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September 2, 2010

VIA UPS OVERNIGHT

Ms. Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
2nd Floor West
Commonwealth Keystone Building
Harrisburg, PA 17105-3265

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund, Docket No. I-00040105

AT&T Communications of Pennsylvania, LLC, et. al. v. Armstrong Telephone Company-Pennsylvania, et.al., Docket Nos. C-2009-2098380, C-2009-2099805, C-2009-2098735

Dear Ms. Chiavetta:

Enclosed on behalf of AT&T Communications of Pennsylvania, LLC, TCG Pittsburgh, and TCG New Jersey, Inc., please find the original and nine copies of the Exceptions of AT&T, including Appendices A through E. Please note that the brief, and some of the appendices, contain proprietary information and should be filed as confidential. I have also enclosed a public version of the brief. Copies have been served in accordance with the attached Certificate of Service.

Please contact me if you have any questions or concerns with this matter.

Very truly yours,

Demetrios G. Metropoulos

cc: Hon. Kandace F. Melillo
Cheryl Walker Davis
Certificate of Service

Enclosures

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund	:	Docket No. I-00040105
AT&T Communications of Pennsylvania, LLC, *et al.*, Complainant	:	
v.	:	Docket Nos. C-2009-2098380, *et al.*
Armstrong Telephone Company - Pennsylvania, *et al.*, Respondents	:	

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EXCEPTIONS

of

AT&T

PUBLIC VERSION

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SEPTEMBER 2, 2010

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BEFORE THE
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EXCEPTIONS OF
AT&T

I. INTRODUCTION

Seven years after the last time intrastate access rates were reduced, and over ten years after this Commission found that implicit subsidies should be removed from intrastate access rates, ALJ Kandace Melillo carefully considered a mountain of evidence developed in this proceeding[1] and agreed that the intrastate access rates of the Rural Incumbent Local Exchange Carriers ("RLECs) are unjust and unreasonable, and must be reduced to parity with their interstate rates. She recognized that an outdated system of hidden, implicit cross-subsidies that burdens consumers throughout the Commonwealth is inequitable and unsustainable in today's competitive environment. She found that reforming access rates will allow the competitive market to work without regulatory distortion, to the benefit of all Pennsylvania telecommunications customers. These determinations are fully supported by the record, and should be sustained to align Pennsylvania with the growing list of states – 25 at last count – that have acted to reform intrastate access charges.

[1] Specifically, this case involved 36 pieces of pre-filed testimony; 22 cross-examination exhibits; 702 transcript pages and hundreds of pages of Briefs. See RD at pages 15, 17.

Having made a clear, cogent case for immediate reform, however, the Recommended Decision's ("RD") proposal for implementing reform falls far short in several critical respects from what that decision itself – and the supporting evidence – demonstrates is necessary. Despite finding that all of the RLECs' intrastate access rates currently are unjust and unreasonable, anti-competitive and anti-consumer, the RD does not propose immediate and comprehensive reform. Rather, the RD proposes a multi-phased/multi-year reform process that delays even partial access reductions for most RLECs for up to a year (and for some even longer), and that does not achieve full RLEC interstate parity until four years after a final Commission Order.

Consumers have already waited too long; the time for access reform is now. As the Commission well knows, high access rates have caused Pennsylvania consumers to pay more than they should for intrastate wireline long distance service. High access rates have impeded the ability of long distance carriers to compete against e-mail, social networking websites, internet access, cable telephony, VoIP services (Vonage, MagicJack) and wireless carriers, none of which are saddled with the same access subsidy burdens as wireline long distance carriers. Perhaps most problematic, high access rates have insulated RLECs from marketplace dynamics – so long as they receive huge subsidy payments, they have less incentive to introduce new services, to improve their efficiency, and to deliver innovation to their subscribers.[2] This is bad news for consumers. Although access reform may initially mean higher local exchange prices for some RLEC subscribers as the RLECs recover more of their costs from their own customers rather than through hidden subsidies indirectly imposed on consumers across the rest of Pennsylvania, in short order the elimination of access subsidies will make the entire Pennsylvania communications market more competitive. That additional competition will mean more choices, better prices, new services, and a sharper focus on customer care, not just from the RLECs, but from every entity

[2] RD Finding of Fact #10.

offering communications services to Pennsylvania consumers, regulated and unregulated. In making the market more competitive, the Commission will bring benefits to consumers throughout the Commonwealth, and will have fulfilled its statutory mission.

In stark contrast to the convoluted and prolonged process proposed in the RD, AT&T presented an eminently reasonable and equitable compromise solution to access reform that balances all interests. Specifically, AT&T proposed that consumers *immediately* receive the benefits of access reform by requiring the RLECs to reduce intrastate access rates to interstate parity no later than 20 days after a Commission Order. Recognizing that Pennsylvania law mandates that RLECs be given an opportunity to rebalance access reductions, AT&T recommended two offsetting revenue sources. Consistent with the RD's findings that the RLECs should first look to their own customers to recover their own costs, RLECs should be permitted to increase retail rates, but over a more reasonable transition period than the RD recommends. During the transition, RLECs should be allowed to receive additional (but temporary) transitional support from the Pennsylvania Universal Service Fund ("PaUSF").

AT&T proposed that, at the same time access rates are reduced to interstate parity, the Commission permit (but not require) all carriers to raise their retail monthly local rates to a $22/month benchmark – *i.e.*, updating the current $18/month rate cap by the inflation that has occurred since the cap was last set in 2003.[3] If the $22 benchmark does not offset all of an RLEC's access reductions, that carrier would draw the difference from the PaUSF on a *transitional* basis. At a $22 benchmark, fifteen of the RLECs would not need to draw any additional funds from the PaUSF,[4] and the remaining RLECs would receive an additional $19.6

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[3] AT&T's proposal also calls for permitted increases to business rates in the same dollar amount as all residential rate increases.

[4] See Attachment 5 to AT&T Statement 1.2 (Rebuttal), which is attached hereto for purposes of convenience as Appendix A. One of the fifteen carriers, Frontier of Kecksburg, would draw one

million in the first year. But that increase in the level of the PaUSF would be temporary. Under AT&T's compromise proposal, in each of the next three years, the benchmark would be raised $1/month, and the PaUSF would be decreased. At the $23 benchmark in year two, nineteen RLECs would be fully reformed and would no longer need to draw funds from the PaUSF, and the additional funds needed from the PaUSF (relative to current levels) would fall to $9.8 million. At the $24 benchmark in year three, all but nine RLECs would be fully reformed and the addition to the existing PaUSF would fall to approximately $4.2 million. Finally, at the $25 benchmark in year four, six RLECs would receive PaUSF payments that, collectively, will be just $1 million above current USF funding levels.

AT&T thus excepts to the Recommended Decision on four critical issues, as addressed in more detail below:

- Exception #1 – The RD improperly delays access reform for an additional two-to-four years. AT&T's proposal to immediately establish just and reasonable access rates should be adopted.

- Exception #2 – The RD's implementation of access reform is flawed, unnecessarily complicated, and leads to perverse results that do not bring access reform to Pennsylvania customers in a timely manner.

- Exception #3 – The RD did not properly recognize that the evidence conclusively proves that affordability rates in Pennsylvania range from a minimum of $23.43 to a maximum of $34.34/month (excluding taxes and fees).

- Exception #4 – The four months of technical workshops recommended by the RD are unnecessary and will only serve to delay implementing much-needed and overdue access reform.

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additional penny per line from the PaUSF, but for all intents and purposes, that carrier has been deemed fully reformed at $22/month.

II. EXCEPTION #1 – THE RD ERRED BY DELAYING CRITICAL ACCESS REFORM FOR AN ADDITIONAL TWO-TO-FOUR YEARS.

Although the "journey towards access reform in Pennsylvania has been slow,... it is time for the Commission to implement a plan or 'glide path' for access reductions with a known destination."[5]

When reviewing the extensive evidence in this case, it was not at all surprising that the Recommended Decision made the following findings of fact regarding the RLECs' intrastate access rates:

> 15. It is inequitable to impose a disproportionate subsidy burden on one industry segment. OCA St. No. 1, p. 12; Tr. 478.
>
> 16. Consumers benefit from a free choice among competitors that compete aggressively on a more level playing field, based on real differences in quality and cost. Conversely, consumers are harmed when their choice is distorted by artificial differences in price driven by high access costs. AT&T St. No. 1.0, p. 52.
>
> 20. While the present system of high access charges is both competitively harmful and unsustainable, reductions in access charges will be beneficial to consumers. AT&T St. No. 1.0, pp. 42-45, AT&T St. No. 1.2, pp. 50-52.

The Recommended Decision accordingly reached the following Conclusions of Law:

> 14. The RLECs have failed to meet their burden of proving that their intrastate switched access rates are just and reasonable. *Waldron v. Philadelphia Electric Company*, 54 PA PUC 98 (1980).
>
> 16. As the RLECs have failed to meet their burden of proof as to the justness and reasonableness of their existing intrastate access rates, the Commission must determine the just and reasonable rates to be observed and enforced, shall fix the same by order served upon the public utility, and such rates shall constitute the legal rates of the public utility until changed as provided by law. 66 Pa. C.S. §§1309(a), 3012, 3019(h).

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5 RD at p. 78.

All of these findings are exactly right and fully supported by the evidence of record. But the RD's proposed process for implementing reform is directly inconsistent with these determinations. The ALJ recognized that just and reasonable intrastate access rates are those that are at parity with their interstate rates, yet the RD's proposal results in a "glide path" that essentially delays reaching these just and reasonable rates for as long as four years. Given the harms to consumers from high access rates (as correctly found by the RD), and the clear benefits to consumers by having intrastate rates at parity with interstate rates (again, as correctly found by the RD), it is imperative that the Commission establish just and reasonable rates immediately – not at some point in the future.

There are really two primary questions to be answered in this case. First, should the RLECs' intrastate access rates be reduced? Second, if so, how should the access revenue reductions be recovered? The RD properly answered the first question by recognizing that intrastate access rates must be reduced to levels that are at parity with each carrier's respective interstate levels. This conclusion is firmly based on evidence that proves that the RLECs' current intrastate access rates are unjust and unreasonable because they are anti-consumer and anti-competitive.

By law, utilities can only charge just and reasonable rates.[6] If the Commission finds that a public utility's rates are unjust and unreasonable, the Commission must establish new rates.[7] In spite of this, the RD recommends that nothing at all be done to fix the RLECs' unjust and unreasonable rates for six months to a year after a final Order in this case, and for some RLECs those initial access reductions would be close to zero.[8] As discussed further in Exception #2, meaningful reductions for several of the companies would not even *begin* to occur for

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6 66 Pa.C.S.A. §1301.

7 66 Pa.C.S.A. §1309(a).

8 See Exception #2, Section III(A) herein.

eighteen months to two years after a decision. After waiting over a decade for full access reform, and after waiting seven years since rates were last reduced, and after assembling a robust evidentiary record over the past year, further delay is a completely illogical, unreasonable and unacceptable result.

There is no need for a further "transition" period in reducing access rates — there has already been a decade of "transition" in Pennsylvania. The Commission started phasing in access reductions beginning with the *Global Order* in 1999, and again in 2003 as part of a settlement. The ALJ recognized that the drastic changes to the market in the past seven years since the Commission last reduced the RLECs' access rates make it critical that intrastate access rates be reduced to interstate levels. Thus, in this years-delayed third phase, the Commission should finish the job and reduce RLEC access rates to interstate parity promptly after a final Order is issued. Those reductions should begin and be completed now – not six months to four years after a final Commission decision in this case.

A. The ALJ Properly Held That The RLECs' Intrastate Access Rates Are Unjust And Unreasonable, And That They Should Be Reduced To Parity With Interstate Rates, But The RD's Access Reform Proposal Takes Too Long To Reach That Level.

The ALJ quite properly recognized that the high subsidies that remain embedded in intrastate access rates must be removed because they are unjust, unreasonable and anti-competitive. She further recognized that bringing intrastate rates to parity with interstate rates will bring the most benefits to Pennsylvania consumers and, indeed, to the RLECs themselves.

1. Changes To The Market And Increased Competition Make High Intrastate Access Rates Unsustainable.

High subsidies embedded in access charges simply cannot be sustained in today's hyper-competitive market. When intrastate access charges were first established in 1984, they were set far in excess of cost to generate a subsidy to help keep monopoly local exchange service

"affordable." That system was only sustainable at a time when local markets were closed monopolies, and where traditional wireline long-distance calls were consumers' only real option for long-distance voice communications. Only in that closed system was it mechanically possible to overprice access, and foist those artificially inflated costs onto retail long distance rates in order to under-price the basic local telephone service offered by the one monopoly provider in each market, thereby implicitly promoting "universal service." Now-retired Administrative Law Judge Michael Schnierle accurately described the way in which access charges worked:

> Despite the existence of distortions and inefficiencies, this system of cross-subsidies has been justified on policy grounds, principally as a means to serve universal service goals. By providing ILECs with a stream of subsidized revenues from certain customers, the system has allowed regulators to demand below-cost rates for other customers, such as basic telephone service for those customers in high-cost areas. For all intents and purposes, the system serves as a hidden tax collected by the telephone companies. Low cost telephone customers are required to pay more than they would have to pay in a competitive market, to allow the telephone companies to charge less to customers whose cost of service would otherwise be higher.[9]

Given the dramatic changes in the telecommunications marketplace, this inefficient system of cross-subsidization no longer works, and is no longer necessary. Once the federal Telecommunications Act of 1996 opened local markets to competition (and paved the way for local telephone companies to begin offering long distance service), alternative technologies began emerging (and exploding) onto the market. These sweeping changes in technology and regulation rendered the old monopoly-era cross-subsidy system unsustainable, especially when only some carriers were being saddled with the high access subsidies, but not others.

ALJ Schnierle again accurately described the problem of high access rates in a competitive market, and properly recognized how the Commission must act:

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[9] *In Re: Intrastate Access Charge Reform*, Docket No. I-00960066, Recommended Decision, June 30, 1998 at p. 6 (hereinafter "ALJ Schnierle 1998 RD").

- *"**The existing system (of implicit subsidies and support flows) is sustainable only in a monopoly environment where ILECs are guaranteed an opportunity to earn returns from certain services and customers that are sufficient to support the high cost of providing other services to other customers.*** The new competitive environment envisioned by the Telecommunications Act of 1996 threatens to undermine this structure over the long run. The 1996 Act removed barriers to entry in the local market, generating competitive pressures that make it difficult for ILECs to maintain access charges above economic cost." ALJ Schnierle 1998 RD at p. 6 (emphasis added).

- ***"[T]his scheme [of pricing access well above cost to keep basic service rates as low as possible] is no longer practical because the rates of various services bear no relationship to their costs, and competitors are encouraged to enter the market for those services that are priced well in excess of costs, while ignoring those markets and services where prices at or below costs."*** ALJ Schnierle 1998 RD at p. 24 (emphasis added).

- "***[A]ccess charges must be closer in magnitude to access costs for there to be true competition in the toll market.*** While some of these problems might be ameliorated by a universal service program, reliance only on such a fund cannot be justified for reasons of fairness to the customers who will be forced to contribute to the USF." ALJ Schnierle 1998 RD at p. 24 (emphasis added).

- "In short, politically unpopular though it may be, ***rate rebalancing is required, along with access charge reductions, if there is to be competition for all customers in all locations***, and if urban customers are not to be saddled with excessive universal service fund costs. I am aware of no other way to solve this problem, and the parties here have presented no other proposal that is likely to solve the problem. Moreover, ***the very point of introducing competition to the local exchange market is to bring about lower prices through the operation of the market. An unwillingness to rebalance rates suggests an unwillingness to trust the market to bring about lower prices.*** If that is the case, I suggest that society rethink the notion of attempting to have competition in the local exchange market." ALJ Schnierle 1998 RD at p. 28 (emphasis added).

The Commission incorporated ALJ Schnierle's findings into the *Global Order*,[10] observing that ALJ Schnierle's June 30, 1998 Recommended Decision had reached "various

[10] *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999)("*Global Order*").

conclusions regarding the necessity of access reform in a competitive environment and we incorporate those conclusions in that regard in this Order by reference."[11]

ALJ Schnierle and this Commission were right over twelve years ago, and after considering a substantial wealth of evidence, ALJ Melillo recognized that those conclusions are even more accurate today. ALJ Melillo properly determined that access reform is critical, and that "competition...will be further promoted through the access charge reductions recommended..."[12] She also found that although the "journey towards access reform in Pennsylvania has been slow,... it is time for the Commission to implement a plan or 'glide path' for access reductions with a known destination."[13]

2. This Commission Has Consistently Maintained A Policy That Access Reform Is Necessary For The Development Of A Fully Competitive Market In Pennsylvania.

The RD's recognition that implicit subsidies must be eliminated is consistent with this Commission's own policies for the past decade. When the Commission first recognized the need for access reform in the 1999 *Global Order,* it found "that current ILEC access charges are priced substantially above cost," and recognized that such rates must be reduced in order "to maintain fair toll competition in Pennsylvania."[14] At that time, the Commission took an initial step towards such reform, and – of critical importance here -- expressed its intention to complete access reform in the near term. In fact, the Commission cautioned the RLECs that the *Global Order* reductions were only a first step towards eliminating the implicit and anti-competitive subsidies that remained embedded in the rates.[15] The Commission said that it intended to "complete intrastate access charge reform and [ ] presumably eliminate all subsidies in the

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11 *Id.* at p. 27.
12 RD at p. 78.
13 *Id.*
14 *Global Order* at p. 18.
15 *Global Order*, p. 26.

access charge rate structure" in a further access investigation that was to be completed by December 31, 2001.[16] Yet, here we sit, nearly nine years after the Commission said it would complete access reform – with a RD that calls for yet another four years before such reform is complete notwithstanding the substantial evidence showing reform can and should occur now.

The next step in access reductions did not come until 2003, when the Commission approved a settlement that further reformed access charges (but again only incrementally), and that increased the local service rate cap to $18.[17] There, the Commission again warned the RLECs that access reform was not yet complete, and further reform would be forthcoming. The Commission then initiated this case's generic investigation in December 2004, saying:

> As stated in our prior Order of July 15, 2003, at M-00021596, In re: Access Charge Investigation per Global Order of September 30, 1999, at 12, at that time we did not declare the access rates established by that Order as the final word on access reform. Rather, we characterized the Order as the next step in implementing continued access reform in Pennsylvania in an efficient and productive manner. In the Commission's judgment it is now an appropriate time to consider further access charge reform.[18]

The renewal of Chapter 30 – Act 183 – only reinforced the Commission's access reform policy. In 2007, the Commission found that "Act 183 and Section 3017(a) support this Commission's policy goals that local exchange carriers reduce dependence on access revenue from other carriers and rebalance those revenues."[19] The Commission just recently recognized that "an entire decade has passed since the Commission began reforming access charges in the

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16 *Global Order*, pp. 58-59.

17 *Access Charge Investigation per Global Order of September 30, 1999, et. al.*, Docket Nos. M-00021596, et. al., Order of July 15, 2003 at p. 12.

18 *Investigation Regarding Intrastate Access Charges of Rural Carriers, and the Pennsylvania Universal Service Fund*, Docket No. I-00040105, December 20, 2004 Order at p. 4.

19 Opinion and Order in Dockets I-00040105, P-00981428F1000, R-00061375, P-00981429F1000, R-00061376, P-00981430F1000 and R-00061377 (July 11, 2007) at pp. 34, 35.

Global Order and many of the same areas of concern may still persist. This Commission cannot forgo such an opportunity to effectuate industry-wide access reform any longer."[20]

This history is important because it demonstrates that the RLECs have been on notice for over ten years now that the Commission intended to further reduce intrastate access rates. These ten years are part of the transition to completed access reform. It is also important because it can hardly be said that immediately reducing intrastate to interstate levels in this case is a sudden, flash cut of access reform. To the contrary, the Commission started reform over a decade ago, has already phased in some reductions, and has repeatedly put the RLECs on notice that reform would be completed soon.

3. The RD Properly Found That The Just And Reasonable Rate For RLECs' Intrastate Access Rates Is Parity With Interstate Rates.

The RD's determination that the RLECs' intrastate access rates should be set at parity with their respective interstate rates is well supported in the record. First, setting intrastate rates at this level makes sense because there is no material difference in originating or terminating an intrastate long distance call versus an interstate long distance call.[21] This is undisputed. There is simply no rational basis for permitting the RLECs to impose higher access costs on a call from Philadelphia to Pittsburgh than a call from Philadelphia to San Francisco. Second, having unified rates will reduce RLEC billing costs, if for no other reason than they will only have one set of rates to bill instead of two.[22] It is also easy to implement because the RLECs would simply bill, for in-state calls, the very same access rates that they already have in effect for interstate calls, and that they have been working with for years. CenturyLink readily conceded that having the

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20 Opinion and Order, *AT&T Communications of Pennsylvania, Inc. v. Verizon North Inc. and Verizon Pennsylvania Inc.*, Docket No. C-20027195; May 11, 2010, p. 19.

21 RD Finding of Fact #17.

22 RD Finding of Fact #33.

same rates for interstate and intrastate access will "reduce administrative costs" and "create[ ] a more stable and predictable system of levying access charges."[23]

Third, bringing intrastate rates to parity with interstate levels reduces the incentive and opportunity for harmful and costly arbitrage schemes – schemes that the evidence proved are occurring in Pennsylvania. Again, CenturyLink acknowledged that having different intrastate and interstate rates creates serious problems with arbitrage opportunities, especially in rural areas:

> "arbitrage is fueled in particular by wide disparities between interstate and intrastate terminating switched access rates. Those rate disparities are common and they are the widest in rural areas where lower population densities result in increased per-customer costs. Further, due to high costs in rural areas, limited population size, and increasing competition (which targets lower-cost service areas), regulators cannot expect local subscribers of rural carriers to bear the costs of regulatory arbitrage."[24]

As the RD correctly found, "[a]dopting AT&T's proposal of symmetrical rates and rate structures will help to avoid problems associated with various arbitrage schemes in which carriers attempt to disguise the intrastate nature of the traffic to avoid higher rates."[25]

4. Access Reform Is In The Best Interest Of Consumers And Will Not Harm Universal Service.

The record in this case proved that access reform will not harm consumers, but will instead benefit them greatly. Indeed, Pennsylvania consumers are harmed *as a result of high cross-subsidies*. As the RD held, "consumers are harmed when their choice is distorted by artificial differences in price driven by high access costs."[26] When RLECs are being subsidized,

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[23] *In the Matter of Petition for Waiver of Embarq Local Operating Companies of Sections 61.3 and 61.44-61.48 of the Commission's Rules, and any Associated Rules Necessary to Permit it to Unify Switched Access Charges Between Interstate and Intrastate Jurisdictions*, WC Docket No. 08-160, Petition for Waiver of Embarq, p. iv, August 1, 2008, p. 28.

[24] *Id.*

[25] RD Finding of Fact #36.

[26] RD Finding of Fact #16.

they have reduced incentives to become more efficient, to innovate, or to reduce prices. Likewise, when IXCs are forced to pay subsidies, long distance prices are higher than they otherwise would be, and consumers who want to use wireline long distance instead are artificially driven to alternatives. That fact is not in dispute. AT&T presented uncontroverted evidence that its wireline traffic is significantly eroding,[27] and much of this is attributable to the fact that IXCs face artificially higher costs than their competitors. Put simply, so long as the Commission allows high access rates to remain in place, it is handicapping the market in favor of competitors not saddled with the access subsidy burden, and against AT&T and other wireline IXCs. The Commission's role, however, must be to promote widespread competition across the full range of technologies, not to decide marketplace winners and losers. Make competition fair and let consumers decide which carriers best meet their needs.

The RD found that access reform is in the best interests of Pennsylvania consumers.[28] The overwhelming weight of evidence shows that reduced access rates result in lower long-distance prices for consumers, and the ALJ properly found that "[r]eductions in access costs will lead to lower long-distance rates."[29] Reducing access rates will also place competitors on a more level playing field and stop handicapping one type of competitor – particularly the wireline interexchange carriers – relative to others. As the RD held, "[i]t is inequitable to impose a disproportionate subsidy burden on one industry segment."[30] Access reform reduces the implicit subsidies that hamstring a competitive market. Increasing the level and fairness of competition in Pennsylvania will ensure that all companies have even stronger incentives to innovate, improve their efficiency, and give consumers the services they demand at prices they are willing to pay.

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27 *Id.* at p. 31.
28 RD Finding of Facts #10, 16, 20, 36.
29 RD Finding of Fact #21.
30 RD Finding of Fact #15.

Equally important, rate rebalancing aligns rates closer to costs, thereby providing the proper economic pricing signals to the market. Consumers and competition both lose when allegedly "competitive" retail markets are in fact afflicted by artificial wholesale pricing signals that are distorted by regulation. On the other hand, customers win when competition is allowed to thrive without regulatory handicaps and distortions.

Finally, the evidence in this case proved that competition – not high cross-subsidies – is the best way to ensure universal service is maintained.[31] While decades ago, universal service was achieved by a monopoly franchise system and implicit subsidies, today, universal service is achieved primarily through a highly competitive market that drives rates to affordable levels that customers have shown again and again they are willing and able to spend. Universal service is also aided by the federal universal service system (and a properly structured state USF can also assist in ensuring universal service for all customers in Pennsylvania). Since implicit subsidies are no longer needed to maintain universal service, and since there are many harms from perpetuating such subsidies and many benefits from removing them, the sensible policy is to reduce the implicit subsidies, and bring intrastate rates to parity with interstate rates immediately.

B. While The ALJ Properly Recognized That Subsidies Cannot Exist In A Competitive Environment, And Therefore The RLECs Should Recover Access Reductions From Their Own Customers, This Finding Should Not Lead To Delayed Access Reform.

The second primary issue in this case is how any access reductions should be recovered given the legal requirement that access reductions must be revenue neutral.[32] The ALJ properly recognized that it is critical for the historical manner of subsidization to be eliminated. A system

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[31] No party was able to provide any evidence that access reform at the federal level, or at any of the over two dozen states that have implemented access reform, has resulted in any adverse effect on universal service. Certainly, given the decades of industry experience, if there were any harm, they would have most certainly provided it in this case.

[32] 66 Pa. C.S.A. §3017(a).

where carriers (and their customers) are paying to subsidize other carriers is simply no longer viable given the vast changes to the market in the past two decades. However, the RD erred in failing to adopt the most straightforward and reasonable mechanism for implementing that finding – specifically, AT&T's modified proposal for access reform.

1. The Growth Of Competition In Pennsylvania Makes High Access Rates Unsustainable.

Since the RLECs' access rates were last addressed by the Commission in 2003, market conditions have changed dramatically. All of the evidence regarding the changes to the market and the explosion of competitive alternatives (discussed below) supports the RD's conclusion that subsidies are incompatible with a competitive market, and that RLECs must therefore shift their historical manner of cost recovery. With competition now widespread in all segments of the communications marketplace, the ALJ properly recognized that providers should be recovering the costs of their retail services from their own retail customers, rather than relying on hidden subsidy payments from other carriers and their customers.

Pennsylvania consumers can now use e-mail, social networking, as well as free computer-to-computer services such as Skype, or a computer to PSTN service like Vonage, to make voice calls and avoid traditional subsidy-laden long distance access charges. As but one example, at the end of 1st Quarter 2009, Skype reported over 443 million users worldwide; adding 37.9 million new users in the 1st Quarter 2009 alone.[33] From December 2003 through December 2007, wireless penetration rates in Pennsylvania jumped by nearly 60%.[34] There are now substantially more wireless phones than wireline phones in Pennsylvania.

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33 *Id.* at p. 28.

34 AT&T Statement 1.0 at p. 26.

The PTA companies have acknowledged that competition in their territories has greatly intensified. CenturyLink described its territory as hyper-competitive.[35] The Frontier Communications Corporation ("Frontier") June 30, 2008 10-Q quarterly report stated:

> Competition in the telecommunications industry is intense and increasing. We experience competition from many telecommunications service providers, including cable operators, wireless carriers, voice over internet protocol (VOIP) providers, long distance providers, competitive local exchange carriers, internet providers and other wireline carriers. We believe that as of June 30, 2008, approximately 58% of the households in our territories are able to be served VOIP service by cable operators.[36]

Frontier predicted that competition "will continue to intensify" throughout 2008 and in 2009. Frontier acknowledged that "[t]he communications industry is undergoing significant changes. The market is extremely competitive, resulting in lower prices."

North Pittsburgh Systems, Inc. ("North Pitt"), in its third quarter 2007 10-Q quarterly report, also recognized the intense competition that exists throughout its territory:

> The national wireless companies have built robust networks that cover the majority of our LEC territory. In addition, the two cable companies that overlay the majority of our territory each launched, in 2006, aggressive triple play packages of voice, video and broadband service. In general, these cable companies have very modernized networks, a high percentage of homes passed and a high penetration rate for their video services.[37]

The ALJ acknowledged the substantial weight of this evidence, and its importance to this proceeding. The RD found that "consumers today have a broad range of options for their in-state long distance communications, including wireless carriers, e-mail, social networking websites

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35 CenturyLink Statement 3.0 at p. 8.

36 AT&T Statement 1.0 at p. 29.

37 *Id.*

and VoIP providers."[38] The RD also found that the "telecommunications marketplace is 'hyper-competitive.'"[39]

Of critical importance here, none of the growing competitive alternatives are saddled with access charges in the same way as traditional wireline long distance, placing a disproportionate –and patently unfair – subsidy burden on the IXCs.[40] For example, wireless carriers generally only pay the very low reciprocal compensation rates, which are often as low as seven one-hundredths of a cent ($0.0007) per minute.[41] In contrast, the intrastate access charges that IXCs must pay in Pennsylvania range anywhere from 1 cent to 11 cents per minute, and thus are in some cases over 14,000% more than the rates wireless carriers must pay for originating or terminating a long distance call.[42] This is in spite of the undisputed fact that there is no material difference in the cost of terminating a wireless and a wireline call.

Charging some types of service providers over 14,000% more than their competitors can hardly be considered reasonable or non-discriminatory. AT&T and other IXCs cannot reasonably be expected to compete against e-mail, social networking websites, wireless carriers and VoIP providers when IXCs must pay subsidy-laden switched access charges, and its competitors do not, at least not in the same way as IXCs. Access costs are not costs that the IXCs can avoid, no matter how efficient the IXCs may be compared to their competitors.

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38 RD Finding of Fact #13.

39 RD Finding of Fact #14.

40 RD Finding of Fact #13.

41 AT&T Statement 1.0 at p. 40. Wireless carriers terminate traffic within the very large Metropolitan Trading Areas at either reciprocal compensation or local termination rates, including for traffic that would be subject to access rates for wireline carriers. AT&T is not complaining about these wireless termination rates in this case – AT&T's concern is not that the rate charged to the wireless carriers is too low, but that the rate charged to wireline IXCs is too high. However, since the FCC regulates wireless rates, the available remedy for this Commission is to reduce the differential by lowering the intrastate access rate.

42 *Id.* at p. 48. In addition, there are instances where an RLEC's intrastate rates are anywhere from 17% to 668% higher than the RLEC's corresponding interstate rate. RD Finding of Fact #18. This huge disparity, especially when there is no logical basis for the distinction in charges, is patently unreasonable.

Ironically, high access charges are actually eroding the very subsidies they are intended to generate, as more and more customers leave traditional wireline long distance for lower priced (and subsidy-free) options. The RLECs themselves concede this fact. As one RLEC told the Commission, "the continued existence of subsidies in access charges renders [the RLEC] susceptible to 'toll bypass'... In this case, [the RLEC] would lose all revenue from access services related to the service provided to those customers."[43] That is bad news for IXCs, bad news for the RLECs who are seeing their access minutes and revenues decline, and, most importantly, bad news for those Pennsylvania consumers who may prefer wireline long distance but are being driven to other alternatives because the Commission has not yet eliminated implicit access subsidies.

Likewise, the RLECs themselves have acknowledged that subsidies cannot be maintained and that rates should be set based on cost, not artificial distortions. Buffalo Valley and Conestoga previously argued that "rate subsidization is not sustainable in a competitive environment."[44] They also stated, in direct contrast to the testimony they filed in this case, that "***implicit subsidies in access charges must be removed*** and access services must be based primarily on the cost to provide the service."[45] CenturyLink filed a petition with the FCC in which CenturyLink acknowledged that "reduced intrastate switched access charges would benefit carriers, and ultimately their end-user customers, by promoting greater competition for intrastate toll calling."[46] These statements simply reinforce the substantial record supporting the RD's conclusion that the RLECs should not continue to be subsidized by other carriers, but should instead look first to their own customers to recover their costs.

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43 *Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing for Year 2003*, Docket No. R-00038351, April 30, 2003 ("*Buffalo Valley* 2003 Filing"), at p. 17.

44 *Buffalo Valley 2003 Filing*, at p. 11.

45 *Id.* (emphasis added).

46 FCC WC Docket No. 08-160, Petition of Waiver of Embarq, at p. 27.

The RLECs are not alone in acknowledging that subsidies cannot continue in a competitive environment. The OSBA has previously recognized that subsidization must be eliminated when it testified in the USF/rate cap case that competition cannot thrive while subsidizing some competitors. Specifically, the OSBA testified that it is basic economic theory that "[s]ubsidizing the marginal costs of some players in a market will eventually drive out the non-subsidized carriers. In a competitive market, price equals marginal costs. Ultimately, if the government chooses to subsidize one competitor's marginal cost over another...only the subsidized competitors will survive in the long run."[47] OSBA further testified that "Generalized support programs in today's competitive market should end. You can't have competition and at the same time provide general subsidies. That is simply a tax on one group of consumers to support another group of consumers without giving the first group any voice in how or why it is being taxed."[48] OSBA was right.

2. RLECs Should Recover Their Costs Primarily From Their Own Customers.

Permitting (but not requiring) RLECs to increase local rates will promote proper pricing signals in the market, and will thereby create a more conducive environment to the development of competition. It will require the RLECs to look to their own customers to recover their costs (just as their unsubsidized competitors are required to do), instead of extracting hidden subsidies from consumers across the Commonwealth. In today's highly competitive environment, rates must be allowed to move closer to costs, and AT&T's proposal does just that. Even the RLECs acknowledge that "offering services that are priced without consideration of underlying costs

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[47] OSBA Statement No. 3 (Buckalew Surrebuttal), p. 3 before ALJ Colwell at Docket No. I-00040105.

[48] OSBA Statement No. 2 (Buckalew Rebuttal), p. 14 before ALJ Colwell at Docket No. I-00040105. Although Dr. Buckalew was referring to subsidies in an explicit Universal Service Fund, the same principles would most certainly apply to implicit subsidies found in intrastate access rates.

creates advantages for competitors that are uneconomic in nature. In an equitable competitive marketplace, all carriers must be able to price and compete according to their own efficiencies."[49]

AT&T's proposal is revenue neutral to the RLECs. It provides RLECs with the opportunity to rebalance access revenue reductions through a combination of higher retail rates, as expressly envisioned in 66 Pa.C.S.A. §3017, and transitional USF disbursements. The RLECs will be expected to turn to their own local customers to recover the majority of the revenue reductions, but under AT&T's proposal, any local rate increases are reasonable and affordable. As discussed herein, initially, the rates will increase up to a benchmark of $22/month. To the extent that benchmark rate is not sufficient to recover a given RLEC's access rate reduction, that RLEC will be permitted to recover revenue decreases attributable to the Commission-directed access reduction from the PaUSF.[50] Over time, the RLECs will be expected to recover a greater portion of their revenues from their own subscribers, and a lesser portion from the PaUSF. AT&T's proposal increases the monthly retail rate benchmark by $1/line/month each year over the next four years, and requires corresponding decreases to the state USF each year. Thus, over time, the RLECs must significantly reduce their reliance on cross-subsidization from other carriers.

In short, under AT&T's proposal, over time the RLECs will be expected to rely on their own customers to recover costs, as the subsidies they have been collecting from consumers across the rest of Pennsylvania are reduced. That is fundamentally fair by any measure, and is consistent with the RD's conclusion that subsidies must come to an end in today's competitive market. AT&T's proposal should be adopted by the Commission as the basis for implementing the reforms that the RD found were required.

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[49] *Buffalo Valley 2003 Filing* at pp. 15, 16.

[50] There are 14 RLECs that will not even need to reach the $22 benchmark in order to achieve rate rebalancing. *See* Attachment 5 to AT&T Statement 1.2, attached hereto as Appendix A.

C. The RD Improperly Delays Critical Intrastate Access Rate Reductions For Up To Four Years.

Although properly concluding that the RLECs' current intrastate access rates are unjust and unreasonable, and that just and reasonable rates are those that are at parity with interstate rates, the RD nevertheless proposes a convoluted and attenuated process for achieving parity that actually undercuts the reforms its seeks to implement. In fact, the RD permits the RLECs' current rates to remain in effect for anywhere from six months to a full year before being reduced at all, and then envisions a process that effectively delays full reductions for up to at least four years. This is contrary to the evidence and should be rejected in favor of the proposal put forward by AT&T in this proceeding.

As an initial matter, the delayed reductions proposed by the RD are at odds with governing law. The Pennsylvania Code states that utilities are only permitted to charge just and reasonable rates,[51] and requires the Commission to establish just and reasonable rates if it finds that current rates are unjust and unreasonable.[52] These laws exist for obvious reasons. It is the Commission's duty and responsibility to ensure that utilities only charge rates that are in compliance with the law. The Legislature does not allow the Commission to knowingly permit carriers to charge unjust and unreasonable rates for a prolonged "transition" period.

Assuming *arguendo* that the proposal is not unlawful on its face, inordinate delay nevertheless is unreasonable, unnecessary, harmful to consumers and not supported by the evidence of record. The first step in the process proposed in the RD – that is, for initial reductions to occur for carriers anywhere from six months to a full year – is too little too late. Putting aside the facially confusing and inequitable differentiation among carriers with similarly

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51 66 Pa.C.S.A. §1301.

52 66 Pa.C.S.A. §1309(a).

bloated access rates – there is no valid basis in the record for starting reductions for some carriers in six months, but delaying reductions for other carriers for a full year – the fact is that even a six month delay is too long. All carriers should be required to implement initial access reductions on the same timetable, and immediately. In New Jersey, where the Board recently ordered intrastate access reductions, all affected carriers (including CenturyLink) were required to file tariffs implementing the first phase of access reductions within twenty days of the Board's Order.[53] The same time period should be required here.

Immediate implementation of access reductions will not give rise to customer rate shock. As the evidence showed, and as discussed herein, AT&T's proposal implements local service increases gradually over time, and in a manner that generally tracks with inflation, such that, in real terms, consumers will not be paying substantially more for local telephone service than when the $18 cap was implemented in 2003.[54] Moreover, the fact that some carriers have been able to maintain artificially low local rates as a result of subsidies is not a reason to continue perpetuating those subsidized rates. The PTA and CenturyLink readily concede that their existing, subsidized local rates have no rational basis in cost, and are the random products of a series of residual pricing and policy decisions that have required other Pennsylvania consumers to subsidize RLEC subscribers. Some Pennsylvania RLECs, for example, have materially higher loop costs, yet thanks to the hidden access subsidies, have been able to maintain inordinately low local rates—plainly a random outcome that was based on outdated policies from a monopoly era. In practical effect, consumers in Philadelphia and Pittsburgh (and in the rest of Pennsylvania not

53 The New Jersey Board's Order was attached as Attachment 2 to AT&T Statement 1.2.

54 AT&T Statement 1.0 (Nurse/Oyefusi Direct) at p. 8.

served by the RLECs) have been paying too much for long distance service so that some RLEC customers could pay too little for their local service.[55]

Moving local rates closer to cost – an expected occurrence in any well-functioning market – will promote full and robust competition, as RLECs will have increased incentives to innovate, to become more efficient, and to improve customer care. They must compete based on their own efficiencies rather than by using artificial regulatory advantages. Rate rebalancing will also ensure that the RLECs are recovering their costs from their own customers, not through hidden, implicit and unfair subsidies extracted from other companies' customers. Indeed, the RLECs themselves have recognized that moving prices to cost actually benefits customers, even if that means increased rates:

> When alternative technologies are forced to compete with subsidized prices – as they are currently – technologies that have genuine efficiency advantages are kept out of the market. ***If prices move closer toward actually reflecting costs, all customers will be better served because firms will be able to compete for their business with prices that reflect legitimate differences in costs, not simply differences in cross-subsidization.*** It is true that many residential consumers currently enjoy paying below-cost rates for their telecom services. Most consumers would enjoy paying below-cost based rates for *any* good or service. But ***these artificially low prices are unsustainable in the face of competition, and they come at a cost: fewer options among services, less innovation, and...no competitive choices.***[56]
>
> ***By allowing local rates to approach costs for more and more customers, a true win-win situation is created in the competitive market.*** A larger number of basic local service customers become attractive to competitors (which means more customers will be offered choices). And competitive entry will occur when it is efficient and sustainable, not when it is inefficient.[57]

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[55] Verizon is subsidizing the rural ILECs' retail rates despite the fact that Verizon has more rural customers than all ILECs combined. See RD Finding of Fact #36.

[56] Exhibit CTL Panel 8 to CenturyLink Statement 1.2; Direct Testimony of Dr. Brian K. Staihr, August 27, 2003, pp. 15-16 (emphasis added).

[57] *Id.* at p. 8.

> To the extent that access charges (or a portion thereof) serve as an implicit subsidy for loop costs and basic service, it is desirable to reduce them and allow the rates charged for basic service to come closer to covering the costs of basic service. In the process, the rates that IXCs are charged for access to the LECs network come closer to cost, and long-distance charges to end users also come closer to cost. ***The goal, which is both economically efficient and social-welfare-enhancing, is to allow rates for all services to approach costs regardless of the direction the rate must move in order to get there.***[58]
>
> In an equitable competitive marketplace, all carriers must be able to price and compete according to their own efficiencies.[59]

It should be clear that AT&T's proposal for reform simply gives the RLECs the ***opportunity*** to recover their reduced access revenues through increases in local rates. It does ***not*** require them to increase local rates. The key here is to ensure that the retail rates that result from access reform remain at affordable levels, and by adopting AT&T's proposal, they most certainly do. The Commission thus should reverse the RD's proposal to delay implementing access reform for up to four years, and should instead adopt AT&T's proposal to immediately reduce all RLECs' intrastate access rates to parity with their interstate rates.

Although the ALJ correctly saw the problem (excessive access subsidies) and correctly appreciated the solution (parity), the RD's path for bringing intrastate access rates to parity with interstate rates is far too protracted. The Commission should not delay access reform any further by phasing in access reductions as the RD proposes. The Commission has already been "phasing in" access reductions for over a decade, and the RLECs have reaped huge windfalls from the delay in fulfilling the *Global Order*'s assurance that comprehensive reforms would be completed

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[58] Exhibit CTL Panel-8 to CenturyLink Statement 1.2; Rebuttal Testimony of Dr. Brian K. Staihr in Kansas, July 13, 2001, p. 6.

[59] *Buffalo Valley 2003 Filing*, p. 16; See also *Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing for Year 2002*, Docket No. R-00027256, April 30, 2002; *Conestoga Telephone and Telegraph Company Revenue-Neutral Rate Rebalancing Filing*, Docket No. R-00027260, April 30, 2002.

by the end of 2001. The evidence shows that each month without access reform is costing the IXCs and their customers nearly $6 million/month.[60] That means that by delaying starting any access reform for at least 6 months – and in many cases a full year – as proposed in the RD, IXCs and their customers will be paying as much as $36 million-$68 million in unjust and unreasonable rates.[61] This inequitable cross-subsidization will just be exacerbated by not bringing intrastate rates to parity with interstate rates for as long as four years. Such a result is unlawful, untenable and unnecessary.

D. AT&T's Proposal Provides The Proper Balance For Achieving Access Reform.

Although AT&T originally proposed that all access reductions should be recovered through immediate increases to local rates, AT&T subsequently modified that position to propose that access reductions be recovered through a transition mechanism that (a) increases basic local service rates gradually, first to $22/month (i.e., to a level that updates the existing $18 rate cap for inflation) and then by $1/month each year until the rate reaches $25/month, and (b) that allows RLECs to draw a greater amount from the PaUSF initially, but then reduces each RLEC's PaUSF draw as the RLEC increases its local rates.

AT&T's modified proposal presents a reasonable compromise position that should be adopted – indeed, although not her "preferred approach," the ALJ recommended the adoption of the AT&T proposal as a "more reasonable" alternative to the RD's proposal in the event that the Commission determines that some expansion of the existing USF is necessary to properly implement comprehensive access reform.[62]

Unlike the RD's recommended approach, AT&T's proposal immediately reduces RLEC intrastate access rates to just and reasonable rates – *i.e.,* parity with their interstate rates. This not

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60 Exhibit D to AT&T Statement 1.0.

61 *Id.*

62 RD at p. 136.

only is best for Pennsylvania consumers, but is also required in order to comply with the legal requirement that utilities only charge just and reasonable rates. In addition, AT&T proposes that the phase in of access reform occur on the consumer side – not by allowing the RLECs to maintain access rates at unjust and unreasonable levels for a prolonged period of time.

AT&T's proposal may lead to increased local rates, but the resulting rates will remain well within affordable levels.[63] And even though RLECs will still receive subsidies from other carriers through the PaUSF, those subsidies will be explicit rather than implicit, and will be transitioned to lower levels over four years. In short, AT&T's proposal is a comprehensive, viable and rational ***solution*** to the access reform this Commission has envisioned for more than decade.

AT&T shares the ALJ's (and Verizon's) legitimate concern with expanding the size of the current PaUSF. AT&T agrees that the current PaUSF is in need of reform, and agrees with ALJ Colwell's recommendation that the Commission initiate a rulemaking to create a new PaUSF that is more properly structured towards truly ensuring universal service rather than providing a revenue guarantee to the RLECs. Nevertheless, the evidence in this case shows that a limited, short-term and moderate increase in the current PaUSF is an appropriate mechanism for realizing the important objective in ***this case*** of immediately achieving just and reasonable intrastate access rates. AT&T's proposal provides just such an approach, calling for a moderate initial increase in the PaUSF that will be phased out over the ensuing three years.

Basic economic theory holds that, to the extent that a subsidy is permitted, it should be made explicit. In keeping with that theory, AT&T's proposal immediately reduces the implicit subsidies that currently afflict the market and burden Pennsylvania's consumers. Under AT&T's proposal, the RLECs will have the opportunity to replace the vast majority of the implicit

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63 See Exception #3 herein.

subsidies they currently receive through increased retail rates, thereby recovering the majority of access revenue reductions from their own customers. And the small portion that is recovered through an expanded PaUSF will be recovered on an explicit (rather than implicit) basis and phased out over three years as the local service benchmark increases by $1 each year up to $25/month.[64] This is a rational and administratively efficient process to implement access reform.

The ALJ justifiably was concerned about the impact on Verizon and other net contributors (such as AT&T) to the PaUSF that could result from the large and unconstrained and permanent increase in the size of the PaUSF being proposed by other parties in the proceeding. It therefore was entirely appropriate to reject as untenable the other proposals in this case – such as the OCA proposal to increase the PaUSF to a whopping $96 million. AT&T also agrees that it is not advisable to increase the PaUSF on a permanent basis. The answer, however, is not to water down or delay much needed and long overdue access reform. AT&T's proposal strikes a balanced compromise by allowing implicit subsidies to be immediately removed, and only transferring a small percentage of those subsidies to the PaUSF, and only on a short-term, declining, transitional basis.

In addition, the Commission should recognize that Verizon will benefit greatly from reducing the RLECs' intrastate access rates to parity with interstate rates. Even with the modest increases to the PaUSF proposed by AT&T, Verizon will still be better off under AT&T's proposal. Specifically, as shown in Appendix B hereto, even with the largest increase to the USF in the first year under AT&T's proposal, Verizon and its customers would still receive overall annual savings of over **BEGIN PROPRIETARY END PROPRIETARY**. In the second year of AT&T's proposal, Verizon's annual savings would double to nearly **BEGIN**

64 See Appendix A.

PROPRIETARY **END PROPRIETARY**. In the third year, Verizon's annual savings would climb to nearly **BEGIN PROPRIETARY** **END PROPRIETARY**, and by the fourth year and each year thereafter, Verizon and its customers' annual recurring savings would be nearly **BEGIN PROPRIETARY** **END PROPRIETARY**.[65]

If the Commission nevertheless is concerned that Verizon and other carriers will be harmed by the temporary increase to the PaUSF, the Commission can waive the regulation that prohibits carriers from recovering PaUSF contributions as a line item surcharge.[66] This would allow Verizon and other contributors to recover PaUSF contributions from their own customers in an open and explicit manner until the Commission completes a permanent USF rulemaking. In her Recommended Decision addressing the USF, ALJ Colwell specifically recommended that the Commission permit carriers to recover their USF contributions through a surcharge, in order to "retain the 'transparency' that this Commission values."[67] The Commission could implement that recommendation as part of this case and therefore address any concerns that Verizon and other contributors might be adversely affected by a temporary increase in the PaUSF.[68]

The RD also expressed concern about the possibility that a legal battle may ensue over whether the current USF regulations permit an increase in the PaUSF.[69] That concern is misplaced in the case of AT&T's proposal. The PaUSF's governing regulations clearly identify the purpose of the fund – it was established solely to allow rural telephone companies to reduce access rates on a revenue neutral basis in order to encourage greater competition.[70] A temporary increase to the PaUSF to reduce access rates in a way that encourages competition is consistent

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65 These calculations do not take into account the additional access savings Verizon will also receive from the CLECs reducing their access rates to parity with those of the ILECs.

66 52 Pa.Code §63.170.

67 ALJ Colwell Recommended Decision, Docket No. I-00040105, July 9, 2009, p. 89.

68 The entire record from the proceeding before ALJ Colwell is a part of this case. *See* RD at 10.

69 R.D. at p. 132.

70 52 Pa. Code §63.161.

with the regulatory intent of the PaUSF. Under 52 Pa.Code Section 63.164, the Commission maintains oversight to issue an Order each year "which establishes the size of the Fund, a budget, assessment rate for contributing telecommunications providers, and administrative guidelines for the upcoming calendar year." This Order can therefore determine the size of the fund, which will impact the calculations in Section 63.165.

Verizon cites to 52 Pa. Code §63.165 as a basis for claiming that the regulations must be modified before the PaUSF is expanded.[71] This argument is misguided. A regulation merely outlining a mathematical formula for calculating how each carrier will be individually assessed is not a basis for determining that the PaUSF cannot be expanded on a temporary basis to fund further access reductions that will be in the best interest of competition, customers, and all carriers, including Verizon.

III. EXCEPTION #2 – THE RD's PHASED PROCESS FOR IMPLEMENTING ACCESS REFORM IS FLAWED AND WILL IMPROPERLY DELAY CRITICAL ACCESS REDUCTIONS.

A. The RD's Arbitrary Categorizations Of The RLECs Do Not Focus On Necessary Access Reductions And Therefore Lead To Irrational Results That Are Not Beneficial To Consumers.

This case is about reforming the RLECs' access rates for the benefit of consumers. Therefore, the decision and proposal for access reform should focus on how to promptly eliminate the anti-competitive bloat in those access rates. Although correctly recognizing the need to reduce access rates, the RD's actual proposal for implementing reform failed to focus on the fastest, most straightforward way to promptly bring intrastate access rates to just and reasonable levels. Instead, the RD loses its way, premising how and when particular carriers implement reductions on an entirely arbitrary criterion – specifically, whether a carrier currently has a retail residential basic rate above or below $18/month (a number that itself is irrelevant,

[71] RD at 121-122.

given that the RD also found $23/month to be a proper affordability level and found that rate caps should be eliminated). The RD's implementation proposal thus leads to perverse and bizarre results that are not beneficial to customers or competition, and are not consistent with the fully supported findings in the RD that current intrastate access rates charged by all of the RLECs are unjust and unreasonable.

The RD's proposal for reform separates those carriers with current retail basic local rates less than $18/month and those with greater than $18/month.[72] It then proposes different access reforms for those groups of carriers regardless of their ultimate retail rates and regardless of the amount of access reform each carrier may need to achieve parity with interstate rates. For example, in the RD's proposed Phase I, carriers with basic local rates lower than $18/month are only required to raise their rates to the current benchmark (a benchmark two different ALJs have now found should be eliminated), or $18/month. This leads to irrational results. For example, D&E has a local retail rate of $17.96/month.[73] Because that company's retail local rate is below $18/month, D&E's access rate decrease in the RD's recommended first phase is a mere 4 cents – and this reduction would not even take place until a year after the Commission's Order. Because the second access decrease that would result from the RD's proposal would not occur for another full year after that, D&E's current intrastate access rates, which have already been found to be unjust and unreasonable, would essentially be undisturbed for nearly two years after the Commission's Order, solely because of the coincidence that its current retail rates fall just below the arbitrary $18 line set in the RD. In another example, the RD's implementation proposal calls for one RLEC to make annual filings to increase its retail rates by only *four cents* a year (an

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72 RD at 138-140.

73 See AT&T Rebuttal Attachment 5, attached hereto as Appendix A, for details about RLECs' current local rates.

amount likely exceeded by the administrative filing expense), rather than simply make a one time increase of sixteen cents.[74]

As is evident from Appendix A, there are many similar examples. For example, Consolidated Communications, which has the dubious distinction of having one of the widest disparities between intrastate and interstate access rates among the RLECs, would be able to maintain its exorbitant intrastate rates for another year simply because its current retail local rate is $16.91/month. Thus, as its current local rates are below the $18 threshold proposed in the RD, Consolidated would have to reduce access rates in Phase 1 by just over a dollar, rather than by the full $3.50/month that the RD requires of carriers with retail rates greater than $18/month. This is true even though increasing Consolidated's retail local rate by $3.50/month would keep Consolidated's rates well below the RD's own $23/month affordability rate. This result is illogical and inequitable, and does not properly bring intrastate access rates to just and reasonable levels.

Even among those carriers who find themselves with local rates at or above $18, the RD imposes another, equally problematic distinction. That is, in cases in which the necessary reform would result in more than $3.50/month each year in reductions and rebalancing, the RD would have the carrier divide the reductions in half. This means that where a carrier may have $3.49/month in reform, that full amount of reform will be realized in the first step. However, if a carrier needs $3.51/month in reform, that carrier will only reduce rates by $1.76/month ($3.51/2) initially. Yet again, this arbitrary distinction has nothing to do with focusing on reducing the actual access rates that have been found to be unjust and unreasonable, and promptly bringing them to just and reasonable rates (interstate parity).

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[74] See Appendix D, which is AT&T's demonstration of the RD's implementation schedule. The company at issue is Venus Tel. Corporation.

As is evident from this discussion, the RD's implementation plan does not lead to consistency among the carriers and does not focus on bringing about necessary access reductions in a timely manner. It should be rejected in favor of AT&T's proposal.

B. If The Commission Is Inclined To Phase In Intrastate Access Reductions, Rather Than Reduce Them To Interstate Rates Immediately, It Should Do So In A Manner That Achieves Just And Reasonable Access Rates As Soon As Possible.

The record plainly shows that access reductions need not be phased in as proposed in the RD, and certainly should not be delayed for the extended period that would result under the RD. Nevertheless, if the Commission determines to phase in access reductions and retail rate rebalancing in order to avoid increasing the PaUSF (even on a temporary basis as proposed by AT&T), it should be done in a more rational way than recommended in the RD.

First and foremost, the first set of reductions should occur immediately – there is absolutely no reason to wait anywhere from six to twelve months after a final Commission Order, as the RD contemplates. The Commission should set a clear, calendar date-certain deadline for the first set of access reductions, and it should be within a short time period after a final Commission Order is entered (such as twenty days, just as was required in New Jersey).

Second, the focus should be on reducing the access rates and ensuring that resulting retail rates remain affordable. The companies should not have different implementation plans or schedules depending on the coincidence of their current local rates – all companies should have the same implementation start date and progress rate in their schedules until full rebalancing is achieved.

The RD used the amount of $3.50/month increase on retail rates as a "breaking point" for retail rate increases for each phase.[75] Thus, if the Commission is inclined to adopt a phased-in

[75] RD at 135.

approach to access reductions (which it should not for the reasons stated herein), the Commission could simply require carriers to increase retail rates up to $3.50/month/year and reduce their intrastate access rates accordingly.[76] Such a schedule does not require workshops to implement and is not difficult to calculate. In fact, using record evidence, AT&T calculated the manner in which such reductions would be implemented and has attached the results as Appendix C. By requiring all companies to raise retail rates by up to $3.50/year and reduce access rates by this same amount, it leads to much more rational phased-in access reform which is clear and simple.[77] In fact, the first reductions of $3.50/line/month would lead to 8 companies being fully rebalanced within the first twenty days after a Commission Order. On the first year anniversary of the Commission's Order, the second set of reductions in the amount of $3.50/line/month could occur and that would lead to an additional 8 companies being fully rebalanced, such that 16 of the RLECs would be fully rebalanced one year after a decision in this case. On the second anniversary of the Commission's Order, another $3.50/line/month decrease would occur, which would lead to all but 5 companies being fully rebalanced.

To be clear, AT&T is not advocating this phase-in approach – rather, AT&T's proposal to immediately reduce intrastate access rates to parity is far superior. However, AT&T merely suggests this phase-in approach if the Commission decides not to temporarily expand the PaUSF to fund access reductions, but as an alternative to the RD's arbitrary and problematic plan, which

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[76] Although the RD called for local increases in excess of $3.50, simply spacing them six months apart, if the Commission is inclined to adopt a phased-in approach to access reductions, then AT&T takes a more moderate approach and would limit local benchmark increases to a single annual increase of up to $3.50.

[77] This proposal capped retail rate increases at $25.50/month. This keeps all rates well within the affordability range, and leads to only four carriers (with less than 12,000 lines combined) not being fully rebalanced. For those four carriers, the Commission could evaluate them during the PaUSF rulemaking, as suggested by the RD.

improperly delays access reductions and is not the best way to achieve access reform in Pennsylvania.

IV. EXCEPTION #3 – THE RD IMPROPERLY RULED THAT THE HIGHEST AFFORDABILITY RATE IS $23 PER MONTH.

The RD recommended "that the Commission use the OCA affordability rate of $23.00 (net of taxes and other fees) and $32.00 on a total bill basis for analyzing the affordability of local service rates that are rebalanced as a result of this *Investigation.*[78] This rate would increase if the Pennsylvania median rural household income increases over time."[79] The first problem with this conclusion is that the actual minimum affordability rate is $23.43/month (exclusive of fees and surcharges). The OCA affordability analysis concluded that the total bill affordability rate is $32/month. The PTA testified that its fees and surcharges add up to $8.57/month, not $9 as used by the RD.[80] Thus, the minimum affordability rate (using 2008 data) is $23.43.[81]

The second problem with the RD's conclusion on affordability is that $23.43 is only a *minimum* of a range of rates for affordability,[82] and the RD missed the mark in refusing to recognize that the *maximum* affordability rate (using 2008 data) should actually be $34.34/month (exclusive of fees and surcharges).[83]

AT&T, Verizon and the OCA presented the only evidence in this proceeding regarding affordability. Specifically, the OCA presented evidence in the rate cap case before ALJ Colwell

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78 RD at p. 116.

79 *Id.*

80 AT&T Main Brief at 50.

81 The affordability information should be precise, not minimized by rounding exercises.

82 $23.43/month was based on 2008 household income data. If this data is updated for 2010 data, as it should be, the minimum affordability rate actually increases to $25.24, using publicly available 2010 income data and the calculation used by OCA. In determining a final affordability rate, the Commission should update the calculation described in OCA witness Colton's testimony by using 2010 income data. This is a critical issue because the affordability rate rises to a level such that virtually all retail rates resulting from rebalancing fall even below the *minimum* affordability standard.

83 Again, these rates actually increase when using 2010 household income data.

that the affordable bill for customers is between $23.43 and $34.34/month, exclusive of fees and surcharges.[84] The OCA's testimony argued that affordability should be based on a customer's percentage of total income that is spent on telecommunications. Although the OCA testified that this could be anywhere from 0.75% of income to 1% of income, the OCA ultimately recommended that affordability be based on 0.75%, which is how the $23.43/month rate was derived. The RD improperly proposes that the 1% figure should be ignored and that only the .75% number should be used because, according to her, "I have been cited to no analysis of record to support the 1% level or any level other than 0.75%."[85] This is factually wrong – there was ample evidence both in the case before ALJ Colwell and in this case that 1% is a reasonable and acceptable number to determine an affordability rate, and in fact may even be too low.

OCA witness Colton himself testified that "a Pennsylvania household would spend ***between*** 0.75% and 1.0% of the county's self sufficiency budget for basic local telephone service."[86] Although Mr. Colton ultimately decided to advocate the lower end of that range in his calculations (which is understandable given his client), even his testimony showed that affordability ranged to as much as 1% of income.

And other evidence shows that even that 1% figure is conservative. For example, Verizon witness Price testified in the case before ALJ Colwell that affordability can be much higher than even 1%:

> Mr. Colton assumes that customers can "afford" to spend just .75% of a family's income on basic local telephone service, which yields an affordability level of $32 in 2008 under his analysis. (Colton Direct at 27 and Schedule RDC-5). However, this assumption is at odds with the actual facts. According to the FCC Wireline

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84 Transcript from Rate Cap case of Docket No. I-00040105 at pp. 131-132. *See also* Schedule RDC-5 attached to OCA Statement 2.0 (Colton) from Rate Cap case at Docket No. I-00040105.

85 R.D. at p. 116.

86 OCA Statement 2.0 (Colton), Docket No. I-00040105 before ALJ Colwell, December 10, 2008, p. 34 (emphasis added).

> Competition Bureau's 2008 "Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Services," households in the lowest quintile of household income ($20,410) in 2006 spent on average 3.11% of their total household expenditures, or $53 per month, on telephone services, and that the average household expenditure for telephone services for rural households was 2.62% of total household expenditures, or $86.5 per month. This FCC report is attached hereto as Price Rebuttal Exhibit 3. I recognize that some of the expenditures accounted for by the FCC may be for wireless services and long distance or other non-basic services. However, Mr. Colton is looking to what customers can "afford" to spend on telephone service, and the customers make the decision on how to allocate their expenditures among the different services available. If only half of the average rural household expenditure were for basic local service it would still be 1.3% of total expenditures, or $43.25 per month. This data suggests that Mr. Colton's affordability estimate is conservative and too low.[87]

Finally, AT&T presented evidence here and in the case before ALJ Colwell that a large percentage of consumers already spend well in excess of $23.43 per month for telephone service. The industry is moving towards bundles. The RLECs are no different – they are targeting their marketing towards bundles and the number of standalone lines are steadily decreasing.[88] In the rate cap/USF case before ALJ Colwell, CenturyLink's data demonstrated that its customers on average are paying much higher rates than the $18 per month rate cap, which provides powerful evidence as to what customers are freely willing to pay, and can actually afford. Specifically, CenturyLink's customers of "local services only (including features)" pay an average of $30.19 per month.[89] But a majority of its customers pay even more than that. The majority of CenturyLink's customers now are on bundles, spending an average of $57.63 per month as of December 2008.[90]

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87 Verizon Statement 1.1 (Price Rebuttal), January 15, 2009, Docket No. I-00040105 (before ALJ Colwell), pp. 25-26.

88 See Attachment 3 to AT&T Statement 1.2. *See also* AT&T Statement 1.2 at pp. 9-10; footnote 17 with cites to various financial reports from RLECs and articles regarding the industry's move towards bundling.

89 *Id.*

90 RD Finding of Fact #54.

CenturyLink's customers are not alone. End users across the country pay $50.00 or more on bundled packages and other services from newer technologies such as wireless and broadband where prices are free of subsidies.[91] In addition, a recent article in the New York Times reported that, according to US Census data, the average American spent about $64 per month on telephone services, and this number is expected to increase to $83 per month.[92]

All of this demonstrates that the Commission should not find that $23.43/month is a maximum affordability rate, but rather is at the bottom end of a range of rates considered "affordable." The Commission should determine, based on the evidence in this case and in the USF proceeding, that affordability in Pennsylvania (using 2008 data) ranges from $23.43/month-$34.34/month. Any retail rates established within that range as a result of access rebalancing should be deemed affordable by the Commission.[93]

V. EXCEPTION #4 – THE RD ERRED IN ORDERING UNNECESSARY TECHNICAL CONFERENCES AS A PREDICATE TO IMPLEMENTING ACCESS REDUCTIONS.

As a predicate to even the limited Phase I access reductions contemplated in the RD, the ALJ recommended that the Bureau of Fixed Utility Services conduct a series of technical conferences "for all parties," to be completed within 120 days of entry of a final Commission order in this proceeding.[94] The RD does not specify the format or the procedures to be followed in the conferences – only that it will be conducted "for the purpose of discussion and finalization

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91 AT&T Statement 1.2 at p. 10, fn. 19.

92 See AT&T Statement 1.2 at p. 11, citing to: Article, *Dollars Flow Out as Data Flows In* , New York Times, February 8, 2010. http://www.nytimes.com/2010/02/09/technology/09spend.html.

93 To the extent a RLEC can demonstrate that there are customers for whom that rate is actually not affordable, those customers should be addressed in a targeted manner to ensure that they can still afford their local service. However, it is not proper to assume that just because some limited customers may have lower affordability thresholds that a lower affordability rate should be used for all customers.

94 RD at p. 138.

of the procedures for implementation of the access reductions and rate rebalancing . . . ."[95] Assuming that the Commission adopts the straightforward process for reform proposed by AT&T, these technical conferences are plainly unnecessary. In all respects, the conferences are simply an invitation to further delay and confusion, and should be rejected.[96]

Intrastate access rates are tariffed rates. Therefore, whatever reform the Commission orders will involve modifications to the RLECs' intrastate access tariffs. Determining how to implement tariff changes is not a difficult process. This is something the companies are experts at doing, and in fact perform on a regular basis. Reviewing and approving tariffs is also something the Commission staff is adept at doing. Further, if the Commission modifies the RD and adopts a proposal for access reform that is straightforward and clear, such as AT&T's proposal to immediately set intrastate access rates at parity with interstate rates, there is simply no reason to force the parties to engage in more process in order to finally realize access reductions. The tariff changes that AT&T proposes here (and that the RD ultimately recommends) are particularly straightforward.[97] The RLECs would simply charge, for in-state calls, the exact same rates that already appear in their interstate tariffs and that they have been charging on interstate calls for years.[98]

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95 RD at p. 155,

96 Although not necessary, should any workshops be held, they should be after the first access reductions, not a bar or prerequisite to them.

97 To set intrastate rates at interstate parity, each carrier simply sets its CCL charge, or its equivalent, at zero. For traffic-sensitive rates, the intrastate tariff filing can simply cross-reference the interstate tariff, or cut and paste the interstate access tariff and place it into the intrastate one. This most definitely does not require four months to discuss and administer.

98 AT&T has attached as Appendix E for illustrative purposes, a draft of the tariff pages that would be required for CenturyLink and Frontier – as can be seen, it involves one line item rate change, along with adding a paragraph and deleting current intrastate access rates.

The parties in this case proved capable of producing calculations and data on current access rates and volumes in response to discovery within a short period of time.[99] The RD does not adequately explain why an additional four month period devoted to additional workshops, beyond the over twelve months since this case was initiated (and several months for a final PUC decision), are necessary to implement access reform. In New Jersey, the carriers (including CenturyLink) were ordered to make compliance tariff filings within ***twenty days*** of the Order, and they all did so without complication or difficulty.

Moreover, as the ALJ recognized, the vast majority of the access reductions that will result from this proceeding involve reductions to each RLEC's carrier common line ("CCL") charge.[100] Reducing or eliminating the CCL is an administratively easy process – it simply involves reducing a ***single*** per month per line charge. That process is particularly straightforward if the Commission adopts AT&T's proposal and reduces rates to parity immediately, as all CCLs will simply go to zero. But, even if the Commission adopted the RD's erroneous phased approach to reductions, and thus ordered, for example, CenturyLink to reduce its CCL by a third each year, that process still would be extremely simple. CenturyLink would merely divide its current CCL rate of $7.19 by 3 ($2.40 per year), and file a one-line tariff change reducing the CCL by that amount each year. The first change would reduce the CCL to $4.79 ($7.19-$2.40). The second change would reduce the CCL to $2.39 ($4.79-$2.40). The final year would eliminate the CCL. The RLECs are overcharging IXCs and their customers by nearly $6 million a month – CenturyLink alone by nearly $2 million a month.[101] Certainly it is indefensible to permit the perpetuation of nearly $8 million in unjust, unreasonable, and

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[99] The time period for responding to discovery is usually twenty days, but such time periods were eventually reduced to ten days in this case. Thus, at the maximum, parties were required to provide detailed data regarding their intrastate access rates and minutes with a short turnaround time period.

[100] ALJ R.D. Finding of Fact #55.

[101] See Exhibit D to AT&T Statement 1.0.

therefore unlawful overcharges for one carrier alone, for four months, in order to perform the arithmetic exercise of dividing by three.

There is absolutely no legitimate reason to delay access reductions by four months for a series of technical workshops to implement such a simple tariff change. In fact, it is unclear what the parties would even discuss with respect to a company like CenturyLink for four months given that the administration of the access reductions is so straightforward. Even if the filings for other carriers might be slightly more involved, there is no reason to believe those carriers cannot make the appropriate calculations and file tariff changes within twenty days of a final Commission Order in this case.

AT&T was able to take the RD's recommended proposal and readily calculate the exact reductions that would be required in each step, for each carrier, based on the record evidence in this case. That document is attached to these Exceptions as Appendix D. Although some parties may come up with slightly different calculations and therefore quibble over small dollar amounts, that is not a basis to bar implementing access reductions, and the attachment shows that it should not take up to four months of discussions and ***workshops that will cost customers $24 million*** to figure out how to implement these access reductions.

A clear and concise Commission Order will also obviate the need for any workshops. The Commission can eliminate the possibility of any confusion (not that there should be any) by adopting an Order with specific dates and rates for each carrier. Again, eliminating the CCL, which is frequently the bulk of access reductions, is not a difficult process.[102]

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[102] Interestingly enough, the majority of carriers actually have intrastate traffic sensitive rates that are ***lower*** than their corresponding interstate access rates, and therefore those rates are going to be raised, partially offsetting the CCL rate reduction. The per line per month differential in each carrier's traffic sensitive rates is in the record, so all of the data necessary for this simple arithmetic exercise is readily available. AT&T's Appendix D shows the exact calculations of the differences between interstate and

Requiring four months to complete technical workshops as a predicate to initiating access reductions would only serve to delay critical access reform in Pennsylvania. It also creates an incentive for parties to create further reasons for obfuscation, legal maneuvering and delay. As discussed above, consumers have been waiting long enough for reform. Four months of delay caused by the proposed workshops will cost IXCs and their customers nearly $24 million, and will permit unjust and unreasonable rates to remain in place beyond any reasonable time period.[103]

VI. CONCLUSION

ALJ Melillo correctly determined that the access reform this Commission has promised for more than a decade will serve the best interests of Pennsylvania consumers. As she found, and as the evidence of record developed in this proceeding overwhelmingly proves, the RLECs' current intrastate access rates are unjust and unreasonable, and therefore cannot be maintained. Her determination that those rates must be reduced is fully supported by the record, and thus should be sustained.

At the same time, the RD's proposal for actually implementing reform, however well-intentioned, falls far short of its goals, and in fact would result not only in unnecessary and prolonged delay, but in arbitrary and confusing results for carriers and consumers alike. The Commission thus should reject that proposal, and instead adopt the access reform proposal presented by AT&T. By reducing the RLECs' intrastate access rates to parity with interstate in the manner AT&T describes, the Commission will make Pennsylvania's telecommunications

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intrastate traffic sensitive rates per line per month, and demonstrates where RLECs will be raising traffic sensitive rates rather than reducing them. It also shows the offsetting impact to the CCL rate reduction.

[103] At a minimum, the Commission should establish interim or temporary rates subject to true up so as to remove the incentive and opportunity for RLECs to delay the implementation of access rate reductions.

market more competitive, and give all carriers stronger incentives to become more efficient, to innovate, and to deliver to consumers the services they demand at prices they are willing to pay.

Accordingly, AT&T respectfully requests that the Commission grant its Exceptions, modify the RD accordingly, and adopt AT&T's proposal to finalize access reform for the RLECs by no later than the end of this year, so that Pennsylvania can add its name to the growing list of states implementing intrastate access reform.[104] Pennsylvania consumers have waited long enough for the competitive benefits that reform will deliver. The time to act is now.

Respectfully submitted,

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Date: September 2, 2010

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[104] CLECs must also reduce their respective intrastate access rates to parity with those of the ILEC. 66 Pa.C.S.A. §3017(c). The CLECs should be required to promptly reduce their intrastate access rates. If they do not do so, the Commission should permit carriers to pay to CLECs only the RLEC approved rates until and unless the CLEC can affirmatively demonstrate its costs are higher. AT&T does not agree with the RD that providing notice to the CLECs is a difficult or long process – this should only involve a one page Secretarial Letter informing them that the RLECs' access rates have changed in accordance with the Commission Order, and ordering the CLECs to mirror the RLECs' rates once the RLECs have filed their respective tariffs.

PROPRIETARY APPENDIX A

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APPENDIX E

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SAMPLE TARIFFS

ILLUSTRATING IMPLEMENTATION OF ACCESS REFORM

ACCESS SERVICE
REFERENCE TO OTHER TARIFFS

Whenever reference is made in this tariff to other tariffs of the Telephone Company, the reference is to the tariffs in force as of the effective date of this tariff, and to amendments thereto and successive issues thereof.

The following tariffs are referenced in this tariff and may be obtained from the Federal Communications Commission's commercial contractor:

National Exchange Carrier
Association, Inc.
Wire Center Information
Tariff F.C.C. No. 4
Tariff F.C.C. No. 5 (C)

The conditions, rates, and charges for the provision of Carrier Access are as specified in the FCC No. 5 Tariff, as it now exists, and as it may be revised, added to or supplemented, except for those exceptions as so listed within their respective sections within this tariff. (C)

REFERENCE TO TECHNICAL PUBLICATIONS

The following technical publications are referenced in this tariff and may be obtained from Telcordia Technologies, Inc. (formerly Bell Communications Research, Inc. – Bellcore), Direct Sales, 8 Corporate Place, Piscataway, NJ 08854-4156 (www.telcordia.com).

Technical Reference:

Multiple Exchange Carrier Access Billing (MECAB) Guidelines
Issued: February 1998

Multiple Exchange Carrier Ordering and Design (MECOD) Guidelines
Issued: May 1994

PUB 41004 Data Communications Using Voiceband Private Line Channels
Issued: October 1973

PUB 62310 (MDP-326-726)Digital Data System Channel Interface Specification
Issued: September 1983

PUB 62411 High Capacity Digital Service Channel Interface
Specification
Issued: September 1983, Addendum October 1984

TR-NPL-000258 Compatibility Information for Feature Group D Switched Access Service
Issued: October 1985

COMMONWEALTH TELEPHONE COMPANY

PA P.U.C. Tariff No. 26
Original Page 17-1

ACCESS SERVICE

17. Rates and Charges

This section contains rates for all access services except Special Access and Billing and Collection Services. See Sections 7 and 8 for Special Access and Billing and Collection Services and Rates.

17.1 Common Line Access Service

17.1.1 Carrier Common Line Access Service

Regulations concerning Carrier Common Line Access Service are set forth in Section 3. preceding.

	Rate	Effective Date	
Per access line, per month	~~$7.00~~		
	$3.50	1/1/2011	(D)
	$2.11	1/1/2012	(D)
	$0.00	1/1/2013	(D)

ACCESS SERVICE

17. Rates and Charges (Cont'd)

17.2 Switched Access Service

(Reserved for future exceptions) **(C)**

[***NOTE:*** *For illustration, this page is the model for tariff pages 17-3 – 17.5.* As this Intrastate Access tariff will mirror and cross-reference the carrier's Interstate Access tariff, the contents on the above pages should be deleted and replaced with the statement: "Reserved for future exceptions."]

Telephone - Pa. P.U.C. No. 29
The United Telephone
Company of Pennsylvania

1. Application of Tariff

1.1 This tariff contains regulations, rates and charges applicable to the provision of Carrier Common Line, End User Access, Switched Access and Special Access Services, and other miscellaneous services, here- in after referred to collectively as service(s), provided by The United Telephone Company of Pennsylvania, hereinafter referred to as the Telephone Company to Customer(s).

1.2 The provision of such services by the Telephone Company as set forth in this tariff does not constitute a joint undertaking with the IC for the furnishing of any service.

STATEMENT OF CONCURRENCE **(C)**

1.3 The conditions, rates, and charges for the provision of Carrier Access are as specified in the Embarq Local Operating Companies FCC No. 1 tariff, as it now exists, and as it may be revised, added to or supplemented, except for those exceptions as so listed within their respective sections within this tariff. **(C)**

Telephone - Pa. P.U.C. No. 29

Supplement No. 64
Section 6
First Revised Page 213.2
Cancels Original Page 213.2

The United Telephone
Company of Pennsylvania

ACCESS SERVICE

6. Switched Access Service (Cont'd)

(Reserved for future exceptions) **(C)**

[**NOTE:** For illustration, this page is the model for tariff pages 213.3 -- 214.2, 216, 217, and 222.1. As this Intrastate Access tariff will mirror and cross-reference the carrier's Interstate Access tariff, the contents on the above pages should be deleted and replaced with the statement: "Reserved for future exceptions."]

ACCESS SERVICE

3. Carrier Common Line Access Service (Cont'd)

3.8 Carrier Charge

The Telephone Company will implement access reform, as directed by the Pennsylvania Public Utility Commission (Docket Nos. P-00991648 and P-00991649 entered September 30, 1999) through the introduction of a Carrier Charge.

(A) The Carrier Charge represents a dollar amount per access line/trunk that the Telephone Company will assess to all toll providers. Based on intrastate minutes of use, the Carrier Charge is apportioned among toll provider segments. The Carrier Charge will be multiplied by the current number of access lines/trunks in service each month.

(B) The Switched Access customer's portion of the Carrier Charge is a monthly rate multiplied by access lines/trunks in service. The resulting revenue is then apportioned to each switched access customer who has purchased FGB and FGD. The apportionment is determined monthly by calculating each customer's market share of the total FGB and FGD Local Switching minutes of use.

3.9 Rates and Charges

3.9.1 Carrier Charge

	Rate	Effective Date	
Applicable to IXCs Monthly Rate, Per Line/Trunk*	~~$7.19~~		
	$3.69	**1/1/2011**	**(D)**
	$0.19	**1/1/2012**	**(D)**
	$0.00	**1/1/2013**	**(D)**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Exceptions of AT&T 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 Chicago, Illinois, this 2nd day of September, 2010.

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