

COMMONWEALTH OF PENNSYLVANIA

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Sandie Voich (aka Jerry A. Voich, DMD),	:	
<i>Complainant,</i>	:	In the Matter of:
	:	
v.	:	Docket No: C-2020-3023506
	:	
Windstream Pennsylvania, LLC,	:	
<i>Respondent.</i>	:	

[PROPOSED] ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of the Preliminary Objections of Respondent Windstream Pennsylvania, LLC pursuant to 52 Pa. Code § 5.101, and any response thereto, it is hereby ORDERED that the Preliminary Objections are SUSTAINED and the Complaint is DISMISSED with prejudice.

J.

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

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Counsel for Respondent

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Complainant,

v.

Windstream Pennsylvania, LLC,

Respondent.

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: In the Matter of:
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: Docket No: C-2020-3023506
:
:
:
:

NOTICE TO PLEAD

TO: Complainant Sandie Voich, on behalf of Jerry A. Voich, DMD

You are hereby notified to file a written answer to the enclosed Preliminary Objections within ten (10) days from the date of service hereof or a judgment may be entered against you pursuant to 52 Pa. Code § 5.101.

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

Dated: February 9, 2021

By: /s/ Jason A. Levine

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<i>Respondent.</i>	:	

**PRELIMINARY OBJECTIONS OF
RESPONDENT WINDSTREAM PENNSYLVANIA, LLC**

Respondent Windstream Pennsylvania, LLC (“Windstream”), by and through its counsel, preliminarily objects to the Complaint of Sandie Voich, filed on behalf of Jerry A. Voich, DMD, for which she is the office manager (“Complainant”), pursuant to 52 Pa. Code § 5.101(a) and states as follows:

I. INTRODUCTION

1. On or about December 15, 2020, Complainant filed a formal complaint with the Public Utility Commission (the “Commission”), alleging a reliability, safety or quality problem with its business internet speeds and requesting replacement of T1 copper lines with T3 lines. A copy of the Complaint is attached hereto as Exhibit A.

2. The Commission served the Complaint on Windstream on December 30, 2020.

3. By letter dated January 8, 2021, the Commission granted Windstream an extension of time until February 9, 2021 to file an answer and/or other responsive pleading to the Complaint.

4. As detailed further below, Windstream preliminarily objects to the Complaint pursuant to 52 Pa. Code § 5.101 for three different reasons: (a) the Commission lacks

jurisdiction over the allegations and relief requested in the Complaint; (b) the Complaint is insufficiently specific; and (c) the Complaint fails to state a claim.

II. PRELIMINARY OBJECTIONS

A. The Commission Lacks Jurisdiction Over the Provision of Internet Services

5. The Complaint should be dismissed pursuant to 52 Pa. Code § 5.101(a)(1) because the Commission lacks jurisdiction over the provision of internet services outside of 66 Pa.C.S. § 3014.

6. Section 3014 is part of Chapter 30 of the Public Utility Code, and it requires local exchange telecommunications companies, like Windstream, to provide broadband pursuant to one of several enumerated options as part of these companies' network modernization plans. *See* 66 Pa.C.S. § 3014(b). Such companies must provide a bandwidth of at least 1.544 megabits per second (mbps) to comply with their respective obligations under such plans, *see id.* § 3014(e)(7), but they are permitted to participate in "joint ventures with other entities in meeting [their] advanced services and broadband deployment commitments . . . ," *id.* § 3014(n)(2).

7. On June 30, 2000, Windstream filed its Amended Alternative Form of Regulation and Network Modernization Plan with the Commission pursuant to Section 3014, Docket No. P-00981423F1000, which was subsequently modified on January 22, 2001 and March 15, 2005 (the "Windstream Plan").¹ A copy of the Windstream Plan is attached hereto as Exhibit B.

8. Consistent with Section 3014(n)(2), the Windstream Plan allows Windstream "to participate, should it choose to do so, in joint ventures with other entities in meeting its

¹ The Windstream Plan was filed by Alltel Pennsylvania, Inc., which merged with Windstream in 2006 and has since then done business under Windstream's name.

broadband deployment commitments under this NMP [Network Modernization Plan].” Ex. B at § E.2.

9. Windstream does exactly that. It partners with a third-party satellite internet company, HughesNet, to meet its obligations under the Windstream Plan and Section 3014.

10. The Complaint alleges that the Complainant has “been receiving .03 mbps,”² and demands that “Windstream [] replace the T1 copper lines with at the very minimum T3 lines so that [the Complainant] can at least receive internet speeds of [] 3mbps that [it is] paying for.”³

11. But Windstream has provisioned services for Complainant in a manner that complies with the Windstream Plan and Section 3014, and the Complaint fails to allege that the Complainant has attempted to obtain services from Windstream’s partner, HughesNet, which can provide broadband to the Complainant, consistent with Section 3014(n)(2) and paragraph E.2 of the Windstream Plan (see above ¶¶ 6-8). Windstream has further confirmed with Complainant that it has made no such attempt to partner with (or even contact) HughesNet.

12. Because Windstream or HughesNet can provide the Complainant with the requisite broadband under the Windstream Plan and Section 3014, Windstream has met its Chapter 30 requirements, and any further questions or disputes about broadband are outside the scope of the Commission’s jurisdiction. For this reason, the Complaint should be dismissed.

B. The Allegations in the Complaint Are Insufficiently Specific

13. The Complaint should be dismissed pursuant to 52 Pa. Code § 5.101(a)(3) because it is insufficiently specific.

² Compl. ¶ 4.

³ Compl. ¶¶ 4-5.

14. The Commission requires a formal complaint to set forth “[a] clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation.” 52 Pa. Code § 5.22(a)(5).

15. The Complaint checks a box indicating that the Complainant is having “a reliability, safety or quality problem” with its utility service,⁴ but it fails to explain what service problems presently exist or provide any relevant information that would enable Windstream to determine whether a violation of law has occurred.

16. The Complaint is not based on an appeal from a Bureau of Consumer Services decision, and the Complainant has filed no informal complaints against Windstream with the Commission. Moreover, Windstream has no record of trouble tickets or service issues related to Complainant’s telephone service. It is therefore impossible for Windstream to ascertain the basis for the allegation that there is a “reliability, safety or quality problem” with the Complainant’s telephone service. In addition, the general allegation that “whenever the bandwidth is overused, it causes my phone lines to drop calls and/or be out of service completely”⁵ fails to provide sufficient information for Windstream to (a) determine whether the allegation has any merit or (b) meaningfully investigate or respond to the allegation.

17. Based on the limited allegations provided in the Complaint, there does not appear to be any current or existing reliability, safety or quality problems with the Complainant’s telephone service.

18. A complaint must contain information specific enough to allow the respondent to understand the allegations against it in order to conduct a meaningful investigation of the

⁴ Compl. ¶ 4.

⁵ Compl. ¶ 5.

allegations and to prepare a coherent response or defense.⁶ The Complaint fails to meet this standard and therefore should be dismissed.⁷

C. The Complaint Is Legally Insufficient

19. The Complaint should also be dismissed pursuant to 52 Pa. Code § 5.101(a)(4) because it fails to cite a statute, regulation, tariff provision, or Commission order which Windstream has allegedly violated, and is therefore legally insufficient.

20. The Public Utility Code requires a formal complaint to set forth “any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66 Pa.C.S. § 701; *see also* 52 Pa. Code §§ 5.21(a) and 5.22(a)(5) (describing requirements for formal complaints).

21. The Complaint alleges that the Complainant is having a reliability, safety, or quality problem with its utility service, but fails to identify a statute, regulation, tariff, provision or Commission order which Windstream has allegedly violated.

22. Moreover, the Complaint does not allege that Windstream failed to respond to service calls or that Windstream’s response to Complainant’s calls were not in conformity with the Commission’s regulations and acceptable industry practice. To the contrary, Windstream’s responses and conduct are neither unusual nor in breach of its duty as a public utility to furnish and maintain adequate, efficient, safe and reasonable service and facilities.

⁶ *Angelo Rodriquez v Philadelphia Gas Works*, Docket No. F-2009-2110772, Initial Decision (Final Order entered Jan. 5, 2010).

⁷ Because Windstream files this preliminary objection on the ground that the Complaint is insufficiently specific, “an answer is not required until further directed by the presiding officer or the Commission.” 52 Pa. Code § 5.101(e).

23. A complaint must be dismissed as legally insufficient where, as here, even accepting as true all well-pleaded material and relevant facts, it “does not raise a violation of the Public Utility Code, any Commission Order or regulation or any Commission-approved tariff.”⁸

24. The Complaint has failed to present any legally sufficient claims for which relief can be granted, and accordingly should be dismissed.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, Windstream respectfully requests that the Commission sustain these Preliminary Objections and dismiss the Complaint with prejudice. A proposed order is attached. Windstream does not seek a hearing, and the Commission may dismiss the Complaint without a hearing pursuant to 52 Pa. Code § 5.21(d) if it is not necessary in the public interest.

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

Dated: February 9, 2021

By: /s/ Jason A. Levine
Jason A. Levine (ID No. 306446)
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Philadelphia, PA 19103
(215) 568-6200
jlevine@hangleys.com

Counsel for Respondent

⁸ *Evans v PECO Entergy Company*, Docket No. C-2013-2368477, Initial Decision (Final Order entered February 6, 2014).

EXHIBIT A

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Sandie L. Voich

Street/P.O. Box 775 Zanot Road Apt # _____

City Parker State PA Zip 16049

County Clarion

Telephone Number(s) Where We Can Contact You During the Day:

(814) 358-2810 (home) (412) 297-2684 (mobile)

E-mail Address (optional): Voich.Sandie@Outlook.com

Utility Account Number (from your bill) 021058390

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name Jerry A. Voich, DMD

Street/P.O. Box Same as above

City _____ State _____ Zip _____

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Windstream

RECEIVED
2020 DEC 15 AM 11:40
PA PUC
SECRETARY'S BUREAU

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> ELECTRIC | <input type="checkbox"/> WASTEWATER/SEWER |
| <input type="checkbox"/> GAS | <input checked="" type="checkbox"/> TELEPHONE/TELECOMMUNICATIONS (local, long distance) |
| <input type="checkbox"/> WATER | <input type="checkbox"/> MOTOR CARRIER (e.g. taxi, moving company, limousine) |
| <input type="checkbox"/> STEAM HEAT | |

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important. I purchased a Windstream bundle in 2008 that included two phone lines and Business internet speeds at 3mbps. In 2016 and since that time, I have been receiving .03 mbps. I pay for a business package at the price of \$236.00 a month.
- Other (explain).

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

I need Windstream to replace the T1 copper lines with at the very minimum T3 lines so that I can at least receive internet speeds of the 3mbps that I am paying for. They have oversold their services which diminishes the bandwidth and they refuse to replace the lines to compensate for their overselling of their services. This affects my phone lines. Whenever the bandwidth is overused, it causes my phone lines to drop calls and/or be out of service completely. As I am running a business, I cannot rely upon their service and there is no other provider in my area.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

I have called numerous times and each time they have sent technicians. Each and every technician has told me that it is a problem with the old copper lines and that new lines need to be installed. The technicians are unable to solve my business internet/phone problem. I have spoken with their corporate office on 8-28-2020 at 9:30 AM I spoke with Rocell, an executive representative at their corporate headquarters. She advised me to get a new internet provider; however, Windstream is the only provider in the area.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

Verification:

I Sandie L. Voich, hereby state that the facts above set forth are true and correct (or 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).

Sandie L. Voich 12-4-2020
(Signature of Complainant) (Date)

office manager
Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. Two Ways to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

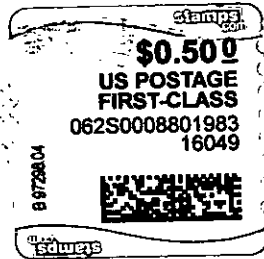
Keep a copy of your Formal Complaint for your records.

JERRY VOICH DMD

775 ZANOT RD
PARKER, PA 16049

PITTSBURGH PA 150

8 DEC 2020 PM 6 L



Secretary
Pennsylvania Public Utility Commission
400 North St
Harrisburg PA 17120

17120-007999



EXHIBIT B

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF ALLTEL :
PENNSYLVANIA, INC. FOR :
APPROVAL OF AN ALTERNATIVE : Docket No. P-00981423F1000
FORM OF REGULATION AND :
NETWORK MODERNIZATION :
PLAN :

AMENDED ALTERNATIVE FORM OF REGULATION
AND
NETWORK MODERNIZATION PLAN OF
ALLTEL PENNSYLVANIA, INC.

This Chapter 30 Plan was filed pursuant to the Pennsylvania Public Utility Commission Opinions and Orders entered January 20, 2000, March 30, 2000, and December 20, 2000, at Docket No. P-00981423, and is amended in accordance with Section 3014 of Act 183 of 2004.

Dated: June 30, 2000, as modified January 22, 2001, as amended March 15, 2005

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EXECUTIVE OVERVIEW

This Plan for an Alternative Form of Regulation and Network Modernization (the "Plan") was filed by ALLTEL Pennsylvania, Inc. ("ALLTEL PA" or "Company"), pursuant to Act 67 of 1993, Section 3003 of the Public Utility Code, 66 Pa.C.S. §3003, and Pennsylvania Public Utility Commission ("Commission") Opinions and Orders entered January 20, 2000, and March 30, 2000, at Docket No. P-00981423, and is amended pursuant to Act 183 of 2004.¹

This Plan, as originally filed, introduced a state-of-the-art telecommunications network in ALLTEL PA's service territory and also provided for an alternative form of regulation which set forth the new regulatory framework. It was designed to replace *rate base/rate of return* regulation and procedures with a regulatory framework that better accommodated the rapid competitive and technological changes occurring in the telecommunications industry.

Chapter 30 of the Public Utility Code was originally signed into law on July 8, 1993. See Act 67 ("Act 67"), P.L. 456, codified at 66 Pa.C.S. §§3001-3009. Act 67 sunsetted by operation of law on December 31, 2003. Act 183 of 2004 (hereinafter referred to as "Act 183" or "Chapter 30") was signed into law on November 30, 2004, to replace Act 67, and codified at 66 Pa.C.S. §§3011-3019. A primary goal of Chapter 30 as newly enacted is to accelerate further the deployment of a

¹In an effort to clarify what terms of the Company's existing Chapter 30 Plan remain in effect and which are superceded by Act 183, the Company has amended both its Alternative Regulation and Network Modernization Plans herein to comport with Act 183. Section 3015(h) of Act 183, however, deems the Company's Alternative Regulation Plan amended upon approval of the amended NMP. In the event of any oversight, the terms of Act 183 control.

universally available "broadband" telecommunications network throughout Pennsylvania. In order to achieve deployment of the broadband network, Chapter 30 as amended provides for the continuation of alternative regulation along with an opportunity to accelerate the deployment of the Company's broadband network.

Act 67 required that a network modernization plan be included as part of an alternative regulation petition under which each local exchange carrier ("LEC") was required to commit to universal broadband availability by "converting 100% of its interoffice and distribution telecommunications network to broadband capability by December 31, 2015." 66 Pa.C.S. §3003(b)(1).

Section 3003 of Act 67, 66 Pa.C.S. §3003, specifically authorized local exchange carriers to petition for approval of an alternative form of regulation. Act 67 also permitted LECs to request a determination and classification that certain services or other business activities offered were competitive. 66 Pa.C.S. §3005(a). Services determined to be competitive were no longer subject to Commission regulation unless expressly provided for in Act 67. 66 Pa.C.S. §3009(f).

This Plan for Alternative Regulation and Network Modernization satisfied the requirements of Section 3003 and the Commission Opinions and Orders entered January 20, 2000, and March 30, 2000, at Docket No. P-00981423. The Plan, as originally approved (and as amended herein), contains the following four parts, which are interrelated and dependent upon one another:

- (1) Network Modernization Plan;
- (2) Competitive Services Plan;

- (3) Price Stability Plan for noncompetitive services; and
- (4) Additional Commitments and Other Terms including ongoing regulatory and reporting requirements.

Part 1 - The Network Modernization Plan as amended sets forth the Company's commitment to provide universal broadband availability by December 31, 2013.

Part 2 - The Competitive Services Plan ("CSP") provides for the deregulation of the rates and earnings of competitive services but preserves the Commission's authority over the quality of these services. In addition, the CSP contains safeguards to protect competitors from potential abuses and to insulate basic service ratepayers from the economic risk of competitive services.

Part 3 - The Price Stability Plan ("PSP") governs rate changes for noncompetitive services for the duration of the Plan based on an independent inflation index and Commission review. It also constrains noncompetitive service price changes and provides for interim tariff rate adjustments.

Part 4 - Additional Commitments and Other Terms includes the Company's ongoing obligations, regulatory commitments and regulatory reports that the Company will file with the Commission under the Plan as amended.

Act 183 provides the Company with options for the amendment of this Plan.

Section 3014(b)(2)(ii)² provides the Company with the following amendment option:

(ii) The rural telecommunications carrier shall commit:

(A) To provide broadband availability to at least 80% of its total retail access lines in its distribution network by December 31, 2010, and 100% of its total retail access lines in its distribution network by December 31, 2013;

* * *

(C) To offer a bona fide retail request program and a business attraction or retention program[.]

Pursuant to this option, this Plan, as amended, sets forth the Company's commitment to accelerate 80% broadband availability by December 31, 2010, and 100% broadband availability by December 31, 2013, and amends the Company's Chapter 30 Plan consistent with the provisions of Act 183.

This Plan has been amended to be and has been found by the Commission to be compliant with Act 183 of 2004, 66 Pa.C.S. §§3011-3019.

²The Company is an exempt rural telephone company for purposes of Section 251(f)(1) of TA-96.

DEFINITIONS³

1. Competitive Service - A service or business activity determined to be competitive by the Commission on or prior to December 31, 2003, and a service or business activity determined or declared to be competitive pursuant to Section 3016 (relating to competitive services).

2. Gross Domestic Product Price Index ("GDP-PI") - The GDP-PI is the measure of change in the market prices of output in the economy as prepared by the United States Department of Commerce and published in the Survey of Current Business, or its successor.

3. Long Run Incremental Cost ("LRIC") - The cost the Company would incur (save) if it increases (decreases) the level of production of an existing or new service or group of services. LRIC consists of costs associated with adjusting future-production capacities that are causally related to the rate elements being studied.

4. Noncompetitive Service - A regulated telecommunications service or business activity that has not been determined or declared to be competitive.

5. Price Stability Index ("PSI") - PSI is an index used to limit or otherwise place a ceiling on price changes, in the aggregate, for noncompetitive services.

³All other terms used herein shall be as defined in Act 183.

6. Protected Service - The following telecommunications services provided by a local exchange telecommunications company, unless the Commission has determined the service to be competitive:

- (1) Service provided to residential consumers or business consumers that is necessary to complete a local exchange call.
- (2) Touch-tone service.
- (3) Switched access service.
- (4) Special access service.
- (5) Ordering, installation, restoration and disconnection of these services.

7. Service Price Index (SPI) - SPI is an index to be developed for noncompetitive services and will not be applicable to Competitive Services. The SPI is the cumulative price change from current and prior years associated with the PSI and tracks these price changes of noncompetitive services related to the PSI.

PART 1 - NETWORK MODERNIZATION PLAN

The Company's Network Modernization Plan ("NMP") as originally filed set forth its commitment to develop its network for implementation of universal broadband availability by December 31, 2015.

The original NMP was filed pursuant to Act 67 of 1993, Section 3003 of the Public Utility Code, 66 Pa.C.S. §3003, and Pennsylvania Public Utility Commission Opinions and Orders entered January 20, 2000, March 30, 2000, and December 20, 2000, at Docket No. P-00981423. Act 67 was subject to sunset by operation of law on December 31, 2003. Act 183 of 2004 was signed into law on November 30, 2004, replacing Act 67. Act 183, Section 3013(b)(2)(ii) grants the Company the option to amend its original NMP as follows:

(ii) The rural telecommunications carrier shall commit:

(A) To accelerate broadband availability to at least 80% of its total retail access lines in its distribution network by December 31, 2010, and 100% of its total retail access lines in its distribution network by December 31, 2013;

* * *

(C) To offer a bona fide retail request program and a business attraction or retention program pursuant to subsections (c) and (d). Under no circumstances may the rural telecommunications carrier reduce its existing broadband availability commitment.

Further, Act 183, Section 3014(n)(1) provides:

(n) Construction.--Nothing in this section shall be construed:

(1) As giving the Commission the authority to require a local exchange telecommunications company to provide specific services or to deploy a specific technology to retail customers seeking broadband or advanced services.

Consistent with these statutory provisions, the Company hereby elects to commit to accelerate 80% broadband availability by December 31, 2010 and 100% broadband availability by December 31, 2013,⁴ and amends its NMP accordingly herein. The Company, consistent with Sections 3014(b)(2)(ii)(C) and 3014(c) and (d), shall implement a Bona Fide Retail Request Program and a Business Attraction or Retention Program. The Company may subsequently petition the Commission for approval of further modification of this amended NMP, which the Commission may grant upon good cause shown.

ALLTEL PA's network plan is not technology specific in that bandwidth products have changed rapidly in the past few years and will continue to change rapidly in the future. Consistent with Section 3014(n)(1), ALLTEL PA will commit to broadband availability but cannot commit to specific vendors or technology.

The entire ALLTEL PA service territory is considered rural due to its high cost, low customer density characteristics. As set forth in Section B, below, the Company will report on the NMP biennially.

⁴As used throughout this amended Plan, the term "broadband" shall mean a communication channel using any technology and having a bandwidth equal to or greater than 1.544 megabits per second (mbps) in the downstream direction and equal to or greater than 128 kilobits per second (kbps) in the upstream direction. The term "broadband availability" as used in this amended Plan shall mean access to broadband service by a retail telephone customer of the Company within ten (10) business days of request.

A. Broadband Availability

ALLTEL PA commits to the following schedule for universal broadband availability (i.e. provision of broadband capability to any retail telephone customer in the Company's service territory requesting such capability on ten (10) business days notice to the LEC), as a measure of access lines served in its distribution network:

	6/30/98 1 st	12/31/00 2 nd	12/31/05 3 rd	12/31/10 4 th	12/31/13 5 th
Broadband availability within ten (10) business days	5%	8%	35%	80%	100%

Pursuant to Act 183, 66 Pa.C.S. §3014(b)(4), ALLTEL PA commits to deploy on ten (10) business days notice universal broadband in or adjacent to public rights-of-way abutting all public schools including administration offices, industrial parks and health care facilities in its service territory by December 31, 2005, or by December 31, 2006, for any of the Company's exchanges with less than 4,000 access lines.

ALLTEL PA commits to provide broadband capabilities, as a percentage of known institutions in the following manner:

	6/30/98	12/31/00	12/31/05	12/31/05* <small>(*06 for exchanges with less than 4,000 access lines)</small>
	1 st	2 nd	3 rd	4 th
Public Schools	30%	37%	60%	100%
Industrial Parks	50%	57%	67%	100%
Health Care Facilities	33%	33%	49%	100%

B. Biennial NMP Reports

1. ALLTEL PA will provide biennial NMP reports, as described below and in the time frames required, to the Commission for the periods ending December 31, 2006, 2008, 2010, 2012 and December 31, 2013.

2. ALLTEL PA will include in its reports the form and detail required by the Commission as of July 1, 2004, unless such reporting requirements are subsequently reduced by the Commission. The Commission may require the submission of further information to support the accuracy of or to seek an explanation of the biennial NMP reports filed by the Company.

3. Under no circumstances shall the Commission compel the public release of maps or other information describing the actual location of the Company's facilities.

C. Failure to Provide Universal Broadband Availability by December 31, 2013

1. Utilizing the biennial NMP reports filed with the Commission by the Company under Part B.1 and 2 of this amended Network Modernization Plan, the Commission shall monitor and enforce the Company's compliance with the interim

and final 100% commitments for broadband availability set forth in this amended Plan. In the event that the Company is found by the Commission, after notice and evidentiary hearings held on an expedited basis, to have failed to meet such an interim or final 100% commitment, then the Commission shall require the Company to refund to customers in its next price stability filing, an amount that is just and reasonable under the circumstances. Such amount shall not exceed an amount determined by multiplying the percentage shortfall of the broadband availability commitment on an access line basis required to be met during the period from the start of the amended Plan or from the date of the last prior interim commitment, as applicable, times the increased revenue that was obtained during this period as a result of eliminating the 2% inflation offset plus interest calculated under 66 Pa.C.S. §1308(d) (relating to voluntary changes in rates). Any such refund shall be separate from and in addition to any civil or other penalties that the Commission may impose on a local exchange telecommunications company under Chapter 33 of the Public Utility Code (66 Pa.C.S. §3301 et seq.).

D. Assistance to Political Subdivisions

1. The Company shall make technical assistance available to political subdivisions located in its service territory that are pursuing the deployment of additional telecommunications infrastructure or services by the Company.

E. Construction

1. The Company may not be required to provide specific services or to deploy a specific technology to retail customers seeking broadband or advanced services.

2. The Company shall be permitted to participate, should it choose to do so, in joint ventures with other entities in meeting its broadband deployment commitments under this NMP.

PART 2 - COMPETITIVE SERVICES PLAN

ALLTEL PA's Competitive Services Plan ("CSP") provides for price and earnings deregulation of competitive services. ALLTEL PA did not declare any regulated services to be competitive in its original Plan. ALLTEL PA may declare or submit future requests to the Commission to determine services as competitive in accordance with Act 183.

A. Competitive Services

1. Competitive services shall not be regulated on any basis whatsoever, other than quality of service, including as to rates, tolls, charges, rate structures, rate base, rate of return or earnings. The Commission will retain its existing authority over competitive services for the purpose of service quality standards only as contained in 52 Pa. Code that address the safety, adequacy, reliability and privacy of telecommunications services and the ordering, installation, suspension, termination and restoration of any telecommunications service. Any review or revision shall take into consideration the emergence of new industry participants, technological advancements, service standards, and consumer demand.

2. The Company may price competitive services at its discretion. Tariffs shall not be required by the Commission for competitive services. At its option, the Company may tariff the rates, subject to rules and regulations applicable to the provision of competitive services. The Commission may require the Company to maintain price lists with the Commission applicable to its competitive services. Price

changes that are filed in the Company's tariff for competitive services will go into effect on a one-day notice.

3. The Company may petition the Commission for a determination of whether a protected or retail noncompetitive service or other business activity in its service territory or a particular geographic area or exchange or group of exchanges within its service territory is competitive based on the demonstrated availability of like or substitute services or other business activities provided or offered by alternative service providers. The Commission, after notice and hearing, shall enter an order granting or denying the petition within 60 days of the filing date, or within 150 days of filing date where a protest is timely filed, or the petition shall be deemed granted. The Company shall serve a copy of its petition on the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA") and each of the parties to the Commission's proceeding in which the Company's original Chapter 30 Plan was approved by the Commission. In making its determination, the Commission shall consider all relevant information submitted to it, including the availability of like or substitute services or other business activities, and shall limit its determination to the service territory or the particular geographic area or exchange or group of exchanges in which the service or other business activity has been proved to be competitive. *The burden of proving that a protected or retail noncompetitive service or other business activity is competitive rests on the Company.* In the event that the Commission declares a service to be competitive in another company's Chapter 30 proceeding or subsequent filing, such declaration shall then also be applied as a rebuttable presumption in any proceeding filed by the

Company requesting that the same or similar service shall be declared competitive under Chapter 30, so long as the markets are substantially similar.

4. Notwithstanding the provisions of Part 2.A.3. of this Plan, the Company may declare any retail nonprotected service as competitive by filing a declaration with the Commission and serving it on the OCA, OSBA and each of the parties to the Commission's proceeding in which the Company's original Network Modernization Plan was approved by the Commission, provided that the Company may not use this declaration process for any service that the Commission previously has reclassified as noncompetitive under either Part 2.A.5. of this Plan or prior law. A declaration of a retail nonprotected service as competitive shall be effective upon filing by the Company with the Commission.

5. A party may petition the Commission for a determination of whether a service or other business activity previously determined or declared to be competitive is noncompetitive. The Commission, after notice and hearing, shall enter an order deciding the petition within 60 days of the filing date or 90 days of the filing date where a protest is timely filed, or the petition shall be approved. The petitioner shall serve a copy of the petition on the Company, serving it on the OCA, OSBA and each of the parties to the Commission's proceeding in which the Company's original Network Modernization Plan was approved by the Commission. In making its determination, the Commission shall consider all relevant information submitted to it, including the availability of like or substitute services or other business activities, and shall limit its determination to the particular geographic area,

exchange or density cell in which the service or other business activity has been proved to be noncompetitive. The burden of proving that a competitive service or other business activity should be reclassified as noncompetitive rests on the party seeking the reclassification. If the Commission reclassifies a service or other business activity as noncompetitive, the Commission shall determine a just and reasonable rate for the reclassified service or business activity in accordance with 66 Pa.C.S. §1301 (relating to rates to be just and reasonable).

B. Statutory Protections

1. The Company shall meet the requirements of Chapter 30 with respect to services deemed competitive. 66 Pa.C.S. §3016.

2. The Company shall not use the revenues earned and expenses incurred in conjunction with noncompetitive services to subsidize competitive services. This provision shall not be construed to prevent its marketing and billing of packages containing both competitive and noncompetitive services to customers. 66 Pa.C.S. §3016(f)(1) and (2). Therefore, this Plan is in compliance with the requirements of Chapter 30.

3. The price that the Company charges for competitive services shall not be less than the costs to provide the services. 66 Pa.C.S. §3016(d)(1). The Company may use comparable cost studies presented by other local exchange telecommunications companies in order to comply with any applicable competitive costing and pricing safeguards.

C. Compliance

1. Formal challenge to ALLTEL PA's compliance with the provisions of the CSP may be made through separate complaint procedures. Any competitor or other party who believes the Company has violated any of the provisions of this CSP may file a complaint with the Commission.

PART 3 - PRICE STABILITY PLAN FOR NONCOMPETITIVE SERVICES

The Price Stability Plan ("PSP") sets forth the principles and procedures applicable to changes in the Company's rates for noncompetitive services which would otherwise be governed by Chapter 13 of the Pennsylvania Public Utility Code. The Price Stability Index ("PSI") calculates the allowable composite change (increase or decrease) in rates for noncompetitive services based upon the annual change in the Gross Domestic Product Price Index ("GDP-PI"), as calculated by the United States Department of Commerce and includes the changes in revenues and expenses due to exogenous events. Changes based upon this formula are then cumulatively tracked using the Service Price Index ("SPI"). Prices for individual services may be decreased at any time by the Company. The PSP also addresses rate rebalancing, restructuring, and the introduction of new services.

ALLTEL PA's rates in effect on the effective date of the Plan or as otherwise adjusted pursuant to the Commission's Global Order are deemed just, reasonable, nondiscriminatory and otherwise fully in compliance with Pennsylvania laws. The PSP set forth in the Plan is a complete substitution for rate base/rate of return regulation and is the exclusive basis upon which the Company's noncompetitive service rates are regulated on and after the date of Commission approval of this Plan. All tariff filings for noncompetitive services will be subject to review under the terms of this Plan. Chapter 13, Sections 1301 through 1305 inclusive, 1309 and 1312 of the Public Utility Code (the "Code") remain applicable under the provisions of the Plan. Nothing in this Plan shall be construed to limit the requirement of 66 Pa.C.S. §1301 that rates shall be just and reasonable. The annual rate change

limitations set forth in the Company's Plan and any other Commission-approved annual rate change limitation shall remain applicable and shall be deemed just and reasonable under §1301.

A. Price Stability Mechanism (PSI and SPI)

1. The Price Stability Mechanism ("PSM") is based, as a starting point, on the rates for noncompetitive services in effect on the approval date of the Plan.⁵ The PSI will follow the formula used for the annual filings as explained in the following sections. All PSI and SPI filings will be on a calendar year basis.

2. The Company will calculate the PSI_t , which will include the added impact of exogenous events, according to the following methodology:

$$PSI_t = PSI_{t-1} (1 + \% \Delta GDP-PI - X \pm Z)$$

Where:

PSI_t	The new allowed maximum change in price for the noncompetitive service category, based on the cumulative price cap for the current twelve month period.
PSI_{t-1}	The current allowed maximum change in price for the noncompetitive service category based on the cumulative price cap for the previous twelve month period. ⁶
$\% \Delta GDP-PI$	The percentage change in Gross Domestic Product - Price Index based on a quarter ending not more than eight months prior to the advance notice date of the filing of the new annual tariff and the corresponding quarter of the previous year.

⁵ALLTEL PA reserves the right prior to the initial PSI and SPI filing to file tariffs to change rates for noncompetitive services. The rates approved by the Commission pursuant to any such rate filings shall constitute the rates upon which the PSM is based and shall be recognized as just, reasonable, non-discriminatory, and otherwise fully in compliance with all Pennsylvania laws.

⁶The PSI applies to the sum of effective rates (and units of demand) which were realized during the previous twelve month period.

X	0% inflation offset
Z	The effect of any exogenous changes. Exogenous changes are positive or negative changes in ALLTEL PA's revenues or expenses as defined in the Plan. In the calculation of the PSI, exogenous changes are expressed as a percentage of ALLTEL PA's revenue received from intrastate noncompetitive services.

The percentage change in GDP-PI will be calculated as the percentage change in the GDP-PI value for the quarter ending not more than eight months prior to the advance notice date of the filing of the new annual tariff and the corresponding quarter of the previous year.

In no event shall the PSI_t , excluding the impact of exogenous events, be less than the PSI calculated as of the effective date of the Plan.

If the Department of Commerce should cease or alter the reporting of the GDP-PI during the term of the Plan, then, subject to Commission approval, the Company will substitute an alternative index and make any adjustments to the formula necessary to replicate the current formula as closely as possible.

3. Except as otherwise noted, any changes or events within the Company's control are excluded as exogenous events. Notwithstanding any other limitation specified herein, ALLTEL PA, the OTS, OCA, OSBA, or other parties in interest may request the Commission to make special revenue adjustments (increases or decreases) impacting the PSI to recognize exogenous events ("Z"), including but not limited to the following:

- a. jurisdictional shifts in cost recovery where interstate revenues actually change;
- b. subsequent Generally Accepted Accounting Principles (GAAP), regulatory and legislative changes (state & federal) which affect revenue and/or expenses, to the extent not captured in GDP-PI; and
- c. unique changes in the telephone industry which are not reflected as measured by GDP-PI and are outside the Company's control.

The institution of a universal service type fund in Pennsylvania and any requirement that ALLTEL PA participate as a customer and/or a recipient shall be a qualifying exogenous event to the extent ALLTEL PA is either a net contributor to or net recipient from such fund. Examples of other exogenous events include the implementation of number portability. Exogenous revenue changes shall be flowed through on a dollar for dollar basis, utilizing the most recent per book revenue levels, without any investigation or review of earnings. Exogenous expense changes shall be flowed through dollar for dollar on the basis of review of that single expense item for which an exogenous change is sought without any investigation or review of earnings, utilizing the most recent per book level of such expense. Results shall be adjusted to recognize the impact of all related taxes. The "75-day procedure," as recited at Part 3.A.10 below, shall apply to each such exogenous change.

4. Any revenue shortfall or cost incurred, including administrative costs, less other related revenue increases/cost decreases, if any, associated with a Commission-mandated implementation of new calling scope services such as EAS

or extension of basic local exchange services may be recovered by ALLTEL PA at the time of implementing any extended calling scope service or additional basic local exchange service. This same treatment shall also apply to new Optional Calling Plans.

5. The SPI shall be computed according to the following methodology:

$$SPI_t = SPI_{t-1} [\sum V_i (P_t / P_{t-1})]$$

Where:

- SPI_t = The proposed new SPI value.
- SPI_{t-1} = The current SPI value as of the last approved tariff filing.
- P_t = The proposed price for rate *element* "i."
- P_{t-1} = The current price for rate element "i."
- V_i = The current estimated revenue weight for rate element "i," calculated as the ratio of the base period demand for the rate element "i" priced at the existing rate, to the base period demand for all noncompetitive services priced at existing rates.

When a new service is incorporated into the index calculations pursuant to Section C hereof, the demand for the new service during the base period must be included in determining the weights to be used in calculating the SPI.

6. The SPI is the cumulative price changes from current and prior years associated with the PSI and tracks the price changes for noncompetitive services related to the PSI. No proposed SPI may exceed, on a total intrastate basis, the PSI

accumulated after the effective date of the Plan, except as otherwise expressly provided in this Plan. As of the effective date of the Plan, the PSI and SPI equal 100.

7. If the Company elects not to increase its rates by the full amount allowed under the terms of the Plan, including exogenous events in a given year, the Company may increase its rates in future years to reflect the full amount of the allowable increases previously deferred. The Company may bank increases for a period not to exceed four (4) consecutive years. The Company may not bank decreases, but may offset increases with decreases for banking purposes. The Company will not, however, attempt to recover any revenues foregone as a result of deferring the increase in prices.

8. On or before the anniversary date of the Plan (or the closest Commission working day thereafter) and annually thereafter, ALLTEL PA shall file with the Commission a PSI and SPI Report. This annual filing may be accompanied by tariffs to implement any required or authorized rate changes.

9. The proposed tariff(s) accompanying the PSI and SPI Reports, if any, shall become effective within sixty (60) days of filing (unless otherwise provided herein) and deemed Commission approved. Upon a successful complaint, rates may change prospectively only. The Commission shall review the tariff rate change proposals to determine whether they comply with the criteria set forth in Part 3.D.1. below. If the Commission determines that ALLTEL PA's rate proposals are not within this criteria, then the Commission may order ALLTEL PA to modify them to

produce a tariff which does not exceed this criteria. If ALLTEL PA's tariff proposals are within those criteria, then the Commission shall approve them.

10. ALLTEL PA shall provide fifteen (15) days advance notice to the Commission, which shall generally describe the anticipated filing.⁷ Any and all interventions or complaints shall be due within fifteen (15) days after the report is filed. The initial filing by ALLTEL PA shall include an explanation of such filing and provide a PSI and SPI calculation in support of such filing. Responses to interrogatories shall be due within ten (10) days of service. Any and all comments by interveners in support of or in opposition to the filing shall be filed at the Commission within thirty (30) days of the initial filing by the Company. Responses to such comments may be filed by ALLTEL PA within ten (10) days thereafter. A Commission Order must be entered within sixty (60) days of the filing (or such other time as may be otherwise provided herein), otherwise the tariff(s) shall become effective as filed. The Company may extend the 60-day period to permit for the ADR mediation process. Such rates shall be deemed Commission approved. This procedure, as specified in this paragraph, is hereinafter referred to as the "75-day procedure." The time period may be extended at the Company's election to permit ADR mediation and an additional fifteen (15) days shall be provided to allow time for hearings, if specifically requested by the OCA, the OTS, the OSBA, a customer, or Chapter 30 party at Docket No. P-00981423, made at the time of complaint or intervention. In the event that the proposed impact of such rate restructuring and

⁷This notice may be provided to the public by ALLTEL through billing insert, billing notice or separately mailed notice. Notice will also be served upon the OCA, OSBA, OTS and any other Chapter 30 party, as identified by the Commission Secretary. The notice will be similar in nature to that described in 52 Pa Code §53.45 for a general rate case.

rebalancing filing on local service rate for residential one-party service is an increase greater than \$3.50 per month, then the additional allowance of time shall be 45 calendar days, rather than 15 calendar days.

11. The Telecommunications Act of 1996 ("TA-96") was signed into law on February 8, 1996, and is being implemented over time. Regulatory and market changes which result from TA-96 and applicable regulations have not been incorporated into the Plan. Nothing herein shall be construed to preclude ALLTEL PA from fully exercising its rights under the Act, which rights are thereby preserved.

B. Rate Restructuring and Rebalancing

1. In addition to any annual PSM filing, ALLTEL PA may file tariffs proposing to rebalance and/or restructure rates for noncompetitive services (increase or decrease). ALLTEL PA may implement only one rate restructuring/rebalancing filing in a calendar year which increases protected basic residential and basic small business local service rates, exclusive of changes made pursuant to the PSM formula and exogenous events not reflected therein. Such filings shall be made pursuant to the "75-day procedure."⁸

Reductions in residential and small business rates may be initiated more often by the Company. Tariff filings involving the packaging/restructuring of specific services may be made at any time. The prices of the packages will not exceed the sum of the individual service prices of those services comprising the packages.

⁸ALLTEL retains the right to make changes in intraLATA toll rates and services pursuant to 52 Pa. Code §§63.101 - 63.107.

Reductions in residential and small business rates and service package tariff filings shall become effective on one day's notice to the Commission.

2. ALLTEL PA may implement tariff rate changes to implement the results of Commission Orders to address current industry issues, e.g., the Global Orders.

3. The Commission shall review the tariff proposals to determine that they are within the limits as set forth in Part 3.D.1. below. If the Commission determines that ALLTEL PA's rate proposals are not within these criteria, then the Commission may order ALLTEL PA to modify them to produce a tariff which does not exceed these criteria. If the tariff proposals are within these criteria, then the Commission shall approve them.

4. The "75-day procedure" shall apply to all restructuring and rebalancing filings, unless specifically excluded below, with the allowance of additional time to permit ADR mediation if requested by the Company and an additional 15 calendar days to allow time for hearings, if specifically requested by the OCA, OTS, OSBA, a customer, or Chapter 30 party at Docket No. P-00981423, made at the time of complaint or intervention. In the event that the proposed impact of such rate restructuring and rebalancing filing on local services rate for residential one-party service is an increase greater than \$3.50 per month, then the additional allowance of time shall be 45 calendar days, rather than 15 calendar days.

C. New Services

1. ALLTEL PA may introduce new services at any time.

2. If a new noncompetitive service is offered which falls within the protected services category, then the "75-day procedure" shall apply.

3. Any new service which is not a "protected" service shall become effective upon one (1) day's notice to the Commission.

4. Revenues from new noncompetitive services shall be included in the calculation of the PSI and SPI, beginning with the first annual PSM filing after the new service has been in effect for one year.

D. Consumer Protections

1. All rate changes proposed either under the PSM formula, including exogenous events, or under the rate restructuring and rebalancing provisions of this Plan shall be approved if just and reasonable and if a proposed tariff does not cause one of the following to occur and is otherwise in compliance with this Plan:
 - a. The SPI is not greater than the PSI, and;

 - b. The proposed changes to protected basic, local service rates for both residential and small business customers, by any combination of filings, will not cause an increase in the rates in

existence at the end of the preceding year greater than \$3.50 per month.⁹

2. Pursuant to the Global Order entered September 30, 1999, the Commission instituted a transitional universal service funding mechanism, i.e. the Pennsylvania USF, with a projected termination date of December 31, 2003. During the pendency of the Pennsylvania USF, the Company retains the right to change and rebalance its intrastate rates in accordance with the PSP and if such rates are found by the Commission to be just and reasonable, they shall be permitted to become effective. Further, should the new rates exceed the \$16.00 monthly residential rate ceiling and applicable business rate ceiling established in the Global Order for the duration of the Pennsylvania USF, the Company is permitted to recover the revenue difference arising from application of the Global Order rate ceilings from the Pennsylvania USF. By order entered July 15, 2003, at Docket No. M-00021596, et al., the Commission approved modifications to the Global Order including a continuation of the USF and an annual increase of the \$16.00 residential cap to \$18.00.

3. The Company shall submit cost data for existing noncompetitive rate changes. Where the Company proposes to decrease the price of any individual rate element for any service offered by the Company, the proposed price for that service shall equal or exceed its Long Run Incremental Cost (LRIC) unless: (1) specifically exempted by the Commission based upon public interest considerations or (2) the

⁹This cap shall not be applicable where a generic Commission Order requires changes in a Company's rate design and causes a rate increase which exceeds the cap.

Company in good faith prices the service to meet the equally low price of a competitor for an equivalent service. Cost information will only be provided to the OTS, OCA, OSBA and any other applicable governmental party on a proprietary basis. If a formal complaint or investigation is initiated, such cost documentation shall be provided to all interested parties at the direction of the Commission on a proprietary basis.

E. Complaints

1. Complaints under Section 1309 of the Public Utility Code against existing rates may be filed only if such rates fail to comply with the terms of this Plan. Section 1309 shall be the exclusive basis for filing complaints against existing rates and such a complaint may be sustained only if such existing rates do not comply with the terms of this Plan. In proceedings under this part, the burden of proof shall be upon the complainant to show, by a preponderance of the evidence, that the rates are not just and reasonable under Section 1309. Further, the Commission shall retain the authority to issue complaints or investigations to assure a Company's compliance with this Plan, with the burden of proof resting with the Company.

PART 4 - ADDITIONAL COMMITMENTS AND OTHER TERMS

A. Lifeline Service; Universal Service; Enhanced Services For The Disabled; Other Terms

1. The Company shall implement a revised Lifeline program for qualifying low-income residential customers. All eligible telecommunications customers who subscribe to lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services; however, the Commission's regulations at 52 Pa. Code §64.01 et seq. relating to suspension and termination of residential telephone service shall continue to be applicable. Whenever a prospective customer seeks to subscribe to local exchange telecommunications service, the Company shall explicitly advise the customer of the availability of lifeline service and shall make reasonable efforts, where appropriate, to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service. The Company shall inform existing customers of the availability of lifeline service twice annually by bill insert or message. The notice shall be conspicuous and shall provide appropriate eligibility, benefits and contact information for customers who wish to learn of the lifeline service subscription requirements. The Company shall not be required to provide, after November 30, 2004, any new lifeline service discount that is not fully subsidized by the federal universal service fund.

2. The Company offers "Link Up America," a program designed to promote universal service by providing a discount on service connection charges for qualified low income customers.

3. ALLTEL PA shall be fully qualified to participate as a recipient in any universal service program instituted by this Commission. Nothing in this Plan nor shall ALLTEL PA's regulation under Chapter 30 disqualify it from full participation in any Pennsylvania universal service program.

B. Ongoing Regulatory Requirements

1. All services provided by the Company within the jurisdiction of the Commission are still subject to all provisions of Title 66 regarding safety, adequacy and reliability of telecommunications services, 66 Pa.C.S. §1501.

2. The Company will continue to monitor service quality in compliance with Commission regulations in Chapter 63 unless in conflict with this Plan or Act 183. 52 Pa. Code §63.1, et seq.

3. The Company shall continue to comply with Chapter 64 of the Commission's regulations as amended from time to time unless in conflict with this Plan or Act 183. 52 Pa. Code §64.1 et seq.

4. The Extended Area Service regulations established by the Commission at 52 Pa. Code §63.71 et seq., shall continue to be applicable to ALLTEL PA with the exception of conducting biennial traffic usage studies, unless in conflict with this Plan or Act 183. The requirement to prepare such studies shall be suspended until the Commission issues regulations or guidelines as to how to conduct more accurate traffic usage studies or whether such studies should be

continued. The Company's current traffic usage studies from 1997 shall continue to be utilized. The Commission may, on a case-by-case basis, direct that a more current traffic usage study be conducted if, in a formal complaint proceeding, it is determined that a strong community of interest has been demonstrated. The Company will comply with any modifications to the existing EAS regulations as ordered from time to time by the Commission.

5. The Commission retains its authority to audit the accounting and reporting systems of the Company relating to its transactions with affiliates pursuant to Chapter 21 of the Public Utility Code, 66 Pa.C.S. §2101 et seq. The Company shall file affiliated interest and affiliated transaction agreements unless such agreements involve services to be declared competitive. These filings shall constitute notice to the Commission only and shall not require approval by the Commission.

6. Approval of this Plan shall not operate in any way to foreclose the Company from exercising any of its rights pursuant to the enactment of new state or federal legislation. Moreover, approval of this Plan shall not preclude the Company from filing a petition seeking modifications therein.

7. In the event that ALLTEL PA acquires another local exchange telecommunications company in Pennsylvania, upon Commission approval of the acquisition, such company shall automatically be subject to ALLTEL PA's Amended Chapter 30 Plan and Alternative Form of Regulation. The Commission has authority

to condition the sale, merger, acquisition or other transaction required to be approved under Section 1102(a)(3), 66 Pa.C.S. §1102(a)(3), of the Company or any facilities used to provide telecommunications services to ensure that there is no reduction in the advanced service or broadband deployment obligations for the affected property or facilities.

8. Coincident with the effective date of the Plan, in the event the Company effects a change to either its depreciation expenses or depreciation reserves, Commission approval shall not be required.

9. At the time a company offering services in competition with ALLTEL PA offers services in ALLTEL PA's service territory, any marketing restrictions relevant to the noncompetitive and competitive services will no longer be applicable to ALLTEL PA or its affiliates.

C. Reporting Requirements

1. The Commission's filing and audit requirements for the Company shall be limited to the following:

- i. The Biennial Network Modernization Plan reports filed pursuant to Parts B.1 and 2 of the Amended Network Modernization Plan;
- ii. An annual financial report consisting of a balance sheet and income statement.

- iii. An annual deaf, speech-impaired and hearing-impaired relay information report.
- iv. An annual State Tax Adjustment Surcharge ("STAS") computation for years in which a tax change has occurred, if applicable.¹⁰
- v. An annual service report.
- vi. Universal service reports.
- vii. An annual access line report.
- viii. An annual statement of gross intrastate operating revenues for purposes of calculating assessments for regulatory expenses.
- ix. A bona fide retail request report under Section 3014(c)(9).

2. Notwithstanding any other provision of the Public Utility Code (Title 66), the Commission's regulations or this Plan to the contrary, no other report, audit, statement, filing or other document or information, except as specified in Part 4.C.1. above shall be required of the Company, unless the Commission, upon notice to the Company and an opportunity to be heard, has first made specific written findings supporting conclusions in an entered order that: (i) the report is necessary to ensure that the Company is charging rates that are in compliance with Chapter 30 of the Public Utility Code (66 Pa.C.S. §§3011-3019) and its effective alternative form of

¹⁰This includes the State Tax Adjustment Surcharge (STAS) tariff filings pursuant to Commission STAS Guidelines (52 Pa. Code §69.51 et seq.), the State Tax Adjustment Surcharge Order and the Company's STAS tariff. STAS-related changes shall be excluded from the SPI calculation. The Company shall serve copies of its STAS filings on OCA, OSBA, and OTS, coincident with its submission of such filings to the Commission.

regulation; and (ii) the benefits of the report substantially outweigh the attendant expense and administrative time and effort required of the Company to prepare it.

3. Nothing in this Plan shall be construed to impede the ability of the Commission to require the submission of further information to support the accuracy of or to seek an explanation of the reports specified in Part 4.C.1 above.

D. Other Provisions

1. When an alternative service provider is offering local exchange telecommunications services within an exchange of the Company, the Company may reduce its prices on services offered within the exchange below the rates set forth in its otherwise applicable tariff in order to meet such competition. The Company may not offset revenue reductions resulting from such competitive pricing by increasing rates charged to other customers through its Price Stability Plan or otherwise.

2. The Company shall offer school customers in its service territory that meet the eligibility standards described in 47 CFR 54.501 (relating to eligibility for services provided by telecommunications carriers) and that agree to enter into a minimum three-year contract with the Company for telecommunications services: i) a 30% discount (or greater discount at the Company's discretion) in the otherwise applicable tariffed distance sensitive per-mile rate element for available intrastate broadband services; and ii) waiver of the associated nonrecurring charges for available intrastate broadband services, where the telecommunications service is

used for educational purposes and not for the provision of telecommunications services to the public for compensation. The discount or waiver shall not be required where application of it to a particular service would conflict with applicable law. The Company will assist school customers in applying for E-rate funding under 47 CFR 54.505 (relating to discounts).

3. The Company, at its discretion, may offer and bill to customers, on one bill, bundled packages of services, which include nontariffed, competitive, noncompetitive or protected services, including services of an affiliate, in combinations and at a single price selected by the Company.

4. The Commission may not require the Company to reduce access¹¹ rates except on a revenue-neutral basis.

5. No person or entity may refuse to pay tariffed access charges for interexchange services provided by the Company.

6. The Company shall contribute to the Broadband Outreach and Aggregation Fund and the Education Technology Fund as set forth in §3015(c)(2) of Act 183 of 2004, 66 Pa.C.S. §3015(c)(2).

¹¹As used in this Plan, the terms "access rates," "access charges" and similar terms, unless the context requires otherwise, shall refer to special access service and switched access service. As used in this Plan, the term "special access service" shall mean service provided by the Company over dedicated, nonswitched facilities to interexchange telecommunications carriers or other large volume users that provides connection between an interexchange telecommunications carrier or private network and a customer's premises. As used in this Plan, the term "switched access service" shall mean service that provides for the use of common terminating, switching and trunking facilities of The Company's public switched network. The term includes, but is not limited to, the rates for local switching, common and dedicated transport and the carrier charge.

E. Term of Plan

1. In the event Chapter 30 is modified or is repealed, ALLTEL PA may seek an appropriate modification or revision of the Plan.

2. In the event of any appellate court, federal court, federal agency or other lawful order which causes or has the effect of causing reversal, remand, vacation, amendment or other modification of any Commission order approving this Plan or any aspect of the Plan, the Company retains the right to withdraw from the Plan.

3. No change may be made to this Plan without the express agreement of both the Commission and Company. The Company may subsequently petition the Commission for approval of further modifications to its amended network modernization plan, which the Commission may grant upon good cause shown.

4. The terms of this Plan shall govern the regulation of the Company and, consistent with the provisions of this Plan and Chapter 30 of the Public Utility Code (66 Pa.C.S. §§3011-3019), shall supersede any conflicting provisions of Title 66 or any other laws of the Commonwealth of Pennsylvania and shall specifically supersede the following provisions of Title 66: all provisions of Chapter 13 (relating to rates and rate making), other than §1301 (relating to rates to be just and reasonable), §1302 (relating to tariffs; filing and inspection), §1303 (relating to adherence to tariffs), §1304 (relating to discrimination in rates), §1305 (relating to

advance payment of rates; interest on deposits), §1309 (relating to rates fixed on complaint; investigation of costs of production) and §1312 (relating to refunds).

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COMMONWEALTH OF PENNSYLVANIA

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Sandie Voich (aka Jerry A. Voich, DMD),	:	
<i>Complainant,</i>	:	In the Matter of:
	:	
v.	:	Docket No: C-2020-3023506
	:	
Windstream Pennsylvania, LLC,	:	
<i>Respondent.</i>	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing Preliminary Objections of Respondent Windstream Pennsylvania, LLC via the electronic filing system. In addition, I certify that this day I have served a true copy of the foregoing Preliminary Objections of Respondent Windstream Pennsylvania, LLC upon the party listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Sandie L. Voich,
775 Zanot Road
Parker, PA 16049

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

Dated: February 9, 2021

By: /s/ Jason A. Levine
Jason A. Levine (ID No. 306446)
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Philadelphia, PA 19103
(215) 568-6200
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Counsel for Respondent