

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 16, 2019

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

Re: Hickory Telephone Company PSI/SPI Filing for Year 2018	:	R-2018-3001217
	:	C-2018-3001917
Lackawaxen Telecommunications Services, Inc. PSI/SPI Filing for Year 2018	:	R-2018-3001199
	:	C-2018-3001913
Windstream Buffalo Valley, Inc. PSI/SPI Filing for Year 2018	:	R-2018-3001132
	:	C-2018-3001865
Marianna & Scenery Hill Telephone Company PSI/SPI Filing for Year 2018	:	R-2018-3001201
	:	C-2018-3001912
Consolidated Communications of Pennsylvania Company PSI/SPI Filing for Year 2018	:	R-2018-3001104
	:	C-2018-3001863
Windstream Conestoga, Inc. PSI/SPI Filing for Year 2018	:	R-2018-3001135
	:	C-2018-3001864
Windstream Pennsylvania, LLC PSI/SPI Filing for Year 2018	:	R-2018-3001150
	:	C-2018-3001871
Bentleyville Communications Corporation PSI/SPI Filing for Year 2018	:	R-2018-3001213
	:	C-2018-3001916
The North-Eastern Pennsylvania Telephone Company PSI/SPI Filing for Year 2018	:	R-2018-3001197
	:	C-2018-3001915
Windstream D&E, Inc. PSI/SPI Filing for Year 2018	:	R-2018-3001133
	:	C-2018-3001870

Dear Secretary Chiavetta:

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

Rosemary Chiavetta, Secretary
January 16, 2019
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Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink that reads "Barrett Sheridan". The signature is written in a cursive style with a horizontal line extending to the right.

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
E-Mail: BSheridan@paoca.org

Enclosures:

cc: Honorable Steven K. Haas
Certificate of Service
*265217

CERTIFICATE OF SERVICE

Re: Hickory Telephone Company PSI/SPI : Docket Nos. R-2018-3001217
Filing for Year 2018 : C-2018-3001917
Lackawaxen Telecommunications :
Services, Inc. PSI/SPI Filing for Year : Docket Nos. R-2018-3001199
2018 : C-2018-3001913
Windstream Buffalo Valley, Inc. PSI/SPI : Docket Nos. R-2018-3001132
Filing for Year 2018 : C-2018-3001865
Marianna & Scenery Hill Telephone : Docket Nos. R-2018-3001201
Company PSI/SPI Filing for Year 2018 : C-2018-3001912
Consolidated Communications of :
Pennsylvania Company PSI/SPI Filing : Docket Nos. R-2018-3001104
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Filing for Year 2018 : C-2018-3001871
Bentleyville Communications : Docket Nos. R-2018-3001213
Corporation PSI/SPI Filing for Year 2018 : C-2018-3001916
The North-Eastern Pennsylvania :
Telephone Company PSI/SPI Filing for : Docket Nos. R-2018-3001197
Year 2018 : C-2018-3001915
Windstream D&E, Inc. PSI/SPI Filing for : Docket Nos. R-2018-3001133
Year 2018 : C-2018-3001870

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

Dated this 16th day of January 2019.

SERVICE BY E-MAIL and INTER-OFFICE MAIL

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL and FIRST CLASS MAIL, POSTAGE PREPAID

Steven C. Gray, Esquire
Office of Small Business Advocate
300 North Second Street
Suite 202
Harrisburg, PA 17101

Charles E. Thomas III, Esquire
Thomas, Niesen, & Thomas, LLC
212 Locust Street
Suite 302
Harrisburg, PA 17101

/s/ Barrett C. Sheridan

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
E-Mail: BSheridan@paoca.org

Counsel for Office of Consumer Advocate
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Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: January 16, 2019
*265218

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Hickory Telephone Company PSI/SPI Filing for Year 2018	:	R-2018-3001217
	:	C-2018-3001917
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	:	C-2018-3001870

**PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE**

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. §333, and the Prehearing Order of Administrative Law Judge Steven K. Haas dated December 17, 2018, the Pennsylvania

Office of Consumer Advocate (OCA) hereby submits this Prehearing Memorandum in regard to the individual Price Stability Mechanism filings of the ten listed companies and the respective formal complaints filed by the OCA. For the purpose of this Prehearing Memorandum, the OCA will refer to them collectively as the “Companies.” The OCA acknowledges that each Company is subject to its own Chapter 30 Plan and rates. Of the ten Companies, the OCA notes that there are the four Windstream affiliates: Windstream Buffalo Valley, Inc., Windstream Conestoga, Inc., Windstream D&E, Inc., and Windstream Pennsylvania, LLC (collectively, the Windstream Companies). Consolidated Communications of Pennsylvania Company, Bentleyville Communications Corporation, and Marianna & Scenery Hill Telephone Company are also affiliates. Lackawaxen Telecommunications Services, Inc. (Lackawaxen), North-Eastern Pennsylvania Telephone Company (NEPTC), and Hickory Telephone Company (Hickory) are incumbent rural local exchange carriers (RLECs).

I. PROCEDURAL HISTORY

On or about May 1, 2018, each of the Companies filed their annual Price Stability Index (PSI) reports and proposed tariff changes, if any, with the Commission. Of the ten Companies, only Lackawaxen filed proposed tariffs, to implement the roll-in of touch tone service into the rate for basic service.

The Office of Consumer Advocate filed individual Formal Complaints with Public Statements against each of the ten Companies between May 11, 2018 and May 14, 2018. Common to each of the OCA Formal Complaints is the position that the PSI filing made by each Company omitted an adjustment through the Company’s respective Price Stability Mechanism

(PSM) formula to account for tax savings resulting from the enactment in December 2017 of the federal Tax Cuts and Jobs Act (TCJA).

By agreement between the OCA and counsel for the Companies, the individual Companies deferred the filing of Answers to June 25, 2018. The Commission approved the extensions by Secretarial Letters entered on or about May 24, 2018.

The Office of Small Business Advocate entered Notices of Intervention and Public Statements in each Company's PSI filing docket, on or about May 24, 2018.

The Commission voted during the June 14, 2018 Public Meeting on each individual Company's PSI filing. Vice-Chairman Andrew Place offered a Motion as to each Company's PSI filing and associated OCA Formal Complaint. The Commission adopted Vice-Chairman Place's Motion and determined that each Company's PSI filing was procedurally consistent with the respective Chapter 30 Plan PSM, and that the Lackawaxen rate change could take effect, all subject to final resolution of the OCA Formal Complaints including possible refunds.

On June 22, 2018, the OCA, OSBA and the Companies filed a Joint Stipulation for Stay with the Commission. The Parties entered into the Stipulation to allow time for discovery, to be followed by meetings among the Parties to discuss the possible resolution of one or more PSI filing and OCA Formal Complaint without further litigation.

The Commission issued Orders on or about July 5, 2018 in each of the Company's PSI filing docket, consistent with Vice Chairman Place's June 14, 2018 Motion.

On August 9, 2018, the Commission issued a Secretarial Letter in the Commission's Re: Tax Cuts and Jobs Act, Docket No. M-2018-2641242 proceeding and each the Companies' PSI filing dockets. The August 9 Secretarial Letter temporarily stayed the Commission's own

inquiry in the Re: Tax Cuts and Jobs Act docket, pending “the parties’ full litigation and the Commission’s final adjudication of these ten complaints.”

On August 24, 2018, the Companies filed a Petition to Rescind the August 9 Secretarial and discontinue the Commission’s stay of its inquiry in the Re: Tax Cuts and Jobs Act docket of the impact of the TCJA on each of the Companies’ PSM and rates for non-competitive retail services.

The OCA filed an Answer to the Companies’ Petition for Rescind which deferred to the Commission.

On October 25, 2018, the Commission denied the Companies’ Petition to Rescind the August 9, 2018 Secretarial Letter. The Commission confirmed the limited stay entered in the Re: Tax Cuts and Jobs Act docket as to the Commission’s inquiry concerning the impact of the TCJA on the PSM and rates for non-competitive retail services of all incumbent local exchange carriers. The Commission stated that the pending OCA Formal Complaints should proceed to litigation.

On December 5, 2018, the Office of Administrative Law Judge issued a Notice of Prehearing, scheduling each Companies’ PSI filing and corresponding OCA Formal Complaint for a Prehearing Conference on Friday, January 18, 2019.

On December 17, 2018, ALJ Haas entered a Prehearing Order in the dockets for each Company’s PSI filing and corresponding OCA Formal Complaint.

The OCA has issued three sets of discovery to each of the Companies. The OCA Set III interrogatories were served on January 4, 2019.

II. ISSUES

The OCA has identified the following list of issues which apply to each Company and their 2018 PSI filing:

1. Whether the rates charged by the Company are just and reasonable and in accordance with all applicable laws;
2. Whether the Company's PSI filing is consistent with the Company's Chapter 30 plan as well as applicable precedent;
3. The impact of the federal TCJA on the Company's annual tax expense;
4. Identification of the amount of any tax savings resulting from the enactment and implementation of the TCJA associated with the Company's intrastate, non-competitive services subject to the Commission's jurisdiction and the Company's Chapter 30 Plan PSM;
5. How to implement an exogenous adjustment to the Company's PSI filing(s) and rates, to adjust for a change in expense which is the result of the federal legislative changes affecting the Company's revenues and/or costs, to the extent not captured in GDI-PI; and
6. Allocation of any refunds or future rate reductions.

The OCA reserves the right to address or respond to whatever issues may be raised by other parties in these proceedings. The OCA intends to participate in this investigation. If any additional issues arise as a result of this investigation, the OCA will address them at that time.

III. WITNESSES

The OCA's consultant and expert witness in these proceedings is Dr. Robert Loube. Dr. Loube's contact information is:

Robert Loube
Vice President
Rolka Loube
10601 Cavalier Drive
Silver Spring, MD 20901

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Dr. Loube will address the issues articulated above as well as any other issues that may arise throughout these proceedings. In order to expedite the resolution of these proceedings, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be served directly upon Dr. Loube, both in electronic and hard copy form, in addition to serving a copy of such documents on counsel for the OCA.

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

IV. PROCEDURAL RULES

The OCA does not request modification of the Commission's Rules of Procedure as to discovery matters, at this time. The Companies' respective annual PSI filings and tariff changes, if any, qualify as rate cases and so a 15-day time frame for discovery replies applies.

V. PROPOSED SCHEDULE AND CONSOLIDATION

The OCA, the OSBA, and the Companies have discussed extending the time for discovery and informal discussions of the issues through May 2019. The Companies' 2018 Annual Reports to the Commission, which will include financial information pertinent to the

OCA Formal Complaints, are due by late April 2019. The OCA, the OSBA, and the Companies support the scheduling of a Second Prehearing Conference thereafter.

The OCA does not oppose consolidation of the ten Companies' PSI Filings and the corresponding OCA Formal Complaints for the purpose of administration, at this stage. Questions regarding how to conduct the hearings and creation of an evidentiary record, while protecting any confidential information specific to one Company, may be better addressed at the Second Prehearing.

VI. MISCELLANEOUS

The OCA will be represented in this case by Assistant Consumer Advocate Barrett C. Sheridan. The OCA requests one copy of all documents be served on the OCA as follows:

Barrett C. Sheridan, Assistant Consumer Advocate

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VII. SETTLEMENT

The OCA is amenable to settlement discussions and will participate in such settlement discussions as may be scheduled or convened by the parties.

Respectfully Submitted,



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PA Attorney I.D. # 61138
E-Mail: BSheridan@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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January 16, 2019
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