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April 21, 2005

By Hand Delivery

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Filing Room – Second Floor
Commonwealth Keystone Building
PO Box 3265
Harrisburg, PA 17105-3265

2005 APR 21 AM 11:33
SECRETARY'S BUREAU

RECEIVED

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

Dear Secretary McNulty:

Enclosed for filing with the Pennsylvania Public Utility Commission are the original and three (3) copies of my Notice of Appearance (limited to the Second Prehearing Conference) on behalf of Verizon Pennsylvania Inc. in connection with the above-captioned matter.

If you have any questions regarding this filing, please contact me.

Very truly yours,

DOCUMENT FOLDER

Thomas J. Sniscak
Counsel for Verizon Pennsylvania Inc.

TJS/das
Enclosures

cc: Per Certificate of Service
Honorable Susan D. Colwell

KJR

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

55

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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SECRETARY'S BUREAU

NOTICE OF APPEARANCE

1. Please enter the appearance (limited to the Second Prehearing Conference) of the attorney listed below as counsel in the above-designated matter on behalf of Verizon Pennsylvania Inc. and Verizon North Inc. ("Verizon").

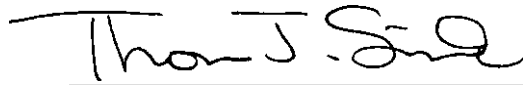
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(717) 236-1300.

2. Service of all documents by Your Honor, the Commission or other parties should continue to be made upon Suzan DeBusk Paiva, Verizon, 1717 Arch Street, 32d Floor, Philadelphia PA 19103, who has and will continue to represent Verizon in this matter.

DOCUMENT
FOLDER

DOCKETED
MAY 10 2005

Respectfully submitted,



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Dated: April 21, 2005

Counsel for Verizon Pennsylvania Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the person and in the manner indicated below.

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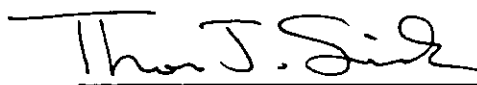
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Thomas J. Sniscak

DATED: April 21, 2005



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office of Administrative Law Judge
P.O. BOX 3265, HARRISBURG, PA 17105-3265
April 26, 2005

IN REPLY PLEASE
REFER TO OUR FILE

In Re: I-00040105

(SEE LETTER OF 2-16-05)

DOCUMENT
FOLDER

**Investigation Regarding Rate Issues related to Disbursements
From Pennsylvania Universal Service Fund.**

Investigation for consideration of whether there should be further intrastate access charge reductions and intraLATA toll rate reductions in the service territories of rural incumbent local exchange carriers and all rate changes that should or would result in the event that disbursements from the Pennsylvania Universal Service Fund are reduced.

Hearing Notice

This is to inform you that a hearing on the above-captioned case will be held as follows:

Type: Evidentiary Hearing

Date: Tuesday, October 18, 2005
Wednesday, October 19, 2005
Thursday, October 20, 2005

Time: 10:00 a. m. each day

Location: Hearing Room 1
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania

DOCKETED
MAY 16 2005

BTI

Presiding: **Administrative Law Judge Susan D. Colwell**
P.O. Box 3265
Harrisburg, PA 17105-3265
Telephone: (717) 783-5452
Fax: (717) 787-0481

Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Colwell
Ona Lester
Beth Plantz
Docket Section
Calendar File

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MAY 16 2005

May 12, 2005

Via E-Mail and First Class Mail

Honorable Susan D. Colwell
Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCKETED
SEP 21 2005

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

Dear Judge Colwell:

This letter is to apprise Your Honor and the parties of the correct names of the T-Mobile entities that have intervened in this proceeding, as follows:

Omnipoint Communications Inc. d/b/a T-Mobile,
Omnipoint Communications Enterprises LLC d/b/a T-Mobile, and
VoiceStream Pittsburgh LP d/b/a T-Mobile

DOCUMENT
FOLDER

Some of the prior documents entered in this proceeding have not referenced the above-state names. We ask that the parties take notice of the above-stated names for the T-Mobile entities with respect to those documents, and to correct if necessary their records going forward for any future filings.

Thank you for your cooperation and attention to this matter.

Very truly yours,



Bradford M. Stern

cc: Service List

RECEIVED
OFFICE OF C.A.L.L.J.
PA PUC
MAY 16 AM 9:57

Service List
PUC Docket No. I-00040105

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CHARLES E. THOMAS
(1913 - 1998)

May 23, 2005

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SECRETARY'S BUREAU

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

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

Dear Secretary McNulty:

Enclosed for filing on behalf of the Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff are an original and three copies of a Motion requesting the Commission to defer the above referenced investigation pending resolution of the FCC Inter-carrier Compensation Proceeding at CC Docket No. 01-92.

A copy of the attached Motion has been served in accordance with the attached Certificate of Service.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By 
Regina L. Matz

Enclosure
cc: Certificate of Service

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SECRETARY'S BUREAU

2005 MAY 23 PM 2:27

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DOCUMENT
FOLDER

**MOTION OF
THE RURAL TELEPHONE COMPANY COALITION,
OFFICE OF CONSUMER ADVOCATE AND OFFICE OF TRIAL STAFF
FOR THE COMMISSION TO DEFER THIS INVESTIGATION
PENDING RESOLUTION OF THE FCC INTERCARRIER
COMPENSATION PROCEEDING AT CC DOCKET NO. 01-92**

Pursuant to 52 Pa. Code § 5.103 and 66 Pa. C.S. §§ 331, 501 and 703, the Rural Telephone Company Coalition¹ ("RTCC") Office of Consumer Advocate ("OCA") and Office of Trial Staff ("OTS") (collectively "Joint Movants") move to defer the above referenced investigation pending resolution of the Federal Communications

RECORDED

MAY 26 2005

¹The RTCC consists of the following rural incumbent local exchange carriers: ALLTEL Pennsylvania, Inc., Armstrong Telephone Company - PA, Armstrong Telephone Company-North, Bentleyville Communications Corporation, d/b/a The Bentleyville Telephone Company, Buffalo Valley Telephone Company, Citizens Telephone Company of Kecksburg, Commonwealth Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company d/b/a D&E Telephone Company, Deposit Telephone Company, Frontier Communications of Breezewood, Inc., Frontier Communications of Canton, Inc., Frontier Communications of Lakewood, Inc., Frontier Communications of Oswayo River, Inc., Frontier Communications of Pennsylvania, Inc., The Hancock Telephone Company, Hickory Telephone Company, Ironton Telephone Company, Lackawaxen Telecommunications Services, Inc., Laurel Highland Telephone Company, Mahanoy & Mahantango Telephone Co., Marianna & Scenery Hill Telephone Company, The North-Eastern Pennsylvania Telephone Company, North Penn Telephone Company, North Pittsburgh Telephone Company, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, Sugar Valley Telephone Company, Venus Telephone Corporation, West Side Telephone Company and Yukon-Waltz Telephone Company.

Commission's ("FCC") intercarrier compensation proceeding at CC Docket No. 01-92.² The Joint Movants herein further respectfully request expedited consideration of this motion in order to avoid all parties expending unnecessary time and expense relating to this investigation. The Joint Movants are also concerned that this Commission should not expend its resources prior to the FCC's resolution of its intercarrier compensation proceeding which will definitely impact the ultimate resolution of this investigation. In support of the motion, the Joint Movants state as follows:

1. This investigation was instituted as a result of the Commission's prior Order entered July 15, 2003, at M-00021596, *In re: Access Charge Investigation per Global Order of September 30, 1999 ("2003 Order")*, at 12 in which it discussed implementing access reform in Pennsylvania in an efficient and productive manner. The 2003 Order also provided that a rulemaking proceeding would be initiated no later than December 31, 2004, to address possible modifications to the Pennsylvania Universal Service Fund ("USF" or "Fund") regulations and the simultaneous institution of a proceeding to address all resulting rate issues should disbursements from the Fund be reduced in the future. Accordingly, the Commission by Order entered December 20, 2004³, instituted the instant investigation stating, as follows:

Therefore, an investigation is hereby instituted to consider whether intrastate access charges and intraLATA toll rates should be further reduced in the rural ILECs' territories, and to consider any and all rate issues and rate changes that should or would result in the event that

²See, In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, FCC 05-33, Further Notice of Proposed Rulemaking (released March 3, 2005) (the "FNPRM").

³Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund, (Order entered December 20, 2004 at 1-00040105).

disbursements from the Fund are reduced or eliminated.³ This investigation will form the basis for any proposed regulatory changes and is an appropriate way to address the intention of our July 2003 Order in light of recent legislative changes. The USF rate issues (access charge rates, toll rates, local service rates) should be addressed in a full, formal investigation before any formal changes to the regulations are proposed and moved through the regulatory process. Consequently, the matter will be assigned to the Office of Administrative Law Judge for appropriate proceedings.

³This investigation shall remain separate from the pending proceeding before Administrative Law Judge Fordham at C-20027195 regarding Verizon PA's and Verizon North's access charge reform.

2. In determining any action this Honorable Commission should take in this proceeding, it is important to review its history on access reform beginning with the reductions to access and intralata toll rates undertaken in early 2000 with the entry of the Global Order⁴ continuing through the second stage of access reform pursuant to the 2003 Order and as a result of the Phase II Access Reform proceeding at Docket No. M-00021596⁵ as recently as December 2004, there has been gradual but significant access reform in Pennsylvania to date. In 2003, virtually all of the RTCC members filed tariffs for intrastate traffic sensitive ("TS") rates which mirrored their interstate TS rates.

3. The current investigation was undertaken to comply with the settlement terms filed at Docket No. M-00021596, which in no manner mandated that any further changes to the Pennsylvania USF, intrastate access or residential local charges must

⁴As provided in the initial USF plan adopted by the Commission in the Global Order, if the Fund is eliminated, all rate changes accomplished in that initial round of reform would be undone. The effect of the Global Order was to reduce access rates and also limit the rate charged to residential customers for local service. Access rate reductions and local service rate support through the Pennsylvania USF plan would revert to where they were prior to the changes made in the Global Order, if the Pennsylvania USF were eliminated.

⁵Access Charge Investigation per Global Order of September 30, 1999 et al., (Order entered July 15, 2003 at M-00021596 et al.).

occur by year end 2006 or any other date. There is no sunset provision in either the regulations establishing the Fund or in the State and Federal law authorizing the Fund. In the prior Pennsylvania USF proceeding before this Commission at Docket No. M-00021596, the parties merely agreed not to challenge the Fund until after December 31, 2006. There was no provision that it would expire on any date.

4. The current Pennsylvania USF is premised on both the State and Federal policy of fostering universal service to assure that ubiquitous and affordable local service remains available to all consumers. As provided in Section 254(b) of the Telecommunications Act of 1996 ("TCA-96"), 47 U.S.C. §254(b):

(b) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

1. QUALITY AND RATES.—Quality services should be available at just, reasonable, and affordable rates.

2. ACCESS TO ADVANCED SERVICES.— Access to advanced telecommunications and information services should be provided in all regions of the Nation.

3. ACCESS IN RURAL AND HIGH COST AREAS.—Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

4. EQUITABLE AND NON-DISCRIMINATORY CONTRIBUTIONS. —All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

5. SPECIFIC AND PREDICTABLE SUPPORT MECHANISM.—There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

47 U.S.C. §254(b) (emphasis added).

5. Following the institution of this Investigation at I-00040105, the FCC on March 3, 2005 entered its Order instituting an intercarrier compensation proceeding at CC Docket No. 01-92, which has been published in the Federal Register. This FCC proceeding might well be regarded as the most significant regulatory proceeding since divestiture. The FCC in this proceeding is examining the intercarrier compensation system including interstate and intrastate access, reciprocal compensation and universal service. In the Notice of Proposed Rulemaking, the FCC states that one of the main reasons reform is needed is because the current intercarrier compensation system is based on jurisdictional and regulatory distinctions that are no longer linked to technological or economic differences (Id at ¶15). The FCC also established several goals for the intercarrier compensation reform process including the preservation of universal service (Id at ¶32), promotion of economic efficiency (Id at ¶31) and maintenance of competitive and technology neutrality (Id at ¶33).⁶

⁶One factor identified by the FCC reform proceeding is the fact that the industry is no longer served solely by wireline local and long distance carriers but is served by ISP, wireless providers and VoIP providers. These nontraditional providers play a role in the future communications market and must be considered in intercarrier compensation reform. However, this Commission does not have full jurisdiction over all of these providers and their services.

6. In its Order entered March 3, 2005, the FCC is seeking comments on seven⁷ comprehensive access reform proposals intended to replace the "outmoded system of intercarrier payments in the telecommunications industry with a uniform regime suited for competitive markets and new technologies."⁸ The Order sets forth May 23, 2005, and June 22, 2005, as the dates for the filing of comments and reply comments.⁹ This FCC proceeding has the potential to directly impact if not render moot, the universal service and access charge issues in this proceeding.

7. The proposals are as follows:

Inter-carrier Compensation Forum (ICF). The group represents a group of nine carriers. The plan would reduce most per-minute termination rates from existing levels to zero over a six-year period for larger LECs but maintain a smaller termination rate for rural LECs. Revenue eliminated would be replaced by a combination of end-user charges and universal service support. Both MCI and AT&T are members of this group.

Expanded Portland Group (EPG). The group is comprised of small and mid-sized rural LECs. Its two-phase plan would eventually convert per-minute intercarrier charges to capacity-based charges. A new Access Restructure Charge would be implemented to make up any revenue shortfalls.

⁷There are seven plans which are officially part of the FNPRM. Other groups subsequently have submitted additional statements of position, two of which include NARUC and CTIA.

⁸(FCC 2/10/05 News Release)

⁹ Many of the parties to this proceeding, as well as the Commission itself, are expected to file comments with the FCC. In fact AT&T and MCI are two of the primary supporters of the ICF Proposal discussed infra which proposal includes reform of intrastate access charges by the FCC, the very same reform being addressed by this proceeding. In fact, the ICF lists as one of its critical objectives "[r]eplacing today's myriad of [sic] different intercarrier compensation rates - - - including interstate access, intrastate access." Ex Parte Brief of ICF in Support of the Intercarrier Compensation and Universal Service Reform Plan (filed October 5, 2004) at page 5.

Alliance for Rational Inter-carrier Compensation (ARIC). ARIC represents small rural providers serving high-cost areas. Its Fair Affordable Comprehensive Telecom Solution (FACTs) plan unifies per-minute rates at a level based on a carrier's embedded costs and provides for local retail rate rebalancing to benchmark levels.

Cost-Based Inter-carrier Compensation Coalition (CBICC). The coalition represents competitive local exchange carriers or CLECs. The plan would create a cost-based termination rate in each geographic area for all types of traffic. The CBICC proposal also covers certain VoIP traffic.

Home Telephone Company and PBT Telecom (Home/PBT). Home and PBT are rural local exchange carriers. The plan would replace the current regimes with connection-based inter-carrier charges. Lost revenues would be recovered from an increase to the SLC and a new bulk billed inter-carrier cost recovery fund.

Western Wireless. Western Wireless is a wireless carrier that receives universal service support in 14 states. Its plan would reduce inter-carrier charges in equal steps over four years to bill-and-keep with a longer transition period for small rural incumbents. All existing USF funds are replaced with a single high cost fund.

NASUCA. NASUCA is the National Association of State Utility Consumer Advocates. NASUCA's plan would reduce certain inter-carrier rate levels over a five-year period.

NARUC favors charges that are competitively and technologically neutral.

CTIA is a wireless association which supports bill and keep, recovery of a large portion of costs from end-users and the creation of a single USF support mechanism.

8. Certain aspects of those plans which have the potential to conflict with the instant proceeding are as follows:

ARIC

- Local rates to be set at a nationwide average RBOC Level without state rate proceedings.
- Existing USF mechanisms retained.
- Unify all inter-carrier rates - interstate, intrastate - reciprocal compensation.

- Existing USF unchanged.
- New State Equalization Fund.
- Existing State USF merged into SEF.

ICF

- FCC to determine intrastate access rates.
- Covered Rural Telephone Companies continue to have transport revenues.
- Recover lost revenue by end-user charges and new federal USF support.
- USF mechanisms offering financial support for CTRCs and non-CTRCs.
- USF funding based on units and a single contribution methodology for collecting funding for both new and existing USF support.
- Reallocation of cost responsibility - CRTC has no obligation beyond the boundaries of its study area.
- New SLC up to \$10/month.

CBICC

- Intrastate access rates go to baseline in each geographic area
- Transition period for intrastate rates and offset by increase in end-user charge and USF.
- Reallocation of cost responsibility - Rural LEC does not bear transport costs beyond service territory.

HOME/PBT

- New USF for any shortfall.
- Reallocation of cost responsibility – interconnection must be on RLEC network.

EPG

- National Benchmark (including SLC) of \$21.00, all permanent rates set at interstate access and a new access restructure charge (ARC) to make up revenue shortfall billed to carrier. Rates also apply to EAS Traffic.

WESTERN WIRELESS

- All USF replaced.

NASUCA

- Allocate network costs to all that use the network.
- Reduce interconnection rate to \$.0095 per minute for rural carriers, but allow states to request additional USF funding where necessary.

NARUC

- Convert all per minute charges to capacity charges.
- Rural Access Charge Transition Fund - ensure revenue neutrality for 3 years.
- Federal USF absorbs state RLEC access reform.
- National Benchmark local rates.

9. Most of the foregoing proposals could have a significant impact on rural access reform. In many of these proposals, the above reforms cover both interstate and intrastate access and affect both interstate and intrastate USF funds. Most of the proposed plans propose that rural carriers should continue to receive funding of their networks to foster universal service and in many cases create supplemental rural universal service funding or access charge replacement funding to compensate rural carriers for additional required access reform. Accordingly, it would be unreasonable, unproductive and inefficient for this Commission to act in advance of the FCC.

10. For example, if the FCC adopts EPG's national benchmark of \$21.00, which includes the federal SLC, and all other revenue shortfalls are recovered from an Access Restructure Charge (ARC) assessed on all carriers across the country, and Pennsylvania acts prematurely by raising local rates above \$14.50 (\$21.00 - \$6.50), Pennsylvanians may essentially forego the opportunity to receive their fair share of the ARC. Likewise, if the Commission were to prematurely require the increase of all local service rates to \$18.00, then Pennsylvania consumers might be unfairly burdened by potential further increases to the federal SLC which might go as high as \$10.00 on top of a rate rebalanced \$18.00 charge. If Pennsylvania access reform totaled \$X million and it was implemented ahead of the FCC, Pennsylvania may lose its ability to benefit from \$X million of Federally collected universal service dollars. If intercarrier compensation goes to a capacity charge, any Pennsylvania changes may be nullified. These are only a few of the many examples of why it would be prudent for this Commission to defer action on this matter for twenty-four months or until the FCC acts on its Intercarrier Compensation proceeding, whichever is earlier. It is clear that the FCC's Order will impact the matters raised in this proceeding.

11. One of the most important issues specifically posed by the FCC is the FCC's authority to preempt the state's regulation of intrastate access and local interconnection and the establishment of alternative cost recovery mechanisms within the intrastate jurisdiction. The FCC specifically requested comments concerning the legal basis for it to exercise jurisdiction over intrastate access mechanisms in order to adopt a uniform intercarrier compensation rate structure that will reduce arbitrage,

promote competition, protect universal service, and reduce regulation.¹⁰ While many may oppose FCC preemption concerning the setting of intrastate access charges, the PUC must seriously consider the potential for its authority in this area to be changed by an FCC decision. In addition, it is quite likely that, even if the FCC does not preempt in this area, it may offer guidelines to the states for access reform and encourage reforms through incentive mechanisms. Potential FCC action in this area should caution against the PUC acting on intrastate access charges before the FCC order is issued.

12. Moreover, virtually every proposal contains some means of providing for universal service support or supplemental support for rural areas. As Mark Wigfield of the FCC's Wireline Competition Bureau stated in recognizing the importance of the rural issue:

Rural carriers get 30% of their revenues from access fees and 30% through the universal service fund. . . .

13. Without question, the FCC's resolution of its intercarrier compensation proceeding will impact Pennsylvania ILECs, intrastate universal service funding and intrastate rates that are paid by Pennsylvania consumers. Under these circumstances, the Joint Movants herein believe that the Commission should maintain the status quo until the FCC addresses the comments and releases an Order at CC Docket No. 01-92 which may well take place before the end of this year. If changes are made at this time relating to intrastate rates and universal service funding, the Pennsylvania ILECs, which have already implemented substantial intrastate access reform, and their consumers, who have already encountered substantial local service increases in order to offset prior intrastate access reductions, may get no credit for such rate reform proposals pending

¹⁰ *FNPRM*, ¶¶ 78-82.

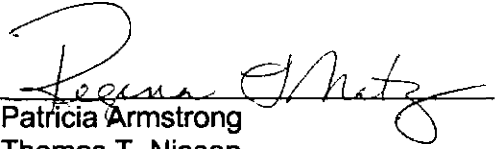
before the FCC and may face additional subscriber line charges or other rate increases independent of whatever action this Honorable Commission has taken. Pennsylvania consumers and carriers could lose the opportunity to benefit fully from increased federal funding simply because they may have moved too quickly in reducing their access rates before new federal mechanisms were put in place. Thus, the Joint Movants herein submit that not only would it be prudent to stay the current proceeding at least for twenty-four months to await the impact and assess the status of the FCC's actions at CC Docket No. 01-92, but in fact to proceed in advance of the FCC would not be sound public policy.

14. Accordingly, the Joint Movants respectfully request that the Commission act expeditiously on this motion and, based on the circumstances existing today, issue an Order deferring this matter pending the outcome of the FCC intercarrier compensation proceeding at Docket No.01-92, but not to exceed a period of twenty-four months or until the FCC acts on its Intercarrier Compensation proceeding, whichever is earlier.


WHEREFORE, for all the foregoing reasons, the Joint Movants respectfully request that:

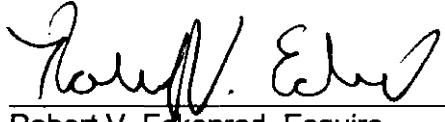
1. The Commission issued an Order staying the proceeding.
2. Grant such further relief consistent with the foregoing that it deems reasonable and just.

Respectfully submitted,


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DATE: May 23, 2005

F:\CLIENTS\Utility\Rural Company Coalition\USF Access III\Documents\050523 Joint Motion to Defer.doc

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of May, 2005, served a true and correct copy of the foregoing Motion for the Commission to defer this investigation pending resolution of the FCC Intercarrier Compensation on behalf of the Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff upon the persons and in the manner listed below:

VIA E-MAIL AND HAND DELIVERY

Honorable Susan D. Colwell
Administrative Law Judge
Pennsylvania Public Utility Commission
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Harrisburg, PA 17105-3265

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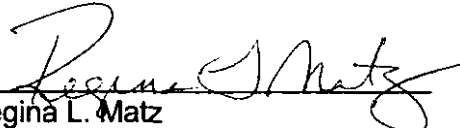
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Regina L. Matz

COMMONWEALTH OF PENNSYLVANIA

DATE: May 26, 2005

SUBJECT: I-00040105

DOCUMENT
FOLDER

TO: Law Bureau

FROM: James J. McNulty *ddt*
Secretary

**Investigation regarding Intrastate Access Charges
and IntraLATA Toll Rates of Rural Carriers, and the
Pennsylvania Universal Service Fund**

Enclosed please find a copy of a Motion filed by the Rural Telephone Company Coalition, Office of Consumer Advocate, and the Office of Trial Staff, to Defer the above-referenced investigation pending the resolution of the FCC Intercarrier Compensation Proceeding at CC Docket Number 01-92.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: Office of Special Assistants
Office of Administrative Law Judge

ddt

DOCKETED
MAY 26 2005

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE
Suite 1102, Commerce Building
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ORIGINAL

William R. Lloyd, Jr.
Small Business Advocate

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May 31, 2005

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James J. McNulty, Secretary
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SECRETARIAT'S BUREAU

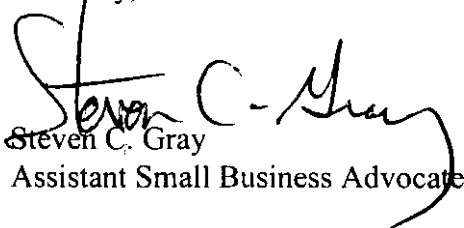
**Re: Investigation Regarding Intrastate Access Charges and
IntraLATA Toll Rates of Rural Carriers, and the
Pennsylvania Universal Service Fund
Docket No. I-00040105**

Dear Secretary McNulty:

I am delivering for filing today the original plus three copies of the Answer on behalf of the Office of Small Business Advocate to the Motion of The Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff in the above captioned matter.

Two copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

Sincerely,


Steven C. Gray
Assistant Small Business Advocate

KJR

Enclosure
cc: Parties of Record

DOCUMENT
FOLDER

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Regarding Intrastate Access :
Charges and IntraATA Toll Rates of Rural :
Carriers, and the Pennsylvania Universal :
Service Fund :

Docket No. I-00040105

SECRETARY'S BUREAU

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**ANSWER OF THE
OFFICE OF SMALL BUSINESS ADVOCATE
TO THE MOTION OF THE
RURAL TELEPHONE COMPANY COALITION,
OFFICE OF CONSUMER ADVOCATE
AND OFFICE OF TRIAL STAFF**

Pursuant to 52 Pa. Code §5.103(c), the Office of Small Business Advocate (“OSBA”) answers the Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff for the Commission to Defer this Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92 (“Motion”) filed with the Pennsylvania Public Utility Commission (“Commission”) on May 23, 2005.

Responses to the Motion’s Numbered Paragraphs

1. Admitted.
2. Admitted in part. By way of further response, what rates would be applicable if the Universal Service Fund was eliminated is a question of law to which no response is required.
3. Admitted.

DOCUMENT
FOLDER

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4. Admitted in part. By way of further response, the Telecommunications Act of 1996 speaks for itself.

5. Admitted in part. By way of further response, the FCC Order at CC Docket No. 01-92 speaks for itself.

6. Admitted.

7. Admitted in part. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92 speak for themselves.

8. Admitted in part. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92 speak for themselves.

9. Admitted in part. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92 speak for themselves.

10. Admitted in part. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92 speak for themselves. Furthermore, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

11. Admitted in part. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92, as well as the FCC Order at that docket, speak for themselves. Furthermore, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

12. The averments of Paragraph 12 are neither admitted nor denied. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92 speak for themselves.

13. Admitted in part, except for the averments of Paragraph 13 which are requests for relief and conclusions of law to which no response is required. By way of further response, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

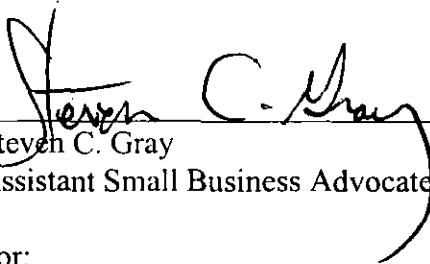
14. The averments of Paragraph 14 are requests for relief to which no response is required.

Conclusion

THEREFORE, the Office of Small Business Advocate requests that the
Commission:

Grant the Motion in its entirety.

Respectfully submitted,


Steven C. Gray
Assistant Small Business Advocate

For:
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Small Business Advocate

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Dated: May 31, 2005

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the Answer on behalf of the Office of Small Business Advocate by e-mail and first class mail upon the persons addressed below:

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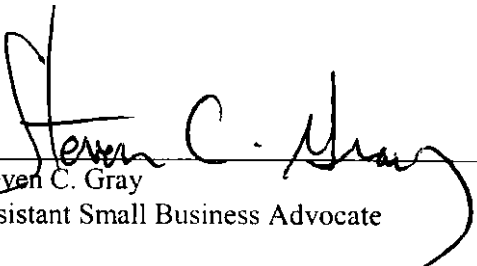
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Steven C. Gray
Assistant Small Business Advocate

Date: May 31, 2005

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Docket
FOR
REVIEW

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June 2, 2005

Via Federal Express – Overnight Delivery

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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JUN 02 2005

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

Dear Secretary McNulty:

Please accept this letter as the joint response of Cellco Partnership d/b/a Verizon Wireless, Nextel Communications Inc., Omnipoint Communications Inc. d/b/a T-Mobile, Omnipoint Communications Enterprises LLC d/b/a T-Mobile, and Voicestream Pittsburgh LP d/b/a T-Mobile (collectively, the "Wireless Carriers") to the *Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff for the Commission to Defer this Investigation Pending Resolution of the FCC Inter-carrier Compensation Proceeding at CC Docket No. 01-92*, which was filed on or about May 23, 2005 in the above-referenced proceeding (the *Deferral Motion*).

With one important qualification, the Wireless Carriers concur that deferral of this investigation pending resolution of the FCC's *Inter-Carrier Compensation Proceeding* would be appropriate for the reasons stated in the *Deferral Motion*. In particular, the outcome of the FCC proceeding will almost certainly dictate some of the rights and responsibilities of carriers and state commissions with respect to most of the issues that are the subject of this investigation. A deferral as sought in the *Deferral Motion* will ensure that the information gathered in this proceeding takes into account such changes in the universal service landscape.

The Wireless Carriers oppose the *Deferral Motion* only to the extent that granting it would postpone decision on the Wireless Carriers' pending *Motion For Determination That The Commission Lacks Jurisdiction To Require CMRS Providers To Contribute To The Funding Of A Pennsylvania Universal Service Fund, And For Bifurcation Or Certification For Immediate Commission Review*, filed March 25, 2005 (the *Wireless Carriers' Motion*). The *Wireless Carriers' Motion* addresses only the question whether

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James J. McNulty, Secretary
June 2, 2005
Page 2

the Commission has the authority, under *state* law, to require the wireless carriers to contribute to a Pennsylvania Universal Service Fund. Since the PUC's powers are strictly a matter of Pennsylvania law, the resolution of matters of federal law in the FCC's *Intercarrier Compensation Proceeding* will not resolve this question.

Since the FCC's decision will not speak to the power of the PUC under Pennsylvania law, no efficiencies would be realized by deferral of the *Wireless Carriers' Motion*. To the contrary, the motion has been fully briefed and argued, and ALJ Colwell has indicated that she expects to render a decision on the *Wireless Carriers' Motion* on or before June 15, 2005; therefore, substantial administrative and party resources have already been invested in its resolution—resources that would be wasted were a decision to be postponed.

Counsel for Nextel Communications Inc., Omnipoint Communications Inc. d/b/a T-Mobile, Omnipoint Communications Enterprises LLC d/b/a T-Mobile, and Voicestream Pittsburgh LP d/b/a T-Mobile has authorized the undersigned to represent that those parties join in this letter response.

Respectfully submitted,



Christopher M. Arfaa
Counsel for Cellco Partnership
d/b/a Verizon Wireless

CMA/ca

cc: Hon. Susan Colwell (via e-mail and Federal Express – Overnight Delivery)
Certificate of Service

RECEIVED

JUN 02 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I, Christopher M. Arfaa, hereby certify that I have this day caused to be served a copy of:
the foregoing document upon the persons listed below by the means indicated in accordance with
the requirements of 52 Pa. Code § 1.54:

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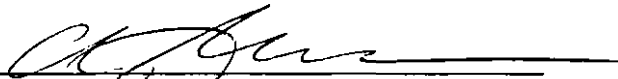
JUN 02 2005

PA PUBLIC UTILITY COMMISSION
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Dated: June 2, 2005



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Counsel for Cellco Partnership d/b/a
Verizon Wireless

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June 3, 2005

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JUN 3 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Via UPS Overnight Delivery
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Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Answer of Qwest Communications Corporation, AT&T Communications of Pennsylvania L.L.C. and MCImetro Access Transmission Services LLC to the Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff for the Commission to Defer This Investigation Pending Resolution of the FCC Inter-carrier Compensation Proceeding at CC Docket No. 01-92, filed in the above-captioned proceeding. Copies have been served in accordance with the attached Certificate of Service.

Very truly yours,

John F. Povilaitis
John F. Povilaitis *JFB*

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The Honorable Susan D. Colwell

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

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

ANSWER OF QWEST COMMUNICATIONS CORPORATION, AT&T COMMUNICATIONS OF PENNSYLVANIA L.L.C AND MCIMETRO ACCESS TRANSMISSION SERVICES LLC TO MOTION OF THE RURAL TELEPHONE COMPANY COALITION, OFFICE OF CONSUMER ADVOCATE AND OFFICE OF TRIAL STAFF FOR THE COMMISSION TO DEFER THIS INVESTIGATION PENDING RESOLUTION OF THE FCC INTERCARRIER COMPENSATION PROCEEDING AT CC DOCKET NO. 01-92

Qwest Communications Corporation, AT&T Communications of Pennsylvania, L.L.C. and MCImetro Access Transmission Services LLC (the "IXCs") answer and oppose the motion of the Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff ("RTCC/OCA/OTS") to stay this proceeding until the conclusion of the FCC intercarrier compensation proceeding at FCC Docket No. 01-92 ("ICC docket") or the passage of two years, whichever is earlier. The issue posed by the motion can be framed as follows:

The federal proceeding on intercarrier compensation is not required to conclude by any specific deadline. Given that the Commission noted the existence of this FCC inquiry in the parallel Verizon access charge case at Docket No. C-20027195 and nevertheless directed that case to proceed before the ALJ, should the Commission adopt an inconsistent stance in this proceeding and overrule the ALJ's April 22, 2005 scheduling order that rejected the RTCC request for a stay based on the pending FCC docket intercarrier compensation rulemaking proceeding at Docket No. 01-92?

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DOCKETED JAN 17 2007

1. The RTCC/OCA/OTS motion to stay strikes at the core of the Pennsylvania Public Utility Commission's ("Commission") intent in this proceeding. The motion seeks to reverse the Commission's clear judgment expressed in the order opening this proceeding that now is an appropriate time to further consider further access charge reform and state universal service fund ("USF") issues:

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.¹

2. This is not the first time the RTCC has proposed delaying this case pending the completion of the ICC proceeding. On April 21, 2005, Administrative Law Judge Susan D. Colwell, the presiding officer in this case, heard argument from the RTCC and other parties on the issue of whether the ALJ should stay the proceeding based on the existence of the ICC docket. The ALJ's Scheduling Order dated April 22, 2005 evidences the fact that the RTCC request to delay the proceeding due to the pending ICC rulemaking proceeding was fully considered and rejected by ALJ Colwell:

RTCC recommends maintaining the status quo in Pennsylvania until the FCC finishes its own Intercarrier Compensation proceeding at CC Docket No. 01-92, which has been published and has a schedule in place. RTCC points out that the FCC proceeding has the potential to preempt whatever occurs as a result of the Commission proceeding. In addition, RTCC expresses its concern that if changes are made before the FCC order is entered, Pennsylvania consumers would get no credit for the substantial

¹ *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund*; Docket No. I-00040105, Order entered December 20, 2004.

intrastate access reform which has already occurred and may face additional subscriber line charges or other rate increases independent of whatever action Pennsylvania has taken. RTCC warns that Pennsylvania consumers would be at risk and may be unable to draw their share from any new federal fund. It recommends staying the proceeding until later in the year in order to better assess the status and potential impact of the federal proceeding. It recommends a schedule based on the issuance of a final PUC order on the Motion of the Wireless Carriers.²

After consideration of all parties' positions, the ALJ denied the RTCC request for a stay of proceedings and set a procedural schedule that calls for initial testimony filed by August 1, 2005 with briefing completed by November 22, 2005, thus permitting completion of a Recommended Decision by ALJ Colwell by the end of 2005.

3. This is also not the first time the rural ILECs have attempted to delay intercarrier compensation reform pending the FCC's proceeding. In the case dealing with a possible modification of CLEC local calling areas, the Pennsylvania Telephone Association ("PTA") urged the Commission not to act until the FCC completed its proceeding on intercarrier compensation.³ As far back as April 2004, the ILECs argued that FCC action was imminent,⁴ which of course has not been the case. Although the ILECs opposed intercarrier compensation reform through a modification of CLEC local calling areas, the ILECs claimed that they were in favor of further access reform. Specifically, in its Main Brief, the PTA stated that "the Commission should continue its reform of access charges, while monitoring the pending *FCC Compensation NPRM*. The PTA, further, continues to support responsible access reform."⁵ The rural ILECs in this case, which are all

² Scheduling Order of April 22, 2005 at 2 (attached).

³ *Generic Investigation in re: Impact on Local Carrier Compensation if a Competitive Local Exchange Carrier Defines Local Calling Areas Differently than the Incumbent Local Exchange Carrier's Local Calling Areas but Consistent with Established Commission Precedent*, Docket No. I-00030096 (hereinafter "Local Calling Areas Case").

⁴ Direct Testimony of Gary Zingaretti, PTA Statement 1.0 filed April 14, 2004; See also PTA Main Brief filed August 30, 2004.

⁵ PTA Main Brief at p. 3.

virtually the same as the PTA companies in the CLEC Local Calling Areas Case, appear now to have reversed course and advocate that the Commission delay any further access reform for what will likely be another several years.

4. The RTCC/OCA/OTS motion reviews the multiple proposals noticed by the FCC for comment and extracts elements of the proposals that purportedly could have significant impact on rural access reform.⁶ Rather than make a case for delay of this proceeding, this review of the ICC plans, and permutations of those plans that are possible outcomes of the FCC notice of rulemaking proceeding, demonstrates that this FCC docket could take a variety of directions, will take a very long time to complete and will no doubt be punctuated by appeals that will delay finalization of the issues for years. In fact, as recently as yesterday, the FCC extended the reply comment period in this matter by thirty days, demonstrating that it intends to proceed with its docket in an unhurried fashion.

5. In fact, the RTCC/OCA/OTS motion invites the Commission to reverse direction and adopt a wait-and-see position at precisely the time Pennsylvania should have its own house in order on issues of access charges and the state USF. Rather than lock-in current access rates and maintain the status quo on the state USF for the extended period requested by RTCC/OCA/OTS, the Commission should move swiftly to take the next step on access charge reform and the appropriate direction of the state USF. Delaying

⁶ Motion, pp. 6-12. Even more proposals than those inventoried by RTCC/OCA/OTS could be considered by the FCC ICC docket because the FCC has indicated its willingness to consider alternative proposals that combine elements of different plans. *In the matter of Developing a Unified Intercarrier Compensation Regime Further Notice of Proposed Rulemaking*, CC Docket No. 01-92, ¶62 (“If we were to adopt one proposal or combine different components of the plans we seek comment on implementation and transition issues for such an approach.”).

access charge reform in Pennsylvania increases the potential for customer rate shock when that reform actually arrives.

6. In an order entered January 18, 2005 in the parallel Verizon access charge proceeding, the Commission noted the existence of the Intercarrier Compensation Forum and its proposal (the ICF Plan) pending before the FCC, but it nevertheless prudently directed the ALJ to issue a Recommended Decision as expeditiously as possible.⁷ The Commission did not ignore the FCC proceedings in its order at the Verizon PA/Verizon North access docket, but directed the ALJ and parties to address the impact that any FCC determination may have on state issues if such a determination occurs prior to the conclusion of the proceeding.⁸ Rather than place the Verizon proceeding on hold, the Commission directed the ALJ to proceed with a Recommended Decision.

7. In summary, the Commission knew about the existence of the FCC intercarrier compensation rulemaking case when it opened this proceeding and appropriately initiated a review into further access reform and the future of universal service funding. The Commission has continued to move forward in the parallel Verizon access proceeding, fully recognizing that the FCC was also pursuing intercarrier compensation issues. ALJ Colwell has considered the arguments by RTCC for delay of this case and found them unpersuasive. The RTCC/OCA/OTS motion itself makes it clear that the FCC's ICC proceeding is complex and will take considerable time to resolve. The motion's projection of a two year stay to learn the outcome of the ICC notice of rulemaking docket can easily prove inadequate, once appeals of the regulatory process are considered.

⁷ *AT&T Communication of Pennsylvania, LLC v. Verizon North Inc. and Verizon Pennsylvania Inc.*, Docket No. C-20027195, Order entered January 18, 2005. The review of the ICF Plan has evolved into the FCC intercarrier compensation docket at Docket No. 01-92.

⁸ *Supra* at 14.

CONCLUSION

The RTCC/OCA/OTS motion should be denied so that the important issues set for investigation in this proceeding can be resolved.

The IXCs respond to the specific allegations of the RTCC/OCA/OTS motion as follows:

1. ADMITTED that this proceeding was instituted by Commission order entered December 20, 2004. Any other allegations therein are DENIED as the Commission's order speaks for itself.
2. ADMITTED that the Commission has been pursuing access reform through several dockets. Characterization of access reform as gradual and significant, and any other statements regarding the manner in which access reform should be evaluated, are DENIED.
3. It is DENIED that the current investigation was undertaken solely to comply with the settlement at Docket No. M-00021596. The remainder of this paragraph are legal statements to which no response is required.
4. This paragraph generally contains legal conclusions to which no response is required.
5. This paragraph generally contains legal conclusions to which no response is required. Additionally, the FCC's Notice of Proposed Rulemaking speaks for itself.
6. The FCC's Order speaks for itself. However, it is DENIED that the FCC's proceeding renders moot the universal service and access charge issues in this proceeding. The precise impact of the FCC proceeding is speculative at this time.

7. DENIED. The FCC's Notice of Proposed Rulemaking describing the access reform proposals pending before it speaks for itself.
8. DENIED. Certain characteristics of the inventoried proposals could require changes in intrastate access charges or local telephone rates. However, nothing in the FCC's order or the proposals it describes suggests that states should stay their own consideration of these issues or defer access charge reform until the FCC concludes its docket.
9. It is ADMITTED that some proposals in the ICC proceeding address intrastate access and intrastate USF funds. It is DENIED that it is unreasonable, unproductive or inefficient for the Commission to delay the start of its investigation of these issues until the FCC has acted.
10. It is DENIED that the examples in this paragraph demonstrate the prudence of the Commission deferring action on this docket for two years or until the FCC concludes the ICC proceeding, whichever is earlier. The impact of the FCC's future order on intrastate access charges and the state USF is unknown at this time.
11. DENIED. The FCC's Notice of Proposed Rulemaking and comments requested speaks for itself. It is DENIED that the FCC's Notice of Proposed Rulemaking in any way acts as a justification for the Commission to suspend its consideration of access charge/state USF reform. As noted previously, there is no timetable for completion of the FCC's investigation. It is entirely speculative to surmise about any possible legal conclusions the FCC may reach. As even the Movants seem to recognize, it may take years for the FCC to finalize its actions. There is no reason for this Commission to delay taking action in Pennsylvania on these critical issues at this time.

12. DENIED. The proposals speak for themselves.
13. DENIED. The FCC's potential action should act as a spur to the Commission to make further progress on state access reform. The scenarios under which Pennsylvania carriers and consumers will be penalized by the FCC for reducing access charges "too quickly" are speculative and implausible given that lower state access charges are consistent with current FCC policy.
14. This paragraph contains a request for relief which requires no response.

Respectfully submitted,



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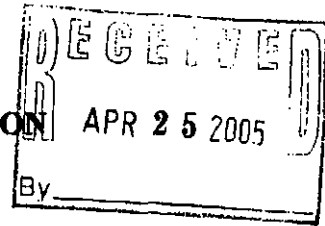
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JUN 3 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ATTACHMENT

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**



Investigation Regarding Intrastate Access :
Charges and IntraLATA Toll Rates of Rural :
Carriers, and the Pennsylvania Universal :
Service Fund :

I-00040105

SCHEDULING ORDER

On December 20, 2004, the Commission entered an Order in the above-captioned case instituting an investigation into whether there should be further intrastate access charge reductions and intraLATA toll rate reductions in the service territories of rural incumbent local exchange carriers. In-person prehearing conferences were held on Wednesday, February 16, 2005, and April 21, 2005. The following parties entered appearances and were represented by counsel: Office of Small Business Advocate (OSBA); Office of Consumer Advocate (OCA); Rural Telephone Company Coalition (RTCC); United Telephone Company of Pennsylvania d/b/a/ Sprint; Qwest Communications Corporation (Qwest); Nextel Communications Inc., and Omnipointe Communications Inc. and Voicestream Pittsburgh LP d/b/a T-Mobile; MCImetro Access Transmission Service (MCI); AT&T Communications of Pennsylvania, LLC (AT&T); Cingular Wireless and Verizon Wireless; Verizon Pennsylvania Inc. and Verizon North Inc. (Verizon); and Office of Trial Staff (OTS).

The first part of the second prehearing conference consisted of oral argument regarding the motion of the Wireless Carriers for a determination that the Commission lacks jurisdiction to require CMRS providers to contribute to the funding of a Pennsylvania Universal Service Fund, and for bifurcation or certification for immediate Commission review. An order disposing of the Motion will be issued separately.

The parties expressed various and valid concerns regarding setting a procedural schedule in this case. The Wireless Carriers expressed their concern that there are a number of legal "threshold" issues which would affect the outcome of the case (lack of Commission jurisdiction

over the wireless carriers, the Commission's authority to establish and administer a Pennsylvania USF, interpretation of the new Chapter 30), and they set forth a proposal for deciding the legal issues first in a recommended decision, which would be issued by June 30, 2005. The remainder of the issues would be covered in a second recommended decision to be issued by January 28, 2005.

RTCC recommends maintaining the status quo in Pennsylvania until the FCC finishes its own Intercarrier Compensation proceeding at CC Docket No. 01-92, which has been published and has a schedule in place. RTCC points out that the FCC proceeding has the potential to preempt whatever occurs as a result of the Commission proceeding. In addition, RTCC expresses its concern that if changes are made before the FCC order is entered, Pennsylvania consumers would get no credit for the substantial intrastate access reform which has already occurred and may face additional subscriber line charges or other rate increases independent of whatever action Pennsylvania has taken. RTCC warns that Pennsylvania consumers would be at risk and may be unable to draw their share from any new federal fund. It recommends staying the proceeding until later in the year in order to better assess the status and potential impact of the federal proceeding. It recommends a schedule based on the issuance of a final PUC order on the Motion of the Wireless Carriers.

Verizon supports the RTCC approach to setting a schedule.

Sprint does not support any unnecessary delay in the procedural schedule.

AT&T advocates a more timely reform to the present system and does not support delay.

MCI supports a schedule which would result in a final decision in this matter by the end of the calendar year and sees no reason for delay.

OCA submits that any schedule established in this proceeding must consider the status of other proceedings, in particular the Verizon and Verizon North access charge remand, for which a schedule has been set.

OSBA recommends against delay, and OTS expressed no opinion regarding setting the schedule.

After listening to the positions of the parties, a schedule was set which anticipates that my disposition of the Motion of the Wireless Carriers will occur before June 15, 2005. The remainder of the schedule is as follows:

August 1, 2005	Initial testimony of all parties
September 20, 2005	Rebuttal testimony of all parties
October 18, 19 and 10	Evidentiary hearings
November 10, 2005	Main briefs due
November 22, 2005	Reply briefs due

All dates are in-hand, although service may be by electronic mail, hard copy to follow. Discovery rules are to be amended to provide for a 15 day response, 10 days for objections. These are calendar, not business, days.

THEREFORE,

IT IS ORDERED:

1. That the procedural schedule in this case is set as follows:

August 1, 2005	Initial testimony of all parties
September 20, 2005	Rebuttal testimony of all parties
October 18, 19 and 10	Evidentiary hearings
November 10, 2005	Main briefs due
November 22, 2005	Reply briefs due

2. Parties must serve me directly with a copy of any document that filed or submitted in this proceeding. The correct address is: Administrative Law Judge Susan D. Colwell, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265. Overnight mail address: Commonwealth Keystone Building, 400 North Street, Harrisburg PA 17120. Electronic mailing address: scolwell@state.pa.us. If you send me *any* correspondence or document, you must send a copy to all other parties.

3. That in accordance with the authority granted by 52 Pa. Code § 5.321(b), the discovery rules are varied as follows:


a. The parties shall serve responses to discovery requests within fifteen (15) days of receipt. A party who cannot respond within fifteen (15) days shall contact the requesting party prior to the end of the fifteen day response period.

b. Objections to discovery requests shall be served within ten (10) days of receipt.

c. These variances do not affect the ability of the administrative law judge to order sanctions under that applicable sections of the Commission's regulations.

5. Deadlines for service of testimony or discovery responses are in-hand dates. Service by electronic mail must be effected before 5:00 pm on the due date in order to be timely.

Dated: April 22, 2005


Susan D. Colwell
Administrative Law Judge

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUN 3 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document(s) in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

VIA FIRST CLASS AND ELECTRONIC MAIL

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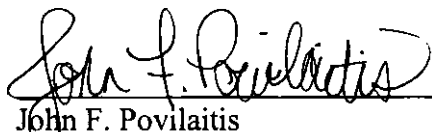
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Date: June 3, 2005



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Counsel for Qwest Communications Corporation

DATE: June 6, 2005

SUBJECT: I-00040105

TO: James J. McNulty
Secretary

FROM: Frank Wilmarth
Deputy Chief Counsel



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REASSIGNMENT MEMO

**Investigation regarding Intrastate Access Charges and IntraLATA Toll Rates
of Rural Carriers, and the Pennsylvania Universal Service Fund**

Inasmuch as this proceeding was referred to OALJ pursuant to Commission Order entered December 20, 2004 at this docket, the instant joint motion for continuance should be reassigned to that Office.

I have attached hereto the original materials you had transmitted along with your May 26, 2005 Assignment Memo.

Attachment

cc: Eric Rohrbaugh, OALJ

Doreen Trout, Secretary's Bureau


SECRETARY'S BUREAU

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COMMONWEALTH OF PENNSYLVANIA

DATE: June 7, 2005
SUBJECT: I-00040105
TO: Office of Administrative Law Judge
FROM:  James J. McNulty, Secretary

DOCUMENT
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Investigation regarding Intrastate Access Charges and
IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania
Universal Service Fund

Per memo dated June 6, 2005, from Frank
Wilmarth, Deputy Chief Counsel, the above
docketed proceeding is being reassigned to your
Office for appropriate action.

jih

pc: Law Bureau
Doreen Trout