

Regulatory Analysis Form

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(1) Agency

Pennsylvania Public Utility Commission

(2) I.D. Number (Governor*s Office Use)

L-00050176/57-247

(3) Short Title

PUC Filing and Reporting Requirements on Local Exchange Carriers

(4) PA Code Cite

52 Pa. Code §§63.11, 64.22, 64.23, 64.41, 64.201, 71.3, 73.3, 73.5, 73.7

(5) Agency Contacts & Telephone Numbers

Primary Contact: Kimberly Hafner (717)787-5000

Secondary Contact: Bohdan R. Pankiw (717)787-5000

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The final rulemaking amends 52 Pa. Code §§63.11, 64.22, 64.23(a) and (b), 64.41, 64.201(a) and (b), 71.3(b), 73.3(a) and (b), 73.5(b), and 73.7(b).

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Act 183 of 2004 or 66 Pa.C.S. §§3301 *et seq.*

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Section 63.11 requiring accident reports involving injury or death of a person is required by statute at section 1508 of Title 66. Also, sections 3015(e) and (f) of Chapter 30 define local exchange companies' (LECs) reporting requirements. Section 3019(b) retains authority for the Commission to review and revise quality of service standards contained in 52 Pa. Code that address service standards and protection of customers. *Chapter 30 of 2004* (Act 183), 66 Pa. C.S. §§3011 *et seq.* (relating to alternative forms of regulation for telecommunications companies).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The final rulemaking reflects the Commission's actions in its Proposed Rulemaking at Docket No. L-00050176 entered August 21, 2006 and its Final Implementation Order at *PUC Filing and Reporting Requirements on Local Exchange Carriers* at Docket No. M-00041857 entered October 5, 2005. At Docket No. M-00041857, the Commission determined that certain local exchange carrier (LEC) reporting requirements should be maintained, streamlined, eliminated or modified in accordance with the provisions of Chapter 30 and the submitted comments in the docket. In addition, the proposed elimination of 52 Pa. Code §63.11 is in accordance with the Commission's action in its Final Order at *Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report and Service Outage Report* at Docket No. M-00051900 entered December 30, 2005.

On an administrative note, the Commission is correcting a ministerial oversight that occurred in 1998 in a prior Final Rulemaking Order regarding Chapter 64 Standards and Billing Practices for Residential Telephone Service at L-00960113. That order referenced the deletion of section 64.22(1); however, neither the ordering paragraphs nor Annex A included the deletion.

The order was published July 18, 1998 at 28 Pa. B. 3379 and revised section 64.2, Definition of Dispute. The order retained the elimination of interexchange carrier billing data as disputable subject matter under Chapter 64 provisions stated that the final regulations will delete § 64.22(1) since the local exchange carriers will no longer be responsible for settling interexchange carrier related complaints. Although the definition of "dispute" was revised in the order, neither the ordering paragraphs nor the Annex A regulations attached to the order included the deletion. Therefore, to correct the oversight and to ensure the language is consistent between sections 64.2 and 64.22, the Commission directed that section 64.22(1) be deleted to correct the administrative oversight in the prior rulemaking. Since the passage of the 1998 final rulemaking, the Commission noted this oversight and has taken steps to revise internal procedures accordingly, but has awaited this rulemaking opportunity to formally correct the text of the regulation.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no risks. Act 183 provides LECs the ability to amend network modernization plans to accelerate broadband deployment. At the same time, the statute offers ILECs more economic incentives and lesser Commission regulation including limitations on reporting requirements. Since the enactment of Act 183, the

Commission has been implementing various provisions of the statute including examining and revising, where appropriate, various regulations for compliance with Chapter 30's provisions.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

When Governor Rendell signed Act 183 into law, he indicated that the legislation will substantially increase the investment in telecommunications infrastructure within the Commonwealth. The Governor also stated that Act 183 lessens the regulatory role of the Commission while permitting the Commission to retain authority over quality of service standards and basic telephone service.

In general, the Commission has and will continue to examine and review, where appropriate, various regulations for compliance with Chapter 30's provisions and other legislative mandates in order to fulfill its statutory obligations and reduce regulatory requirements in accordance with Act 183.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No persons, groups or entities will be adversely affected by this final rulemaking.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The final rulemaking will eliminate or modify certain regulations currently in place for LECs resulting in less regulatory requirements. In addition, the final rulemaking will modify certain Commission regulations to update the information to be filed and to change the frequency that specific reports are to be filed with the Commission.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Proposed Rulemaking Order entered January 3, 2006 at Docket No. L-00050176 requested comment on the Commission's determinations to modify or eliminate certain reporting requirements in accordance with the provisions of Chapter 30. Previously, the Commission received comment in *PUC Filing and Reporting Requirements on Local Exchange Carriers* at Docket No. M-00041857 entered October 5, 2005 and *Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report and Service Outage Report* at Docket No. M-00051900 entered December 30, 2005. In both of these dockets, the Commission requested comments on the proposed regulatory changes as well as other existing regulatory requirements. The Pennsylvania Telephone Association submitted comments to the Proposed Rulemaking. The Pennsylvania Telephone Association (PTA), the Office of Consumer Advocate (OCA), and Representatives Raymond Bunt, Jr. and William F. Adolph, Jr. submitted comments at Docket No. M-00051900. In *PUC Filing and Reporting Requirements on Local Exchange Carriers* at Docket No. M-00041857 entered October 5, 2005, comments or letters of participation were filed by the PTA, OCA, MCI, Representative William F. Adolph, Jr., Representative Raymond Bunt, Jr., Representative Joseph Preston, Jr., Fran B. Cleaver, Esquire for Senator Robert M. Tomlinson, and the Commission's Bureaus of Consumer Services and Fixed Utility Services.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The final rulemaking imposes no new regulatory requirements on telecommunications carriers, therefore, it imposes no costs. The purpose of the final rulemaking is to modify or eliminate existing reporting requirements on the regulated community thereby reducing industry's regulatory burdens and costs. In the proceedings addressing the LECs' current reporting requirements, no cost savings were submitted by the industry.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The final rulemaking imposes no requirements on local governments so it imposes no costs. The purpose of the final rulemaking is to modify or eliminate existing reporting requirements on the regulated telecommunications community thereby reducing industry's regulatory burdens and costs.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The final rulemaking imposes no additional requirements on state government so it imposes no costs. The purpose of the final rulemaking is to modify or eliminate existing reporting requirements on the regulated community thereby reducing industry's regulatory burdens and costs. Savings to state government may occur since fewer reports will be filed with the Commission but definitive savings cannot be quantified at this time.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	n/a	n/a	n/a	n/a	n/a	n/a
Local Government	n/a	n/a	n/a	n/a	n/a	n/a
State Government	n/a	n/a	n/a	n/a	n/a	n/a
Total Savings	n/a	n/a	n/a	n/a	n/a	n/a
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

The final rulemaking will not impose any costs on, and may not result in certain savings or revenue losses for the entities identified above.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
n/a	n/a	n/a	n/a	n/a

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The final rulemaking will not impose any costs on the regulated community, or local government or state government.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The final rulemaking reflects the Commission's statutory obligations as set forth in sections 3015(e) and (f) as well as section 3019(b) of Chapter 30. In doing so, the Commission proposes to eliminate or modify certain LEC reporting requirements in accordance with the provisions of Act 183.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

See Question no. 22 above.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The final rulemaking implements various provisions of Chapter 30 which affects only Pennsylvania. The final rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes, the final rulemaking will eliminate or modify certain Commission regulations currently prescribed in 52 Pa. Code. The final rulemaking will not affect other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings will be held on the final rulemaking. The Commission provided for public input with a 30-day comment period beginning from April 22, 2006 that the proposed rulemaking was published in 36 *Pennsylvania Bulletin* 1897.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Yes. The final rulemaking will eliminate or modify certain reporting requirements or the filing of certain information resulting in less review and analysis by the Commission. In addition, the final rulemaking changes the frequency that certain reports are required to be filed with the Commission thereby decreasing the number of reports to be submitted by the industry and reviewed by the Commission.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The final rulemaking reflects the Commission's actions in its Proposed Rulemaking Order at Docket No. L-00050176 entered January 3, 2006 and its Final Implementation Order at *PUC Filing and Reporting Requirements on Local Exchange Carriers* at Docket No. M-00041857 entered October 5, 2005. At Docket No. M-00041857, the Commission determined that certain local exchange carrier (LEC) reporting requirements should be maintained, streamlined or eliminated in accordance with the provisions of Chapter 30 and the submitted comments in the docket. In addition, the proposed elimination of 52 Pa. Code §63.11 is in accordance with the Commission's action in its Final Order at *Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report and Service Outage Report* at Docket No. M-00051900 entered December 30, 2005.

On an administrative note, the Commission is correcting a ministerial oversight that occurred in 1998 in a prior Final Rulemaking Order regarding Chapter 64 Standards and Billing Practices for Residential Telephone Service at L-00960113. That order referenced the deletion of section 64.22(1); however, neither the ordering paragraphs nor Annex A included the deletion.

The order was published July 18, 1998 at 28 Pa. B. 3379 and revised section 64.2, Definition of Dispute. The order retained the elimination of interexchange carrier billing data as disputable subject matter under Chapter 64 provisions stated that the final regulations will delete § 64.22(1) since the local exchange carriers will no longer be responsible for settling interexchange carrier related complaints. Although the definition of "dispute" was revised in the order, neither the ordering paragraphs nor the Annex A regulations attached to the order included the deletion. Therefore, to correct the oversight and to ensure the language is consistent between sections 64.2 and 64.22, the Commission directed that section 64.22(1) be deleted to correct the administrative oversight in the prior rulemaking. Since the passage of the 1998 final rulemaking, the Commission noted this oversight and has taken steps to revise internal procedures accordingly, but has awaited this rulemaking opportunity to formally correct the text of the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The final rulemaking was finalized after a public comment period and in accordance with regulatory review procedures and timeframes. Any person, group or entity is required to comply with the regulations

once they are final.

(31) Provide the schedule for continual review of the regulation.

A schedule for continual review of this final rulemaking is in accordance with the regulatory review process.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

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REVIEW COMMISSION

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Copy below is hereby approved as to form and legality. Attorney General.

BY _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00050176/57-247

DATE OF ADOPTION August 17, 2006

BY James J. McNulty
James J. McNulty

TITLE (SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

Bohdan R. Pankiw
BY Bohdan R. Pankiw
Chief Counsel

8-17-06
DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00050176/57-247
Final Rulemaking
PUC Filing and Reporting Requirements
on Local Exchange Carriers
52 Pa. Code, Chapters 63, 64, 71 and 73

The Pennsylvania Public Utility Commission on August 17, 2006, adopted a final rulemaking order which eliminates certain filing and reporting requirements for LECs. The contact person is Assistant Counsel Kimberly Hafner, Law Bureau, 787-5000.

EXECUTIVE SUMMARY
L-00050176/57-247
Final Rulemaking
PUC Filing and Reporting
Requirements on Local Exchange Carriers
52 Pa. Code, Chapters 63, 64, 71 and 73

By Order entered on August 21, 2006 at Docket No. L-00050176, the Commission adopted a Final Rulemaking Order to amend 52 Pa. Code §§63.11, 64.22, 64.23(a) and (b), 64.41, 64.201(a) and (b), 71.3(b), 73.3(a) and (b), 73.5(b), and 73.7(b). The purpose of the final rulemaking is to eliminate or modify the current language of the above-mentioned regulations to reflect the Commission's action in its Proposed Rulemaking Order at Docket No. L-00050176 entered August 21, 2006 and its Final Implementation Order at *PUC Filing and Reporting Requirements on Local Exchange Carriers* at Docket No. M-00041857 entered October 5, 2005. At Docket No. M-00041857, the Commission determined that certain local exchange carrier (LEC) reporting requirements should be maintained, streamlined or eliminated in accordance with the provisions of Chapter 30 and the submitted comments in the docket. In addition, the proposed elimination of 52 Pa. Code §63.11 is in accordance with the Commission's action in its Final Order at *Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report and Service Outage Report* at Docket No. M-00051900 entered December 30, 2005.

Under the current language of Section 63.11, a public utility providing telecommunications service is required to file an accident report involving its facilities or operations resulting in injury or death to a person or public utility employee. The amendment to Section 63.11 eliminates this regulation since this report can no longer be required in accordance with sections 3015(f)(1) and 3015(e) of Chapter 30 of the Public Utility Code.

Also, Chapter 64, at section 64.23, of the Commission's regulations provides that LECs report instances of unauthorized charges and changes to customers' bills known as

cramming and slamming. The Commission's regulations, at section 64.41, also require LECs to pay interest on customers' deposits and, subsequently, report the paid interest rate to the Commission. In addition, section 64.201(a) and (b) require LECs to file residential account information reflecting billing and collection practices including customer disputes on a quarterly or annual basis depending upon the size of the LEC. At Chapter 64, the Commission is changing the regulations to require LECs to maintain instances of slamming and cramming but to eliminate the quarterly requirement to report the unauthorized activity to the Commission. Also, the Commission is modifying the interest rate to be paid on customers' deposits to reflect current practice by the telecommunications industry. In addition, the Commission is reducing the filing of residential account information to an annual reporting requirement for all LECs regardless of the number of residential accounts that the companies serve.

At Chapter 71 of the Commission's regulations, LECs with annual intrastate gross revenues in excess of \$10 million currently are required to file financial reports on an annual basis. The Commission is eliminating section 71.3(b) of our regulations because Chapter 30 of Title 66 does not permit the filing of a separate financial earnings report of the type required by this regulation.

At Chapter 73 of the Commission's regulation, LECs are required to submit an annual depreciation report (section 73.3) and a triennial service life study report (section 73.5) and capital investment plan report (section 73.7). The Commission is eliminating all of these filings because Chapter 30 of Title 66 does not permit the filing of a separate financial earnings report of the type required by this regulation.

On an administrative note, the Commission is correcting a ministerial oversight that occurred in 1998 in a prior Final Rulemaking Order regarding Chapter 64 Standards and Billing Practices for Residential Telephone Service at L-00960113. That order referenced

the deletion of section 64.22(1); however, neither the ordering paragraphs nor Annex A included the deletion.

The order was published July 18, 1998 at 28 Pa. B. 3379 and revised section 64.2, Definition of Dispute. The order retained the elimination of interexchange carrier billing data as disputable subject matter under Chapter 64 provisions stated that the final regulations will delete § 64.22(1) since the local exchange carriers will no longer be responsible for settling interexchange carrier related complaints. Although the definition of “dispute” was revised in the order, neither the ordering paragraphs nor the Annex A regulations attached to the order included the deletion. Therefore, to correct the oversight and to ensure the language is consistent between sections 64.2 and 64.22, the Commission directed that section 64.22(1) be deleted to correct the administrative oversight in the prior rulemaking. Since the passage of the 1998 final rulemaking, the Commission noted this oversight and has taken steps to revise internal procedures accordingly, but has awaited this rulemaking opportunity to formally correct the text of the regulation.

The contact person for this rulemaking is Kimberly Hafner, Law Bureau (legal), (717) 787-5000.

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

Public Meeting held August 17, 2006

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Bill Shane
Kim Pizzingrilli
Terrance J. Fitzpatrick, Dissenting Statement attached

Rulemaking re: PUC Filing and Reporting
Requirements on Local Exchange Carriers

L-00050176

FINAL RULEMAKING ORDER

BY THE COMMISSION:

On January 3, 2006, the Commission entered a Proposed Rulemaking Order to promulgate regulations to eliminate certain local exchange carrier (LEC) filing and reporting requirements in compliance with the new Chapter 30¹ and to amend existing regulations so as to require the filing of residential account information on an annual basis rather than on a quarterly basis as currently prescribed by 52 Pa. Code § 64.201(b). Annex A of the Order contained the proposed revised regulations.

The January 3, 2006 Order was published April 22, 2006 at 36 Pa.B. 1897. The Order established a 30-day comment period that closed on May 22, 2006.

¹ 66 Pa.C.S. §§ 3011-3019.

On May 22, 2006, the Commission received written comments from the Pennsylvania Telephone Association (PTA). This Final Rulemaking Order discusses the comments and sets forth, in Annex A, the final regulations.

DISCUSSION

As a preliminary matter, we note that it is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. P.U.C.*, 625 A. 2d 741 (Pa. Cmwlth. 1993); *U. of Pa. v. Pa. P.U.C.*, 485 A.2d 1217 (Pa. Cmwlth. 1984). Accordingly, any issue raised by PTA that we do not specifically address has been duly considered and rejected and will not be further discussed. Further, ministerial edits that do not have a substantive effect have been included in the final form regulations without specific discussion.

Chapter 30 sets forth reporting requirements for LECs. Although various sections of Chapter 30 provide the Commission with the authority to require information from LECs, as stated previously, section 3015(e) provides that the Commission's filing and audit requirements for LECs operating under an amended network modernization plan are limited to nine enumerated reports.

On April 15, 2005, in accordance with the newly-enacted Chapter 30, the Commission entered a Tentative Implementation Order² directing the continuation, consolidation, and/or elimination of the general filing and reporting requirements presently imposed on LECs operating in Pennsylvania. In its Tentative Order, the Commission sought comments on its initial determinations to maintain, streamline or eliminate certain LEC reports. Upon review of Chapter 30 and the submitted comments,

² *PUC Filing and Reporting Requirements on Local Exchange Carriers*, M-00041857 (Order entered April 15, 2005).

the Commission entered a Final Implementation Order³ on October 5, 2005 determining which LEC reporting requirements should be maintained, streamlined or eliminated. The order directed the Law Bureau to initiate a rulemaking proceeding to eliminate the following reports: Financial Earnings Report, Annual Depreciation Report, Interest on Deposits Report, Service Life Study Report, Capital Investment Plan Report, Residential Account Information on a quarterly basis, Quarterly Cramming Report, Quarterly Slamming Report, and Collocation Report. Also, in the Final Implementation Order, the Commission found that the Lifeline Tracking, the Accident, and the Service Outage Reports are not within the scope of reports listed in section 3015(e). Therefore, the Commission directed that a new proceeding (M-00051900) be opened to address the issue of whether these reports can meet the exception standard set forth in section 3015(f)(1).⁴

By Final Order entered on December 30, 2005 in the section 3015(f)(1) proceeding, the Commission determined that Accident Reports are no longer required because there is no adequate nexus relating to whether rates are just and reasonable as prescribed by Chapter 30 and Title 66. Accordingly, the Commission found that telecommunications companies do not have to file Accident Reports as required by the Commission's regulations at section 63.11. The Commission found, however, that the Lifeline Tracking Reports and Service Outage Reports met the standards prescribed in section 3015(f) and therefore required the continuation of filing these reports. The Commission directed the Lifeline Tracking report be reviewed and a more streamlined version be developed as well as the establishment of a process to file these reports electronically.⁵

³ *PUC Filing and Reporting Requirements on Local Exchange Carriers*, M-00041857 (Order entered October 5, 2005).

⁴ *Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report*, M-00051900 (Order entered October 5, 2005).

⁵ *Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report*, M-00051900 (Order entered December 30, 2005).

On January 3, 2006, the Commission issued a proposed rulemaking to promulgate regulations to eliminate certain LEC filing and reporting requirements. The January 3, 2006 Order was published on April 22, 2006 in the Pennsylvania Bulletin, 36 Pa.B. 1897 and established a 30-day comment period. On May 22, 2006, the PTA filed written comments. After reviewing the filed comments in the proposed rulemaking, the Commission proposes eliminating the following reports: Financial Earnings Report (52 Pa. Code § 71.3); Annual Depreciation Report (52 Pa. Code § 73.3); Interest Rate on Deposits Report (52 Pa. Code § 64.41 and Order entered November 5, 1998 at P-00981357); Service Life Study Report (52 Pa. Code § 73.5); Capital Investment Plan Report (52 Pa. Code § 73.7); Quarterly Cramming Report (52 Pa. Code § 64.23); Quarterly Slamming Report (52 Pa. Code § 64.23) and the Collocation Report.⁶ In addition, the Commission proposed to amend its regulations to require the filing of residential account information on an annual basis rather than on a quarterly basis as currently prescribed by 52 Pa. Code § 64.201(b).

On May 22, 2006, PTA filed Comments stating that the proposed rulemaking does not address in a comprehensive way the entire issue of limiting LEC filing and reporting due to the bifurcation of the reporting issue into: (1) the Interim and Final Orders at this docket (L-00050176) and (2) the continuation, at other dockets, of the Lifeline Tracking

⁶ Presently, the collocation report requires ILECs or CLECs that collocate switches in Verizon Pennsylvania Inc.'s central offices to report such activity in accordance with the Commission's September 4, 2001 Order. *Bell-Atlantic Supplement to Pa. P.U.C. No. 216 and Pa. P.U.C. No. 218 to become effective July 27, 1999 regarding the FCC's New Requirements on Incumbent Local Exchange Carriers for the Provision of Collocation Service used for Exchange Access and Mandated Compliance via State Tariffs, SGATS and/or Individual Interconnection Agreements*, R-00994697 (Order entered September 4, 2001). On February 14, 2005, the Commission eliminated this reporting requirement through a Secretarial Letter to all ILECs and CLECs. In the Final Implementation Order, we affirmed our determination concerning collocation reports and concluded that no further action is necessary. Since there is no current regulation concerning this reporting requirement, the elimination of this reporting requirement is in accordance with section 703(g) of Title 66 as discussed in our Tentative and Final Implementation Orders at M-00041857.

Report, Accident Report and Service Outage Report at M-00051900⁷ and the Standard Service Surveillance Level Report at P-00021985.⁸ PTA contends that these reports should be omitted because the reports are not specifically listed as any of the required reports in section 3015(e) of Act 183, that none of these reports are necessary to ensure the LEC is charging rates that are compliant with the statute and its Chapter 30 Plan, and that the benefits of the reports do not outweigh the expense of producing them. In addition, PTA does not agree that service quality issues have rate implications.

As noted earlier, the Commission addressed the Lifeline Tracking, Accident and Service Outage Reports in separate orders at M-00051900. After issuing a Tentative Order and soliciting comments, the Commission issued a Final Order on December 30, 2005 in which we found that the Lifeline Tracking and Service Outage Reports met the prescribed standards in section 3015(f)(1) and should continue. The Commission found, among other things, that the Lifeline Tracking report was necessary to ensure that the LECs providing Lifeline service are charging rates in compliance with Chapter 30 and that the benefits of the Lifeline Tracking report substantially outweigh the attendant expense and administrative time and effort of the LEC to prepare the report.

Regarding the Service Outage Report, the Commission also found that the report satisfied the exceptions in section 3015(f)(1)(i) and (ii). Specifically, the Commission found that the Service Outage Report was necessary to ensure that the LECs are charging just and reasonable rates in compliance with Chapter 30. The Commission noted that it is long standing precedent in Pennsylvania that quality of service is directly related to just and reasonable rates. Since Service Outage Reports bear on service quality, they are crucial to ensuring that the rates the LECs are charging are just and reasonable. In

⁷ *Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report*, M-00051900 (Order entered December 30, 2005).

⁸ *Petition of the Office of Consumer Advocate for a Rulemaking to Amend 52 Pa. Code Chapter 63 (relating to Telephone Service)*, P-00021985 (Order entered February 13, 2006).

addition, the Commission found that the benefits of Service Outage Reports outweigh the expense and time and effort to prepare the report by the LEC.

After reviewing the comments, however, the Commission found that Accident reports did not meet the exceptions in section 3015(f)(1). The reports did not have direct nexus to the rates charged by LECs in accordance with Chapter 30 and the alternative forms of regulation sufficient to satisfy the exceptions set forth in section 3015(f)(1)(i). Therefore, the Commission decided to eliminate the Accident Report.

PTA's comments on these reports are outside the scope of this rulemaking. The Commission bifurcated the process and has rendered a decision on the issue of the Lifeline Tracking, Service Outage, and Accident Reports in its December 30, 2006 Order. None of the commenting parties to that separate proceeding appealed the Commission's decision. Therefore, the Commission's Final Order stands.

The Commission did not receive any other comments to the proposed rulemaking. Thus, the Commission's regulations should be amended in accordance with Annex A attached. The amendments include eliminating the financial (earnings) report, the annual depreciation report, the capital investment plan report, service life study report, the quarterly cramming reports, the quarterly slamming reports, and the accident reports. In addition, the regulations will be updated to incorporate the interest rate for customer deposits as set forth in Chapter 14⁹ and to amend the language to require the filing of residential account information on an annual basis rather than on a quarterly basis as currently prescribed by 52 Pa. Code § 64.201(b).

On an administrative note, the Commission would like to correct a ministerial oversight that occurred in 1998 in a prior Final Rulemaking Order regarding Chapter 64

⁹ 66 Pa. C.S. § 1404(c)(6).

Standards and Billing Practices for Residential Telephone Service at L-00960113. The Final Rulemaking Order there referenced the deletion of section 64.22(1); however, neither the ordering paragraphs nor Annex A included the deletion of Section 64.22(1).

The Order was published July 18, 1998 at 28 Pa. B. 3379. The Order contained the following discussion explaining the revision of § 64.2, Definition of Dispute:

Accordingly, the final version of the definition of “dispute” will retain the elimination of IXC billing data as disputable subject matter under the chapter 64 provisions. Given this change in the definition of “dispute,” the final regulations will delete § 64.22(1) since the LECs will no longer be responsible for settling IXC-related complaints.

Although the definition of “dispute” was revised as set forth above in the Order, the Annex A regulations attached to the Order did not include the deletion. Therefore, to correct the oversight and to ensure the language is consistent between sections 64.2 and 64.22, the Commission hereby directs that section 64.22(1) be deleted to correct the administrative oversight in the prior rulemaking. Since the passage of the 1998 final rulemaking, the Commission noted this oversight and has taken steps to revise internal procedures accordingly, but has awaited this opportunity to formally correct the text of the regulation.

CONCLUSION

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa. C.S. §§ 501 and 1501; sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201 and 1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. § 732.204(b);

section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5; and section 612 of The Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231-7.235, we find that the regulations amending the general rules, procedures, and standards to eliminate certain reports and other amendments as set forth in Annex A, attached hereto, should be approved; **THEREFORE,**

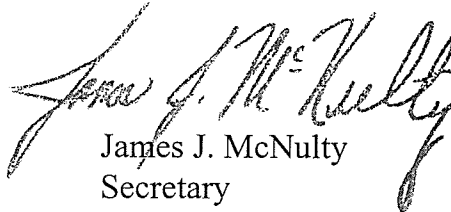
IT IS ORDERED:

1. That the regulations at 52 Pa. Code §§ 63.11, 64.22, 64.23, 64.41, 64.201, 71.3, 73.3, 73.5 and 73.7 are hereby amended as set forth in Annex A hereto.
2. That the Secretary shall certify this Order and Annex A and deposit them with the Legislative Bureau for publication in the *Pennsylvania Bulletin*.
3. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for approval as to legality.
4. That the Secretary shall submit this Order and Annex A to the Governor's Budget Office for review of fiscal impact.
5. That the Secretary shall submit this Order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.
6. That a copy of this Order and Annex A shall be served upon the Pennsylvania Telephone Association, the Office of Consumer Advocate, the Small Business Advocate, and active parties to this proceeding.

7. That the final regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

8. That the contact person for this rulemaking is Kimberly Hafner, Assistant Counsel, Law Bureau, 717-787-5000. Alternate formats of this document are available to person with disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator, Law Bureau, 717-772-4597.

BY THE COMMISSION



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: August 17, 2006

ORDER ENTERED:

AUG 21 2006

ANNEX A

TITLE 52. PUBLIC UTILITIES
PART 1. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 63. TELEPHONE SERVICE
Subchapter B. SERVICES AND FACILITIES

§63.11. [Accident reports.] (Reserved).

(a) *General.* A public utility shall submit a report of a reportable accident involving the facilities or operations of the public utility in this Commonwealth. The report shall be addressed to the Secretary of the Commission.

(b) *Reportable accidents.* Reportable accidents are those involving utility facilities or operations which result in one or more of the following circumstances:

- (1) The death of a person.
- (2) Injury to an employe on duty sufficient to incapacitate him from performing his ordinary duties for a period longer than 3 days.
- (3) Injury to a person other than an employe on duty sufficient to incapacitate the injured person from following his customary vocation, or mode of life, for a period of more than 1 day.
- (4) An occurrence of an unusual nature, whether or not death or injury of a person results, which apparently will result in a prolonged and serious interruption of normal service.

(c) *Telegraphic reports.* A report by telephone or telegraph shall be made at once in the event of the occurrence of a reportable accident resulting in the death of a person, or in the event of an occurrence of an unusual nature.

(d) *Written reports.* A written report shall be made on Form UCTA-8 immediately following the occurrence of a reportable accident as defined in subsection (b). Accidents reportable to the Commission, which reports are also required by the Bureau of Workmen's Compensation, Department of Labor and Industry, may be reported by transmitting a copy of the reports in lieu of a report on Form UCTA-8.]

* * * * *

**CHAPTER 64. STANDARDS AND BILLING PRACTICES FOR
RESIDENTIAL TELEPHONE SERVICE
Subchapter B. PAYMENT AND BILLING STANDARDS**

§ 64.22. Billing service for interexchange carriers.

A LEC may provide billing services for interexchange carriers ~~WHEN under the following conditions:~~

- (1) ~~——~~ The LEC assumes responsibility for settling disputes involving accounts receivable.
- (2) ~~——~~ The THE LEC applies its deposit rules.

§ 64.23. Standardizing LEC responses to customer contacts alleging unauthorized charges added to the customer's bill (cramming) and unauthorized changes to the customer's long distance carrier (slamming).

(a) *Cramming.* Upon contact from a customer alleging that cramming has occurred on the bill rendered to the customer by the LEC, the LEC shall do the following:

* * * * *

(6) Maintain for a minimum of 3 years records of all customer complaints of cramming in order to monitor adherence to the terms of the billing contract the LEC has with the service provider or billing agent, or both, relating to cancellation of the contract for excessive cramming complaints. [Submit quarterly reports summarizing the records to the Commission's Office of Trial Staff and Bureau of Consumer Services in a format prescribed by those bureaus.]

(b) *Slamming.* Upon contact from a customer alleging that slamming has occurred on one or both of the past two bills rendered to the customer by the LEC, regardless of dates of charges, the LEC shall do the following:

* * * * *

(7) Maintain for a minimum of 3 years records of all customer allegations of slamming [and submit quarterly reports summarizing the records to the Commission's Office of Trial Staff and Bureau of Consumer Services in a format prescribed by those bureaus].

Subchapter C. CREDIT AND DEPOSIT STANDARDS POLICY

§64.41. Interest.

Interest [at the rate of 9% per annum] calculated pursuant to section 202 of the act of January 30, 1974 (P.L. 13, No. 6), referred to as the Loan Interest and Protection Law shall be payable on deposits without deductions for taxes thereon. Interest shall be paid annually to the customer or, at the option of either the LEC or the customer, shall be applied to the customer's bill.

Subchapter J. ANNUAL LEC REPORTING REQUIREMENTS

§64.201. Reporting requirements.

(a) [*Utilities with less than 50,000 residential accounts.*] Annual report. Within 90 days after the end of each calendar year, each LEC with [less than 50,000] residential accounts shall file with the Commission an annual report containing residential account information as listed in subsection [(c)] (b) for the previous calendar year.

(b) [*Utilities with more than 50,000 residential accounts.*] Within 90 days after the end of each of the first 3 quarters of the calendar year, each LEC with 50,000 or more residential accounts shall file with the Commission a quarterly report containing residential account information as listed in subsection (c)(1)-(7) and (11). The LEC shall also file an annual report containing residential account information as listed at subsection (c) within 90 days after the end of the calendar year.

(c) [*Elements of periodic reporting.*] The following [shall] must be included in periodic reporting as required under this section.

* * * * *

CHAPTER 71. FINANCIAL REPORTS

* * * * *

§ 71.3. Filing requirements.

* * * * *

(b) [Incumbent local exchange telecommunications utilities with annual intrastate gross revenues in excess of \$10 million shall file a financial report for the 12-month period ending each June 30 and December 31.

(c) The following public utilities shall file a financial report for the 12-month period ending each December 31:

(1) Electric utilities with annual intraState gross revenues in excess of \$1 million.

(2) [Incumbent local exchange telecommunications utilities with annual intrastate gross revenues in excess of \$1 million but which do not exceed \$10 million.

(3) Gas distribution utilities having annual intrastate gross revenues in excess of \$1 million but which do not exceed \$10 million.

[(4)] (3) * * *

[(d)] (c) ***

[(e)] (d) ***

CHAPTER 73. ANNUAL DEPRECIATION REPORTS, SERVICE LIFE STUDIES AND CAPITAL INVESTMENT PLANS

§ 73.3. Annual depreciation reports.

(a) A public utility providing electric service, gas service or water service which has gross [intrastate] intraState revenues in excess of \$20 million per year, except telecommunications interexchange carriers and gas and petroleum transportation pipeline companies, shall file an annual depreciation report with the ~~Office of Special Assistants~~ BUREAU OF FIXED UTILITY SERVICES under this chapter. [Public utilities providing telephone service with over 50,000 access lines or which have gross operating revenues in excess of \$20 million per year shall also be required to file an annual depreciation report.]

(b) The due dates for the annual depreciation report are as follows:

- (1) Electric, water[, telephone] and gas public utilities reports are due on or before June 30.

* * * * *

§ 73.5. Service life study report.

* * * * *

(b) [A telephone utility having gross intrastate revenues in excess of \$20 million per year, except telecommunications interexchange carriers, resellers' of telecommunication services and radio common carriers, shall file a service life study report every 3 years. Public utilities providing telephone service with over 50,000 access lines or having gross operating revenues in excess of \$20 million per year shall also be required to file a service life study report. The first service life study report shall be filed with the Office of Special Assistants by August 31, 1998.

(c)] The due dates for the service life study report are as follows:

- (1) Electric, water[, telephone] and gas public utilities are due on or before August 31.

* * * * *

§ 73.7. Capital investment plan report.

* * * * *

(b) [A telephone utility having gross intrastate revenues in excess of \$20 million per year or access lines in excess of 50,000, except telecommunications interexchange carriers, resellers' of telecommunication services and radio common carriers, shall file a capital investment plan report every 3 years. The first capital investment plan report shall be filed with the Office of Special Assistants by August 31, 1998.

(c) Thereafter, the capital investment plan report for electric, water[, telephone] and gas public utilities shall be filed with the Office of Special Assistants on or before August 31 of the year in which the report is due.

[(d)] (c) * * *

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105

FINAL RULEMAKING ORDER
REGARDING PUC FILING AND
REPORTING REQUIREMENTS
OF LOCAL EXCHANGE
CARRIERS

Public Meeting August 17, 2006
AUG-2006-L-0053*
L-00050176

**DISSENTING STATEMENT OF
COMMISSIONER TERRANCE J. FITZPATRICK**

This matter involves a Final Rulemaking Order regarding filing and reporting requirements for Local Exchange Carriers. This Rulemaking Order eliminates certain reporting requirements in compliance with the new Chapter 30 Law, 66 Pa. C.S. §§3011-3019. For the following reasons, I respectfully dissent.

First, I agree with the elimination of the reports specified in the Rulemaking Order. However, consistent with my Dissenting Statement (copy attached) in a related docket,¹ I also believe that Lifeline Tracking Reports and Service Outage Reports should be eliminated. Accordingly, in my view, the list of reports to be eliminated by this Rulemaking is incomplete.

Second, I disagree with the implication on page 6 of the Rulemaking Order that the Commission's earlier Order (which determined that the Lifeline Tracking Report and Service Outage Report may continue to be required) is binding because it has not been appealed. In my view, this Order was unappealable because it was not an "adjudication." The Order was similar to the Commission's "Implementation Orders" in which it announced how it would interpret Chapter 14 of the Public Utility Code. The Commission has determined that these Implementation Orders constituted statements of policy rather than adjudications;² therefore, such orders were unappealable.

DATE: August 17, 2006

Terrance J. Fitzpatrick
TERRANCE J. FITZPATRICK
COMMISSIONER

¹ Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report, and Service Outage Report, Dkt. No. M-00051900, Dissenting Statement dated December 15, 2005.

² Chapter 14, Implementation, Dkt. No. M-00041802 F0002, Declaratory Order entered November 21, 2005.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105

SECTION 3015(F) REVIEW
REGARDING THE LIFELINE
TRACKING REPORT, ACCIDENT
REPORT AND SERVICE
OUTAGE REPORT

Public Meeting December 15, 2005
DEC-2005-L-0128*
M-00051900

**DISSENTING STATEMENT OF
COMMISSIONER TERRANCE J. FITZPATRICK**

I respectfully dissent from the Majority's conclusion that it may continue to require local exchange carriers (LECs) to file lifeline tracking reports and service outage reports pursuant to 66 Pa. C.S. §3015(f), despite the fact that the General Assembly left these two reports off the list of reports that are authorized under Section 3015(e).

First, I would conclude that in order to require a report not listed in Section 3015(e), the Commission must find that both of the standards set forth in Section 3015(f)(1) have been met--that the report is necessary to ensure that a LEC's rates are in compliance, and that the benefits of the report substantially outweigh the expense and effort of preparing it. While these two requirements are not joined by a conjunction--"and" or "or"--that would make the intention of the General Assembly plain, a conclusion that both requirements must be met is consistent with the legislative intent to restrict the authority of the Commission to impose reporting requirements. See, 1 Pa. C.S. §1921(b) (If the words of a statute are ambiguous, the intention of the General Assembly may be ascertained by considering, among other things, the occasion and necessity for the statute, the circumstances under which it was enacted, the mischief to be remedied, the object to be attained, and the consequences of a particular interpretation.)

Neither the lifeline tracking report nor the service outage report satisfy the requirement that the report is necessary to ensure that a LEC's rates are in compliance. With regard to the lifeline tracking report, an examination of that report makes clear that it is designed to track enrollment levels, not how rates are calculated. The mere fact that the Act defines "lifeline service" as a "discounted rate" offering (66 Pa. C.S. § 3012) does not change this conclusion since the report does not seek information as to whether any rate complies with applicable law.

Second, the argument that the service outage report may be required because quality of service is relevant to setting rates is unpersuasive. These reports seek information regarding isolated incidents rather than broad information that could be used to evaluate whether a utility is, in general, providing adequate service. Moreover, the Commission uses many tools to evaluate and improve service quality, but rate cuts are used very rarely. Since the nexus between these reports and a LEC's rates is remote, at best, the outage reports may not be required.

For the above reasons, I respectfully dissent.

DATE: December 15, 2005


TERRANCE J. FITZPATRICK
COMMISSIONER



PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG, PENNSYLVANIA

September 28, 2006

WENDELL F. HOLLAND
CHAIRMAN

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

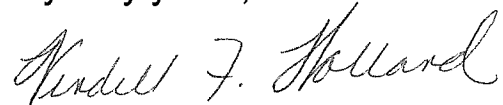
Re: L-00050176/57-247
Final Rulemaking
PUC Filing and Reporting Requirements on
LECs
52 Pa. Code Chapters 63, 64, 71 and 73

Dear Chairman McGinley:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on April 11, 2006, submitted a copy of the Notice of Proposed Rulemaking to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission (IRRC). This notice was published at 36 *Pa.B.* 1897, on April 22, 2006. In compliance with Section 745.5(b.1) copies of all comments received were provided to your Commission and the Committees.

In preparing this final form rulemaking, the Public Utility Commission has considered all comments received from the Committees, IRRRC and the public.

Very truly yours,

A handwritten signature in cursive script that reads "Wendell F. Holland".

Wendell F. Holland
Chairman

Enclosures

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert J. Flick
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Regulatory Coordinator DeBiondo
Assistant Counsel Hafner
Judy Bailets, Governor's Policy Office

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-00050176/57-247

Subject: PUC Filing and Reporting Requirements on Local
Exchange Carriers

Pennsylvania Public Utility Commission

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
9/28/06	<i>Linda Jacobyne</i>	HOUSE COMMITTEE Consumer Affairs
9/28/06	<i>Mary Walmer</i>	SENATE COMMITTEE Consumer Protection and Professional Licensure
9/28/06	<i>Kathy Cooper</i>	Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau

INDEPENDENT REGULATORY
REVIEW COMMISSION

2006 SEP 28 AM 11:26

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