

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held June 16, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
John F. Coleman, Jr., Vice Chairman
Ralph V. Yanora

Windstream D&E, Inc. 2022 Annual Price Stability Index / Service Price Index Filing and Supplement No. 26 to Tariff Telephone PA P.U.C. No. 18 R-2022-3031747

Windstream D&E, Inc. Amended Alternative Regulation and Network Modernization Plan P-00981430F1000

Office of Small Business Advocate v. Windstream D&E, Inc. C-2022-3032916

ORDER

BY THE COMMISSION:

I. BACKGROUND

Before us for disposition is the Windstream D&E, Inc. (Windstream D&E or Company) annual 2022 Price Stability Index (PSI) / Service Price Index (SPI) Report and accompanying Supplement No. 26 to its Tariff Telephone PA P.U.C. No. 18. The Company's filing was made under the provisions of Act 183 of 2004, P.L. 1398 (66 Pa.C.S. §§ 3011-3019) (Chapter 30) and pursuant to the Company's Amended Alternative Regulation and Network Modernization Plan (Chapter 30 Plan) that this Commission approved at Docket No. P-00981430F1000.¹

As a result of the passage of Act 183 of 2004, companies with Chapter 30 Plans are entitled to significantly lower inflation offset values within their respective price cap formulas in exchange for a commitment to accelerated broadband deployment. Inflation offsets previously ranging from 2% to 2.93% were reduced to either 0% or 0.5%, depending on each company's

¹ *Petition for Amended Alternative Regulation and Network Modernization Plan of Denver and Ephrata Telephone and Telegraph Company*, Docket No. P-00981430F1000 (Order entered June 3, 2005).

Chapter 30 Plan. In the Company's case, the inflation offset was reduced from 2% to 0%. Accordingly, annual Price Stability Plan (PSP or Plan) filings have the potential for substantial revenue and rate impacts on end-user consumers.

Under the Company's PSP, the Price Stability Index (PSI) calculates the allowable change (increase or decrease) in rates for noncompetitive services based, in part, on the Gross Domestic Product Price Index (GDP-PI). The Service Price Index (SPI) tracks the prior changes for noncompetitive services related to the PSI. The PSP also contains special provisions for protected services and addresses revenue neutral rate adjustments to the rates for noncompetitive services. The PSP set forth in the Company's Chapter 30 Plan is a complete substitution of rate base/rate of return regulation. Noncompetitive services are defined as regulated services or business activities that have not been determined or declared to be competitive. Further, the Company's Chapter 30 Plan acknowledges that nothing in its Plan shall be construed to limit the requirement under 66 Pa.C.S. § 1301 that rates shall be just and reasonable.

II. COMPANY'S FILING

Pursuant to the Plan, Advance Notice was issued on April 5, 2022, informing the Commission of the forthcoming filing. On April 28, 2022, Windstream D&E filed an annual PSI/SPI report with proposed revenue rate increases and tariff changes. The effective date of the accompanying tariff supplement and corresponding proposed rate increase is July 1, 2022.

The Company filed its annual PSI/SPI Report using the change in 2020 and 2021 third-quarter GDP-PI, which equates to a 4.6278% increase in the PSI. When applied to the previous PSI of 1.399953, this produces a new PSI of 1.464740. Applying this change to current noncompetitive revenues of \$3,308,893 yields a maximum allowed noncompetitive revenue increase of \$153,129.

In its 2022 filing, the Company is implementing a total of \$35,261 in actual rate increases. The SPI indicates the cumulative price changes from current and prior years and tracks the actual total price changes for noncompetitive services. Applied to its current SPI of 1.096961, the Company's rate changes produce a new SPI of 1.108651.

As noted in more detail in the following table, in its 2022 filing, the Company proposes to increase monthly recurring charges for local residential and business dial tone line rates, pay telephone lines, and specific residential features. The rate increases range from \$0.01 to \$1.00 monthly. The Company's proposed rate increases will be implemented through Supplement No. 26 to Tariff Telephone - PA P.U.C. No. 18, which carries an effective date of July 1, 2022.

Windstream D&E, Inc. 2022 PSI/SPI Filing Summary of Rate Changes			
<u>Service</u>	<u>Current Rate</u>	<u>Proposed Rate</u>	<u>Rate Impact</u>
Pay Telephone- Rate Group 4	\$19.83	\$20.23	\$0.40
Business Line - Rate Group 4	\$24.99	\$25.49	\$0.50
Business Line - Rate Group 6	\$29.30	\$29.89	\$0.59
Residential Line - Rate Group 4	\$19.26	\$19.27	\$0.01
<u>Residential Features</u>	<u>Current Rate</u>	<u>Proposed Rate</u>	<u>Rate Impact</u>
Call Waiting	\$3.50	\$4.50	\$1.00
Call Forwarding	\$2.50	\$3.50	\$1.00
Speed Calling- 8 Station	\$1.50	\$2.50	\$1.00
Three Way Calling	\$2.95	\$3.95	\$1.00
Call Forwarding Busy Line	\$2.50	\$3.50	\$1.00
Call Forwarding Don't Answer	\$2.50	\$3.50	\$1.00
Call Forwarding Remote Activation	\$1.25	\$2.25	\$1.00
Last Number Redial	\$3.50	\$4.50	\$1.00
Talking Return	\$3.75	\$4.75	\$1.00
Call Block	\$3.50	\$4.50	\$1.00
Priority Ringing	\$3.50	\$4.50	\$1.00
Select Accept	\$4.99	\$5.99	\$1.00
Terminating Call Management	\$3.25	\$4.25	\$1.00
Caller ID	\$7.00	\$8.00	\$1.00
Caller ID Deluxe	\$7.50	\$8.50	\$1.00

Consistent with the Commission-approved Protective Order entered June 27, 2008, at P-2008-2041572 and pursuant to 52 Pa. Code § 5.365, the Company has marked specific information in its PSI/SPI Report as proprietary.

The Company served a copy of its PSI/SPI Report on the Office of Small Business Advocate (OSBA), the Office of Consumer Advocate (OCA), and the Bureau of Investigation and Enforcement.

Under Windstream D&E's Chapter 30 Plan, any formal complaints filed against the Company's 2022 PSI filing were due within fifteen (15) days of the filing or on or before May 16, 2022. On June 9, 2022, the OSBA filed a Formal Complaint² against Windstream D&E's 2022 PSI filing. The OSBA contends, *inter alia*, that the materials filed by the Company in support of its proposed rate increases may be insufficient to justify the rate increases requested and that the Company's present and proposed rates, rules, and conditions of service may be unjust, unreasonable, unduly discriminatory, and otherwise contrary to law, particularly as they pertain to small business customers. The OSBA further contends that the proposed rate increases may be unjust, unreasonable, and unlawfully discriminatory in violation of, *inter alia*, Sections 1301 and 1304 of the Public Utility Code, 66 Pa.C.S. §§ 1301 and 1304, contrary to appropriate public policy and sound ratemaking considerations, and in violation of the Company's Chapter 30 Plan. The OSBA request that the Commission suspend and investigate Windstream D&E's 2022 PSI fling and reject any proposed new rates that are not found to be lawful, just, reasonable, and not unduly discriminatory against small business customers.³

II. DISCUSSION

1. Plan Provisions

Part 3.A.8 - 10 of the Company's Chapter 30 Plan states the following regarding its annual PSI/SPI filings:

On or before the anniversary date of the Plan (or the closest Commission working day thereafter) and annually thereafter, the Company shall file with the Commission a PSI and SPI Report. Each such annual filing may be accompanied by tariffs to implement any required or authorized rate changes.... Any and all interventions or complaints shall be due within fifteen (15) days after the report is filed.... A Commission Order must be entered within sixty (60) days of the filing

² *Complaint, Public Statement and Verification on behalf of the Office of Small Business Advocate*, Docket Nos. C-2022-3032916 and R-2022-3031747

³ *Id.*

(or such other time as may be otherwise provided herein), otherwise the tariff(s) shall become effective as filed.... Such rates shall be deemed Commission-made.

Further, part 3.A.7 of the Company's Chapter 30 plan contains the following provision regarding banking:

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 increase previously deferred. The Company may bank increases for a period not to exceed four (4) consecutive years.

2. PSI/SPI Calculations

The annual Windstream D&E PSI/SPI filing submissions under Chapter 30 laws must conform to its Commission-approved Amended Chapter 30 Plan. Our review of the calculations submitted by Windstream D&E indicates that they are procedurally consistent with the terms of the Company's Price Stability Plan formula approved in its Chapter 30 Plan.

3. Banked Revenues

The banking methods the Company uses in its 2022 PSI/SPI Report are also procedurally consistent with its Chapter 30 Plan. The Company will bank the entire \$153,129 available in its current filing for future use.

The Company used \$75,100 of its 2018 PSI/SPI filing banked revenue amount of \$152,239 for its 2021 annual State Tax Adjustment Surcharge (STAS) filing.⁴ The Company is retiring the remaining unused amount of \$77,139 authorized to it under its 2018 PSI/SPI filing in accordance with the banking terms of its Chapter 30 Plan.

Previously, the Company's cumulative banked revenues totaled \$417,815. After the reduction for the 2021 STAS recalculation, the reduction for the retired 2018 banked amount, the reduction for the proposed rate increases, and the addition of the 2022 banked revenue amount, the Company has a cumulative banked revenue amount of \$383,444. We note that in accordance

⁴ See Docket No. R-2021-3028034.

with the Company’s Chapter 30 Plan, deferred increases shall carry no interest. The following table shows the breakdown of the Company’s cumulative bank:

Windstream D&E, Inc. Banking Summary	
Banked annual revenue from 2022 PSI/SPI Report	\$ 153,129
Banked annual revenue from 2021 PSI/SPI Report	\$ 40,639
Banked annual revenue from 2020 PSI/SPI Report	\$ 71,772
Banked annual revenue from 2019 PSI/SPI Report	\$ 117,904
Total	\$ 383,444

IV. CONCLUSION

Our review of the Company’s 2022 PSI/SPI Report indicates the PSI/SPI calculations, the banked revenue calculations, and the proposed rate increases are procedurally consistent with the terms of its Chapter 30 Plan. We shall accept the PSI/SPI Report and permit the requested revenue and individual service rate element increases to go into effect subject to refund pending the results of the OSBA formal complaint adjudication and final adjudication of the outstanding OCA formal complaints pending before our Office of the Administrative Law Judge⁵ and further disposition by the Commission; **THEREFORE,**

IT IS ORDERED:

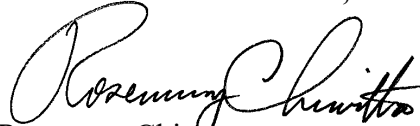
1. That Windstream D&E, Inc.’s 2022 PSI/SPI Report is accepted as being procedurally consistent with its Commission-approved Amended Chapter 30 Plan.
2. That the cases be assigned to the Office of Administrative Law Judge for adjudication of the formal complaint of the Office of Small Business Advocate.
3. That Windstream D&E, Inc.’s Supplement No. 26 to its Tariff – Telephone PA P.U.C. No. 18 be permitted to go into effect on July 1, 2022, and remain in effect during the pendency of the Office of Small Business Advocate formal complaint adjudication and be

⁵ See *Office of Consumer Advocate v. Windstream D&E, Inc.*, Docket Nos. C-2019-3010149 and R-2019-3010100; *Office of Consumer Advocate v. Windstream D&E, Inc.*, Docket Nos. C-2018-3001870 and R-2018-3001133.

subject to refund pending the findings of the Office of Administrative Law Judge and further orders of the Commission as necessary.

4. That a copy of this Order be served on Windstream D&E, Inc., the Office of Consumer Advocate, the Office of Small Business Advocate, the Bureau of Investigation and Enforcement, and the Office of Administrative Law Judge.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 16, 2022

ORDER ENTERED: June 16, 2022