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INDEPENDENT REGULATORY
REVIEW COMMISSION

July 31, 2008

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JUL 31 2008

PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

Re: Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers; Extension of Public Comment Period, Docket No. L-00060179;
FURTHER COMMENTS OF THE PENNSYLVANIA TELEPHONE ASSOCIATION TO COMMISSION PROPOSED RULEMAKING

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and ten (10) copies of the Pennsylvania Telephone Association's Further Comments in the above-captioned matter.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Michael L. Swindler
Counsel to the Pennsylvania Telephone Association

Enclosure

cc: Steve Samara
Elizabeth Lion Januzzi (via email)

**BEFORE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Provision of Bundled Service Package :
Plans at a Single Monthly Rate by : Docket No. L-00060179
Local Exchange Carriers; Extension :
of Public Comment Period :

**FURTHER COMMENTS OF THE
PENNSYLVANIA TELEPHONE ASSOCIATION TO
COMMISSION PROPOSED RULEMAKING**

I. INTRODUCTION

By Order entered July 3, 2006 at the above docket, the Pennsylvania Public Utility Commission (“Commission”) adopted a Proposed Rulemaking Order allowing for a limited exception to the billing requirements of Chapter 64, 52 Pa. Code §§ 64.1-64.213, under certain conditions and authorizing local exchange carriers (“LECs”) to offer single-priced bundled service packages. The Proposed Rulemaking Order was intended to amend the Commission’s regulations to be consistent with the law passed by the General Assembly which allows local exchange telecommunications companies (incumbent local exchange carriers or ILECs) to “offer and bill to customers on one bill bundled packages of services.” 66 Pa. C.S. § 3016(e)(2).¹ The Proposed Rulemaking was published in the *Pennsylvania Bulletin* on March 3, 2007, 37 Pa.B. 1032, and comments were filed by various interested parties. The Pennsylvania Telephone Association (“PTA”)² filed Comments on April 2, 2007. By Notice published in the *Pennsylvania Bulletin* on

¹ Act 183 of 2004, P.L. 1398 (66 Pa. C.S. §§ 3011-3019) repeated the prior Chapter 30 law.

² The Pennsylvania Telephone Association is the state's oldest trade organization for the local exchange carrier industry. PTA represents more than 30 telecommunications companies that provide a full array of services over wire line networks. PTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities. As referenced herein, PTA represents its member companies that have not filed comments individually on this topic.

June 7, 2008, 38 Pa.B. 2658, the Commission has reopened the comment period in the above matter to accept additional public comments until July 31, 2008. The PTA appreciates the opportunity to present these further Comments to the Commission for its consideration.

II. PTA'S COMMENTS

A. Comments of April 2, 2007

The PTA stands by its Comments filed on April 7, 2007. There are currently LECs that offer bundled service packages, but separate the service categories of bundled offering, including the protected local service, for internal billing purposes. In other words, these companies offer a single rate, bundled service to customers, but already separate for billing purposes basic, non-basic, and toll charges, which allows the companies to apply payments just as if the customer had non-bundled services. By maintaining separate billing "pots" and otherwise complying with the existing Chapter 64 payment application requirements, there is no risk that a customer's basic service will be suspended or terminated for nonpayment of a non-protected service that is also part of the bundled offering. As such, the conditions included in the proposed regulation identified as Section 64.24 should not apply to LECs whose bundled offerings already comply with the existing payment application requirements of Chapter 64.

Moreover, LECs should not be required to provide a second notice of the conversion of the bundled offering to non-bundled services in the event of nonpayment. As the PTA has explained in its original comments, this would require companies to reprogram their billing systems to add additional language to suspension notices that would be sent only to bundled package customers, at costs that could reach the hundreds of thousands of dollars.

B. Commission Authority to Regulate Bundled Offerings

In its invitation for additional comment, the Commission asks for additional comment on specific areas, including the Commission's authority to establish consumer protection regulations for bundled service package plans under 66 Pa. C.S. § 3016(e)(2). As the Commission correctly recognizes, its proposed regulation to provide for bundled service packages at a single monthly rate was precipitated by revisions to the Public Utility Code at 66 Pa. C.S. § 3016(e)(2). This statutory provision expressly grants ILECs permission to offer single-rate package plans and reads in its entirety as follows:

66 Pa.C.S.A. § 3016(e)(2)

(e) Pricing flexibility and bundling.—

... (2) A local exchange telecommunications company may offer and bill to customers on one bill bundled packages of services which include nontariffed, competitive, noncompetitive or protected services, including services of an affiliate, in combinations and at a single price selected by the company. A local exchange telecommunications company may file an informational tariff for a bundled package effective on a one-day notice.

This Commission previously noted in another matter that it was mindful of the necessity for this Commission, as a creature of statute, to give effect to the intent of the General Assembly in the enactment of Act 183.³ The PTA is concerned that the Commission could exceed its authority by requiring conditions upon LECs and their bundled offerings in its proposed regulation that are not anticipated by Section 3016(e)(2). A regulation proposed by the Commission should not usurp or otherwise restrict the statutory law.

Similar concerns were expressed by the Independent Regulatory Review Commission ("IRRC") in its Comments filed May 2, 2007, where it noted that "portions of [proposed Section 64.24] appear to regulate bundled service packages as a whole, rather than the protection of basic

³ See, Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Universal Service Fund, et. al., at Docket No. I-00040105, et. al., (Opinion and Order entered July 11, 2007).

service within a bundled service package.” IRRC Comments at 1. As currently drafted, the proposed Section 64.24 would afford a LEC the ability to offer bundled packages of services “under the following conditions...” with those conditions enumerated in the regulation. The Commission should revise its proposed regulation to establish conditions only on the protective service “pot” once unbundled from the package offering rather than impose conditions on the provision of the bundled offerings themselves.

C. Company Cost and Technical Difficulty

In its invitation for additional comment, the Commission also asks for additional comment on the costs and technical difficulty associated with implementation of the proposed regulations. This was touched upon in the PTA’s initial Comments. The PTA reiterates that complying with the Commission’s proposed additional customer notice requirement would be very costly to LECs because it requires major programming changes to notice and treatment processes that are time, space and postage sensitive. It also leads to the nascent result of providing the delinquent customer an additional month of service before the LEC is permitted to suspend service to that customer for non-payment. Such delay results in a potential increase in the LECs’ uncollectible revenues. The initial Comments of PTA filed on April 2, 2007, were intended to offer a way to comply with the Commission’s desire to protect basic service while limiting the additional and unnecessary expense to the LECs.

III. CONCLUSION

The Pennsylvania Telephone Association thanks the Commission for the opportunity to participate in this proceeding and respectfully requests that the Commission consider the further comments set forth above.

Respectfully submitted,



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