

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Verizon Pennsylvania LLC	:	
2019 Price Change Opportunity Filing	:	R-2018-3005792
Office of Consumer Advocate	:	
v.	:	C-2018-3005972
Verizon Pennsylvania LLC	:	
Office of Small Business Advocate	:	
v.	:	C-2018-3006035
Verizon Pennsylvania LLC	:	
Verizon North LLC	:	
2019 Price Change Opportunity Filing	:	R-2018-3005793
Office of Consumer Advocate	:	
v.	:	C-2018-3005977
Verizon North LLC	:	
Office of Small Business Advocate	:	
v.	:	C-2018-3006040
Verizon North LLC	:	
Verizon Pennsylvania LLC	:	
2020 Price Change Opportunity Filing	:	R-2019-3014032

Office of Consumer Advocate

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:
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v.

C-2019-3014285

Verizon Pennsylvania LLC

RECOMMENDED DECISION

Before
Dennis J. Buckley
Administrative Law Judge

INTRODUCTION

This Decision recommends that the Commission adopt, without modification, the unanimous Joint Settlement Petition submitted by Verizon PA, Verizon North (collectively, Verizon), the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA) concerning Verizon’s 2019 and 2020 Price Change Opportunity (PCO) filings because the Settlement is in the public interest.

HISTORY OF THE PROCEEDING

On November 1, 2018, Verizon PA made its 2019 PCO filing, notifying the Pennsylvania Public Utility Commission (Commission) that the price cap mechanism in the company’s Chapter 30 plan allowed Verizon PA to increase revenue from noncompetitive services by \$1,303,000. To implement that allowed revenue increase, Verizon PA proposed to increase rates for noncompetitive residence and business services to obtain \$944,700 and to bank the remaining \$358,300 of the revenue increase opportunity. Verizon PA’s 2019 PCO filing also contained calculations relating to its bank and the use of the banked 2003 PCO to cover its annual payment to the Pennsylvania Universal Service Fund (USF).

Verizon North’s 2019 PCO filing was also made on November 1, 2018, notifying the Commission that the price cap mechanism in the company’s Chapter 30 plan allowed Verizon

North to increase revenue from noncompetitive services by \$246,000. Verizon North made two alternative rate increase proposals (depending on whether the Commission allowed it to transfer banked opportunities to Verizon PA), but in its Order entered December 20, 2018, the Commission rejected the first proposal and approved (subject to refund) the second proposal. The approved alternative was for an aggregate increase to rates for noncompetitive residence and business services totaling \$438,300, utilizing a combination of the Verizon North 2019 PCO and banked opportunities.

On November 8, 2018, the OCA filed complaints against Verizon PA's and Verizon North's 2019 PCO filings. On November 14, 2018, the OSBA filed complaints against Verizon PA's and Verizon North's 2019 PCO filings.

On December 3, 2018, Verizon filed Preliminary Objections that were subsequently resolved by the Commission prior to the assignment of this matter to the Office of Administrative Law Judge (OALJ).

By two separate orders entered December 20, 2018, the Commission found Verizon PA's and Verizon North's 2019 PCO filings to be "procedurally consistent with [their] Commission-approved Amended Chapter 30 Plan[s]" and permitted the rate changes to go into effect as filed and remain in effect subject to refund pending adjudication of the formal complaints. *Verizon PA 2019 PCO Order*, Docket R-2018-3005792 (Order entered December 20, 2018), at 6; *Verizon North 2019 PCO Order*, Docket R-2018-3005793 (Order entered December 20, 2018), at 8.

On December 20, 2018, the Commission referred this matter to the OALJ with specific directives to conduct the adjudication of this case and to issue a recommended decision.

On December 21, 2018, a Prehearing Conference Notice was issued setting January 7, 2019, as the date for a telephonic prehearing conference. That conference was subsequently rescheduled to January 17, 2019, as an informal prehearing conference.

On January 11, 2019, Verizon, with the concurrence of the other parties, contacted me through email advising me that the parties had come to an agreement with respect to scheduling and other preliminary matters. The parties jointly proposed that the prehearing

conference be postponed while the parties conducted informal settlement discussions, and also stated that Verizon's financial reports for 2018 were not due until April 2019. The parties proposed that a prehearing conference might be scheduled in May 2019.

On July 21, 2019, an Order was issued finding that Verizon's original Preliminary Objections and Motion for Judgment on the Pleadings were considered and rejected by the Commission in its December 20, 2018 Order and were, therefore, moot.

On November 1, 2019, Verizon PA made its 2020 PCO filing, notifying the Commission that the price cap mechanism in the company's Chapter 30 plan allowed Verizon PA to increase revenue from noncompetitive services by \$1,393,000. Verizon PA did not propose any rate changes in its 2020 PCO filing but rather proposed to bank its 2020 PCO rate increase opportunity and use it to permanently offset a portion of its banked negative 2003 PCO. Verizon PA's 2020 PCO filing also contained calculations relating to its bank and the use of the banked 2003 PCO to cover its annual payment to the state Universal Service Fund (USF).

On November 14, 2019, the OCA filed a formal complaint against Verizon PA's 2020 PCO and on December 6, 2019, the OSBA filed a notice of intervention. No complaints were filed against Verizon North's 2020 PCO filing.

By Order entered January 16, 2020, the Commission found Verizon PA's 2020 PCO filing to be, "procedurally consistent with its Commission-approved Amended Chapter 30 Plan," and permitted the rate changes to go into effect as filed and remain in effect subject to refund pending adjudication of the formal complaint. *Verizon PA 2020 PCO Order*, Docket R-2019-3014032 (Order entered January 16, 2020), at 7.¹

What followed thereafter was an extended period of time during which the parties continued discussions but, for reasons that will be explained below, the parties could not resolve these cases without Commission action in a proceeding likely to be determinative in these cases.

¹ No Complaints were filed against the Verizon PA 2021 PCO filing or the Verizon PA 2022 PCO filing. Similarly, no complaints were filed against the Verizon North 2021 PCO filing or the Verizon North 2022 PCO filing.

A hearing had been scheduled for October 6, 2020, but on September 29, 2020, the parties jointly requested a continuance. That continuance was informally granted, and the hearing was cancelled.

On January 22, 2021, the OCA filed an unopposed Motion to Suspend the Procedural Schedule in these cases which schedule had been formalized in an Order issued October 5, 2020. After October 2020, there followed a succession of hearing dates, memorialized in the OCA Motion, that were repeatedly rescheduled as the parties continued to discuss potential settlement of these matters.

As explained in the OCA Motion, separate from but roughly parallel in time to these Verizon PCO proceedings, the OCA and OSBA entered into a settlement with the United Telephone Company of Pennsylvania, d/b/a CenturyLink, of similar OCA complaints against CenturyLink's 2018 and 2019 Price Stability Mechanism (PSM) filings (Docket Nos. R-2018-3004019, R-2019-3012239, et al.) (*CenturyLink*). That Joint Petition for Approval for Settlement Agreement of the contested CenturyLink PSM filings was submitted to the OALJ and the Commission in January 2020. Deputy Chief ALJ Joel H. Cheskis and ALJ Benjamin J. Myers issued a Recommended Decision in *CenturyLink* on June 1, 2020, recommending rejection of the Settlement.

The OCA noted in its Motion that there is no time requirement for Commission resolution of the *CenturyLink* Settlement Petition and Recommended Decision. However, the usefulness of the *CenturyLink* Settlement as a guide for resolution of these proceedings was, at that point expected but not unresolved. The OCA stated in its Motion that it believed that there was still a possibility for settlement of some or all issues in the matter of the contested Verizon PA and Verizon North PCO filings.

The OCA also stated in its Motion that overlaying the challenge of addressing these novel issues which concern Chapter 30 Plan language, changes in tax law, annual price change filings, and the Verizon interest calculation issue, was the fact of the COVID-19 pandemic, the Governor's Disaster Proclamation, and the continued operation of Commonwealth offices by telework. The OCA submitted that suspension of a procedural schedule would be

appropriate pursuant to the Commission's Emergency Order dated March 20, 2020, related to suspension of statutory and regulatory deadlines. The OCA proposed that the parties provide the Presiding Officer with a status report every 90 days during the suspension period, during which time the parties may continue settlement discussions and evaluate developments – if any – in the pending *CenturyLink* proceeding.

The Motion for Continuance was informally granted followed by an Order affirming the continuance being issued on December 3, 2021.

On January 13, 2022, the Commission adopted and entered an Opinion and Order in the case of *CenturyLink*.

Subsequent to the adoption by the Commission of the *CenturyLink Order*, I informally asked the parties to apprise me of how they wished to go forward in these cases. To that end, on March 15, 2022, a telephonic Prehearing Conference convened. Present at the conference were Suzan D. Paiva, Esquire, appearing on behalf of Verizon; Steven C. Gray, Esquire, on behalf of the OSBA; and Barrett C. Sheridan, Esquire, on behalf of the OCA. The purpose of the conference was to ascertain whether the parties expected to settle these matters or whether it would be necessary to schedule an evidentiary hearing as part of a litigation schedule. While indicating that they had been actively pursuing settlement discussions, the parties agreed that they would provide me with a mutually agreeable hearing date if they were not able to settle these matters. Shortly thereafter, on March 18, 2022, the parties advised me that they had reached a settlement in principle.²

On April 8, 2022, the parties filed with the Secretary of the Commission a Joint Settlement Petition accompanied by each party's Statement in Support thereof, at which time the record closed.

² It must be noted that the proposed Settlement is offered absent an evidentiary proceeding or even the admission of evidence by Motion. While this is an unusual procedure, it is not unique to this proceeding and the parties did not request an evidentiary hearing. The parties resolved the issues in these cases through discussion and compromise based on past practice and the Commission's Opinion and Order in *CenturyLink*. In the event that the proposed Settlement is not accepted by the Commission, the parties have available to them the opportunity for a fully litigated proceeding which would see the creation of such a record. See Joint Settlement at ¶ 28.

On April 26, 2022, an Order was issued consolidating all of the PCO filings listed in the caption, above and all related Complaints for the purpose of adjudication. No party objected to the consolidation.

The proposed Joint Settlement is comprehensive and resolves all issues in the Verizon PCO proceedings. For reasons that will be explained herein, the proposed Joint Settlement is in the public interest, and it is recommended that the Settlement be adopted without modification.

DISCUSSION

The terms of the Settlement are as follows in verbatim with the original paragraph numbering maintained for ease of reference:

The Proposed Settlement

II. SETTLEMENT OF ISSUES

19. In consideration of the mutual promises and provisions contained in this Joint Settlement Petition, the Parties desire to conclude litigation and to settle all claims regarding Verizon PA 2019 PCO and 2020 PCO filings, as well as the Verizon North 2019 PCO filing. The specific terms and conditions of this proposed settlement are as follows.

20. With respect to the litigation relating to the 2019 PCO filings of Verizon PA and Verizon North at Dockets C-2018-3005972, C-2018-3006035, R-2018-3005792, C-2018-3005977, C-2018-3006040, R-2018-3005793, the Parties agree that the Joint Settlement Petition is in full satisfaction of all issues raised in OCA's and OSBA's complaints.

21. With respect to the litigation relating to the 2020 PCO filing of Verizon PA at Dockets C-2019-3014285 and R-2019-3014032, the Parties agree that the Joint Settlement Petition is in full satisfaction of all issues raised in OCA's complaint and OSBA's intervention.

22. With respect to the interest rate issue raised in OCA's complaints against Verizon PA's 2019 and 2020 PCOs, the Parties agree as follows:

a. Verizon PA will revise its Chapter 30 plan in the section relating to banking to specify that the Monthly Index of Long-Term United States Government Bond Yields Calculated by the Secretary of Banking Under 41 P.S. § 101, et seq. and published in the PA Bulletin for August of the prior year, plus 1.25%, will be used. The following underlined language will be added:

After 2001, annual price decreases calculated under the PSI filed each year may be banked for application in future years, not to exceed four (4) consecutive years. Such banking of decreases will be with interest at a rate set forth in 66 Pa. C.S. §1308. Beginning with the 2023 PCO, the interest rate used will be the Monthly Index of Long-Term United States Government Bond Yields calculated by the Secretary of Banking Under 41 P.S. § 101, et seq. and published in the Pennsylvania Bulletin for August of the prior year, plus 1.25%.

b. Verizon North will make the same change to its Chapter 30 plan.

c. The Parties agree that, effective with the 2023 PCO and later PCO filings, the above interest rate will be used to calculate interest on the USF gap, to the extent there is such a gap. To the extent that Commission approval and amendment of the respective Chapter 30 Plan language is delayed, Verizon PA and Verizon North will make corrections and/or adjustments to the interest calculations (if any) in the 2023 PCO and later PCO filings.

23. With respect to the 2023 and 2024 PCO filings of Verizon PA and Verizon North, due to be filed on or about November 1, 2022, and November 1, 2023, respectively, the Parties agree as follows:

a. With their 2023 and 2024 PCO filings, Verizon PA and Verizon North will not increase the rates for their non-competitive stand-alone residential and business services.

b. To the extent an allowed increase in revenues is indicated by Verizon PA's 2023 and/or 2024 PCO filings, Verizon PA will bank the revenue increase opportunity and will net this entire banked amount against the balance of the banked negative 2003 PCO, with the goal of reducing that negative balance.

c. To the extent an allowed increase in revenues is indicated by Verizon North's 2023 PCO filing, Verizon North will neither implement the revenue increase nor bank the amount. To the extent an allowed increase in revenues is indicated by Verizon North's 2024 PCO filing, Verizon North will bank this amount for future use in accordance with its Chapter 30 plan. Furthermore, in its Order addressing Verizon North's 2022 PCO filing, the Commission confirmed that Verizon North's cumulative bank of allowed revenue increases of \$478,600 is available for future use. *Verizon North 2022 PCO Order*, Docket No. R-2021-3029355 (Order entered December 16, 2021), at 5. Verizon North will agree to not use this available bank to increase rates as part of Verizon North's 2023 or 2024 PCO filings.

d. OCA and OSBA will not oppose Verizon's 2023 or 2024 PCO filings on the bases raised in the complaints against the 2019 and 2020 PCOs, including, but not limited to, the claim that an exogenous event adjustment is required by the TCJA.

24. With respect to their rates for competitively classified stand-alone residential and business services (the same services subject to the PCO but offered in competitive wire centers), Verizon PA and Verizon North will not increase these rates above the rate for the corresponding non-competitive service before January 1, 2025. The Parties recognize that these services have full pricing flexibility and are not part of the PCO process, but the Parties have agreed to this term as part of the Settlement.

25. The Parties agree as follows regarding Verizon PA's use of the ongoing negative value of its 2003 PCO to support its payments to the Pennsylvania USF:

a. Per the Commission's Order in Docket Nos. P-00930715 and P-0001854 entered October 11, 2005, Verizon PA will continue

to request permission in its 2023 and 2024 PCO filings to use the ongoing negative value of its 2003 PCO to support its payments to the USF. The OCA and OSBA agree they will not oppose those requests.

b. Four to three months before Verizon PA makes its 2025 PCO filing, Verizon PA, the OCA, and the OSBA will meet to review and discuss Verizon PA's proposal, if any, to request recovery of its USF payment as part of its 2025 PCO filing. Verizon PA will identify the amount of the USF Assessment and the amount and type of revenues used to calculate the USF Assessment. The Parties will also discuss Verizon PA's plans, if any, regarding the remaining balance of the 2003 PCO. Those meeting(s) and discussions may result in a proposed agreement regarding how the remaining value of the 2003 PCO should be used on a going-forward basis.

26. There is an unexpected additional value to business customers relating to a Verizon North rate implementation error:

a. Verizon North discovered an error in the implementation of the business dial tone line rate increases approved for the 2019 PCO by which it has been undercharging for the business dial tone line rate since March 1, 2019, as follows:

Time Period	Rate Approved	Rate Actually Charged
3/1/19 to 2/28/22	\$25	\$22.75

b. For the 2022 PCO, the Commission approved a \$1 increase to Verizon North's business dial tone line rate that would have increased the tariffed rate from \$25 to \$26. However, Verizon North discovered this error before the increase took effect. Consequently, on February 22, 2022, Verizon North filed a tariff revision to reduce the tariffed dial tone line rate to \$23.75 effective March 1, 2022 (i.e., implementing the approved \$1 increase on the rate that was currently being charged).

c. As part of this settlement, Verizon North will agree not to attempt to collect from its business dial tone line customers for the under-billing from March 1, 2019, to February 28, 2022, as would be permitted by 52 Pa. Code § 64.19. Furthermore, Verizon North will not seek permission to make an adjustment to its bank in order to recover the revenue that it did not collect in rates due to this error.

d. Verizon North will not seek to increase the \$23.75 business dial tone line rate before its 2025 PCO filing.

e. The OSBA and OCA agree not to oppose Verizon North's reduction of the business dial tone line rate to \$23.75.

III. GENERAL PROVISIONS

27. The Joint Settlement Petition is not an admission by any Party as to whether the TCJA is an "exogenous event" under Verizon PA's or Verizon North's Chapter 30 Plans. This Joint Settlement Petition is proffered to settle the instant case; it may not be cited as precedent in any future proceeding, except to the extent required to implement any term specifically agreed to by the Parties. The Joint Settlement Petition is made without any admission against, or prejudice to, any position which any of the Parties might adopt in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to in the Joint Settlement Petition.

28. The Joint Settlement Petition is expressly conditioned upon the Commission's approval, without modification, of all of its specific terms and conditions therein contained. If the Commission should fail to grant such approval, or should modify any material term or condition, any Party may elect to withdraw, in whole or in part, from this agreement upon written notice to the Commission and the other Parties within 20 calendar days of issuance of an adverse final Commission order. In that event, each of the Parties shall have all legal rights that they may have waived by agreeing to this Settlement.

29. The Parties agree to support this Joint Settlement Petition and to make their best efforts to secure its approval by the Commission, including filing Statements in Support and any Stipulations of Fact or Affidavits necessary to provide evidentiary support for the Settlement.

30. If the presiding officer issues a Recommended Decision approving this Joint Settlement Petition without modification, then the Parties agree to waive the filing of Exceptions and Reply Exceptions.

Joint Settlement Petition at 8-14.

PUBLIC INTEREST CONSIDERATIONS

A. Legal Standard

Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. Many proceedings are expensive to litigate. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision. That is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa. PUC 1 (1985).

Applying these principles, it is clear that the Joint Settlement Petition should be approved by the Commission. I note that the public advocates support the Settlement, and that the parties have provided Statements of Support of the Settlement, as discussed below.

B. Verizon's Statement in Support

Verizon maintains that consistent with the structure approved by the Commission in the *CenturyLink Order*, the parties have agreed to disagree on the issue of whether an “exogenous event” occurred requiring adjustment under the relevant plans and instead have agreed upon settlement terms that provide a public benefit. As the Commission observed, this is an acceptable basis for settlement based on “the very nature of a settlement, which reflects a compromise among the settling parties,” and the terms should “balance the concerns of all Parties involved” and be “in the public interest.” *CenturyLink Order* at 65. Verizon submits that the Settlement is in the public interest for several reasons.

First, as is always the case, approval of the Settlement will conserve party and Commission resources by avoiding further litigation and possible appellate proceedings and will provide for a reasonable resolution of the 2019 and 2020 PCO filings, taking into account the costs and risks of litigation. It will also provide certainty as to issues relating to the Verizon's upcoming 2023 and 2024 PCO filings, thereby reducing the prospect of future litigation. The agreement also ensures that the parties will discuss the 2025 PCO filing in advance, which increases the likelihood that litigation can be avoided for that filing as well. The rate stability agreement, together with the terms relating to the interest rate calculation, the use of the banked negative 2003 PCO and the correction of Verizon North's rate implementation error also serve to avoid future litigation and uncertainty over these issues. Thus, Verizon contends that the Settlement will result in significant savings of time and expenses for all parties involved by avoiding the necessity of further administrative proceedings, as well as possible appellate court proceedings citing the *CenturyLink Order* at 69.

Verizon also maintains that the Settlement also ensures that Verizon's rates for noncompetitive basic standalone residential and business services will remain at their current levels through at least January 1, 2025. Verizon has also agreed to extend this rate stability to its competitive standalone basic residential and business services (the same services subject to the PCO, but offered in competitive wire centers where Verizon has full pricing flexibility for these services). Verizon states that as the Commission concluded in the *CenturyLink Order*, a period

of “rate stability” resulting from an agreement not to increase rates through the PCO process provides a public benefit. Verizon Statement in Support citing *CenturyLink Order* at 68-69.

Verizon asserts that in addition, by avoiding changes to the already implemented rate increases from the 2019 PCO, the Settlement will avoid customer disruption and confusion. The terms regarding the correction of Verizon North’s billing error also benefit business customers by avoiding possible back-billing.

Verizon concludes that the Settlement is in the public interest and should be approved without modification. Verizon states that if the Settlement is approved by the presiding officer without modification, the parties have agreed to waive exceptions and reply exceptions, allowing for a prompt resolution of this matter by the Commission.

C. The OCA’S Statement in Support

The OCA submits that the Settlement provides benefits to the Companies’ ratepayers and provides a reasonable resolution to complex and difficult issues. The Settlement addresses the prime concern that Verizon PA’s and Verizon North’s rates for non-competitive services must be just and reasonable. OCA maintains that the Settlement is in the public interest because it provides specific benefits to Verizon PA ratepayers and to Verizon North ratepayers.

The OCA contends that, specifically, Verizon PA’s and Verizon North’s residential and business customers who rely on non-competitive services will experience rate stability in 2023 and 2024 as part of the Settlement. Verizon PA and Verizon North each agree that there will be no increase in rates proposed with their 2023 and 2024 PCO filings. The OCA asserts that the Settlement provides rate stability for Verizon PA residential and business stand-alone non-competitive service customers. The OCA points out that Verizon PA agrees that it will not propose increases to these rates as part of Verizon PA’s 2023 and/or 2024 PCO filings and to the extent those PCO filings indicate an allowed increase in revenues, Verizon PA will bank those increases and offset the amounts against the remaining balance of the 2003 negative

PCO. The OCA concludes that this reduces the likelihood that Verizon PA will add positive amounts to its bank, amounts which could be implemented as rate increases in the future.

The OCA also maintains that the Settlement provides rate stability for Verizon North residential and business stand-alone non-competitive service customers. Verizon North agrees that it will not propose increases to these rates as part of Verizon North's 2023 and/or 2024 PCO filings. Verizon North's non-competitive service ratepayers will also benefit from Verizon North's commitment to not use its existing bank to increase rates in 2023 and 2024. Further Verizon North's 2023 PCO filing will not bank the amount of any allowed increase in revenues.

The OCA states that the Settlement also provides a benefit for Verizon North business customers, to the extent Verizon North identified an alleged under-billing as part of implementation of a prior rate increase. The Settlement provides certainty that those rates as implemented and billed will not be subject to a request for re-billing or revision.

Addressing Verizon's Banking Provisions and Interest Rate, the OCA states that the Settlement identifies the source for an interest rate to apply as part of Verizon PA's and Verizon North's Chapter 30 Plan banking provisions going forward, through amendment of the respective Chapter 30 Plans. OCA further states that as a practical matter, the application of an interest rate has been a recurring part of Verizon PA's accounting for the remaining value of its 2003 negative PCO balance. Verizon PA has annually requested Commission approval to use the one-year value of the 2003 negative PCO to offset Verizon PA's annual payment to the Pennsylvania Universal Service Fund. Some years, that includes a calculation of interest owed. The OCA explains that the parties have agreed that Verizon PA and Verizon North will amend their Chapter 30 Plans to specify that the interest rate for banking will be the sum of the Monthly Index of Long Term Government Bond Yields Calculated by the Pennsylvania Secretary of Banking and published each August in the Pennsylvania Bulletin plus 1.25%. The OCA concludes that this Settlement term will provide regulatory certainty going forward. This provision addresses a part of the OCA formal complaints.

The OCA explains that the remaining balance of Verizon's 2003 negative PCO is addressed annually in Verizon PA's PCO filing. In addition to the provisions regarding Verizon PA's 2023 and 2024 PCOs and the change in interest, the parties agree to engage in an exchange of information and meeting several months prior to Verizon PA's filing of its 2025 PCO filing. The OCA contends that this provision of the Settlement should help the parties understand and informally address any concerns regarding Verizon PA's proposed disposition of the 2003 negative PCO balance (that remains after the 2024 PCO filing) in advance of Verizon PA's 2025 PCO filing. The OCA states that collectively, these Settlement terms which address Verizon PA's 2003 negative PCO provide regulatory certainty and encourage collaboration to avoid or minimize future disputes.

In supporting the Settlement, the OCA also points out that Verizon PA and Verizon North have committed to not increase their rates for competitively classified stand-alone residential and business services, as offered in competitive wire centers, above the corresponding rate for non-competitive services before January 1, 2025. The OCA submits that this is a bargained for term of the Settlement which provides public benefits to residential and business customers who rely upon Verizon PA or Verizon North for service, even if they are in competitive wire centers. This provision provides important price stability for these consumers.

The OCA asserts that the Settlement merits approval by the Commission in that the Settlement provides benefits to Verizon PA and Verizon North residential and business customers and provides a reasonable resolution to complex and difficult issues. The Settlement addresses the prime concern that Verizon PA's and Verizon North's rates for non-competitive services must be just and reasonable. The Settlement provides a mutually-agreed upon resolution of this broad question, without the expense and administrative burden of full litigation. The OCA reiterates that litigation of the Verizon PA 2019 and 2020 PCO filings, the Verizon North 2019 PCO filing, and the OCA and OSBA Formal Complaints would involve complex issues of fact, pertaining to financial and tax records and jurisdictional allocations, as well as interpretation of each company's Chapter 30 Plan price cap formula language, including exogenous event provisions. Litigation of the complex, contested issues would have involved

more time, expense, and administrative resources to arrive at an answer to the same question concerning what rates are just and reasonable.

Finally, the OCA contends that the Settlement provides benefits and certainty as to the rates or prices which Verizon PA and Verizon North residential and business single-line customers will pay through the end of 2024. The Settlement also provides a negotiated path for clarification of issues related to the proper interest rate for banking and Verizon PA's disposition of the remaining balance of the 2003 negative PCO in coming years.

D. The OSBA's Statement in Support

The OSBA supports adoption of the proposed Settlement pointing out that if the OSBA complaints against the Verizon PA and Verizon North 2019 PCO filings were fully litigated, the OSBA would have argued that the "Tax Cuts and Jobs Act" or "TCJA" would have been an exogenous event that would have required Verizon to reduce its non-competitive rates to reflect the reduction in federal taxes paid by both companies. Such a reduction in rates would have been necessary in order for those rates to be just and reasonable. However, for purposes of settling this issue, the OSBA is agreeing to follow the guidance set forth by the Commission in the recent *CenturyLink* case: "[W]e shall decline to reach a determination in this proceeding as to whether the TCJA qualifies as an exogenous event under the Company's Chapter 30 Plan. Rather, we reinforce that our focus in this proceeding is examining the Settlement on its merits to determine whether it is in the public interest." *CenturyLink Order*, at 55. Consequently, for purposes of this case, the OSBA is willing to forego litigation of whether the TCJA constitutes an exogenous event for purposes of Verizon's annual PCO filings.

The OSBA points out that the Joint Settlement Petition proposes, in exchange for setting aside the issue of the impact of the TCJA, that both Verizon PA and Verizon North will forego any possible rate increases for their small business customers in the companies' 2023 and 2024 PCO Filings. Joint Settlement Petition, at Paragraph 23(a). The OSBA contends that this rate freeze is of great value to small business customers of both Verizon companies. The OSBA acknowledges that the Commission is well aware of the impacts of the COVID-19 pandemic,

supply chain problems, and the resulting rising inflation and that Commonwealth small businesses are faced with significant difficulties on a day-to-day basis, with the added burden of increasing small business rates that result from the annual Verizon PCO filings. The OSBA states that the Joint Settlement Petition's proposed rate freeze would come at a welcome time for Verizon's small business customers and that a multi-year rate freeze allows other promising technological developments to come to fruition, including broadband networks made possible by a variety of federal broadband programs.

In supporting the Settlement, the OSBA also stated that the Joint Settlement Petition also proposes a rate freeze on competitive small business rates until January 1, 2025. (Joint Settlement Petition, at ¶ 24). The OSBA states that although Verizon's annual PCO filings do not address competitive service rates, this additional term is, for reasons identical to the non-competitive serve rates, of great value to Verizon's small business customers and proposes a rate freeze that, absent settlement, would not be within the OSBA's authority to achieve. The OSBA asserts that any such rate freeze will allow Verizon's small business customers a window of opportunity to address the difficulties that have cropped up over the past two years, while small businesses hope for greater competitive alternatives in the future. The OSBA fully supports this additional settlement term.

The OSBA states that Verizon North has discovered that it has been undercharging its small business customers for their dial tone rate since March 1, 2019. The Joint Settlement Petition proposes to correct that error but not have Verizon North's small business customers pay for that error by increasing their rates. (Joint Settlement Petition, at Paragraph 26). The OSBA fully supports this additional settlement term

E. Recommendation

The Joint Settlement Petition achieves a just and fair compromise by all parties to this proceeding, who represent a variety of interests, of the important and contentious issues raised in the proceeding. Approval of the Joint Settlement Petition will avoid the substantial time, expense and uncertainty involved in litigation of issues in this proceeding. By avoiding the

necessity of further administrative proceedings and litigation, including possible appeals, the resources of the parties and the Commission will be appropriately conserved. Approval of the Joint Settlement Petition will provide for two years of rate stability and certainty for customers of Verizon's stand-alone basic residential and business services in both noncompetitive and competitive wire centers.

As is explained in some detail by the parties in their Supporting Statements, the resolution of the issues as set forth in the Joint Settlement Petition is in the public interest. Therefore, it is recommended that the Commission grant the Joint Settlement Petition submitted by the parties and that the Settlement be approved in full and without modification.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa. C.S. §§ 701 and 3011, *et seq.*

2. To determine whether the settlement should be approved, the Commission must decide whether the settlement promotes the public interest. *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa. PUC 1 (1985).

3. The terms of the Joint Settlement Petition at Docket Nos. R-2018-3005792, R-2018-3005793, and R-2019-3014032, submitted by Verizon PA, Verizon North, the Office of Consumer Advocate, and the Office of Small Business Advocate are just, reasonable and in the public interest.

