

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

1. <b>REPORT DATE:</b> September 7, 2006	2. <b>BUREAU AGENDA NO.</b> SEP-2006-OSA-0275*
3. <b>BUREAU:</b> Office of Special Assistants	
4. <b>SECTION(S):</b>	5. <b>PUBLIC MEETING DATE:</b> September 15, 2006
6. <b>APPROVED BY:</b> Director: C.W. Davis 4-1827 Mgr/Spvr: R.A. Marinko 3-3930 Legal Review: A. Arnold AP 7-8032	7. <b>PERSONS IN CHARGE:</b> Mohan Samuel 3-0697 MS
8. <b>DOCKET NO.:</b> R-00061461; P-00981423F1000	9. <b>EFFECTIVE DATE OF FILING:</b> N/A

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**DOCKETED**  
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10. (a) **CAPTION** (abbreviate if more than 4 lines)  
 (b) **Short summary of history & facts, documents & briefs**  
 (c) **Recommendation**

(a) Windstream Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc. Supplement No. 3 to Windstream Pennsylvania, Inc. Tariff Pa. PUC No. 7 (Docket No. R-00061461)

2006 Annual Price Stability Index/Service Price Index Filing of Windstream Pennsylvania, Inc. (Docket No. P-00981423F1000)

(b) On August 31, 2006, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and a Petition for Clarification (Petition) to recognize the limitation imposed by a Commission-approved Joint Stipulation at Docket Nos. A-310325F0006, *et. al.*, regarding the future recovery of banked rate increases by including pertinent language in the Commission's August 17, 2006 Order that approved Windstream Pennsylvania, Inc.'s 2006 annual Price Stability Index/Service Price Index filing.

(c) The Office of Special Assistants recommends that the Commission adopt the proposed Opinion and Order which grants the OSBA's Petition for Clarification and modifies the Commission's August 17, 2006 Order accordingly.

Order Doc. No.629586v1

Calendar Doc. No. 629786v1

11. **MOTION BY:** Commissioner Chm. Holland

**SECONDED:** Commissioner Cawley

Commissioner Shane - Yes  
Commissioner Pizzingrilli - Yes  
Commissioner Fitzpatrick - Yes

**CONTENT OF MOTION:** Staff recommendation adopted.

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held September 15, 2006

**Commissioners Present:**

Wendell F. Holland, Chairman  
James H. Cawley, Vice Chairman  
Bill Shane  
Kim Pizzingrilli  
Terrance J. Fitzpatrick

Windstream Pennsylvania, Inc. f/k/a ALLTEL  
Pennsylvania, Inc.  
Supplement No. 3 to Windstream Pennsylvania, Inc.  
Tariff Pa. PUC No. 7

R-00061461

2006 Annual Price Stability Index/Service Price Index  
Filing of Windstream Pennsylvania, Inc.

P-00981423F1000

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration and disposition is the  
Petition for Clarification filed by the Office of Small Business Advocate (OSBA)  
on August 29, 2006, relative to the above-captioned proceeding.

## History of Proceeding

By Order entered June 12, 2006 (June 12, 2006 Order), the Commission approved, *inter alia*, and with modification, the Joint Stipulation entered between ALLTEL Pennsylvania, Inc. (ALLTEL) (the predecessor of Windstream Pennsylvania Inc. (Windstream)), ALLTEL Communications, Inc., the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, as filed with the Pennsylvania Public Utility Commission on April 7, 2006.<sup>1</sup> In accordance with Paragraph 11(b) of the Joint Stipulation, Windstream is not permitted to use any banked increases from its 2006, 2007 or 2008 Annual Price Stability Index/Service Price Index (PSI/SPI) filings to increase residential one-party and business one-party rates in the future.

By Order entered August 17, 2006 (August 17, 2006 Order), this Commission approved the 2006 Annual PSI/SPI filing of Windstream Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc. which was filed pursuant to the provisions of the new Chapter 30 law, Act 183 of 2004, P.L. 1398 (66 Pa. C.S. §§ 3011-3019) (“Act 183”) and pursuant to the Company’s Alternative Regulation and Network Modernization Plan (“Chapter 30 Plan”) that this Commission approved at Docket No. P-00981423F1000.<sup>2</sup>

In accordance with Windstream’s 2006 PSI/SPI filing, Windstream is permitted to increase rates for noncompetitive services that would produce an

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<sup>1</sup> *Joint Application of ALLTEL Pennsylvania, Inc. and ALLTEL Communications, Inc. for approval required under the Pennsylvania Public Utility Code in connection with the change of control of ALLTEL Pennsylvania, Inc. and certain changes relating to ALLTEL Communications, Inc.*, Docket Nos. A-310325F0006 and A-312050F0006, et al. (Order entered June 12, 2006).

<sup>2</sup> *Petition for Amended Alternative Regulation and Network Modernization Plan of ALLTEL Pennsylvania, Inc.*, Docket No. P-00981423F1000 (Order entered June 23, 2005).

overall increase of 3.70% in its total annual noncompetitive services revenue. Windstream's 2006 PSI/SPI filing proposed to increase those revenues by 1.09% and to bank the remaining allowable revenue increase. According to its Chapter 30 Plan, "[i]f the Company elects not to increase its rates by the full amount allowed under the terms of the Plan, including exogenous events in a given year, the Company may increase its rates in future years to reflect the full amount of the allowable increases previously deferred. The Company may bank increases for a period not to exceed four (4) consecutive years."<sup>3</sup>

As noted, on August 29, 2006, OSBA filed the instant Notice of Intervention and Petition for Clarification with respect to the above-captioned proceeding.

### Discussion

In its Public Statement attached to its Notice of Intervention and Petition for Clarification, the OSBA indicates that it is intervening in the above-captioned proceeding to assure that the Commission's August 17, 2006 Order, regarding Windstream's 2006 PSI/SPI filing, does not conflict with the Commission's June 12, 2006 Order as it pertains to the Joint Stipulation. As such, the OSBA filed the instant Petition for Clarification, pursuant to Section 5.572 of the Commission's Regulations, 52 Pa. Code § 5.572, to point out that the entered order does not recognize the limitation imposed by paragraph 11(b) of the settlement Agreement on the future recovery of banked increases. Paragraph 11(b) of the Joint Stipulation provides as follows:

While Alltel PA [Windstream] shall be permitted to bank

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<sup>3</sup> ALLTEL Pennsylvania, Inc. Chapter 30 Plan, Part 3 – Price Stability Plan for Non-Competitive Services, Section A. (A) 7.

increases for the period covered by the foregoing provisions, *i.e.* through March 31, 2009, Alltel PA may not in the future use these banked increases to increase R-1 and B-1 rates.

The OSBA notes that the August 17, 2006 Order does not acknowledge the Commission-approved limitation of Paragraph 11(b) from the June 12, 2006 Order regarding the future recovery of the remaining allowable PSI increase from 2006 as well as any PSI increases that may be allowed in 2007 and 2008. Accordingly, the OSBA requests that the August 17 Order give explicit recognition to this limitation to avoid potential future litigation by inserting the following language on page 5 immediately after the quotation from Windstream's Chapter 30 Plan:

*The Company may not recover any of the remaining allowable revenue increase from 2006, now or in the future, by increasing the rates for either residential or business one-party single line service.*

Upon our review of the OSBA's instant request for clarification, we conclude that although Windstream will continue to be bound by the requirements of the Joint Stipulation approved by our June 12, 2006 Order, it would be prudent to also specifically reflect those rate increase limitations that were agreed upon by the stipulating parties in our August 17, 2006 Order. As such, we shall grant the OSBA's Petition for Clarification and modify our August 17, 2006 Order, consistent with the discussion in this Opinion and Order;

### **Conclusion**

Based on the foregoing, we shall grant the OSBA's Petition for Clarification and modify our August 17, 2006 Order by including the language

proposed by the OSBA as addressed, *supra*, in this Opinion and Order;  
**THEREFORE,**

**IT IS ORDERED:**

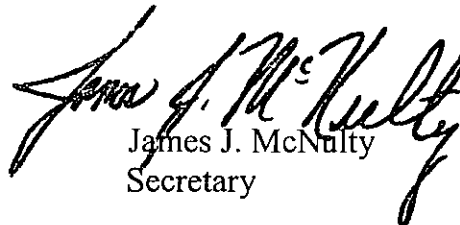
1. That the Petition for Clarification filed by the Office of Small Business Advocate is granted.

2. That the Commission's Proprietary and Non-Proprietary Orders entered August 17, 2006, at Docket Nos. R-00061461 and P-000981423F1000, approving Windstream Pennsylvania, Inc.'s 2006 PSI/SPI filing and associated tariffs, is modified consistent with this Opinion and Order.

2. That a copy of this Opinion and Order shall be served on Windstream Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc., the Office of Trial Staff, the Office of Consumer Advocate, and the Office of Small Business Advocate.

3. That this proceeding be marked closed.

**BY THE COMMISSION**

  
James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: September 15, 2006

ORDER ENTERED: **SEP 18 2006**