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April 9, 2012

Via Hand Delivery

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

In 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 v. Armstrong Telephone Company - Pennsylvania, *et al.*, Docket No. C-2009-2098380, *et al.*

Dear Secretary Chiavetta:

Enclosed for filing is the Joint Statement of Gary Zingaretti and Jeffrey L. Lindsey, responding to the five questions set forth in the Commission's Order entered March 20, 2012. Copies have been served in accordance with the attached Certificate of Service.

The Joint Petition for Reconsideration and Stay of the Pennsylvania Telephone Association and CenturyLink is being filed under separate cover.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By: Norman J. Kennard

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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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 v. Armstrong Telephone Company – Pennsylvania, *et al.*	:	Docket No. C-2009-2098380 *et seq.*

VERIFIED JOINT STATEMENT OF
GARY ZINGARETTI AND JEFFREY LINDSEY
SUBMITTED ON BEHALF OF THE PTA AND CENTURYLINK

The duly updated petitions and the accompanying verified statements should address at a minimum the following relevant issues:

1. Whether the substance and the time frame of the FCC's intercarrier compensation reforms should totally or partially replace the Commission's intrastate carrier access charge reform directives contained in our *July 2011 Order*.

   PTA/CenturyLink Response:

   As set forth in the Joint Petition for Reconsideration and Stay filed by the PTA and CenturyLink contemporaneously with this Statement, the *Rural Access Investigation Order* of July 18, 2011 – with the exception of Commission removal of the previously effective residential and small business rate caps – conflicts with and otherwise frustrates the federal means and goals of the FCC begun in the *Connect America Fund Order* and, therefore, should be stayed permanently and this docket closed.

2. Will there be cross-effects on various regulated telecommunications carriers with intrastate operations in Pennsylvania and their end-user consumers if the Commission proceeds with the implementation of its *July 2011 Order* while the FCC's directives in the *CAF Order* also are coming into effect? The interested Parties should address at a minimum the following relevant areas, with appropriate technical evidentiary quantification to the extent possible:

a. Can or will the implementation of the *July 2011 Order* have cross-effects with the FCC's mechanisms of Eligible Recovery and potentially available federal CAF support and over what time frame?

b. Can or will the implementation of the July 18, 2011 Order in conjunction with the FCC Order directives have potential cross-effects for end-user consumers of intrastate regulated retail telecommunications services and over what time frame?

PTA/CenturyLink Response:

The most obvious cross-effect of implementing the *Rural Access Investigation Order* are reductions in access charges which differ from the FCC's approach; likely higher local service rates; and a loss of Connect America Fund ("CAF") support for Pennsylvania. The FCC and PUC plans for access reform differ quite markedly in their approach to revenue recovery. These differences would impact not only Pennsylvania's local exchange carriers, but also the rural consumers they serve. Federal reform balances the recovery of lost revenues between local rate payers and CAF support.

The changes proposed by the PUC's *Rural Access Investigation Order* do not include universal service support to help offset the reduction in access charges. The end result is that customers of Pennsylvania's rural LECs will pay more toward the recovery of reduced access charges if the PUC's Order were implemented in conjunction with the FCC's Order. The largest monthly rate increase allowed by the *Rural Access Investigation Order* was $3.50 per line. Coupled with a potential $0.50 per line increase for the ARC, residential consumers could see an initial annual increase of $4.00 per line and subsequent annual increases of similar magnitude. It is also likely that the implementation of the *Rural Access Investigation Order* would reduce that revenues provided to the Pennsylvania RLECs through the new CAF mechanism, shifting more of the burden onto local ratepayers when the rates already exceed the minimum benchmark rate[1] to receive federal support. This would simply expand the "net payer" status that the old universal service support system established.

The *Rural Access Investigation Order* would reduce all intrastate switched access rates, not just the terminating access rates. The FCC has already announced its intention to hold another proceeding to address originating access charges. Given the balanced approach to reforming terminating charges recently implemented by the FCC, it is likely that some or all originating access reform would be recoverable through the CAF or a similar mechanism. In addition, while the PUC continues to assign a portion of the local loop to intrastate access service, the *Connect America Fund Order* does not. This allocation, the $2.50 Carrier Charge, would likely be preempted by the *Connect America Fund Order*.

[1] To be eligible to receive high cost support, a LECs 1-R rate plus any state mandated fees must be at least $10.00 per line on July 1, 2012. This figure increases to $14.00 per line on July 1, 2013. *Connect America Fund Order*, ¶¶ 239 and 243.

3. Will the FCC's adoption of a Residential Rate Ceiling for purposes of the federal Eligible Recovery mechanism and associated CAF support distributions have any cross-effects on the Commission's findings regarding the adopted $23 per month benchmark rate in the *July 2011 Order*?

PTA/CenturyLink Response:

While the PUC's $23 "benchmark rate," as a tariff rate benchmark, included only the local service (1-R) component, the FCC "Rate Ceiling," included many additional fees and charges. While not prevalent in Pennsylvania, the FCC would add mandated EAS, a state Subscriber Line Charge ("SLC"), and zone or mileage charges to the 1-R rate. Charges that are or will be included in the $30.00 rate ceiling also include the federal SLC, E911 fees,[2] the Telephone Relay Service ("TRS") fee, and the new ARC.

The FCC's Rate Ceiling is used to determine the point in time when no additional ARC increases are allowed. Based on each LEC's rates, it is possible that some will implement the full $3.00 for (RoR ILECs) and $2.50 (for price-cap ILECs) 1-R ARC while others may not reach that level. If a company's rates were to match the PUC's $23 benchmark rate, the "pre-ARC" rate for evaluation under the FCC's Rate Ceiling would be $30.83[3] per line. This LEC would be ineligible to implement an ARC and, instead, would rely on the CAF support mechanism to recover the remaining displaced intercarrier compensation revenue.

The adoption of the PUC's benchmark rate was based on evidence presented by the Office of Consumer Advocate, and was set to reflect a total bill of $32.00 per month. The OCA then reduced this figure by $8.86 for taxes and fees to arrive at a 1-R rate of $23.14. This rate was rounded down to $23.00 and adopted[4] as a benchmark, but not as a rate cap by this Commission. Had the $3.00 for RoR ILECs and $2.50 for price cap ILECs maximum 1-R ARC charges been known, the OCA's math would result in a benchmark rate of $20.00 for RoR ILECs and $20.50 for price cap ILECs.

The PUC's $23.00 benchmark rate and the FCC's $30.00 Rate Ceiling are designed in different, yet complimentary ways. The PUC's benchmark rate does not prohibit a LEC from increasing rates beyond that level. The FCC's Rate Ceiling incorporates the 1-R rate, but only to determine the appropriate allocation between ARC and CAF in the revenue recovery process.

In summary, the effect of the PA Commission's Order on ARC and CAF is to increase the burden of retail rate recovery on rural Pennsylvanians and reduce the amount of federal CAF that would otherwise be available for recovery of displaced intercarrier compensation revenues.

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[2] 911 Fees vary by county. For pricing purposes the rate is assumed to be $1.25 per line per month.

[3] Rate for comparison to rate ceiling = 1-R ($23.00) + Federal SLC ($6.50) + 911 Fee ($1.25) + TRS ($0.08)

[4] Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Universals Service Fund, Docket No. I-00040105, and AT&T Communications of Pennsylvania, et al., v. Armstrong Telephone Company - Pennsylvania, et al., Opinion and Order at Page 157.

4. How will the Pennsylvania ILECs that have alternative regulation and network modernization plans (NMPs) in place under Chapter 30 of the Public Utility Code, 66 Pa. C.S. §§ 3011 *et seq.*, be affected by the implementation of the FCC's intercarrier compensation reforms? Will they be able to seek intrastate rate relief of any type beyond the levels provided under the FCC's Eligible Recovery mechanism and associated federal CAF support? Interested parties at a minimum should address the following areas:

   a. The continuous applicability of the Commission's directives that the mandated intrastate switched carrier access charge reform and the associated "revenue neutral rate rebalancing called for in this Opinion and Order does not implicate the RLECs' various Chapter 30 exogenous event provisions." *July 2011 Order*, at 141.[5]

   b. The legal and technical interaction between the FCC's intercarrier compensation reforms, the "revenue neutrality" mandated for ILEC intrastate carrier access reforms under Section 3017(a) of Chapter 30, 66 Pa. C.S. § 3017(a), the rural ILEC Chapter 30 NMPs, and Section 3019(h) of Chapter 30, 66 Pa. C.S. § 3019(h).

   c. Whether implementation of the contemplated federal ARC by any Pennsylvania Chapter 30 rural ILEC could lead to the permissible creation of revenues that would become part of the intrastate regulated services revenue pool that is utilized in the ILECs' annual price stability mechanism and price cap formula submissions under Section 3015 of Chapter 30, 66 Pa. C.S. § 3015(a)(1)(iii).

PTA/CenturyLink Response:

As it claimed to be a revenue neutral proposal, the *Rural Access Investigation Order* fit more closely into the rate rebalancing provisions of the Chapter 30 plans. As such, the PUC Order did not invoke the exogenous event provisions included in the Chapter 30 Plans. Moreover, intrastate revenues were at issue, the rate rebalancing provisions further applied.

However, the *Connect America Fund Order* targets "Eligible Recovery" based on a combination of certain revenues from interstate access, intrastate access, reciprocal compensation, and universal service support.[6] As such, this is a "Jurisdictional shift(s) in cost recovery where interstate revenues actually change"[7], a qualifying exogenous event. This triggers the opportunity for Pennsylvania's LECs operating under Chapter 30 plans

[5] The Commission also noted that: "It is the revenue neutral nature of the rate changes contemplated by this decision that set this action apart from other regulatory action that could negatively impact RLEC revenue streams and thereby be subject to an exogenous event claim for recovery." *Rural Access Investigation Order* at 141.

[6] Local Switching Support is moved from Universal Service to the Intercarrier Compensation Reform portion of the FCC's Order. Once moved into this Eligible Recovery category, it is subject to the same 5% per year reduction applied to other ICC categories.

[7] See for example the Amended Final Streamlined Regulation Plan of Citizens Telephone Company of Keeksburg at Page 8.

to seek alternative recovery mechanisms for the Eligible Recovery revenue which is lost each year. The mechanics of the recovery are different depending upon whether the LEC pursuing such recovery is a Chapter 30 Price Cap or Streamlined Rate of Return company.

The technical/administrative component of such a filing should not be burdensome. Data will be collected at the federal level to allow for the proper calculation of Baseline Revenue.[8] Once this data is provided, the revenue lost each year can be calculated for each Pennsylvania LEC. Equally important, the amount of revenue loss due to the FCC mandated reduction is predictable under the formula established by the FCC.

For example, a LEC with $1,000,000 in Baseline Revenue would have an Eligible Revenue amount of $950,000 (95% of the $1,000,000). Based on this, the LEC would have the right, but not the requirement, to increase intrastate rates by $50,000. If the LEC over-recovers its Eligible Revenue target, which would be recaptured in the subsequent FCC filing, so the PUC would not have to address that issue. The predictability of revenue is clear when the analysis is expanded to include multiple years. The following table illustrates the ease in which 10 years of Baseline Revenue, Eligible Revenue, and Exogenous Event Annual Increase can be calculated for RoR carriers.[9]

Year	Baseline Revenue	Eligible %	Eligible Revenue	Annual Increase
1	$1,000,000	95%	$950,000	$50,000
2	$950,000	95%	$902,500	$47,500
3	$902,500	95%	$857,375	$45,125
4	$857,375	95%	$814,506	$42,869
5	$814,506	95%	$773,781	$40,725
6	$773,781	95%	$735,092	$38,689
7	$735,092	95%	$698,337	$36,755
8	$698,337	95%	$663,420	$34,917
9	$663,420	95%	$630,249	$33,171
10	$630,249	95%	$598,737	$31,512

In the event the LEC does not increase rates to recapture these lost revenues, these increases would flow to the Chapter 30 banked revenue increases, subject to expiration as outlined in each LEC's plan.

[8] Responsibility for determining what data is to be collected was delegated to the FCC's Wireline Competition Bureau.

[9] This table below is illustrative for Rate-of-Return (ROR) ILECs only, with an annual reduction factor of 5%. The FCC-mandated annual reduction factor for price cap ILECs, including CenturyLink, is 10%. In addition, the FCC mandated an additional annual reduction of 10% for original participants in the FCC's CALLS order from the 1990's. CenturyLink qualifies as an original recipient and is subject to this additional reduction. To illustrate the impact on price cap CALLS ILECs, the" 95%" factor in the "Eligible" column of the table would be replaced with "81%" and computed accordingly.

The federal ARC is a rate established to help recover interstate and intrastate rate reductions. While it is appropriate to consider all of these revenue streams within the context of an exogenous event filing, inclusion in the price cap mechanism would not provide data upon which accurate conclusions can be drawn. As an example, assume LEC A had $300.00 of Baseline Revenue which it was to recover through the ARC and the federal CAF. If $100.00 of this was intrastate and $200.00 was interstate, the Service Price Index - the measure of LEC A's actual rates - would decline by $100.00. If LEC A were able to recover all of the Eligible Revenue (95% of the Baseline Revenue), and the PUC mandated presenting this revenue in the SPI, this would show a rate increase of $285.00. The SPI would show this company increased revenues by $185.00 when in fact it incurred a $15.00 revenue reduction. Some adjustment to the SPI reporting will likely be required, but simply capturing the ARC will not provide an accurate assessment of a company's actual revenue levels (i.e., the SPI). The PTA and CenturyLink offer to work with the Commission Staff at Docket No. 2012-2291824 to develop a template to accomplish this result.

An additional impact for the Chapter 30 companies is the anticipated reduction in the authorized rate of return set by the FCC. The Chapter 30 companies have already made, and continue to make significant network investments. The interstate portion of these investments have earned a rate of return of 11.25% for more than two decades.[10] In their preliminary analysis, the FCC suggests that authorized interstate rate of return should be no more than 9%.[11] Having invested in a network in accordance with obligations set forth in the Chapter 30 plans, Pennsylvania's RLECs will likely receive a lower return on this investment. This impact on the Chapter 30 companies may also result in exogenous event filings with this Commission.

5. The need, if any, of appropriate recordkeeping requirements for affected carriers in the event that the FCC's *CAF Order* is overturned in whole or in part on appeal, and intrastate intercarrier compensation amounts that have been paid or received in the interim need to be adjusted in accordance with the relevant provisions of the Public Utility Code. *See generally* 66 Pa. C.S. § 1312.

PTA/CenturyLink Response:

This question addresses the potential for recoupment by the telephone company, if the *Connect America Fund Order* is overturned and intrastate access charges are reinstated on a retroactive basis. The likelihood and potential ramifications of this are impossible to predict. In the event of reversal on appeal, the PTA Companies and CenturyLink expect that they would re-rate and re-bill the traffic retroactively.

[10] In 1990 the FCC reduced the authorized rate of return from 12 percent to 11.25 percent. See 5 FCC Rcd at 7532.

[11] *Connect America Fund Order*, ¶ 1057.

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF LUZERNE :

GARY ZINGARETTI, being duly sworn according to law, deposes and says that he is Senior Vice President of ICORE, consultant to the PTA Companies, and that in this capacity he is authorized to and does make this Affidavit and that the facts set forth in the attached statement are true and correct to the best of his knowledge, information and belief.

Gary M Zingaretti
Gary Zingaretti

Sworn to and subscribed before me this 6th day of April, 2012.

Marilyn T Shanahan
Notary Public
(SEAL)

NOTARIAL SEAL
MARILYN T SHANAHAN
Notary Public
WILKES-BARRE CITY, LUZERNE COUNTY
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STATE OF KANSAS :
: ss
COUNTY OF JOHNSON :

JEFFREY L. LINDSEY, being duly sworn according to law, deposes and says that he is , Director of Federal Public Policy for CenturyLink, and that in this capacity he is authorized to and does make this Affidavit and that the facts set forth in the attached statement are true and correct to the best of his knowledge, information and belief.

Jeffrey L. Lindsey

Sworn to and subscribed before me this 4th day of April, 2012.

Kathryn M. Mehrer
Notary Public
(SEAL)

My Commission Expires:

NOTARY PUBLIC STATE OF KANSAS | KATHRYN M. MEHRER My Appt. Exp. 10/23/14

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of April, 2012, I did serve a true and correct copy of the foregoing upon the persons below via first class as follows:

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