THOMAS, NIESEN & THOMAS, LLC
Attorneys and Counsellors at Law

CHARLES E. THOMAS, III
Direct Dial: 717.255.7611
cet3@tntlawfirm.com

November 2, 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 Reply 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 Sharry (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); General Review of Regulations at 52 Pa. Code Chapter 63 and Chapter 64	:	Docket No. L-2018-3001391

JOINT REPLY COMMENTS OF
THE RURAL INCUMBENT LOCAL EXCHANGE CARRIERS

- 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
- 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

DATED: November 2, 2018

I. INTRODUCTION

The rural incumbent local exchange carriers ("RLECs")[1] jointly file this reply to the comments submitted by the Office of Consumer Advocate ("OCA"), the Communications Workers of America ("CWA"), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") in response to the Pennsylvania Public Utility Commission's ("Commission") Advanced Notice of Proposed Rulemaking Order entered July 12, 2018 ("*ANOPR Order*"). Comments were also filed by Tenny Journal Communications, Inc., AT&T Corp. and Teleport Communications America, LLC, Dex Media, Inc, d/b/a "DexYP" ("Dex Media"), and the Verizon affiliated companies ("Verizon"). The RLECs expressly support the statements made by DEX Media, which addressed the favorable customer experience which has occurred since the Commission granted CenturyLink a waiver from saturation delivery of telephone directories in 2017 and proposes that the Commission should consider a permanent change to streamline or repeal directory regulations. In addition, the RLECs strongly support the comments of the Verizon companies which, while unique in that

[1] The RLECs include: 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; 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.

they are the only ILECs to have filed for and garnered waivers under Section 3016,[2] appropriately call for an extension of that waiver to all locations (both competitive and non-competitive wire centers) and all providers while the Commission considers a more comprehensive streamlining of its Chapter 63 and 64 regulations. The Verizon filing builds a strong foundation for the streamlining of these chapters on the dramatic changes in the traditional telecommunications environment since these regulations were initially adopted.

In the interest of administrative efficiency, the RLECs have endeavored to avoid rehashing arguments and points already addressed in its initial comments. Instead, the RLECs focus these reply comments on general and common themes and claims advanced by OCA, CWA, and CAUSE-PA and will highlight several areas of concern. The fact that the RLECs do not address or reply to each and every regulation or point raised by these commentators should not be construed as an acceptance or concurrence with these commentators. To be clear, nothing presented in the comments of OCA, CWA, or CAUSE-PA changes the position and requested relief set forth by the RLECs in their initial comments, and the RLECs specifically refer the Commission to its comments filed on October 3, 2018 in response to any matter raised by other interested parties.

II. REPLY TO COMMENTS OF OCA, CWA, and CAUSE-PA

A. Overview

By any reasonable measure,[3] a continuation of existing Chapters 63 and 64 with virtually no change, as some commentators have suggested, perpetuates a regulatory framework which

[2] *See Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of All Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services,* Docket Nos. P-2014-2446303 and P-2014-2446304 (Order entered March 4, 2015) ("*Reclassification Order*").

[3] See, e.g., the FCC data offered by the RLECs in their initial comments. RLEC comments at 4.

ignores not only the current ILEC environment, but diminishes the premise in the Commission's *ANOPR Order* that "certain regulations may no longer be necessary in a competitive market."[4] It also frustrates the explicit policy and goals of this Commonwealth under Act 183 of 2004, which recognized 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."[5]

Leaving the current regulatory framework largely in place means that the Commission will continue to regulate 12% of the voice connections in Pennsylvania, while the vast majority of telecommunications providers are free to operate under what essentially amounts to open market conditions. Even though the RLECs support a retention of Section 1501 of the Public Utility Code (as well as other statutory provisions) as a means to ensure that all of their customers are afforded the protections therein, the OCA, CWA, and CAUSE-PA contend that customers need even more "protection." The customers of the RLECs' unregulated competitors, on the other hand, continue to enjoy the protections and flexibilities adequately provided in statutes and dictated by the open market. In fact, most of those customers migrated away from the ILECs to enjoy the benefits which only unregulated companies can provide.

If evidence that this migration has continued unabated over the past several decades and the effect has been a customer base which is either satisfied or has migrated, the RLECs have provided the framework for that evidence to be presented. The RLEC comments, accompanied by their separately filed petition for a waiver of select regulations during the pendency of this

[4] *ANOPR Order* at 28.

[5] 66 Pa.C.S. § 3011(13).

rulemaking,[6] would allow the Commission to proceed with its investigation while concurrently providing for the streamlined regulatory environment its Order recognizes as worthy of consideration. This will ensure the Commission's ultimate treatment of Chapters 63 and 64 is based upon real-world customer experiences and not theoretical conjecture. The RLECs, moreover, submit that to the extent a collaborative process is employed, as some commentators have suggested, that process would be significantly more focused and efficient if tasked with analyzing concrete customer impacts from the waiver of the more onerous sections of Chapters 63 and 64.

The customer versus company discussion also surfaces in the comments of some interested parties who insist that the Commission's collection of data and other granular information from the RLECs somehow translates into customer benefit. Even if one subscribes to the notion that having this information for a small minority of voice subscriptions in Pennsylvania is worthwhile, it certainly strains credulity to insist that the time and effort expended by the RLECs to compile the information and the Commission effort to collect the information is prudent or provides any tangible benefit to consumers.

B. Irrespective of competitive classification, alternative service providers are omnipresent across Pennsylvania wire centers, not just certain geographic areas.

Fourteen years ago, the Pennsylvania General Assembly spoke clearly in enacting Act 183, concluding that: (1) There is competition in the ILEC industry from alternative service providers, and (2) the regulatory obligations of the ILECs should be reduced to levels closer to those of their competitors. While the legislature recognized that competition existed in the ILEC industry in 2004, the RLECs doubt whether anyone envisioned the explosive growth in

[6] *See Petition of the Rural Incumbent Local Exchange Carriers for Temporary Waiver of Certain Chapter 63 and 64 Regulations*, Docket No. P-2018-3005224 (filed Oct. 3, 2018).

competition which has developed since that time. Today, alternative service providers vastly outnumber ILECs, with most not regulated by the Commission. Indeed, as the RLECs have stressed, ILECs only make up 12% of all voice connections in Pennsylvania, a number which continues to shrink.

With respect to the public policy goal of making the regulatory frameworks between ILECs and competitors look more alike, the RLECs submit that much more needs to be done to ensure that goal is realized. Preserving the Commission's existing regulations in their present "original form" or making only minor modifications, as some commentators recommend, is neither appropriate nor prudent in the context of this rulemaking proceeding. Commentators insisting that the Commission's review of Chapters 63 and 64 should result in little or no change (or, in some instances, revive previously waived regulations) seemingly ignore the current competitive climate, fail to recognize the costs of an outdated regulatory model and the attendant burdens borne as a result by the ILECs, and are myopic to the causal relationship between the two. The telecommunications industry has changed dramatically in the last thirty years, and it is now time for the Commission's regulations to follow suit and catch up.

To be fair, excessive and burdensome compliance costs associated with an antiquated regulatory regime are not the sole reason ILECs comprise only 12% of voice connections today. However, it should not be ignored as some commentators have done and is a significant driver of the RLECs continued viability in the telecommunications market going forward. It is undeniable that RLEC customers have migrated to unregulated (or lesser regulated) alternative service providers and that the flexibility which these competitors enjoy provides a substantial competitive advantage when attracting customers. This advantage is facilitated by avoiding the costs associated with adhering to outdated regulations; allowing alternative providers to meet

growing customer demands. Ultimately, a largely unchanged Chapter 63 and 64 would perpetuate this migration, and make the regulatory universe of those who seek the status quo even smaller, as opposed to moving towards a more level playing field and incenting competition and the accompanying customer benefits. The RLECs assert that this continued overregulation of the minority providers is *not* the scenario which the General Assembly envisioned in 2004, or the one which the Commission wants to oversee in 2018 and in the years to come.

C. Universal service and modernized regulatory requirements can coexist in Pennsylvania.

The OCA contends that the proven availability of competitive alternatives does not diminish the need for Commission oversight and established regulations governing quality of service, network performance, billing, suspension and termination, and other service standards.[7] While some flexibility and simplification may be warranted, the OCA cautions that the Commission must preserve the goals of universal service, affordability, and continuity of service.[8] Similarly, CAUSE-PA raises concerns that low-income households continue to have access to universal service of basic calling plans at reasonable and affordable rates.[9] Ultimately, these commentators take the position that carrier of last resort ("COLR") and universal service obligations require the retention of most of the regulations and requirements contained in existing Chapters 63 and 64.

The RLECs disagree. While the RLECs respect OCA's and CAUSE-PA's concerns for universal service, the preservation of universal service and the significant reduction of regulatory requirements applicable to telecommunications services are not mutually exclusive and can

[7] OCA comments at 2.

[8] *Id.*

[9] CAUSE-PA comments at 2.

coexist in Pennsylvania. The RLECs emphasize that its companies, irrespective of the regulatory burdens imposed upon them, steadfastly remain faithful and diligent in ensuring their obligations and the Commission's goals related to universal service continue to be met and will continue to do so even under relaxed regulatory oversight. This is true for several reasons.

First, it is critical to recognize that Pennsylvania's ILECs continue to face access line losses and dwindling resources, yet are charged with adherence to a set of burdensome and outmoded regulations with which most voice providers in Pennsylvania need not comply. This puts extreme pressure on ILEC rates applied to the remaining customer base, since literally all other sources of supplemental revenue that once helped keep basic local rates affordable have been eliminated. Streamlining and reducing the regulatory requirements imposed on these carriers would allow these carriers to efficiently utilize these ever-shrinking resources to meet COLR obligations and maintain affordable rates, rather than compiling reports and preserving outdated practices that add little to no value for the customer. As the Commission's 2015 *Reclassification Order* demonstrates, COLR obligations can be preserved even where regulations are eliminated or substantially reduced.

Second, the RLECs submit that the OCA and CAUSE-PA have failed to explain how the retention of the bulk of the Chapters 63 and 64 regulations are desired by consumers or are necessary to ensure universal service goals are met. For example, the OCA opposes a one-tier notification process for suspension and termination, as was offered to Verizon under the *Reclassification Order*.[10] The "full suspension and termination protections of Chapter 64," however, are artificial requirements, promulgated in an era before the Internet, which no longer mirror customer expectations. These requirements, in fact, are completely out of sync with the

[10] *See* OCA comments at 7-8, 47, 55.

current suspension and termination practices employed by the clear majority of service providers in Pennsylvania. Moving to a one-step process does not abridge universal service, still affords adequate protection to the customer, is consumer friendly, and enables the ILECs to compete with the many unregulated alternative service providers that dominate the current telecommunications market.

As of the date of these reply comments and to the best of the RLECs information and knowledge, Pennsylvania is just one of four remaining states (Connecticut, Massachusetts, Texas) that require a two-step process for suspension and termination of telecommunications service. The other 46 states have modernized and use a one-step process. Consistent with the majority practice, it is time for Pennsylvania to adopt a one-step disconnection notice procedure.

Third, cumbersome, unnecessary regulations are not needed to ensure carriers observe their COLR obligations. Even though the RLECs advocate for the elimination of most of the Commission's existing Chapters 63 and 64 regulations, this should not be interpreted as a ploy by the RLECs to abscond from their COLR commitments. To the contrary, the RLECs are not, in any way, seeking to eliminate their COLR obligations and stand ready and willing to continue to meet such obligations going forward.

Even with the elimination of onerous Chapters 63 and 64 regulations, ILECs will continue to be subject to the provisions and standards set forth under the Public Utility Code, most notably Sections 1501 and 1509, 66 Pa.C.S. §§ 1501 and 1509, which will provide sufficiently broad enforcement power by the Commission, ensure adequate compliance by the carries, and serve to protect the interests of customers on jurisdictional matters, including COLR and universal service obligations. Moreover, the regulations the RLECs seek to eliminate ***only***

increase costs while having no tangible or causal relationship to universal service or COLR obligations. It is time to decouple these antiquated concepts once and for all.

In sum, as addressed in the RLECs initial comments, these regulations are from a bygone era and thus are unnecessary for COLR or universal service.

D. A two-tier (competitive versus non-competitive) regulatory structure misses the mark and results in waste and confusion.

The OCA supports the creation of a two-tier regulatory structure for the presentation of Chapter 63 and 64 regulations that would apply depending on whether a geographic area has been deemed competitive or non-competitive. Under this format, alternative regulations would be compiled for and pertain to competitively classified areas.[11]

The RLECs adamantly oppose any efforts to implement a two-tier structure and submit that such a structure would be severely misguided and would result in waste and confusion. For one, a whole new set of regulations would need to be promulgated for competitive wire centers and administered by the Commission and carriers alike. The purpose of this rulemaking should be to streamline and simplify the Commission's regulations, not unduly complicate them, which is exactly what would happen with a two-tiered approach.

Additionally, a second set of regulations would cause considerable confusion, especially in the case of customers who may not know whether they are in a competitive or non-competitive exchange. It also could create inequities with respect to service standards and obligations and lead to unfair consequences depending on the wire center at issue. For instance, why should a customer in a competitive wire center be afforded a simple one-step billing

[11] OCA Comment at 5.

disconnection process while a customer in a neighboring non-competitive wire center be hassled with a two-step process?

In today's telecommunications environment, reduced regulatory requirements continue to shape overall consumer expectations, making it harder for companies and the Commission to justify the continued compliance and administration of numerous outmoded regulations. The RLECs have serious reservations with the concept of creating and implementing regulations based upon competitive geographic areas. For this reason, the RLECs support the meaningful streamlining and modernization of the Commission's Chapter 63 and 64 regulations which would apply to all carriers regardless of the classification of a particular wire center.

E. Sections 1501 and 1509 of the Public Utility Code need not be accompanied by voluminous regulations.

CWA claims that the Commission's regulations "should reflect" the carriers' obligations under Chapter 15 of the Public Utility Code, particularly the requirements of Section 1501.[12] In the context of billing, the OCA asserts that the retention of billing information is critical in connection with the Commission's oversight of telephone company compliance with Section 1509 of the Public Utility Code, 66 Pa.C.S. § 1509,[13] and that the Commission's service standard regulations – specifically those in Subchapter E of Chapter 63 – enable the Commission to determine whether a LEC is providing reasonable service in compliance with Sections 1501 and 1509.[14]

[12] CWA comments at 8-9.

[13] OCA comments at 18; *see also id. at* 29.

[14] *Id.* at 29-30.

Contrary to CWA's and OCA's assertions, voluminous regulations are not needed to make Sections 1501 and 1509 effective or give them meaning. As Verizon succinctly recognized in its comments:

> Even with a shorter and more streamlined set of regulations, the Commission will retain its statutory authority over service quality and customer interactions for regulated services under 66 Pa. C.S. § 1501. Companies still will be statutorily required to "furnish and maintain adequate, efficient, safe, and reasonable service and facilities," and the Commission still can take action if it determines that a provider has not done so. But instead of applying outdated and overly prescriptive regulations that do not reflect customer expectations, the Commission will be able to evaluate any issue that is brought before it in light of the "emergence of new industry participants, technological advancements, service standards and consumer demand," as Chapter 30 directs. 66 Pa. C.S § 3019(b)(2).[15]

The RLECs offer several other points in further support. First, a plain reading of Section 1509 illustrates that it is a simple, straightforward statute which does not require a complicated set of arcane regulations to implement.

> All bills rendered by a public utility … to its service customers, except bills for installation charges, shall allow at least 15 days for nonresidential customers and 20 days for residential customers from the date of transmittal of the bill for payment without incurring any late payment penalty charges therefor. All customers shall be permitted to receive bills monthly and shall be notified of their right thereto. All bills shall be itemized to separately show amounts for basic service, Federal excise taxes, applicable State sales and gross receipts taxes, to the extent practicable, … State tax adjustment charge or other similar components of the total bill as the commission may order.[16]

Section 1509 clearly identifies the components and parameters for utility billing. For this reason, the Commission's Chapter 64 billing regulations are inherently duplicative. While such regulations may have been needed in the 1980s when the telecommunications industry was

[15] Verizon comments at 9.

[16] 66 Pa.C.S. § 1509.

comprised of the uncomplicated division between monopoly-provisioned local exchange services and the long-distance services competitively provisioned by IXCs which resulted in steady returns on investment, that is no longer the case. It is time for Pennsylvania to step out from the past and into the present. Technology advancements over the last two decades are part of the reason those very same providers of monopoly-provisioned local exchange services in the 1980s have become a 12% minority. Maintaining outdated regulations which require the expenditure of Commission and ILEC resources is no longer reasonable, especially when Sections 1501 and 1509 provide ample authority to govern LECs' services, practices, and customer relationships consistent with and reflective of today's customer expectations.

Second, the argument for voluminous regulation on top of Chapter 15 of the Public Utility Code loses significance when one properly recognizes that those regulations and statutory protections do not apply to the majority of voice connections in the Commonwealth. In fact, the RLECs submit that it is prejudicial and discriminatory to continue the upkeep of regulations that only pertain to 12% of today's voice connections, a point that further confounds when Chapter 15 is flexible and broad enough to address and protect COLR and universal service duties in the dynamic environment that exists today.

Third, despite the comments set forth by the OCA and CWA, there has been no demonstration that the 12% of customers being served by ILECs are electing to do so *because* of the regulatory framework currently in place. The RLECs question whether consumers value the regulations which the OCA, CWA, and CAUSE-PA are fighting to keep. In fact, as the subscription statistics provided in the RLECs' initial comments indicate,[17] nearly all consumers today have "cut the cord" or moved to unregulated service providers, suggesting customer

[17] *See* RLEC comments at 4-5.

expectations regarding service quality, billing, and other standards and practices, are not being influenced by a set of outdated regulations, but rather market forces.

Fourth, it should not be overlooked that regulations impose costs **and the rates the RLECs can charge are effectively capped.** Despite having to maintain 100% of the network, ILECs serve, at best, only 12% of the market, placing a huge strain on precious resources. Rather than spend those resources on operating their backbone voice networks, meeting consumer demands, or providing services to existing customers, the RLECs are forced to divert resources to cover the costs of ongoing compliance with the requirements of Chapters 63 and 64, much of which is related to mundane, unnecessary, and/or outdated record keeping and reporting. Ultimately, regulations *in addition to* Section 1501 and Chapter 15 of the Public Utility Code are excessive and put the Commission in the role of holding back RLECs/ILECs in the marketplace. The result penalizes ILECs and their customers solely due to their statuses as regulated utilities.

Fifth, as part of this rulemaking, the RLECs support the use of mediation and other flexible processes to address specific customer issues that may arise so that consumers and utilities are placed in direct contact, without requiring immediate Commission involvement or participation and without imposing superfluous or burdensome requirements, reporting, or metrics. Mediation is the most meaningful type of collaborative between the two most critical parties – i.e., the consumer and utility – and furthers the Commission's policy of encouraging settlements and other resolutions achieved between the parties without Commission intervention.

Ultimately, the RLECs maintain that the existing statutory framework, most notably Sections 1501 and 1509 of the Public Utility Code, in combination with a robust, yet consumer-friendly mediation process as described in the RLECs comments, are more than adequate to

address the remaining 12% of voice connections in this Commonwealth. As a result, most of the regulations in Chapters 63 and 64 should be eliminated.

F. Requirements in Chapters 63 and 64 need to be eliminated and streamlined.

1. Service metrics and reporting requirements are not consumer focused or friendly, deplete valuable resources, and are not needed.

The OCA seeks to preserve in "original form" or with minor modification the majority of the quality of service regulations found in Chapter 63.[18] CWA recommends, among other things, "public reporting" of service quality metrics to "show compliance with regulatory requirements."[19] CWA also suggests that the Commission "should enhance inspection, maintenance, and testing standards" for worker safety and service adequacy.[20] The RLECs thoroughly addressed its position on the existing Chapter 63 regulations in its initial comments[21] and refers the Commission thereto in response to the comments and recommendations espoused by the OCA and CWA. Nevertheless, the RLECs offer a few observations in response.

First, the existing service metrics and reporting requirements are onerous and wholly unnecessary in today's competitive environment, especially when those metrics and reports are addressing the minority of voice connections in the Commonwealth. Moreover, compliance with the standards set forth in these regulations does not guarantee that companies are meeting consumer expectations, which is of paramount significance in the current market climate. That was not the case in the 1980s when the bulk of these regulations were promulgated, but consumer preferences have evolved since then. The prevalence of unregulated alternative service

[18] *See generally* OCA comments at 10-27.

[19] CWA comments at 9; *see also id.* at 3.

[20] *Id.* at 9.

[21] *See generally* RLEC comments at 9-20.

providers throughout the Commonwealth requires carriers to focus resources and efforts on consumer expectations, rather than report generating and service metric monitoring.

Second, there has been no demonstration that consumers value these reports and metrics or are influenced in any way about matters such as inspection, maintenance, and testing standards. The reality, much to the dismay of the OCA and CWA, is that consumers simply do not care about service quality metrics and related recordkeeping and reporting.

Third, the RLECs strongly oppose CWA's proposal for increased reporting requirements. Act 183 identified nine filing requirements for RLECs operating under network modernization plans. *See* 66 Pa.C.S. §3015(e). There is no justification, either advanced by CWA or otherwise, to support additional reporting requirements, combined with added regulations to accommodate such reporting requirements. Even so, any move to implement added reporting would contravene Act 183. The minority service providers (ILECs) should not be required to comply with reporting requirements from which their direct, unregulated competitors are excused. In fact, that was an express policy goal of this Commonwealth under Act 183 which recognized 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."[22]

Fourth, the RLECs question the merit and value in exerting effort to generate the reports and meet the metrics presently required in Chapter 63. CAUSE-PA, for instance, claims that regulated telecommunications carriers regularly violate the baseline service standards set forth in Chapters 63 and 64 based upon the Commission's UCARE Report, claiming 559 verified

[22] 66 Pa.C.S. § 3011(13).

infractions of Chapter 63 and 45 verified infractions of Chapter 64.[23] Those numbers, however, need to be taken in context, as they only represent a subset of the 12% of voice connections in Pennsylvania. Despite the voluminous requirements set forth in Chapter 64 – including the plethora of billing and collections provisions – there were a mere 45 verified infractions. Given these numbers, does the amount of effort exerted by the ILECs to comply with these voluminous, outmoded regulations and the resources expended by the Commission to intake and process reports make the UCARE Report justifiable? Perhaps if it was in the 1980s, but certainly not today.[24]

Finally, the metrics and public reporting have little relevance to consumers when they have nothing to compare against. The vast majority of consumers have chosen service from a carrier not subject to the metrics and not required to do any report. The data points available for the RLECs provide no ability for comparison among options by consumers. They only impose the cost upon the minority market share participants of tracking and publishing without any positive benefit for the consumers or the company.

2. Existing billing and collection requirements in Chapter 64 create consumer confusion and are unnecessary cost causers.

The OCA recommends the retention of nearly all the Commission's billing, payment, and collection standards found in Chapter 64.[25] The standards, the OCA contends, help the Commission decide whether LECs are providing reasonable service under Sections 1501 and 1509 of the Public Utility Code and are not imposing arbitrary late fees to make basic service

[23] CAUSE-PA comments at 4.

[24] As set forth in its initial comments, the RLECs strongly oppose the continued use and diversion of valuable resources to prepare reports, like the UCARE Report, simply for the sake of "public reporting." *See* RLEC comments at 24 n.31.

[25] *See generally* OCA comments at 29-34.

less affordable.[26] With the exception of Section 64.23 (related to cramming and slamming), the RLECs categorically disagree and submit that all billing and collection requirements in Chapter 64 should be eliminated for the reasons set forth in the RLECs initial comments.[27] Indeed, not only are these requirements contrary to sound business practices, but they also create confusion for the customer and impose unnecessary costs for the RLECs.

Subchapter 64.B. is also superfluous in view of the FCC's Truth in Billing Requirements found at 47 CFR 64.2401. Those rules are more than sufficient to protect consumers and ensure compliance from carriers on billing and collection matters. The RLECs question the necessity of keeping the Commission's regulations given the prevalence of other applicable and governing regulations.

G. A collaborative process would only serve to delay much needed regulatory reform and should only be used if properly limited in scope and duration.

CAUSE-PA and CWA each urge the Commission to convene a stakeholder collaborative to determine if a consensus on regulations and related matters can be reached before embarking on a full-fledged rulemaking.[28] Through these comments, and utilizing the results of the RLECs waiver petition (if granted), the Commission would have the information necessary to invoke meaningful regulatory reform which would eliminate the bulk of the Chapter 63 and 64 regulations which apply to a dwindling subset of Pennsylvania's voice connections. Even with the elimination of these regulations, adequate consumer protections will be afforded if the RLECs' streamlined mediation process is implemented.

---

[26] *Id.* at 30.

[27] *See* RLEC comments at 21-23.

[28] CAUSE-PA comments at 5; CWA comments at 2.

Collaboratives, moreover, are not panaceas or should not serve to usurp the Commission's authority to amend and streamline its regulations given the prevailing circumstances. Collaboratives often delay the orderly progression of a rulemaking, particularly in "black and white" situations where parties have diametrically opposed viewpoints and consensus is unlikely to be reached. Despite good intentions, these processes harm the development and implementation of much needed regulatory reform because of antiquated, ingrained ideas or positions espoused by parties that refuse to budge. These processes also are influenced by asymmetry among stakeholders, as it is not uncommon for parties with greater power to control the dialogue and direction of the collaborative.

If, however, the Commission determines additional input is required and a collaborative process would be beneficial to its review, the RLECs would not oppose such a collaborative, assuming there are clear parameters established up front and the collaborative is limited in both time and scope. Any collaborative should not exceed more than 120 days total. Moreover, if a collaborative is held, the RLECs submit that it is only appropriate for the temporary waivers of certain Chapter 63 and 64 regulations concomitantly being sought at Docket No. P-2018-3005224 to be granted in full[29].

H. The change of control regulations need clear parameters.

CWA states that "it is not necessary at this time" to modify the Commission's change of control regulations in Chapter 63 (O).[30] The RLECs thoroughly addressed Subchapter O in in their initial comments and refers the Commission to those comments in response.[31] The RLECs

[29] *See Petition of the Rural Incumbent Local Exchange Carriers for Temporary Waiver of Certain Chapter 63 and 64 Regulations*, Docket No. P-2018-3005224 (filed Oct. 3, 2018).

[30] CWA comments at p. 5.

[31] *See* RLEC comments at 18-20.

reiterate, however, that the Subchapter O regulations can and should be modified to impose 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.

III. CONCLUSION

In closing, the RLECs thank the Commission for initiating this rulemaking and affording the opportunity to participate in this proceeding. Given the realities of today's telecommunications industry, the bulk of the regulations contained in existing Chapters 63 and 64 are no longer relevant nor necessary, especially when those regulations are only applicable to a small subset of Pennsylvania's providers of voice connections across the state. Continued regulation of the ILECs constitutes over-regulation of the minority and places the ILECs at significant disadvantage vis-à-vis unregulated market participants. The time has thus come to eliminate these outmoded and onerous regulations and reduce the regulatory burdens imposed on the Commonwealth's minority providers. For these reasons, the RLECs respectfully request that the Commission consider the foregoing reply comments, along with the RLECs' initial comments, and eliminate the bulk of Chapter 63 and all of Chapter 64 (except for § 64.23).