COMMONWEALTH OF PENNSYLVANIA

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January 16, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of all Retail Services in Certain Geographic Areas, and for a Waiver of Regulations for Competitive Services
Docket No. P-2014-2446303; P-2014-2446304

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Reply Brief in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Assistant Consumer Advocate
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Enclosures
cc: Honorable Joel H. Cheskis
Office of Special Assistants
Certificate of Service
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CERTIFICATE OF SERVICE

Joint Petition of Verizon Pennsylvania LLC	:	
And Verizon North LLC for Competitive	:	Docket Nos. P-2014-2446303
Classification of all Retail Services in Certain	:	P-2014-2446304
Geographic Areas, and for a Waiver of	:	
Regulations for Competitive Services	:	

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Reply Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 16th day of January 2015.

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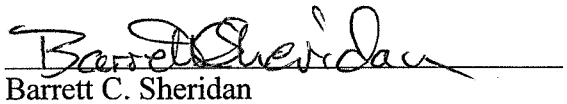

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of all Retail Services in Certain Geographic Areas, and for Waiver of Regulations for Competitive Services	: : : : :	Docket Nos. P-2014-2446303, P-2014-2446304

REPLY BRIEF
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Dated: January 16, 2015

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I. INTRODUCTION AND SUMMARY OF THE ARGUMENT

On January 8, 2015, Main Briefs were filed in this matter by Verizon Pennsylvania LLC and Verizon North LLC (Verizon), the Office of Consumer Advocate (OCA), the Communications Workers of America and International Brotherhood of Electrical Workers (CWA-IBEW), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), AT&T, Full Service Network, and the Pennsylvania Telephone Association. The OCA submits this Reply Brief in response to the arguments raised in the Main Briefs of Verizon and AT&T. Many of the arguments raised by both Verizon and AT&T were addressed in the OCA's Main Brief and will not be repeated here. Nothing contained in the briefs of any other party alters the OCA's position that Verizon has not met the legal standard for competitive classification and that the waivers requested by Verizon are not appropriate at this time.

Verizon begins its Main Brief by arguing that that Chapter 30 makes clear that "monopoly-era regulation" should not apply where alternative service providers offer "like or substitute service or other business activities" citing to Section 3016(a) of the Public Utility Code. Verizon then recites "statistics" related to changes in consumer telecommunications service selections to conclude that there are like or substitute services available throughout Verizon's service territory and thus, competitive classification should be granted. Verizon's presentation in its Main Brief, as well as in its testimony in this case, remains fundamentally flawed and cannot support competitive classification for the 194 wire centers in Philadelphia, Pittsburgh, Erie, Harrisburg/York and Scranton/Wilkes Barre that the Company seeks.

Verizon's arguments fail in two key respects. First, Verizon mischaracterizes the mandate of Chapter 30 regarding competitive classification as designed to end "monopoly era regulation." Chapter 30 sets forth numerous policy objectives including:

> (2) Maintain universal telecommunications service at affordable rates while encouraging the accelerated provision of advanced services and deployment of a universally available, state-of-the-art, interactive broadband telecommunications network in rural, suburban and urban areas…
>
> (3) Ensure that customers pay only reasonable charges for protected services which shall be available on a nondiscriminatory basis.
>
> ***
>
> (5) Provide diversity in the supply of existing and future telecommunications services and products in telecommunications markets throughout this Commonwealth by ensuring that rates, terms and conditions for protected services are reasonable and do not impede the development of competition.
>
> (6) Ensure the efficient delivery of technological advances and new services throughout this Commonwealth in order to improve the quality of life for all Commonwealth residents.
>
> ***
>
> (8) Promote and encourage the provision of competitive services by a variety of service providers on equal terms throughout all geographic areas of this Commonwealth without jeopardizing the provision of universal telecommunications service at affordable rates.
>
> (9) Encourage the competitive supply of any service in any region where there is market demand.
>
> ***
>
> (12) Promote and encourage the provision of advanced services and broadband deployment in the service territories of local exchange telecommunications companies without jeopardizing the provision of universal service.

> (13) Recognize that the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers.

66 Pa.C.S. §3011.

Chapter 30's policy objectives are not simply about "monopoly-era regulation" as Verizon asserts, but is about maintaining universal telecommunications service at affordable prices and providing improvements and benefits for consumers. Indeed, Chapter 30 has already removed much regulation of telecommunications service and pricing, a benefit that has already been realized by Verizon through its freedom to compete in the market for bundled service offerings and through its deployment of broadband service throughout its service territory in advance of many other states. Chapter 30 is far from the "monopoly-era regulation" that Verizon complains of here.

Verizon also mistakenly confuses changes in the telecommunications marketplace and the concomitant loss of Verizon basic service customer lines with competition for basic local service. As discussed in detail in the OCA's Main Brief and the testimony of OCA witness Dr. Robert Loube, as well as in the Main Brief of CWA-IBEW and the testimony of CWA-IBEW witness Susan Baldwin, customers selecting other telecommunications service does not establish that such services are "like or substitute services" for the purposes of Section 3016(a) and competitive classification. Verizon cannot simply refer to customers "substituting away" from Verizon to meet the statutory standard. The purpose of determining whether there are "like or substitute services" is to determine whether alternative services provide competitive discipline that will prevent Verizon from increasing prices to levels that exceed competitive price levels.

The record evidence (which Verizon does not dispute or address) shows that this shift in consumption patterns has occurred throughout the Nation and in states where Verizon has been provided competitive classification, it has increased the price of its basic local service. The existence of alternative services and the changes in consumption patterns have not provided any competitive discipline that restrains Verizon's ability to increase price above competitive levels for basic local service.

Verizon seeks to characterize the intervenor parties' concern for maintaining universal service at affordable rates as "diversionary issues." The OCA respectfully submits that these are not "diversionary issues" but are the fundamental questions that must be asked when considering whether to have protected basic local service deemed competitive and subject to no further price regulation by the Commission. These issues come into even sharper focus when combined with Verizon's request for wholesale waivers of significant provisions of Chapter 63 regarding safety and quality of service and the entirety of Chapter 64 regarding essential consumer protections for residential customers. When these fundamental questions are asked, and the record is reviewed, the OCA submits that there is no support for granting Verizon's request for competitive classification or its request for waivers of the Commission's regulations.

II. FACTUAL AND PROCEDURAL BACKGROUND

The OCA addressed the procedural history in this case and Verizon's burden of proving each element of its Petition in the OCA's Main Brief submitted on January 8, 2014. See, OCA M.B. at 6-8.

III. ARGUMENT

A. Verizon's Petition for Determination of Whether Protected Services in Certain Wire Centers are Competitive Under 66 Pa. C.S. § 3016(a)

1. Facts Relating to the Competitive Standard of Section 3016(a)

a. Like or Substitute Services

Central to the Commission's determination of Verizon's Petition is the question of whether Verizon has "demonstrated" the "availability of like or substitute services" from "alternative service providers" in the wire centers covered by Verizon's Petition. OCA M.B. at 2-4, 9, 12; 66 Pa.C.S. § 3016(a)(1). OCA witness Dr. Loube conducted a careful review of the qualities and characteristics of Verizon's protected, basic local services, Verizon's definition of "substitute service," and Verizon's position that cable telephony services and wireless service from at least one unaffiliated provider are both available and substitute services for protected basic local service. OCA M.B. at 12-22. The OCA submits that Verizon has not proven the availability of alternative services for consumers in the covered wire centers which are sufficiently like or substitutes for Verizon's basic service and so would provide competitive discipline for Verizon's pricing of local service. The OCA's position is shared and supported by the testimony and briefs of the CWA-IBEW and CAUSE-PA. See CWA-IBEW Brief at 6-10; CAUSE-PA M.B. at 10-24.

The Commission should reject Verizon's unbounded position that "like or substitute services" may encompass any and all cable telephony and wireless services, so long as some consumers have purchased the service and Verizon has lost lines to such services. Verizon M.B. at 11-12. The fact that a customer has selected a different service with different features does not, in and of itself, make that service a substitute for basic local service as Verizon asserts.

The Commission must also reject Verizon's mischaracterization of the OCA's position regarding what types of service can be considered a "like or substitute service." Contrary to Verizon's Main Brief, the OCA has not insisted that "like or substitute services" must look exactly like Verizon's protected local service that is the subject of Verizon's Petition. See, Verizon M.B. at 13-14. However, the OCA does contend that "like or substitute services" should provide service quality which is equal or better than Verizon's basic service with regard to safety, reliability, and adequacy of service. Further, if alternative services are "like or substitute services," they must also be sufficient to constrain the availability of Verizon to increase the price for basic service, if classified as competitive. Whether the claimed substitute services will maintain the affordability of Verizon's basic service and universal service in the specific Pennsylvania wire centers are other critical considerations. OCA M.B. at 1-6. If the supposed "like or substitute services" do not meet these standards, then the Commission should not grant Verizon's Petition and should not allow Verizon pricing flexibility as a substitute for the rate regulation of Chapter 30, Verizon's Chapter 30 Plan and PCO formulas, and Section 1301.[1] OCA M.B. at 1-6, 12-22. In deciding Verizon's Petition, the Commission should not

[1] Verizon's ability to increase protected, residential service rates under its Chapter 30 Plans and PCO formulas is limited by Section 3015. Increases to Verizon's protected, residential service rates are limited to within 20% of the average rate adjustment under Verizon's annual PCO filings. OCA St. 1 at 8; 66 Pa.C.S. § 3015(a)(3).

promote competitive services at the risk of jeopardizing universal telecommunications service at affordable rates. Id. at 21-22; 66 Pa.C.S. § 3011(8); see also, CAUSE-PA at 9, 16-21.

Accordingly, like services compared to Verizon's basic service "must be at least as good as basic local exchange service in meeting the standards of safety, adequacy, and reliability, and can be superior to basic local exchange service." OCA M.B. at 13, citing OCA St. 1 at 10. Dr. Loube provided specific, objective descriptions of what constitutes adequate voice service, safe voice service, and reliable voice service. OCA M.B. at 14, citing OCA St. 1 at 11-12. Dr. Loube, CWA-IBEW witnesses Baldwin and Dvorak, and CAUSE-PA witnesses Miller and Pinsker presented specific, documented evidence that wireless providers, cable providers, consumers, and the FCC recognize that wireless networks and services and interconnected VoIP services (which includes cable telephony) do not perform at the same, desirable level of safety and reliability during public safety crises and/or extended commercial power outages. OCA M.B. at 13-17; CAUSE-PA M.B. at 10-16; CWA-IBEW M.B. at 6-9. Verizon's response was limited to the issue of whether cable telephony or wireless customers can dial 911, without regard the larger public safety concerns. OCA M.B. at 16. When tested for the ability to provide adequate, safe and reliable voice telephone services, the OCA submits that Verizon has not shown that cable telephony and wireless services, where available, are at least as good as Verizon's basic local service. The Commission should reject Verizon's claim that cable telephony and wireless service are like services for the purpose of Section 3016(a). Id. at 16-17.

Nor should the Commission accept Verizon's position that cable telephony and wireless services, where available, are appropriate substitute services for Verizon's basic service, for the purpose of Section 3016(a). In direct testimony, Verizon witness Vasington defined substitute services as:

> A service is considered a "substitute" when consumers consider the competitor's service to be similar enough that consumers would increase their use of the competitor's service in response to an increase in the incumbent's price above competitive levels (or a decrease in the incumbent's service quality or output).

OCA M.B. at 17, citing Verizon St. 1.0 at 5. Dr. Loube agreed with a part of this definition, but disagreed with Mr. Vasington's position that services may be substitutes "just because the consumption of one service went up when the output of the other service goes down. Those two events could be completely unrelated." OCA St. 1 at 9; see OCA M.B. at 17. For example, Dr. Loube explained, a decrease in Verizon's output of basic local exchange service could be attributed to a switch to Verizon's affiliated Verizon FiOS digital voice service and so would not necessarily correlate to an increase in demand for the services of alternative providers. OCA M.B. at 17; see OCA St. 1 at 9-10, 45.

In its Main Brief, Verizon does not quote its own definition of substitution. Instead, Verizon offers a more general description of how to assess whether services are substitutes based on "whether two services are similar enough" from the consumers' perspective. Verizon M.B. at 11-12. To support its position that cable telephony and wireless services are substitutes for the purpose of Section 3016(a), Verizon relies on broad data regarding decreases in Verizon's basic service subscribership and increases in wireless service and cable telephony subscribership, citing to national or statewide data. Id. at 1-3, 15-20. The OCA submits that Verizon's offered evidence of substitution does not establish that an increase in Verizon's prices are linked to a decrease in Verizon's basic service lines and corresponding increase in the output of competitors. OCA St. 1-S at 5-6. As Dr. Loube testified, Verizon's basic service line losses could be the result of the consumer switching to a Verizon affiliate service, whether FiOS Digital Voice or Verizon wireless. OCA St. 9-10, 45. "In such cases the loss of the wireline customer

cannot be considered a loss to a competitor…." Id. at 45. The Commission should not adopt Verizon's Main Brief position that sets a low threshold for determining what constitutes a substitute service and then relies upon such undifferentiated, broad data to support the claim that cable telephony service and wireless service from at least one unaffiliated provider are available in the covered wire centers. OCA M.B. at 17-22.

Tangled up in Verizon's claim of substitutes are consumer purchasing decisions that are driven by a desire for features which are unique to the supposed substitute service. For example, a consumer might purchase wireless service for the mobility feature or because the wireless handset can double as a camera and video screen, qualities that are not available from Verizon's basic service. OCA M.B. at 18, OCA St. 1 at 10; OCA St. 1-S at 5-6. Similarly, a consumer decision to purchase cable service, the platform for cable telephony, may be based on a need for high speed data services or video content. OCA M.B. at 18, OCA St. 1 at 10. These unique characteristics and features are not shared by Verizon basic service. OCA M.B. at 18-19. If a consumer's purchasing decision turns on features or functionalities that are unique to the alternate service, then those alternate services cannot be considered economic substitutes. As Dr. Loube testified, it is necessary to distinguish between changes in consumption patterns based on price and changes in tastes and wants:

> because the purpose of determining whether there are substitutes is to determine whether alternative services provide 'competitive discipline,' where competitive discipline means that the existence of the alternative services prevents Verizon from increasing prices to levels that exceed competitive price levels.

OCA St. 1-S at 6 (footnote omitted).

The OCA submits that Verizon's own replies to OCA discovery confirmed that a change in the price for Verizon's basic service would not change the demand for mobile services

or cable services including cable telephony, based on consumer preferences for features not offered by Verizon basic service. OCA M.B. at 19. As Verizon witness Vasington stated:

> [M]any consumers value the inherent mobility of wireless services, while others value the particular bundles of video, data and phone service that cable companies offer. **Verizon's basic service does not meet the needs of those consumers at any price.**

OCA M.B. at 19, quoting Verizon reply to OCA-I-6 (emphasis added); see OCA St. 1 at 15, fn. 19. Verizon witness Vasington provided a similar reply regarding consumer preferences for cable services, acknowledging that other customers "value the particular bundles of video, data and phone services that the cable companies offer. **Verizon's basic service does not meet the needs of these customers at any price.**" OCA St. 1 at 16, quoting Verizon reply to OCA-I-5 (emphasis added).

Dr. Loube and CWA-IBEW witness Dvorak pointed out that wireless or cable services are not necessarily accepted by consumers as reasonable substitutes for wireline service. OCA M.B. at 19; CWA M.B. at 9. For example, Verizon unsuccessfully tried to substitute its fixed wireless Voice Link service in portions of New York. OCA M.B. at 19, OCA St. 1-S at 7-8. Additionally, as CWA-IBEW witnesses testified, cable telephone and wireless services may not support home security systems, medical alert services, or basic data transmissions needs such as faxes, services that can be provided over Verizon's basic dial tone service. CWA-IBEW M.B. at 9.

The OCA does not dispute that consumers have purchased wireless services or cable telephony service, where such services are available at prices and levels of quality that meet the consumer's needs. OCA M.B. at 20. However, Verizon has not established that such services, where available, are like or better than Verizon's basic service in terms of safety,

reliability, and adequacy. Nor has Verizon established that the increase in cable telephony or wireless subscribership, where available, is linked to changes in Verizon's price for basic service, a linkage which Verizon's own definition of substitute service posits should exist. Id. at 21. Indeed, as discussed above, Verizon has conceded in reply to OCA discovery that Verizon could not win back the business of some wireless or cable telephony customers at any price for Verizon basic service, because of the differences between the multi-featured services sold over the cable and wireless platforms and Verizon's basic service.

The Commission should find that Verizon has not proven that the cable telephony and wireless services from at least one unaffiliated carrier are like or substitute services, sufficient to support grant of its Petition for all or some of the wire centers. Verizon's prices for protected, basic service are currently set pursuant to Chapter 30, Verizon's Chapter 30 Plan PCO formulas and Section 1301. Section 3019(e) already allows Verizon the flexibility to include the functionality of basic service as part of a single-priced bundle. The question presented by Verizon's Petition is whether there are like or substitute services which are sufficient to impose economic discipline on Verizon's basic service prices, if granted competitive classification. Based on the record, the OCA submits that the diverse cable telephony and wireless services cited by Verizon do not rise to the level of like or substitute services, sufficient to impose economic discipline in place of rate regulation.

b. The Presence Of Cable Or Wireless In A Portion Of A Wire Center Does Not Mean That It Is "Available" To All Customers As Required Under the Law.

In its Main Brief, Verizon argues that the presence of cable telephony and at least one unaffiliated provider of wireless service is sufficient to support its request to classify a wire

center as competitive. Verizon then argues that cable telephony is available in each of the 194 wire centers where it has sought competitive classification. In making this argument in its M.B., Verizon cites OCA witness Dr. Loube as having "confirmed" that cable telephone service is available in each wire center. Verizon M.B. at 4, 7. The Company, however, significantly misstates Dr. Loube's testimony and confuses the "presence" of the cable service in a wire center with the "availability" of such services to all customers in the wire center. As Dr. Loube testified, Verizon has failed to demonstrate that cable, much less cable telephony, is available to all customers in the wire centers selected for competitive classification.

As set forth in the OCA's Main Brief, all customers within a wire center must have sufficient competitive options of like or substitute services if a wire center is to be deemed competitive. OCA St. 1 at 13-14; See, OCA M.B. at 22-23. Without effective competition, customers would be left to paying prices that are not subject to any competitive discipline. Dr. Loube, assuming arguendo that Verizon has shown cable telephony to be a substitute service, reviewed the penetration of cable in each wire center and testified that cable telephony is not available throughout each of the wire centers. Dr. Loube explained as follows:

> **Q. DOES THE EXISTENCE OF A CABLE PROVIDER IN EVERY WIRE CENTER IMPLY THAT EVERY VERIZON CUSTOMER HAS THE OPPORTUNITY TO PURCHASE CABLE SERVICE?**
>
> A. No. Contrary to the implication of Mr. Vasington's rebuttal testimony, the existence of a cable provider in every Verizon wire center does not imply that cable service is ubiquitous. Cable service may not reach every Verizon customer because cable franchises are not required to match the geographic boundaries of Verizon wire centers and because cable providers are not required to offer service throughout their franchise areas.

OCA St. 1-S at 8-9 (footnote omitted).

Specifically, Dr. Loube demonstrated that 181 out of the 194 wire centers at issue had at least one populated census block that was not served by a cable provider. OCA St. 1-S, Exh. RL-2. Dr. Loube further explained the importance of this result:

> The significance of the results is that the claim that cable service is available to all Verizon's customers cannot be supported. That claim is particularly important for the two wire centers where there is more than 100 census blocks without service.

OCA St. 1-S at 10. See also, CWA-IBEW M.B. at 14-15.

With regard to wireless coverage, the Company points to wireless data provided by Mosaik Solutions data. Verizon M.B. at 10. The Company claims that an FCC map based on this data shows widespread coverage in Pennsylvania. Verizon M.B. at 10. The OCA's witness explained, however, that the FCC cautioned against an overly broad reading of the data provided by Mosaik Solutions. OCA witness Dr. Loube testified:

> With regard to wireless deployment, Mr. Vasington relies on information in the FCC's Sixteenth Wireless Competition Report. However, he fails to mention that the deployment information in that report is based on data from Mosaik Solutions and that the FCC states: "This [deployment] analysis likely overstates the coverage actually experienced by consumers, because Mosaik Solutions (Mosaik) reports advertised coverage as reported to it by many mobile wireless service providers, each of which uses a different definition or determination of coverage." In Pennsylvania with its numerous hills and mountains the different definitions of coverage could cause the information in the FCC report to miss the fact that many customers are without wireless service even though the report is generally accurate.

OCA St. 1 at 47-48 (Footnote omitted). In fact, wireless providers themselves do not guarantee coverage within homes that are in areas claimed to be have wireless coverage. For example, where AT&T shows coverage on its wireless service map, AT&T claims on its website that its coverage "should be sufficient for on-street, in-the-open and some in-building coverage."

CAUSE-PA M.B. at 10-11; CAUSE-PA St. 1 at 11-14. As CAUSE-PA witness Miller explained, "even if an individual has the service, and lives in an area with coverage, she or he will receive "sufficient" (not quality) service on the street, but not necessarily in their home." CAUSE-PA St. 1 at 12. Given the FCC's concern that the Mosaik Solutions data "likely overstates the coverage actually experienced by consumers," and the wireless providers own website information, it was imperative that the Company conduct field research within the selected wire centers to support its claim that wireless was available. Verizon did not, however, conduct any such field research. See, e.g., Tr. at 125-129; See also, CWA-IBEW M.B. at 10-15.

Verizon attempts to justify its selection of wire centers, and the fact that not everyone in each wire center will have competitive alternatives, by claiming that the existence of competition for some customers will bring competitive benefits to all customers. See, Verizon M.B. at 12, 23-24. Verizon provides a hypothetical example to support its argument. The Company argues that, in the market for computer "tablets" some customers favor iPads and would not purchase competing products from Microsoft, Amazon and Samsung. Verizon M.B. at 12. Verizon argues that those iPad customers still pay market prices due to the competition created by customers open to purchasing other brands. Verizon M.B. at 12. In this way, Verizon claims that it is not necessary to show that every single customer "could or would" switch to an alternative service. Verizon M.B. at 12.

The OCA submits that Verizon's analogy misses the point. First, in Verizon's analogy, all computer tablet purchasers "could" switch to an iPad or a competitor. That is far from the facts at hand, where some customers simply do not have access to competitive alternatives. Using the iPad example, it is not clear what Apple would charge a subset of

customers for an iPad if it was known that those customers did not have access to any other tablet from a competitor.

Furthermore, and perhaps more importantly, Verizon's claim is that the existence of competitive options for cable bundles and wireless packages benefits those customers that currently take or want basic telephone service presumably through providing price protection. The evidence of record, though, demonstrates a separation of these markets and the fact that cable bundles and wireless packages do not provide price restraint for basic local service. See, OCA St. 1 at 25-33; See also, CWA-IBEW St. 1 at 71-72. Going back to the iPad example, tablets can provide many applications, including calculators. It is highly unlikely that the competition that exists between Samsung and Apple for $500 tablets will have any impact on customers who want a $10 calculator. Likewise, there is no reason to believe that competition in the market for voice/video/internet packages will have any meaningful impact on the market for basic telephone service.

c. The Commission Should Consider Other "Relevant Information" Concerning The Market For Basic Service

As the OCA detailed in its Main Brief, under Section 3016(a), the Commission "shall consider all relevant information submitted to it" in making its determination. See, OCA M.B. at 27. The OCA submits that the Commission must review the competitiveness of the relevant market in making its determination. Notably absent from the Company's Main Brief is an analysis of the product markets or an analysis of whether the markets are sufficiently competitive to provide pricing discipline to basic service. See, e.g., Verizon M.B. at 18, 22. As the OCA detailed in its Main Brief, Verizon cannot make such a showing because the evidence demonstrates that the market is not sufficiently competitive to restrain the prices of basic local service and Verizon has, in fact, increased prices for this product throughout the country when given the freedom to do so. See, OCA M.B. at 27-35.

Rather than rebut these facts, Verizon attempts to circumvent the need for such a demonstration by arguing that the OCA, CWA-IBEW, and CAUSE-PA have set up an unreasonable test for "like or substitute" alternatives. Verizon M.B. at 13-14. Verizon claims that opposing parties argue that to be "like or substitute" a service must be "exactly like" Verizon's basic service. Verizon M.B. at 14. As discussed above, no party has made such a claim. What the parties have argued is that a like or substitute service must provide the same safety, adequacy of service, and reliability as basic local service and serve to constrain the pricing of each other.

The fact remains that the market for basic service is separate from the market for the bundled and wireless service that Verizon relies upon to demonstrate that competitive alternatives are available. The evidence here shows that there are no "competitive alternatives"

for basic telephone service that will constrain price increases. In fact, the evidence from other states that have deregulated residential basic service rates shows that Verizon has consistently and substantially increased the price of basic residential service above competitive levels. OCA St. 1 at 33-42.

Verizon simply points to changes in the communications industry to support its claims rather than engage in a competitive market analysis. Verizon simply argues that since it is losing lines and customers are porting numbers, there must be competition and it can be provided competitive in the selected wire centers. Verizon M.B. at 16. Customers changing the type of service they select, however, does not show that there is effective competition for basic service.

Initially, in presenting its claims of line loss, Verizon ignores that many customers who change types of service remain with Verizon or one of its affiliates. In such as case, the loss of a wireline customer cannot be considered a loss to a competitor because the customer is still a Verizon customer. OCA St. 1 at 45. More fundamentally, Verizon has not shown that the information is relevant to the question at hand. As OCA witness Dr. Loube testified in response to Verizon:

> **Q. DID MR. VASINGTON PROVIDE ANY EVIDENCE THAT THE CHANGES IN THE TELECOMMUICATIONS MARKETS WERE CAUSED BY INCREASES IN THE INCUMBENT'S PRICE ABOVE COMPETITIVE LEVELS?**
>
> A. No. First, he denies that Verizon's price is above competitive levels, and therefore, he cannot use his definition to judge whether another service is a substitute. Second, even if the price of basic service is not above its competitive level, he could have attempted to relate the price changes in basic local exchange service to changes in the quantity demanded of the services he

> considers to be substitutes for basic local exchange service. If the changes in the price of basic local service are significantly associated with changes in the demand for the alternative services, then Mr. Vasington could have established a linkage between the two services. However, he never conducted such an analysis and therefore, Verizon has not borne its burden of proof to show that there are substitutes.

OCA St. 1-S at 5.

Verizon has simply shown that, on a broad basis, customers who desire bundles with internet and video services, and wireless service with data and various smart phone applications, have moved into the market for those services[2]. As Dr. Loube explained:

> Verizon has shown that a lot of customers have changed their pattern of consumption due to availability of wireless services and a variety of bundle offerings by Verizon and by alternative providers. These changes are due to changes in taste and wants associated with the desire for mobility, the desire to use a variety of applications available on new cell phones and the desire to purchase video and data transmission services.

OCA St. 1-S at 6. Verizon cites this testimony in support of its claim that customers are "substituting" for basic service. Verizon M.B. at 13. Verizon misses the point of Dr. Loube's testimony entirely and did not include Dr. Loube's next answer which explained the significance of his statement. As Dr. Loube went on to explain, customers are leaving for ***different*** products that are not substitutes, but rather are substantially different offerings. Dr. Loube went on to explain why statistics on customer migration based on changes in the package of services desired by many customers does not address the fundamental question:

> **Q. WHY IS IT IMPORTANT TO DRAW THE DISTINCTION BETWEEN CHANGES IN CONSUMPTION PATTERNS BASED ON PRICE AND CHANGES IN TASTE AND WANTS?**

[2] It is important to also recognize that Verizon has the freedom to, and does, offer bundles similar to its competitors and Verizon's bundles are not subject to regulation. OCA St. 1 at 45.

> A. It is important to draw that distinction because the purpose of determining whether there are substitutes is to determine whether alternative services provide "competitive discipline," where competitive discipline means that the existence of the alternative services prevents Verizon from increasing prices to levels that exceed competitive price levels.

OCA St. 1-S at 6 (Footnote omitted).

Of critical importance to the current inquiry, Dr. Loube testified that the market for basic service has not disciplined by changes in consumption patterns to bundled and wireless service in any other state that the has granted Verizon competitive classification. OCA St. 1-S at 6. Dr. Loube concluded as follows:

> **Q. HAS THE SHIFT IN CONSUMPTION PATTERNS PREVENTED VERIZON FROM INCREASING ITS PRICES ABOVE COMPETITIVE LEVELS IN OTHER STATES?**
>
> A. No. Verizon has been allowed to increase its price of basic local exchange service in at least six states. In every state, Verizon has increased the price of basic local service by more than five percent. In five of the six states, when the total price of basic local service includes the SLC and the ARC, the rate is above $21.09 cost-based competitive price level. In every state, the rate is above Mr. Vasington's $10.00 market-based competitive price level. **The existence of the alternative services have not provided any competitive discipline that restrains Verizon's ability to increase price above competitive levels and thus, the alternative services cannot be considered substitutes for basic local exchange service.**

OCA St. 1-S at 6-7 (Footnote omitted)(Emphasis added).

As Dr. Loube explained, the market for bundled cable services and wireless, data-driven products does not provide competitive discipline for basic service because the product offerings are not substitutes. If those products were, in fact, substitutes, price changes in one market would impact consumer choices in the other. As the record demonstrates, however, there

is no linkage between the two because consumers are not considering the services to be substitutes for each other.

The evidence in this proceeding demonstrates that the basic telephone market is not sufficiently competitive to restrain prices for basic residential telephone service. As explained by OCA witness Loube, the services offered in the market are not "substitutes" for basic telephone service if they do not restrict Verizon's ability to raise prices for basic service. OCA St. 1 at 6-10, 15-17; OCA St. 1S at 5-8. The OCA submits that Verizon's claim that that because Verizon is losing lines there must be completion must be rejected.

B. Verizon's Petition For Waiver Of Certain Regulations

Verizon requests a waiver of certain regulations until December 2025 in any wire center that the Commission deems competitive. Verizon seeks a waiver of the Commission's regulations at Title 52, Chapter 63, Subchapters B (Services and Facilities); C (Accounts and Records); G (Public Coin Services); E (Quality of Service); and F (Extended Area Service); and the entirety of Chapter 64 (Standards and Billing Practices for Residential Telephone Service). The Company argues that these regulations are outdated and no longer valued by consumers. Verizon M.B. at 29. The OCA submits that Verizon has failed to carry its affirmative burden of proving that these regulations should be waived. The OCA further submits that this proceeding is an inappropriate forum to decide the issue of Chapter 63 and Chapter 64 waivers, particularly given the accelerated timeline for this proceeding.

1. Legal Standard

As stated in its M.B., the OCA submits that the standard for determining whether a regulatory waiver request should be granted is whether compliance with the regulations is causing an unreasonable hardship to a person or utility or whether an exceptional case has been shown. Moreover any waiver should be temporary in nature. OCA M.B. at 37-38; §64.212 (a) and (b) and 52 Pa. Code §63.53 (e).

Nowhere in its testimony or M.B. does Verizon mention the legal standards established in Chapter 63 (E) and Chapter 64, or present any evidence that Verizon suffers from an unreasonable hardship in complying with these regulations. Verizon only argues that the regulations are outdated and not reflective of a competitive marketplace. Verizon M.B. at 27. As CWA-IBEW stated in their Main Brief:

> There is no mention anywhere in the record of unreasonable compliance costs, impracticality of obtaining relevant data, unreasonableness of keeping in place existing procedures that comply with these requirements, or any other indication that Verizon would suffer any type of hardship (let alone an "unreasonable" one) if it were required to continue complying with regulations that it has been required to meet for many years.

CWA-IBEW M.B. at 37. Verizon's arguments do not meet the legal standard for a waiver of the regulations. If regulations need to be updated, the proper procedure is to undertake a rulemaking that would provide an opportunity for all impacted stakeholders to comment.

Verizon argues that this procedure could take too long and that the Commission should waive the regulations now to provide "immediate competitive benefit" from a 'lighter regulatory touch'. Verizon M.B. at 26. There is no evidence of any benefit from waiving these regulations. In fact, evidence raises significant issues of safety, reliability and consumer

protections if waivers are granted. As CWA-IBEW witness Mr. Dvorak, who leads Verizon North employees in the Erie area, testified regarding Chapter 63 waivers:

> I am not sure if Verizon is meeting all of these requirements today, given the poor state of the network in my part of the state. But I have no doubt that if Verizon did not have to meet these requirements, it would jeopardize the safety of myself and every other Verizon employee or contractor who has to work on Verizon's network; not to mention the general public that might come into contact with these lines.

CWA-IBEW St. 2 at 7-8 (emphasis added). CAUSE-PA witness Miller testified regarding Chapter 64 waivers that the regulations remain relevant and critical to the delivery of reliable and affordable telecommunications service in Pennsylvania. CAUSE-PA St. 1 at 16-17.

The OCA submits, therefore, that Verizon's request for a waiver of any regulations should be denied. Verizon has failed to demonstrate that it would suffer an "unreasonable hardship" from continued compliance with Chapter 63 Subchapter E and Chapter 64, or that this is an exceptional case. As the evidence demonstrates such a waiver would raise significant concerns regarding safety, reliability, and consumer protections.

2. Waiver Request in General

As stated in its M.B., the OCA does not oppose efforts to review the Commission's regulations periodically in order to ensure that consumers are able to receive service consistent with present conditions and acknowledges that over time some regulations may need to be updated. OCA M.B. at 39. As the OCA argued, however, such reviews should only occur at the proper time and in a proceeding that provides notice to all affected parties and sufficient time to evaluate the impacts of the proposed changes on consumers. OCA M.B. at 39-40.

As the OCA argued in its M.B., Verizon's selection of this fast-track proceeding as a vehicle to achieve regulatory changes through major waivers of the Commission's regulations must be rejected. OCA M.B. at 40. Verizon's decision to piggyback a substantial regulatory waiver request onto a competitive classification application with an exceptionally accelerated time frame is not only unnecessary, but hinders the development of sufficient record evidence to analyze both the underlying competitiveness claims and the appropriateness of the regulatory waiver request.

Verizon argues in its Main Brief that these regulations set "standards that's customers do not expect or demand." Verizon M.B. at 28. Absent from the record or Verizon's brief is any evidence to support these claims. Verizon cites no studies or consumer feedback to support its claim. On the contrary, the OCA submits that significant and substantial record evidence suggests that consumers continue to rely on these protections. As CAUSE-PA witness Mitch Miller testified:

> The regulations contained in these chapters remain relevant – and critical – to the delivery of reliable and affordable telecommunication services in Pennsylvania, and for the continued protection of consumers who rely on the Commission to ensure the continued availability of this most essential and basic utility service.

CAUSE-PA St. No. 1 at 16.

OCA witness Dr. Loube also addressed the negative impact that the removal of Chapter 63 and Chapter 64 regulations will have on consumers and workers. As Dr. Loube testified:

> The removal of the regulations will undermine the ability of the Division of Consumer Services to investigate consumer complaints and thus reduce the Division's ability to protect consumers. These regulations establish the standards for determining whether

> Verizon's service is safe, adequate and reliable. Without these regulations, the Division will not have any guidelines or standards that it can use to determine if Verizon's services are no longer safe, adequate and reliable.

OCA St. 1 at 51.

In its M.B. Verizon asserts that Section 1501 provides sufficient protection to consumers on its own even if Chapters 63 and 64 are waived. Verizon M.B. at 28. As the OCA and CAUSE-PA argued in their M.B.s, Verizon frames its argument in such a way that it suggests Section 1501 is meant as a replacement for Chapters 63 and 64 instead of these Chapters being the complementary enforcement regulations that make Section 1501 workable. OCA M.B. at 42; CAUSE-PA M.B. at 30-31. Prior to the implementation of Chapters 63 and 64, the Commission had the authority to regulate telecommunication services under section 1501, but lacked the necessary rules to do so effectively. See, CAUSE-PA St. No 1 at 17. The standards for service provided by Section 1501 were enforced through difficult and lengthy investigations until Chapters 63 and 64 were adopted by the Commission and implemented by Bureau of Consumer Services (BCS). See, CAUSE-PA St. No 1 at 17.

Verizon also argues in its M.B. that because the number of "justified" complaints has gone down that Chapters 63 and 64 are no longer necessary. Verizon M.B. at 30. The OCA, however, disagrees with this assertion. As stated in the OCA's M.B., CAUSE-PA expert witness Mitch Miller testified that there are many reasons why complaint levels are down and the success of Chapters 63 and 64 are key contributors. As he testified:

> A principal reason that the Chapter 63 and 64 standards were enacted was to address the service issues that plague the least profitable customer class -mainly, economically vulnerable populations who cannot afford to pay for premium services. In support of its assertion that it will police its own quality standards, Verizon only notes evidence of the downward trend in "justified"

> complaints. But the Commission has always encouraged parties to a dispute to settle, rather than diminish Commission resources to fully investigate and try each case. Indeed, the downward trends in complaints in 2013 and 2014 appears to be a continuation of a trend which began in 2009 as a result of changes in BCS intake practices.

CAUSE-PA St. No. 1 at 18. Verizon's attempt to use the success of the Commission's Chapters 63 and 64 regulations as proof of their obsolescence is not only illogical but counterfactual.

The OCA submits that Verizon's request for waiver of the regulations and sole reliance on to ensure safe, adequate, and reliable service must be denied. Section 1501 without the complementary regulations does not provide an efficient and effective way of ensuring that essential consumer protections are maintained. OCA M.B. at 42.

3. Specific Chapter 63 Regulations

In its Petition, Verizon requests a waiver of five subparts of Chapter 63, Subchapters B (Services and Facilities); C (Accounts and Records); G (Public Coin Services); E (Quality of Service); and F (Extended Area Service). As argued in its M.B., the OCA submits that Verizon's inexact approach to the waiver of whole subparts in Chapter 63 must be rejected. OCA M.B. at 44. Verizon is quick to point out that it has requested waivers of certain subparts in Chapter 63 which are not only unaffected by any alleged competition, but refer to services that Verizon no longer provides. Verizon M.B. at 29. The Company fails to address, however, how these rules pose an undue hardship on Verizon if Verizon does not engage in the activity that these regulations cover. Of more significance, however, is the Company's failure to address how critical consumer and safety protections will continue to be provided in the absence of these regulations. As CWA-IBEW pointed out in its testimony and brief, many of these regulations were designed to protect utility workers and the public. CWA-IBEW M.B. at 39-30.

As argued in the OCA's M.B., Chapter 63 (E) (Quality of Service) references standards of telephone service including important regulations that still provide significant protections to consumers. OCA M.B. at 44-45. One of those critical requirements is that Verizon must restore service to customers after an interruption in service. Verizon fails to provide assurances or guidelines regarding how it will provide similar levels of service. As CWA-IBEW witness Gardler testified regarding Subchapter E:

> By my reading, that regulation requires Verizon to respond to customer trouble reports in a timely manner. Some customer request for repair are pushed out for days and sometimes over a week.

CWA-IBEW St. No. 3 at 6. Verizon has failed to show how compliance with these regulations presents an unreasonable hardship or how service quality will be maintained if there is a waiver.

Even Verizon acknowledges that significant consumer protections would be affected if provisions of Chapter 63 are waived. Verizon claims that "arguably" the protections offered in 63 (B) and (E) are contained within Section 1501. Verizon St. 1 at 40. As addressed above, Chapters 63 and 64 regulations allow the Commission to implement the consumer protections guaranteed in Section 1501.

4. Specific Chapter 64 Regulations

As stated in the OCA's M.B, the Commission's regulations make clear the critical importance of the protections offered by Chapter 64:

> The purpose of [Chapter 64] 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 and to assure adequate provision of residential telephone service; to restrict unreasonable suspension or termination of or refusal to provide

> service; and to provide functional alternatives to suspension, termination or refusal to provide service.

52 Pa. Code§ 64.1 (statement of purpose and policy).

Verizon characterizes these critical protections as, "a counterproductive waste of Commission and company resources." Verizon M.B. at 31. The OCA strongly disagrees.[3] Chapter 64 provides numerous critical protections for consumers, and particularly low income individuals, many of whom rely heavily on these protections in order to ensure that they are able to maintain access to basic telecommunication services. See, CAUSE-PA St. No. 1 at 19.

The OCA submits that Chapter 64 provides consumers with the protections they need to establish and maintain essential telecommunications services. Verizon's request that the entirety of Chapter 64 be waived would expose consumers to significant harm and should be rejected.

C. Related Issues Raised by Other Parties

1. Originating Access Rates and Section 3016(f)

Intervenor AT&T asks the Commission to grant AT&T economic relief in the form of a Commission order directing Verizon to reduce its intrastate originating access rates to parity with Verizon's interstate rates. AT&T M.B. at 1-17. AT&T asserts that Verizon's originating access charges provide a subsidy to Verizon's local service rates. Id. at 5-11. According to AT&T, grant of Verizon's Petition would result in an immediate violation by Verizon of Section 3016(f)(1), absent such access charge reductions. Id. at 1-4, 11; 66 Pa.C.S. § 3016(f)(1).

[3] One pages 29 and 31 of its M.B., Verizon incorrectly states that CWA-IBEW was the only party who argues in favor of retaining Chapter 63 and that CAUSE-PA was the only party in favor of retaining Chapter 64. To be clear, the OCA offered testimony on the importance of retaining both Chapter 63 and 64 in arguing against the waiver request. See, OCA St. No. 1 at 51.

The Commission should deny AT&T's request for relief. AT&T's request is conditioned on the Commission's grant of Verizon's Petition, which the OCA opposes. If, arguendo, the Commission does determine that Verizon's protected local calling services could be classified as competitive in all or some of the wire centers covered by Verizon's Petition, the Commission should still deny AT&T's request. OCA M.B. at 48-51.

As the OCA set forth in its Main Brief, the relief requested by AT&T, a reduction to Verizon's existing rates for protected originating access services charged throughout Verizon's service territories, is not within the scope of Verizon's Petition. AT&T's intervention in Verizon's Petition should not be treated as the equivalent of an appropriately filed formal complaint against existing rates. OCA M.B. at 49; 66 Pa.C.S. §§ 701, 1301. Indeed, AT&T has filed formal complaints against the existing intrastate access charges of Verizon, consistent with Sections 701 and 1301, pending before the Commission at Docket Nos. C-20027195 et al. OCA M.B. at 49.

AT&T states that this proceeding is different from its pending complaints against Verizon's access charges, based on Verizon's obligation to comply with Section 3016(f)(1). AT&T M.B. at 1-4. AT&T argues with certainty that Verizon's originating access rates will subsidize Verizon's charges for competitively classified local calling service, if the Commission grants Verizon's Petition pursuant to Section 3016(a). Based on this premise, AT&T claims that Verizon bears the burden of affirmatively proving that it will not be in violation of Section 3016(f) and the Commission must order the originating access reductions.

The OCA disagrees with AT&T's interpretation of Section 3016(a) and (f)(1). OCA M.B. at 48-49. Section 3016 relates to competitive services. Subparts (a), (b) and (c) set forth the process for (a) classification or (b) declaration of noncompetitive services as

competitive, or (c) the reverse process of reclassification of services from competitive to noncompetitive. 66 Pa.C.S. § 3016(a), (b), (c). Section 3016(a) sets forth a specific, petition driven and time limited process directed at providing the Commission with adequate record evidence to determine whether and where, based on Verizon's Petition, certain Verizon protected services could be classified as competitive. OCA M.B. at 48-49; 66 Pa.C.S. § 3016(a). Section 3016(a) does not address nor require the Commission to engage in rate setting. In contrast, the General Assembly recognized that in the event the Commission grants a petition requesting reclassification of services from competitive back to noncompetitive, then the Commission must engage in rate setting. See 66 Pa.C.S. § 3016(c). Section 3016(c)(4) directs the Commission to set rates pursuant to Section 1301. 66 Pa.C.S. § 3016(c)(5), citing 66 Pa.C.S. § 1301.

The OCA submits that the Section 3016(a) process does not include within its scope the fixing of new, just and reasonable rates for protected services, in this case Verizon's originating access charges. Changes to Verizon's access charges are within the scope of Chapter 30, Verizon's Chapter 30 Plans and PCO formulas, and Section 1301. OCA M.B. at 49; see 66 Pa.C.S. §§ 1301, 3015(a)(3), 3019(h). A Commission ordered reduction to Verizon's access charges may trigger the revenue neutrality provisions of Section 3017(a). OCA M.B. 48, 50-51; 66 Pa.C.S. § 3017(a). There is no credible calculation of the impact of such a revenue adjustment on Verizon's protected local service customers in the evidentiary record. OCA M.B. at 50-51. AT&T's argument that rate setting is an implicit part of the Commission's determination under Section 3016(a) is without merit.

Nor does the fact that Section 3016(a) and (f) are subparts of the same statute support AT&T's position that the Commission must now resolve and remediate against any suspected future violation by Verizon of Section 3016(f)(1). Section 3016(d), (e), and (f) each

relate to what an incumbent local exchange carrier (ILEC) may and may not do regarding pricing flexibility for competitive services. 66 Pa.C.S. § 3016(d), (e), (f). Section 3016(f)(1) states that an ILEC "shall be prohibited from using revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize competitive services." 66 Pa.C.S. § 3016(f)(1). This Section 3016(f)(1) prohibition applies to Verizon's competitive services, regardless of how the services came to classified as competitive, whether "declared competitive" by Verizon or "determined competitive" by the Commission order. See, 66 Pa.C.S. § 3016(a), (b). Indeed, Verizon already offers local calling services on a competitive basis, to businesses with total annual billed revenues over $10,000 and when included as part of a bundle or package. See Verizon Petition, ¶ 4. Verizon's Chapter 30 Plans state that challenges to Verizon's compliance with Section 3016(f) should be brought as a formal complaint. OCA M.B. at 49; OCA St. 1-S at 4. The Commission should reject AT&T's untenable interpretation of Section 3016.

Moreover, even if Verizon's future compliance with Section 3016(f)(1) is a consideration in this proceeding, AT&T has failed to meet the burden of proving the existence of a subsidy from Verizon's originating interstate access rates to those Verizon local calling services that are the subject of Verizon's Petition. Id. at 49-51; see 66 Pa.C.S. § 332(a). On this one limited topic, the OCA is in agreement with Verizon that AT&T bears the burden of proof and that AT&T has failed to provide support for its position. See Verizon M.B. at 35-38.

As explained in the OCA Main Brief, OCA witness Dr. Loube tested AT&T's claim that Verizon's originating access rates provide a subsidy to Verizon's local calling services against an industry-accepted definition of subsidy, "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." OCA M.B. at 49-50; Tr. 113. As noted by Dr. Loube, AT&T did not produce a cost study. Id. at

49, citing OCA St. 1 at 5. Nor did AT&T produce any evidence that Verizon's originating access charges are above their stand-alone cost of service or that Verizon's basic local exchange service rates are below the incremental cost of those services. OCA M.B. at 50, citing OCA St. 1-R at 6-7. Dr. Loube estimated the incremental cost of Verizon's basic local exchange service as $21.09 through a series of steps. OCA M.B. at 31; see, OCA St. 1 at 25-32. Dr. Loube compared his $21.09 estimate of the total incremental cost to the sum of Verizon's rates for unlimited service, $22.28 to $23.90 in some of the Philadelphia and Pittsburgh wire centers covered by Verizon's Petition, plus the Subscriber Line Charge (SLC) and Access Recovery Charge (ARC). Id. at 32. Based on this analysis, Dr. Loube concluded "Verizon's current rates are above the total incremental cost of service …." Id.

AT&T criticized Dr. Loube's incremental cost analysis, but AT&T did not provide any affirmative, cost based proof that Verizon's originating access charges provide a subsidy to Verizon's basic local service in the wire centers covered by Verizon's Petition. For the first time in this proceeding, through AT&T Attachment 1 to its Main Brief, AT&T attempts to calculate a different incremental cost to try to now show a subsidy in the briefing stage of this case. See, AT&T M.B. at 9, AT&T Att. 1. The OCA submits that AT&T Attachment 1 is untimely, unfairly presented, not supported by record evidence, and should be accorded no evidentiary weight.[4]

Even if the Commission should consider AT&T Attachment 1, the OCA submits that it is fatally flawed. AT&T Attachment 1 appears to modify Dr. Loube's measure of Verizon's incremental cost of basic local exchange service by changing the allocation of joint

[4] AT&T Attachment 1 is unverified and contains no citations to the record. To the extent that AT&T Attachment 1 is presented in response to Dr. Loube's direct testimony in OCA Statement 1, then AT&T Attachment 1 is untimely and unfairly presented. The OCA has been denied the opportunity to respond to AT&T Attachment 1 through testimony and to cross-examine the unnamed preparer of AT&T Attachment 1.

and common costs, applying "FCC's 75/24 Separation Rules." See AT&T Att. 1. Dr. Loube disputed AT&T's position that the Commission must follow the FCC's rules for allocating joint and common costs between the federal and state jurisdiction, when the Commission engages in the setting of intrastate rates. OCA St. 1-S at 14. More importantly, Dr. Loube calculated Verizon's incremental cost of basic local exchange service in his direct testimony to identify the competitive price for basic local exchange service. OCA St. 1 at 25. Dr. Loube's measure is not intended to set rates, but rather to test Verizon's claims about pricing and competition. Dr. Loube allocated the joint and common costs of the loop based upon the relative usage of the multiple functions that Verizon is capable of provisioning over the same loop, including analog voice service and data service, as part of Verizon's modern network. OCA St. 1 at 29-31; OCA St. 1-S at 13-15. The OCA submits that the Commission should not rely upon AT&T Attachment 1, where OCA witness Dr. Loube has already rebutted the elements of AT&T's position.

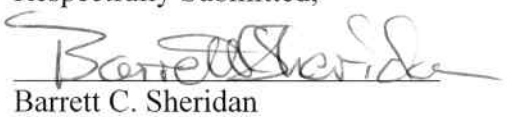
AT&T also cites to past rate setting policies of other jurisdictions and selected statements by the Commission or Administrative Law Judges to support AT&T position that Verizon's originating access rates are unreasonable and should be reduced to parity with Verizon's interstate originating access charges. AT&T M.B. at 5-7; see AT& St. 1.1, Att. A. The Commission should be guided by its August 2012 decision, where the Commission declined to rush ahead with reform of originating access in Pennsylvania, stating "originating access charges are not subject to the same abuses as terminating access charges, and do not present any urgent public policy issues…." Investigation Regarding Intrastate Access Charges and IntraLATA Toll Charges of Rural Incumbent Local Exchange Carriers and Universal Service Fund, Docket No. I-00040105, Opinion and Order at 59 (Aug. 9, 2012); see also Verizon M.B. at

38, Tr. at 68-69. AT&T witness Nurse confirmed that Verizon's originating access charges are not the source of industry arbitrage concerns such as call pumping or phantom traffic. OCA M.B. at 50; TR. at 52-53. The OCA submits that if the Commission addresses whether and how to reform Verizon's intrastate originating access charges, the Commission should do so in a separate proceeding and based on a more developed record, to assure that the revised rates are just and reasonable and consistent with sound public policy. Id. at 48-51.

III. CONCLUSION

For the reasons detailed in this Reply Brief and the OCA's Main Brief, the OCA submits that Verizon has failed to demonstrate that the 194 wire centers in the Philadelphia, Erie, Scranton-Wilkes Barre, Harrisburg, Pittsburgh, Allentown and York service regions should be classified as competitive. In addition, Verizon has failed to show that the waivers of Chapter 63, Subchapters B (Services and Facilities); C (Accounts and Records); G (Public Coin Services); E (Quality of Service); and F (Extended Area Service); and the entirety of Chapter 64 (Standards and Billing Practices for Residential Telephone Service) are justified. As such, the OCA submits that Verizon's Petition should be denied.

Respectfully Submitted,



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