BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

PANEL DIRECT TESTIMONY OF

E. Christopher Nurse and

Dr. Ola A. Oyefusi

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

On Behalf of

AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC
TCG PITTSBURGH, INC., AND TCG NEW JERSEY, INC.

AT&T Statement 1.0

PUBLIC VERSION

July 2, 2009

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Harrisburg JS

I. INTRODUCTION - WITNESS QUALIFICATIONS AND PURPOSE

Q. DR. OYEFUSI, PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Ola A. Oyefusi, and my business address is 7125 Columbia Gateway Drive, Columbia, Maryland 21046.

Q. DR. OYEFUSI, BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am a Lead Carrier Relations Manager in AT&T's National Access Management Organization. In that capacity, I am responsible for all matters affecting AT&T's costs to interconnect its network with those of all other carriers, regardless of class of service or technology, in twenty-six states.

Q. DR. OYEFUSI, PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I hold a Ph.D. in Economics from George Mason University in Fairfax, Virginia. Additionally, I hold M.A. and B.S. degrees in Economics from Morgan State University in Baltimore, Maryland.

I began my career with AT&T in 1999 and have been responsible for analyzing and managing AT&T's access and local connectivity expenses. Among other duties, I am responsible for reviewing and interpreting access tariffs and managing AT&T's wholesale costs of providing long distance service.

Prior to joining AT&T, from 1991 until 1999, I was employed by the Public Service Commission of the District of Columbia as an economist and Commission advisor. In those capacities, I reviewed and analyzed rate filings submitted by telecommunications and energy companies. I also prepared revenue and cost analyses to support testimony and comments on issues affecting the telecommunications and energy industries. Before that, from 1985 through 1991, I held teaching and research positions at George Mason University's Center for Study of Public Choice and at Morgan State University.

Q. DR. OYEFUSI, PLEASE BRIEFLY SUMMARIZE YOUR RECENT TELECOMMUNICATIONS EXPERIENCE THAT IS PARTICULARLY RELEVANT TO THIS PROCEEDING.

A. I testified before this Commission in a 2003 access reform docket investigating Verizon's intrastate access charges, Docket No. C-20027195, and in a 2004 proceeding examining Verizon's rates for Time and Material service to cover the costs associated with network troubles and repair, Docket No. R-00049812. Most recently, I was a witness in the case involving local rate cap and universal service issues at Docket No. I-00040105. I have testified on AT&T's behalf in Delaware, the District of Columbia, Massachusetts, New Hampshire, New Jersey, and Virginia. A list of the proceedings in which I have been a witness is attached as Exhibit A.

Over the years I have also participated actively in other proceedings to establish rates for unbundled network elements ("UNEs") in New Jersey and Maryland, where I developed presentations on forward-looking economic costs, and I provided economic support in a Universal Service proceeding in Maryland. In addition, I provided technical assistance in the preparation of AT&T's filings with Virginia and New Jersey regulators regarding the high price of switched access services.

While I was at the District of Columbia Public Service Commission, I provided economic advice in a 1997 UNE proceeding involving Verizon DC's predecessor, Bell Atlantic-

Washington, D.C., Inc. I also reviewed and interpreted tariff applications involving revisions of existing services and the introduction of new services submitted by Verizon DC and provided recommendations to the Commissioners. Prior to 1997, I provided written and oral testimony on behalf of the District of Columbia PSC Staff in rate cases involving Potomac Electric Power Company and Verizon DC's earlier predecessor, the Chesapeake and Potomac Telephone Company.

Q. MR. NURSE, PLEASE STATE YOUR FULL NAME, ADDRESS AND CURRENT RESPONSIBILITIES.

A. My name is E. Christopher Nurse, and my business address is 1120 20th Street, N.W., Suite 1000, Washington, D.C., 20036. I am Regional Vice President, Regulatory & External Affairs, for AT&T's Atlantic Region, which extends from Virginia to Maine. Among my other duties, I am responsible for presenting AT&T's perspectives on a broad range of state regulatory and legislative matters, including initiatives to reform inter-carrier compensation, most commonly involving access charges.

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND.

A. I received a B.A. in Economics from the University of Massachusetts at Amherst. In 1996, I received a Masters in Business Administration from Southern New Hampshire University in Manchester, New Hampshire.

Q. WHAT IS YOUR EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY?

A. I have 28 years of experience in the telecommunications industry, including over twelve years with AT&T through its acquisition of Teleport Communications Group, Inc. ("TCG"). Prior to working for TCG, I was a Telecommunications Analyst with the

New Hampshire Public Utilities Commission ("PUC") from 1991 until 1997, entrusted with a broad range of responsibilities. Assigned to the PUC's engineering department, I was the lead analyst or a contributing analyst for nearly all telecommunications matters before the New Hampshire Commission.

Q. HAVE YOU APPEARED AS A WITNESS IN REGULATORY PROCEEDINGS?

A. Yes. I have testified before this Commission a number of times, including in the 1998 Intrastate Access Charge Reform case, Docket No. I-00960066, and in the 1999 *Global* proceeding, Docket Nos. P-00991648 and P-00991649. Additionally I have testified before the state commissions in Connecticut, Delaware, the District of Columbia, Florida, Georgia, Kansas, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Oklahoma, Vermont, Virginia and West Virginia. I have also presented testimony to the Federal Communications Commission. Exhibit B lists the various proceedings in which I have participated.

Q. GENTLEMEN, PLEASE SUMMARIZE YOUR TESTIMONY.

A. Our testimony explains why the Rural Local Exchange Companies' ("RLECs") intrastate access rates are excessive, anticompetitive and harmful to Pennsylvania consumers, and why this Commission, like a growing number of state regulators across the country, should reduce intrastate switched access charges to parity with the RLECs' interstate switched access charges. Although the RLECs' intrastate access rates were permitted to go into effect in July 2003 as part of a settlement, the market has undergone such dramatic changes since then that those rates can no longer be sustained as just and reasonable. The access rates in effect today still reflect monopoly-era thinking, when long distance rates were set far in excess of cost in order to subsidize basic local telephone service. Those days are long gone. Today, Pennsylvania consumers have a broad range of options for their in-state long distance communications, including wireless carriers, e-mail, social networking websites, VoIP providers – none of which pay subsidy-laden intrastate access charges in the same manner as wireline interexchange carriers ("IXCs") like AT&T.

When one segment of the market is singled out and forced to incur subsidy obligations that its competitors do not face, the results are predictable. Pennsylvania consumers are leaving traditional wireline long distance at an accelerating rate, in part because they perceive it to be overpriced relative to other options not saddled with the access subsidy obligations.

It was one thing to impose subsidy obligations on a single segment of the communications industry – IXCs – when consumers had no other choice but to use traditional wireline carriers. However, it is quite another thing today, when IXCs are only one of many communications options available to consumers, to force IXCs to bear subsidy obligations their competitors do not face. Clearly, that needs to change. AT&T is willing to compete for the business of Pennsylvania consumers, but it should not be forced to compete carrying the anvil of access subsidies while its competitors run free. Here in Pennsylvania, the RLEC access rates are so high that, on average, the access charges AT&T must pay the RLECs exceeds AT&T's average long distance rates. This is plainly unsustainable.

As we explain in our Testimony, the first step in eliminating anti-competitive subsidies from the RLECs' intrastate switched access charges is to reduce those rates to parity with the RLECs' interstate switched access charges. Those interstate rates are compensatory, and will continue to provide contribution to the RLECs' joint and common costs. The interstate rates are higher than what the RLECs charge for materially identical local call terminations, regardless of whether the call termination rates were set by the Commission as cost based or whether the RLEC negotiated them. To the best of our knowledge, no Pennsylvania RLEC has ever convinced the FCC that its interstate switched access rates are below cost.

Under Pennsylvania law, reductions to intrastate access rates must be revenue neutral. As we explain herein, that will not be a problem for the RLECs, for the Commission or, most importantly, for consumers. Even if all of the access reductions are offset by increases in basic local exchange rates, the resulting local rates, on average, will be no higher than what consumers would be paying had the Commission permitted the rate cap it established in 2003 to keep pace with inflation. For most residential consumers, we estimate, the increases will on average amount to $5.31per month[1]:

[BEGIN AT&T PROPRIETARY INFORMATION]

[1] This estimate, and the data in the chart that follows, is based on intrastate and interstate access rates as of December 31, 2007. AT&T has asked the RLECs to provide their current access and retail rates through discovery, and AT&T will update the data once it receives the information from the RLECs.

[END AT&T PROPRIETARY INFORMATION]

As we explain, however, just because the RLECs are given permission to raise rates does not necessarily mean they will elect to do so. The RLECs face substantial competition from cable, wireless, VoIP providers and others. Rather than increase prices, the RLECs may choose to further improve their efficiencies or expand the scope of their product offerings to generate new revenues, as all of them are doing with the broadband services they now offer pursuant to Chapter 30. Those decisions, however, will be left to the RLECs, all of whom will need to make the same business assessments and judgment calls as every other service provider not being subsidized by its competitors.

While rate rebalancing could increase some consumer rates above the Commission's existing $18 residential rate cap, the Commission already has ruled the cap can be exceeded in appropriate circumstances – this case most certainly meets that criteria. In any event, the evidence in Docket No. I-00040105 demonstrates that the Pennsylvania market is sufficiently competitive to obviate the need for a rate cap, or, at a minimum, that the cap should increase to the "affordability" level. It is worth noting that had the $18 cap been allowed to increase with inflation since it was established in 2003, as Pennsylvania law now requires, at the end of 2009 when access reductions ordered in this proceeding are implemented, the cap would be $21.97.[2] At that point, any rate below $21.97 is a lower effective rate than this Commission ***already*** deemed just and reasonable in 2003. ***Even if*** a LEC elected to rebalance using only local rates, consumer's rates, on average, would be 50 cents per month less than what consumers paid in 2003, adjusted for inflation.

The RLECs are well positioned to compete in Pennsylvania without being subsidized by their competitors. While the "R" in RLEC stands for "Rural," and while we use that term as a matter of convenience to distinguish these carriers from Verizon,

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[2] Source: Chain type GDPPI published by Bureau of Economic Analysis.

the reality is that for the vast majority of consumers served by RLECs, their carrier is neither small nor rural. Of the approximately 1.1 million access lines served by the RLECs, nearly 1 million are controlled by only three companies, each of which serves more than 300,000 lines in Pennsylvania– Embarq,[3] Frontier, and Windstream/D&E. As we explain below, these are certainly not mom-and-pop telephone companies. Rather, they are large, national, sophisticated Fortune 1000 telecommunications providers that know how to compete. These large companies do not need to be heavily subsidized at all, and certainly not by their competitors.

In short, our Testimony will show that the RLECs' intrastate access rates can no longer be deemed just, reasonable or non-discriminatory. We will show that reducing those rates will benefit consumers in multiple ways by allowing the competitive market to work without artificial regulatory distortions.

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. **Section II** explains why the current switched access charges are no longer just and reasonable given the dramatic changes to the telecommunications industry since the Commission last reviewed the RLECs' intrastate switched access rates in 2003.

Section III explains how excessive switched access rates are creating competitive distortions that harm competition, consumers, and Pennsylvania's economy. In general, we will explain the problems that arise when wireline IXCs are required to pay intrastate access charges their competitors do not pay, and why this practice is so discriminatory.

[3] This testimony refers to "Embarq," but as was widely reported just yesterday, on July 1, 2009, Embarq and Century Telephone closed their merger to form "CenturyLink." References herein to "Embarq" should be read, as appropriate, to be CenturyLink.

Section IV demonstrates that the Commission can readily establish just and reasonable rates by reducing the RLECs' intrastate access rates to match the RLECs' corresponding interstate rates, thereby joining the many other states that have implemented some form of interstate parity. We will show how parity will simplify billing, reduce carrier costs, reduce incentives for arbitrage, and reduce illicit schemes some carriers have devised to take advantage of (or avoid) high intrastate access rates.

Section V explains why consumers and RLECs will not be harmed by reducing the RLECs' intrastate access rates. To the contrary, there are multiple benefits to Pennsylvania consumers, and even the RLECs themselves, from eliminating the disparity between intrastate and interstate access rates.

II. THE RLECS' INTRASTATE SWITCHED ACCESS RATES ARE UNJUST AND UNREASONABLE.

Q. PLEASE PROVIDE AN OVERVIEW OF WHY THE RLECS' INTRASTATE SWITCHED ACCESS RATES CANNOT BE SUSTAINED.

When intrastate access charges were first established in 1984, they were set far in excess of cost to generate a subsidy to help keep local exchange service "affordable." Economists teach that this system sacrificed economic efficiency in pursuit of universal service, and that it could be sustained only as long as traditional wireline long distance calls were consumers' only real option for long distance voice communications. In that closed system, it was mechanically possible to overprice long distance in order to under-price basic local telephone as a way to promote "universal service."

Such subsidies cannot be maintained in today's highly competitive, fragmented, and technologically diverse telecommunications market, simply because it is no longer a "closed" environment. New competitors, most of them substantially less regulated, have deployed new technologies (some not even contemplated in 1984, and some barely in existence in 2003) to give consumers a broad range of options for long distance communications. The type and amount of this competition has increased dramatically since 2003. Consumers, of course, have been reaping the benefits.

Regulation, unfortunately, has not kept pace with advances in technology and competition, and as competition has grown, the high intrastate access rates have become a more unreasonable burden to consumers, to the carriers forced to pay them, and, more generally, to the development of fair and effective competition. As things now stand, intrastate access charges as high as 11 cents per minute, ***for only one end*** of an in-state call are being imposed almost exclusively on long distance interexchange carriers such as

AT&T, while the new entrants against whom they compete for long distance communications – internet service providers, VoIP providers,[4] text messaging providers,[5] e-mail providers,[6] wireless carriers,[7] social networking websites,[8] – are generally able to complete their calls for as little as 7/100ths of a cent per minute ($0.0007), or in the case of e-mail traffic, essentially for free. The difference between access charges and the 7/100ths of a cent wireless call termination rate is ***more than 14,000%*** – no one can seriously defend a regime where one type of carrier is charged so much more than another for the same functionality:

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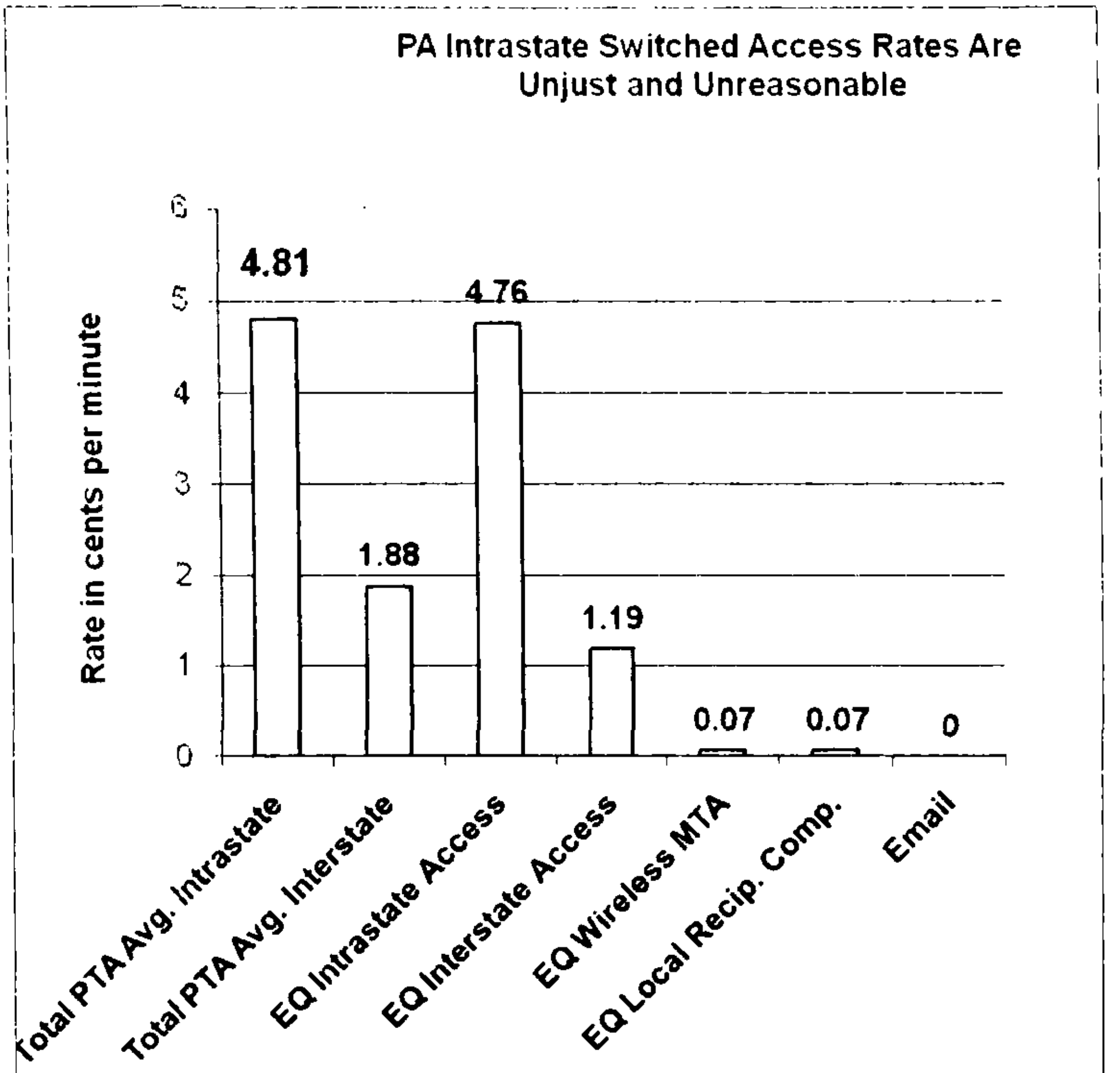
[4] VoIP providers include "interconnected" providers such as cable operators or Vonage, which offer services that largely appear to work like a regular phone. Other providers such as Skype are generally "non-interconnected" and operate computer-to-computer; consumers perceive those calls as "free."

[5] Text messaging providers include wireless providers, and a range of other texting options.

[6] E-mail providers include America On-Line (AOL), and Internet providers, as well as Yahoo, Hot Mail and a large number of other providers.

[7] Wireless carriers include Verizon Wireless, ~~AT&T Mobility~~, Sprint/NexTel, T Mobile, and others.

[8] Social Networking sites include Facebook, Twitter, MySpace, LinkedIn, and others



Source: AT&T Analysis of Interstate Annual Filing and Publicly Available Tariff Rates and Wireless Interconnection Agreements

AT&T wants to compete for Pennsylvania long distance consumers, but when the Commission is arbitrarily conferring a huge and artificial cost advantage on AT&T's competitors – which is exactly what the Commission has done in deferring access reform -- AT&T is being subjected to a huge competitive disadvantage. The Commission's obligation, and its mandate from the Legislature, is to level the playing field, not to bestow competitive favor on one industry segment at the expense of another. Consumers should be permitted to decide the market winners and losers, not regulatory handicapping.

A. HISTORY OF PENNSYLVANIA SWITCHED ACCESS CHARGES

Q. WHAT ARE SWITCHED ACCESS CHARGES?

A. Switched access charges are the fees a LEC assesses upon long distance carriers when the LEC originates or terminates long distance calls made or received by the LEC's local service subscribers. For example, when an Embarq basic local service subscriber in Gettysburg wants to use AT&T's long distance service to call a Frontier basic local service subscriber in Tunkhannock, AT&T must (i) pay Embarq an *originating* switched access charge for the carriage of the call from the subscriber's location to AT&T's network, and (ii) pay Frontier a *terminating* switched access charge for the delivery of the call from AT&T's network to the called party in Tunkhannock. If the same Embarq subscriber in Gettysburg makes an AT&T intrastate long distance wireline call to another Embarq subscriber in Williamsburg, PA, AT&T must pay Embarq *both* originating and terminating intrastate access charges. Similarly, if the Frontier subscriber in Tunkhannock places an AT&T long distance wireline call to another Frontier subscriber in Wilkes-Barre, AT&T must pay Frontier both originating and terminating intrastate access charges.

The RLECs' current intrastate access rates generally range from about 1 cent to as high as 11 cents, ***per end*** of the call, so an RLEC-to-RLEC in-state long-distance call can impose on the IXC access charges of 2 to 22 cents a minute. Because IXCs maintain statewide averaged rates, the access costs often can exceed what the IXC charges its end-user customers.

LECs also assess access charges on interstate (state-to-state) long distance calls. Although the access functionality is materially identical, the RLECs' interstate access charges generally are far lower than their corresponding intrastate rates. For example, when Embarq originates or terminates a Pennsylvania *intrastate* long distance call, it charges the IXC about a nickel a minute per end, but if it originates or terminates an *interstate* call, it charges the IXC only about a penny per minute per end. Commonwealth charges less than 3 cents per minute for interstate access, but nearly 7 cents per minute per end for an intrastate call. Citizens of Kecksburg charges just over 1 cent per minute for interstate access, but nearly 8 cents per minute per end on an intrastate call. The five largest RLECs in Pennsylvania – Embarq, Commonwealth, Windstream, North Pitt and D&E -- all have intrastate access rates approximately 4 cents per minute or more per end, which is three to four times what they charge for the same functionality on an interstate call.[9]

Q. WHEN WERE SWITCHED ACCESS CHARGES CREATED, AND WHY?

Switched access charges were created over two decades ago as a legacy of the cross-subsidy arrangements that existed when (i) the former Bell System held a *de facto* monopoly over interexchange services, (ii) there was no local service competition and (iii) wireline services were the only communications services available. In that environment, it was possible to shift a portion of the costs of local telephone facilities

[9] See the charts attached to this Testimony as Exhibit C.

onto those who made toll calls.[10] Since customers wanting to make toll calls had no other options, in the short-run, they could not avoid or by-pass the subsidies built into long distance rates.

With the breakup of the Bell System in 1984, the subsidy flow was re-cast as switched access charges. Under the industry structure put in place at that time, IXCs carried (interLATA) long distance calls between their long distance switching facilities and paid switched access charges to the LECs to connect the call from the end-user locations to the IXC switches. Access charges were not imposed directly on end user customers. Rather, the LECs imposed access charges on the IXCs, and the IXCs then recovered their cost of switched access in the prices assessed to their end-user long distance customers. Thus, for consumers, the implicit subsidy in access charges was a hidden fee buried in their long distance rates.

That distinction is important. It means that consumers have little or no direct knowledge of how much the LEC serving them is charging IXCs to originate and terminate long distance calls. There is no dispute among the parties that in addition to recovering the incremental cost of switched access, access charges provide a large subsidy to incumbent local carriers. As described by a now-retired Administrative Law Judge, Michael Schnierle, when he presided over an access investigation over eleven years ago:

> Despite the existence of distortions and inefficiencies, this system of cross-subsidies has been justified on policy grounds, principally as a means to serve universal service goals. By providing ILECs with a stream of subsidized revenues from certain customers, the system has allowed regulators to demand below-cost

[10] Other types of cross subsidization were likewise widely recognized, including generally from business services to residential, and from urban service areas to rural service areas.

> rates for other customers, such as basic telephone service for those customers in high-cost areas. For all intents and purposes, the system serves as a hidden tax collected by the telephone companies. Low cost telephone customers are required to pay more than they would have to pay in a competitive market, to allow the telephone companies to charge less to customers whose cost of service would otherwise be higher.[11]

Q. YOU ASSERT THAT ACCESS CHARGES INCLUDE A SUBSIDY TO "HELP" CONSUMERS BY KEEPING LOCAL EXCHANGE PRICES LOW, BUT HAVE THEY ALSO HARMED CONSUMERS?

A. Unquestionably, yes. High access charges mean that consumers are paying more than they should for intrastate long distance. And, it must be emphasized, this affects consumers across Pennsylvania, not just those served by the RLECs. By law, IXCs must maintain statewide averaged long distance rates, so excessive RLEC access charges are driving up the price of a call from Pittsburgh to Philadelphia just as much as a call from Gettysburg to Zion. Equally problematic is that the access subsidy distorts and understates the true cost of wireline local services. Consumers are best served when prices reflect underlying cost.

Q. ARE CONSUMERS AWARE THEY ARE BEING ADVERSELY AFFECTED BY HIGH ACCESS CHARGES?

A. No, and that is a major part of the problem. Consumers have no idea there are, as ALJ Schnierle described them, "hidden taxes" embedded in their long distance rates which subsidize other telephone companies.[12] All they know is that wireline long distance service is more expensive relative to their other alternatives – ones that do not face the access charge burden -- and so, understandably, they tend to curtail their use of wireline long distance in favor of less expensive alternatives. It's a matter of perception. No one

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[11] In Re: Intrastate Access Charge Reform, Docket No. I-00960066, Recommended Decision, June 30, 1998 at p. 6.

[12] Id.

says "Gee, I'm going to use Skype to talk to my son at Penn State this evening so I can avoid long distance charges inflated by the implicit subsidies still embedded in Embarq's access rates." All they know is Skype is "free" and long distance rates are not.

Q. HAVE THE RLECS THEMSELVES ACKNOWLEDGED THAT HIGH ACCESS RATES ARE A PROBLEM?

A. Yes. In 2002, for instance, Buffalo Valley conceded that:

> Charging high access rates in order to subsidize below cost local service rates places Buffalo Valley at a severe disadvantage in the competitive marketplace. [T]he continued existence of access charge rates that are above cost constitute a barrier to effective competition for toll services.[13]

This is intuitive. If stimulation of universal service is achieved by artificially lowering the price of basic local service, then the opposite is also true: adding implicit subsidies to the price of access services suppresses long distance usage or leads to uneconomic bypass of such services, or both. Again, the RLECs previously recognized this reality when they observed that "the continued existence of subsidies in access charges renders [a RLEC] susceptible to a 'toll bypass' by a designated access provider or a facilities-based CLEC."[14] Today, of course, the "bypass" the RLECs were concerned about in 2002 has expanded, exponentially, to include Internet services, wireless carriers, e-mail, social networking websites, VoIP providers, and other technologies that do not incur the same access subsidies still being imposed on IXCs.

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13 Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing for Year 2003, Docket No. R-00038351, April 30, 2003 ("BVT 2003 Filing"), p. i; Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing for Year 2002, Docket No. R-00027256, April 30, 2002 ("BVT 2002 Filing"), p. i; Conestoga Telephone and Telegraph Company Revenue-Neutral Rate Rebalancing Filing, April 30, 2002; Docket No. R-00027260 ("Conestoga 2002 Filing"), pp. ii, 12.

14 *BVT 2003 Filing* at p. 17. *See also BVT 2002 Filing* at p. 19; *Conestoga 2002 Filing* at p. 19.

In a filing with the FCC, Embarq likewise acknowledged the need for intrastate access reform:

> Nearly everyone in the industry agrees that intercarrier compensation and universal service need comprehensive reform. The Commission has long recognized that today's intercarrier compensation rules treat "identical uses of the network differently, even though such disparate treatment usually has no economic or technical basis." That breeds "opportunities for regulatory arbitrage" and distorts "incentives for inefficient investment and deployment."[15]

Q. WHERE ELSE HAVE THE RLECS ACKNOWLEDGED THE NEED TO REDUCE INTRASTATE SWITCHED ACCESS CHARGES?

A. In the *Global Order*,[16] the Commission summarized the RLECs' testimony acknowledging the need for access reform:

> On the interstate side, the FCC has undertaken significant steps to reform access charges.
>
> It is critical, from the perspective of Pennsylvania's rural ILECs, that the Commission mirror these access reforms at the state level. Since there is no functional difference between access provided on an interstate or an intrastate basis, any pricing differential that may exist will give an incentive to IXCs, upon whom ILECs rely to identify the volume of terminating interstate and intrastate traffic, to report lesser usage in the higher cost venue. In sum, '***in order to avoid tariff arbitrage, it is extremely important that intrastate access charges <u>mirror</u> their federal counterpart.***' (citing the rural ILECs' witness Mr. Laffey's testimony; emphasis added).[17]

The RLECs have likewise acknowledged that "rate subsidization is not sustainable in a competitive environment."[18] They have advocated, consistent with AT&T's position in

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[15] In the Matter of Petition for Waiver of Embarq Local Operating Companies of Sections 61.3 and61.44-61.48 of the Commission's Rules, and any Associated Rules Necessary to Permit it to Unify Switched Access Charges Between Interstate and Intrastate Jurisdictions, WC Docket No. 08-160, Petition for Waiver of Embarq, p. 1 (footnotes from original omitted), August 1, 2008.

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

[17] *Global Order* at pp. 51-52.

[18] *BVT 2003 Filing* at p. 11

this case, that "***implicit subsidies in access charges must be removed*** and access services must be based primarily on the cost to provide the service."[19]

Q. WHAT HAS BEEN THE COMMISSION'S APPROACH TO ACCESS CHARGES OVER THE YEARS?

A. The *Global Order* summarized the history of Pennsylvania access charges at pages 14-15:

> [In 1984], the Commission ordered all independent telephone companies in Pennsylvania to "mirror" their interstate access rates for intrastate purposes. Since all independents concurred in BA-PA's interstate access tariff, the PTA filed an access tariff on behalf of its member companies which mirrored BA-PA's rates. As a result, BA-PA and the majority of the independent telephone companies, with the exception of United Telephone Company of Pennsylvania and GTE, had the same switched access charge rates in effect.
>
> Over the course of time, however, the Commission has permitted various changes to the different rate elements either through general rate increases, rate rebalancing/restructuring, STAS (state tax adjustment surcharge) roll-in filings, or Settlement Petitions, so that today access charge rates are not standardized. In some instances, access charges were reduced so as to be closer to actual costs but in others, as a result of residual pricing,[20] they have been increased. In addition, in certain instances, in an effort to constrain the growing subsidy provided by the CCLC, this Commission has permitted changes in the manner in which CCLC rates are billed from a per MOU basis to a per access line per month basis in order to reduce the growth in revenues from the CCLC (*e.g.*, all but 10[21] of the 37 ILECs operating in Pennsylvania currently assess their interLATA CCLC rates on a per access line per month basis although all of the ILECs' intraLATA CCLC rates are still assessed on a per MOU basis). In other instances this Commission has capped the annual CCLC revenues (*e.g.*, Bell Atlantic Pa., Inc. currently has a CCLC revenue cap in which it must reduce CCLC rates whenever its CCLC

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[19] *Id.* (emphasis added). Our proposal herein is less aggressive than the quoted RLECs' position as we only suggest that the RLECs' intrastate rates mirror their interstate counterparts; we do not suggest at this time that their intrastate rates be set at cost.

[20] Residual pricing is a tariff pricing mechanism used by utility regulators in the monopoly environment in which access and toll rates, as well as vertical local services, are priced at rates well above their costs, but at prices that the market will bear, in order to keep basic local exchange telephone service rates affordable (footnote in original text).

[21] These ILECs are Bell Atlantic-Pa., Inc., Buffalo Valley Telephone Company, GTE North, Inc., Hickory Telephone Company, Lackawaxen Telephone Company, Laurel Highland Telephone Company, Marianna & Scenery Hill Telephone Company, Pennsylvania Telephone Company, South Canaan Telephone Company, and The United Telephone Company of Pennsylvania (footnote in original text).

annual revenues exceed $44 million; GTE North, Inc. has a CCLC revenue cap of $11.676 million per year). The reasoning was that it is more appropriate to base a NTS access charge component on a flat monthly rate rather than a per minute of use basis and that since access lines increase at a lower rate than the minutes of use, the subsidization of local service rates from the CCLC will be slowed.

Q. HAS THE PENNSYLVANIA COMMISSION RECOGNIZED THAT HIGH INTRASTATE ACCESS RATES ARE A PROBLEM?

A. Yes. In the *Global Order*, the Commission found "that current ILEC access charges are priced substantially above cost," and recognized that such rates must be reduced in order "to maintain fair toll competition in Pennsylvania."[22] The Commission reduced the access rates of all RLECs in that case, but cautioned the RLECs that the reductions were only a first step towards eliminating the implicit and anti-competitive subsidies that remained embedded in the rates..[23]

As part of the *Global Order*, the Commission noted with approval that ALJ Michael Schnierle's June 30, 1998 Recommended Decision had reached "various conclusions regarding the necessity of access reform in a competitive environment and we incorporate those conclusions in that regard in this Order by reference."[24] The Judge Schnierle findings incorporated into the *Global Order* are entirely consistent with AT&T's Complaint and our testimony:

- "The present system of access charges encourages certain economic behaviors. For example, a rate structure that requires the use of per-minute access charges where flat-rated fees would be more appropriate increases the per-minute rates paid by IXCs and long-distance consumers, thus artificially suppressing demand for long distance service. There is also an effect on competition. For example, ***where rates are significantly above cost, consumers may choose to bypass the ILEC's switched access network, even if the ILEC is the most efficient provider.***

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[22] *Global Order* at p. 18.

[23] *Id.* at p. 26.

[24] *Id.* at p. 2[illegible]

Conversely, where rates are subsidized (as in the case of consumers in high-cost areas), rates will be set too low and an otherwise efficient provider would have no incentive to enter the market. In either case, the total cost of telecommunications services will not be as low as it would otherwise be in a competitive market. Finally, as the Commission recognized in its *US Order of January 28, 1997*, ***access charges must be closer in magnitude to access costs for there to be true competition in the toll market*.**" ALJ Schnierle 1998 RD at p. 5 (emphasis added).

- "Despite the existence of distortions and inefficiencies, this system of cross-subsidies has been justified on policy grounds, principally as a means to serve universal service goals. By providing ILECs with a stream of subsidized revenues from certain customers, the system has allowed regulators to demand below-cost rates for other customers, such as basic telephone service for those customers in high-cost areas. For all intents and purposes, the system serves as a hidden tax collected by the telephone companies. Low cost telephone customers are required to pay more than they would have to pay in a competitive market, to allow the telephone companies to charge less to customers whose cost of service would otherwise be higher." ALJ Schnierle 1998 RD at p. 6.

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

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

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

- "In short, politically unpopular though it may be, ***rate rebalancing is required, along with access charge reductions, if there is to be competition for all***

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

Q. AFTER ISSUING THE *GLOBAL ORDER* HAS THE COMMISSION AGAIN ACKNOWLEDGED THE NEED TO REDUCE ACCESS RATES?

A. Yes, several times. In July 2003, the Commission approved a settlement whereby the RLECs agreed to implement some intrastate access rate reductions, but again, the reductions did not bring intrastate access rates remotely close to parity with interstate rates. The Commission assured that further reductions would be forthcoming:

> [W]e do not intend to declare the access rates established by this Order as the final word on access reform. Rather, this is the next step in implementing continued access reform in Pennsylvania in an efficient and productive manner.[25]

In December 2004, the Commission initiated a case to review the RLEC intrastate access rates, again stressing the need for further access reform:

> 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.[26]

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

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

More recently, in July 2007, the Commission agreed that "Act 183 and Section 3017(a) support this Commission's policy goals that local exchange carriers reduce dependence on access revenue from other carriers and rebalance those revenues."[27] In April 2008, this Commission acknowledged that keeping intrastate access rates above interstate levels presents opportunities for gaming and arbitrage,[28] and that existing access rates are anti-competitive, observing, that it "continues to be the intention of this Commission…to gradually lower intrastate access charges so as to allow for greater competition in the intrastate and interexchange toll markets."[29]

B. THE TELECOMMUNICATIONS INDUSTRY HAS CHANGED DRAMATICALLY SINCE 2003 WHEN RATES WERE LAST SET

Q. HOW ARE THE DRAMATIC CHANGES THAT HAVE OCCURRED IN THE PENNSYLVANIA TELECOMMUNICATIONS MARKET IN THE PAST FEW YEARS RELEVANT TO AT&T'S COMPLAINT?

A. The Commission, the IXCs, the RLECs, and everyone else familiar with the issues have acknowledged that, as a result of technological change and the resulting advances in competition, the RLECs' intrastate access rates cannot be sustained. Even if the RLECs' intrastate access rates could have been considered just and reasonable in 2003 when they were last set, the market has changed so much since then that the access rates cannot be considered just and reasonable today.

Rates that were at one time considered "just and reasonable" may no longer be, because, for example, a utility's unit costs have declined, or because, as in the case with

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

[28] April 24, 2008 Order in Docket I-00040105 at p. 20.

[29] *Id.* at p. 26

switched access charges, market conditions have changed. It is our understanding that when customers of a utility regulated by the Commission believe that the rates they pay are not just and reasonable, the customer has a right to have its complaint heard by the Commission. AT&T is a wholesale customer of the RLECs' intrastate access rates, but has no say in which RLEC customers send long distance traffic to AT&T for completion, nor does AT&T have any choice but to terminate long distance calls routed over its network and bound for an RLEC customer. As a practical matter, AT&T has no choice but to pay the RLECs' access rates no matter how high. If the Commission finds as a result of AT&T's complaint that RLEC rates are anti-competitive, and thus no longer just and reasonable, the Commission must establish new rates that conform to the just and reasonable standard.

Q. HOW HAS THE TELECOMMUNICATIONS INDUSTRY CHANGED IN THE SIX YEARS SINCE THE COMMISSION LAST REVIEWED RLEC ACCESS CHARGES?

A. The manner in which consumers communicate has completely changed. Never before have consumers enjoyed so many communications choices. They can order goods and services over the Internet. The can network with their friends and colleagues through Facebook, Twitter, MySpace, Linked In and a host of other social networking websites. The can send a friend a text message on their mobile phone. They can obtain government information and forms with a mouse click. They can obtain voice services from a local telephone company, a long distance company, a wireless carrier, a cable operator, or from a VoIP provider such as Vonage or Skype that allows them to utilize their broadband computer connection for voice calls.

Q. PLEASE EXPLAIN THE DIFFERENT TYPES OF COMPETITION THAT HAVE GROWN IN THE PAST SIX YEARS.

A. With regard to wireless service, as of December 2007, Pennsylvania had over 9.6 million wireless subscribers (up 60% since just 2003), which means that at the end of 2007 some 77% of Pennsylvania residents – that is *residents*, not households – had a wireless phone.[30] In December 2003, there were 6 million wireless subscribers, which means that the number of wireless customers has increased by 60% in six years alone.

Those wireless carriers serve across all of Pennsylvania, including the RLEC territories. According to a 2008 Legislative Budget and Finance Committee Report, "Pennsylvania has cell phone coverage throughout most of the state, and most of the population can choose from four or more cell phone providers."[31] While the Report did state that no-signal zones exist in the most remote and sparsely populated areas, it concluded that "there is at least some coverage in every county, and there are areas in each county where there is a choice of four or more carriers."[32]

The RLECs agree that wireless carriers abound in their service territories. Embarq, for example, testified recently that it is facing "strong and aggressive

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[30] In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services; WT Docket No. 08-27, Thirteenth Report, Released January 16, 2009 ("FCC Thirteenth Competition Report"). This Report can be found at [illegible]. The population of Pennsylvania at year end 2007 was 12,400,959, so over 77% of Pennsylvanians had a wireless phone. See [illegible]

[31] Cell Phone Service in Pennsylvania, Legislative Budget and Finance Committee, November 2008, p. S-1.

[32] *Id.*

competitive challenges by competitors such as wireless and cable companies."[33] Embarq further testified that "[w]ireless service is available for the overwhelming majority of Embarq's customers."[34] That is consistent with the FCC's findings that, nationally, approximately 98.5% of the U.S. population living in rural counties has at least one or more carriers offering mobile telephone service.[35]

A growing number of consumers are now deciding to rely *exclusively* on wireless services. A recent May 6, 2009, report from the Center for Disease Control observed that "one of every five American homes (20.2%) had only wireless telephones during the second half of 2008," and that the trend is accelerating.[36]

As for text messaging, it is fair to say usage has exploded since the Commission last looked at RLEC access rates. The FCC reports that as of December 2007, customers sent 48.1 billion text messages a month compared to 2.8 billion in December 2003.[37]

Likewise, technologies such as DSL, broadband cable and VoIP have also exploded in demand and are challenging interexchange carriers in the marketplace. The FCC reports that as of year end 2007, there were 5.15 million high speed lines in service

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[33] Embarq Statement 1.0 (Gutshall Direct) in Docket No. I-00040105, filed December 10, 2008 at p. 22.

[34] Embarq Statement 2.1 (Lindsey Surrebuttal) in Docket No. I-00040105, filed Feb. 10, 2009 at p. 6.

[35] FCC Thirteenth Competition Report at ¶104. Paragraph 102 of the Report defines a "rural area" as a county with a population density of 100 persons or fewer per square mile.

[36] Blumberg and Luke, *Wireless Substitution, Early Release Estimates from the Nation Health Interview Survey, July - December, 2008*, [illegible]. The PTA acknowledged the CDC's findings two days later. Pennsylvania Telephone Association, The Friday Report, May 8, 2009; found at [illegible].

[37] FCC Thirteenth Competition Report at p. [illegible]

in Pennsylvania, a number that has likely grown in the nearly two years since the FCC gathered those data.[38] The same report shows that every zip code in Pennsylvania has at least one high speed provider, and most have four or more. For example, according to BCAP, approximately 78% of households passed in Pennsylvania have VoIP service available via broadband cable. Any customer with a high speed connection can use that connection for Internet access, e-mail, social networking, as well as for free computer-to-computer service such as Skype, or a computer to PSTN service like Vonage, to make voice calls and avoid traditional subsidy-laden long distance prices. As of the end of 1st Quarter 2009, Skype reported over 443 million users worldwide; adding 37.9 million new users in the 1st Quarter 2009 alone.[39]

Suffice it to say, none of these alternatives are saddled with access charges in the same way as traditional wireline long distance. Not only is it inequitable to impose a disproportionate subsidy burden on one industry segment – IXCs – but because the competitive alternatives we have described are eroding wireline long distance traffic, and thus the implicit subsidies in access charges, the RLECs are not going to be able to rely on access subsidies going forward. Access charges can no longer be relied upon for the level of support they have provided in the past.

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[38] http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287962A1.pdf

[39] http://ebayinkblog.com/2009/04/22/newsroom-april-2009/

Q. HAVE THE RLECS RECOGNIZED THE GROWTH OF COMPETITION IN THEIR TERRITORIES?

A. Yes. The PTA companies have acknowledged that competition in their territories has greatly intensified. For example, in its June 30, 2008 10-Q quarterly report, Frontier Communications Corporation ("Frontier") stated:

> Competition in the telecommunications industry is intense and increasing. We experience competition from many telecommunications service providers, including cable operators, wireless carriers, voice over internet protocol (VOIP) providers, long distance providers, competitive local exchange carriers, internet providers and other wireline carriers. We believe that as of June 30, 2008, approximately 58% of the households in our territories are able to be served VOIP service by cable operators.[40]

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

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

> The national wireless companies have built robust networks that cover the majority of our LEC territory. In addition, the two cable companies that overlay the majority of our territory each launched, in 2006, aggressive triple play packages of voice, video and broadband service. In general, these cable companies have very modernized networks, a high percentage of homes passed and a high penetration rate for their video services.[41]

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40 http://phx.corporate-ir.net/phoenix.zhtml?c=66508&p=irol-[illegible], p. 18.

41 http://www.northpittsburgh.com/[illegible].pdf, p. 16.

When discussing the fact that North Pitt has deployed broadband service to its customers, North Pitt's head of public relations stated that two things keep its company "ahead of the local competition" – "his customers' communications needs *and the threat of another provider satisfying those needs.*" He further stated that "in this market, if we don't do it, someone else will be in there to do it for them."[42]

The PTA companies also recognize that cable voice competition is expanding:

> Good news this week from some rather large cable concerns, as first quarter results continue to hit the media outlets. Charter Communications posted a 6.5 percent revenue growth over the first quarter of last year, and Cablevision Systems reported revenue gains of 10.6 percent. Both companies' positive numbers can be attributed, at least in part, to the addition of voice customers. Cablevision added 51,400 net new voice service subscribers for the quarter (for a total of 1.93 million), while Charter added 73,400 (for a total of 1.42 million).[43]

Q. HOW DOES THE EMERGENCE OF ALL THIS COMPETITION AFFECT RLEC ACCESS CHARGES?

A. Subsidies are incompatible with a competitive market. With competition now widespread in all segments of the communications marketplace, providers should be recovering the costs of their retail services from their own retail customers, rather than relying on subsidy payments from other carriers. In a market where AT&T and other long distance companies must compete against a host of new technologies and new entrants that do not incur access charges in the same way, there is simply no reason for maintaining intrastate access charges higher than interstate rates.

Q. HAVE THE RLECS ACKNOWLEDGED THAT INCREASED COMPETITION CREATES A NEED TO REDUCE ACCESS RATES?

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[42] http://www.pabroadbandnews.com/newsletter55.pdf.

[43] Pennsylvania Telephone Association, The Friday Report, May 8, 2009; found at [illegible] Friday_Report [illegible] pdf

> sufficient to support the high cost of providing other services to other customers. ***The new competitive environment envisioned by the Telecommunications Act of 1996 threatens to undermine this structure over the long run***. The 1996 Act removed barriers to entry in the local market, generating competitive pressures that make it difficult for ILECs to maintain access charges above economic cost."[45]

> "***[A]ccess charges must be closer in magnitude to access costs for there to be true competition in the toll market.*** While some of these problems might be ameliorated by a universal service program, reliance only on such a fund cannot be justified for reasons of fairness to the customers who will be forced to contribute to the USF."[46]

> "In short, politically unpopular though it may be, rate rebalancing is required, along with access charge reductions, if there is to be competition for all customers in all locations, and if urban customers are not to be saddled with excessive universal service fund costs. I am aware of no other way to solve this problem, and the parties here have presented no other proposal that is likely to solve the problem. Moreover, the very point of introducing competition to the local exchange market is to bring about lower prices through the operation of the market. An unwillingness to rebalance rates suggests an unwillingness to trust the market to bring about lower prices. If that is the case, I suggest that society rethink the notion of attempting to have competition in the local exchange market." [47]

As competition from multiple sources and multiple technologies has exploded in the past six years, high access rates can no longer be considered "just" or "reasonable," but rather must be viewed for what they are – an impediment to competition and a harm to Pennsylvania consumers. No system can be considered "just and reasonable" if it handicaps some competitors and favors others.

Time is of the essence. In 2007, IXCs (or, more specifically, the IXCs' customers) paid the RLECs approximately **[BEGIN PROPRIETARY INFORMATION]** **[END PROPRIETARY INFORMATION]**, more

[45] In Re: Intrastate Access Charge Reform, Docket No. I-00960066, Recommended Decision, June 30, 1998 at p. 6 (emphasis added).

[46] *Id.* at p. 24 (emphasis added).

[47] *Id.* at p. 28

than if intrastate switched access rates had been reduced to parity with interstate rates.[18] *Every day* IXCs are paying the RLECs **[BEGIN PROPRIETARY INFORMATION]** **[END PROPRIETARY INFORMATION]** more than if intrastate switched access rates were set at interstate levels.[19] That is a huge competitive disparity that demonstrates just how unjust and unreasonable the current intrastate access rates are, and a disparity the Commission must eliminate.

18 These numbers are based on AT&T internal data. AT&T has requested current access rate and revenue information from the RLEC's through discovery and AT&T will update these numbers once that information is received.

19 *Id.* See Exhibit D.

III. THE RLECS' EXCESSIVE SWITCHED ACCESS CHARGES IMPOSE SUBSTANTIAL AND UNWARRANTED BURDENS ON ONLY ONE GROUP OF PROVIDERS – WIRELINE TOLL COMPETITORS – WHICH HARMS COMPETITION, CONSUMERS AND THE COMMONWEALTH'S ECONOMY.

Q. IN GENERAL TERMS, PLEASE DESCRIBE THE RATE STRUCTURE OF THE RLECS' INTRASTATE SWITCHED ACCESS CHARGES.

A. As a general matter, each RLEC has traffic sensitive rates for the switching function and any transport functions it provides to IXCs. In addition, each RLEC has something called a "Carrier Charge" (or equivalent), which is a per line/per month charge that is not cost based, does not exist on the interstate side, and is nothing more than a subsidy rate element designed from the beginning to subsidize basic local telephone service.[50]

Q. HOW MUCH DO THE RLECS CHARGE FOR INTRASTATE ORIGINATING AND TERMINATING SWITCHED ACCESS IN PENNSYLVANIA?

A. As shown in the tables below, the RLECs' effective intrastate switched access rates are anywhere from about 1 cent to as high as 11 cents per minute for either originating or terminating access. For an intrastate toll call that both originates and terminates with an RLEC, AT&T must pay that RLEC as much as 2 to 22 cents per minute for switched access.

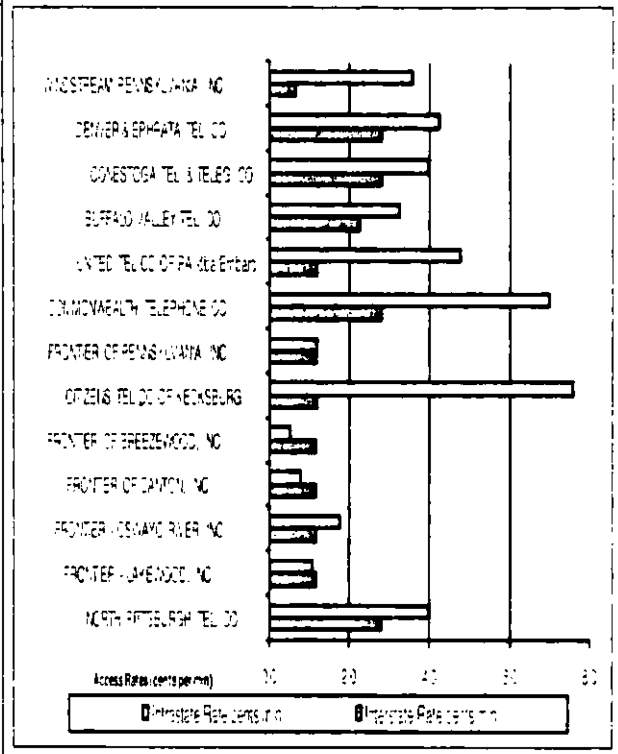
[50] We have attached as Exhibit E a list of the RLECs' Carrier Charges as obtained from their tariffs. Again, we have requested that the RLECs provide AT&T with their exact rates through discovery and will update the information to the extent the rates have changed, or are different than contained in this Exhibit.

Q. ARE THE RLECS' SWITCHED ACCESS RATES IN PENNSYLVANIA THE SAME AS THEIR SWITCHED ACCESS RATES FOR INTERSTATE CALLS?

A. No. As shown in the tables below, for the vast majority of the RLECs, their intrastate switched access rates are substantially higher than their interstate charges for the same functionality.

PA RLEC Intrastate Switched Access Rates are Multiples of Their Interstate Rate for the Same Functionality

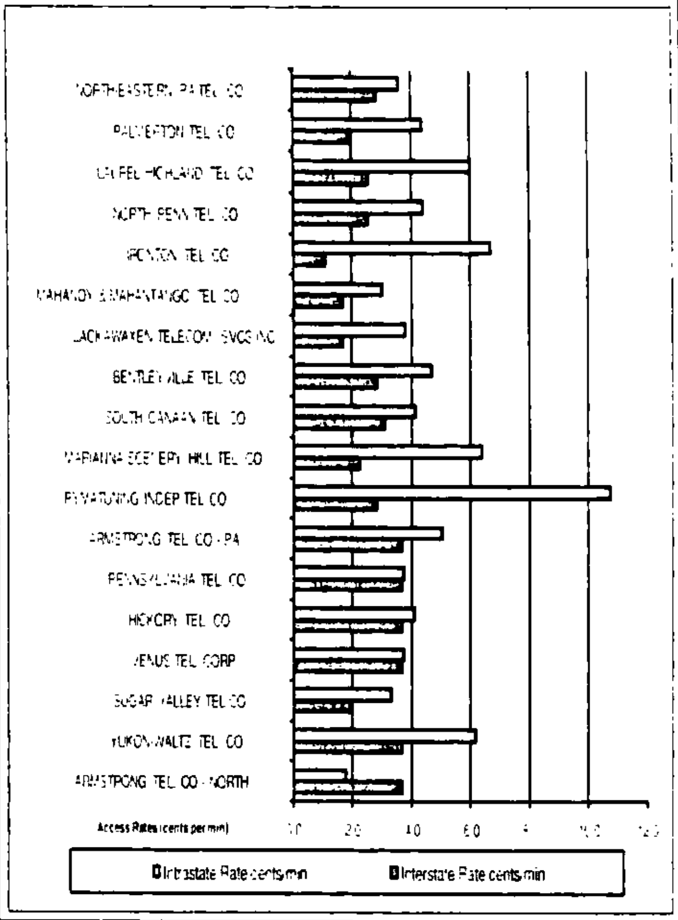
Corporate Parent	Company Name	Access Lines	Qualified FCC Hi-Cost Co.
WINDSTREAM AND DENVER & EPHRATA COMMUNICATIONS	WINDSTREAM AND D&E	320,089	
	WINDSTREAM PENNSYLVANIA INC	[illegible]	✓
	DENVER & EPHRATA TEL CO	[illegible]	
	CONESTOGA TEL & TELEG CO	[illegible]	
	BUFFALO VALLEY TEL CO	[illegible]	
EMBARQ CORPORATION	UNITED TEL CO OF PA (dba Embarq)	316,684	
FRONTIER COMMUNICATIONS	FRONTIER COMMUNICATIONS	316,143	
	COMMONWEALTH TELEPHONE CO	[illegible]	
	FRONTIER OF PENNSYLVANIA INC	23,241	
	CITIZENS TEL CO OF KECKSBURG	[illegible]	
	FRONTIER OF BREEZEWOOD INC	[illegible]	
	FRONTIER OF CANTON INC	[illegible]	
	FRONTIER-OSWAYO RIVER INC	[illegible]	
	FRONTIER-LAKEWOOD INC	[illegible]	
CONSOLIDATED COMMUNICATIONS	NORTH PITTSBURGH TEL CO.	59,332	



Source Notes

PA RLEC Intrastate Switched Access Rates are Multiples of Their Interstate Rate for the Same Functionality

Corporate Parent	Company Name	Access Lines	Qualified FCC Hi-Cost Co.
UNAFFILIATED RLECS plus TDS & FAIRPOINT	NORTH-EASTERN PA TEL	11,435	
	PALMERTON TEL CO	10,500	
	LAUREL HIGHLAND TEL	5,538	
	NORTH PENN TEL CO	5,165	
	IRONTON TEL CO	4,338	✓
	MAHANOY & MAHANTANGO TEL CO	3,773	
	LACKAWAXEN TELECOM	3,676	✓
	BENTLEYVILLE TEL CO	2,758	
	SOUTH CANAAN TEL CO	2,708	✓
	MARIANNA-SCENERY HILL TEL. CO.	2,514	
	PYMATUNING IND TEL	2,228	✓
	ARMSTRONG TEL CO-PA	1,528	✓
	PENNSYLVANIA TEL CO	1,350	✓
	HICKORY TEL CO	1,332	✓
	VENUS TEL CORP	1,316	✓
	SUGAR VALLEY TEL CO	1,057	
	YUKON - WALTZ TEL CO	833	✓
	ARMSTRONG TEL NORTH	477	✓
UNAFFILIATED RLECS plus TDS & FAIRPOINT		62,997	
	Grand Total RLEC Lines	1,075,246	



Source Notes:

Q. DO LECS USE THE SAME PROCESS AND FACILITIES FOR CALL ORIGINATION AND TERMINATION REGARDLESS OF WHETHER IT IS AN INTERSTATE OR INTRASTATE CALL?

A. Yes. When a call is either originated or terminated with the LEC, the same processes and facilities are used – and at the same economic cost – regardless of whether the call is an intrastate or an interstate call.

Q. WHY ARE THE RLECS' INTRASTATE SWITCHED ACCESS RATES SO HIGH COMPARED TO THEIR INTERSTATE RATES?

A. As we discussed above in Section II, the RLECs' intrastate rates were set during the time that the Commission *intentionally allowed* switched access rates to exceed their economic costs by a substantial amount in order to subsidize local service rates.

Q. HAVE ANY OF THE RLECS CLAIMED THAT THEIR INTERSTATE ACCESS RATES ARE BELOW INCREMENTAL COST?

A. To the best of our knowledge, none of the RLECs have *ever* asserted that their interstate switched access rates are below relevant incremental costs.[51]

Q. **DO LECS USE THE SAME PROCESS AND FACILITIES FOR CALL ORIGINATION AND TERMINATION REGARDLESS OF WHETHER AN INTEROFFICE CALL IS A LOCAL CALL OR A TOLL CALL?**

A. Yes, the process to originate or terminate a *local* interoffice call is materially the same as a *long-distance* call. Originating a call and handing it off to a CLEC via local interconnection is materially the same as originating a long-distance call and handing it off to an IXC.

Q. DO LECS USE THE SAME FACILITIES TO TERMINATE WIRELINE, WIRELESS AND VOIP CALLS?

A. Yes. Once the call has reached the LEC's network and is handed off to the LEC, the process for terminating the call is materially the same whether it is a wireline, wireless or VoIP call.[52]

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[51] AT&T has asked the RLEC's to identify any instances where they have claimed their interstate rates are below incremental cost, but the RLEC discovery responses are not due until after AT&T files its Direct Testimony. However, given that most of the RLECs' access volumes are likely to be interstate minutes, then it stands to reason that if the RLECs' interstate switched access rates were set below cost and not compensatory, it would have a significant negative effect on the company's profitability and would have provided a strong incentive to challenge such rates.

Q. THE FCC ESTABLISHED COST BASED RATES THAT APPLY WHEN CARRIERS DELIVER LOCAL CALLS TO ONE ANOTHER. DO THE FCC FINDINGS REGARDING LOCAL CALL TERMINATION RATES SERVE TO CONFIRM THAT RLEC INTERSTATE ACCESS RATES ARE ABOVE INCREMENTAL COST?

A. Yes. Initially the FCC set local call termination rates at 0.15 cents, but then decreased them to 0.07 cents (a rate that may also apply to ISP and intraMTA wireless call termination), specifically finding that:

> "These rates reflect the downward trend in intercarrier compensation rates contained in recently negotiated interconnection agreements, suggesting that they are sufficient to provide a reasonable transition from dependence on intercarrier payments ***while ensuring cost recovery***."[53]

Since long distance calls terminate in the same manner as local calls (using either end office or tandem office facilities) and the routing involved in termination of all types of calls is identical, this FCC finding strongly suggests that the RLECs' interstate switched rates AT&T is urging the Commission to adopt in this proceeding are well above any appropriate measure of cost.

Q. YOU ARE ASKING THE COMMISSION TO REDUCE RLEC INTRASTATE ACCESS RATES TO PARITY WITH THEIR INTERSTATE ACCESS CHARGES. ARE THE RLECS' INTERSTATE SWITCHED ACCESS RATES ABOVE PUC-APPROVED RECIPROCAL COMPENSATION RATES?

A. Yes. The Commission has approved, or parties have voluntarily agreed to, "Reciprocal Compensation rates" - applicable for the exchange of calls within the designated local

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[52] Wireless and VoIP calls originate on different networks and therefore undergo protocol conversion where they are translated to the LECs' network protocol. This is transparent to the LEC.

[53] *See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Traffic*, CC Docket No. 96-98, and No. 99-68, at 6 (April 27, 2001) (remanded on other grounds, *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), cert. den., *Core Communications, Inc. v. FCC*, 538 U.S. 1012 (2003), subsequent mandamus, *In Re: Core Communications, Inc.*, 531 F.3d 849 (2008), order on remand, *In the Matter of High Cost Universal Support, et al.* WC Docket No. 05-337 (released Nov. 5, 2008) (emphasis supplied)

calling areas of the RLECs - that range between 0.07 cents and 0.28 cents.[54] The interstate switched access rates for all of the RLECs are well above these levels. Given that terminating a call is materially the same whether the call is a long distance or a local call, if a RLEC recovers its costs through its Commission-approved or voluntarily negotiated reciprocal compensation rates (and AT&T is not aware of an RLEC asserting it is not recovering its costs), then setting rates above reciprocal compensation would also be above the RLECs' costs.

Q. YOU HAVE STATED THAT OTHER SERVICE PROVIDERS DO NOT INCUR ACCESS CHARGES IN THE SAME WAY AS IXCS. HOW ARE OTHER PROVIDERS CHARGED DIFFERENTLY?

A. Only wireline long distance carriers incur intrastate switched access charges on virtually all of their intrastate long distance calls. While other carriers, such as wireless providers, incur access charges on some small portion of their traffic, it is beyond debate that the lion's share of the access charge burden falls squarely on the IXCs.

Wireless carriers, for example, pay access charges only on long distance calls that are routed outside the "Major Trading Area" ("MTA") where the call originated. All wireless calls *within* a MTA are treated as "local." As a practical matter, that means most wireless calls are not subject to access charges because MTAs are very large – there are two major ones in Pennsylvania. The MTA for Philadelphia covers the eastern half of Pennsylvania, Delaware, and the southern half of New Jersey. The Pittsburgh MTA covers the western half of Pennsylvania, the northern half of West Virginia, and portions

[54] See Exhibit F. Others not included in the chart are Bill and Keep, which essentially means no charge for call termination within their local calling areas.

of Ohio.[55] These intraMTA calls are treated as local calls and subject only to FCC-established reciprocal compensation termination charges of 0.07 cents per minute, for carriers (e.g. Embarq Pennsylvania) which have opted into the FCC's ISP Remand Order, rather than the RLECs' intrastate switched access rates. Other carriers who have not opted into the FCC's ISP Remand Order charge their PUC approved local call termination rates for intraMTA wireless call termination, even this is often lower than their intrastate switched access rates.[56]

Similarly, VoIP-originated calls are not subject to originating access charges and, in many instances, are terminated at reciprocal compensation rates instead of the much higher switched access rate. Text messaging, instant messaging and email providers *pay no terminating charges at all* – not even the much lower rates that wireless and VoIP providers pay.

In short, this patchwork of rates for the same call completion functionality is anti-competitive and unsustainable. AT&T and other wireline long distance carriers cannot be expected to compete if they must pay high intrastate access charges while their competitors can complete calls for a fraction of a penny or for nothing at all.

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55 The MTA map is attached to this Testimony as Exhibit G.

56 AT&T has asked the RLECs to provide information regarding their charges to wireless carriers in discovery and may update this once the information is received.

Q. ON AVERAGE, DO RLEC ACCESS CHARGES EXCEED AT&T'S AVERAGE RETAIL PRICE?

A. Unfortunately, yes.

[BEGIN AT&T PROPRIETARY]

[END AT&T PROPRIETARY][57]

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57 In addition to providing the average switched access rates among all RLECs, AT&T has attached as Exhibit H charts comparing the switched access rates of Embarq, Frontier and Windstream.

Q. WILL REDUCTIONS IN RLECS' SWITCHED ACCESS RATES BENEFIT CONSUMERS?

A. Yes. First, decreases in the incremental costs of producing a service lead to a decrease in retail prices for that service, and the lower prices will, in turn, stimulate demand. Even a ***pure*** monopolist, including one which is ***completely*** unregulated, will reduce price in response to a reduction in input costs, because it is profit maximizing to do so. Second, from a pragmatic perspective, there is nothing remarkable in the fact that wholesale cost reductions will result in lower retail prices. It is therefore reasonable to expect that these trends will continue as competition intensifies, and consumers will see even bigger savings than the chart above reveals when access reductions are implemented.

Q. WILL UNIFYING INTRASTATE AND INTERSTATE SWITCHED ACCESS RATES AND RATE STRUCTURES REDUCE RLEC BILLING COSTS AND ELIMINATE ARBITRAGE PRACTICES?

A. Yes. For one thing, having unified rates has the potential to reduce RLEC billing costs, if for no other reason than they will only have one set of rates to bill instead of two. Moreover, adopting symmetrical rates and rate structures will help to avoid problems associated with "call pumping," "phantom traffic" and similar arbitrage schemes that have arisen as a result of the wide disparity in interstate and intrastate access rates and between access rates and cost. With regard to "call pumping" schemes, some local providers, spurred on by the ability to benefit from high intrastate access prices, have developed programs that encouraged the creation of chat rooms, adult services and other questionable services that can generate high volumes of intrastate access traffic. The carriers then kick back a share of their access revenues with these providers.

"Phantom traffic" is the term used to describe schemes to disguise the jurisdictional nature of calls in an attempt to treat intrastate calls as interstate. These schemes may involve inefficient routing of calls, attempts to mislabel the originating points of calls, and attempts to deliver traffic without sufficient information for the LEC to determine the jurisdictional nature of the call.

Disputes over "call pumping" and "phantom traffic" have resulted in a great deal of confusion and litigation. In fact, in the past two months alone, several PTA companies have filed formal complaints against carriers in Pennsylvania over these exact issues, claiming that the carriers have refused to pay intercarrier compensation to the RLECs, and have disguised the traffic sent.[58] These disputes will be reduced once intrastate and interstate switched access rates are set at the same levels and share the same rate structure.

Q. HAVE ANY RLECS AGREED THERE ARE BENEFITS TO HAVING UNIFIED INTER- AND INTRASTATE ACCESS RATES?

A. Yes. Last year Embarq told the FCC that:

> "arbitrage is fueled in particular by wide disparities between interstate and intrastate terminating switched access rates. Those rate disparities are common and they are the widest in rural areas where lower population densities result in increased per-customer costs. Further, due to high costs in rural areas, limited population size, and increasing competition (which targets lower-cost service areas), regulators cannot expect local subscribers of rural carriers to bear the costs of regulatory arbitrage."[59]

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[58] *See e.g.* Laurel Highland Telephone Company v. Choice One Communications of Pennsylvania, Inc. d/b/a/ One Communications, and Other Affiliates, Docket No. C-2009-2108366; Buffalo Valley Telephone Company v. CommPartners, LLC and Other Affiliates, Docket No. C-2009-2105918; Palmerton Telephone Company v. Global NAPs South, Inc., Global NAPS Pennsylvania, Inc., Global NAPs, Inc., and other affiliates, PA PUC Docket No. C-2009-2093336.

[59] In the Matter of Petition for Waiver of Embarq Local Operating Companies of Sections 61.3 and 61.44-61.48 of the Commission's Rules, and any Associated Rules Necessary to Permit it to Unify

Along similar lines, Buffalo Valley and Conestoga have recognized that "rate subsidization is not sustainable in a competitive telecommunications environment;" that "[t]he implicit subsidies in access charges must be removed and access services must be based primarily on the cost to provide the service;" that "the continued existence of access charge rates that are above cost constitute a barrier to effective competition for toll services;" and that "offering services that are priced without consideration of underlying costs creates advantages for competitors that are uneconomic in nature."[60]

Q. ARE THE RLECS HARMED IN ANY WAY FROM HIGH INTRASTATE ACCESS CHARGES?

A. Yes. As we have noted, the dramatic changes to the competitive market put the RLECs at risk if intrastate access rates remain at such high levels. To the extent high access rates are a contributing factor in consumers' decisions to move to different technologies, it is also going to be a factor in consumers' decisions to discontinue traditional wireline service altogether when consumers seek bundled packages from alternative technologies. As that occurs – and, as noted above, there is a growing body of evidence that it is a current trend – the RLECs are going to be forced to recover their costs from a continually shrinking customer base. Ironically, then, high access charges are drying up the stream of subsidies they were supposed to provide.

The RLECs themselves have recognized this phenomenon. They have argued that because of the continued existence of subsidies in access charges, facilities-based local competitors will target customers with high toll usage, which would mean that the

Switched Access Charges Between Interstate and Intrastate Jurisdictions, WC Docket No. 08-160, Petition for Waiver of Embarq, p. iv, August 1, 2008.

[60] *See* BVT 2002 and 2003 Filings and Conestoga 2002 Filing

RLECs would lose all revenue from access services for those lost customers. Similarly, the RLECs have recognized that the high access charges lead to higher toll rates, thus pushing customers towards alternative services, such as wireless, which "places a large portion of [the RLEC's] access revenues at risk."[61]

The RLECs' concerns are not merely theoretical. The RLECs have recently testified that they have lost 20% of their access lines since 1999, and that in the last two years, the line loss has averaged 5.3% per year.[62] Undoubtedly, because the implicit subsidies embedded in wireline long distance rates adversely affect consumer perceptions of value, an ever-increasing number of consumers are deciding to forego wireline service altogether. We previously noted the May 6, 2009, report from the Center for Disease Control that "than one of every five American homes (20.2%) had only wireless telephones during the second half of 2008," and that the trend is accelerating.[63] At least in part, consumers are deciding to forego wireline service in favor of wireless service because they perceive traditional wireline long distance calls to be expensive, but wireless long distance calls to be "free." That perception, of course, results from the fact that IXCs must pay access rates of several cents per minute on each end of the call, while, under the FCC's directives, wireless carriers terminate most intrastate calls for 7/100ths of a cent per minute.

[61] BVT 2003 Filing at p. 17.

[62] PTA Statement 1.0 (Laffey Direct), filed in Docket No. I-00040105, December 10, 2008, p. 7.

[63] Blumberg and Luke, *Wireless Substitution, Early Release Estimates from the Nation Health Interview Survey, July – December, 2008*, [illegible]

Q. HAS THE NEED TO REDUCE RLEC INTRASTATE SWITCHED ACCESS RATES BECOME MORE ACUTE OVER TIME?

A. Yes, absolutely, for all of the reasons discussed above. Continuing to extract implicit subsidies almost *exclusively* from the wireline IXCs is unlawful, discriminatory, anti-competitive and, ultimately, unsustainable. When a rate leads to all of these harms, it must be deemed unjust and unreasonable.

Q. WHAT ACTIONS ARE REQUIRED TO BRING INTRASTATE RATES INTO PARITY WITH INTERSTATE RATES?

A. The access rate changes the Commission should implement in order to make rates just, reasonable and non-discriminatory are quite simple. Each RLEC should be instructed to implement intrastate switched access charges that are identical in rate level and structure to the LEC's interstate switched access charges. Any "subsidy" intrastate access rate elements – most notably the Carrier Charge -- should be eliminated.

IV. AS THE COMMISSION HAS BEEN PROMISING FOR A DECADE, IT SHOULD ESTABLISH JUST, REASONABLE, AND NON-DISCRIMINATORY SWITCHED ACCESS RATES THAT PROMOTE COMPETITION AND THAT CONFORM TO PENNSYLVANIA LAW

Q. IS IT YOUR UNDERSTANDING THAT THE PUC IS REQUIRED TO PROMOTE COMPETITION, ELIMINATE MARKET DISTORTIONS AND CREATE A LEVEL PLAYING FIELD FOR TELECOMMUNICATIONS COMPETITION?

A. Yes. We will leave legal arguments for the Briefs, but it is fundamental policy and a well known requirement that protected rates charged by the RLECs must be just and reasonable. The Legislature has also made it clear that it is the policy of the Commonwealth to, among other things:

> (3) Ensure that customers pay only reasonable charges for protected services which shall be available on a nondiscriminatory basis,
>
> (4) Ensure that rates for protected services do not subsidize the competitive ventures of telecommunications carriers,
>
> (5) Provide diversity in the supply of existing and future telecommunications services and products in telecommunications markets throughout this Commonwealth by ensuring that rates, terms and conditions for protected services are reasonable and do not impede the development of competition. . . .
>
> (8) Promote and encourage the provision of competitive services by a variety of service providers on equal terms throughout all geographic areas of this Commonwealth without jeopardizing the provision of universal telecommunications service at affordable rates," and
>
> (9) Encourage the competitive supply of any service in any region where there is market demand.[64]

In order to meet these policy requirements, the Commission must rebalance the RLECs' intrastate access and basic service rates. Leaving rates at current levels does not

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[64] 66 Pa.C.S.A. § 3011

permit compliance with the policies of the Commonwealth given the dramatic changes to the market, as discussed above.

Q. WHY ARE THE RLECS' INTRASTATE SWITCHED ACCESS RATES INCONSISTENT WITH THE COMMONWEALTH'S POLICY IN 66 Pa.C.S.A. §3011(3) THAT "CUSTOMERS PAY ONLY REASONABLE CHARGES FOR PROTECTED SERVICES WHICH SHALL BE AVAILABLE ON A NONDISCRIMINATORY BASIS?"

A. Charging some types of carriers over 14,000% more than other types of carriers can hardly be considered reasonable or non-discriminatory. AT&T and other IXCs cannot reasonably be expected to compete against e-mail, social networking web sites, wireless carriers and VoIP providers when IXCs must pay subsidy-laden switched access charges, and its competitors do not, at least not in the same way as IXCs. In addition, charging intrastate rates that are as much as 800% higher than the corresponding interstate rates, when there is no logical basis for the distinction in charges, is not reasonable.

Q. WHY ARE THE RLECS' INTRASTATE SWITCHED ACCESS RATES INCONSISTENT WITH THE COMMONWEALTH'S POLICY IN 66 Pa.C.S.A. §3011(4) THAT "RATES FOR PROTECTED SERVICES DO NOT SUBSIDIZE THE COMPETITIVE VENTURES OF TELECOMMUNICATIONS CARRIERS?

A. The RLECs have acknowledged they face substantial competition in their respective service territories. As local exchange service has become increasingly competitive, access charges are subsidizing RLEC "competitive ventures." The simple fact is that subsidies have no place in a competitive market, and should be eliminated to promote the development of competition. Here, that means reducing the RLEC intrastate switched access charges to parity with their interstate access rates.

Q. WHY ARE THE RLECS' INTRASTATE SWITCHED ACCESS RATES INCONSISTENT WITH THE COMMONWEALTH'S POLICY IN 66 Pa.C.S.A. §3011(5) TO"PROVIDE DIVERSITY IN THE SUPPLY OF EXISTING AND FUTURE TELECOMMUNICATIONS SERVICES AND PRODUCTS IN TELECOMMUNICATIONS MARKETS THROUGHOUT THIS COMMONWEALTH BY ENSURING THAT RATES, TERMS AND CONDITIONS FOR PROTECTED SERVICES ARE REASONABLE AND DO NOT IMPEDE THE DEVELOPMENT OF COMPETITION?"

A. As discussed more fully in this Testimony, IXCs must pay subsidy-laden intrastate switched access charges to complete intrastate long distance calls, while other technologies do not incur access costs in the same way. Given the huge losses in wireline minutes over the past several years, it is clear that IXCs' abilities to compete is being severely impeded by the current high level of intrastate switched access charges in Pennsylvania.

IXCs cannot compete when they are saddled with massive subsidy obligations their competitors do not face. In recent years, AT&T's wireline long distance business has lost billions of minutes of traffic to other technologies, such as, wireless, e-mail, text messaging and instant messaging, at least in part because those alternatives do not incur access costs in the same way as wireline long distance service, and accordingly can offer more attractive retail prices:

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In addition, having such vastly different pay schemes for different types of competitors, thereby severely handicapping one type of competitor, does not "promote diversity in the supply of existing and future telecommunications services and products" – to the contrary, it specifically discourages the supply of one type of competitive service, namely wireline long distance.

Q. WHY ARE THE RLECS' INTRASTATE SWITCHED ACCESS RATES INCONSISTENT WITH THE COMMONWEALTH'S POLICY IN 66 Pa.C.S.A. §3011(8) TO "PROMOTE AND ENCOURAGE THE PROVISION OF COMPETITIVE SERVICES BY A VARIETY OF SERVICE PROVIDERS ON EQUAL TERMS THROUGHOUT ALL GEOGRAPHIC AREAS OF THIS COMMONWEALTH WITHOUT JEOPARDIZING THE PROVISION OF UNIVERSAL TELECOMMUNICATIONS SERVICE AT AFFORDABLE RATES?"

A. Competition cannot occur "on equal terms" when IXCs are saddled with subsidy-laden access charges and its competitors are not. Moreover, to the extent RLECs are using access subsidies to maintain local exchange rates at artificially low, subsidized rates, they are discouraging entry from other potential competitors and insulating themselves from the hard realities of competition – *i.e.*, having to become more efficient, improve customer service, innovate, and develop new product offerings. Finally, as we show herein, the Commission need have no concern that the rate rebalancing necessary to bring RLEC access rates to interstate parity will make local telephone service unaffordable. By and large, the offsetting basic exchange rate increases would simply keep track with inflation. Allowing prices to increase to market-based levels will attract more competition, which in turn will result in innovation, new services, greater efficiency and a greater emphasis on customer service. The RLECs' themselves have previously recognized this reality. Buffalo Valley and Conestoga both have stated that "offering services that are priced without consideration of underlying costs creates advantages for competitors that are uneconomic in nature."[65] In requesting that it be permitted to reduce its intrastate access rates and increase its local rates, Buffalo Valley further recognized that "[i]f consumers are to have choices in telecommunications carriers, then all carriers must be able to price and compete according to their own efficiencies."[66]

Q. WHY ARE THE RLECS' INTRASTATE SWITCHED ACCESS RATES INCONSISTENT WITH THE COMMONWEALTH'S POLICY IN 66 Pa.C.S.A. §3011(9) TO "ENCOURAGE THE COMPETITIVE SUPPLY OF ANY SERVICE IN ANY REGION WHERE THERE IS MARKET DEMAND?"

A. So long as IXCs pay switched access charges that other technologies do not incur in the same way, the IXCs' ability to compete is severely constrained, and other forms of communication are being given an undue competitive advantage. That is not the

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65 BVT 2002 and 2003 Filings, p. 18 and 15 respectively; Conestoga 2002 Filing at p. 19.

66 BVT 2003 Filing at p. 18. *See also* BVT 2002 filing at pp. 15-16 and Conestoga 2002 Filing at p. 19

Legislature's intent. Rather, the Legislature wants the Commission to create a level playing field for competition, so that the market, rather than regulatory dictates (or, more appropriately here, regulatory inaction) determine which firms succeed in the market.

The RLECs' high access charges are not just damaging the intrastate long distance market, they are damaging the local exchange market as well. To the extent access charges are being used to subsidize local exchange services, it means that RLEC local exchange prices are being artificially maintained below market-based levels and/or that RLECs are insulated from having to improve the efficiency of their operations. Either outcome is bad for Pennsylvania consumers. If RLEC local exchange prices are allowed to gravitate towards market-based levels, new entrants will have greater incentives to try to compete. The resulting competitive pressures will give all carriers, both the RLECs and the new entrants alike, incentives to improve their efficiency, introduce new service, enhance customer care, and otherwise compete for the attention of potential customers. When competition occurs on a level playing field, Pennsylvania consumers are the clear winners.

Q. WHAT ACTIONS SHOULD THE COMMISSION TAKE TO BRING THE RLECS' INTRASTATE ACCESS RATES INTO COMPLIANCE?

A. Following in the footsteps of numerous other states, the Commission should immediately require all local exchange carriers to reduce their intrastate switched access rates to mirror their own interstate rate structures and levels. As discussed previously, there is no logical basis for the difference in rates between functionally-identical intrastate and interstate access. There is no valid justification to charge different rates for the same functionality. Moreover, it makes practical sense to have intrastate and interstate rates at parity. Every Pennsylvania RLEC already has in place interstate rates and rate structures that comply with the FCC's interstate access requirements. Likewise, every carrier already has mechanisms in place that enable it to track, rate and bill access customers for interstate switched access services. Each RLEC should therefore be directed to implement intrastate switched access rates that match, in both rate level and rate structure, its counterpart interstate rates. Thereafter, each RLEC should be directed to update its intrastate tariff at the very same time changes are made to its interstate rates so that its intrastate rates continue to mirror its interstate access rates, and that any new rates bear the same effective dates in both the intra- and interstate jurisdictions. In order to ensure that the RLECs' intrastate access rates are just, reasonable and non-discriminatory, these changes must take effect shortly after the Commission announces its order in this proceeding.

Q. HAVE OTHER STATES REDUCED INTRASTATE ACCESS RATES?

A. Yes. Numerous states, including major industrial states such as Massachusetts, Illinois, Ohio, Michigan and Texas, have, in one form or another, required local exchange carriers' intrastate switched access rates to mirror their interstate switched access rates, and have increased their competitiveness vis-à-vis Pennsylvania. Alabama, Georgia, Kansas, Kentucky, Maine, Mississippi, Nevada, New Mexico, North Carolina, Oregon, Tennessee and Wisconsin have also enacted substantial access reform to align more closely intrastate and interstate switched access rates. Neighboring West Virginia will have its largest ILEC's access rates to interstate parity by the end of 2010. New Jersey is expected to complete a proceeding by year end 2009 that will reduce access rates for a number of carriers to interstate parity if the Board of Public Utilities adopts recommendation from AT&T, Sprint and the New Jersey consumer advocate. Citations for the various states are at Exhibit I.

V. PENNSYLVANIA CONSUMERS AND RLECS WILL BENEFIT FROM REDUCING INTRASTATE SWITCHED ACCESS RATES TO INTERSTATE LEVELS

Q. PENNSYLVANIA LAW REQUIRES THAT ACCESS REDUCTIONS BE REVENUE NEUTRAL. WILL BASIC SERVICE REMAIN AFFORDABLE UNDER YOUR PROPOSAL?

A. Unquestionably, yes. The Office of Consumer Advocate ("OCA") recently performed an affordability analysis which proves that increases to basic local exchange rates as a result of access reductions will not lead to unaffordable rates. Specifically, in Docket No. I-00040105, the OCA tasked its witness with determining "the point at which local telephone rates become unaffordable."[67] The OCA witness determined that an "affordability" level for Pennsylvania customers is at a range of $32/month-$42.91/month.[68] This record evidence was not refuted. Rate rebalancing will not result in local rates anywhere near that level. In most instances, rates would increase to levels which, generally, track with inflation since the last time rates were changed, which means, as a practical matter, each customer's actual price of service is not changing. Based on our preliminary analysis summarized below, the rate rebalancing required to offset the proposed access reduction will cause local rates to rise, on average, by no more

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[67] OCA Statement 2.0 (Colton Direct) filed in Docket No. I-00040105, December 10, 2008 at p. 4.

[68] *Id.* The OCA calculated a $32/month rate based on an assumption that customers' telephone bills could be 0.75% of their income and remain affordable, but recognized that there could be a range of 0.75-1%, which leads to an affordability level of $32-$42.91/month. This rate includes the Subscriber Line Charge and other taxes and fees.

than $5.31 per month, which will result in an average residential rate of less than $22.00 per month:

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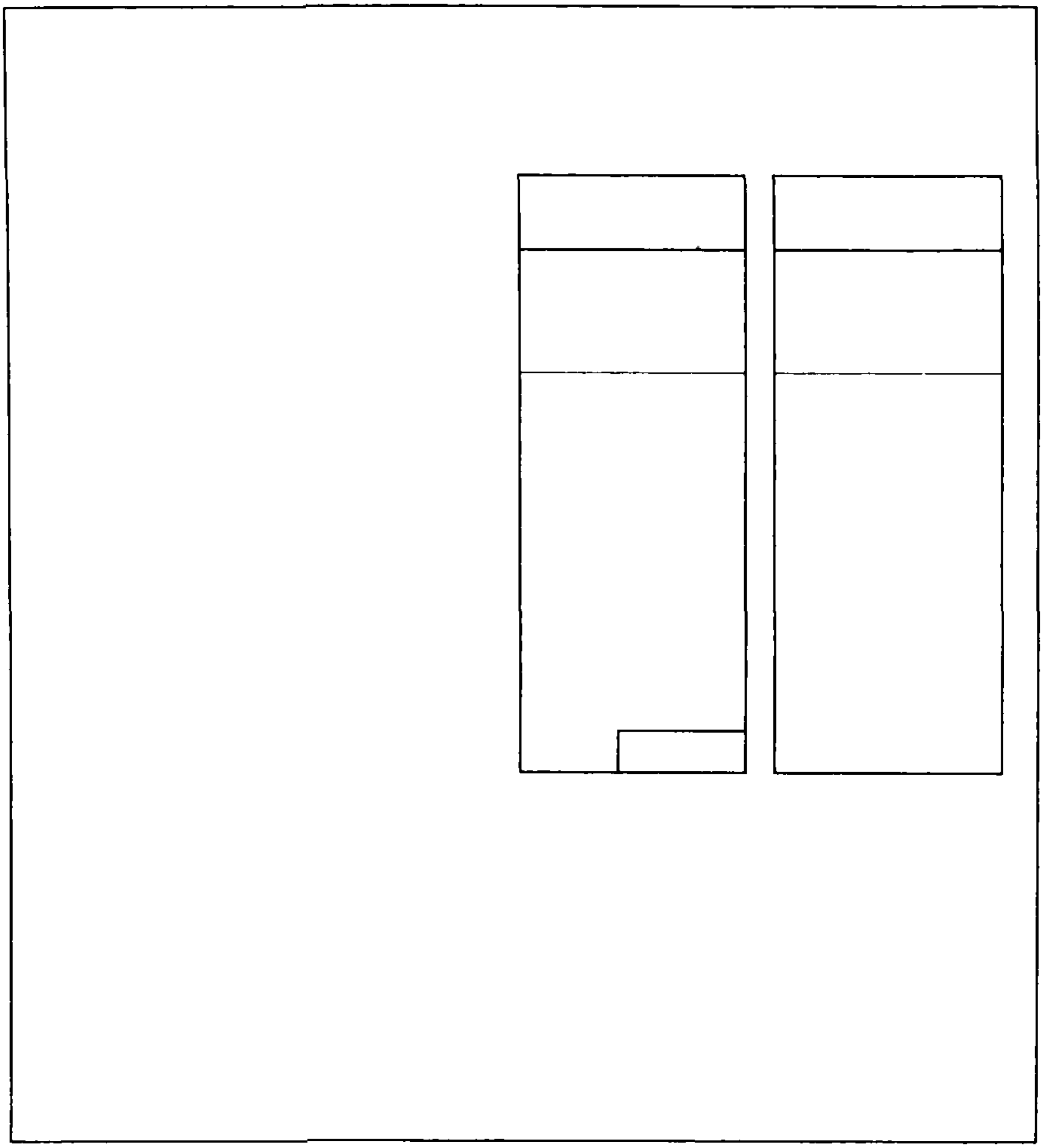

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Even with a \$5.31 increase, average rates would still be well below what the OCA has deemed "affordable."[99] And because all of the RLECs face substantial competition from cable, wireless, VoIP providers and others, they may elect to further improve their efficiencies or expand the scope of their product offerings to generate new revenues, as all of them are doing with the broadband services they now offer pursuant to Chapter 30, rather than increase prices as much as they would be entitled under the revenue neutral provisions of the law. The statute only provides they must be given an opportunity to offset access reductions; it is not a mandate that they do so. Those decisions are left to the RLECs.

Moreover, it is also worth noting that as RLECs reduce their own access rates, they will also save on what they, or their affiliates, pay other RLECs to terminate long distance calls in their territory. AT&T estimates that those savings, on average, will be about \$1.79 per line per month.

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[99] With regard to Embarq, the rate shown on the chart is somewhat misleading, only because Embarq's residential customers pay a \$1.64 *smaller* federal Subscriber Line Charge than other Pennsylvania consumers pay.

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Q. THE "POST-REBALANCING" RATES SHOWN ON YOUR CHART EXCEED THE COMMISSION'S EXISTING $18 RESIDENTIAL RATE CAP. SHOULD THAT BE A CONCERN?

A. No. While rate rebalancing could increase some consumer rates above the Commission's existing $18 residential rate cap, the Commission already has ruled the cap can be exceeded in appropriate circumstances – this case most certainly meets that criteria, particularly given that a statute expressly requires access reductions to be revenue neutral. In any event, the evidence presented in Docket No. I-00040105 persuasively demonstrates that there is no longer a need for a rate cap, or alternatively, that the cap can be raised considerably consistent with Act 183.

Indeed, if from the beginning the Commission had allowed the $18 cap to increase with inflation, at the end of 2009, when the access reductions ordered in this proceeding will be implemented, the cap (if the Commission elects to retain it) would be

$21.97. That is higher than the average RLEC rate required to fully offset access reductions to interstate parity.

Q. WHAT OTHER CONSIDERATIONS WILL HELP ENSURE TELEPHONE SERVICE REMAINS AFFORDABLE FOR ALL?

A. Obviously a reduction in access rates will drive down prices for intrastate long distance calls. Over the years, AT&T has reduced its Pennsylvania intrastate toll prices as much as the access reductions it has experienced, and, given the degree of competition present in Pennsylvania, that trend is likely to continue. While it would be premature for AT&T to reveal how the full range of its long distance prices will change when access rates are reduced – in competitive markets, firms are generally reluctant to give their competitors advance notice of their pricing decisions -- we can note here that there are two prices AT&T will reduce if intrastate access reductions are implemented. First, AT&T will reduce its $.94 per line In-State Connection Fee ("ISCF") applicable to its stand-alone long distance customers. When AT&T first established the ISCF years ago, it committed to reduce it when intrastate access charges are reduced, and committed to eliminate the fee entirely when all LECs' intrastate access charges are at parity with their interstate access rates. Second, as it has done in other states when access charges have been reduced, AT&T will reduce in-state rates for its prepaid calling cards. That is a potentially important consumer benefit, because many low income consumers use prepaid cards in lieu of traditional subscription wireline long distance.

An equally important consideration is that rate rebalancing will make the Pennsylvania telecommunications market more competitive. As we explained herein, the resulting increase in competition will force carriers to be more efficient, to introduce new and innovative services, and to improve customer care.

Q. HAVE LOCAL EXCHANGE CARRIERS EXPANDED THE SCOPE OF THEIR SERVICE OFFERINGS TO INCLUDE BUNDLED SERVICES?

A. Yes, most Pennsylvania customers no longer purchase standalone basic local service. AT&T has asked the RLECs to provide information regarding the number and percentage of customers who still subscribe to standalone basic service in the RLECs' territories. Based on our own industry knowledge, and statements of the RLECs themselves, this number is small and getting smaller. For instance, Frontier's June 30, 2008 10-Q quarterly report acknowledges the company is attempting to retain customers by offering bundled services, noting that it "hope[s] to achieve our customer retention goals by bundling services around the local access line . . . to offer bundled packages of . . . high-speed internet, unlimited long distance calling, enhanced telephone features and video offerings."[70] Likewise, North Pitt's 3Q07 10-K acknowledges it has been "aggressive" in promoting its bundled services:

> [W]e have been aggressive in marketing these newer plans to our existing toll customers, who may have been on higher rated calling plans. As a result of the combination of winning toll customers away from the traditional IXCs and the conversion of existing customers on higher rated plans, we have experienced an approximate 3,800 subscriber line increase to our unlimited packaged plan, 1000 anytime minutes plan and 250 anytime minutes plan in our ILEC territory over the past twelve-month period. These plans, however, have been aggressively priced to compete with plans marketed by our competitors, such as wireless carriers, VoIP providers and the two main cable companies in our ILEC territory. For instance, in 2005, we charged over $55.00 on average for the individual services that now comprise our unlimited calling plan (local dial tone, toll and enhanced features). Today, we have priced our unlimited calling plan at $39.95, with a six-month promotional price of $29.95 (as a stand-alone service) or $19.95 (when combined with DSL).[71]

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70 http://phx.corporate-ir.net/phoenix.zhtml?c=[illegible] [illegible], p. 19.

71 http://[illegible] [illegible], p. 19.

North Pitt claims it has " . . . continued to be successful in bundling toll in our edge out markets...***with nearly an 84% subscription rate***."[72] Today, the majority of Embarq's residential customers are purchasing bundles. Although the number of Embarq's residential customers purchasing local only services (both standalone and with features) decreased from 107,160 to 86,633 from December 2007 to December 2008, the number of Embarq's customers on bundles increased from 113,948 to 115,554 during that same year. In fact, the average bill for bundled services increased by over $2/month in the past year, to $57.63/month as of December 2008.[73]

Q. WHY IS THIS ISSUE OF BUNDLED SERVICES RELEVANT TO THE ISSUES IN THIS CASE?

A. Because most customers are now buying "bundles" of local and long distance services, any increase in the "local" portion of the bundle will likely be offset, in whole or in part, by reductions in the "long distance" portion once access charges are reduced.

Q. ARE THE MAJORITY OF LINES SUBJECT TO THIS COMPLAINT PROVIDED BY TRADITIONAL SMALL RURAL CARRIERS?

A. No. In reality, the large majority of the lines, about 1 million out of the approximately 1.1 million lines involved in this case are provided by only four carriers. These top four carriers are large integrated companies that provide business and residential services and have large multi-state operations with a broad suite of communications and entertainment services including, local, long distance, voice, data, wireless, internet and video services. We have attached a summary of the largest RLECs to this testimony as Exhibit J.

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[72] *Id.* at 22 (emphasis added).

[73] This information was provided by Embarq in response to an AT&T data request in Docket No. I-00040105

Q. PLEASE PROVIDE A BRIEF SUMMARY OF THE LARGEST RLECS.

A. **<u>Embarq/CenturyTel (now "CenturyLink")</u>:** Embarq is the 4th largest local exchange carrier in the U.S., serving approximately 5.7 million access lines (as of the end of 2008), across 18 states. The company reported operating revenues of \$6.12 billion for the full year 2008 and is in the Fortune 500® list of America's largest corporations. On October 27, 2008, Embarq agreed to be acquired by CenturyTel, another large company,[74] in an all-stock transaction valued at \$11.6 billion, including the assumption of \$5.8 billion of Embarq's debt. The merger received approval by the FCC on June 24, 2009, and was closed on July 1, 2009. With the CenturyTel acquisition, the combined company will be the fourth largest incumbent local exchange carrier in the U.S. and approximately number 300 on the Fortune 500 list of America's largest companies. The combined company will operate in 33 states, with nearly 8 million access lines and 2 million broadband customers. CenturyTel announced that it believes "synergies' will reach \$400 million annually, composed of approximately \$300 million in cost savings, around \$75 million in additional revenues opportunities, and almost \$30 million in capital efficiencies.

<u>Frontier:</u> Frontier is a full service communications provider and the second largest rural local telephone exchange company in the country. The company offers services to

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[74] The company issued a press release stating that [illegible] *Forbes* [illegible] "Best Companies" list for 8th year", March 12, 2007. [illegible]

residence and business customers including local and long distance telephone service, directory services, television and Internet services, as well as bundled offerings, wireless Internet data access, data security solutions and specialized bundles for small/medium/large businesses and home offices. During 2008, Frontier added about 57,000 new High-Speed Internet customers and 116,000 bundle or package customers. At the end of 2008 it had approximately 579,900 high-speed data customers and 749,800 bundle or package customers. It also had about 120,000 Video customers, provided in partnership with DISH.[75] It's 2008 revenue was $2.2 billion and it had a total of 2.3 million access lines along with 2.8 million voice and broadband connections. On May 13, 2009, Frontier Communications Corporation announced the purchase of Verizon assets, which will make it the nation's largest rural communications services provider and the fifth largest ILEC with annual revenue of $6.5 billion, more than 7 million access lines, 8.6 million voice and broadband connections in 27 states. The combined company is expected to achieve annual merger expense synergies of $500 million.

Windstream/D&E: Windstream Corporation is an S&P 500 company that provides local voice and related features, long distance, digital phone, high-speed Internet and high-definition video and entertainment services to residential and business customers in 16 states. The company has approximately 3 million access lines and about $3.2 billion in annual revenues. Additionally, Windstream provides data services to more than 978,000 high-speed Internet customers. Windstream is an S&P 500 company and is ranked 4th in the 2009 BusinessWeek 50 ranking of the best performing U.S. companies.

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[75] 2008 10K at p 3

Based on the number of telephone lines served, Windstream is the fifth largest local telephone company in the country. On May 11, 2009, Windstream announced the acquisition of D&E Communications, Inc., in a transaction valued at approximately $330 million. With the D&E acquisition, Windstream nearly doubles its company's operating presence in Pennsylvania with the addition of approximately 165,000 access lines (ILEC & CLEC combined) and about 44,000 high-speed Internet customers and expands its CLEC operations with the addition of seven markets in Pennsylvania. D&E's CLEC serves approximately 47,000 lines.

<u>Consolidated/North Pitt</u>: Consolidated offers a wide range of telecommunications services, including local and long distance service, custom calling features, private line services, high-speed Internet access, IPTV with over 200 all-digital channels, high definition ("HD") offerings, and digital video recorder ("DVR") services; carrier access services, network capacity services over its regional fiber optic network, and directory publishing. In addition, it operates a number of complementary businesses, including telemarketing and order fulfillment, telephone services to county jails and state prisons, equipment sales, operator services, and mobile services. Consolidated/North Pittsburgh Pennsylvania market also offers many advanced IP network capabilities, with DSL available to 100% of the customer base.[76] The CLEC operation in Pennsylvania has an extensive network with over 300 route miles of fiber optic facilities in the Pittsburgh metropolitan area. The CLEC has placed equipment in 27 Verizon central offices and one Embarq central office, and primarily serves its customers using UNE loops. With the

[76] 2008 Consolidated Communications, Annual 10K report, page 3-6

acquisition of North Pittsburgh in 2007, Consolidated became the 12th largest local telephone company in the country with 264,323 local access lines, 74,687 CLEC access line equivalents, 91,817 high-speed Internet subscribers, 16,666 IPTV subscribers and 6,510 VOIP digital telephone service subscribers. For the years ended December 31, 2008, and 2007, Consolidated had $418.4 million and $329.2 million of revenues, respectively.[77]

Q. WHY ARE THE SIZE AND SERVICE OFFERINGS OF THE RLECS RELEVANT CONSIDERATIONS?

A. Because as the market becomes more competitive, it becomes critical that it be permitted to work without regulatory handicapping and discriminatory cost burdens. Companies should compete based on their own merits, not by being subsidized by their competitors. Also, it is important to recognize that many of these companies are not so "rural" as they would like the Commission to believe. In fact, only 11 of the 32 RLECs are "rural" enough to qualify for federal high cost universal service funding – that is based on the RLECs' own costs of providing service. If a company is not considered "rural" enough, then it does not get the federal funding. The fact that only a few meet the qualifying criteria is telling that the RLECs' loop costs are actually not very high relative to the national average.[78]

Q. PLEASE SUMMARIZE WHY THE COMMISSION MUST REDUCE THE RLECS' INTRASTATE ACCESS RATES IN THIS CASE.

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[77] 2008 Annual 10K Report, pages 3, 13.

[78] Based on the RLECs' own data as reported to the FCC, the RLECs' average loop costs are not nearly as high as this Commission may have thought. After removing the 25% interstate allocation and all federal support, the RLECs' loop costs range from as low as $11.67/month, with the highest average loop cost at $28.72/month. See Exhibit K attached to this Testimony.

A. Consumers are harmed when competition is hindered, both in the local and the long distance markets. As it has pledged to do for a decade, the Commission must reduce the RLECs' intrastate access rates to levels that are just and reasonable. Directing the RLECs to establish intrastate access rates which match their interstate rates is the most logical and practical method to accomplish this goal.

In the past six years since the Commission last permitted the RLECs' intrastate access rates to go into effect, the Pennsylvania telecommunications market has changed dramatically. IXCs now compete against Internet providers, wireless carriers, VoIP providers, social networking websites and other forms of communication that, in many instances, were barely off the drawing board when the Commission last addressed RLEC access rates in 2003. Suffice it to say, competition can never be fair if one competitor is forced to incur subsidy obligations its competitors do not face. Reducing RLEC access rates will help eliminate the competitive disparity and further the Legislature's goals to make the Pennsylvania telecommunications market as competitive as it can be, so that consumers can reap the benefits.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

EXHIBIT A

List of Testimony by Dr. Ola Oyefusi

State	Docket No.	Subject	Date
New Jersey	Docket No. TX08090830	In the Matter of the Board's Investigation and Review of Local Exchange Carrier Intrastate Access Rates	February 13, 2009 (Initial Testimony), April 20, 2009 (Reply), June 22, 2009 (Rebuttal)
Pennsylvania	Docket No. I-00040105	Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund	December 10, 2008 (Direct), January 15, 2009 (Rebuttal), & February 10, 2009 (Surrebuttal)
Massachusetts	07-9	Petition for Investigation under Chapter 159, Section 14 of the Intrastate Switched Access Rates of Competitive Local Exchange Carriers	August 20, 2008 (Pre-filed)
Virginia	Case No. PUC-2007-00108	Petition of Sprint Nextel for reductions in the intrastate carrier access rates of Central Telephone Company of Virginia and United Telephone-Southeast, Inc.	August 1, 2008
New Hampshire	DT 06-067	Bayring Petition into investigation of Verizon New Hampshire's practice of imposing access charges, including carrier common line, on calls which originate from Bayring's network and terminate on wireless carriers' networks.	March 9, 2007 & April 20, 2007
New Jersey	TT 04060442	Application of Verizon New Jersey, Inc. for a Revision of Tariff B.P.U.- N.J. No. 2, providing for a Revenue Neutral Rate Restructure Including a Restructure of Residence and Business Basic Exchange Service and Elimination of $.65 Monthly Credit	January 18, 2005 (Rebuttal)
New Jersey	TO 01020095	Application of Verizon New Jersey for approval (i) of a new alternative regulation plan, (ii) to reclassify multi-line regulated business as competitive services.	January 9, 2005 (Direct) & February 4, 2005 (Rebuttal)
Pennsylvania	C-20027195	Remand of Verizon access reduction proceeding	June 29, 2005
Pennsylvania	R-00049812	Verizon Pennsylvania Inc.'s Petition for Expedited Adoption of an Interim Rate Pending Determination of Final Rates for Time and Material	November 15, 2004 (Direct) & December 7, 2004 (Rebuttal)
Pennsylvania	C-20027195	Investigation into VZ access rates	July 18, 2003

Virginia	PUC-2002-00088	Petition of Cavalier Telephone LLC for injunction against Verizon Vriginia Inc. for Violations of interconnection agreement and for expedited relief to order Verizon to provision Unbundled Network Elements in accordance with the Telecommunications Act of 1996	June 2, 2003
Delaware	96-324, Phase II	In the matter of the application of Verizon Delaware Inc. for approval of its Statement of Terms and Conditions under section 252(f) of the Telecommunications Act of 1996 and code of conduct	September 14, 2001
District of Columbia	Formal Case No. 962	In the Matter of the Implementation of the District of Columbia Telecommunications Act of 1996 and Implementation of the Telecommunications Act of 1996	October 9, 2001
DC	Formal Case No. 814, Phase IV	rate design for telecommunications services, development of productivity measurements under a price cap plan, use of incremental cost as a price floor for competitive telecommunications services, criteria for determining competitive telecommunications services, critique of the alternative incentive regulation adopted in Phase III, and classification of telecommunications services	July 1, 1995
DC	Formal Case No. 920	telecommunications needs of residents, business community and government entities in the District of Columbia, introduction of new telecommunications services in the District of Columbia, and mechanisms for reviewing and monitoring Bell Atlantic's construction plans and budget	March 18, 1994
DC	Formal Case No. 926	rate design and determination of total factor productivity	July 30, 1993
DC	Formal Case No. 814, Phase III	market structure, determination of market share, pricing flexibility, and significance of economies of scale and economies of scope	October 13, 1992
DC	Formal Case No. 912	rate structure, pricing information and energy conservation	April 3, 1992

EXHIBIT B

Testimony of E. Christopher Nurse

ST	Docket No.	Docket Name	Testimony	Date
PA	I-00040105	Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the PA Universal Service Fund	Direct Testimony with Oyefusi	12/10/2008
PA	I-00040105	Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the PA Universal Service Fund	Rebuttal Testimony with Oyefusi	01/15/2009
PA	I-00040105	Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the PA Universal Service Fund	Surrebuttal Testimony with Oyefusi	02/10/2009
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Rebuttal Testimony with Kirchberger	07/18/2003
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Surrebuttal Testimony with Kirchberger	08/04/2003
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Direct Testimony with Oyefusi	06/08/2005
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Rebuttal Testimony with Oyefusi	06/29/2005
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Surrebuttal Testimony with Oyefusi	07/11/2005
PA	I-00030096	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	Direct Testimony	04/14/2004

ST	Docket No.	Docket Name	Testimony	Date
		Commission Precedent		
PA	I-00030099	Development of an Efficient Loop Migration Process	Direct with Kirchberger	01/09/2004
PA	R-00049524	Pennsylvania Public Utility Commission v. Verizon Pennsylvania Inc. Tariff No. 216 Revisions regarding Four Line Carve-Out	Rebuttal with Kirchberger	10/06/2004
PA	P-00021973	Petition of Verizon Pennsylvania Inc. for a Determination that its Provision of Business Telecommunications Services to Customers Generating Less Than $10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code	Direct Testimony	09/09/2002
PA	P-00021973	Petition of Verizon Pennsylvania Inc. for a Determination that its Provision of Business Telecommunications Services to Customers Generating Less Than $10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code	Rebuttal Testimony	10/18/2002
PA	P-00021973	Petition of Verizon Pennsylvania Inc. for a Determination that its Provision of Business Telecommunications Services to Customers Generating Less Than $10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code	Surrebuttal Testimony	10/25/2002
PA	P-00981423	Petition of ALLTEL Pennsylvania, Inc. for Approval of an Alternative Form of Regulation and Network Modernization Plan	Direct Testimony	12/17/1998
PA	P-00981423	Petition of ALLTEL Pennsylvania, Inc. for Approval of an Alternative Form of Regulation and Network	Surrebuttal Testimony	01/26/1999

ST	Docket No.	Docket Name	Testimony	Date
		Modernization Plan		
PA	P-00981425	Biennial NMP Implementation Update Reports for all PA Rural Telecommunications Carriers and Verizon North Inc.	Surrebuttal Testimony	01/29/1999
PA	P-00991643	Joint Petition of NEXTLINK Pennsylvania, Inc., RCN Telecommunications Services of Pennsylvania, Inc., Hyperion Telecommunications, Inc., ATX Telecommunications, Focal Communications Corporation of Pennsylvania, Inc., CTSI, Inc., MCI Worldcom, e.Spire Communications, and AT&T Communications of Pennsylvania, Inc., for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.	Direct Testimony	06/08/1999
PA	P-00981449	Petition For Alternative Regulation and Network Modernization Plan of GTE North Incorporated	Direct Testimony	02/26/1999
PA	P-00981449	Petition For Alternative Regulation and Network Modernization Plan of GTE North Incorporated	Surrebuttal Testimony	04/07/1999
PA	P-00981410	Petition of the United Telephone of Pennsylvania for approval under Chapter 30 of the Public Utility Code of an Alternative Regulation and Network Modernization Plan	Direct Testimony	01/19/1999
PA	P-00991648	Joint Petition of Nextlink Pennsylvania, Inc.,et al., for Adoption of Partial Settlement Resolving Pending Telecommunications Issues	Direct Testimony	04/22/1999
PA	P-00991649	Joint Petition of Bell Atlantic-Pennsylvania, Inc., et al., for Resolution of Global Telecommunications Proceedings	Direct Testimony	04/22/1999
PA	A-310200F0002	Joint Application of Bell Atlantic Corporation and and GTE Corporation For Approval of Agreement and Plan	Direct Testimony	03/03/1999

ST	Docket No.	Docket Name	Testimony	Date
		of Merger		
PA	A-310200F0002	Joint Application of Bell Atlantic Corporation and and GTE Corporation For Approval of Agreement and Plan of Merger	Surrebuttal Testimony	05/19/1999
PA	R-00994697	Verizon Pennsylvania, Inc. Revision to Tariff – Telephone Pa. P.U.C. No. 218 CLEC Collocated Interconnection Service	Rebuttal Testimony	12/21/1999
PA	P-00981423	Petition of ALLTEL Pennsylvania, Inc. for Approval of An Alternative Regulation and Network Modernization Plan	Direct Testimony	12/17/1998
PA	I-00960066	Generic Investigation of Intrastate Access Reform	Rebuttal Testimony	07/29/1997
NJ	TO06120841	In the Matter of the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive	Direct Testimony	01/09/2007
NJ	TO06120841	In the Matter of the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive	Rebuttal Testimony	02/20/2007
NJ	TX06030230	In the Matter of the Proposed Readoption and Expansion of the Board of Public Utilities' Rules Governing Telecommunications Services and Carriers, N.J.A.C. Chapter 14	Declaration	10//20/2006
NJ	TO99120934	In the Matter of the Application of Bell Atlantic-New Jersey, Inc. for Approval of a Modified Plan for an Alternative Form of Regulation and to Reclassify All Rate Regulated Services as Competitive Services	Testimony	08/09/2000
NJ	TO03090705	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Direct Testimony with Kirchberger	02/02/2004
NJ	TO03090705	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Testimony on Metrics	02/08/2004
NJ	TO03090705	In the Matter of the Implementation of	Surrebuttal with	02/26/2004

ST	Docket No.	Docket Name	Testimony	Date
		the Federal Communication Commission's Triennial Review Order	Kirchberger	
NJ	TO03090705	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Panel Testimony on Hot Cuts with Hou, Kahn, Nurse, Kirchberger & Walsh	02/09/2004
NJ	TO01020095	In the Matter of the Application of Verizon New Jersey, Inc. for Approval of an Extension of its Plan for an Alternative Form of Regulation	Direct Supplemental Joint Testimony with Oyefusi	01/10/2004
NJ	TO01020095	In the Matter of the Application of Verizon New Jersey, Inc. for Approval of an Extension of its Plan for an Alternative Form of Regulation	Reply Testimony	05/15/2004
NJ	TO01090541	In the Matter of the Consultative Report on the Application of Verizon New Jersey Inc for FCC Authorization to Provide In-Region IntraLATA Service in New Jersey	Declaration with Fawzi and Kirchberger	10/19/2001
NJ	TO01090541	In the Matter of the Consultative Report on the Application of Verizon New Jersey Inc for FCC Authorization to Provide In-Region IntraLATA Service in New Jersey	Declaration	10/19/2001
NJ	TO00110893	AT&T-Verizon 2001 Arbitration of Interconnection	Direct Panel with Kirchberger, Talbott & Schell	02/25/2003
NJ	TO00110893	AT&T-Verizon 2001 Arbitration of Interconnection	Rebuttal Panel with Kirchberger, Talbott & Schell	03/18/2003
NJ	TO00060356	In the Matter of the Board's Review of Unbundled Network Element Rates Terms and Conditions of Bell-Atlantic New Jersey, Inc.	Testimony	07/18/2000
NJ	TO00060356	In the Matter of the Board's Review of Unbundled Network Element Rates Terms and Conditions of Bell-Atlantic New Jersey, Inc.	Rebuttal Testimony	10/12/2000
NJ	TX08090830	In the Matter of the Board's Investigation and Review of Local Exchange Carriers Intrastate Exchange Access Rates	Direct Panel Testimony with Oyefusi	02/13/2009
NJ	TX08090830	In the Matter of the Board's Investigation and Review of Local Exchange Carriers Intrastate Exchange	Reply Panel Testimony with Oyefusi	04/20/2009

ST	Docket No.	Docket Name	Testimony	Date
		Access Rates		
NJ	TX08090830	In the Matter of the Board's Investigation and Review of Local Exchange Carriers Intrastate Exchange Access Rates	Rebuttal Panel Testimony with Oyefusi	06/22/2009
MD	8882	In the Matter of the Petition of AT&T Communications of Maryland, Inc. for Arbitration Pursuant to 47 U.S.C. §252 (b) Concerning Interconnection Rates, Terms and Conditions	Panel Direct with Kirchberger, Schell & Talbott	03/03/2003
MD	8882	In the Matter of the Petition of AT&T Communications of Maryland, Inc. for Arbitration Pursuant to 47 U.S.C. §252 (b) Concerning Interconnection Rates, Terms and Conditions	Panel Rebuttal with Kirchberger, Schell & Talbott	05/16/2003
MD	8918	In the Matter of the Review of Verizon Maryland Inc.'s Price Cap Regulatory Plan	Direct with Kirchberger	08/02/2002
MD	8918	In the Matter of the Review of Verizon Maryland Inc.'s Price Cap Regulatory Plan	Rebuttal with Kirchberger	10/13/2002
MD	8918	In the Matter of the Review of Verizon Maryland Inc.'s Price Cap Regulatory Plan	Surrebuttal with Kirchberger	10/25/2002
MD	8921	In the Matter of the Review by the Commission Into Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. §271	Declaration with Kirchberger	07/15/2002
MD	8921	In the Matter of the Review by the Commission Into Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. §271	Phase B Declaration with Kirchberger	10/10/2002
MD	8983	In the Matter of the Implementation of the Federal Communication Commisison's Triennial Review Order	Direct with Kirchberger	01/26/2004
MD	8983	In the Matter of the Implementation of the Federal Communication Commisison's Triennial Review Order	Rebuttal with Kirchberger	03/05/2004
MD	8988	In the Matter of the Approval of a Batch Cut Migration Process for Verizon Maryland Inc. Pursuant to the Federal Communication Commission's Triennial Review Order	Testimony	02/11/ 2004
MD	8988	In the Matter of the Approval of a Batch Cut Migration Process for	Panel Testimony with Kahn, Walsh &	02/11/2004

ST	Docket No.	Docket Name	Testimony	Date
		Verizon Maryland Inc. Pursuant to the Federal Communication Commission's Triennial Review Order	Kirchberger	
MD	8988	In the Matter of the Approval of a Batch Cut Migration Process for Verizon Maryland Inc. Pursuant to the Federal Communication Commission's Triennial Review Order	Testimony with Kirchberger	02/11/2004
DC	962	In the Matter of the Implementation of the District of Columbia's Telecommunications Act of 1996 and Implementation of The Telecommunications Act of 1996	Direct Panel with Oyefusi & Kirchberger	10/09/2001
DC	962	In the Matter of the Implementation of the District of Columbia's Telecommunications Act of 1996 and Implementation of The Telecommunications Act of 1996	Surrebuttal Panel with Oyefusi & Kirchberger	04/22/2002
DC	1011	In the Matter of Verizon Washington, DC Inc.'s Compliance with the Conditions Established in Section 271 of The Federal Telecommunications Act of 1996	Declaration with Kirchberger	09/30/2002
DC	1011	In the Matter of Verizon Washington, DC Inc.'s Compliance with the Conditions Established in Section 271 of The Federal Telecommunications Act of 1996	Declaration (OSS) with Kirchberger	09/30/2002
DC	1024	In the Matter of the Implementation of the Triennial Review Order in the District of Columbia	Direct Testimony with Kirchberger	01/12/2004
DE	02-001	In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance With the Conditions Set Forth in 47 U.S.C. Section 271	Declaration	04/08/2002
DE	02-001	In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance With the Conditions Set Forth in 47 U.S.C. Section 271	Declaration with Kirchberger	
DE	02-001	In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance With the Conditions Set Forth in 47 U.S.C. Section 271	Supplemental Declaration	04/11/2002
DE	99-251	In the Matter of the Application of Bell Atlantic-Delaware, Inc. for	Direct Testimony	01/14/2000

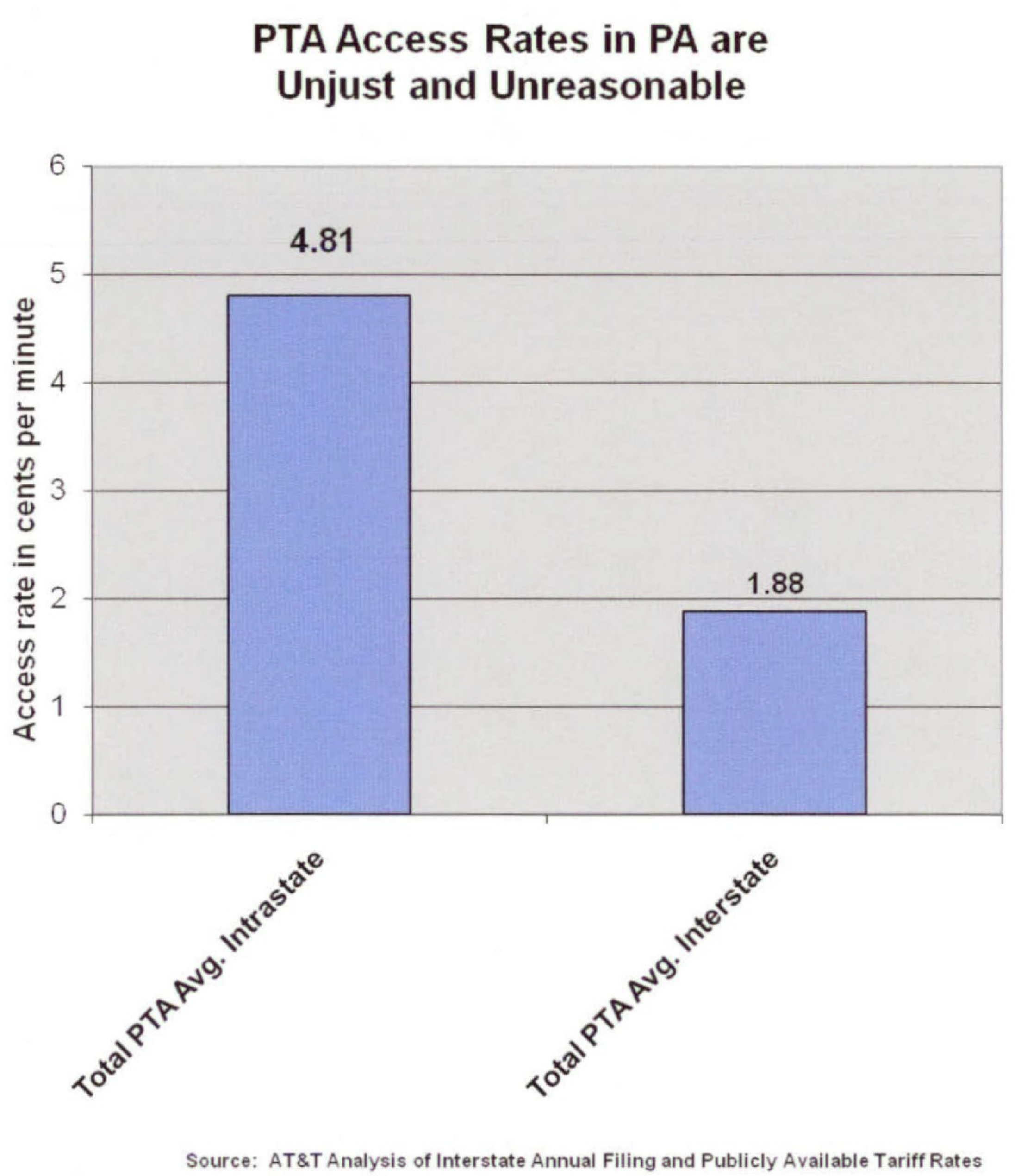
ST	Docket No.	Docket Name	Testimony	Date
		Approval of CLEC Collocation Interconnection Services		
DE	99-251	In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of CLEC Collocation Interconnection Services	Surrebuttal Testimony	03/31/2000
DE	03-446	In the Matter of The Consideration of the Triennial Review Order of the Federal Communications Commission Related to Access to Unbundled Network Elements	Direct Testimony with Kirchberger	02/11/2004
VA	PUC-2002-00046	In the Matter of Verizon Virginia Inc's compliance with the conditions set forth in 47 U.S.C. §271 (c)	Declaration with Kamal & Kirchberger	05/03/2002
VA	PUC-2002-00088	Petition of Cavalier Telephone, LLC For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and for Expedited Relief to Order Verizon to Provision Unbundled Network Elements in Accordance With the Telecommunications Act of 1996	Direct Testimony with Kirchberger	04/25/2003
VA	PUC-2002-00088	Petition of Cavalier Telephone, LLC For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and for Expedited Relief to Order Verizon to Provision Unbundled Network Elements in Accordance With the Telecommunications Act of 1996	Rebuttal Testimony with Kirchbereger & Oyefusi	06/02/2003
VA	PUC-2007-00108	Petition of Sprint Nextel for reductions in intrastate carrier access rates of Central Telephone Company of Virginia and United Telephone-Southeast, Inc.	Direct Testimony with Oyefusi	08/01/2008
VA	PUC-2007-00108	Petition of Sprint Nextel for reductions in intrastate carrier access rates of Central Telephone Company of Virginia and United Telephone-Southeast, Inc.	Direct Testimony	08/01/2008
VA	PUC-2007-00108	Petition of Sprint Nextel for reductions in intrastate carrier access rates of Central Telephone Company of Virginia and United Telephone-	Rebuttal Testimony	09/19/2008

ST	Docket No.	Docket Name	Testimony	Date
		Southeast, Inc.		
WV	02-0809-T-P	Verizon West Virginia Inc.Petition in the matter of Verizon west Virginia Inc.'s Compliance with conditions set forth in 47 U.S.C. §271 (c)	Declaration with Kirchberger	10/28/2002
WV	02-0809-T-P	Verizon West Virginia Inc.Petition in the matter of Verizon west Virginia Inc.'s Compliance with conditions set forth in 47 U.S.C. §271 (c)	Declaration (OSS) with Kirchberger	10/28/2002
WV	02-0809-T-P	Verizon West Virginia Inc.Petition in the matter of Verizon west Virginia Inc.'s Compliance with conditions set forth in 47 U.S.C. §271 (c)	Declaration (UNEs) with Kirchberger	10/28/2002
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Direct Testimony	07/31/2001
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Rebuttal Testimony	08/17/2001
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Direct Testimony with Kalb	11/09/2001
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Rebuttal Testimony with Kalb	11/20/2001
NY	02-C-1425	Proceeding on Motion of the Commission to Examine the Process and Related Costs of Performing Loop Migrations on a More Streamlined	Direct Testimony	02/27/2002

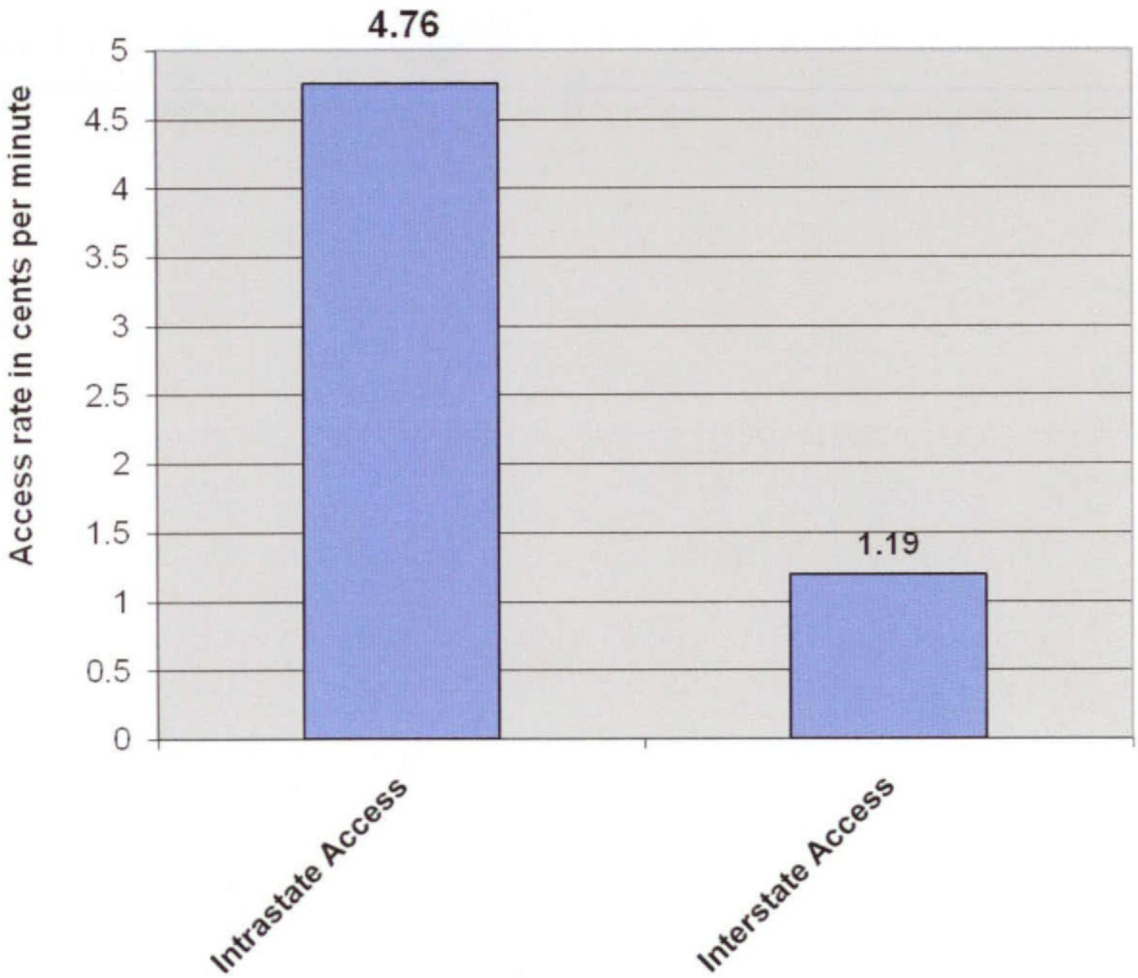
ST	Docket No.	Docket Name	Testimony	Date
		Basis		
MA	98-57	Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on December 11, 1998, to become effective January 10, 1999, by New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts	Direct Testimony	11/01/2000
MA	02-8	Investigation by the Department of Telecommunications and Energy On Its Own Motion, Pursuant to G.L. c. 159 §§12 and 16 Into The Collocation Security Policies of Verizon New England, Inc. d/b/a Verizon Massachusetts	Rebuttal Testimony	05/15/2002
MA	DTC 07-9	Petition for Investigation Under Chapter 159, Section 14 of the Intrastate Switched Access Rates of CLECs	Direct Testimony	08/20/2008
CT	03-02-17	Application of the Southern New England Telephone Company to Approval to Reclassify Certain Private Line Services from the Non-Competitive to Competitive Category	Direct Testimony	05/09/2003
FL	040156-TP	Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.	Direct Testimony	02/25/2005
FL	040156-TP	Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.	Rebuttal Testimony	03/25/2005
GA	19393-U	In re: Generic Proceeding to Examine Local Exchange Carriers' Policies Pertaining to Digital Subscriber Line Service	Direct Testimony	11/19/ 2004
GA	19393-U	In re: Generic Proceeding to Examine Local Exchange Carriers' Policies	Rebuttal Testimony	01/10/2005

ST	Docket No.	Docket Name	Testimony	Date
		Pertaining to Digital Subscriber Line Service		
OK	PUD 200400493	Petition for Arbitration to determine the terms for Interconnection Agreement between SBC Oklahoma and AT&T Communications of the Southwest, Inc. and TC Systems, Inc.	Direct Testimony	02/18/2005
KS	05-AT&T-366-ARB	In the Matter of the Application of AT&T Communications of Southwest, Inc. and TCG Kansas City Inc. for Compulsory Arbitration of Unresolved Issues with SBC Kansas Pursuant to Section 252(b) of the Telecommunications Act of 1996	Direct Testimony	02/24/2005
NH	DR 94-305		Hearing Testimony	02/14/1995
VT	7316	Investigation into Regulation of Voice over Internet Protocol ("VOIP") services	Pre-filed Testimony	04/07/08
CT	08-07-15	Petition of the Office of Consumer Counsel for Enforcement of Quality of Service Standards for The Southern New England Telephone Company d/b/a AT&T Connecticut	Direct Hearing Testimony	11/18/08
CT	08-07-15	Petition of the Office of Consumer Counsel for Enforcement of Quality of Service Standards for The Southern New England Telephone Company d/b/a AT&T Connecticut	Joint Pre-Filed Testimony with Hatch and Langevin	01/30/2009

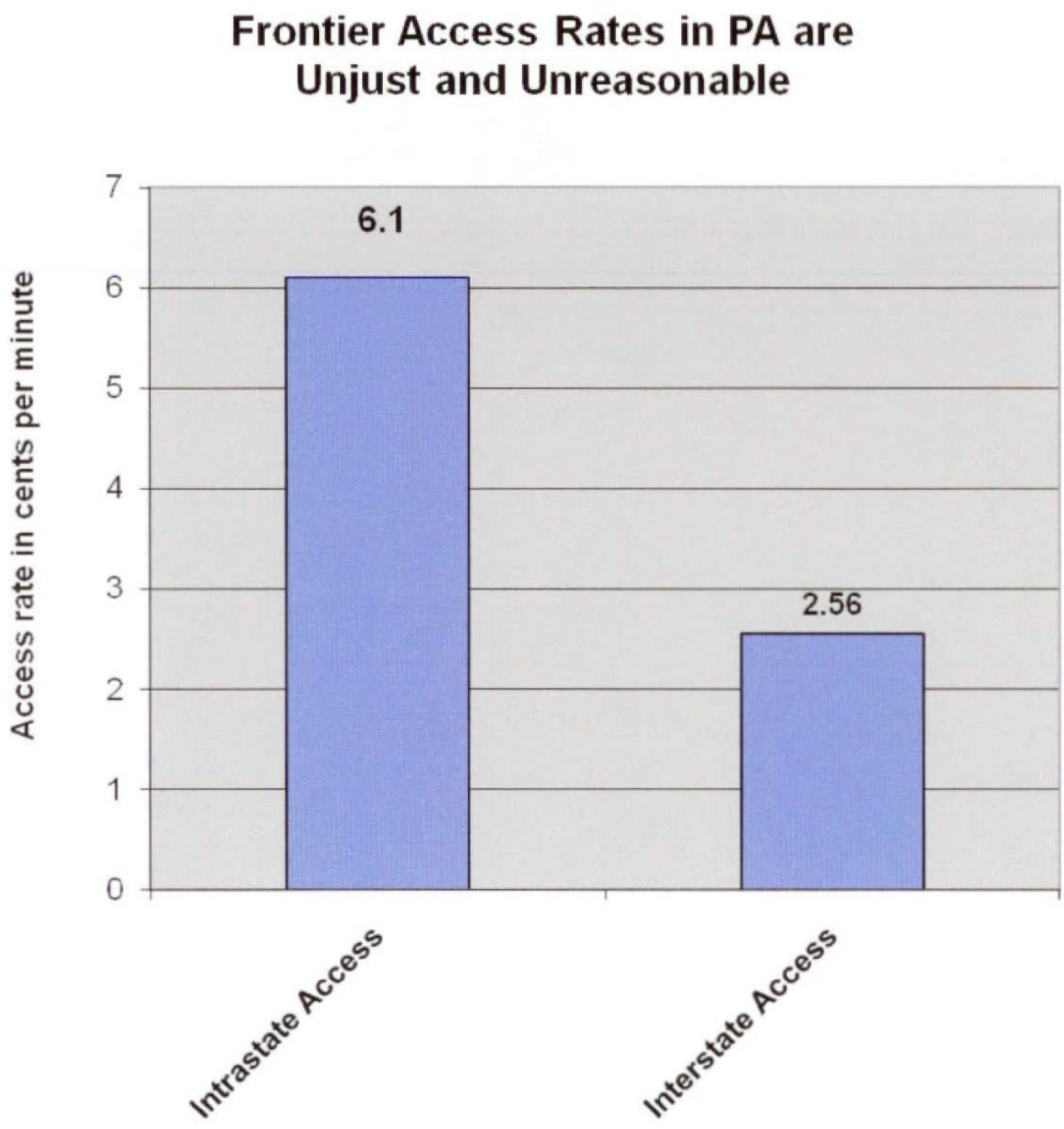
EXHIBIT C


PTA Access Rates in PA are
Unjust and Unreasonable
Access rate in cents per minute
6
5
4
3
2
1
0
4.81
1.88
Total PTA Avg. Intrastate
Total PTA Avg. Interstate
Source: AT&T Analysis of Interstate Annual Filing and Publicly Available Tariff Rates

Embarq Access Rates in PA are Unjust and Unreasonable

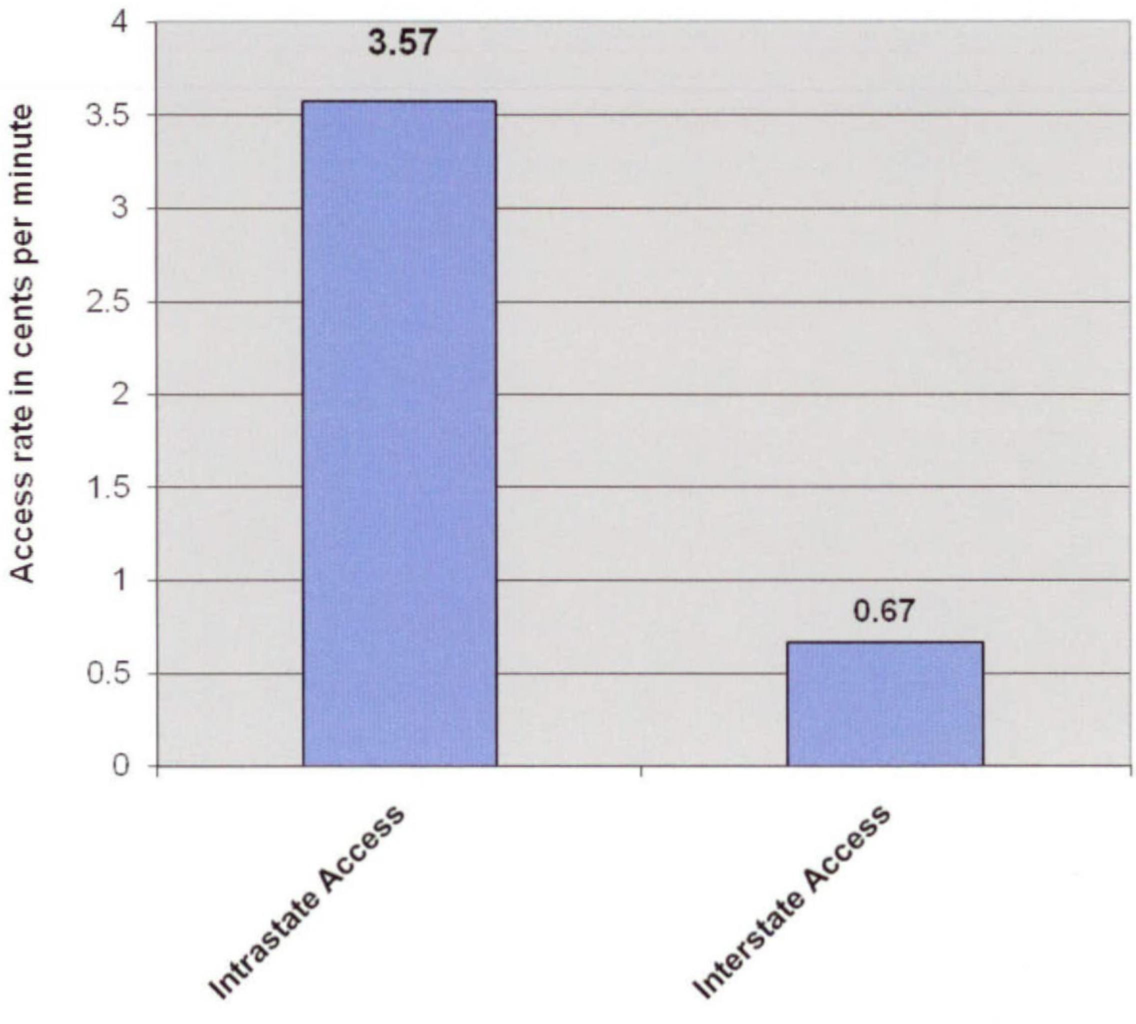


Source: AT&T Analysis of Interstate Annual Filing and Publicly Available Tariff Rates



Source: AT&T Analysis of Interstate Annual Filing and Publicly Available Tariff Rates

Windstream Access Rates in PA are Unjust and Unreasonable



Source: AT&T Analysis of Interstate Annual Filing and Publicly Available Tariff Rates

EXHIBIT D

REDACTED

EXHIBIT E

PTA ACCESS RATES - Carrier Common Line Charge (CCLC)	
	Carrier Common Line Access Service - Per Line, Per Mo
Range	$0.00 - $17.99
ARMSTRONG-NORTH	$0.00
ARMSTRONG-PA	$12.44
BENTLEYVILLE	$7.68
BUFFALO VALLEY TEL	$4.20
CITIZENS OF KECKSBURG	$11.18
COMMONWEALTH TEL CO	$7.00
DENVER & EPHRATA	$4.04
EMBARQ	$7.19
FRONTIER-BREEZEWOOD	$0.00
FRONTIER-CANTON	$0.00
FRONTIER-LAKEWOOD	$0.00
FRONTIER-OSWAYO RIVR	$0.17
FRONTIER-PA	$0.00
HICKORY	$9.34
IRONTON	$17.99
LACKAWAXEN	$7.38
LAUREL HIGHLAND	$8.07
MAHANOY & MAHANTANGO	$4.78
MARIANNA & SCENERY HILL	$16.50
NORTH EASTERN PA	$7.88
NORTH PENN	$5.23
NORTH PITTSBURGH TEL	$6.51
PALMERTON	$10.03
PENNSYLVANIA	$7.16
PYMATUNING	$8.46
SOUTH CANAAN	$11.02
SUGAR VALLEY	$4.63
THE CONESTOGA TEL	$4.83
VENUS	$7.59
WINDSTREAM	$4.88
YUKON WALTZ	$11.45

Source: Per companies' publicly filed tariffs.

EXHIBIT F

AT&T / TCG Reciprocal Compensation Rates: Pennsylvania From Existing Interconnection Agreements

AT&T / TCG	ILEC	Recip Comp	Comments
AT&T	Embarq	$0.0007	Opt-In to FCC rate
AT&T	Verizon	$0.0004	Unitary Rate Amendment
AT&T	GTE	Bill and Keep	Unitary Rate Amendment, but was B&K before, so stayed at B&K
TCG Pittsburg and TCG NJ	Embarq	$0.0007	Opt-In to FCC rate
TCG Pittsburg and TCG NJ	GTE	Bill and Keep	Unitary Rate Amendment, but was B&K before, so stayed at B&K
TCG NJ	Verizon	$0.0004	Unitary Rate Amendment
TCG Pittsburg	Verizon	$0.0004	Unitary Rate Amendment
TCG Pittsburg	Consolidated Communications f/n/a North Pittsburg Telephone Company	$0.002814	Traffic Termination Agreement

EXHIBIT G

Pennsylvania Major Trading Areas (MTAs)

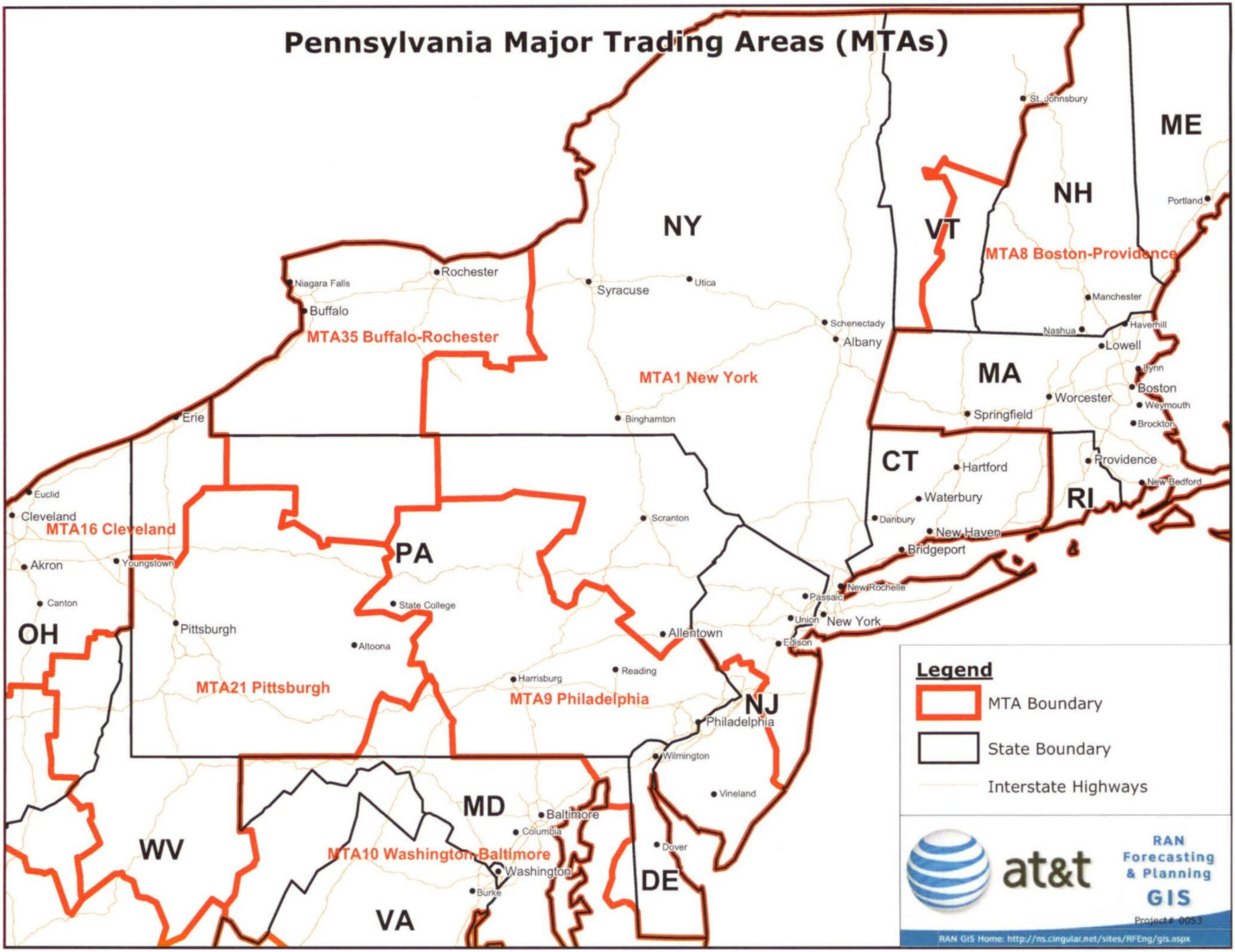


EXHIBIT H

REDACTED

EXHIBIT I

STATES WITH INTRASTATE/INTERSTATE ACCESS PARITY

States that Mandate Intrastate/Interstate Parity by Statute for Certain Carriers

Six states have mandated reduction of intrastate access rates to interstate rate levels by statute, and some have also directed the state utilities commission to ensure compliance through further proceedings and tariff oversight. These states are listed below with a summary of relevant state activities.

Maine: In Maine, the legislature ordered the commission to ensure intrastate mirroring of interstate switched access rates: "By May 31, 2005, the commission shall insure that intrastate access rates are equal to interstate access established by the Federal Communications Commission as of January 1, 2003."[1] The Maine public utilities commission implemented the statutory directive by adopting a rule requiring each local exchange carrier to implement access mirroring by June 1, 2003, and to refresh the mirrored rates on June 1 every two years thereafter.[2]

Texas: The Texas legislature established interstate-intrastate access parity with a directive to incumbent local exchange companies to "reduce both the company's originating and terminating per minute of use switched access rates in each market to parity with the company's respective federal originating and terminating per minute of use switched access rates" on the date the last market of that incumbent carrier is deregulated.[3] The statute also requires a "transitioning ILEC" – an ILEC for which at least one, but not all, of its markets has been deregulated – that has greater than 3 million access lines, to reach parity after a phased reduction.[4] The statute further requires incumbent carriers that have established parity to maintain parity on an ongoing basis for all switched access rates.[5] Importantly, in order to prevent abusive CLEC access rate practices, the statute further requires all telecommunications utilities to charge switched access at rates no higher than (a) the prevailing rates charged by the incumbent carrier serving that area; or (b) a statewide average ILEC composite switched access rate as calculated by the state commission.[6]

Other statutory provisions, however, shield certain ILECs from the requirement to reduce intrastate access charges to parity with interstate rates. Specifically, "transitioning" ILECs with

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[1] Maine Revised Statutes Annotated, Title 35-A, Chapter 71, sec. 7101-B Access Rates (effective May 2, 2003).

[2] Code of Maine Rules, 65-407 Ch. 280, section 8B (current through Aug. 2008).

[3] V.T.C.A., Utilities Code, sec. 65.201(a).

[4] V.T.C.A., Utilities Code, sec. 65.202(a).

[5] *Id.* at sec. 65.201(b) & 65.202(b).

[6] *Id.* at sec. 52.155 (and allows for higher rates only upon commission approval).

fewer than 3 million access lines and "newly designated transitioning" ILECs are governed by other rate reduction provisions that could lead to parity with interstate rates but do not mandate parity. Transitioning carriers are subject to phased rate reductions, but are required to reach parity only when 75% of their exchanges are deregulated by the Commission.[7] In addition, there are statutory provisions that permit certain ILECs (primarily small and rural companies) to elect incentive regulation under Chapter 59 of the Public Utility Regulation Act. ILECs electing incentive regulation under Chapter 59 are not subject to the requirement that intrastate access be reduced to parity with interstate rates.[8]

Oklahoma: Oklahoma by statute requires each local telecommunications service provider serving 15% or more of the access lines in the state to maintain intrastate switched access tariffs "in parity with the *terms and conditions* of the interstate access tariffs of that company," and to ensure on an ongoing basis to "maintain the terms and conditions of the intrastate access tariffs of that company so that they are in parity with the terms and conditions of the interstate tariffs of that company."[9] There is no current parity requirement for Switched Access *rates* for Oklahoma. Oklahoma had previously required mirroring until certain revenue reduction targets had been met.[10] Oklahoma carriers will no longer be required to flow through any access reductions effective July 1, 2009.

Michigan: The Michigan Telecommunications Act requires local carriers with more than 250,000 access lines to establish intrastate MOU access rates that do not exceed their interstate counterparts in order to be considered "just and reasonable.[11] Currently, AT&T Michigan and Verizon (soon to be Frontier) are the only local carriers that meet this threshold.

Indiana: By statute, Indiana provides that in any proceeding before the state commission, including any interconnection agreement or statement of generally available terms and conditions, "the commission shall consider the provider's rates and charges for intrastate access service to be just and reasonable if the intrastate rates and charges mirror the provider's interstate rates and charges."[12] The Indiana commission has approved parity arrangements over the years both for large and small incumbent local exchange companies.[13]

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[7] V.T.C.A., Utilities Code, secs. 65.203 & 65.204.

[8] V.T.C.A., Utilities Code, secs. 59.025 (Commission cannot reduce the switched access rates of carriers electing infrastructure commitment under Chapter 59).

[9] 17 Oklahoma Statutes sec. 17-139.103.D.4 (1997).

[10] Id. at 3.

[11] Michigan Compiled Laws, chap. 484.2310, sec. 310(2) (1991).

[12] Indiana Code chap. 8-1 -2 .6, sec. 1.5 (c) (2) (2006).

[13] *See, e.g.,* Re: Universal Service Reform, Cause No. 42144,2004 W.L. 1170315 at par.38. *See also, Re: Indiana Bell Telephone Company, Inc.*, Cause No. 42405 (2004 WL 2309824 at par.22) (continuing mirroring of Indiana Bell intrastate and interstate switched access rates).

Georgia: By statute enacted in 1995, Georgia required all Tier 1 and Tier 2 local exchange carriers to reduce their switched access rates to interstate levels. The statute mandates for Tier 1 carriers that "The rates for switched access ... shall be no higher than the rates charged for interstate access by the same local exchange company."[14] Based on this requirement, AT&T (the only Tier 1 carrier in Georgia), must maintain parity between its intrastate and interstate switched access charges. The statute required Tier 2 carriers to reduce, by July 1, 2000, their intrastate rates to parity with their July 1, 1995 interstate rates.[15]

States that Mandate Intrastate/Interstate Parity by Statute, but Directly or Indirectly Tie Access Reform to a Carrier's Plan for Alternative Regulation/Price Regulation

Two states establish intrastate-interstate switched access parity by statute, but tie the reduction to parity to a participating local exchange carrier's plan for alternative regulation. This approach generally produces, at a minimum, a revenue-neutral event.

Kansas: Kansas statutes provide for reduction of switched access rates to interstate levels, with corresponding allowances for increases in retail local exchange rates: "Subject to the Commission's approval, all local exchange carriers shall reduce intrastate access charges to interstate revels as provided herein. Rates for intrastate switched access, and the imputed access portion of toll, shall be reduced over a three-year period with the objective of equalizing interstate and intrastate rates in a revenue neutral, specific and predictable manner. The Commission is authorized to rebalance local residential and business service rates to offset the intrastate access and toll charge reductions."[16]

Wisconsin: Wisconsin statutes establish a system for local exchange companies to elect price regulation, and for price-regulated local companies to reduce intrastate access rates to interstate levels.[17] Price-regulated local exchange carriers with more than 150,000 local lines are directed that "Intrastate access service rates ... may not exceed the utility's interstate rates for similar access services."[18] The directive includes eliminating half of all carrier common line charges within one year, a prohibition against reinstating these charges, and elimination of all carrier common line charges within the earlier of two years or authorization to provide interLATA

[14] Ga. Code Ann. sec. 46-5-166(f)(1)(1995).

[15] *Id.* at (f)(2).

[16] Kansas Code chap. 66, Sec. 66-2005(c)(1996).

[17] *See generally*, Wis. Stat. Ann. 196. 196.

[18] *Id* at 196.196(2)(b)1.

services.[19] The statute provided a more graduated scale for access reductions for carriers with fewer than 150,000 lines.[20]

Wisconsin's statutes also establish a system to allow a telecommunications utility to file for approval of an alternative regulation plan ("ARP").[21] The statute lists factors that the Commission must assess in considering an ARP, but there is no specific requirement regarding intrastate switched access charge reductions. Carriers typically include such reductions in their plans, but the reductions are not required to establish parity with interstate rates. Typically, these rates are set with reference to benchmarks the Commission established in a 1993 proceeding.

Only Verizon and AT&T have elected price regulation and, therefore, these are the only carriers subject to the state's mirroring requirement. All other independent companies are either regulated through the terms of their alternate regulation plan or have retained rate of return regulation.

States That Mandate Intrastate/Interstate Parity by Commission Order, Rule or Tariff, Including Where Subsequently Modified

Nine state commissions have instituted mirroring or near-mirroring of interstate switched access rates for local exchange carriers, although two have subsequently modified this approach. These states generally permit carriers to implement some form of alternative price regulation to ensure revenue neutrality.

Alabama: In 1995, the Alabama Public Service Commission allowed South Central Bell to elect price regulation with various conditions, including requiring South Central Bell to maintain intrastate access charges at a level not to exceed interstate access rates for a period of five years. After expiration of the five year period, South Central Bell was required to continue to cap these rates at "the lower of the intrastate rates in effect on July 1, 1999, or the effective interstate prices and structures approved by the FCC."[22] Subsequently, in December 2004, the Commission adopted a Price Flexibility Plan for BellSouth that capped BellSouth's combination of the traffic sensitive per minute charge for originating and terminating switched access service at the then "effective intrastate level (including any non-traffic sensitive rate elements)."[23] Intrastate access rates are no longer required to be at parity with interstate rates.

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[19] *Id.* at 196.196(2)(b)1-3.

[20] *Id.* at 196.196(2)(b)3.(c).

[21] Wis. Stat. Ann. 196.195(12).

[22] *In Re Petition of South Central Bell Telephone Company to Restructure its Form of Regulation, etc.*, Docket Nos. 24499, 24472, 24030, 24865, Report and Order, September, Ala. P.S.C. (1995) at par. 9.03.

[23] *In Re Proposed Revisions to the Price Regulation and Local Competition Plan*, Docket No. 28590, Order

The Price Flexibility Plan for ILECs is the same as BellSouth's for intrastate switched access rates. The Price Flexibility Plan for Large CLECs and the Small CLECs/Toll Service Provider Streamlined Regulation Plan do not address switched access services.

Ohio: ILECs in Ohio have been required by the Ohio Public Utilities Commission to mirror their federal access rate structure for intrastate switched access rates, a policy in place since 1987.[24] In 2007, the Commission reiterated its support for earlier orders requiring the four largest incumbent local exchange carriers to mirror their then-current interstate switched access rates for intrastate access services.[25] At the same time, the Commission also ordered competitive local exchange carriers to mirror their respective interstate rates.[26] Note that the Commission has made an exception to the mirroring requirement with respect to the CCLC. The Commission capped the intrastate CCLC at 1987 levels. Nonetheless, Ameritech, CBT and Verizon have taken steps to reduce or eliminate the intrastate CCLC due to merger conditions and alternative regulation plans. ILECs other than the four largest incumbents mirror interstate rates that were in effect a decade ago.

Illinois: The Illinois Commerce Commission ("ICC") has aggressively reduced intrastate switched access rates. In 2000, the ICC ordered incumbent local carriers to remove all non-cost-based rate elements from intrastate switched access rates, and also to reduce all remaining cost-based access rate elements to their underlying long run service incremental costs, plus a reasonable allocation of shared and common costs.[27] Illinois intrastate switched access rates appear to be at or below interstate parity based on tariff filings.

The mid-size carriers are under rate-of-return regulation and generally try to mirror interstate rates. The small independent companies' switched access rates are only subject to the ICC's jurisdiction upon carrier complaint. CLECs are not subject to a mirroring requirement; they must only comply with the Commission's "just and reasonable" standard.

Massachusetts: The Massachusetts Department of Telecommunications and Energy established intrastate mirroring of interstate switched access rates in 2002, while also allowing for retail rate rebalancing: "Currently, intrastate switched access charges are higher than interstate switched

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Approving Alabama Telecommunications Regulation Plan, December, Ala. P.S.C. (2004) at Appendix A, page 9, section 7.C.

[24] *In Re Modification of Intrastate Access Charges*, Case No. 00-127-TP-COI, Opinion and Order, (2001 WL 283031) at par. 2, citing *In the Matter of the Commission's Investigation Relative to Establishment of Intrastate Access Charges*, Case No. 83-464-TP-COI, Subfile C (Mary 21, 1982 and March 12, 1987).

[25] *In the Matter o/the Establishment of Carrier-to-Carrier Rules*, Case No. 06-1344-TP-ORD, Entry on Rehearing, Ohio P.U.C.(2007), at par. 29, p. 18.

[26] *Id.*

[27] *Illinois Commerce Commission, On Its Own Motion vs. Illinois Bell Telephone Company et al. Investigation Into Non-Cost Based Access Charge Rate Elements in the Intrastate Access Charges of Incumbent Local Exchange Carriers in Illinois, etc.*, 97-0601, 97-0602 and 97-0516 (March 29, 2000), at 46 through 50.

access charges. This creates a situation where it could cost more for Massachusetts customers to make a call across the state than it does to make a call across the country. The Department concludes that this is inefficient. .. [T]herefore, intrastate switched access charges will be lowered to the more cost-based interstate levels."[28] In noting that the access revenues should be made up by retail rate increases, the Department also stated that "experience has shown that such rate-rebalancing enhances efficiency without negatively impacting universal service."[29]

In an order issued June 22, 2009, the Department of Telecommunications and Cable issued an Order requiring all CLEC intrastate switched access rates to be at or below Verizon's intrastate switched access rates, which, in turn, are required to be at the levels of Verizon's intrastate switched access rates. The Department required that CLEC rates would be capped at Verizon's rate effective one year from the date of its Order.[30]

New Mexico: New Mexico administrative rules provide that effective January 1, 2008, "a local exchange carrier's intrastate switched access charges may not exceed the interstate switched access charges approved by the federal telecommunications commission as of January 1, 2006, and its intrastate switched access elements and structure shall conform to the interstate switched access elements and structure approved by [the FCC)]."[31] The rules also provide a mechanism to require carriers to continue to mirror updated interstate switched access rates.[32]

Kentucky: In 1995, the Kentucky Commission approved a price regulation plan for BellSouth that required BellSouth to implement switched access rates that mirrored analogous interstate access rate elements.[33] The Commission later stated that its earlier Order "clearly and unequivocally required mirroring of interstate access rates as the FCC changed access rates," and required mirroring rates to be effective no later than 30 days after the FCC changed interstate rates.[34] The Commission in later years approved further access reductions for BellSouth and

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[28] *Investigation by the Department of Telecommunications and Energy on its Own Motion into the Appropriate Regulatory Plan to Succeed Price Cap Regulation for Verizon New England, Inc. etc.*, 2002 Mass. PUC Lexis 10 (May 8, 2002), at 36.

[29] *Id.*

[30] *Petition of Verizon New England, Inc., et al for Investigation under Chapter 159, Section 14 of the Intrastate Access Rates of Competitive Local Exchange Carriers*, D.T.C. 07-9, Final Order, released June 22, 2009.

[31] N.M. Admin. Code 17. 11.1 0.8(C) (2005).

[32] *Id.* at 17. 11. 10.8(I).

[33] *Application of BellSouth Telecommunication, Inc., d/b/a South Central Bell Telephone Company to Modify Its Method of Regulation*, Case No. 94-121 (1995), Order: 1995 WL 135116 Ky. 1628 (1999), 1999 WL 135116 (Neb. P .S.C.), at 7. The Commission initially exempted the PICC and TIC for originating access and capped terminating rates at the levels of originating rates. The Commission also gave guidelines for residential and business rate rebalancing initiatives. *Id.* at 5.

[34] *Telecomm. Inc.'s Application to Restructure Rates*, Case No. 97-074, Neb. P.S.C. (1997). *See also*, Tariff Filing of BellSouth Telecommunications, Inc. to Mirror Interstate Rates, Case No. 98-065 (1999).

Cincinnati Bell, citing public interest benefits associated with removing economically inefficient subsidies.[35]

In July 2006, statutory revisions effectively changed this regulatory scheme. Current statutory provisions permit telephone utilities the option to elect a price regulation plan as described within the statute.[36] Under price regulation, an electing utility's rates for intrastate switched-access service "shall not exceed its rates for this service that were in effect on the day prior to the date the utility filed its notice of election."[37] Accordingly, Kentucky's switched access rates are capped and no longer need to mirror interstate rates. AT&T-KY filed notice of its price regulation plan election on July 12, 2006.

Oregon: In 2001, the Commission approved a Qwest rate rebalancing plan that provided substantial access reform. The Commission required Qwest to reduce switched access rates by decreasing the local switching rate and eliminating the carrier common line charge, a move calculated to "bring Qwest's intrastate switched access rates closer to its currently lower interstate switched access rates ... an equitable development with respect to consumers . . ."[38]

Tennessee: BellSouth Telecommunications Inc. ("BellSouth") agreed to reduce intrastate switched access charges to achieve parity between intrastate and interstate switched access rates that existed as of August 1, 1995 under agreement with certain interexchange carriers operating in Tennessee. This agreement was never filed with nor approved by the Tennessee Regulatory Authority ("TRA"). On January 31, 1997, BellSouth filed with the TRA a tariff to implement the first step of these reductions. The TRA initiated a docket to consider this tariff filing,[39] and issued an Order approving BellSouth's tariff as filed.[40] The TRA also approved all subsequent tariff filings made to reduce rates under the agreement with IXCs.

West Virginia: By Order of the Commission in March of 2007 approving Verizon's Market Transition Plan ("MTP"), Verizon will eliminate the carrier common line charge from its intrastate switched access rates and mirror interstate traffic-sensitive switched access rates over a phase-in period through year-end 2010. Verizon will be granted pricing flexibility for basic local exchange services commensurate with the revenue reductions attributable to switched access decreases. At the conclusion of the phase-in period, all Verizon intrastate switched access rates

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35 *See, e.g., Review of BellSouth Telecomm, Inc.'s Price Regulation Plan*, Case No. 99-434 Ky. P.S.C. (2000), at 5.

36 Ky. Rev. Stat. 278.543.

37 *Id.* at 278.543(4).

38 *Re: Qwest Corporation, UT 125/Phase II*, Order No. 01-810, 213 P.U.R. 4th 78 (2001).

39 *In Re: Tariff Filling by BellSouth Telecommunications, Inc. to Reduce Intrastate Access Charges*. Docket No. 9700185. Ten. R.A. (1997).

40 *Id.* The TRA's Order also required "the long distance companies certified to provide service within Tennessee to file tariffs as described in (TRA) Rule 1220-4-.55(2)(d). That rule requires the long distance companies to flow-through this access reduction to ratepayers in the form of lower long distance rates."

are expected to mirror interstate rates.[41] A recent ALJ Recommended Decision, if adopted by the Commission, will require CLECs to mirror Verizon's intrastate rate by year-end 2010 as well.[42]

States that by Tariff Establish Intrastate Access Rates Near Parity with Interstate Rates

LECs in two states have established by tariff intrastate switched access rates that are virtually at parity with corresponding interstate rates.

Mississippi: The BellSouth terminating intrastate access charges "are currently at parity with the FCC interstate rates and will be adjusted annually subject to a cap at parity."[43] The intrastate rates in total for a two-ended call are marginally higher than interstate rates ($0.0095 intrastate vs. $0.0088 interstate).

North Carolina: The current BellSouth per-minute, two-ended intrastate access rate is almost identical to interstate rates at $0.0092, compared with an interstate rate of $0.0088.[44]

Nevada Requires That Intrastate Switched Access Rates Be Consistent With Federal Law

The rates, terms and conditions for switched and special access services are currently regulated in Nevada and must be consistent with federal law.[45] Carriers may reduce switched access charges to parity with the associated interstate switched access rates without a rate proceeding. The Public Utilities Commission of Nevada may deregulate switched access services provided by a competitive supplier (AT&T Nevada is one) upon its own motion or acting upon a carrier petition.[46]

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[41] *Petition for Approval of Joint Stipulation and Agreement for Settlement and Joint Petition for Expedited Approval of a Joint Stipulation for a Market Transition Plan for Verizon West Virginia Inc.*, Case No. 06-1935-T-PC., W.V.P.S.C. (2007).

[42] *Petition of Verizon West Virginia Inc. et als.,* Case No. 08-0656-T-GI (March 4, 2009).

[43] BellSouth Telecommunications, Inc. Mississippi, Access Services Tariff, effective January 1, 2008.

[44] *See generally*, BellSouth Access Services Tariff, sec. E.6, for Mississippi, North Carolina, Alabama, South Carolina and Florida.

[45] Nevada Revised Statutes 704.68873.

[46] Nevada Revised Statutes 704.68879.

EXHIBIT J

A SNAPSHOT LOOK AT THE "LARGER" RLECS

PTA Company	2008 Revenues[1]	Estimated Revenues Post Merger[2]	FORTUNE 1000 Rank 2008[3]	FORTUNE 1000 Rank Post Merger[4]
Embarq	$6.1 B	**$8.8 Billion**	*# 405*	***# 298***
CenturyTel	$2.6 B		*# 753*	
Frontier/ Commonwealth	$2.2 B	**$6.5 Billion**	*# 834*	***# 382***
Frontier[5]- Portion acquired from Verizon	$4.3 B			
Windstream	$3.2 B	**$3.4 Billion**	*# 656*	***# 641***
D&E (Buffalo Valley; Conestoga)	$0.15B			

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[1] Sources: Each company's 2008 Annual 10-K Filing

[2] Sources: News Releases: CenturyTel/Embarq Investor Presentation 10/27/2008 http://www.centurytelembarqmerger.com/pdf/presentations/CenturyTel_EMBARQ_IR_Presentation.pdf ; Verizon/Frontier Press Release 5/13/2009 http://newscenter.verizon.com/press-releases/verizon/2009/verizon-to-divest-wireline.html ; Windstream/D&E Press Release 5/11/2009 http://www.snl.com/irweblinkx/file.aspx?IID=4121400&FID=7779482

[3] FORTUNE 500 or FORTUNE 1000 RANKINGS 2008 http://money.cnn.com/magazines/fortune/fortune500/2009/full_list/

[4] *Id.*

[5] The operations Frontier will acquire include all of Verizon's local wireline operating territories in Arizona, Idaho, Illinois, Indiana, Michigan, Nevada, North Carolina, Ohio, Oregon, South Carolina, Washington, West Virginia and Wisconsin. In addition, the transaction will include a small number of Verizon's exchanges in California, including those bordering Arizona, Nevada and Oregon. *http://newscenter.verizon.com/press-releases/verizon/2009/verizon-to-divest-wireline.html*

SUMMARY PROFILE OF "LARGER" PENNSYLVANIA RLECS

EMBARQ/CENTURY TEL:

The company was incorporated in 2005 and began operating independently in May, 2006, when former parent Sprint Nextel completed the spin-off of its local telecommunications division. Embarq is the 4th largest local exchange carrier in the U.S., serves approximately 5.7 million access lines (as of the end of 2008), across 18 states and has about 16,000 employees. The company reported operating revenues of $6.12 billion for the full year 2008 and is in the Fortune 500® list of America's largest corporations.

Embarq provides local voice and data services, including DSL-based Internet access, to consumer, business and wholesale customers. Embarq also provides wireless, video and long-distance voice services to customers within its local service territories through third-party relationships with Sprint Nextel and EchoStar's DISH or Direct TV Network. Business data services include traditional leased lines, frame relay and ATM, along with IP VPN, Ethernet and managed services.

On October 27, 2008, Embarq agreed to be acquired by CenturyTel, another large company[6], in an all-stock transaction valued at $11.6 billion, including the assumption of $5.8 billion of Embarq's debt. The combined company will operate in 33 states, with nearly 8 million access lines and 2 million broadband customers. The merger received approval by the FCC on June 24, 2009.

With the CenturyTel acquisition, the combined company is expected to become the fourth largest incumbent local exchange carrier in the U.S. and approximately number 300 on the Fortune 500 list of America's largest companies.

CenturyTel announced that it believes "synergies' will reach $400 million annually, composed of approximately $300 million in cost savings, around $75 million in additional revenues opportunities, and almost $30 million in capital efficiencies.

FRONTIER/ COMMONWEALTH TELEPHONE COMPANY

Frontier Communications Corporation[7]: Frontier Communications Corporation (formerly known as Citizens Communications Company through July 30, 2008) was incorporated in the State of Delaware in 1935 as Citizens Utilities Company. In March 2007 Frontier acquired Commonwealth Telephone Enterprises, Inc. which operates in Pennsylvania, in a transaction valued at $1.1 billion. Frontier is a full-service communications provider and the second largest rural local telephone exchange company in the country. The company offers services to residence and business customers including local and long distance telephone service, directory services, television and Internet services, as well as bundled offerings, wireless Internet data access, data security solutions and specialized bundles for small/medium/large businesses and home offices. During 2008, Frontier added about 57,000 new High-Speed Internet customers and 116,000 bundle or package

[6] The company issued a press release stating that CenturyTel has been recognized once again by *Forbes* magazine as one of the "400 Best Big Companies in America." This "Platinum 400" list identifies the best of the largest publicly traded companies in America -- from across 26 industry groups -- after a thorough review of financial metrics, Wall Street forecasts, corporate governance ratings and other public information. '"Best Companies" list for 8th year", March 12, 2007. http://www.centurytel.com/Pages/AboutUs/PressRoom/pressRelease.jsp?page=Corporate/Press_Release61.html

[7] Information based on Frontier's 2008 Annual 10K report, Frontier/Verizon Assets purchase press release, May 13, 2009, and/or Investor Fact Sheet regarding Verizon assets purchase.

customers. According to the company's annual report, at the end of 2008 it had approximately 579,900 high-speed data customers and 749,800 bundle or package customers. It also had about 120,000 Video customers, provided in partnership with DISH.

• 2008 Revenue: $2.2 billion
• Access Lines: 2.3 million
• Voice and Broadband Connections: 2.8 million
• Employees: 5,671
• 2008 year end states of operation as an ILEC: 24

On May 13, 2009, Frontier Communications Corporation announced the purchase of Verizon assets making it the nation's largest rural communications services provider and the fifth largest incumbent local exchange carrier (ILEC) with more than 7 million access lines, 8.6 million voice and broadband connections and 16,000 employees in 27 states.

Under the agreement Frontier will acquire approximately 4.8 million access lines from Verizon across 14 states: Arizona, California, Idaho, Illinois, Indiana, Michigan, Nevada, North Carolina, Ohio, Oregon, South Carolina, Washington, Wisconsin and West Virginia, expanding the combined company footprint to 27 states. Frontier will acquire:

• Access Lines: 4.8 million with:
o 1.0 million High-Speed Internet customers
o 2.2 million long-distance customers
o 164,000 DirecTV customers
o 69,000 FiOS video customers
• Voice and Broadband Connections: 5.8 million
• Total Employees in 14 states: ~11,000

The transaction is valued at approximately $8.6 billion. The newly combined company will have:

• Annual Revenue: $6.5 billion
• Access Lines: 7 million
• Voice and Broadband Connections: 8.6 million
• High-Speed Internet Customers: 1.6 million
• Satellite Video Customers: 284,000
• FiOS Video Customers: 69,000
• Total Employees in 27 states: 16,000
• States of Operation: Alabama, Arizona, California, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Washington, West Virginia and Wisconsin

Frontier expects to create a platform for future growth and consolidation with the generation of approximately $1.4 billion of combined pro forma 2008 free cash flow to enable the company to position itself for future investments in new products, technologies and acquisitions. The combined company is expected to achieve annual merger expense synergies of $500 million.

Maggie Wilderotter, Frontier Communications Chairman and Chief Executive Officer, said, "This is a truly transformational transaction for Frontier...we are confident that we can dramatically accelerate the penetration of broadband in these new markets during the first 18 months." "We will focus on execution, as well as on improving operations, delivering new products and services and achieving synergy targets. This transaction makes us a larger and an even stronger company, with significantly greater free cash flow generation capability. This acquisition will benefit the communities we serve, increase opportunities for employees and allow us to continue to deliver world-class profit margins and revenue growth for shareholders".[8]

WINDSTREAM/D&E

Windstream: Windstream Corporation is an S&P 500 company that provides local voice and related features, long distance, digital phone, high-speed Internet and high-definition video and entertainment services to residential and business customers in 16 states. The company has approximately 3 million access lines and about $3.2 billion in annual revenues. Additionally, Windstream provides data services to more than 978,000 high-speed Internet customers. Windstream is an S&P 500 company and is ranked 4th in the 2009 BusinessWeek 50 ranking of the best performing U.S. companies. Based on the number of telephone lines Windstream is the fifth largest local telephone company in the country. At year end 2008, Windstream had 7,349 employees.

Windstream's wireline subsidiaries provide facilities-based services in 16 states across the United States in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, Missouri, Nebraska, New Mexico, NewYork, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina and Texas. In addition, some of Windstream's wireline affiliates also have competitive local exchange carrier operations on both a facilities-based and resale basis, and, where necessary, have negotiated interconnection agreements with the appropriate incumbent local exchange carriers.

D&E Communications, Inc.: D&E Communications, Inc. is an integrated communications provider that offers a wide range of services to residential and business customers. D&E offers customers a comprehensive package of communications services, including local and long distance telephone services, enhanced telephone services, network access services, dedicated data circuits, and communication services, such as broadband Internet service, business continuity and co-location services, web-hosting services, directory, Voice over Internet Protocol ("VoIP") services and, video services. To business customers it also provides professional data and information technology services, network design, monitoring, security assessments and penetration tests and sells equipment used in providing these services. In addition, it also offers computer support services, which allows D&E to handle new computer set-up, installation, troubleshooting and preventive maintenance services for its customers, and applications provided by its Internet service provider.[9]

D&E Communications, Inc. has the following affiliates incorporated in Pennsylvania: Denver and Ephrata Telephone and Telegraph Company, D&E Networks, Inc., D&E Wireless, Inc., Conestoga Enterprises, Inc., Conestoga Telephone and Telegraph Company, Buffalo Valley Telephone Company, Infocore, Inc., and Conestoga Wireless Company.

D&E operates as an RLEC in parts of Lancaster, Berks, Union, Lebanon, Chester, Montgomery, Lehigh and

[8] Frontier company press release, "FRONTIER COMMUNICATIONS TO ACQUIRE VERIZON ASSETS CREATING NATION'S LARGEST PURE RURAL COMMUNICATIONS SERVICES PROVIDER", May 13, 2009.

[9] According to the company's 2008 Annual 10K Report, pages 3-4. http://www.sec.gov/Archives/edgar/data/1011737/000119312509052087/d10k.htm

Northumberland counties in Pennsylvania. In 1998, D&E also began operating as a competitive local exchange carrier ("CLEC") and currently operates as a CLEC in the Lancaster, Reading, Harrisburg, State College, Pottstown, Williamsport and Altoona, Pennsylvania metropolitan areas. D&E's CLEC offers services similar to the RLEC, but primarily targets small and medium-sized business customers.[10]

According to the company's 2008 annual report it generated annual revenue of $149.5 million and as of December 31, 2008, it served 119,102 RLEC access lines, 46,436 CLEC access lines, 43,058 digital subscriber line ("DSL")/high-speed Internet subscribers, 2,183 dial-up Internet access subscribers, 8,487 video subscribers and 982 web-hosting customers resulting in total customer connections of 220,248. D&E also had 506 full-time employees as of December 31, 2008, of which 66 employees were covered by a collective bargaining agreement.

As D&E's chief executive Mr. James Morozzi put it ""We're too big to be little and too little to be big"[11]

On May 11, 2009, Windstream announced the acquisition of D&E Communications, Inc., in a transaction valued at approximately $330 million. With the D&E acquisition, Windstream nearly doubles its company's operating presence in Pennsylvania with the addition of approximately 165,000 access lines (ILEC & CLEC combined) and about 44,000 high-speed Internet customers and expands its CLEC operations with the addition of seven markets in Pennsylvania.

"D&E Communications is an exceptional, well-run company with a quality network that is 100 percent broadband capable," said Jeff Gardner, president and CEO of Windstream. "These properties significantly expand our operations in Pennsylvania and provide the opportunity to grow cash flow, reduce our dividend payout ratio and create value for shareholders and customers."

D&E will give Windstream a base of about 8500 terrestrial video subscribers in two markets: State College and Lewisburg.[12] Using its own video headend in State College, D&E has grown its video subscriber base 6% last year and 7% the year before. Windstream, which generally relies on a satellite partner for video services rather than a terrestrial offering said it will look at the possibility of expanding this service to the broader Windstream footprint, as well as offer its own satellite service in the D&E markets.[13] "We've done video really well," said James Morozzi, D&E's president and chief executive officer. "We've got good network in place. And it seems a natural to continue to expand that." [14]

The transaction also includes six wireless licenses for 700 MHz spectrum that cover approximately 1.3 million points of presence in central Pennsylvania.

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[10] D&E 2008 Annual Report. http://www.decommunications.com/about/investors/docs/2008_annual_report.pdf

[11] Article in Telephony Online, "Windstreatm CEO: D&E deal a sign of market rebound", May 12, 2009. http://telephonyonline.com/independent/news/jeff-gardner-windstream-acquisition-0512/index.html

[12] Article in Telephony Online, "Windstreatm CEO: D&E deal a sign of market rebound", May 12, 2009. http://telephonyonline.com/independent/news/jeff-gardner-windstream-acquisition-0512/index.html According to Windstream, D&E offers video over two different technologies in the two markets – a hybrid fiber coaxial network in State College (where D&E operates as a competitive local exchange carrier) and ADSL2+ in Lewisburg, where D&E is the incumbent phone provider.

[13] Article in Telephony Online, "Windstreatm CEO: D&E deal a sign of market rebound", May 12, 2009. http://telephonyonline.com/independent/news/jeff-gardner-windstream-acquisition-0512/index.html

[14] *Id.*

NORTH PITTSBURGH/CONSOLIDATED TEL.:

On December 31, 2007, Consolidated Communications acquired North Pittsburgh Systems, Inc.[15] Consolidated Communications is an established ILEC that provides communications services to residential and business customers in Illinois, Texas, and Pennsylvania.

Consolidated offers a wide range of telecommunications services, including local and long distance service, custom calling features, private line services, high-speed Internet access, IPTV with over 200 all-digital channels, high definition ("HD") offerings, and digital video recorder ("DVR") services; carrier access services, network capacity services over its regional fiber optic network, and directory publishing. In addition, it operates a number of complementary businesses, including telemarketing and order fulfillment, telephone services to county jails and state prisons, equipment sales, operator services, and mobile services. Consolidated/North Pittsburgh Pennsylvania market also offers many of advanced IP network capabilities, with DSL available to 100% of the customer base.[16]

The CLEC operation in Pennsylvania has an extensive network with over 300 route miles of fiber optic facilities in the Pittsburgh metropolitan area. The CLEC has placed equipment in 27 Verizon central offices and one Embarq central office, and primarily serves its customers using UNE loops. In the Pittsburgh market, the CLEC operates a carrier hotel that serves as the hub for its fiber optic network and which also offers space to ISPs, long distance carriers, and other CLECs..

With the acquisition of North Pittsburgh in 2007, Consolidated became the 12th largest local telephone company in the country with 264,323 local access lines, 74,687 CLEC access line equivalents, 91,817 high-speed Internet subscribers, 16,666 IPTV subscribers and 6,510 VOIP digital telephone service subscribers. For the years ended December 31, 2008, and 2007, Consolidated had $418.4 million and $329.2 million of revenues, respectively, and ended 2008 with 1315 employees.[17]

GROWTH OR EXPANSION OF SERVICES BY THESE LARGE PROVIDERS

In addition to the merger & acquisition activity amongst various RLECs, creating additional economies of scale and the ability to cross-sell new services to larger customer bases, these providers continue to expand their already broad service portfolios into growing markets and avenues of new business opportunities.[18] For example, Windstream's CEO, Mr. Gardner, expressed his view about future prospects when he said " If we can continue to produce good results, ultimately the timing will work out for us, whether it be a year or two, we'll have opportunities to do other deals the size of D&E or bigger."[19]

[15] In April 2004 Consolidated also acquired TXU Communications Ventures Company, with operations in TX, tripling the company's size.
[16] 2008 Consolidated Communications, Annual 10K report, page 3-6.
[17] Id., pages 3, 13.
[18] D&E Acquired Conestoga Enterprises, Inc. in May 2002. D&E believes that RLECs have an economic advantage of having an established network infrastructure to provide wireline telecommunications services in the specific franchise area. Also, its RLECs have certain competitive advantages, including the lack of concentration of any large business customers, a strong customer service record and high level of customer satisfaction and the service territories' high cost of facilities-based entry due to low population density. 2008 D&E Communications Annual Report, Page 13.

[19] *Id.*

Mr. James Morozzi, D&E's President and Chief Executive Officer also said that "Even in light of the current economic conditions, we continue to see growth in both our DSL/High-Speed Internet subscribers and our CLEC access lines, albeit at a slower rate than this time last year. We're especially pleased to see our total revenue from private line circuits, dedicated circuits, Ethernet and IP VPN services grow by $0.4 million, or 10.7%, over the first quarter of 2008. This is a reflection of our business customers continuing to place high value on D&E's advanced data networking services".[20]

Frontier began providing wireless data services during 2006 in certain markets. Its wireless data services utilize new technologies, and as of the end of 2008, it provided wireless data WIFI networks in 18 municipalities, four colleges and universities and over 120 business establishments.[21]

Consolidated Communications says that although it focused on integrating North Pittsburgh in 2008, in the longer term it will continue to pursue a disciplined process of selectively acquiring access lines or operating companies.[22] It seeks to increase revenue per access line by selling additional services through a bundling strategy, that includes its triple play offering of voice, DSL, and IPTV services.[23]

Consolidated also launched IPTV in its Pennsylvania markets in April 2008 just four months after acquiring North Pittsburgh. All of Consolidated's markets currently offer HD programming and DVR service that further increases its average revenue per user. As of December 31, 2008, over 90% of its video customers had taken its triple play offering.[24]

[20] News Article in Morningstar, "D&E Communications Reports First Quarter 2009 Results". May 7, 2009. http://news.morningstar.com/newsnet/ViewNews.aspx?article=/MWR/09499185_univ.xml

[21] Frontier Annual Report 10K, Page 5.

[22] 2008 Consolidated Communications, Annual 10K report, page 7.

[23] Id., page 4.

[24] Id., page 6.

A SNAPSHOT LOOK AT THE LARGE RLECS

<table>
<tr><th>PTA Company</th><th>2008 Revenues[25]</th><th>Estimated Revenues Post Merger[26]</th><th>FORTUNE 1000 Rank 2008[27]</th><th>FORTUNE 1000 Rank Post Merger[28]</th></tr>
<tr><td>Embarq</td><td>$6.1 B</td><td rowspan="2">$8.8 Billion</td><td># 405</td><td rowspan="2"># 298</td></tr>
<tr><td>CenturyTel</td><td>$2.6 B</td><td># 753</td></tr>
<tr><td></td><td></td><td rowspan="3">$6.5 Billion</td><td rowspan="3"># 834</td><td rowspan="3"># 382</td></tr>
<tr><td>Frontier/ Commonwealth</td><td>$2.2 B</td></tr>
<tr><td>Frontier[29]- Portion acquired from Verizon</td><td>$4.3 B</td></tr>
<tr><td></td><td></td><td rowspan="3">$3.4 Billion</td><td rowspan="3"># 656</td><td rowspan="3"># 641</td></tr>
<tr><td>Windstream</td><td>$3.2 B</td></tr>
<tr><td>D&E
(Buffalo Valley; Conestoga)</td><td>$0.15B</td></tr>
</table>

[25] Sources: Each company's 2008 Annual 10-K Filing

[26] Sources: News Releases: CenturyTel/Embarq Investor Presentation 10/27/2008 http://www.centurytelembarqmerger.com/pdf/presentations/CenturyTel_EMBARQ_IR_Presentation.pdf ; Verizon/Frontier Press Release 5/13/2009 http://newscenter.verizon.com/press-releases/verizon/2009/verizon-to-divest-wireline.html ; Windstream/D&E Press Release 5/11/2009 http://www.snl.com/irweblinkx/file.aspx?IID=4121400&FID=7779482

[27] FORTUNE 500 or FORTUNE 1000 RANKINGS 2008 http://money.cnn.com/magazines/fortune/fortune500/2009/full_list/

[28] *Id.*

[29] The operations Frontier will acquire include all of Verizon's local wireline operating territories in Arizona, Idaho, Illinois, Indiana, Michigan, Nevada, North Carolina, Ohio, Oregon, South Carolina, Washington, West Virginia and Wisconsin. In addition, the transaction will include a small number of Verizon's exchanges in California, including those bordering Arizona, Nevada and Oregon. http://newscenter.verizon.com/press-releases/verizon/2009/verizon-to-divest-wireline.html

EXHIBIT K

Study area code	holding co name	study area name	hold co code	study are cost per loop Data 2004 filed 2005 used 2006	study are cost per loop Data 2005 filed 2006 used 2007	study are cost per loop Data 2006 filed 2007 used 2008	study are cost per loop Data 2007 filed 2008 used 2009	study are cost per loop change annual cost 2005-2008	study are cost per loop per month change 2005-2008	Study area Per Mo loop cost after FUSF 2005 (E)	study area Per Mo loop cost after FUSF 2009 (H)	2005 (E) study area cost per loop (NACPL 324 43 yr 27.04 mo)	per line HCL annual 2005(E)	max support 2005 (E)	Mo HCL per line 2005 (E)	2009 (H) study area cost per loop (NACPL $382.97 yr $31 92 mo)	per line HCL annual 2009 (H)	max support 2009 (H)	Mo HCL per line 2009 (H)	Per Line HCL Change 2005-2009 (T)-(P)
170168	Frontier Communications Corporation	FRONTIER-PA	200000042	165 16	159 75	153 45	186.75	21 59	1 80	10 32	11 67	165 16	-	No	-	186 75	-	No	-	-
170201	Verizon Communications Inc	VERIZON N-PA(QUAKER)	200000002	230 06	225 59	227 68	233.60	3 54	0 29	14.38	14 60	230 06	-	No	-	233 60	-	No	-	-
170194	Frontier Communications Corporation	FRONTIER-OSWAYO RIVR	200000042	302 83	244 05	255 09	234 67	-68 16	(5 68)	18 93	14 67	302 83	-	No	-	234 67	-	No	-	-
170170	Verizon Communications Inc	VERIZON N-PA(CONTEL)	200000002	217 81	221 56	242.30	251.01	33 20	2 77	13 61	15.69	217.81	-	No	-	251 01	-	No	-	-
170177		LACKAWAXEN TELECOM	0	247 31	244.70	254.86	258 62	11.31	0 94	15 46	16 16	247.31	-	No	-	258 62	-	No	-	-
170178	Frontier Communications Corporation	FRONTIER-LAKEWOOD	200000042	255 46	250 73	247 69	281.11	25 65	2.14	15.97	17.57	255 46	-	No	-	281.11	-	No	-	-
170152	Frontier Communications Corporation	FRONTIER-CANTON	200000042	356 24	345 54	311.52	294 29	-61.95	(5.16)	22 27	18 39	356 24	-	No	-	294 29	-	No	-	-
170169	Verizon Communications Inc	VERIZON NORTH-PA	200000002	292.49	279 10	278 77	301.79	9 30	0 78	18 28	18 86	292.49	-	No	-	301.79	-	No	-	-
170176	Windstream Corporation	WINDSTREAM PA	000001180	273 66	282 53	318 28	302 55	28 89	2 41	17.10	18.91	273 66	-	No	-	302.55	-	No	-	-
175000	Verizon Communications Inc.	VERIZON PENNSYLVANIA	200000002	245.34	261.14	279.41	305.38	60.04	5.00	15.33	19.09	245.34	-	No	-	305.38	-	No	-	-
170209	Embarq Corporation	THE UTC OF PA	200000012	294 90	298 96	321.50	316 52	21 62	1.80	18 43	19.78	294 90	-	No	-	316.52	-	No	-	-
170151	D&E Communications, Inc	BUFFALO VALLEY TEL	200000165	260 35	304.13	310 83	331.60	71 25	5.94	16 27	20 73	260.35	-	No	-	331 60	-	No	-	-
170161	Frontier Communications Corporation	COMMONWEALTH TEL CO	200000042	260 35	304 13	310 83	331 60	71.25	5 94	16 27	20 73	260 35	-	No	-	331 60	-	No	-	-
170162	D&E Communications, Inc	THE CONESTOGA TEL	200000165	260 35	304 13	310 83	331.60	71 25	5 94	16 27	20 73	260.35	-	No	-	331 60	-	No	-	-
170165	D&E Communications, Inc	DENVER & EPHRATA	200000165	260.35	304 13	310 83	331 60	71 25	5 94	16.27	20 73	260 35	-	No	-	331.60	-	No	-	-
170193	Consolidated Communications, Inc	CONSOLIDATED COMM-PA	200000222	260 35	304.13	310 83	331 60	71.25	5 94	16.27	20 73	260 35	-	No	-	331.60	-	No	-	-
170149	Frontier Communications Corporation	FRONTIER-BREEZEWOOD	200000042	349 06	328 46	335 41	345 02	-4 04	(0 34)	21.82	21.56	349.06	-	No	-	345.02	-	No	-	-
170175		IRONTON TEL CO	0	308 85	328 94	349 88	395 20	86.35	7 20	19.30	24 70	308 85	-	No	-	395 20	-	No	-	-
170183	Telephone And Data Systems, Inc.	MAHANOY & MAHANTANGO	200000017	382 94	392.90	414 20	395 30	12.36	1 03	23 40	24 71	382.94	6 40	No	0 53	395.30	-	No	-	(0 53)
170156		CITIZENS - KECKSBURG	0	315 88	332.76	359 35	408 98	93.10	7.76	19 74	25 56	315 88	-	No	-	408 98	-	No	-	-
170179		LAUREL HIGHLAND TEL	0	358 49	355 34	386.45	441 36	82.87	6 91	22.41	27.53	358 49	-	No	-	441.36	0.62	No	0 05	0 05
170145	FairPoint Communications, Inc.	BENTLEYVILLE TEL CO	200000037	355 08	352 58	386 60	441.93	86 85	7 24	22 19	27 54	355 08	-	No	-	441 93	0 99	No	0.08	0 08
170196		PALMERTON TEL CO	0	353.73	351.78	383 45	443 57	89 84	7 49	22.11	27.55	353 73	-	No	-	443.57	2.05	No	0.17	0 17
170200	Pymatuning Holding Company, Inc	PYMATUNING IND TEL	200000200	389 03	395 75	411.12	451 23	62 20	5.18	23 45	27 62	389.03	10 36	No	0.86	451 23	7 03	No	0 59	(0 26)
170191		NORTH-EASTERN PA TEL	0	415 77	430 88	441 88	465 79	50 02	4 17	23 67	27.74	415 77	27.74	No	2.31	465 79	16 50	No	1.37	(0 94)
170204		SOUTH CANAAN TEL CO	0	415.54	431.97	443.01	467.15	51.61	4 30	23.67	27.75	415.54	27 59	No	2 30	467.15	17.38	No	1.45	(0 85)
170197		PENNSYLVANIA TEL CO	0	420 88	436 42	444 93	467 24	46 36	3 86	23 72	27.75	420 88	31.06	No	2 59	467 24	17 44	No	1.45	(1.14)
170171		HICKORY TEL CO	0	424.31	438 75	445 95	467 57	43 26	3 61	23 74	27.75	424 31	33 29	No	2.77	467.57	17.65	No	1.47	(1.30)
170210		VENUS TEL CORP	0	420 81	436 47	445 20	467 86	47.05	3 92	23.72	27.75	420.81	31 02	No	2.58	467.86	17 84	No	1 49	(1.10)
170206	Telephone And Data Systems, Inc.	SUGAR VALLEY TEL CO	200000017	455 88	496 83	517.65	471 55	15 67	1 31	24 01	27.79	455 88	53 81	No	4 48	471 55	20 24	No	1.69	(2.80)
170215		YUKON - WALTZ TEL CO	0	437.50	460 90	463.50	476 66	39 16	3 26	23 85	27 83	437.50	41.87	No	3 49	476.66	23 56	No	1.96	(1.53)
170185	FairPoint Communications, Inc.	MARIANNA - SCENERY	200000037	558.07	540.71	519.38	504.40	-53.87	(4.47)	22.78	28.06	558 07	145.24	Yes	12.10	504.40	41.59	No	3.47	(8.64)
170195	Armstrong Holdings	ARMSTRONG TEL NORTH	200000049	501.13	586.22	579.14	540.48	39.35	3.28	23.86	28 36	501.13	88.30	Yes	7.36	540.48	65.05	No	5.42	(1.94)
170192		NORTH PENN TEL CO	0	583.61	528.88	577.19	624.01	40.40	3.37	22 24	28.72	583 61	170.78	Yes	14.23	624.01	123.37	Yes	10.28	(3 85)
170277		WEST SIDE TEL CO-PA	0	648.77	805.47	846.73	666.30	19.53	1.63	20.93	27.64	646.77	233.94	Yes	19.50	666.30	165.66	Yes	13.81	(5.69)
170189	Armstrong Holdings	ARMSTRONG TEL CO-PA	200000049	658 31	773.21	805 89	881.91	223 80	18.63	20 69	23 35	658.31	245.48	Yes	20.46	881.91	381 27	Yes	31.77	11.32
												115%	373 09			115%	440 41			
												150%	486 64			150%	574 45			

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

PANEL SUPPLEMENTAL DIRECT TESTIMONY OF

E. Christopher Nurse and

Dr. Ola A. Oyefusi

On Behalf of

AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC, TCG PITTSBURGH, AND TCG NEW JERSEY, INC.

AT&T Statement 1.1

November 30, 2009

AT&T Stmt. 1.1
I-00040105
C-2009-2098380
4-14-10
Harrisburg JS

Q. DR. OYEFUSI AND MR. NURSE, ARE YOU THE SAME WITNESSES WHO PRESENTED DIRECT TESTIMONY ON JULY 2, 2009?

A. Yes we are.

Q. PLEASE EXPLAIN THE REASON FOR FILING THIS SUPPLEMENTAL DIRECT TESTIMONY?

A. On August 5, 2009, the Pennsylvania Public Utility Commission consolidated AT&T's Formal Complaint with the generic Investigation of the intrastate access rates of the Rural Incumbent Local Exchange Carriers ("RLECs") at Docket No. I-00040105. A new schedule was established in the case, giving the parties supporting intrastate access reductions an opportunity to file Supplemental Direct Testimony. After the cases were consolidated and a new schedule set, the parties could not agree on the proper scope of the case. The ALJ requested that parties file Memoranda of Law regarding the scope. Although the ALJ issued a decision regarding the scope of the case, the parties did not agree that her decision properly captured the Commission's intent as to the scope, and they therefore presented a Material Question to the Commission requesting clarification on the proper scope of the case. On November 19, 2009, the Commission voted on that Material Question, but a final Order has not been issued as of the date of this testimony. Nonetheless, based on Chairman Cawley's Motion and Commissioner Gardner's statements at the Public Meeting, it is evident the Commission wants this case to focus exclusively on the establishment of appropriate RLEC intrastate access rates. This testimony does just that.

Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL DIRECT TESTIMONY?

A. At the time we filed our Direct Testimony, we did not have the opportunity to obtain discovery from the RLECs, although we were able to rely on our experience, publicly available data, AT&T internal data, and reasonable estimation to determine the revenue and per line impacts of bringing the RLECs' intrastate access rates to their interstate levels, as AT&T is requesting in this matter. We have since obtained discovery responses from the RLECs regarding their intrastate and interstate rates and volumes. Unfortunately, despite many attempts by AT&T to explain our requests and thereby obtain complete data, AT&T has not yet received sufficiently complete and accurate data from all of the RLECs. AT&T only received the most recent updated information from the PTA on November 23rd. The information in AT&T's July 2, 2009, testimony will need to be updated to reflect more recent data and AT&T still needs to obtain further information from the RLECs in order to ensure that the calculations are accurate regarding the most recent impact of access reductions. Furthermore, 2009 year-end data will become available after the beginning of the year.

Q. WHAT IS THE PURPOSE OF UPDATING THE INFORMATION REGARDING THE IMPACT OF ACCESS RATE REDUCTIONS?

A. Once AT&T obtains sufficiently complete and accurate information, it can provide the Commission with a more precise estimate of how RLEC revenues would be affected by reducing their intrastate access rates to interstate levels. However, the precise amount of that refined estimate does not change the fundamental points in our Direct Testimony – (a) intrastate access rates must be reduced to curtail the anticompetitive impact they have on Pennsylvania's telecommunications market and the harms they cause to Pennsylvania consumers, and (b) the reduction to interstate parity is readily achievable. There are multiple reasons for this.

First, it is now over ten years since the Commission committed to reducing access rates, and the Commission should follow through with that commitment. The reasons underlying the Commission's commitment are even more pronounced today, and there should be no further delay.

Second, because of the dramatic changes in the market in the past ten years, it is critical that the Commission level the playing field and ensure that all companies can compete based on their own efficiencies and services, not based on market distortions caused by regulated price disparities.

Third, inflated access charges harm the market and consumers by giving false price signals and encouraging resources to be committed in a manner inconsistent with true consumer preferences. These harms come in multiple forms. One uneconomic arbitrage scheme is call pumping where unscrupulous carriers and service providers engage in schemes that entice callers to place "free" or low-cost calls in order to profit from the arbitrage created by the unreasonably high access rates.

Fourth, high RLEC intrastate access rates harm consumers all across Pennsylvania, not just those served by the RLECs. Because the law requires that intrastate wireline long distance prices be averaged across Pennsylvania, every wireline long distance call placed within the state bears a portion of the RLECs' excessive intrastate access charges. For example, when a Verizon customer in Pittsburgh uses AT&T long distance to call another Verizon customer in Philadelphia, the excessive access rates AT&T pays to the RLECs factors into AT&T's pricing for the Pittsburgh-to-Philadelphia call. In other words, high RLEC access rates are a problem for all Pennsylvania consumers, not just those living in the RLEC service territory. Consumers across the Commonwealth, even those being served by Verizon, are essentially subsidizing the cost of telephone service for RLEC customers. And the sad irony is that, in many instances, the RLEC customers being subsidized are paying *less* for their local telephone service than the Verizon customers bearing the burden of the subsidy. That is just not right.

Finally, the changes in the market mean that the RLECs themselves are already--and increasingly—less able to rely on access revenues as a major source of their income. High intrastate access charges constitute a significant portion of the cost of a retail intrastate long-distance call, and customers of traditional intrastate long-distance calling are being driven to alternative modes of such calling, in part due to distorted regulatory access rates. Accordingly, the RLEC intrastate access revenues have been declining while this Commission still has not adopted access parity with interstate rates. It is time the Commission acts in order to stem further declines by reducing the access charges to parity with what the RLECs charge IXCs, and their customers, for interstate calls.

These issues are presented in our July 2, 2009 Direct Testimony and therefore we do not need to go into them at length here, but it is critical for the Commission to understand that high access rates are a serious problem that must finally be addressed and effectively resolved.

Q. SHOULD THE COMMISSION DELAY REDUCING ACCESS RATES BECAUSE OF CONCERN ABOUT THE REBALANCING REQUIREMENT?

A. Absolutely not. In 2004, as this Commission is well aware, the Legislature stated that "the Commission may not require a local exchange telecommunications company to reduce access rates except on a revenue-neutral basis."[1] In light of this requirement, it is fair to ask why the RLECs so vocally oppose access reductions since by law they must be revenue-neutral.

As we discussed in our Direct Testimony, just because the RLECs are entitled to an opportunity to raise rates does not necessarily mean they will elect to do so. The RLECs face substantial competition from cable, wireless, VoIP providers, and others. Rather than increase prices, the RLECs may choose to further improve their efficiencies or expand the scope of their product offerings to generate new revenues, as all of them are doing with the broadband services they now offer pursuant to Chapter 30. The Commission must start moving away from a system where some companies unnecessarily subsidize others in a competitive environment, and move instead toward a system where every company recovers its costs from its own customers, while still ensuring that consumers who are most vulnerable to retail price changes are protected by making affordability programs like Lifeline available to them. Decisions about how RLECs adjust to revenue losses from access reductions should be left to the RLECs, all of whom will need to make the same business assessments and judgment calls as does every other service provider which is not being subsidized by its competitors.

Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL DIRECT TESTIMONY?

A. Yes it does.

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[1] 66 Pa.C.S.A. §3017(a).

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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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
AT&T Communications of Pennsylvania, LLC, *et. al.*, Complainant	:	
v.	:	Docket Nos. C-2009-2098380, *et al.*
Armstrong Telephone Company - Pennsylvania, *et al.*, Respondents	:	

PANEL REBUTTAL TESTIMONY OF

E. Christopher Nurse and

Dr. Ola A. Oyefusi

On Behalf of

AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC, TCG PITTSBURGH, AND TCG NEW JERSEY, INC.

AT&T Statement 1.2

PUBLIC VERSION

March 10, 2010

AT&T Stmt. 1.2
I-00040105
C-2009-2098380
4-14-10
Harrisburg JS

Q. DR. OYEFUSI AND MR. NURSE, ARE YOU THE SAME WITNESSES WHO PRESENTED DIRECT TESTIMONY ON JULY 2, 2009 AND SUPPLEMENTAL DIRECT TESTIMONY ON NOVEMBER 30, 2009?

A. Yes we are.

I. INTRODUCTION AND SUMMARY

Q. WHAT IS THE PURPOSE OF THIS REBUTTAL TESTIMONY?

A. This Rebuttal Testimony responds to the testimony of the Pennsylvania Telephone Association ("PTA"), The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink ("CenturyLink"), Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA") and Office of Trial Staff ("OTS").

Q. PLEASE SUMMARIZE THIS REBUTTAL TESTIMONY.

A. The ***problems*** of excessive intrastate switched access charges harming Pennsylvania consumers are long known and well recognized by this Commission, federal and state regulators across the country, and even by the Rural Local Exchange Carriers ("RLECs") themselves. It is time for Pennsylvania to focus on pragmatic ***solutions*** to the problem. We were genuinely impressed with the leadership demonstrated by the OCA's testimony and their willingness to propose a thoughtful compromise for resolving this decade-long problem.[1] Most notably, the OCA's proposal, like AT&T's, would ***immediately*** reduce intrastate access rates to parity with interstate rates. The OCA is to be commended for proposing this critically important and long overdue step toward access reform. Indeed, while nothing in the other parties' testimony changes our views that the Commission should adopt the reforms recommended in our Direct Testimony, we would be willing for

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[1] Similarly the Ratepayer Advocate's leadership in New Jersey was instrumental to the substantial and immediate access reform recently ordered there.

the Commission to adopt the OCA's recommendations, with certain modifications we discuss in detail below. In short, our proposal is that the Commission --

(i) Adopt the OCA and AT&T proposal that each RLEC immediately match its interstate switched access tariff in rate level and rate structure for the provision of intrastate switched access service; this includes the elimination of the Carrier Common Line Charge. Attachment 1 hereto sets forth the specific rates proposed for each RLEC.

(ii) Adopt the OCA's proposal to adopt a benchmark rate for purposes of determining when and how much a RLEC may receive as support from a transitional state Universal Service Fund ("USF"), but set the initial benchmark at $22 per month (*i.e.*, adjust the existing $18 rate cap for the inflation that has occurred since the cap was set in 2003), and then increase the monthly benchmark rate by $1 each year for the subsequent three years. Thereafter, if a benchmark is even necessary, it should increase by the GDP-PI rate of inflation.

(iii) Expressly permit (but not require) carriers to recover their USF contributions explicitly (such as through line-item surcharges) so that customers can understand amounts they are being required to pay.

As we discuss herein, Pennsylvania will not be alone in implementing access reform. A growing number of other states have implemented reforms, or are in the process of doing so. Most recently, the New Jersey Board of Public Utilities ordered substantial and immediate intrastate access reform.[2] This Commission should follow suit and adopt AT&T's proposal for intrastate access reform in Pennsylvania.

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[2] A copy of the Board's order is attached hereto as Attachment 2. Although the New Jersey Board reduced access to interstate parity in four steps, an identical phased-in approach is not necessary in Pennsylvania for two primary reasons. First, unlike in New Jersey, this Commission has already taken two steps of access reform in 1999 and 2003, so finalizing access reform now ***is*** the third and final step. Second, unlike in New Jersey, there is already a state USF in Pennsylvania and the OCA proposal, with AT&T's modifications, uses that USF as a transitional tool. The NJ transition is accomplished without a state USF.

Our testimony is organized as follows:

- Section II further responds to the OCA's proposal and describes, in more detail, AT&T's modifications to the OCA's proposal.

- Section III refutes the other parties' testimony and reaffirms our central point that there is an immediate need for Pennsylvania to implement intrastate access reform to promote competition and best serve the long term interests of Pennsylvania consumers.

- Section IV explains how, contrary to the RLECs' assertions, access reform and rate rebalancing can continue to provide them with reasonable opportunities to generate the same revenues.

- Section V shows that, contrary to opposing parties' claims, access reform is in the public interest and benefits customers of ***both*** long-distance and local service.

- Section VI shows that, contrary to the RLECs' claims, Pennsylvania consumers are being harmed by high access charges, and will continue to be harmed if access rates stay at their current high levels. Included in Section VI is disturbing evidence that some Pennsylvania RLECs are involved in scams to offer "free" chat lines and pornographic calls as a way to increase or "pump" their access revenues. We explain how the access costs associated with these supposedly "free" calls are keeping long distance prices too high for consumers in Pennsylvania and across the nation.

- Finally, in Section VII, we respond to the RLECs' tired and shopworn arguments that this Commission should sit on its hands and wait for the FCC to undertake access reform.

II. THE OCA'S ACCESS REFORM PROPOSAL, AS MODIFIED, WILL SUBSTANTIALLY RESOLVE THE ACCESS PROBLEM, COMPLY WITH THE REVENUE NEUTRAL REQUIREMENTS OF §3017, PROMOTE COMPETITION, AND SERVE THE INTERESTS OF PENNSYLVANIA CONSUMERS.

Q. HAS THE OCA PUT FORWARD AN ACCESS REFORM PROPOSAL WHICH, WITH CERTAIN MODIFICATIONS, WILL RESOLVE THE ISSUES IN THIS CASE?

A. In large part, yes. We were extremely encouraged to see the OCA's thoughtful position in this case. Like AT&T, the OCA correctly recognizes that the disparity between intrastate and interstate access rates is unsustainable, uneconomic, and unfair, given the changes in federal law and regulation, and the telecommunications industry. Like AT&T, OCA recommends that the RLECs' intrastate access rates ***immediately*** be reduced to parity with their interstate rate levels and structure. Thus, the OCA, like AT&T, recommends the ***immediate*** elimination of each RLEC's Carrier Common Line ("CCL") charge.

We take issue, however, with certain aspects of the OCA's approach to permitting the RLECs to recoup lost access revenues. While we agree in concept that the RLECs should be permitted to increase local exchange rates up to a Commission-established benchmark and that RLECs that do not recoup the access revenues from increasing their local retail rates will be permitted to recover the difference during a short transition period from the USF, we disagree with the level of the OCA's proposed benchmark rate.[3] The OCA's proposed benchmark is unrealistically low, and will unduly strain the USF, imposing excessive burdens on consumers who ultimately support the USF. To correct this shortcoming in the OCA's proposal, AT&T recommends that the Commission --

(i) Adopt the OCA and AT&T proposal that each RLEC immediately match its interstate switched access tariff in rate level and rate structure for the provision of intrastate switched access service; this includes the elimination of the Carrier Common Line Charge.

(ii) Adopt the OCA's proposal to establish a benchmark rate for purposes of determining when a RLEC may draw from a transitional state USF, but set the initial benchmark at $22 per month (*i.e.*, adjust the existing $18 rate cap for the inflation that has occurred since the cap was set in 2003), and then increase the monthly benchmark rate by $1 each year for the subsequent three years. Thereafter, if a benchmark is even necessary, it should increase by the GDP-PI rate of inflation.

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[3] The OCA also recommends that the Commission expand the scope of service providers required to contribute to the USF to include wireless and VoIP providers, but since the Commission has explicitly excluded that issue from this case, we will not further address it here.

(iii) Expressly permit (but not require) carriers to recover their USF contributions explicitly (such as through line-item surcharges) so that customers can understand amounts they are being required to pay.

Q. WHY IS $22 PER MONTH AN APPROPRIATE BENCHMARK LEVEL?

A. Seven years ago, the Commission set the residential local exchange services rate cap at $18 per month, finding it a just and reasonable rate. Adjusting that rate for the inflation that has occurred since then would result in a rate, rounded to the nearest whole dollar, of $22 per month.

Q. DR. LOUBE COMPLAINED ABOUT HOW YOU APPLIED THE RATE OF INFLATION TO THE $18 RATE CAP.[4] HOW DO YOU RESPOND?

A. Dr. Loube perhaps misunderstood the <u>purpose</u> of our inflation adjustment analysis. Obviously, the Commission found that $18 was a reasonable rate in 2003, and we simply adjusted that rate forward to develop a benchmark for 2010 and later years. Dr. Loube, however, argues that the inflation analysis should start from RLECs' actual rates from 2003, rather than the Commission-approved $18 rate cap.

Here, Dr. Loube misses the point. The objective is to determine the highest residential benchmark rate level the Commission would be willing for RLECs to implement. The starting point for that analysis has to be the previous rate cap the Commission approved, not the RLECs' actual 2003 rates. In any event, it would be inappropriate to use the RLEC rates as a baseline because RLEC rates in 2003 were artificially low given that the RLECs' retail local rates were being subsidized by high intrastate access charges. Dr. Loube's suggestion, therefore, that heavily subsidized retail rates should be the starting point of an inflation analysis is wrong the Commission

[4] Dr. Loube Direct Testimony at pages 20-22.

already found nearly seven years ago that $18 was a reasonable rate. All RLECs could have increased their rates to that level and, had the Commission established an inflation adjustment in 2003, today's "reasonable" rate would be about $22. That is the basis for AT&T's proposed benchmark rate. AT&T's inflation analysis is reasonable, and it should be adopted.

Q. WHY IS AT&T PROPOSING THAT THE COMMISSION NOT ADOPT THE OCA'S PROPOSED BENCHMARK OF $17.09?

A. Because it is unrealistically low and at odds with prior Commission decisions, and because it will place too much of a burden on the state USF. If the Commission found that $18 was a reasonable rate seven years ago, then $17.09 is obviously less than the maximum reasonable rate today.[5] As we have discussed, had the Commission simply allowed the $18 rate cap to increase with inflation, the cap would have risen to approximately $22 by the third quarter of 2010 when the Commission decides this case. Thus, in real terms, establishing the benchmark at $22 and then allowing it to increase each year by $1 per month holds basic exchange rates relatively constant over time in real, inflation-adjusted terms.

The OCA's proposal of a low benchmark continues a practice of subsidies and avoids having RLEC customers pay their own way. But that proposal is at sharp odds with a competitive market. As the OSBA has previously testified, "You can't have competition and at the same time provide general subsidies."[6] Indeed, the RLECs

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[5] Indeed, the Commission recognized the need to investigate whether the $18 rate cap was even reasonable anymore when it initiated the rate cap case before ALJ Colwell. The evidence in that case, and ALJ Colwell's Recommended Decision, demonstrate that an $18 rate cap is in fact no longer reasonable.

[6] Direct Testimony of Allen G. Buckalew, Docket No. I-00040105, December 10, 2008, p. 12.

themselves have conceded they should "increase local service rates for residential and business customers to continue the process of eliminating subsidies that are provided by access charges."[7] As Buffalo Valley Telephone Company has recognized, "[i]n an equitable competitive marketplace, all carriers must be able to price and compete according to their own efficiencies."[8]

Q. OCA CALCULATES ITS $17.09 BENCHMARK RATE BASED ON VERIZON'S STATEWIDE RATES. PLEASE EXPLAIN WHY THAT APPROACH IS FLAWED.

A. For one thing, the arguments already have been rejected by ALJ Colwell in the rate cap case and even by this Commission's own legal counsel. The Pennsylvania Legislature and this Commission have focused on ensuring rates remain affordable.[9] When RLECs argued they be permitted to cap their basic service rates at the Verizon level so they could draw bigger USF subsidies, ALJ Colwell properly rejected the suggestion.[10] The Commission's own legal counsel likewise has rejected the OCA and RLECs' claims, arguing that:

> "Similarly, the D&E Companies' contention that the Commission somehow violated 47 U.S.C. §254(b)(3) because it did not make a specific finding that Denver & Ephrata's retail rates are comparable to the rates

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[7] *Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing for Year 2003*, Docket No. R-00038351, p. 13. Conestoga made a virtually identical filing to reduce access rates and increase its local rates, and made the same statements about the importance of raising local rates to better reflect costs, and recover lost access revenues. *Conestoga Telephone and Telegraph Company Revenue-Neutral Rate Rebalancing Filing*, Docket No. R-00027260, April 30, 2002.

[8] *Buffalo Valley 2003 Filing* at p. 16.

[9] *See e.g.*, 66 Pa. C.S.A. §§3011(2) and (8) - it is the policy of the Commonwealth to "Maintain universal telecommunications service at *affordable* rates…" and to "Promote and encourage the provision of competitive services by a variety of service providers on equal terms throughout all geographic areas of this Commonwealth without jeopardizing the provision of universal telecommunications service at *affordable* rates" (emphasis added).

[10] "AT&T argues convincingly that the OCA and PTA offer a flawed standard for comparability." *ALJ Colwell Recommended Decision* at p. 82, fn. 18.

> charged for the same service in urban areas is baseless. This federal regulation pertains to federal universal service and is not a mandate to state Commissions. It has no bearing on rural ILECs' receipt of monies from the PaUSF, but may be relevant to non-rural ILECs' participation as recipient carriers regarding the federal USF."[11]

The same OCA arguments fare no better in this case. Once again, the OCA fails to acknowledge the variability in Verizon's rates between urban and rural areas. The OCA bases its analysis on a statewide average -- presumably because that yields a lower figure more to the OCA's liking - but could just as easily built its analysis on Verizon's urban rates.[12] Of greater significance, however, is that the OCA fails to acknowledge the "apples to oranges" nature of its analysis. Here, the Commission is crafting basic rates for use when RLEC access rates have been reduced and reformed; *i.e.*, basic rates that will be in effect when RLEC access rates will have been reduced to interstate parity. It is wholly inappropriate for the OCA to evaluate what appropriate rates should be based on through an analysis of Verizon basic rates *that are still supported by implicit access subsidies*.[13] As Verizon itself argued in the USF case, Verizon's retail rates historically have been suppressed, and are artificially low.[14]

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[11] *Buffalo Valley Telephone Company, et. al. v. Pennsylvania Public Utility Commission; No. 847 C.D. 2008; Popowsky v. Pennsylvania Public Utility Commission, No. 940 C.D. 2008;* Advance Form Brief of Respondent Pennsylvania Public Utility Commission at p. 38. The Commonwealth Court upheld the Commission's arguments on comparability in its decision issued on December 15, 2009.

[12] For that matter, the OCA could have performed its analysis based on other states. Some RLECs in this case have affiliates in neighboring New York with local rates of $23/month.

[13] Not only is the OCA's analysis off base and at odds with prior ALJ and Staff recommendations, it is also arbitrary. The OCA implicitly concedes its analysis of Verizon's rate is unrealistic, and therefore adjusts the Verizon prices by an arbitrary "comparability factor" of 120%. But in other forums Dr. Loube has advocated a 125% comparability factor. *In the Matter of High Cost Universal Service Support, Federal-State Joint Board on Universal Service,* WC Docket No. 05-337, CC Docket No. 96-45; Comments on Further Notice of Proposed Rulemaking by Maine Public Utilities Commission, Maine Office of Public Advocate, Montana Public Service Commission, Vermont Public Service Board, and West Virginia Consumer Advocate Division, January 28, 2010. Some states have adopted comparability factors as high as 150%. See Rebuttal Testimony of Don Price in Docket No. I-00040105 (rate cap/USF case before ALJ Colwell) at p. 35, where it discusses the fact that other states have adopted rates as high as 150%, and even Dr. Loube has previously advocated a comparability factor as high as 143%. Even if

Q. WOULD A $22 BENCHMARK SATISFY THE AFFORDABILITY STANDARD THE OCA IDENTIFIED IN THE RATE CAP CASE?

A. Most definitely. The OCA presented evidence in the rate cap case before ALJ Colwell that the affordable bill for customers is between $32-$42.91/month, inclusive of fees and surcharges.[15] The PTA has testified that surcharges and fees add up to about $8.57.[16] Thus, after deducting fees and surcharges, the OCA affordability analysis yields results for basic rates in the range of $23.43-$34.34 per month, well above the $22 benchmark rate level AT&T is proposing here.

Moreover, there is substantial evidence that a large percentage of consumers already spend well in excess of $22 per month for telephone service. The industry is moving towards bundles, including the RLECs themselves – they are targeting their

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the Commission used the OCA's analysis – and it should not -- AT&T's proposed $22 benchmark falls squarely in the middle of the range of 120%-150% comparability factors.

[14] For instance, if Verizon's density zone one rate were increased by reducing implicit subsidies from intrastate access rates that are above Verizon's interstate rates (such as by removing the $.58 CCL), it would lead to a Verizon rate of $18.16/month. Even using Dr. Loube's 120% comparability factor, this brings the rate to $21.79. Using a 125% comparability factor brings the rate to $22.70/month.

[15] Transcript from Rate Cap case of Docket No. I-00040105 at pp. 131-132. *See also* Schedule RDC-5 attached to OCA Statement 2.0 (Colton) from Rate Cap case at Docket No. I-00040105. The $32 is calculated using 0.75%, but if you take 1% of the $51,500 income for 2008, it leads to a rate of $42.91/month. Using 1% of customers' income as a basis for the amount they are willing and able to spend on telecommunications service is most certainly reasonable. Verizon convincingly testified that the OCA's affordability is conservative, at best. *See* Verizon Main Brief in rate cap case before ALJ Colwell at Docket No. I-00040105, May 11, 2009; "Mr. Colton's analysis is conservative in assuming that customers can "afford" to spend just 0.75% of a family's income on basic local telephone service. Mr. Price demonstrated that according to the FCC's own data, households in the lowest quintile of household income in 2006 spent on average 3.11% of their total household expenditures on telephone services and that the average household expenditure for telephone services for rural households was 2.62% of total household expenditures. (VZ St. 1.1 (Price Rebuttal) at 25-26 and Exhibit 3). If only half of the average rural household expenditure were for basic local service it would still be 1.3% of total expenditures, or $43.25 per month. This data suggests that Mr. Colton's affordability estimate is conservative and too low. (Id. at 25-26)."

[16] Direct Testimony of Joseph Laffey on behalf of PTA, Docket No. I-00040105, December 10, 2008, p. 5.

marketing towards bundles and the number of standalone lines are steadily decreasing.[17] In the rate cap/USF case before ALJ Colwell, CenturyLink's data demonstrate that its customers on average are paying much higher rates than the $18 per month rate cap, which provides powerful evidence as to what customers are freely willing to pay, and can actually afford. Specifically, CenturyLink's customers of "local services only (including features)" pay an average of $30.19 per month.[18] But a majority of its customers pay even more than that. The majority of CenturyLink's customers now are on bundles, spending an average of $57.63 per month as of December 2008.

CenturyLink's customers are not alone. End users across the country pay $50.00 or more on bundled packages and other services from newer technologies such as wireless and broadband where prices are free of subsidies.[19] In addition, a recent article in the New York Times reported that, according to US Census data, the average American spent about $771 annually in 2004 on services like cable television, Internet connectivity and video games, a figure that translates to more than $64 per month. By

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[17] See Attachment 3 with discovery responses from PTA and CenturyLink regarding numbers of bundled customers. PTA claimed that it could only provide this information for a select few companies. *See also* various financial reports from RLECs and articles regarding bundling
[illegible];
[illegible];
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http://www.consumerreports.org/cro/electronics-computers/tvs-services/bundled-services-2-08/overview/bundled-services-ov.htm;
http://businesscenter.jdpower.com/news/pressrelease.aspx?ID=2007108

[18] *Id.*

[19] According to a GAO report, bundled packages which contain television, High-Speed internet, and local telephone has been the preferred business strategy by Broadband Services Providers and these bundles can be offered at an average discounted price of $117.28, while the High-Speed internet portion alone (if purchased a la carte) could cost as much as $55.46 on average. *See* U.S. General Accounting Office Report to U.S. Senate Subcommittee on Antitrust, Competition Policy and Consumer Rights, Committee on the Judiciary, entitled, "Wired-Based Competition Benefitted Consumers in Selected Markets," February 2004, page 12.

the end of this year that number is expected to climb to $997, and these figures don't include movies, music and television shows bought through iTunes, or the data plans on many smart phone to which users subscribe. This equates to an annual growth rate of nearly 5% per year, going from about $64 to $83 per month.[20] All of this demonstrates that a $22/month benchmark is imminently reasonable and affordable.

Q. DR. LOUBE TESTIFIED AT PAGE 20 OF HIS DIRECT TESTIMONY THAT THE $32 AFFORDABILITY RATE IS ACTUALLY EQUIVALENT TO $20.15. IS THAT ACCURATE?

A. No. Dr. Loube was referring to the OCA witness' affordability analysis presented in the USF/Rate Cap proceeding before ALJ Colwell. As we discussed earlier, OCA witness Colton calculated the range of affordable bills in Pennsylvania as falling between $32 and $42.91 per month.[21] Dr. Loube argued that the fees and surcharges will be a constant (37%) percentage of the total bill, and claims that one should deduct that percentage from the $32-$42.91 to find a proper affordability rate. This is flat wrong. The reason is quite simple— most of the fees that apply are ***flat-rate*** fees and therefore should not be calculated as a standard percentage of the total bill because the percentage will change.[22] The proper approach is to take the affordability bill amount and simply deduct a fixed amount for surcharges and fees. As we discussed earlier, the PTA has testified that a representative amount of surcharges and fees is $8.57. Using this amount and deducting

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[20] Article. *Dollars Flow Out as Data Flows In* , New York Times, February 8, 2010. http://www.nytimes.com/2010/02/09/technology/09spend.html.

[21] Dr. Colton's analysis was based on 2007 HUD data, which has obviously increased over the intervening years.

[22] For example, the $6.50 SLC is 26% of a $25 bill, 13% of a $50 bill, and 6.5% of a $100 bill. The Federal USF fee– which is only applicable to the interstate portion of the bill--is a fixed percentage of the SLC, so it too is effectively a constant dollar amount and not a percentage of the bill. The PA E911 fees are likewise a flat-rate amount, usually $1.25 or $1.50, based on the size of the jurisdiction.

it from the OCA's own affordability figures leaves affordable retail rates in the range of $23.43-$34.34, and even the very bottom of the OCA's affordability price range is well above AT&T's proposed $22 benchmark rate.[23]

Q. AT&T ADVOCATED THAT THE COMMISSION REMOVE THE RATE CAP IN THE CASE BEFORE ALJ COLWELL. IS AT&T'S POSITION OF ESTABLISHING A BENCHMARK IN THIS CASE INCONSISTENT WITH THE ELIMINATION OF A RETAIL RATE CAP?

A. No. A retail rate cap and benchmark are not the same. We continue to believe, consistent with our testimony in the rate cap case and with ALJ's Colwell's recommendation, that there is no need for an artificial cap on retail rates, because competition adequately constrains price. When it comes to retail pricing, it continues to be AT&T's position that the Commission should not impose any caps on the RLECs' ability to price retail rates. The benchmark here, by contrast, is not a mandate on how the RLECs choose to price their retail services. It is a calculation method used to determine whether and how the RLECs will be able to obtain funds from a transitional state USF in order to recover access revenue reductions.

Q. ARE THERE OTHER CONCERNS WITH ADOPTING THE OCA'S BENCHMARK RATE OF $17.09?

A. Yes – using the OCA's $17.09 benchmark rate would cause the USF to ***triple*** in size – expanding from approximately $33 million to over $90 million. In addition, under the OCA's proposal, the USF would stay at that size indefinitely. At the risk of

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[23] As an aside, it is worth noting that even Dr. Loube's own calculation yields an affordability rate of $20.15, which is closer to AT&T's $22 benchmark than it is to Dr. Loube's proposed $17.09 benchmark.

understatement, that would be a huge problem on many different levels. No party has proven that a $90 million USF is necessary to ensure that customers in high cost areas or low income customers can retain affordable service. To the contrary, the record fully developed in the rate cap/USF case before ALJ Colwell demonstrated that such a huge USF is not prudent or necessary to protect customers. As ALJ Colwell found:

> The PA USF is a fund which exists because the ratepayers of other telecommunications providers have paid the money, unwittingly, as a hidden tax. It is not "free money" to be plundered at will and without concern for its origins or for whether it is the best use of the money. All parties agree that the concept of universal service is a worthy one. This fund should be reconstructed to provide assistance to those customers who need it, and for those companies who can meet a stringent test for determining that they serve an area whose costs are so high that the company itself deserves extra help for that area alone.
>
> At some point, the market is meant to rely on competition to keep rates affordable. Institutionalizing the PA USF in its present form to provide subsidies to companies who do not have to prove need will not assist the market in reaching its goals and will, instead, provide barriers to entry for new carriers.[24]

A more realistic benchmark will help avoid an unrealistic increase in the size of the Pennsylvania USF. Under the approach we recommend, responsibility for RLEC cost recovery is being transitioned where it belongs – to the RLECs' own retail customers. That is entirely appropriate.

As ALJ Colwell recognized, a large USF is not a free lunch; while it may *look* like local service rates are lower, the money is just coming from somewhere else. And if the "somewhere else" continues to be IXCs, then IXCs are not going to be able to compete against e-mail, Internet service providers, social networks, VoIP providers, and wireless carriers, none of whom have access subsidy burdens. And as long as RLECs are

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[24] Recommended Decision of ALJ Susan Colwell, Docket No. I-00040105, July 22, 2009, pp. 87-88.

getting large flows of revenues from "somewhere else," they have less incentive to invest in new services or become more efficient.

AT&T's modified proposal gets things moving in the right direction, albeit over a transition of several years. AT&T's proposed benchmark would temporarily increase USF support by $19.6 million in the first year of the transition, but support would decrease each year thereafter as the RLECs transition to recover more of their revenues from their own end-user retail customers. In other words, AT&T's proposal avoids having other carriers and their customers subsidize the RLECs in perpetuity. Over time, as RLECs are required to seek to recover a greater portion of their revenues from their own end-user customers, the RLECs' customers will be receiving appropriate price signals and the RLECs will have increased incentives to innovate and become more efficient. Other carriers in the market likewise will respond more efficiently once the price signals are less distorted. That outcome benefits Pennsylvania consumers of ***both*** local and long-distance and is an appropriate goal for this proceeding.

Q. WHY SHOULD THE COMMISSION PROVIDE FOR ANNUAL INCREASES IN THE BENCHMARK?

A. For two reasons. First, allowing the benchmark to increase by $1 each year generally will allow rates to return to "real" rates. Second, setting the increase at a uniform $1 per month simplifies the process and ensures that after the initial catch-up adjustment to $22, all residential customers are subject to the same potential level of annual price increases. While it certainly would be possible for the Commission to precisely identify the impact of inflation each year, the $1 is a reasonable proxy and will yield judicial economy in its administration and provide stability, certainty and transparency during the reform transition, sparing the Commission and the parties from unnecessary and time-consuming proceedings devoted solely to determining an inflation factor.

Moreover, the $1 will be uniform for all customers going forward. That is a distinct advantage over dozens of carrier-specific factors based on widely varying legacy rates, which would perpetuate different levels of increase for different customers depending on the starting point. At bottom, access reform is a competition policy and it inescapably involves policy choices such as the timing and degree of adjustments from the old to the new, meaning the customer who enjoyed the inordinate benefit of an $11 per month local rate should converge with the customers paying a higher proportion of their costs for a longer time—this is a fair policy, and the uniform benchmark and uniform annual increases are reasonable, equitable and efficient. In addition, increasing the benchmark will enable the Commission to "phase down" the temporary increase in the USF support as the transition progresses. This will allow the RLECs to gradually reduce the burden their support places on other service providers and the end users of those other providers. This is an appropriate result, especially given that the Commission always anticipated the USF should be reduced and/or eliminated as markets became more competitive. This is also an appropriate result because RLECs should not lock in their current levels of access revenues when all of the evidence demonstrates those revenues are already decreasing each year in response to issues unrelated to their rates, *e.g.*, competition.

Q. WHAT DOES REVENUE NEUTRALITY MEAN IN THE CONTEXT OF ACCESS REDUCTIONS?

A. We are not lawyers and leave the legal arguments to the brief, but as a policy matter, a change in access rates should leave the RLECs with the ***opportunity*** to recover the revenues which they otherwise would have, but for the access rate change.

Q. WHY SHOULD THE USF BE TRANSITIONAL AND DECREASE EACH YEAR?

A. This is a reasonable balance of the various Pennsylvania interests. Increasing the benchmark level every year will enable the USF to begin achieving its intended purpose – to ensure that low income and high cost customers can afford local service. Access rate reform should not be used as a windfall to the RLECs or to lock in their current levels of access revenues which are otherwise continuing to decline as competition intensifies. Access revenues are declining each year as IXCs lose traffic to competitors not saddled with the access subsidy obligation.[25] The RLECs are not currently protected against access revenue decreases each year – and those revenues will continue to decline if the Commission takes no action. Each year the access revenues decrease, but the RLECs do not and cannot request the Commission to reimburse them for those losses. This case should not be about putting the RLECs in a ***better*** position than they would otherwise be, or about protecting them from losses they would have otherwise incurred. It would simply be a windfall to guarantee the RLECs a fixed stream of revenues in perpetuity.

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[25] See Attachment 4 with PTA and CenturyLink discovery responses.

Q. WHY IS AT&T WILLING TO SUPPORT A BENCHMARK APPROACH THAT ALLOWS RLECS TO DRAW PART OF THEIR ACCESS REDUCTIONS FROM A TRANSITIONAL USF?

A. AT&T's original proposal was that the RLECs should recover their entire access revenue reductions from their own retail customers. We maintain that is a superior approach from an economic perspective -- in a competitive environment, companies present their costs to their customers in the form of the price they wish to charge, and the customers can either accept or reject those offers based on the available options. If rejected, that company must come up with a better offer, either (i) by becoming more efficient and reducing its costs to improve the attractiveness of its offer so that it can survive at a lower competitive price, or (ii) by improving its services so that customers will accept a higher price. The telecommunications marketplace has become more competitive and the RLECs must transition to an environment where they recover their costs from their own customers (who order the RLECs' services and benefit from them) rather than shifting costs onto the backs of other telecommunications carriers and their customers through artificial, obsolete regulatory regimes like access charges.

That said, AT&T also recognizes that there may be limited instances where immediate reductions in access rates might lead to potentially large retail rate increases. Therefore, AT&T has proposed the benchmark approach as a second best means to help carriers wean themselves from unsustainable subsidies while insulating consumers from sudden large increases. In the interim, companies whose access reductions are too large to recover at once from their retail rate restructuring can be allowed to draw from a transition fund until they can gradually increase retail rates in subsequent steps. With every additional retail rate increase, the amount drawn from the transition fund will decrease dollar for dollar. This is consistent with the FCC's approach to access reform, and is a reasonable way to recover access reductions in order to transition to a competitive environment.

The benchmark is established to determine the rate at which carriers can begin recovering lost access revenues from the state USF. Once carriers recover their forgone access revenues from their own retail rates up to the benchmark level, any remaining access revenue losses (attributable to the access rate change) would be recovered from the transitional state USF.[26]

Q. AT&T ADVOCATED THAT THE COMMISSION ELIMINATE THE CURRENT USF AND ESTABLISH A NEW FUND IN THE RATE CAP CASE BEFORE ALJ COLWELL. IS AT&T'S POSITION TO USE THE USF TO FINANCE SOME TRANSITIONAL ACCESS REFORM INCONSISTENT WITH THAT POSITION?

A. No. In the rate cap case, ALJ Colwell recommended that the Commission eliminate the current USF and establish a new fund that is based more on need rather than revenue guarantees for the RLECs.[27] AT&T continues to agree that should be done with the current fund. The current size of the USF is based on an attempt to recover access revenue reductions that occurred over ten years ago. All of the evidence shows that the RLECs' access volumes and revenues are decreasing each year, yet the RLECs continue to receive a set amount of funding. The Commission always envisioned that the USF would eventually be eliminated. Having a fund that continues to guarantee RLEC

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[26] Note that it is not AT&T's position that any carrier ***must*** raise its rates – that is a choice for each of the carriers to make.

[27] The case before ALJ Colwell also involved the issue of whether the USF should be expanded to fund the RLECs' Chapter 30 annual rate increases, and AT&T advocated that the USF should not be used for that purpose. The ALJ agreed, and there is nothing inconsistent with AT&T's position in this case as using the USF for access reductions is a very different issue than using it for the RLECs' alternative regulation rate increases.

revenues for eternity cannot be sustained, and would be a windfall to the RLECs at the expense of other carriers and those carriers' customers. Here, AT&T proposes to use the USF solely as a transitional measure for new access revenue reductions that should be implemented now. The USF support should not be maintained in perpetuity, which is why we propose a $22 benchmark and $1 annual increases for calculating the amount of revenues that carriers should seek from their own operations and customers before obtaining USF support, and why we propose increasing the benchmark so that USF support can be phased down over time.

Q. WHY SHOULD THE COMMISSION ALLOW CARRIERS TO RECOVER USF CONTRIBUTIONS EXPLICITLY FROM THEIR RETAIL END USER CUSTOMERS (*e.g.*, THROUGH A LINE ITEM SURCHARGE)?

A. This is necessary to give transparency to everyone in the market. Presently, the Commission prohibits end user surcharges for those carriers who contribute to the USF.[28] USF contributions are a cost, and service providers will recover their costs - if not directly through a surcharge, then indirectly through their prices, which is inconsistent with this Commission's policy of making subsidies explicit. The Commission should encourage a policy of ensuring that customers of all carriers know that they are contributing to universal service, rather than forcing carriers to "bury" such costs in their retail prices. That way, too, the Commission and consumers will know how much is going to subsidize the RLECs and their end users -- and then more quickly and effectively see whether that subsidy is reasonable and worthwhile. After receiving extensive evidence about the USF, ALJ Colwell reached this same conclusion and recommended

[28] This Commission is only one of three in the entire country that prohibits end user surcharges, therefore, the vast majority of states with state USFs do not maintain a similar prohibition.

that the funding for the "PA USF should be by a labeled surcharge on the bills of customers to retain the 'transparency' that this Commission values."[29]

Q. PLEASE EXPLAIN EXACTLY HOW AT&T'S ALTERNATIVE PROPOSAL WILL WORK AND THE IMPACT IT WILL HAVE ON THE RLECS.

A. The first step in AT&T's proposal is the same proposal AT&T has advocated from the beginning of this case -- namely, that the RLECs' intrastate switched access rates must be reduced to parity, in rate structure and level, to the RLECs' corresponding interstate rates. The bulk of the access reductions will involve the immediate elimination of the CCL charge, which does not exist on the interstate side. This can be accomplished by a step as simple as requiring the intrastate access tariffs to state that they mirror the corresponding interstate access tariffs, which are (and always have been) publicly available. Alternatively, carriers can simply take the rates and items from their publicly filed, interstate access tariffs and "cut and paste" them into their intrastate access tariffs. In response to requests that AT&T should more clearly identify its interstate parity proposal, and the ALJ's statement that she will want to see the exact results of interstate parity, we have attached, as Attachment 1 to this Rebuttal Testimony, rate sheets for each RLEC demonstrating exactly what the RLEC rates will look like after achieving parity.

The second step of AT&T's proposal is to give the RLECs the opportunity to recover the reduction in access revenues caused by moving to parity with interstate rates. AT&T recognizes that under Pennsylvania law the RLECs must be given the opportunity to recover their access reductions on a revenue neutral basis.[30] Indeed, our opening testimony demonstrated that the Commission could allow carriers the opportunity to

[29] Recommended Decision of ALJ Susan Colwell, Docket No. I-00040105, July 22, 2009 at p. 89.
[30] As we discuss further herein, AT&T does not agree that the RLECs must be *guaranteed* to recover all lost revenues, but believes that they must be given an *opportunity* to recover them.

recover those reductions entirely through the rebalancing of local service rates, while keeping local service rates at affordable levels. As an alternative, however, AT&T is supportive of the OCA's proposal to establish a benchmark: a reasonable rate to which the RLECs' retail rates can rise in order to recover access revenue reductions. For the reasons we describe above, AT&T proposes a benchmark rate of $22/month in the first year to be effective immediately after the Commission renders its decision in this case, $23 the next year, $24 the year thereafter, and $25 in the following year. After that, to the extent a benchmark is even required anymore, the benchmark would increase by the rate of inflation to be calculated based on chain-type gross domestic product price index as published periodically by the Bureau of Economic Analysis.

The purpose of the transitional USF support would be to enable each RLEC to recoup its lost access revenues, less the increased retail revenues the RLEC is permitted to collect from its customers up to the benchmark. Note that nothing *requires* any RLEC to increase residential rates up to the benchmark, and nothing *requires* any RLEC to increase business rates either. The calculation *imputes* such increases for purposes of determining the amount of access revenues that may be replaced with USF support, but each RLEC is free to make its own decisions as to whether it will increase residential or business rates up to the allowed benchmark or by some lesser amount.

Q. CAN YOU PLEASE EXPLAIN EXACTLY HOW THE CALCULATIONS WOULD BE MADE UNDER AT&T'S PROPOSAL?

A. Under AT&T's recommendation, the Commission would –

i. Adopt the OCA and AT&T proposal that each RLEC immediately match its interstate switched access tariff in rate level and rate structure for the provision of intrastate switched access service; this includes the elimination of the CCLC.

ii. Calculate the revenue reduction each RLEC would realize because of the reduction of its switched access rates by determining, for calendar year 2009, the difference between the intrastate access revenues the RLEC collected, less the access revenues the RLEC would have collected had its interstate switched access tariff been in effect for intrastate access in 2009. This difference is each RLEC's ***total access revenue reduction***.

iii. Determine each RLEC's ***per line access revenue reduction*** by dividing the 2009 ***total access revenue reduction*** by the total number of billable RLEC lines (i.e. less administrative and official lines) in service at the end of 2009 as reported to NECA or the FCC in each of the RLECs' annual filings by mid-year 2010.

iv. Adopt the OCA's proposal to increase residential rates to a benchmark rate, but set the initial benchmark at \$22 per month as described above, then increase the residential monthly benchmark by \$1 in each of the following three years. In each subsequent year, if a benchmark is even necessary, the benchmark rate should be increased by the GDP-PI rate of inflation.

v. Permit each RLEC to recover an annual access revenue reduction equal to, for each billable access line in service as of year end for the preceding year, ***the per line access revenue reduction*** less the amount by which the RLEC is permitted to increase residential basic exchange rates in the year for which the access revenue recovery is being calculated – this yield a per line transition USF draw. If this per line USF draw calculation is above zero, the RLEC will be permitted to collect it from the USF, for every billable access line in service as of year end for the preceding year, in 12 equal monthly increments. Once an RLEC's calculated draw per line is at or below zero, the RLEC may no longer collect any transitional support amounts from the USF.

vi. Once the Commission determines which carriers will be required to contribute to the Fund, and how those contributions are to be made, the Commission should expressly permit (but not require) carriers to recover their USF contribution explicitly, *e.g.*, through line-item surcharges, so that customers can understand amounts they are being required to pay.

Q. WHAT WILL BE THE REVENUE IMPACT OF MOVING RLEC ACCESS RATES TO INTERSTATE PARITY?

A. PTA calculated the impact as \$63.91 million for all PTA companies less CenturyLink. CenturyLink calculated its impact as \$27.76 million, (*i.e.*, \$91.67 million total). The OCA calculated the impact as \$76.85 million for all PTA companies, including CenturyLink. AT&T has asked and received extensive information regarding each parties' current intrastate and interstate rates and volumes, and with that information, calculates an impact of $82.6 million for all RLECs, including CenturyLink. See Attachment 5 hereto.

Q. WHY DO THE REVENUE IMPACT CALCULATIONS DIFFER AMONG THE PARTIES?

A. The difference in calculations go to implementation of the reform rather than the policy question before the Commission here. It is due to the fact that the parties have used different data sources, such as a different date for line counts and access minute volumes, to arrive at revenue impact calculations. We believe that our calculation accurately captures the revenue impact, but this is something that can be resolved as a part of the implementation process.[31] It is not an oversimplification to note that the vast majority of the access reform calculation comes from the elimination of the CCL charge, and the calculation of this revenue reduction is not a difficult exercise. This charge is a straightforward tariff item and the mechanics of eliminating it are obvious and simple. The key is that the policy analysis and structure of the reform can be readily achieved without being overly concerned about the differences in parties' calculations at this stage.

Q. WHAT DOES AT&T'S PROPOSAL MEAN FOR THE AMOUNT OF RATE INCREASES AND INCREASE IN THE TRANSITIONAL USF?

A. Attachment 5 hereto presents a calculation showing how rate increases and USF support will work for each RLEC under AT&T's proposal. After intrastate access rates are reduced to parity with interstate, and local rates are increased to recover the access reductions, there will be 17 RLECs at the $22/month benchmark level and 14 RLECs

[31] Our calculation is based on receiving extensive discovery from the RLECs and using their actual data.

with rates that will remain below $22/month. AT&T has attached as Attachment 5 the details of this proposal for each RLEC.

Q. WHAT IS AT&T'S POSITION REGARDING RETROACTIVITY OF ACCESS REDUCTIONS AND RETAIL RATE INCREASES?

A. We strongly believe that the RLECs' intrastate access rates are unjust and unreasonable for all of the reasons stated in our Direct Testimony and in this testimony. We also believe that the RLECs' arguments about the application of retroactivity for unjust and unreasonable rates would render the statutory requirement of Section 1309 meaningless. However, AT&T is attempting to reach a viable and reasonable solution to the access problem, and is therefore proposing a solution on a going-forward basis. AT&T's proposal as outlined in this testimony is to implement immediate access reform once the Commission issues a decision in this case. Access reform has been delayed long enough in Pennsylvania, and should be adopted immediately without any further delay.

III. THE COMMISSION SHOULD NOT WAIT TO IMPLEMENT INTRASTATE ACCESS REFORM.

Q. PLEASE SUMMARIZE THE TESTIMONY OF THE PTA AND CENTURYLINK.

A. The PTA and CenturyLink testimony boils down to these points: In their view, RLECs cannot survive without being subsidized by their competitors; they are entitled to guaranteed revenues; and customers will not benefit from access reductions. These arguments are misguided and wrong. While the RLECs argue that the time is not ripe for access reductions, these companies have been on notice for over *ten years* that the Commission intended to complete access reform and eliminate implicit subsidies in intrastate access rates. In addition, the majority of these companies are not the small mom-and-pop companies that they may have been a decade ago, and they do not need protection from competition. The five companies that generate the most access volumes are all multi-state, multi-million dollar entities that are not even based out of Pennsylvania anymore. These companies are certainly capable of competing on their own without being heavily subsidized by their competitors and long distance companies.

Q. HAVE THE RLECS ACKNOWLEDGED THAT ACCESS REFORM IS IMPORTANT?

A. Yes they have. Both the RLECs themselves, and the Commission, recognized years ago that using high intrastate access rates to subsidize local rates, thereby keeping local rates artificially low, cannot be sustained in a competitive environment.

Specifically, one of the RLECs previously argued that "rate subsidization is not sustainable in a competitive environment."[32] They also stated, in direct contrast to the testimony they filed in this case, that "***implicit subsidies in access charges must be removed*** and access services must be based primarily on the cost to provide the service."[33]

CenturyLink filed a petition with the FCC in which CenturyLink (then Embarq) argued that its intrastate access rates should be reduced, and that intrastate and interstate switched access rates should be the same.[34] CenturyLink's FCC comments acknowledge, at page 27, that "reduced intrastate switched access charges would benefit carriers, and

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32 *BVT 2003 Filing*, at p. 11.

33 *Id.* (emphasis added). Our proposal herein is less aggressive than the quoted RLECs' position as we only suggest that the RLECs' intrastate rates mirror their interstate counterparts, we do not suggest at this time that their intrastate rates be set at cost.

34 FCC WC Docket No. 08-160, Petition of Waiver of Embarq, at p. 20.

ultimately their end-user customers, by promoting greater competition for intrastate toll calling." Further, CenturyLink's FCC Comments, at page 28, argue that having the same rates for inter- and intrastate access will "reduce administrative costs" and "create[ ] a more stable and predictable system of levying access charges." Those comments acknowledge that maintaining markedly different inter- and intrastate switched access rates creates incentives for carriers to misreport traffic, but that with inter- and intrastate rates as the same level "Embarq would no longer be at the mercy of [wholesale] customer estimate of PIU factors . . . " and that "customers would have significantly less motive to misreport traffic or PIC factors in the first place." CenturyLink also acknowledges in its FCC comments that having the same rates for inter- and intrastate access will reduce CenturyLink's access billing costs and will reduce its costs of litigating access disputes. Needless to say, CenturyLink's testimony in this proceeding makes no mention of these benefits.

Frankly, it is incredible that, ten years after the Commission recognized the need for access reform, and years after reforms have been implemented by the FCC and by many states, some parties are still arguing that implicit subsidies through inflated access charges are a good idea or that such subsidies should or even can be maintained in today's competitive environment. The Commission should recall ALJ Schnierle's foresight – nearly twelve years ago, when he stated:

> In short, ***politically unpopular though it may be***, rate rebalancing is required, along with access charge reductions, if there is to be competition for all customers in all locations, and if urban customers are not to be saddled with excessive universal service fund costs. I am aware of no other way to solve this problem, and the parties here have presented no other proposal that is likely to solve the problem. Moreover, the very point of introducing competition to the local exchange market is to bring about lower

> prices through the operation of the market. ***An unwillingness to rebalance rates suggests an unwillingness to trust the market to bring about lower prices***. If that is the case, I suggest that society rethink the notion of attempting to have competition in the local exchange market."[35]

Q. WHAT ARE THE RISKS IN TAKING NO ACTION?

A. The present scheme -- where some RLECs charge extraordinarily low (below-cost) retail rates for local service while they collect implicit subsidies from extraordinarily high access rates -- cannot be sustained. As consumers and the industry continue to migrate from the traditional public switched telephone network ("PSTN") towards alternative systems of delivering communications services (which includes broadband), the sources for these subsidies will shrink and eventually disappear. Ironically, the system that was initially designed to help consumers stay connected to the traditional network may be creating an unsustainable situation that threatens consumers' ability to connect to the new network. Without action, the system that the access subsidies were intended to support appears to be headed for a collapse.

Q. THE RLECS CLAIMED THAT THEY WILL NOT BE ABLE TO INVEST OR MAINTAIN THE NETWORK IF THEY LOSE ACCESS REVENUES. PLEASE RESPOND.

A. Let's first identify what the RLECs are really saying here. What they are saying is that, in a highly competitive environment, if they are not subsidized by other carriers, they cannot survive. That is startling. The RLECs' competitors are not subsidized, yet they continue to invest and expand. Arguments that a carrier must be subsidized to receive a

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[35] In Re: Intrastate Access Charge Reform, Docket No. I-00960066, Recommended Decision, June 30, 1998 at p. 28 (emphasis added).

fixed level of revenue in order to survive are arguments from a monopoly era that is long gone.

Q. IS THERE EVIDENCE THAT THE RLECS DO NOT REQUIRE IMPLICIT SUBSIDIES IN ORDER TO ADEQUATELY SERVE THEIR CUSTOMERS?

A. Yes. All of the RLECs receive federal USF support (even though some RLECs are not considered "high cost" enough to receive FUSF from the high cost loop fund).[36] The FUSF covers a substantial portion of the RLECs' loop costs, in some instances all but $11.67/month. Thanks to the FUSF, the largest RLECs, in particular, have remaining intrastate loop costs that are less than $21/month. The highest remaining intrastate loop cost a Pennsylvania LEC has after application of the FUSF is $28.72.[37] Given that the loop encompasses the vast majority of the cost of providing local service, it is simply inconceivable that the RLECs cannot recover their remaining costs from their own customers. More importantly, it is nonsensical to assume that the RLECs need to maintain the extremely high, subsidy-laden current intrastate access rates in order to serve their customers.

Q. THE RLECS CLAIMED THAT THEY ARE THE COMPANIES WHO ARE COMPETITIVELY DISADVANTAGED BECAUSE THEY HAVE "CARRIER OF LAST RESORT OBLIGATIONS" THAT COMPETITORS DO NOT SHARE. PLEASE RESPOND.

A. This argument is a red herring. For one thing, while the RLECs offer a great deal of rhetoric regarding their Carrier of Last Resort ("COLR") obligations, they do not point to any Pennsylvania law, Commission rule or Commission order that imposes any such

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[36] As the OCA testified, there are several different types of federal universal service funding. All of the RLECs receive at least some type of federal universal service funding although only eleven RLECs receive high cost loop funding.

[37] *See* AT&T Exhibit K to Direct Testimony of Nurse/Oyefusi, AT&T Statement 1.1.

obligations *exclusively on them*[38] (and not on other carriers),[39] nor are they able to identify areas where they have service obligations not borne by others. Unless they can identify such obligations, the Commission has no basis for granting them COLR-based subsidies.

More important, though, is that under AT&T's proposals, the RLECs are not being denied any revenues, COLR-related or otherwise. AT&T's proposal in this case keeps the RLECs revenue neutral, but does it in a way that requires the RLECs to obtain revenues first from their own customers, and then on a transitional basis, through explicit payments from a state USF. That is the proper way to ensure that RLECs are able to meet any COLR obligations they may have – not to perpetuate implicit subsidies from excessively high access rates.

Q. CENTURYLINK STATED THAT WITHOUT ITS CURRENT LEVELS OF ACCESS REVENUE, IT WILL NOT BE ABLE TO MEET ITS BROADBAND COMMITMENTS. PLEASE RESPOND TO THAT STATEMENT.

A. While we are not attorneys and will leave legal arguments to the briefs, we are advised that Chapter 30 specifically prohibits using rates from protected services to subsidize the competitive ventures of telecommunications carriers.[40] Presumably, CenturyLink made

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[38] For example, AT&T is aware that as a CLEC, it has a "duty to serve" all customers in the territory in which AT&T receives certification. There are also exit barriers for all certificated carriers, as this Commission has extensive requirements before a carrier can abandon the local market and revoke its certification. *See* 52 Pa Code §§63.301-63.310 (Local Service Provider Abandonment Process).

[39] See Attachment 6, which contains certain CenturyLink discovery responses, including CenturyLink's response to ATT-CTL-3-18 with the following report: National Regulatory Research Institute, Carriers of Last Resort: Updating a Traditional Doctrine, Peter Bluhm and Phyllis Bernt, July 2009, p. 4. This report can be found at http://www.nrri.org/pubs/telecommunications/COLR_july09-10.pdf. Nothing in CenturyLink's data responses or testimony identifies how the report relates to Pennsylvania or whether the Pennsylvania PUC has ever adopted or implemented any of the report's findings.

[40] 66 Pa.C.S.A. §3011(4).

this statement as a politically motivated scare tactic in order to convince the Commission that CenturyLink will fail to meet its broadband commitments if the Commission moves forward with access reform.

More to the point, there is no hard factual basis for this assertion. AT&T asked CenturyLink to provide additional details regarding these statements in discovery. CenturyLink backtracked and said that their access revenues actually are not going towards any broadband investment and that this case will not in any way impact their Chapter 30 or their merger commitments to fully deploy broadband by 2013.[41] Apparently, even CenturyLink agrees it should recover its own broadband costs from its own customers rather than from its competitors.

Q. THE RLECS ALSO CLAIM THAT ACCESS REFORM WILL DESTROY UNIVERSAL SERVICE. PLEASE RESPOND.

A. Yet again, this assertion is not supported by any evidence. In addition, the contrary is true – relying on a system of implicit subsidies cannot be maintained in today's competitive market and must be modified in order to ensure that RLECs change the manner in which they obtain their revenues – instead of relying on a diminishing revenue stream from implicit subsidies, they will have to rely on competing in the market and obtaining revenues from their own customers.

There have been many states that have already implemented access reform, and if such reform actually led to the catastrophic results alleged by the RLECs, surely there would be some empirical evidence that access reform destroys universal service and harms customers. No such evidence was presented because the facts do not support such

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41 See CenturyLink's response to ATT-CTL-3-23, included within Attachment 6.

an assertion. AT&T's proposal in this case keeps rates below the affordability level, and therefore universal service will not be destroyed. It is important to recognize that the RLECs are asking that every single one of the customers be subsidized, yet the evidence does not support this theory that every customer must be "protected." To the contrary, the evidence shows that the RLECs are vigorously promoting more expensive bundled services to their customers, and more and more customers are voluntarily moving towards those more expensive bundles. Therefore, having a system where all of the RLECs' retail rates are artificially suppressed through implicit subsidies does not promote universal service, but merely ensures the RLECs are protected from competition. This is not a proper policy goal.

Q. CENTURYLINK QUIBBLES WITH AT&T'S FACTUAL EVIDENCE THAT OVER 20 STATES HAVE REDUCED INTRASTATE ACCESS RATES. IS THIS A *BONA FIDE* ISSUE?

A. No.

Q. WHY NOT?

A. CenturyLink's witnesses completely misapprehend the purpose of the state summary we presented in Exhibit I to our Direct Testimony, which is to show that the problems created by excessive intrastate access rates are a nationwide phenomenon and that many states have addressed (or are addressing) these problems in ways that reduce intrastate access rates to levels that are at or near interstate access rates. CenturyLink's critique of our summary is that states have applied a variety of different techniques in their efforts to resolve the problems caused by excessive intrastate access rates. We agree. States have implemented access reform in a variety of ways – some by statute, by order, by settlement, by merger commitment, or by "voluntary" commitments. None of that changes the central point that many states have recognized the intrastate access rate problem and that they have moved forward to address the problem. CenturyLink can quibble about the timing, scope, speed, or avenue that such reform has taken -- but it cannot defeat the central point -- each of those states are getting carriers to interstate parity and Pennsylvania has not.

CenturyLink cannot credibly contest that AT&T's policy recommendation for Pennsylvania – that intrastate switched access rates should be reduced to interstate levels – is bad policy. Quite to the contrary, AT&T's recommendation is well-rooted in facts that are established of record and are directly relevant to the Commonwealth. Given the significant consumer and competitive benefits that will result from reduced intrastate access rates,[42] immediately lowering the RLECs' intrastate access to interstate levels is reasonable, appropriate and long overdue – and quite consistent with what many other states have implemented as good public policy across the nation.

Q. ARE THERE OTHER RELEVANT FACTS THE COMMISSION SHOULD CONSIDER?

A. Yes. Some of CenturyLink's specific critiques fail to provide important facts about other states. For example, our summary for Indiana references a statute that provides "the [state] commission shall consider [a] provider's rates and charges for intrastate access service to be just and reasonable if the intrastate rates and charges mirror the provider's interstate rates and charges."[43] CenturyLink's weak criticism simply notes

[42] See Direct Testimony, pp. 42-44, 50-52.
[43] Indiana Code chap. 8-1-2.6, sec. 1.5(c)(2) (2006).

that this statute does not ***require*** all ILECs to mirror interstate rates.[44] However, the lack of a specific requirement does not negate the fact that, as noted, "[t]he Indiana commission has approved parity arrangements over the years both for large and small incumbent local exchange companies."[45] Moreover, CenturyLink fails to recognize the fact that, based upon AT&T's experience, the average intrastate access rate for all Indiana ILECs is less than a penny per minute. CenturyLink also fails to recognize that, on the same basis, the average intrastate access rates for all ILECs in Michigan, Illinois, Texas, and Ohio have also fallen to about a penny per minute. Thus, even if states have not adopted uniform intrastate/interstate "mirroring" requirements for each and every local exchange carrier, the real-world fact is that intrastate access rates have been significantly reduced.

Q. HAS THERE BEEN ADDITIONAL RELEVANT STATE ACTIVITY SINCE YOU SUBMITTED YOUR DIRECT TESTIMONY?

A. Yes. As we anticipated in our Direct Testimony, and as mentioned previously, the New Jersey Board of Public Utilities ("Board") recently issued an order that established new rates for intrastate access service[46] and made several findings that are particularly relevant here.

- First, the New Jersey Board found that intrastate and interstate access services "do not materially differ," and ordered all LECs to mirror the interstate access rates of

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[44] Panel Direct Testimony of Jeffrey L. Lindsay and Mark D. Harper ("CenturyLink Direct Testimony"), Exhibit CTL Panel-1, p. 3. *See also* CenturyLink's similar quibble with the Michigan statute. (*Id.*)

[45] Direct Testimony, Exhibit I, p. 2.

[46] *In the Matter of the Board's Investigation and Review of Local Exchange Carrier Intrastate Exchange Access Rates*, Docket No. TX08090830, released February 1, 2010 ("NJ Access Order"). A copy of the New Jersey Order is attached to this testimony as Attachment 2.

Verizon, CenturyLink and WVT Communications in their respective service territories on a three-year, phased-in basis. This included the immediate elimination of the CCL for CenturyLink on February 21, and CenturyLink has filed compliance tariffs to implement such reform.

- Second, it found that because those services are essentially the same, "***any disparities*** in… Intrastate and Interstate Access Rates ***should be eliminated***."[47]
- Third, the Board reviewed and rejected all LEC cost studies that attempted to show that the costs of intrastate access services were greater than the rates charged for *interstate* services, and found that those studies were "flawed and overstate costs for providing intrastate switched access service, such that they do not form a foundation for higher access rates."[48] On this particular point, the Board found that CenturyLink's New Jersey *intrastate* switched access expense on a per-minute basis was substantially below CenturyLink's current (and much lower) *interstate* rate [of approximately a penny].

This Commission should take note of New Jersey's findings and follow New Jersey's lead and should implement access reform in Pennsylvania consistent with AT&T's proposal in this case.

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[47] *Id.* at p. 27.

[48] *Id.* (emphasis added). Interestingly, CenturyLink did not bother to present such a cost study in this case.

Verizon, CenturyLink and WVT Communications in their respective service territories on a three-year, phased-in basis. This included the immediate elimination of the CCL for CenturyLink on February 21, and CenturyLink has filed compliance tariffs to implement such reform.

- Second, it found that because those services are essentially the same, "***any disparities*** in… Intrastate and Interstate Access Rates ***should be eliminated***."[47]
- Third, the Board reviewed and rejected all LEC cost studies that attempted to show that the costs of intrastate access services were greater than the rates charged for *interstate* services, and found that those studies were "flawed and overstate costs for providing intrastate switched access service, such that they do not form a foundation for higher access rates."[48] On this particular point, the Board found that CenturyLink's New Jersey *intrastate* switched access expense on a per-minute basis was substantially below CenturyLink's current (and much lower) *interstate* rate [of approximately a penny].

This Commission should take note of New Jersey's findings and follow New Jersey's lead and should implement access reform in Pennsylvania consistent with AT&T's proposal in this case.

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[47] *Id.* at p. 27.

[48] *Id.* (emphasis added). Interestingly, CenturyLink did not bother to present such a cost study in this case.

IV. THE RLECS ARE NOT GUARANTEED TO BE MADE WHOLE OR TO MAINTAIN THEIR CURRENT REVENUES FROM ACCESS RATES

Q. WHAT IS THE RLECS' POSITION WITH RESPECT TO REVENUE NEUTRAL ACCESS REDUCTIONS?

A. The RLECs claim that they must be *guaranteed* to recover every dollar lost in access revenues, regardless of the source or cause. They claim this requirement comes from Chapter 30, which states: "The commission may not require a local exchange telecommunications company to reduce access rates except on a revenue-neutral basis."[49] The RLECs take this to mean that rather than just being given the *opportunity* to make up any lost revenue from access reductions on a revenue neutral basis, they must be guaranteed that they will always receive the same dollar amount of revenues they are making today.

The RLECs seem to forget that they are no longer monopolies operating under rate-of-return regulation. Instead, they voluntarily chose to operate pursuant to price cap plans in which they are not guaranteed any particular or fixed level of revenues. In fact, the entire point of price cap regulation is to permit the RLECs to thrive if they operate efficiently. The RLECs' proposal in this case flies in the face of their alternative regulation. If a company is guaranteed a certain level of revenues, regardless of whether it is more efficient than its competitors, that company has less incentive to be efficient and to invest in cost-saving and innovative technologies. That is sending exactly the wrong signals and distorting the market.

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49 66 Pa.C.S.A. §3017(a).

Q. DOES CHAPTER 30 REQUIRE THE COMMISSION TO ENSURE THAT EVERY DOLLAR LOST IN ACCESS REDUCTIONS IS RECOVERED BY THE RLECS?

A. No. We will leave the legal interpretation of Section 3017 to the briefs, but as a policy matter, this position cannot be sustained and is inconsistent with how Chapter 30 operates today. While the Commission should and must give the RLECs the *opportunity* to recoup lost access revenues on a revenue neutral basis, that is entirely different than guaranteeing the RLECs will recover every single dollar. Such guarantees are simply impossible in today's competitive environment. After all, the RLECs' access revenues have been decreasing for years (in part, because high access charges have been forcing consumers away from wireline long-distance in favor of competing technologies) yet no one would seriously contend that the Commission had to reimburse the RLECs for those market losses.

Take a look at the way in which Chapter 30 operates with respect to the RLECs' broadband deployment and annual price change opportunities. The law permits the RLECs to raise rates each year by the rate of inflation, and this is the manner in which the Legislature gave the RLECs the opportunity to recover their costs of broadband deployment. However, whether the RLECs actually raise their rates is discretionary. If the RLECs choose not to raise their rates for whatever reason, the Commission is not obligated to help the RLECs obtain the forgone revenues from another source. That is a business decision left to the discretion of each RLEC based on its own analysis of how best to compete and serve its own customers. The law does not require the Commission to perpetually guarantee each RLEC some revenue number; rather, if a company comes to the Commission and requests increases that are consistent with the law and the requirements of Chapter 30 for annual inflation increases, the Commission must permit those increases.

Q. CAN YOU PLEASE RESPOND TO THE PTA CLAIMS THAT AT&T'S OBJECTION TO USING THE PAUSF TO FUND EVERY DOLLAR OF ACCESS REDUCTIONS IS HYPOCRITICAL BECAUSE OF THE FACT THAT AT&T IS THE LARGEST RECIPIENT OF USF SUPPORT?

A. First, AT&T is not opposed to appropriately structured universal service funds, as evidenced by AT&T's alternative proposal in this case. However, universal service funding should be about protecting customers, not companies. Therefore, a USF should not be a revenue guarantee fund that subsidizes each and every customer just for the sake of ensuring RLECs are made whole. The first step in recovering access reductions must be to obtain the revenue losses from one's own customers – that is why both OCA and AT&T have proposed benchmarks (albeit at different levels). However, AT&T fully understands that there are high cost areas and low income customers that may still need assistance in order to maintain their affordable service. AT&T also understands that the Commission may want to modulate rate increases. Therefore, AT&T has proposed a more balanced approach that allows carriers the opportunity to recover some access revenues by restructuring retail rates (up to a $22 benchmark) and then to obtain support from the transitional USF.

Second, AT&T has already responded numerous times to the RLECs' claims about AT&T being a recipient of both state and federal universal service funding so it is a bit baffling as to why they keep raising it, other than to create confusion. AT&T is the largest rural carrier in the country, so it is hardly surprising that AT&T would be the largest recipient of high cost universal service funding. The more important point, however, is that AT&T pays more into each and every state and federal USF than it receives. Therefore, it is perfectly consistent for AT&T to advocate a properly structured and limited USF.

Q. THE RLECS CLAIM THAT THEY CANNOT RAISE THEIR RETAIL RATES TO RECOVER LOST ACCESS REVENUES BECAUSE THEY FACE TOO MUCH COMPETITION. PLEASE RESPOND.

A. Yet again, this admission is startling. The RLECs are admitting that they want access rates to be high in order to insulate them from competition. The subsidies in access rates were never intended to help the RLECs fend off their competitors – they were intended to ensure that all customers were capable of obtaining local service at affordable rates. The fact that a company like Citizens of Keeksburg has been able to maintain a local rate of $11/month for the past four years demonstrates that the system is broken. Clearly, a new competitor could never enter the market where Citizens of Keeksburg operates and offer a rate of $11/month because the competitor is not heavily subsidized (or subsidized at all). While it is certainly understandable that Citizens wants to maintain high intrastate access rates (and subsidize artificially and unrealistically low local service rates) to avoid facing competition, that is not proper public policy or in the best interest of consumers in the long run. Even the RLECs have previously acknowledged that subsidizing retail rates so that they are artificially low and well below their costs is bad public policy. Specifically, Buffalo Valley has previously told this Commission that "offering services that are priced without consideration of underlying costs creates advantages for competitors that are uneconomic in nature. In an equitable competitive marketplace, all carriers must be able to price and compete according to their own efficiencies."[50]

Q. IN AN EFFORT TO "PROVE" THAT CENTURYLINK CANNOT RECOVER ANY ACCESS REVENUE REDUCTIONS THROUGH RETAIL RATE INCREASES, CENTURYLINK'S WITNESS DR. STAIHR PRESENTED A SURVEY PURPORTING TO MEASURE HOW CENTURYLINK'S CUSTOMERS WILL REACT TO AN INCREASE IN BASIC LOCAL SERVICE RATES. IS THE SURVEY VALID?

A. No. CenturyLink conducted a hypothetical and improperly loaded survey to investigate possible consumer reactions to hypothetical price increases, instead of looking at real-world reactions to real-world price increases. Obviously, consumers are likely to decrease their purchase of a product or service to some extent when its price increases. But the exact magnitude and timing of each consumer's reaction, whether drastic or gradual, instantaneous or over a longer period, depends on many real-world factors that are not easy to predict through a survey – and CenturyLink made no attempt to account for those factors here.

Q. DOES CENTURYLINK ROUTINELY ENGAGE IN THIS TYPE OF SURVEY IN THE REGULAR COURSE OF ITS BUSINESS BEFORE RAISING RETAIL PRICES?

A. No. CenturyLink was not able to provide any instance where CenturyLink used a similar survey in any state where CenturyLink has increased its retail rates.[51] If CenturyLink truly believes that the best way to determine a customer's reaction to a price increase is to conduct a survey identical to that presented in this case, then CenturyLink should have

[50] Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing for Year 2003, Docket No. R-00038351, pp. 15-16.

[51] See Attachment 6, which contains CenturyLink's discovery responses regarding the survey.

been able to come up with one example of where CenturyLink used a similar survey to determine whether to implement a retail price increase, and then followed that up with empirical data about whether customers reacted in a manner consistent with the survey. If CenturyLink does not think this type of survey is reliable for making its own retail rate decisions, then the Commission should not rely on it for making its decision here.

Q. SHOULD CENTURYLINK HAVE RELIED ON ITS EXPERIENCES WITH PRICE INCREASES IN PENNSYLVANIA AND IN OTHER STATES RATHER THAN A HYPOTHETICAL SURVEY?

A. Yes. Rather than rely on a hypothetical, flawed survey that was created and conducted solely for litigation purposes, CenturyLink should have provided evidence about its real-world experience of consumer responses to actual price increases. Obviously, CenturyLink has increased rates both in Pennsylvania and in other states throughout the country, so there was no need to present a survey to prove how customers will react to hypothetical price increases.[52]

Here, CenturyLink opposes local rate increases (in order to rebalance access rate reductions), and so here it claims consumers are so hyper sensitive that CenturyLink would actually lose money by raising prices. However, CenturyLink has raised prices in Pennsylvania in the past five years, and at no time prior to those increases did CenturyLink first conduct a similar survey to determine whether such increases would lead to mass defections of customers. In addition, the evidence does not support CenturyLink's conclusion from its survey – that customers will leave CenturyLink due to price increases. To the contrary, the evidence shows that CenturyLink's customers are in

[52] AT&T is aware that CenturyLink has recently increased its retail rates in New Jersey and Virginia, yet CenturyLink refused to provide any data to AT&T regarding consumers' reactions to these price increases.

fact moving ***away*** from lower priced services, and moving ***towards*** higher priced bundled services. Further, the evidence shows that there was no difference in the amount of customers that left CenturyLink at a time of price increases than during years with no price increase.[53] In addition, in New Jersey, after seeking and obtaining wide discretion to increase local prices, CenturyLink aggressively exercised that discretion and increased local residential rates twice by $3 and $2.50 over 13 months, and the evidence did not show that customers migrated away as Dr. Staihr predicted from the survey results. Given the inconvenience of the recent, historical, real-world experience, and the difficulty in manipulating such empirical data, it is understandable that CenturyLink would prefer to turn to a malleable, hypothetical "survey" to prop up arguments diametrically inconsistent with its own experience.

Q. WHY IS THE SURVEY FLAWED?

A. Because it ignores the fact that asking a limited number of customers loaded and isolated questions does not accurately predict how those customers will react in the "real world." There are many factors besides the price of the product in question that may influence the consumer's behavior, *e.g.*, price of other products (*i.e.*, substitutes or complements), consumers' income, consumers' tastes and preferences, religion, political life, changing technology, or other "non-economic" events.[54] Although economists generally believe that, according to the rule of demand, consumers "buy less of a thing when its price

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[53] See CenturyLink's responses to ATT-CTL-3-2 and 3-19, included within Attachment 6 to this testimony.

[54] George J Stigler. *The Theory of Price* , 4th ed., New York: Macmillan Publishing Company, 1987, pp. 19, 22.

rises,"[55] these other factors often interact with the price factor to determine the exact magnitude of the change in demand, and unless a researcher can implant a meter in consumers to measure what they are thinking and how they are weighing each of these factors, the final decision cannot be predicted with certainty. That would explain why Dr. Staihr himself previously testified in another case that price is not the only factor in determining how consumers will act.[56]

Asking consumers about price in the abstract simply doesn't capture all of the factors that may influence customers' behavior. Obviously, if a survey asked people on the street "would you give me $2 a month?" in the abstract, most if not all respondents would answer "no," just as most of the respondents in CenturyLink's survey reacted negatively to a price increase. But in the real world, consumers spend much more than $2 on many things. That's because in the real world, a consumers' abstract desire to save money is only one consideration among many: for example, consumers also think about their own needs and tastes, and the value of what they are buying, and the price of alternatives.

Here, CenturyLink's survey asked a few people about price increases for local service in the abstract. It did not advise those people that they might also see price decreases for wireline long distance. It did not advise them that they might buy local service as part of a package or bundle of services, nor did it advise them of the various packages and bundles available. It did not advise them that competitors might also raise

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[55] *Id.*, p.20.

[56] *I/M/O the BPU's Investigation Regarding the Classification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive*, NJ Board of Public Utilities ("BPU") Docket No. TX07110873, Rebuttal Testimony of Brian K. Staihr, January 29, 2008.

their prices.[57] In short, CenturyLink made no attempt to replicate even a few of the considerations that would affect consumers' real-world decisions, so it has absolutely no value in predicting such decisions.

Q. ARE THERE ANY OTHER REASONS WHY THE CENTURYLINK SURVEY IS FLAWED?

A. Yes. The survey is also flawed because it does not follow some critical survey standards. For example,

- Was the survey designed to address relevant questions?[58]
- Was participation in the design, administration and interpretation of the survey appropriately controlled to ensure the objectivity of the survey?[59]

The answer to both questions would be "no" with respect to CenturyLink's survey. When a survey is being conducted for litigation or a contested proceeding like in this docket, bias is likely when the party presenting the survey "designed and constructed the survey to prove its side of the issue in the controversy."[60] With the types of questions asked in the CenturyLink survey it is not possible to avoid bias for two reasons: first, as we discuss above, the CenturyLink survey did not address all the relevant factors that influence consumer behavior, and second, participation in the design was unilateral. For instance, one of the questions CenturyLink asked the respondents is *"If your telephone service were to increase by $2, $3, $4, $5, how likely would you be to cancel your home telephone service and use your Wireless or Mobile Telephone service for all your Local*

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[57] See CenturyLink responses to AT&T discovery regarding the survey, for example, CTL responses to AT&T Set 3-7, 3-30 and 3-31, included within Attachment 6 to this testimony.

[58] See Shari Seidman Diamond, "Reference Guide on Survey Research," in Reference Manual on Scientific Evidence, 2nd ed., (Federal Judicial Center, 2000), p.236.

[59] *Id.*, p. 237.

[60] See *Id.*, p.231.

Calling Needs?"[61] As we discussed above, and Dr. Staihr agrees, the price of the product in question is not the only relevant factor that influences a customer's behavior. Other factors like price of substitutes or complimentary products, income level, time of day the survey was conducted are important and CenturyLink either did not include them in its study or has not explained what role they play in the result. Another price-related question asked in the survey is: "*If your Telephone service were to increase by $2, $3, $4, $5 per month, how likely would you be to switch to another provider for your home telephone service?*"[62] One problem with this question is that CenturyLink did not inform respondents what "another provider" could charge them relative to the CenturyLink's proposed price level for the service they are currently using.

These are only a few of the survey standards that appear to have been violated; but there is no need to discuss all the standards exhaustively.[63] The foregoing discussion is sufficient to show that CenturyLink's survey is seriously flawed and should not be accorded any weight in this proceeding.

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[61] See Dr. Staihr Direct Testimony, Exhibit BKS-1, Question # 8a.

[62] See Dr. Staihr Direct Testimony, Exhibit BKS-1, Question #8b.

[63] Some of the other standards which we have not explored with respect to Century Link survey include: 1) Was an appropriate universe or population identified? 2) What procedures were used to reduce the likelihood of a Biased Sample? 3) What precautions were taken to ensure that only qualified respondents were included in the survey? 4) Were questions on the survey framed to be clear, precise, and unbiased? 5) Were filter questions provided to reduce guessing? 6) Did the survey use Open-Ended of Closed-Ended Questions? How was the choice in each instance justified? See Diamond's Reference Guide on Survey Research, pp. 239 – 251. It may not even be possible to fully analyze these additional questions without further details about the survey, which was conducted by a third party research firm not present in this proceeding. As Dr. Staihr himself admitted, "Century Link did not request that the outside market research firm produce a formal report or any extensive analysis." See Dr. Staihr Direct Testimony at pages 7 to 8.

Q. HOW IS DR. STAIHR'S TESTIMONY INCONSISTENT WITH PRIOR TESTIMONY HE HAS FILED?

A. In New Jersey, Dr. Staihr testified on behalf of CenturyLink (then Embarq) in a case where CenturyLink was attempting to demonstrate that there was sufficient competition to permit CenturyLink to have full retail pricing flexibility. In that case, Dr. Staihr testified that price actually is not a major factor in customers' choices about their telephone service:

> When customers believe there are differences across products or providers – real or not – they will make choices based on several criteria, price being just one. And this means that not every price change (in either direction) will cause a reaction among customers.[64]
>
> Today, with the popularity of wireless service, for many consumers, ILEC telephone service is no longer a necessity at all. As a result, for many consumers, the question is not, 'Can I afford Embarq's telephone service?' it is, 'Do I *choose* to afford Embarq's telephone service knowing that I don't really need it?' For many customers in 2008, if a customer chooses not to purchase the ILEC's telephone service it is not because he or she didn't have the funds (the 'absolute' aspect of affordability), nor is it because the price would constrain his or her budget (the 'relative' aspect of affordability). Rather, the customer simply chose not to spend his or her money that way.[65]
>
> [D]isciplining rates does not mean that *every* price change that takes place in a competitive market will be met with instant mass customer defection to the nearest substitute service.[66]
>
> [I]f – hypothetically – Embarq were to adjust the price of basic service to make up for inflation…it is possible that many Embarq customers would not view that as a reason to defect to cable telephony, but would remain with Embarq.[67]

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[64] *I/M/O the BPU's Investigation Regarding the Classification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive*, NJ Board of Public Utilities ("BPU") Docket No. TX07110873, Rebuttal Testimony of Brian K. Staihr, January 29, 2008, p. 3.

[65] *Id.*, at pp. 13-14.

[66] *Id.*, at p. 19.

[67] *Id.*, at p. 20.

Q. SHOULD THE COMMISSION REFUSE TO REDUCE INTRASTATE ACCESS RATES BECAUSE THE RLECS CLAIM THEY CANNOT INCREASE THEIR LOCAL RATES AND RECOVER REDUCTIONS FROM THEIR OWN CUSTOMERS?

A. No. The Commission should ensure that the RLECs are given the *opportunity* to recover their access reductions on a revenue neutral basis. AT&T's modified proposal balances the interests of competition and universal service and adequately satisfies both.

Q. THE OSBA STATES THAT THERE ARE NO SUBSIDIES IN ACCESS RATES, AND THAT ACCESS RATES MUST STAY AT THEIR CURRENT LEVELS BECAUSE IXCS MUST CONTRIBUTE TO THE COST OF THE LOOP. PLEASE RESPOND.

A. The OSBA's entire testimony focuses on the claim that there is no subsidy in access rates. The OCA made the same claim. This position is contrary to every other party's testimony, and is contrary to the Commission's own prior findings.[68] It is well known that access rates contain a subsidy towards local rates and there is no evidence to prove otherwise. Further, no party provided any data to show how much of the current high access rates are contributing to the loop -- they simply assume that the current access rate levels must be maintained for eternity without any showing of how much of each company's access rates are contributing to the loop. Loop costs are a cost of basic exchange service, not access. AT&T, Verizon, and even CenturyLink, have testified that the cost of the local loop should be borne by the customers who directly caused the loop to be deployed – the local exchange customer.

The extreme variability in the RLECs' CCL rate confirms that the CCL is nothing but a subsidy rate element. If in fact the CCL was somehow associated with loop costs,

[68] Global Order at footnote 8. The Commission stated, "In reality, local exchange rates throughout the United States have been subsidized by access charges which are well in excess of their costs."

one would expect that the most rural carriers (who presumably would have the highest loop costs) would have the highest CCLs, but that is not the case. According to the PTA, Ironton has a density of 227.3 lines per square mile, among the most dense of the RLECs, yet Ironton has the highest CCL of all companies at a whopping $17.99/line/month.[69] On the other hand, PTA shows that Buffalo Valley has a density of only 65.6 lines per square mile, yet Buffalo Valley's CCL (while still high) is one of the lower ones among the RLECs at $4.20/line/month. Thus, contrary to the OSBA's assertion, there is clearly no correlation between the CCL and any contribution to the cost of the loop. The Commission should not refuse to reduce intrastate access rates to parity based on this argument.

V. CUSTOMERS WILL BENEFIT FROM ACCESS REDUCTIONS

Q. A PRIMARY THEME THROUGHOUT THE OPPOSING PARTIES' TESTIMONY IS THAT CUSTOMERS WILL SEE NO BENEFIT FROM ACCESS REDUCTIONS. PLEASE RESPOND.

A. This is not a genuine claim; this Commission recognized the consumer benefit of access reductions over a decade ago, and has not wavered from its position that access reform is necessary and beneficial to competition, and therefore consumers. The RLECs are simply wrong in their argument that Pennsylvania consumers will not benefit from access reductions. For one thing, AT&T indisputably demonstrated that it has ***more*** than flowed through the access reductions it has received, not only in Pennsylvania, but in other states that have reduced access costs as well.[70]

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[69] See PTA Exhibit GMZ-6 for current CCL rates of all companies and PTA Exhibit GMZ-14 for PTA's density analysis for each PTA company.

[70] See attachments to AT&T Supplemental Responses to OCA I-4, I-5, I-8, I-9, which are proprietary. They are attached hereto as Attachment 8.

Here in Pennsylvania, AT&T's ***retail*** long distance rates are in fact below the ***wholesale*** intrastate access rates of some RLECs.[71] For example, an AT&T long distance call from Carlisle to Gettysburg would incur CenturyLink access charges of over 10 cents a minute, which exceeds AT&T's average retail long distance price.

Moreover, it is a basic economics principle that all firms, even a pure monopolist, completely unconstrained by government regulation, will maximize profit by reducing price when their variable input costs are reduced. Since competition for long distance service is even more robust now than in the past, the profit maximizing incentive of the IXCs will be reinforced, and any decrease in intrastate access charges, *i.e.*, a principal component of the wholesale cost that IXCs incur when they provide retail long-distance service, will definitely benefit Pennsylvania consumers.[72]

The events of recent years are also instructive. Not only have a la carte long distance prices declined, but carriers in Pennsylvania and other parts of the country have introduced different lower priced calling plans in the form of bundled packages. Each time a consumer selects a lower priced bundled package, that consumer receives an effective price reduction and therefore real benefits. AT&T expects this trend will continue because as access charges decline, IXCs are even better positioned to reduce end user toll prices.

Indeed, this wholly unremarkable proposition – that industry-wide cost reductions will result in lower prices – has been proven time and again in economic research by

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71 See Exhibit H to Direct Testimony of Nurse/Oyefusi, AT&T Statement 1.0.

72 The interexchange market is highly competitive and that competition has reinforced price reductions as predicted by economics. The IXCs reduce their toll rates to 1) compete against competitors lowering rates in response to industry-wide cost reductions, and 2) compete against competitors using technologies that do not incur access expenses, at least not in the same manner as IXCs.

others showing that lower intrastate access charges - which form a major portion of the cost of retail long distance services - are in fact materially associated with lower intrastate toll prices.[73] Therefore, it is simply wrong to say that AT&T wants access reductions solely to pad its bottom line. As we explain in our Direct Testimony, AT&T wants access reform so that AT&T's (and other IXCs') long distance services can remain competitive against email, Internet service providers, social networking web sites, VoIP providers, wireless carriers and other forms of communication that are largely immune from the access subsidies IXCs are forced to bear.

As the OCA pointed out, wireline long distance carriers are placed at a disadvantage compared to wireless carriers.[74] AT&T is asking this Commission to do what it said it would do over ten years ago – level the playing field and remove regulatory pricing distinctions that give some types of carriers a competitive advantage over others. The market must be allowed to work on its own without artificial, regulatory-created market distinctions. Customers always benefit from allowing competition to work. In fact, Buffalo Valley Telephone has acknowledged to the Commission that "[c]ustomers in BVT's service territory will benefit if IXCs pass along their reduced expenses through lower long-distance service charges and more effective toll competition."[75]

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[73] See, Robert W. Crandall and Leonard Waverman, Talk is Cheap: The Promise of Regulatory Reform in North American Telecommunications (Washington DC: The Brookings Institution, 1995), Chapter 5, pp. 120-187. *See also* T. Randolph Beard, George S. Ford, R. Carter Hill, and Richard Saba, "The flow through of cost changes in competitive telecommunications: Theory and evidence," Empirical Economics 30 (2005), pp. 555-573.

[74] AT&T is not in any way complaining about the wireless carriers' compensation scheme or asking that this Commission modify the manner in which wireless carriers pay for reciprocal compensation and/or access.

[75] BVT 2003 rate rebalancing filing, p. 12.

Also, the New Jersey Board, having conducted a full case on whether access reductions should occur, held:

> [T]he Board HEREBY FINDS that a reduction of Intrastate Access Rates will benefit customers because there is a relationship between reduced access charges and toll reductions. The record also shows that not only will market discipline drive IXC rates lower, but AT&T has committed to eliminate an in-state connectivity fee and reduce the decrement rate on prepaid calling cards.[76]

Finally, while it would be premature for AT&T or any other IXC to commit to specific price reductions, AT&T has made the same commitment here in Pennsylvania that it made (and now implemented) in New Jersey to reduce its Instate Connection Fee (ISCF) and the prepaid calling card charges once access reductions occur. In response to the New Jersey Board's decision to lower intrastate access rates, AT&T has already lowered its New Jersey in-state connection fee for residential consumers by ***over*** 30% (See Attachment 9 hereto). Likewise, AT&T lowered the in-state connection fee for small business by 30%. These are direct line-item charges on customers' bills that were reduced.

Q. HOW ELSE WILL CUSTOMERS BENEFIT FROM ACCESS REDUCTIONS?

A. By reducing access rates and allowing RLECs to have the pricing flexibility to recover any lost revenues from their own customers, this creates the proper pricing signals in the market and allows for more competition to thrive. By keeping local rates artificially low, implicit (or even explicit) subsidies stifle competition to the detriment of customers. By

[76] *In the Matter of the Board's Investigation and Review of Local Exchange Carrier Intrastate Exchange Access Rates*, NJ BPU Docket No. TX08090830, Order, February 1, 2010, p. 27.

readjusting the market to create better pricing signals, carriers are encouraged to operate more efficiently in order to reduce their costs because they can no longer rely on subsidies to survive, and so other newer competitors will be encouraged to enter the RLECs' territories and offer more services and options to the RLECs' customers. Even CenturyLink's own witness, Dr. Staihr, recognizes this fact when he testified:

> In situations where retail rates have been suppressed to remain at artificially low levels for years it is more difficult for competitors to successfully enter a market and compete against those unnaturally low retail rates. And when this happens, customers are ***hurt***, not helped, by these artificially low rates because customers are denied choices of other providers who may indeed have a legitimate cost advantage or efficiency advantage but cannot act on it due to these unreasonably low retail rates. The solution would be, in areas where rates have been artificially suppressed for years, allow the market to set those rates. [77]

Q. CAN YOU PLEASE SUMMARIZE THE BENEFITS TO CONSUMERS AND THE ECONOMY FROM REFORMING INTRASTATE ACCESS RATES TO MIRROR INTERSTATE RATES?

A: Yes. Reforming the access regime by reducing intrastate access rates in Pennsylvania can benefit consumers in the following ways:

- Prices for wireline intrastate long distance services would be expected to fall, which in sum would stimulate more usage of the wireline network and enhance opportunities for consumers to use the technology that best suits their needs at the time;
- Distortions in the competitive process between wireline and other technologies would be reduced so that consumers could make decisions that reward providers

[77] *I/M/O* the *BPU's Investigation Regarding the Classification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive*, NJ BPU Docket No. TX07110873, Rebuttal Testimony of Brian K. Staihr, January 29, 2008, p. 40.

more closely for their relative efficiencies, attributes and qualities, rather than on the basis of artificially high prices for wireline long distance services;

- Investment incentives would be better aligned with the relative merits of different service providers and technologies; and
- Wasteful arbitrage activities would be less attractive and would therefore likely be reduced.

VI. CUSTOMERS WILL BE HARMED IF INTRASTATE ACCESS RATES ARE NOT REDUCED

Q. ARE THE PTA AND CENTURYLINK WITNESSES WRONG WHEN THEY ASSERT CONSUMERS ARE NOT BEING HARMED BY HIGH ACCESS RATES?

A. Yes. PTA witness Zingaretti suggests that access rate reductions are "irrational" and are not supported by public policy.[78] CenturyLink witnesses Lindsey and Harper claim that the existing intrastate access rates and rate structure are not harmful to end user customers.[79] Those witnesses are ignoring that high access rates distort the market and hinder the ability of traditional long distance carriers to compete against e-mail, internet service providers, social networking websites, wireless carriers, VoIP providers and other forms of communication largely immune from the access subsidy obligation. They are also ignoring that, as OCA witness Dr. Loube noted (at page 60), the differential between interstate and intrastate access rates invites regulatory arbitrage in which carriers disguise intrastate traffic as interstate traffic for the purpose of avoiding the higher intrastate

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[78] Zingaretti at p. 15. Among other things, he claims that reducing access rates would not offer meaningful benefits to RLECs' customers (pages 20-21), that there would be no adverse consequences from allowing access rates to remain at their present levels (page 35), and that the interexchange carriers have not presented a compelling reason for access-charge reform (page 56).

[79] Panel Direct Testimony of Jeffrey L. Lindsey and Mark D. Harper Statement 1.0 for CenturyLink at page 5, lines 14-16: "Our Panel Direct Testimony demonstrates that CenturyLink's existing intrastate switched access rates and rate structure...are not harmful to end user customers."

rates.[80] In fact, CenturyLink has previously stated that this arbitrage whereby carriers act in ways that try to avoid paying high intrastate access charges is "among the most serious problems affecting rural price cap carriers."[81] CenturyLink argued to the FCC that differences between intrastate and interstate switched access rates are causing "artificial arbitrage" that is "harming competition and investment" in several ways, including "harming network investment and innovation."[82]

Those witnesses are also ignoring the insidious consequences of "traffic pumping," a scheme we noted in our Direct Testimony whereby RLECs are manufacturing huge volumes of terminating access traffic in a blatant attempt to take advantage of their excessive access rates.

Q. ARE SOME PENNSYLVANIA RLECS ENGAGED IN "TRAFFIC PUMPING" SCHEMES?

A. Unfortunately, yes. As soon as Windstream Communications, Inc., of Little Rock, Arkansas bought D&E and Conestoga, and as soon as Consolidated Communications Inc, of Mattoon, Illinois, bought North Pittsburgh, those RLECs, either through affiliates or partners, began offering telephone numbers for use by so-called "free" pornographic and other chat line providers.[83] But as is typically the case when something looks too good to be true, such is the case with traffic pumping. "Free" porn and chat line calls are not free. When customers call these "free" numbers, the customers' long distance carriers are

[80] In fact, RLECs have filed complaints against other companies specifically on this issue.
[81] FCC WC Docket No. 08-160, Petition of Waiver of Embarq, at p. 20.
[82] *Id.* at 15-16.
[83] AT&T learned of the vast majority of this traffic towards the end of 2009.

billed access charges to terminate the calls.[54] The new owners of D&E, Conestoga and North Pittsburgh are participating in the "free" call schemes solely to generate excessive access revenues.

Q. WHO PAYS FOR THESE "FREE" PORN AND CHAT LINE CALLS?

A. Unfortunately, all long distance callers have paid for these calls. Long distance carriers must recover their access costs from their paying customers. The access costs IXCs incur to terminate "free" porn and chat lines end up being paid by all of the IXCs customers. Thus, in a very real way, all Pennsylvania consumers are being saddled with the costs of traffic pumping.

Q. WHAT ARE CALLERS GETTING FOR "FREE?"

A. The chat lines and entertainment services often have a strong sexual theme and are promoted by advertisements that can be extremely graphic in nature. As shown on Attachment 10 hereto, the themes and descriptions of the chat lines are highly suggestive, such as "Sex Line," "The G Spot," "Hookah Lounge," and "FCK 'The only thing missing is U'." While the advertisements often claim that persons under the age of 18 are not allowed on the chat lines, ***there are absolutely no mechanisms in place to ensure that Pennsylvania children and teenagers are excluded.*** More details about the high-volume

[54] Traditionally, end users have paid a premium to call information services and the services were restricted to specific numbering codes to alert callers that premium rates would be charged (*e.g.*, numbers in the 900 NPA or 976 "mass announcement" exchanges. *See, for example*, the advertisements of MyMobileLine.com for chat lines for single adults in the Harrisburg area, http://www.mymobileline.com/Pennsylvania/Harrisburg/index.php, and for teens in the Philadelphia area, http://www.mymobileline.com/Pennsylvania/Philadelphia/index.php. The advertisements make clear that the services are provided from a 900 NPA number (1-900-988-7700) and that callers are billed $25.00 for 50 minutes of conversation. *See also*, Quest Chat, Terms Of Service For First Media Phone Services, [illegible]

chat lines being served by D&E, Conestoga, and North Pittsburgh are presented on Attachment 10.

Q. IN GENERAL, WHAT EVIDENCE CAUSED AT&T TO CONCLUDE THAT THESE THREE RLECS ARE PARTICIPAING IN TRAFFIC-PUMPING SCHEMES?

A. Five factors brought these schemes to light. **First**, shortly after the sale of these RLECs to out-of-state interests, AT&T saw a spike in the volume of long-distance calls terminating to telephone numbers provided by these three carriers.

Second, virtually all of the increase in traffic can be attributed to calls driven by advertising for calls to chat lines. Some numbers received more than 600,000 minutes per month, the equivalent of about 14 subscriber lines being used 24 hours per day, 30 days per month.

Third, an investigation of the D&E, Conestoga and North Pittsburgh local numbers receiving all of the traffic (by a straight-forward Internet search) unearthed advertisements encouraging readers to dial "free" chat lines with sexually suggestive themes and names such as those noted above. Some of the ads are extremely graphic.

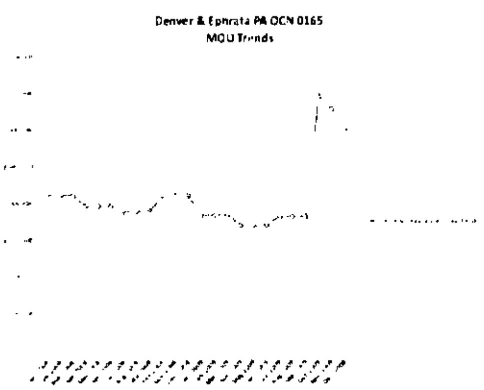
Fourth, these lines are not configured the way one normally expects when there is a high volume of incoming traffic. When a business depends upon large volumes of incoming calls it will typically establish a "toll-free" number for the convenience of its customers and subscribe to special access services to reduce its call termination costs. Here, however, the traffic-pumpers *want* incoming traffic to terminate using basic switching arrangements so that the terminating access charges they bill will be as large as possible. Clearly, the business model of chat lines is not to reduce access costs but instead to inflate them, and since the callers do not pay any premium for gaining access to the chat line services, it is highly likely the RLECs and the chat line wholesalers and operators are sharing the access revenues.

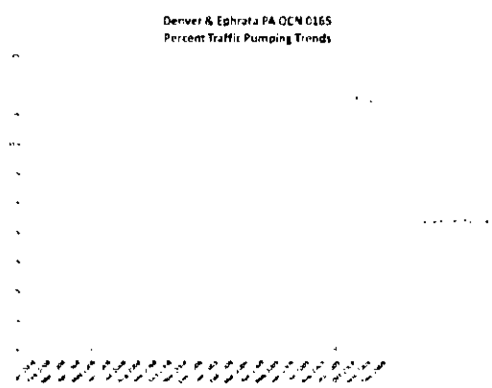
Fifth, we believe in some instances carriers are making pumped traffic appear to be intrastate to take advantage of higher intrastate access rates. It appears calls are forwarded to conference calling devices in other states but are deliberately routed through telephone numbers provided by North Pittsburgh for the sole purpose of creating the impression that calls which originate in Pennsylvania should be subject to the intrastate access rates.

Q. HOW HAVE AT&T'S TERMINATING ACCESS MINUTES CHANGED SINCE D&E, CONESTOGA AND NORTH PITTSBURGH BEGAN TRAFFIC PUMPING?

A. The following charts[85] show (1) that traffic pumping has caused a huge spike in AT&T's terminating access minutes, and (2) that traffic pumping minutes have become a huge percentage of AT&T's terminating access minutes to these carriers:

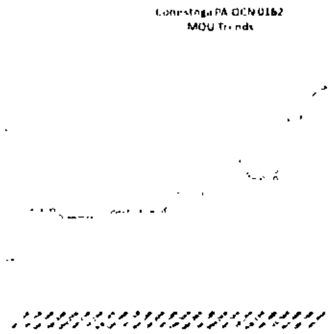
Windstream

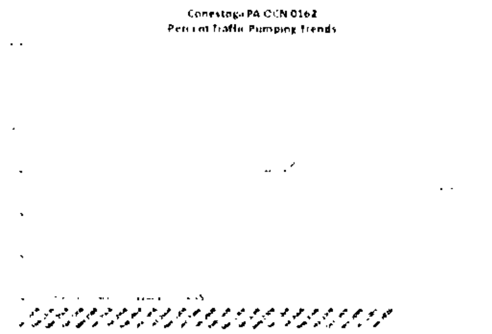




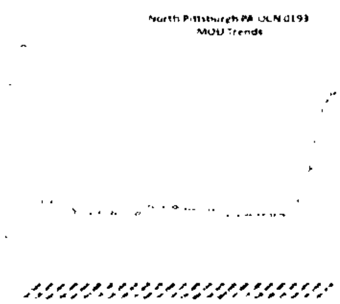
85 The charts use monthly averages of quarterly data for the period prior to October 2009.

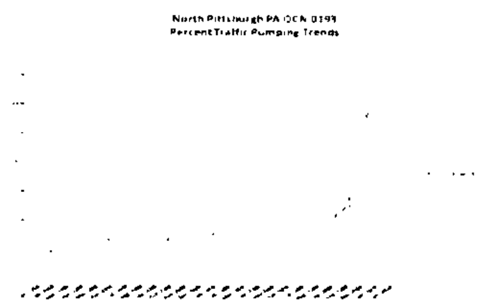
Conestoga





North Pittsburgh





Q. **HAVE YOU BEEN ABLE TO CALCULATE HOW MUCH ACCESS EXPENSES IS BEING IMPOSED ON AT&T'S CUSTOMERS AS A RESULT OF THE D&E, CONESTOGA AND NORTH PITTSBURGH TRAFFIC PUMPING SCHEMES?**

A. Yes. We estimate that the annual cost to AT&T customers nationwide as a result of the traffic pumping schemes of these three Pennsylvania companies is nearly $2 million.

Q. **IS THAT THE TOTAL COST BEING IMPOSED ON CONSUMERS?**

A. No, of course not. AT&T serves only a fraction of the long distance market. Other long distance carriers are delivering traffic to the D&E, Conestoga and North Pittsburgh porn and chat lines, too. We have no way of knowing precisely how many traffic pumping calls D&E, Conestoga and North Pittsburgh are terminating for AT&T's long distance competitors, but, assuming for purposes of illustration that AT&T was 20% of the market, then the total costs these traffic pumping schemes are imposing on all wireline long distance customers could be as much as $10 million per year. These "free" calls are anything but free.

Q. WHAT CORRECTIVE ACTIONS WOULD YOU RECOMMEND?

A. We are extremely concerned that what we are seeing with D&E, Conestoga, and North Pittsburgh is only the beginning. If other Pennsylvania RLECs see traffic pumping as "easy money," the problem could spread. The only reason these companies can engage in traffic pumping – indeed, the only reason they want to engage in traffic pumping – is to bill high access charges. Ultimately, this Commission, like the Iowa commission, may need to take action to stop traffic pumping by RLECs if they continue unabated. But, to help create disincentives for Pennsylvania to become the next haven of "free" porn and chat lines, a first step is to reduce RLEC intrastate access rates to parity with their interstate rates.

VII. THE COMMISSION SHOULD NOT WAIT FOR THE FCC TO ACT ON ACCESS REFORM

Q. THE RLECS ARGUE THAT THE COMMISSION SHOULD NOT ACT NOW, BUT SHOULD WAIT FOR THE FCC. PLEASE RESPOND.

A. This argument has already been made and rejected. The RLECs argued for five years that the FCC was "on the verge" of reform, and for four years the Commission bought their argument, during which time the RLECs reaped the benefits of their high intrastate access rates, and Pennsylvania consumers paid the price.

Eventually, though, the Commission came to the realization that the FCC was not going to act, and the Pennsylvania access reform must be the responsibility of the

Pennsylvania Commission. It brushed aside yet another RLEC invitation to "wait on the FCC" and issued its Order to re-open this investigation. That was exactly the right thing to do.

Now there are rumblings in Washington that the new administration's FCC may be planning to take a look at access reform, and the RLECs are sure to argue, yet again, that this Commission should stop and, once again, wait on FCC action that – if it comes at all – is years away. The Commission should simply say, "No thanks."[86] It would not make any sense to spend the time and resources on developing a full record on the need for access reform in Pennsylvania just to then stall a decision to wait for FCC action that is uncertain, at best. There is no indication that the FCC is going to act any time soon, and there is absolutely no reason to believe that, given the ever-growing list of states implementing intrastate access reform, the FCC would act in a way that harms those states.[87]

Apparently Chairman Cawley already has come to that conclusion. His recent Motion in a case involving a RLEC attempting to obtain access payments due from another carrier observed that "we do not need and cannot afford to wait and speculate whether the FCC will reach some sort of coherent and sustainable solution to its IP-enabled services and intercarrier compensation reform proceedings, when this might

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[86] AT&T asked the PTA to explain the basis for its claim that the FCC will act in a way contrary to the interests of Pennsylvania, and the PTA admitted that there was no actual evidence to support this claim. See PTA response to AT&T-PTA-5-15, attached hereto as Attachment 7.

[87] Chairman Cawley recently assumed a position on the Federal-State Joint Board on Universal Service specifically to protect Pennsylvania's interests in light of the fact that Pennsylvania is a net payor into the Federal USF. See Feb 2, 2010, Press Release at [illegible]

happen, and what the FCC's conclusions might be."[88] On this point, Chairman Cawley hit the nail squarely on the head.

Q. HAVE NEIGHBORING STATES RECENTLY MOVED FORWARD WITH ACCESS REFORM DESPITE THE "PENDING" FCC ACTION?

A. Yes. New Jersey, like Pennsylvania, is a net payor into the federal USF, and, therefore, faces the same "risk" as Pennsylvania in moving forward with access reform ahead of FCC action. The New Jersey Board, however, brushed aside the same "wait on the FCC" arguments from some of the same LECs appearing in this case to move ahead with New Jersey intrastate access reform:

> The Board also HEREBY FINDS that the Board need not to wait for federal action from the FCC or from Congress on Intrastate Access Rate issues. As the Board stated in its December 2008 Order, the Board regulates Intrastate Access Rates and it is within the Board's authority to review the complete record in this proceeding and render its decision.[89]

This Commission would be well served to follow New Jersey's lead.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes it does.

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[88] *Palmerton Telephone Company v. Global NAPS South, Inc., et. al.*, Docket No. C-2009-2093336, Motion of Chairman James H. Cawley, February 11, 2010, p. 15.

[89] *I/M/O the Board's Investigation and Review of Local Exchange Carrier Intrastate Exchange Access Rates*, NJ BPU Docket No. TX08090830, Order, February 1, 2010, p. 27.