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INDEPENDENT REGULATORY
REVIEW COMMISSION

2591

April 2, 2007

VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
The Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Proposed Rulemaking Re Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers; Docket No. L-00060179

Dear Secretary McNulty:

Enclosed are the original and fifteen (15) copies of the Comments of the Broadband Cable Association of Pennsylvania to the Proposed Rulemaking Order of the Commission in the above-referenced proceeding.

Copies of the Comments are being served on the parties indicated on the attached Certificate of Service. Please date-stamp the extra copy of the Comments and this letter, and return them to our messenger for our files. If you have any questions, please contact us at your convenience. Thank you.

Very truly yours,

MCNEES WALLACE & NURICK LLC

By

Pamela C. Polacek

Counsel to the Broadband Cable
Association of Pennsylvania

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PA PUC
SECRETARY'S BUREAU

PCP/bes
Enclosures

- c: Certificate of Service
- Ms. Elizabeth Lion Januzzi, Asst. Counsel, Law Bureau (via hand delivery and e-mail)
- Ms. Holly Frymoyer, Telecommunications Policy and Evaluation Supervisor,
Bureau of Consumer Services (via hand delivery and e-mail)

CERTIFICATE OF SERVICE

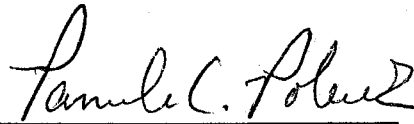
I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

Office of Consumer Advocate
555 Walnut Street
Forum Place, Fifth Floor
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Office of Small Business Advocate
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Office of Trial Staff
Pennsylvania Public Utility Commission
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Harrisburg, PA 17120



Pamela C. Polacek

Counsel to the Broadband Cable
Association of Pennsylvania

Dated this 2nd day April, 2007, in Harrisburg, Pennsylvania.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Provision of Bundled Service Package :
Plans at a Single Monthly Rate : Docket No. L-00060179
By Local Exchange Carriers :

**COMMENTS OF THE BROADBAND CABLE ASSOCIATION OF
PENNSYLVANIA TO TENTATIVE ORDER**

At a Public Meeting held on June 22, 2006, the Pennsylvania Public Utility Commission ("PUC" or "Commission") adopted a Proposed Rulemaking Order in the above docket, requesting public comment on proposed modifications to Chapter 64 of the Commission's regulations regarding the Section 64.21 separate billing obligation of telecommunications carriers offering bundled-services.¹ The Proposed Rulemaking Order was entered by the Commission on July 3, 2006 and published in the *Pennsylvania Bulletin* on March 3, 2007.² Pursuant to the directives in the Proposed Rulemaking Order, the Broadband Cable Association of Pennsylvania ("BCAP") hereby submits these comments.

I. INTRODUCTION

BCAP is a trade association of Pennsylvania's cable television operators and related businesses who collectively provide cable service to approximately 3.6 million homes in Pennsylvania.³ BCAP has been an advocate for many years in proceedings and investigations before this Commission regarding issues impacting the potential entry by cable operators into

¹ Proposed Rulemaking Order re Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers, Docket No. L-00060179 (Order entered July 3, 2006).

² 37 Pa. Bull. 1032 (March 3, 2007).

³ BCAP was formerly known as the Pennsylvania Cable and Telecommunications Association and the Pennsylvania Cable Television Association.

PUC-regulated telecommunications service markets.⁴ Several BCAP members own or are affiliated with Commission certificated competitive local exchange carriers ("CLECs"). BCAP submits these comments to articulate the concerns of its members who choose to bundle PUC jurisdictional voice services with interstate telecommunications or other non-jurisdictional services such as video, data and wireless services. Consumer demand for various services bundled at a single price is growing. As the Commission recognizes, its regulations must evolve to reflect market developments such as this.

The Commission seeks to memorialize in Chapter 64 the waiver that it has granted to various entities in the past regarding their specific plans to bundle their basic service with other services on a monthly bill; however, in order to qualify for this automatic waiver, the Commission requires these CLECs to meet the provisions of Section 64.21. As such, the proposed Section 64.24 imposes the following conditions, adopted from the Commission's September 23, 2003 Secretarial Letter⁵ on entities offering bundled-services at a single rate:

⁴ BCAP participated in the original proceeding to implement Chapter 30 of the Public Utility Code for Verizon Pennsylvania, Inc., which was then known as Bell Atlantic-Pennsylvania, Inc. (See Bell Atlantic-Pennsylvania, Inc.'s Petition and Plan for Alternative Form of Regulation Under Chapter 30, Docket No. P-00930715); in numerous Verizon-specific and generic proceedings to implement Chapter 30 and the Telecommunications Act of 1996 ("TA-96") (See, e.g., Application of MFS Internet of Pennsylvania, et al., Docket Nos. A-310203F0002, A-310213F0002, A-310236F0002 and A-310258F0002; Pennsylvania Public Utility Commission, et al., v. Bell Atlantic-Pennsylvania, Inc., Docket No. R-00943008, (Bell Atlantic Promotional Offerings Proceeding); Pennsylvania Public Utility Commission, et al., v. Bell Atlantic-Pennsylvania, Inc., Docket Nos. R-00963550, et al., and R-00963556 (Bell Atlantic Rate Rebalancing under Chapter 30); Formal Investigation to Examine and Establish Updated Universal Service Principles and Policies for Telecommunications Services in the Commonwealth, Docket No. I-00940035; Petition of Bell Atlantic Pennsylvania, Inc. for a Determination that Provision of Business Telecommunications Services is a Competitive Service Under Chapter 30 of the Public Utility Code, Docket No. P-00971307); in the "Global Proceeding" that resolved multiple issues related to competitive telecommunication services in Pennsylvania and in proceedings related to the ability of specific individual BCAP members to obtain CLEC authority and interconnection to provide traditional switched-circuit local telecommunication services in Pennsylvania, especially in rural Incumbent Local Exchange Carrier ("ILEC") service territories (See Joint Petition of Nextlink Pennsylvania, Inc., et al., for Adoption of Partial Settlement Resolving Pending Telecommunications Issues, Docket No. P-00991648 and Joint Petition of Bell Atlantic Pennsylvania, Inc., et al., for Resolution of Global Telecommunications Proceedings, Docket No. P-00991649 (Global Proceeding); Petition of Citizens Telephone Company of Kecksburg to Intervene and Suspend Interconnection Requirements of the Telecommunications Act of 1996 Under Sections 251(f)(2) and 253(b); Docket No. P-0097118)).

⁵ Secretarial Letter to all Competitive Local Exchange Carriers, Docket No. M-00031747 (issued September-23, 2003) (Secretarial Letter). See supra note 9.

- (1) The LEC may not suspend or terminate a customer's basic service when the customer fails to make payment on the bundled-service package ...; and,
- (2) When a customer fails to make payment on a bundled-service package, the LEC shall convert the customer's service to a basic service plan, subject to future suspension or termination for nonpayment.⁶

BCAP appreciates the efforts of the Commission to clarify the treatment of bundled service packages. However, as set forth herein, BCAP respectfully submits that the proposed rule is not consistent with recent changes to the Commission's statutory authority under the Public Utility Code as revised by Act 183,⁷ would impose substantial additional costs on CLECS that do not offer basic local service, especially those with multi-state operations, and extends the Commission's jurisdiction to unregulated and non-jurisdictional services.

II. COMMENTS

A. Under Chapter 30, the Commission Cannot Require CLECs to Offer Basic Service.

The Commission's proposed Section 64.24 would, in the event of nonpayment for bundled services, require all CLECs to convert a customer's bundled package into a "basic service" account as an alternative to terminating the service.⁸ The Commission bases its proposal, in part, on a September 23, 2003, Secretarial Letter that states "[i]n spite of the fact that [a] company may offer only a bundled-service package, the failure to separately list a charge on the bill for 'basic service' violates 52 Pa. Code § 64.21."⁹ While BCAP appreciates the Commission's efforts to relax its billing rules and streamline its regulatory requirements to

⁶ Id. at 8 (emphasis added).

⁷ Act 183 added Sections 3011-3019 to the Public Utility Code.

⁸ The Commission's regulations define "Basic Service" in Chapter 64 as:

"The transmission of messages or communications by telephone between points within a local calling area as established in the tariff of an LEC, including installation service, providing and restoring access lines, touch tone service and handling of unpaid checks.... The term includes charges for 911 service, telecommunications relay service and subscriber line service, but does not include premise visits for installation of new service."

52 Pa. Code § 64.2.

⁹ Secretarial Letter.

accommodate market realities, BCAP also believes that nothing in Chapter 30 of the Public Utility Code as revised by the General Assembly in Act 183 grants the Commission the authority to mandate the provision of basic service by CLECs. In fact, Section 3019(g) specifically states that the Commission "may not fix or prescribe the rates, tolls, charges, rate structures, rate base, rate of return or earnings of competitive services or otherwise regulate competitive services except as otherwise set forth in this chapter."¹⁰ The Public Utility Code defines "rate," in pertinent part, as "[e]very ... toll, charge, rental, or other compensation whatsoever of any public utility ... made, demanded or received for any service within this part, offered, rendered, or furnished by such public utility ... whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation[.]"¹¹

Services provided by a CLEC, including local exchange service, are by definition competitive. "Basic service," as defined in the Commission's regulations, clearly meets the definition of "rate" because it may be considered a charge, classification or contract affecting the compensation of the CLEC. The PUC can neither require a CLEC to offer a service bundle containing specific services nor require a CLEC offering only bundled service packages to "unbundle" the package for the purpose of providing stand-alone basic local service. Under the revisions to Chapter 30 implemented by Act 183, neither action is authorized.

The conspicuous absence of any express or implied authority granting the PUC the power to require specific services or unbundling, coupled with the clear language of the Chapter 30 provisions codified through Act 183 limiting the PUC's authority over CLECs, therefore leads to the firm conclusion that the Commission simply cannot require a CLEC to offer "basic service,"

¹⁰ 66 Pa. C.S. § 3019(g); see also § 3018(b)(1).

¹¹ 66 Pa. C.S. § 102 (emphasis added).

either as an original offering or as a customer protection measure in the event of non-payment for the price of a bundled product.

B. Under Chapter 30, the PUC May Not Regulate CLECs' Application of Partial Payments.

The current and proposed regulations mandate certain allocations of partial payments that, by nature, are inapplicable to CLECs offering advanced bundled-services. Specifically, Section 64.17(a) of the Commission's regulations states, "Payments received by a LEC which are insufficient to pay the balance due for telephone service and nonbasic service shall first be applied to telephone service," and Section 64.17(b) requires that "[p]ayments received by a LEC which are insufficient to pay the amount due for telephone service shall first be applied to basic service."¹² Similarly, Section 64.18 further requires that, absent specific written instructions from the customer, "payments received by the LEC which are insufficient to pay a balance due both for earlier services and for services billed during the current billing period shall first be applied to the balance due for earlier services, including late payment charges."¹³ These provisions must also be reassessed and removed for CLECs offering bundled products. These provisions do not relate to services provided by CLECs and lack any applicability to CLECs pursuant to Act 183. Therefore, they should be removed for CLECs offering bundled services.

1. Types of Bundles

The Commission must be cognizant that customer demand for innovative services is what drives the offering of bundled service products.

There are essentially two typical bundled service packages that BCAP members offer within the Commonwealth. The first is a telecommunications-only "all-distance" package that

¹² 52 Pa. Code § 64.17(a)-(b).

¹³ Id. § 64.18.

combines all telephone services – local and intraLATA and interLATA toll – into one single-priced product.

The second pricing strategy involves a company's offering customers a combination of traditional telecommunications services with non-jurisdictional, non-telecommunications services (e.g., internet (data) services or cable (video) services and sometimes wireless). As with "all-distance" voice, the carrier offers two or more distinct services in a single, bundled product for a single price.

2. Rules for CLECs Not Offering Basic Local Service

Under the current rules and the proposed Section 64.24, a carrier is unable to suspend or terminate basic service upon the customer's failure to pay the bundled price.¹⁴ BCAP continues to believe that the Public Utility Code, as amended by Act 183 bars the Commission from imposing service obligations on CLECs. If the Commission chooses to proceed with imposing this regulatory obligation it should, at minimum, create an exception for CLECs that do not offer basic service as part of their bundled packages. Virginia and Ohio offer compelling and functional alternatives for CLECs in this situation (see language attached at Appendix A) Both Virginia and Ohio permit CLECs that do not offer basic local service as stand-alone services to disconnect the entire bundle in a non-payment situation. In both states, if a CLEC chooses not to offer basic service, the account can be terminated for nonpayment without the intermediate step of placing the customer on a service that does not exist.

3. The Commission's Regulation Must Encourage New Entrants and Not Impose Additional Technical Costs on Competitors

In initiating this proceeding, the Commission noted, "As technology continues to advance and the desires of customers change, we need to ensure that our regulatory framework is

¹⁴ Proposed Rulemaking Order at 8; see also 52 Pa. Code § 64.63.

appropriately structured to recognize these developments."¹⁵ This comports with the requirement of Section 3019(b)(2) that the PUC "take into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand."¹⁶ As such, in considering the proposed Section 64.24, the Commission must be cognizant of creating an additional barrier for new entrants for whom offering bundled services without the availability of basic local service as a stand-alone is the most cost-effective means of providing retail service to residential customers.

Further, Section 64.21 of the Commission's regulations specifically allows for termination of "basic service" where a carrier is "technically unable to terminate toll service without also terminating basic service."¹⁷ At the same time, the proposed Section 64.24 would mandate that a carrier "*shall* convert the customer's service to a basic service plan" where the customer fails to pay for the bundled package.¹⁸ As proposed, Section 64.24 is in conflict with Section 64.21.

In addition, regulations are unnecessary for CLECs because CLEC customers are always free to "vote with their feet" and find a provider whose partial payment and termination policies are more to their liking, including purchasing a traditional basic local service regulated by the PUC.

¹⁵ Proposed Rulemaking Order, at 2 (quoting Petition of Trinsic Communications, Inc., Docket No. P-00052169 (Order entered Feb. 1, 2006).

¹⁶ 66 Pa. C.S. § 3019(b)(2)

¹⁷ 52 Pa. Code § 64.21(b). The complete text of subsection (b) of this section states, "A customer's failure to pay charges for other services may not be a basis for termination of basic service unless the LEC is technically unable to terminate toll service without also terminating basic service as provided in § 64.63 (relating to unauthorized suspension of service)" (emphasis added). While Section 64.63 prohibits suspension of basic services for "[n]onpayment for nonbasic services," it also clearly notes that suspension for "[n]onpayment of delinquent fees for toll service" is only prohibited where the carrier "is technically capable of terminating toll service without also terminating basic service." 52 Pa. Code § 64.63(2).

¹⁸ Proposed Rulemaking Order, at 8 (emphasis added).

Finally, the Commission must consider the costs of subjecting multi-state entities to numerous and varying regulatory schemes, especially when services are bundled. Competitors with businesses in multiple states benefit, as do their customers, from the flexibility to develop and implement a single collection timeline allowing development of a single tracking network, uniform customer materials, and a single set of policies that facilitate consumer communication and eliminate confusion both among customer-facing employees and customers, themselves. Creating multiple networks and various customer materials and managing training needs for a panoply of requirements across states add operational costs that, in the end, are passed along to consumers, eroding the benefits of the bundle discount.

The FCC has recognized the problems inherent in a patchwork of regulatory obligations across multiple states, stating

By addressing the classification issues in the accompanying Declaratory Ruling, we seek to remove regulatory uncertainty that may discourage investment and innovation in broadband services and facilities. In this part of the Notice of Proposed Rulemaking, we address potential areas of regulatory uncertainty at the State and local levels that could also discourage such investment and innovation. We would be concerned in a patchwork of State and local regulations beyond matters of purely local concern result in inconsistent requirements affecting cable modem service, the technical design of the cable modem service facilities, or business arrangements that discouraged cable modem service deployment across political boundaries. We also would be concerned if State and local regulations limited the Commission's ability to achieve its national broadband policy goals to "promote the deployment of advanced telecommunications capability to all Americans in a reasonable timely manner," "to promote the continued development of the Internet and other interactive computer services and other interactive media" and "to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation."¹⁹

¹⁹ In the Matter of Inquiry Concerning High-Speed Access to the Internet over Cable and Other Facilities, FCC Docket Nos. GN 00-185 and CS 02-52, Declaratory Ruling and NOPR released March 15, 2002 ("Cable Modem Order"), at ¶ 97.

With these considerations properly at the forefront of the PUC's assessment, BCAP is confident that regulations can be formed that will promote competition and the offering of bundled services without also placing improper or infeasible requirements on CLECs, to the detriment of Pennsylvania consumers.

4. Summary

The Commission's regulations in Chapter 64 and the proposed changes in this rulemaking proceeding do not effectively address or reflect the current competitive environment in Pennsylvania. Today, strong customer demand for innovative technology is driving the rollout by CLECs of advanced voice, data, and video services. The PUC has a duty both under Chapter 30 as revised by Act 183 and its own stated policy of encouraging competition to ensure that its regulatory framework supports the development of a robust competitive market in the Commonwealth.

C. In Exercising Its Jurisdiction Over Local Telecommunications Service, the Commission Must Avoid Implementing Requirements That Result in the De Facto Regulation of Non-Jurisdictional Services.

The current and proposed Chapter 64 billing regulations also warrant reconsideration based solely on the question of the proper jurisdictional reach of the Commission. The PUC's existing and proposed billing regulations, as applied to CLECs result in de facto regulation of non-jurisdictional services.

Under Chapter 30, there is little question that the Commission properly exercises some jurisdiction over local telephone service. Section 3019 grants the Commission authority to "certify more than one telecommunications carrier to provide local exchange telecommunications service in a specific geographic location,"²⁰ and Section 3012 defines "local exchange telecommunications service", over which the Commission exercises jurisdiction, as

²⁰ 66 Pa. C.S. § 3019(a).

"[t]he transmission of messages or communications that originate and terminate within a prescribed local calling area."²¹ The problem arises when, during the exercise of this legitimate jurisdiction, the Commission causes non-jurisdictional services also to be subject to regulation.

Pursuant to case law, the Commission may not assert jurisdiction over any service unless expressly provided in relevant statutes or "by strong and necessary implication therefrom."²² The statutory definition of "Public Utility" in Section 102 of the Pennsylvania Public Utility Code provides the basis for Commission jurisdiction to regulate persons or corporations "owning or operating . . . equipment or facilities for . . . [c]onveying or transmitting messages or communications . . . by telephone or telegraph . . ." ²³ Services such as interLATA toll are clearly the jurisdiction of the FCC.

Where competitive services, such as video, data, and wireless are concerned, Federal and State law and policy have also clearly indicated that these services are outside of the regulatory jurisdiction of the PUC. For example, the FCC has determined that internet access through cable modems or wireline networks is an information service.²⁴ Similarly, the FCC continues to review the appropriate jurisdictional classification and treatment of VOIP²⁵ and wireless²⁶

²¹ 66 Pa. C.S. § 3012.

²² City of Philadelphia v. Philadelphia Electric Co., 473 A.2d 997 (Pa. 1984); *accord* United Telephone Co. of Pennsylvania v. Pennsylvania Public Utility Comm'n, 676 A.2d 1244 (Pa. Commw. Ct. 1996).

²³ 66 Pa. C.S. § 102.

²⁴ In the Matter of Inquiry Concerning High-Speed Access to the Internet over Cable and Other Facilities, FCC Docket Nos. GN 00-185 and CS 02-52 (Dec. Ruling and NOPR released Mar. 15, 2002); In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, FCC Docket Nos. CC 02-33, CC 01-337, CC 95-20 and 98-10, WC 04-242 and WC 05-271 (Report and Order and NOPR released Sept. 23, 2005).

²⁵ In the Matter of IP-Enabled Services, FCC Docket WC 04-36 (NOPR released Mar. 10, 2004) (IP Enabled Services NOPR).

²⁶ In the FCC's request for rehearing and reconsideration at the 11th Circuit, the FCC, echoing its reasoning in the Cable Modem Order, asked the Court to rehear and reconsider its decision in National Association of State Utility Consumer Advocates v. FCC, 457 F.3d 1238 (11th Cir. 2006). The impact on rates of state line item regulation is particularly clear, the Commission explained, "considering that most [wireless] carriers . . . market and price their services on a national basis." *Id.* Absent preemption, "[a wireless] carrier forced to adhere to a varying patchwork of state line item requirements . . . would be forced to adjust its rate structure from jurisdiction to jurisdiction."

services. Therefore, as it currently stands, the Commission lacks regulatory jurisdiction over cable, internet, and wireless services.

Because the bundled bill reflects an agreed upon payment structure for all services in one package, and not simply for individual products, BCAP respectfully submits that certain directives, including but not limited to those contained in the proposed regulation, may improperly lead to de facto regulation of non-jurisdictional services. The rule proposed at 64.24 would force the carrier to effectively "unbundle" its services in favor of retaining the jurisdictional service over the non-jurisdictional. In addition, by directing a carrier how to apportion payment for the bundled package, the Commission will, in fact, be regulating how the carrier apportions payment for and to non-jurisdictional services.

It is equally important for the Commission to be cognizant of consumers' practice and expectations. Consumers purchase entire packages; they do not purchase basic local service with telecommunications or advanced services as add-ons. With bundled products consisting of non-jurisdictional services, any mandate to a CLEC to convert its bundled product into a basic service account requires the carrier to discard its agreement with its customer and begin providing a service that was not offered, at the expense of the non-jurisdictional services for which the customer and carrier have an express agreement. For example, in directing payment priority and billing requirements for "all-distance" telephone service, the Commission is also exercising de facto regulation over non-jurisdictional interLATA long distance that Chapter 30 deems to be competitive. BCAP respectfully submits that the Commission can neither require a carrier to discontinue or continue non-jurisdictional services, nor can it require the unbundling of these services for the purpose of retaining a regulated product, especially one that the carrier does not offer.


III. CONCLUSION

Today, as the consuming public demands more service options, the cable industry is again responding through competitive ventures to meet that market demand. Clearly, the deregulatory policies adopted at the state level for telecommunications services, and at the Federal level for telecommunications and information services, are beginning to produce the desired results – more choices for customers.

BCAP applauds the Commission for advancing the competitive delivery of bundled-service products by proactively examining its billing regulations. However, the Commission must be careful to maintain a regulatory environment that is consistent with the requirements of Chapter 30, does not impose additional costs or burdens on competitors, especially those that do not offer basic local service as a stand-alone service, and does not infringe upon non-jurisdictional services, such as video, data, and wireless. BCAP's recommendations are consistent with the Commission's goals to enhance market conditions by allowing customer demand, and not regulatory mandates, to dictate the pricing, terms, and conditions of these important advanced competitive services.

Respectfully submitted

McNEES WALLACE & NURICK LLC

By 

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Dated: April 2, 2007

Counsel to the Broadband Cable Association
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APPENDIX A

BUNDLED BILLING LANGUAGE

**APPENDIX A
BUNDLED BILLING LANGUAGE**

Virginia

<http://www.scc.virginia.gov/division/puc/ch413.pdf>

"Basic bundle" means a bundled service that includes basic telephone service and additional service components in the designated group of services. The additional service components of the basic bundle are limited to vertical and ancillary services, interstate and intrastate interexchange services provided by the LEC or an affiliated carrier of the LEC, or any combination of these additional components.

"Bundled service" means a designated group of services or products offered to customers at a package or set price. A bundled service may consist of regulated and nonregulated services or products.

20 VAC 5-413-10. Disconnection of local exchange service for failure to pay.

A. A LEC may disconnect local exchange services, including basic telephone service for a customer's failure to pay fully for such local exchange services or basic telephone service when those services are found in the LEC's tariff on file with the commission and there is no bona fide dispute concerning those services

B. A LEC may disconnect a bundled service for a customer's failure to pay fully for the bundled service when the bundled service is considered a basic bundle and the description and full price of the basic bundle are found in the LEC's tariff on file with the commission, and there is no bona fide dispute concerning the basic bundle.

C. A LEC may disconnect local exchange services, including basic telephone service, or a basic bundle identified in subsections A and B of this section, for a customer's failure to pay the SLC, USF, or TRS fees or surcharges billed by the LEC. If billed on behalf of an affiliate, the SLC, USF, or TRS fees or surcharges or a portion thereof must be associated with a basic bundle.

1. The LEC must provide written notice to the commission's Division of Communications of the SLC, USF, or TRS fees or surcharges. This notice shall include the fee or surcharge name as it appears on the customer's bill, an explanation of the charge, and the billed amount. The LEC is responsible for the timely submission of information to the Division of Communications on any changes to the amount, name, explanation, or applicability of the fees or surcharges. A LEC shall not disconnect a customer's local exchange services, including basic telephone service, or a basic bundle, for failure to pay any of these fees or surcharges if this notice has not been submitted to the Division of Communications, or the information provided is not current.

2. The SLC, USF, and TRS fees and surcharges must be separately identified on the customer's bill for the LEC to have authority to disconnect local exchange services, including basic telephone service, or a basic bundle, for nonpayment of any of these fees or surcharges.

3. A LEC may petition the commission for similar treatment of additional fees or surcharges as is provided for the SLC, USF, and TRS in this subsection. Any such petition shall provide sufficient documentation and rationale for the request. The commission may grant such treatment for an additional fee or surcharge for an individual LEC or on behalf of all LECs.]

D. A LEC may disconnect any local exchange service that the LEC is not required by the commission to include in tariffs on file with the commission for nonpayment of such service; however, the LEC may disconnect only those nontariffed local exchange services for a customer's failure to pay for those nontariffed local exchange services.

E. Nothing in this chapter is intended to alter the responsibility of a customer to pay for services or products used or subscribed to, or other charges that appear on the customer's bill from a LEC.

Ohio

Rule 4901:1-5-10 (B), see commentary on page 55 of Order adopting rules.

<http://dis.puc.state.oh.us/TiffToPDF/A1001001A07B07B42803I33687.pdf>

(B) Basic local exchange service, when offered to residential and small business customers as a stand-alone service, may only be disconnected for the nonpayment of past due charges for that service. A local exchange carrier (LEC), when offering a service package of bundled regulated services and/or bundled regulated and unregulated services to residential and small business customers may, if basic local exchange service is included in the service package, discontinue for insufficient payment the provision of any regulated and/or unregulated service(s) other than basic local exchange service, if basic local exchange service is offered as a stand-alone option and payment is sufficient to cover the rate of that service. For purposes of this rule, the rate for basic local exchange service shall be the tariffed rate. If basic local exchange service is not offered by the LEC on a stand-alone basis, then insufficient payment may result in disconnection of the entire package.