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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

May 2, 2007

Honorable Wendell Holland, Chairman
Pennsylvania Public Utility Commission
Keystone Building, 3rd Floor
400 North Street
Harrisburg, PA 17105

Re: Regulation #57-251 (IRRC #2591)
Pennsylvania Public Utility Commission
Provisions of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange
Carriers

Dear Chairman Holland:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional
Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and
Professional Licensure Committee
Honorable Joseph Preston, Jr., Majority Chairman, House Consumer Affairs Committee
Honorable Robert W. Godshall, Minority Chairman, House Consumer Affairs Committee

Comments of the Independent Regulatory Review Commission

on

Pennsylvania Public Utility Commission Regulation #57-251 (IRRC #2591)

Provisions of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers

May 2, 2007

We submit for your consideration the following comments on the proposed rulemaking published in the March 3, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

1. Consistency with statute.

In the preamble, the PUC quotes its Proposed Rulemaking Order (PUC Doc. No. L-00060179) which includes the following statement:

We note that while the Public Utility Code expressly grants local exchange telecommunications companies⁵ (incumbent local exchange carriers or ILECs) permission to offer single-rate package plans, 66 Pa.C.S. § 3016(e)(2), nothing in the Code precludes the Commission from authorizing competitive local exchange carriers (CLECS) to provide single-rate package plans. In fact, we believe that authorizing CLECS to provide such service packages advances two important policy goals: (1) to encourage diversity in services and products; and (2) to promote the provision of competitive services by a variety of service providers without jeopardizing universal service. See, 66 Pa.C.S. § 3011(5)(8).

While expressing support for the PUC's stated goals in this rulemaking, some commentators take issue with the proposed regulatory language to accomplish this goal. We recognize that the PUC is attempting to address rapidly evolving services and providers. However, as written, portions of the regulation appear to regulate bundled service packages as a whole, rather than the protection of basic service within a bundled service package. Therefore, in light of 66 Pa.C.S. § 3016(e)(2), the PUC needs to further explain how the regulation is consistent with the statute as explained below.

Under the following conditions

Under 66 Pa.C.S. § 3016(e)(2), "local exchange telecommunications companies may offer and bill to customers on one bill bundled packages of services...." However, proposed Section 64.24 begins with the statement that "An LEC may offer bundled packages of services...under the

following conditions:....” The PUC needs to explain why it is consistent with the statute to impose in regulation restrictions not stated in 66 Pa.C.S. § 3016(e)(2).

Payment agreements for past-due amounts on bundled service packages

Paragraph (4) states, “The LEC may offer payment agreements for past-due amounts on bundled service packages.” While the PUC has an interest in protecting basic service, the authority and purpose behind this provision regarding bundled services is not clear, particularly when bundled services include competitive services. The PUC should explain how this provision is consistent with 66 Pa. C.S. Chapter 30.

Notices issued pertaining to the bundled service package

Paragraph (5) states, “Notices issued by the LEC pertaining to the bundled service package...will be subject to Commission review and approval....” Again, while the PUC has an interest in protecting basic service, the authority and purpose behind this provision regarding all bundled services is not clear. The PUC should explain how this provision is consistent with 66 Pa. C.S. Chapter 30.

Furthermore, Paragraph (5) states that “notices issued by the LEC pertaining to the bundled service package, including...other communication, will be subject to Commission [PUC] review and approval....” The requirement relating to “other communication” is vague and could encompass irrelevant communications. We recommend deleting the phrase “or other communication.”

2. “The LEC shall convert the customer’s service” – Economic impact; Need; Reasonableness.

Paragraph (2) states, “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....” There are two concerns.

First, by use of the word “shall,” the regulation does not leave any discretion for the LEC and customer to resolve any issues that may have led to failure to make payment. Can the LEC and customer resolve payment issues before a basic service plan is imposed?

Second, commentators cite concerns related to changing service to basic service. Although the intent of Paragraph (2) appears to be to separate basic service from bundled services, commentators question whether Paragraph (2) will create a confusing array of bills to the customer, impose unreasonable administrative costs for the LEC and allow a costly extension of termination proceedings. We will review the PUC’s responses to the commentators on these issues to determine whether Paragraph (2) is in the public interest.

3. Waiver of applicable Chapter 64 regulations. – Implementation procedures; Conflict with existing regulation; Clarity.

In the Preamble, the PUC included in its order the following paragraph:

9. Pending the final resolution of this rulemaking, the Chapter 64 separate billing requirement, including 52 Pa. Code §§ 64.14(a)(4) and (5), 64.17, 64.18, 64.21(a), and 64.63(1) and (2), are temporarily waived to the extent necessary to permit all LECs to offer bundled services packages, provided that the LEC agrees to the conditions set forth in the Secretarial Letter issued September 23, 2003, at Docket No. M-00031747.

Even though the PUC recognizes these existing provisions are inconsistent with the proposed rulemaking, the proposed language amendments do not rectify the inconsistency. As a result, when the waiver expires, Chapter 64 will contain contradictory language. We offer two examples: The PUC temporarily waived the following requirements:

Section 64.14. Billing information.

(a) Every bill rendered shall state clearly the following information:

* * *

(4) The amount due for service and equipment during the current billing period, and the charges for toll service, local usage, taxes and applicable surcharges.

(5) An itemized statement of toll charges listing the date, time, destination, duration and rate period for each toll call.

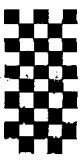
and

Section 64.21. Separate billing for basic service.

(a) Charges for basic service shall be billed separately from charges for other services.

Upon completion of this rulemaking, these provisions would no longer be waived. Hence, the above provisions will contradict Section 64.24 which states, "An LEC may offer bundled packages of services...in a single package plan at a single monthly rate...." These contradictions need to be resolved prior to the filing of a final-form regulation. We recommend that the PUC consider either a new proposed rulemaking to allow the public, legislature, Attorney General and this Commission the opportunity to review and comment upon any changes not published in this proposed rulemaking, or an Advanced Notice of Final Rulemaking to allow interested parties the opportunity to comment on revisions.

Finally, we recognize that the intent of this rulemaking is to implement a process that does not require a case-by-case waiver regarding bundled services. However, commentators see many implications beyond the proposed amendments and raised many issues related to 66 Pa.C.S. Chapter 30. In the final-form rulemaking preamble, the PUC should explain how it took into consideration 66 Pa.C.S. Chapter 30, including 66 Pa.C.S. §§ 3011(5), (6), (8) and (13); 3016 and 3019(b)(2) in the formulation of the language included in the final-form regulation.



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INDEPENDENT REGULATORY REVIEW COMMISSION



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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

To: Sherri A. DelBiondo
Regulatory Review Coordinator
Law Bureau
Agency: Pennsylvania Public Utility Commission
Phone: 2-4597
Fax: 3-3458
Date: May 2, 2007
Pages: 5

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-251 (IRRC #2591). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through Interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: [Signature] Date: 5-2-07

ARTHUR COCCODRILLI, CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN.
NANCY SABOL FRANTZ, ESQ.
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INDEPENDENT REGULATORY REVIEW COMMISSION

September 2, 2008 333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

Honorable James H. Cawley, Chairman
Pennsylvania Public Utility Commission
Keystone Building, 3rd Floor
400 North Street
Harrisburg, PA 17105

Re: Regulation #57-251 (IRRC #2591)
Pennsylvania Public Utility Commission
Provisions of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers

Dear Chairman Cawley:

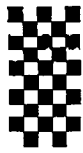
By publication in the June 7, 2008 *Pennsylvania Bulletin*, the Public Utility Commission (PUC) reopened the public comment period on the above regulation to accept additional comments in three specific areas. We have received and reviewed several additional public comments on this regulation. Under 1 Pa. Code 305.3(c)(2), we supplement our initial comment on the proposed regulation by notifying the PUC that we will review the PUC's response to the additional public comments in the submittal of the final-form regulation as part of our consideration of whether the final-form regulation is in the public interest.

If you or your staff have any additional questions, please feel free to contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Joseph Preston, Jr., Majority Chairman, House Consumer Affairs Committee
Honorable Robert W. Godshall, Minority Chairman, House Consumer Affairs Committee
Elizabeth Lion Januzzi, Esq., PUC
Holly Frymoyer, PUC



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Comments: For the attached letter, we are supplementing our comments on the Pennsylvania Public Utility Commission's regulation #57-251 (IRRC #2591). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Deanne Maher Date: 9-2-08