

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105-3265**

**Policy Statement Regarding the Reporting of  
Intrastate Operating Revenues for Section 510  
Assessment Purposes by Jurisdictional  
Telecommunications Carriers Offering Special  
Access and Other Similar Jurisdictionally Mixed  
Telecommunications Services**

**PUBLIC MEETING: November 8, 2018  
3004578-LAW**

**Docket No. M-2018-3004578**

**STATEMENT OF VICE CHAIRMAN ANDREW G. PLACE**

Before us for disposition is the Staff recommendation for the issuance of a Proposed Policy Statement (Policy Statement) regarding the potential fiscal assessment under Section 510 of the Public Utility Code of special access service revenues where relevant special access circuits are classified as interstate under currently applicable Federal Communications Commission (FCC) regulations. This Policy Statement would also apply to other similar jurisdictionally mixed telecommunications services and their respective providers that operate under this Commission's jurisdiction.

The Policy Statement introduces the concept of the *de facto* gross intrastate operating revenues for such jurisdictionally mixed services that can be subject to this Commission's fiscal assessments under Section 510, to include revenues derived from special access circuits and services that have been classified as interstate under the FCC's "10% contamination rule." This would affect the gross intrastate revenue reporting for fiscal assessment purposes of various providers of jurisdictionally mixed special access services or other similar services including competitive access providers (CAPs), competitive local exchange carriers (CLECs), and incumbent local exchange carriers (ILECs). These providers do or may classify special access circuits and corresponding services as totally interstate under the FCC's "10% contamination rule." Consequently, although these providers furnish jurisdictionally mixed services within this Commonwealth under the regulatory oversight of this Commission, their relevant federally classified special access service revenues are not currently reported for intrastate fiscal assessment purposes under Section 510.

The concept of the *de facto* gross intrastate operating revenues includes "those operating revenues that are billed, charged or otherwise due for all telecommunications services and traffic between points that are both located within the Commonwealth of Pennsylvania." State fiscal assessments — such as those that are imposed and calculated under Section 510 — are used for the funding of legitimate regulatory oversight operations of state utility regulatory agencies including this Commission. As such, they have a different purpose than revenue assessments that are designated via statute and/or regulation for the funding of the federal and state universal service fund (USF) mechanisms. However, the federal and state USF mechanism assessments still follow certain jurisdictional separation guidelines that specifically categorize assessable interstate and intrastate revenues.<sup>1</sup> Similarly, such jurisdictional separation and corresponding revenue classification is factored into the calculation of federal regulatory fees that are charged by the FCC for its own regulatory operations.

---

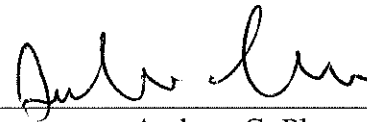
<sup>1</sup> See, e.g., *Texas Office of Public Utility Counsel, et al. v. F.C.C.*, 183 F.3d 393 (5<sup>th</sup> Cir. 1999), at 409, 447. See also *AT&T v. Eachus*, 174 F.Supp.2d 1119 (D. Or. 2001).

Consequently, I encourage the participating parties, the various categories of telecommunications carriers and communications providers as well as their respective associations, to provide comments that are supported by applicable legal rationales and appropriate technical explanations and address the following areas:

1. Whether and in what fashion existing jurisdictional separations rules are implicated in implementing the Proposed Policy Statement;
2. Whether the format and content of the Commission's annual fiscal Assessment Report should be modified so that it contains better information on the reportable *de facto* revenues (including information and data on special access revenues that are classified as interstate under the FCC's "10% contamination rule"); and
3. Whether the Commission should initiate a formal collaborative process between its Staff and the interested parties and entities in order to address this potential change of reportable revenues for Section 510 fiscal assessment purposes.

For the above-referenced reasons, I will be respectfully concurring in result only on the issuance of the Proposed Policy Statement.

Dated: November 8, 2018



---

Andrew G. Place  
Vice Chairman