

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held June 16, 2022

Commissioners Present:

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

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| Windstream Pennsylvania, LLC 2022 Annual Price Stability Index / Service Price Index Filing and Supplement No. 86 to Tariff Telephone PA P.U.C. No. 7 | R-2022-3031748 |
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|---|-----------------|
| Windstream Pennsylvania, LLC Amended Alternative Regulation and Network Modernization Plan | P-00981423F1000 |
|---|-----------------|

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| Office of Small Business Advocate v. Windstream Pennsylvania, LLC | C-2022-3032889 |
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ORDER

BY THE COMMISSION:

I. BACKGROUND

Before us for disposition is the Windstream Pennsylvania, LLC (Windstream PA or Company) annual 2022 Price Stability Index (PSI) / Service Price Index (SPI) Report and accompanying Supplement No. 86 to its Tariff Telephone PA P.U.C. No. 7. The Company's annual PSI/SPI Report was filed 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 Number P-00981423F1000.¹

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

¹*Petition for Amended Alternative Regulation and Network Modernization Plan of ALLTEL Pennsylvania, Inc.*, Docket No. P-00981423F1000 (Order entered June 23, 2005).

ranging from 2% to 2.93% were reduced to either 0% or 0.5%, depending on each company's Chapter 30 Plan. In Windstream PA'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 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, 2021, informing the Commission of the forthcoming filing. On April 28, 2022, Windstream PA 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 1.397365, this produces a new PSI of 1.462032. Applying this change to current noncompetitive revenues of \$18,670,366 yields a maximum allowed noncompetitive revenue increase of \$864,027.

In its 2022 filing, the Company proposes to implement a total of \$98,353 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 1.097726, the Company's proposed rate changes produce a new SPI of 1.103509.

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 \$0.25 to \$1.87 monthly. The Company's proposed rate increases will be implemented through Supplement No. 86 to its Tariff Telephone PA P.U.C. No. 7, which carries an effective date of July 1, 2022.

| Windstream Pennsylvania, LLC | | | |
|---|----------------------------|-----------------------------|---------------------------|
| <u>Service</u> | <u>Current Rate</u> | <u>Proposed Rate</u> | <u>Rate Impact</u> |
| Residential Access Line – Bands 1-6 | \$19.11 | \$19.36 | \$0.25 |
| Residential Access Line – Band 7 | \$17.49 | \$19.36 | \$1.87 |
| Residential Access Line – Greensboro, Coalport, Enon Valley | \$19.11 | \$19.36 | \$0.25 |
| Residential Access Line – Sligo | \$19.11 | \$19.36 | \$0.25 |
| Residential Access Line – New Bethlehem | \$19.11 | \$19.36 | \$0.25 |
| Business Access Line – Bands 1 and 2 | \$26.58 | \$27.11 | \$0.53 |
| Business Access Line – Band 3 | \$27.65 | \$28.20 | \$0.55 |
| Business Access Line – Bands 4 and 5 | \$29.77 | \$30.37 | \$0.60 |
| Business Access Line – Band 6 | \$31.90 | \$32.54 | \$0.64 |
| Business Access Line – Greensboro | \$27.65 | \$28.20 | \$0.55 |
| Business Access Line – Coalport | \$29.77 | \$30.37 | \$0.60 |
| Business Access Line – Sligo | \$36.15 | \$36.87 | \$0.72 |
| Business Access Line – New Bethlehem | \$36.15 | \$36.87 | \$0.72 |
| <u>Residential Features</u> | <u>Current Rate</u> | <u>Proposed Rate</u> | <u>Rate Impact</u> |
| Call Waiting | \$5.49 | \$6.49 | \$1.00 |
| Call Forwarding | \$4.99 | \$5.99 | \$1.00 |
| Enhanced Call Waiting | \$5.49 | \$6.49 | \$1.00 |
| Speed Calling- 8 Number | \$3.99 | \$4.99 | \$1.00 |
| Speed Calling- 30 Number | \$4.99 | \$5.99 | \$1.00 |
| Three Way Calling | \$4.99 | \$5.99 | \$1.00 |
| Repeat Call | \$3.99 | \$4.99 | \$1.00 |
| Call Return | \$5.99 | \$6.99 | \$1.00 |
| Call Reject | \$4.99 | \$5.99 | \$1.00 |
| Call Forwarding Busy | \$2.99 | \$3.99 | \$1.00 |
| Call Forwarding No Answer | \$2.99 | \$3.99 | \$1.00 |
| Call Forwarding Busy/No Answer | \$4.49 | \$5.49 | \$1.00 |
| Selective Call Acceptance | \$4.99 | \$5.99 | \$1.00 |
| Remote Call Forwarding | \$26.00 | \$27.00 | \$1.00 |
| Caller ID | \$7.99 | \$8.99 | \$1.00 |
| Caller ID Deluxe | \$8.49 | \$9.49 | \$1.00 |

Consistent with the Commission approved Protective Order entered June 25, 2008, at P-2008-2040472 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 PA'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 PA'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 PA's 2022 PSI filing and reject any proposed new rates that are not found to be lawful, just, reasonable, and not unduly discriminatory against small business customers.³

III. 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

² *Complaint, Public Statement and Verification on behalf of the Office of Small Business Advocate*, Docket Nos. C-2022-3032889 and R-2022-3031748

³ *Id.*

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 (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 approved.

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 PA PSI/SPI Report submissions under Chapter 30 laws must conform to its Commission-approved Amended Chapter 30 Plan. Our review of the calculations submitted by Windstream PA 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 \$864,027 available in its current filing for future use.

Additionally, the Company is retiring the remaining unused banked amount of \$623,565 authorized to it under its 2018 PSI/SPI filing in accordance with the banking terms outlined in its Chapter 30 Plan.

The Company's previous cumulative banked revenues totaled \$1,828,945. After the reduction for the proposed rate increases, the reduction for the retired 2018 banked amount, and the addition of the 2022 banked revenue amount, the Company has a cumulative banked revenue amount of \$1,971,054 to be carried forward. We note that in accordance 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 Pennsylvania, LLC Banking Summary | |
|---|---------------------|
| Banked annual revenue increase from 2022 PSI/SPI Report | \$ 864,027 |
| Banked annual revenue increase from 2021 PSI/SPI Report | \$ 218,918 |
| Banked annual revenue increase from 2020 PSI/SPI Report | \$ 349,228 |
| Banked annual revenue increase from 2019 PSI/SPI Report | \$ 538,881 |
| Total | \$ 1,971,054 |

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 Judge⁴ and further disposition by the Commission; **THEREFORE,**

IT IS ORDERED:

1. That the Windstream Pennsylvania, LLC’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 Pennsylvania, LLC’s Supplement No. 86 to Tariff Telephone PA P.U.C. No. 7 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

⁴ See *Office of Consumer Advocate v. Windstream Pennsylvania, LLC*, Docket Nos. C-2019-3010101 and R-2019-3010152; *Office of Consumer Advocate v. Windstream Pennsylvania, LLC*, Docket Nos. C-2018-3001871 and R-2018-3001150.

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 Pennsylvania, LLC, 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,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 16, 2022

ORDER ENTERED: June 16, 2022