

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa. C.S § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 53, Chapter 63, and Chapter 64 : **Public Meeting held August 27, 2020**
: **3001391-LAW**
: **Docket No. L-2018-3001391**
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MOTION OF VICE CHAIRMAN DAVID W. SWEET

I. INTRODUCTION

A little over two years ago, this Commission initiated an Advance Notice of Proposed Rulemaking (ANOPR) pursuant to our *Reclassification Order* entered March 4, 2015, which addressed service provided by the incumbent local exchange carriers (ILECs) Verizon Pennsylvania LLC and Verizon North LLC (Verizon or Verizon ILECs).¹ In that Order, we reclassified as competitive 153 of Verizon’s total 504 wire centers pursuant to Section 3016(a) of the Public Utility Code. This action followed a full evidentiary proceeding as required under Chapter 30. At the same time, we also temporarily waived, for Verizon and any competitive local exchange carriers (CLECs) operating in Verizon’s competitive service areas, specific regulations in Title 52 of the Pennsylvania Code pending further review of the waivers in a subsequent rulemaking.

The ANOPR was intended to address not only those regulations that were temporarily waived due to Verizon’s competitive reclassification but also those that, in effect, had become less vital given the evolution of the provision of telecommunications today. Whatever the number of regulated access lines in Pennsylvania,² we do not disagree with two underlying premises at play in our actions. First, unregulated carriers not subject to our Title 52 regulations compete with our regulated wireline utilities. Second, many of our regulations were prescribed before those unregulated carriers existed. While we lack sufficient analysis of the competitive alternatives throughout all Pennsylvania,

¹ *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*).

² Our regulations apply to certificated wireline carriers, including ILECs, CLECs, and Competitive Access Providers. Access line counts reported to and on file at the Commission from certificated carriers reveal 4.243 million wireline access lines in Pennsylvania for the year ended December 31, 2019, up from 4.239 million as of December 31, 2018. Our incumbent carriers rely on the Voice Telephone Services Report filed at the Federal Communications Commission (FCC), which reveals just under 1.7 million ILEC-only access lines as of December 31, 2018.

particularly in rural carriers' territories, we may nonetheless modernize our regulations to remove obligations we believe, on balance, present a greater burden than benefit. I cannot, however, support a wholesale repeal of regulations where, upon deliberate consideration, I find some remain necessary to protect the public interest, which includes the interests of both carriers and consumers.

The Notice of Proposed Rulemaking (NOPR) before us today is not just the adjunct to our ANOPR. It is, more importantly, to me and I also believe to my fellow Commissioners, our responsible exercise of regulation over utilities subject to our jurisdiction and those consumers who rely on that jurisdiction. While the telecommunications market has evolved, some issues, especially in matters involving service and safety, continue to warrant oversight.

The Commission retains jurisdiction generally under all sections of the Public Utility Code and specifically over the provision of service under Section 1501. Our regulations provide a roadmap to guide the reasonable exercise of that jurisdiction. It is time to update that map. In many ways, I believe staff has charted an acceptable course. However, in this motion I propose modifications to staff's recommendation that I believe further alleviate burdens on carriers while still providing sufficient directions to guide us all as we discharge our responsibilities under the Code.

I have endeavored to reduce utility reports and other burdens while still ensuring a meaningful manner of addressing regulated service. For example, I propose a series of amendments in Chapter 63 to eliminate current mandatory reporting requirements and replace them with clearer rules on service requirements and attendant record keeping. My goal is to reduce unnecessary reports while continuing to ensure the Commission has the means to review issues and take action where necessary by having records available where periodic reports have been eliminated. Through these and other amendments, I strove to find the right balance between relieving utilities of existing burdens while retaining an adequate layer of consumer protection.

I worked to (1) identify common interests and concerns; (2) reasonably balance competing interests; (3) craft amendments that acknowledge today's telecommunications market but do not require or rely upon formal competitive analyses or designations under Chapter 30; and (4) propose modified regulations that are more equitable for the industry, sufficiently protective for consumers, and structurally feasible for both staff and the industry.

It is within that construct that I have considered not only the comments of stakeholders and analyses of our staff but also the detailed individual statements of my colleagues, Chairman Gladys Brown Dutrieuille and Commissioner John F. Coleman, introduced at our July 16, 2020 Public Meeting. I appreciate and acknowledge the efforts

of all these parties, as each contributed to the motion I offer today, providing, I believe, some relief to all but not all relief to any.

II. PROPOSED AMENDMENTS

Chapter 53 - Tariff Filing Requirements for ILECs and CLECs

Except as modified below, I accept staff's proposed recommendations to Chapter 53.

- **Section 53.57 - Definitions.**

Replace the current definition of "CLEC," or "competitive local exchange carrier," with "CTC," or "competitive telecommunications carrier." Define CTC as "an entity that provides telecommunications services subject to the jurisdiction of the Commission and in competition with a local exchange telecommunications company." This definition is more encompassing, recognizing that CLECs are not the only competitive carriers regulated by the Commission and subject to these regulations. This term also avoids any conflict or confusion with the existing statutory definition of the term "alternative service provider," under Chapter 30 of the Code, which is defined as an entity that provides competing services regardless of its status as subject to the Commission's jurisdiction and regulations.

- **Section 53.58 – offering of competitive services.**

Where reference to a "product guide" is applicable, refer to a product guide "or similar document." The term "product guide" was first identified in the Verizon ILECs' reclassification proceeding, and it may be specific to Verizon. For that reason, the addition of "or similar document" will ensure that recognition of a document not on file as a Commission tariff will apply equally to other carriers' offerings that are not necessarily described as a "product guide."

- **Subsection 53.58(d).**

Allow an ILEC or CTC to make rates and terms of basic service available through a product guide or similar document on the carrier's website in lieu of maintaining a price list or formal tariff on file with the Commission. However, so that both the Commission and consumers retain reasonable access to the nontariffed provisions, the carrier shall maintain an archive of outdated rates, terms, and conditions that were available in a product guide or similar document for a period of four years, and shall remain obligated to provide both current and archived documents to the Commission upon reasonable request.

- **Subsection 53.58(e)(4).**

Modify this subsection to align with the current statutory criteria of Chapter 30, Section 3016, of the Public Utility Code. To that end, retention of the criteria set forth in subsections 53.58(e)(2), (4), and (7) – the presence of competitors, availability of like kind/substitute services, and other relevant factors as determined by the Commission – parallel the current statutory provisions while also affording the Commission discretion to determine whether additional factors may be relevant to a specific case at hand. Conversely, elimination of subsections 53.58(e)(1), (3), (5), and (6) is appropriate because those conditions are not specifically required under the current statutory regime. Again, should the Commission believe additional information is relevant, a reclassification under this provision continues to remain subject to any additional factors the Commission may deem relevant.

- **Sections 53.59(f)(5).**

Replace Office of Trial Staff with “Bureau of Investigation and Enforcement or successor.”

- **Sections 53.57 – 53.60.**

Replace the term “CLEC” with “CTC” and its defined term for the reasons stated, and as identified, above.

Chapter 63 – Telephone Service

Except as modified below, I accept staff’s proposed recommendations to all subchapters of Chapter 63.

Initially I also note that the name of this chapter should be changed from “Telephone Service” to “Telecommunications Service” to reflect the modern nomenclature associated with this utility service. In addition, change “telephone” to “telecommunications” in other sections throughout this chapter where the word “telephone” appears.

- **Section 63.1 – Definitions.**

Expand the proposal to amend this section to define “wire centers” to include wire center “or other geographic area defined by the public utility.” As with “product guide or similar document,” reference in a regulation to a wire center may be Verizon-specific or to terminology of otherwise limited applicability. Our regulations should be sufficiently expansive to reflect geographic areas of all carriers no matter their specific terminology. The language “or other geographic area defined by the public utility” also should be

added in any other section of Chapter 63 where staff proposes to insert the term “wire center.”

- **Section 63.12 – Minimizing interference.**

Eliminate this section and address all relevant matters of interference under Section 63.63. As currently written, this section speaks to interference that is traditionally recognized in relation to the provision of analog service, which although it continues to exist is being replaced with digital service. In consideration of amendments, I propose below relating to Section 63.63, addressing transmission requirements and standards, this section may be eliminated.

- **Section 63.13 – Periodic inspections.**

Eliminate this section. The subject of this regulation is also adequately addressed through modifications I propose below to Section 63.63. While we will not require a plan, a public utility’s plan of inspections likely will play a role in its ability to maintain continuous and efficient network operations, which will still be required.

- **Section 63.15 – Complaint procedures.**

Amend this section to add new language to provide all telecommunications public utilities, most particularly our ILECs, the option to participate in a “warm transfer” or similar program for service and/or billing, related disputes made to the Commission’s Bureau of Consumer Services (BCS). Under the parameters of the warm transfer program we adopted for the Verizon ILECs, all LEC customers who contact BCS about a service complaint would have the option, if set up between the LEC and BCS, to be transferred to a company representative in an effort to address the issues raised by the customer before BCS is called upon to address the matter as an informal complaint. Under my proposed amendment, all LECs will have the option to establish a program under which, with customers’ consent, our BCS will be able to automatically transfer customers with service or billing complaints in real time to a live person at the LEC by way of a dedicated toll free number. Complaints that are not able to be resolved under this procedure will be returned to BCS for processing under other applicable regulations. This promotes efficiency for both customers and LECs. Sometimes the more challenging aspect of a complaint is having a dispute channeled to the appropriate company representative in a timely fashion.

- **Section 63.21 – Directories.**

Amend this section to comport with and codify the temporary waivers of directory distribution and availability that were granted to the Verizon, CenturyLink, and Frontier

ILECs, which by virtue of our order entered July 28, 2020 at Docket No. P-2018-3005224, was also extended to the remaining Pennsylvania rural ILECs.

- **Section 63.22 - Service records.**

Eliminate subsections 63.22(a)(1) and (4), subsection 63.22(b), and subsection 63.22(c) of this regulation on the same bases I set forth addressing Sections 63.12, 63.13, and 63.63. However, I propose to retain subsections 63.22(a)(2) and (3). Complaints involving service generally and outages specifically cut to the core of our regulatory oversight over consumer protections, especially when safety is involved. Retention of records required to be made under this and other service-related sections is addressed my discussion of Section 63.54. below.

- **Section 63.35 – Preservation of records.**

I believe that this section has room for modernization, but I disagree with its wholesale elimination as proposed by staff. I propose to retain subsection 63.35(a) while amending it to reflect the requirement that records be maintained per the requirements of the FCC and applicable CFR sections “as amended from time to time” or an equivalent.

As to subsection (b) addressing the retention of original cost of plant in continuing property, I propose to eliminate that subsection as currently written. With regard to specific record retention under an amended subsection (b), unless a retention period is otherwise specifically addressed elsewhere in our proposed or final form regulations, I propose in a new subsection (b) that we require an eight-year retention for records required for audits that may be performed by the Commission under Section 516 of the Code, such as but not limited to financial and management audits, records required for review under Sections 505 and 506 of the Code, records required under the system of accounts followed pursuant to Section 63.35(a) as amended above, and records required for those entities remaining subject to ratemaking provisions under Chapters 13 and 30 of the Public Utility Code.

I note that telecommunications public utilities may continue to have a need for these or similar records for other regulatory purposes. For example, utilities that remain subject to a form of rate base/rate of return regulation may continue to require these or other records for purposes of voluntary rate change proceedings. Through amendment of subsection (b), it is not my intent to eliminate any obligation to retain records used for other regulatory purposes.

- **Section 63.53 - General provisions.**

Staff proposes to rescind subsections 63.53(c) and (d) and to amend the language of Section 63.53(a) to recognize that some services may be provided under a product guide

or similar document rather than a tariff. I agree with those proposals. However, I also believe that we can rescind the reporting requirement in subsection 63.53(b) as unnecessary. In other sections discussed in this motion and staff's recommendation, we retain reporting requirements regarding service levels that remain necessary. And, as proposed below, we may always request a service report under Section 63.55(a) as proposed to be amended.

- **Section 63.54 – Record Retention**

Staff proposes no changes to this section. However, in light of changes I propose elsewhere with respect to reports and record keeping, I propose to amend this section to retain the language that currently exists and incorporate it as a new subsection (a). Thus Section 63.54(a) would retain the current 90-day retention period for undisputed billing records and a retention of records related to bills disputed until the dispute is resolved.

Under a new subsection (b) I propose to establish a five-year record retention period for the following specific service records: (1) records related to call answering times, a subject currently addressed under Section 63.56 of our regulations and proposed to be amended by staff and in this motion in proposed Section 63.59; (2) records related to service complaints and trouble reports under Section 63.22 as proposed in this motion to be amended; (3) records related to surveillance level investigations under Section 63.55 as proposed in this motion to be amended; and (4) records related to service outages addressed under Sections 63.22 and 62.57 as proposed in this motion to be amended. Through these amendments, in concert with my proposed amendments to other sections such as Sections 63.22, 63.55, and 64.57, the Commission retains sufficient guidelines on the types of records related to service that utilities should continue to keep, thereby continuing consumer protections in core service-related matters, while at the same time also providing relief from what are multiple mandatory reporting requirements under our regulations as they currently exist.

- **Section 63.55 – Surveillance levels.**

Retain subsection 63.55(a), addressing surveillance levels. However, in lieu of requiring a carrier to file reports to the Commission as set forth in subsections (b) and (c), I propose to rescind those provisions and amend subsection (a) to provide that a report of the investigation into a breach of a surveillance level shall be provided to the Commission upon request. Through these proposed revisions, the Commission may continue to monitor service quality as deemed necessary while reducing the regular reporting burden on carriers by limiting it to only those incidents for which the Commission requests a report.

- **Section 63.56 – Measurements.**

Because of amendments I propose to Sections 63.54 and 63.59, I propose to delete this regulation as it currently exists and reject staff's proposed amendments.

- **Section 63.57 – Customer trouble reports.**

Amend this section to afford more flexibility to the customer and carrier. Combine subsections (a) and (b) to impose a requirement that telecommunications public utilities respond to out-of-service trouble reports within 24 hours unless a different period of time is agreed to by the customer. Allowing carriers and their customers to agree to a different time period aligns better with current market practices where some issues are better resolved between the two parties without an unequivocal mandate. It also retains sufficient consumer protections, particularly in matters where safety and access to emergency services may be affected. I also propose to retain subsections (c) and (d) as they are, amend subsection (f) to remove the word "reporting" in the second sentence so that utilities remain subject to the "requirements" set forth in Section 63.55(a) (as proposed herein to be amended) but without any required "report," and eliminate subsection (e).

- **Section 63.58 – Installation of service.**

I agree with staff to retain this section in its entirety. For reasons similar to my proposed amendment to Section 63.57, however, in order to provide more flexibility in the carrier/customer relationship I propose to allow a public utility and customer to agree to a different installation date. Therefore, I would revise the regulation to provide that the respective five-day and 20-day rules in subsections (a) and (b) apply unless a later date is agreed to by the customer.

- **Section 63.59 – Operator-handled calls.**

Because of amendments I propose to Sections 63.54 and 63.56, and in consideration of staff's proposed amendments to this section, I accept staff's proposed amendment with the following changes: (1) Rename this section "Call answering measurements"; (2) rewrite staff's initial sentence as follows: "A public utility shall take measures necessary and keep sufficient call answering records to monitor answering times for calls as follows:"; and (3) in each of staff's proposed subsections (1), (2) and (3), which should be renumbered as (a), (b), and (c), remove the words "reports" and replace it with "records" and remove the word "provide" and replace it with "record."

- **Section 63.63 – Transmission requirements and standards.**

My proposal to rescind Section 63.12 addressing interference is tied to my proposal to amend Section 63.63. Subsection 63.63(a) remains relevant, while subsections 63.63 (b) through (d) may be removed as written are increasingly obsolete. I also propose, however, to amend this Section to provide as a new subsection (b), using language originally proposed by staff for inclusion in Section 63.12, as follows: “(b) Fiber networks. The provisions of this section shall apply to each wire center or other geographic area defined by the jurisdictional telecommunications public utility where the utility has fully deployed a jurisdictional fiber-optic network.” As amended, Section 63.63 will continue to provide sufficient guidance under Section 1501 of the Code to ensure that our jurisdictional telephone public utilities provide reasonable service that is free from distortion, noise, and cross-talk. As we recognize use of modern technology in our utility networks, however, staff’s language regarding fiber networks simply ensures that our telecommunications public utilities remain obligated to deploy and maintain networks that continue to provide for the satisfactory transmission of messages regardless of technology, confirming an obvious obligation that adds no additional burden.

- **Section 63.64 – Metering inspections and tests.**

Rescind subsections (d), (g), and (h), retain subsections (a), (b), (c), and (e), and amend (f). If a meter is not used in the provision of service, (c) and (e) should not present a burden. If a meter is used, the retained sections provide for standards relating to billing. Subsection (f) requires a utility to perform periodic testing and maintenance of its utility trunking equipment, which should remain the utility’s obligation. However, in lieu of the “periodic” nature of this requirement in this subsection, I propose amending the language to provide that the requirement shall apply “upon request or complaint.”

- **Section 63.65 – Safety.**

I agree with staff’s recommendation to delete Sections 63.65(1) – (4) as unnecessary. However, I propose to retain the first part of this section, which requires telecommunications public utilities to adopt and implement a safety program fitted to their size in conformance with Occupational Safety Health Act standards, which I propose be amended to add the words “as amended from time to time” or an equivalent. This is consistent with a similar amendment I proposed which referred to application of a non-Commission standard. Elimination of subsections (1)-(4) reduces burdens, while retention of the first part as amended simply confirms the workplace safety standards that shall apply, affirms the importance of safety of Pennsylvania workers to the Commission, and adds no additional burden.

Subchapter J – CONFIDENTIALITY OF CUSTOMER COMMUNICATIONS AND INFORMATION.

I agree with staff's proposed amendments to this section. In addition, however, I propose to add the words "agent," to be defined as "an individual or entity that performs work on behalf of a telecommunications public utility as the principal and is subject to this chapter," and "independent contractor," to be defined as "an individual or entity that performs work on behalf of a telecommunications public utility subject to this chapter," in subsection 63.132. In this spirit, I also propose to insert "agent" and "independent contractor" after every mention of "employee" in the regulation. I believe this assumption of responsibility is both proper in the marketplace and no more burdensome a requirement than we currently impose in the energy market.

Chapter 64 – Standards and Billing Practices for Residential Telephone Service

Subchapter A – PRELIMINARY PROVISIONS and Subchapter B – PAYMENT AND BILLING STANDARDS.

Except as modified or noted below, I accept staff's proposed recommendations to subchapters A and B of Chapter 64.

Initially, I note that as with Chapter 63, I propose that the name of this chapter be amended to replace the word "Telephone" with "Telecommunications" and to make that same change in other sections throughout this chapter where the word "telephone" appears.

Also, while addressed in my general comments below, I reject staff proposals that establish a two-tiered regulatory structure designed to impose a different regulation in competitive and noncompetitive areas. Therefore, in addition to the specific sections noted below, in subchapters A and B I also reject all staff recommendations to establish two regulatory tiers applicable separately to competitive and noncompetitive wire centers, including those proposed in Sections 64.3, 64.11, Section 64.16, 64.17, 64.18, 64.19, and 64.20. Those sections and others like them shall remain as they currently exist in our regulations.

- **Section 64.1 – Statement of purpose and policy.**

For reasons more fully explained in my general comments below, I reject staff's recommendation for a two-tiered regulatory approach and propose no change to this section.

- **Section 64.2 – Definitions.**

For the reasons stated above supporting my proposal to further amend Section 63.1 of Chapter 63, staff’s proposal to amend this section to define a term using the words “wire centers” should be expanded to include “or other geographic area defined by the public utility” in this section and anywhere else in Chapter 64 where staff proposes to insert the term “wire center.”

- **64.14 – Billing information.**

I agree with staff’s proposal to eliminate the burdens presented in Sections 64.14 (b) and (d); however, I propose to retain Section 64.14(c). The information provided in subsection (c) is sometimes at the heart of consumer disputes. As is the case in other matters where I have proposed retention of information, this requirement that a utility inform the customer of charges to be incurred for new or additional services and then retain that information for 90 days, or approximately 3 billing cycles, protects both the provider and the consumer should a dispute arise from either party. We impose this obligation in other competitive industries. I believe it is appropriate to retain it here.

Subchapter C – CREDIT AND DEPOSIT STANDARDS POLICY.

With the few exceptions noted, for reasons more fully explained below I reject staff’s proposals to establish different regulatory standards for different areas and propose to retain all of Subchapter C as it currently exists in our regulations for all geographic areas.

Customer credit and deposit protections are important, and based on the input provided to the ANOPR, I am not persuaded that these requirements are fairly characterized as outdated in today’s marketplace. In considering the overall balance of interests, and lacking a competitive analysis, I believe the scale tilts in favor of retaining the substantive requirements of subchapter as is.

I accept the following nonsubstantive staff proposed amendments: Sections 64.34, 64.35, the first line only in Section 64.36, and the first line only in Section 64.37.

Subchapter D – INTERRUPTION AND DISCONTINUATION OF SERVICE.

I reject staff’s proposal to establish different regulatory standards for different areas and propose to retain all of Subchapter D as it currently exists in our regulations for all geographic areas.

Subchapter E – SUSPENSION OF SERVICE.

With the exceptions of Sections 64.73 and 64.74 as noted, for reasons more fully explained below I reject staff’s proposals to establish different regulatory standards for different areas and propose to retain the remainder of Subchapter E as it currently exists in our regulations for all geographic areas.

Section 64.73 – Notice when dispute pending.

Staff has proposed an amendment to simplify Section 64.73 with which I agree. Therefore, I propose to retain staff’s proposed amendment to Section 64.73.

Section 64.74 – Procedures upon customer contact before suspension.

Staff has proposed amendments to Section 64.74 regarding toll usage which I agree. Therefore, I propose to retain staff’s proposed amendments to Section 64.74.

Subchapter G – DISPUTES; INFORMAL AND FORMAL COMPLAINTS.

With the exception of a proposal to amend Sections 64.151-64.154 to make a warm transfer or similar option available, I reject staff’s proposal to establish different regulatory standards for different areas and propose to retain all of Subchapter G as it currently exists in our regulations for all geographic areas.

- **Sections 64.151-64.154 – Informal complaint procedures.**

Consistent with my proposal to amend Section 63.15, I propose to amend these sections to add new language to provide all telecommunications public utilities the option to participate in a warm transfer or similar program for service and/or billing, related disputes made to our BCS as described above.

Subchapter H – RESTORATION OF SERVICE.

Staff proposes only two amendments to Subchapter H, to Sections 64.181 and 64.182, and I accept those staff proposals. However, I propose to change staff’s reference to “pricing guide, or informational tariff” in Section 64.181 to “product guide or similar document” consistent with my proposed amendment to Section 53.58 above.

Subchapter I – PUBLIC INFORMATION; RECORD MAINTENANCE.

Staff proposes to amend Section 64.191 of Subchapter I, which proposals I accept in part and reject in part.

- **64.191 – Public information.**

Staff proposes to retain Sections 64.191(a), (b), (c), (d) for all geographic areas but retain subsections (f) and (g) for noncompetitive areas only. For reasons stated elsewhere, I propose to retain these subsections for all areas. In addition, I propose to amend subsection (g) to require this information be made only to new customers and thereafter only upon request. Ensuring that both parties to a new service know their rights and responsibilities affords protection to both the customer and the provider. And narrowing the provision of this information to new customers only should reduce our providers' burdens.

Subchapter J – ANNUAL LEC REPORTING REQUIREMENTS.

Staff proposes to amend Section 64.201 of Subchapter J, which proposals I accept in part and reject in part.

- **64.201 – Reporting requirements.**

I agree with the majority of staff's proposal to retain most reporting requirements in this section limited to basic service only. However, I propose to retain subsections 64.201(b)(1) and (3), average number of residential accounts and overdue residential accounts, respectively, as well, as they, too will continue to provide useful information regarding the status and assist our understanding of changes to the residential market.

III. GENERAL COMMENTS

Throughout its recommendation, staff has proposed to establish and/or apply different regulations in competitive versus noncompetitive areas. This is the case both in Chapter 63, where individual recommendations at times are applied using this two-tiered approach and regulations are retained for noncompetitive areas only or eliminated for competitive areas only, and in Chapter 64, where, for example, in addition to individual recommendations throughout the chapter, in Sections 64.1 and 64.3 staff has specifically proposed a bifurcated regulatory structure.

I propose that all retained regulations continue to remain applicable in all areas and not in a bifurcated fashion that differentiates between competitive and noncompetitive areas. Thus, for example, I reject the modifications to Sections 64.1 and fully reject the addition of proposed Section 64.3 formally establishing a two-tiered approach.

We approved a two-tiered regulatory structure for the Verizon competitive and noncompetitive wire centers addressed in our *Reclassification Order*. Commenters to the ANOPR, however, have posited that such an approach is not workable as a permanent,

industry-wide solution. For that reason, having endeavored to balance the burdens and benefits of each regulation, where staff has proposed to retain a regulation for a noncompetitive area only, for example, I propose to retain it in all telecommunications public utilities' geographic areas even if previously waived for competitive areas. Having endeavored to propose amendments that reduce regulatory burdens while also factoring in the separate consideration of modernizing our regulations where we can irrespective of any competitive analyses, I believe a one-tier, even-handed approach affords our carriers relief in a fashion that is manageable for both them and staff while erring, where necessary, on the side of consumer protection.

Finally, I wish to emphasize that there are some provisions of Chapters 63 and 64 with which I agree with staff's recommendation to rescind because we can streamline our regulations and still find sufficient statutory support in addition to Section 1501, or other support such as through Commission or court orders, addressing the subject. For example, in Chapter 63 we propose rescinding Section 63.60 addressing automatic dialing announcing devices, yet other provisions of state and federal law may be implicated to address today's modern-day scourge of robocalling. We are proposing to rescind Subchapter G addressing public coin telephone service, yet as the rural ILECs noted, subchapter B of Chapter 29 of the Public Utility Code continues to address public pay phone service where necessary. We are proposing to rescind Subchapter H addressing Interexchange Telecommunications Carriers, but Chapter 30 of the Code as reenacted in 2004 and Commission orders issued since that time adequately establish the standards applicable to that service today. Similarly, in Chapter 64 we are proposing to rescind Section 64.211, addressing the availability of other procedures. However, customers still retain the right to pursue complaints under Section 301.8 and Chapter 7 of the Public Utility Code and Chapter 5 of our regulations.

The regulated industry, consuming public, and other interested stakeholders should understand that modernization of these regulations to balance the need for relief from unnecessary regulatory burdens to carriers against the need for regulatory protection to consumers does not diminish any underlying existing statutory rights or standards of care.

IV. CONCLUSION

I welcome this comprehensive review of our telecommunications regulations. It is time to move this Notice of Proposed Rulemaking forward. Our review reexamines the regulatory obligations on our regulated utilities through today's lens while maintaining sufficient regulatory means to continue to ensure the provision of uninterrupted, modern, and safe service. We can remove unnecessary regulation, continue to ensure adequate, efficient, safe, and reasonable service and facilities, and provide for the accommodation, convenience, and safety of utility patrons, employees, and the public in a reasonably continuous fashion.

In other words, we can improve our regulatory construct while continuing to exercise our jurisdiction responsibly.

THEREFORE, I MOVE

1. That the Commission adopt the Notice of Proposed Rulemaking Opinion and Order and Annex at Docket No. L-2018-3001391 as amended by this Motion.
2. That Law Bureau prepare an Opinion and Order consistent with this Motion.



Dated: August 27, 2020

David W. Sweet
Vice Chairman