

COMMONWEALTH OF PENNSYLVANIA



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October 3, 2018

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

Re: Rulemaking to Comply with the Competitive
Classification of Telecommunication Retail
Services Under 66 Pa. C.S. § 3016 (a);
General Review of Regulations 52 Pa. Code,
Chapter 63 and Chapter 64
Docket No. L-2018-3001391

Dear Secretary Chiavetta:

Attached for electronic filing are the Comments of the Office of Consumer Advocate in the above-referenced proceeding. The undersigned certifies that this filing contains no averments or denials of fact subject to verification and penalties under 52 Pa. Code Section 1.36.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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

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CERTIFICATE OF SERVICE

Re: Rulemaking to Comply with the Competitive :
Classification of Telecommunication Retail : Docket No. L-2018-3001391
Services Under 66 Pa. C.S. § 3016 (a); General :
Review of Regulations 52 Pa. Code: Chapter 63 :
and Chapter 64 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, 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 3rd day of October 2018.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Comply with the Competitive	:	
Classification of Telecommunication Retail	:	Docket No. L-2018-3001391
Services Under 66 Pa. C.S. § 3016 (a);	:	
General Review of Regulations 52 Pa. Code:	:	
Chapter 63 and Chapter 64	:	

**COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE**

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Dated: October 3, 2018

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Comply with the Competitive
Classification of Telecommunication Retail Services
Under 66 Pa. C.S. § 3016(a); General Review of
Regulations 52 Pa. Code, Chapter 63 and Chapter 64

L-2018-3001391

**COMMENTS OF
THE OFFICE OF CONSUMER ADVOCATE**

I. INTRODUCTION

The Office of Consumer Advocate (OCA) appreciates the opportunity to comment on the Public Utility Commission’s (PUC or Commission) Advance Notice of Proposed Rulemaking (ANOPR) regarding Chapters 63 and 64 and potentially other regulations which apply to jurisdictional telecommunications public utilities. The competitive classification of basic local calling services pursuant to Section 3016(a) of the Public Utility Code provides an incumbent local exchange carrier (ILEC) with the freedom from rate regulation. However, the Commission retains jurisdiction over quality of service standards covering “safety, adequacy, reliability, and privacy of telecommunications services”¹ The Sections 1501 and 1501 statutory obligations to provide reasonable and adequate service and monthly bills still apply.² The OCA concurs with the Commission’s statement that “a finding that the market is competitive is not equivalent

¹ ANOPR at 7-8, citing 66 Pa. Code §§ 1501, 3016(e)(1), 3019(b)(2).

² 66 Pa.C.S. §§ 1501, 1509.

to nor does it require a complete deregulation of the service.”³ The OCA supports the Commission’s decision to issue this ANOPR as the first step in Commission’s review of certain Chapter 63 and 64 regulations.

The provisions of Chapter 63 address a wide variety of subjects, including the obligations of incumbent local exchange carriers (ILECs) and other telephone public utilities to maintain their networks and facilities to provide reasonably continuous, quality service. The OCA submits that the availability of alternative services in competitively classified wire centers does not diminish the need for clear standards regarding quality of service and network performance, subject to Commission oversight.

Chapter 64 sets forth regulations identifying the standards governing new service applications, credit checks, billing and collections, and service suspension and termination. These regulations establish both protections and mutual obligations between the local exchange carrier (LEC) and the residential consumer. In competitively classified areas, the Commission should preserve some Chapter 64 regulations, while other Chapter 64 regulations may be simplified to provide needed regulatory guidance. The proven availability of competitive alternatives may justify some flexibility for the LEC in establishing terms and conditions for service. However, the Commission should assure that the public goals of universal service, affordability, and continuity of service are preserved.

³ ANOPR at 7.

II. COMMENTS

A. Introduction

The OCA Comments focus primarily on those Chapter 63 and 64 regulations which the Commission conditionally waived in 2015 for Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North, collectively Verizon) in their competitively classified wire centers, and by extension to those competitive local exchange carriers (CLECs) offering services in the same competitively classified areas. The Commission listed these conditionally waived regulations in Appendices D (Chapter 63) and E (Chapter 64) of the Reclassification Order and Appendix A (Section 64.201(b)) to the Final Implementation Order.⁴

The OCA Comments make limited recommendations for amendment or rescission of particular Chapter 63 or 64 regulations to apply in areas where local residential and small business services, including installation, *et. al.* are still classified as protected, non-competitive services pursuant to Chapter 30. The OCA recommends modifications account for the modernization of networks, to some degree, and changes in how consumers interact with the LECs, such as the decline in importance of operator services.

The OCA will respond in Reply Comments to any proposals for rescission, amendment or other change to the body of regulations which continue to apply to all or some telephone

⁴ 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 Nos. P-2014-2446303 and P-2014-2446304 (March 4, 2015) (Reclassification Order); Tentative Implementation Opinion and Order (June 1, 2015) (Tentative Implementation Order); Order, (Sept. 11, 2015)(Reporting Order); and Final Implementation Opinion and Order (Sept. 11, 2015) (Final Implementation Order). The Commission corrected Appendix D in the errata portion of the Tentative Order.

public utilities.⁵ For example, the Commission granted conditional waivers to certain regulations in Subchapters B, C, E, F, and G of Chapter 63.⁶ “All remaining portions of Chapter 63 remain in full force” in the competitive wire centers “including Subchapter K. Competitive Safeguards, Subchapter L. Universal Service, and Subchapter M. Changing Local Service Providers.”⁷ Apart from comment regarding Chapters 63 and 64, the ANOPR notes that some unidentified carriers have obtained conditional waivers of Chapter 53 (Tariffs for Non-Common Carriers) provisions.⁸

The OCA notes that certain Chapter 63 regulations apply to all public utilities that provide telecommunications service, based on regulatory definition in Section 63.1.⁹ So many of the Chapter 63 regulatory requirements apply to incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), competitive access providers (CAPs) including those that use distributed antenna systems (DAS) as part of their network, and interexchange carriers (IXCs). The Commission should take care in making any revisions to Chapter 63 regulations, to assure that all public telecommunications utilities provide quality telecommunications service which is reasonably continuous and safely provisioned, for the benefit of the calling party, the called party, and the public in general.

⁵ ANOPR at 9, citing Reclassification Order at 79. For example, the OCA concurs with the Commission’s determination that Verizon and all other ILECs continue to have a Carrier-of-Last-Resort (COLR) obligation, which includes compliance with Section 63.20 (Line extensions). See, Reclassification Order at 80-81, 125 Ordering ¶ 6. (“[W]e 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.”); see also Final Implementation Order at 22-25.

⁶ ANOPR at 9, citing Reclassification Order at 79.

⁷ ANOPR at 9. For example, the OCA would oppose the expansion of this rulemaking to include reform or rescission of Chapter 63, Subchapter L (Pennsylvania Universal Service Fund).

⁸ ANOPR at 27-28, citing 52 Pa. Code, Chapter 53.

⁹ Section 63.1 defines “public utility” broadly as “A person or corporation owning or operating equipment or facilities in this Commonwealth for conveying or transmitting messages or communications over the telecommunications network for compensation. The term does not include either a person or corporation not otherwise a public utility” 52 Pa.Code § 63.1.

The OCA supports a new format for the presentation of those Chapter 63 and 64 regulations – whether preserved, amended, or condensed as standards – which apply in those geographic areas for which an ILEC has obtained competitive classification of protected residential and small business local services pursuant to Section 3016(a).¹⁰ This compilation of alternate regulations could be set forth in Chapters 63-C and 64-C, where “-C” signifies competitively classified. The ILECs and CLECs providing local service in competitively classified geographic areas will benefit from a clear and concise body of regulations. Consumers and the Commission, which retains jurisdiction to assure that every public utility providing telecommunications service provides quality service in conformance with Section 1501, will also benefit.

B. Preliminary Issues

a. Data Collection and Reports

As part of the Verizon Reclassification proceeding, the Commission imposed data collection and reporting requirements on Verizon to provide the Commission with information “to help assess the market in competitive areas, including the impact of the competitive classification on the affordability of basic service and the quality of service in those areas.” The Commission imposed these obligations on Verizon pursuant to the Commission’s Section 3019(f) power to impose requirements for the protection of consumers.¹¹ The Commission also intended to consider the information in this rulemaking.¹² The Commission directed Verizon to report residential account information, as well as informal complaint information, broken out between competitive and non-competitive areas. Vice Chairman Andrew Place has invited

¹⁰ See, ANOPR at 28-29.

¹¹ Reporting Order at 9, citing 66 Pa.C.S. § 3019(b)(3).

¹² ANOPR at 7.

parties to provide comments, based on this information, as well as any other similar data and information from other proceedings.¹³

The Reclassification Orders required Verizon to report certain Chapter 64 information regarding basic local service, broken out between competitive and non-competitive wire centers for calendar years 2015 and 2016.¹⁴ The Reclassification Order provided Verizon pricing flexibility as to basic service in competitive wire centers for only part of 2015.¹⁵ Verizon's obligation to file an annual Section 64.201 report for service in the non-competitive wire centers has continued, without modification.

The OCA notes that Verizon reported information to the Commission's Bureau of Technical Utilities Services (TUS) pursuant to the Reclassification Orders and the Commission's clarifying December 8, 2016 Secretarial Letter. The OCA assumes Verizon has filed the other Section 64.202 information for Verizon's non-competitive wire centers. However, these reports are proprietary and so limit the ability for public discussion and comment on the impact of the Reclassification Order on the affordability of service.

b. Verizon's Change in Prices for Basic Local Service in Competitive Areas

With regard to the pricing of protected residential and small business basic local services in competitive areas, Verizon PA and Verizon North have increased the monthly dial tone line and usage prices for these services to mirror the amount and timing of those increases to non-competitive protected local services implemented as part of the Companies' annual Price Change

¹³ Statement of Vice Chairman Andrew G. Place, Docket No. L-2018-3001391 (July 12, 2018).

¹⁴ Reporting Order at 9-11.

¹⁵ The March 4, 2015 Reclassification Order directed Verizon to provide written notice to customers in competitive wire centers of the regulatory change "within thirty days...." Reclassification Order at 135, Ordering ¶ 8.

Opportunity (PCO) filings.¹⁶ The availability of cable and wireless alternatives in the competitively classified wire centers has not deterred Verizon from increasing its basic service rates in those areas.

c. Modified Notice Requirements for Suspension and Termination of Residential Local Service in Competitive Wire Centers

In the Reclassification proceeding, the Commission offered Verizon the option of adopting a one-tier notification process for suspension and termination of residential service in competitive areas.¹⁷ As addressed below, the OCA opposes adoption of this one-tier notification process for suspension and termination.¹⁸ The Chapter 64 suspension and termination provisions apply to both payment situations and when the LEC requires access to the customer's premise for network maintenance. There is no indication that Verizon has adopted this one-tier notification process in the competitive wire centers.¹⁹ Thus, the Verizon data collection and reporting for 2015 and 2016 presumably does not provide a basis for comparison between customer experience under this one-tier notification approach and customer experience in Verizon's non-competitive areas subject to the full suspension and termination protections of Chapter 64.

¹⁶ Compare, Verizon Pennsylvania LLC 2018 Price Change Opportunity Filing, Docket No. R-2017-2632523, et al., Opinion and Order at 4 (Dec. 17, 2017)(Residential dial tone line increase to \$9.20, effective Jan. 1, 2018), and Verizon Pennsylvania LLC Price List Supplement No. 61, effective Jan. 1, 2017, Docket No. R-2017-2639478 (Dec. 22, 2017)(Increase residential dial tone line to \$9.20), available at <http://www.puc.pa.gov/pcdocs/1547847.pdf>

¹⁷ See, Final Implementation Order at 34-37, citing clarifications set forth in the Tentative Implementation Order.

¹⁸ In the ANOPR, the Commission invites comment "whether a similar process could work for all suspension/termination notifications." ANOPR at 25-27.

¹⁹ As a precondition, the Commission required Verizon to provide written notice to the Commission 30 days in advance of Verizon's adoption of this new process. See, Final Implementation Order at 35. The Commission's on-line docket for the Reclassification case does not list receipt of any such notice.

A second important consideration is Verizon’s ongoing transition of regulated voice service customers from copper to fiber, where fiber is available. This process impacts customers in many Verizon competitive wire centers. Chapter 64 suspension and termination regulations apply when a consumer is in arrears on payment and also when a residential customer does not allow the utility access to the premises for network maintenance and repair. Residential consumers, whether in competitive or non-competitive wire centers, should be protected by Chapter 64 provisions and receive adequate notice and time to take steps to prevent suspension of service or make an orderly transition to another source for voice service, where available. It is the Commonwealth’s policy to “[p]romote and encourage the provision of competitive services ... *without jeopardizing the provision of universal telecommunications service at affordable rates.*”²⁰

d. The Interplay of the Public Utility Code, Regulations and Product Guide in Protecting Consumers

In competitively classified areas, Verizon may set forth in a Product Guide the terms and conditions for basic local service and other competitive services. The Verizon Product Guide must conform with the Public Utility Code, such as Section 1501, and any preserved regulations. In the event of a conflict, the statutory and regulatory standards control and override the Product Guide language. For example, the Commission identified language in Verizon’s Product Guide in 2015 which was at odds with Verizon’s COLR obligation and Section 63.20 (Line extensions).²¹

²⁰ 66 Pa.C.S § 3011(8) (emphasis added).

²¹ Tentative Implementation Order at 7.

Because the consumer's main source of information regarding the terms and conditions of service in competitive areas will be set forth in the ILEC's Product Guide,²² the Commission should clearly articulate through regulations what standards apply in competitively classified areas so the Product Guide language can conform. For example, Section 1509 sets billing standards which are reflected in Chapter 64. In the absence of a statutory or regulatory requirement, the OCA submits that Verizon has flexibility to determine the scope of issues and particular terms and conditions for service.

As discussed below, in the Reclassification Order, the Commission granted Verizon waiver of certain Chapter 63 and 64 regulations, conditioned on the scope of information included in Verizon's Product Guide.²³ For example, the Commission granted waiver of certain Chapter 64 regulations "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."²⁴ The Reclassification Order waivers are temporary and will expire in March 2020 or the completion of this rulemaking, whichever is earlier. In the absence of a statutory or regulatory requirement, an ILEC may remove or revise any terms and conditions set forth in a Product Guide at any time.

The OCA submits that those Chapter 63 and 64 regulations revised to specifically apply in competitively classified areas should incorporate these conditions, such relate to an applicant's

²² Reclassification Order at 125, Ordering ¶¶ 7, 8. (Verizon's Product Guide terms and conditions are "the governing document for basic local exchange service customers" in competitive wire centers).

²³ See, Reclassification Order, Appendix D and E. The Commission's list of Chapter 63 and 64 regulations waived include certain asterisked regulations subject to such a conditional waiver. See also, Tentative Implementation Order at 12-13 (Correcting errata in the Reclassification Order appendices).

²⁴ See, Reclassification Order, Appendix E.

creditworthiness. Otherwise, the OCA submits the waiver condition will end without any replacement regulatory standard or directive.

C. Chapter 63 Regulations

The OCA recommends that the Commission preserve certain quality of service regulations, in their original form or with modifications as discussed below, to assure that all telephone service customers – including basic local service customers in competitive wire centers – receive voice service which is reasonably continuous and meets or exceeds voice grade service quality standards. The OCA does not oppose the rescission of certain regulations, as to all telephone public utilities and service areas, as set forth below.

1. Chapter 63, Subchapter B (Services and Facilities)

In the Reclassification Order, the Commission waived the following portions of Chapter 63, Subchapter B (Services and Facilities);

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
Section 63.24 (Service interruptions).²⁵

The OCA does not oppose a permanent waiver of Section 63.16 (Traffic measurements); Section 63.17 ([Reserved]); Section 63.18 (Multiparty line subscribers); and Section 63.19 (Interoffice lines) for all telecommunications carriers, in non-competitive or competitive areas.

The OCA will address individually the other five sections, Section 63.12 (Minimizing interference and inductive effects); Section 63.21 (Directories); Section 63.23 (Construction and

²⁵ Reclassification Order at 79.

maintenance safety standards); and 63.24 (Service interruptions) which the Commission has conditionally waived.

a. Section 63.12 (Minimizing interference and inductive effects)

The Commission granted Verizon a conditional waiver of Section 63.12 in competitively classified wire centers.²⁶ Section 63.12 states:

- (a) *Interference.* A public utility system shall be so constructed as to eliminate cross-talk and noise resulting from faulty construction, to the extent that these factors interfere with the satisfactory transmission of messages.
- (b) *Induction.* A public utility shall use reasonable means to minimize inductive effects between adjacent power and communication circuits.

The OCA submits that the Commission should retain this regulation and so end the conditional waiver granted to Verizon. Although Verizon has extended its fiber network in portions of the competitively classified areas, some Verizon customers are still served over the Verizon copper network which presents the potential for impaired quality of message transition, due to inadequate design and/or maintenance. Section 63.12(a) and (b) directs Verizon and all other public utilities offering telecommunications services to construct and maintain their networks to avoid impairment of the quality of the telephone call, for the benefit of both the calling party and the called party. So long as portions of the networks of ILECs and other public utilities include equipment and facilities which are susceptible to interference and induction, the Commission should preserve this regulation.

The availability of alternative services from cable or wireless should not make it acceptable for customers in competitive areas to have to put up with interference on the line. The premise that the customer can “walk with their feet” and switch to another mode of

²⁶ Reclassification Order at 79.

communications is at best an “after the fact remedy” and is not cost free, where the consumer will need to pay new fees and buy equipment for cable or wireless service. While prices for competitive services may be set for a wide service area,²⁷ maintenance and repair efforts may be influenced by the costs of repairs to a specific household or neighborhood.

The conditional waiver of such quality of network facilities and service standards puts the consumer at a disadvantage when reporting poor service to Verizon as part of a “warm transfer” contact.²⁸ In the absence of a specific regulatory standard, the customer and Verizon may disagree as to what level of service quality or repair reflects “reasonable, adequate, and safe service” under the broader statutory provisions of Section 1501.

The OCA supports preservation of this regulation.

b. Section 63.21 (Directories)

The ANOPR notes that the Commission has granted conditional waivers to Verizon and United Telephone Company of Pennsylvania d/b/a CenturyLink, to scale back in the saturation delivery of white pages directories, to better match distribution with customer demand for print directories.²⁹ The Commission granted the conditional waivers in petition proceedings separate from the Verizon Reclassification proceeding.³⁰

²⁷ Verizon stated in the Reclassification proceeding that it would not set prices at a wire center level, for the competitively classified wire centers. Verizon Reply Comments re Data Collection at 1-2 (filed June 15, 2015).

²⁸ See, Reclassification Order at 46. When the Commission’s Bureau of Consumer Services (BCS) receives a call from a Verizon customer with an informal complaint about service quality, with the consumer’s permission, the BCS representative will connect the consumer with a Verizon service representative, thus a “warm transfer.”

²⁹ ANOPR at 10.

³⁰ Joint Petition of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, Verizon Pennsylvania LLC and Verizon North LLC and Dex Media, Inc. to Reduce Distribution of Print Telephone Directories, Docket No. P-2017-2610359, Opinion and Order (Aug. 31, 2017) (2017 Directories Order)

The OCA is amenable to revision of Section 63.21 to incorporate the steps enumerated in Ordering Paragraph 2 of the 2017 Directories Order to provide ILECs with a process to identify where and how to distribute print copies of white pages directories to meet customer interest. In the interim, the OCA will respond to any individual petitions for waiver of Section 63.21 which requests relief on conditions similar to the 2017 Directories Order. Any reduction in the distribution of white pages delivery must accommodate the interests of consumers who would still like to receive a print copy or a directory in electronic media. Not all consumers in the areas served by other, more rural ILECs may have affordable access to a broadband or wireless data service to use to obtain telephone directory information on line.

c. Section 63.23 (Construction and maintenance safety standards)

The OCA supports amendment of Section 63.23 so that the National Electric Safety Code which all public utilities must follow is the most up-to-date version. Section 63.23 applies to the overhead and underground equipment and facilities of all public utilities and requires that overhead and underground crossings of public utility wires or cables “shall be constructed and maintained in accordance with the safe and reasonable standards as set forth in the National Electric Safety Code, 1981 edition.” In the Reclassification proceeding, the Commission recognized that construction and maintenance should conform with the most up-to-date National Electric Safety Code and granted Verizon a conditional waiver limited to that change.³¹

The Commission should amend Section 63.23 in this limited respect. The amended Section 63.23 should continue to apply to all public utilities, throughout the Commonwealth. This need for public safety and consistent standards does not vary based upon whether an ILEC may competitively price basic local service in a particular area.

³¹ Reclassification Order at 79, 81.

d. Section 63.24 (Service interruptions)

The OCA recommends that the Commission retain Section 63.24 and so end Verizon's conditional waiver as applied to Verizon's provision of service in competitively classified areas.³² Section 63.24(a) describes a public utility's obligation to maintain "its entire system in such condition as to make it possible to furnish continuous service," and take steps to prevent interruptions and restore service. Section 63.24(b) describes credits for outages.

The protections and obligations of Section 63.24(a) should apply to all public utilities, regardless of whether an ILEC has obtained competitive classification of an area for pricing, pursuant to Section 3016(a). Clearly, an ILEC's entire network may span both competitive and non-competitive areas. The OCA submits that same standard of maintenance and obligation to provide reasonably continuous service should apply throughout the public utility's service area. Due to the interconnected nature of ILEC and other telecommunication utility networks, service outages and interruptions can have broad impacts on consumers, public safety responders, and other third parties.

The Commission granted Verizon a temporary waiver of all of Section 63.24 in the competitive wire centers because: 1) dissatisfied consumers could switch to a cable or wireless alternative, and 2) Verizon's Product Guide included adjustments for service outages.³³ The OCA disagrees. The ability to switch to another provider is only an after-the-fact remedy and may impose additional costs on the consumer. (See discussion above, re Section 63.12). The Commission's authority to prevent Verizon from modifying or eliminating provisions of its Product Guide does not exist, unless explicitly tied to a conditional grant of relief stated in the Verizon Reclassification proceeding. A consumer in a competitive wire center may complain

³² Reclassification Order at 79-80.

³³ Reclassification Order at 80.

that service outages are evidence of a violation of Section 1501, but the Commission's authority to offer relief for outages in competitive wire centers would be limited to a civil penalty,³⁴ if Section 63.23(b) is waived or rescinded. If the Commission cannot assist a consumer in obtaining a credit for service outages, consumers may be less inclined to bring such a complaint. The OCA is not convinced that such a combination of market forces and reduced Commission oversight will assure that consumers in competitively classified areas will receive service over a well maintained network, with timely efforts to restore service.

2. Chapter 63, Subchapter C (Accounts and Records)

In the Reclassification Order, the Commission waived the following portions of Chapter 63, Subchapter C as to Verizon's provision of service in competitively classified wire centers:

- [63.31.](#) Classification of public utilities.
- [63.32.](#) Systems of accounts.
- [63.33.](#) Integrity of reserve accounts to be preserved.
- [63.34.](#) Reclassification of telephone plant to original cost.
- [63.35.](#) Preservation of records.³⁵

The Commission considered these Accounts and Records requirements as a hold-over from rate base/rate of return regulation and no longer pertinent to Verizon as subject to Chapter 30 and alternative regulation.³⁶

The OCA cautions against a blanket rescission or permanent waiver of these regulations. First, the form of rate regulation that applies to Verizon and other ILECs is but one consideration. These Subchapter C regulations also apply to other public utilities with their own facilities and network.

³⁴ 66 Pa.C.S. § 3301.

³⁵ Reclassification Order at 82.

³⁶ Reclassification Order at 82. The Commission did not grant a waiver of Section 63.36 (Filing of annual financial reports), as covered by the statutory reporting requirement set forth in Section 3015(e). Id., at 82-83, citing 66 Pa.C.S. § 3015(e).

Second, Section 3016(f)(1) prohibits an ILEC “from using revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize competitive services.”³⁷ As a result of the Reclassification Order, Verizon is offering protected residential and small business services in non-competitive areas at regulated rates and in competitive areas priced at Verizon’s discretion. The grant of conditional waivers have also provided Verizon with the flexibility as to how it provides customer service, repairs, installations, and such in competitively classified areas. Under this framework, Verizon could obtain different revenues and incur different expenses in the course of providing the protected local calling services in the two different areas. The OCA submits that the Commission should carefully consider what accounting information regarding revenues, expenses, and investment should be recorded and maintained, to allow confidence that Section 3016(f)(1) is not violated.

Third, the Commission should consider whether the information required by these regulations may be needed for another purpose, apart from the setting of just and reasonable rates for end users. For example, it is possible that these records of investment in conduits and telephone utility poles will be useful, in the event the Commission assumes jurisdiction over pole attachments from the Federal Communications Commission (FCC).³⁸

3. Chapter 63, Subchapter E (Telephone Quality Service Standards)

The Subchapter E regulations specifically apply to “regulated simple residential or business voice grade services offered by a public utility as defined by Section 63.1”³⁹ The Commission granted Verizon conditional waiver in Verizon’s competitively classified wire center of the following regulations:

³⁷ 66 Pa.C.S. § 3016(f)(1).

³⁸ See, Assumption of Commission Jurisdiction over Pole Attachments from the Federal Communications Commission, Docket No. L-2018-3002672, 48 Pa.B. 6273 (Sept. 29, 2018).

³⁹ 52 Pa.Code § 63.51 (Purpose).

- [63.51.](#) Purpose.
- [63.52.](#) Exceptions.
- [63.53.](#) General provisions.
- [63.54.](#) Record retention.
- [63.56.](#) Measurements, subparts (a)-(e).
- [63.58.](#) Installation of service.
- [63.59.](#) Operator-handled calls.
- [63.60.](#) Automatic Dialing Announcing Devices (ADAD).
- [63.61.](#) Local dial service.
- [63.62.](#) Direct distance dial service.
- [63.63.](#) Transmission requirements and standards.
- [63.64.](#) Metering inspections and tests.
- [63.65.](#) Safety.

The Commission granted Verizon the conditional waivers, accompanied by a reminder of the Commission’s authority to oversee Verizon’s compliance with Section 1501 and the ability of consumers to file formal complaints based on poor service quality.⁴⁰

The Commission denied Verizon a waiver of Sections 63.55 (Surveillance levels), Section 63.57 (Customer trouble reports), Section 63.56 (f) and (g) (Measurements), and Section 63.57 (Trouble Reports). The Commission retained 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.”⁴¹ The OCA will respond in Reply Comments to any requests for amendment or rescission of these unwaived regulations.

a. Sections 63.51 (Purpose) and 63.53 (General provisions)

The Commission should preserve Sections 63.51 and 63.53(a), (b), and (e), without regard to competitive classification. Section 63.51 states that the provisions of Subchapter E should be applied in coordination with Chapter 64. Section 63.53(a) requires the public utility to

⁴⁰ Reclassification Order at 85.

⁴¹ Reclassification Order at 87.

provide telephone service quality which meets or exceeds the Subchapter E standards. Section 63.55 (Surveillance levels) still applies to Verizon and all other LECs. Section 63.53(b) should also apply, without waiver or rescission. Section 63.53(b) imposes a reporting requirement, “[i]f a public utility fails to meet a standard service surveillance level” Section 63.53(e) provides authority for a party to petition the Commission for temporary exemption from a particular regulation, if compliance causes unreasonable hardship. It makes sense to retain this procedural provision, which provides a means to request relief and requires the party requesting a waiver to provide notice to any potentially affected person.

The OCA does not oppose rescission of the Section 63.53(c) and (d). Subpart (c) requires a public utility to maintain operator services 24/7. Subpart (d) states a general obligation to forecast customer demand and plan the network and inventory of equipment accordingly.

b. Section 63.54 (Record retention)

The Commission should preserve Section 63.54 which requires a public utility to “retain for at least 90 days the information contained in customer bills ...” In the event of a dispute, “[b]illing information ... shall be retained until the dispute has been finally resolved.” Retention of billing information is a necessary step to assist the Commission in its oversight of the compliance by telephone public utilities with the Section 1509 of the Public Utility Code.⁴² Section 1509 requires that bills rendered for telephone service include a grace period to avoid late payment fees and itemize the charges, taxes, and fees. These statutory protections extend to all telephone service consumers. In the Reclassification Order, the Commission preserved Verizon’s obligation to comply with the Section 64.24 protections against slamming and

⁴² See, 66 Pa.C.S. § 1509.

cramming.⁴³ In the event of a complaint alleging that improper charges have been placed on the bill (cramming) or that the consumer's long distance service provider has been improperly switched (slamming), Section 64.24 requires a LEC to take steps to remove certain charges and protect the consumer's bill. The OCA submits that the record retention directive set forth in Section 63.54 is still needed and relevant, regardless of the competitive classification of a particular area.

c. Section 63.56 (Measurements)

The OCA does not oppose rescission of Section 63.56(a), (b), (c), and (d) which relate to measurement of dial line speeds.

The OCA does recommend that the Commission amend and retain Section 63.56(e) as follows:

(e) A public utility shall monitor the answering time for calls received at customer contact locations, including, but not limited to, repair service, **and** business offices ~~and toll operator offices~~. The monitoring required by this subchapter may be accomplished through measuring devices, random sampling or statistically valid customer satisfaction surveys. The Commission retains the right to determine the appropriateness of monitoring methods in particular circumstances.⁴⁴

The OCA submits that any public utility, including Verizon and other LECs, should measure and monitor the answering time for calls to the utility's customer service operations, repair service operations, and business office. The answer time for such calls provides insight into the quality of service provided. The ILEC customer should receive service which at a minimum meets the requirements of Section 1501, regardless whether they are served in a non-competitive or competitively classified area for pricing.

⁴³ ANOPR at 16.

⁴⁴ Additions are in bold, deletions are marked by strike-out.

d. Section 63.58 (Installation of Service)

Section 63.58 establishes metrics for a telephone public utility's completion of primary service order installations and nonprimary service orders, with certain exceptions allowed by the applicant's preference, a need for construction, adverse weather conditions, and the like. The Commission granted Verizon:

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.⁴⁵

The Commission also required Verizon to report quality of service data, including “the average installation completion intervals” based upon Verizon’s proposed measure of “installation commitments met.”⁴⁶ Verizon proposed to report its success rate in meeting the installation commitment agreed to by Verizon and the customer.

The OCA notes that the Commission has granted Verizon a conditional waiver of several Chapter 63 and 64 regulations in competitive wire centers, conditioned on Verizon including certain issues within the scope of its Product Guide. As discussed above, this particular “conditional waiver” approach is not durable, where the Reclassification Order temporary waivers will expire upon the earlier of the completion of this rulemaking or in March 2020.

⁴⁵ Reclassification Order at 87.

⁴⁶ Reclassification Order at 126, Ordering ¶ 15; Reporting Order at 13. See, Verizon Comments Regarding Data Collection at 4-5, Docket Nos. P-2014-2446303, P-2014-2446304 (June 4, 2015).

The Commission should adopt an alternative version of Section 63.58 to apply exclusively in competitive wire centers.⁴⁷ The Commission properly retained Section 64.191 (Public information), subparts (a) to (d), as establishing base line information which Verizon must provide to residential applicants for service in competitive and non-competitive wire centers.⁴⁸ Section 64.191(c) requires Verizon, at the completion of the application process, to inform the applicant “[t]he date when service will be installed.”⁴⁹ The OCA submits that a complementary Chapter 63 service quality requirement should, at a minimum, require Verizon in competitive wire centers to meet the date for service installation provided to the customer pursuant to Section 64.191(c)(1). This standard, as fixed by regulation, would then have to be accurately presented in Verizon’s Product Guide.

e. Section 63.59 (Operator-handled calls)

Section 63.59 speaks to both calls handled by operators and calls handled by other public utility personnel, including calls for repair service and to the business office. The Commission conditionally granted Verizon a waiver of all of Section 63.59 in all competitively classified wire centers.⁵⁰

The OCA does not oppose rescission of Section 63.59(a), because Section 3019(d) of the Public Utility Code and Chapter 63, Subchapter J (Confidentiality of customer communications

⁴⁷ The Commission may not regulate the price for installation of voice service in competitively classified areas, but the Commission’s authority over the safety, adequacy, and reliability as to the ordering, installation, suspension, termination, and restoration of any telecommunications service is preserved, even in competitively classified wire centers. Reclassification Order at 125, Ordering ¶ 6. See, 66 Pa.C.S. § 3019(b)(2).

⁴⁸ Reclassification Order at 102.

⁴⁹ 52 Pa. Code § 64.191(c)(1).

⁵⁰ Reclassification Order at 85-86, 88 (re Section 63.59), 124 Ordering ¶ 2.

and information) provide more specific directives with regard to customer privacy.⁵¹ Section 63.59(a) sets standards for operators to provide efficient and courteous service. Section 63.59(a) also requires “[o]perators and other representatives shall be instructed ... to comply with the Communications Act of 1934 (47 U.S.C.A. §§ 157-611) in maintaining the secrecy of communications.” While customer service representatives and technology have replaced most operator services, the requirement that all telephone public utility representatives preserve the confidentiality and secrecy of the communications remains a valid concern. The provisions of Section 3019(d) and Chapter 63, Subchapter J provide sufficient protection. (Verizon did not request waiver of Subchapter J in the Reclassification proceeding.)

Section 63.59(b) addresses operator and other representative answering performance, setting performance metrics for speed of the telephone public utility’s answer time. The OCA submits that Section 63.59(b)(1) may be rescinded as it relates to “toll and operator assistance calls....” However, the OCA submits that the Commission should continue to require ILECs and other telephone public utilities to be ready and promptly answer “calls seeking repair service or to the business office during normal working hours...” which is the core of Section 63.59(b)(2). Section 63.59(b)(2) requires an “Eighty-five percent of calls ... shall be answered within 20 seconds” metric. If the metric is not met for three consecutive months, then the reporting and other requirements under Section 63.55 (Surveillance levels) are triggered.

⁵¹ Section 3019(d) states the general directive that a telecommunications carrier “may not disclose to any person information relating to a customer’s pattern of use ... “ and the specific circumstances – such as a court order – when disclosure is permitted. 66 Pa. C.S. § 3019(d)(1), (2). See also, 52 Pa. Code Ch. 63, Subchapter J. Section 63.131 (Purpose) states:

This subchapter establishes appropriate minimum standards to ensure that public utilities providing regulated telecommunication services maintain the confidentiality of customer communications and customer information.

52 Pa. Code § 63.131.

The OCA submits that all customers of telephone public utilities should be able to make prompt contact with representatives in the repair offices and business offices. Whether the price paid for basic local service is rate regulated or detariffed should not impact the quality of service provided. Calls to a repair office representative, which roll over to a voice mail box or cannot be received because a voice mail box is full, frustrate customers and slow the response and repairs to facilities and networks which are needed by both the customer and those who want to call the customer.

The OCA submits that the Commission should retain the core concepts set forth in Section 63.59(b)(2) (metric), (3) (meaning of “answer”), and (4) (Commission’s reserved right to determine the appropriateness of utility monitoring methods). The Commission should require the same minimum level of service quality performance throughout the telephone public utility’s service territory.

The OCA notes that the Commission had allowed Verizon PA and Verizon North to substitute compliance with the Section 54.153(b)(1) reporting standard for telephone access to electric distribution company call centers, as a temporary substitute for Verizon’s compliance with the Section 63.54(b) benchmark metrics.⁵² Section 54.153(b)(1) states:

(b) *Records*. Each EDC shall take measures necessary and keep sufficient records to report the following data to the Commission:

(1) *Telephone access*.

(i) The percent of calls answered at each EDC’s call center or business office, or both, within 30 seconds with the EDC representative ready to render assistance and to accept information necessary to process the call. An acknowledgment that the customer or applicant is waiting on the line does not constitute an answer. If

⁵² See, Reclassification Order at 85, fn. 69, 88, fn. 71. See Pa. PUC, Law Bureau Prosecutory Staff v. Verizon Pennsylvania, Inc., Order at 32-35, Ordering ¶ 4, Docket No. M-2008-2077881 (Oct. 12, 2012) (Quality of Service Order); Application of Verizon North LLC for Temporary Exemption, Order, Docket No. P-2012-2333159 (Jan. 10, 2013)(Verizon North 2013 Exemption).

the EDC reports data for more than one call center or business office, the EDC should also provide the combined percent of calls answered within 30 seconds for the EDC as a whole.

(ii) The average busy-out rate for each call center business office, or both. If the EDC reports data for more than one call center or business office, the EDC should also provide the combined busy-out rate for the EDC as a whole.

(iii) The call abandonment rate for each call center or business office, or both. If the EDC reports data for more than one call center or business office, the EDC should also provide the combined call abandonment rate for the EDC as a whole.⁵³

The OCA submits that the benchmark standards set forth in Section 63.59(b) should apply to protect consumers in all service areas, whether classified as competitive or non-competitive. The Commission should not transition the temporary waiver of Section 63.59(b) granted to Verizon in the Reclassification Order into the elimination of any performance standard as to the ability of consumers to make prompt, direct contact by telephone with ILEC repair offices and business offices. At a minimum, the framework of Section 54.153(b)(1) electric utility regulation may provide a model for an alternative to permanent waiver of Section 63.59(b)(2), (3), and (4) in competitively classified wire centers or rescission of these quality of service standards. The phrasing in Section 54.153(b)(1) would require modification to change references to EDCs to “public utility” (a defined term in Chapter 63) and to cover calls to repair centers, as well as “call center or business office.”

f. Section 63.60 (Automatic Dialing Announcing Devices (ADAD))

Section 63.60 provides consumers with certain protections from the intrusive use of ADAD which might otherwise inconvenience a consumer. Section 63.60(b) prohibits a telephone public utility from “knowingly permit an ADAD to be connected or operated over its

⁵³ 52 Pa.Code § 54.153(b)(1).

network ...” unless certain conditions are met. Section 63.60 expressly prohibits ADAD from making calls to “emergency telephone numbers of hospitals, fire departments...” and other emergency service providers. The OCA submits that before the Commission grants a permanent waiver of Section 63.60 to competitively classified wire centers or otherwise rescinds Section 63.60, the Commission should review whether and how Section 63.60 protects Pennsylvania consumers from unwanted calls from such automatic dialing devices.

g. Section 63.61 (Local dial service) and Section 63.62 (Direct distance dial service)

Sections 63.61 and 63.62, set minimum performance standards for central office, interoffice, trunk, and switching facilities to allow prompt receipt of a dial tone signal (within 3 seconds) and successful dialing of a toll call, respectively. The Commission granted Verizon a conditional waiver of these two regulations.⁵⁴

The OCA does not oppose rescission of these two regulations. Both regulations focus on facilities capacity. The OCA recognizes that Verizon and other ILECs have taken steps to replace their central office trunk lines and switches with fiber and computer based soft switches, facilities which are not subject to the same capacity constraints as copper trunks and analog switches.

h. Section 63.63 (Transmission requirements and standards)

As part of Subchapter E, Section 63.63 establishes service objectives and surveillance levels for the protection of “regulated simple residential or business voice grade services...”⁵⁵ Section 63.63(a) requires a public utility to “furnish, operate and maintain facilities adequate to provide acceptable transmission of communications ... at adequate volume levels and free of excessive distortion, noise, and cross-talk.” Section 63.63(b), (c), and (d) state more specific,

⁵⁴ Reclassification Order at 85.

⁵⁵ 52 Pa.Code § 63.51 (Purpose).

technical measures for measuring the transmission quality, loop resistance, and maximum allowed transmission loss stated in decibels.

The OCA submits that the Commission should preserve the core requirement in Section 63.63 that residential and business customers should receive voice communications “at adequate volume and free of excessive distortion, noise, and cross-talk.”⁵⁶ This OCA recommendation is consistent with the OCA comment above regarding Section 63.12 (Minimizing interference and inductive effects). The result of this rulemaking should provide basic local service residential and business customers with clear minimum standards as to the quality of the voice service which the telephone public utility must provide, regardless whether the service is price regulated or detariffed.

i. Section 63.64 (Metering inspections and tests)

Section 63.64(a) and (b) impose broad obligations on telephone public utilities to conduct periodic tests, inspections, and preventative maintenance and to maintain and test performance of equipment and facilities. Section 63.64(c) to (h) require meters used to measure call duration, used to produce data for billing, etc. to be subject to periodic testing and Commission review. The OCA submits that this regulation should be preserved and apply in competitive and non-competitive ILEC service areas. Information from ILECs regarding the specific meter and record equipment and technology currently in use may support some amendment.

j. Section 63.65 (Safety)

⁵⁶ See, e.g. Neil and Gilda Altman v. Verizon Pennsylvania LLC, Docket No. C-2015-2515583, Initial Decision of Darlene A. Heep (July 25, 2016), Opinion and Order (Oct. 27, 2016)(Altman)(Civil penalty for November 2016 violation of Sec. 63.63(a) in the suburban Philadelphia Kirklyn wire center).

The Commission granted Verizon conditional waiver of Section 63.65 in competitively classified wire centers based upon the position that “workplace safety is adequately regulated at the federal level,” noting the FCC’s jurisdiction over poles and conduits and the jurisdiction of the Occupational Safety Health Act (OSHA).⁵⁷ The OCA will defer to other parties who may have a more direct interest in workplace safety and whether Section 63.65 should be retained, modified, or permanently waived. The Commission’s proposed assumption of jurisdiction from the FCC over pole attachments is another factor to consider, before the Commission adopts a final rulemaking in this proceeding.⁵⁸

4. Subchapter F. Extended Area Service, Subchapter G. Public Coin Service

In the Reclassification Order, the Commission waived both Subchapter F and G in their entirety, as to Verizon’s competitively classified wire centers. The ANOPR summarizes the history of these regulatory provisions.⁵⁹

The OCA submits that these two Subchapters of Chapter 63 may be rescinded, as no longer needed.

D. Chapter 64 Regulations

The Commission granted Verizon waiver of the majority of the provisions of Chapter 64 as to competitive wire centers, based in part on the content and scope of Verizon’s 2015 Product Guide terms and conditions. As discussed throughout these OCA Comments, in the absence of a statutory or regulatory standard, Verizon may alter the scope and content of its Product Guide at will. Through this rulemaking, the Commission should provide clear and specific regulatory standards which describe what constitutes just, reasonable and adequate residential service in

⁵⁷ Reclassification Order at 85, 86-87.

⁵⁸ See fn. 38, *supra*.

⁵⁹ ANOPR at 14.

competitive areas. The Commission should preserve the Chapter 64 protections for residential local exchange service customers in competitive areas, subject to very limited amendments and changes as described below.

1. Subchapter A (Preliminary Provisions)

a. Section 64.1 (Statement of purpose and policy)

The Commission granted Verizon waiver of the first sentence of Section 64.1 and retained the remainder of Section 64.1 to apply in competitive as well as non-competitive wire centers. The first sentence describes the purpose of Chapter 64 as including the establishment and enforcement of “uniform, fair and equitable residential telephone service standards ...” The OCA does not oppose this limited waiver, to the extent the Commission determines that there will be two sets of residential telephone service standards, for competitive and non-competitive areas, and so standards will no longer be “uniform.” The OCA supports preservation of the balance of Section 64.1, as applicable to both competitive and non-competitive areas.

b. Section 64.2 (Definitions)

In the Reclassification Order, the Commission preserved Section 64.2 as applying to Verizon service in competitive areas.⁶⁰ The OCA recommends that Section 64.2 continue to apply to the provision of residential telephone service in both competitive and non-competitive areas. Many of the Chapter 64.2 definitions related to other Chapter 64 regulations which the Commission preserved in the Reclassification Order, such as the Chapter 64, Subchapter G (Disputes, Informal and Formal Complaints) regulations.

⁶⁰ Reclassification Order at 95.

2. Subchapter B (Payment and Billing Standards)

The Commission granted conditional waiver of the majority of the Chapter 64, Subchapter B payment and billing standards “as no longer needed in a competitive environment.”⁶¹ The Commission also took note of Verizon’s Product Guide which addressed residential local service payment issues.⁶² The Commission granted a conditional waiver of:

- 64.11. [Method of payment.](#)
- 64.12. [Due date for payment.](#)
- 64.13. [Billing frequency.](#)
- 64.14. [Billing information.](#)
- 64.15. [Advance payments.](#)
- 64.16. [Accrual of late payment charges.](#)
- 64.17. [Partial payments for current bills.](#)
- 64.18. [Application of partial payments between past and current bills.](#)
- 64.19. [Rebilling.](#)
- 64.20. [Transfer of account.](#)
- 64.21. [\[Reserved\].](#)
- 64.22. [Billing service for interexchange carriers.](#)

The Commission retained Sections 64.23 and 64.24:

- 64.23. [Standardizing LEC responses to customer contacts alleging unauthorized charges added to the customer’s bill \(cramming\) and unauthorized changes to the customer’s long distance carrier \(slamming\).](#)
- 64.24. [Provision of bundled service packages.](#)

As part of the review of these regulations, the OCA notes that the statutory “Billing Procedures” protections of Section 1509 still apply in competitive and non-competitive area.

Section 1509 states in pertinent part:

All bills rendered by a public utility ... to its service customers, except bills for installation charges, shall allow at least 15 days for nonresidential customers and 20 days for residential customers from the date of transmittal of the bill for payment without incurring any late payment penalty charges therefor. All customers shall be permitted to receive bills monthly and shall be notified of their right thereto. All bills shall be itemized to separately show amounts for basic service, Federal excise taxes, applicable State sales and gross receipts taxes, to the

⁶¹ [Reclassification Order](#) at 96.

⁶² [Id.](#)

extent practicable,...State tax adjustment charge or other similar components of the total bill as the commission may order.⁶³

The OCA recommends that the Commission preserve Sections 64.11 through 64.22 to apply to all residential service by LECs, whether in competitive or non-competitive areas. These regulations establish standards and provide guidance to both consumers and LECs. These standards assist the Commission in determining whether LECs are providing reasonable service, in compliance with both Section 1501 and Section 1509, and are not arbitrarily imposing late fees which would make residential basic local service less affordable. The OCA comments further on these individual regulations below.

a. Section 64.11 (Method of Payment)

Section 64.11 describes both the forms of payment which may be tendered and how the timing of receipt of payment may impact potential suspension or termination of service. The OCA submits that the basic standard set forth in Section 64.11 should be retained in both non-competitive and competitive wire centers.⁶⁴ The OCA acknowledges that some references may benefit from updating, to recognize electronic payments. The reference to handling charges related to checks returned, the “amount of which shall be set forth in the carrier’s approved tariff,” should be amended to refer to the “carrier’s approved tariff or Product Guide.”

b. Sections 64.12 (Due date for payment), 64.13 (Billing frequency), and 64.14 (Billing information)

The Commission should retain Sections 64.12, Section 64.13, and Section 64.14 as applicable in all LEC service areas, whether classified as competitive or non-competitive. These

⁶³ 66 Pa.C.S. § 1509.

⁶⁴ A formal complaint filed by a consumer residing in a competitive wire center was decided in part based upon Verizon’s compliance with Section 64.11. See, Laura Dorsey v. Verizon Pennsylvania LLC, Docket Nos. F-2016-2528790, C-2016-2540864, Initial Decision of ALJ Joel H. Cheskis at 7-8, 11 (Oct. 28, 2016), Final Order (Dec. 28, 2016) (Dorsey).

Chapter 64 regulations implement many of the specific billing procedure consumer protections set forth in Section 1509 of the Public Utility Code.

If simplification of Section 64.14 is warranted, for competitive and non-competitive wire centers, the OCA submits that Section 64.14(a) should be retained. The provisions of Section 64.14(b), (c), and (d) may be amended or rescinded.

Section 64.14(a) describes information which must be included on bills rendered for residential local service, including a break-out of the charges for services and equipment, as well as information about how and when (before the due date) a customer may register a question or complaint about the bill (Section 64.14(a)(10), and that the customer may contact the ILEC business office for information, including a “rate schedule” and explanation of charges.

Section 64.14(b) requires a LEC, annually and upon request, to provide “an itemization of all service equipment and other recurring charges.” The annual itemization on a bill requirement could be rescinded, so long a customer may request such an itemization. This would protect consumers who do not have or use internet access to review their Verizon billing information.

Section 64.14(c) requires a LEC to provide upon request an estimate of non-recurring charges and equipment costs, in advance of a customer’s purchase decision, and to maintain a record of the estimate provided from 90 days. This subpart could be rescinded, since a LEC has an obligation to provide accurate price information, as within the scope of the provision of reasonable and adequate service required by Section 1501.

Section 64.14(d) requires any final bill issued to include a statement that a subsequent bill is possible, to collect charges such as for additional toll or lost equipment. This subpart could be rescinded, as the Commission retains jurisdiction over billing practices.

c. Section 64.15 (Advance payments)

The OCA does not oppose rescission of Section 64.15 (Advance payments) which permits a LEC to require advance payments for construction or temporary or short-term use.

d. Section 64.16 (Accrual of late payment charges)

The OCA recommends that the Commission preserve Section 64.16 (Accrual of late payment charges) as applying to protect residential consumers and improve the affordability of service, whether in non-competitive or competitive wire centers.

e. Sections 64.17 (Partial payments for current bills), Section 64.18 (Application of Partial Payments between past and current bills)

The OCA recommends that the Commission adopt a specific regulation, to apply in competitive wire centers, which instructs Verizon or any other LEC to handle partial payments, 1) in accordance with the specific instructions of the consumer, and 2) in the absence of specific customer instructions, to reduce the balance due for basic service. This new regulatory guidance would apply in lieu of Sections 64.17 and 64.18 in competitively classified areas.

The OCA recommends that Sections 64.17 and 64.18 be retained and continue to apply in an ILEC's non-competitive service area.

f. Section 64.19 (Rebilling)

Section 64.19(a) states a four year limit on the issuance of a make-up bill for unbilled services resulting from the LEC's billing error. Section 64.19(b) protects the consumer by providing a remedy for over-billing, by requiring the LEC to "credit the customer's account in the amount of the overbilling, including taxes..." Section 64.19(c) requires the ILEC to give the Commission notice "of rebilling affecting more than 10% of its residential customers within 90 days of the rebilling."

The OCA recommends that the provisions of Section 64.19(a) and (b) should continue to apply in competitively classified wire centers if any portion of the make-up bill for unbilled services or credit for overbilling relate to services received prior to implementation date of the Reclassification Order's temporary, conditional waivers. The Commission should also adopt a basic requirement, to apply to residential services in competitive areas, that Verizon should make adjustments for under-billing or over-billing consistent with stated purpose in the retained portion of Section 64.1 (Statement of Purpose).

The OCA recommends that the Commission retain the notice requirement of Section 64.19(c) as applying in competitive and non-competitive service areas. The "10% of its residential customers" should correspond to the scope of coverage. The OCA notes that the need for such a significant rebilling endeavor would be highly unusual and should be able to be avoided due to computerized billing systems. At the same time, a cybersecurity attack is not impossible and could disrupt routine operations, including billing. Regardless of the cause, the Commission should receive notice of any such significant rebilling efforts.

g. Section 64.20 (Transfer of account), Section 64.33 (Payment of outstanding balance)

The Commission granted Verizon temporary waiver of both Section 64.20 from Subchapter B. and Section 64.33 from Subchapter C, as to Verizon's provision of residential local service in competitive wire centers. Section 64.20 concerns transfer of accounts and outstanding balances associated with discontinuance or termination to a new or existing customer. Section 64.33(a) permits a LEC to condition the provision of service to a new applicant upon payment of an outstanding balance "for which the applicant is legally responsible..." Section 64.33(b) prohibits a LEC from requiring an applicant for service from

being required to pay an outstanding balance incurred in another person's name, absent a legal order determining the applicant's obligation to pay.

The OCA submits that this regulation illustrates the important balancing of interests that is unlikely to appear in the terms and conditions of a Product Guide. These Section 64.20 and 64.33 regulations provide specific guidance as to when the LEC may not collect charges from a customer, because the charges were incurred in another account or incurred by another person. These regulations protect the affordability and continuity of residential local service.

The OCA submits that these two regulations should be preserved, and apply to residential service in competitive and non-competitive areas.

h. Section 64.21 [Reserved], and Section 64.22 (Billing services for interexchange carriers)

The Commission granted Verizon a waiver of these provisions in competitive wire centers. The OCA does not oppose rescission of these Chapter 64 provisions, with regard to the provision of residential local service by any LEC in competitively classified areas.

i. Sections 64.23 (Cramming/Slamming) and Section 64.24 (Provision of bundled service packages)

The Commission retained Sections 64.23 and 64.24 as applicable to Verizon's provision of service in competitive areas. The OCA recommends that the Commission preserve Sections 64.23 and 64.24 to protect consumers in competitive and non-competitive areas. Section 64.23 describes the steps a LEC must take to remove crammed charges or toll charges improperly charged as the result of an unauthorized change in toll service provider. The Commission amended Section 64.24 after Act 183, to assure that consumers who purchase a bundle of services, but do not pay in full, do not immediately lose basic voice service. The OCA will address in reply comments any other party's request for a different outcome.

3. Subchapter C (Credit and Deposit Standards Policy)

The Commission granted Verizon a conditional waiver of all of Subchapter C in the competitive wire centers. “[W]e 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 creditworthy.”⁶⁵ The list of Subchapter C regulations temporarily waived follows:

- 64.31. [LEC credit and deposit policies.](#)
- 64.32. [Credit standards.](#)
- 64.33. [Payment of outstanding balance.](#)
- 64.34. [Written procedures.](#)
- 64.35. [Deposit requirements for existing customers.](#)
- 64.36. [Method of making deposit.](#)
- 64.37. [Refund of deposits.](#)
- 64.38. [Application of deposit to bills.](#)
- 64.39. [Periodic review.](#)
- 64.40. [Refund statement.](#)
- 64.41. [Interest.](#)

The OCA recommends that the Commission should require LECs offering residential local service in competitive areas to comply with specific regulations regarding Credit and Deposit practices. The OCA is opposed to the elimination of Subchapter C, from the body of regulations which apply to competitive services.

a. Section 64.31 (LEC credit and deposit policies)

The OCA submits that Section 64.31 should apply to all residential local service customers, whether served in a competitive or non-competitively classified area. Section 64.31 states:

An essential ingredient of the credit and deposit policies of each LEC shall be the equitable and nondiscriminatory application of these precepts to potential and actual customers throughout the service areas or a part thereof. Deposit policies

⁶⁵ Reclassification Order at 97.

shall be based on the credit risk of the applicant or customer rather than upon the credit history of the affected premises or upon the collective credit reputation or experience in the area in which the applicant or customer lives without regard to race, religion, gender, age if over 18, national origin or marital status.⁶⁶

In the Reclassification proceeding, the Commission emphasized that the Reclassification Order does not alter Verizon's Carrier-of-Last-Resort (COLR) obligations. The Commission took notice of language in Verizon's Product Guide (as of 2015) regarding extension of service which was in conflict with Verizon's COLR obligation and Section 63.20 (Service line) obligations. When the Commission granted Verizon conditional waiver of all of Subchapter C, the Commission required Verizon to fill a perceived gap in the scope of Verizon's Product Guide and provide information concerning the consequences if an applicant for service is not deemed to be creditworthy.

The OCA submits that this condition – that Verizon's Product Guide say something about the consequences if an applicant is not deemed creditworthy – is a temporary measure and not sufficient protection. When it comes to an ILEC's screening of applicants for service in a competitive area, the ILEC should be guided by an affirmative statement of the Commission's credit and deposit policies. The Commission should preserve Section 64.31 and so discourage any LEC from adopting Product Guide credit risk and review standards which would operate contrary to the ILEC's COLR obligations.

b. The Other Subchapter C Sections

The OCA supports preservation of the other Subchapter C sections, in competitive and non-competitive areas, which cover credit standards, payment of outstanding balances, deposit requirements, refunds, and interest. If any of the regulations should be changed, the changes

⁶⁶ 52 Pa.Code § 64.31.

should simplify the regulatory requirements, while preserving the guidance provided to a LEC offering service in a competitive area.

4. Subchapter D (Interruption and Discontinuance of Service)

a. Section 64.51 (Temporary Interruption)

Section 64.51 allows an ILEC to interrupt service to a customer under emergency conditions and for critical maintenance purposes. The Commission retained Section 64.51 and so Verizon's provision of service to residential customers throughout the Companies' respective service areas are subject to the same uniform standard. The OCA supports preservation of the requirement that the ILEC provide the residential customers with notice, if possible, of temporary interruptions and limit the duration.

b. Section 64.52 (Refunds for Service Interruptions)

The Commission granted Verizon waiver of Section 64.52 based in part on the fact that Verizon's Product Guide in 2015 addressed the topic of refunds for service interruptions.⁶⁷ Section 64.52(a) provides the general rule for calculation of an allowance in the event of an interruption of at least 24 hours. Section 64.52(b) addresses calculation of an allowance when the interruption is due to storms or other events beyond the telephone utility's control.

As stated above, the OCA recommends that Section 63.24 (Service interruptions) should be preserved, as applying to the provision of telephone public utility service in all areas, whether classified as competitive or non-competitive. The Commission should preserve the Section 63.24 protection, as a corollary to the obligation to provide quality service that is reasonably continuous.

⁶⁷ See, ANOPR at 17-18.

The OCA submits that this is one area where the regulations to apply to LECs offering service in competitive areas could be simplified. Section 64.52, which applies only to residential local service, could be rescinded if the Commission preserves Section 63.52, which applies to all customers.

c. Section 64.53 (Discontinuance of Service)

Section 64.53 establishes certain customer obligations, when the customer wishes to have service discontinued, such as five days advance notice and allowing the utility access to the premises if needed to retrieve utility equipment. The OCA submits that this regulation could be rescinded, as to a LEC providing service in a competitive area.

5. Subchapter E (Suspension of Service)

Subchapter E covers suspension of service, including grounds for suspension, notice procedures prior to suspension, notice procedures after dispute filed, emergency provisions, and third-party notifications. In the Reclassification Order, the Commission granted Verizon waiver of portions of Subchapter E. The Commission preserved Section 64.62 (Days suspension or termination of service are prohibited), Section 64.71 (General notice provisions), Section 64.75 (Exceptions for suspension...), Sections 64.101 through 64.109 which cover Emergency provisions, and Section 64.111 (Third-party notification).⁶⁸

The OCA recommends that each of the Subchapter E regulations which the Commission preserved in the Reclassification Order should continue in effect to protect consumers served in both competitive and non-competitive areas. These regulations set forth standards and the mutual obligations of the LEC and the customer to help consumers stay connected to the network. Additionally, many of the Subchapter E regulations are interrelated.

⁶⁸ ANOPR at 18-19.

The OCA will comment below on the specific regulations which the Commission waived for Verizon's provision of service in competitive areas.

a. Section 64.61 (Authorized suspension of service)

Section 64.61 states eight separate grounds for when suspension of service is authorized. Subparts (1), (2), (5), and (8) relate to payment issues, such as nonpayment of a delinquent account, failure to post a deposit, failure to comply with a payment agreement, or for prior unpaid indebtedness. The OCA submits that these regulatory statements benefit both the LEC and the residential customer by providing a straightforward description of when service to a dwelling may be suspended on payment-related grounds. The OCA submits that these regulatory provisions should apply to residential local service, in both competitive and non-competitive areas.

Section 64.61, subparts (3), (4), (6), and (7) describe other grounds which are unrelated to payment issues, such as fraud to obtain service, or to protect the safety of a person or the integrity of the system. The OCA submits that each of these subparts provide simple guidance as to when suspension may be allowed. The OCA submits that these regulatory should apply to the provision of residential local service, in both competitive and non-competitive areas.

1. Section 64.61(3) and Copper to Fiber Transition

In this rulemaking, the Commission should recognize that Section 64.61(3) has been cited at least twice by Verizon in the context of the copper to fiber transition. Section 64.61(3) permits a LEC to suspend residential service based upon "[u]nreasonable refusal to permit access to service connections, equipment and other property of the LEC for maintenance or repair." In November 2015, Mr. and Mrs. Altman, residents of Verizon PA's Kirklyn wire center, filed a formal complaint which raised service quality concerns and opposed Verizon's copper to fiber

change notices.⁶⁹ Verizon cited Section 64.61(3) as support for the possible suspension of service.⁷⁰ The presiding Administrative Law Judge found Section 64.61(3) inapplicable on the particular facts.⁷¹

In July 2018, the Commission decided the case of Irwin Fox v. Verizon Pennsylvania LLC.⁷² Mr. Fox's November 2016 complaint stated his opposition to Verizon's efforts to switch his Verizon connection from copper to fiber. Mr. Fox is a Philadelphia resident in the Verizon Jefferson wire center.⁷³ Verizon described its compliance with the federal copper retirement notices which were in effect at that time.⁷⁴ Verizon described the series of notices which it provided to Mr. Fox, encouraging him to set up a technician appointment.⁷⁵ The presiding ALJ determined that Mr. Fox's refusal to provide Verizon access to his dwelling was unreasonable and put Mr. Fox at risk of suspension of service.⁷⁶ In such circumstances, the ALJ noted that Verizon must meet the notice requirements of Section 64.71 and 64.72 before proceeding to suspension of service.⁷⁷ The Commission denied Mr. Fox's complaint, noting "[w]hen

⁶⁹ Neil and Gilda Altman v. Verizon Pennsylvania LLC, Docket No. C-2015-2515583, Initial Decision of Darlene A. Heep at 1-2 (July 25, 2016), Opinion and Order (Oct. 27, 2016)(Altman).

⁷⁰ Altman I.D. at 14-15.

⁷¹ Altman I.D. at 14-15.

⁷² Irwin Fox v. Verizon Pennsylvania LLC, Docket No. C-2016-2576094, Initial Decision of ALJ Conrad Johnson (July 18, 2017), Opinion and Order (July 12, 2018). (Fox)

⁷³ Fox, Initial Decision at 10. Whether Mr. Fox was served in a competitive wire center was not mentioned in the Initial Decision. The Commission did grant competitive designation to a Verizon Pennsylvania "Jefferson PA (PHILAJPA)" wire center. See, Reclassification Order, Appendix D.

⁷⁴ Fox Order at 5-6. The FCC's Section 51.332 "Notice of Network Changes: Copper Retirement" rule became effective October 19, 2015. See, 80 FR 63371 (Oct. 19, 2015). The FCC then eliminated "the requirement of direct notice to retail customers ..." of planned copper retirements, effective December 28, 2017. See, Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC 17-84, Final Order, ¶ 45, 82 FR 61453, 61477 (Dec. 28, 2017).

⁷⁵ Fox, I.D. at 10-11.

⁷⁶ Fox, I.D. at 10-11.

⁷⁷ Fox, I.D. at 13. "Section 64.71 of the regulations requires Verizon to mail or deliver written notice to Mr. Fox at least 7 days before the date of the proposed suspension. 52 Pa.Code § 64.71. Under Section 64.72 of the regulations, the suspension notice must inform Mr. Fox of the reason for the suspension and the means by which the suspension may be avoided. 52 Pa.Code § 64.72. When Verizon mailed Mr. Fox

migrating telephone service from a copper to fiber-based service, Verizon also must comply with the relevant customer notice requirements regarding suspension/termination of service in Chapter 64 of the Commission's regulations."⁷⁸

The OCA submits that the Commission should not, through this rulemaking, diminish or dismantle such important, inter-related Chapter 64 provisions that relate to suspension of service and timely notice of how the customer may cure the potential suspension. The FCC's requirement that ILECs provide copper retirement notice directly to retail consumers was only in effect from October 2015 through December 2017.⁷⁹ The transition of network connections from copper to fiber must be accomplished in a manner that does not confuse the consumer or result in the avoidable suspension of vital residential local service.⁸⁰

b. Section 64.63 (Unauthorized suspension of service)

In the Reclassification Order, the Commission waived all of Section 64.63, except for Subpart (10), which relates to the medical certificate protections in Sections 64.101 to 64.103, which the Commission expressly preserved.⁸¹ Section 64.63 identifies ten scenarios when residential basic service may not be suspended and a suspension notice may not be sent, "[u]nless expressly and specifically authorized by the Commission." Subparts (1), (2), and (3)

its Notice of Copper Retirement on October 13, 2016, the company met the Commission's suspension notice provisions."

⁷⁸ Fox, Order at 9.

⁷⁹ The FCC's Section 51.332 "Notice of Network Changes: Copper Retirement" rule, 47 C.F.R. § 51.332, became effective October 19, 2015. See, In the Matter of: Technology Transitions, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372, 9383-84, para. 16 (rel. August 7, 2015), 80 FR 63322, 63371 (Oct. 19, 2015).

The FCC then eliminated this Section 51.332 requirement of "direct notice to retail customers ..." of planned copper retirements, effective December 28, 2017. See, Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC 17-84, Final Order, ¶ 45, 82 FR 61453, 61477 (Dec. 28, 2017).

⁸⁰ See, Altman, Order at 4, Ordering ¶ 5.

⁸¹ ANOPR at 18-19.

protect against the unauthorized suspension of basic service for non-payment of other telephone services such as toll or commercial service received at the same or different location. Other subparts guard against the use of suspension to collect unpaid charges from 4 or more years earlier. As in Section 64.33(b) (Payment of outstanding balances), Section 64.63(7) protects basic local service from suspension based upon non-payment by a third party, unless a court order establishes the customer's legal liability.

The OCA recommends that the Commission preserve Section 64.63(10) as this provision is part of the Chapter 64 protections for residential customers subject to a medical certificate.

The OCA also recommends that the Commission preserve Sections 64.63(1) through (9) as providing important consumer protections, to prevent a LEC from using suspension of residential basic service as means to collect payments owed for other services, owed by other parties, or outstanding amounts which may have already been written off. Section 64.63 reserves to the Commission the authority to approve a suspension of service which would otherwise be unauthorized under Section 64.63.

The regulatory protections of Section 64.63 should apply in all areas, whether competitive or non-competitive.

c. Section 64.71 (General notice procedures)

In the Reclassification Order, the Commission retained Section 64.71 as “relevant” consumer protections “which should continue to apply in a competitive environment.”⁸² Section 64.71 states a “LEC shall mail or deliver written notice the customer at least 7 days before the proposed suspension regardless of the grounds upon which suspension is sought...” The only exception to this 7 day advance written notice requirement relates to a broken payment

⁸² ANOPR at 19.

agreement for toll or nonbasic services. Footnote 19 of the ANOPR clarifies the Reclassification Order, stating that only the first sentence of Section 64.71 was retained.⁸³

The OCA recommends that the 7 day advance notice provision in Section 64.71 should continue to apply to residential local service consumers in competitive and non-competitive areas, as a result of this rulemaking.

d. Section 64.72 (Suspension notice information)

The Reclassification Order waived Section 64.72 as to Verizon's provision of residential service in competitive wire centers.⁸⁴ Section 64.72 requires a suspension notice to "clearly and fully include... in conspicuous print" certain information from one or more of six categories, as applicable. The first element, Section 64.72(1), is the reason for the suspension notice. Other elements that may be required to be included relate to payments and amounts that are past due, required as a deposit, or may owed as a reconnection fee. Section 64.72(4) requires the suspension notice to identify the date suspension will occur, unless the customer takes certain steps such as (i) remitting payment in full or "(ii) the grounds for suspension are otherwise eliminated."

Although the Commission preserved, through the Reclassification Order, the obligation of Verizon to comply with the Chapter 64 emergency and medical certification provisions (Sec. 64.63(10), 64.101 to 64.111), the Commission waived the Section 64.72(6) requirement that a notice of suspension shall include, where applicable, a "medical emergency notice" based upon the Subchapter E, Appendix A "Medical Emergency Notice" form.

The OCA submits that the Commission's blanket waiver of Section 64.72 in the Reclassification Order diminishes protections for all Verizon residential local service consumers

⁸³ ANOPR at 25, fn. 19.

⁸⁴ ANOPR at 19.

in competitive wire centers, particularly those who may not comply with an initial Verizon notice of a copper to fiber transition and so would need clear notice of the steps to cure the risk of suspension. Other customers who would benefit from notice of the medical certificate process, may not receive it due to the waiver of Section 64.72.

The OCA recommends that the Commission preserve Section 64.72 as applicable to all residential local service customers, whether in a competitive or non-competitive area.

e. Section 64.73 (Notice when dispute pending)

The Reclassification Order waived Section 64.73. Section 64.73(a) prohibits a LEC from mailing or delivering a notice of suspension if a dispute “has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed suspension” Section 64.73(b) states that a suspension notice mailed or delivered contrary to this section “shall be void.”

While the OCA supports the Commission’s decision to retain Section 64.71 to apply in Verizon’s competitive wire centers, the Commission’s waiver of other Section 64, Subchapter E provisions – including Section 64.73 -- reduces the power of this protection. The OCA recommends that the Commission retain Section 64.73, as applying to residential local service in competitive and non-competitive areas. This approach will avoid confusion and complications which may otherwise arise under the Reclassification Order’s waiver of many Chapter 64 provisions.

In the Altman case, for example, ALJ Heep reasoned that the pre-suspension notice requirement of Section 64.71 would be triggered, *if* the complainants had unreasonably refused Verizon access to their premises to allow for the copper to fiber transition and *if* the

complainants did not have an informal or formal complaint pending.⁸⁵ Based upon the facts, ALJ Heep observed that any Section 64.71 pre-suspension notice issued “after the Altmans filed their informal complaint on October 26, 2015 would have been void and in violation of 52 Pa.Code Section 64.73...”⁸⁶

In a competitive wire center, subject only to those Chapter 64 regulations not waived by the Reclassification Order, the “unreasonable refusal to permit access” Section 64.61(3) grounds for suspension would not apply, as waived. Verizon could determine its own standards for suspension on any grounds. Verizon would just need to provide 7-day advance notice pursuant to Section 64.71. Although the Reclassification Order has retained the Subchapter G (Disputes; Informal and Formal Complaints) regulations, if the residential consumer had a pending dispute, the protections of Section 64.73 (Notice while dispute pending) would not apply, as waived. So in theory, Verizon could, after providing the Section 64.71 required 7-day advance notice, pursue suspension of a residential customer’s service on any grounds, in a competitive wire center. The residential consumer could register a dispute with Verizon or an informal complaint with the Commission, but Verizon could still issue suspension notices related to the subject matter of the dispute. As a waived regulation, Section 64.73 would not provide the consumer with protection.

The OCA offers these comparisons, to assist the Commission and other parties in understanding the differences between the protection of Chapter 64 which apply to residential local service customers in non-competitive areas and the more limited body of Chapter 64 regulations which the Commission retained and apply to residential local service in Verizon’s competitive wire centers.

f. Section 64.74 (Procedures upon customer contact before suspension)

⁸⁵ Altman I.D. at 15.

⁸⁶ Altman I.D. at 15.

The Commission waived this regulation as part of its broad waiver of other Subchapter E regulations relating to suspension of service.⁸⁷

Subpart (a) describes the information which a LEC must provide to a customer who makes contact in the window of time between issuance of a suspension notice and the suspension of service. That information includes the reasons for the suspension, how the customer can avoid the suspension through payments or entering a payment agreement, and other information including the medical emergency procedures. Subpart (b) relates to the creation of a reasonable payment agreement and the consequences if the customer does not perform.

The OCA submits that these procedures are an important step in helping a customer, who has received a suspension notice and contacted the LEC, to take steps to avoid termination of service. The OCA is concerned that the waiver of this regulation creates the potential that the customer who makes contact will not be better informed and so better off than the customer who does not make contact.

While there may be room for some updating of the provisions which focus on toll and IXC services and billings, the OCA recommends that the basic concepts set forth in this regulation should be preserved and apply in both competitive and non-competitive wire centers.

- g. Section 64.75 (Exception for suspension based on occurrence harmful to person or property)

The Commission retained this regulation.⁸⁸

The OCA will address in Reply Comments any other party's comments or proposals.

- h. Section 64.81 (Limited notice upon noncompliance with report or order)

⁸⁷ ANOPR at 18.

⁸⁸ ANOPR at 18, 25.

The Commission waived this regulation as part of its broad waiver of many Subchapter E regulations relating to suspension of service.⁸⁹ Section 64.81 states that the original grounds for suspension may be revived if, after some report or resolution of a dispute, informal or formal complaint, the consumer does not perform as directed. Section 64.81 then allows the LEC to move forward with suspension, subject only to a 24 hour advance notice by telephone.

The OCA will address in Reply Comments any other party's comments or proposals.

6. Subchapter F (Termination of Service)

The Commission granted Verizon waiver of all of Subchapter F as to Verizon's competitive wire centers, as "provisions no longer necessary in a competitive telecommunications market..."⁹⁰ The Commission waived Section 64.121 (Authorized termination of service), Section 64.122 (Unauthorized termination of service), and Section 64.123 (Termination notice).

The OCA notes Sections 64.121 and 64.122 roughly mirror in subject and structure Section 64.61 and 64.63 suspension provisions. Section 64.121 identifies the critical timeline "[w]hen at least 10 days have passed since suspension of service, the company may terminate service for failure to pay a reconnection fee and to remedy the original grounds for suspension..." Section 64.122 restricts termination of service, unless authorized by the Commission, if there is both a notice of dispute filed and the subject of the dispute forms the grounds for termination and the customer is making a good faith effort to make certain payments.

The OCA submits that the minimum interval of 10 days between suspension of service and termination should be preserved and apply in both competitive and non-competitive service

⁸⁹ ANOPR at 18.

⁹⁰ ANOPR at 20.

areas. Indeed, the Commission expressly retained Section 64.62 which identifies the days when suspension and termination of service are prohibited.⁹¹

The Commission's waiver of Section 64.122 presents the same concern as discussed above regarding Section 64.73. The Commission has retained the Subsection G complaint procedures, but based on the waived Section 64.122 a dispute that relates to the grounds for the termination would not count towards the two-part requirements to prevent unauthorized termination of service.

The Commission's waiver of Section 64.123 removes the protection that a LEC must, immediately after service is suspended, send a termination notice containing notice of past due amounts (if any), a medical certificate form, and a statement identifying the earliest date that termination may occur.

The OCA recommends that the Commission preserve these core timing and notice protections as to the termination process, in the final regulations, which should apply to residential service in competitive and non-competitive areas.

7. Subchapter G (Disputes; Informal and Formal Complaints)

In the Reclassification Order, the Commission retained all provisions in Subchapter G regarding disputes, as well as informal and formal complaints, to ensure that a process remains in place to handle both formal and informal complaints.⁹² The Commission noted that Sections 308.1 and 701 of the Public Utility Code support a consumer's right to complain.⁹³ The Commission did streamline the process in one regard, by expanding the "warm transfer" to

⁹¹ Reclassification Order at 99.

⁹² Reclassification Order at 100-101.

⁹³ ANOPR at 20, fn. 16, citing 66 Pa.C.S. §§ 308.1, 701.

include Verizon residential customers informal complaints about service quality or billing-related issues.⁹⁴

The OCA recommends that the Commission preserve, in the regulations which result from this rulemaking, the full scope and protections provided to residential local service customers, whether in competitive or non-competitive areas. As noted in these OCA Comments, there are other Chapter 64 provisions which may not apply, if the residential consumer has a dispute or complaint pending. So even if the Commission has preserved the provisions of Subchapter G as applying to Verizon's competitive wire centers, the Reclassification Order's waiver of other Chapter 64 provision may diminish the scope of protection.

The OCA will address in Reply Comments any other parties' proposals regarding the provisions of Subchapter G.

8. Subchapter H (Restoration of Service)

- a. Section 64.181 (Restoration of service after suspension), Section 64.182 (Restoration of service after termination)

The Commission waived all of Subchapter H as to Verizon's provision of residential service in competitive wire centers.⁹⁵ Section 64.181 requires a LEC, if service has been suspended, to "reconnect service by the end of the first full working day" after the customer has taken sufficient steps to remedy the grounds for suspension, whether payment related or based upon "[a]dequate assurances that unauthorized use or practice will ease ..." Section 64.182 states that a customer whose service has been terminated will need to reapply as an applicant.

The OCA is concerned that the waiver of Section 64.181 removes a certain, measurable standard as to when a LEC must reconnect service following termination. As addressed above,

⁹⁴ Reclassification Order at 100-101.

⁹⁵ Reclassification Order at 99.

the OCA has significant concerns that the Commission has granted Verizon a waiver of many Chapter 30 regulations which relate to notice and suspension of service, diminishing the effectiveness of the consumer dispute and complaint processes which the Commission specifically retained. As the last step in the notice, suspension, and termination sequence, the OCA submits that effects of some of the regulatory waivers will carry through to the termination process.

The OCA could support the rescission of Section 64.182, which allows the LEC to require a customer whose service was terminated to reapply as a new applicant.. The OCA recommends preservation of Section 64.181, as the complement to the other Chapter 64 regulations regarding notice and suspension of service which the OCA recommends should continue to apply in competitive and non-competitive service areas.

9. Subchapter I (Public Information; Record Maintenance)

a. Section 64.191 (Public information)

Section 64.191 maps out the particular information and priority of information which “a LEC service representative shall provide to applicants,” whether the application is in person or by telephone, including pricing information, whether the applicant needs information about services for customers with disabilities, directory listing options, and “[t]he date service will be installed.” Section 64.191(f) requires the LEC service representative to describe for the applicant and send a confirmation letter with an itemization of the services ordered, the prices, and other information. Section 64.191(g) requires the LEC to mail the applicant a summary of the customer’s rights and responsibilities under Chapter 64.

In the Reclassification Order, the Commission preserved Section 64.191, Subparts (a) to (d), covering the pricing and service information to be covered in the application process.⁹⁶ The Commission did not mention Subpart (e) which relates to information about toll presubscription. The Commission granted Verizon a waiver of Subparts (f) and (g), as no longer needed in a competitive environment.

The OCA acknowledges that several elements in Section 64.191 should be updated, such as to reflect that residential customers can apply for services on-line, or that the customer rights and responsibilities information should be “printed in each telephone directory.” Additionally, delivery of information could be handled by e-mail, with the customer’s permission.

However, the OCA submits that Section 64.191 requires the LEC to provide information which is useful to the applicant and the new subscriber. The OCA submits that the Section 64.191(f) requirement that the LEC send a confirmation letter with the required information is more important – not less – as residential customers in a competitive service area choose between the LEC’s basic and bundled service offerings, which are all detariffed. The summary of the customer’s rights and responsibilities is also important, to the extent that the summary may include a mix of information based upon effective Chapter 64 regulations and the LEC’s Product Guide.

b. Section 64.192 (Record maintenance)

In the Reclassification Order, the Commission waived Verizon’s Section 64.192 obligation to maintain certain information regarding disputes and complaints made by residential customers in the competitive wire centers as no longer relevant in a competitive environment.⁹⁷

⁹⁶ Reclassification Order at 102.

⁹⁷ ANOPR at 21.

Section 64.192 describes the obligation of LECs to “preserve all written and recorded disputes and complaints for 4 years...” and to make the records available for examination by the Commission and staff. Section 64.192 describes three categories of information to be maintained regarding “disputing and complaining customers”: “(1) The payment performance (2) The number of suspensions, terminations, and reconnections of each (3) Communications to or from the disputing and complaining customers regarding matters...” which fall within the broad purview of Chapter 64.

The OCA submits that Verizon should have an obligation to retain records and information regarding its disputing and complaining customers in all wire centers. The BCS and Verizon “warm transfer” arrangement makes it all the more important that Verizon maintain these records and that the information be made available to Commission and staff upon request. As the OCA has noted in these Comments, Verizon is still moving residential customer connections from copper to fiber, where Verizon has extended its fiber network. Residential consumer disputes and informal complaints to Verizon regarding this copper to fiber process should be part of the records maintained by Verizon pursuant to Section 64.192.

The OCA recommends that the Commission preserve this Section 64.192 requirement, as to competitive and non-competitive service areas, in the final rulemaking. Although the OCA Comments relate to Verizon, it should be a fundamental requirement that other LECs serving residential customers – particularly in competitive service areas – retain records of consumer disputes and complaints.

10. Subchapter J (Annual Reporting Requirements)

a. Section 64.201 (Reporting Requirements)

Section 64.201(a) imposes an annual reporting requirement on each LEC with residential accounts to file with the Commission a report providing information set forth in Section 64.201(b). The Commission retained Verizon's obligation to file the Section 64.201(a) annual report.⁹⁸

Through the Reclassification Order and Final Implementation Order, the Commission waived Verizon's obligation to report certain residential account information listed in Section 64.201(b), as to the competitive wire centers. The Commission also modified in part what information Verizon would report for those wire centers.

The OCA supports preservation of the Section 64.201(a) obligation that each LEC file an annual report with baseline information about the number of residential accounts, average residential bill per month, average residential overdue customer bill per month, and other covered information. If the LEC offers residential local service in some competitive areas, the OCA supports a break-out of the Section 64.201 reported information between competitive and non-competitive areas. The final scope of information appropriate for ongoing collection and reporting should be developed to help the Commission and interested parties monitor the affordability, subscribership, and other key measures of the LEC's provision of residential local service.

b. Section 64.202 (Petition for waiver)

In the Reclassification Order, the Commission retained Section 64.202 which provided the basis for the Commission's authority to grant Verizon the temporary waivers of specific Chapter 63 and 64 regulations.⁹⁹

The OCA will address in Reply Comments any other party's comments or proposals.

⁹⁸ See, Final Implementation Order at 32.

⁹⁹ Reclassification Order at 76, fn. 63; ANOPR at 21.

11. Subchapter K (General Provisions)

a. Section 64.211 (Availability of normal Commission procedures)

Section 64.211 states “[n]othing in this chapter shall be deemed to prevent a customer of a LEC from pursuing other Commission procedures in a case not described in this chapter.”

The Commission waived Section 64.211 in Verizon’s competitive wire centers.¹⁰⁰

The OCA submits that it is reasonable to preserve for residential local service customers, whether in competitive or non-competitive wire centers, the ability to pursue other Commission procedures to obtain some relief or remedy which is beyond the protections and procedures described in Chapter 64. The Commission should retain this provision, in the final rulemaking.

b. Section 64.212 (Application for modification or exception) and Section 64.213 (Repealers)

The Commission retained Sections 64.212 and 64.213 as potentially useful, because the Reclassification Order retained certain other Chapter 64 provisions.¹⁰¹

The OCA will address in Reply Comments any other party’s comments or proposals.

E. The ANOPR’s Proposed “One-Tier” Notification Process

As part of the rulemaking, the Commission invites comment on a one-tier notification process which the Commission offered to Verizon, as part of the Reclassification Order. The ANOPR question “whether a similar process could work for all suspension/termination notifications.”¹⁰²

As noted above, the OCA does not have information which suggests that Verizon has adopted this “one-tier” notice process to apply to the process for suspension and termination of residential services in competitive wire centers. The OCA is concerned that the one-tier notice

¹⁰⁰ ANOPR at

¹⁰¹ ANOPR at 22.

¹⁰² ANOPR at 27.

process may not be well-suited to the copper to fiber transition which Verizon is implementing. In the Altman case, the complainants were confused by the receipt of notices and changing identification of the suspension date.¹⁰³ In both the Altman and Fox cases, the fact that the consumers initiated complaints stayed the copper retirement and suspension notices which Verizon had issued, pending resolution of the complaints.

The OCA is not convinced that the one-tier notification process is an appropriate and reasonable process, adequate to provide residential consumers in competitive wire centers with timely and effective notice. The OCA looks forward to review of any summary or report by Verizon, if Verizon has in fact implemented this one-tier notification approach. As noted above, the OCA considers the Commission's grant to Verizon of a temporary waiver of the Section 64.192 (Record maintenance) provision ill-timed. Preservation of Section 64.192 would otherwise require Verizon to create a paper trail documenting the disputes, and informal and formal complaints tendered by Verizon residential consumers in the competitive wire centers on matters within the broad scope of Chapter 64.

¹⁰³ Altman, I.D. at 19. The ALJ held that Verizon's communications regarding whether and when Verizon might suspend the Altman's service was inconsistent, confusing, and so Verizon had provided inadequate service under Section 1501.

III. CONCLUSION

The Office of Consumer Advocate respectfully requests that the Public Utility Commission consider and adopt the OCA's recommendations as to Chapter 63 and 64 regulations discussed in these Comments.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Barrett C. Sheridan". The signature is fluid and cursive, with the first name "Barrett" being more prominent.

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