

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access :  
 Charges and IntraLATA Toll Rates of Rural :  
 Carriers, and the Pennsylvania Universal : I-00040105  
 Service Fund :

**DOCUMENT  
FOLDER**

**SCHEDULING ORDER**

**DOCKETED**

JUN 13 2005

**RJP**

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](mailto: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:

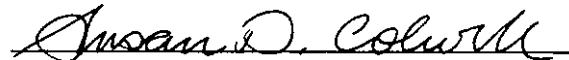
a. The parties shall serve responses to discovery requests within fifteen (15) days of receipt. A party who cannot respond within fifteen (15) days shall contact the requesting party prior to the end of the fifteen day response period.

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