

COMMONWEALTH OF PENNSYLVANIA



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January 9, 2023

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: The North Eastern Pennsylvania Telephone Company et al., PSI/SPI Filing for Year 2018
Docket Nos. R-2018-3001197; R-2018-3001104; R-2018-3001217; R-2018-3001199;
R-2018-3001132; R-2018-3001135; R-2018-3001133; R-2018-3001150; R-2018-3001213;
R-2018-3001201

Office of Consumer Advocate v. The North Eastern Pennsylvania Telephone Company, et al., Docket Nos. C-2018-3001915; C-2018-3001915; C-2018-3001863; C-2018-3001917; C-2018-3001913; C-2018-3001865; C-2018-3001864; C-2018-3001870; C-2018-3001871; C-2018-3001916; C-2018-3001912

The North Eastern Pennsylvania Telephone Company et al., PSI/SPI Filing for Year 2019
Docket Nos. R-2019-3009237; R-2019-3009336; R-2019-3007261; R-2019-3009233;
R-2019-3010106; R-2019-3010097; R-2019-3010100; R-2019-3010101; R-2019-3009230;
R-2019-3009241; R-2019-3007258; R-2019-3007949; R-2019-3007948

Office of Consumer Advocate v. The North Eastern Pennsylvania Telephone Company, et al., Docket Nos. C-2019-3009896; C-2019-3009897; C-2019-3007887; C-2019-3009881; C-2019-3010150; C-2019-3010148; C-2019-3010149; C-2019-3010152; C-2019-3009899; C-2019-3009894; C-2019-3007888; C-2019-3008487; C-2019-3008478

Citizens Telephone Company of Kecksburg et al., PSI/SPI Filing for Year 2020
Docket Nos. R-2020-3016016 and R-2020-3016018

Office of Consumer Advocate v. Citizens Telephone Company of Kecksburg, et al.,
Docket Nos. C-2020-3018508 and C-2020-3018500

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer to the Motion to Consolidate of North Eastern Pennsylvania Telephone Company and Other Rural Local Exchange Carriers in above-referenced proceedings. As required under the Commission's regulations, the Office of Consumer Advocate's Answer is accompanied by a verification in accordance with 52 Pa. Code Section 1.36.

Rosemary Chiavetta, Secretary

January 9, 2023

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Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Barrett C. Sheridan

Barrett C. Sheridan

Assistant Consumer Advocate

PA Attorney I.D. # 61138

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Enclosures:

cc: The Honorable Steven Haas (**email only**)
Office of Special Assistants (**email only**: ra-OSA@pa.gov)
Paul Diskin, TUS (**email only**: pdiskin@pa.gov)
Certificate of Service

*339402

CERTIFICATE OF SERVICE

The North Eastern Pennsylvania Telephone Company PSI/SPI Filing for Year 2018	:	Docket Nos.	R-2018-3001197
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001915
The North Eastern Pennsylvania Telephone Company,	:		
	:		
Consolidated Communications of Pennsylvania, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001104
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001863
Consolidated Communications of Pennsylvania Inc.	:		
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Hickory Telephone Company PSI/SPI Filing for Year 2018	:		R-2018-3001217
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Office of Consumer Advocate	:		
v.	:		C-2018-3001917
Hickory Telephone Company Respondent	:		
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Lackawaxen Telecommunications Services, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001199
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Office of Consumer Advocate	:		
v.	:		C-2018-3001913
Lackawaxen Telecommunications Services, Inc.	:		
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Windstream Buffalo Valley, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001132
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Office of Consumer Advocate	:		
v.	:		C-2018-3001865
Windstream Buffalo Valley, Inc.	:		
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Windstream Conestoga, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001135
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Office of Consumer Advocate	:		
v.	:		C-2018-3001864
Windstream Conestoga, Inc.	:		
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Windstream D&E, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001133
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Office of Consumer Advocate	:		
v.	:		C-2018-3001870
Windstream D&E, Inc.	:		
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Windstream Pennsylvania, LLC PSI/SPI Filing for Year 2018	:	R-2018-3001150
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Office of Consumer Advocate	:	
v.	:	C-2018-3001871
Windstream Pennsylvania, LLC	:	
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Bentleyville Communications Corporation PSI/SPI Filing for Year 2018	:	R-2018-3001213
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Office of Consumer Advocate	:	
v.	:	C-2018-3001916
Bentleyville Communications Corporation	:	
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Marianna & Scenery Hill Telephone Company PSI/SPI Filing for Year 2018	:	R-2018-3001201
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Office of Consumer Advocate	:	
v.	:	C-2018-3001912
Marianna & Scenery Hill Telephone Company	:	
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The North Eastern Pennsylvania Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3009237
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Office of Consumer Advocate	:	
v.	:	C-2019-3009896
The North Eastern Pennsylvania Telephone Company,	:	
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Consolidated Communications of Pennsylvania, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3009336
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Office of Consumer Advocate	:	
v.	:	C-2019-3009897
Consolidated Communications of Pennsylvania, Inc.	:	
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Ironton Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3007261
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Office of Consumer Advocate	:	
v.	:	C-2019-3007887
Ironton Telephone Company	:	
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Lackawaxen Telecommunications Services, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3009233
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Office of Consumer Advocate	:	
v.	:	C-2019-3009881
Lackawaxen Telecommunications Services, Inc.	:	
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Windstream Buffalo Valley, Inc. PSI/SPI Filing	:	R-2019-3010106

for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3010150
Windstream Buffalo Valley, Inc.	:	
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Windstream Conestoga, Inc. PSI/SPI Filing	:	R-2019-3010097
for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3010148
Windstream Conestoga, Inc.	:	
Windstream D&E, Inc. PSI/SPI Filing	:	R-2019-3010100
for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3010149
Windstream D&E, Inc.	:	
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Windstream Pennsylvania, LLC PSI/SPI Filing	:	R-2019-3010101
for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3010152
Windstream Pennsylvania, LLC	:	
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Bentleyville Communications Corporation	:	R-2019-3009230
PSI/SPI Filing for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3009899
Bentleyville Communications Corporation	:	
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Marianna & Scenery Hill Telephone Company	:	R-2019-3009241
PSI/SPI Filing for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3009894
Marianna & Scenery Hill Telephone Company	:	
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Citizens Telephone Company of Kecksburg	:	R-2019-3007258
PSI/SPI Filing for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3007888
Citizens Telephone Company of Kecksburg	:	
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TDS Telecom/Mahanoy & Mahantango	:	R-2019-3007949
Telephone Company PSI/SPI Filing for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	C-2019-3008487
TDS Telecom/Mahanoy & Mahantango	:	

Telephone Company	:	
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TDS Telecom/Sugar Valley Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3007948
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Office of Consumer Advocate	:	
v.	:	C-2019-3008478
TDS Telecom/Sugar Valley Telephone Company	:	
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Citizens Telephone Company of Kecksburg PSI/SPI Filing for Year 2020	:	R-2020-3016016
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Office of Consumer Advocate	:	
v.	:	C-2020-3018508
Citizens Telephone Company of Kecksburg	:	
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Ironton Telephone Company PSI/SPI Filing for Year 2020	:	R-2020-3016018
	:	
Office of Consumer Advocate	:	
v.	:	C-2020-3018500
Ironton Telephone Company	:	

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Answer to the Motion to Consolidate of North Eastern Pennsylvania Telephone Company and Other Rural Local Exchange Carriers, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 9th day of January 2023.

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Dated: January 9, 2023
*339407

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The North Eastern Pennsylvania Telephone Company PSI/SPI Filing for Year 2018	:	Docket Nos.	R-2018-3001197
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001915
The North Eastern Pennsylvania Telephone Company,	:		
	:		
Consolidated Communications of Pennsylvania, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001104
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001863
Consolidated Communications of Pennsylvania Inc.	:		
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Hickory Telephone Company PSI/SPI Filing for Year 2018	:		R-2018-3001217
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Office of Consumer Advocate	:		
v.	:		C-2018-3001917
Hickory Telephone Company Respondent	:		
	:		
Lackawaxen Telecommunications Services, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001199
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Office of Consumer Advocate	:		
v.	:		C-2018-3001913
Lackawaxen Telecommunications Services, Inc.	:		
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Windstream Buffalo Valley, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001132
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Office of Consumer Advocate	:		
v.	:		C-2018-3001865
Windstream Buffalo Valley, Inc.	:		
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Windstream Conestoga, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001135
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001864
Windstream Conestoga, Inc.	:		

Windstream D&E, Inc. PSI/SPI Filing for Year 2018	:	R-2018-3001133
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Office of Consumer Advocate	:	
v.	:	C-2018-3001870
Windstream D&E, Inc.	:	
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Windstream Pennsylvania, LLC PSI/SPI Filing for Year 2018	:	R-2018-3001150
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Office of Consumer Advocate	:	
v.	:	C-2018-3001871
Windstream Pennsylvania, LLC	:	
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Bentleyville Communications Corporation PSI/SPI Filing for Year 2018	:	R-2018-3001213
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Office of Consumer Advocate	:	
v.	:	C-2018-3001916
Bentleyville Communications Corporation	:	
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Marianna & Scenery Hill Telephone Company PSI/SPI Filing for Year 2018	:	R-2018-3001201
	:	
Office of Consumer Advocate	:	
v.	:	C-2018-3001912
Marianna & Scenery Hill Telephone Company	:	
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The North Eastern Pennsylvania Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3009237
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Office of Consumer Advocate	:	
v.	:	C-2019-3009896
The North Eastern Pennsylvania Telephone Company,	:	
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Consolidated Communications of Pennsylvania, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3009336
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Office of Consumer Advocate	:	
v.	:	C-2019-3009897
Consolidated Communications of Pennsylvania, Inc.	:	
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Ironton Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3007261
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Office of Consumer Advocate	:	
v.	:	C-2019-3007887
Irononton Telephone Company	:	
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Lackawaxen Telecommunications Services, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3009233
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Office of Consumer Advocate	:	
v.	:	C-2019-3009881
Lackawaxen Telecommunications Services, Inc.	:	
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Windstream Buffalo Valley, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3010106
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Office of Consumer Advocate	:	
v.	:	C-2019-3010150
Windstream Buffalo Valley, Inc.	:	
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Windstream Conestoga, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3010097
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Office of Consumer Advocate	:	
v.	:	C-2019-3010148
Windstream Conestoga, Inc.	:	
Windstream D&E, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3010100
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Office of Consumer Advocate	:	
v.	:	C-2019-3010149
Windstream D&E, Inc.	:	
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Windstream Pennsylvania, LLC PSI/SPI Filing for Year 2019	:	R-2019-3010101
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Office of Consumer Advocate	:	
v.	:	C-2019-3010152
Windstream Pennsylvania, LLC	:	
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Bentleyville Communications Corporation PSI/SPI Filing for Year 2019	:	R-2019-3009230
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Office of Consumer Advocate	:	
v.	:	C-2019-3009899
Bentleyville Communications Corporation	:	
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Marianna & Scenery Hill Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3009241

Office of Consumer Advocate	:	
v.	:	
Marianna & Scenery Hill Telephone Company	:	C-2019-3009894
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Citizens Telephone Company of Kecksburg	:	R-2019-3007258
PSI/SPI Filing for Year 2019	:	
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Office of Consumer Advocate	:	
v.	:	
Citizens Telephone Company of Kecksburg	:	C-2019-3007888
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TDS Telecom/Mahanoy & Mahantango	:	
Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3007949
	:	
Office of Consumer Advocate	:	
v.	:	
TDS Telecom/Mahanoy & Mahantango	:	
Telephone Company	:	C-2019-3008487
	:	
TDS Telecom/Sugar Valley Telephone	:	
Company PSI/SPI Filing for Year 2019	:	R-2019-3007948
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Office of Consumer Advocate	:	
v.	:	
TDS Telecom/Sugar Valley Telephone Company	:	C-2019-3008478
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Citizens Telephone Company of Kecksburg	:	
PSI/SPI Filing for Year 2020	:	R-2020-3016016
	:	
Office of Consumer Advocate	:	
v.	:	
Citizens Telephone Company of Kecksburg	:	C-2020-3018508
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Ironton Telephone Company PSI/SPI Filing	:	
for Year 2020	:	R-2020-3016018
	:	
Office of Consumer Advocate	:	
v.	:	
Ironton Telephone Company	:	C-2020-3018500

ANSWER OF THE
OFFICE OF CONSUMER ADVOCATE
TO THE MOTION TO CONSOLIDATE OF
NORTH EASTERN PENNSYLVANIA TELEPHONE COMPANY AND
OTHER RURAL LOCAL EXCHANGE CARRIERS

I. INTRODUCTION

On October 11, 2022, North Eastern Pennsylvania Telephone Company (NEPTC), Consolidated Communication of Pennsylvania (CCPA), Hickory Telephone Company (HTC), Lackawaxen Telecommunications Services, Inc. (Lackawaxen), Windstream Buffalo Valley, Inc. (Windstream Buffalo Valley), Windstream Conestoga, Inc. (Windstream Conestoga), Windstream D&E, Inc. (Windstream D&E), Windstream Pennsylvania, LLC (Windstream Pennsylvania), Bentleyville Communications Corporation (Bentleyville), Marianna & Scenery Hill Telephone Company (Marianna), Ironton Telephone Company (Ironton), Citizens Telephone Company of Kecksburg (Kecksburg), TDS Telecom/Mahanoy & Mahantango Telephone Company (TDS/M&M), and TDS Telecom/Sugar Valley Telephone Company (TDS/SV) (collective the RLECs) filed a motion requesting consolidation of the formal complaints filed by the Office of Consumer Advocate (OCA) against specific Price Stability Index (PSI) filings made by individual RLECs. *See*, Motion ¶¶ 3, 4. The OCA filed formal complaints against consecutive annual PSI filings made by some RLECs, but not every RLEC. *See*, Motion ¶ 3.

The RLECs request consolidation of all listed OCA Formal Complaints “for purposes of evidentiary hearings and disposition.” Motion, ¶¶ 3, 4. In support, the RLECs point to the question raised by the OCA in each formal complaint related to a possible adjustment in annual PSI calculation to account for savings in tax expense. Motion, ¶¶ 2, 3, 4, 7, 8.

The OCA submits that the RLECs Motion to Consolidate should be denied, as overly broad. The purpose of each OCA formal complaint is to ascertain whether an adjustment to the challenged annual PSI filing is necessary to assure that the rates of that RLEC for protected and other non-competitive services are just and reasonable. Resolution of each OCA formal complaint will depend on facts specific to the RLEC and specific to the time frame of the challenged annual PSI filing. Consolidation of all OCA formal complaints in a single proceeding is not warranted, based upon the Commission's Section 5.81 regulation and other considerations. 52 Pa. Code § 5.81.

However, as discussed below, grant of the OCA's own prayer for relief stated in certain formal complaints filed in 2019 or 2020 would be appropriate. The OCA has requested that OCA formal complaints filed against consecutive annual PSI filings made by a single RLEC be consolidated for litigation and resolution.

The OCA would also agree to the consolidation of the OCA complaints against the affiliated Windstream RLECs, Windstream Buffalo Valley, Windstream Conestoga, Windstream D&E, and Windstream Pennsylvania for one consolidated proceeding. Similarly, the OCA accepts that consolidation of the OCA complaints against CCPA, Bentleyville, and Marianna into one proceeding would be reasonable, as affiliates.

II. ANSWER

a. The Legal Framework for Review of the RLEC Motion

The OCA agrees generally with the legal framework for review of a motion to consolidate, as set forth by the RLECs. See, Motion ¶¶ 5, 6. The Commission's Section 5.81 regulation addresses consolidation and states in relevant part:

§ 5.81. Consolidation

(a) The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

52 Pa. Code § 5.81(a). The clear use of the word “may” signals that the question of consolidation is left to the sound discretion of the Commission or the presiding officer. *See, Pa. P.U.C. v. Community Utilities of Pennsylvania, Inc.*, Docket Nos. R-2021-3025206, C-2021-3025203, Pa. P.U.C. v. Community Utilities of Pennsylvania, Inc. – Wastewater Div., Docket Nos. R-2021-3025207, C-2021-3025260, Order Consolidating Proceedings at 2-3 (June 21, 2021) (CUPA Order).

However, as proponent of a rule or order, the RLECs have the burden of supporting their request that the presiding officer exercise such discretion and order consolidation of the OCA formal complaints against 15 RLECs and certain annual PSI filings. *See*, 66 Pa. C.S. § 332(a). As explained below, the OCA submits that the RLEC Motion does not warrant exercise of that discretion. In balancing the provisions of Section 5.81(a) and other relevant consideration, the RLEC Motion should be denied.

Per the 2021 CUPA Order entered by Administrative Law Judge (ALJ) Dennis J. Buckley, the first criterion is whether the proceedings involve “a common question of law or fact” as set forth in Section 5.81(a). CUPA Order at 3. Based on case law and administrative rulings, the ALJ also evaluated the following questions:

1. Will the presence of additional issues cloud a determination of the common issues?
2. Will consolidation result in reduced costs of litigation and decision-making for the parties and the Commission?
3. Do issues in one proceeding go to the heart of an issue in the other proceeding?
4. Will consolidation unduly protract the hearing, or produce a disorderly and unwieldy record?
5. Will different statutory and legal issues be involved?
6. Does the party with the burden of proof differ in the proceedings?

7. Will consolidation unduly delay the resolution of one of the proceedings?
8. Will supporting data in both proceedings be repetitive?

Id. at 3-4; *accord*, Pa. P.U.C. v. Columbia Gas of Pennsylvania, Inc., Docket Nos. R-2022-3031211, *et al*, Order Denying Motion to Consolidate at 7-8 (May 12, 2022) (Columbia Gas Order). In practice, no single consideration, nor group of these considerations, is dispositive of a consolidation, any more so than the presence of a common question of law or fact. Rather, the evaluation of all of them and a balancing of those favoring and disfavoring consolidation is required. CUPA Order at 4; Columbia Gas Order at 8.

b. The RLECs' Claim of "Common Fact or Law" Is Not Sufficient to Support Consolidation

According to the RLECs, the OCA formal complaints concern the regulation of RLEC's revenues and rates by price cap formula and the event of the change in federal tax law pursuant to the Tax Cuts and Jobs Act (TCJA) in late 2017. *See*, Motion ¶¶ 1, 2, 7. Based upon these high level commonalities among the OCA formal complaints against specific annual PSI filings by 15 individual RLECs, the RLECs suggest that the "common question of law or fact" element of Section 5.81(a) is met.

The OCA does not agree that consolidation is supported by the RLEC motion and appropriate. Each RLEC has the obligation to comply with its own amended Chapter 30 Plan and related Commission orders, specific to that RLEC's annual PSI filing. Each RLEC's Chapter 30 Plan is applied to determine just and reasonable rates and revenues for protected and non-competitive service revenues for customers of the RLEC. Certain values in an annual PSI filing carry forward as the starting point for the RLEC's PSI filing in the following year, such as the "price stability index," the "service price index," and the elements of a bank of deferred revenue increases, if any. *See*, Windstream Pennsylvania, LLC 2018 Annual Price Stability Index/Service

Price Index Filing, Docket Nos. R-2018-3001150, C-2018-3001871, Order at 2-3, 5-7 (Windstream PA 2018 PSI). PSI filings made by different RLECs in the same calendar year may measure the annual change in GDP-PI based upon different periods. *Compare*, Windstream PA 2018 PSI at 2 (Year to year change in 3rd quarter GDP-PI); Marianna & Scenery Hill Telephone Company d/b/a Consolidated Communications/MSH 2018 Annual Price Stability Index/Service Price Index Filing, Docket Nos. R-201830001201, C-2018-3001912, Order at 2-3 (Year to year change in 4th quarter GDP-PI).

Further, the OCA formal complaints are directed at identifying whether an RLEC experienced tax savings as result of the TCJA and whether the contested annual PSI filing by that RLEC should be adjusted, for the benefit of the customers of that RLEC. The Commission has acknowledged this in approving specific contested PSI filings as “procedurally consistent” but contingent on resolution of the related OCA formal complaint. *See*, Windstream Pennsylvania, LLC 2019 Annual Price Stability Index/Service Price Index Filing, Docket Nos. R-2019-3010101, C-2019-3010152, Order at 4, 6 fn. 7, 7, Ordering ¶ 2 (Windstream PA 2019 PSI).

The OCA disagrees with the RLEC position that the OCA Complaints contain common questions of fact and law, sufficient to support consolidation.

c. Other Relevant Considerations Do Not Support Grant of the RLEC Motion

The RLEC position that “consolidation will produce an orderly record” does not account for the challenge of managing a consolidated evidentiary record that protects each RLEC’s own proprietary information. Nor does the RLEC position recognize that one or more employee of each RLEC may be subject to cross-examination as the sponsor of an interrogatory reply. Consolidation would multiply – not simplify – the challenges of maintaining an orderly record.

Additionally, each RLEC has the burden of proving that its contested PSI filing complies with its Chapter 30 Plan, upon consideration of all appropriate facts and inputs. The RLEC Motion

acknowledges that the OCA formal complaints have alleged that the named RLEC should have but did not include a “Z factor” adjustment in the contested PSI filing, to recognize any reduction in federal tax rates and liabilities associated with the implementation of the TCJA. The OCA submits that the named RLEC has the burden of supporting its position that the PSI filing contested by the OCA is fully compliant with the RLEC’s Chapter 30 Plan even without a “Z factor” adjustment. as

Separate proceedings for the OCA complaints against the PSI filings of different RLECs will not involve the repetition of supporting data. As addressed above, resolution of OCA formal complaints against one or more PSI filings by a single RLEC only concern facts specific to that RLEC. The OCA has highlighted how PSI filings by different RLECs contain different values and inputs.

In summary, the OCA disagrees with the RLECs’ position that consolidation of all OCA formal complaints will produce an orderly record and “will reduce costs of litigation....” *See*, Motion, ¶ 7. The RLEC motion is overly broad and should not be granted. However, based upon Section 5.81(a) and the related considerations, consolidation of the OCA formal complaints against the Windstream affiliated RLECs as a single proceeding would be reasonable, as well as consolidation of the OCA formal complaints against affiliates CCPA, Bentleyville, and Marianna in a separate consolidated proceeding.

d. Consolidation of OCA Formal Complaints Filed Against Consecutive Annual PSI Filings by The Same RLEC Is Supported

When the OCA filed a second complaint against an RLECs’ next annual PSI filing, the latter OCA Formal Complaint included a request for consolidation, as part of the prayer for relief. For example, in a footnote in Windstream PA 2019, the Commission took “note that the Office of Consumer Advocate has requested that its 2019 Tax Cuts and Jobs Act complaint be consolidated

with its pending 2018 complaint.” Windstream PA 2019 at 6, fn. 7; *see, also*, Ironton Telephone Company 2020 Annual Price Stability Index/Service Price Index Filing, Docket Nos. R-2020-3016018, C-2020-3016018, Order at 4 (Ironton 2020 PSI).

The OCA submits that consolidation of the OCA complaints which have been filed two consecutive annual PSI filings by the same RLEC to seek resolution of the same question concerning recognition of the impact of the TCJA is appropriate under both Section 5.81(a) and the other body of considerations described in the CUPA Order and Columbia PA Order. The pair of OCA complaints concern common questions of fact and law and would also only involve one party that has the burden of proof. This limited grant of consolidation would promote creation of a unified evidentiary record and simplify the decision-making for the parties and Commission by aligning consecutive questions regarding the RLEC’s compliance with its Chapter 30 Plan and determination of just and reasonable rates and revenues of the RLEC’s protected and non-competitive service customers. The pairs of OCA formal complaints to be consolidated can be identified in the table of dockets presented in the RLEC Motion ¶ 3.

III. CONCLUSION

The Office of Consumer Advocate respectfully requests that the Presiding Administrative Law Judge deny the RLECs' Motion for Consolidation dated October 11, 2022 as overbroad. Instead, the OCA requests that the presiding ALJ grant consolidation of those pairs of OCA complaints filed against certain consecutive annual PSI filings by named RLECs.

Respectfully Submitted,

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Dated: January 9, 2023
*339397

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The North Eastern Pennsylvania Telephone Company PSI/SPI Filing for Year 2018	:	Docket Nos.	R-2018-3001197
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001915
The North Eastern Pennsylvania Telephone Company,	:		
	:		
Consolidated Communications of Pennsylvania, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001104
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001863
Consolidated Communications of Pennsylvania Inc.	:		
	:		
Hickory Telephone Company PSI/SPI Filing for Year 2018	:		R-2018-3001217
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001917
Hickory Telephone Company Respondent	:		
	:		
Lackawaxen Telecommunications Services, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001199
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001913
Lackawaxen Telecommunications Services, Inc.	:		
	:		
Windstream Buffalo Valley, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001132
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001865
Windstream Buffalo Valley, Inc.	:		
	:		
Windstream Conestoga, Inc. PSI/SPI Filing for Year 2018	:		R-2018-3001135
	:		
Office of Consumer Advocate	:		
v.	:		C-2018-3001864
Windstream Conestoga, Inc.	:		

Windstream D&E, Inc. PSI/SPI Filing for Year 2018	:	R-2018-3001133
	:	
Office of Consumer Advocate	:	
v.	:	C-2018-3001870
Windstream D&E, Inc.	:	
	:	
Windstream Pennsylvania, LLC PSI/SPI Filing for Year 2018	:	R-2018-3001150
	:	
Office of Consumer Advocate	:	
v.	:	C-2018-3001871
Windstream Pennsylvania, LLC	:	
	:	
Bentleyville Communications Corporation PSI/SPI Filing for Year 2018	:	R-2018-3001213
	:	
Office of Consumer Advocate	:	
v.	:	C-2018-3001916
Bentleyville Communications Corporation	:	
	:	
Marianna & Scenery Hill Telephone Company PSI/SPI Filing for Year 2018	:	R-2018-3001201
	:	
Office of Consumer Advocate	:	
v.	:	C-2018-3001912
Marianna & Scenery Hill Telephone Company	:	
	:	
The North Eastern Pennsylvania Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3009237
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3009896
The North Eastern Pennsylvania Telephone Company,	:	
	:	
Consolidated Communications of Pennsylvania, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3009336
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3009897
Consolidated Communications of Pennsylvania, Inc.	:	
	:	
Ironton Telephone Company PSI/SPI Filing	:	R-2019-3007261

for Year 2019	:	
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3007887
Ironton Telephone Company	:	
	:	
Lackawaxen Telecommunications Services, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3009233
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3009881
Lackawaxen Telecommunications Services, Inc.	:	
	:	
Windstream Buffalo Valley, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3010106
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3010150
Windstream Buffalo Valley, Inc.	:	
	:	
Windstream Conestoga, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3010097
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3010148
Windstream Conestoga, Inc. Windstream D&E, Inc. PSI/SPI Filing for Year 2019	:	R-2019-3010100
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3010149
Windstream D&E, Inc.	:	
	:	
Windstream Pennsylvania, LLC PSI/SPI Filing for Year 2019	:	R-2019-3010101
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3010152
Windstream Pennsylvania, LLC	:	
	:	
Bentleyville Communications Corporation PSI/SPI Filing for Year 2019	:	R-2019-3009230
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3009899

Bentleyville Communications Corporation	:	
	:	
Marianna & Scenery Hill Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3009241
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3009894
Marianna & Scenery Hill Telephone Company	:	
	:	
Citizens Telephone Company of Kecksburg PSI/SPI Filing for Year 2019	:	R-2019-3007258
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3007888
Citizens Telephone Company of Kecksburg	:	
	:	
TDS Telecom/Mahanoy & Mahantango Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3007949
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3008487
TDS Telecom/Mahanoy & Mahantango Telephone Company	:	
	:	
TDS Telecom/Sugar Valley Telephone Company PSI/SPI Filing for Year 2019	:	R-2019-3007948
	:	
Office of Consumer Advocate	:	
v.	:	C-2019-3008478
TDS Telecom/Sugar Valley Telephone Company	:	
	:	
Citizens Telephone Company of Kecksburg PSI/SPI Filing for Year 2020	:	R-2020-3016016
	:	
Office of Consumer Advocate	:	
v.	:	C-2020-3018508
Citizens Telephone Company of Kecksburg	:	
	:	
Ironton Telephone Company PSI/SPI Filing for Year 2020	:	R-2020-3016018
	:	
Office of Consumer Advocate	:	
v.	:	C-2020-3018500
Ironton Telephone Company	:	

VERIFICATION

I, Patrick M. Cicero, hereby state that the facts set forth in the Office of Consumer Advocate's Answer to the Motion to Consolidate of North Eastern Pennsylvania Telephone Company and Other Rural Local Exchange Carriers, 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).

DATED: January 9, 2023
*339377

Signature:  _____
Patrick M. Cicero
Consumer Advocate

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