

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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September 6, 2018

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

Re: The Tax Cuts and Jobs Act: Tax Reform Bill
Signed Into Law on December 22, 2017
Docket No. M-2018-2641242

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink that reads "Barrett C. Sheridan".

Barrett C. Sheridan
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Enclosures:

cc: Honorable Steven Haas
Erin Laudenslager, Bureau of Technical Utility Services
Colin W. Scott, Law Bureau
Certificate of Service
*258434

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The Tax Cuts and Jobs Act: Tax Reform Bill : Docket No. M-2018-2641242
Signed Into Law on December 22, 2017 :
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: :
: :

ANSWER OF THE
OFFICE OF CONSUMER ADVOCATE
TO THE PETITION TO RESCIND AND
DISCONTINUE THE TEMPORARY STAY

I. ANSWER

The Office of Consumer Advocate (OCA) files this Answer in reply to the Petition filed on August 24, 2018 by Consolidated Communications of Pennsylvania Company, Windstream Buffalo Valley, Inc., Windstream Conestoga, Inc., Windstream D&E, Inc., Windstream Pennsylvania, LLC, Bentleyville Communications Corporation, Hickory Telephone Company, Lackawaxen Telecommunications Services, Inc., Marianna & Scenery Hill Telephone Company, and The North-Eastern Pennsylvania Telephone Company (collectively, the RLECs) and certain other members of the Pennsylvania Telephone Association (the PTA).¹ The RLECs and the PTA jointly request that the Commission rescind the August 9, 2018 Secretarial Letter issued in this proceeding and lift the temporary stay imposed by that Secretarial Letter. Whether the Petitioner’s request for relief is granted or denied, the OCA’s interest remains the same. The OCA’s goal is to ensure that non-competitive service customers of incumbent local exchange carriers (ILECs)

¹ Footnote 1 of the Petition includes a list of the specific PTA members who join in the Petition.

benefit from any tax savings experienced by any of the named RLECs and other ILECs which result from the implementation of the Tax Cuts and Jobs Act (TCJA).²

The OCA filed the formal complaints against the early May 2018 Price Stability Index (PSI) filings of the named RLECs to preserve this goal,³ in advance of the PTA's May 25, 2018 comments and data responses to the March 2, 2018 Secretarial Letter in this proceeding. In the course of the OCA formal complaint proceedings, the OCA and RLECs have cooperated to facilitate discovery and moderate the impact of the early phase of formal litigation.

The OCA acknowledges that this approach has left other ILECs – whether they have rates set under a Price Stability Mechanism (PSM) or Simplified Ratemaking Plan (SRP) or the four without a Chapter 30 Plan⁴ – less encumbered by formal litigation. Prior to the issuance of the August 9 Secretarial Letter and temporary stay, the OCA envisioned that examination of TCJA related tax savings and how to pass that benefit on to the non-competitive service customers of these other ILECs would still proceed. For example, several ILECs stated in the PTA's May 25, 2018 replies that their 2017 federal tax returns would not be final until October 2017.⁵

The OCA respectfully defers to the Commission as to the best way to proceed with administrative efficiency to identify those ILECs with measurable tax savings resulting from the TCJA, from January 1, 2018 forward, and resolve how to reflect those savings for the benefit of

² See, OCA Comments filed March 26, 2018.

³ See, OCA v. Consolidated Communications of Pennsylvania Company, Docket No. C-2018-3001863; OCA v. Windstream Buffalo Valley, Inc., Docket No. C-2018-3001865; OCA v. Windstream Conestoga, Inc., Docket No. C-2018-3001864; OCA v. Windstream D&E, Inc., Docket No. C-2018-3001870; OCA v. Windstream Pennsylvania, LLC, Docket No. C-2018-3001871; OCA v. Bentleyville Communications Corporation, Docket No. C-2018-3001916; OCA v. Hickory Telephone Company, Docket No. C-2018-3001917; OCA v. Lackawaxen Telecommunications Services, Inc., Docket No. C-2018-3001913; OCA v. Marianna & Scenery Hill Telephone Company, Docket No. C-2018-3001912; and OCA v. The North-Eastern Pennsylvania Telephone Company, Docket No. C-2018-3001915.

⁴ See, OCA Comments at 1-2, 10-13.

⁵ See, PTA Comments, Data Replies of Citizens Telephone Company of Kecksburg, Ironton Telephone Company, The North-Eastern Pennsylvania Telephone Company, Palmerton Telephone Company, and others.

Pennsylvania consumers, subject to certain conditions. The OCA submits that the OCA's ability to engage in discovery and obtain verified answers should continue to apply, even if these questions of tax savings and ratemaking recognition for all ILECs are handled in this proceeding. With telecommunications companies and the Chapter 30 alternative ratemaking plans, the outcome will depend in part on the particular facts of each utility. The OCA has worked to develop evidence and should be permitted to present this evidence and its expert testimony or affidavit to assist in the Commission's consideration. The identification of tax savings and recognition may raise common questions of law and interpretation of prior Commission orders, in light of these facts. If the Commission determines to proceed, in this docket, further comments based upon the additional information presented may be necessary.

II. CONCLUSION

WHEREFORE, the Office of Consumer Advocate respectfully supports a Commission ruling on the pending Petition which will facilitate with administrative efficiency identification of whether and which incumbent local exchange carriers are experiencing tax savings as a result of the Tax Cuts and Jobs Act and how to ensure that the non-competitive service customers receive the benefit of those savings.

Respectfully Submitted,



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September 6, 2018

CERTIFICATE OF SERVICE

Re: The Tax Cuts and Jobs Act: Tax Reform : Docket No. M-2018-2641242
Bill Signed Into Law on December 22, 2017 :

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

Dated this 6th day of September 2018.

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