

Pennsylvania Telephone Association

Communications for the Future

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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David E. Freet

President

Wendell Holland

Chairman

Pennsylvania Public Utility Commission

Harrisburg, PA 17120

Dear Chairman Holland:

I am writing in response to the Public Utility Commission's proposed rulemaking on Local Exchange Carrier Filing and Reporting Requirements, docketed at L-00050076/57-247.

The Pennsylvania Telephone Association (PTA) appreciates your leadership of the Commission in working with the incumbent local exchange carrier (ILEC) industry to implement the significant changes necessitated by the passage of Act 183 of 2004. The proposed rulemaking, while limited in its scope, accurately reflects the General Assembly's intention, as stated at Section 3011(13), that "... the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers."

Unfortunately, the proposed rulemaking does not address, in a comprehensive way, the entire issue of limiting ILEC filing and reporting due to the bifurcation of the reporting issue into two parts: the issuance of the Final Order which precipitated the proposed rulemaking, and the continuation at other dockets of the Lifeline Tracking Report, the Standard Service Surveillance Level Report and the Service Outage Report, the submission of which, in our view, is inconsistent with Sections 3015(e) and (f) of Act 183.

As you know, Section 3015(e) of Act 183 limits the Commission's filing and audit requirements to nine reports. Section 3015(f) establishes a procedure whereby the Commission could require additional reports by proving that the report is necessary to ensure that the ILEC is charging rates that are compliant with the statute and its Chapter 30 Plan, and that the benefits of having the report outweigh the expense to the ILEC of producing it.

Clearly, these reports were omitted from those listed in Section 3015(e), meaning that the Commission was required to "prove them in" through the two-pronged test in Section 3015(f).

Consistent with our comments of October 25, 2005 in Docket No. M-00051900, the PTA believes that ultimately, the Commission did not meet the Section 3015(f) threshold in ruling that both the Lifeline Tracking Report and the Service Outage Report are necessary to ensure that ILEC rates are compliant with Act 183 and their Plan.

With regard to the Lifeline Tracking Report, PTA stated:

“Lifeline is not a rate at all, but rather a credit given to qualifying customers. The amount of this credit is set by federal law and is not jurisdictional to the Commission. Act 183 did not address the amount of this credit. Nor could it have, for the same reason that the Commission is without jurisdiction. Rather, Act 183 attempted to increase Lifeline penetration by mandating increased notification to qualifying customers and removing limits on optional services available to Lifeline subscribers. Therefore, Lifeline cannot be considered to be related to rates under Chapter 30 and the companies’ alternative regulation plans. Furthermore, the Lifeline Tracking Report contains no information about the rates being charged to Lifeline customers.”

With regard to service outages and rates, PTA stated:

“Similarly, the frequency, duration and extent of service outages do not have any relationship with whether an ILEC’s rates are in compliance with their plan. Surely, the Commission can enforce service standards, including sanctioning a company for frequent service outages under Section 1301 of the Public Utility Code, which requires utilities to render adequate, efficient, safe, and reasonable service. However, service outage information is not identified as a component in the setting of a telephone company’s rates under its plan, and had the legislature intended that to change, they would have included it as an explicit provision in Act 183.”

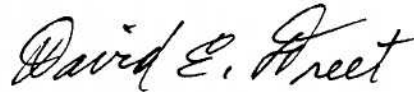
Furthermore, the PTA does not agree that, for telephone companies, service quality issues have rate implications and, therefore, can be used to meet the first test of Section 3015(f). This section requires that the report relate to whether “rates” are compliant with Act 183 and the company’s Chapter 30 Plan. There is no mention of “service” in this section. The Commission’s citation, in its December 30, 2005 Order, to rate base/rate of return water and waste water cases, where the quality of service may have been an element of rate setting does not apply here. The Chapter 30 Plans approved by the Commission all expressly limit rate regulation to the terms set forth in the Plans. There is no mention of rate penalties were service to be found inadequate. Under the legislation, Plans can be changed only if the Commission and the telephone company mutually agree.

The Commission has yet to resolve the issue of the Standard Service Surveillance Level Report and, as you know, is currently soliciting comments at Docket Number P-00021985. The PTA position on this matter is consistent with that outlined previously in this correspondence.

It is PTA's view that the three reports in question cannot be required under Sections 3015(e) or (f) of Act 183 and, consequently, should be included in the Commission's proposed rulemaking for elimination. This inclusion would adhere to the plain meaning of the statute and accurately reflect legislative intent.

On behalf of the PTA, I appreciate the opportunity to comment on this important matter and would welcome further discussion.

Sincerely,

A handwritten signature in cursive script that reads "David E. Freet".

David E. Freet

cc: Cawley, Fitzpatrick, Shane, Pizzingrilli, McNulty, Bush, Stephens