

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105

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

PUBLIC MEETING: March 26, 2009  
1200232 - LAW

Docket No. L-00060179

JOINT STATEMENT OF  
CHAIRMAN JAMES H. CAWLEY AND VICE CHAIRMAN TYRONE J. CHRISTY

Before us is the Staff recommendation on the adoption of a Final Rulemaking Order that safeguards the provision of protected basic local exchange telephone service within the bundled service packages that are offered by local exchange carrier (LEC) telecommunications utilities within the Commonwealth. The recommendation that today is adopted by the majority *does not extend price regulation* over the bundled service package offerings. It seeks to safeguard the *provisioning* of the protected basic local telephone service component in a bundled package offering. To this extent, the Final Rulemaking that is adopted today provides coherent and uniform guidelines for the treatment of the protected basic local service component should an end-user consumer be unable to make the required monthly payment for the full bundle. The Final Rulemaking provides the appropriate suspension and termination procedures so that such a consumer can retain the protected basic telephone service component and the ability to make local telephone landline calls, including 911 calls for emergency assistance.

The Final Rulemaking also provides the appropriate and uniform procedures for the application of partial payments towards the non-regulated price of a bundled service package. Again, the purpose is to provide the end-user consumer with the opportunity to retain protected basic local telephone service, and not to impose price regulation on the bundle that is provided on a price competitive basis by a regulated LEC under 66 Pa. C.S. § 3016(e)(2).

It is apparent that the Commission has the requisite statutory authority to safeguard certain provisioning aspects of the protected basic local telephone service component in a bundled package. To argue otherwise would essentially render the letter and the spirit of the “protected” classification for basic local telephone service completely meaningless and inoperative under Chapter 30. 66 Pa. C.S. § 3012. It would also invalidate the required Chapter 30 procedure for the adjudication of an appropriate petition prior to a Commission classification of a “protected” service as “competitive.” 66 Pa. C.S. §

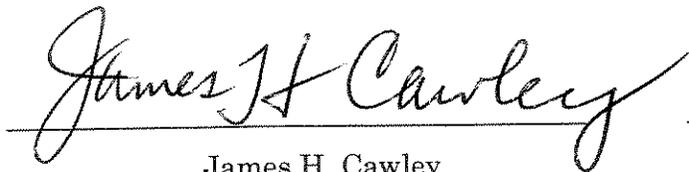
3016(a). These conclusions are consistent with the plain reading of the Chapter 30 law and the Commission's explicit statutory jurisdiction to vigorously police and safeguard "protected" telecommunications services and their retail and wholesale consumers within the Commonwealth. Further, this Final Rulemaking complies with the provisions of S.B. 1000 which extend consumer protections to protected telephone service.

The Final Rulemaking essentially codifies and aligns practices and procedures that have already existed for some time for safeguarding the protected basic local telephone service component in bundled service package offerings. These parameters, including billing practices, have largely existed since the issuance of individual waivers to LECs and often predate the enactment of 66 Pa. C.S. § 3016(e). In this respect, the formal codification of these parameters into a uniformly applicable regulation does not impose an undue administrative burden on the regulated LEC industry within Pennsylvania. The requirement that a customer should provide a "written instruction" to a LEC regarding the customer's own choice for the application of a partial payment for past and currently outstanding bill amounts for a bundled service package is not burdensome. 52 Pa. Code § 64.17(B) and § 64.18. It actually safeguards the interests of the LEC, it minimizes the possibility of errors, and reduces the number of potential informal and formal consumer complaints that may need to be addressed by this Commission.

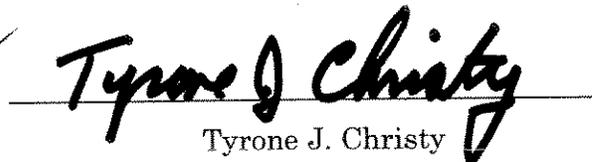
Although the following matter has not been addressed in the written comments that have so far been submitted in this rulemaking proceeding, the Commission has been informally apprised of a potential implication of the Final Rulemaking. It has been suggested that the informational *disclosure* of the amount that needs to be paid for a consumer to retain the protected basic local telephone service component of a bundled package may negatively affect the collection of sales taxes by the Pennsylvania Department of Revenue since basic local telephone service is exempted from the imposition of such taxes when it is *billed* on a separate stand alone basis. *See generally* 72 P.S. § 7204(5). The informational *disclosure* regarding the payment of the amount necessary to avoid suspension and termination of the protected basic local telephone service component in a bundled package does *not* amount to a *separate bill* for the basic local service component. As the Verizon bundled services bill that was appended in the written comments of the Office of Consumer Advocate submitted on July 31, 2008 indicates, a full bundled service package is billed as "non-basic" service and is accordingly subject to Pennsylvania sales taxes. Docket No. L-00060179, OCA Comments, July 31, 2008, Appendix A. The Final

Rulemaking does not alter this billing practice for bundled packages, and we do not expect it to have any effect on the collection of sales taxes within the Commonwealth.

In summary, we believe that the Final Rulemaking is consistent with the Commission's statutory authority under Chapter 30, that it provides consistent and uniform guidelines for safeguarding the protected basic local telephone service component for the end-user consumers of bundled service packages, it does not interfere with the pricing of such bundles, and it preserves and enhances the concept of universal telephone service within the Commonwealth.



James H. Cawley  
Chairman



Tyrone J. Christy  
Vice Chairman

March 26, 2009

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105-3265

RULEMAKING RE: PROVISION OF BASIC SERVICE  
PACKAGES PLANS BY LOCAL EXCHANGE CARRIERS

PUBLIC MEETING  
MARCH 26, 2009  
1200232-LAW  
Docket No. L-00060179

JOINT DISSENTING STATEMENT OF  
COMMISSIONER KIM PIZZINGRILLI AND  
COMMISSIONER ROBERT F. POWELSON

Before us for consideration is a final rulemaking containing amendments to Chapter 64 regulations relating to the provision of bundled service package plans at a single monthly rate by local exchange carriers. The proposed rulemaking was approved by the Commission in 2006 and published in the *Pennsylvania Bulletin* on March 3, 2007, over two years ago. A number of commentators, including the Independent Regulatory Review Commission (IRRC), questioned whether the proposed regulations were consistent with Chapter 30. Based upon the extensive comments received and the need for further information, the Commission reopened the comment period by a notice in the June 7, 2008 *Pennsylvania Bulletin*. This notice did not contain any revisions to the initially published proposal.

Although we support the stated goal of the rulemaking - to establish uniform standards for the provision of basic service within a bundled package - we do not believe that the final regulations adequately address the concerns raised by the IRRC in its filed comments. Rather, we believe that the final regulations adopted today blur the lines between the services regulated by the Commission on an "a la carte" basis and those provided in the context of a bundled service package. For example, the regulations mandate how payments are to be applied and also subject disclosure statements to Commission review. In our opinion, these provisions are inappropriate since they regulate bundled packages as a whole. Additionally, from a consumer perspective, the requirement that customers provide written instruction to the LEC if they desire to have a payment applied in a manner other than that specified in the regulations is burdensome. We question the reasonableness of this requirement, given the multitude of methods consumers currently use to communicate with service providers.

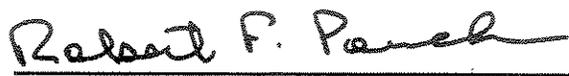
Given the rampant competition among regulated and unregulated carriers, the market, namely, consumer demand for quality services at reasonable prices and a high level of customer service, will weed out those carriers that fail to adequately meet the needs of customers. The Commission cannot and should not place regulatory barriers over the provision of service by regulated carriers while their unregulated competitors offer service strictly pursuant to an internal business plan.

In light of the fact that this rulemaking was initiated nearly three years ago and that the reopening of the comment period extended the regulatory deadline for submission to IRRC and the legislative standing committees to July 31, 2010<sup>1</sup>, we believe a more prudent course of action would be to continue to work with the commentators to ensure that any regulations promulgated fall clearly within the authority granted by the General Assembly. The Commission must act in a manner that will result in legally sustainable and streamlined regulations that are consistent with the intent of Chapter 30.

We do not believe that today's action meets those objectives and respectfully dissent from the majority.

March, 26, 2009  
Date

  
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COMMISSIONER KIM PIZZINGRILLI

  
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COMMISSIONER ROBERT F. POWELSON

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<sup>1</sup> Letter from IRRC Executive Director to then-Chairman Holland dated June 10, 2008.