

# Pennsylvania Telephone Association

*"The Communications  
Leader in Pennsylvania"*

**Steven J. Samara**  
President

VIA ELECTRONIC FILING

March 11, 2024

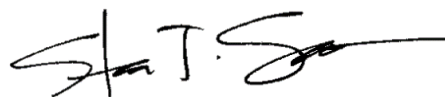
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Re: Rulemaking to Amend 52 Pa. Code §§ 63.161— 63.171 (relating to Universal Service); Advanced Notice of Proposed Rulemaking to Amend 52 Pa. Code §§ 63.161—63.171 (relating to Universal Service); L-2023-3040646, Petition of the Pennsylvania Telephone Association for Order to Expand the Base of Contributing Carriers to the Pennsylvania Universal Service Fund to Include Wireless Carriers and VoIP Providers; P-2010-2217748 Advance Notice of Proposed Rulemaking.

Dear Secretary Chiavetta:

Attached please find the Pennsylvania Telephone Association's (PTA) Reply Comments regarding the Commission's Advance Notice of Proposed Rulemaking in the above captioned matter. Please do not hesitate to contact me with questions.

Sincerely,



Steven J. Samara  
President

cc: Colin W. Scott, Esq.  
Christopher F. Van de Verg, Esq.  
Spencer Nahf  
Karen Thorne, RRA

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Amend 52 Pa. Code §§ 63.161- 63.171 (relating to Universal Service)	:	L-2023-3040646
Petition of the Pennsylvania Telephone Association for Order to Expand the Base of Contributing Carriers to the Pennsylvania Universal Service Fund to Include Wireless Carriers and VoIP Providers	:	P-2010-2217748

**REPLY COMMENTS OF THE  
PENNSYLVANIA TELEPHONE ASSOCIATION**

**INTRODUCTION**

The Pennsylvania Telephone Association (“PTA” or “Association”) submits these reply comments on behalf of Pennsylvania’s rural local exchange carriers (“RLECs”) in this Advanced Notice of Proposed Rulemaking (“ANOPR”) docket initiated by the Pennsylvania Public Utility Commission (“Commission” or “PA PUC”) on September 20, 2023 addressing the Pennsylvania Universal Service Fund (“USF” or “Fund”).

The PTA finds itself in agreement with many of the points articulated by the other commenters:

- As recommended by BCAP and the OCA, this proceeding is properly suspended until federal financial efforts (BEAD, RDOF and BIP) to deploy broadband have their expected dramatic impact on the availability of telecommunications services.
- Local rates will be adversely impacted if the Fund is altered, as recognized by the OCA.
- As recognized by Verizon and other parties, the heavy regulatory scheme of this Commission and the traditional COLR obligation must be reformed consistent with Chapter 30. The PTA urges that this occur first before any consideration is given to altering the current USF.

For reasons also expressed herein, the PTA opposes discontinuation of the fund, the imposition of a profitability exercise to determine eligibility and the “repurposing” of the fund to focus on low-income customers.

## **SUSPENSION OF PROCEEDING**

The Broadband Communications Association of Pennsylvania (“BCAP”), an organization of predominantly cable companies, recognizes that the aggressive funding of broadband deployment and various other federal efforts will positively and dramatically affect the universal availability of broadband enabled service, and ultimately change the telecommunications landscape.

BCAP, whose members contribute to the PA USF, urge the Commission to await the outcome of the various multi-billion dollar funding programs targeting households in rural Pennsylvania, such as:

- Rural Digital Opportunity Fund (“RDOF”) -- \$368 million.
- Broadband Infrastructure Program (“BIP”) -- \$200 million.
- Broadband Equity, Access, and Deployment (“BEAD”) -- \$1.16 billion.

As BCAP notes, with the matching funds factored in “the total ongoing investment in rural broadband is significantly higher than the nearly \$2 billion in support programs identified above.” BCAP at 3.

It notes that these changes are a work in progress and accurately states that: “The extent and direction of these changes and future needs cannot be accurately measured now....” BCAP at 3. But does project that “[o]nce fully implemented, the various programs may obviate the need for continuing the PA USF, or reshape the telecommunications landscape to such an extent that it would require a wholesale reframing of the questions posited in the ANOPR.” BCAP at 2.

The Office of Consumer Advocate (“OCA”) similarly urges that the Fund continue for now. “The OCA’s primary recommendation is that the Pa USF continue to provide support for the current rural local exchange carrier (RLEC) recipients to help assure the affordability of local exchange services provided to residential consumers in their rural service areas.” OCA at 3.

Even Verizon,<sup>1</sup> an overall opponent of the Fund, acknowledges that these changing federal and state efforts have the potential to shift the goal posts:

The Federal Communications Commission (“FCC”) and Congress are actively reviewing these universal service programs in light of BEAD and other infrastructure investment and this Commission should monitor those proceedings and participate as needed to maximize Pennsylvania’s receipts from the federal programs.

Verizon at 3.

The PTA agrees with these sentiments. The multi-billion dollar (PA only) BEAD, RDOF and BIP programs are funding an unprecedented build out of the telecommunications network which will inalterably and permanently change the landscape for all consumers. The Commission should pause and assess the landscape after the federally-aided deployment occurs prior to investigating any changes to the Fund.

## **THE NEED FOR REGULATORY REFORM BEFORE CHANGING THE FUND**

As stated in the PTA Comments, regulatory change is a threshold issue that must be reformed first, before the PA USF is modified. Regulatory reform to reduce or remove requirements including the Commission’s onerous and heavy-handed regulations and the concept

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<sup>1</sup> Verizon Pennsylvania LLC, Verizon North LLC, Verizon Long Distance LLC, MCImetro Access Transmission Services LLC, MCI Communications Services LLC, Verizon Select Services Inc., and XO Communications Services, LLC (“Verizon”). Verizon at 1.

of maintaining the RLECs' Carrier of Last Resort ("COLR") obligation in a competitive market, is critical before the Fund is addressed, as set forth in the PTA Comments. PTA at 4.

Although Verizon continues to oppose the Fund, it acknowledges the direct linkage between competition, regulatory reform, COLR and the USF and proposes dramatic changes be undertaken:

- "First, the Commission should update alternative regulation plans to eliminate any ongoing obligation for the ILECs to maintain facilities in place or to deploy to the ILECs' retail voice customers a Chapter 30 "broadband" service (1.544 Mbps down and 28 Kbps up) in any location where a faster broadband service is available from any other wireline or wireless provider." Verizon at 14.
- "Second, the Commission should classify all incumbent ILEC retail services as "competitive" under Chapter 30 in any location where service is available from another provider of wireline or wireless service as demonstrated by the FCC's Broadband Map." Verizon at 14.
- "Third, the Commission should clarify in a declaratory order that an ILEC is not required to make line extensions to enable it to provide voice services where it does not have existing network facilities and where service is available from another provider of wireline or wireless service." Verizon at 15.

The PTA fully supports these much needed changes.

The PTA urges that such regulatory reform occur before any Fund changes. Verizon's Comments are not clear on the timing, appearing mostly to want the Fund discontinued now. However, Verizon's Comments also acknowledge that these regulatory reforms should be a part of any change to the USF. Verizon at 15 ("After it rescinds its regulations and eliminates the current revenue replacement USF fund...").

AT&T<sup>2</sup> also describes COLR as a "vestige of the past" and an obligation that is no longer necessary. "Indeed, a number of states have eliminated COLR requirements without adversely impacting consumers and businesses. COLR requirements are a vestige of a pre-competitive

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<sup>2</sup> AT&T Corp., Teleport Communications America, LLC and SBC Long Distance, LLC ("AT&T").

market regulatory scheme which have no place, and should play no role, in the current highly competitive marketplace. AT&T at 4.

BCAP, consistent with its primary position that changes to the Fund be delayed while the broadband funding programs take effect, asserts that broadband deployment is in the process of making traditional voice COLR obsolete. “In locations where robust broadband is available, voice and wireless services offerings from a number of providers, using a variety of technologies, make both traditional COLR and POLR obligations, and the support for those obligations, unnecessary.” BCAP at 5.

It is for these reasons that the PTA’s “Transitioned Carrier” concept has such merit and should be adopted by the Commission. PTA at 14-15. The Commission has the authority to eliminate COLR in a competitive market. Were the Commission to make a Chapter 30 competitive service designation actually achievable (PTA at 3) the RLECs could evaluate moving away from USF support.

## **STATE OF COMPETITION**

All parties appear to universally agree that the telecommunications marketplace is highly competitive, with a multitude of carriers ready and willing to provide service.

But this is not to say that the services of these carriers are ubiquitous. It may well be that, at some point, BEAD, RDOF and other funding will successfully achieve 100% availability of internet services, but that has not yet occurred. Spotty cell service and the unavailability of interconnected VoIP service still occurs in the rural portions of Pennsylvania. This is especially the case for the areas that PTA members serve.

Moreover, these competitive providers' networks are dependent upon the RLECs' existing network to reach these areas. For example, the RLECs provide wireless back haul service to wireless companies as a carrier's carrier. They offer wholesale services to the competitive local exchange carriers ("CLECs"). Without the RLECs network many of these competitive providers would not exist or would indeed have much smaller footprints.

### **THE USF PROVIDES SUPPORT FOR LOCAL RATES**

As shown in the PTA's comments and discussed more fully in this reply, USF receipts support the RLECs' provisioning of regulated local telephone service and the loss of that revenue would have significant impact on local rates – an average impact of almost \$9.00 per customer per month. PTA at 4-5.

The OCA agrees and takes this position:

The OCA is not aware of any factual record at present that the individual RLEC recipients would be able to continue to provide reasonable and adequate service, without significant rate increases for protected and other local exchange services, if current Pa USF support should end. Thus, the need for continued state Pa USF support remains. OCA at 3.

No other party addressed this critical and financially significant local rate impact on the households of Pennsylvania were the PA USF to be discontinued, as others have advocated.

### **THE "LARGE COMPANY" ISSUE IS MISPLACED**

Verizon raises the argument that the size of the RLECs' overall affiliated corporate structure should affect whether they continue to receive USF funding.

... it is a misconception to assume that the bulk of this money is going to "mom and pop" telephone companies.... Over 80% of the fund payments go to companies affiliated with large and sophisticated telecommunications conglomerates, mostly owned by private equity funds, including foreign interests.

Verizon at 5-6. The Commission is well aware, and was at the time the Fund was established, that RLECs have varying degrees of affiliation with other entities.

This issue is not relevant to whether fund support is needed to continue the delivery of COLR voice service. Corporate size does not change the fact that the average customer density of the PTA companies is approximately 15 lines per square mile. PTA at 7. Regardless of overall corporate affiliations and parent company size, the economics of serving a rural area remain the same. PTA at 6-7. Each RLEC is an individual company faced with the challenges of serving a rural area. The fact that the RLEC may be part of a larger organization does not affect the cost of serving rural areas.

It is doubtful that Verizon is postulating that Verizon Wireless should pay costs associated with Verizon PA or Verizon North ILEC services. Obviously, Verizon would not agree with that proposition and it is not a serious proposal.

The need and ability to subsidize should come from within the structure of the providing ILEC. Verizon's ILEC advantage is that it serves **all of the urban areas of PA** and has a greater concentration of business customers. This permits Verizon to average its high cost and low-cost areas to produce a lower average rate. The RLECs serve areas that are **entirely rural** with very few business customers and no ability to average down. The costs per customer are higher and there is no internal source of funds.

## **LEGAL AUTHORITY FOR A FUND**

Verizon opposes expanding the contribution base, arguing that the Commission's authority is limited, because only the Pennsylvania General Assembly can create a universal service fund. Verizon at 22. There are several problems here.



First, the Commission’s authority to enact and maintain the PA USF properly relies upon federal law, which does not preclude the Commission from acting. Verizon argues that “[t]he term “State” in Section 254(f) refers to the Pennsylvania legislature” and “any authority this Commission could have to adopt regulations to fund such a program must be provided to it by the legislature.”. Verizon at 22.

Actually, 47 U.S.C. §153(47) merely defines the term “State” to “include the District of Columbia and the Territories and possessions.” It does not restrict the definition to only include action taken by the legislature or preclude other agencies of the state from acting. As noted next, this interpretation has been previously rejected by the Commission and appellate courts.

Second, the Commission’s authority is well grounded in state statute and Chapter 30. As the Commission stated twenty-five years ago in the Global Order:

At the outset, we categorically reject the notion that the Commission lacks the statutory authority to establish a Universal Service Fund to ensure the availability of basic telecommunications services to all Pennsylvania citizens. Even before the enactment of Chapter 30, this Commission recognized that its broad powers to regulate public utilities on a statewide basis provided support for the establishment of a universal service fund. Rulemaking to Establish a Universal Service Funding Mechanism, Docket No. L-00950115 (June 21, 1996).

With the subsequent enactment of Chapter 30, the Commission now has explicit regulatory authority to take appropriate actions to maintain universal service at affordable rates. In particular, we note the legislative objective of “maintaining universal service at affordable rates statewide, the requirement that telecommunications customers pay only “reasonable charges” for local service, and that the Commission may “establish such additional requirements and regulations as it determines to be necessary and proper to ensure the protection of consumers.” 66 Pa. C.S. §§3001(1), 3001(2), 3009(b)(3). Indeed, we view the establishment of a Universal Service Fund as an essential element of the series of rate level and rate structure changes embodied in this opinion and order.<sup>3</sup>

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<sup>3</sup> *Joint Petition of Nextlink Pennsylvania, Inc. et al for Adoption of Partial Settlement Resolving Pending Telecommunications Issues*, Docket No. P-00991648, Opinion and Order entered September 30, 1999 (“Global Order”) at 142.

These views were confirmed on appeal of the Global Order. As the Commonwealth Court stated:

To Bell's view that the term "State" in TA 96 refers only to state legislative action, not to state regulatory commission actions, the PUC cites the comprehensive grant of general powers to the commission in 66 Pa.C.S.A. § 501 as constituting an effective legislative delegation of the requisite powers to the PUC.

The conclusion here must be that the **state and federal statutes do confer** upon the PUC the power to establish a Universal Service Fund, as Bell and other 1649 Petition signers requested the PUC to do.<sup>4</sup>

Third, the reenactment of Chapter 30 in 2004 did not change any of the relevant statutory provisions that were relied upon in the Global Order. Verizon suggests that the old section of Chapter, 66 Pa.C.S. 3009(b)(3) was discontinued. Verizon at 25 (citing 66 Pa. C.S. § 3009(b)(3) (expired)). This is untrue. The *exact same* language was recodified verbatim at § 3019(b)(3) of the reenacted Chapter 30 statute.<sup>5</sup>

Verizon's real point here appears to be that, because the Commission has no jurisdiction over interconnected VoIP or wireless carriers, they cannot be required to be contributors. Verizon at 22-24. As noted in its Comments, the PTA takes no position on the expansion of the Fund to require wireless carriers to pay into the Fund, which they do not do currently. PTA at 17.

However, collection from interconnected VoIP carriers **is** permitted and interconnected VoIP carriers do currently pay, albeit on a non-uniform base. The cable companies' trade association, BCAP, does not object to this obligation. The PTA's sole point is that:

The Commission should consistently apply the requirement to contribute to the universal service fund to all interconnected VoIP providers, not just those that obtained a certificate to provide ... telecommunications services within the state.

PTA at 16.

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<sup>4</sup> *Bell Atlantic-Pa v. Public Utility*, 763 A.2d 440, 497 (Pa. Cmmw. Ct. 2000) (Emphasis added).

<sup>5</sup> 66 Pa.C.S. § 3019(b)(3) Additional powers and duties. ("... to establish such additional requirements as are consistent with this chapter as the commission determines to be necessary to ensure the protection of customers.").

It is factually inaccurate to argue that the continued collection from VoIP carriers by the Commission would “create” a new fee. Verizon at 24. The Commission’s regulations enacted in 2001 include interconnected VoIP<sup>6</sup> contribution and need not be revised to continue to do so. As recognized by Verizon, the FCC has approved of the practice.<sup>7</sup> Verizon at 23. The subsequently enacted “VoIP Freedom Act” (2008) expressly preserves the interconnected VoIP contribution.<sup>8</sup>

### **THE IMPOSITION OF A RLEC PROFITABILITY TEST**

The PTA opposes the imposition of a profitability (“needs”) test because of the complexity and controversies that such an exercise would entail. “Needs tests are difficult to design and implement.” PTA at 22.

The imposition of a needs test would be inconsistent with the price cap form of rate regulation that is included in Chapter 30 and adopted by the majority of Pennsylvania RLECs. PTA at 14. Price cap companies “eschewed the safety net provided by rate of return regulation in exchange for annual, formulaic revenue change opportunities that tied their economic needs to the performance of the gross domestic product price index.” PTA at 14.

There are no earning tests administered by the FCC upon the Pennsylvania RLECs. The FCC makes no determination of financial performance for either rate setting or administration of the federal USF.

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<sup>6</sup> 52 Pa. Code § 63.162. Definitions. (“Contributing telecommunications providers—Telecommunications carriers that provide intraState telecommunications services” and “Local service provider—A telecommunications company to which retail customers subscribe for basic universal service.”).

<sup>7</sup> *In re Universal Service Contribution Methodology*, 25 FCC Rcd 15651, 15658 (November 5, 2010).

<sup>8</sup> 73 P.S. § 2251.6(1)(iii) (“Nothing in this act shall be construed to modify any of the following: ... Universal service fund fees.”)

Nevertheless, two parties, AT&T and the OSBA support the idea that a profitability test should be administered before an RLEC is entitled to draw from the Fund. There are two ways to go about measuring profitability -- a test focused on separating the RLEC's local exchange operations from its other services to remove all non-local service costs or one that includes the revenues from all uses of the network, internet access, television, middle mile transport, to determine overall profitability, including unregulated and interstate sources.

Rather than offer a needs test based upon the RLECs' operation as a local exchange carrier, both the OSBA and AT&T urge that the calculation should be based upon consideration of "all revenues [the RLECs] derive from their network operations, whether derived by affiliates and irrespective of how those revenues are jurisdictionally classified." AT&T at 5; See also, OSBA at 11. The enactment of a total operations needs test to determine eligibility for Fund receipt would be fraught with controversy, counterproductive and difficult to administer.

This seeming simple approach actually raises complex questions, including the Commission's lack of authority to reach into affiliated revenues and the complexity of determining a proper ROR for unregulated operations. Proceedings to determine such a calculation would likely include all of the traditional rate of return rate case points of contention, but the potential addition of nonregulated operations would complicate this analysis significantly. Will video providers deduct their programming costs from video revenue? Would middle mile connections to the internet be deducted from broadband revenue? Is there a rate of return to be earned on nonregulated investments of affiliates? How would any inclusion of nonregulated affiliate operations be consistent with the Commission's role in regulating the telephone industry?

AT&T does not reveal the basis for its recommendation or explore how the all-operations including non-jurisdictional test would operate. The OSBA supports this method because “we do not favor any profitability determination based on jurisdictional cost allocations.” OSBA at 9. OSBA expresses concerns about misallocation of costs under traditional federal rules, opining that these rules are “... nothing more than regulatory fictions” OSBA at 11.

Regardless of this opinion, the reality remains that these are rules established by the FCC. While no Pennsylvania RLEC is a “cost company” required to follow these rules, due to their participation in non-cost forms of regulation such as an “average schedule” company or the Alternative Connect America Cost Model (“ACAM”) program, these are the rules that would be followed if they were rate of return regulated as AT&T and the OSBA propose.

It is worth exploring these cost allocation rules so the Commission can understand that accepting the OSBA and AT&T proposals to include revenues generated by nonregulated offerings by the RLEC would be a violation of these federal rules.

The allocation which is concerning for OSBA is the third in a four-step process to develop regulated cost of service. The first step is to summarize the accounting data of the RLEC under the direction of Part 32 of the FCC’s rules. Once completed, the next step is to remove **any and all** nonregulated expenses and investment under Part 64. Part 36 of the FCC’s rules is where separations factors are used to allocate expenses and investment into the intrastate (PUC) and interstate (FCC) jurisdictions. Following this step, Part 69 of the FCC’s rules allocates the calculated remaining revenue requirement between end user customers and interexchange carriers.

Any needs test that includes nonregulated revenues from the RLEC or any RLEC affiliate eviscerates the longstanding cost allocation rules. Part 32 uses the RLEC incurred expenses and

investment as a starting point. While Part 64 requires RLECs to exclude any nonregulated expense and investment it incurs, the OSBA/AT&T needs test would include these revenues and any revenues earned from the use of the RLEC network by its affiliates. If revenue from nonregulated offerings of affiliates were to be included in a needs test, the expenses associated with those services would also have to be included. To do otherwise would be to claim that services like internet and video have a 100% profit margin.

This takes us to the implications of the preparation of any needs test and the burden created by those which undertake the cost separation process. The companies that prepare these studies are generally referred to as Cost Companies. Preparing these studies is expensive and time consuming, so much so that many of the RLECs participate in federal Average Schedule Settlements. These Average Schedule Settlements provide companies with interstate regulated phone revenues which are calculated by using nationwide average formulas for similarly sized companies. If a needs test were based on cost separation rules, many of the RLECs will be required, for the first time, to prepare jurisdictional cost allocation studies. They will incur a significant expense just to maintain their current support from the state USF.

RLECs that are not price cap regulated by the Commission operate under a streamlined rate of return process which recognizes the difference between Cost and Average Schedule companies. Average Schedule participants seeking intrastate rate of return based rate increases use total company **regulated** rate of return to determine their allowable increase. Cost Companies calculate their allowable increase based on their **regulated** intrastate rate of return. Nowhere in the Chapter 30 ratemaking process are revenues from nonregulated services included in any test of earnings, nor anywhere in the ratemaking process.

The separations freeze is set to expire<sup>9</sup> on December 31st of this year so the FCC will again have an opportunity to determine whether this matter is of significant importance. Having established the separations freeze in 2001, the FCC completed several rulemaking proceedings to freeze the separations rules to stabilize and simplify the separations process pending reform most recently in 2018. It is important to note that time period included significant universal service reform, yet the FCC did not eliminate the separations freeze.

If the misallocation of costs and universal service support are as intertwined as OSBA argues, the FCC would have addressed this concern when implementing these reforms. A significant intercarrier compensation reform was implemented in 2011 yet frozen separations factors remained in place. A-CAM support was created and there was no change in the separations freeze. The OSBA's arguments against the separations freeze seem designed to tarnish the FCC's cost allocation rules. By challenging the separations freeze, OSBA positions itself to attempt to use nonregulated revenues in a needs test to prove whether a company should receive support for its regulated network.

It should be noted that if the Commission were to adopt a traditional cost study approach for a needs test, it would place significant burdens on the RLECs, Commission staff, and intervening parties. Worse yet, all parties would be operating without the safety net of federal or state rules beyond what is included in the FCC's jurisdictional cost allocation rules and the Commission's Chapter 30 regulations.

The RLECs agree the cost allocation rules are complex, but they are a set of rules which can be followed, albeit expensive to administer. By layering in nonregulated and affiliate operations, this process becomes exponentially more complicated and expensive. As explained in

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<sup>9</sup> Per 47 C.F.R. § 36.3

the PTA comments, the FCC's CAF-ICC support mechanism is similar in structure to the PA USF. That fund was a revenue neutral rate rebalancing implemented in 2011 without the requirement of a needs test. That fund remains in place today at nearly the same support level established in 2011.

In summary, the imposition of any needs test is unnecessary and unduly complicated and, in the case of AT&T's and the OSBA's suggestion of a total operations (inclusive of unregulated operations) needs test, simply wrong. The Commission regulates local exchange telephone service and not internet access, broadband service, television or any of the other categories of operations that AT&T and the OSBA would include. Such a proposal is a huge over reach and well outside a determination of state USF support for the RLECs' undertaking the COLR obligation and being subject to the Commission's local rate and service regulation.

The better and much less controversial method would be to require an annual "certification of use" statement identifying the use of the funds as suggested in the PTA's Comments. PTA at 15-16. This requirement can be satisfied in a manner similar to what the FCC requires under 47 C.F.R. § 54.314.

## **LOW INCOME CONVERSION**

As an alternative to maintaining the Fund in its current state, the OCA suggests that the Fund could be "redirected" to support customer affordability. OCA at 3-4. This suggestion appears to be mostly speculative and aspirational. The PTA appreciates the sentiment but the proposal is lacking.

First, there is no statistic or other analysis provided by the OCA to demonstrate that customers are having trouble paying their local telephone bills. The RLECs' rates are currently



affordable. Since 2007, the RLECs have raised their monthly basic telephone rates by an average \$4.00, an increase of only 23%, well behind the overall inflation rate. PTA at 4. The average RLEC local rate is now only \$19.10. *Id.*

Second, the Fund works now by maintaining the lower rate levels for the benefit of **all** customers, as Chapter 30 requires, **not just the fewer**, needier customers. As pointed out previously by the PTA, the Fund currently provides an average monthly support of \$8.79 per access line and median support per line of \$11.07. PTA at 13. Adding \$8.79 per month would increase those rates by 46% for all customers. Ostensibly, after this level of increase was tariffed, the OCA would then have the Commission and RLECs triage the situation by selectively granting lifeline credits to some customers.

Thirdly, the need for an additional lifeline program is presumed. The OCA Comments provide no analysis to demonstrate that customers are unable or having financial difficulty paying the current average \$19 per month voice rate. An ongoing federal universal service program contributes \$5.25 per month to low-income customers. Unfortunately, the federal Affordable Connectivity Program (“ACP”) has stopped accepting new enrollments for its \$30 per month contribution toward internet service while Congress debates the continuing role of the fund, but this is unrelated to local exchange telephone service.

Fourthly, there is the legal hurdle. Chapter 30 prohibits any requirement that an eligible telecommunications carrier (“ETC”), a term that includes all ILECs, provide “any new Lifeline service discount that is not fully subsidized by the Federal Universal Service Fund.”<sup>10</sup> To avoid the clear meaning of this section, the OCA argues that “the Commission could identify the class

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<sup>10</sup> 66 Pa.C.S. § 3019(f)(6) (“No eligible telecommunications carrier shall be required to provide after the effective date of this section any new Lifeline service discount that is not fully subsidized by the Federal Universal Service Fund.”).

of service providers eligible for reimbursement from the Pa USF **independent of ETC designation**, if a reimbursement model is adopted.” OCA at 5 (Emphasis added). This concept is not developed further, but would mean that no ETC (ILEC) would contribute to the new fund, thus, totally disrupting the current contribution arrangement. The hole in funding this creates is not quantified or even addressed.

The PTA does agree with the OCA’s sentiment that “there would be many other details to work out” (OCA at 5) but given the above-described impediments, the exercise does not appear to be worth the probable outcome.

The OCA also suggests that the Fund could be redesigned to support low-income purchases of broadband internet access. OCA at 4-5 and 7. The PTA opposes such an expansion. Internet services are not jurisdictional to this Commission. Moreover, the reference to lifeline in Chapter 30, the legal foundation of the USF, is expressly limited to “local exchange telecommunications service” and “protected service” -- not internet access.<sup>11</sup> The supported services are local voice only.<sup>12</sup>

Moreover, an expansion to include internet service use may be unnecessary with RDOF and BEAD funding to await the deployment of these investments before making any changes to the Fund, as recognized by the OCA in its “primary recommendation.” OCA at 3.

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<sup>11</sup> 66 Pa.C.S. § 3011(3) (“Ensure that customers pay only reasonable charges for protected services”); 66 Pa.C.S. § 3019(f)(1) (“All *eligible telecommunications carriers certificated to provide local exchange telecommunications service* shall provide Lifeline service to all eligible telecommunications customers who subscribe to such service.”); and 66 Pa.C.S. § 3019(f) (3) (“Whenever a prospective customer seeks to subscribe to local exchange telecommunications service”.)

<sup>12</sup> “Local exchange telecommunications service’ is the “transmission of messages or communications that originate and terminate within a prescribed local calling area.” 66 Pa.C.S. § 3012. “Protected service.’ The following telecommunications services provided by a local exchange telecommunications company... [local calling, touchtone, switched and special access, and the ordering of these services].”). *Id.*

**CONCLUSION**

The PTA thanks the Commission for the opportunity to submit its views on this important topic.

Respectfully Submitted.

A handwritten signature in black ink, appearing to read 'S. J. Samara', with a long horizontal flourish extending to the right.

Dated: March 11, 2024

Steven J. Samara, President  
Pennsylvania Telephone Association