

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**Courtney Matkovich
vs.
Verizon North, LLC**

**Public Meeting August 25, 2022
3022369-OSA
Docket No. C-2020-3022369**

STATEMENT OF CHAIRMAN GLADYS BROWN DUTRIEUILLE

The case before us today concerns the formal Complaint filed on October 13, 2020, alleging that Verizon North, LLC (Respondent) failed to make broadband available under Chapter 30 of the Public Utility Code, 66 Pa.C.S. § 3011 *et seq.* Chapter 30 requires that incumbent local exchange telecommunications companies (ILECs) make broadband available within 10 days of a request at speeds of 1.5 Mbps down and .128 Mbps up (Chapter 30 speeds). 66 Pa.C.S. § 3014(b)(5).

The Complainant, Courtney Matkovich, alleged that the Respondent failed to provide Chapter 30 speed at her residence. The Complainant relied on broadband to facilitate her telework for nine nursing homes and other purposes such tele-education. The Respondent's Answer claimed that the Commission lacks jurisdiction over broadband and that its efforts to address the Complainant's concerns about the availability of broadband at Chapter 30 speeds was reasonable.¹

I agree with the ALJ's determination that the Commission has jurisdiction over the Respondent's legal obligation to make broadband available at Chapter 30 speeds within ten days. The Commission has spent several years now educating the public about that mandate. The Commission has posted a Broadband Bill of Rights available on our website in acknowledgement of the increasing importance of broadband in modern society.

In the instant case, the Respondent's technician was able to demonstrate that the Chapter 30 speeds were available at the Network Interface Device (NID) but not inside the dwelling. I agree with the ALJ that the focus of service for broadband availability under Chapter 30 and Section 1501 of the Code should be whether the service is reasonably continuous so as to be available inside the dwelling as opposed to available at the NID. The Complainant met her burden of proving that service was not available in

¹ The recent *Mozilla Corp. v. FCC*, 940 F.3d 1 (D.C. Cir. 2019) decision in the United States District Court for the District of Columbia remanded a preemption decision of the Federal Communications Commission (FCC), which prohibited any state regulation of intrastate retail broadband internet access service, back to the FCC for more deliberation. That leaves states effectively able to exercise jurisdiction over intrastate broadband.

the premises. The Respondent was not able to rebut that showing with evidence proving that the service was available inside the premises.

I disagree that broadband capacity constraints beyond the remote (which has fiber) out to the network itself are not within the Respondent's control. Capacity constraints must be addressed whenever they interfere with meeting the Chapter 30 speed mandate. It is not confined to the 11,000 feet from this consumer's premises to the remote.

For these reasons, the ALJ's Initial Decision should be sustained.

August 25, 2022
DATE



GLADYS BROWN DUTRIEUILLE
CHAIRMAN