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June 24, 2021

Rosemary Chiavetta, Secretary
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Re: Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa. C.S. § 3016 (a); General Review of Regulations 52 Pa. Code: Chapter 63 and Chapter 64
Docket No. L-2018-3001391

Dear Secretary Chiavetta:

Attached for electronic filing are the Office of Consumer Advocate's Reply Comments in the above-referenced proceeding. The undersigned certifies that this filing contains no averments or denials of fact subject to verification and penalties under 52 Pa. Code Section 1.36.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Re:	Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa. C.S. § 3016 (a); General Review of Regulations 52 Pa. Code: Chapter 63 and Chapter 64	: : : : :	Docket No. L-2018-3001391

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Reply Comments, upon parties of record in these proceedings in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 24th day of June 2021.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Comply with the Competitive Classification of Telecommunication Retail Services Under 66 Pa. C.S. § 3016 (a); General Review of Regulations 52 Pa. Code: Chapter 63 and Chapter 64	:	Docket No. L-2018-3001391

REPLY COMMENTS
OF THE
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REPLY COMMENTS OF

THE OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

The Office of Consumer Advocate (OCA) provided the Public Utility Commission with Comments and Reply Comments during the Advanced Notice of Proposed Rulemaking (ANOPR) phase, followed by the OCA's Comments in response to the Notice of Proposed Rulemaking (NOPR) and specific questions posed by Chairman Gladys Brown Dutrieuille's Statement. In addressing the need for continued regulatory guidance, the OCA has focused on the importance of Pennsylvania's jurisdictional telephone communications network for the end user, public safety, the interests of interconnected telecommunications service providers, and the public at large. As the OCA has emphasized in comments previously, effective competition is not uniformly and universally available throughout the Commonwealth. Nor does the option of switching to an alternative service, where available, remedy a consumer's immediate need for reliable, continuous service from their current telecommunications carrier. The OCA's prior

comments recommended elimination of some regulations and revisions to others, guided by these considerations.

Through these Reply Comments, the OCA will address recommendations presented by Verizon Pennsylvania, LLC, Verizon North, LLC and affiliates (collectively, Verizon), Tri-Co Connections LLC and Claverack Communications LLC (collectively, TCC and CCL), CAUSE PA, and Thryv, Inc. in their respective comments. The Pennsylvania Telephone Association (PTA) filed a letter stating the PTA's position was previously laid out in the PTA's comments during the ANOPR phase. The absence of a specific OCA reply to another party's proposed modification or rescission of Chapter 53, 63, or 64 regulations covered by this Rulemaking does not signal the OCA's approval or support for another party's position.

II. REPLY COMMENTS

A. Introduction

Through the NOPR, the Commission has proposed to amend, retain, or rescind certain Chapter 53, 63 and 64 regulations, in part to recognize that in certain portions of the Commonwealth, all retail telecommunications services -- including "protected services" as defined by Chapter 30 – are no longer subject to price regulation. 66 Pa.C.S. § 3012, 3016. However, the Commission has also considered the importance of a robust and reliable communications network as a public good, as well the policy goal of universal service, in shaping the proposed new regulatory framework.

Verizon's Comments present a very different proposed regulatory framework, to replace the Chapter 53, 63, and 64 regulations covered by the NOPR. Central to Verizon's proposal is that only residential consumers who purchase stand-alone basic service merit continued select regulatory protection, such as informal complaint procedures, and only through the end of 2023. See, e.g. Verizon Comments at 13, 14. Without providing any granular information, Verizon presumes that competitive alternatives abound throughout the Commonwealth. Verizon's preferred regulatory framework provides little guidance as to service quality required of all telecommunications carriers. The OCA is opposed to the framework and phrasing of Verizon's alternative proposal to revise Chapters 53, 63, and 64. The OCA will address elements of the Verizon proposal below, to illustrate the OCA's concerns.

The Comment of Tri-Co Connections and Claverack Communications (TCC and CCL) demonstrate that the Commission's telecommunications regulatory framework needs to be flexible to accommodate new providers of voice service which are new competitors and advancing universal service goals.

The comments of CAUSE PA also present a contrast to Verizon's proposed restrictive protections. As CAUSE notes, the Commission should ensure that the continued regulation of telecommunications services supports the continued connectivity of low-income consumers, whether Lifeline eligible or not. CAUSE Comments at 2-5.

Thryv, Inc. (formerly Dex Media) asks the Commission to repeal all regulation of directories, specifically Section 63.21 and 64.191(g). Thryv Comments at 3-5. The OCA addressed these provisions in the OCA Comments. OCA Comments at 13. The OCA does not oppose Thryv's request, as discussed below.

B. Chapter 53 Regulations

1. Section 53.57 (Definitions)

The OCA Comments did not propose any objections or revisions to the NOPR's proposed amendments to the definitions in Section 53.57. OCA Comments at 8; NOPR at 27. Upon further review, the OCA recommends that the Commission consider adding a definition for "price list" and "product guide" to Chapter 53, 63, and 64. This OCA reply to Verizon's Comments also addresses some definitions common to Section 53.57, 63.1, and Section 64.2.

Verizon's Comments propose a shortened list of definitions to apply to the relevant portions of Chapter 53. Verizon Comments at 12-13, Att. 1 at 1. Verizon has proposed to amend "competitive service," "local exchange telecommunications company," "noncompetitive service," and "protected service" to indicate that the Section 53.57 definition mirrors the relevant statutory Section 3012 definition. The OCA agrees that these four definitions should be adopted, for Section 53.57, 63.1, and 64.2, as appropriate.

In the NOPR, the Commission proposed to define "competitive telecommunications carrier." Verizon has proposed to amend that definition by eliminating the qualifier "subject to the jurisdiction of the Commission and…." Compare, NOPR Annex A at 1 and Verizon Comments, Att. 1 at 1. The OCA recommends that the Commission adopt the NOPR version, not the Verizon amended definition. The jurisdictional element is appropriate, since the Section 53.57 definitions pertain to the tariffing obligations – or not – of jurisdictional public utilities.

Verizon has proposed to add definitions for "competitive wire center" and "non-competitive wire center" to Section 53.57. Verizon Comments, Att. 1 at 1. The OCA agrees that Section 53.57 should include these defined terms. However, as to the wording of the two definitions, the OCA recommends that the Commission adopt the OCA phrasing of these two

terms as proposed in the OCA Comments for both Sections 63.1 and 64.2. OCA Comments at 11, 18-19.

Verizon has proposed two additions to Section 53.57, a definition of "dwelling" and a definition of "noncompetitive stand-alone basic residential service." Verizon Comments, Att. 1 at 1. The phrasing of the "dwelling" definition is identical to the existing definition in Section 64.2. 52 Pa.Code § 64.2. "Noncompetitive stand-alone basic residential service" does not appear as a definition in the existing provisions of Chapters 53, 63, or 64. The NOPR adds a mention of "noncompetitive stand-alone basic residential service" as an undefined term in the amended Section 53.58(d)(1) provisions regarding price lists. Verizon has also proposed to add these two definitions to Section 63.1 and the definition of "noncompetitive stand-alone basic residential service" to Section 64.2. Verizon Comments, Att. 1 at 1, 4, 16.

The OCA opposes the addition of "dwelling" to Section 53.57 and 63.1 and "noncompetitive stand-alone basic residential service" to Sections 53.57, 63.1, and 64.2 insofar as they are tied to Verizon's proposal to phase out regulatory protections by December 31, 2023. See, e.g. Verizon Comments at 13 (phase out of retail tariffing), 14-15 (Section 63.15 Complaint procedures). The OCA opposes Verizon's arbitrary phase out proposal, as discussed below. Rejection of Verizon's substantive amendments to narrowly limit the scope of protections and then sunset them may eliminate the need to add definitions for "dwelling" and "noncompetitive stand-alone basic residential service" as proposed by Verizon.

The OCA does not take a position on the difference between the NOPR's definition of "Enterprise and large business customer" and Verizon's amended definition. Compare NOPR at 26, 28, Annex A at 1; Verizon Comments at 13, fn. 25, Att. 1 at 1.

Verizon's revised list of Section 53.67 definitions omits "Joint or bundled service packages," "Lifeline plan," "New service," "Nonprotected service," and "Promotional service offering." See, Verizon Comments at 12-13, Att. 1 at 1-2. Of these definitions, the OCA submits the Commission should preserve the definition "Lifeline plan." Section 3012 does not provide a definition for Lifeline plan or Lifeline service, but the concept is incorporated in Chapter 30. See, 66 Pa.C.S. §§ 3012 and 3019(f). Importantly, the obligation to offer Lifeline service – as defined by federal regulations, Commission orders designating an entity as an eligible telecommunications carrier (ETC), and relevant Chapter 30 Plan provisions – does not turn on the competitive or noncompetitive classification of the residential service or the geographic area where offered. The OCA submits that Verizon's proposed elimination of the definition of "Lifeline plan" is an example of how Verizon's proposed Chapter 53, 63, and 64 revisions are too narrow in focus. Good cause exists for the Commission to assure that the revised regulations Chapter 53, 63, and 64 provide affirmative guidance and regulation of more than just residential stand-alone basic service in a noncompetitive area.

Of the other four definitions included in the NOPR Annex A but omitted by Verizon, the OCA submits that "new service" and "nonprotected service" may not be needed. The Commission should keep some definition of "Joint or bundled service packages" and "Promotional service offering," contrary to Verizon's position. Indeed, TCC and CCL ask the Commission to include a modified definition of "joint or bundled service package" in both Section 53.1 and Section 64.2. TCC / CCL Comments at 5-6. As noted above, the OCA recommends the addition of definitions of "price list" and "product guide."

2. Section 53.58 (Offering of competitive services)

The OCA Comments ask the Commission to continue to exercise its discretion under Section 3016(d)(4) and require that local exchange carriers "maintain price lists with the commission applicable to its competitive services." OCA Comments at 8-10; 66 Pa.C.S. 3016(d)(4). Under Verizon's version, the only obligation to file a price list with the Commission would apply to residential stand-alone basic service in a competitive wire center, and only through the end of 2023. Verizon Att. 1 at 2. The OCA opposes Verizon's alternative version of Section 53.58 which would implicitly foreclose the Commission from exercise of this statutory ability. Additionally, the NOPR would preserve in amended form Section 53.58(e) to identify the steps for reclassification of a competitive service as noncompetitive pursuant to Section 3016(c). NOPR at 27-29. Verizon's version of Section 53.58 eliminates this consideration. Instead, Verizon offers as immutable that "[a]ll retail telecommunications services offered … in competitive wire centers are classified as competitive." Verizon Att. 1 at 2. The OCA supports the NOPR's approach, which preserves flexibility to address future developments in the telecommunications marketplace.

3. Section 53.59 (Cost Support requirements and effective filing dates for tariff filings of noncompetitive services.)

In the NOPR, the Commission has proposed amendments to Section 53.59 to change the wording but preserve the method of benchmarking the CLEC's new rates and tariffs against the equivalent ILEC rate and service, to determine when the CLEC rate may take effect and what documentation is needed, if any. NOPR at 28-29, Annex A at 5-9. Verizon has proposed to rename and re-focus Section 63.59 to address the "Offering of noncompetitive services." Verizon Att. 1 at 2. The OCA submits that Verizon's proposed regulation is confusing. On one hand, the Commission's

ability to "require" a local exchange telecommunications company to file a tariff for noncompetitive retail services would be fully sunset by the end of December 2023. On the other hand, tariff filings for noncompetitive services could still exist and be increased or decreased, subject to time frames for Commission review and effective dates. Verizon makes no mention whether these provisions conform with ILEC Chapter 30 Plan provisions regarding tariffs to increase rates for noncompetitive services. But fundamentally, the OCA is opposed to Verizon's proposal that the Commission adopt a regulation stating the Commission will cease to exercise its authority and discretion.

B. Chapter 63 Regulations

The OCA is opposed to Verizon's alternative version of Chapter 63 regulations. The OCA will not go through Verizon's proposal point by point. Rather, the OCA will highlight some of the shortcomings of Verizon's alternative proposal.

1. Verizon's Use of "Noncompetitive Stand-Alone Basic Service" Subscription as a Screen

In Section 63.1, Verizon would omit "trouble report" as a defined term. Compare, Verizon Comments, Att. 1 at 3-5; 52 Pa.Code § 63.1. Then, in Section 63.57 (Customer Trouble Reports) Verizon proposes that only residential customers who purchase noncompetitive basic local service on a stand-alone basis should benefit from a regulatory standard governing a telecommunications carrier's response to an out-of-service trouble report. Verizon Comments at 18-21. The OCA disagrees with Verizon's premise that what service is purchased, whether stand-alone voice or voice as part of a bundle, and by whom, a residential consumer or small business consumer or large institution, should determine whether a regulatory standard for clearing out-of-service trouble should apply. Implicitly under Verizon's proposal, if a customer

impacted by an outage has bought local service as part of a bundle, or local service in a competitive wire center, or is a small business customer, no regulatory standard of conduct would apply. Any statement set forth in the telecommunication carrier's product guide regarding continuity of service or willingness to respond to service trouble would be aspirational and of no binding effect. The inability of such a customer to contact 911 or medical care for days due to a pro-longed outage would not violate a regulation or require reporting to the Commission, under Verizon's proposal. The only after-the-fact remedy for the consumer would be to switch to an alternative service and/or file a formal complaint with the Commission stating that Section 1501 has been violated.

The OCA similarly opposes Verizon's proposed amended Section 63.15 (Complaint procedures). This Verizon proposal again makes the question of what type of service has the consumer subscribed to the determinative factor: "The Bureau of Consumer Services of the Commission shall only accept informal complaint relating to noncompetitive stand-alone basic residential service." Verizon Att. 1 at 5 (proposed Sec. 63.15(a)(1)). Under Verizon's version of Section 63.15, BCS would first have to inquire whether the contacting consumer is or is not a "noncompetitive stand-alone basic residential service" subscriber. If "no," the consumer would be referred to the telephone service provider and the Bureau of Consumer Service's involvement would end absolutely, without follow-up or reporting. The referral would not be made through the "automatic customer transfer" process, as Verizon would limit that process to "customer complaints related to noncompetitive stand-alone basic service." After December 31, 2023, Verizon has proposed that BCS would be unable to accept any informal complaint by any telecommunications consumer "relating to any issue or service."

The OCA submits that Verizon's rigid plan to prevent consumers from availing themselves of the informal complaint resources offered by BCS is unreasonable and unworkable. For example, if a consumer contacts BCS to informally complain that a leaning or damaged telephone pole presents a public safety hazard or that a telephone utility contractor cut a homeowner's water service line, the OCA submits that BCS should be empowered to both assist the member of the public or water service customer and keep a record of the incident and resolution. The Commission should reject Verizon's proposal to exclude from the BCS informal complaint process any matter involving telecommunications carrier's service, operations, and maintenance of facilities. Similarly, low-income consumers are allowed to purchase more than just basic local voice service with Lifeline support. Indeed Lifeline may support a bundle of voice and data or broadband. Yet, under Verizon's plan, the Commission and BCS would have no role in helping a Lifeline consumer resolve an informal complaint with the eligible telecommunications carrier, because the service is not "residential stand-alone basic service."

Based upon this examination of Verizon's proposed modification of Section 63.15, the Commission should determine that Verizon's proposal to limit regulatory obligations and protections for consumers and the public based upon whether the subscribed service is noncompetitive basic stand-alone service and whether the date is before or after December 31, 2023 is unworkable and not in the public interest.

2. Verizon's Proposed Reduced Service Quality Standards

Verizon has proposed to rescind or water down many of the Chapter 63 service quality standards. The OCA disagrees with Verizon's proposal which would remove meaningful standards and regulatory guidance that is still needed to promote and protect today's complex and important telecommunications network. The OCA has one limited area of agreement with

Verizon and Thryv with regard to Section 63.21 (Directories). The OCA will highlight some of these points.

For example, Verizon has proposed to shorten Section 63.14 (Emergency Equipment and Personnel" by eliminating mention of specific reasonable measures to meet emergencies which the current Section 63.14(a) identifies. Compare Verizon Att. at 5, 52 Pa. Code § 63.14(a). At present, Section 63.14(a) applies to all telecommunications providers in all areas, as the Commission declined to waive Section 63.14 in the *Verizon Reclassification* proceeding. NOPR at 33, 34. In the NOPR, the Commission proposes to retain:

> We propose to retain in its present form and in its entirety Section 63.14 (emergency equipment and personnel). We believe that the retention of this regulation is essential for the provision of adequate, reliable and resilient telecommunications services under conditions of various emergency situations including but not limited to natural disasters, for all wire centers and geographic areas our jurisdictional utilities serve.

NOPR at 35. The OCA support the Commission's position. The Commission should not adopt Verizon's proposed amendments to water down Section 63.14.

Verizon has proposed to rescind Section 63.20 (Line extensions). Verizon Comments at 20. The OCA opposed Verizon's position. Consistent with the OCA Comments, the Commission should preserve this regulation, as proposed in the NOPR. OCA Comments at 13; NOPR at 37.

Verizon and Thryv have each asked the Commission to rescind Section 63.21 to end regulatory obligations governing the distribution of telephone directories. The NOPR has proposed to reserve Section 63.21, with amendments to provide flexibility as to the distribution of directories requirement. NOPR at 39. The OCA supports relief, at a minimum, from the Section 63.21(b) provisions which address distribution of directories.

Verizon has proposed to rescind Section 63.24 (Service interruptions). Verizon Att. 1 at 7. This regulation currently provides customers with a bill credit when telecommunications service is interrupted for at least 24 hours, except where temporarily waived by the *Verizon Reclassification Order*. NOPR at 40. The OCA supports the NOPR's reasoning and recommendation to retain Section 63.24 to apply in all areas. Id. at 40-41.

With regard to the quality of calls, the Commission has proposed to combine protections that had been stated in Section 63.12 and 63.63 into a single revised Section 63.63, updated to recognize the use of fiber transmission facilities in parts of the network. NOPR at 61-62. The Commission's proposal is consistent with the OCA's concerns identified during the ANOPR phase. Id. The OCA supports adoption of the Commission's amended Section 63.63 which is intended to "provide sufficient guidance under Section 1501 of the Code to ensure that our jurisdictional telecommunications public utilities provide reasonable service that is free from distortion, noise, and cross talk." NOPR at 62. The Commission should not adopt Verizon's position that Section 63.63 should be rescinded.

The OCA submits that Verizon's other proposed amendments and rescission of Chapter 63 provisions, which are more stringent than the NOPR's recommended Chapter 63 modifications, should not be adopted.

3. Chapter 64 Regulations

Verizon has proposed to significantly restrict and eliminate virtually all Chapter 64 provisions, so that the eventual end result will be that each telecommunications carrier providing retail service will have their own set of terms and conditions governing credit standards, billing, suspension and termination of service. The statutory provisions of Section 1501 and 1309 would be the primary protections.

The OCA is opposed to Verizon's proposed Chapter 64 amendments. As discussed above, the OCA disagrees with Verizon's plan to treat consumers differently, depending on whether they subscribe to noncompetitive basic local service or not, and to sunset even those limited protections by the end of December 2023. This Verizon approach is not reasonable nor workable and will not provide consumers with sufficient protection and regulatory guidance.

As the OCA has stated in prior comments and the Commission has acknowledged, competitive forces cannot be counted on to protect consumers in all situations. Verizon's process for transferring customers from copper to fiber has at times given rise to customer confusion, resulting in informal or formal complaints. For example, a resident in a senior living facility was notified that his services would be disconnected because the senior care facility had not provided Verizon with access to change the connection to the entire facility to fiber.[1] Currently, Section 64.61 addresses "Authorized suspension of service" and covers suspension of service for "[u]nreasonable refusal to permit access to service connections…." 52 Pa. Code §64.61(3). Yet, Verizon's revised Section 64.61 would simply move all provisions related to suspension of service to the telecommunication carrier's product guide. Verizon Att. 1 at 21-22. Further, Verizon's revisions to Section 64.62 would provide no regulatory protection against suspension or termination of a bundle of services on holidays or weekends. Id. at 22. Nor would Verizon's revised medical certification provisions be a possible method to delay suspension in such a scenario, as Verizon would limit this regulatory protection to noncompetitive residential basic local service subscribers, through December 31, 2023. Id. at 24, Verizon revised or rescinded Sections 64.152-64.154. Verizon's proposed reform of the Chapter 64 informal complaint processes would also close the door on the Commission providing assistance to a

[1] John Lundquist c/o Eric Lundquist v. Verizon Pennsylvania, LLC, Docket No. F-2021-3024088, April 14, 2021 Hearing TR 4-5 (Provisional basis for satisfaction of complaint).

consumer in this situation, as discussed above concerning Verizon's proposed Section 63.15 changes. Id. at 26.,

The Commission should not accept Verizon's proposed Chapter 64 revisions which depend on a flawed framework. The OCA has previously provided comments on the Commission's proposed changes to Chapter 64 provisions. Consistent the OCA Comments and the concerns identified by CAUSE PA, the Commission should assure that the final revised Chapter 64 provisions provide necessary regulatory guidance and protections, to promote universal and fair access to jurisdictional telecommunications services.

III. CONCLUSION

The Office of Consumer Advocate respectfully requests that the Public Utility Commission consider and adopt the OCA's recommendations as to the Chapter 53, 63, and 64 regulations discussed in the OCA Comments and these Reply Comments.

Respectfully Submitted,

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