

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 07-C-0349 - In the Matter of Examining a Framework for Regulatory Relief.

NOTICE SOLICITING COMMENTS

(Issued April 20, 2007)

In April 2006, the New York Public Service Commission issued its Competition III Order,¹ approving residential pricing flexibility for Verizon of New York (Verizon) and Frontier Telecommunications of Rochester (Frontier Rochester) based on the competitiveness of the market and associated line and revenue losses to competition. While the Competition III Order did not authorize similar residential pricing flexibility to all of New York's incumbent local exchange companies (ILECs), it noted that some ILECs were experiencing similar line and revenue losses, and that additional analysis was required, on a company-by-company basis, to determine whether the Commission could extend residential pricing flexibility to those companies:

While there may be individual companies that have suffered concomitant competitive revenue losses comparable to Verizon and Frontier of Rochester, that fact cannot be determined from the record....Accordingly, we will examine the relative competitive positions of these incumbents on a case-by-case basis to determine if increased pricing flexibility or other regulatory flexibility is warranted.²

¹ Case 05-C-0616 – Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunication Services, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (issued April 11, 2006).

² Competition III Order, p. 36.

In September 2006, Frontier Communications petitioned the Commission for residential pricing flexibility for its six other New York affiliates.³ Similarly, in March 2007, the six Telephone & Data Systems, Inc. (TDS) subsidiaries each filed petitions for residential pricing flexibility.⁴ To provide consistency in the Commission's consideration of the Frontier Communications and TDS requests, as well as future filings for residential pricing and other regulatory relief, Staff has proposed a framework to guide Commission action on such requests contained in a Staff White Paper entitled "*Framework for Regulatory Relief*." Staff's White Paper seeks to establish a consistent approach to evaluate the need for residential pricing and other regulatory relief for the State's Incumbent Local Exchange Carriers that were not granted relief by the Commission's Competition III Order.

As currently designed, Staff's framework evaluates the situation of each company individually, across four dimensions: competitive presence, financial status, network investment, and operating efficiency.

At its April 18, 2007, session, the Commission decided to issue the Staff White Paper for comment. The Commission seeks comment on the proposed framework. In addition to general comment on the Staff White Paper, the Commission invites specific comment on the issues raised by Staff in the White Paper:

- Does the model present an appropriate framework to consider residential pricing flexibility?

³ Case 06-C-1261 – Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications, petition of Frontier Communications for Pricing Flexibility (filed September 14, 2006).

⁴ Cases 07-C-0274 through 07-C-0279 – Petitions of Edwards Telephone Company, Inc., Port Byron Telephone Company, Township Telephone Company, Inc., Deposit Telephone Company, Inc., Oriskany Falls Telephone Corporation and Vernon Telephone Company, Inc. for Pricing Flexibility as Authorized by Case No. 05-C-0616 (filed March 5, 2007). Collectively referred to as the TDS petitions.

- Are there additional dimensions that should be considered, and if so, what would be the indicators (measures) of those dimensions?
- Are there other issues should be incorporated into Staff's framework, and what are the data sources to be used to measure?
- Whether the current definition of broadband is adequate given the increasing bandwidth requirements of new applications.
- Should a demonstration of higher speed network commitments by ILECs be required before pricing flexibility or retention of RTB funds is allowed?
- Should filings for rate flexibility or RTB funds contain information allowing the Commission to discern a company's level of commitment to increasing broadband speeds?
- Are the data sources and criteria correct?
- What provisions should be incorporated to prevent "backsliding" on service quality or other indicators?

Finally, all companies should provide updated information to allow Staff to update the results of the framework with the most recently available data.⁵ Accordingly, such companies should update the information they self-reported in response to Staff's July 2006 survey contemporaneously with the comment cycle established in this notice in the same manner in which such data originally was provided to Staff.

Entities wishing to comment on Staff's White Paper analysis shall submit an original and nine copies of their comments to Jaclyn A. Brillling, Secretary to the New York State Public Service Commission, Three Empire Plaza, Albany, New York 12223-1350 by May 9, 2007. Service between and among the parties may be made by electronic mail, using the most recent active parties list in Case 05-C-0616, available on the Commission's website at <http://www.dps.state.ny.us>. Those who are interested in receiving the comments of other parties, but currently are not on the most recent Active

⁵ The framework incorporates data from the companies' 2005 Annual Report, and self-reported data in response to Staff's July 2006 survey to the independent companies.

CASE 07-C-0349

Parties List for Case 05-C-0616, should submit contact information, including an e-mail address, by notifying the Secretary at (secretary@dps.state.ny.us) and following up with a hard copy addressed to the Secretary by April 30, 2007.

(SIGNED)

JACLYN A. BRILLING
Secretary