

Regulatory Analysis Form

(Completed by Promulgating Agency)



SECTION I: PROFILE

(1) Agency:

Public Utility Commission

(2) Agency Number:

Identification Number: Docket No. L-00060179

IRRC Number: 57-251

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(3) Short Title:

Final Rulemaking re: Provision of Basic Service in Bundled Service Package Plans by Local Exchange Carriers.

(4) PA Code Cite:

52 Pa. Code §§ 64.2-64.123

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address).

Primary Contact: Elizabeth Lion Januzzi, 717-772-0696 (phone), P.O. Box 3265, Harrisburg, PA 17105-3265, 717-783-3458 (fax), elionjanuz@state.pa.us.

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(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

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(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

Rulemaking to safeguard the provision of basic local exchange telephone service within bundled service pricing plans that are offered by local exchange carrier (LEC) telecommunications utilities within the Commonwealth. The purpose of the regulation is to provide end-user consumers with the opportunity to retain the basic local telephone service component and the ability to make local telephone landline calls, including 911 calls for emergency assistance, even if they are not able to pay the entire cost of the bundled service plan.

(9) Include a schedule for review of the regulation including:

- | | |
|---|---|
| A. The date by which the agency must receive public comments: | N/A |
| B. The date or dates on which public meetings or hearings will be held: | N/A |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | N/A |
| D. The expected effective date of the final-form regulation: | Effective upon publication in the Pennsylvania Bulletin |
| E. The date by which compliance with the final-form regulation will be required: | Effective upon publication in the Pennsylvania Bulletin |
| F. The date by which required permits, licenses or other approvals must be obtained: | N/A |

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

Pursuant to the Commission's statutory duty to oversee the provision of basic local telecommunications service, the Commission's staff is continually monitoring the practical impact of this regulation.

SECTION II. STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Section 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, as amended, 45 P.S. §§ 1201 and 1202, and the associated regulations at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, as amended, 71 P.S. 732.204(b); Section 745.5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, as amended, 71 P.S. § 745.5; Section 612 of the Administrative Code of April 9, 1929, P.L. 177, as amended, 71 P.S. § 232, and the associated regulations at 4 Pa. Code §§ 7.231-7.234.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The amendment to Chapter 64 is needed to ensure that all LECs offering basic service as part of bundled service pricing plans retain the consumer protections in place for basic service. The amendment benefits both the telecommunications utilities and Pennsylvania's consumers by establishing minimum and flexible standards for provision of basic local calling within a bundled service pricing plan, which accommodate LEC's diverse billing practices, do not impact pricing, and enable all LECs to freely offer bundled pricing plans while preserving consumer protections for basic local calling. The regulation protects Pennsylvania's residential telephone customers from losing basic local service if they are not able to pay the full price of the bundle service package. In addition, the regulation will relieve competitive LECs (CLECs) from the burden of filing petitions for waiver of the current regulations. 66 Pa. C.S. § 3016(e)(2) allows incumbent LECs the right to offer bundled packages of services. Further, the amendment relieves the PUC of the administrative burden of requests for waiver from the existing regulations in order for CLECs to offer bundled service pricing plans, as well as creates a consistent standard under which the PUC may ensure consumer protections over basic telephone service are preserved.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No one will be adversely affected.

(16) 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.

All regulated telecommunications carriers offering basic service as part of a bundled service pricing plan to residential customers will be required to comply with the regulations. Currently, there are at least 75 LECs providing residential telephone service in the Commonwealth.

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

Cost studies have not been conducted. The Amendment simplifies and removes burdensome administrative review for waiver from the separate billing requirements, and accommodates the diverse billing practices of LECs offering basic service as part of a bundled service pricing plan.

(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. Explain how the dollar estimates were derived.

N/A

(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. Explain how the dollar estimates were derived.

Cost studies have not been conducted. However, this amendment will result in greater efficiency for the Commission in its ongoing duty to ensure consumer protections are preserved for basic local calling service.

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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. N/A

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

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

Program	FY -3	FY -2	FY -1	Current FY
N/A				

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

N/A

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

A proposed regulation was submitted for public comment, and extensive amendments were made to the proposed version based upon the public input. A re-draft was circulated and informal written comments were sought from all parties which commented to the proposed regulation. Meetings and discussion were held with all parties which submitted informal written comments. The Commission received comments from seven parties, including the Pennsylvania Telephone Association, which represents all of the Commonwealth's incumbent LECs except Verizon PA and Verizon North. Final form regulations were published by the Commission and based on reconsideration requested by several parties, changes were made to the final form regulation.

The final form regulation represents a substantial change from the proposed regulation, with the intent of narrowing the focus of the regulation to the protection of the provision of basic service, while accommodating the LECs diverse billing and pricing practices on reconsideration, the final rulemaking was further revised to strictly limited regulatory language to mirror the previously granted waivers.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

In our proposed regulation, we required all LECs to convert bundled package service to a basic service account when the customer failed to pay the cost of the entire bundled service package. Upon review of the comments and discussion with a number of the parties, we rejected that requirement as burdensome and now allow LECs to be flexible in the way they handle past due accounts. The only alternative regulatory scheme considered was to retain the existing regulation under Chapter 64 which requires telecommunications carriers to maintain separate billing for separate services, rendered obsolete where bundled service pricing plans are authorized. The final rulemaking simplifies and removes the burdensome requirements for waiver of the now inapplicable provisions of Chapter 64 while ensuring the necessary consumer protections remain in place.

(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 regulations.

No.

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(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

No comparison was conducted; however, one of the commentators informed us that in a number of other states, LECs are allowed to shut off a delinquent customer's basic service if the customer fails to pay the amount due for the bundled service package. Terms and conditions of local calling are an intrastate issue, which does not impact Pennsylvania's competitive position in relationship to other states.

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

We revised a number of sections of Chapter 64 to remove language that contradicted the provisions of the new section at 64.24 so that the language of all sections of the Chapter is now consistent.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

None required.

(28) 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.

N/A

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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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-00060179/57-251

DATE OF ADOPTION December 17, 2009

BY _____
James J. McNulty

TITLE Secy
(SECRETARY)

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

BY Bohdan R. Pankiw
Bohdan R. Pankiw
Chief Counsel

12-17-09
DATE OF APPROVAL

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

L-00060179/57-251
Final Rulemaking
Provision of Bundled Service Package
Plans at a Single Monthly Rate by LECs
52 Pa. Code, Chapter 64

The Pennsylvania Public Utility Commission on December 17, 2009, adopted a final rulemaking order which eliminates the need for administrative review and approval of a waiver of Chapter 64 separate billing requirements and preserves consumer protections in place for basic local service provided in a bundled service pricing plan. The contact person is Elizabeth Lion Januzzi, Law Bureau, 772-0696.

EXECUTIVE SUMMARY
L-00060179/57-251
Final Rulemaking
Provision of Bundled Service Package Plans
at a Single Monthly Rate by Local Exchange Carriers,
52 Pa. Code, Chapter 64

By Order entered July 3, 2006, at Docket No. L-00060179, the Commission adopted a Proposed Rulemaking Order to amend Chapter 64 of Commission regulations, 52 Pa. Code §64.1-64.213. By order entered March 27, 2009, the Commission approved final form regulations to amend Chapter 64 to both, 1) expand Chapter 64 billing provisions so as to authorize competitive local exchange carriers to offer and bill on one bill bundled packages of telecommunications services in the same manner that incumbent local exchange carriers (ILECs) were authorized under 66 Pa. C.S. § 3016(e)(2), and 2) clarify that consumer protections remain in place for the suspension, termination and restoration of protected basic service, when included in a bundled service pricing plan.

Upon reconsideration, the Commission revised the final form regulations to avoid imposing unnecessary and burdensome regulatory obligations on the offering of bundled service packages. The Commission has revised Section 64.24 to closely track the previously granted waivers from consumer protection regulations and has revised the remaining sections so that Section 64.24 is a stand-alone section dealing with provision of basic service in bundled service packages.

The now final form regulations codify the existing waivers previously granted to LECs that provide bundled service packages and, at the same time, ensure that residential telephone customers are protected from an abrupt termination of basic service if the customer fails to make full payment for the bundled service package. The revised final form regulations strike an appropriate and lawful balance between the LECs' right to offer bundled service packages at a single rate and consumer protection in regard to access to basic service. Access to "basic service" for residential telecommunications

customers is essential for emergency services, for contact with schools, doctors, hospitals and family, and for Telecommunications Relay Services.

Under the current language of Chapter 64, the Commission is required to review and approve or deny a request for waiver from Chapter 64's separate billing requirements. The amendment to Chapter 64 contained in our final rulemaking eliminates the need for administrative review and approval of a waiver from separate billing requirements, provided certain consumer safe guards are met, while preserving the Commission's oversight authority. Specifically, the need for administrative hours devoted to review of applications for waiver from Chapter 64 separate billing requirements will be eliminated.

The contact persons for this rulemaking are Holly Frymoyer, Telecommunications Policy and Evaluations Unit Supervisor, Bureau of Consumer Services, 717-783-1628, mfrymoyer@state.pa.us, Joseph Spandra, Bureau of Fixed utility Services, 717-787-6489, jospandra@state.pa.us, and Elizabeth Lion Januzzi, Assistant Counsel, Law Bureau (legal), (717) 772-0696, elionjanuz@state.pa.us .

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

Public Meeting held December 17, 2009

Commissioners Present:

James H. Cawley, Chairman
Tyrone J. Christy, Vice Chairman
Kim Pizzingrilli, Statement
Wayne E. Gardner
Robert F. Powelson

Rulemaking Re: Provision of Basic Service in Bundled
Service Package Plans by Local Exchange Carriers

Docket No. L-00060179

**FINAL RULEMAKING ORDER
ON RECONSIDERATION**

BY THE COMMISSION:

By order entered March 27, 2009, the Commission adopted final form regulations regarding Chapter 64, Standards and Billing Practices for Residential Services, and, in particular, the issues raised by the pricing flexibility granted to Local Exchange Companies (LECs), by Chapter 30 of the Public Utility Code, to offer bundled service packages at a single price pursuant to Section 3016(e)(1). 66 Pa. C.S. § 3016(e)(1). This rulemaking was initiated to codify the various waivers of otherwise applicable Chapter 64 regulations that the Commission had granted to LECs over time, so as to avoid repetitive petitions for waiver of those regulations.

On April 13, 2009, Verizon Pennsylvania, Inc. (Verizon) filed a petition for reconsideration and/or clarification regarding the final rulemaking order. The petition

argues, *inter alia*, that the final form regulation would “impose burdensome, unnecessary, confusing and costly billing requirements” on LECS that offer bundled service packages by a requirement to separately display an amount attributable to “basic” local service on the bill, contrary to the terms of the waivers previously granted by the Commission, and that the regulations appear to preclude Verizon’s existing practice of converting a non-paying bundled service package customer to a zero-balance basic account. Verizon Petition at 2.

The Office of Consumer Advocate (OCA) filed an answer in support of Verizon’s Petition for Reconsideration, submitting that the Petition should be adopted to the extent that it allows LEC’s that currently convert non-paying customers to a zero-balance basic service account to continue to do so. OCA Answer at 5.

Also, on May 11, 2009, the Broadband Cable Association of Pennsylvania (BCAP) filed a petition for reconsideration and clarification. The BCAP petition argues, *inter alia*, that the final form regulation should not apply to Competitive Local Exchange Carriers (CLECs) and the bundled service package offered by those telecommunications companies due to (a) the enactment of Act 183, which altered certain definitions within Chapter 30, and (b) the passage of the Voice-over-Internet Protocol Freedom Act, 73 P.S. § 2251.1 *et seq.*, which exempts VoIP services or IP-enabled services from regulation by the Commission.

The standards for granting a petition for reconsideration provide that such a petition may raise any matters designed to convince the Commission that it should exercise its discretion to rescind or amend a prior order in whole or in part, and should raise new and novel arguments, not previously heard, or considerations which appear to have been overlooked by the Commission. *Duick v. Pa. Gas and Water Co.*, Docket No. C-R0597001, *et al.*, 56 Pa. P.U.C. 553, 1982 Pa. PUC LEXIS 4 (December 17, 1982). Upon review of the matters raised in the petitions for reconsideration and/or clarification

filed by Verizon and BCAP, we find that the petitions raise legal and operational issues regarding this rulemaking that require further consideration by the Commission and, on that basis, we shall grant reconsideration for the purpose of considering those legal and operational issues.

In the context of our review of these petitions for reconsideration and/or clarification, it appears that the scope of this rulemaking has expanded beyond its original purpose, that is, to codify the existing waivers previously granted to LECs that provide bundled service packages and, at the same time, to ensure that residential telephone customers are protected from an abrupt termination of basic service if the customer fails to make full payment for the bundled service package. Access to “basic service” for residential telecommunications customers is essential for emergency services, for contact with schools, doctors, hospitals and family, and for Telecommunications Relay Services. Customers should have the opportunity to maintain basic service to maintain these essential contacts so long as they meet their payment obligations for basic service.

Upon reconsideration, it appears that the final form regulations previously adopted by the Commission appear to place regulatory obligations on the offering of bundled service packages that are unnecessary and burdensome, and that are beyond the scope of the waivers previously granted by the Commission. Therefore, the Commission has revised Section 64.24 to closely track the previously granted waivers and has revised the remaining sections so that Section 64.24 is a stand-alone section dealing with bundled service packages. In the Commission’s judgment, these revised final form regulations strike an appropriate and lawful balance between the LECs’ right to offer bundled service packages at a single rate and consumer protection in regard to access to basic service.

Discussion

Section 64.2 Definitions

The definitions in Chapter 64 have been amended to add a definition for “bundled service package” in order to describe in more detail the type of service offering addressed in Section 3016(e) of the Public Utility Code and in Section 64.24 of these regulations.

Section 64.14 Billing Information

Subsection (a)(4), regarding the categories of service that must be displayed on a customer bill, has been revised to require customer bills to display two categories of services: basic and non-basic, as well as taxes and applicable surcharges. The former category of “equipment” has been deleted because it is a subset of non-basic service. However, per 64.24(b) of the revised final form regulation, the obligation to separately display these categories on a customer bill will not apply to bundled service packages.

Subsection (a)(5), regarding an itemized list of toll charges, has been revised to make clear that the requirement to provide an itemized list of toll charges on a customer bill does not apply if the customer subscribes to an unlimited toll service plan or if an unlimited toll service plan is included in the customer’s bundled service package.

Finally, subsection (a)(11), has been amended to use the word “contacting” instead of “calling” to recognize and permit other reasonable means by which a customer may get in touch with the LEC to obtain a rate schedule, verify the accuracy of a bill, or get explanations of various charges on the bill.

Section 64.17 Partial Payments For Current Bills

Subsection (a) has been re-worded to make clear that, if the customer’s payment is insufficient to cover the entire amount currently due, the partial payment must be applied first to the customer’s amount due for “basic services,” provided there is no past amount due. The purpose of this regulation is to maintain access to basic service, to the extent

possible, in situations where the customer's failure to pay the full amount currently due places the customer in jeopardy of service termination. The policy goal is to maintain universal service and customer access to emergency service, to doctors, hospitals and family, and to TRS service, provided the customer's partial payment is adequate to pay the basic service portion of the current bill. Per Section 64.24(b), this allocation of partial payments for current bills is not mandated for bundled service packages.

In addition, this section has been revised to allow both oral and written instructions by the customer as to how a partial payment is to be applied. Thus, as revised, the customer may supply written instruction or the customer may supply oral instructions so long as those oral instructions are noted by the LEC's customer service representative and documented in the normal course of business on the customer's account. This will allow electronic notation of the customer's preference which, in turn, is likely to be less costly and more efficient.

Section 64.18 Application of Partial Payment Between Past and Current Bills

This section also relates to the policy goal of maintaining universal service and, to that end, the obligation to apply partial payments first to the basic service portion of customer bills. Here, this section requires that when customer payments are insufficient to pay a balance due for past *and* current bills, the partial payment must be first applied to the basic service portion of the past due bill. However, again, per Section 64.24(b), this required allocation of partial payments between past and current bills is not applicable to bundled service packages. Also, consistent with Section 64.17, this section has been revised to allow electronic notation as to the customer's preference regarding the application of partial payments.

Section 64.21 Separate Billing For Basic Service

This section has been deleted as superfluous. The requirement for separate charges on the bill for basic service is already covered by Section 64.14(a) for separately

purchased services, and the protection of access to basic service in the case of partial payments is covered in Sections 64.17 and 64.18.

Section 64.24 Bundled Service Packages Containing Basic Services

This rulemaking was initiated to codify the existing waivers previously granted to LECs that provide bundled service packages and, at the same time, to ensure that residential telephone customers are protected from an abrupt suspension and termination of basic service if the customer fails to make full payment for the bundled service package. In Act 183 the General Assembly, recognizing the increased competition in the telecommunications industry and the benefits of such competition to consumers, specifically allowed ILECs to offer bundled service packages at a single rate to compete with the bundled services offered by their competitors. 66 Pa. C.S. § 3016(e). However, Section 3016(e) does not go so far as to categorically exempt all aspects of bundled service, especially basic service, from regulation. Indeed, the Commission was permitted to retain regulatory authority regarding the “suspension, termination and restoration of any telecommunications service.” 66 Pa. C.S. § 3019(b).

While ILECs are now authorized by law to offer bundled service packages, the regulation will explicitly permit CLECs to have the authority to offer bundled service packages without filing repetitive petitions with the Commission for Chapter 64 waivers. In developing the regulations to accomplish this objective, the Commission is required to carefully balance the LEC’s legitimate business interest in having the pricing and service offering flexibility needed to respond to competition with the consumer’s countervailing interest in maintaining access to basic service, so long as timely payments are made.

The Commission believes that the revised final form regulation is lawful and has struck the appropriate balance between these important interests. Moreover, the Commission has struck this balance, in these revised final form regulations, by codifying the waivers previously granted to LECs that sought to offer bundled service packages and

the associated customer disclosure notices and conversion of non-paying customers to basic service. In that fashion, customers who are delinquent on their bundled service package will have an *opportunity* to maintain access to basic service, in lieu of termination from the network.

Right to Offer Bundled Service Package

Subsection (a) applies to all LECs and parallels the general rule in Section 3016(e) that permits ILECs to offer bundled services at a single price. This regulation makes no rule regarding the pricing of bundled services and contains no requirement that the billing for bundled services be disaggregated on a customer's bill. IRRC comments had questioned whether the proposed form regulations attempted to regulate bundled service packages as a whole and wording that LECs "may offer bundled packages of service ... under the following conditions" IRRC Comments at 1-2. The IRRC comments also questioned language in the proposed form regulation that addressed payment arrangements on past due amounts for bundled service packages. IRRC Comments at 2.

In response to these IRRC concerns and the parties' comments to this rulemaking, this subsection was revised to delete the "under the following conditions" language in order to make clear the right of all LECs to offer bundled service packages; moreover, in regard to bundled service packages, there are no conditions on the ability of LECs to offer bundled service packages, no limitation on the services that can be bundled, no regulation of the rates for bundled service packages, no requirements on allocation of partial payments, no disaggregation obligations as to billing or tariffs, and no obligation to offer payment arrangements for past due amounts. However, the regulation does impose notice obligations relating to consumer protection and an after-the-fact obligation to offer an *opportunity* to obtain "basic service," or its nearest equivalent, to customers whose bundled service packages are to be terminated.

Exemption from Certain Chapter 64 Regulations

Subsection (b) provides that LECs that offer bundled service packages are exempt from certain regulations in Chapter 64 regarding itemized charges, allocation of partial payments between basic and non-basic charges, allocation of partial payments between current and past bills, and suspension notices covering basic and non-basic services. However, this subsection also continues previously adopted consumer protection requirements for bundled service packages, as set forth in subsection (c), regarding customer notice and the *opportunity* for delinquent customers to maintain access to basic service, so long as payment for basic service remains current.

Consumer Protection Requirements

Subsection (c) sets forth the consumer protection rules associated with the offering of bundled service packages. First, the failure to pay the single-rate bundled service package price will not result in the potential for immediate termination of a residential customer's access to basic service; rather, if and when the LEC determines that the bundled service package will be terminated for non-payment or other appropriate reason, the account will be converted, reduced or otherwise changed to a "basic service" account subject to future suspension and termination in accordance with Chapter 64. Thereafter, if the customer fails to make timely payments relating to basic service charge, the customer will be subject to termination under Chapter 64. In this fashion, a customer who falls behind on payments for a bundled service package that contains services in addition to basic service will not face the prospect of an *immediate* loss of access to basic service and the associated ability to make 911 emergency calls, and to contact doctors, hospitals and family members.

Under these rules, the delinquent customer will have the *opportunity* to maintain access to basic service so long as the customer remains current on the amounts due for basic service. The Commission recognizes that unregulated cable, wireless and VoIP carriers would not operate under this same consumer protection obligation. However,

these carriers are not subject to any universal service obligations under state law. Given Chapter 30's policy goal to maintain universal service, the special consumer protections provided within Chapter 30 for so-called "protected services" (which include basic service), and the Commission's long-standing policy to protect consumers' access to basic service for carriers subject to the Commission's jurisdiction, the promulgation of this regulation, consistent with existing waivers and billing practices, is a reasonable exercise of our authority under Chapters 13, 15 and 30 of the Public Utility Code.

Second, the LEC is required to provide a disclosure statement to all new bundled service package customers that notifies these customers of the LEC's billing and suspension practices for the bundled service package, discloses that failure to pay the amount due for bundled services will not result in an immediate loss of access to basic service, and complies with the Commission's plain language guidelines in Section 69.251.

These disclosure requirements are generally consistent with those previously required by the Commission in granting bundled billing waivers, as well as the Commission's Secretarial Letter issued September 23, 2003 to all CLECs. The disclosure requirements are intended to make clear to the customer that if the customer falls behind on the amounts due for the bundled service package, while the LEC may lawfully terminate the bundled service package (or, at its discretion, work out a payment arrangement or otherwise work with the customer to maintain service), the delinquent customer will have an opportunity to maintain access to basic service so long as the customer remains current on the amounts due for basic service. The revised Annex A, however, deletes the requirements to disclose the current tariff charge for basic service and the notice that Chapter 64 rules will govern the suspension of basic service. Upon further consideration, these notices are unnecessary at the time the customer initiates a bundled service package since, if the customer subsequently becomes delinquent, the

LEC is obligated to provide these notices pursuant to Section 64.72 before any suspension of basic service can take place.

The disclosure requirements set forth in revised Annex A herein represent consumer protection measures that the Commission deems necessary and in the public interest. At the same time, we have also minimized the burdens on LECs. For example, there is no obligation in these rules to place this customer notice in monthly billing inserts, no Commission review of other unrelated customer communications, no rules on the allocation of partial payments, and no obligation to separately display, on customer bills, elements of the basic service package. Also, we do not require any re-notification to existing bundled service package customers. LECs operating under waivers previously granted by the Commission are not required to re-notify their existing bundled service package customers.

Lastly, the applicable basic service rate for a customer that is converted to basic service will be the LEC's current tariff rate at the time of the conversion. For LECs with no tariff rate for a stand-alone basic service option, the LEC may convert or step-down the customer to the nearest basic service equivalent in its tariff. The Commission does not intend that this regulation, in and of itself, obligate LECs to offer stand-alone basic service. That is a subject matter that is not within the scope of this rulemaking.

IRRC Comments

While recognizing the Commission's interest in protecting basic service, the IRRC comments indicated a concern that the regulation regarding customer notice was overbroad in that it appeared to address all aspects of bundled service packages and, further, that the proposed form regulation would require Commission review of "other communications" regarding bundled service packages. IRRC Comments at 2. In response to these comments, the Commission would point out that the notice that is subject to Commission review is only that portion of the LEC's communication that deals

with consumer protection of access to basic service. The regulation does not purport to control all communications regarding bundled service packages. In addition, the phrase “other communications” has been deleted to make this clear.

IRRC also noted a concern, under the proposed form regulations, that the LEC would be *required* to convert the customer to basic service without the discretion for the LEC and customer to “resolve any issues that may have led to failure to make payment.” IRRC Comments at 2. As noted herein, under the revised final form regulations, the LEC retains the discretion as to when the bundled service package is to be terminated for non-payment, as well as the discretion to offer a step-down service or payment arrangement to the customer. The obligation set forth in Section 64.24(c)(1) to convert the customer to basic service commences only at that point when the LEC determines that the bundled service package is to be terminated.

In regard to the concern expressed by IRRC that the existing waivers may be inconsistent with the proposed form regulations, IRRC Comments at 3, the Commission has re-drafted the regulation to clarify that the Chapter 64 regulations, 52 Pa. Code §§ 64.14(a)(4) and (5), 64.17, 64.18, and 64.63(1) and (2) are not applicable to bundled service packages because they are unnecessary and inconsistent with the concept of a competitive bundled service package. However, at the same time, for consumer protection purposes, the Commission’s revised final form regulation imposes separate requirements to provide customers with *notice* and the *opportunity* to maintain basic service connectivity to the telephone network if they are to be terminated by the LEC from a bundled service package. Moreover, providing customers with an opportunity to maintain basic service promotes universal service, a key goal of Chapter 30. 66 Pa. C.S. § 3011(2). Accordingly, under these rules, there are no longer any waivers from the above-referenced Chapter 64 regulations for bundled service packages; rather, bundled service packages are simply exempt from those regulations.

VZ Petition for Reconsideration

As noted initially in this order, Verizon filed a petition for reconsideration and/or clarification arguing that the final form regulation would “impose burdensome, unnecessary, confusing and costly billing requirements” on LECS that offer bundled service packages by a requirement to separately display an amount attributable to “basic” local service on the bill, contrary to the terms of the waivers previously granted by the Commission, and that the regulations appear to preclude Verizon’s existing practice of converting a non-paying bundled service package customer to a zero-balance basic account.

The Commission believes that these concerns have been addressed in this reconsideration order and revised Annex A. The revised final form regulations contain no obligation on LECs to separately display an amount attributable to the “basic service” portion of a bundled service package. The package rate is a single-rate for multiple services; it would be inconsistent with that concept and the ability to offer bundled services at a single rate granted in 66 Pa. C.S. § 3016(e) to mandate a disaggregated “basic service” rate on the customer’s bill or in the tariff.

Also, nothing in the final form regulation was intended to prohibit the so-called “zero balance” approach to conversion of a customer’s bundled service package to a basic service account. To make this clear, Annex A has been revised to describe and permit this approach in Section 64.24(c)(1)(i). In the “zero balance” approach, used by Verizon and some other LECs, when the conversion to basic service is accomplished, there is no past due balance associated with the basic service account. Any past due amounts associated with the bundled service package are pursued by normal collection means, at the discretion of the LEC. Thereafter, if the customer becomes delinquent on the basic service account, the LEC may issue a suspension notice in accordance with Section 64.72, which provides notice to the customer that suspension is imminent and

identifies the amount past due for basic service that must be paid by that customer to avoid suspension of basic service.

At the same time, however, the Commission is aware that some LEC billing systems are able to track, internally, the amounts associated with the basic service portion of a customer's bundled service package account. For LECs whose billing systems allow tracking of amounts associated with basic service, those carriers would (1) list the amount past due for basic service separately (from the total due for the bundled package) on the suspension notice and termination notice, (2) apply any partial payments first to basic service, and (3) suspend for non-payment of basic service pursuant to intervals set by Chapter 64 rules. *See* FSN Additional Comments at 1. This alternate billing approach is now described and permitted in Section 64.24(c)(1)(ii). Accordingly, if a customer's partial payment is insufficient to pay even the basic service portion of the bundled bill, the LEC may issue a suspension notice, in accordance with Section 64.72, at that time.

The regulation does not prohibit these approaches, nor does it require any internal tracking of the basic service portion of a bundled service package. However, in any suspension and termination proceeding for basic service under Chapter 64, it would be the LEC's burden of proof to demonstrate the accuracy of its stated past due amounts for basic service.

BCAP Petition for Reconsideration

In regard to the petition for reconsideration filed by BCAP, the petition argues that the final form regulation should not apply to competitive LECs and the bundled service packages offered by those telecommunications companies due to (a) the enactment of Act 183, which altered certain definitions within Chapter 30, and (b) the passage of the Voice-over-Internet Protocol Freedom Act, 73 P.S. § 2251.1 *et seq.*, which exempts VoIP services or IP-enabled services from regulation by the Commission.

As previously stated in our order adopted March 27, 2009 at this docket, nothing in the language of Chapter 30 establishing the right to offer and bill competitive, non-competitive and protected services on one bill expressed any limitation on the Commission's regulatory authority regarding the suspension, termination and restoration of the basic services included in the single-priced bundle of services. Indeed, Section 3016(e)(2) deals with "pricing flexibility and bundling" for LECs. It does not purport to address suspension, termination, and restoration of service issues as general matter which, pursuant to Section 3019(b)(2), is an area of regulation that is retained by the Commission as to "any telecommunications service." 66 Pa. C.S. § 3019(b). Nor does Section 3016(e)(2) negate the Commission's authority under Section 3019(b)(3) to establish requirements deemed necessary and in the public interest by the Commission "to ensure the protection of customers." 66 Pa. C.S. § 3019(b)(3). Accordingly, the Commission rejects the position that CLECs are categorically exempt from Chapter 64 and its consumer protection provisions, particularly with respect to consumers' access to basic services.

The essential argument made by BCAP is that because the General Assembly modified the definition of "protected services" to be associated with "a local exchange telecommunications company" in Section 3012, and because the definition of "local exchange telecommunications company" is now defined, in Section 3012, in relation to an "incumbent carrier," none of the rules and protections associated with "protected services" are applicable to non-incumbent carriers, *i.e.*, CLECs and other forms of competitive telecommunications service providers. BCAP Petition at 3-4. Basic service is a subset of the several so-called "protected services" identified by the General Assembly for special protections under Chapter 30 as to rates, terms and conditions of service, unless deemed competitive by the Commission. *See* 66 Pa. C.S. § 3012.

What this statutory analysis overlooks, however, is that pursuant to Section 3019(b)(2), the Commission retains regulatory authority over the suspension, termination

and restoration of “*any telecommunications service.*” 66 Pa. C.S. § 3019(b)(2)(emphasis added). This authority is not limited to incumbent LECs. CLECs are a subset of “all telecommunications carriers” and, therefore, CLECs are within the scope of this section. Indeed, Chapter 30’s description of the powers and duties retained by the Commission provides clearly that the Commission “shall retain the following powers and duties relating to the regulation of *all telecommunications carriers* and interexchange telecommunications carriers” 66 Pa. C.S. § 3019(b)(emphasis added). There is no exemption for CLECs.

Moreover, in the Commission’s judgment, the *opportunity* for customers to retain access to basic service at the CLEC’s tariff rates, provided that the customer remains current on the amounts due, is a necessary and critical consumer protection measure within our authority to require under Section 3019(b)(3), as well as Sections 1301 (rates must be just and reasonable) and 1501 (obligation to provide adequate, efficient, safe and reasonable service). 66 Pa.C.S. §§ 3019(b), 1301, and 1501. Subsection (b)(3) provides that the Commission may “establish such additional requirements as are consistent with this chapter as the Commission determines to be necessary to ensure the protection of customers.” The consumer protection measures adopted herein provide consumers with an opportunity to maintain access to basic service in the event that they become delinquent on bundled service packages, provide connectivity to the telephone network for basic communications needs (including local calls and medical emergencies), and serve to promote universal service. In the Commission’s judgment, these measures are necessary to protect consumers and are in the public interest.

BCAP also argues that pursuant to the VoIP Freedom Act, services offered by CLECs by means of IP-enabled or VoIP networks are exempt from regulation by the Commission because the exemption for “protected service” at 73 P.S. § 2251.6 only applies to protected services offered by incumbent LECs.

Upon further review of this section, it is clear that the General Assembly intended to exempt, from regulation, any services offered by means of IP-enabled or VoIP networks, subject to five specific exceptions: access to and fees for 911 service, access to TRS service, obligations to Universal Service Fund fees, obligations to pay applicable access charges, and rates, terms and conditions for protected services offered under tariffs “which are subject to approval by the Pennsylvania Public Utility Commission.” As noted earlier, the definition of “protected services” in Chapter 30 has been narrowed to refer to ILEC-provided services, and this then raises the statutory interpretation issue of whether the exemption for protected services in the VoIP Freedom Act applies to both ILECs and CLECs.

The rules of statutory construction provide that the object of all interpretation and construction of a statute is to ascertain and effectuate the intention of the General Assembly, that the plain words of the statutory language control, and that if an ambiguity does exist the intention of the General Assembly is to be ascertained by considering, *inter alia*, the occasion and necessity of the statute, the object to be attained, and the consequences of a particular interpretation. 1 Pa. C.S. § 1921(c).

The clear purpose of the statute is to encourage the proliferation and rapid expansion of IP-enabled and VoIP services by minimizing regulatory burdens. However, it is equally clear that the General Assembly desired to carve out certain exceptions related to 911 service, TRS service, Universal Service Fund fees, access charges, and the “rates, terms and conditions for protected services offered under tariffs which are subject to approval by the Pennsylvania Public Utility Commission.” Because four of the five exceptions relate to consumer protection that is to be provided regardless of the use of IP-enabled technology, we interpret the fundamental purpose and object of this exemption portion of the legislation to be consumer protection, especially as to “protected services” offered under tariffs filed with and approved by the Commission.

Because there is no definition of “protected services” in the VoIP Freedom Act, the act is ambiguous as to the extent of this exemption. BCAP reasons that since the term “protected services” is defined in Chapter 30 with reference to ILECs, the term has no meaning and thus no application to CLECs who provide protected services using IP-technology. Adoption of BCAP’s reasoning would preclude consumer protection before the Commission for basic services offered by CLECs who use IP-technology. This would be a substantial diminution of consumer protection rights regarding access to the network and, further, would treat ILEC and CLEC customers differently whenever IP-technology is used to provide the service. It is not clear that the General Assembly intended that there be disparate treatment for such similarly situated customers.

However, we also note that the term “protected services” is further limited by the phrase “under tariffs subject to approval by the [Commission].” Given that certain VoIP providers may not be obligated to file tariffs for their retail services with the Commission, we conclude that non-ILECs who provide telecommunications services, including basic services, by means of IP-technology as defined in the VoIP Freedom Act, and have never filed tariffs with the Commission, or have filed petitions, and obtained Commission approval, to cancel or discontinue their tariffs on that basis, are exempt from the requirements of this regulation regarding bundled billing, customer disclosures, and conversion to basic service.

Section 64.72 Suspension Notice Information

This section sets forth the information that must be included in the suspension notices sent to delinquent customers. The section has been amended to require a statement of the amount due to avoid the suspension of basic service. The revised language set forth in Annex A is consistent with the minor revisions proposed by PTA. PTA Further Comments at 8-9.

Section 64.74 Procedures Upon Customer Contact Before Suspension

This section sets forth the procedures to be followed when the customer contacts the LEC regarding a suspension notice before the suspension has occurred. The section lists the information that the LEC is obligated to provide to the customers that are in jeopardy of suspension. The minor revisions in this section are intended to clarify that *all* of the listed information must be provided to the customer and to preclude the practice of requiring the immediate payment of both past due and current amounts due in order for a customer to retain basic service.

Section 64.123 Termination Notice

This section sets forth the information that must be included in the termination notice sent to customers after service is suspended and, in particular, explains the steps the customer must take for service to be restored. The Commission has adopted the minor revision proposed by PTA for clarity regarding the elements of the termination notice. PTA Further Comments at 9.

CONCLUSION

The revised final form regulations set forth in Annex A will, in the Commission's judgment, strike the appropriate balance between the interests of LECs to offer bundled service packages in a competitive environment and the interests of consumers in maintaining access to basic services. The Commission has balanced these interests while giving consideration to the policy goals of Chapter 30 and, in particular, the ability to offer a diversity of new and existing telecommunications services (by imposing no limits on the services that can be bundled), promoting the provision of competitive services on equal terms (by establishing equal obligations on ILECs and CLECs), and maintaining universal service at affordable rates (by providing customers with the opportunity to maintain access to basic service). *See* 66 Pa. C.S. §§ 3011(2), (5), (6), (8) and (13).

Access to basic service is important not only to universal service, which benefits all citizens, but to the individual customer who can maintain access to 911 emergency services, access to hospitals, doctors, schools and family, and access to TRS (for hearing-impaired customers). At the same time, the Commission has, in these revised final form regulations, eliminated language that could have been read as an attempt to regulate bundled service packages as a whole, to mandate the format of billing displays for bundled service packages or to control the application of partial payments for bundled service packages.

Rather, these revised final form regulations, drafted to be consistent with the waivers previously granted on a case by case basis, permit ILECs and CLECs to offer bundled service packages on equal terms, subject only to the consumer protection obligations to offer delinquent customers the opportunity to maintain access to basic service and to provide a disclosure notice to communicate the availability of that opportunity to maintain basic service.

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa. C.S. § 501 and 1501; section 204 of the Act of July 31, 1968, P.L. 769 No. 240, as amended, 45 P.S. § 1204, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; the Commission adopts the regulations set forth in Annex A; **THEREFORE,**

IT IS ORDERED:

1. That, on reconsideration, the Commission hereby adopts the revised final regulations set forth in Annex A.

2. That the petitions for reconsideration and clarification filed by Verizon Pennsylvania, Inc. and Broadband Cable Association of Pennsylvania are granted in part and denied in part, consistent with the text of this order.

3. That the Secretary shall serve this order and Annex A on the Office of Consumer Advocate, Office of Small Business Advocate, all parties that submitted comments to the proposed regulation, and all Local Exchange Carriers.

4. That the Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

5. That the Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

6. 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.

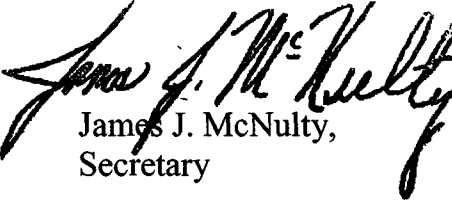
7. That the Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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

9. That the contact persons related to this rulemaking are Elizabeth Lion Januzzi, Assistant Counsel, Law Bureau (717) 772-0696, elionjanuz@state.pa.us; and

Tawana Dean, Policy Analyst, Bureau of Consumer Services, (717) 772-0806,
tadean@state.pa.us. Alternate formats of this document are available to persons with
disabilities and may be obtained by contacting Sherri Delbiondo, Regulatory Coordinator,
Law Bureau, (717) 772-4597, sdelbiondo@state.pa.us.

BY THE COMMISSION,


James J. McNulty,
Secretary

(SEAL)

ORDER ADOPTED: December 17, 2009

ORDER ENTERED: December 23, 2009

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

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

* * * * *

§ 64.2 Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

BUNDLED SERVICE PACKAGE- A PACKAGE OF SERVICES OFFERED AND BILLED ON ONE BILL BY A LEC, AS DEFINED IN THIS SECTION, WHICH INCLUDES NONTARIFFED, COMPETITIVE, NONCOMPETITIVE OR PROTECTED SERVICES, INCLUDING SERVICES OF AN AFFILIATE, IN COMBINATIONS AND AT A SINGLE PRICE SELECTED BY THE LEC.

* * * * *

§ 64.14. Billing information.

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

- (1) The date of the bill.
- (2) The due date on or before which payment shall be received to avoid an account being considered delinquent.
- (3) The beginning and ending dates of the billing period for service, excluding toll usage and equipment.

(4) The amount due for BASIC service and, NONBASIC SERVICE, equipment, AND TAXES AND APPLICABLE SURCHARGES, during the current billing period, ~~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 UNLESS THE CUSTOMER SUBSCRIBES TO AN UNLIMITED TOLL SERVICE PLAN OR TOLL SERVICE IS INCLUDED AS PART OF THE CUSTOMER'S BUNDLED SERVICE PACKAGE.

(6) Amounts for security deposits owed by or credited to existing customers. This amount shall be separately stated on each bill if a security deposit remains unpaid.

(7) The total amount of payments and other credits made to the account during the current billing period.

(8) The amount of late payment charges

(9) The total amount due.

(10) A statement directing the customer to register a question or complaint about the bill prior to the due date, with the address and telephone number where the customer may direct questions or complaints.

(11) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill, and an explanation of the various charges, if applicable, can be obtained by CONTACTING ~~calling~~ the local business office of the LEC.

(b) At least annually, and upon request of the customer, the LEC shall provide an itemization of all service equipment and other recurring charges.

(c) Upon request for new or additional services, the LEC shall inform the customer of the monthly recurring charge for service and each item of equipment ordered by the customer and shall provide a minimum and maximum estimate of applicable nonrecurring charges. The LEC shall maintain a record of the estimates given for 90 days. The LEC shall have available a printed explanation of alternative rates and services.

(d) Every final bill shall contain a statement that a subsequent bill will be rendered if needed to collect charges, such as additional tolls or lost equipment.

* * * * *

§ 64.17. Partial payments FOR CURRENT BILLS.

(a) Payments received by a LEC which are insufficient to pay the ~~balance due for telephone service and nonbasic service~~ TOTAL AMOUNT DUE FOR THE CURRENT BILL, WHEN THERE IS NO PAST DUE BALANCE, shall first be applied to ~~telephone~~ BASIC service.

~~(b) Payments received by a LEC which are insufficient to pay the amount due for telephone service shall first be applied to basic service.~~

(e) (B) This section does not apply when the customer supplies instructions specifying how a partial payment should be applied.

§64.18 Application of partial payments between past and current bills.

In the absence of ~~instruction~~ INSTRUCTIONS FROM A CUSTOMER, or a disputed bill or a payment arrangement, payments received by the LEC which are insufficient to pay a balance due FOR both ~~for earlier services and for services billed during the current billing period~~ PAST AND CURRENT BILLS shall first be applied to the balance due for ~~earlier services~~ PAST DUE BASIC SERVICE, THEN TO OTHER PAST DUE CHARGES, including late payment charges.

* * * * *

~~§ 64.21. Separate billing for basic service. (Reserved)~~

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

~~(b) 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).~~

* * * * *

§ 64.24. Provision of bundled service packages at a single monthly rate.

A LEC may offer bundled packages of services including nontariffed, competitive, noncompetitive, basic service, or services of an affiliate, combined in a single package plan at a single monthly rate, under the following conditions:

(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, in accordance with 64.21(b):

(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 non-payment in accordance with Commission regulations at §§ 64.61–64.63, 64.71–64.74, and 64.101–64.111 for suspension, and §§ 64.121–64.123 for termination.

(3) The LEC provides a disclosure statement to customers subscribing to or being offered a bundled service package. The bundled service package disclosure statement shall contain the following:

(i) A statement that a customer's basic service may not be suspended or terminated when the customer fails to make payment in full on the monthly charge for the bundled service package.

(ii) A statement that, in the event of nonpayment or partial payment on a bundled service package, a customer shall receive a notice of suspension for the bundled service package advising the customer that the

~~bundled service package will be converted to a basic service plan at the current basic service rate in the LEC's tariff, stated in dollar amount.~~

~~(4) The LEC may offer payment agreements for past due amounts on bundled service packages.~~

~~(5) Notices issued by the LEC pertaining to the bundled service package, including the disclosure statement, a suspension or termination notice, or other communication, shall be subject to Commission review and approval for compliance with Commission regulations and consistency with plain language guidelines at § 69.251 (relating to policy statement on plain language guidelines).~~

(A) RIGHT TO OFFER BUNDLED SERVICES. NOTHING IN THIS CHAPTER SHALL PROHIBIT A LEC FROM OFFERING BUNDLED SERVICE PACKAGES, AS DEFINED IN § 64.2 (RELATING TO DEFINITIONS), AT A SINGLE PRICE SELECTED BY THE LEC.

(B) EXEMPTION FROM CERTAIN REGULATIONS. A LEC THAT OFFERS A SINGLE-RATE BUNDLED SERVICE PACKAGE SHALL BE EXEMPT FROM CERTAIN SECTIONS OF THIS CHAPTER REGARDING PAYMENT AND BILLING STANDARDS. THE SECTIONS SUBJECT TO EXEMPTION FOR BUNDLED SERVICE PACKAGES ARE:

- (1) 64.14(A)(4) AND (5) (ITEMIZED CHARGES).
- (2) 64.17 (PARTIAL PAYMENT RULES RE BASIC/NON-BASIC BILLS).
- (3) 64.18 (PARTIAL PAYMENT RULES RE CURRENT/PAST BILLS).
- (4) 64.63(1) AND (2) (UNAUTHORIZED SUSPENSION OF SERVICE).

(C) CONSUMER PROTECTION REQUIREMENTS. A LEC THAT OFFERS BUNDLED SERVICE PACKAGES IS SUBJECT TO THE FOLLOWING CONSUMER PROTECTION REQUIREMENTS:

- (1) CONVERSION TO BASIC SERVICE. A RESIDENTIAL CUSTOMER'S FAILURE TO PAY THE SINGLE-RATE BUNDLED SERVICE PACKAGE PRICE MAY NOT RESULT IN IMMEDIATE SUSPENSION OR TERMINATION OF BASIC SERVICE TO THE RESIDENTIAL CUSTOMER.

- (I) WHEN A LEC DETERMINES THAT A BUNDLED SERVICE PACKAGE SHALL BE TERMINATED FOR NON-PAYMENT, THE ACCOUNT SHALL

BE CONVERTED TO A BASIC SERVICE ACCOUNT SUBJECT TO FUTURE SUSPENSION AND TERMINATION IN ACCORDANCE WITH THIS CHAPTER IF THE CUSTOMER FAILS TO MAKE TIMELY PAYMENTS.

(II) FOR A LEC WHO TRACKS THE BASIC SERVICE PORTION OF A BUNDLED SERVICE PACKAGE, WHEN A CUSTOMER FAILS TO MAKE PAYMENT SUFFICIENT TO PAY THE BASIC SERVICE CHARGES IN THE PACKAGE, THE LEC MAY SUSPEND AND TERMINATE BASIC SERVICE FOR NON-PAYMENT IN ACCORDANCE WITH THIS CHAPTER.

(2) DISCLOSURE STATEMENT. A LEC SHALL SEND A DISCLOSURE STATEMENT TO NEW BUNDLED SERVICE PACKAGE CUSTOMERS THAT:

(I) NOTIFIES THE CUSTOMER OF THE LEC'S BILLING PRACTICES THAT SHALL BE IMPLEMENTED IN THE EVENT OF THE CUSTOMER'S FAILURE TO PAY THE BUNDLED SERVICE PACKAGE CHARGE IN FULL.

(II) NOTIFIES THE CUSTOMER THAT FAILURE TO PAY THE BUNDLED SERVICE PACKAGE CHARGE MAY NOT RESULT IN IMMEDIATE SUSPENSION OF BASIC SERVICE.

(III) COMPLIES WITH THE PLAIN LANGUAGE GUIDELINES AT § 69.251 (RELATING TO PLAIN LANGUAGE).

* * * * *

§ 64.72. Suspension notice information.

A notice of suspension shall clearly and fully include the following information, where applicable, in conspicuous print:

(1) The reason for the proposed suspension.

(2) A statement of amounts PAST ~~currently~~ due, and of a required deposit. THE SUSPENSION NOTICE SHALL IDENTIFY THE AMOUNT PAST DUE FOR BASIC SERVICE WHICH THE CUSTOMER MUST PAY TO AVOID THE SUSPENSION OF BASIC SERVICE.

(3) A statement that a specific reconnection fee will be required to have service restored after it has been suspended if the reconnection fee is a part of the approved tariff of the LEC.

(4) The date on or after which service will be suspended unless one of the following occurs:

- (i) Payment in full is received.
- (ii) The grounds for suspension are otherwise eliminated.
- (iii) A payment agreement is entered into.
- (iv) A dispute is filed with the LEC.

(5) A statement that the customer should immediately contact the LEC to attempt to resolve the matter, including the mailing address and telephone number where questions may be filed and payment agreements entered into with the LEC.

(6) A medical emergency notice substantially in compliance with the form as set forth in Appendix A (relating to Medical Emergency Notice).

* * * * *

§ 64.74. Procedures upon customer contact before suspension.

(a) If, at a time after the issuance of the suspension notice and before the suspension of service, a customer contacts the LEC concerning the proposed suspension, an authorized LEC employee shall fully explain, where applicable, ~~some or all~~ of the following:

- (1) The reasons for the proposed suspension.
- (2) All available methods of avoiding a suspension including:
 - (i) Tendering THE PAST DUE AMOUNT AS SPECIFIED ON THE SUSPENSION NOTICE ~~payment in full~~ or otherwise eliminating the grounds for suspension.
 - (ii) Entering a payment agreement.
 - (iii) The right of the customer to file a dispute with the telephone company and, thereafter, an informal complaint with the Commission.

(3) The procedures for resolving disputes relating to charges on the notice other than IXC toll charges and the procedures for filing informal complaints to request payment terms on the basic service portion of the account, including the address and the telephone number of the nearest regional Commission office.

- (4) The duty of the customer to pay a portion of a bill not honestly disputed.
- (5) The duty of the customer to restrict toll usage to 150% of average normal toll usage.

(6) The medical emergency procedures.

(7) That upon failure to timely appeal from or comply with a telephone company report, as defined in § 64.142 (relating to contents of written summary by the LEC), an informal complaint report, or an order from a formal complaint—the LEC is not required to give further written notice before suspension so long as the LEC makes a reasonable attempt to contact the customer personally at least 24 hours prior to suspension.

(b) The LEC, through its employees, shall exercise good faith and fair judgment in attempting to enter into a reasonable payment agreement regarding undisputed amounts or to otherwise equitably resolve the matter. Factors to be taken into account when attempting to make a reasonable payment agreement shall include, but not be limited to, the size of the unpaid balance, the payment history of the customer and the length of time over which the bill accumulated. When the customer breaches a payment agreement for toll or nonbasic service, or both, the LEC may suspend the toll or nonbasic, or both, service after complying with § 64.81 (relating to limited notice upon noncompliance with report or order). At the time a payment agreement is entered into, the LEC shall explain to the customer the consequences of breaching the payment agreement, including the possible suspension of toll or nonbasic service, or both, without further written notice. The LEC may not suspend service for an undisputed delinquent bill under either of the following circumstances:

(1) While it is negotiating a payment agreement with the customer.

(2) Within 24 hours after negotiating fails, except where toll usage increases by \$25 or more after the initial customer or customer designee contact.

* * * * *

§ 64.123. Termination notice.

Immediately after service is suspended, a termination notice which conforms substantially to the suspension notice and which indicates how the customer may arrange to have service restored shall be mailed to the customer's billing address. The termination notice shall include:

(1) THE AMOUNT PAST DUE FOR BASIC SERVICE WHICH THE CUSTOMER MUST PAY TO AVOID THE TERMINATION OF BASIC SERVICE.

(2) a-A medical emergency restoration notice substantially in the form set forth in Appendix B (relating to medical emergency restoration notice).

(3) ~~The termination notice shall also indicate~~ A STATEMENT that service will be terminated on or after a specified date and ~~shall clearly explain~~ A CLEAR EXPLANATION that the customer ~~will have to~~ SHALL request service as ~~an~~ A NEW applicant, subject to additional charges, if termination occurs.

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COMMONWEALTH OF PENNSYLVANIA
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February 18, 2010

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CHAIRMAN

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333 Market Street
Harrisburg, PA 17101

Re: L-00060179/57-251
Final Rulemaking
Provision of Bundled Service Package
Plans at a Single Monthly Rate by LECs
52 Pa. Code Chapter 64

Dear Chairman Coccodrilli:

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 February 15, 2007, submitted a copy of the Notice of Proposed Rulemaking to your Committee, the House Committee on Consumer Affairs and the Independent Regulatory Review Commission (IRRC). This notice was published at 37 *Pa.B.* 1032 on March 3, 2007. The Commission also provided the Committees and IRRC with copies of all comments received in compliance with Section 745.5(b.1).

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

Very truly yours,

A handwritten signature in black ink that reads "James H. Cawley". The signature is fluid and cursive, with a long horizontal stroke at the end.

James H. Cawley
Chairman

Enclosures

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Regulatory Coordinator DelBiondo
Assistant Counsel Lion Januzzi
Judy Bailets, Governor's Policy Office

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-00060179/57-251

Subject: Provision of Bundled Service Package Plans at a
Single Monthly Rate by LECs

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

Date

Signature

Designation

2/11/10

T. Bauer

HOUSE COMMITTEE (Preston)

Consumer Affairs

2/18/10

Mary Walmer

SENATE COMMITTEE (Tomlinson)

Consumer Protection and
Professional Licensure

2/18/10

Dr. Robert

Independent Regulatory
Review Commission

Attorney General

Legislative Reference
Bureau