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October 3, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
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 at 52 Pa. Code Chapter 63 and Chapter 64
Docket No. L-2018-3001391

Dear Secretary Chiavetta:

Enclosed for filing are the Joint Comments of the Rural Incumbent Local Exchange Carriers ("RLECs") to the Pennsylvania Public Utility Commission's Advanced Notice of Proposed Rulemaking Order entered July 12, 2018 in the above-referenced matter.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Charles E. Thomas, III

Enclosure

cc: Steven J. Samara (via email)
Michael Sharpy (via email)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**JOINT COMMENTS OF
THE RURAL INCUMBENT LOCAL EXCHANGE CARRIERS
TO THE ADVANCED NOTICE OF PROPOSED RULEMAKING ORDER
ENTERED JULY 12, 2018**

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| <ul style="list-style-type: none">· Armstrong Telephone Company — North· Armstrong Telephone Company — Pennsylvania· Bentleyville Communications Company· Citizens Telecommunications Company of New York, Inc.· Citizens Telephone Company of Kecksburg· Consolidated Communications of Pennsylvania Company, LLC· Frontier Communications Commonwealth Telephone Company· Frontier Communications of Breezewood, LLC· Frontier Communications of Canton, LLC· Frontier Communications of Lakewood, LLC· Frontier Communications of Oswayo River, LLC· Frontier Communications of Pennsylvania, LLC· Hancock Telephone Company· Hickory Telephone Company· Ironton Telephone Company· Lackawaxen Telecommunications Services, Inc.· Laurel Highland Telephone Company | <ul style="list-style-type: none">· Marianna & Scenery Hill Telephone Company· North-Eastern Pennsylvania Telephone Company· North Penn Telephone Company· Palmerton Telephone Company· Pennsylvania Telephone Company· Pymatuning Independent Telephone Company· South Canaan Telephone Company· TDS Telecom/Deposit Telephone Company· TDS Telecom/Mahanoy & Mahantango Telephone Company· TDS Telecom/Sugar Valley Telephone Company· The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink· Venus Telephone Corporation· West Side Telephone Company· Windstream Buffalo Valley, Inc.· Windstream Conestoga, Inc.· Windstream D&E, Inc.· Windstream Pennsylvania, LLC· Yukon-Waltz Telephone Company |
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DATED: October 3, 2018

I. INTRODUCTION

It was the mid-1980s. Prince and the New Power Generation in 1984 released the song “When Doves Cry,” spending five weeks at number one on Billboard Magazine’s Top 100.¹ On January 24, 1984, Apple released the original Apple Macintosh personal computer, with a beige case and a 9-inch monitor (pre-LCD), a keyboard and a mouse.² Outside of academia, Internet activity was virtually non-existent. Landline phones were clunky, curly-corded and affixed to a wall or plugged into a wall jack. To make a telephone call, the caller either went home or walked to the nearest phone booth. The concept of a mobile (cell) phone in the mid-1980s remained in various stages of research and development as the FCC grappled with spectrum allocation issues.³

On January 1, 1984 due to a consent decree entered in a U.S. Department of Justice antitrust lawsuit, AT&T had divested its local operating companies and restricted its services to the long-distance market.⁴ The telephone industry in the mid-1980s was comprised of the uncomplicated division between monopoly-provisioned local exchange services and the long-distance services competitively provisioned by Interexchange Carriers (“IXCs”).

Against this background, the Pennsylvania Public Utility Commission (“Commission”) at its public meeting of August 27, 1984, issued an order adopting new requirements designed to regulate virtually every aspect of the interaction that the “natural monopoly” – the incumbent local exchange company (“ILEC”) – had with its customers. Chapter 64 (Standards and Billing Practices for Residential Telephone Service) of the Commission’s regulations at Title 52 of the

¹ <https://www.rollingstone.com/music/music-lists/100-best-singles-of-1984-pops-greatest-year-163322/madonna-borderline-171859/>

² https://en.wikipedia.org/wiki/Macintosh_128K

³ A child born in 1984 is approximately 34 years old today and likely owns a Smartphone.

⁴ *United States v. AT&T*, 552 F.Supp. 131 (D.D.C. 1982), *aff’d mem. sub nom. Maryland v. United States*, 460 U.S. 1001 (1983).

Pennsylvania Code, 52 Pa. Code § 64.1 *et seq.*, became effective on January 1, 1985 and exempted IXCs. Prior to the promulgation of Chapter 64, the only Commission regulations governing telephone service were those found in Chapter 63 (Telephone Service) of Title 52 of the Pennsylvania Code, 52 Pa. Code § 63.1 *et seq.*

In adopting Chapter 64, the Commission noted the then “current industry structure”⁵ and focused on compartmentalizing local service (basic, non-basic and toll) for billing and treatment purposes. Chapter 64 established numerous requirements for payment, billing, credits, deposits, in addition to creating separate processes for suspension versus termination of service. Chapter 64 also created new requirements regulating the interactions involved in a “dispute” or call made by a customer to the monopoly local exchange carrier (“LEC”). In addition, Chapter 64 established new additional avenues – namely, the “dispute” process and the “informal complaint” process – for a customer of that monopoly.⁶ These processes were, and still are, supplemental to the formal complaints that a customer or interested entity may utilize before the Commission.

The telephone “industry structure” today is nothing like it was in 1984 when the Commission promulgated Chapter 64. The numerous market innovations and the pace of those innovations have been breathtaking. The disruptive nature of technological changes (such as wireless and VoIP) has been truly unimaginable. Yet, the Commission’s regulations at Chapters 63 and 64 have never been subject to any comprehensive modernization effort. The RLECs are not suggesting that the regulations were never amended or updated. The regulations at current-day Chapter 63 were initially adopted March 25, 1946 and amended in 1969, 1982, 1988, and

⁵ See 14 Pa.B. 4354, a copy of which is attached hereto as Appendix A.

⁶ Chapter 64’s rules regulating the handling of company/customer disputes and the new informal complaint process created myriad record keeping, reporting, and compliance requirements that exist to this day and involve significant resources of the Commission and the local companies. See, e.g., 52 Pa Code § 64.153.

1998. Thereafter, several provisions in Chapter 63 appear to have been added due to changing legal requirements.⁷ Even Chapter 64 with its initial adoption in 1984 has been amended by the Commission from time to time for purposes of adding to and/or modifying the originally adopted requirements.⁸

Chapters 63 and 64, however, have not been subject to any comprehensive review to examine their relevancy and application to the realities of today's telecommunications industry. As a result, regulatory remnants from a bygone era remain – notwithstanding that disruptive technologies from VoIP and wireless have irrevocably altered the telecommunications landscape. For example, with respect to Chapter 63:

- **Subchapter B:** This subchapter governs many outmoded service and facilities regulations promulgated in 1969, 1982, 1988, and 1998.
- **Subchapter C:** Other than the Telephone Relay Service provision added in 2008 at Section 63.37, Subchapter C was last amended in 2002 to address accounting systems. Many provisions therein remain from prior years, such as financial reporting requirements which were last amended in 1988 and other requirements adopted in 1946 and last amended in 1969 (such as, Section 63.34's reclassification of plant to original cost and Section 63.35's preservation of records).
- **Subchapter D:** The underground service regulation at Section 63.51 was initially adopted in 1946 and last amended in 1998.
- **Subchapter E:** Subchapter E is entitled "Telephone Quality Service Standards" and contains many of the most onerous, process-focused, and time-consuming regulatory requirements in the Commission's regulations. *Every single provision in Subchapter E was adopted in 1988 and has never been amended.*
- **Subchapter F:** This subchapter governs obsolete Extended Area Service (EAS) requirements and addresses traffic studies and dates back to 1993 and prior.

⁷ Chapter 63 contain subchapters and provisions added seemingly to address matters arising from changes in law, such as Act 183 of 2004 or the 1996 Telecommunications Act. For instance, Subchapter M's requirements for changing local service providers was added in 2005. Likewise, provisions in Subchapter H addressing IXCs were adopted in 1997 and last amended in 2008.

⁸ See, e.g., 52 Pa. Code § 64.12 (addressing due date for payment, which was last amended in 1995) and § 64.17 (regarding partial payments for current bills, amended in 1995 and 2010). The creation of Chapter 64 in the mid-1980s has not, to the RLECs' knowledge, ever been subject to any comprehensive review regarding its applicability today.

The realities of the marketplace today are far from the regulatory world as it existed in the early- to mid- 1980s. Whereas previously virtually all telephones in a monopoly marketplace were provisioned by wired landline companies, *voice communications today are no longer predominantly provisioned by companies regulated by the Commission and subject to Chapters 63 and Chapter 64.* As of December 31, 2016, ILECs in Pennsylvania had less than 12% of total voice subscriptions in the state – i.e., less than 12% of all wireless and wireline (including cable, VoIP, ILEC, and CLEC) voice subscriptions in Pennsylvania.⁹ Moreover, 99.92% of the Commonwealth of Pennsylvania has wireless coverage, with only 4,300 households (out of 5 million statewide) without access to wireless services.¹⁰ Meanwhile, carrier-of-last-resort obligations, which require maintaining 100% network support for voice services, remain on the 12% minority notwithstanding elimination of historic revenue support from switched access charges and from federal programs, thus creating upward pressure on retail consumer rates and the state USF. Chapters 63 and 64 divert much needed resources away from operating our backbone ILEC voice networks and from meeting consumer demands in a competitive environment.

⁹ The ILEC subscriptions to total subscriptions represents the ILEC Switched voice subscriptions to total voice subscriptions in Pennsylvania. Total voice subscriptions include wireless and wireline services provided by CLECs, cable and ILEC switched and VoIP services. The data for this calculation can be found in Supplemental Table 1 (Pennsylvania) to the FCC's Voice Telephone Services Report as of 12/31/16 (rel. Feb. 2018), *available at* <https://www.fcc.gov/voice-telephone-services-report> and selecting the State Level Subscriptions spreadsheet for PA. The ILEC switched subscriptions are found on Line 14 – Incumbent LECs – Switched Lines (12/31/16 – 2,172). The ILEC switched subscriptions are then divided by Total Subscriptions yields 11.45% for Incumbent LEC Switched Access Lines. Total subscriptions were determined by adding Line 1 – Mobile telephony to Line 4 – Wireline End-User Switched Access Lines and Interconnected VoIP Subscriptions (12/31/16 – Line 1 is 13,389 plus Line 4 is 5,585 equals 18,974 total subscriptions).

¹⁰ Mobile household coverage is the percent of households in Pennsylvania with access to mobile voice service and was determined based upon the December 31, 2016 FCC's 477 data, *available at* <https://www.fcc.gov/form-477-mobile-voice-and-broadband-coverage-areas>. This data is provided and compiled in shape files depicting the geocoded areas with mobile voice service. These shape files were compared to a demographic product from Experian which provided the total number of households in Pennsylvania and the number of households in the footprint of the mobile coverage from the December 31, 2016 FCC 477 shape files. Households in the mobile voice coverage in Pennsylvania were compared to the total Households in the Commonwealth to determine the percent of households with mobile voice service available. See <http://www.experian.com/business-information/landing/qbcr-q1-2018.html>

The Pennsylvania General Assembly recognized the changing telecommunications environment when amending Chapter 30 of the Public Utility Code in 2004 by passing Act 183. The General Assembly found that competition leads to greater innovation and consumer benefits, including reduced pricing, improved quality of service, and additional choice. In particular, the General Assembly declared fourteen years ago that it is the policy of this Commonwealth to “recognize that the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers.”¹¹ The General Assembly further declared it was vital to maintain universal service at affordable rates while encouraging the accelerated provision of advanced services, promote and encourage the provision of competitive services by a variety of providers on *equal terms*, and promote and encourage the provision of advanced services and broadband deployment in the service territories of LECs without jeopardizing the provision of universal service.¹²

Today, Pennsylvania’s ILECs – consisting of the rural ILECs (“RLECs”) and Verizon Pennsylvania LLC and Verizon North LLC – *are the minority* providers of voice services in Pennsylvania. Consequently, Chapter 64 and a majority of Chapter 63 constitute over-regulation of the minority. The dwindling resources of the local exchange companies are better spent in continuing to provide services to our remaining customers and focus on gaining new customers, rather than record keeping, reporting and complying with outdated regulations.

It is for these reasons that elimination of much of Chapter 63 and all of Chapter 64 (except for Section 64.23 which addresses slamming and cramming) is imperative and long overdue.

¹¹ 66 Pa.C.S. § 3011(13).

¹² 66 Pa.C.S. § 3011(2), (8), and (12).

These Comments are jointly submitted by 35 of Pennsylvania's RLECs¹³ with that goal in mind in response to the Commission's Advanced Notice of Proposed Rulemaking Order entered July 12, 2018. The RLECs appreciate this opportunity afforded by the Commission and thank the Commission for opening this rulemaking docket to provide comments on this important matter.

II. RLECS' REQUESTED RELIEF

Chapters 63 and 64 have never been subject to meaningful, thorough review and update. The "industry structure" today is far removed from the mid-1980s when the vast majority of the existing regulations were promulgated. The disruptive nature of the technological advancements over the last 30-plus years means that Chapter 64 and a much of Chapter 63 are severely outdated and should be eliminated. As noted above, ILECs in Pennsylvania had less than 12% of total voice subscriptions in the state. There is absolutely no legitimate public benefit from "regulating for the sake of regulating" the minority providers.

¹³ For purposes of providing comments to the Commission in this rulemaking proceeding, the RLECs (with their utility codes) include: Armstrong Telephone Company — North (312650); Armstrong Telephone Company — Pennsylvania (312350); Bentleyville Communications Company (310250); Citizens Telecommunications Company of New York, Inc. (310174); Citizens Telephone Company of Kecksburg (310650); Consolidated Communications of Pennsylvania Company, LLC (31550); Frontier Communications Commonwealth Telephone Company (310800); Frontier Communications of Breezewood, LLC (310400); Frontier Communications of Canton, LLC (310550); Frontier Communications of Lakewood, LLC (311750); Frontier Communications of Oswayo River, LLC (312600); Frontier Communications of Pennsylvania, LLC (311250); Hancock Telephone Company (311500); Hickory Telephone Company (311550); Ironton Telephone Company (311650); Lackawaxen Telecommunications Services, Inc. (311700); Laurel Highland Telephone Company (311800); Marianna & Scenery Hill Telephone Company (312000); The North-Eastern Pennsylvania Telephone Company (312450); North Penn Telephone Company (312500); Palmerton Telephone Company (312700); Pennsylvania Telephone Company (312750); Pymatuning Independent Telephone Company (312800); South Canaan Telephone Company (3115916); TDS Telecom/Deposit Telephone Company (311100); TDS Telecom/Mahanoy & Mahantango Telephone Company (311950); TDS Telecom/Sugar Valley Telephone Company (313100); The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink (313200); Venus Telephone Corporation (313400); West Side Telephone Company (313600); Windstream Buffalo Valley, Inc. (310369); Windstream Conestoga, Inc. (310850); Windstream D&E, Inc. (311050); Windstream Pennsylvania, LLC (312050); and Yukon-Waltz Telephone Company (313650). The RLECs provide a full array of services over wire line networks, serving largely in rural portions of Pennsylvania. The RLECs support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities.

Immediate action by the Commission is needed to unshackle regulated local exchange companies such as the RLECs from the outmoded requirements that exist in Chapters 63 and 64. For this reason, the RLECs respectfully request that the Commission promptly take definitive actions that aim to *eliminate* Chapter 64 (except for the Commission's slamming and cramming regulation at 52 Pa. Code § 64.23) and the bulk of Chapter 63, consistent with these Comments. The RLECs recommend a substantial number of changes to the current regulations, some of which include:

- The implementation of a new streamlined, customer-friendly concept for handling customer disputes which encourages retail customers to resolve retail disputes and issues directly with the LECs, followed by the use of a mandatory mediation process to resolve any lingering issues before a formal complaint could be filed and adjudicated (Chapter 64, Subchapter G).
- The elimination of the requirement to mail paper bills and the authorization to render electronic bills exclusively if the customer requests electronic billing or if the LEC provides, and the customer subscribes to, broadband services along with retail voice services (Chapter 64, Subchapter B).
- The imposition of accelerated timelines and expedite processes for the review and approval of general rule and pro forma transactions subject to Chapter 11 of the Public Utility Code (Chapter 63, Subchapter O).

Notwithstanding the recommendations proposed herein, it remains the RLECs' position that Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501, is flexible enough to sufficiently accommodate the exercise of jurisdiction and authority as needed to address any evolving matters affecting regulated telecommunications services.

While the Commission moves forward with this rulemaking docket to modernize and update its current regulations, it would also be just and reasonable to grant the RLECs relief from many of the more onerous regulations found in Chapters 63 and 64. Therefore, the RLECs

respectfully submit that the Commission should grant the RLECs concurrently filed petition seeking a temporary waiver of certain existing Chapters 63 and 64 regulations.¹⁴

III. COMMENTS

The RLECs thank this Commission for recognizing that significant changes in market conditions have taken place within the telecommunications industry since the adoption of the current Chapter 63 and 64 regulations and, in response to such changes, instituting this proceeding to formulate revised regulations appropriate for the telecommunications' arena in the Commonwealth. Given the structure and environment of the industry today, it is imperative that all provisions of the Commission's existing Chapter 63 and 64 regulations be streamlined and modernized in a manner that reduces burdens imposed on the Commission's regulated carriers (ILECs and CLECs), ensures all carriers are competing on a level playing field consistent with the policy from Act 183, and provides meaningful benefits and protections to consumers.

To that end, the RLECs offer the following comments to provide input to the Commission in its examination of existing Chapter 63 and 64 regulations. These comments are not meant to be an exhaustive review of every section within these chapters. Instead, these comments focus on some of the more onerous provisions found in Chapters 63 and 64 to highlight the unworkable, outdated, and cumbersome nature of these regulations and the hardships they create for the RLECs. While the RLECs endeavor to address to some degree each subchapter within these chapters, the decision not to address any particular section should not be construed as an agreement by the RLECs that such sections should be retained as currently promulgated.

¹⁴ See *Petition of the Rural Incumbent Local Exchange Carriers for Temporary Waiver of Certain Chapter 63 and 64 Regulations*, Docket No. P-2018-_____ (filed Oct. 3, 2018). As set forth therein, the RLECs are seeking temporary waivers of 52 Pa. Code §§ 63.12, 63.13, 63.15(b) and (c), 63.16, 63.18 – 63.24, 63.31, 63.32, 63.54 – 63.62, 63.64, 63.71 – 63.77, 63.91 – 63.98, 64.12, 64.123, 64.141, 64.142, 64.191, 64.192, and 64.201.

A. Chapter 63

Chapter 63 addresses telephone service and consists of fifteen subchapters.¹⁵ While some subchapters in Chapter 63 require little to no change, such as Subchapters L (Universal Service) and O (Abbreviated Procedures for Review and Approval of Transfer of Control for Telecommunications Public Utilities), the majority of the subchapters in Chapter 63 should be modernized as part of this docket and updated to allow regulated ILECs and CLECs to compete on a level playing field, while concomitantly ensuring the regulations provide benefit to consumers. Streamlining the retail regulations (i.e., those regulations found in Subchapters B through J) should be the highest priority before turning attention to those regulations governing the relationship between ILECs and CLECs and/or wholesale relationships (i.e., Subchapters K, M, and N).

1. Subchapter B – Service and Facilities (Sections 63.12 through 63.24)

The provisions in Subchapter B of Chapter 63 address a gamut of subjects and functions which have outlived any useful purpose and are unnecessary. The majority of these regulations were originally enacted in 1946, amended in 1969, retained in the mid-1980s effort, and amended in 1998. The telephone facilities and services were completely different from today's digital network. The disruptive nature of VoIP and wireless technologies today have irrevocably changed our industry resulting in greatly diminished demand for landline wireline voice services provisioned via the public switched telephone network. With traffic volumes for the RLECs

¹⁵ Chapter 63 subchapters are as follows: General Provisions (§ 63.1); Service and Facilities (§ 63.11); Accounts and Records (§ 63.31); Underground Service (§ 63.41); Telephone Quality Service Standards (§ 63.51); Extended Area Service (§ 63.71); Public Coin Telephone Service (§63.91); Interexchange Telephone Carriers (§ 63.101); Interexchange Resellers (§ 63.111); Confidentiality of Customer Communications and Information (§ 63.131); Competitive Safeguards (§ 63.141); Universal Service (§ 63.161); Changing Local Service Providers (§ 63.191); Local Service Provider Abandonment Process (§ 63.301); Abbreviated Procedures for Review and Approval of Transfer of Control for Telecommunications Public Utilities (§ 63.321).

declining over the years, the RLECs no longer see a need for the type of regulatory requirements existing in Subchapter B, as addressed below. Indeed, many of the regulatory requirements of Chapter 63 are not directly or even indirectly benefiting consumers today, remain outmoded, and should be eliminated.

- **Section 63.12 (Minimizing Interference and Inductive Effects) and Section 63.13 (Periodic Inspections)** – The requirement in Section 63.12 to construct facilities to “eliminate cross-talk and noise” is no longer applicable to today’s digitally-based network. Section 63.13 requires each RLEC to “adopt a program of periodic tests, inspections and preventive maintenance...in a manner satisfactory to the Commission.” Such maintenance requirements are heavy-handed and unnecessary today given competition.
- **Section 63.15 (Complaint procedures)** – 63.15(a) should be modified to track with the RLECs’ comments concerning Chapter 64 (*see* Section III.B., *infra*) using a mediation approach to consumer issues that cannot be resolved between the RLEC and the customer. Sections 63.15(b) and (c) impose requirements regarding record keeping and dictate the language to be used during company/customer interactions (notably, if a customer “expresses dissatisfaction...the utility shall inform the customer...of the right to have the problem reviewed...by the Commission...”). The requirements to keep records and notify customers of information already in the public domain are unduly costly and burdensome, and it is completely unreasonable to place such burdens on the RLECs. As discussed in Section III.B.4 *infra*, all retail customer disputes and complaints going forward should be handled through the streamlined dispute resolution process proposed by the RLECs.
- **Sections 63.16 through 63.19** – Section 63.16 requires “[t]raffic measurements of sufficient extent, frequency and character,” yet demand is declining and the RLECs do not have the resources or the time to undertake these complicated and costly traffic studies. While regulations regarding “multiparty line subscribers” (Section 63.18) or interoffice lines (Section 63.19) may have made sense in 1969 or even in the mid-1980s, the RLECs are not seeing the need for adding facilities between offices for regulated voice services, for example.
- **Section 63.20 (Line Extensions)** – Like other provisions in Chapter 63, this section was initially adopted in 1946 and amended in 1969. Today, cable companies providing VoIP services do not have to comply with Section 63.20. For example, a single pole for an RLEC can cost upward of \$2,000. Line extensions are so much more expensive than in 1946 or 1969, while support received from the FCC in areas not covered by CAF have been eliminated thus increasing pressure on the Pennsylvania USF. Equity demands that the RLECs have the ability to standardize with alternative providers, like cable companies, not subject to this requirement. The current approach is unreasonable and must be updated.

- **Section 63.21 (Directories)** – Waivers have been granted to Verizon and CenturyLink.¹⁶ The Commission should make waivers permanently apply to all RLECs and then eliminate this regulation for all ILECs.
- **Section 63.22 (Service Records)** – This regulation was last updated in 1988 and contains many onerous provisions regarding service complaints and trouble reports (Section 63.22 (a)(2)). This provision imposes record keeping and reporting simply for the sake of reporting. There is no consumer benefit derived from this provision. And, there is no legitimate need to continue with its onerous and cost-inducing requirements.
- **Section 63.23 (Construction and maintenance safety standards for facilities)** – This section, like several others in Chapter 63, regulate the obvious and remains unnecessary as a regulation.
- **63.24 (Service Interruptions)** – Section 63.24(a) is redundant of the duties already imposed on the RLECs under Chapter 1501 of the Public Utility Code and need not be restated in a Commission regulation. As for Section 63.24(b), wireless, VoIP and cable companies providing nonregulated voice services are free to make adjustment to bills and to provide credits as appropriate based upon the customer’s circumstances and need not comply with dictated regulatory requirements in order to effectuate a credit or adjustment to the customer. The RLECs should be afforded the same latitude.

2. Subchapter C – Accounts and Records (Sections 63.31 through 63.37)

The RLECs propose eliminating all sections in Subchapter C except Section 63.36 (annual financial reports) and Section 63.37 (Telecommunications Relay).¹⁷ Regarding Sections 63.31(Classification of public utilities), Section 63.32 (Systems of account), 63.33 (Integrity of reserve accounts to be preserved), Section 63.34 (Reclassification of telephone plant to original cost), and Section 63.35 (Preservation of records), none of this type of information is relevant to companies regulated under Chapter 30 of the Public Utility Code or their customers today. These

¹⁶ See *Joint Petition and Notice 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 and Transition to Digital Publication or, Alternatively, for Relief of 52 Pa. Code § 64.191(g)*, Docket No. P-2017-2610359 (Order entered August 31, 2017).

¹⁷ 52 Pa. Code § 63.37 requires the reporting of TRS surcharge revenue on the “20th of each month.” While this regulation should be retained, it should be modified to require the remittance of reports only once per calendar year.

provisions, furthermore, do not have any impact on the relationship between the Commission and those companies.

3. Subchapter D – Underground Service (Section 63.41)

This subchapter consists of Section 63.41, which imposes requirements for underground telephone service in *new* residential developments and was last amended twenty years ago. In many instances, the RLECs are not invited by the developer to serve the development. Developers, instead, are free to negotiate and secure exclusive agreements with a less-regulated or unregulated provider. To the extent the RLEC wins the developer contract, Section 63.41 only allows 60% of contribution from a developer. In most cases, however, that 60% contribution does not recover the uneconomic cost of deploying capital for service. Even if the RLEC was successful up to this point, the RLEC must undertake the administrative hassle of *refunding* the contribution to the developer over a 10-year period, thus effectively erasing the benefit of contribution to defray uneconomic costs. Back when telephone companies regularly filed complex rate cases, there was no impact from compliance with the requirements of this regulation. Today, there is an uneconomic impact from maintaining this regulation. Moreover, the RLECs' competitors are not required to adhere to such onerous requirements, thus rendering the regulation unfair and onerous in the marketplace. The 60% cap on contribution and the refund requirements of this regulation simply do not track the realities of today. This regulation should be eliminated.

4. Subchapter E – Telephone Quality Service Standards (Sections 63.51 through 63.65)

Promulgated in 1988 (and unchanged since then), Subchapter E establishes regulations to enforce the uniform, fair and reasonable quality service standards for telephone service offered within Pennsylvania. These regulations arose at a time when the Commission served as a surrogate for competition and, thus, were designed to replicate the effects of a competitive market. That is

no longer the case today, where Internet and wireless technologies, along with competition from cable providers, have disrupted the marketplace and have relegated the ILECs to a peripheral role in voice subscriptions across Pennsylvania. This creates an asymmetrical marketplace contrary to the General Assembly's statement of policy in Act 183, unnecessarily diverts needed resources from maintaining 100% of the network for only 12% share of the market, and further hinders the RLECs' ability to compete on fair terms with other market participants.

The RLECs respectfully submit that the need for the regulations found in this subchapter no longer remains pertinent or necessary in today's environment, which no longer demands measuring devices, dial tone speed, or efficient and pleasing operator-assisted services, or requires regulation of ubiquitous and commonsensical standards.¹⁸ Retaining heavy-handed and outdated regulations is unnecessary given Section 1501 of the Public Utility Code. Moreover, retaining outmoded regulations in a competitive marketplace penalizes the RLECs and diverts dwindling revenues and existing support away from the RLECs' ability to operate its network and serve their customers. Wireline service is the lifeblood of the RLECs, and the RLECs have every incentive, irrespective of Commission-prescribed regulations, to ensure that they are providing the best level of service possible at the highest standards and are responsive to customers' needs and concerns. The failure for doing so is severe – customers will simply switch to another service provider. As such, it is wholly unnecessary to direct ILECs to comply with a vast array of cumbersome and outmoded regulations requiring ILECs to:

- *Comply with their tariffs or meet standard surveillance levels (Section 63.53 – general provisions).* Network and technology have evolved beyond these standard surveillance

¹⁸ See, e.g., *In re Connect America Fund*, WC Docket 10-90 et al., FCC 11-161, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (Nov. 18, 2011), slip op. at 30 n. 114, *petitions for review denied sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (“[W]hile we encourage carriers to continue to offer operator services and directory assistance, we do not mandate that ETCs provide operator services or directory assistance; we find the importance of these services to telecommunications consumers has declined with changes in the marketplace.”).

requirements. Moreover, periodic network surveillance has been replaced with real-time monitoring capabilities facilitated by computer technology. As an example, technology today uses alarms and renders the surveillance techniques envisioned and used in 1988 as obsolete.

- *Retain customer billing information (Section 63.54 – record retention).* See discussion in Section III.B.4 *infra*. In addition, the burden of proof is on the utility to maintain business records –and actually the need for retention may go beyond the 90 days in this regulation. Individual companies are in the best position to decide retention requirements.
- *Investigate and file reports for inadequate performance (Section 63.55 – surveillance levels).* See discussion in response to Section 65.53 bullet above.
- *Take service measurements and maintain attendant records (Section 63.56 – measurements).* See discussion in response to Section 65.53 bullet above.
- *Respond to and take substantial action to clear out-of-service trouble reported by the customer within a set period of time (Section 63.57 – customer trouble reports).* Gone are the days when technicians address just voice services. Technicians today have workload responsibilities that need to be managed efficiently given access line losses as noted above. Section 63.57(b), in particular, is routinely interpreted by Commission staff in a manner that, the RLECs submit, is contrary to the realities of the telecommunications marketplace. This subsection, which pertains to out-of-service repair intervals, requires the utility to “respond to and take substantial action to clear other out-of-service trouble...within 24 hours of the report.” 52 Pa. Code § 63.57(b). Existing Section 63.57(b) and the “substantial action” language was added in the late 1980s through a Commission rulemaking, which the industry expected would afford ILECs *more* latitude in addressing out of service troubles. However, because the regulation does not define “substantial action,” that phrase was initially interpreted by Commission staff to mean substantial action that would lead to 90% or higher of the out-of-service trouble report being cleared within 24 hours. More recently, Commission staff has developed an even more rigid interpretation of the “substantial action” phrase which mandates that 100% of the routine trouble reports must be cleared in 24 hours. This interpretative change comes at a time when ILECs are losing many of their customers to alternative service providers that offer substantially similar telephone services. To the RLECs’ knowledge, none of these other providers is required to guarantee or is, in fact, guaranteeing out-of-service repair within 24 hours, and yet customers continue to migrate to these other companies’ services. The interpretation of this regulation to require the clearance of 100% of trouble reports within 24 hours and the application of that interpretation to only 12% of the telephone service connections in Pennsylvania is inequitable and greatly disadvantages the ILECs trying to keep customers.
- *Complete service installations within a particular number of days (Section 63.58 – installation of service).* There is no such requirement on alternative

providers. Moreover, there is no customer expectation to undertake installation within 5 working days, for example. Mutually agreeable installation dates/times and the demands of our evolving business should govern.

- *Establish standards for operator assisted calls, including answering times (Section 63.59 – operator-handled calls).* The concept of an “operator” has evolved since 1988 when then regulation was promulgated. The 85% and 20-second answer requirements in (b)(3) are arbitrary and dated. The FCC no longer requires access to operator services for purposes of ETC designation.¹⁹ The age with IVRs and call backs (or internet-based chats) have rendered this Pennsylvania regulation obsolete.
- *Establish service standards related automatic dialing announcing devices (ADAD) (Section 63.60).* To the best of the recollection of the RLECs and the knowledge and belief this is regulation contemplates arrangements that are not undertaken; in addition, it is not feasible to enforce.
- *Meet minimum service requirements for local and direct distance dial services (Sections 63.61 and 63.62).* See discussion in response to Section 65.53 bullet above.
- *Maintain facilities to provide acceptable transmission of communications at “adequate volume levels and free of excessive distortion, noise and cross talk” (Section 63.63 – transmission requirements and standards).* This regulation is reflective of operating in a pre-digital switching environment. Any issues with the transmission of voice services would be handled as between the customer and the company and any issues that may remain would be addressed as part of the mediation process for resolving such issues.
- *Adopt a program for periodic testing, inspections, and maintenance for achieving efficient system operation (Section 63.64 – metering inspections and tests).* See discussion in response to Section 65.53 bullet above.
- *Adopt and implement an OSHA-compliant safety program (Section 63.65 – Safety).* The RLECs are already required to comply with OSHA standards. A specific Commission regulation is not needed.

Quality is dictated by the marketplace and consumers, not archaic regulations. Yet, with the existing Subchapter E regulations in place, the RLECs must devote energy to onerous, process-focused, and time-consuming regulatory requirements that add little value for customers with respect to the provisioning of communications services. These regulations also fail to add any meaningful consumer protections. In fact, as the aforementioned subscription statistics indicate,

¹⁹ *Id.*

the vast majority of consumers are choosing service providers which are not subject to these regulations, suggesting that customer expectations regarding service quality and standards, including the handling of service outages, are being influenced by market forces, not a set of outdated regulations.

For these reasons, the Commission should eliminate Subchapter E in its entirety. Even without these regulations, the RLECs will still be subject to standards set forth in Section 1501 of the Public Utility Code, which will serve as a good barometer for ensuring and measuring service quality and protecting the customer service relationship. Outmoded service quality requirements are not necessary to meet customer expectations. Service quality metrics should be – and in today’s marketplace are – measured in the eyes of the consumer, not through regulations. Indeed, many states have eliminated comparable quality service standard regulations without any issue.²⁰

5. Subchapter F – Extended Area Service (Sections 63.71 through 63.77)

As with the traffic studies required at Section 63.16, this subchapter is out of touch with current marketplace realities. With the dominance of wireless and cable services, as well as the ILECs toll packages that are not per minute rates, customers have flat rated toll thereby eliminating the need for EAS provisions. The regulations in this subchapter are, thus, outdated and should be eliminated entirely.

6. Subchapter G – Public Coin Telephone Service (Sections 63.91 through 63.98)

Subchapter G was created for the purpose of promoting competition in the coin telephone market. The payphone market was deregulated many years ago and has been rendered obsolete by the proliferation of cell phones and other competitive alternatives. To the extent any carriers

²⁰ *Telecommunications Oversight 2017: A State Perspective*, National Regulatory Research Institute, Report No. 18-03 (Mar. 16, 2018), available at <http://nrri.org/download/nrri-18-03-ip-oversight/>.

are still providing payphone service in Pennsylvania, those carriers will still be subject to Sections 2911-2915 of the Public Utility Code, 66 Pa.C.S. §§ 2911-2915, which will continue to provide sufficient Commission oversight and consumer protections. As such, this section should be rescinded in its entirety.

7. Subchapter H – Interexchange Telecommunications Carriers (Sections 63.101 through 63.109) and Subchapter I – Interexchange Resellers (Section 63.101)

These subchapters were last amended in year 2008, but no longer serve a useful purpose. The sections under these subchapters have been rendered obsolete given the competitive nature of interexchange services. These subchapters, therefore, should be eliminated.

8. Subchapter J – Confidentiality of Consumer Communications and Information (Sections 63.131 through 63.137)

The RLECs support the confidential treatment of all consumer communications and information. However, as the landscape has evolved, the provisions addressed in these sections are largely duplicative of Section 222 of the 1996 Telecommunications Act, 47 U.S.C. § 222, and federal Customer Proprietary Network Information (CPNI) requirements,²¹ and supplemental to state and federal wiretap laws. There are also state data breach laws in all 50 states addressing security measures to prevent unauthorized acquisition of information. Additional Commission regulations are simply unnecessary.

9. Subchapter K – Competitive Safeguards (Sections 63.141 through 63.144)

This subchapter – along with Subchapter M (Changing local service providers (Sections 63.191 through 63.222) and Subchapter N (Local Service Provider Abandonment Process (Sections 63.301 through 63.310) – involve wholesale relationships. Although this subchapter is

²¹ The CPNI rules at 47 C.F.R. §§ 64.2001-64.2011 provide more detail and require reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI and reporting of CPNI breaches.

outdated and effectively duplicative of Sections 251, 252, and 271 of the 1996 Telecommunications Act, 47 U.S.C. §§ 251, 252, 271, the RLECs submit that the retail regulations in Chapters 63 and 64 require immediate attention and relief, as addressed in these Comments. Accordingly, despite the inefficiencies created by Subchapter K, action on the Chapter 63 wholesale-type regulations could be addressed later.

10. Subchapter L – Universal Service (Sections 63.161 through 63.171)

Subchapter L contains the Commission’s Universal Service regulations which, the RLECs maintain, should continue to remain in effect. These regulations are integral to the ability of the RLECs to provide reliable service at affordable rates and satisfy their carrier-of-last-resort obligations.

11. Subchapter O – Abbreviated Procedures for Review and Approval of Transfer of Control for Telecommunications Public Utilities (Sections 63.321 through 63.325)

The RLECs support the retention of Subchapter O so long as the Commission retains its statutory authority under Chapter 11 of the Public Utility Code for reviewing and approving mergers, acquisitions, and other changes of control. The RLECs, however, recommend certain modifications to Subchapter O, which, at a minimum, impose accelerated timelines for Commission action and order on general rule and pro forma transactions.

In particular, Section 63.324(k) should be modified to provide for Commission approval no later than 75 calendar days after the filing of the application (as opposed to the current 60-day timeline from the expiration of the protest period established in the public notice in the *Pennsylvania Bulletin*). To the extent a protest or complaint is timely filed, Section 63.324(b) should also be modified to require the Commission, after notice and hearing, to enter an order granting or denying the application within 150 calendar days of the filing date (as opposed to the

current procedure requiring the challenge to be reviewed as part of a traditional (i.e., unlimited) rule review proceeding noted in Section 63.324(b)).²² Similar changes should be made to the Commission's review of pro forma transactions under Section 63.325, including modifying Section 63.325(k) to provide for Commission approval no later than 45 calendar days after the filing of the application (compared to current 30-day timeline from the expiration of the protest period), and modifying Section 63.325(b) to require a final Commission order within 120 calendar days where the application is timely challenged. If the Commission fails to issue an order or secretarial letter within the time frames proposed above, applications should be "deemed" approved and certificates "deemed" issued upon expiration of the last corresponding day.²³

Such timelines are reasonable considering Subchapter O's requirement that applicants provide an abundance of supporting information at the time the application is filed, including, but not limited to, copies of the application filed with the FCC and, if applicable, the notice filed with the U.S. Department of Justice under the under the Hart-Scott-Rodino Antitrust Improvements Act.²⁴ After submission, applicants must also respond to the Commission's customary Staff Inquiries designed to assist the review of transactions under Subchapter O, which require, *inter alia*, information and updates on the statuses of other state and federal regulatory approvals related to the transaction.

Finally, Chapter 11's statutory scheme does not prohibit the Commission from utilizing a mandatory mediation process (in lieu of formal adjudication process) to achieve a final Commission order addressing any such challenges to a general rule or pro forma transaction

²² There currently are no statutory deadlines for Commission action or entry of an order relative to an application filed and seeking approval under Chapter 11 of the Public Utility Code, 66 Pa.C.S. § 1101 *et seq.*

²³ Chapter 11's statutory scheme does not preclude the Commission from further streamlining its processes to allow applications to be "deemed approved" with the issuance of a certificate of public convenience.

²⁴ See, e.g., 52 Pa. Code § 63.324(d)(19).

applications within the above-recommended timelines. The RLECs, therefore, recommend the implementation of a mandatory mediation procedure, in conjunction with the accelerated timelines, going forward to expedite the processes for review and approval of applications under Subchapter O and Chapter 11 of the Public Utility Code.

B. Chapter 64

Consisting of eleven subchapters,²⁵ Chapter 64 was established to provide uniform, fair and equitable residential telephone service standards and billing practices related to the provision of residential telephone service. That goal no longer serves a viable purpose more than three decades later. Chapter 64 was created in the mid-1980s because the Commission's regulations applicable to fixed utilities could not be readily adapted to switch-based telephone service. However, ILECs and CLECs bound by Chapter 64 to the extent they serve retail residential customers are in the minority in the current telecommunications marketplace. *The expense and hardship associated with the minority's compliance with service standards and reporting requirements in Chapter 64 (as well as Chapter 63) becomes ever more significant as customers leave and revenue declines.* Elimination of outdated and oppressive regulations is long overdue.

In these comments, the RLECs focus on *some* of the onerous provisions in these subchapters to illustrate the unworkable, outdated, and cumbersome nature of these regulations. The focus on certain provisions within Chapter 64, however, should not be construed as agreement to retain provisions in Chapter 64 which are unaddressed.

²⁵ Chapter 64 subchapters are as follows: Preliminary Provisions (§ 64.1); Payment and Billing Standards (§ 64.11); Payment and Billing Standards (§ 64.11); Credit and Deposit Standards Policy (§ 64.31); Interruption and Discontinuation of Service (§ 64.51); Suspension of Service (§ 64.61); Termination of Service (§ 64.121); Disputes, Informal and Formal Complaints (§ 64.131); Restoration of Service (§ 64.181); Public Information, Record Maintenance (§ 64.191); Annual LEC Reporting Requirements (§ 64.201) and General Provisions (§ 64.211).

The telecommunications marketplace today requires a complete elimination of Chapter 64 (except for Section 64.23 which addresses slamming and cramming). Chapter 64 was effectively created for a bygone era when the telephone company was a monopoly provider with base rate cases and compliance with layered regulations could be included in rates. That is not the case today.²⁶ The internet and wireless technologies have irrevocably disrupted the landscape for provisioning of voice services. Pennsylvania's ILECs – i.e., the RLECs and Verizon Pennsylvania LLC and Verizon North LLC – are the minority providers of voice services in Pennsylvania. Nothing in Chapter 64 remains applicable today. The RLECs maintain that *all* provisions in existing Chapter 64 (aside from 52 Pa. Code § 64.23) should be eliminated and replaced with a streamlined and modernized version that captures the realities of the prevailing competitive environment. The RLECs highlight some of the provisions in Chapter 64, as set forth immediately below.

1. Subchapter B – Payment and Billing Standards (Sections 64.11 through 64.24)

Given that a significant majority (88%) of voice subscriptions in Pennsylvania are associated with competitors of regulated ILEC providers, these regulations (aside from the slamming/cramming obligations in Section 64.23) are outmoded and unnecessary. Moreover, onerous payment and billing standards inherently limit the RLECs' ability to interface with their customers and thereby harm the ability to compete against alternative providers. None of the existing alternative providers of voice services are required to present a bill in the arcane billing formats prescribed by these sections.²⁷ Likewise, customers are often confused with ILEC billing

²⁶ Even Section 64.1 (Statement of Purpose and Policy) does not consider the prevailing business practices of competing alternative providers of voice services as there were no competitive options to local voice services in the mid-1980s.

²⁷ Act 183 of 2004 defines "alternative service provider" as "An entity that provides telecommunications services in competitive with a local exchange telecommunications company." 66 Pa.C.S. § 3012.

– and that confusion starts with these very regulations and then is further compounded when payments and billing adjustments are made pursuant to these regulations.

Furthermore, the Commission through orders has prohibited charging for paper bills.²⁸ While existing regulations do not appear to prohibit electronic billing, the regulations reference billing and payment by means of “mailing” and thereby appear to require paper bills.²⁹ The Commission’s position with respect to paper bills notwithstanding, the RLECs request more flexibility to bill their customers exclusively via electronic means. The RLECs, however, recognize that some customers do not choose to have a broadband connection. To that end, the RLECs, therefore, propose the elimination of Section 64.12 and seek explicit Commission approval to permit electronic billing if: (1) the customer requests or allows for electronic billing; or (2) the LEC provides broadband services along with retail voice services to the customer.

Finally, Sections 64.11 through 64.22 and 64.24 are outmoded and burdensome and should be eliminated for many reasons. For example:

- Section 64.12 in part requires “payment shall be deemed to have been made on the date of the postmark....” No company in today’s competitive environment can employ people to review the postmark date of a payment solely for the purpose of applying this regulation.
- Section 64.12 prohibits the imposition of a late payment charge unless the payment is received more than five days after the due date. Standard business practices today, including those of alternative providers of telephone services, allows for late payment charges if the bill is not paid by the due date.

²⁸See, *Investigation of Practice of Paper Invoice Charges*, Docket No. R-2010-2181481; *Pennsylvania Public Utility Commission v. Cavalier Telephone Mid-Atlantic, L.L.C.*, Docket Nos. R-2010-2176403 and R-2010-2179527; *Petition of Cordia Communications Corp. for Designation as an Eligible Telecommunications Carrier Under Section 214(e) of the Telecommunications Act of 1996 and 47 C.F.R. §§ 54.101, 201-207*, Docket No. P-2008-20144447, (Order entered March 20, 2014); *See also, Rulemaking Re: Amendment to 52 Pa Code Chapter 53; Paper Billing Fees*, Docket No. L-2014-2411278 (Order entered January 12, 2016) .

²⁹ 52 Pa. Code § 64.12 (“The due date for payment of a monthly bill shall be at least 20 days from the date of **mailing** by the LEC to the customer.”) (emphasis added).

- Section 64.22 regards billing for interexchange carriers. IXCs' services are competitive (*see* 66 Pa.C.S. § 3018(a)), so regulations regarding billing for competitive services are unnecessary.
- Section 64.24 unnecessarily limits and extends the billing and collection processes that alternative providers with bundles need not undertake. In Act 183, the General Assembly provided flexibility with bundles (*see* 66 Pa.C.S. § 3016(e)) which this regulation undermines. This regulation needs to be eliminated and harmonized with Act 183.

Competitor practices in today's marketplace simply do not employ the myriad processes and requirements imposed by these sections of Chapter 64. These onerous requirements are not consistent with the fact that ILECs serve only 12% of the voice connections in Pennsylvania and have diminishing revenue support to operate 100% of the voice network. ILECs are disadvantaged when made to comply with billing and payment requirements as if voice service was still a monopoly-provided service with 100% of customers in a serving area providing revenue support to operate the network. It is not 1984 anymore and outmoded regulatory requirements need to be eliminated.

2. Subchapter C – Credit and Deposit Standards Policy (Sections 64.31 through 64.41)

The credit and deposit requirements of Sections 64.31 through 64.41 do not reflect current business environment of serving only 12% of the market. Because the provisions are onerous (e.g., deposits must be included on the bill and interest on deposits must be annually paid), the existing regulations effectively discourage companies from taking a deposit. That net result is contrary to sound business practices.

Moreover, consumers today are familiar with deposit practices which do not require payment of an actual cash deposit. Consumers, for example, may prefer a credit card kept on file. Alternative service providers in today's competitive marketplace do not have these requirements.

The RLECs should not be bound by these unduly burdensome regulations that are contrary to current business practices either.

3. Subchapter E – Suspension of Service (Sections 64.61 through 64.111) and Subchapter F – Termination of Service (Sections 64.121 through 64.123)

Chapter 64 contains numerous, convoluted requirements for the suspension of retail voice service separate from the regulations applicable to termination of service. Once the suspension process is completed, there is an additional process for termination, along with separate notices for termination. Consumers today are not accustomed to, nor do they expect, such layered processes. Compliance with these two-step processes is costly and time consuming for both the company and the customer. These suspension and termination requirements are not reflective of the telecommunications industry of 2018 and beyond, only serve to confuse the customer based on repetitive application, and should therefore be eliminated.

4. Subchapter G – Disputes; Informal and Formal Complaints (Sections 64.131 through 64.171)

Subchapter G creates three separate avenues and sets of procedures and requirements for addressing customer disputes: (1) Disputes; (2) Informal Complaints; and (3) Formal Complaints. The regulations are layered in that they require the company to encourage customers to contact the Commission to use another avenue if “not satisfied.”³⁰ These regulations aim to govern all aspects of the communications and interactions occurring between the customer and the company under the presumption that monopoly providers would not do so absent the regulations. The regulations also create reporting requirements for the sake of further reporting and without any real benefit to any party involved.³¹

³⁰ See 52 Pa. Code §§ 64.131-64.132 (relating to disputes); § 64.152 (relating to informal complaints); § 64.163 (relating to formal complaints).

³¹ One notable example is the Utility Consumer Activity Report and Evaluation (“UCARE”) Report. See http://www.puc.state.pa.us/filing_resources/consumer_activities_report_evaluation.aspx. The UCARE Report rolls-

First, Sections 64.131 through 64.142 govern “disputes” and regulate virtually all aspects of the communications between the customer and the company *prior to* the complainant filing an informal or formal complaint. The RLECs submit, based upon information and belief, that the dispute process regulations are unique to Pennsylvania and not used anywhere else. There is no need for regulations to dictate customer/company interactions. Moreover, these dispute procedures require a summary of the dispute *for each and every customer who effectively contacts the company*. This “dispute summary” is then provided to the Commission’s Bureau of Consumer Services (BCS). The requirements of that report are set forth at Section 64.142 and are very comprehensive in today’s competitive environment.³² To reiterate, even if the customer issue is

up *infractions* generated by the Bureau of Consumer Services from the informal complaint process. The UCARE Report does not comprehensively report infractions by *all* ILECs and CLECs within the telephone industry. The UCARE Report itemizes and addresses only the five “Major Telephone” ILEC companies. In addition, as previously noted, ILECs in Pennsylvania have less than 12% of total voice subscriptions in the state. The RLECs respectfully submit the UCARE Report relative to the telephone industry simply does not provide a useful view of the industry and does not directly benefit consumers in today’s telecommunications marketplace. The RLECs’ position regarding the UCARE Report is *not* that additional ILECs or CLECs should be included, but that reporting for the sake of reporting wastes scarce Commission resources that can be used elsewhere.

³² Section 64.142 specifically provides that the LEC shall prepare a report which includes:

- (1) A statement of the claim or dispute and a copy thereof if the claim or dispute was made in writing.
- (2) The position of the LEC and the results of investigation.
- (3) An itemized statement of the account, specifying amounts credited or due as a result of the disputed subject matter.
- (4) A statement that service will not be suspended pending completion of the dispute process, including both informal and formal complaints, so long as the customer:
 - (i) Pays all nondisputed amounts.
 - (ii) Files an informal complaint with the Commission within 10 days of the date on which the LEC mailed the written summary to the customer.
- (5) The address and telephone number of the LEC office where payment can be made or information obtained.
- (6) A complete explanation of procedures for filing an informal complaint with the Commission (see § 64.152 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or deemed necessary by the LEC, the LEC must provide the information in § 64.152(a)(1)—(3) and (6). In addition, the LEC should provide the telephone number and address of the office of the Commission where the informal complaint may be filed.
- (7) The date on or after which the account will be delinquent unless a payment agreement is entered into or an informal complaint is filed with the Commission. The date may not be earlier than the original due date of the bill or 10 days after the mailing or personal delivery of the written summary, whichever is later.

resolved and the customer is satisfied, the company must still keep a written record under the regulations.³³ The regulations clearly are *not* geared to allow an RLEC the time or incentive to address and resolve issues directly with customer.

Sections 64.151 through 64.154 govern the second avenue – the informal dispute process. BCS implements all aspects of the informal complaint regulations. The entire informal complaint process is unnecessary, particularly with a flexible mediation process. The elimination of the informal complaint process would conserve Commission resources and lead to quicker resolution of customer issues.

Finally, Sections 64.161 through 64.163 govern the formal complaint processes. If a customer is not satisfied with the result from the informal complaint process, the customer can file a formal complaint and, per the regulations, “shall be heard de novo” as an *adjudicated* formal complainant.³⁴ As the Commission knows, Administrative Law Judges, court reporters, and lawyers are involved with formal complaints. Adjudication of consumer formal complaints is costly and time consuming to all involved – the customer, the Commission and the company – and is an inherently complicated and unfamiliar process to *pro se* consumers.

Rather than continue to invoke a complicated, tedious three phase process, the Commission should adopt a streamlined and modified dispute resolution process with a more consumer-friendly process which encourages the LEC and retail customer to directly resolve disputes and issues between the parties before the Commission takes action and expends time and resources. To

³³ 52 Pa. Code § 64.141(5)(i-iii). Sections 64.151 through 64.154 govern the second avenue – the informal dispute process. BCS implements all aspects of the informal dispute process. The RLECs respectfully submit that the Commission intervention in the form of an informal dispute process is unnecessary. It is particularly unnecessary with flexible mediation process, which in turn would conserve Commission resources.

³⁴ 52 Pa. Code § 64.163.

accomplish such a process, the RLECs propose the following for any disputes involving regulated retail services:³⁵

- Like nearly all service industries, any and all customer dispute should first require the utility company and the customer to attempt to resolve the dispute themselves without intervention or participation of any outside entity, including the Commission. In the event the customer contacts the Commission before reaching out to the company, the Commission would advise the customer to contact the LEC directly to attempt to resolve the issue or source of dispute and would provide contact information for the company representative/group to be used by the customer to contact the LEC. As part of this process, LECs would be required to notify and/or confirm annually its representative's/group's contact information with the Commission.
- The informal complaint process would be eliminated completely.
- If the parties are unable to resolve the dispute/issue, or for any dispute not resolved to the customer's satisfaction, the customer would retain the right to register the dispute with the Commission. Once a dispute is registered, the Commission would immediately assign the matter to its Mediation Unit for mandatory mediation. The parties would then work to resolve the dispute in accordance with the Commission's mediation rules and with the assistance of the mediator.
- As a final step, a formal complaint could be filed with the Commission for adjudication before a presiding administrative law judge, but only if mediation proves unsuccessful. Formal complaints would be limited to statutory issues (e.g., violations of Section 1501 of the Public Utility Code), which could be filtered at the mediation level to trim issues and avoid frivolous or non-jurisdictional complaints.

The goal at the end of day from the standpoint of the RLECs is to resolve the issue with the customer. The RLECs' resources are better utilized focused upon working with the customer, rather than compliance with imposing regulations and submittal of reports to the Commission. For these reasons, the RLECs respectfully request that the Commission adopt the foregoing procedure for handling customer disputes.

³⁵ Disputes concerning wholesale services are typically governed by federal requirements and the processes associated with federal requirements. Nevertheless, the streamlined concept which follows immediately below would not preclude formal complaints regarding wholesale service matters.

5. Subchapter I – Public Information; Record Maintenance (Sections 64.191 and 64.192)

This section dictates a specific and relatively lengthy list of information to be provided to the customer.³⁶ In addition to this list, the regulations require detailed confirmation letters, along with written summaries of various items.³⁷ It also requires that all dispute information, complaints and any other ‘broadly construed’ information that falls within the purview of this chapter must be documented.³⁸ These provisions are obviously designed for a time when ILECs had 100% of the market share. Today, public information exists on various web-based platforms, through advertising, and other mediums. The culture of the myriad alternative service providers has disrupted the telecommunications industry. As a result, consumers today are used to streamlined interactions and do not want a litany of summaries, forced dialogue caused by a recitation of services, and unnecessary written documents because these are not common practices any more. There is no reason the minority voice providers in Pennsylvania should continue with outmoded practices such as those existing in these regulations. These requirements should be eliminated.

6. Subchapter J – Annual LEC Reporting Requirements (Sections 64.201 and 64.202)

These regulations include a host of requirements related to billing information such as average customer bill, average suspended customer’s bill and average terminated customer’s bill broken down in these categories (basic, non-basic and toll). These reports are labor intensive (typically taking about two days to complete) and do not have any discernable benefit. This subchapter should be eliminated.

³⁶ 52 Pa. Code § 64.191.

³⁷ 52 Pa. Code § 64.191(g).

³⁸ 52 Pa. Code § 64.192(3).

IV. CONCLUSION

The RLECs appreciate the opportunity to comment on the Advance Notice of Proposed Rulemaking Order. For the reasons set forth above, the RLECs respectfully request that the Commission adopt the recommendations and relief set forth herein in conjunction with the review of its Chapters 63 and 64 regulations. The RLECs look forward to working with the Commission and other stakeholders to ensure the regulatory obligations imposed upon Pennsylvania's ILECs are reduced to levels consistent with those imposed upon competing alternative service providers.

APPENDIX A

PENNSYLVANIA BULLETIN

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Pages 4341 — 4430

Part I

Agencies in this issue:

The Courts
Department of Banking
Department of Commerce
Department of Community Affairs
Department of Environmental Resources
Department of General Services
Department of Health
Department of Public Welfare
Department of Transportation
Environmental Hearing Board
Executive Board
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Public Utility Commission
Securities Commission
State Board of Medical Education and Licensure

Detailed list of contents appears inside.

See Part II of this issue
for the Department of Community Affairs'
Community Development Block Grant Program
objectives and report



This issue contains documents officially filed through 12:00 noon, November 30, 1984

Rules and Regulations

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the State Employees' Retirement System

The Executive Board approved a reorganization of the State Employees' Retirement System on November 16, 1984. The organization chart at 14 Pa. B. 4355 (December 1, 1984) is published at the request of the Joint Committee on Documents, under 1 Pa. Code § 3.1(a)(9).

[Pa. B. Doc. No. 84-1612, Filed November 30, 1984, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[1-80090338]

[52 PA. CODE CH. 64]

Standards and Billing Practices for Residential Telephone Service

At its public meeting of August 27, 1984, the Pennsylvania Public Utility Commission issued an order finally adopting its proposed regulations published at 12 Pa. B. 1957 on June 26, 1982 and again at 13 Pa. B. 1319 on

April 16, 1983 to amend standards and billing practices for residential telephone service. These changes will become effective on January 1, 1985.

Public Meeting held
August 27, 1984

Commissioners Present: Linda C. Taliaferro, Chairman; Michael Johnson; James H. Cawley; Frank Fischl; and Bill Shane.

Order

This rulemaking proceeding was instituted by an order entered on May 12, 1982 and published for comment at 12 Pa. B. 1957 (June 26, 1982). After receiving comments from several parties, we revised our proposal and published a second proposal for comment at 13 Pa. B. 1319 (April 16, 1983). Comments to our second proposal have been received from The Bell Telephone Company of Pennsylvania (Bell), the Office of Consumer Advocate (OCA), the Pennsylvania Independent Telephone Association (PITA), North Pittsburgh Telephone Co. (North Pittsburgh), Commonwealth Telephone Co. (Commonwealth), General Telephone Co. of Pennsylvania (General), Mid-Penn Telephone Co. (Mid-Penn), the United Telephone System (United), and the Denver & Ephrata Telephone & Telegraph Co. (Denver & Ephrata). After reviewing these comments and making appropriate revisions, we hereby adopt final regulations.

We have attempted to shape these regulations to fit the telephone industry as it is today, and as we believe it

will be in the near future. The primary trend in the industry is the segmentation of the traditional concept of "telephone service" into its component parts — local exchange service, interexchange service, and customer premises equipment. Local exchange service is still generally viewed as a natural monopoly. However, the customer premises equipment market is now open to competition¹, and the interexchange market is swiftly moving in the same direction². Other aspects of traditional telephone service, such as the installation and maintenance of inside wiring, appear to be moving gradually toward competition and deregulation.

The final regulations contain several changes from our most recent proposal.³ First, whereas we previously distinguished between regulated and non-regulated service in our definitions, we now have drawn a distinction between telephone service, which is a broad term encompassing both local exchange service and interexchange service⁴, and nonbasic service. We believe that it is better to define these services in specific terms and state how they should be treated under these regulations rather than to have

¹ See *Second Computer Inquiry*, 77 FCC 2d 384 (1980).

² See *MTS and WATS Market Structure*, 81 FCC 2d 177 (1980), *United States v. American Telephone & Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982) *affirmed sub. nom. Maryland v. United States*, 103 S. Ct. 1240 (1983).

³ Some of these changes were instituted in response to comments and others were made upon our own initiative. None of these changes enlarge the purpose of the proposal so that publication of yet another proposal would be required under the Commonwealth Documents Law. See 45 P.S. § 1202.

⁴ We have also distinguished local exchange carriers and interexchange carriers, and have stated that these regulations do not apply to interexchange carriers.

Section 612 of The Administrative Code of 1929 (1 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years, in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where "no fiscal impact" is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

their treatment depend upon whether they are regulated or not.

Second, we have adopted an order of priorities for applying partial payments which recognizes the primary importance of local exchange service. A local exchange carrier is barred from terminating local exchange service for payments which are sufficient to pay for local exchange service but which are not also sufficient to cover fees for nonbasic services. In addition, a local exchange carrier cannot terminate local exchange service for the failure to pay for interexchange service unless the local exchange carrier is technically incapable of terminating interexchange service without terminating local exchange service.

Third, we have deleted §§ 64.91 and 64.92 which dealt with advance regulated toll payment requests. These sections would have permitted a telephone company to demand advance payment where a customer's toll usage was higher than normal. However, we now believe that permitting demands for advance payments would be contrary to section 1509 of the Public Utility Code, 66 Pa.C.S. § 1509, which gives customers the right to receive a monthly bill, and which gives customers 20 days in which to pay that bill.

The following is a section by section summary of the comments which were received and the changes which have been made to each section.

Subchapter A. Preliminary Provisions

§ 64.2. *Definitions.* In our final regulations we have deleted the definitions of regulated service and nonregulated service, and have added definitions of interexchange carrier, interexchange service, local exchange carrier, local exchange service, nonbasic service, and telephone service.

Decisions regarding whether to regulate or not regulate a service are not necessarily relevant to how that service should be treated under these regulations. Thus, we believe that it is a better practice to define a service in specific terms and to state how it should be treated under the regulations rather than have its treatment hinge upon whether the service is regulated or nonregulated.⁵

In addition, the regulated/nonregulated distinction was impractical as it related to interstate service. As Bell correctly pointed out in its comments, defining interstate toll service as nonregulated, and flatly barring termination of local service for failure to pay for interstate calls, would, in some cases, subject AT&T Communications

to the threat of continuing losses to delinquent customers. This is so because, as will be explained in our discussion under § 64.21, it is not technically possible to terminate interstate calling through AT&T without terminating local service at the same time unless the local exchange carrier's central offices are equipped with an electronic switching system.

The distinctions which we have drawn between local exchange and interexchange carriers and services describes the current industry structure. The distinction is important, because the local exchange market is still regarded as a natural monopoly, whereas the interexchange market is increasingly viewed as competitive. It is more important to regulate the billing practices of local exchange carriers because customers do not have any competitive options and because local exchange service is necessary for access to interexchange service. Therefore, we have limited the scope of these regulations to apply only to local exchange carriers, thereby exempting interexchange carriers.⁶

We have also included definitions of telephone service and nonbasic service in the regulations. Telephone service includes both local exchange and interexchange service; nonbasic service includes any other type of service which is offered by a local exchange carrier. This distinction was necessary for allocating partial payments under § 64.17.

Subchapter B. Payment and Billing Standards

§ 64.12. *Due date for payment.* North Pittsburgh, United, and General all filed comments reiterating objections raised as part of the original comment period. Commentators suggested that the date of payment be the date on which payment is received by the telephone company instead of the date of the postmark. The elimination or alteration of the five day grace period before a late payment charge (LPC) may be charged was also suggested. General requested that the impositions of the LPC be on the balance forward at the close of its normal cash cutoff date.

Our position on this issue remains the same as was stated in response to comments following the initial publication of these regulations. That is, we intend to make Chapter 64, where possible, consistent with Chapter 56. We appreciate the effect which our refusal

will have on computer programs and we realize that on occasion an LPC will be billed 30 days after it is incurred. However, we believe that the 5 day grace period compensates for instances where mail or mail processing is delayed, and where postmarks are missing or illegible. Also, the company's billing periods should be able to accommodate the 5 day grace period. Even if an LPC must be carried over to the next bill, we do not believe a telephone company to be at unreasonable disadvantage. Finally, if the operations of a particular company are seriously jeopardized by this section, a waiver of its provisions can be requested. A question was raised as to whether to impose a LPC from the original due date or the expiration of the grace period. The imposition of the LPC from the original due date is correct under this section.

Comments were filed by North Pittsburgh requesting clarification as to processing of payments to branch offices and the effect any delay of processing of payments by the payment agent would have on the grace period and service suspension. Payments to payment agents must be considered to be made on the date payment is received by the agent. However, the grace period should allow enough transmittal time to prevent LPC from being mistakenly charged. North Pittsburgh is correct in inferring that the consumer must notify the telephone company if payment is made to an agent when suspension or termination is imminent. If such notification is not made, then the phone company will not be considered in violation of this section if suspension or termination occurs. Also, a question was raised as to whether the grace period required for payment to branch office or payment agent is extended due to mailing of payments. The 5 day grace period required in § 64.12 remains the same regardless of method of payment.

North Pittsburgh commented that the requirement that subsequent overdue bills itemize separately any balance of regular service, security deposits, and late payment charge may be beyond the computer or bill processing capacity of most companies. We disagree and feel that most, if not all, companies can make the required changes without major expense. All three parts require different billing treatment and their merging could lead to inappropriate treatment, for example, charging LPC on an unpaid deposit. Therefore, we have left this section unchanged.

§ 64.14. *Billing information.* North Pittsburgh suggested that a consumer be charged for requests for itemization

⁵ This approach will give the Commission the flexibility to continue regulating the billing for a service even if the rates for the service are deregulated.

⁶ None of the interexchange carriers — including AT&T Communications, Inc. — was certificated in Pennsylvania at the time of our most recent proposal. Further experience with these carriers is necessary before we decide whether to issue regulations governing their billing practices.

of recurring charges. We disagree because requests for itemization are an important method for resolving billing disputes, and its usefulness for this purpose should not be discouraged by requiring a charge. In addition, customers may be satisfied by reviewing an itemization of charges, thus eliminating the cost of processing a dispute.

North Pittsburgh commented that new or additional services are covered under a tariff which establishes the amounts to be charged to a customer, thereby eliminating the need to do a preliminary estimate and keep records for 90 days. We disagree because we believe that a consumer must be fully informed of all service options available to be able to make an intelligent selection of the various new or additional services. If, after the request, the consumer wishes to file a dispute regarding services supplied, written estimates will be available to allow an investigation of the validity of the dispute.

Mid-Penn Telephone commented that it would be more appropriate to provide various billing information required in § 64.14 by means of the telephone directory in place of the bill because the use of the directory would reduce billing costs. We disagree as we believe that the telephone bill, not the directory, is the focus of bill payment. Furthermore, telephone books are often misplaced and can become outdated due to their printing cycle. Additional costs, if any, of this requirement would be justified by the benefit of improved communication between the company and the customer.

§ 64.17. *Partial payments.* This section contains a basic revision of § 64.17 of our last proposal, which was entitled "Nonregulated telephone service". The revised section creates an order of priorities for apportioning payments which are sufficient to pay for some services but not the entire bill. Partial payments should be applied first to local exchange service, then to interexchange service, and finally to nonbasic service. These priorities reflect our policy that access to the local network should be afforded the highest degree of protection.

Implementation of this section will be a significant change from the current industry practice of single balance billing⁷, where all of a customer's services could be terminated for the failure to pay any part of a bill. Single balance billing is an outmoded vestige of the time when all aspects of telephone service were provided by an integrated

monopoly. Customers are increasingly viewing telephone service as being composed of several separate components — such as local service, long distance service, and telephone equipment. Today, a customer may purchase each of these services from a different company. Therefore, to conform with both customer expectations and trends in the industry, it is entirely appropriate to require local exchange carriers to treat these services separately for billing purposes.

In addition, as will be explained in our discussion under § 64.21, to terminate all services where a customer's payment is sufficient to cover the charge for some of those services is tantamount to using service termination as an arbitrary collection device.

§ 64.21. *Separate billing for nonbasic service, interexchange service, and local exchange service.* This section requires telephone companies to break out the billing for different services⁸, bans termination of local service for nonpayment of charges for non-basic services, and allows termination of local exchange service for failure to pay charges for interexchange service only where the local exchange carrier is technically unable to terminate interexchange service without also terminating local exchange service at the same time.

In formulating a policy regarding termination of local exchange service, it is necessary to keep in mind the rationale of our prior decisions regarding service termination. The Commission has stated that:

The discontinuance of service is a means of preventing future losses and not an arbitrary method of compelling payment of prior bills not covered, or covered only in part, by deposit.

(emphasis in original) *Kascak, et al. v. UGI Corp.*, Pa. PUC 468 at 469 (1980), quoting from *Luffy v. Manufacturer's Light & Heat Co.*, 13 Pa. PSC 360 (1934). In the *Kascak* case, the Commission barred a utility from threatening termination at one location of a customer as a means of compelling payment for service rendered at another location of the same customer. In the present case, the local exchange carriers are seeking permission to terminate all services for nonpayment of any part of a bill. Clearly, this would authorize the local exchange carriers to use service termination as an arbitrary collection device.

The comments of the local exchange carriers urge us to allow termination of

local service for failure to pay any part of a bill. If we adopted this policy, it would be possible for the telephone companies to continue their practice of single balance billing, and they would be spared the expense of altering their data processing system to allocate partial payments. Moreover, as Bell pointed out in its comments, it would be imprudent to flatly ban termination of local service for failure to pay charges for interexchange service, because, given the present network configuration, it is often impossible to terminate service to AT&T Communications without terminating local service at the same time.⁹ However, as equal access is phased in through September 1986, it will be possible to terminate interexchange service in isolation from local exchange service.

The ability to terminate interexchange service while continuing local exchange service depends upon the type of switching equipment utilized by the local exchange carrier. Bell's comments indicate that central offices equipped with an Electronic Switching System (ESS) can terminate interexchange service while continuing access to local exchange service.¹⁰ For this reason, Bell has proposed that we defer a ban on terminating local service for non-payment of interexchange fees at least until September of 1986, because by this time Bell will have equipped all of its Central Offices with an ESS in order to facilitate compliance with the equal access requirements of the Modified Final Judgment. See *United States v. American Telephone & Telegraph Co.*, 552 F. Supp. 131 (D.C. Cir. 1982) affirmed sub. nom. *Maryland v. United States*, 103 S. Ct. 1240 (1983).

We have carefully considered our proposal in light of Bell's comments. We do not believe that a flat ban on termination of local service for non-payment of interexchange fees would be in the public interest, because this would subject AT&T Communications to the risk of continuing losses where the local exchange carrier is incapable of terminating interexchange service without terminating local service as well.¹¹ On the other hand, we do not favor the use of termination of local exchange service as an arbitrary collec-

⁷ For reasons related to their unequal access to the integrated telephone network, this problem does not exist for other interexchange carriers, such as M.C.I. Communications, G.T.E. Sprint, etc. As these carriers are offered equal access, Bell will have the ability to selectively terminate interexchange service.

⁸ It is our impression that a digital switching system, which is a form of ESS, also provides this capability.

¹¹ While Bell may have the capability of terminating interexchange service in isolation from local exchange service by September of 1986, this is no guarantee that the independent telephone companies will have that ability. Except for the General Telephone Company, the independents are not legally bound to offer equal access [which requires electronic switching] to interexchange carriers.

⁷ Single balance billing describes the practice of presenting a customer with a single balance due and refusing to allocate payments which are sufficient to pay some, but not all, parts of the bill.

⁸ We do not mean to imply that the local exchange carriers must mail separate bills to a customer for each service. It is our intention that the balance due for each service be listed separately and that they are treated independently for termination purposes, etc.

tion device for interexchange fees; termination is only permissible to prevent continuing losses.

To be consistent with the above principles, we believe that the public interest would be best served by permitting the termination of local exchange service for nonpayment of interexchange fees only where the Central Office serving the customer in question is incapable of terminating interexchange service without terminating local exchange service as well. We believe that this regulation is preferable to an immutable rule which either grants or denies local exchange carriers the authority to terminate local service for nonpayment of interexchange fees. Specifically, our regulation provides the following advantages:

1. It protects AT&T Communications from suffering losses that it is powerless to prevent.
2. It will allow a steadily increasing number of customers to retain local exchange service even if they cannot pay their interexchange bill.
3. It allows us to implement immediately a standard which can be applied to both Bell, which will have the capability to terminate local exchange service without terminating interexchange service by September 1986, and the independents, many of whom may not have this capability for the foreseeable future.
4. It gives immediate recognition to the fact that the telephone industry is being segmented into local exchange service and interexchange service.

We believe that our disposition of this question represents a reasonable balancing of the interests of consumers and the industry.

We also believe that the prohibition against termination of local exchange service for nonpayment of nonbasic service is in the public interest. Charges for nonbasic services consist of either nonrecurring charges — such as charges for repairs — or charges associated with services for which there are other means of securing payment — such as leasing equipment (where repossession is possible). Therefore, barring termination of local service for nonpayment of fees for non-basic services is consistent with the principle that service termination is only to be used to prevent further losses; it is not to be used as an arbitrary collection device. In addition, since many non-basic services — such as inside wiring and equipment services — are now subject to competition, allowing the local exchange carriers to terminate local service as a means of compelling payment would give the local

exchange carriers an unfair competitive advantage over unregulated businesses.

§ 64.22. *Billing services for interexchange carriers.* This section permits a local exchange carrier to perform billing services for interexchange carriers if the local exchange carrier purchases the account receivable prior to billing for the service, assumes responsibility for settling all disputes regarding the purchased bill, and applies its own deposit rules.

Bell's comments to our most recent proposal stressed the importance of tailoring these regulations to permit them to provide effective billing services for interexchange carriers. We believe that this regulation accommodates these concerns. The requirements that the Local Exchange Carrier own the debt, apply its deposit rules, and settle all disputes, are essential in order to minimize customer confusion and inconvenience. These provisions will permit a customer to deal with one entity, the local exchange carrier, which has the obligation to settle any dispute. If the local exchange carriers wish to have the right to bill for interexchange carriers, it is not unfair to ask them to accept the responsibility as well. They must take the bitter with the sweet.

Subchapter C. Credit and Deposit Standards Policy

§ 64.35. *Deposit requirement for existing customers.* North Pittsburgh commented on the complexity, as written, of the deposit requirements for existing customers. North Pittsburgh stated that the complexity and administrative cost involved make this standard less practical as a tool to reduce bad debt exposure. We disagree and feel that the regulations, as written, balance the negative effect of requiring an existing customer to pay a deposit and the need for the company to use the deposit as a tool to reduce a bad debt, particularly when such a consumer has previously established good credit with the company. In addition, this requirement is consistent with Chapter 56 and it has functioned successfully for the utilities covered under that chapter.

§ 64.36. *Method of making a deposit.* North Pittsburgh commented that these standards are complex and costly because of the requirement of using an average over a 12 month period, especially in respect to the tracking and the calculation of the average for each customer. North Pittsburgh suggested that the latest two month period was more representative of customer calling patterns. We believe the requirements, as written, are better suited to

meet the goal of a deposit. That goal is to establish a deposit level which is closest to each consumer's individual historical usage and which will allow the company to be protected from loss. Telephone company billing records should allow exchange information and individual usage histories to be developed without significant costs.

§ 64.37. *Refund of deposits.* North Pittsburgh suggested that this standard should include the phrase "at the customer's request" because the company cannot determine if customer has become an owner of real property, signed a rental lease for a year, and the like. We agree and have made the appropriate change.

§ 64.41. *Interest.* North Pittsburgh commented that the 9.0% interest may be excessive in view of investment money rates now existing. This comment may have some validity, given the wide fluctuations in interest rates; however, we feel that a standard fixed rate is administratively preferable to a fluctuating rate and the 9.0% rate is appropriate when comparing it to the 15% per annum late payment charge. It should also be pointed out that the late payment charge is designed to defer the cost of collections and is not exclusively tied to interest rates. However, if interest rates or collection costs at any time consistently and significantly deviate from these levels, the regulations can be amended.

Subchapter E. Suspension of Service; Grounds for Suspension

§ 64.61. *Authorized suspension of service.* This section is being revised to bar suspension of service where a customer does not comply with an advanced regulated toll payment request. As stated more fully in our discussion of § 64.91 and 64.92, advance regulated toll payment requests violate § 1509 of the Public Utility Code, 66 Pa.C.S. § 1509.

§ 64.62. *Days suspension or termination of services are prohibited.* United suggested that the present language should be reworded to prevent it from being misinterpreted to mean that a suspension or termination — though rightfully commenced on a day other than Saturday, Sunday, bank holiday or telephone company holiday — could not be continued during Saturday or Sunday, and the like. We agree and have adopted United's suggested changes.

§ 64.63. *Unauthorized suspension of service.* This section has been changed to accommodate the revisions which are being made in §§ 64.17 and 64.21. Specifically, this section now provides that local exchange service shall not be suspended for either nonpayment for

non-basic services, or for nonpayment for interexchange service where the local exchange carrier can terminate interexchange service without terminating local exchange service as well. The reasoning which prompted these revisions was stated previously in this Order.

Notice Procedures Prior to Suspension

§ 64.73. *Notice when dispute pending.* North Pittsburgh suggested clarification may be required as to what constitutes a notice of dispute. We have changed this section and cited § 56.2 to help clarify when notice of a dispute has been made. A notice of dispute is to be considered filed pursuant to the definition of dispute. That is, if at the conclusion of an initial inquiry the customer or the customer's designee indicates satisfaction with the resulting resolution or explanation, the contact will not be considered a dispute. Utilities are to assure themselves of such satisfaction by an explicit question at the end of an initial discussion.

§ 64.74. *Procedure upon customer contact before suspension.* North Pittsburgh commented that clarification may be required as to what constitutes a telephone company report. Therefore, we have added to § 64.74 the appropriate cite of § 64.142 pertaining to company reports for purposes of cross-referencing the sections for clarity.

Advance Regulated Toll Payment Request

§ 64.91. *Request for advance regulated toll payment.*

§ 64.92. *Notice procedures for suspension based on advance regulated toll payment request.*

Taken together, these two sections would have permitted a local exchange carrier to demand advance payments where a customer's toll usage was significantly higher than usual (§ 64.91), and would have provided for notice procedures prior to termination where a customer did not comply with the request for advance payment. (§ 64.92).

It is now clear to us that allowing a local exchange carrier to demand — upon threat of service termination — an advance payment for unusually high toll usage would be a clear violation of the Public Utility Code. Section 1509 of the Code, 66 Pa.C.S. § 1509, provides in relevant part:

All bills rendered by a public utility (including a telephone company) to its service customers, except bills for installation charges, shall allow at least . . . 20 days for residential customers from the date of transmittal of the bill for payment without incurring

any late payment charges therefore. *All customers shall be permitted to receive bills monthly and shall be notified of their right thereto.*

(emphasis supplied). Since customers have a right to monthly billings, and to a 20 day period in which to pay that bill we may not legitimize a telephone industry practice of demanding payment before the due date of the regular monthly bill. The clear and unambiguous language of section 1509 does not contain an exception to the monthly billing rule for situations where a customer's toll usage is higher than normal. In fact, since the section does contain a lone specific exclusion for bills for installation charges, it must be presumed that no other exclusions were intended. See *Latella v. Commonwealth, Unemployment Compensation Board of Review*, 74 Pa. Commonwealth Ct. 14, 459 A.2d 464 (1983).

We do not agree with the argument that advance toll payment demands, and service termination for failure to pay them immediately, are permitted so long as the company does not impose a monetary late payment charge within the 20 day grace period. If section 1509 prohibits utilities from exercising a lesser power (to impose a monetary late payment charge), then it surely does not permit them to exercise a greater power (to terminate service). Moreover, we view the termination of service as the ultimate late payment charge.

In addition, we do not believe that section 1509 only bars billings which are less frequent than once a month. While this section may have been enacted in response to a utility practice of bimonthly or quarterly billings, the plain language of the section is not limited to remedying that problem. Since the language of the statute is unambiguous, we may not disregard it under the pretext of pursuing its spirit. See 1 Pa.C.S. § 1921(b), *Hyser v. Allegheny County*, 61 Pa. Commonwealth Ct. 169, 434 A.2d 1308 (1981).

Finally, it cannot reasonably be argued that we lack jurisdiction to ban advance toll payment demands simply because some of the calls for which the demands are made might be interstate calls. While we clearly do not have jurisdiction over interstate calls¹², we do have jurisdiction over a Local Exchange Carrier's billing for those calls. Moreover, our approach here is logically consistent with our policy regarding termination of local exchange service for non-payment of interex-

¹² The F.C.C. recently decided that, for the time being, it would not bar local exchange carriers from terminating local service for nonpayment of interstate charges where such terminations are permitted by state law. *Memorandum Opinion and Order*, F.C.C. 83-1145, released May 16, 1984.

change charges, in which we did not distinguish between intrastate and interstate calling.

Subchapter F. Termination of Service; Grounds for Termination

§ 64.121. *Authorized termination of service.* United commented that a five day period between suspension and termination of service would be a sufficient time period because the customer has already been billed and has received proper notification concerning termination. We disagree; we believe that the consumer may need at least 10 days to secure funds to settle an arrearage before his existing number is forfeited, the company goes to the expense of securing any equipment, and billing records are changed. Given the fact that the company is at no additional financial risk after suspension, we feel such a time period is warranted.

Subchapter I. Public Information; Record Maintenance

§ 64.192. *Record maintenance.* United commented that it is unclear from the language of this section when the four year period starts. We agree and this section has been changed accordingly to clarify that the four year period begins from the date of the written or recorded dispute or complaint.

Appendix A. Medical Emergency Notice

Denver and Ephrata Telephone correctly made note of the inconsistency between the number of days noted in § 64.104 and Appendix A. Appendix A has been amended to 30 days to be consistent to § 64.104.

Appendix B. Medical Emergency Notice

Denver and Ephrata Telephone correctly points out the inconsistency between § 64.123 and Appendix B. Section 64.123 deleted the requirement of providing a medical emergency notice with the termination notice but Appendix B was not deleted. Appendix B has been deleted accordingly.

Accordingly, under sections 501, 1305, 1501, and 1504 of the Public Utility Code (66 Pa.C.S. §§ 501, 1305, 1501 and 1504), sections 201 and 202 of the CDL (45 Pa.C.S. §§ 1201 and 1202), and the regulations thereunder at 1 Pa. Code §§ 7.1 and 7.2, we hereby amend 52 Pa. Code by adding Chapter 64, as set forth in Annex A; *Therefore,*

It is Ordered:

1. That the regulations of the Public Utility Commission, 52 Pa. Code Chapter 64, are hereby amended by adding §§ 64.1, 64.2, 64.11 — 64.22, 64.31 — 64.41, 64.51 — 64.53, 64.61 — 64.63,

64.71 — 64.75, 64.81, 64.101 — 64.108, 64.111, 64.121 — 64.123, 64.131 — 64.134, 64.141, 64.142, 64.151 — 64.154, 64.161 — 64.163, 64.171, 64.181, 64.182, 64.191, 64.192, 64.201, 64.211 — 213 and Appendix A to read as set forth in Annex A to this order.

2. That the Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

3. That the Secretary shall deposit the original certified order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. That the regulations set forth at Annex A shall take effect on January 1, 1985.

5. That a copy of this order and Annex A shall be served upon all jurisdictional telephone utilities.

By the Commission

JERRY RICH,
Secretary

Fiscal Note: Fiscal Note 57-7 remains valid for the final adoption of the subject regulations.

INDEPENDENT REGULATORY REVIEW COMMISSION

Order

On October 1, 1984, the Independent Regulatory Review Commission received this proposal from the Pennsylvania Public Utility Commission (PUC). This would amend 52 Pa. Code by adding §§ 64.1 — 64.213 providing standards and billing practices for residential phone services. These regulations are added under the PUC's authority contained in 66 Pa.C.S. §§ 501, 1305, 1501, and 1504; 45 Pa.C.S. §§ 1201 and 1202; and 1 Pa. Code §§ 7.1 and 7.2. The proposed regulations have been previously published for comment at 12 Pa. B. 1957 (June 26, 1982) and then revised and published as a second proposal for comment at 13 Pa. B. 1319 (April 16, 1983). These proposed regulations have an effective date of January 1, 1985.

These proposed regulations represent the first comprehensive rules and regulations for regulated telephone service in Pennsylvania. They prescribe the standards and billing practices for residential telephone service provided by local exchange carriers. The regulations govern account payment and billing, credit and deposit practices, suspensions, termination and customer complaint procedures. The proposed regulations require that the companies give adequate information and reasonable notice of any ac-

tion they take against a customer. Charges for nonbasic service (any service or product other than telephone service afforded or billed by local exchange carrier), interexchange service (transmission of messages between points not in local calling areas), and local exchange service shall be billed separately. The customer's failure to pay charges for nonbasic service will not be a basis for termination of local exchange service. Also, customers failure to pay for interexchange service will not result in termination of local exchange service when interexchange service may be terminated without affecting local exchange service.

The Senate Consumer Protection and Professional Licensure Committee approved the proposed regulations on October 1, 1984. The House Consumer Affairs Committee approved the proposed regulations on October 2, 1984.

The PUC forwarded to the Commission comments they had received from Bell Telephone Company of Pennsylvania, General Telephone Company of Pennsylvania, Office of Consumer Advocate, Pennsylvania Independent Telephone Association, Commonwealth Telephone Company, United Telephone System, North Pittsburgh Telephone Company, Mid-Penn Telephone Corporation and Denver and Ephrata Telephone and Telegraph Company.

We have reviewed these proposed regulations and find them to be in the public interest. The regulations will benefit all residential telephone ratepayers by replacing the wide disparities in practices and procedures within the telephone industry in Pennsylvania with the creation of fair, equitable, and uniform standards of billing and collection practices. Therefore, we approve these regulations as submitted to the Commission on October 1, 1984.

The Commission reserves the right to review these regulations if they are substantially amended prior to final publication.

IRVIN G. ZIMMERMAN,
Chairman

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 64. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL TELEPHONE SERVICE

Subchapter A. PRELIMINARY PROVISIONS

§ 64.1. Statement of purpose and policy.

The purpose of this chapter is to establish and enforce uniform, fair, and equitable residential telephone service standards governing account payment and billing, credit and deposit practices, suspension, termination, and customer complaint procedures. The purpose of this chapter is to assure adequate provision of residential telephone service; to restrict unreasonable suspension or termination of or refusal to provide service; and to provide functional alternatives to suspension, termination, or refusal to provide service. Every privilege conferred or duty required by this chapter imposes an obligation of good faith, honesty, and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to ensure justice for all concerned.

§ 64.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Applicant — A person who applies for residential telephone service, other than a transfer of service from one dwelling to another within the service area of the local exchange carrier or a reinstatement of service following a discontinuation or suspension.

Billing period — A period of not less than 26 days and not more than 35 days except in the following circumstances:

(i) An initial bill for a new customer may be less than 26 days or greater than 35 days; however, the initial bill shall never exceed 60 days.

(ii) A final bill due to discontinuance or termination may be less than 26 days or greater than 35 days but may never exceed 42 days. A bill may be rendered after the final bill for an additional toll, lost equipment, or other similar charge.

(iii) Bills for less than 26 days or more than 35 days will be permitted if they result from a rebilling initiated by the company or by a customer dispute to correct a billing problem.

Commercial service — Telephone service to a location other than a dwelling, except that service to a dwelling used for both residential and commercial purposes shall be considered commercial service if concurrent residential service is provided.

Customer — An applicant in whose

name a residential service account is billed.

Delinquent account — Charges for telephone service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; however, the contested portion of an account shall not be deemed delinquent if, before the due date, payment arrangements with the local exchange carrier have been entered into by the customer, a timely filed notice of dispute is pending before the local exchange carrier, or an informal or formal complaint is timely filed with and is pending before the Commission.

Discontinuation of service — The temporary or permanent cessation of service upon the request of a customer.

Dispute — A disagreement between an applicant, a customer, or a customer's designee and a local exchange carrier with respect to the application of this chapter — including, but not limited to — credit determinations, deposit requirements, the accuracy of amounts billed, or the proper party to be charged. If at the conclusion of an initial inquiry, the customer or the customer's designee indicates satisfaction with the resulting resolution or explanation, the contact will not be considered a dispute.

Dwelling — A house, apartment, or other location where a person resides.

Emergency — An unforeseen combination of circumstances requiring temporary discontinuation of service either to effect repairs or maintenance or to eliminate an imminent threat to life, health, safety, or property.

Interexchange carrier — A public utility which provides interexchange telephone service, but does not provide local exchange telephone service.

Interexchange service — The transmission of messages or communications by telephone between points which are not both within a local calling area as established in the tariff of a local exchange carrier.

Local exchange carrier — A public utility which provides local exchange service either exclusively or in addition to interexchange service.

Local exchange service — The transmission of messages or communications by telephone between points within a local calling area as established in the tariff of a local exchange carrier.

Nonbasic service — A service or product other than telephone service which is either offered by, or billed for by, a local exchange carrier. The term includes, but is not limited to, the sale

or lease of customer premises equipment, inside wiring maintenance plans, repair services, installation services, call waiting services, and call forwarding services.

Occupant — A person who resides at a location to which residential service is supplied.

Payment agreement — A mutually satisfactory agreement between the customer and the local exchange carrier whereby a customer who admits liability for billed service is permitted to pay the unpaid balance of the account in one or more payments over a reasonable period.

Physician — An individual permitted under the statutes of the Commonwealth to engage in the practice of medicine and surgery or in the practice of osteopathy or osteopathic surgery.

Residential service — Telephone service supplied to a dwelling, including service provided to a location used for both residential and commercial purposes if no concurrent commercial service is provided. The term does not include telephone service provided to a hotel or motel.

Suspension of service — A temporary cessation of service without the consent of the customer.

Telephone company — A public utility which provides telephone service subject to Commission jurisdiction.

Telephone service — The transmission of messages or communications by telephone. The term includes both local exchange service and interexchange service.

Termination of service — Permanent cessation of service after a suspension without the consent of the customer.

Subchapter B. PAYMENT AND BILLING STANDARDS

§ 64.11. Method of payment.

Payment may be made in any reasonable manner including payment by personal check, unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped. When payment is made by personal check which is returned for insufficient funds or for which payment has been stopped, the local exchange carrier may impose a handling charge, the amount of which shall be set forth in the carrier's approved tariff.

§ 64.12. Due date for payment.

The due date for payment of a monthly bill shall be no less than 20

days from the date of mailing by the local exchange carrier to the customer.

(1) *Extension of due date to next business day.* If the last day for payment should fall on a Saturday, Sunday, or bank holiday or another day when the offices of the local exchange carrier which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The local exchange carrier shall not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) *Date of payment to branch office or authorized payment agent.* The effective date of payment to a branch office or authorized payment agent is the date of actual payment at that location.

(4) *Multiple notifications.* When a local exchange carrier advises a customer by multiple notices or contacts and they contain different due dates, the date on or before which payment is due shall be the latest date contained in the notices listed in this section.

§ 64.13. Billing frequency.

A local exchange carrier shall render a bill once every billing period to customers in accordance with approved rate schedules.

§ 64.14. Billing information.

(a) Every bill rendered shall state clearly the following information:

(1) The date of the bill.

(2) The due date on or before which payment must be received to avoid an account being considered delinquent.

(3) The beginning and ending dates of the billing period for service, excluding toll usage and equipment.

(4) The amount due for service and equipment during the current billing period, and the charges for toll service, local usage, taxes and applicable surcharges.

(5) An itemized statement of toll charges listing the date, time, destination, duration, and rate period for each toll call.

(6) Amounts for security deposits owed by or credited to existing customers. This amount shall be separately stated on each bill if a security deposit remains unpaid.

(7) The total amount of all payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges.

(9) The total amount due.

(10) A statement directing the customer to register a question or complaint about the bill prior to the due date, with the address and telephone number where the customer may direct questions or complaints.

(11) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill, and an explanation of the various charges, if applicable, can be obtained by calling the local business office of the local exchange carrier.

(b) At least annually, and upon request of the customer, the local exchange carrier shall provide an itemization of all service equipment and other recurring charges.

(c) Upon request for new or additional services, the local exchange carrier shall inform the customer of the monthly recurring charge for service and each item of equipment ordered by the customer and shall provide a minimum and maximum estimate of applicable nonrecurring charges. The local exchange carrier shall maintain a record of the estimates given for 90 days. The local exchange carrier shall have available a printed explanation of alternative rates and services.

(d) Every final bill shall contain a statement that a subsequent bill will be rendered if needed to collect charges, such as additional tolls or lost equipment.

§ 64.15. Advance payments.

Payment may be required before furnishing any of the following services:

(1) The construction of facilities and furnishing of special equipment.

(2) Temporary service for short-term use.

§ 64.16. Accrual of late payment charges.

(a) A local exchange carrier is prohibited from levying or assessing a late payment charge on an overdue bill in an amount which exceeds 1.25% per month on the full unpaid and overdue balance of the bill. These charges are to be calculated only on the overdue portions of the bill. The rate, when annualized, shall not exceed 15% per annum — computed by the simple interest method — and shall not include previously accrued late payment

charges. A late payment charge shall not be assessed against an outstanding security deposit.

(b) No additional charge, fixed fee, or penalty designed to recover the cost of a subsequent rebilling shall be charged.

§ 61.47. Partial payments.

(a) Payments received by a local exchange carrier which are insufficient to pay the balance due for telephone service and nonbasic service shall first be applied to telephone service.

(b) Payments received by a local exchange carrier which are insufficient to pay the amount due for telephone service shall first be applied to local exchange service.

(c) This section shall not apply if the customer supplies written instructions specifying how a partial payment should be applied.

§ 64.18. Application of partial payments between past and current bills.

In the absence of written instruction, or a disputed bill or a payment arrangement, payments received by the local exchange carrier which are insufficient to pay a balance due both for earlier services and for services billed during the current billing period shall first be applied to the balance due for earlier services, including late payment charges.

§ 64.19. Rebilling.

(a) *Underbilling.* A local exchange carrier may issue a make-up bill for unbilled services resulting from billing error accrued within 4 years of the date of the bill under the following conditions:

(1) The local exchange carrier shall provide the ratepayer with a written explanation of the reason for the make-up bill and a statement that the customer may spread the payments over a period, as described in paragraph (2).

(2) The payment period may, at the option of the customer, be at least as long as the period during which the excess amount accrued or at least as long as necessary so that the total amount billed in 1 month is not greater than the average amount billed for 1 month plus 50%, whichever period is greater.

(b) *Overbilling.* When an overbilling occurs, the local exchange carrier shall credit the customer's account in the amount of the overbilling, including applicable taxes, for a period up to 4 years before discovery of the overbilling, unless the customer requests reimbursement in one lump sum. A charge, in the amount stated in § 64.16 (relating to accrual of late payment

charges), shall be paid on the overbilled amount where at least 30 days have elapsed between payment of the overbilled amount and the credit or refund thereof.

(c) *Rebilling.* The local exchange carrier shall notify the Commission of rebilling affecting more than 10% of its residential customers within 90 days of the rebilling.

§ 64.20. Transfer of account.

(a) In the event of termination or discontinuance of service within the last 4 years, the local exchange carrier may transfer an outstanding amount due to a new or existing residential service account of the same customer.

(b) In the event of discontinuance of service, the local exchange carrier may continue pending termination procedures at a new or existing residential service account of the same customer.

(c) In the event of a termination of service, the local exchange carrier may transfer to the account of a third party guarantor an amount not to exceed the limit of the guarantee.

§ 64.21. Separate billing for nonbasic service, interexchange service, and local exchange service.

(a) Charges for nonbasic service, interexchange service, and local exchange service shall be billed separately.

(b) A customer's failure to pay charges for nonbasic service shall not be a basis for termination of local exchange service.

(c) A customer's failure to pay charges for interexchange service shall not be a basis for termination of local exchange service unless the local exchange carrier is technically unable to terminate interexchange service without also terminating local exchange service.

§ 64.22. Billing service for interexchange carriers.

A local exchange carrier may provide billing services for interexchange carriers under the following conditions:

(1) The local exchange carrier purchases the account receivable prior to billing for the service.

(2) The local exchange carrier assumes responsibility for settling disputes involving accounts receivable which it purchases.

(3) The local exchange carrier applies its deposit rules.

Subchapter C. CREDIT AND DEPOSIT STANDARDS POLICY

§ 64.31. Policy statement.

An essential ingredient of the credit and deposit policies of each local exchange carrier shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area without regard to the economic character of the area or a part thereof. Deposit policies 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.

§ 64.32. Credit standards.

A local exchange carrier shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Earlier local exchange carrier payment history.* The applicant had service with a local exchange carrier within a period of 24 consecutive months — 12 consecutive months until January 1, 1986 — before the date of application and all of the following exist:

(i) Service was furnished in the name of the applicant, and there is no unreturned equipment.

(ii) Service was not suspended for nonpayment nor terminated during the last 12 months of service.

(iii) The applicant does not have an unpaid balance from earlier service.

(2) *Ownership of real property.* The applicant verifies the ownership of or the entry into an agreement to purchase real property located in the area served by the local exchange carrier or is renting a residence under a lease of 1 year or longer in duration, unless the applicant has an otherwise unsatisfactory payment history as a local exchange carrier customer within 2 years before the application for service, as described in paragraph (1).

(3) *Credit information.* The applicant provides information and verification demonstrating that he is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory credit risk.

(ii) The local exchange carrier may request and consider information including but not limited to: applicant's social security number, name of the employer of the applicant, place and length of employment, residence during the previous 5 years, letters of ref-

erence, credit cards and a significant source of income other than from employment.

(iii) If a credit investigation is expected to take longer than 3 business days the local exchange carrier shall provide service pending completion of the investigation.

§ 64.33. Payment of outstanding balance.

(a) The local exchange carrier may require, as a condition for furnishing residential service to an applicant, the payment of an outstanding residential account with the local exchange carrier which accrued within the past 4 years, for which the applicant is legally responsible and for which the applicant was billed properly. However, the outstanding residential account with the local exchange carrier may be spread out over a reasonable period of time. Factors to be taken into account shall include, but not be limited to, the size of the unpaid balance, the payment history of the customer, and the length of time over which the bill accumulated.

(b) A local exchange carrier may not require, as a condition for the furnishing of residential service, payment for residential service previously furnished under an account in the name of persons other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished.

(c) This section shall not affect the creditor's rights and remedies of the local exchange carrier otherwise permitted by law.

§ 64.34. Written procedures.

Each local exchange carrier shall establish written procedures for determining the credit status of an applicant. Each local exchange carrier employ processing applications or determining the credit status of an applicant shall be familiar with and have ready access to a copy of the written procedures of the local exchange carrier. A copy of the procedures shall be maintained on file in each business office of the local exchange carrier and be made available, upon request, for inspection by the public and the Commission.

(1) *Informing applicants of procedures.* The local exchange carrier personnel shall fully explain the credit and deposit procedures to each customer or applicant for service.

(2) *Reasons for deposit request.* If a deposit or payment of an outstanding residential account is required before

furnishing service, the local exchange carrier shall inform the applicant in writing of the reasons for denial of credit and how to obtain service. Existing customers will be informed of the reasons for denial of credit before suspension of service.

§ 64.35. Deposit requirements for existing customers.

Deposits may be required to secure the account of an existing customer if any of the following conditions exist:

(1) *Delinquent account.* A customer has made payment of two consecutive bills, or of more than two bills within the preceding 12 months, after the payment due date. Before requesting a deposit under this paragraph, the local exchange carrier shall give the customer written notification of its intent to request a deposit if current and future bills continue to be paid after the due date.

(i) Notification shall clearly indicate that a deposit is not required at this time but that, if bills continue to be paid after the due date, a deposit will be required.

(ii) Notification may be mailed or delivered to the customer together with a bill for telephone service.

(iii) Notification shall set forth the address and telephone number of the local exchange carrier office where complaints or questions may be registered.

(iv) The subsequent request for deposit shall clearly indicate that a customer should register a question or complaint about that matter prior to the date the deposit is due in order to avoid having service suspended pending resolution of a dispute. The request shall include the telephone number of the local exchange carrier office where questions or complaints may be registered.

(2) *Condition to the reconnection of service.* A local exchange carrier may require a deposit as a condition for reconnection of service after suspension or termination of service for nonpayment.

(3) *Failure to comply with payment agreement.* A local exchange carrier may require a deposit when a customer fails to comply with the terms and conditions of a payment agreement, whether or not service has been suspended or terminated.

§ 64.36. Method of making deposit.

A local exchange carrier's request for deposit may be satisfied by one of the following:

(1) *Posting a cash deposit.* The following conditions shall apply:

(i) *Applicants.* The amount of cash deposit required from an applicant shall not exceed the estimated average 2-month bill for local exchange service plus the average 2-month interexchange charges for existing residential customers in applicant's exchange during the immediately preceding 12-month period. Deposits may be adjusted to maintain a level equal to the estimated average 2-month bill.

(ii) *Existing customers.* The amount of a cash deposit required from an existing customer shall not exceed the customer's average 2-month bill, including toll charges, during the preceding 12-month period. Deposits may be adjusted to maintain a level equal to the average 2-month bill.

(2) *Furnishing a written, third-party guarantee.* Another customer who has met or can meet the credit standards of § 64.32 (relating to credit standards) may furnish a written guarantee to secure payment in an amount equal to the cash deposit required from the applicant or customer. The guarantor shall be discharged when the applicant or customer meets the terms and conditions of § 64.37 (relating to refund of deposits).

§ 64.37. Refund of deposits.

A local exchange carrier shall refund the cash deposit, plus accrued interest, under the following conditions.

(1) *Termination or permanent discontinuance of service.* Upon termination or discontinuance of service, the local exchange carrier shall apply the deposit of a customer, including accrued interest, to the outstanding balance and refund the remainder to the customer. A transfer of service from one location to another within the service area shall not be deemed a discontinuance within the meaning of this paragraph.

(2) *Credit established.* At the customer's request, when a customer establishes credit under § 64.32 (relating to credit standards), the local exchange carrier shall refund the cash deposit plus accrued interest.

(3) *Prompt payment of bills.* After a customer has paid bills for service for 12 consecutive months without having service suspended or terminated and without having paid bills subsequent to the due date on more than two occasions, the local exchange carrier shall refund the cash deposit, plus accrued interest, so long as the customer is not currently delinquent.

(4) *Optional refund.* At the option of

the local exchange carrier, a cash deposit, including accrued interest, may be refunded, in whole or in part, at any time before the expiration of the time period stated in paragraph (3).

§ 64.38. Application of deposit to bills.

The customer may elect to have a deposit applied to reduce bills for telephone service instead of a cash refund.

§ 64.39. Periodic review.

If a customer is not entitled to a refund under § 64.37 (relating to refund of deposits), the local exchange carrier shall review the account of the customer each succeeding quarter and shall make appropriate disposition of the deposit in accordance with §§ 64.37 and 64.38 (relating to refund of deposits and application of deposit to bills).

§ 64.40. Refund statement.

When a cash deposit is refunded, the local exchange carrier shall either mail or deliver to the customer a written statement showing the amount of the original deposit plus all accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit, and the remaining balance.

§ 64.41. Interest.

Interest at the rate of 9.9% per annum shall be payable on all deposits without deductions for taxes thereon. Interest shall be paid annually to the customer, or, at the option of either the local exchange carrier or the customer, shall be applied to the customer's bill.

Subchapter D. INTERRUPTION AND DISCONTINUATION OF SERVICE

§ 64.51. Temporary interruption.

The local exchange carrier may temporarily interrupt service when necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State, or National emergency. Each local exchange carrier shall establish procedures to be followed by its employees to prevent or mitigate interruption or impairment and provide prompt notification to affected customers.

(1) *Notification procedures.* Where the local exchange carrier knows in advance of the circumstances requiring the service interruption, it shall take all reasonable steps, such as personal contact and use of the mass media, to give earlier notice of the cause and expected duration of the interruption to all customers who may be affected.

Where service is interrupted due to unforeseen circumstances, notice of the cause and expected duration shall be given as soon as possible thereafter.

(2) *Permissible duration.* Service may be interrupted only as long as necessary to protect the health or safety of the public, to protect property, or to remedy the situation which necessitated the interruption. Service shall be resumed as soon as possible thereafter.

§ 64.52. Refunds for service interruptions.

(a) When main service is interrupted for a period of at least 24 hours, the local exchange carrier, after notice by the customer, shall apply the following schedule of allowances except in situations provided for in subsection (b):

(1) One-thirtieth of the tariff monthly rate of all services and facilities furnished by the company rendered inoperative, useless, or substantially impaired for each of the first three full 24-hour periods during which the interruption continues after notice by the customer to the company if the out-of-service extends beyond a minimum of 24 hours.

(2) Two-thirtieths of the tariff monthly rate for each full 24-hour period beyond the first three 24-hour periods referred to in paragraph (1). However, in no instance shall the allowance for the out-of-service period exceed the total charges in a billing period for the service and facilities furnished by the company rendered useless or impaired.

(b) When service is interrupted for a period of at least 24 hours due to storms, fires, floods, or other conditions beyond the control of the company, an allowance of 1/30 of the tariff monthly rate for all services and facilities furnished by the company rendered inoperative or substantially impaired shall apply for each full 24 hours during which the interruption continues after notice by the customer to the company.

(c) The allowances described in this section shall not be applicable where service is interrupted by the negligence or willful act of the customer to service or where the company, under the terms of the contract for service, suspends or terminates service for nonpayment of charges, or for unlawful or improper use of the facilities or service, or for another reason provided for in the filed and effective tariff.

§ 64.53. Discontinuance of service.

A customer who is about to vacate a premises supplied with telephone service or who, for any reason, wishes to

have service discontinued shall give at least 5 days notice to the telephone company, specifying the date on which it is desired that service be discontinued. The customer shall retain responsibility for service and equipment charges until the day and time on which service is requested to be discontinued. Where the customer fails to provide the local exchange carrier with proper notice or access to the premises, the customer shall continue to be responsible for all equipment and service rendered.

Subchapter E. SUSPENSION OF SERVICE

GROUND FOR SUSPENSION

§ 64.61. Authorized suspension of service.

Telephone service to a dwelling may be suspended for any of the following reasons:

(1) Nonpayment of an undisputed delinquent account or the undisputed portion of an account where a dispute exists as to part but not all of an amount billed by the local exchange carrier.

(2) Failure to post a deposit, provide a guarantee, or establish credit.

(3) Unreasonable refusal to permit access to service connections, equipment, and other property of the local exchange carrier for maintenance or repair.

(4) The use of service so as to interfere with or impair the use of service rendered to other customers.

(5) Failure to comply with the material terms of a payment agreement.

(6) Fraud or material misrepresentation of identity to obtain telephone service.

(7) Violation of tariff provisions on file with the Commission so as to threaten the safety of a person or the integrity of the service delivery system of the local exchange carrier.

(8) Unpaid indebtedness for telephone service previously furnished by the local exchange carrier in the name of the customer within 4 years of the date the bill is rendered.

§ 64.62. Days suspension or termination of service are prohibited.

Except for emergency situations, suspension or termination of service for nonpayment of charges shall not commence on any of the following:

- (1) Saturday or Sunday.
- (2) A bank holiday.
- (3) A holiday observed by the local

exchange carrier. A holiday observed by the local exchange carrier means a day when the business office of the company is closed.

§ 64.63. Unauthorized suspension of service.

Unless expressly and specifically authorized by the Commission, local exchange service shall not be suspended and a suspension notice shall not be sent for any of the following reasons:

(1) Nonpayment for nonbasic service.

(2) Nonpayment of delinquent fees for interexchange service where the local exchange carrier is technically capable of terminating interexchange service without also terminating local exchange service.

(3) Nonpayment for commercial service received at the same or different location.

(4) Nonpayment of delinquent charges based on previously unbilled telephone service resulting from local exchange carrier billing error if these charges exceed the otherwise normal, average bill by 50%. This paragraph shall not prohibit suspension where the local exchange carrier reviews the charges with the customer and offers to enter into a payment agreement which, at the option of the customer, may extend at least as long as necessary to ensure that the bill in one billing period will not be greater than the normal, average bill for the period plus 50%.

(5) Noncompliance with the payment agreement before the date set for payment in the payment agreement.

(6) Nonpayment of charges for telephone service furnished more than 4 years before the date the bill is rendered.

(7) Nonpayment for residential service already furnished in the name of persons other than the customer unless a court, district justice, or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished. This paragraph shall not affect the creditor's rights and remedies of the local exchange carrier otherwise permitted by law.

(8) Nonpayment of a delinquent account which accrued within the two most recent billing periods and which amounts to a total arrearage of less than \$20 unless the arrearage represents the balance of a broken payment agreement.

(9) Evidence that full payment of all delinquent accounts has been made.

(10) Certification in accordance with §§ 64.101 — 64.103 (relating to general provision, postponement of suspension pending receipt of certificate).

NOTICE PROCEDURES PRIOR TO SUSPENSION

§ 64.71. General notice provisions.

The local exchange carrier shall mail or deliver written notice to the customer at least 7 days before the date of proposed suspension.

§ 64.72. Suspension notice information.

A notice of suspension shall clearly and fully include the following information, where applicable, in conspicuous print:

(1) The reason for the proposed suspension.

(2) A statement of amounts currently due, and of a required deposit.

(3) A statement that a specific reconnection fee will be required to have service restored after it has been suspended if the reconnection fee is a part of the approved tariff of the local exchange carrier.

(4) The date on or after which service will be suspended unless one of the following occurs:

- (i) Payment in full is received.
- (ii) The grounds for suspension are otherwise eliminated.
- (iii) A payment agreement is entered into.
- (iv) A dispute is filed with the local exchange carrier.

(5) A statement that the customer should immediately contact the local exchange carrier to attempt to resolve the matter, including the mailing address and telephone number where questions may be filed and payment agreements entered into with the local exchange carrier.

(6) A medical emergency notice substantially in compliance with the form as set forth in Appendix A.

§ 64.73. Notice when dispute pending.

(a) A local exchange carrier shall not mail or deliver a notice of suspension if a notice of dispute, as defined in § 64.2 (relating to definitions), has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed suspension except where interexchange usage exceeds the following usage in a billing period after the filing of the notice of dispute or informal complaint:

(1) For customers who have received service for 3 months or less — 150% of the average use of the custom-

er's exchange during the previous 12 months.

(2) For customers who have received service for greater than 3 months but less than 12 months — 150% of the customer's average use.

(3) For customers who have received service for more than 12 months — 150% of the customer's average use during the previous 12 months.

(b) A notice mailed or delivered contrary to the requirements of this section shall be void.

§ 64.74. Procedures upon customer contact before suspension.

(a) If, at a time after the issuance of the suspension notice and before the suspension of service, a customer contacts the local exchange carrier concerning the proposed suspension, an authorized local exchange carrier employee shall fully explain, where applicable, some or all of the following:

(1) The reasons for the proposed suspension.

(2) All available methods of avoiding a suspension including:

(i) Tendering payment in full or otherwise eliminating the grounds for suspension.

(ii) Entering a payment agreement.

(iii) The right of the customer to file a dispute with the telephone company and, thereafter, an informal complaint with the Commission.

(3) The procedures for resolving disputes and informal complaints, including the address and the telephone number of the nearest regional Commission office.

(4) The duty of the customer to pay a portion of a bill not honestly disputed.

(5) The duty of the customer to restrict interexchange usage to 150% of average normal interexchange usage.

(6) The medical emergency procedures.

(7) That upon failure to timely appeal from or comply with a telephone company report, as defined in § 64.142 (relating to contents of written summary by the local exchange carrier), an informal complaint report, or an order from a formal complaint — the local exchange carrier is not required to give further written notice before suspension so long as the local exchange carrier makes a reasonable attempt to contact the customer personally at least 24 hours prior to suspension.

(b) The local exchange carrier,

through its employees, shall exercise good faith and fair judgment in attempting to enter into a reasonable payment agreement regarding undisputed amounts or to otherwise equitably resolve the matter. Factors to be taken into account when attempting to make a reasonable payment agreement shall include but not be limited to the size of the unpaid balance, the payment history of the customer, and the length of time over which the bill accumulated. The local exchange carrier may not suspend service for an undisputed delinquent bill under either of the following circumstances:

(1) While it is negotiating a payment agreement with the customer.

(2) Within 24 hours after negotiation fails, except where interexchange usage increases by \$25 or more after the initial customer or customer designee contact.

§ 64.75. Exception for suspension based on occurrences harmful to person or property.

Notwithstanding another provision of this chapter, when a suspension is based on an occurrence which endangers the safety of a person or appears likely to prove physically harmful to the service delivery system of the local exchange carrier, the telephone company need give no written notice before suspension if the local exchange carrier honestly and reasonably believes the grounds do exist. At the time of suspension, the local exchange carrier shall mail a notice of suspension to the customer's billing address.

NOTICE PROCEDURES AFTER DISPUTE FILED

§ 64.81. Limited notice upon noncompliance with report or order.

Upon the failure to timely appeal from or comply with a local exchange carrier report, an informal complaint report, or an order from a formal complaint, the original grounds for suspension shall be revived and the local exchange carrier shall not be required to give further written notice before suspension if the telephone company makes a reasonable attempt to contact the customer personally at least 24 hours before suspension.

EMERGENCY PROVISIONS

§ 64.101. General provision.

No local exchange carrier shall suspend or refuse to restore service to a dwelling when an occupant in the dwelling is certified by a physician to be seriously ill or affected with a medical condition which will be aggravated

by a complete cessation of service except where access to emergency services by telephone is retained.

§ 64.102. Postponement of suspension pending receipt of certificate.

If, before suspension of service, a local exchange carrier employee is informed that an occupant is seriously ill or is affected with a medical condition, that the occupant will be endangered by a cessation of service, and that a medical certification will be procured, suspension shall not occur for at least 3 days. Service may be suspended if no certification is produced within the 3-day period.

§ 64.103. Medical certification.

Certifications initially may be written or oral, subject to the right of the local exchange carrier to verify the certification by calling the physician or to require written confirmation within 7 days. All certifications, whether written or oral, shall include all of the following information.

(1) The name, address and telephone number of the customer in whose name the account is registered.

(2) The name and address of the afflicted person and the afflicted person's relationship to the customer.

(3) The nature and anticipated length of the affliction.

(4) The name, office address and telephone number of the certifying physician.

(5) The specific reason why access to telephone service must be maintained.

§ 64.104. Length of postponement; renewals.

Service shall not be suspended for the period specified in the medical certification; however, the maximum length of the certification shall be 30 days.

(1) *Time not specified.* If no time is specified or if the time is not readily ascertainable, service shall not be suspended for at least 30 days.

(2) *Renewals.* An initial certification may be renewed for an additional period of up to 30 days in the same manner provided in §§ 64.102, 64.103 (relating to postponement of suspension pending receipt of certificate and medical certification) and this section. A postponement shall not extend beyond 70 days from the date of the initial certification.

§ 64.105. Restoration of service.

When service is required to be restored due to emergency medical certification, the local exchange carrier

shall make a diligent effort to have service restored on the date of the medical certification. Service shall be restored before the end of the next working day. Each local exchange carrier shall have employees available or on call to restore service in emergencies.

§ 64.106. Duty of customer to pay bills.

Whenever service is restored or suspension postponed under the medical emergency procedures, the customer shall:

(1) Make timely payment for all service provided by the local exchange carrier after the date on which service is restored or suspension postponed.

(2) Restrict interexchange usage to an amount no greater than \$25 in a billing period while the medical certification is in effect.

§ 64.107. Suspension upon expiration of medical certification.

When the certification has expired, the original grounds for suspension shall be revived and the local exchange carrier may suspend service without additional written notice, if notice previously has been mailed or delivered, if the customer has failed to make or to maintain an agreement on payment arrangements, and if the local exchange carrier makes a reasonable attempt to contact the customer at least 24 hours before suspension.

§ 64.108. Right of local exchange carrier to petition the Commission.

(a) To completely suspend service before the expiration of the medical certification, a local exchange carrier may petition the Commission for waiver from the medical certification procedures to contest the validity of a certification.

(b) A local exchange carrier shall continue to provide access to emergency telephone services while a final Commission adjudication on the petition is pending.

THIRD-PARTY NOTIFICATION

§ 64.111. Third-party notification.

Each local exchange carrier shall permit its customers to designate a consenting individual or agency which is to be sent, by the local exchange carrier, a duplicate copy of all suspension and termination notices issued by the local exchange carrier. When contact with a third party is made, the local exchange carrier shall advise the third party of the pending action and the efforts which must be taken to avoid termination. Each local exchange carrier shall institute and maintain a program:

(1) To allow customers to designate third parties to receive copies of a customer's or customers' groups' notices of suspension or termination.

(2) To advise customers at least annually of the availability of a third party notification program and to encourage its use.

Subchapter F. TERMINATION OF SERVICE

GROUND FOR TERMINATION

§ 64.121. Authorized termination of service.

When 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 due to any of the following reasons:

(1) Failure to make satisfactory arrangements to pay arrearages.

(2) Failure to post a deposit, furnish a third-party guarantee, or otherwise establish credit.

(3) Failure to meet the requirements of a payment agreement.

(4) Failure to give adequate assurances that an unauthorized use or practice will cease.

§ 64.122. Unauthorized termination of service when dispute pending.

Unless expressly and specifically authorized by the Commission, service shall not be terminated if both of the following exist:

(1) A notice of dispute has been filed and is unresolved and if the subject matter of the dispute forms the grounds for termination.

(2) The customer is making a good faith effort to pay or make payment arrangements to pay all undisputed bills and undisputed portions of disputed bills.

§ 64.123. Termination notice.

Immediately after service is suspended, notice or a written statement which conforms substantially to the suspension notice and which indicates where the customer may arrange to have service restored shall be mailed to the customer's billing address. The notice shall also indicate that service will be terminated on or after a specified date and shall clearly explain that the customer will have to request service as an applicant, subject to additional charges, if termination occurs.

**Subchapter G. DISPUTES;
INFORMAL AND FORMAL
COMPLAINTS
GENERAL PROVISIONS**

§ 64.131. Dispute procedures.

A dispute shall proceed in accordance with this subchapter before an informal complaint can be filed.

§ 64.132. Time for registering dispute.

To be timely registered a dispute must be brought to the attention of the local exchange carrier orally or in writing by the customer or the customer's designee before actual suspension or termination of service.

§ 64.133. Termination stayed.

Except as otherwise provided in this chapter, where a dispute is properly registered in accordance with this subchapter, suspension or termination is prohibited until resolution of the dispute; however, the disputing party shall pay all undisputed portions of the bill.

§ 64.134. Effect of failure to timely register a termination dispute.

Failure to timely register a dispute, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice, suspension notice, or local exchange carrier written summary, and may constitute a waiver of rights to file an informal complaint under this chapter.

TELEPHONE COMPANY DISPUTE PROCEDURES

§ 64.141. General rule.

If, at any time before suspension or termination of service, a customer registers a dispute, the local exchange carrier shall do the following:

(1) Not issue a suspension or termination notice based on the disputed subject matter.

(2) Investigate the matter using reasonable methods which may include telephone contacts and personal contacts with the customer.

(3) In a manner clear to the customer, set aside the disputed charges pending resolution of the dispute and demand payment of undisputed charges only.

(4) Provide the customer with the information necessary to arrive at an informed judgment, including but not limited to relevant portions of tariffs and statements of account.

(5) Within 30 days of the registration of the dispute, review findings with the customer in a manner which outlines clearly the results of the investigation and which indicates what action will be necessary for the customer to continue service. The findings shall be included in a written summary

and shall be sent to the customer and the Commission upon request, or if deemed necessary by the local exchange carrier.

§ 64.142. Contents of written summary by the local exchange carrier.

Each written summary of a dispute, whether conveyed orally or in writing to the customer, shall include the following:

(1) A statement of the claim or dispute and a copy thereof if the claim or dispute was made in writing.

(2) The position of the local exchange carrier and the results of investigation.

(3) An itemized statement of the account, specifying amounts credited or due as a result of the disputed subject matter.

(4) A statement that service will not be suspended pending completion of the dispute process, including both informal and formal complaints, so long as the customer:

(i) Pays all nondisputed amounts.

(ii) Files an informal complaint with the Commission within 10 days of the date on which the local exchange carrier mailed the written summary to the customer.

(5) The address and telephone number of the local exchange carrier office where payment can be made or information obtained.

(6) A complete explanation of procedures for filing an informal complaint with the Commission including the telephone number and address of the nearest regional office of the Commission where the informal complaint may be filed.

(7) The date on or after which the account will be delinquent unless a payment agreement is entered into or an informal complaint is filed with the Commission. The date may not be earlier than the original due date of the bill or 10 days after the mailing or personal delivery of the written summary, whichever is later.

INFORMAL COMPLAINT PROCEDURES

§ 64.151. Time for filing.

Within 10 days of the notification or mailing of a local exchange carrier written summary and not thereafter, except for failure to receive notice or other good cause, an informal complaint shall be filed by the customer or customer designee with the Commission.

§ 64.152. Informal complaint filing procedures.

RULES AND REGULATIONS

(a) An informal complaint may be filed orally or in writing and shall include the following information:

(1) The name of the customer.

(2) The address of the customer and, if different, the address at which service is provided.

(3) The telephone number of the account.

(4) The telephone number at which the customer can be reached during the day and evening.

(5) The name of the local exchange carrier.

(6) A brief statement of the dispute.

(7) Whether the dispute formerly has been the subject of a local exchange carrier investigation and written summary.

(8) Whether the dispute formerly has been the subject of a Commission informal or formal complaint.

(9) The date, if any, of the proposed suspension or termination.

(10) The relief sought.

(b) Subsection (a) supersedes § 3.111 (relating to form and content of informal complaints).

§ 64.153. Commission informal complaint procedures.

(a) The timely filing of an informal complaint acts as a stay and the local exchange carrier shall not suspend or terminate service pending resolution of the informal complaint.

(b) Upon the filing of an informal complaint, which shall be docketed as "(complainant) v. (company)," Commission staff will immediately notify the utility; review the dispute; and, within a reasonable period of time, issue to the utility and the complaining party an informal report with findings and a decision. The reports shall be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review shall be by appropriate means, including but not limited to local exchange carrier written summaries, telephone calls, conferences, written statements, research, inquiry, and investigation. Procedures shall be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute.

(2) *Settlement.* Any time before the issuance of its report, Commission staff may negotiate with the parties in

an attempt to settle all matters in dispute.

(c) Subsection (b) supersedes 52 Pa. Code § 3.112 (relating to action on informal complaints).

§ 64.154. Bureau of Consumer Services.

The Bureau of Consumer Services shall have primary jurisdiction over all complaints arising under this chapter.

FORMAL COMPLAINTS

§ 64.161. General rule.

(a) Except as otherwise provided in this chapter, formal complaint proceedings shall proceed according to Chapters 3 and 5 (relating to special provisions and formal proceedings).

(b) The timely filing of a formal complaint acts as a stay and the local exchange carrier shall not suspend or terminate service pending resolution of the formal complaint.

§ 64.162. Time for filing.

Within 10 days of notification or mailing of the informal complaint report, and not thereafter except for good cause, an appeal from the report of the Consumer Service Representative may be filed by means of a written intention to appeal.

§ 64.163. Formal complaint procedures.

All appeals from informal complaint reports shall be heard *de novo* by the Commission, a Commissioner, or an Administrative Law Judge.

(1) *Filing and docketing.* Appeals shall be filed and docketed as formal Commission complaints, under § 5.22 and § 5.61 (relating to contents of formal complaints and answers to complaints and petitions).

(2) *Captions.* The parties to an appeal shall be stated in the caption as they stood upon the record of the informal complaint proceeding.

(3) *Hearings.* Hearings conducted by an Administrative Law Judge shall be held within 90 days after the filing of the complaint. The parties may incorporate portions of the conference report or informal complaint report upon which they agree.

(4) *Formal complaint report.* The Administrative Law Judge assigned to the formal complaint shall render a decision within 90 days after the record is closed unless the Commission allows an extension.

(5) *Exceptions.* A party to a proceeding may file exceptions to the decision of the Administrative Law Judge and appeal to the Commission from the ruling on the exceptions, in the

manner set forth at 66 Pa.C.S. § 332(h) (relating to procedure in general). If no exceptions are filed or no appeal is taken, the Administrative Law Judge's decision or ruling will become final without further Commission action, unless two or more of the Commissioners request Commission review.

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 64.171. Duties of parties: undisputed portion of bills; interest on overpayment.

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of all bills, as described in this section:

(1) *Pending informal complaint.* Pending the outcome of an informal complaint, the disputing party shall be obligated to pay the portion of a bill which is not honestly disputed. Amounts ultimately determined, by the parties or the Commission, to have been validly due but not paid shall be paid with a late payment charge at the tariff rate filed under § 64.16 (relating to accrual of late payment charges) except when late payment charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.

(2) *Pending formal complaint.* Before the hearing on a formal complaint or before the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay the amount which the Consumer Services Representative determines is not reasonably disputed.

(3) *Overpayments reimbursed with interest.* Amounts ultimately determined to have been overpaid by the disputing party shall be reimbursed with interest at the tariff rate filed under § 63.16 (relating to accrual of late payment charges).

(4) *Effect of offer of payment.* An offer by a ratepayer to pay all or a portion of a bill shall not be deemed a waiver of a right to reimbursement for all amounts subsequently deemed by the parties or the Commission to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a local exchange carrier of a partial payment for a bill pending final outcome of a dispute shall not be deemed an accord and satisfaction or waiver of the right of the utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

Subchapter H. RESTORATION OF SERVICE

§ 64.181. Restoration of service after suspension.

When service has been suspended, the local exchange carrier shall reconnect service by the end of the first full working day after receiving compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees and one of the following:

(1) Full payment of outstanding charges plus the reconnection fee listed in the local exchange carrier's lawful tariff. Outstanding charges and the reconnection fee may be spread out over a reasonable period. Factors to be taken into account shall include but not be limited to the size of the unpaid balance, the payment history of the ratepayer, and the length of time over which the bill accumulated.

(2) Payment of all amounts currently due according to a payment agreement, plus a reconnection fee, which may be a part of the settlement or payment agreement.

(3) Adequate assurances that unauthorized use or practice will cease, plus full payment of the reconnection fee of the local exchange carrier, which reconnection fee may be subject to a payment agreement.

§ 64.182. Restoration of service after termination.

When service has been terminated, the customer shall reapply for service as an applicant.

Subchapter I. PUBLIC INFORMATION; RECORD MAINTENANCE

§ 64.191. Public information.

(a) Local exchange carrier service representatives shall provide applicants who apply for residential telephone service in person with a concise, easy-to-understand, and printed price list showing all available service and equipment options. The price of basic, plain rotary dial telephone service shall be clearly and conspicuously displayed on the list. If an applicant applies for service by telephone, the applicant shall be given a verbal recitation of all available service and equipment options and their prices. The price of basic, plain rotary dial telephone service shall be recited first. If an applicant applies for telephone service by telephone, the local exchange carrier service representative shall tell the applicant that a written price list of available service and equipment options will be mailed to

applicant upon request. Applicants for residential telephone service shall be informed that, instead of leasing a telephone, they have the option to purchase a telephone and that, if they do so, their monthly bill will not include a rental charge. Applicants shall be quoted the basic monthly charge for the service and equipment they select, with and without the lease of a telephone.

(b) In addition to the notice requirements set forth in this chapter, before July 1, 1985, each local exchange carrier shall prepare a summary of the rights and responsibilities of the local exchange carrier and its customers under this chapter. This written information shall be subject to Commission review and approval and shall be reproduced by the local exchange carrier, displayed prominently, available at local exchange carrier locations open to the general public, printed in each telephone directory, and made available to each customer. Thereafter, the information shall be delivered or mailed to each new customer when service begins and shall be available at all times upon request. The written information shall indicate conspicuously that it is being provided in accordance with this chapter and shall contain information including, but not limited to, the following:

- (1) Billing procedures.
- (2) Methods of customer verification of billing accuracy.
- (3) Payment requirements and procedures.
- (4) Security deposit and guarantee requirements.
- (5) Procedures for suspension, termination, and reconnection of service.
- (6) Dispute, informal complaint, and formal complaint procedures.
- (7) Third-party notification procedures.
- (8) Telephone numbers and addresses of the local exchange carrier and of the nearest Regional Office of the Commission where further inquiries may be made.
- (9) Definitions of terms or abbreviations used by the telephone company on its bills.

§ 64.192. Record maintenance.

Each local exchange carrier shall preserve all written or recorded disputes and complaints for 4 years from the date of the written or recorded dispute or complaint. It shall also keep the records within this Commonwealth at an office located in the territory served by them, and shall make the

records available for examination by the Commission or its staff. Information to be maintained shall include the following:

- (1) The payment performance of the disputing and complaining customers.
- (2) The number of suspensions, terminations and reconnections for each of the disputing and complaining customers.
- (3) All communications to or from the disputing and complaining customers regarding matters which may be broadly construed to fall within the purview of this chapter.

Subchapter J. ANNUAL LOCAL EXCHANGE CARRIER REPORTING REQUIREMENTS

§ 64.201. Reporting requirements.

Within 120 days after the end of each calendar year, each local exchange carrier shall file with the Commission a report containing the following information regarding residential accounts for the previous calendar year:

- (1) Average number of accounts.
- (2) Average customer bill per month.
- (3) Average number of overdue accounts per month.
- (4) Average dollar amount owed in overdue accounts per month.
- (5) Average number of suspension notices set per month.
- (6) Average number of accounts suspended per month.
- (7) Average number of accounts terminated per month.
- (8) Gross revenue from all residential accounts.
- (9) Gross and net write-offs of uncollectible accounts.
- (10) Total number of customer disputes handled.

Subchapter K. GENERAL PROVISIONS

§ 64.211. Availability of normal Commission procedures.

Nothing in this chapter will be deemed to prevent a customer of a local exchange carrier from pursuing other Commission procedures in a case not described in this chapter.

§ 64.212. Applications for modification or exception.

(a) If unreasonable hardship to a customer or to a local exchange carrier results from compliance with this chapter, application may be made to the Commission for modification of the

section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude the Commission from altering or amending this chapter under applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting exemptions in exceptional cases.

(b) A customer, customer designee or local exchange carrier that files an application under this section shall provide notice to persons who may be affected by the modification or waiver. Notice may be made by a bill insert or in another reasonable manner.

§ 64.213. Repealers.

A tariff provision inconsistent with this chapter will be deemed inoperative and superseded by this chapter.

Appendix A

MEDICAL EMERGENCY NOTICE

If you, or anyone presently and normally living in your home is SERIOUSLY ILL, WE WILL NOT CUT OFF YOUR TELEPHONE SERVICE for up to 30 days during such illness provided you:

(a) Have a physician certify by phone or in writing that such an illness exists and that the person will be endangered if your telephone service is topped.

(b) Make some equitable arrangement to pay the local exchange carrier your past due and current bills for service.

(c) Contact us by calling the following number

(Local Exchange Carrier) Phone Number;

(Local Exchange Carrier) Address

[Pa. B. Doc. No. 84-1633. Filed November 30, 1984.
9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 1101, 1123, 1141, 1147
AND 1181]

Prior Authorization

The Department of Public Welfare, by this order, adopts amendments to 55 Pa. Code Chapters 1101 (General Provisions), 1123 (Medical Supplies), 1141 (Physicians' Services), 1147 (Op-

tometrists' Services), and 1181 (Nursing Facility Care).

Statutory Authority

These regulations are adopted under sections 403(a) and (b) and 443.6 of the Public Welfare Code, act of June 13, 1967 (P. L. 31, No. 21) (62 P. S. §§ 403(a) and (b) and 443.6).

Notice of proposed rulemaking was published at 14 Pa. B. 1817 (May 26, 1984).

Purpose

The purpose of these amendments is to permit the Department to process prior authorization requests at the administrative level which would be cost efficient and effective.

Summary

Currently, all requests for prior authorization are processed at County Assistance Offices. The Department prior-authorizes payment for certain medical services and items to determine, before a service or item is furnished, that the service or item is medically necessary and to substantiate that:

1. a practitioner has ordered or prescribed the service or item;
2. the service or item will alleviate the recipient's medical condition and improve function or rehabilitation capacity; and
3. the recipient needs and has the capacity to use the service or item.

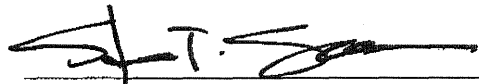
Because of the Department's new systems capabilities, it now has the resources to process requests for prior authorization at the central level more expeditiously and efficiently than in the County Assistance Offices. The Department also believes that the centralized automated process will eliminate the problems encountered by recipients and providers with the current County Assistance Office manual prior authorization process. The problems include not processing requests within the required 21 days (requests not processed within 21 days of the date the requests are initiated are automatically approved, which negates the purpose of prior authorization), lack of Statewide uniformity of administration and lack of medical expertise within the County Assistance Office staff. In addition, the County Assistance Offices do not have information on other medical services and treatments which have been provided to the recipient. This medical history often has a direct impact on the recipient's capacity and need for the service or item.

In contrast to the current manual prior authorization process, the proposed centralized automated process will control costs and reduce payments

VERIFICATION

I, Steven J. Samara, President of the Pennsylvania Telephone Association, hereby state that the facts set forth above with respect to the member companies of the Pennsylvania Telephone Association* are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: October 3, 2018

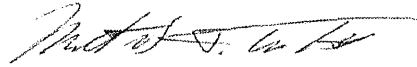

Steven J. Samara

- * PTA member companies include: Armstrong Telephone Company – North; Armstrong Telephone Company – Pennsylvania; Bentleyville Communications Company; Citizens Telephone Company of Kecksburg; Consolidated Communications of Pennsylvania Company, LLC; Hancock Telephone Company; Hickory Telephone Company; Ironton Telephone Company; Lackawaxen Telecommunications Services, Inc.; Laurel Highland Telephone Company; Marianna & Scenery Hill Telephone Company; The North-Eastern Pennsylvania Telephone Company; North Penn Telephone Company; Palmerton Telephone Company; Pennsylvania Telephone Company; Pymatuning Independent Telephone Company; South Canaan Telephone Company; TDS Telecom/Deposit Telephone Company; TDS Telecom/Mahanoy & Mahantango Telephone Company; TDS Telecom/Sugar Valley Telephone Company; The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; Venus Telephone Corporation; West Side Telephone Company; Windstream Buffalo Valley, Inc.; Windstream Conestoga, Inc.; Windstream D&E, Inc.; Windstream Pennsylvania, LLC; and Yukon-Waltz Telephone Company

VERIFICATION

I, Michael J. Cicchetti, Vice President, Government and External Affairs for Frontier Communications, hereby state that the facts set forth above with respect to Frontier Communications and its subsidiaries, Frontier Communications Commonwealth Telephone Company, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Oswayo River, LLC, Frontier Communications of Pennsylvania, LLC and Citizens Telecommunications Company of New York, Inc, are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: October 3, 2018



Michael J. Cicchetti