Pennsylvania PUC's Implementation of Chapter 30
Report Highlights

Background: Chapter 30 of the Public Utility Code, enacted in 1993, allowed local telephone exchange carriers to petition the PUC for alternative rate regulation. In exchange, companies had to accelerate network modernization and meet access charge requirements. Chapter 30 expires on December 31, 2003, unless reauthorized by the General Assembly.

Findings:

- *Chapter 30 helped facilitate the transition to a competitive market.* Chapter 30 allowed more than one local exchange carrier to serve a region, eliminated implicit subsidies, encouraged an alternative rate-setting process, and allowed companies to accelerate network modernization. Federal law, however, pre-empted PUC requirements that competitive carriers (CLECs) provide basic service to all customers in the operating region. Thus, even if several CLECs operate in a county, residential customers may still have little choice in local carriers.

- *Due to various factors, many petitions and plans were not approved until 2001.* Chapter 30 envisioned a 9-month approval process.

- *Local exchange carriers are implementing their network modernization commitments on or ahead of schedule.* Although Chapter 30 does not require full deployment of broadband-capable networks until 2015, every company we could review was on or ahead of schedule in implementing key Chapter 30 provisions such as digital switching; intelligent network signaling; interoffice fiber optics; broadband deployment to schools, industrial parks, and hospitals; and broadband availability targets. We could not review some company updates because their plans were only recently approved.

- *The price cap regulation approved by the PUC for most companies establishes consumer service prices by regulating company revenue rather than rate of return on investment.* Such formulas are indexed to the rate of inflation minus a productivity factor. Although basic local rates have increased substantially for some companies (see next point), we concluded it was due to factors other than the price cap formula approach to rate regulation.

- *Some companies have increased basic rates substantially due primarily to changes in access charge policies.* Historically, basic phone rates have been subsidized in part by the access charges toll carriers pay to local carriers to complete calls. Chapter 30, as well as federal laws and regulations, severely restricts such subsidies, which has resulted in significant rate increases for some consumers.

- *In 1999, the PUC established a Universal Service Fund to moderate increases to basic rates.* The Fund, which obtains revenues from carriers on a pro rata basis, was intended to help small, rural carriers. Two relatively large companies (ALLTEL and United/Sprint) have received almost two-thirds of the fund's disbursements. Four companies, including one operating only in mostly urban counties, receive almost 85 percent of all fund revenues.

- *The federal Telecommunications Act of 1996 has significantly pre-empted state regulatory authority.* TA-96 was enacted to promote competition, lower entry barriers, and reduce consumer costs. To achieve these goals, Congress largely pre-empted the states' regulatory role. The FCC and federal courts now make key policy and regulatory decisions.

Recommended Options:

- *Option 1: Allow Chapter 30 to sunset.* Given federal pre-emption, the PUC's ability to regulate carriers under its enabling authority, and that Chapter 30 petitions and plans remain in effect even if the statute sunsets, we could identify no significant adverse impact that would necessarily occur if Chapter 30 expires.

- *Option 2*: *Reauthorize Chapter 30 by removing the sunset provision.* For the reasons listed in Option 1, we could identify little difference between allowing Chapter 30 to sunset and reauthorizing it by simply removing the sunset provision. Given the current litigious environment, however, we caution against any attempt to rewrite Chapter 30 with new provisions.