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January 8, 2015

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for
Competitive Classification of all Retail Services in Certain Geographic Areas,
and for a Waiver of Regulations for Competitive Services
Docket Nos. P-2014-2446303 and P-2014-2446304

Dear Secretary Chiavetta:

Enclosed please find Verizon's Main Brief, with Proposed Findings of Fact and Conclusions of Law, being filed by Verizon Pennsylvania LLC and Verizon North LLC in the above captioned matter. Because the Main Brief, and the Proposed Findings of Fact and Conclusions of Law, include certain Proprietary information the Public Version of the Main Brief, with Proposed Findings, is being e-filed, with the Proprietary Version of the Main Brief with Proposed Findings being provided via overnight delivery.

Please do not hesitate to contact me if you have any questions.

Very truly yours,


Suzan D. Paiva

SDP/slb
Enc.

Via E-Mail and Federal Express
cc: The Honorable Joel H. Cheskis
Cheryl Walker Davis, OSA

Via E-Mail and Federal Express
cc: Attached Certificate of Service

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served a copy of Verizon's Main Brief, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 8th day of January, 2015.

VIA E-MAIL AND FEDERAL EXPRESS

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Verizon Pennsylvania LLC :
And Verizon North LLC for Competitive : Docket No. P-2014-2446303
Classification of all Retail Services in Certain :
Geographic Areas, and for a Waiver of : Docket No. P-2014-2446304
Regulations for Competitive Services :

MAIN BRIEF

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PUBLIC VERSION

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I. Introduction and Argument Summary

The Legislature has made clear that monopoly-era regulation should not apply where alternative service providers offer “like or substitute services or other business activities.” 66 Pa.C.S. § 3016(a). Substitute services are available in most areas served by Verizon in Pennsylvania,¹ and unquestionably in the urban and suburban areas of Philadelphia, Pittsburgh, Erie, Harrisburg/York and Scranton/Wilkes-Barre. Verizon conservatively selected those limited geographical areas for this petition because the presence of competition there is beyond reasonable dispute.

Today’s consumers have countless choices to satisfy their communications needs and Verizon’s customers have been taking advantage of those options and leaving Verizon’s regulated landline services in droves. The record is replete with statistics demonstrating the availability and use of substitute services in areas served by Verizon:

Customers Are Substituting Away From Verizon:

- When Chapter 30 alternative regulation first became available in the early 1990’s, the only option customers had to meet their local exchange needs was the local telephone company. Today, there are many other options. Verizon does not have a primary line in **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** of the households in its service territory, as of the end of 2013. (VZ St. 1.0 at 11).
- For the years 2009 through 2013, Verizon lost about **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** retail voice lines, **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** of which are residential (despite population and economic growth in the state). (VZ St. 1.0 at 20-21).
- The volume of telephone numbers ported from Verizon to its facilities-based competitors demonstrates that Verizon line losses are due to competition. Verizon has ported around **[BEGIN VERIZON PROPRIETARY]**

¹ Petitioners are Verizon Pennsylvania LLC (“Verizon PA”) and Verizon North LLC (“Verizon North”) (together “Verizon” or “VZ”).

[END VERIZON PROPRIETARY] numbers completely off its network, with almost [BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY] just in the past four years (2009-2013), net of numbers ported in to Verizon. (VZ St. 1.0 at 12). U.S. Telecom projects the national trend of declining incumbent local exchange carriers (“ILECs”) lines to continue so that “[b]ased on trends, from 2000 to 2015 ILECs will have lost a projected 72 percent of switched access lines and 82 percent of switched retail residential access lines ... due to facilities-based competition from wireless and cable. By the end of 2015, ILEC switched connections will represent 11 percent of U.S. voice connections, 14 percent if ILEC VoIP is included.” (VZ St. 2.0 at 16).

Substitution from cable and other wireline competition:

- In each wire center in the limited areas subject to this petition, cable telephony is available and there is coverage by at least one wireless provider other than Verizon Wireless. (VZ St. 1.0 at 24-26).
- The FCC reports that competitive carriers other than the ILEC (mostly cable providers) served 46% of the wirelines in Pennsylvania as of mid-2014, a percentage that continues to grow. (VZ St. 2.0 at 16).
- The Warren FactBook and National Broadband Map show cable telephony available in all of the wire centers that are the subject of this petition. (VZ St. 1.0 at 24; OCA St. 1 Exhibit 2; CWA-IBEW Cross Examination Ex. 5; Transcript of December 17, 2014 Hearing (“Tr.”) at 109).
- The CLEC share of the total number of business lines is more than [BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY] percent. (VZ St. 1.0 at 11).

Wireless substitution:

- Wireless service is widely available in Pennsylvania from 12 wireless providers. The FCC’s National Broadband Map shows that around three-quarters of Pennsylvania’s population has broadband wireless service available from 5 or more wireless providers. (VZ St. 1.0 at 10).
- As of the end of 2013 there were 12.3 million wireless lines in Pennsylvania, as compared to only 3.5 million ILEC lines (in fact, since June 2006, wireless subscribers have outnumbered landlines in the state). (VZ St. 1.0 at 11; VZ St. 2.0 at 16).
- The portion of U.S. telephone households that have “cut the cord” and rely entirely on wireless for their voice service has risen from less than five percent in 2003 to 44 percent as of mid-2014, while an additional 15 percent of households rely mostly on their wireless phones. (VZ St. 1.0 at 11; VZ

Cross Ex. Exhibit 4). This means almost 60% of national households rely solely or mostly on their wireless phones to meet their calling needs.

- Commission data shows that 92% of Pennsylvania Lifeline customers have chosen wireless rather than wireline Lifeline service. (VZ St. 2.0 at 19).

Broadband service:

- The National Broadband Map shows that 97.6% of Pennsylvania's population has access to wired broadband service offering at least 3 Mbps download. (VZ St. 1.0 at 11).
- By June 2013, there were about 3.74 million residential fixed broadband lines in service in Pennsylvania, and 3.2 million of these are subscribed to residential fixed broadband services that provide download speeds greater than 3Mbps. When residential wireless broadband connections are included, the total is over 9 million. (VZ St. 1.0 at 18).
- As of June 2013, 74 percent of Pennsylvania households subscribed to a broadband connection, which enables them to use countless "over-the-top" VoIP providers. All of the wire centers in this petition are broadband-enabled. (VZ St. 1.0 at 15, 17).

In each wire center in the areas covered by the petition, cable telephony is available and there is coverage by at least one wireless provider other than Verizon Wireless. The availability and use of substitute services in these areas is uncontroverted, and even confirmed by evidence submitted by other parties:

- Communications Workers of America/International Brotherhood of Electrical Workers ("CWA-IBEW") witness Susan Baldwin compared the number of Verizon lines in various categories to the total households in each wire center to show that only about a third of households in the petition area still have Verizon wireline service (even including unregulated FiOS service as a Verizon wireline service) – meaning that two thirds of households in the petition areas obtain service from one of the "substitute services and business activities" available to them from alternative providers.²

² CWA-IBEW St. 1S, Confidential Schedule SMB-6 (Revised) at 15 (comparing total number of Verizon copper and FiOS lines to the total households). Even with her attempt to add in an estimated share for "cord-cutting" households that have substituted wireless for their land line but use Verizon Wireless, the Verizon group of companies in total still serves less than half of households in the petition area by Ms. Baldwin's analysis. *Id.*

- Office of Consumer Advocate (“OCA”) witness Dr. Robert Loube mapped coverage information from the FCC National Broadband Map and other sources to confirm graphically that cable telephony is available in each wire center in the petition areas,³ and he authenticated a document offered by CWA-IBEW on cross examination showing that cable service is available in every wire center subject to the petition and that at least 98% (if not more) of households in the petition area have access to service from at least one, and likely multiple, unsubsidized competitors.⁴
- AT&T’s witness Christopher Nurse observed that, with Pennsylvania’s high telephone penetration rates, large numbers of customer must be served by companies other than Verizon.⁵

Faced with such overwhelming evidence, the opposing parties attempt to raise diversionary issues irrelevant to the statutory standard. For example, CWA-IBEW and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) speculate that the small fraction of customers who still subscribe to basic, stand-alone landline service are mainly low income and other “vulnerable” customers. That is simply not true; the only record evidence of the purchasing behavior of low income individuals shows that 92% of Pennsylvania Lifeline customers have rejected landline service altogether in favor of wireless providers and that nationally 59.1% of households categorized as “poor” are wireless-only.⁶ Moreover, where like or substitute services are available, market conditions benefit and protect all customers, even those who may decide to remain with stand-alone Verizon basic service. VZ St. 2.0 at 17.

³ OCA St. 1, Exhibit 2; Tr. at 109 (explaining that “served” areas are most likely to be served by a cable company).

⁴ Compare total households claimed to be located in “unserved” census blocks described in CWA-IBEW Cross Ex. Exhibit 5 (50,763) to the total number of households in petition area described in CWA-IBEW St. 1S, Schedule SMB-6 (Revised) at 15 (2,767,419). *See also* Tr. at 94 (Dr. Loube accepts CWA-IBEW Cross Ex. Exhibit 5 “subject to check”); Tr. at 107-108 (Dr. Loube explains what is an “unsubsidized competitor”).

⁵ Tr. at 77.

⁶ VZ St. 2.0 at 19 and Attachment E; Tr. at 88; VZ Cross Examination Ex. 4.

Verizon also seeks a waiver of certain regulations for competitive services in the relevant exchanges. The Legislature in Chapter 30 required this Commission to “review and revise” its regulations and directed that it “shall take into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand.” 66 Pa. C.S. § 3019(b)(2). These outdated regulations do not apply to Verizon’s competitors, and they should not apply to Verizon in the competitive geographical areas listed above. The Legislature already concluded with Chapter 30 that less regulation is warranted where competitive forces are sufficient to ensure customers dictate services and rates. That is the case in the petition exchanges, and Verizon should not be burdened in those exchanges with the anachronistic regulations inapplicable to its competitors.

II. Factual and Procedural Background

A. Statement of the Case

Verizon PA and Verizon North are “local exchange telecommunications companies” that have elected alternative regulation under Chapter 30 of the Public Utility Code. Each company operates under the terms of Chapter 30 and a Commission-approved alternative regulation plan. VZ St. 1.0 at 2. Under Chapter 30, Verizon’s services are classified as either “competitive” or “noncompetitive.” Services for which there are “like or substitute services or other business activities” available are to be classified as “competitive.” 66 Pa. C.S. § 3016(a). With regard to such services, “[t]he commission may not fix or prescribe the rates, tolls, charges, rate structures, rate base, rate of return or earnings of competitive services or otherwise regulate competitive services except as set forth in this chapter.” 66 Pa. C.S. § 3019(g).

Verizon petitioned the Commission to declare competitive pursuant to 66 Pa. C.S. § 3016(a) all of its retail services not yet competitively classified in urban and suburban wire centers in and around Philadelphia, Erie, Scranton/Wilkes-Barre, Harrisburg/York and

Pittsburgh. Through the evidentiary record compiled at hearing, Verizon established that voice services are available from at least one cable provider and one wireless company unaffiliated with Verizon in these wire centers. Verizon also demonstrated for competitive services in these wire centers, certain of the Commission's Chapter 63 and 64 regulations should not apply.⁷

B. Statement of Facts

With regard to the urban and suburban, population-dense areas subject to the petition, Verizon has demonstrated that each wire center satisfies the following criteria:

- Cable telephony is available; and
- There is coverage by at least one unaffiliated wireless provider.⁸

This is a very conservative demonstration of the availability of competitive alternatives because it does not take into account any evidence of intramodal competition or competition from alternative networks other than cable and wireless companies. VZ St. 1.0 at 4-5.

1. Cable Telephony in the Petition Areas

As Mr. Vasington explained, Verizon used the Warren Communications News Advanced TVFactBook to verify that all of the wire centers for which Verizon is seeking reclassification are in communities with cable telephony available. VZ St. 1.0 at 24. Mr. Vasington testified

⁷ Verizon did not file for reclassification of any wholesale services, including switched and special access, and seeks no change to the regulation of the wholesale services and unbundled network elements that Verizon makes available to CLECs pursuant to the requirements of Sections 251 and 252 of the Federal Communications Act.

⁸ Verizon PA and Verizon North share a corporate parent with Verizon Wireless. Therefore, Verizon did not include coverage by Verizon Wireless for purposes of this analysis, although services offered by Verizon Wireless are substitutes for those offered by Verizon PA and Verizon North.

that he also verified cable coverage with additional sources, such as cable company websites and the FCC's National Broadband Map. Tr. at 132, 153-54.⁹

OCA and CWA-IBEW submitted evidence that confirms Verizon's testimony that there is cable service in each of the subject wire centers. Dr. Loube attached as Exhibit 2 to his direct testimony a map that he prepared based on his review of data results from the FCC's Connect America Fund cost model. As he explained on the stand, the areas that are depicted in color are the petition wire centers, while wire centers that either are not part of the petition or are served by another ILEC are grayed-out. Tr. at 106. Within the petition areas, the map depicts in three different shades of red areas that Dr. Loube determined were served by an "unsubsidized competitor," which he explained was based on the FCC's definition of that term as a "provider with broadband service at a minimum speed of 3 megabits up and 760 kilobits down" that is also "shown in 477 data as providing voice service in the relevant state." Tr. at 107 and VZ Cross Ex 7. As Dr. Loube explained, the unsubsidized competitor in all of these red areas is most likely to be a cable telephony provider, and there could also be multiple cable providers as well as wireless providers in those same areas. Tr. at 109. The areas depicted in 3 different shades of blue are census blocks that Dr. Loube concluded the FCC data showed were not served by an unsubsidized competitor, but Dr. Loube explained that in preparing the map he did not remove unpopulated areas that would not be expected to have telephone service at all (i.e., airport runways and the like). Tr. at 111. Just from a visual examination of the map, it is apparent that there are very few blue areas and the vast majority of the petition area by geography is colored in

⁹ The Warren FactBook does not include information about areas of the state that do not have any cable franchise, but this limitation in that source has no material impact on the petition, because all of the areas subject to the petition have cable service available, as demonstrated by the National Broadband Map and the data used to support that map. The Warren FactBook verifies that the areas also have cable telephony.

one of the shades of red and therefore has at least one unsubsidized competitor, most likely a cable telephony provider in Dr. Loubé's estimation.

CWA-IBEW submitted a new exhibit on cross examination, purporting to be based on an additional analysis that Dr. Loubé supplied with his surrebuttal testimony. CWA-IBEW's counsel represented that the exhibit depicted how many households are located in the census blocks that Dr. Loubé classified as unserved by an unsubsidized competitor. That analysis was presented on CWA Cross Examination Exhibit 5, which was not introduced by CWA-IBEW's own witness but which Dr. Loubé was asked to accept subject to check.¹⁰ This document, together with CWA-IBEW's other evidence, shows that at least 98% of the households in the petition area have coverage from at least one unsubsidized competitor, likely cable telephony.¹¹ And it also shows that all of the wire centers have cable coverage, as demonstrated by comparing the number of unserved households by wire center to total households by wire center.¹² As Mr. Vasington explained at hearing, it is not necessary for competitive discipline, nor did Verizon claim, that 100% of customers have cable coverage. Tr. at 40. But this exhibit shows a very high level of cable availability in the petition areas, and because of anomalies in the data depicted, such as its unlikely conclusion that households in dense urban areas of Philadelphia are

¹⁰ Tr. at 94 (Loubé) ("while I have not performed the particular calculation and rearrangement of the data, this is data that could very easily be determined from that workpaper, and subject to check I will accept it.")

¹¹ These percentages were calculated by totaling the unserved households in CWA-IBEW Cross Examination Exhibit 5 (50,763) and comparing that total to the 2,767,419 total households in the petition area depicted in CWA-IBEW Confidential Schedule SMB-6 (Revised).

¹² The data by wire center is also found on Confidential Schedule SMB-6 (Revised) and CWA-IBEW Cross Examination Exhibit 5.

unserved, the percent of households with access to cable in the petition area may well be more than 98%.¹³

2. Wireless Coverage in the Petition Areas

No party denied the widespread coverage by wireless service providers in the subject areas. Mr. Vasington verified from multiple sources that each wire center has at least one unaffiliated wireless provider. Specific information showing AT&T Wireless coverage from the FCC's Broadband Map was provided in the testimony to show that service is available from at least one unaffiliated wireless provider in all of the areas covered by this petition. VZ St. 1.0 at 24-25 and Attachment C. And the same evidence source shows that these areas also likely have coverage from multiple additional wireless providers. For example, the National Broadband Map reports that over 99% of the population in counties such as Philadelphia, Montgomery, Bucks, Chester, Delaware, Allegheny, York, Northampton, and Westmoreland has access to 4, 5 or in some areas even 6 broadband wireless providers. Both Sprint and T-Mobile also have coverage in the regions subject to this petition. VZ St. 1.0 at 25.

Most of the state has coverage from two or more wireless providers, and the more densely populated counties are served by at least four wireless carriers.¹⁴ Wireless carriers serving Pennsylvania include AT&T Wireless, Sprint, T-Mobile, and Verizon Wireless, among others. In fact, according to the FCC's interactive map that shows US Census blocks that lack

¹³ For example, the document reaches the unlikely conclusion that many households are unserved in Verizon's Locust wire center (PHILAPALO), which is in the heart of center city Philadelphia (and the location of the corporate headquarters of Comcast). See wire center map attached as Schedule SMB-18, page 7, attached to CWA-IBEW St. 1S. Thus it is possible that a greater percentage of petition area households may have access to an unsubsidized competitor than depicted on this document, particularly in view of the errors uncovered in CWA-IBEW's other "subject to check" exhibits, See Verizon's uncontested Motion for Admission of Supplemental Exhibits, filed December 29, 2014 and granted January 6, 2014..

¹⁴ VZ St. 1.0 at 32 (citing Federal Communications Commission, *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Sixteenth Report*, March 21, 2013, at 27 and Map C-18).

3G or better mobile coverage at the centroid of the block based on January 2012 Mosaik Solutions data, the map shows widespread coverage in Pennsylvania, with only one percent of Pennsylvanians who do not have 3G or better mobile coverage.¹⁵

III. Argument

A. Verizon's Petition for Determination of Whether Protected Services in Certain Wire Centers are Competitive Under 66 Pa. C.S. § 3016(a)

1. Legal Standard

A “protected” service may be reclassified as “competitive” by the Commission under the following procedure:

A local exchange telecommunications company may petition the commission for a determination of whether a protected or retail noncompetitive service or other business activity in its service territory or a particular geographic area, exchange or group of exchanges or density cell within its service territory is competitive based on the demonstrated availability of like or substitute services or other business activities provided or offered by alternative service providers.

The statute further provides that:

In making its determination, the commission shall consider all relevant information submitted to it, including the availability of like or substitute services or other business activities, and shall limit its determination to the service territory or the particular geographic area, exchange or group of exchanges or density cell in which the service or other business activity has been proved to be competitive.

66 Pa. C.S. § 3016(a).

The overwhelming evidence that consumers have left Verizon for services offered by wireless and wireline competitors provides ample evidence of the availability of like or substitute services in the petition wire centers. Nonetheless, Verizon applied an objective test that demonstrates the presence of at least one cable telephony provider and at least one wireless provider in each wire center. As Mr. Vasington explained, “using this criterion as a method for

¹⁵ VZ St. 1.0 at 32 (citing <http://www.fcc.gov/maps/mobility-fund-phase-1-eligible-areas>).

assessing competition certainly understates the level of competition because it does not include an analysis of other factors that demonstrate the availability of like or substitute services, such as intramodal competition, other network providers, and VoIP provided by non-cable providers.” VZ St. 1.0 at 25. And there is nothing in the statute that requires that there be more than one substitute service. But this criterion is a common sense and easily-understood and verifiable way of indicating that customers have at least two additional choices for telephone services.¹⁶

The statutory standard for reclassification thus looks outward through a window at services available from alternative providers to see if they are “like” or “substitute” services. The other parties’ criticisms of Verizon – attacking its quality of service, speed of fiber deployment, and the like – are irrelevant to the statutory standard. The statute looks to what competitors – not Verizon – are offering: “The important part of this statutory standard is that all customers are protected by market forces when there are widespread alternatives in the market.” Tr. at 37 (Vasington Rejoinder).

Services do not have to be identical to be “like” or “substitute” in the economic sense. “Two services can be considered substitutes for each other if consumers view them as being *similar enough* that consumers are willing and able to switch to the other. The key is whether two services are similar enough in the eye of the customer, not whether the two services have identical characteristics. If a sufficient number of customers would shift to one or more like services, then those services are considered substitutes, even if they are not identical to the service at issue. In short, the question is whether enough customers can purchase a service or

¹⁶ See, e.g., Lichtenberg, Sherry, “Characterizing Competition: A Look at State Processes,” National Regulatory Research Institute, Report No. 14-01, February 2014, at 15-18. See also 26 De Code § 705 (areas are competitive if served by one “alternative provider of telephone service,” which is “means, but is not limited to, a provider of a wireline telephone service, commercial mobile service as defined in section 332(d), Communications Act of 1934, or Voice over Internet Protocol service as defined in § 202(i)(2) of this title.”)

services from other providers that would fulfill the same functions for them as the incumbent's service(s)." VZ St. 1.0 at 5-6.

Ms. Baldwin agrees with this principle of economics, noting that "[c]onsumers are in a far better position than the ILECs to decide whether wireless, VoIP, or cable represent 'good' substitutes for basic telecommunications services. The most valuable and unbiased evidence about consumer preferences are consumers' actual purchasing decisions," and the important issue is whether the products "are good substitutes for one another *in the eyes of buyers.*" CWA-IBEW St. 1.0 at 18-19 (emphasis added).

However, it is not necessary to show that every single customer could or would switch to the alternative service for them to be "like" or "substitute" services in the market. In competitive markets, prices and service quality are set on the margin based on the behavior of consumers who are *most* likely to switch providers, not those least likely to switch. In every competitive market, there are certain infra-marginal customers who do not switch providers or consider alternatives for whatever reasons, but the mere presence of such customers does not mean that the market is not competitive or that the service needs to be regulated. VZ St. 2.0 at 17-18. For example, some customers favor iPads so much that they do not consider any competing products from Microsoft, Amazon, and Samsung, among others. But that does not mean that the market for tablets is not competitive or that Apple can charge these customers an above-market price. These "infra-marginal" customers benefit from competition because other customers *would* switch to competing products if Apple were to price above market compared to the alternatives. That other customers would switch means that infra-marginal customers benefit from the competition in which they might not participate themselves. *Id.*

2. Facts Relating to the Competitive Standard of Section 3016(a)

i. The Presence of Competition is Undisputed

There is little or no dispute over the facts of competition in the petition areas. The parties agree that there is widespread cable telephony available. Likewise no one denies that there is widespread wireless coverage throughout the petition areas. And there is no doubt that alternative providers are serving the majority of households. Ms. Baldwin herself demonstrated by wire center in her Confidential Schedule SMB-6 that only about a third of households in the petition area still have a Verizon wireline service (even assuming unregulated FiOS service constitutes a Verizon wireline service) – meaning that *two thirds of households in the petition areas* obtain service from alternative providers.¹⁷

Dr. Loube admits that Verizon has shown the widespread existence of competition in these areas, noting that “Verizon has shown that a lot of customers have changed their pattern of consumption due to availability of wireless services and a variety of bundle offerings by Verizon and by alternative providers. These changes are due to changes and wants associated with the desire for mobility, the desire to use a variety of applications available on new cell phones and the desire to purchase video and data transmission services.” OCA St. 1-S at 6.

ii. Cable and Wireless are Like or Substitute Services

Faced with overwhelming evidence on the presence of competition, opposing parties attempt to rewrite Section 3016(a) by adding non-existent limitations to the statutory standard. They contend that none of those competitive options that customers are actively choosing qualifies as a “like” or “substitute” service essentially because other providers do not provide

¹⁷ CWA-IBEW St. 1S, Confidential Schedule SMB-6 (Revised) at 15. Even when she attempted to add an estimated share for cord-cutting households using Verizon Wireless, the share she attributed to Verizon was still less than 50% of households.

stand-alone, basic service that is priced or regulated exactly like Verizon's. *See, e.g.*, OCA St. 1. At 10; CWA-IBEW St. 1.0 at 30-32. According to this narrow view, customers of Verizon's basic services have options only if the options exactly mirror legacy landline services. That would, of course, impermissibly render as an impossibility reclassification of any protected service as competitive. But the incontrovertible evidence shows that *in the eyes of Pennsylvania consumers* (which Ms. Baldwin testified was the only relevant standard), numerous competitive choices are like or substitute services to satisfy their communications needs.

Packages and bundles from cable providers and others are "like or substitute" services. In today's marketplace, competitors typically compete to supply customers' overall communications needs. That is why the California Public Utilities Commission concluded that these services are in the same product markets:

We find that the historic practice of *defining each telecommunications service as constituting a separate "market" is no longer relevant in today's technologically diverse telecommunications environment.* Concepts like "Basic Local Exchange Service," "long distance service," "call waiting service," "call forwarding service," and "pay phone service," make little sense in an era dominated by telecommunications sold through bundled services.¹⁸

The New York Public Service Commission also stated that:

[o]ur experience and the record in this proceeding reveal that competition in New York's telecommunications markets has evolved dramatically over just the past few years.

. . . Every month tens of thousands of customers in New York switch from their incumbent local exchange service providers to intermodal competitors to obtain savings and innovative, value-added services. (p. 4)

¹⁸ *Order Instituting Rulemaking on the Commission's Own Motion to Assess and Revise the Regulation of Telecommunications Utilities*, Decision 06-08-030 in Rulemaking 05-04-005, 2006 Cal. PUC LEXIS 367, *111 (Cal. PUC, August 24, 2006) (emphasis added).

. . . We find that these services are widely available in New York and that from the perspective of customer demand *they are sufficiently close substitutes* for traditional wireline local service. (p. 33) (emphasis supplied).¹⁹

Just last year, the Washington Utilities and Transportation Commission (“UTC”) found, in response to arguments similar to those made by the other parties here, that:

Staff and Public Counsel contend that only Frontier provides stand-alone, landline basic residential and small business local exchange service at the rates in the Company’s tariff, and that a substantial number of customers want such service, rather than wireless or bundled service options. However, that argument is too confining in its description of the market. Wireless, VoIP, and bundled service options to basic single-line service place competitive pressures on providers of such basic service. Even if Frontier were the only provider of single line basic service, should Frontier seek to raise its rates for such service customers could opt for one of these other service options – in fact, that is what has been happening. While we understand Staff and Public Counsel’s strong desire to define services narrowly to protect the interests of those consumers with the fewest competitive alternatives, we do not believe the legislature intended the Commission to adopt such a rigorously constricted approach in assessing competitive conditions. Indeed, the narrow market definition Staff and Public Counsel propose would undermine legislative intent by virtually ensuring that Frontier could never demonstrate the existence of effective competition for these services.²⁰

Verizon customers face an array of available service options. In fact, only about [BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY] percent of households in Verizon’s entire Pennsylvania territory have Verizon’s basic service. In 2006, Verizon had more than [BEGIN VERIZON PROPRIETARY] [END VERIZON

¹⁹ *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services. Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings*, CASE 05-C-0616. 2006 NY PUC LEXIS 193, 248 P.U.R. 4th 71 (NY PSC, April 11, 2006).

²⁰ *In the Matter of the Petition of Frontier Communications Northwest Inc. to be Regulated as a Competitive Telecommunications Company Pursuant to RCW 80.36.320*, 2013 Wash UTC LEXIS 601, * 37-38, 306 P.U.R. 4th 273 (Wash UTC July 22, 2013) ¶ 57.

PRORIETARY] residential basic service lines, so that means that in 2006 roughly **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** of households in Verizon’s territory were basic service customers. In the areas subject to this petition, today only **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** percent of households have Verizon’s basic service.²¹ Some of the rest have switched to a Verizon package or bundle or to Verizon FiOS Digital Voice, but most households have switched to wireless service, cable VoIP, over-the-top VoIP service, or another CLEC. VZ St. 2.0 at 12.

The reduction in demand for Verizon’s basic services demonstrates that customers have substitutes and are willing and able to use them. For example, the number of basic residential customers for Verizon has declined from **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in June 2006 to **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in June 2014, which means that *Verizon basic service customers chose alternatives for just under* **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** million lines, or about **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** percent of the former total basic service lines. VZ St. 2.0 at 16. If the other parties’ theory were correct – that the only substitute for Verizon’s basic standalone customers is a product that looks like Verizon’s basic standalone service in terms of features, attributes, price and regulation – then the number of Verizon basic service customers would remain relatively stable, yet since 2006 that number has reduced by

²¹ **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** Verizon basic service lines (*see* Revised Attachment to OCA I-10 PROPRIETARY) divided by 2,767,419, the number of households in the areas subject to the petition (*see* Confidential Schedule SMB-6). VZ St. 2.0 at 12.

[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY] percent in less than ten years. *Id.*

The other parties essentially argue that there will be no competition unless alternative providers offer their own services that look exactly like Verizon's basic services. But a service from a competitor in today's market likely will never look exactly like the basic stand-alone voice service offering that is a vestige from the pre-divestiture Bell System. Those products were the result of a set of policy decisions that are no longer relevant in today's industry.²² Regulators and the Bell System adopted a rate structure that separated basic exchange service from charges for long-distance, albeit with some packages of in-state toll usually available to customers as an option. The result was a set of services for residential customers that are referred to as "basic exchange," or "standalone," and which provide dial-tone and either measured local usage (single line, measured rate "1MR") or unlimited local usage (single line, flat rate or "1FR"). However, with the introduction of competition and the gradual reduction in the subsidy system and toll rates, the underlying cost structure of very low incremental costs for usage and recovery of fixed costs in fixed monthly charges led to the introduction of new products that do not rely on a subsidy flow from toll to local access and instead package toll pricing with local service. VZ St. 2.0 at 14-15.

It should be no surprise that new entrants in the telephone industry – CLECs, wireless, and cable companies – did not replicate the rate structure of the old Bell System; rather, they used the underlying cost structure to introduce packages that often include unlimited calling

²² See, e.g., *Access Charge Investigation per Global Order of September 30, 1999*, Docket Nos. M-00021596, etc., (Opinion and Order entered July 15, 2003) at 10 (explaining the history of regulated pricing).

throughout North America, among other things. Those products are marketed to consumers as alternatives to Verizon landline service. *Id.*

Comcast advises consumers that, “XFINITY Voice from Comcast gives you more ways to connect and more ways to save. Not only do you get reliable home phone service with the best call clarity, but you also get unlimited nationwide talk and text – so you can save on your wireless bill too. It’s easy to switch – you can even keep your current home phone number.”²³ Similarly, “Time Warner Cable’s Home Phone service features unlimited calling anywhere, anytime in the U.S., Canada, Mexico and U.S. territories (Puerto Rico, U.S. Virgin Islands, North Marianas/Guam and American Samoa) for one, low monthly price.”²⁴ VZ St. 1.0 at 31.

In the wireless industry, customer usage data demonstrates that wireless services compete with wireline services and that consumers frequently choose wireless service over wireline alternatives. FCC and industry data show that wireless subscription and minutes of use have grown dramatically while wireline has continued to decline. As of December 2013, there were 12.3 million wireless subscribers in Pennsylvania, a state with a population of about 12.8 million.²⁵ This number of wireless subscribers far exceeds the wireline access connections in the state. Further, as of December 2013, there were more than 336 million US wireless lines. The number of wireless connections actually exceeds the country’s population. In addition to the increase in lines, the increase in wireless voice minutes and especially text messages is staggering. CTIA The Wireless Association reports that annual wireless voice minutes of use was 2.62 trillion, and the annual number of text messages was 1.91 trillion. VZ St. 1.0 at 33.

²³ VZ St. 1.0 at 31 (citing <http://www.comcast.com/home-phone-service.html> (accessed August 14, 2014)).

²⁴ VZ St. 1.0 at 31 (citing <http://www.timewarnercable.com/en/phone/domestic-international-calling-plans.html> (accessed July 25, 2014)).

²⁵ VZ St. 2.0 at 16.

The United States Centers for Disease Control and Prevention (“CDC”) conducts surveys to determine the level of wireless substitution. The latest CDC survey determined that, as of January–June 2014, 44% of households had only wireless phones, and an additional 15% of American homes received all or almost all calls on wireless telephones. In other words, nearly 60 percent of American households, wireless phones are either the exclusive or predominant form of voice communication. VZ St. 1.0 at 33; VZ Cross Examination Exhibit 4 (updated version of study discussed in written testimony).

The millions of consumers that already have wireless service can readily switch all or a substantial part of their wireline usage to wireless services for a small or non-existent incremental cost. For example, AT&T Wireless offers Mobile Share Value plans with unlimited talk and text plus shared data. Prices start as low as \$20/month for 300 MB of data. T-Mobile offers a plan with 1 GB of data and unlimited talk and text for \$50.00 per month. Republic Wireless, created in 2010, is offering a plan that includes unlimited minutes, data, and text for \$10.00 per month. Republic’s service is called “Hybrid Calling,” and relies on a Wi-Fi connection as the primary means of placing voice calls as well as data. Only when a Wi-Fi connection is not available does the call switch to a cellular network. VZ St. 1.0 at 34-35.

And some wireless providers are marketing products that use the wireless network in a fixed manner to replace the experience of the wired landline home telephone service offered by the local ILEC. AT&T Wireless, for example, offers “AT&T Wireless Home Service,” with a voice-only option (with unlimited nationwide calling) priced at \$20 per month. This service keeps the customer’s existing phone number and handsets, and includes unlimited nationwide calling, voicemail, Caller ID, Call Waiting and other features. A voice and data option is priced at \$80. VZ St. 1.0 at 35. AT&T stated in discovery that this service is offered anywhere in the

nation “where you have a strong AT&T wireless signal and a power outlet” (which would be the entire area subject to the petition.”²⁶ AARP also promotes a wireless home telephone replacement product from Consumer Cellular with voice plans starting at \$10 a month. Consumer Cellular’s coverage maps show widespread coverage in Pennsylvania, including all of the areas that are the subject of this petition. Similar wireless products aimed at replacing the wireline landline are offered by other providers, including Wal-Mart’s StraightTalk. VZ St. 1.0 at 35.

VoIP services are also marketed as less expensive replacements for the traditional landline from the local ILEC, and can even be used with existing handsets, as one article noted: “If you're ready to cut the cord to your traditional landline telephone and use your broadband internet connection as your phone line, you have plenty of options, especially if you're interested in continuing to use the phones you already have in your home for VoIP calling.”²⁷ According to Forbes magazine, “VoIP, or Voice over Internet Protocol, is probably the most widely used landline alternative, especially among businesses.”²⁸ Because so many customers in Pennsylvania subscribe to broadband service (74 percent of households), when considering VoIP service, these consumers will compare only the incremental charges for VoIP with the costs that they will avoid if they cancel their Verizon landline service. Thus, Verizon’s prices must compete with the incremental charges (if any) for VoIP, not the full cost of broadband plus VoIP. VZ St. 1.0 at 36-37.

²⁶ VZ St. 2.0 at 5 (citing AT&T Response to Verizon I-8).

²⁷ VZ St. 1.0 at 37 (citing “Five Best Ways to Use a Regular Phone for Internet Calls,” Lifehacker.com, posted October 9, 2011. Found at: <http://lifehacker.com/5848002/five-best-ways-to-use-a-regular-phone-for-internet-calls/>.)

²⁸ VZ St. 1.0 at 37 (citing VZ St. “How to Break Up with your Landline,” www.forbes.com, August 8, 2012. Found at: <http://www.forbes.com/sites/kateharrison/2012/08/08/how-to-break-up-with-your-landline/>).

iii. All Customers Benefit from the Competitive Market

The other parties rely on “infra-marginal” customers to oppose reclassification. They claim that there is some core of “vulnerable” customers who only want Verizon stand alone basic service (a claim that is not supported by any evidence). “The error that they are making is to ignore or misunderstand that competition *always* and everywhere takes place at the margin.” VZ St. 2.0 at 17. The willingness of the overwhelming majority of customers to switch to alternative providers creates a competitive market that protects any such “infra-marginal” customers. *Id.*

Faced with this threshold fact, the other parties resort to the unfounded claim that certain demographic customer groups disproportionately subscribe to Verizon’s basic services. The opposite conclusion is, in fact, likely more plausible: these customers may be more likely to subscribe to a package or bundle offered by Verizon or a cable provider, or to cut the cord in favor of wireless service, than to subscribe to Verizon’s basic service. As Mr. Vasington explained, consider a customer who is adept with computers and Internet technology and has a cellphone, yet still has a landline. This customer may make all toll calls using VoIP or cellular service minutes, and thus may have no need for anything but basic local exchange service, which generally comes as a measured service or only with flat-rated local calls. In contrast, a customer who only has a landline has more need for and could receive a better value from a package that includes unlimited toll calling (such as Verizon’s Freedom packages or a cable company’s digital phone service) since they have no other means to make long distance calls. VZ St. 2.0 at 35.

With respect to the elderly, record evidence shows that they are more likely to subscribe to cable television services than other demographic groups.²⁹ With the popularity of bundles and packages, this could make the elderly more likely than other groups to subscribe to cable telephony. VZ St. 2.0 at 35. And in addition to those who are likely to subscribe to cable, a good portion of older consumers have been willing to cut the cord in favor of wireless only service. As of January-June 2014, 35.7% of adults age 45-64 and 15.7% of adults 65 and older lived in wireless-only households. VZ St. 2.0 at 35; VZ Cross Examination Exhibit 4 (updated CDC study).

The evidence for low income consumers also undercuts the other parties' speculation that they disproportionately favor stand alone basic service. According to the CDC, both adults living in poverty (59.1%) and living near poverty (50.8%) were more likely than higher income adults (40.8%) to be living in households with only wireless telephones. VZ Cross Examination Exhibit 4. The percentage of poor living in wireless only households has increased from 26 percent to 59 percent since 2008. In fact, nationally and in Pennsylvania, almost all Lifeline consumers received Lifeline for their wireless service instead of their wireline service in the second quarter of 2014.³⁰ Based on 2013 data that is publicly available on the Commission's website, only 8 percent of the 576,000 Lifeline customers in Pennsylvania subscribed to landline services offered by ILECs.³¹ The remaining 529,000 customers (92 percent) receive their

²⁹ VZ St. 2.0 at 35-36 (citing *See* <http://www.statisticbrain.org/tv-cable-subscriber-statistics> (accessed November 18, 2014)).

³⁰ VZ St. 2.0 at 19 (citing http://www.usac.org/_res/documents/about/pdf/quarterly-stats/LI/Wireless-Disbursements-as-a-Percentage-of-Total-Disbursements.pdf; *and* http://www.usac.org/_res/documents/about/pdf/quarterly-stats/LI/Wireless-and-Other-ETC-Disbursements-by-State.pdf).

³¹ http://www.puc.state.pa.us/telecom/pdf/Lifeline_Activity2012-2013.pdf (a print-out of which is Attachment E to VZ St. 2.0).

service from wireless providers. VZ St. 2.0 at 19. Thus, low-income customers overwhelmingly prefer wireless service over wireline service. This may be, as Ms. Baldwin speculated, because they “typically can't afford both wire line and wireless,” (Tr. at 88) but regardless of the reasons for their demonstrated preference, this objective evidence shows that for Lifeline and other low income customers wireless service is a substitute for, rather than complement to, basic local service.

But even if there existed some category of customers who would never change from Verizon basic stand-alone service (a fact that has not been proven), it would not matter to the analysis of whether there are like or substitute services to prove a competitive market. As Mr. Vasington explained, all infra-marginal customers of any demographic group benefit from competition even if they do not choose to switch service providers themselves. This notion has been recently cited by the Public Utilities Commission of Colorado, in a case where Ms. Baldwin, on behalf of AARP, provided similar arguments opposing CenturyLink’s request for competitive classification in certain geographic areas. The Recommended Decision of the Hearing Commissioner found:

AARP contends customers over 65 are more likely to *supplement*, as opposed to *substitute*, their standalone, wireline basic service with wireless or other similar services. The salient question ... is whether alternative, competitive services provide comparable options to standalone basic service for consumers in the relevant wire center serving areas. While AARP makes an unsubstantiated assumption that a segment of the population may be more or less likely to make certain purchasing choices, the preference of any demographic group is not evidence that the market lacks the availability of comparable functionality, rates, terms, and conditions offered from numerous providers.³²

³² *In the Matter of Commission Consideration of Effective Competition Areas and the Classification of Basic Local Exchange Service Pursuant to 4 CCR 723-1-2213*, Recommended Decision of Hearing Commissioner, Colo. PUC, Proceeding No. 13M-0422T, February 21, 2014, 2014 Colo PUC LEXIS 196, * 22, at ¶ 30 (italics in original).

AARP filed exceptions to this Hearing Commissioner Recommended Decision, which the full Colorado Commission rejected, finding:

Even if AARP had evidentiary support for its position, the preference of a group of consumers to choose one of the alternatives for basic service does nothing to alter the Hearing Commissioner’s finding of the availability of reasonable alternatives for all population segments.³³

The same is true here in Pennsylvania: even if there were some demographic group that preferred stand-alone basic service – an assumption that has not been proven with facts – that does not alter that there are like or substitute services available in the market.

B. Verizon's Petition for Waiver of Certain Regulations

1. Legal Standard

Verizon also requested a waiver of certain of the Commission’s regulations set forth in Chapters 63 and 64 of 52 Pa. Code, as applied to competitive services in these exchanges. These decades-old regulations do not apply to Verizon’s competitors and should not apply to Verizon in the competitive geographical areas. Regulation arose to replicate the effects of a competitive market where competition did not exist. But the Legislature determined in Chapter 30 that, where the evidence demonstrates that markets are competitive, the level of regulation must be tailored to competitive conditions. Simply put, *less regulation* is warranted where competitive forces are sufficient to discipline firms to produce the products and services customers want at reasonable prices. VZ St. 1.0 at 44-45.

Chapter 30 authorizes the Commission to waive outdated regulations. It directs the Commission to “review and revise” its regulations and states that the Commission “shall take

³³ *In the Matter of Commission Consideration of Effective Competition Areas and the Classification of Basic Local Exchange Service Pursuant to 4 CCR 723-1-2213*, Decision Denying Exceptions, Proceeding No. 13M-0422T, April 23, 2014, 2014 Colo PUC LEXIS 441, * 7, at ¶ 11.

into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand.” 66 Pa. C.S § 3019(b)(2). The Commission has previously relied on this provision as statutory authority to waive regulations that it found to be outdated and inappropriate in today’s competitive environment.³⁴ A waiver of regulations concurrent with competitive classification of a geographic area is consistent with the expectations of Chapter 30, which “recognize[s] that the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers.” 66 Pa. C.S. § 3011(13). Indeed, the statute forbids the regulation of competitive services except as specifically authorized, stating that “[t]he commission may not fix or prescribe the rates, tolls, charges, rate structures, rate base, rate of return or earnings of competitive services or *otherwise regulate* competitive services except as set forth in this chapter.” 66 Pa. C.S. § 3019(g) (emphasis added). These statutory provisions acknowledge the benefits of reducing outdated regulations for competitive services and areas and recognize the anticompetitive effect of overregulating one small segment of a competitive market.

The Commission has recognized that it should waive regulatory standards that do not “comport with customer expectations in today’s competitive telecommunications marketplace,” and that keeping such regulations in place “would constitute enforcement for enforcement’s sake.”³⁵ In waiving its call answer time regulation at 52 Pa. Code § 63.59(b)(2) (over the

³⁴ *Petition of Verizon Pennsylvania Inc. and Verizon North Inc. for Waiver of Call Recording Prohibition Set Forth at 52 Pa. Code § 63.137(2) to Permit the Recording of Customer Conversations With Telephone Company Service Representatives*, Docket No. P-00072333 (Opinion and Order entered December 26, 2007) at 4.

³⁵ *PUC v. Verizon Pennsylvania Inc.*, Docket No. M-2008-2077881 (Opinion and Order entered October 12, 2012) at 33.

objections of the CWA and the OCA) the Commission “question[ed] the relevance” in today’s market of a standard enacted in 1988 at a time when Verizon “was a legal monopoly with no competition in the local exchange market,” given the changes in the industry and customers’ experiences and expectations. *Id.* at 34. The Commission noted that “the competitive telecommunications market in Pennsylvania includes carriers that do not have to meet the [answer time standard]” and “to the extent call answer times are important to customers, we believe that the competitive market will provide sufficient incentives for Verizon PA to meet reasonable customer expectations on the subject.” *Id.* at 35. The exact same conclusion holds true here for the other Chapter 63 and Chapter 64 regulations. They are no longer needed and should not be enforced. The competitive market will ensure that Verizon meets reasonable customer expectations in these areas.

OCA argues that the Commission should leave these outdated regulations unaltered for several years while the Commission conducts a rulemaking.³⁶ But this would deprive the market of the immediate competitive benefits that a lighter regulatory touch would provide. The Commission could *also* convene a rulemaking to permanently reexamine these outdated regulations, but it should waive these regulations for the competitive wire centers *now*. It is not unusual for the Commission to waive a regulation during the pendency of the rulemaking. For example, following several individual company waivers, the Commission issued a blanket partial waiver of its regulation at 52 Pa. Code § 63.137(2) relating to call recording by telephone companies on July 29, 2009, at Docket No. M-2008-2074891, and then commenced a

³⁶ VZ St. 2.0 at 20-21 (explaining why a rulemaking would be expected to take several years).

rulemaking to revise the rule permanently, which was completed in 2012.³⁷ Unless the Commission waives these regulations with the competitive classification, the market will be distorted as the shrinking number of regulated lines provided by Verizon and certain CLECs continue to be subjected to outdated rules detailing every aspect of their interactions and communications in a manner designed for the monopoly era. There is no reason that any communications provider should still be subject to regulations developed decades ago for what were then government-created monopolies, especially when the unregulated competitors that the record shows already serve the majority of customers in these wire centers are not subject to these restrictions.

2. Waiver Request in General

Verizon is requesting a waiver for a period ending December 31, 2025³⁸ of the following regulations, as applied to competitive services: Chapter 63, Subchapters B (Services and Facilities); C (Accounts and Records); G (Public Coin Services); E (Quality of Service); F (Extended Area Service); and the entirety of Chapter 64. Many of the requirements in these subsections were adopted and developed as far back as the 1940's. And while there have been some updates and amendments since, the majority of these rules and regulations have sat untouched for decades and are not reflective of today's competitive marketplace. VZ St. 1.0 at 41.

³⁷ See also *Interim Guidelines Regarding Standards For Changing a Customer's Electricity Generation Supplier*, Docket No. M-2011-2270442, 2011 Pa. PUC LEXIS 434 (Opinion and Order entered November 14, 2011) ("The waivers will remain in effect until revisions to 52 Pa. Code § 57.173 and § 57.174 are finalized in a Commission rulemaking.")

³⁸ Presumably the Commission will complete a rulemaking to reconsider these regulations before that date, or if it does not will renew Verizon waiver.

In this competitive market there is no reason to foist upon a small subset of the competitive providers the cost and burdens of regulatory standards that customers do not value or expect. No one denies that customers are leaving regulated landline service in droves, choosing instead to take advantage of the many unregulated options such as cable, wireless and VoIP service. And even those customers who still subscribe to regulated service no longer seek Commission intervention to the same degree that they did in the past, as demonstrated by the steep decline in customer complaints discussed in Mr. Vasington's testimony. VZ St. 1.0 at 43; VZ St. 2.0 at 22-23. The opposing parties who argue that these regulations should remain in place unchanged articulate no plausible reason to foist these costs and inconveniences upon Verizon and its customers to achieve a standard that customers do not expect or demand.

Moreover, waiving outdated regulations does not mean that the Commission abandons its oversight for Verizon's provision of jurisdictional competitive services. To the contrary, the requested waiver does not (and cannot) remove the Commission's authority over Verizon's service quality under 66 Pa. C.S. § 1501. VZ St. 1.0 at 41. Verizon is still statutorily required to "furnish and maintain adequate, efficient, safe, and reasonable service and facilities," and the Commission still can take action if it determines that Verizon has not done so.³⁹ But the waiver provides more flexibility for the Commission to evaluate any issue that is brought before it in light of the "emergence of new industry participants, technological advancements, service

³⁹ Verizon PA's alternative regulation plans recognizes that "[a]ll services provided by the Company and under the jurisdiction of the Commission," including competitive services "are still subject to all provisions of Title 66 regarding the safety, adequacy, and reliability of telecommunication services or business activities. 66 Pa. C.S.A. Section 1501." (Verizon PA Alternative Regulation Plan at 33). Similarly, Verizon North's plan provides that although "[c]ompetitive services are not to be regulated on any basis, including rates, rate structures, rate base, rate of return or earnings. The Commission retains its existing general authority over competitive services for the purpose of safety, adequacy and reliability under 66 Pa. C.S. §1501, et seq." (Verizon North Alternative Regulation Plan at 10). VZ St. 1.0 at 41.

standards and consumer demand,” as Chapter 30 directs, 66 Pa. C.S § 3019(b)(2), instead of applying arbitrary standards that do not reflect customer expectations.

3. Specific Chapter 63 Regulations

Chapter 63 B focuses largely on services that no longer exist, such as obligations for multiparty lines and traffic measurements, and record-keeping that was largely manual in nature before computers were used. Chapter 63 C references accounting and reporting related requirements, much of which is applicable only for rate of return carriers. Verizon has not been rate of return regulated in Pennsylvania for more than 20 years. Verizon maintains the appropriate reporting requirements pursuant to its Chapter 30 requirements. Chapter 63 G references the need to “to promote competition in the coin telephone market.” Verizon no longer provides payphone service in Pennsylvania. In addition, the payphone market was deregulated many years ago, and has been rendered obsolete by the multiple competitive alternatives, especially wireless phones. Chapter 63 E (Quality of Service) references standards of telephone service that are no longer needed in today’s marketplace, such as “dial tone speed” and “efficient and pleasing” operator-dialed services. Chapter 63F (Extended Area Service) was developed prior to competition in the local market. It focuses primarily on the utilization of usage studies for the purpose of enhancing local calling areas, the value of which has been greatly diminished by the multiple competitive alternatives for local calling that are not measurable, such as usage from wireless and VoIP providers, and the popularity of flat-rate calling plans. VZ St. 1.0 at 40-41.

CWA-IBEW was the only party to present testimony arguing for the need to retain some of Chapter 63’s service regulations. CWA-IBEW’s testimony offers no proof that these regulatory standards are actually valued by customers or influence their purchasing decisions. Instead, Ms. Baldwin sets up artificial standards that do not reflect current regulations, and then

faults Verizon for failing to meet them. As Mr. Vasington testified, Verizon's service is good (Tr. at 37) and that fact is confirmed by the best and only empirical evidence of customer expectations regarding Verizon's repair response -- the declining level of customer complaints. The downward trend in complaints filed with the Commission regarding Verizon's service demonstrates that providing customers with a quality service experience is a critical component to retaining and growing our customer base.

For example, in 2013 (the Commission's most recently available report containing annual data), there were only 556 "justified" complaints involving Verizon, representing only .026% of customers; in the first 8 months of 2014, that number has continued to drop and is down 44% compared to the same period in 2013. VZ St. 1.0 at 43. During the period in 2014 from which Ms. Baldwin shows the internal Verizon measurements for trouble report rates and out of service restoral by wire center, Verizon only had 414 repair related complaints, which represents only .04 % of its total customer base. VZ St. 2.0 at 26. The record shows that competitive forces require Verizon to meet its customers' expectations regarding service quality.

Verizon voluntarily monitors its own repair response at a level of detail that is not required by any Commission regulation because it wishes to be aware of its performance for business reasons. *Id.* Ms. Baldwin attempts to use this proactive monitoring against Verizon. She criticizes Verizon's internal benchmark of trouble reports per 100 lines as "very low" even though it is much more stringent than the Commission's own regulation that she opposes waiving. Ms. Baldwin misses the point, which is that regulatory standards are not needed in a competitive market, particularly where they are outdated and do not reflect customer expectations. The lack of customer complaints about Verizon's failure to meet the Commission's answer time metric was one of the factors the Commission considered in deciding

to provide a temporary exemption from that regulation. *Pennsylvania Public Utility Commission v. Verizon Pennsylvania Inc.*, Docket No. M-2008-2077881 (Opinion and Order entered October 12, 2012) at 33 (noting “informal complaint data for Pennsylvania indicating that telephone access informal complaints are *de minimus* (less than one percent)”).

Other labor witnesses claim that certain Chapter 63 regulations are necessary to ensure worker safety, but Mr. Vasington demonstrated that Verizon will continue to operate its network in a manner that is safe for its workers and the public with or without these regulations, and that there are substantial and detailed federal worker safety rules that already protect workers. VZ St. 2.0 at 27-28.

4. Specific Chapter 64 Regulations

Chapter 64 contains regulations relating to interaction with customers, such as billing and collections, credit and deposit and informal complaint handling. At the time these regulations were adopted in the 1980’s, the local ILEC was the only telephone company, and these regulatory processes and limitations therefore effectively applied to all customers in an environment with little or no competitive pressure to discipline interaction with customers.

As Mr. Vasington testified, “the world has changed and ...regulations and Commission processes that might have served a purpose decades ago no longer are needed for the telecommunications industry, and in fact are a counterproductive waste of Commission and company resources in the competitive areas at issue in this petition.” VZ St. 2.0 at 21. Chapter 64 was “originally written 25 years ago and [was] designed for the traditional public utility environment where there was no choice of provider and rate-of-return regulation removed market incentives to meet customer expectations. Just because those regulations were found to be useful at that time, and may still be useful for industries that continue to be traditionally

regulated, does not mean that they should remain in place in the context of a competitive reclassification under Chapter 30.” VZ St. 2.0 at 21-22.

Today, the evidence shows that two thirds of the households in the petition areas are served by providers other than Verizon, the vast majority of which are unregulated cable telephony and wireless carriers that are not subject to Chapter 64 or the informal complaint jurisdiction of the Commission’s Bureau of Consumer Services. (“BCS”). *See Confidential Schedule SMB 6 (Revised) at 15.* Robust competition itself is the best “regulator” of service standards for consumers. The Commission should eschew outdated mandates designed for the landline-only world of the past and instead rely on the powerful forces of competition to deliver high quality service and billing practices for consumers.

CAUSE-PA is the only party to submit testimony arguing in favor of retaining Chapter 64. CAUSE-PA presented the testimony of Mitchell Miller, the retired director of BCS. Mr. Miller may be an expert on regulatory procedures from years ago, but the record shows that he has had no experience with the communications industry since he retired in 2009.⁴⁰ As with his positions on the competitive classification of services, Mr. Miller fails to recognize that the world has changed and that regulations and Commission processes that might have served a purpose decades ago no longer are needed for the communications industry, and are a counterproductive waste of Commission and industry resources in the competitive areas at issue in this petition. VZ St. 2.0 at 21.

⁴⁰ *See* CAUSE-PA St. 1 at 1 and Appendix A (listing only non-telecom related experience after retirement from PUC); VZ Cross Examination Ex. 8 (interrogatory response stating that Mr. Miller has not testified on issues relating to telephone service); VZ Cross Examination Ex. 9 (interrogatory response stating that CAUSE-PA has not previously advocated relating to telephone issues).

Mr. Miller also presents no evidence to show that Chapter 64 procedures are meaningful to customers today. The only evidence in the record on this issue demonstrates that they are not. First, the large number of customers that have abandoned regulated services in favor of unregulated services demonstrates that outdated regulatory procedures are not driving customer behavior. And again the declining volume of customer complaints is the best evidence to show that these regulatory processes are not as relevant for consumers today as there were in the past. As discussed above, in 2013 the BCS tallied only 556 “justified” complaints involving Verizon, representing only .026% of customers, and that this number has decreased further in 2014, compared to the same period in 2013. VZ St. 1.0 at 43. This is in sharp contrast to the complaint volumes experienced during Mr. Miller’s tenure as BCS Director. In 2008, for example, there were nearly 3,500 “justified” complaints. In 2014, the volumes are on track to be less than 400, or almost 90% less. VZ St. 2.0 at 22. As Mr. Vasington pointed out in his oral rejoinder, even accounting for line loss the number of Verizon complaints to BCS has declined. Tr. at 39 and Verizon Rejoinder Exhibit No. 1.

C. Related Issues Raised by Other Parties

1. Price Change Opportunity

Dr. Loube suggests that, as a condition of competitive classification of the areas at issue here, Verizon should be required to alter the formula for its annual Price Change Opportunity (“PCO”) filings for noncompetitive services in the remaining areas of the state going forward to remove a pro-rata share of switched access revenues from the calculation, even though switched access will continue to be a noncompetitive service in all locations.

The PCO formula is the means by which rates for services categorized by Chapter 30 as noncompetitive may be increased once a year, based on a formula that multiplies total revenue from noncompetitive service by a percentage tied to the rate of inflation. From the beginning,

the PCO formula has included all switched access revenue in the “total noncompetitive revenue” base of the calculation, including revenue attributable to lines that purchase competitive retail services. Nothing in Chapter 30 requires the formula to change when a geographic area is determined to be competitive. VZ St. 2.0 at 19-20.

Dr. Loube appears to be concerned that the inclusion of switched access revenue will lead to larger rate increases for the noncompetitive retail lines in the non-petition areas if switched access revenues are stable. But the record shows that Verizon’s intrastate switched access revenues continue to decline as the FCC’s intercarrier compensation order is implemented. Verizon’s terminating switched end office rates will be reduced again on July 1, 2015, and July 1, 2016, and, by July 1, 2017, those rates outside the tandem serving area will be reduced to zero. By July 1, 2018, all such rates will be reduced to zero. VZ St. 2.0 at 19-20. Thus, the effect of switched access revenue on the PCO formula will continue to decline and there is no need for additional Commission action on this issue.

2. Wholesale Issues

Verizon is not requesting any change to its wholesale and interconnection obligations. It does not seek reclassification of any wholesale services, including switched or special access, or any change to the wholesale services and unbundled network elements that Verizon makes available to CLECs pursuant to the requirements of Sections 251 and 252 of the Federal Communications Act. Therefore, nothing needs to be addressed with regard to wholesale issues in this proceeding.

Full Service Network (“FSN”) argues that the waiver of regulations should apply to FSN as well. Verizon agrees. These regulations only apply to a small portion of the companies competing in the market, Verizon and FSN among them. A FSN waiver on the same conditions

makes sense, but it is not relevant here and should not be a precondition to granting Verizon's petition.

FSN argues that the Commission should impose a condition requiring notice to FSN of rate changes to competitive services. But the Commission has already addressed this issue in a previous proceeding, and no further action is needed here. If Verizon's remaining retail services in the petition areas are declared competitive, Verizon would have the right to detariff them under 66 Pa. C.S. § 3016(d)(2), although it is not required to do so. In the proceeding in which Verizon detariffed its existing competitive services, FSN argued that it needed a means to continue to receive notice of price changes to these services. The Commission relied on 66 Pa. C.S. § 3016(d)(4) to rule that FSN's interest would be satisfied by requiring Verizon to maintain a price list on file with the Commission listing the rates for its competitive services, and to make Commission filings changing the price list on one day's notice if it chose to change its rates.⁴¹ If Verizon chooses to detariff the services that are the subject of this petition, Verizon will abide by the process required by the Commission's previous detariffing order.

3. Originating Access Rates and Section 3016(f)

AT&T agrees on the threshold issue presented to the Commission, that like or substitute services are available in the petition areas: "AT&T concurs with Mr. Vasington's testimony and the citations therein to company and publicly available information documenting the large market share of cable telephony and wireless services. It is demonstrative of how low Verizon's

⁴¹ *PUC v. Verizon Pennsylvania LLC and Verizon North LLC*, Docket No. R-2011-2244373, etc. (Opinion and Order entered November 14, 2011) at 18 ("maintaining the price lists at the Commission, rather than only on Verizon's website, will ensure that resellers like FSN continue to receive one-day notice of the relevant Verizon price changes.")

overall market share had fallen under the forces of competition.”⁴² Yet AT&T attempts to use this docket as the latest venue to push the Commission to undertake changes to originating access charges.

The Commission should reject AT&T’s ploy to use Verizon’s competitive classification request to obtain a regulatory concession that favors AT&T but has no place in this case. To attempt to shoe-horn that irrelevant issue into this docket, AT&T invents the legal theory that Verizon must show in advance that it will not violate 66 Pa. C. S. § 3016(f)(1), which states that “[a] local exchange telecommunications company shall be prohibited from using revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize competitive services.” AT&T’s claim is a bridge too far. Section 3016(a) states what Verizon must show to obtain competitive classification of protected services, and it does not mention access rates or otherwise require Verizon to prove as part of its affirmative case that it is complying with other parts of Chapter 30.⁴³

If AT&T believes Verizon is violating Section 3016(f)(1), it has other procedural options to raise that argument. In fact, AT&T’s demand to reduce Verizon’s originating access rates is already pending in the Verizon access investigation at Docket C-20027195, and there is no reason to allow AT&T to complicate the record by making the same argument here. As is evident from the multiple rounds of competing testimony put in by the AT&T panel and the OCA, issues relating to access rates are contentious and not simple. These questions were debated in detail in the proceeding at Docket C-20027195, with testimony and cost studies. If

⁴² See VZ St. 1.0 Attachment A (AT&T Response to Verizon I-2(e)).

⁴³ See OCA St. 1-R at 4 (In Dr. Loube’s “common sense” reading of the law, “there is nothing in the law that requires the Commission to make a finding regarding Section 3016(f) prior to making a determination regarding a petition filed under Section 3016(a).”)

the Commission wishes to address originating access rates, it should do so in that docket, not here.

But even if AT&T is permitted to raise its argument about subsidization of basic service rates in this expedited competitive classification case, the burden is on AT&T at the “proponent of a rule or order” to prove that Verizon is or will be violating this provision. 66 Pa. C.S. § 332(a). AT&T has failed to sustain such a burden. It has not submitted any cost studies or actual evidence to prove either that Verizon’s originating access rates are providing a subsidy or that the basic services Verizon seeks to declare competitive are receiving a subsidy, as this term is used in Section 3016(f)(1). AT&T does not even define what it means by subsidy, but apparently expects the Commission to accept without proof that access rates always subsidize basic service rates. As Mr. Vasington explained, “[a] subsidy is when revenues from a service do not cover the direct cost of providing the service, and Verizon showed in cost studies in the access case [at Docket C-20027195] a few years back that while we are not covering total costs revenues do cover direct costs, and therefore there is no subsidy.” Tr. at 43. Dr. Loubé also explained that the well-accepted economic definition of a subsidy is that “it’s not necessary for you to show that your service is covering its total cost to prove that you’re not receiving a subsidy,” and that it is “sufficient to cover its incremental cost.” Tr. at 113-114 (Loubé).⁴⁴ But even if basic services in the competitive areas were priced too low and receiving a subsidy – which AT&T has not demonstrated – once those services are declared competitive Verizon could

⁴⁴ AT&T’s oversimplified theory also assumes that revenue from originating access rates can only be used to support basic service rates. As Mr. Vasington explained, AT&T “incorrectly describes the regulated pricing system as only including access and basic service. The historic pricing system was much more complex than that involving urban and rural, business and residential, retail long distance, vertical services and payments to other providers and regulatory obligations. It was more than just a balancing act between access and basic services.” Tr. at 43 (Vasington).

cure the problem by simply increasing those rates, as it is free to do.⁴⁵ Where the pricing of competitive services is involved, the statute does not require a revenue neutral reduction in noncompetitive service rates such as access rates to offset competitive rate increases. Access pricing would have to be reviewed on its own merits in the separate docket already opened for that purpose, and Section 3016(f)(1) provides no basis to involve the pricing of access services in this proceeding.

What AT&T actually seeks is for the Commission to reconsider its August 9, 2012 Order at Docket I-00040105, in which it concluded as a matter of policy that “there is no compelling reason for the Commission to 'rush into the originating access reform breach' at this time. As the OCA noted, originating access charges are not subject to the same abuses as terminating access charges, and do not present any urgent public policy issues that require attention.”⁴⁶ VZ Cr. Ex. 2. It is curious that AT&T’s witnesses omitted this order from their recitation of relevant historical orders and pleadings in their written testimony, even though they cited other orders from Docket I-00040105. Tr. at 68-69. This order rejecting AT&T’s argument to reduce originating access rates is not only a relevant order, but the most relevant Commission order on the subject. Since that August 9, 2012 order was issued, AT&T has already realized considerable expense savings from the FCC-mandated reductions in terminating access charges for all carriers, as well as the reduction of originating access charges for VoIP-PSTN traffic effective July 1, 2014. Tr. at 57-63; VZ Cross Examination Exhibit 1. If AT&T wishes to argue

⁴⁵ To be clear, Verizon is not proposing an increase for that purpose because it does not believe the rates are receiving a subsidy, but under the statutory constrict of Chapter 30 since Section 3016(f)(1) only addresses “competitive” services that are subject to full pricing flexibility, the remedy if the Commission concludes that they are priced too low is simply to increase the rates.

⁴⁶ *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Charges of Rural Incumbent Local Exchange Carriers and the Pennsylvania Universal Service Fund*, Docket No. I-00040105 (Opinion and Order entered August 9, 2012) at 59.

the need for more access reductions, it has the opportunity to do so in other dockets opened for this purpose and should not be permitted to do so here.

IV. Conclusion

For the forgoing reasons Verizon respectfully requests that the Commission grant its petition for competitive classification of all retail services in the identified wire centers and for a waiver of Chapter 63 and 64 regulations for competitive services in these areas.

Respectfully submitted,



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Dated: January 8, 2015

Appendix A

(PUBLIC)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Verizon Pennsylvania LLC :
And Verizon North LLC for Competitive : Docket No. P-2014-2446303
Classification of all Retail Services in Certain :
Geographic Areas, and for a Waiver of : Docket No. P-2014-2446304
Regulations for Competitive Services :

**VERIZON’S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS**

Pursuant to 52 Pa. Code § 5.501 and the December 22, 2014 Briefing Order, Verizon Pennsylvania LLC (“Verizon PA”) and Verizon North LLC (“Verizon North”) (together, “Verizon” or “VZ”) hereby submit proposed findings of fact, conclusions of law and ordering paragraphs.

I. PROPOSED FINDINGS OF FACT

A. Background

1. Verizon PA and Verizon North are “local exchange telecommunications companies” that have elected alternative regulation under Chapter 30 of the Public Utility Code. Each company operates under the terms of Chapter 30 and a Commission-approved alternative regulation plan. VZ St. 1.0 at 2.

2. Many of Verizon’s jurisdictional retail services have been classified or declared “competitive” on a state-wide basis under 66 Pa. C.S. § 3016(a) or predecessor provisions of Chapter 30 of the Public Utility Code. Verizon’s competitive services include all residential and business services except those still tariffed before the Commission (principally basic stand-alone local calling service). Also competitive are all Verizon PA services to business customers generating more than \$10,000 in annual billed revenue. All bundles and packages that include a local calling component are competitive. VZ St. 1.0 at 2-3. Intrastate switched access and some special access services have not been classified competitive, but Verizon does not propose to reclassify those services here. *Id.*

3. Verizon’s October 6, 2014 petition seeks to declare competitive pursuant to 66 Pa. C.S. § 3016(a) all of its remaining retail noncompetitive services in urban and suburban wire centers in and around Philadelphia, Erie, Scranton/Wilkes-Barre, Harrisburg/York and Pittsburgh, and also requests waivers of certain of the Commission’s Chapter 63 and 64 regulations for competitive services in those locations. The petition includes 194 specific wire centers in the territories of both Verizon companies (out of 504 total Verizon-served wire centers in the state), which are listed in Attachment A to Verizon Statement 1.0 and depicted on a map attached as Attachment C to the same testimony.

B. Factual Findings Relating to Competition

i. The Communications Market in Pennsylvania is Competitive

4. When Chapter 30 alternative regulation first became available in the early 1990's, the only option customers had to meet their local exchange needs was the local telephone company. Today, there are many other options and the record demonstrates that customers are substituting away from Verizon.

5. Verizon does not have a primary line in **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** of the households in its service territory as of the end of 2013. VZ St. 1.0 at 11.

6. For the years 2009 through 2013, Verizon lost about **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** retail voice lines in Pennsylvania, **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** of which are residential, despite population and economic growth in the State. VZ St. 1.0 at 20-21.

7. The volume of telephone numbers ported from Verizon to its facilities-based competitors demonstrates that Verizon line losses are due to competition. Verizon has ported around **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** numbers completely off its network, with almost **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** just in the past four years (2009-2013), net of numbers ported in to Verizon. VZ St. 1.0 at 12.

8. Competitive carriers other than the ILEC (mostly cable providers) served 46% of the wirelines in Pennsylvania as of mid-2014, a percentage that continues to grow. VZ St. 2.0 at 16. The CLEC share of the total number of business lines is more than **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** percent. VZ St. 1.0 at 11.

9. Wireless service is widely available in Pennsylvania from 12 wireless providers. The FCC's National Broadband Map shows that around three-quarters of Pennsylvania's population has broadband wireless service available from 5 or more wireless providers. VZ St. 1.0 at 10.

10. As of the end of 2013 there were 12.3 million wireless lines in Pennsylvania, as compared to only 3.5 million ILEC lines (in fact, since June 2006, wireless subscribers have outnumbered landlines in the state). VZ St. 1.0 at 11; VZ St. 2.0 at 16.

11. The United States Centers for Disease Control and Prevention ("CDC") conducts surveys to determine the level of wireless substitution. The latest CDC survey determined that, as of January--June 2014, 44% of households had only wireless phones, and an additional 15% of American homes received all or almost all calls on wireless telephones. In other words, nearly 60 percent of American households, wireless phones are either the exclusive or predominant form of voice communication. VZ St. 1.0 at 33; VZ Cross Examination Exhibit 4 (updated version of study discussed in written testimony).

12. Commission data shows that 92% of Pennsylvania Lifeline customers have chosen wireless rather than wireline Lifeline service. VZ St. 2.0 at 19.

13. The National Broadband Map shows that 97.6% of Pennsylvania's population has access to wired broadband service offering at least 3 Mbps download. VZ St. 1.0 at 11.

14. By June 2013, there were about 3.74 million residential fixed broadband lines in service in Pennsylvania, and 3.2 million of these are subscribed to residential fixed broadband services that provide download speeds greater than 3Mbps. When residential wireless broadband connections are included, the total is over 9 million. VZ St. 1.0 at 18.

15. As of June 2013, 74 percent of Pennsylvania households subscribed to a broadband connection, which enables them to use countless "over-the-top" Voice over Internet Protocol ("VoIP") providers. All of the wire centers in this petition are broadband-enabled. VZ St. 1.0 at 15, 17.

ii. The Petition Wire Centers are Competitive

16. The record conclusively demonstrates that like or substitute services or other business activities provided or offered by alternative service providers are available in the 194 wire centers that are the subject of Verizon's petition. The availability and use of substitute services in these areas is uncontroverted and confirmed by evidence submitted by other parties.

17. In each wire center in the areas covered by the petition, cable telephony is available and there is coverage by at least one wireless provider other than Verizon Wireless.

18. The Warren Communications News Advanced TVFactBook verifies that all of the wire centers for which Verizon is seeking reclassification are in communities with cable telephony available, and that cable coverage is confirmed by additional sources, such as cable company websites and the FCC's Broadband Map. VZ St. 1.0 at 24;Tr. at 132, 153-54.

19. The map attached as Exhibit 2 to OCA's direct testimony confirms that an "unsubsidized competitor" as that term is defined by the FCC operates in each of the wire centers subject to the petition. Dr. Loubé explained that "unsubsidized competitor" is a "provider with broadband service at a minimum speed of 3 megabits up and 760 kilobits down" that is also "shown in 477 data as providing voice service in the relevant state." Tr. at 107 and VZ Cross Ex 7. He also opined that the unsubsidized competitor is most likely to be a cable telephony provider and that there could also be multiple cable providers as well as wireless providers in those same areas. OCA St. 1 Exhibit 2; Tr. at 109-111.

20. A comparison of the total households in the petition area depicted as "unserved" by an unsubsidized competitor on CWA-IBEW Cross Examination Exhibit 5 with the total number of households in the petition area depicted in CWA-IBEW St. 1S, Confidential Schedule SMB-6 (Revised), demonstrates that no less than 98% of the households in the petition area have coverage from at least one unsubsidized competitor, likely cable telephony. And because of anomalies in the data depicted on CWA-IBEW Cross Examination Exhibit 5, such as its unlikely conclusion that households in dense urban areas of Philadelphia are unserved, the percent of households with access to cable in the petition area may well be more than 98%.

21. A review of the same documents comparing the unserved households to total households by wire center shows that each of the wire centers has cable coverage, because the number households claimed to be unserved on the CWA-IBEW exhibit is only a fraction of total households in each wire center. CWA Cross Examination Exhibit 5; CWA-IBEW St. 1S, Confidential Schedule SMB-6 (Revised); Tr. at 94.

22. The record shows that each of the wire centers has widespread wireless coverage. Each wire center has at least one and likely more wireless providers unaffiliated with Verizon. VZ St. 1.0 at 24-25 and Attachment C (AT&T Wireless coverage from the FCC's Broadband Map). In addition to demonstrated coverage by AT&T Wireless, each of these areas also likely has coverage from multiple additional wireless providers. The National Broadband Map reports that over 99% of the population in counties such as Philadelphia, Montgomery, Bucks, Chester, Delaware, Allegheny, York, Northampton, and Westmoreland has access to 4, 5 or in some areas even 6 broadband wireless providers. Both Sprint and T-Mobile also have coverage in the regions subject to this petition. VZ St. 1.0 at 25.

23. Most of the state has coverage from two or more wireless providers, and the more densely populated counties are served by at least four wireless carriers. Wireless carriers serving Pennsylvania include AT&T Wireless, Sprint, T-Mobile, and Verizon Wireless, among others. In fact, according to the FCC's interactive map that shows US Census blocks that lack 3G or better mobile coverage at the centroid of the block based on January 2012 Mosaik Solutions data, the map shows widespread coverage in Pennsylvania, with only one percent of Pennsylvanians who do not have 3G or better mobile coverage. VZ St. 1.0 at 32.

24. CWA-IBEW witness Susan Baldwin compared the number of Verizon lines in various categories to the total households in each wire center to show that only about a third of households in the petition area still have Verizon wireline service (even including unregulated FiOS service as a Verizon wireline service) – meaning that two thirds of households in the petition areas obtain service from one of the “substitute services and business activities” available to them from alternative providers. CWA-IBEW St. 1S, Confidential Schedule SMB-6 (Revised) at 15. Even with her attempt to add in an estimated share for “cord-cutting” households that she assumes have substituted wireless for their land line but use Verizon Wireless, the Verizon group of companies in total still serves less than half of households in the petition area by Ms. Baldwin's analysis. *Id.*

iii. The Cable and Wireless Services that are Widely Available in the Petition Wire Centers are Like or Substitute Services for Verizon Basic Service

25. The competitive cable telephony and wireless services discussed above are substitutes for the Verizon stand-alone basic service that is currently classified as noncompetitive in the petition areas. The record shows that customers are willing and able to leave Verizon's basic service for these competitive alternatives.

26. Only about [BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY] percent of households in Verizon's entire Pennsylvania territory have Verizon's basic service. In 2006, Verizon had more than [BEGIN VERIZON

PROPRIETARY] **[END VERIZON PROPRIETARY]** residential basic service lines, so that means that in 2006 roughly **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** of households in Verizon's territory were basic service customers. In the areas subject to this petition, today only **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** percent of households have Verizon's basic service. VZ St. 2.0 at 12.

27. The reduction in demand for Verizon's basic services demonstrates that customers have substitutes and are willing and able to use them. For example, the number of basic residential customers for Verizon has declined from **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in June 2006 to **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in June 2014, which means that Verizon basic service customers chose alternatives for just under **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** million lines, or about **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** percent of the former total basic service lines. The number of Verizon basic service customers has reduced by **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** percent in less than ten years. VZ St. 2.0 at 13.

28. It is not necessary for service from a competitor to look exactly like Verizon's basic stand-alone voice service offering that is a vestige from the pre-divestiture Bell System in order for that service to be a like or substitute service or business activity. VZ St. 2.0 at 14-15.

29. Cable telephony services such as those provided by Comcast and Time Warner are substitutes for regulated landline service. VZ St. 1.0 at 31.

30. Wireless services such as those offered by AT&T Wireless are substitutes for regulated landline service. VZ St. 1.0 at 33-35. AT&T Wireless, for example, offers "AT&T Wireless Home Service," with a voice-only option (with unlimited nationwide calling) priced at \$20 per month. This service keeps the customer's existing phone number and handsets, and includes unlimited nationwide calling, voicemail, Caller ID, Call Waiting and other features. A voice and data option is priced at \$80. AT&T stated in discovery that this service is offered anywhere in the nation "where you have a strong AT&T wireless signal and a power outlet" (which would be the entire area subject to the petition." VZ St. 2.0 at 5 (citing AT&T Response to Verizon I-8). AARP also promotes a wireless home telephone replacement product from Consumer Cellular with voice plans starting at \$10 a month. Consumer Cellular's coverage maps show widespread coverage in Pennsylvania, including all of the areas that are the subject of this petition. Similar wireless products aimed at replacing the wireline landline are offered by other providers, including Wal-Mart's StraightTalk. VZ St. 1.0 at 35.

31. Voice over Internet Protocol ("VoIP") services are also marketed as less expensive replacements for the traditional landline from the local ILEC and are available to any customer who has a broadband connection. VZ St. 1.0 at 36-37.

32. There is no evidence that certain demographic customer groups disproportionately subscribe to Verizon's stand-alone basic services. The opposite conclusion is more likely: these customers may be more likely to subscribe to a package or bundle offered by Verizon or a cable

provider, or to cut the cord in favor of wireless service, than to subscribe to Verizon's basic service. For example, a customer who is adept with computers and Internet technology and has a cellphone, yet still has a landline may make all toll calls using VoIP or cellular service minutes, and thus may have no need for anything but basic local exchange service, which generally comes as a measured service or only with flat-rated local calls. In contrast, a customer who only has a landline has more need for and could receive a better value from a package that includes unlimited toll calling (such as Verizon's Freedom packages or a cable company's digital phone service) since they have no other means to make long distance calls. VZ St. 2.0 at 35.

33. There is no evidence that the elderly disproportionately favor stand-alone basic service. The record evidence shows that the elderly are more likely to subscribe to cable television services than other demographic groups. With the popularity of bundles and packages, this could make the elderly more likely than other groups to subscribe to cable telephony. VZ St. 2.0 at 35. And in addition to those who are likely to subscribe to cable, a good portion of older consumers have been willing to cut the cord in favor of wireless only service. As of January-June 2014, 35.7% of adults age 45-64 and 15.7% of adults 65 and older lived in wireless-only households nationally. VZ St. 2.0 at 35; VZ Cross Examination Exhibit 4.

34. There is no evidence that low income consumers disproportionately favor stand-alone basic service. The only evidence of record on this issue shows the exact opposite. According to the CDC, both adults living in poverty (59.1%) and living near poverty (50.8%) were more likely than higher income adults (40.8%) to be living in households with only wireless telephones. VZ Cross Examination Exhibit 4. The percentage of poor living in wireless only households has increased from 26 percent to 59 percent since 2008. Nationally and in Pennsylvania, almost all Lifeline consumers received Lifeline for their wireless service instead of their wireline service in the second quarter of 2014. Based on 2013 data that is publicly available on the Commission's website, only 8 percent of the 576,000 Lifeline customers in Pennsylvania subscribed to landline services offered by ILECs. The remaining 529,000 customers (92 percent) receive their service from wireless providers. VZ St. 2.0 at 19 and Attachment E.

35. But even if there existed some category of customers who would never change from Verizon basic stand-alone service (a fact that has not been proven), it would not matter to the analysis of whether there are like or substitute services to prove a competitive market under 66 Pa. C.S. § 3016(a). All infra-marginal customers of any demographic group benefit from competition even if they do not choose to switch service providers themselves.

36. Similarly, it does not matter that a very small percentage of customers (no more than 2% of households and likely fewer) in the petition area may not have access to cable telephony. They are also infra-marginal customers and benefit from the widespread availability of like or substitute services in the market.

C. Factual Findings Relating to Waiver of Regulations

37. Verizon is requesting a waiver for a period ending December 31, 2025 of the following regulations, as applied to competitive services: Chapter 63, Subchapters B (Services and Facilities); C (Accounts and Records); G (Public Coin Services); E (Quality of Service); F (Extended Area Service); and the entirety of Chapter 64.

38. Many of the requirements in these subsections were adopted and developed as far back as the 1940's, at a time when the local telephone company was the only option for local telephone service. While there have been some updates and amendments since, the majority of these rules and regulations have sat untouched for decades and are not reflective of today's competitive marketplace. VZ St. 1.0 at 41.

39. The unregulated competitors that the record shows already serve the majority of customers in these wire centers are not subject to these restrictions.

40. Continuing to subject Verizon to these regulations will distort the market as the shrinking number of regulated lines provided by Verizon and certain CLECs continue to be subjected to outdated rules detailing their interactions and communications in a manner designed for the monopoly era while their competitors operate free of such rules.

41. The record shows that customers today do not value or expect compliance with these regulations. This is demonstrated by the fact that they are leaving regulated landline service, choosing instead to take advantage of the many unregulated options such as cable, wireless and VoIP service. And even those customers who still subscribe to regulated service no longer seek Commission intervention to the same degree that they did in the past, as demonstrated by the steep decline in complaints from Verizon customers. VZ St. 1.0 at 43; VZ St. 2.0 at 22-23.

42. In 2013 (the Commission's most recently available report containing annual data), there were only 556 "justified" complaints involving Verizon, representing only .026% of customers; in the first 8 months of 2014, that number has continued to drop and is down 44% compared to the same period in 2013. VZ St. 1.0 at 43; VZ St. 2.0 at 26.

43. The record shows that competitive forces require Verizon to meet its customers' expectations regarding service quality. Verizon voluntarily monitors its own repair response at a level of detail that is not required by any Commission regulation because it wishes to be aware of its performance for business reasons. VZ St. 2.0 at 26.

44. Regulatory standards are not needed in a competitive market, particularly where they are outdated and do not reflect customer expectations.

45. Verizon will continue to operate its network in a manner that is safe for its workers and the public with or without Chapter 63 regulations and there are substantial and detailed federal worker safety rules that already protect workers. VZ St. 2.0 at 27-28.

46. Chapter 64 contains regulations relating to interaction with customers, such as billing and collections, credit and deposit and informal complaint handling. At the time these

regulations were adopted in the 1980's, the local ILEC was the only telephone company, and these regulatory processes and limitations therefore effectively applied to all customers in an environment with little or no competitive pressure to discipline interaction with customers. Just because those regulations were found to be useful at that time, and may still be useful for industries that continue to be traditionally regulated, does not mean that they should remain in place in the context of a competitive reclassification under Chapter 30. VZ St. 2.0 at 21-22.

47. Today, the evidence shows that two thirds of the households in the petition areas are served by providers other than Verizon, the vast majority of which are unregulated cable telephony and wireless carriers that are not subject to Chapter 64 or the informal complaint jurisdiction of the Commission's Bureau of Consumer Services. ("BCS"). See CWA-IBEW St. 1S, Confidential Schedule SMB 6 (Revised). Robust competition itself is the best "regulator" of service standards for consumers. The world has changed and that regulations and Commission processes that might have served a purpose decades ago no longer are needed for the communications industry, and are a counterproductive waste of Commission and industry resources in the competitive areas at issue in this petition. VZ St. 2.0 at 21.

48. There is no evidence to show that Chapter 64 procedures are meaningful to customers today. The only evidence in the record on this issue demonstrates that they are not. First, the large number of customers that have abandoned regulated services in favor of unregulated services demonstrates that outdated regulatory procedures are not driving customer behavior. And second, the declining volume of customer complaints is the best evidence to show that these regulatory processes are not as relevant for consumers today as there were in the past.

D. Factual Findings Relating to Other Issues Raised by the Parties

49. Verizon's the annual Price Change Opportunity ("PCO") formula has always included all switched access revenue in the "total noncompetitive revenue" base of the calculation, including revenue attributable to lines that purchase competitive retail services. Nothing in Chapter 30 requires the formula to change when a geographic area is determined to be competitive. VZ St. 2.0 at 19-20.

50. Verizon's intrastate switched access revenues continue to decline as the FCC's intercarrier compensation order is implemented. Verizon's terminating switched end office rates will be reduced again on July 1, 2015, and July 1, 2016, and, by July 1, 2017, those rates outside the tandem serving area will be reduced to zero. By July 1, 2018, all such rates will be reduced to zero. VZ St. 2.0 at 19-20. Thus, the effect of switched access revenue on the PCO formula will continue to decline and there is no need for additional Commission action on this issue.

51. Verizon is not requesting any change to its wholesale and interconnection obligations. It does not seek reclassification of any wholesale services, including switched or special access, or any change to the wholesale services and unbundled network elements that Verizon makes available to CLECs pursuant to the requirements of Sections 251 and 252 of the Federal Communications Act. Therefore, nothing needs to be addressed with regard to wholesale issues in this proceeding.

52. AT&T's demand to reduce Verizon's originating access rates is already pending in the Verizon access investigation at Docket C-20027195, and there is no need to address it here.

53. A service only receives a subsidy is when revenues from a service do not cover the direct cost of providing the service; it is not necessary for revenues to cover total costs to avoid a subsidy. Verizon showed in cost studies in the access case at Docket C-20027195 that revenues cover direct costs of basic service and therefore there is no subsidy. Tr. at 43 (Vasington); Tr. at 113-114 (Loube).

II. PROPOSED CONCLUSIONS OF LAW

A. The Record Demonstrates that the Petition Wire Centers are Competitive

54. A "protected" service must be reclassified as "competitive" by the Commission under the following procedure set forth in 66 Pa. C.S. § 3016(a):

A local exchange telecommunications company may petition the commission for a determination of whether a protected or retail noncompetitive service or other business activity in its service territory or a particular geographic area, exchange or group of exchanges or density cell within its service territory is competitive based on the demonstrated availability of like or substitute services or other business activities provided or offered by alternative service providers.

The statute further provides that:

In making its determination, the commission shall consider all relevant information submitted to it, including the availability of like or substitute services or other business activities, and shall limit its determination to the service territory or the particular geographic area, exchange or group of exchanges or density cell in which the service or other business activity has been proved to be competitive.

55. Competitive reclassification under Section 3016(a) is subject to an expedited process so that "[t]he commission, after notice and hearing, shall enter an order granting or denying the petition within 60 days of the filing date or within 150 days of the filing date where a protest is timely filed, or the petition shall be deemed granted," which is March 5, 2015.

56. The statutory standard for reclassification looks at services available from alternative providers to see if they are "like" or "substitute" services. The other parties' criticisms of Verizon – attacking its quality of service, speed of fiber deployment, and the like – are irrelevant to the statutory standard because the only relevant question is what competitors are offering in the market. 66 Pa. C.S. § 3016(a).

57. Services do not have to be identical to be "like" or "substitute" in the economic sense or for purposes of Section 3016(a). It is only necessary for consumers to view them as being *similar enough* that they are willing and able to switch to the other. VZ St. 1.0 at 5-6; CWA-IBEW St. 1.0 at 18-19 (the important issue is whether the products "are good substitutes for one another in the eyes of buyers").

58. It is not necessary to show that every single customer could or would switch to the alternative service for them to be “like” or “substitute” services in the market. In competitive markets, prices and service quality are set on the margin based on the behavior of consumers who are *most* likely to switch providers, not those least likely to switch. In every competitive market, there are certain infra-marginal customers who do not switch providers or consider alternatives for whatever reasons, but the mere presence of such customers does not mean that the market is not competitive or that the service needs to be regulated, and does not preclude a finding that like or substitute service are available under Section 3016(a). The fact that other customers would switch means that infra-marginal customers benefit from the competition in which they might not participate themselves. VZ St. 2.0 at 17-18. For the same reason, it is not necessary for 100% of customers to have access to an alternative provider such as a cable provider for the presence of that provider to have a competitive effect. Tr. at 40.

59. The overwhelming evidence that consumers have left Verizon for services offered by wireless and wireline competitors provides ample evidence of the availability of like or substitute services in the petition wire centers to satisfy the standard of 66 Pa. C.S. § 3016(a).

60. The demonstrated availability of cable telephony to a substantial portion of the households and coverage by at least one unaffiliated wireless provider in a wire center is sufficient to satisfy the standard of the availability of like or substitute services or business activities under 66 Pa. C.S. § 3016(a).

61. Packages and bundles from cable providers and wireless carriers are “like or substitute” services. This conclusion is consistent with the findings of the New York Public Service Commission,¹ the California Public Utilities Commission² and the Washington Utilities and Transportation Commission.³

62. Even if there existed some category of customers who would never change from Verizon basic stand-alone service (a fact that has not been proven), it would not matter to the analysis of whether there are like or substitute services to prove a competitive market. All infra-marginal customers of any demographic group benefit from competition even if they do not choose to switch service providers themselves, as the Colorado commission concluded in rejecting the same arguments by witness Susan Baldwin that she makes here.⁴

¹ *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services. Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings*, CASE 05-C-0616. 2006 NY PUC LEXIS 193, 248 P.U.R. 4th 71 (NY PSC, April 11, 2006).

² *Order Instituting Rulemaking on the Commission’s Own Motion to Assess and Revise the Regulation of Telecommunications Utilities*, Decision 06-08-030 in Rulemaking 05-04-005, 2006 Cal. PUC LEXIS 367, *111 (Cal. PUC, August 24, 2006) (emphasis added).

³ *In the Matter of the Petition of Frontier Communications Northwest Inc. to be Regulated as a Competitive Telecommunications Company Pursuant to RCW 80.36.320*, 2013 Wash UTC LEXIS 601, * 37-38, 306 P.U.R. 4th 273 (Wash UTC July 22, 2013) ¶ 57.

⁴ *In the Matter of Commission Consideration of Effective Competition Areas and the Classification of Basic Local Exchange Service Pursuant to 4 CCR 723-1-2213*, Decision Denying Exceptions, Proceeding No. 13M-0422T, April 23, 2014, 2014 Colo PUC LEXIS 441, * 7, at ¶ 11.

63. Verizon has satisfied the standard of Section 3016(a) for the 194 wire centers included in its petition and has demonstrated that all of its retail services in those locations must be classified as competitive.

B. The Record Demonstrates That Chapter 63 and 64 Regulations Should be Waived

64. The Legislature determined in Chapter 30 that, where the evidence demonstrates that markets are competitive, the level of regulation must be tailored to competitive conditions because less regulation is warranted where competitive forces are sufficient to discipline firms to produce the products and services customers want at reasonable prices. VZ St. 1.0 at 44-45.

65. Chapter 30 authorizes the Commission to waive outdated regulations. It directs the Commission to “review and revise” its regulations and states that the Commission “shall take into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand.” 66 Pa. C.S § 3019(b)(2). The Commission has previously relied on this provision as statutory authority to waive regulations that it found to be outdated and inappropriate in today’s competitive environment.⁵

66. A waiver of regulations concurrent with competitive classification of a geographic area is consistent with the expectations of Chapter 30, which “recognize[s] that the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers.” 66 Pa. C.S. § 3011(13).

67. The statute forbids the regulation of competitive services except as specifically authorized, stating that “[t]he commission may not fix or prescribe the rates, tolls, charges, rate structures, rate base, rate of return or earnings of competitive services or *otherwise regulate* competitive services except as set forth in this chapter.” 66 Pa. C.S. § 3019(g) (emphasis added).

68. These statutory provisions acknowledge the benefits of reducing outdated regulations for competitive services and areas and recognize the anticompetitive effect of overregulating one small segment of a competitive market.

69. The Commission has recognized that it should waive regulatory standards that do not “comport with customer expectations in today’s competitive telecommunications marketplace,” and that keeping such regulations in place “would constitute enforcement for enforcement’s sake.”⁶ In waiving its call answer time regulation at 52 Pa. Code § 63.59(b)(2) (over the objections of the CWA and the OCA) the Commission “question[ed] the relevance” in today’s market of a standard enacted in 1988 at a time when Verizon “was a legal monopoly

⁵ *Petition of Verizon Pennsylvania Inc. and Verizon North Inc. for Waiver of Call Recording Prohibition Set Forth at 52 Pa. Code § 63.137(2) to Permit the Recording of Customer Conversations With Telephone Company Service Representatives*, Docket No. P-00072333 (Opinion and Order entered December 26, 2007) at 4.

⁶ *PUC v. Verizon Pennsylvania Inc.*, Docket No. M-2008-2077881 (Opinion and Order entered October 12, 2012) at 33.

with no competition in the local exchange market,” given the changes in the industry and customers’ experiences and expectations. *Id.* at 34. The Commission noted that “the competitive telecommunications market in Pennsylvania includes carriers that do not have to meet the [answer time standard]” and “to the extent call answer times are important to customers, we believe that the competitive market will provide sufficient incentives for Verizon PA to meet reasonable customer expectations on the subject.” *Id.* at 35. The exact same conclusion holds true here for the other Chapter 63 and Chapter 64 regulations. They are no longer needed and should not be enforced. The competitive market will ensure that Verizon meets reasonable customer expectations in these areas.

70. The Commission can and will waive a regulation during the pendency of the rulemaking. For example, following several individual company waivers, the Commission issued a blanket partial waiver of its regulation at 52 Pa. Code § 63.137(2) relating to call recording by telephone companies on July 29, 2009, at Docket No. M-2008-2074891, and then commenced a rulemaking to revise the rule permanently, which was completed in 2012.⁷

71. The lack of customer complaints about Verizon’s failure to meet a Commission regulation is a relevant factor in deciding to waive that regulation.⁸

72. Waiving outdated regulations does not mean that the Commission abandons its oversight for Verizon’s provision of jurisdictional competitive services. To the contrary, the requested waiver does not (and cannot) remove the Commission’s authority over Verizon’s service quality under 66 Pa. C.S. § 1501. VZ St. 1.0 at 41. Verizon is still statutorily required to “furnish and maintain adequate, efficient, safe, and reasonable service and facilities,” and the Commission still can take action if it determines that Verizon has not done so. But the waiver provides more flexibility for the Commission to evaluate any issue that is brought before it in light of the “emergence of new industry participants, technological advancements, service standards and consumer demand,” as Chapter 30 directs, 66 Pa. C.S § 3019(b)(2), instead of applying outdated standards that do not reflect customer expectations.

73. Verizon has demonstrated that the Chapter 63 and 64 regulations identified in its petition should be waived in the 194 competitive wire centers.

74. The Commission intends to complete a rulemaking to reconsider the need for its Chapter 63 and 64 regulations before December 31, 2025, but if it does not do so it will renew the waiver granted to Verizon for another 10 year period at that time.

⁷ See also *Interim Guidelines Regarding Standards For Changing a Customer's Electricity Generation Supplier*, Docket No. M-2011-2270442, 2011 Pa. PUC LEXIS 434 (Opinion and Order entered November 14, 2011) (“The waivers will remain in effect until revisions to 52 Pa. Code § 57.173 and § 57.174 are finalized in a Commission rulemaking.”)

⁸ *Pennsylvania Public Utility Commission v. Verizon Pennsylvania Inc.*, Docket No. M-2008-2077881 (Opinion and Order entered October 12, 2012) at 33 (noting “informal complaint data for Pennsylvania indicating that telephone access informal complaints are *de minimus* (less than one percent)”).

C. No Action is Necessary on the Other Issues Raised by the Parties

75. The Commission will not require Verizon to alter the formula for its annual Price Change Opportunity (“PCO”) filings for noncompetitive services in the remaining areas of the state going forward to remove a pro-rata share of switched access revenues from the calculation as a condition of granting this petition. There is no legal or factual support for such a condition.

76. The Commission will grant the same waiver of regulations to Full Service Network (“FSN”) as it granted to Verizon, if FSN so requests, but a waiver for FSN is not a precondition to granting Verizon’s petition.

77. If in the future Verizon chooses to detariff the services subject to this petition under 66 Pa. C.S. § 3016(d)(2), the Commission’s order requiring Verizon to maintain a price list on file with the Commission listing the rates for its competitive services will continue to apply unless modified by the Commission or applicable law.⁹ No further action to require notice of rate changes to resellers as a condition of granting this petition is necessary or legally supported.

78. Section 3016(a) states what Verizon must show to obtain competitive classification of protected services and it does not require Verizon to prove as part of its affirmative case that it is complying with 66 Pa. C. S. § 3016(f)(1).

79. If AT&T believes Verizon is violating Section 3016(f)(1), it has other procedural options to raise that argument. Because AT&T’s request for a reduction in Verizon’s originating access rates is already pending in the Verizon access investigation at Docket C-2002719, AT&T is not permitted to make that argument in this proceeding.

80. Even if AT&T were permitted to raise its argument that 66 Pa. C. S. § 3016(f)(1) would be violated if Verizon’s basic services are declared competitive, the burden would be on AT&T at the “proponent of a rule or order” to prove that Verizon is or will be violating this provision. 66 Pa. C.S. § 332(a). AT&T has failed to sustain such a burden. It has not submitted any cost studies or actual evidence to prove either that Verizon’s originating access rates are providing a subsidy or that the basic services Verizon seeks to declare competitive are receiving a subsidy, as this term is used in Section 3016(f)(1).

81. But even if basic services in the competitive areas were priced too low and receiving a subsidy – which AT&T has not demonstrated – once those services are declared competitive the only remedy would be for Verizon to increase those rates, which it would be free to do. Where the pricing of competitive services is involved, Chapter 30 does not require a revenue neutral reduction in noncompetitive service rates such as access rates to offset competitive rate increases. Access pricing would have to be reviewed on its own merits in the separate docket already opened for that purpose, and Section 3016(f)(1) provides no basis to

⁹ *PUC v. Verizon Pennsylvania LLC and Verizon North LLC*, Docket No. R-2011-2244373, etc. (Opinion and Order entered November 14, 2011) at 18 (“maintaining the price lists at the Commission, rather than only on Verizon’s website, will ensure that resellers like FSN continue to receive one-day notice of the relevant Verizon price changes.”)

involve the pricing of access services in this proceeding. The Commission has not found such a subsidy to exist and therefore no rate increase is required to comply with Section 3016(f)(1).

B. PROPOSED ORDERING PARAGRAPHS

82. Verizon's petition pursuant to 66 Pa.C.S. § 3016(a) for competitive classification of all of its retail services in the 194 wire centers identified in Exhibit A to this Order is granted.¹⁰

83. Verizon's request for a waiver of the following regulations as applied to competitive services in the 194 wire centers identified in Exhibit A to this Order is granted: Chapter 63, Subchapters B (Services and Facilities); C (Accounts and Records); G (Public Coin Services); E (Quality of Service); F (Extended Area Service); and the entirety of Chapter 64. The waiver shall be effective from the date of entry of this Order until December 31, 2025, to be renewed for subsequent 10 year periods if necessary.

84. The record is marked closed.

Respectfully submitted,



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Dated: January 8, 2015

¹⁰ Exhibit A to this Order is the list of wire centers appended as Attachment A to Verizon Statement 1.0.