMOORE PA** | **GLNMPAGL** |
| **GLENOLDEN PA** | **GLLDPAGN** |
| **GLENSHAW PA** | **GLNSPAGL** |
| **GREEN LANE PA** | **GRLAPAGL** |
| **HARLEYSVILLE PA** | **HRLVPAHV** |
| **HARRISBURG PA** | **HRBGPAHA** |
| **HELLERTOWN PA** | **HLTWPAHE** |
| **HERSHEY** | **HRSHPAXH** |
| **HOMESTEAD PA** | **HMSTPAHO** |
| **HUMMELSTOWN PA** | **HUMLPAHM** |
| **IMPERIAL PA** | **IMPRPAIM** |
| **IRWIN PA** | **IRWNPAIR** |
| **IVYRIDGE PA** | **PHLAPAIV** |
| **JEFFERSON PA** | **PHLAPAJE** |
| **KEMBLESVILLE PA** | **KMVLPAKV** |
| **KENNETT SQUARE PA** | **KNSQPAKS** |
| **KING OF PRUSSIA PA** | **KGPRPAKP** |
| **WIRE CENTER** | **CLLI** |
| **KINGSTON PA** | **KGTNPAES** |
| **KIRKLYN PA** | **KRLNPAKL** |
| **KNIGHTS ROAD PA** | **PHLAPAKR** |
| **KUHNSVILLE PA** | **KHVLPAKU** |
| **LANDENBERG PA** | **LDNBPALB** |
| **LANSDOWNE PA** | **LNSDPALD** |
| **LINE LEXINGTON PA** | **LNLXPALN** |
| **MARKET PA** | **PHLAPAMK** |
| **MAYFAIR PA** | **PHLAPAMY** |
| **MCKEES ROCKS PA** | **MCRKPAMR** |
| **MCKEESPORT PA** | **MCPTPAMK** |
| **MCMURRAY PA** | **MCMRPAMC** |
| **MEDIA PA** | **MEDIPAME** |
| **MENDENHALL PA** | **MNDNPAMH** |
| **MIDLAND PA** | **MDLDPAMI** |
| **MILLVALE PA** | **MLVAPAMI** |
| **MORRISVILLE PA** | **MRSLPAMV** |
| **MOUNTAINVILLE PA** | **ALTWPAMT** |
| **NEW HOPE PA** | **NWHPPANH** |
| **NEW KENSINGTON PA** | **NWKNPANK** |
| **NEWTOWN PA** | **NWTWPANW** |
| **NORRISTOWN PA** | **NRTWPANR** |
| **OAKDALE PA** | **OKDLPAOA** |
| **OAKLAND PA** | **PITBPAOK** |
| **OAKMONT PA** | **OKMTPAOA** |
| **OLYPHANT PA** | **OLYPPAOL** |
| **ORCHARD PA** | **PHLAPAOR** |
| **PAOLI PA** | **PAOLPAPA** |
| **PAXTANG PA** | **PXTGPAPG** |
| **PAXTONIA PA** | **PXTNPAPA** |
| **PENN HILLS PA** | **PEHLPAPH** |
| **PENNSBURG PA** | **PNBGPAPB** |
| **PENNYPACKER PA** | **PHLAPAPE** |
| **PERKASIE PA** | **PRKSPAPE** |
| **PERRYSVILLE PA** | **PYVLPAPE** |
| **PHOENIXVILLE PA** | **PXVLPAPV** |
| **PILGRIM PA** | **PHLAPAPI** |
| **PINEVILLE PA** | **PIVLPAPV** |
| **PLEASANT HILLS PA** | **PLHSPAPH** |
| **WIRE CENTER** | **CLLI** |
| **PLUMSTEADVILLE PA** | **PSVLPAPV** |
| **PLYMOUTH PA** | **PLMOPAPL** |
| **POPLAR PA** | **PHLAPAPO** |
| **POTTSTOWN PA** | **PTTWPAPT** |
| **PUGHTOWN PA** | **PGTWPAPT** |
| **RED LION** | **RDLNPAXR** |
| **REGENT PA** | **PHLAPARE** |
| **REIGELSVILLE PA** | **RGVLPARI** |
| **RIDLEY PARK PA** | **RDPKPARP** |
| **ROBINSON TWP PA** | **RBTPPART** |
| **ROCHESTER PA** | **ROCHPARC** |
| **ROYERSFORD PA** | **RYFRPARF** |
| **SARATOGA PA** | **PHLAPASA** |
| **SCHWENKSVILLE PA** | **SCHWPASV** |
| **SCRANTON PA** | **SCTNPASC** |
| **SEWICKLEY PA** | **SWKYPASE** |
| **SHARPSBURG PA** | **SHSAPASH** |
| **SHERWOOD PA** | **PHLAPASH** |
| **SOUDERTON PA** | **SDTNPASD** |
| **SPRINGDALE PA** | **SPDLPASP** |
| **SPRINGFIELD PA** | **SPFDPASF** |
| **SPRINGTOWN PA** | **SPTWPASP** |
| **SQUIRREL HILL PA** | **PITBPASQ** |
| **STEELTON PA** | **SLTNPAST** |
| **TAYLOR PA** | **TAYLPATA** |
| **TROOPER PA** | **TRPRPATR** |
| **WARRINGTON PA** | **WGTNPAWR** |
| **WAVERLY PA** | **PHLAPAWV** |
| **WAYNE PA** | **WAYNPAWY** |
| **WEST CHESTER PA** | **WCHSPAWC** |
| **WEST MIFFLIN PA** | **WMFLPAWM** |
| **WEST VIEW PA** | **WSVWPAWE** |
| **WILKES BARRE PA** | **WLBRPAWB** |
| **WILKINSBURG PA** | **WKBGPAWK** |
| **WILLOW GROVE PA** | **WLGRPAWG** |
| **WYOMING PA** | **WYNGPAWY** |
| **YARDLEY PA** | **YRDLPAYL** |
| **YORK EAST** | **YORKPAXE** |
| **YORK MAIN** | **YORKPAXM** |
| **WIRE CENTER** | **CLLI** |
| **YORK NORTH** | **YORKPAXN** |
| **ZELIENOPLE PA** | **ZLNPPAZE** |

**APPENDIX C**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Wire Centers in Verizon’s Petition Area where at least 3% of households do not have access to cable and no competitive reclassification is granted** | | | | |
|
| **Wire Center** | **CLLI** | **Total Households** | **Households without Cable** | **% of Households without Cable** |
| WATERFORD | WTFRPAXW | 3,223 | 770 | 23.9% |
| MONROEVILLE PA | MOVLPAMO | 15,130 | 1,763 | 11.7% |
| EDDINGTON PA | EDTNPAED | 16,233 | 1,835 | 11.3% |
| LOCUST PA | PHLAPALO | 15,412 | 1,299 | 8.4% |
| PARKESBURG PA | PRBGPAPB | 4,691 | 365 | 7.8% |
| LANGHORNE PA | LANGPALA | 19,434 | 1,373 | 7.1% |
| ARDMORE PA | ARMRPAAR | 14,419 | 987 | 6.8% |
| PALMYRA PA | PLMYPAPA | 9,339 | 628 | 6.7% |
| MOUNT GRETNA PA | MTGRPAMG | 587 | 36 | 6.1% |
| ANNVILLE PA | ANVLPAAN | 3,316 | 189 | 5.7% |
| NORTH SIDE PA | PITBPANS | 13,739 | 775 | 5.6% |
| LARCHMONT PA | LARCPALM | 14,150 | 751 | 5.3% |
| LEBANON PA | LBNNPAES | 25,204 | 1,321 | 5.2% |
| MECHANICSBURG PA | MBRGPAME | 25,070 | 1,285 | 5.1% |
| SPRING GROVE | SPGVPAXS | 7,023 | 349 | 5.0% |
| JENKINTOWN PA | JENKPAJK | 25,906 | 1,268 | 4.9% |
| TRINITY PA | PHLAPATR | 30,000 | 1,421 | 4.7% |
| HATBORO PA | HTBOPAHB | 26,678 | 1,236 | 4.6% |
| NEW CUMBERLAND PA | NCLDPANC | 6,352 | 292 | 4.6% |
| YORK WEST | YORKPAXW | 5,779 | 258 | 4.5% |
| TULLYTOWN PA | TULYPATU | 27,560 | 1,150 | 4.2% |
| PITTSTON PA | PTTNPAPI | 13,118 | 536 | 4.1% |
| CHESTER A PA | CHESPACA | 20,132 | 815 | 4.0% |
| QUAKERTOWN PA | QKTWPAQT | 13,574 | 538 | 4.0% |
| MOOSIC PA | MOSCPAMC | 7,383 | 292 | 4.0% |
| ENOLA PA | ENOLPAEN | 10,435 | 398 | 3.8% |
| MIDDLETOWN PA | MDTNPAMI | 6,626 | 250 | 3.8% |
| TURTLE CREEK PA | TRCKPATC | 16,607 | 606 | 3.6% |
| BRYN MAWR PA | BRYMPABM | 10,166 | 352 | 3.5% |
| JEANNETTE PA | JNNTPAJE | 8,156 | 282 | 3.5% |
| PARKERFORD PA | PRFDPAPF | 4,025 | 139 | 3.5% |
| BETHEL PARK PA | BTPKPABP | 21,801 | 744 | 3.4% |
| BETHAYRES PA | BTHYPABH | 6,785 | 229 | 3.4% |
| BEDMINSTER PA | BMNSPABM | 772 | 26 | 3.4% |
| **Wire Center** | **CLLI** | **Total Households** | **Households without Cable** | **% of Households without Cable** |
| WEST GROVE PA | WGRVPAWG | 6,910 | 222 | 3.2% |
| YORK SOUTH/ LOGANVILLE | YORKPAXS | 8,737 | 280 | 3.2% |
| GREENSBURG PA | GNBGPAGR | 23,430 | 728 | 3.1% |
| NORTH WALES PA | NWLSPANW | 6,825 | 211 | 3.1% |
| CHURCHVILLE PA | CHVLPACH | 24,285 | 740 | 3.0% |
| ALIQUIPPA PA | ALQPPAAL | 12,927 | 389 | 3.0% |
| LANSDALE PA | LNDLPALD | 29,576 | 882 | 3.0% |
|  | **Total** | **561,515** | **28,010** | **5.0%** |
| Source: CWA-IBEW M.B. at Table 2 | | | | |

**APPENDIX D**

| **Subsections of 52 Pa. Code Chapter 63 That Are Waived in Wire Centers in Verizon’s Petition Area That Are Granted Competitive Reclassification** | |
| --- | --- |
| Subchapter | Sections |
| B | Section 63.12 (Minimizing interference and inductive effects)  Section 63.16 (Traffic measurements)  Section 63.17[Reserved]  Section 63.18(Multi party line subscribers)  Section 63.19(Interoffice lines)  Section 63.21(Directories)  Section 63.23(Construction and maintenance safety standards for facilities)\*  Section 63.24(Service interruptions)  \*Waiver is conditioned upon the requirement that Verizon shall construct and maintain its public utility equipment, facilities, and wire or cable crossings in accordance with the safety standards set forth in the current National Electrical Safety Code. |
| C | Section 63.31 (Classification of public utilities)  Section 63.32(System of accounts)  Section 63.33(Integrity of reserve accounts to be preserved)  Section 63.34(Reclassification of telephone plant to original cost)  Section 63.35(Preservation of records) |
| E | Section 63.51 (Purpose)  Section 63.52 (Exceptions)  Section 63.53 (General provisions)  Section 63.54 (Record retention)  Section 63.55 (Surveillance levels)  Section 63.56(a)-(e)(Measurements)  Section 63.58(Installation of service)\*  Section 63.59(Operator-handled calls)\*\*  Section 63.60(Automatic Dialing Announcing Devices (ADAD))  Section 63.61(Local dial service)  Section 63.62(Direct distance dial service)  Section 63.63(Transmission requirements and standards)  Section 63.64(Metering inspections and tests)  Section 63.65(Safety)  \*Waiver granted conditionally upon the requirement that Verizon include in its Product Guide applicable to competitive services, its rules regarding the timing of service installations and any commitments that Verizon is willing to make to customers on the subject.  \*\*Pursuant to a prior ruling, a waiver is already in place for Section 63.59(b) until a rulemaking is undertaken. *See Pa. PUC, Law Bureau Prosecutory Staff v. Verizon PA*, Docket No. M-2008-2077881 (Order entered October 12, 2012). |
| F | Section 63.71(Definitions)  Section 63.72(Traffic usage studies)  Section 63.72a(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) |
| G | 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]  Section 63.98(Compliance) |

**APPENDIX E**

| **Subsections of 52 Pa. Code Chapter 64 That Are Waived in Wire Centers in Verizon’s Petition Area That Are Granted Competitive Reclassification** | |
| --- | --- |
| Subchapter | Sections |
| A | 64.1 – first sentence only |
| B | 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])  Section 64.22 (Billing service for interexchange carriers) |
| C\* | Section 64.31 (LEC credit and deposit policies)  Section 64.32 (Credit standards)  Section 64.33 (Payment of outstanding balance)  Section 64.34 (Written procedures)  Section 64.35 (Deposit requirements for existing customers)  Section 64.36 (Method of making deposit)  Section 64.37 (Refund of deposits)  Section 64.38 (Application of deposit to bills)  Section 64.39 (Periodic review)  Section 64.40 (Refund statement)  Section 64.41 (Interest)  \*Waiver is conditioned upon the requirement that Verizon provide information in its Product Guide about the consequences if an applicant for service is not deemed to be creditworthy. |
| D | Section 64.52 (Refunds for service interruptions)  Section 64.53 (Discontinuance of service) |
| E | Section 64.61 (Authorized suspension of service)  Section 64.63 (Unauthorized suspension of service), §§ (1) through (9) only  Section 64.72 (Suspension notice information)  Section 64.73 (Notice when dispute pending)  Section 64.74 (Procedures upon customer contact before suspension)  Section 64.81 (Limited notice upon noncompliance with report or order) |
| F | Section 64.121 (Authorized termination of service)  Section 64.122 (Unauthorized termination of service when dispute pending)  Section 64.123 (Termination notice) |
| H | Section 64.181(Restoration of service after suspension)  Section 64.182 (Restoration of service after termination) |
| I | Section 64.191 (Public information), §§ (f) and (g)\*  Section 64.192 (Record maintenance)  \* Subsection 64.191(e) remains waived per the Order entered at Docket Nos. I-00940034 and P-00072348 |
| J | Section 64.201 (Reporting requirements), §§ (b)(i); (b)(2)(ii), (iii), and (iv); (b)(3); (b)(4)(ii), (iii), and (iv); (b)(8)(ii), (iii), and (iv); (b)(9)(ii), (iii), and (iv); (b)(10)(ii), (iii), and (iv); and (b)(11) |
| K | Section 64.211 (Availability of normal Commission procedures) |

1. This proceeding was assigned a different docket number for each Company. At the Prehearing Conference of October 23, 2014, this proceeding was consolidated for disposition by the presiding Administrative Law Judge (ALJ) Joel H. Cheskis. [↑](#footnote-ref-1)
2. 66 Pa. C.S. §§ 3016(a)(1) and (3). These general factors replaced those of the predecessor statute enacted in 1994, which, at 66 Pa. C.S. § 3005, required multiple findings, including “evidence of ease of market entry, including the existence and impact of cross- subsidization, rights-of-way, pole attachments and unavoided costs; presence and viability of other competitors, including market shares; the ability of competitors to offer those services or other activities at competitive prices, terms and conditions; the availability of like or substitute services or other activities in the relevant geographic area; the effect, if any, on protected services; the overall impact of the proposed regulatory changes on the continued availability of existing services; whether the consumers of the service would receive an identifiable benefit from the provision of the service or other activity on a competitive basis; the degree of regulation necessary to prevent abuses or discrimination in the provision of the service or other activity and any other relevant factors which are in the public interest.” When reenacting Chapter 30 in 2004 through passage of Act 183, the General Assembly removed these requirements and replaced them with the simplified, more streamlined standard set forth in Section 3016(a). [↑](#footnote-ref-2)
3. Section 3016(b) of the Code permits a local exchange carrier (LEC) to declare any of its retail nonprotected services as competitive at its discretion by filing this declaration on one day’s notice without seeking any further determination from the Commission. In essence, by the time this Petition was filed, Verizon had declared all of its retail nonprotected services to be competitive. [↑](#footnote-ref-3)
4. As used historically, basic local exchange service is the transmission of a customer’s telephone calls within the customer’s local calling area and includes dial-tone and the customer’s local calling plan among other features. [↑](#footnote-ref-4)
5. *See*, *Joint Petition of Nextlink Pennsylvania, Inc. et al.,* 93 Pa P.U.C. 172(September 30, 1999), 1999 Pa. PUC LEXIS 63,196 P.U.R. 4th 172, *aff’d sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pa. PUC,* 763 A.2d 440 (Pa. Cmwlth. 2000) *vacated in part sub nom. MCI Worldcom Inc. v. Pa. PUC,* 844 A.2d 1239 (Pa. 2004)(state court lacked jurisdiction to review unbundled network elements decision) *(Global Order).* [↑](#footnote-ref-5)
6. The Commission’s Regulations define a bundled service package as “a package of services offered and billed on one bill by an [sic] LEC, as defined in this section, which included nontariffed, competitive, noncompetitive or protected services, including services of an affiliate, in combinations and at a single price selected by the LEC.” 52 Pa. Code § 64.2. [↑](#footnote-ref-6)
7. The 194 wire centers for which Verizon seeks reclassification are identified in Appendix A to this Opinion and Order. [↑](#footnote-ref-7)
8. We note that Verizon has previously grandfathered rotary dialing. To the extent any rotary dial customers remain, this service is also classified as basic local exchange service. [↑](#footnote-ref-8)
9. Any such request for abandonment would be governed by Section 1101 of the Code. [↑](#footnote-ref-9)
10. *See,* 47 U.S.C. § 214. [↑](#footnote-ref-10)
11. *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications, Technology Transitions et al.*, PS Docket No. 14-174, GN Docket No. 13-5, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative *et al.* released January 31, 2014; and *Notice of Proposed Rulemaking and Declaratory Ruling* released November 25, 2014. [↑](#footnote-ref-11)
12. This obligation exists under 66 Pa. C.S. § 1501 and related case law. [↑](#footnote-ref-12)
13. *Investigation Regarding Intrastate Access Charges and IntraLata Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund.,* Docket Nos. I-00040105 and C-2009-2098380,(Order entered July 18, 2011)(*Rural Access Charge Investigation*)at 111. [↑](#footnote-ref-13)
14. 66 Pa.C.S. § 3019(f). [↑](#footnote-ref-14)
15. 47 U.S.C. § 251 and related case law. [↑](#footnote-ref-15)
16. 66 Pa.C.S. § 510. Based upon “gross intrastate operating revenues.” [↑](#footnote-ref-16)
17. 52 Pa. Code § 63.165. Based upon “total intrastate end-user telecommunications retail revenues.” [↑](#footnote-ref-17)
18. The newspapers of general circulation located in the geographic areas affected by the Petition were the following: the Pittsburgh *Post-Gazette*, the Erie *Mirror Times*, the Harrisburg *Patriot News*, York *Dispatch*, the Allentown *Morning Call*, the Scranton *Times Tribune*, the Wilkes-Barre *Times Leader*, and both the Philadelphia *Daily News* and the Philadelphia *Inquirer*. [↑](#footnote-ref-18)
19. We note that subsequent to the close of the record, the following parties filed letters in support of the Petition: Raymond Bunt, Jr.; Thomas J. McCall on behalf of Networx; and Maria Macaluso on behalf of the Women’s Center of Montgomery County. Additionally, the following parties filed letters in opposition to the Petition: Romona Harle; Kay McNaughton; and the Democratic Chair and certain Members of the Pennsylvania General Assembly House Consumer Affairs Committee. In disposing of the Petition, we note that such letters cannot be considered because they were filed after the close of the record. 52 Pa Code §5.431. It is axiomatic that this Commission base its decisions on the evidence in the record, and we are prohibited from looking beyond the record for evidence not previously supplied to support a desired finding of fact or conclusion of law. [↑](#footnote-ref-19)
20. FiOS, which stands for fiber-optic service, is the trademark name of Verizon’s deployment of fiber to the home. [↑](#footnote-ref-20)
21. We will address the merits of AT&T’s arguments under Part C of our discussion, *infra*. [↑](#footnote-ref-21)
22. Specifically, the OCA points to pricing data following competitive reclassification of Verizon’s basic local exchange service in Virginia, Rhode Island, California, Delaware, Florida, and Texas. OCA M.B. at 34. [↑](#footnote-ref-22)
23. CWA-IBEW provided enlarged, labeled versions of these maps in its surrebuttal testimony at CWA-IBEW St. 1-S, Schedule SMB-18. [↑](#footnote-ref-23)
24. We shall address the merits of the arguments of FSN in Parts B and C of our discussion, *infra*. [↑](#footnote-ref-24)
25. CWA-IBEW St. 1, Confidential Schedule CWA-IBEW SMB-6. [↑](#footnote-ref-25)
26. As previously noted, we will address the merits of AT&T’s arguments under Part C of our discussion, *infra*. [↑](#footnote-ref-26)
27. CWA-IBEW points out that a wire center may comprise an area of more than one hundred square miles. CWA-IBEW M.B. at 14, citing Tr. at 139. [↑](#footnote-ref-27)
28. A customer’s decision not to switch to a competitor may be due to this customer exhibiting brand loyalty, as opposed to there being a lack of competitive options in a given area. For example, steadfast Chevy consumers, who would not drive another brand of automobile, nevertheless benefit from the competitive market participation of other automobile manufacturers. [↑](#footnote-ref-28)
29. *See* <http://extranet.papowerswitch.com/stats/PAPowerSwitch-Stats.pdf?/download/PAPowerSwitch-Stats.pdf> [↑](#footnote-ref-29)
30. Under the principles of statutory interpretation, terms that are not defined in a statute are to be construed according to their common and approved usage. *Barasch v. Pa. PUC*, 505 Pa. 430, 490 A.2d 806 (1985). [↑](#footnote-ref-30)
31. Moreover, all of the wire centers subject to Verizon’s Petition are broadband-enabled at speeds that give households in those areas access to countless “over the top” VoIP providers. Verizon St. 1.0 at 11, 15, 17, 18; Verizon M.B. at 3. [↑](#footnote-ref-31)
32. These forty-one wire centers are identified in Appendix C to this Opinion and Order. [↑](#footnote-ref-32)
33. Further, with respect to wireless telephony, we note that, as technology evolves, this matter will resolve itself. In this regard, we note that sixty-one percent of 911 calls are made from within inside buildings and that the FCC recently adopted measures that will significantly enhance the ability of Public Safety Answering Points to accurately identify the location of wireless 911 callers when the caller is indoors. *See generally, In the Matter of Wireless E911 Location Accuracy Requirements;* PS Docket No. 07-114 (FCC, Rel. Feb. 3, 2015), Fourth Report and Order, FCC 15-9. [↑](#footnote-ref-33)
34. The attack on the quality and reliability of cable telephony and, in particular, wireless service, understates the advantages that the mobile nature of these services could play to report a condition to police and emergency service providers. [↑](#footnote-ref-34)
35. While Verizon has voluntarily committed itself to a fiber deployment strategy, we refer to Section 3014(n)(1) of the Code, which provides, as evidence of the intent of the General Assembly, that the Commission not prescribe the technology by which Verizon accomplishes its goals. We note that the Network Modernization Plans (NMPs) outlined in Verizon PA’s and Verizon North’s Chapter 30 Plans contain express language that the Companies may use any technology available to meet a broadband commitment. [↑](#footnote-ref-35)
36. In support of this claim, Verizon cites to <http://www.statisticbrain.org/tv-cable-subscriber-statistics> (accessed November 18, 2014). Verizon St. 2.0 at 35-36, n.31. [↑](#footnote-ref-36)
37. A total customer local telephone bill includes charges for basic local exchange service in addition to mandatory taxes and fees. *Rural Access Charge Investigation* at 37-38. [↑](#footnote-ref-37)
38. This credit may be applied to either wireline or wireless service. [↑](#footnote-ref-38)
39. *See* 66 Pa. C.S. § 2802(5). [↑](#footnote-ref-39)
40. As outlined in 66 Pa. C.S. § 3016(d)(4), the Commission may require a LEC to maintain price lists with the Commission applicable to its competitive services. [↑](#footnote-ref-40)
41. Sections 3011(8) and (12) provide, respectively, that it is the policy of the Commonwealth to promote and encourage the provision of competitive services “without jeopardizing the provision of universal telecommunications service at affordable rates” and the provision of advanced services and broadband services “without jeopardizing the provision of universal service.” 66 Pa. C.S. §§ 3011(8), (12). [↑](#footnote-ref-41)
42. Section 3011(5) provides the Chapter 30 declaration of policy of providing diversity in the telecommunications market by ensuring rates, terms and conditions for service that are reasonable and that do not impede the development of competition. 66 Pa. C.S. § 3011(5). [↑](#footnote-ref-42)
43. *See* 66 Pa. C.S. § 3011(2), (8), and (12). [↑](#footnote-ref-43)
44. *Rural Access Charge Investigation* at 111. While this ruling was focused upon the rural ILECs as the entities subject to that investigation, these same legal obligations apply to Verizon as an incumbent non-rural local exchange company. [↑](#footnote-ref-44)
45. *See,* 66 Pa. C.S. §§ 3016(d) and (e). [↑](#footnote-ref-45)
46. “Deregulation” is the pervasive elimination of all regulation, including both price and service regulation. [↑](#footnote-ref-46)
47. The Commission has only limited jurisdiction over the broad area of telecommunications services. By statute, we do not regulate the retail rates of either wireless services or cable (VoIP), the principal sources of competition to Verizon. *See* 66 Pa. C.S § 102 and 73 P.S. §§ 2251.1 *et seq.* [↑](#footnote-ref-47)
48. *See,* 66 Pa. C.S. § 3019(b)(2); *see also*, 66 Pa. C.S. § 1501. [↑](#footnote-ref-48)
49. 66 Pa. C.S. § 3016(e)(1) (“Subject to the requirements of subsection (d)(1) [establishing cost of service as the price floor], a local exchange telecommunications company may price competitive services at the company's discretion.”). [↑](#footnote-ref-49)
50. 66 Pa. C.S. § 3016 (d)(4)(“The commission may require a local exchange telecommunications company to maintain price lists with the commission applicable to its competitive services. Price changes that are filed in a company's tariff for competitive services will go into effect on a one-day notice.”). [↑](#footnote-ref-50)
51. Tariffs are defined under 66 Pa. C.S § 102 as including not only rates and rate schedules but also “rules, regulations and practices” of the utility. Moreover, the Commission’s Regulation at 52 Pa. Code § 53.25 specifies that a telephone utility’s tariff shall set forth “all rules and regulations” which apply generally to all classes of services. Therefore, we interpret the Section 3016(d)(2) language specifying that the Commission may not require tariffs for competitive services as applying to not only rates but also terms and conditions of service. [↑](#footnote-ref-51)
52. *See Stiteler v. Bell Tele. Co*., 379 A.2d 339, 341 (Pa. Cmwlth. 1977(*Stiteler*)*; see also Behrend v. Bell Tele. Co.*, 363 A.2d 1152, 1164 (Pa. Super. 1976)(“Tariffs lawfully established, including limitations of liability, have the effect of law and are binding on both utility and subscriber.”). [↑](#footnote-ref-52)
53. *See* current Verizon “Product Guide” at <http://www.verizon.com/Tariffs/Sections.aspx?docnum=PAVICA0&type=T&sch=Y&se=Y&att=N&typename=IT&tims_status=E&entity=VI> (as of March 3, 2015). [↑](#footnote-ref-53)
54. *Pa. PUC v. Verizon Pennsylvania, Inc.*, Docket No. R-2011-2244373 (Final Order entered November 14, 2011), *aff’d Verizon Pennsylvania Inc. and Verizon North LLC v. Pa. PUC*, No. 1353 C.D. 2011 (Cmwlth. Ct. August 8, 2012); 2012 Pa. Commw. Unpub. LEXIS 581. [↑](#footnote-ref-54)
55. *Pa. PUC v. Verizon Pennsylvania Inc.*, Docket No. R-2011-2244373 and *Pa PUC v. Verizon North LLC*, Docket No. R-2011-2244375 (Order entered November 14, 2011) at Ordering ¶¶ 5, 6, and 9 (“the “Price List and Product Guide” that it files on its own website in place of the original informational tariff (Tariff 500). Thereafter, Verizon … shall submit any changes to the price list it maintains with the Commission using sequentially numbered supplements…. That any web-based price lists for the competitive services that are the subject of this proceeding and are maintained by or on behalf of Verizon … shall be timely and accurate and shall reflect the corresponding price lists for the same competitive services submitted to the Commission.”); Verizon M.B. at 35. [↑](#footnote-ref-55)
56. Section 3019(b)(2) provides the Commission the power to revise our quality of service standards in Title 52 Regulations that address safety, adequacy, installation, suspension, termination, and restoration of telecommunications services considering new industry participants, technological advancements, service standards, and consumer demand. [↑](#footnote-ref-56)
57. Section 3019(g) prohibits the Commission from regulating rates, charges, rate structures, rate base, rate of return, or earnings of competitive services or from otherwise regulating competitive services except as allowed in Chapter 30. [↑](#footnote-ref-57)
58. Section 3011(13) declares that regulatory obligations imposed on ILECs should be consistent with those imposed on competing alternate service providers. [↑](#footnote-ref-58)
59. 52 Pa. Code § 56.222(a), provides, in pertinent part, that “[i]f unreasonable hardship to a person or to a public utility results from compliance with a section in this chapter, or a technological advance permits an enhanced level of customer service, application may be made to the Commission for modification of the section or for temporary exemption from its requirements[.]” [↑](#footnote-ref-59)
60. See Rulemaking re: PUC Filing and Reporting Requirements on Local Exchange Carriers, Docket No. L-00050176 (Final Rulemaking Order entered August 21, 2006). [↑](#footnote-ref-60)
61. *See* 66 Pa. C.S. § 3011(13). [↑](#footnote-ref-61)
62. 66 Pa. C.S. §§ 501 and 1501, respectively, provide the Commission authority to issue, rescind, or modify regulations in carrying out its responsibilities generally and its responsibilities over service-related issues specifically; 66 Pa. C.S. § 3019(b)(2), adopted at the same time as Section 3016 pursuant to which Verizon petitioned for a competitive determination, specifically provides the Commission the authority to review and revise quality of service standards addressing telephone service. [↑](#footnote-ref-62)
63. 52 Pa. Code § 5.43 provides a party the ability generally to petition the Commission to amend, waive, or repeal a regulation; 52 Pa. Code § 63.53(e) specifically addresses the Commission’s ability, upon application, to grant a temporary exemption or modification of that Subchapter for reasons of unreasonable hardship in complying or in exceptional cases, consistent with applicable statutory procedures; 52 Pa. Code § 64.202 specifically addresses the Commission’s ability, upon petition, to waive provisions of that Subchapter if compliance presents an undue hardship; and 52 Pa. Code § 64.212 broadly addresses the Commission’s ability, upon application, to grant modifications or exceptions to compliance with Chapter 64 in total, consistent with statutory procedures, for reasons of unreasonable hardship in complying or in exceptional cases. [↑](#footnote-ref-63)
64. The complete list of Chapter 63 Regulations for which we grant Verizon a waiver under this proceeding is identified in Appendix D to this Opinion and Order. [↑](#footnote-ref-64)
65. We have authority to condition a waiver of our Regulations pursuant to Sections 501 and 1501 of the Code. [↑](#footnote-ref-65)
66. Section 3012 of the Code, 66 Pa. C. S. § 3012, defines “Alternative form of regulation” as “[a] form of regulation of telecommunications services other than the traditional rate base or rate of return regulation . . . as approved by the commission.” [↑](#footnote-ref-66)
67. 66 Pa. C.S. § 3015 – Alternative forms of regulation. [↑](#footnote-ref-67)
68. Section 63.65 of Subchapter E requires, *inter alia*, that, “[a] public utility shall adopt and implement a safety program fitted to the size and type of its operation and shall conform to the Occupational Safety Health Act (OSHA) standards[.]” [↑](#footnote-ref-68)
69. Pursuant to a prior ruling, we note that we have already granted a waiver for Verizon PA for Section 63.59(b)(2) related to customer calls to the business office. That waiver is in place until a rulemaking is undertaken. *See* *Pa. PUC, Law Bureau Prosecutory Staff v. Verizon Pennsylvania, Inc.,* Docket No. M-2008-2077881 (Order entered October 12, 2012) at 32-35, Ordering ¶ 4 (*Quality of Service Order*). [↑](#footnote-ref-69)
70. Section 63.59(b)(2) contains the standards for the speed of answering calls seeking repair service or calls to the business office. [↑](#footnote-ref-70)
71. By Order entered on January 10, 2013, at Docket No. P-2012-2333159, this same relief was granted to Verizon North. Because we are waiving Subsection 63.59(b)(2), for the earlier of the length of five years or the completion of a rulemaking proceeding in this Opinion and Order, our decision here supersedes and replaces the provision in the *Quality of Service Order* at ¶ 4. [↑](#footnote-ref-71)
72. This section permits the LEC to “temporarily interrupt service when necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency.” It also requires each LEC to “establish procedures to be followed by its employees to prevent or mitigate interruption or impairment and provide prompt notification to affected customers.” [↑](#footnote-ref-72)
73. The complete list of our Chapter 64 Regulations for which we grant Verizon a temporary waiver under this proceeding may be viewed in Appendix E to this Opinion and Order. [↑](#footnote-ref-73)
74. The sentence waived is the following: “The purpose of this chapter is to establish and enforce uniform, fair and equitable residential telephone service standards governing account payment and billing, credit and deposit practices, suspension, termination and customer complaint procedures.” [↑](#footnote-ref-74)
75. 47 C.F.R. § 64.200(a). [↑](#footnote-ref-75)
76. *See* 66 Pa. C.S. § 308.1 (The commission shall promulgate regulations by which a consumer may make informal complaints). *See also* 66 Pa. C.S. § 701 (. . . any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.). [↑](#footnote-ref-76)
77. Currently this process is only available for service-related complaints. [↑](#footnote-ref-77)
78. The Commission previously granted Verizon a waiver of Section 64.191(e) pertaining to toll presubscription based on the same competitive market realities of increasing competition that are the basis of the Petition. *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, made Final Order effective October 6, 2008, by Secretarial Letter dated January 22, 2009). [↑](#footnote-ref-78)
79. *See, e.g*.,52 Pa. Code §§ 54.43(1) and 62.114(1). [↑](#footnote-ref-79)
80. *See,* Regulatory Review Act, 71 P.S. §§ 745.1 *et seq*.; the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P. S. §§ 1102, 1201-1208, and 1602, and 45 Pa. C.S. Chapters 5, 7 and 9; and the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, as amended, 71 P.S. §§ 732-101 - 732-506. [↑](#footnote-ref-80)
81. Part 1.A.3 of Verizon PA’s Chapter 30 Plan mandates that it make its annual PCO filing on or about November 1 of each year. Similarly, Part 3.A.6 of Verizon North’s Chapter 30 Plan mandates that it make its annual PCO filing on or about November 15 of each year. [↑](#footnote-ref-81)
82. Each Company’s Chapter 30 plan dictates that revenue decreases must be applied within four years and that any revenue decrease exceeding $500,000 must be applied immediately. Verizon PA Chapter 30 Plan at Part 1.E; Verizon North Chapter 30 Plan at Part 3.E. [↑](#footnote-ref-82)
83. *In the Matter of Connect America Fund*, 26 FCC Rcd. 17663 (2011), *aff’d In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (*USF/ICC Transformation Order*), *reh’g petitions denied, certiorari petitions pending NARUC v. FCC*, S.Ct., No. 14-901, *Allband Com. Coop. v. FCC*, S.Ct., No. 14-900. [↑](#footnote-ref-83)
84. *See*,52 Pa. Code § 53.58. [↑](#footnote-ref-84)
85. *AT&T Communications of Pennsylvania, Inc. v. Verizon North Inc. and Verizon Pennsylvania, Inc*., Docket No. C-20027195 (*AT&T’s Verizon Access Complaint Proceeding*). By Secretarial Letter dated October 3, 2013, the Commission requested comments from the parties in this proceeding regarding the manner on how this case should proceed in light of the *USF/ICC Transformation Order*.  Comments were filed and are pending before us. [↑](#footnote-ref-85)
86. *See*, *Implementation of the Federal Communications Commission’s Order of November 18, 2011 as Amended or Revised and Coordination with Certain Intrastate Matters*, Docket Nos. I-00040105, C-2009-2098380 *et al*., and M-2012-2291824, Consolidated Short Form And Protective Order(Order entered May 10, 2012) at 8 (“In view of the drastic impacts that the *FCC [ICC] Order* has had on the measured intrastate access reforms adopted with our July 18, 2011 Order, and in view of the further FCC actions contemplated in the area of intercarrier compensation for originating traffic, we are reluctant at this time to engage in any actions affecting intrastate switched carrier access rates for originating traffic.”); *see also*, *id.* (Order entered August 9, 2012) at 59 (“We agree . . . that there are overlapping issues and impacts at play that have not been explored on the record in this proceeding, and that addressing originating access charges in isolation would be overly simplistic[, and] the FCC has indicated that it will embark on originating access reform in the near future[, and] originating access charges are not subject to the same abuses as terminating access charges, and do not present any urgent public policy issues that require attention.). [↑](#footnote-ref-86)
87. *USF/ICC Transformation Order* at ¶ 817. [↑](#footnote-ref-87)