

Landline Tax Receipts Lower Than Expected in PA; Mobile Phone Receipts Higher

When budget officials in Harrisburg saw the year's collection for the gross receipts tax on utility services, which includes the expanded tax on phone use, they took a collective gulp. The revenues came in millions less than anticipated from the tax, and now the Department of Revenue is trying to get a bead on exactly why.

"We have some general ideas but until we have a chance to really go over all the numbers it's difficult to pinpoint it," said a Revenue Department spokesperson.

Overall, state receipts were down \$138 million in gross receipts collections, including \$13 million in electric utility collections. But the big loser was on the telecommunications side, which came in approximately \$90 million short. Breaking it down, the tax on interstate landline usage was \$79 million below estimate, intra-state landline calls came in \$13 million below estimate. Tax collections on mobile calls, however, were actually \$5 million above estimate.

One Department official said that one area they were looking at was the economic data used to originally estimate the amount in tax receipts they might expect. The data was from 2001, old even for the time that the tax was approved in 2003.

Another factor could stem from a tax exemption approved for Internet Service Providers as part of a federal law tax-free law that went into effect in late 2004. Finally, the Department is looking into the rapid increase in the use of mobile phones, a trend that has resulted in many instances of consumers giving up landlines all together.

Despite the low numbers, the Budget Office is holding to its overall \$290.9 million budget surplus figure by the time the fiscal year ends on June 30, 2005.

Utilities, Businesses Pleased With Governor Rendell's PUC Nominees

Representatives of the utility industry and the larger business community indicated that they were pleased with the three nominees Governor Ed Rendell has put forth for the Public Utility Commission (PUC). All three, James H. Cawley, Bill Shane, and Terry Fitzpatrick, have served previously on the five-member Commission.

"The nice thing about having three former members is that the transition will be smooth," said an official with an electric utility. "They all know the system, the issues...how things work on a day-to-day level."

Another utility official added that none of the nominees was a maverick. “They’ll go their own way sometimes, have independent ideas. But I don’t see any one of them doing something that’s completely against the grain.”

Cawley, 59, served on the PUC from 1979-85; Shane, 69, from 1984-90; Fitzpatrick, 50, from 1999-2004. Cawley and Shane are Democrats, Fitzpatrick a Republican. Having a Republican in the mix should smooth the way for approval of all three by the Republican-controlled Senate. Although, none should have any difficulty meeting with Senate approval on his own merits.

“They’re all respected and liked,” the electric utility official said. “I don’t see any of them having any problems winning approval.”

Recently Published by the PUC: Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunications Companies

The Pennsylvania Public Utility Commission, on January 13, 2005, adopted a final rulemaking order establishing an orderly process to follow when a local service provider abandons local telephone service.

The advent of competition in the local telephone market in Pennsylvania has created situations that the Commission's current regulations do not address. To comply with certain aspects of the Telecommunications Act of 1996, the Commission implemented a streamlined application process to modify traditional entry procedures applicable to telecommunications carriers. Specifically, the Commission's telecommunication procedures allow new entrants to commence service upon filing and service of the application, which must contain an interim tariff. These entry procedures apply to all carriers whether they are facilities-based, interconnected or reseller competitive local exchange carriers (CLECs). CLECs that are not facilities-based and rely either completely or partially for their underlying service on the incumbent local exchange carrier (ILEC) are considered resellers. If the CLEC fails to pay the underlying ILEC for the service it resells to its end-use customers, the CLEC's wholesale telephone service will be terminated. This results in the termination of dial tone service to the end-use customer--effectively a de facto abandonment of service by the CLEC. Although a public utility must seek prior approval to abandon service, the Commission's rules under Chapters 63 and 64 (relating to telephone service and standards and billing practices for residential telephone service) do not cover abandonment of utility services nor do they address the notification of the end-use customers.

Broadband Trial Foreshadows Big-Name Enron Case

The really big Enron Corp. show starts next January when the criminal trial of former high-ranking executives Ken Lay, Jeff Skilling and Richard Causey kicks off in federal court in Houston. But before that event, the Enron Task Force gets another shot at trying to convict lower-level employees of criminal conduct linked to the spectacular and tragic demise of the former Houston energy giant.

Recently, five former employees of the one-time highly touted Enron Broadband Services subsidiary face trial in U.S. District Judge Vanessa Gilmore's court on charges of making false and misleading public statements about the financial viability of EBS. With five individuals at the defense table - the largest group of former employees of the Houston energy company to go to trial to date - there may be as much at stake for the Enron Task Force as for each defendant.

"It's the most important Enron trial to date," said Dan Cogdell, a criminal defense attorney in Houston who won an acquittal for Sheila Kahanek and represents Kenneth Rice, a former chief executive officer of EBS who agreed to a plea deal in the Broadband case. "Whatever happens here is likely to be a harbinger of what's going to happen in the Lay, Causey, Skilling trial."

"This is really the first Enron case, but it's not the corporate executive-level Enron case, so there is a great deal of pressure on both sides," said Jack Zimmermann, a Houston lawyer who represents defendant Kevin Howard. "There's pressure on defense lawyers when you have clients that you believe are innocent. There's pressure on this out-of-town, out-of-state team of prosecutors as well, because the other cases have sort of been considered not exactly Enron cases."

The Enron Task Force has largely been successful in winning convictions. In 2002, a federal jury in Houston found former Enron accounting firm Arthur Andersen guilty of obstruction of justice for destroying Enron documents. And in 2004, another federal jury in Houston returned a guilty verdict against five former Merrill Lynch employees and one former Enron employee in a trial known as the Nigerian barge trial. But the jury acquitted one former Enron employee, Kahanek, in that trial, a result that gives hope to other Enron defendants.

The so-called Broadband trial is the first Enron-only trial. And the allegations in the indictment are closely related to allegations against the top tier of executives who are defendants in *United States v. Richard A. Causey, et al.*, the big trial that begins next year. That, presumably, puts more pressure on the Enron Task Force to post a big win in the Broadband trial before it goes after Lay, Enron's former chairman, former chief executive officer Skilling and former chief accounting officer Causey.

Verizon Invests \$490,000 to Better Serve Glenshaw Area Customers

Verizon customers in Glenshaw (Allegheny County) soon will have improved communications as the result of a \$490,000 investment the company has made in its local call-switching center. Verizon is installing new equipment, including advanced power systems that enables the company to provide critical telecommunications services in the event of a commercial power disruption.

This equipment also allows Verizon to more efficiently monitor power systems and diagnose potential network power problems, thus increasing reliability in the Verizon network, and will support advanced telecommunications technologies. The company expects to complete the project by the end of August.

In addition to this investment, Verizon is already constructing its new fiber-to-the-premises network in portions of Pennsylvania and 13 other states, 50 percent of the states where Verizon offers landline phone service. Verizon is currently rolling out its FiOS Internet.