OCA Statement No. 1

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BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Universal Service Fund	))))	Docket No. I-00040105
AT&T Communications of Pennsylvania, LLC TCG New Jersey, Inc. and TCG Pittsburgh, Inc. v. Armstrong Telephone Company-Pennsylvania, et. al.	))))	Docket No. C-2009-2098380, et al.,

DIRECT TESTIMONY OF DR. ROBERT LOUBE

ON BEHALF OF

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

January 20, 2010

(PUBLIC VERSION)

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TESTIMONY OF
ROBERT LOUBE

LOUBE EXHIBIT LIST

I. Introduction and Summary

Q: Please state your name and business address.

A: My name is Robert Loube. My business address is 10601 Cavalier Drive, Silver Spring, Maryland 20901.

Q: By whom are you employed and in what capacity?

A: I am the Vice President of Rolka Loube Saltzer Associates.

Q: Please provide us with information regarding your relevant experience.

A: My consulting practice centers on providing expert advice to state agencies involved in telecommunications regulation. Prior to joining Rolka Loube Saltzer Associates, I worked for the Federal Communications Commission (FCC), the Public Service Commission for the District of Columbia, and the Indiana Utility Regulatory Commission. At those commissions I worked on issues associated with universal service, incremental cost, rate design, competition and separations. My vita is attached to this testimony as Exhibit RL-1.

Q: On whose behalf are testifying?

A: I am testifying on behalf of the Pennsylvania Office of Consumer Advocate ("OCA").

Q: What is the purpose of your testimony?

A: The purpose of my testimony is to address the issues identified in the September 15, 2009 scoping order, as modified by the Commission order, entered in this matter. The issues to be addressed have been before the Commission for a long time. The current investigation has evolved from the Commission's 2004 investigation of Rural Local Exchange Carrier ("RLEC")[1] access charges and the Pennsylvania Universal Service Fund ("Pa USF"). The Commission has postponed the completion of the docket several times because it realized that Commission action prior to FCC action might cause harm to Pennsylvania carriers and consumers. In April 2008, the Commission re-opened the proceeding to investigate a limited number of issues centered on the PA USF. In March 2009, AT&T Communications of Pennsylvania, LLC ("AT&T") filed a complaint asserting that the RLECs' access rates were unjust and unreasonable. On July 23, 2009, Administrative Law Judge Susan D. Colwell issued a recommended decision regarding the issues limited to the universal service order and the $18.00 residential basic local exchange rate cap. Finally on July 29, 2009, the Commission consolidated the AT&T complaint with its investigation.

Q. What is the primary issue that must be decided?

A. Given this long history of the proceeding, with all of its twists and turns, it is easy to lose sight of the primary cause of the debate. That primary

[1] The RLECs in this proceeding include those companies represented by the Pennsylvania Telephone Association (PTA) and CenturyLink (formerly, Embarq).

cause is the question of how will the cost of the joint and common network plant be recovered? The joint and common network plant is the outside plant that connects each customer to a central office. The plant consists of cables and wires, poles, trenches and conduit, and electronic equipment that is situated in the field. This plant is used to provide all of the services the customers wish to consume and all of the services that other carriers wish to provide. This plant allows the customer to make a local call and it also allows a long distance carrier or a wireless carrier to complete a call. This plant is not directly assignable to any one service such as access or local exchange or data transport service. However, none of those services can be provided without it.

Revenue to pay for the joint and common network had been obtained from local and access rates. In order to reduce access rates for the purposes of spurring competition, the Commission established a universal service fund. For a variety of reasons that will be discussed in detail below, various parties wish to change the relative burden associated with the recovery of the joint and common cost of the network. In particular, the long distance carriers (a/k/a the interexchange carriers or IXCs) wish to be relieved of their obligation to support the joint and common cost through access charges. If the IXCs' are relieved of that obligation then someone else must pay for the cost of the network. The cost could fall on the RLECs, on the RLECs affiliates, on the basic local service customers of the RLECs or on the PA USF.

Q. How does this problem translate on a practical basis?

A. The practical impact of the relief sought by the IXCs is a substantial reduction in revenue for the RLECs. While the OCA agrees conceptually that it is important to reduce the differences between rates paid for access, the OCA advocates that the revenue loss should be the responsibility of all service providers connected to the public switched network. Basic local exchange customers should not bear the entire burden to pay for the network that is used to provide a variety of services, particularly given the numerous changes to the network and the industry over the past decade.

Q. Can this proceeding resolve this problem?

A. Each party to this case has suggested a plan that would alter the current joint and common network recovery scheme. In addition to these proposals, the Commission could attempt to establish a "one rate plan," which establishes one rate for all forms of intercarrier compensation, or retain the status quo.

The purpose of my testimony is to provide the Commission with the OCA Plan to establish a comprehensive just and reasonable joint and common cost recovery mechanism. I will recommend the elimination of the carrier common line charge, and will also recommend that certain RLECs' basic rates can be increased to reasonable levels. However, these recommendations are contingent on the Commission adopting the other parts of the OCA plan that include an expansion of the Pa USF

contribution base and an increase of support from the Pa USF for the RLECs. The increase in PA USF support to RLECs and the expansion of the contribution base allows all users of the joint and common plant to make a reasonable contribution to the support of the plant. I will also examine the plans of the other parties, explain why the OCA Plan is superior to the other plans and discuss AT&T's complaint.

Q: Please summarize the AT&T Complaint.

A: The AT&T complaint requests the Commission to reduce the intrastate access rates of the Pennsylvania RLECs to the rates each carrier charges for access in the interstate jurisdiction. The complaint alleges that such action is necessary because there have been significant changes in telecommunications markets in recent years, including the introduction of a variety of new services using alternative technologies. The complaint also alleges that a reduction of intrastate access charges is consistent with the Commission's desire to eliminate implicit subsidies and to ensure a level playing field among competitors. The complaint further argues that it is not reasonable or logical for the intrastate rates to be higher than the interstate rates because there are no functional differences between the intrastate and interstate services received from the RLECs. Further, the complaint argues that AT&T has been negatively affected because customers move to other service providers as the other providers do not have to pay the unusually high access charges. Finally, the complaint opines that the RLECs are not really very rural and that the RLECs should

not be considered high cost carriers because they do not receive federal high cost loop support. I will address the issues raised in the complaint.

Q: Please summarize your testimony.

A: My testimony begins with a description of the "one rate plan" and a discussion of the advisability of retaining the status quo. I explain why the one rate plan cannot be adopted because it involves extensive Commission and FCC cooperation. The status quo also should not be retained due to changes in the telecommunications market place. Next, I describe the OCA Plan. The plan consists of four integrated and interlocking parts. First, RLEC intrastate access rates are set equal to RLEC interstate access rates, including the elimination of the carrier common line charge. Second, RLEC residential basic service rates are required to increase to 120 percent of the Verizon average residential rate. Residential rates above 120 percent of the Verizon average residential rate should not be changed. Business basic service rates would increase by the same amount as the residential rate increase. Third, any remaining revenue required to offset the revenue decrease associated with access rate reductions should be recovered from the Pa USF. The contribution base of the Pa USF should be enlarged to include any service provider that uses the public switched telecommunications network at any point in providing their service. Next, I examine the alternative plans supported by other parties in this case. I provide an analysis of why the Commission should reject each of the alternative plans. Finally, I address the directed questions listed in the

scoping order including the AT&T complaint. I provide estimates of the impact of the OCA Plan and the alternative plans on basic service rates and estimate contributions to and support from the Pa USF fund.

II. The one rate plan and retaining the status quo

Q: Having identified the intercarrier compensation problem, do you think the Commission needs to address this problem at this time?

A: Yes. The current system is inequitable and subject to regulatory arbitrage.

Q: If the Commission determines to address the issue, what options are available?

A: There is a one rate plan, maintaining the status quo or adopting the plan I discuss below.

Q: Please summarize the one rate plan.

A: A first best just and reasonable solution to the intercarrier compensation problem would allow each carrier to establish one terminating rate and one originating rate for all types of minutes used by all types of carriers. The rate would be equal to the sum of all terminating (originating) revenue divided by all terminating (originating) minutes. This rate would lower the intrastate access rates and probably lower the interstate access rates. At the same time, the reciprocal compensation rate for local competition and the rate wireless carriers pay for terminating intra-MTA[2] calls would

[2] An MTA is a Major Trading Area and represents the areas within which a wireless carrier charges reciprocal compensation for terminating calls.

increase. There would be no loss in revenue, and, therefore, no requirement to increase local rates, the federal subscriber line charge, or federal and state universal service payments. By having one rate for all services and carriers, it would establish a level playing field and eliminate arbitrage incentives.

Q: Does the Commission have the authority to establish the first best just and reasonable intercarrier compensation plan?

A: No. In order to establish such a plan, the Commission would have to obtain the cooperation of the FCC. Given the very low (approaching zero) probability that the FCC would join in establishing such a plan, the Commission must seek to establish a second best alternative.

Q: Should the Commission reaffirm the status quo with regard to intrastate access charges?

A: Retaining the status quo with regard to intrastate access charges would continue the unfair advantages to the wireless industry. These advantages include the fact that the wireless carriers are not required to pay the state carrier common line charge, that wireless carriers do not contribute to the Pa USF, and that wireless carriers are allowed to treat intra-MTA toll calls as if those calls are local calls, and thus, for intra-MTA calls, the wireless carriers pay reciprocal compensation rates for those calls.

Q: Having said that, however, are there reasons why the Commission should retain the current system?

A: Yes. First, the three largest IXCs serving the mid-Atlantic region are also the three largest national wireless carriers. These affiliations would allow the carriers to set their rate designs as a combined entity. Thus, the problem of the level playing field is really an internal decision made by those carriers and is not necessarily a problem that the Commission must solve. Second, the IXCs have not provided sufficient evidence that previous reductions in intrastate access rates led to reductions in intrastate toll rates. Thus, there is little support for the proposition that customers would benefit from the access rate reduction. In addition, AT&T's panel witnesses assert that AT&T is committed to reduce certain charges but they have not committed to a complete flow-through of the entire reduction. Thus, if the Commission does reduce intrastate access rates, it should require an equal across-the-board reduction in toll rates. The reason for an across-the-board reduction is that such a reduction ensures that all of AT&T's customers share in the rate reduction rather than allowing AT&T to pick and choose among its customers and provide large reductions to some customers and small or no reductions to other customers.

III. A Comprehensive Solution for access charge reform and for revisions to the Pa USF

Q: Is the OCA offering its own plan to alter the intrastate access rates and to maintain universal service in Pennsylvania?

A: The OCA is sponsoring through my testimony an alternative plan designed to revise the intrastate access rates and to maintain universal service in Pennsylvania.

Q: Please summarize the features of that plan.

A: The OCA recommended plan includes the following features:

1. RLEC intrastate access rates should be set equal to their respective interstate rates, including the elimination of the carrier common line charge;
2. RLEC residential basic local service rates that are below 120 percent of the Verizon Pennsylvania weighted average residential basic local service rate should be increased to that value while RLEC rates that are above 120% of the Verizon weighted average rate remain at their current levels; [3]
3. Any remaining revenue required to offset the revenue decrease associated with access rate reductions should be recovered from the Pennsylvania universal service fund; and
4. The revenue base of the Pennsylvania universal service fund should be enlarged to include any service provider that uses the public switched telecommunications network at any point in providing their service.

All of these features must be adopted as part of the OCA plan.

Q: Will the OCA plan resolve the issues before the Commission?

A: Yes, but only under the conditions discussed below. The OCA plan is a comprehensive integrated plan that resolves the AT&T complaint with regard to the fact that intrastate access rates are higher than interstate rates, while simultaneously ensuring the residential basic exchange rates remain affordable and that universal service is promoted. The OCA plan will also resolve the issues raised in the Commission's investigation regarding the RLECs' intrastate access rates.

Q: Is the recommendation to eliminate the state carrier common line charge a new position for the OCA?

A: Yes. The carrier common line charge is a per-line charge that IXCs pay to local exchange carriers (LEC) that is associated with the recovery of loop facilities. In the past, the OCA has argued in favor of retaining the state carrier common line charge. The carrier common line charge is a just and reasonable rate. It is a fair way to recover the joint and common costs of the network from carriers that use that network and is not a subsidy. The OCA would prefer to allocate the carrier common line charge among all of the minutes-of-use of all carriers that connect to RLECs. However, because the Commission has been pre-empted by the FCC from applying the carrier common line charge to intra-MTA wireless minutes, the OCA is now recommending that the charge be eliminated in order to create greater fairness among the carriers that interconnect with the RLECs.

[3] The term Verizon Pennsylvania refers to only the former Bell Atlantic territory and does not include the former GTE territory.

Eliminating the carrier charge creates greater fairness because not all long distance carriers pay it.

Q: Are there any constraints on the OCA recommendation to eliminate the state carrier common line charge?

A: Yes. The OCA would only recommend the elimination of the state carrier common line charge if, and only if, the Commission adopts the OCA's additional recommendations to benchmark the RLEC residential rate to 120 percent of the Verizon Pennsylvania rate, to enlarge the Pa USF, and to enlarge the revenue base of the Pa USF. If the Commission does not adopt the entire package, then the result of eliminating the state carrier common line charge would be extremely harmful to RLECs and their residential customers because of the lost revenue from service providers that also use the local loop. The RLECs would be left with the choice of either financial insolvency or of establishing rates that are so high that they are not just, not reasonable and not affordable. That choice cannot be considered to be in the public interest.

Q. Is the Commission considering changes to the Pa USF?

A. The Commission has bifurcated the rural access investigation in which the specifics of the Pa USF will be addressed. ALJ Colwell submitted her Recommended Decision in that proceeding in July 2009 and Exceptions and Reply Exceptions filed in response to that Decision are currently pending before the Commission. As such, my recommendation in this proceeding is dependent in part on what happens in that proceeding.

Q: What is the impact of your recommended plan on RLEC traffic sensitive access rates?

A: RLEC intrastate traffic sensitive rates should be set equal to their interstate rates. In instances where the RLEC intrastate traffic sensitive rates are greater than their interstate rates, the intrastate rate would decrease. In instances where the RLEC intrastate traffic sensitive rates are less than their interstate rates, the intrastate rate would increase.

Q: Why is it necessary to benchmark the RLEC residential basic exchange rates to 120 percent of the Verizon Pennsylvania weighted average residential rate?

A: My recommendation requires every RLEC that has rates below 120 percent of the Verizon Pennsylvania average basic local service rate to increase that rate to 120 percent of the Verizon Pennsylvania rate. This recommendation ensures that RLEC customers are paying a reasonable amount for basic service and that no RLEC customer is allowed to pay an unreasonably low rate for service while the RLEC is receiving universal service funds from other Pennsylvania carriers. This recommendation retains the policy of fairness and comparability that the OCA recommended in the portion of the investigation conducted by ALJ Colwell that is now pending before the Commission.[4] By adopting the

[4] See, Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Universal Service Fund, Docket No. I-00040105, Direct Testimony of Dr. Robert Loube, dated December 10, 2008.

OCA recommendation, the Commission would establish just and reasonable rates for all Pennsylvania residential basic service customers.

Q: What is the current just and reasonable comparability benchmark?

A: Using the 120% target, the current just and reasonable comparability benchmark would be $17.09. The benchmark is 120% of the current weighted average Verizon Pennsylvania rate of $14.25.[5] In the proceeding before ALJ Colwell, the OCA argued that rates should be no higher than 120% of the current weighted average Verizon Pennsylvania rate, also known as the comparability standard. However, that standard was constrained by two conditions. First, given that 120% of the Verizon rate is less than the current $18 cap on residential basic local exchange service, rates between the comparability standard and $18 would still be considered reasonable and would not have to be reduced. The second condition is an affordability standard. The affordability standard is based on Pennsylvania median family income. If increases in the Verizon rate drove the comparability standard above the affordability standard, then the affordability standard would be a binding constraint, and the just and reasonable basic residential rate would be based on the affordability standard. In this case, I am relying on the same comparability standard to establish a price floor that is a prerequisite for receiving Pa USF support. If the Commission adopts my recommendation, the immediate impact would be to require RLECs' residential basic local exchange service rates

[5] See proprietary Exhibit RL-2.

to be no lower than 120% of the Verizon rate and no higher than the $18.00 rate cap. Rates will be allowed to increase with increases in the Verizon rate and will be allowed to exceed the current $18.00 rate cap when 120% of the Verizon rate is greater than $18.00.

Q: How many carriers would be required to increase their basic residential service rate?

A: Twenty-two RLECs would be required to increase their rate to match the benchmark in order to receive Pa USF. These increases range from 10 cents to $3.60, with the exception of Citizens of Kecksburg which would receive an increase of $6.09.[6]

Q: How does your recommended plan work in future years?

A: The benchmark will change in every year in which Verizon Pennsylvania changes its basic residential rate. The new benchmark will be used to determine support from the fund. Thus, if the benchmark increases to $17.50 next year, RLEC support will be determined using the $17.50 benchmark.

Q: How would the OCA plan affect RLEC business rates?

A: The plan calculates support as if RLEC business rates are increased by the same 10 cents to $6.09 as the residential rate increase.

Q: What would the impact of the OCA recommendation be on the size of the Pa USF?

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[6] See Exhibit RL-3. Given the size of the increase to customers of Citizens of Kecksburg, a phase-in of the increase would be appropriate.

A: The pay-out of the Pennsylvania universal service fund under my plan to reduce intrastate access rates to interstate access rates would increase by approximately $63.4 million.[7] The elimination of the state carrier common line charge would increase the fund requirement to a total of $79 million. However, that $79 million amount is offset by increases in the intrastate switching and transport rates in those situations for the 21 carriers where the intrastate rates are less than the interstate rates. There would also be an offset related to the RLECs with residential rates that are now less than the 120% of the Verizon Pennsylvania weighted average residential rate.

Q: What would the impact of the OCA recommendation be on the size of the Pa USF contribution factor?

A: As discussed further below, there would be a very large impact on the contribution factor if the revenue base is not enlarged. However, the OCA is also recommending that the Commission enlarge the revenue base to include any service provider that uses the public switched telephone network ("PSTN") at any point in providing their service. The OCA realizes that a finding regarding the recommendation to enlarge the Pa USF contribution base may not be within the purview of the assigned issues in this portion of the proceeding. However, the OCA's recommended comprehensive plan is contingent on the Commission

[7] See Exhibit RL-4.

addressing this issue in another proceeding of its choice and finding in that proceeding that it is necessary to increase the size of the contribution base.

Q: Can you provide an example of how the PA USF contribution base may be expanded?

A: I can estimate the additional revenue associated with wireless service, for example, but I cannot estimate the additional revenue associated with Voice over Internet Protocol ("VoIP") telephony service. I estimated the additional wireless revenue in Pennsylvania as $4.4 billion as the product of 9.9 million wireless subscribers as of June 2008,[8] wireless monthly revenue of $49.57 per-customer as of June 2009[9] and a 74 percent state wireless factor.[10]

Q: Can you estimate the impact of your recommendations on the Pennsylvania universal service contribution factor?

A: Yes. The 2009 contribution factor is 0.01165.[11] Increasing the fund pay-out from approximately $33 million to $97.3 million and the fund revenue base from $2.9 billion to $7.3 billion by including the wireless revenue would produce a new contribution factor of 0.01331, increasing the factor by 0.00166.[12] However, that factor does not include the impact of VoIP telephony revenue. Adding that additional VoIP revenue might allow the

[8] FCC Local Competition Report.

[9] CTIA Semi-Annual Wireless Industry Survey.

[10] The state wireless factor is the ratio of intrastate to total wireless end users revenue. FCC, "Telecommunications Industry Revenues, 2007," September 2009, Table 6, line 423.

[11] Pennsylvania Universal Service Fund Annual Rate Adjustment, Docket No. M-00001337, *Order*, Public Meeting held November 19, 2009.

contribution factor to remain the same or even decrease with the substantial increase in the base. Alternatively, if the definition of the revenue base remains constant, the additional fund pay-out would require the contribution factor to increase to 0.03347.

Q: Do other states require wireless carriers to contribute to state universal service funds?

A: Yes. It is my understanding the 14 of 21 states that currently have universal service funds require wireless carriers to contribute to those funds.

Section IV – The Positions Proposed By Other Parties To This Proceeding Should Be Rejected.

Q: Were other alternative solutions to the issues in this proceeding presented by the parties?

A: Yes. There are at least five alternative solutions presented thus far. These are:

1. Adopt the recommendations of AT&T;
2. Adopt the recommendations of Verizon;
3. Adopt the recommendations of Comcast;
4. Adopt the recommendations of Qwest; and
5. Adopt the recommendations of Sprint.

[12] Exhibit RL-5.

AT&T

Q: Should the Commission adopt AT&T's recommendations in this proceeding?

A: The Commission should not adopt AT&T's recommendations. AT&T's recommendations would reduce the intrastate access rates but would not provide a reasonable revenue neutral increase in other revenue for the RLECs. AT&T suggests that the RLECs be allowed the opportunity to increase their basic local exchange services rates by $5.31. The AT&T panel witnesses claim that such an increase is affordable because it would increase local rates by approximately the rate of inflation and because the final rate would be below the affordability standard supported by the OCA in ALJ Colwell's proceeding. However, the claims of the panel witnesses are incorrect, and the RLECs would not be provided with the reasonable opportunity to obtain a revenue neutral increase in revenues for basic exchange service.

Q: Why are the AT&T panel witnesses incorrect regarding the OCA's affordability standard?

A: The AT&T panel witnesses are incorrect regarding the OCA's affordability standard because the OCA affordability standard is based on a $32 total telephone bill and the AT&T panel witnesses are comparing the $32 bill affordability standard to the basic local exchange service rate. However, a rate is not the same as the bill. The bill includes the basic local exchange rate plus the Subscriber Line Charge (SLC) plus the E-911

charge plus the Federal Universal Service charge plus PA relay charge plus Touch-tone charges plus other charges. OCA witness Roger D. Colton clearly specifies the relationship between the bill and the rate in his Schedule RDC-4 submitted in the proceeding before ALJ Colwell.[13] On average, the rate is equal to only 63% of the bill. Thus, a $32 affordable bill would be the equivalent of a $20.15 rate.

Q: Are the AT&T panel witnesses correct when they assert that their proposed residential rate increase is reasonable because the rate increase matches the general level of inflation?

A: The panel witnesses are not correct because they did not measure the rate increase properly and because the criterion for reasonableness, rate increases that match inflation increases, is not a proper standard for reasonableness.

Q: What are the mistakes that panel witnesses make in their measurement of the rate increase?

A: The panel witnesses did not compare the percentage change in rates required to offset the access reduction to the percentage change in the residential rate if the residential rate tracked inflation. Second, the panel witnesses began their analysis with the average rate for the RLECs that exists today. They should have started with the average RLEC rate that

[13] Attached hereto as Exh. RL-6. Roger D. Colton is a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics. Mr. Colton provides technical assistance to a variety of public utilities, state agencies and consumer organizations on rate and customer service issues for telephone, water/sewer, natural gas and electric utilities. Mr. Colton's work focuses on low-income utility issues, and he has testified and published extensively in this area.

existed in 2003, the last time the Commission increased the residential cap.

Q: What would have been the impact on the residential rate if that rate had tracked the inflation rate?

A: According to the panel witnesses, if the $18.00 residential cap had tracked the rate of inflation from 2003 to 2009, then the rate cap would be $21.97 or a 22% increase. The panel witnesses report that the current average RLEC residential rate is $16.16. Increasing that rate by 22% would increase the rate by $3.56 to $19.72. The panel witnesses suggest, however, that the Commission allow the average rate to increase by $5.31, the equivalent of 33% increase. Thus, the panel witnesses are suggesting that it is reasonable for the Commission to allow rates to increase by 1.5 times the rate of inflation.

Q: Why is there a problem with starting from the current RLEC average residential rate when comparing rate increases to inflation?

A: The problem is that RLEC residential rates have increased since 2003. Thus, the base for determining the rate of increase in the comparison was too high. If the correct base had been used then the rate of increase that the AT&T panel witnesses are proposing would be even more dramatic.

Q: Please explain.

A: I have not been able to determine the average RLEC price for 2003. Instead, however, I will provide a hypothetical example of the problem. Suppose the 2003 average price was $14.00. Then the 22 percent increase

alleged to be reasonable by the AT&T panel witnesses would increase the price to $17.08. This means that the actual 2003 to 2009 price increase deemed reasonable by the AT&T panel witnesses would be 57 percent (calculated by dividing $21.67 by $14.00), and 57 percent is well over 2 and a half times the inflation rate that the AT&T panel witnesses calculated for the period 2003 to 2009. Therefore, even using the AT&T panel witnesses' own measure of reasonableness, tracking inflation, they are asking the Commission to authorize the RLECs to increase the residential rate by an unreasonable amount.

Q: Why is tracking inflation not the definitive criterion for rate determination?

A: Tracking inflation is only one part of a combination of factors that must be used to determine whether a rate is affordable, and affordability is only part of the set of criteria that should be used to determine whether a rate is reasonable.

Q: Why is tracking inflation only one part of determining whether a rate is affordable?

A: As OCA witness Colton pointed out in the proceeding before ALJ Colwell, affordability depends on the relationship between the bill and median family income, the ability to pay the bill. If the median family income is not increasing as fast as inflation, then a rate that is increasing as fast as inflation could become unaffordable in a very short period of time. Moreover, as OCA witness Colton pointed out, affordability

depends on the bill, not the rate, and the bill includes the federal subscriber line charge. AT&T has consistently argued for an increase in the federal subscriber line charge from $6.50 to $10.00 in the FCC's intercarrier compensation proceeding.[14] Thus, to maintain affordability, AT&T should be arguing that this Commission should reduce the local residential rate in order to offset its proposed increases in the FCC proceeding. Instead, AT&T is arguing to increase the Pennsylvania RLEC residential rate by more than inflation and to dramatically increase the federal subscriber line charge. If this Commission and the FCC were to agree with AT&T, the combination of these two impacts would make the local service bill unaffordable.

Q: Why is affordability only one part of the criteria used to determine whether a rate is reasonable?

A: As I suggested in my testimony in ALJ Colwell's proceeding, the criteria for reasonableness should include comparability. I will not repeat all of my reasons for supporting the comparability criterion here. Instead, I will note that the principles of the Telecommunications Act of 1996 include a statement that "consumers in all regions of the nation ... should have access to telecommunications and information services...at rates that are reasonably comparable to rates charged for similar services in urban

[14] See, The Presentation of Joel E. Lubin, Vice President Regulatory Planning & Policy AT&T Communications of Pennsylvania, LLC, Before the Pennsylvania Utility Commission, Missoula Workshop, Commission Docket M-00061972.

areas."[15] In addition, another principle states that "quality services should be available at just, reasonable and affordable rates."[16] That later language suggests to me that affordability is an additional and separate criterion from reasonableness, and combining the principles implies that reasonableness is related to comparability.

Q: Do the AT&T panel witnesses suggest that the RLECs have another source of revenue to offset their reduced intrastate access revenues?

A: Yes. The AT&T panel witnesses suggest that the RLECs would realize approximately $1.79 per line per month in reduced access payments if the intrastate access rates are reduced to the interstate access rates.

Q: Will the $1.79 become the income of the RLEC or the income of an affiliate of the RLEC?

A: The AT&T panel witnesses suggest that the savings may become the income of either the RLEC or of an affiliate of the RLEC. Moreover, the AT&T panel witnesses do not explain how the RLEC or its affiliate obtains this savings.

Q: In your opinion, what entity would have the opportunity to receive the savings?

A: It is my opinion that the RLEC's long distance affiliate and not the RLEC telephone company, or its customers, would have the opportunity to receive the savings.

Q: How are these savings generated?

[15] 47 U.S.C. § 254(b)(3).

A: These savings may be generated by an RLEC's affiliate if the amount that the RLEC's affiliate charges to its long distance customers decreases by less than the amount the RLEC pays for the wholesale long distance service. The probability that the RLEC's long distance affiliate's charges to its customers will decrease by less than the amount the RLEC pays for wholesale long distance service is very low and, therefore, the so-called savings are specious.

Q: Please explain.

A: In most instances, the RLEC's long distance affiliate does not own the facilities that provide the long distance service. Instead, the affiliate purchases long distance services in the wholesale market and then resells those services to the retail customers of the RLEC. The contract between the affiliate and the wholesale provider must allow the wholesale provider not only to recover its facilities cost but also to recover the access cost that it pays to terminate the calls on the facilities of other incumbent local exchange carriers (ILECs). If the RLEC's affiliate pays the originating state access rates, then any reduction in access charges is simply a transfer of funds from the RLEC to its affiliate. In addition, if the state access terminating rate is reduced to the interstate rate, then the AT&T witnesses are assuming that the reduction is passed back to the RLEC affiliate in the form of a reduced charge for wholesale service. Finally, the AT&T witnesses must assume that the revenue associated with the reduction in

[16] 47 U.S.C. §254(b)(1).

access rates is retained by the RLEC affiliate and not passed on to its long distance customers.

Q: Please provide an example of how this process works.

A: An example of how the process works can be developed using the following assumptions: 1) the RLEC affiliate sells long distance service to the RLEC's retail customers at $10 per month: 2) the RLEC affiliate purchases wholesale long distance services for $7 per month, pays originating access of $1 per month and retains $2 per month; 3) the wholesaler pays RLECs $4 per month in terminating access and retains $3 per month. Next, the Commission requires the RLEC to reduce state originating state access charges by 50 cents per month and terminating access charges by $1.26 per month. According to the AT&T witnesses, the RLEC affiliate's income increases by $1.76, the sum of the 50 cent reduction related to the originating access rate reduction plus the $1.26 related to the terminating rate reduction.

Q: Will the RLEC's affiliate retain the income related to the intrastate rate reduction?

A: The ability of the RLEC's affiliate to retain the income rests on two unlikely assumptions. Because there is an extremely low probability that either of those assumptions would be true, there is a very low probability that the RLEC's affiliate would retain the income. Moreover, there is an alternative scenario that has a greater chance of occurring that would reduce the RLEC's affiliate's income.

Q: What are the two assumptions required for the RLEC's affiliate to retain the income associated with an intrastate access rate reduction?

A: The assumptions are: 1) the RLEC affiliate has sufficient monopoly power in its market to maintain its prices in spite of the fact the competitive long distance carriers have reduced their rates, and 2) the wholesale provider will immediately and completely pass through the access reduction to the RLEC affiliate.

Q: Please explain.

A: With regard to monopoly power, it is first necessary to understand that once the intrastate access rates are reduced, AT&T has stated that it is committed to immediately reduce its Pennsylvania toll rates. In addition, it has asserted that the market is competitive. If it is competitive, then the forces of competition would require rates to decrease following a cost decrease. If AT&T, Sprint and other interexchange carriers reduce their rates, then it would be imperative for the RLEC affiliate to also reduce its rates or it would lose customers in the competitive market place. Thus, the RLEC affiliate would not be able to retain the income associated with the access rate reduction because it would either reduce its rate or it would lose customers. The only way that it could retain its income would be to assume that the RLEC's affiliate has more monopoly power than AT&T and Sprint and could independently exert that monopoly power in a market with declining prices. That claim of such extreme monopoly power is an assumption that I believe to be of heroic proportions.

Q: Will the wholesale provider immediately and completely pass through the state access reduction to the RLEC's affiliate?

A: The relationship between the wholesale provider and the RLEC's affiliate is governed by contract. Because I have not examined those contracts, I cannot at this time provide a complete answer to that question. However, it is hard to believe that all of those contracts will immediately pass the savings through to the RLECs' affiliates. Moreover, given the relative size of many of the RLECs, it is hard to believe that they have sufficient bargaining power to obtain the entire savings, because the wholesalers have an incentive to retain part of the savings. Thus, the likely outcome is that, in the first year or two after the reduction of the state access rates, the RLECs' affiliates will receive very little of the savings associated with the access reduction, and that with passage of time and the signing of new contracts, some of the savings may pass through to the affiliates.

Q: What is the more likely outcome of the state access reduction on the RLECs' affiliates?

A: If there is competition in the market, the immediate impact would be negative. The rate for long distance service would decrease and the affiliates would receive only a minor portion of the access reduction. With the passage of time, more of the access reduction would be passed through to the affiliates, but only an amount that is equal to the retail rate reduction, so the affiliates would never be better off than they currently are. On the other hand, if the industry leaders, AT&T, Verizon and Sprint,

maintain prices above competitive levels, the RLEC affiliates would also be able to retain part of the savings from the state access reduction. However, if the industry leaders maintain high prices, there would be no consumer benefit from the state access reduction.

Q: Do you agree with the AT&T panel witness' statement that because the mid-sized carriers[17] "are large, national sophisticated Fortune 1000 telecommunications providers that know how to compete .., [these carriers] do not need to be heavily subsidized at all, and certainly not by their competitors." (AT&T testimony, page 9)?

A: I do not agree with AT&T witnesses assertion. The revenue associated with common line access charge is not a subsidy. Eliminating the common line access rate strips the carriers of a revenue source used to recover part of their common line costs. Universal service fund support is replacement revenue. To encourage competition in long distance markets, the Commission previously reduced the access rates. Thus, in order to simultaneously allow the carriers to maintain their financial viability, to ensure universal service and to encourage competition in the long distance market, the Commission found it necessary to provide an alternative revenue source to replace previously acceptable access rates. If the Commission again decides that it is necessary to reduce access rates, it

[17] The term mid-sized carriers refers to CenturyLink (f/k/a Embarq, f/k/a Sprint, f/k/a United), Frontier (including Commonwealth) and Windstream (including the Denver and Ephrata companies).

would be appropriate again to increase support funds. I will provide a more complete discussion of the alleged subsidy below.

Q: Do you consider the mid-sized carriers large carriers?

A: No. While in comparison to Armstrong Pa these carriers appear large, they are small compared to AT&T. For example, in 2008, AT&T's combined revenue was $124 billion. It served 55.6 million access lines and was the nation's largest wireless carrier. The mid-sized carriers in comparison are almost entirely wire line carriers. Windstream served approximately 3 million lines, Frontier 2.2 million lines and the combination of CenturyTel and Embarq served 7.6 million lines nationwide. Windstream's operating revenue was $3.1 billion. Frontier's operating revenue was $2.2 billion. Thus, compared to AT&T, these carriers are small.

Q: Are the mid-sized carriers rural or non-rural carriers?

A: The mid-sized carriers are for the most part rural carriers. Prior to the merger, CenturyTel operated 69 rural study areas and four non-rural study areas. Seventy-six percent of CenturyTel's access lines were in rural study areas. Embarq operated 22 rural study areas and one non-rural study area. Ninety percent of Embarq's access lines were in rural study areas. Frontier operates 67 rural study areas and one non-rural study area. Eighty-five precent of Frontier's access lines are in rural study areas. Windstream operates 31 rural study and two non-rural study areas.

Eighty-five percent of Windstream's access lines are in rural study areas. On the other hand, AT&T operates 22 non-rural study areas.

Q: What is the relevance of a carrier's status as a rural or non-rural carrier?

A: In general, telephone costs are a function of customer density. Low density areas have higher costs than high density areas. Rural areas have lower customer densities than non-rural areas and thus, in general, rural carriers have higher costs than non-rural carriers.

Q: Are ILECs serving these rural areas at a disadvantage relative to competitors?

A: Yes. In its recent comments to the FCC, AT&T stated:

> The exclusive franchise portion of that regulatory compact has long since vanished, but ILECs in many cases remain obliged to provide basic voice service throughout their service areas including in rural and high-cost areas, often at rates significantly below costs. Because these state requirements are not generally imposed on cable companies or competitive providers of voice and data service, they permit competitive providers to focus on the customers who are easiest to serve, while leaving the ILECs bound by COLR rules to serve the highest-cost and most difficult-to-serve customers. Under these circumstances, ILECs may have little incentive to upgrade their networks or invest in broadband in high-costs areas.[18]

Q: Do rural Pennsylvania carriers have the option to avoid investing in broadband services?

A: No. According to Chapter 30, rural Pennsylvania carriers are required to provide broadband service to all of their customers.

Q: Please comment on the relationship between AT&T's FCC comments and its position in this proceeding.

A: In its FCC comments, AT&T recognizes that rural ILECs operate under a disadvantage compared to their competitors. AT&T also recognizes that building a broadband infrastructure is expensive. It also believes that universal service should be directed toward supporting broadband services and infrastructure. However, in this proceeding, AT&T wishes to reduce the mid-sized carriers' intrastate access rates but deprive those carriers of the opportunity to obtain state universal service funding support simply because those carriers are mid-sized carriers even though AT&T recognizes that those carriers are disadvantaged and have been required to build a broadband infrastructure.

Verizon

Q: Please summarize the Verizon Plan.

A: The Verizon plan would establish a uniform upper limit for intrastate switched access rates. The upper limit would be equal to the current rates charged by Verizon PA. RLEC access rates above the limit would be reduced to the limit. RLEC rates below the current Verizon rates would not be allowed to increase to the Verizon rates. To replace revenue lost due to the rate reductions, the RLECs would be allowed to increase their basic service rates. Verizon witness Price recommends that adopting the Verizon PA intrastate access rate as a benchmark for all other rates is

[18] In the Matter of A National Broadband Plan for Our Future, GN Docket No. 09-51, Comments of AT&T Inc. on the transition from the legacy circuit-switched network to broadband. December

appropriate because the Verizon PA rates "have been subject to the greatest and most recent regulatory scrutiny." Verizon witness Price also notes that "LECs operating in Verizon PA territory are already required by statute to benchmark to Verizon PA's switched access rates."

Q: Should the Commission adopt the Verizon plan?

A: The Commission should not adopt the Verizon plan because the Verizon plan would establish unreasonably low intrastate access rates for the RLECs. While Verizon argued against benchmarking RLEC rates to Verizon's rates in the portion of the investigation conducted by ALJ Colwell, it now recommends benchmarking in this proceeding. Verizon argued against a reasonable use of benchmarking in the portion of the case conducted by ALJ Colwell, and now it is arguing for an unreasonable use of benchmarking in this proceeding. Finally, in support of the Verizon position, Verizon witness Price incorrectly argues that the Transport Interconnection Charge (TIC) is a subsidy and that retail customers should bear the overwhelming proportion of the cost of the telephone network.

Q: Why would the Verizon Plan establish unreasonably low state access rates for RLECs?

A: The Verizon Plan would establish an unreasonably low state access rate, in part, because the accompanying revenue neutral rate increases would harm universal service. Furthermore, Verizon's arguments in support of the plan are unreasonable.

21, 2009. (Attached hereto as Appendix A).

Q: Do you agree with Verizon witness Price's argument that the difference between Verizon's state access rate and the RLECs' state access rates indicates that the markets are not working and supports his recommendation that RLEC state access rates should be reduced to Verizon's state access rates?

A: I do not agree with witness Price's argument. While competitive markets have a tendency to drive price to cost, there is no reason to expect competitive activity to drive price to the same cost in every market if the cost to serve those markets is different. Given that telephone costs are usually influenced by economies of scale and scope, it is reasonable to expect the cost to serve Philadelphia to be lower than the cost to serve Pymatuning, and the cost to serve Verizon PA to be lower than the cost to serve any of the RLECs. Thus, the fact that rates are higher in rural areas is consistent with market activity rather than inconsistent with market activity as witness Price has argued.

Q: Has witness Price ever compared the RLEC cost of service to Verizon's cost of service?

A: In response to an OCA data request, witness Price could not produce a single study performed by or for Verizon that compares Verizon's cost of access service to any RLEC's cost of access service.

Q: What is the additional RLEC revenue loss associated with reductions in the RLEC traffic sensitive access rates to Verizon's rates?

A: Using the composite Verizon traffic sensitive intrastate rate and AT&T estimate of RLEC composite traffic sensitive rates, the Verizon plan generates a $13.1 million revenue loss for the RLECs. This traffic sensitive revenue loss is $15.2 million more than the traffic sensitive loss associated with equating RLEC intrastate and interstate rates.[19] Adding the traffic sensitive revenue loss to the $78.2 million common line revenue loss creates a total revenue loss of $91.3 million.

Q: Are the RLECs' access charges based on cost of service estimates?

A: In general, it is my understanding that the RLECs' access charges were set as part of revenue settlements and were not based on cost of service studies. However, at one time the RLECs' switching and transport rates were benchmarked to their interstate rates, while the common carrier line charges have continued to be established as part of revenue settlements, including the establishment of the Pa USF.

Q: Are the RLECs' traffic sensitive switching and transport interstate access rates based on cost of service studies?

A: Yes. The interstate access charges are based on cost of service studies that are consistent with the FCC's rules. Therefore, the RLEC interstate rates have been and continue to be scrutinized by the FCC.

Q: Are the RLECs' traffic sensitive switching and transport intrastate access rates higher than the cost-based interstate switching and transport rates?

[19] The impact on individual carriers is shown in Exhibit RL-7.

A: For 10 of 31 RLECs, the intrastate rates are slightly higher than their interstate access rates. However, for 20 of 31 RLECs, the intrastate rates are below their interstate switching and transport rates, and for the other carrier, the intrastate and interstate rates are virtually the same. Thus, for a majority of the carriers, their rates are below cost and thus may be lower than the rate that would be established in the competitive market.

Q: Why do you exclude the carrier line charge from your comparison of interstate and intrastate rates?

A: I excluded the carrier common line charge from the comparison because the FCC has decided to recover carrier common line costs from end-users through the SLC and the Primary Interexchange Carrier Charge (PICC) and from its various universal service fund mechanisms. Thus, with a few exceptions, the FCC is no longer recovering common line costs from carriers.

Q: Are common line costs part of the cost of providing access to end-users?

A: Yes. Common line costs, also known as loop costs or joint and common network costs, are part of the cost of providing access to end-users. This fact is clearly illustrated by Verizon's witness Price's diagram on page 7 of his testimony.

Q: Is the recovery of common line costs a subsidy?

A: No. The recovery of a cost is not a subsidy. While traditionally it has been considered a fixed or non-traffic-sensitive cost, which therefore

should not be recovered on a per-minute basis, it is still a cost that must be recovered. Moreover, given changes in loop technology, it is not clear that the common costs should still be considered fixed. For example, modern remote terminals can be operated with concentration, and thus end-users no longer have a dedicated facility from their service location to the wire center. In addition, the common line charge in Pennsylvania is established on a per-line rather than a per-minute basis, and to that extent the rate-making policy recognizes the alleged fixed nature of the cost.

Q: Do the benchmarking examples cited by witness Price support his recommendation that RLEC intrastate access rates should be benchmarked to Verizon's intrastate access rates?

A: No. Witness Price cited three examples of benchmarking - Virginia, Massachusetts and the FCC. In each of these examples, the Commission ruled that a competitive local exchange carrier (CLEC) operating in an ILEC territory could not establish access rates greater than the ILEC's access rate. These rules match the Pennsylvania law with regard to CLEC access charges. None of these orders require an ILEC operating in its service territory to match the access charges of another ILEC. These cited rulings would require an RLEC's CLEC affiliate that operates in Verizon's service territory to establish access rates that are no higher than Verizon's access charges. However, they would not require a RLEC to charge Verizon's access charges in the RLEC's service territory. They would also require a CLEC operating in an RLEC service territory to

establish access charges that are no higher than the RLEC's access charges.

Q: Do the RLECs' intrastate access rates harm local service competition?

A: No. Any CLEC or cable provider that enters into the local market of an RLEC can charge the same access charges as the RLEC. Thus, any potential competitor or existing local competitor receives the same support for its network that the RLEC is receiving. Thus, even if the RLEC's intrastate access rates are artificially high (a proposition with which I do not agree), those access rates will not harm local competition because all local competitors can charge the same access rate.

Q: Should RLECs recover their joint and common costs only from their retail customers?

A: No. Costs should be recovered from all users of the network, not only from their retail customers. There is no reason why wholesale customers such as IXCs or wireless carriers should get a free ride on the network.

Q: Do you agree with witness Price that recovery of TIC revenues is a subsidy?

A: No. The TIC is not a subsidy. It is the difference between two cost-of-service methodologies that the FCC has used to determined the cost of providing transport service. When the FCC changed from one cost methodology to the other cost methodology, the FCC reduced transport rates. However, the costs associated with the older methodology were not eliminated. Instead, carriers were allowed to recover these costs through

the TIC. Since the time of its establishment until today, the FCC has eliminated the TIC as a rate element but has allowed carriers to recover the revenue associated with the element via other charges. For price cap carriers, the FCC assigned the productivity gains associated with the price cap mechanism to the TIC. Thus, it lowered the TIC by artificially increasing other rates that it constrained to not be affected by the productivity offset. With regard to rate of return carriers, the FCC reassigned TIC revenue to other access elements when it eliminated the TIC as a separate rate element. Thus, the TIC revenue is still part of the rate-of-return cost-of-service calculation, even though the TIC rate element no longer appears as a separate charge. Thus, the fact that RLECs continue to collect a TIC as part of their intrastate access charges is not an indicator of a subsidy. It simply indicates that, for the purposes of intrastate access charges, the TIC has not been reassigned to other access elements.

Q: How would the Verizon Plan harm universal service in Pennsylvania?

A: The Verizon plan would harm universal service in Pennsylvania because it would shift almost the entire cost of the network onto basic service customers. Moreover, in instances where Verizon's switching and transport costs are lower than the RLEC's switching and transport costs, basic service customers would not only be asked to pay for the entire network cost, but also would be required to support the large IXCs. That

support would equal the difference between the RLEC's cost of service and the Verizon rate.

Q: What is the approximate amount of joint and common costs that the Verizon plan would shift onto basic service customers and away from IXCs?

A: The Verizon plan would shift approximately $78.2 million of joint and common costs onto basic service customers and away from IXCs. If the Commission followed Verizon's suggestions to allow the RLEC to recover this shift from basic service customers, then the basic residential service cost would exceed the current affordability standard of $20.15 for 24 of 31 RLECs. Five of seven carriers that would retain affordable rates do not currently have a carrier common line charge and one additional carrier has a carrier common line charge of only $0.17. In addition, 28 carriers would be required to decrease their switching and transport rates.

Q: How does witness Price's position in this proceeding differ from his position in the related proceeding conducted by ALJ Colwell?

A: In this proceeding, he supports benchmarking to Verizon's rates, while in the portion of this investigation conducted by ALJ Colwell, he argued against benchmarking to Verizon's rates. Above, I have shown why witness Price's arguments for benchmarking are not reasonable and would harm universal service. With regard to ALJ Colwell's proceeding, he opposed benchmarking to the Verizon rate because the Commission had not determined whether Verizon's rates were affordable and because

Verizon's rates had not been increased for a long period of time. However, even if the standard for just and reasonable rates should rely only on affordability, his current recommendation to reduce the carrier common line charge and to increase basic service rates in a revenue neutral fashion would drive basic service rates in at least 24 RLEC service territories above the affordability standard. Thus, his recommendation in this proceeding conflicts with his position in ALJ Colwell's proceeding.

Comcast

Q: Please summarize the Comcast recommendation in this proceeding.

A: According to Comcast witness, Dr. Pelcovits, it is proper to set access rates equal to "long run incremental cost, which is likely to be much lower than Total Element Long Range Incremental Cost (TELRIC), and be very close to zero."[20] He argues, however, that, initially, it is reasonable to "adopt AT&T's proposal to reduce the RLECs intrastate switched access rates to interstate levels."[21] With regard to revenue neutrality, he opines that retail rates should be allowed to increase to recover any revenue loss associated with the access rate decrease. However, he also suggests that the carriers do not need any additional revenue offset either in the form of a retail rate increase or universal service funding due to the increases in non-regulated service revenues. In addition, he supports his claim that the current access rates are too high and must be reduced by comparing existing intrastate access rates to interstate access rates.

[20] The direct testimony of Dr. Pelcovits on behalf of Comcast, page 10, lines 12-14.

Q: Do you agree with Dr. Pelcovits that it is proper to set access rates equal to the incremental cost of service?

A: No. Given that the cost of telephone networks contain many joint and common costs, it is not practical to set rates equal to the incremental cost of service. These cost relationships have been noted by many economists. For example, one leading economist has stated:

> "[M]any important industries involve technologies that exhibit increasing returns to scale, large fixed and sunk costs, and significant economies of scope. Two important examples of such industries are telecommunications services and information services. In each of these cases the relevant technologies involve high fixed costs, significant joint costs and low, or even zero, marginal costs. Setting prices equal to marginal cost will generally not recoup sufficient revenues to cover the fixed cost and the standard economic recommendation of 'price at marginal cost' is not economically viable.[22]

Other leading analysts have stated that:

> Since marginal cost is the added (variable) cost incurred by the supply of one additional unit of output, then by definition marginal cost does not include fixed or sunk costs, because neither of these costs is variable. Hence, a price equal to marginal cost covers only variable and makes absolutely no contribution to recovery of either fixed or sunk costs. Such a price clearly is a recipe for insolvency."[23]

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[21] Id., page 11, lines 5-6

[22] Hal Varian, Differential Pricing and Efficiency, First Monday (1996), available at http://www.firmonday.dk/issues/issue2/different; also quoted in the quoted in the direct testimony of Dr. Jeffrey A. Eisenbach on behalf of Verizon Maryland in the Maryland Public Service Commission, Case No. 9133, filed July 8, 2008

[23] William J. Baumol and Daniel G. Swanson The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power. 70 Antitrust Law Journal, 2003, page 5.

Those analysts, further, stated that if a firm decided to price all goods at marginal cost, it would be committing "voluntary suicide."[24]

Q: Do you agree with Dr. Pelcovits that the current intrastate rates indicate that those rates are excessive and provide significant subsidies?

A: No. Dr. Pelcovits makes an apples to oranges comparison throughout his testimony. He compares intrastate rates that provide for the recovery of common line and traffic sensitive costs to interstate rates that provide for recovery of only traffic sensitive costs. If he had compared intrastate traffic sensitive costs to interstate traffic sensitive costs, he would have found that the rates are extremely similar and that, in many instances, the intrastate rates are below the interstate rates. For example, the composite average RLEC intrastate traffic sensitive rate is 0.2925 while the composite interstate rate is 0.3011.[25] A company-by-company comparison is shown in Exhibit RL-8.

Q: Do you agree with Dr. Pelcovits that the Commission should use carriers' non-regulated revenue to offset access revenue reduction?

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[24] Id.

[25] These composite rates were calculated using PTA response to OCA 1-2. Given the many different sources of data that have been accumulated through out this proceeding, it is possible to calculate a variety of intrastate and interstate access relationships. Any comparison of those calculations, however, confirms the same relationships. The major reason for the difference is the carrier common line charge, and if the carrier common line charge is not considered then the intrastate rates and interstate rates are similar. In the majority of instances, the intrastate rates are less than the interstate rates and in some instances the interstate traffic sensitive rates are less than intrastate traffic sensitive rates.

A: No. It is my understanding that Pennsylvania law requires the Commission to provide a revenue neutral offset to carriers in instances when the Commission prescribes access rate reductions. Moreover, because the FCC no longer requires carriers to allocate broadband cost to the non-regulated sector,[26] assigning cost to the non-regulated sector or using non-regulated revenues to offset regulatory revenues has become a very arbitrary exercise.

Q: Do agree with Dr. Pelcovits that the Commission should adopt the AT&T recommendation?

A: No. I have stated above why the Commission should not adopt the AT&T recommendation to the extent that AT&T would impose the cost of its proposed access rate reductions on basic service rates rather than through an increase in the state universal service fund.

QWEST

Q: Please summarize the QWEST recommendation.

A: The QWEST recommendation, as contained in the direct testimony of William R. Easton, would, first, require the RLEC access rates to mirror the rates of Verizon Pennsylvania. This mirroring would reduce opportunities for "traffic pumping." Traffic pumping is a strategy that routes long distance traffic to rural ILECs with high access charges. The additional revenue is shared by the rural ILEC and the entity that routed

[26] In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33, *Report and Order and Notice of Proposed Rulemaking*, FCC 05-150, released September 23, 2005, ¶¶ 128-138.

the traffic. Second, the QWEST recommendation would allow carriers to obtain revenue neutral revenue increases from increasing local rates and the Pa USF. Local residential and business rates would increase to the benchmark rate of 125% of the state-wide average rate. The Pa USF support would increase to fill the gap between the reduction in access revenue and the increase in basic service revenue.

Q: Do you agree with Mr. Easton that RLEC access rates should mirror Verizon access rates?

A: No. RLEC access rates should reflect RLEC cost of service and should not be based on Verizon rates. Moreover, if the RLEC intrastate rates are based on Verizon's intrastate rates, that may open up arbitrage opportunities due to the difference between the RLEC interstate and intrastate access rates.

Q: Do you agree with Mr. Easton that current rates encourage traffic pumping?

A: While the current rates may encourage traffic pumping, the cause of the traffic pumping is the excessive and aggressive reductions in carrier common line charges by the FCC. That is, the traffic pumping incentive is an unintended consequence of FCC access rate reductions. However, because of the FCC's actions, which this Commission cannot reverse and cannot pre-empt, the OCA Plan includes the elimination of the carrier common line charge. With the elimination of the carrier common line charge the rate differential between the intrastate and interstate rates for

any given carrier and among carriers is dramatically reduced, and the incentive to engage in traffic pumping activities decreases.

Q: Do you agree with Mr. Easton's recommendations regarding local rates and the Pa USF?

A: I agree in principle with Mr. Easton's recommendations. That is, I agree the basic local service rates should be increased to a reasonable benchmark and that any additional revenue needed to meet the requirement to match the access revenue decrease should be obtained from the Pa USF. However, I differ with Mr. Easton regarding the level of the basic service benchmark. I support a residential benchmark equal to 120% of the Verizon weighted average residential rate, while Mr. Easton supports a benchmark equal to 125% of the state wide rate. There are several problems with Mr. Easton's recommendation. It is a moving target because every time a current rate is equated to the state-wide average that average changes and therefore, the standard would then cause the other carriers to change their rates.

Sprint

Q: Please summarize the Sprint recommendation.

A: The Sprint recommendation, as contained in the direct testimony of Mr. James A. Appleby, asserts that intrastate access rates discriminate against IXCs and wireless carriers, and subsidize local service. To correct these problems, Mr. Appleby recommends that the RLECs should "be required to set their intrastate switched access rates and structure for each

individual access element equal to the equivalent interstate switched access rate and structure."[27] In addition, Mr. Appleby asserts that the RLECs obtain enough revenue from their non-regulated services to offset the revenue loss associated with the access rate reductions.

Q: Do you agree with Mr. Appleby's recommendation to reduce intrastate access rates to their equivalent interstate levels?

A: Yes, but, as discussed above, my recommendation includes several accompanying contingencies.

Q: Do you agree with Mr. Appleby's rationale for reducing intrastate access rates?

A: No. The intrastate access rates are neither discriminatory nor do they generate a subsidy. The intrastate access rates are not discriminatory because the traffic sensitive rates are approximately equal to the interstate rates, and the interstate rates are established annually on a cost of service basis. The intrastate carrier common line charge is not discriminatory because it recovers a portion of the joint and common cost of the network. Moreover, even though Sprint believes that access charges are too high, Sprint admits that there is no evidence in the record to support a claim that access charges are providing a subsidy to other services.[28]

Q: If intrastate rates are not discriminatory and do not provide a subsidy to other rates why do you agree with the Sprint recommendation to lower the rates?

[27] Appleby, direct testimony, page 4, lines 15-18.

A: I reluctantly recommend the reduction in intrastate access rates because the FCC rules allow wireless carriers to pay extremely low reciprocal compensation rates for intra-MTA termination and, thus, provide unfair discrimination in favor of the wireless carriers. In addition, the FCC's action to reduce the carrier common line charge has created the unintended consequence of traffic pumping and other arbitrage opportunities. The OCA plan recommends the reduction in the intrastate carrier common line charge, in part, to remove the unfair discrimination in favor of the wireless carriers and to reduce arbitrage incentives.

Q: Do you agree with Mr. Appleby's recommendation that the Commission should rely on non-regulated revenues to offset the reduction in access charges?

A: No. As I responded to a similar recommendation by Dr. Pelcovits, it is my understanding that Pennsylvania law requires the Commission to provide a revenue neutral offset to carriers in instances when the Commission prescribes access rate reductions.

V. Responses to Directed Questions

1. Whether intrastate access charges and intraLATA toll rates should be further reduced or rate structures modified in the rural ILECs' territories.

Q: Please summarize this section of your testimony.

A: Intrastate access rates should only be reduced if the reduced revenue is offset in part by increased payments from the Pa USF. Requests for

[28] Sprint Respone to CenturyLink Data Request CTL-Sprint 2-45.

reductions in intrastate access charges center on the fact that intrastate rates are higher than interstate rates and that the difference in the rates causes undue harm to competition, allows for the persistence of unfair competition and leads to unreasonably high intrastate toll rates. This portion of my testimony will, first, explain why there is a difference in the rates because the reasons for that difference are an important factor in determining what should be done about the difference. I will show that the existing differences center on alternative mechanisms for the recovery of common line costs. In the interstate jurisdiction, the FCC reduced the federal common carrier line charge and increased federal universal service funding. In Pennsylvania, the Commission retained the common carrier line charge. Second, I will examine claims regarding the existence of a subsidy and show that such claims are not valid.

Q: Why do the Pennsylvania rural carriers have higher intrastate access rates than interstate access rates?

A: The principal cause of the difference in access rates is that the FCC reduced carrier common line charges while the Commission retained carrier common line charges in the form of per-line charge on carriers.

Q: Can you quantify the differences among the access charges?

A: The RLECs' intrastate carrier common line charges range from 0 to $17.99, while interstate carrier common line charges equal zero.[29] See

[29] An alternative interstate charge, the PICC ("Presubscribed Interexchange carrier charge") is an interstate charge paid by the interexchange carrier to some price-cap local exchange carrier. The charge is assessed on each business line that is pre-subscribed to the interexchange carrier. The interexchange carrier has the opportunity to pass this charge forward to its customers and, thus,

Exhibit RL-9 for the carrier common line charges by carrier. Eliminating the Pennsylvania carrier common line charge would reduce the net combined revenues of the RLECs by approximately $78.4 million annually.[30] On the other hand, if the differences among the other access charges (also known as the traffic sensitive access charges) were eliminated, the RLECs would enjoy a net combined revenue gain of $2.1 million annually, with 20 carriers increasing access rates and 10 carriers decreasing access rates.[31]

Q: When the FCC eliminated the carrier common line charge, did the FCC establish any universal service mechanisms to offset the revenue loss associated with the elimination of the carrier common line charge?

A: Yes. The FCC established two universal service mechanisms to replace the revenue associated with the elimination of the carrier common line charge. First, the FCC established the Interstate Access Support ("IAS") mechanism for price-cap carriers. Second, the FCC established the Interstate Common Line Support ("ICLS") mechanism for rate-of-return carriers. It is important to note that, for price-cap carriers, the carrier common line charge was not completely eliminated even though revenue collected through the charge has been reduced substantially.

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avoid any liability associated with the charge. It is my understanding that only Frontier companies assess the charge in Pennsylvania.

[30] See Exhibit RL-4.

Q: Please describe the IAS mechanism.

A: The IAS mechanism provides support to price cap carriers. The support is disaggregated by carriers' Unbundled Network Element (UNE) zone and customer type. For example, Verizon PA receives 82 cents per residential and single line business line in UNE zone 4. Verizon Contel receives $3.06 per residential and single line business line and 80 cents per multi-line business line in UNE zone 3 and $3.93 per residential and single line business line and $1.66 per multi-line business line in UNE zone 4.

Q: Do any Pennsylvania carriers receive support through the IAS mechanism?

A: Yes. Eight of the 10 Pennsylvania price cap carriers receive IAS support. The total annual amount of support is $20.2 million. The largest recipient, Verizon PA, receives $8.6 million.[32]

Q: Please describe the ICLS mechanism.

A: The ICLS mechanism provides support to carriers that are regulated as rate-of-return carriers in the interstate jurisdiction. It provides each carrier with the difference between the carrier's interstate common line revenue and interstate common line revenue requirement. As such, it is a make

[31] The use of the term "net" in this sentence refers to the fact that calculation allows carriers with rates below the interstate traffic access rates to increase the intrastate rate to the interstate rate and thus generate revenue that offsets other traffic sensitive revenue losses.

[32] For the purpose of determining federal USF support, Verizon North is listed as three carriers, Verizon North, Verizon Contel and Verizon Quaker. Individual carrier totals are shown in Exhibit RL-10.

whole support mechanism that guarantees each carrier an 11.25 percent return on the common line portion of their interstate revenue requirement.

Q: Do any Pennsylvania carriers receive support through the ICLS mechanism?

A: Yes. All 26 Pennsylvania rate-of-return carriers receive ICLS support. The total annual support is $30.1 million. The largest recipient, Commonwealth, receives $13.7 million. On a per-line basis, the range of support varies from $1.04 to $37.38 per month.[33]

Q: How much common line support do the RLECs receive from the federal universal service fund?

A: The RLECs receive $35.5 million in common line support from the federal universal service fund. This is the sum of the ICLS support and the RLEC IAS support.

Q: Does the fact that the current Pennsylvania state universal service support is similar to the federal common line support indicate that the current Pennsylvania support is reasonable?

A: No. The common line investments and costs are separated between the intrastate and interstate jurisdictions on the basis of 25/75 gross allocator.[34] That is, 25 percent of common line investments and costs are

[33] Individual carrier totals are shown in Exhibit RL-11.

[34] 47 C.F.R. §36.154(c).

assigned to the interstate jurisdiction and 75 percent of the investments and costs are assigned to the intrastate. Given that states are assigned three times the amount of common line cost that are assigned to the interstate jurisdiction, it would be reasonable to assert that, if a state wishes to eliminate all carrier common line charges, then the state would have to provide three times the amount of universal service support that is provided in the interstate jurisdiction. Three times the current RLEC interstate common line support is $106.5 million. That number is larger than the $100.2 million Pennsylvania fund that I have proposed. Therefore, in comparison to the interstate universal service fund support of common line costs, the proposed increase in the Pennsylvania fund is reasonable.

2. What rates are influenced by contributors to and/or disbursements from the Pa USF?

Q: What rates are influenced by contributors to and/or disbursement from the Pa USF?

A: In theory, every rate for any telecommunications service provided by any contributor to or recipient from the Pa USF fund could be affected by contributions to and/or disbursements from the fund. However, in practice, the fund directly affects the RLEC basic local exchange service and rates paid by lifeline customers.

Q: Is it possible to compare the impact of the OCA Plan on residential basic service rates to the impact of the AT&T Plan on residential basic service rates?

A: Yes. I compared the OCA Plan to two alternative results for the AT&T Plan. The first alternative of the AT&T Plan is based on AT&T's responses to OCA data requests. The second alternative of the AT&T Plan is based on my reading of that plan and responses from the RLECs to OCA data requests.

Q: Why are the results of the two alternatives different?

A: There are two reasons why the results are different. First, AT&T is inconsistent in how it treats traffic sensitive rate changes in cases where current intrastate traffic sensitive rates are less than the current interstate traffic sensitive rates. This inconsistent treatment occurs while AT&T is trying to calculate the total revenue per-line access reduction associated with its plan. In some cases, AT&T allows the lower intrastate traffic sensitive rates to increase in order to reduce the total revenue reduction associated with its plan while, in other cases, AT&T disallows the revenue increase associated with low intrastate traffic sensitive access rates. In the second alternative, all increases in traffic sensitive rates are disallowed. The second problem associated with AT&T's calculation of the revenue loss calculations is that AT&T calculates the loss based on a composite intrastate and interstate rate per minute of switched access use. However, because the billing determinants associated with each access rate are not switched access minutes, AT&T was forced to make a variety of assumptions about the relationships between the billing determinants in order to sum the rates across all access services. These assumptions distort the revenue loss calculation. There were instances where each access rate was the same in the interstate and intrastate jurisdiction and AT&T generates a traffic sensitive revenue gain. Thus, in the second alternative, I used information provided by the RLECs to estimate the

revenue loss associated with the plan rather than AT&T's own calculation of its plan.

Q: Please summarize the impacts of the OCA and AT&T Plans on residential local exchange rates.

A: The OCA Plan does not allow any rate to be lower than $17.09.[35] It would require 20 companies to increase rates to that level. The weighted average residential rate increase is $1.13 per month, which is a 7.7% rate increase. The AT&T plan has no cap on rates. In the first alternative results, the highest rate associated with the plan is $26.47. Fifteen carriers would have rates greater than the current $18.00 cap. It would require 28 carriers to increase their rates. The weighted average rate increase would be $5.16. AT&T's second alternative generated a maximum residential rate of $32.85. Thirty carriers would be required to increase rates. The weighted average rate increase would be $7.10, the equivalent of a 44.4% rate increase.[36] Table 1 below highlights these differences.

[35] For five carriers, Amstrong North, Bentleyville, Hickory, North Penn, and Venus, the immediate impact of the changes associated with the plan would be to increase their revenue. Thus, in these instances, the carriers would be obligated to reduce their current Pa USF support re-imbursements in order to ensure revenue neutrality.

[36] Individual carrier impacts are shown in Exhibit RL-12.

Table 1

Item	OCA Plan	AT&T 1	AT&T 2
Range of rate increases	**$0.10-$6.09**[37]	**$0.03-$12.43**	**$0.23-$18.33**
Range of percentage increases	**0.6%-55.4%**	**0.2%-92%**	**1%-136%**
Weighted Average Rate Increase	**$1.13**	**$5.16**	**$6.87**
Average Percentage Increase	**7.7%**	**32.7%**	**42.9%**
Number of carriers with rate increases	**24 of 31**	**28 of 31**	**30 of 31**

Q: Are any of these differences offset by the Pennsylvania Lifeline discount offered to low-income consumers?

A: No. It is my understanding that the RLECs participate in Tier 1 and Tier 2 of the federal lifeline plan. Tier 1 compensates carriers for the federal subscriber line charge. Tier 2 provides a carrier with $1.75 for each lifeline customer if the carrier reduces the customer's bill by $1.75. For example, if the carrier's subscriber line charge (SLC) is $6.50 and its local residential service rate is $15.00, the lifeline customer is not charged the $6.50 for the SLC and his local service rate is reduced to $13.25. Thus, the lifeline customer saves $8.25 and federal universal service fund pays the carrier $8.25.

Q: How will the rate paid by Lifeline customers be affected by the proposed plans?

[37] As noted above, the OCA increases range from 10 cents to $3.60 for all companies except Citizens of Kecksburg.

A: The plans do not contain any mechanism that would prevent the rate paid by Lifeline customers from increasing. Thus, the rate paid by Lifeline customers would increase by the same amount as the basic local service rate. If the basic local service rate increases from $15.00 to $20.00 due to revenue re-balancing, then the rate paid by Lifeline customers would increase from $13.25 to $18.25.

Q: What would be the rate paid by Lifeline customers if the Commission adopted the OCA Plan?

A: The rate paid by Lifeline customers depends on whether the carrier's rate equals the $17.09 benchmark or the $18.00 rate cap. If the basic rate is $17.09 then the lifeline rate would be $15.34 . If the basic rate is $18.00, then the lifeline rate is $16.25, the difference between the $18.00 rate cap and $1.75. Lifeline customers would also avoid paying the Subscriber Line Charge.

Q: What would be the lifeline rate if the Commission adopted the AT&T Plan?

A: In alternative one, the highest rate paid by Lifeline customers would be $24.72 and, in alternative 2, the highest rate paid by Lifeline customers would be $31.10. Moreover, for 20 carriers, the rate paid by Lifeline customers would be $20.00 or more. These rate increases would make even the rate paid by Lifeline customers unaffordable for many customers and, therefore, there would be a negative impact on universal service.

3. The appropriateness of continuation of the Pa USF to continue to support the access reforms already implemented and/or the development and implementation of a Toll Line Charge or other universal service fund to recover any revenue deficiencies effectuated by any change in the current Pa USF or the current rural access rates.

Q: Is it appropriate to continue to support the access reforms already implemented?

A: Yes. The current fund supports the joint and common cost of the network. All users of that network have a responsibility to support the network. That support can be provided either through the payment of access charges, contributions to a universal service fund or local rates. When access rates are reduced it is appropriate to replace the revenue derived from access charges through a universal service fund. Nothing has happened that has changed the need for all users of the network to support that network and therefore, it is entirely appropriate to continue the current support program.

Q: Is it appropriate to implement a toll line charge?

A: No. A toll line charge on basic exchange service customers is another name for subscriber line charge and is the same as an increase in the local rate. Implementing a toll line charge will require the basic service customers to pay all of the joint and common cost of the network. It would allow all other users of the network to be free riders on the network.

Q: Is it appropriate to implement additional contributions to the universal service fund if the Commission decides to reduce access charges again?

A: Yes. It is appropriate to implement additional contributions to the universal service fund to offset access rate reductions in a revenue neutral fashion as long as the local rate is reasonable. As discussed above, a reasonable local rate for the RLECs is 120% of the Verizon PA weighted average residential basic local service rate. Thus, any carrier with rates below the reasonable rate should increase its rate to the reasonable rate. If the rate increase to the reasonable rate does not offset the revenue loss

associated with the access rate reduction then the RLEC should receive additional support from the Pa USF.

4. The appropriateness of eliminating current Pa USF credits on local service customer bills and increasing charges on access customers bills to the extent the current Pa USF is reduced without replacement funding.

Q: Should the Commission eliminate the current Pa USF credits and allow carriers to increase access rates?

A: No. Eliminating the current Pa USF credits and allowing carriers to increase access rates would create a return to the world prior to the Global Order and is not appropriate. The increase in the intrastate access rate would increase the incentive to mis-report intrastate toll minutes of use as interstate minutes of use or local minutes of use and it would reverse the trend of requiring all carriers to pay the same rate for interconnection.

5. The impact on rural intrastate access rates and/or rate structures from any further action on intercarrier compensation, access and universal service issues and issues related to the FCC's Unified Intercarrier Compensation Docket.

Q: Has the FCC indicated when it will implement any changes in the current intercarrier compensation regime?

A: The FCC has had an open investigation regarding the need to change the intercarrier compensation for a long time. Recently, the FCC asked interested parties to file additional comments regarding this issue.[38] It is not possible to know at this time what changes the FCC might implement in the future. The Commission should strive to avoid a situation where Pennsylvania consumers are paying twice for the same access rate reductions since the FCC has indicated that it may change intrastate access rates as part of its proceeding.

[38] FCC, DA 09-2419, released November 13, 2009, comment date December 7, 2009.

6. Whether further intrastate access charge reform is necessary in light of the elimination in Act 183 of the mandatory access reductions that were contained in the original Chapter 30 law; and

7. Intrastate access charge reform for rural ILECs in view of the new Chapter 30 la and its relevant provisions of 66 Pa.C.S § 3015 and 3017.

Q: Does the OCA Plan include additional changes in access rates beyond reducing intrastate access rates to interstates access rate levels?

A: Yes. The OCA Plan includes the elimination of the carrier common line charge and requirement to equate intrastate traffic sensitive access rates with interstate traffic sensitive access rates.

Q: Are these changes required by Pennsylvania state law?

A: It is my understanding upon advice of counsel that Pennsylvania state law does not require these changes. Instead, Pennsylvania state law only requires the Commission to provide for revenue neutral revenue increases to offset any revenue reductions associated with prescribed access rate reductions.

Q: Given that there is no requirement for further access reform, why does the OCA plan recommend changes to access rates?

A: The OCA plan recommends changes to access rates because there have been significant changes in the long distance markets. Those changes provide unfair advantages to certain carriers and provide opportunities for regulatory arbitrage.

Q: Please define what you mean by regulatory arbitrage.

A: Regulatory arbitrage is the process that allows carriers to earn a profit or avoid a cost due to the fact the rates for similar services are different. For example, if the intrastate access rate is higher than the interstate rate, IXCs have an incentive to disguise intrastate traffic and make that traffic appear as if it were interstate traffic in order to pay the lower interstate rate.

Q: What are the significant changes in long distance markets?

A: There have been four significant changes in the long distance markets. First, the major long distance carriers have exited from the mass market interexchange markets and have been purchased by the leading local exchange carriers. Second, the local exchange carriers have obtained substantial positions in the long distance markets by selling bundles that combine local and long distance service. Third, wireless carriers appear to be capturing a larger share of the total long distance market. Fourth, the FCC has eliminated the carrier common line charge for rate-of-return carriers and has virtually eliminated the carrier common line charge for price-cap carriers.

Q: Please discuss the changes associated with the actions of major long distance carriers.

A: AT&T and the former MCI announced that they were pulling out of the mass market interexchange markets, and subsequently have merged with the leading local exchange carriers. In mid-2004, AT&T decided to cease actively competing for new mass-market customers. It further decided to increase its rates and allow customer churn to erode its customer base. These actions were not short-term activities. Rather, AT&T believed that "those actions are so extensive that AT&T's decision is now irreversible as a practical matter."[39] Similarly, MCI decided to exit the mass-market

[39] See SBC Communications Inc. and AT&T Corp, Public Interest Statement, WC 05-65, In the Matter of SBC Communications Inc. and AT&T Corp., Applications for Approval of Transfer of Control, page 49

portion of the industry in 2004.[40] MCI also decided to increase rates for long distance residential customers.[41]

AT&T had been the leading United States IXC and MCI the second leading carrier. As late as 2002, AT&T had 32.9% of the national long distance market and MCI 21.1%. These percentages are based on data that includes the long distance service provided by the wireless carriers and ILECs.[42] With regard to the Mid-Atlantic household market (Pennsylvania is part of the Mid-Atlantic market), AT&T served 40.9 percent of the pre-subscribed households and MCI served 15.4 percent of those households.[43] By 2007, AT&T's share of the Mid-Atlantic household market had declined to 11.1 percent and MCI was no longer an independent carrier.[44]

Q: Why did AT&T and MCI decide to exit the mass-market?

A: AT&T and MCI provided several reasons for leaving the mass-market. Each carrier noted that there had been increased competition from intermodal carriers. They stated that it was very important to be able to compete in more than just the stand-alone long distance market. For

[40] Verizon Communications Inc. and MCI Inc., Public Interest Statement, WC 05-75, In the Matter of Verizon Communications Inc. and MCI INC., Applications for Approval of Transfer of Control, page 4.

[41] Id., Attached Declaration of Wayne Huyard, ¶18.

[42] FCC, Telephone Trends, May 2004, Table 9..8

[43] Id., Table 9.10, The Mid-Atlantic district includes Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia.

[44] FCC, Telephone Trends, August 2008, Table 9.6.

example, AT&T asserted that to remain an active competitor, it had to find a viable means "to match other wireline and wireless providers' attractive 'all-distance' offerings."[45] At the time of its acquisition by Verizon, MCI stated that "to the extent that customers continue to purchase wireline local and long-distance services, they are increasingly purchased and supplied on an integrated basis, from a single provider."[46] Both carriers asserted that the only way that they could match the "all-distance" or "single-provider" standard was to combine their long distance service with UNE-P based local service.[47] Therefore, once the UNE-P option was eliminated, the carriers left the market. Neither carrier mentioned high state access charges as a fundamental concern in their decision to leave the consumer market.

Q: Please discuss the activities of local exchange carriers in the long distance markets.

A: Beginning around 2000, the local exchange companies started expanding their share of long distance through offering bundles of local and long distance services. For example, the national residential market share of Verizon increased from 4.6 percent in 2000 to 27.3 percent in 2007.[48] Verizon's share of the Mid-Atlantic residential household market was 54.2 percent in 2007.[49]

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[45] Id., ¶6.

[46] Verizon Communications Inc. and MCI Inc., Public Interest Statement, WC 05-75, In the Matter of Verizon Communications Inc. and MCI INC., Applications for Approval of Transfer of Control, page 35.

[47] Declaration of Wayne Huyard,, ¶¶10-11; Affidavit of John C. Polumbo, ¶6-7.

[48] FCC, Telephone Trends, Table 9.5.

[49] Id., Table 9.6.

Q: Can you measure the impact of the wireless industry on long distance markets?

A: The impact of the wireless industry on long distance markets can be measured by the decrease in local exchange carrier access minutes, and increase of wireless minutes of use. Local exchange carrier access minutes peaked in 2000 and have been decreasing since then.[50] Over the same time period, wireless subscribership and minutes per use per month per subscriber have been expanding.[51] Given that the percentage of wireless interstate usage has been relatively constant,[52] this means that wireless interstate usage has substantially increased.

Q: When did the FCC make its changes to the carrier common line charge?

A: The changes in the ~~price cap~~ carrier common line charge occurred in 2000 and the changes in the rate-of-return carrier common line charge occurred in 2001.[53]

Q: How does the OCA plan respond to major changes in the long distance markets?

A: The OCA plan responds to the major changes in the long distance markets by recommending the Commission eliminate the intrastate carrier common line charge. By so doing, the intrastate rate will match the interstate rate. This equality will level the competitive playing field and reduce the

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[50] Id., Table 10.1.

[51] Id., Table 11.3.

[52] Id., Table 11.4.

[53] In the Matter of Access Charge Reform, CC Docket No. 96-262, *Sixth Report and Order*, FCC 00-193, released May 31, 2000, (*CALLS Order*); In the Matter of Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation. CC Docket No. 98-77, *Report and Order*, FRCC 01-304, released November 8, 2001, (*MAG Order*).

incentive to engage in arbitrage activities. It will level the playing field by eliminating a charge on long distance carriers that wireless carriers are not charged. It will reduce the incentive to engage in arbitrage opportunities because it reduces the difference between rates paid for similar services.

8. Potential Effects on RLEC rates.

Q: What are the effects on RLEC rates related to the proposed changes in access rates?

A: All of the proposed changes in access rates in this proceeding will require increases in the RLECs' local basic exchange rates. The smallest increases are associated with the OCA plan. The OCA plan would cap the increases in residential basic exchange service rates to the comparability standard. The OCA proposed comparability standard is $17.09. The OCA plan would require business basic exchange service rates to increase by the same amount as the residential rate increase. The weighted average rate increase is $1.13. A carrier-by-carrier analysis of the rate increases is provided in Exhibit RL-12. The AT&T plan would require weighted average rate increases of between $5.16 and $6.87 depending on how it is implemented. A carrier-by-carrier analysis of the rate increases is provided in Exhibit RL-12. The Verizon plan would have the greatest effect on RLEC rates because it not only requires a substantial reduction in the common line charge but it also requires the reduction of RLEC intrastate traffic sensitive rates to the current Verizon intrastate traffic sensitive rates. The Verizon plan would require average increases of $7.22. A carrier-by-carrier analysis of the rate increases is provided in Exhibit RL-7.

9. Whether the RLECs' intrastate access rates are unjust and unreasonable in violation of Section 1301, 3011(3), 3011(5) or 3011(9).

Q. Are the RLECs' intrastate access rates unjust and unreasonable?

A. The RLEC rates are not unjust and unreasonable as contended by the IXCs because the RLEC rates do not subsidize the basic local service rates as the IXCs contend. Moreover, the assertion that AT&T may have been negatively affected by the intrastate access rate is not substantiated by the evidence provided by AT&T. The OCA has offered its plan in this proceeding as an alternative that both lowers intrastate access rates, if the Commission decides to do that, and helps to maintain universal service.

Q: Do the RLEC intrastate access rates include an implicit subsidy?

A: No. The complaint contains no evidence that supports a claim that the intrastate rates include an implicit subsidy. As I will discuss below, the showing that the intrastate rate is higher than the interstate rate does not support a claim that the intrastate rate contains a subsidy. Instead, it is necessary to show that the intrastate rate is greater than the stand-alone cost of providing access in order to conclude that the intrastate rate is providing a subsidy to the network.

Q: Would reducing the intrastate access rates to the interstate rates provide a level playing field for all alternative long distance providers?

A: No. Wireless carriers would still pay a rate below the current interstate access rates for intra-MTA calls, and other providers would still have an incentive to conceal the originating location of a call in order to terminate all calls as if they were local calls. Thus, even if the Commission adopted

AT&T's recommended course of action in this proceeding, the Commission would not be eliminating all rate differentials.

Q: Are the interstate and intrastate rates paying for the same services and costs?

A: While it appears that the carriers are paying for the same service, access to the customers, the rates are not paying for the recovery of the same costs related to access service. Therefore, the two services are not functionally the same. In order to obtain access to customers, it is necessary to obtain transport to the local switch, use the local switch and then use the loop facilities to reach the customer. In the case of the interstate access rates, the IXCs are not charged for the use of loop facilities to reach the customer. On the other hand, in the case of the intrastate access rates, the IXCs are charged for the use of the loop. Therefore, it is logical and reasonable for the intrastate rates to be higher than the interstate rates because the intrastate rates recover the loop costs and interstate rates do not recover loop costs. In fact, the intrastate rates are more logical and reasonable than the interstate rates because, under the intrastate rate scheme, the IXC contributes to the recovery of the loop, while in the interstate rates, the IXC receives a free service - the use of the loop - that it does not pay for.

Q: How are loop costs that are assigned to the interstate jurisdiction recovered?

A: The loop costs assigned to the interstate jurisdiction are recovered through the Subscriber Line Charge for residential and business end-users, through the Interstate Common Line Support mechanism for rate of return carriers, and through the Interstate Access Support mechanism for price cap carriers.[54]

Q: How much do residential end-users pay in subscriber line charges?

A: On an annual basis in 2010, RLEC residential customers will pay approximately $53.2 million in subscriber line charges, and Verizon residential customers will pay approximately $93.8 million in subscriber line charges.[55] In addition, the RLEC and Verizon business customers must pay subscriber line charges to help recover the joint and common cost of the loop. Only IXCs and wireless carriers are allowed to have a free ride on the loop facilities in the interstate jurisdiction.

Q: Has AT&T been negatively affected by the fact that it is paying a higher intrastate access charge then wireless carriers?

A: While AT&T may have been negatively affected by the rate differential, the evidence it provides in the complaint does not quantify the impact, because the evidence provided is associated with its total losses and not with its losses related to the rate differential. Clearly, customers could have shifted to wireless service because of the convenience of mobility.

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[54] A few carriers still recover minor amounts of loop cost through the PICC and the common carrier line charge.

[55] The Multi-line SLC first collected in 1984 and the residential and single-line business SLC was first collected in 1985. Since that time the cap on these charges has increased to $6.50 for residential and single-line customers and $9.20 for multi-line business customers.

Other customers switched to Verizon's services because, in many instances, those customers can purchase a flat-rated bundle containing local and long-distance, which (as described above) AT&T is no longer promoting. Other customers switched to Internet-based service. Given all of these different factors, the evidence that AT&T provided about decreases in minutes cannot be linked to the rate differential that AT&T is requesting the Commission to eliminate.

Subsidies and RLEC Rates

Q: Please summarize your testimony with regard to subsidies and RLEC rates.

A: Relying on the standard definition of a subsidy, it is my position that rates for local service are not being subsidized because those rates are above the incremental cost of service. In addition, I note that access rates are not providing a subsidy to other services, because there are no studies showing that access rates are above the stand-alone cost of service. These occur because it is the network that includes the joint and common cost of the loop that is expensive. Once the network is built, the incremental cost of any one service provided by the network is, in general, very low. If the total revenue with rates set at just and reasonable levels from all services is less than the total cost of providing all of those services, where the total cost includes basic service incremental cost and the joint and common cost, then it is necessary to provide a subsidy to the network in order to

maintain universal service in the geographic area served by the local exchange carrier. Because the network, and not any individual customer receives the subsidy, it is reasonable to provide the subsidy to the local exchange carrier that provides a variety of services to its end-user and carrier customers.

Q: Please define the term "subsidy."

A: A generally accepted definition of a subsidy is that a service is subsidized if its price is less than the incremental cost, and the service pays a subsidy if its price is above the stand-alone cost of service. This definition was introduced into the academic literature in 1975.[56] Since then, the New Mexico Commission adopted the definition when it determined whether to establish a state universal service fund.[57] In a Florida state proceeding, witnesses for the consumer advocate, the carrier, and the interveners all agreed that a subsidy occurs only when the price is below the incremental cost of service.[58]

Q: What is an implicit subsidy?

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[56] Faulhaber, G.R., Cross-subsidization: pricing in public enterprise. American Economic Review 65, 966-977.

[57] New Mexico Public Regulation Commission, The identification of all subsidies in the existing rates of Qwest Corporation, Final Order, Utility Case No. 3325, December 19, 2000.

[58] Caldwell, D.D. Testimony, prepared on behalf of BellSouth, Gabel D., Testimony prepared on behalf of the Office of Public Counsel, Mayo, J.W., Testimony on behalf of AT&T Communications of the Southern States and MCI WorldCom Communications, Inc., The Petitions of Verizon Florida Inc., BellSouth Telecommunications Inc., Sprint-Florida Inc. to reform their intrastate network access and basic local telecommunications rates in accordance with Florida Statutes, Section 364.164, Florida Public Service Commission Docket Nos. 030867-TL, 030868-TL, and 030896-TL, October 31, 2003.

A: An implicit subsidy is a subsidy that is embedded in rates charged, but not disclosed as such. The rates for one group of services are set higher than cost. The revenue generated by the above-cost rate is used to maintain rates below cost for a second group of services. In this proceeding, the IXCs alleged that the rates for access charges are set above "cost." Therefore, these carriers assert that there is an implicit subsidy from access service.

Q: How can you determine whether a service is receiving a subsidy?

A: As noted above, a service receives a subsidy if the rate is below the incremental cost of service. Therefore, the first step in determining whether a subsidy exists is to define the incremental cost of a service.

Q: How is the incremental cost of a service defined?

A: The formal definition of incremental cost of a service is the difference between the total cost of providing all of the services and the stand-alone cost of providing the services other than the service under investigation.[59] This definition is the same as the one used by Verizon, with the exception that Verizon uses the term Total Service Long Run Incremental Cost (TSLRIC) rather than incremental cost.[60] Changing incremental cost to

[59] Baumol, W.J, and Sidak, J.G., Toward Competition in Local Telephony. MIT Press, 1994, p. 83.

[60] See the Verizon responses to data requests included in the testimony of William W. Dunkel on behalf of the Pennsylvania Office of Consumer Advocate, PA PUC Docket No. C-20027195, filed July 18, 2003, (Dunkel Testimony), p. 47.

Total Service Long Run Incremental Cost is the common convention used in many telephone proceedings. The term "total" defines the size of the increment to be investigated as the existing total demand for the service. The term "long run" requires that the cost estimate include the cost of the facilities and equipment that may be fixed in the short run.

Q: What are the components of TSLRIC for basic exchange local service?

A: The components would include the switching and interoffice facilities used to provide basic exchange local service plus the customer operations and marketing cost associated with basic exchange local service. The switching and interoffice facilities costs are the network costs, and the customer operations and marketing costs are the retail costs of providing basic service. The loop is not a part of the incremental cost of basic service.

Q: Why is the loop excluded for the incremental cost of local service?

A: The loop is excluded because it is a shared cost of the many services that use the loop. It is used to provide not only local service, but also to provide interstate and intrastate access and toll service and the newer data services such as DSL service. It is part of the stand-alone cost of all other services. Even if local service were no longer provided, the carrier would still have to provide the loop in order to provide the other services. Thus,

the local loop and port are not incremental to the provision of local service.

Q: Has the Commission reviewed the proper treatment of loop costs in basic service incremental cost studies?

A: The Commission is concerned with the proper treatment of loop costs. In particular, as Chairman Cawley has recently stated, the cost of the loop is not incremental to basic exchange service because that loop also is required to provide access service, data service and in some instances, video services.[61]

Q: Does Chairman Cawley's statement agree with the FCC findings regarding loop costs?

A: Yes. The FCC noted that "the cost of the local loops and their associated line cards in local switches, for example, are common with respect to interstate access service and local exchange service, because once these facilities are installed to provide one service they are able to provide the other at no additional cost."[62] The order also noted that while TELRIC (Total Element Long Run Incremental Cost) is similar to TSLRIC (Total Service Long Run Incremental Cost), the fact that TELRIC is pricing

[61] Motion of Vice Chairman James H. Cawley, Docket Nos. C-20077332 and C-20066987, August 7, 2008.

[62] In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, FCC 96-325, rel. August 8, 1996, (Local Competition Order), ¶ 678.

elements (loops, switches and transport facilities) significantly reduces the amount of common costs that remain outside of the costing exercise.[63]

Q: Has the FCC recently reviewed its position regarding loop common costs?

A: Yes. In its recent Further Notice of Proposed Rulemaking on High Cost Universal Service Support, the FCC stated that:

> For example, a copper loop can be used to provide analog voice service as well as data service using DSL technology. The cost of the loop is therefore common to both voice and DSL services. The incremental cost of voice service, assuming that DSL is already provided, therefore does not include any of the long run incremental cost of the loop itself. Similarly, the incremental cost of DSL, assuming voice is already provided, includes only that portion that may be required to condition the loop to meet the higher quality standards that may be required for the data transmission.[64]

Thus, it is clear that the FCC continues to assert that loop costs are common costs incurred to provide a number of services and are not the incremental cost of basic local exchange service.

Q: What is the basis for your claim that basic local service rates are greater than the incremental cost of service?

A: I base my claim that basic local service rates are greater than the incremental cost of service on the analysis of the incremental cost of Embarq and Armstrong telephone companies that I provided to the Commission as part of my direct testimony filed in ALJ Colwell's case.

---

[63] Id.

[64] In the Matter of High Cost Universal Service Support, Further Notice of Proposed Rulemaking, WC Docket No. 05-337, released November 5, 2008, Appendix A, ¶ 247.

That analysis shows that a reasonable estimate of incremental service cost is well below the rate for that service. The testimony supports a conclusion that the overwhelming majority of the cost of service is associated with the loop cost. The results of my analysis are consistent with the results generated by the FCC for rural wire centers served by Verizon PA. While my analysis must be qualified because of data limitations, it is the only attempt that has been made to quantify the incremental cost of service for a Pennsylvania RLEC. Moreover, because it was conducted on a limited scale, my analysis did not impose a huge cost of gathering the required inputs that would have been necessary if every one of the over 1200 rural study areas nationwide had been required to provide inputs into the study. Finally, if the Commission chooses not to rely on my analysis, then there is nothing in the record to either support or deny a claim that any RLEC residential customers are currently being subsidized, because neither AT&T, which has claimed repeatedly again that such a subsidy exists, nor the RLECs, nor Verizon has offered a single alternative incremental cost study.

VI. Conclusions and Recommendations

Q: Please summarize your conclusions and recommendations in this case.

A: I recommend that the Commission adopt the following guidelines and principles in this proceeding:

- RLEC intrastate access rates should be set equal to their respective interstate rates, including the elimination of the carrier common line charge;
- RLEC residential basic local service rates that are below 120% of the Verizon weighted average residential basic local service rate should be increased to 120% of the Verizon weighted average residential basic local service rate while RLEC rates that are above 120% of the Verizon weighted average rate remain at their current levels;
- Any remaining revenue required to offset the revenue decrease associated with access rate reductions should be recovered from the Pennsylvania universal service fund;
- The revenue base of the Pennsylvania universal service fund should be enlarged to include any service provider that uses the public switched telecommunications network at any point in providing their service;
- The AT&T plan should be rejected to the extent that it would fund access reductions through increases to basic service rates rather than through the state universal service fund; and
- The Verizon recommendation, that RLEC intrastate access rates should be reduced to Verizon's intrastate access rates, should be rejected.

Q: Does this conclude your testimony?

A: Yes.

CERTIFICATE OF SERVICE

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

AT&T Communications of Pennsylvania, LLC, *et al.* v. Armstrong Telephone Company – Pennsylvania, *et al.*
Docket No. C-2009-2098380, *et al.*

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Direct Testimony of Dr. Robert Loube, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 20th day of January, 2010.

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EXHIBITS RL-1 – RL-12

Exhibit RL-1

Vita

Dr. Robert Loube

Personal Data

Office Phone: 301-681-0338

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Home and Office Address: 10601 Cavalier Drive
Silver Spring, Maryland 20901

Home Phone: 301-681-4987

Education

Ph.D., Economics, Michigan State University, 1983
M.A., Economics, University of Massachusetts-Amherst, 1971
B.S., Economics, University of Maryland-College Park, 1969

Professional Experience

Utility Regulation

Vice President
Rolka Loube and Saltzer Associates
April 2007 to Present

Responsibilities include:

- Filed direct testimony on behalf of the Residential Ratepayer Consortium, In the Matter of the Application of The Detroit Edison Company for Reconciliation of its Power Supply Cost Recovery Plan for the 12-month period ending December 31, 2008, Michigan Public Service Commission Case No. U-1417-R, October 20, 2009

- Filed direct testimony on behalf of the Residential Ratepayer Consortium, In the Matter of the Application of Consumers Energy Company for Reconciliation of its Power Supply Costs and Revenues for the calendar year 2000 and for other relief relating to pension and OPEB costs,

Michigan Public Service Commission Case No. U-1415-R, October 5, 2009

- Filed the Report of Consultants to the Delaware Public Service Commission Staff on the Adequacy of Verizon's Service, Delaware Public Service Commission Docket No. 08-194, with Roland Curry, September 9, 2009.

- Filed answer testimony on behalf of the Colorado Office of Consumer Counsel, In the matter of the application of NNTC Wireless, LLC, for designation as an eligible telecommunications carrier and eligible provider in the state of Colorado, Colorado Public Utilities Commission Docket No. 08A-508T, June 12, 2009.

- Testified on behalf of the Pennsylvania Office of Consumer Advocate in the Investigation Regarding Intrastate Access Charges and IntraLata Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund,PA PUC Docket No. I-00040105, February 17, 2009.

- Filed an expert report on behalf of the U.S. Department of Justice, the United States District Court for the Western District of Texas, San Antonio Division, AT&T Inc, Plaintiff, v. United States of America, Defendant, Civil No. SA-07-CA-0197-OG, October 14, 2008.

- Filed reply testimony on behalf of the Maryland Office of the People's Counsel, In the Matter of Appropriate Forms of Regulating Telephone Companies, Maryland Public Service Commission, Case No. 9133, August 28, 2008.

- Filed initial and reply testimony on behalf of TelNet Worldwide, Inc., ACD Telecom, Inc., TC3 Telecom, Inc., Michigan Access, Inc., JAS Networks, Inc., DayStarr, LLC, Clear Rate Communications, Inc., and Arialink Telecom. (the "CLECs"), In the matter on the Commission's own motion, to review the total element long run incremental costs and the total service long run incremental costs for Verizon North Inc. and Contel of the South, Inc. d/b/a Verizon North Systems, to provide telecommunications services, April 7 and June 26, 2008.

- Testified on behalf of the City of Kitchener, the Consumers Council of Canada, and the Vulnerable Energy Consumers Coalition in the Union/Enbridge 2008 Rates Cases, Ontario Energy Board, EB 2007-0606 and EB2007-0615, April 1, 2008.

- Testified on behalf of the New Hampshire Office of Consumer Advocate in Kearsarge Telephone Company, Wilton Telephone Company, Hollis Telephone Company and Merrimack County Telephone Company Petition for an Alternative Form of Regulation, New Hampshire Public Utilities Commission, Case No. DT 07-027, December 5, 2007.

- Filed testimony on behalf of the City of Kitchener, the Consumers Council of Canada, and the Vulnerable Energy Consumers Coalition in the Union/Enbridge 2008 Rates Cases, Ontario Energy Board, EB 2007-0606 and EB2007-0615, October 22, 2007.

- Testified on behalf of the Maine Office of the Public Advocate in the Joint Application for Approvals Related to Verizon's Transfer of Property and Customer Relations to Company to be Merged with and into Fairpoint Communications, Inc. Maine Public Utilities Commission Docket No. 2007-67 on October 2, 2007.

- Prepared comments on behalf of the Washington Public Counsel and The Washington Electronic Business and Telecommunications Coalition, In the Matter of the Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C.§ 160(c)in the Denver, Minneapolis-St. Paul, Phoenix and Seattle Metropolitan Statistical Areas, WC Docket No. 07-97, August 31, 2007.

Director, Economic Research
Rhoads & Sinon, LLC
April 2001 to March 2007

Responsibilities include:

- Testified on behalf of the Washington Public Counsel in the Matter of the Petition of Qwest Corporation to be Regulated Under An Alternative Form of Regulation, WUTC Docket No. UT-061625, March 14, 2007.

- Filed rebuttal testimony on behalf of the Pennsylvania Office of Consumer Advocate in the 2006 Annual Price Stability Index/Service Price Index of Buffalo Valley Telephone Company, Conestoga Telephone & Telegraph Company, and Denver & Ephrata Telephone & Telegraph Company, PA PUC Docket No. P-0098142F1000, filed January 5, 2007.

- Testified on behalf of the Attorney General Michael A. Cox, In the Matter of the Notice by AT&T Michigan Pursuant to sections 304(d) and 310a of the Michigan Telecommunications Act of an increase to the rate for primary basic local exchange service in the amount not to exceed AT&T Michigan's intrastate end user line charge in effect on July 1, 2005, MPSC Case No. 15036, filed January 30, 2007.

- Prepared comments on behalf of the Pennsylvania Office of the Consumer Advocate, FCC Intercarrier Compensation Workshop and Solicitation of Comments on the Missoula Plan, Pennsylvania Public Utility Commission Docket No. M-000061972.

- Prepared an affidavit on behalf of the National Association of Utility Consumer Advocates (NASUCA)and the Maine Office of the Public Advocate, In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board, CC Docket No. 80-286, filed August 22, 2006.

- Advisor to the Maryland office of the People's Counsel, In the Matter of Cavalier Telephone Midwest Atlantic for Breach of Interconnection Terms by Verizon Maryland, Inc., Case No. 9046.

- Testified on behalf of the Maine Office of Public Advocate in the Investigation Into Verizon Maine's Alternative Form of Regulation, Phase I, Docket No. 2005-155, October 17 and October 18, 2006.

- Prepared comments on behalf of the National Association of State Utility Consumer Advocates (NASUCA) In the Matter of the Federal-State Joint Board on Universal Service, CC Docket No. 96-45, filed March 27, 2006 (with David Gabel and the NASUCA Telecommunications Committee).

- Advisor to the Washington State Public Counsel in the Investigation of the Sprint-Nextel Merger, Washington Utilities and Transportation Docket No. UT-051291.

- Filed direct testimony on behalf of the Maine Office of Public Advocate in the Investigation Into Verizon Maine's Alternative Form of Regulation, Phase II, Docket No. 2005-155, January 13, 2006.

- Testified on behalf of the Maine Office of Public Advocate in the Investigation into Line Sharing, Maine Docket No. 2004-809, November 18, 2005.

- Testified on behalf of the Maine Office of Public Advocate in Verizon Communications, Inc. and MCI, Inc., Review of Joint Application for Approval of Merger, Maine Docket No. 2005-154, September 29, 2005.

- Filed direct, rebuttal and surrebuttal testimony on behalf of the Office of Consumer Advocate in Pennsylvania Docket No. C-20027195, June 8, June 29, and July 11 2005.

- Filed a rebuttal declaration regarding price floor issues on behalf of The Utility Reform Network in re: Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks, Verizon UNE Phase, Investigation 93-04-002, filed April 1, 2005.

- Filed a price floor declaration on behalf of The Utility Reform Network in re: Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks, Verizon UNE Phase, Investigation 93-04-002, filed January 28, 2005.

- Filed direct testimony on behalf of Public Counsel and AARP in re: WUTC v. Verizon,Docket No. UT-040788, before the Washington Utilities and Transportation Commission, December 17, 2004.

- Filed a rebuttal declaration on behalf of The Utility Reform Network in re: Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks, Verizon UNE Phase, Investigation 93-04-002, filed November 9, 2004

- Prepared a report on the State of Telecommunications Services in Nevada for the subcommittee to study telecommunications service in Nevada, August 2004,

- Filed a declaration on behalf of The Utility Reform Network in re: Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks, Verizon UNE Phase, Investigation 93-04-002, filed August 6, 2004

- Filed expert rebuttal testimony on behalf of the Staff of the South Carolina Commission in re: Implementation of

requirements Arising from Federal Communications Commission Triennial UNE review: Local Circuit Switching for mass market customers, SC PSC Docket No. 2003-326-c.

- Testified on behalf of the Pennsylvania Office of Consumer Advocate in re: Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements, PA PUC Docket No. I-0030099.
- Prepared an Affidavit for the National Association of State Utility Consumer Advocates in the Matter of the Review of Commission's Rules Regarding The Pricing of Unbundled Network Elements And the Resale of Service by Incumbent Local Exchange Carriers, WC Docket No. 03-173 (with David Gabel).
- Provided expert advice to the Cities of Austin, Dallas, Fort Worth, and Hereford in Southwestern Bell Telephone Company's Filing To Establishing Surcharges Resulting From District Court Remand Of PUC Final Order In Docket No. 18509, SOAH Docket No. 473-03-1620, Texas PUC Docket No. 26719.
- Filed expert testimony on behalf of the Staff of the Nevada Public Utilities in The Petition of Nevada Bell for an Order commencing a proceeding to determine the costs and rates for unbundled network elements, Docket No. 00-7012
- Prepared comments for the National Association of State Utility Consumer Advocates in the Matter of Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge Cap, FCC CC Docket No. 96-262 (with David Gabel)
- Technical Adviser to the Alabama Public Service Commission in the Generic Proceeding to Establish Prices for Interconnection Services and Unbundled Network Elements - Docket No. 27821
- Prepared reply comments for the Office of the People's Counsel of the District of Columbia In the Matter of Developing a Unified Inter-carrier Compensation Regime, FCC CC Docket No. 01-92.
- Assisted the Universal Service Administrative Company in managing the interstate common line and model support programs.

Industry Economist, GS 301-15
Federal Communications Commission
May 1996 to April 2001

Responsibilities include:

- Established the criteria for choosing the universal service economic cost model;
- Evaluated and modified telephone cost models;
- Determined the input values used in telephone cost models;
- Served on the FCC staff of the Federal State universal service joint board;
- Developed and evaluated alternative universal service funding proposals;
- Developed and compared alternative jurisdiction separations allocators with regard to the impact of the allocators on state and federal jursidictional responsibilities;
- Reviewed orders of other divisions to ensure that those orders complement the tasks and mandates of the Accounting Policy Division;
- Conducted special studies for use by the Chairman, Commissioners, Bureau Chief or Division Chief
- Provided technical economic advice to the division legal staff regarding common carrier operations and regulatory policy.

Director, Office of Economics
Public Service Commission of the District of Columbia,
July 1993 to May 1996

Responsibilities include:

- Supervised the preparation of staff testimony in telephone, electric and gas utility cases.
- Represented the Commission on the Staff of Federal State Separations Joint Board.
- Prepared and presented testimony on the strategic approach to electricity demand side management and least cost planning principles.
- Represented the Commission on the National Association of Regulatory Utility Commissioners Communications Committee's universal service and access reform working groups.

Acting Director, Office of Economics
Public Service Commission of the District of Columbia,
February 1993 to July 1993

Responsibilities include:

- Prepared comments on FERC Notices of Proposed Rulemaking.
- Represented the Commission on the telephone quality of service and low-income program working groups.

Senior Telecommunications Economist
Public Service Commission of the District of Columbia,
May 1989 to the February 1993

Responsibilities include:

- Prepared and presented testimony regarding telephone rate structure, competition in telephone markets, embedded cost studies, and long run incremental cost studies.
- Represented the Commission on digital deployment and generic cost manual working groups.
- Represented the Commission on the staff of the 410B Joint Federal/State Conference on Open Network Architecture.
- Prepared comments on FCC Notices of Proposed Rulemaking.

Econometrician,
Indiana Utility Regulatory Commission,
March 1988 to May 1989

Responsibilities include:

- Developed electric energy and demand forecasts.
- Supervised consultants developing economic and demographic models for utility service territories.
- Represented the Commission on the Executive Committee on Intrastate Access Charges.

Principal Utility Analyst,
Indiana Utility Regulatory Commission,
January 1986 to March 1988

Responsibilities include:

- Prepared and presented testimony regarding demand forecasting for telephone and electric services, cost of equity and long run marginal cost.
- Contributed to staff reports on energy and demand forecasts.
- Developed financial forecasts for electric utilities.

International Consulting

Telephone Organization of Thailand, conducted a Tariff and Cost Workshop for Senior Management and Staff, Bangkok, February 5-7, 2001. Contractor: Booz, Allen & Hamilton, Inc.

Ministry of Communications, Indonesia, drafted a report on best practices guidelines for Universal Service Obligations, and conducted round-table with the Ministry of Communications staff and with the U. S. telecommunications community, Jakarta, August 20-September 9, 2000. Contractor: Nathan Associates, Inc.

Teaching

Assistant Professor,
James Madison University,
September 1983 to December 1985

Instructor,
James Madison University,
September 1979 to June 1983

Courses Taught: Industrial Regulation, Industrial Organization (undergraduate and MBA), Intermediate Macroeconomic Theory, Economic Analysis (MBA), Principles (Macro and Micro)

Other

Economist in the Office of Director, Bureau of Economic Analysis, Department of Commerce, Washington D.C.,
November 1972 to September 1975

Publications

"The Telecommunications Act of 1996: Residential Rates and Competition," *Utilities Policy*, September 2004.

"Universal Service: How much is enough?" *Journal of Economic Issues*, June 2003.

"Public Interest Regulation, Common Costs and Universal Service," eds. Edythe S. Miller and Warren J. Samuels, *An Institutionalist Approach* to Public Utilities Regulation, Michigan State University Press, 2002.

"Price Cap Regulation: Problems and Solutions," *Land Economics*, Vol. 71, Number 3, August 1995.

"Measuring the Total Service Long-Run Incremental Cost," *Ninth NARUC Biennial Regulatory Information Conference*, September 1994 (with David Gabel and Mark Kennet).

"The Proper Use of Stand Alone Cost Studies," *Ninth NARUC Biennial Regulatory Information Conference*, September 1994.

"State Experience in InterLATA Toll Deregulation," *Journal of Economic Issues*, Vol. XXVIII, No. 2, June 1994 (with Labros Pilalis).

"Price Caps and Cross-subsidization," *Eighth NARUC Biennial Regulatory Information Conference*, Ohio State University, 1992.

"The Institutional Conditions for Technological Change: Fiber to the Home," *Journal of Economic Issues*, Vol. XXV, No. 4, December 1991.

"Fiber to the Home: A Competitive Analysis," *Seventh NARUC Biennial Regulatory Information Conference*, Ohio State University,1990.

"The Return of the Electric Utility Holding Company and the Future of the Electric Supply Industry," *Journal of Economic Issues*, Vol.XXIII, No. 2, June 1989.

"Impact of the National Appliance Energy Conservation Act on Residential Energy Consumption within a Service Territory," *Sixth NARUC Biennial Regulatory Information Conference*, Ohio State University,1988 (with Katri Clodfelder).

A Summary of Future Demand Trends and Capacity Plans for Major Electric Utilities in Indiana, Public Service Commission of Indiana, Indianapolis, Indiana, 1987 (with Wayne Lash, et al).

Electric Demand and Supply Planning for the State of Indiana, Public Service Commission of Indiana, Indianapolis, Indiana, 1985 (with Wayne Lash, et al).

"District Heating and Regulatory Reform," *Proceedings of the Seventy-Fifth Annual Conference of the International District Heating Association*, Washington D.C.:IDHA 1984.

State and Local Regulation of District Heating and Cooling Systems: Issues and Options, Argonne, Illinois: Argonne National Laboratory, 1981 (with Philip Kier, et al).

"Michigan's Hydroelectric Potential," *The Michigan State Economic Record*, Volume 20, Number 7 (July-August 1978), Division of Research, Graduate School of Business, Michigan State University.

Staff Testimony

Before the Public Service Commission of the District of Columbia:

Formal Case No. 929 The Application of Potomac Electric Power Company for an Increase in its Retail Rates for the Sale of Electric Energy.
Principal Issues: Class Revenue Responsibility, Rate Structure and Low Income Rates.

Formal Case No. 926 The Application of The Chesapeake and Potomac Telephone Company for Authority to Establish a Revenue Requirement and to Increase and Restructure its Schedule of Rates and Charges
Principal Issues: Centrex burden and the Centrex embedded cost study.

Formal Case No. 917
Phase II The Application of Potomac Electric Power Company For Approval of its Third Least Cost Plan
Principal Issues: The Strategic Approach to DSM Develop and Implementation, Level of DSM Spending, Appropriate Standards by Which DSM Expenses Should Be Judged Prudent, and Rate Design and Least-Cost Planning Principles.

Formal Case No. 891 The Application of Chesapeake and Potomac Telephone Company to Offer Return Call and Caller ID Within the District of Columbia
Principal Issues: Tying Arrangements Between Sales of Equipment and Services, and Public Policy Issues Associated With the Offering of Caller ID

Formal Case No. 850 Investigation into the Reasonableness of the Authorized Return on Equity, Rate of Return, and Current Charges and Rates for Telecommunications Services Offered by the Chesapeake and Potomac Telephone Company

Principal Issues: Rate Design, Incremental Cost and Embedded Cost Studies

Formal Case No. 814
Phase III Investigation into the Impact of AT&T Divestiture and Decisions of the Federal Communications Commission on the Chesapeake and Potomac Telephone Company's Jurisdictional Rates

Principal Issues: Flexible pricing, incremental cost studies, tests for the existence of competition, criteria for measuring alternative regulatory plans.

Formal Case No. 814 Investigation into the Impact of AT&T Divestiture and Decisions of the Federal Communications Commission on the Chesapeake and Potomac Telephone Company's Jurisdictional Rates

Principal Issues: The Use of Cross Elasticity Studies and Market Surveys to Define Markets for Telecommunications Services

Telephone Tariff
91-3 Investigation of the Chesapeake and Potomac Telephone Company's General Regulations Tariff No. 201, Section 1

Principal Issues: Regulatory safeguards and costs of pre-approval of special assemblies

Before the Indiana Utility Regulatory Commission:

Cause No. 38665 Joint Petition of Century Telephone Enterprises, Inc., Odon Telephone Co., Inc. and Colonial Telephone Company, Inc.

Principal Issue: Approval of the Purchase of Odon by Century

Cause No. 38560 Petition of Northern Indiana Public Service Company

Principal Issues: Economic Development Rates and Long Run Marginal Cost

Cause No. 38426 Petition of GTE-Indiana

Principal Issues: Revenue Adjustment, Cross-Subsidization, Cost Methodology and Demand Repression

Cause No. 38415 Petition of Public Service Company of Indiana

Principal Issue: Financing Authority

Cause No. 38302 Joint Petition of Indiana Gas Company, Inc. and Westport Natural Gas Company, Inc.
Principal Issue: Acquisition Adjustment

Cause No. 38158-S1 Investigation to Determine the Extent of Regulation of Pay Telephone Equipment
Principal Issue: Regulation of IXC-Owned Pay Phones

Cause No. 38158 Investigation to Determine the Extent of Regulation of Pay Telephone Equipment
Principal Issues: Deregulation and Rate Structure

Cause No. 38061 Petition of Midwest Natural Gas Corporation
Principal Issue: Cost of Equity

Cause No. 38059 Petition of Indiana Bell Telephone Company, Inc.
Principal Issues: Local Measured Service and Long Run Marginal Cost

Cause No. 38045 Petition of Northern Indiana Public Service Company
Principal Issues: Demand Forecasting, Financial Viability and Regulatory Policy with Regard to Excess Capacity

Cause No. 38034 Petition of Odon Telephone Company, Inc.
Principal Issues: Acquisition Adjustment, Cost of Equity, Financing Authority, and Service Improvement Program

Cause No. 37938 Petition of Northern Indiana Public Service Company
Principal Issues: Economic Development Rates

Cause No. 37927 Petition of United Telephone of Indiana
Principal Issues: Cost of Equity

Cause No. 37866 Petition of Hoosier Energy Rural Electric Cooperative, Inc., et al.
Principal Issues: Economic Development Rates and Long Run Marginal Cost

Cause No. 37814 Petition of United Telespectrum of Indiana, Inc.
Principal Issue: Certificate of Territorial Authority

Cause No. 37735 Petition of Westport Natural Gas Company, Inc.
Principal Issue: Cost of Equity

Cause No. 37706 Petition of Midwest Natural Gas Corporation
Principal Issue: Cost of Equity

Cause No. 37686 Petition of Indiana Bell Telephone Company, Inc.
Principal Issue: Demand Repression

Cause No. 37414 Petition of Public Service Company of Indiana
Principal Issues: Forecasting Methodology and Capacity Planning

Lectures

"Network Neutrality and Service Quality," and "Telecommunications Pricing," NARUC Advanced Regulatory Studies Program, June 2006.

"Public Utility Pricing," "Retail Pricing in Telecommunications," and "Cost Models in Telecommunications," NARUC Annual Regulatory Studies Program, August 2004.

"Retail Pricing in Telecommunications," NARUC Annual Regulatory Studies Program, August 2003.

"The Evolution of Telecommunications Pricing," NARUC Annual Regulatory Studies Program, August 2002.

"Federal Restructuring of the Telecommunications Industry," "Federal Universal Service Programs," and "State Universal Service Programs," NARUC Annual Regulatory Studies Program, August 2001.

"Cost Modeling in Telecommunications," NARUC Annual Regulatory Studies Program, August 2000.

"Cost Modeling in Telecommunications," NARUC Annual Regulatory Studies Program, August 1999.

"Cost Modeling and Universal Service," NARUC Annual Regulatory Studies Program, August 1998.

"Cost Modeling in Telecommunications," NARUC Annual Regulatory Studies Program, August 1997.

"Policy Issues Raised by Performance-Based Incentive Systems," Public Policies Toward Competition in the Electric Power Industry, Wisconsin Public Utility Institute, October 1994.

"Cost Allocations in Broadband Networks," NARUC Annual Regulatory Studies Program, August 1994.

"Pricing Concepts and the Control of Price Discrimination in Advanced Telecommunications Networks: Issues and Methods," NARUC Advanced Regulatory Studies Program, January 1994.

"Cost Allocation in Advanced Telecommunications Networks: Issues and Methods," NARUC Annual Regulatory Studies Program, August 1993.

"A Review of Incentive Regulation," CAMPUT 7th Annual Regulatory Conference, Banff Canada, May 1993.

"New Social Contracts: Telecommunications Policy for the 21st Century," Annual Meeting of the Association of Evolutionary Economics, January 1993.

"Modernization: Who Pays? Who Benefits?," NARUC Annual Regulatory Studies Program, August 1992.

"Who Determines the Costs and Prices for Access to the Infrastructure," Telecommunications Policy: Agenda for the 21st Century Conference, The Michigan Divestiture Research Fund, March 1992.

"The New Social Contract," State Policies for Developing the Telecommunications Infrastructure Forum, Wisconsin Public Utility Institute, December 1991.

"RBOC Strategic Reactions to Entry," Atlantic Economic Society Annual Conference, Washington, D.C., October 1991.

Industry Committees

Federal Staff of the Federal-State Joint Board of CC Docket No. 80-286 (June 1999 to April 2001).

Federal Staff of the Federal-State Joint Board of CC Docket No.96-45 (May 1996 to April 2001).

National Association of Regulatory Utility Commissioners (NARUC) Staff Subcommittee on Communications (1994-1996).

State Staff of the Federal-State Joint Board of CC Docket No.80-286 (1991-1996).

Professional Associations

Member: American Economic Association
Association for Evolutionary Economics

Exhibit RL-2 The Verizon Average Residential Basic Service Rate and the Rate Benchmark
BEGIN CONFIDENTIAL

	cell1	cell 2	Cell 3			Cell 4		
usage rate group	city	city	A	D	F	A	D	F
Dial tone line								
local unlimited								
sum								
avg per cell								
lines								
lines times average								
sum of lines								
sum of lines times average								
weighted average rate	$14.25							
120% of average rate	$17.09							

Source: Verizon tariffs and Verizon's Response to OCA 1-4

END CONFIDENTIAL

Exhibit RL-3 RLEC Rates
BEGIN CONFIDENTIAL

Carrier	current residential rate	Bechnmark Rate	New Rate	Rate Increase
Armstrong North				
Armstrong Pennsylvania				
Bentleyville				
Buffalo Valley				
Citizens of Kecksburg				
Conestoga				
Consolidated Comm of PA				
Denver & Ephrata				
Frontier Breezewood				
Frontier Canton				
Frontier Commonwealth				
Frontier Lakewood				
Frontier Oswayo River				
Frontier Pennsylvania				
Hickory				
Ironton				
Lackawaxen				
Laurel Highland				
Marianna & Scenery Hill				
NEPA				
North Penn				
Palmerton				
Pennsylvania				
Pymatuning				
South Canaan				
TDS - M&M				
TDS - Sugar Valley				
Venus				
Windstream				
Yukon Waltz				
Century Link				

END CONFIDENTIAL

Source: PTA's Response to OCA-PTA-1-4

Exhibit RL-4 Revenue Loss
BEGIN CONFIDENTIAL

	Revenue Loss													
Carrier	traffic senstive	common line	total	lines	loss per line per month	current residential rate	residential rate if access rates in parity	Verizon PA Average Residential Rate	current rate difference	Residential lines	Residential Revenue Increase	Business Lines	Business Revenue Increase	USF
Armstrong North														
Armstrong Pennsylvania														
Bentleyville														
Buffalo Valley														
Citizens of Kecksburg														
Conestoga														
Consolidated Comm of PA														
Denver & Ephrata														
Frontier Breezewood														
Frontier Canton														
Frontier Commonwealth														
Frontier Lakewood														
Frontier Oswayo River														
Frontier Pennsylvania														
Hickory														
Ironton														
Lackawaxen														
Laurel Highland														
Marianna & Scenery Hill														
NEPA														
North Penn														
Palmerton														
Pennsylvania														
Pymatuning														
South Canaan														
TDS - M&M														
TDS - Sugar Valley														
Venus														
Windstream														
Yukon Waltz														
PTA total														
Century Link														
total														

END CONFIDENTIAL

Exhibit RL-5 PA USF Contribution Factor

Current Support	33,599,005.00
admins	155,778.00
uncollectibles	1,604,950.00
balance	(1,500,000.00)
fund size	33,859,733.00
retail revenue	2,906,062,116.00
factor	0.011651414
additional requirement	63,400,000.00
new requirement	97,259,733.00
additional base	4,400,000,000.00
total revenue base	7,306,062,116.00
new factor	0.013312196
difference	0.001660782
same base	0.033467878
change with same base	0.021816464

Exh RL-6

Schedule RDC-4 (two pages)

Schedule RDC-4: Basic Local Exchange Rates									
Companies	Basic Exchange	SLC	E-911 Charge	Fed Univ Svc Chg	PA Relay	T-tone	Other	Total	Basic Exchange as % Total
Citizens of PA: Quaker Lake	$7.52	$6.50	$1.50	$0.78	$0.08	$0.00	$0.34	$16.72	45%
Citizens Telephone of Kecksburg	$11.00	$6.50	$1.25	$0.74	$0.08	$0.50	$0.00	$20.07	55%
Laurel Highland Telephone Co.	$12.45	$6.50	$1.25	$0.74	$0.08	$0.00	$0.00	$21.02	59%
Bentleyville Telephone Co.	$13.50	$6.50	$1.25	$0.74	$0.08	$0.00	$0.00	$22.07	61%
North Penn Telephone Co.	$12.84	$6.50	$1.50	$0.74	$0.08	$1.25	$0.00	$22.91	56%
Ironton Telephone Company	$13.50	$6.50	$1.25	$0.75	$0.08	$1.00	$0.00	$23.08	58%
Armstrong Telephone Company North	$13.50	$6.50	$1.50	$0.00	$0.08	$1.50	$0.00	$23.08	58%
Armstrong Telephone Company - PA	$13.50	$6.50	$1.25	$0.74	$0.08	$1.25	$0.00	$23.32	58%
Lackawaxen Telecommunications Services	$13.50	$6.50	$1.50	$0.74	$0.08	$1.00	$0.00	$23.32	58%
North-Eastern Pennsylvania Telephone Co.	$14.72	$6.50	$1.50	$0.74	$0.08	$0.00	$0.00	$23.54	63%
Conestoga Telephone Company	$15.53	$6.50	$1.25	$0.75	$0.08	$0.00	$0.00	$24.11	64%
Buffalo Valley Telephone Company	$15.80	$6.50	$1.25	$0.75	$0.08	$0.10	$0.00	$24.48	65%
Windstream Pennsylvania	$16.00	$6.30	$1.50	$0.72	$0.08	$0.00	$0.00	$24.60	65%
Embarq	$18.00	$4.86	$1.25	$0.55	$0.08	$0.00	$0.00	$24.74	73%
Pymatuning Telephone Company	$14.97 /a/	$6.50	$1.25	$0.74	$0.08	$1.25	$0.00	$24.79	60%
Venus Telephone Company	$15.00	$6.50	$1.50	$0.74	$0.07	$1.00	$0.00	$24.81	60%
Yukon--Waltz Telephone Company	$16.00	$6.50	$1.25	$0.00	$0.08	$1.00	$0.00	$24.83	64%
Mahanoy & Mahantango Telephone Co.	$16.00 /b/	$6.50	$1.25	$0.77	$0.08	$0.00	$0.24	$24.84	64%
Frontier Commonwealth	$16.18	$6.50	$1.25	$0.75	$0.08	$0.00	$0.13	$24.89	65%
TDS Telecom/Sugar Valley Telephone Co.	$16.00 /b/	$6.50	$1.50	$0.77	$0.08	$0.00	$0.24	$25.09	64%
South Canaan Telephone Co.	$16.40	$6.50	$1.50	$0.74	$0.08	$0.00	$0.00	$25.22	65%
Frontier Communications of PA	$16.49	$6.50	$1.25	$0.77	$0.08	$0.00	$0.26	$25.35	65%
Marianna & Scenery Hill Telephone Co.	$16.00	$6.50	$1.25	$0.77	$0.08	$1.00	$0.00	$25.60	63%
Palmerton Telephone Company	$16.68	$6.50	$1.50	$0.74	$0.08	$0.00	$0.12	$25.62	65%
Hickory Telephone Company	$17.27	$6.50	$1.25	$0.73	$0.08	$0.00	$0.00	$25.83	67%
Frontier Communications/Lakewood	$16.99	$6.50	$1.25	$0.77	$0.08	$0.00	$0.26	$25.85	66%
Consolidated Communications	$17.54	$6.50	$1.25	$0.74	$0.08	$0.00	$0.00	$26.11	67%

Exh RL-6

Schedule RDC-4: Basic Local Exchange Rates									
Companies	Basic Exchange	SLC	E-911 Charge	Fed Univ Svc Chg	PA Relay	T-tone	Other	Total	Basic Exchange as % Total
Citizens of PA: Little Meadows	$16.00 /c/	$6.50	$1.50	$0.78	$0.08	$1.20	$0.34	$26.40	61%
Frontier Communications/Breezewood	$17.96	$6.50	$1.50	$0.74	$0.08	$0.00	$0.00	$26.78	67%
Frontier Communications/Canton	$18.00	$6.50	$1.50	$0.74	$0.08	$0.00	$0.00	$26.82	67%
Denver & Ephrata	$18.30	$6.50	$1.25	$0.76	$0.08	$0.00	$0.14	$27.03	68%
Frontier Communications/Oswayo River	$18.00	$6.50	$1.50	$0.76	$0.08	$0.00	$0.26	$27.10	66%

NOTE:

/a/ Pymatuning local service R1 charge of $15.65 minus "RES PA USF CREDIT" of $0.68.

/b/ M&M and Sugar Valley bills each show one-party residence access line charge of $18.50 minus "Global Settlement Credit" of $2.50.

/c/ Citizens NY – Little Meadows local exchange rate of $17.73 minus "PA USF CREDIT – RES" of $1.73.

NOTE 2:

A Pennsylvania Telephone Company residential bill was not provided in OCA-V-1.

Exhibit RL-7
BEGIN CONFIDENTIAL

	Traffic Sensitive Revenue Loss				Common Line Revenue Loss								
Carrier	state switched access minutes	Verizon traffic sensitive rate	avg switched rate (ATT)	Revenue Loss	rural ilec carrier common line	verizon cclc	difference	lines	common line revenue loss	total revenue loss	revenue loss per line	current rate	new rate
Armstrong North													
Armstrong Pennsylvania													
Bentleyville													
Buffalo Valley													
Citizens of Kecksburg													
Conestoga													
Consolidated Comm of PA													
Denver & Ephrata													
Frontier Breezewood													
Frontier Canton													
Frontier Commonwealth													
Frontier Lakewood													
Frontier Oswayo River													
Frontier Pennsylvania													
Hickory													
Ironton													
Lackawaxen													
Laurel Highland													
Marianna & Scenery Hill													
NEPA													
North Penn													
Palmerton													
Pennsylvania													
Pymatuning													
South Canaan													
TDS - M&M													
TDS - Sugar Valley													
Venus													
Windstream													
Yukon Waltz													
Century Link													
Total													
											END CONFIDENTIAL		

Exhibit RL-8 RLEC interstate and intrastate traffic sensitive rates
BEGIN CONFIDENTIAL

Carrier	interstate rate	intrastate rate
Armstrong North		
Armstrong Pennsylvania		
Bentleyville		
Buffalo Valley		
Citizens of Kecksburg		
Conestoga		
Consolidated Comm of PA		
Denver & Ephrata		
Frontier Breezewood		
Frontier Canton		
Frontier Commonwealth		
Frontier Lakewood		
Frontier Oswayo River		
Frontier Pennsylvania		
Hickory		
Ironton		
Lackawaxen		
Laurel Highland		
Marianna & Scenery Hill		
NEPA		
North Penn		
Palmerton		
Pennsylvania		
Pymatuning		
South Canaan		
TDS - M&M		
TDS - Sugar Valley		
Venus		
Windstream		
Yukon Waltz		
CenturyLink		
Average		

END CONFIDENTIAL

Exhibit RL-9

BEGIN CONFIDENTIAL

	Common Line Charge			
Carrier	interstate rate	state rate	state units	rev loss
Armstrong North				
Armstrong Pennsylvania				
Bentleyville				
Buffalo Valley				
Citizens of Kecksburg				
Conestoga				
Consolidated Comm of PA				
Denver & Ephrata				
Frontier Breezewood				
Frontier Canton				
Frontier Commonwealth				
Frontier Lakewood				
Frontier Oswayo River				
Frontier Pennsylvania				
Hickory				
Ironton				
Lackawaxen				
Laurel Highland				
Marianna & Scenery Hill				
NEPA				
North Penn				
Palmerton				
Pennsylvania				
Pymatuning				
South Canaan				
TDS - M&M				
TDS - Sugar Valley				
Venus				
Windstream				
Yukon Waltz				
PTA Total				
CenturyLink				
Total				
			END CONFIDENTIAL	

Exhibit RL-10 Pennsylvania Interstate Access Support

SAC	Study Area Name	Rural	Type	IAS	CERT	Access Lines	Monthly Support Amounts				Annual Total Support Amounts	Monthly Support Per Line
							Jan- Mar	Apr-Jun	Jul-Sep	Oct-Dec		
170149	FRONTIER-BREEZEWOOD	R	C	Y	Y	3,863	$ 7,024	$ 7,024	$ 7,024	$ 7,024	$ 84,288	$ 1.82
170152	FRONTIER-CANTON	R	C	Y	Y	3,757	$ 1,854	$ 1,854	$ 1,854	$ 1,854	$ 22,248	$ 0.49
170168	FRONTIER-PA	R	C	Y	Y	22,396	$ -	$ -	$ -	$ -	$ -	$ -
170169	VERIZON NORTH-PA	N	C	Y	Y	368,930	$ 230,130	$ 230,130	$ 230,130	$ 230,130	$ 2,761,560	$ 0.62
170170	VERIZON N-PA(CONTEL)	R	C	Y	Y	42,739	$ 147,621	$ 147,621	$ 147,621	$ 147,621	$ 1,771,452	$ 3.45
170178	FRONTIER-LAKEWOOD	R	C	Y	Y	1,356	$ -	$ -	$ -	$ -	$ -	$ -
170194	FRONTIER-OSWAYO RIVR	R	C	Y	Y	1,962	$ 4,401	$ 4,401	$ 4,401	$ 4,401	$ 52,812	$ 2.24
170201	VERIZON N-PA(QUAKER)	R	C	Y	Y	38,568	$ 140,668	$ 140,668	$ 140,668	$ 140,668	$ 1,688,016	$ 3.65
170209	UTC OF PENNSYLVANIA	R	C	Y	Y	269,244	$ 434,388	$ 434,388	$ 434,388	$ 434,388	$ 5,212,656	$ 1.61
175000	VERIZON PENNSYLVANIA	N	C	Y	Y	3,389,776	$ 718,792	$ 718,792	$ 718,792	$ 718,792	$ 8,625,504	$ 0.21
	total										$ 20,218,536	

Exhibit RL-11 Pennsylvania Interstate Common Line Support

SAC	Study Area Name	Rural	Type	ICLS	Certified	Num Loops	Monthly Support Amount				Annual Total Support	Monthly Support
							Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec		
170145	BENTLEYVILLE TEL CO	R	A	Y	Y	2,552	$ 19,598	$ 19,598	$ 19,598	$ 19,598	$ 235,176	$ 7.68
170151	BUFFALO VALLEY TEL	R	A	Y	Y	18,215	$ 79,348	$ 79,348	$ 79,348	$ 79,348	$ 952,176	$ 4.36
170156	CITIZENS - KECKSBURG	R	A	Y	Y	4,119	$ 28,423	$ 28,423	$ 28,423	$ 28,423	$ 341,076	$ 6.90
170161	COMMONWEALTH TEL CO	R	A	Y	Y	248,647	$ 1,143,522	$ 1,143,522	$ 1,143,522	$ 1,143,522	$ 13,722,264	$ 4.60
170162	THE CONESTOGA TEL	R	A	Y	Y	47,066	$ 198,978	$ 198,978	$ 198,978	$ 198,978	$ 2,387,736	$ 4.23
170165	DENVER & EPHRATA	R	A	Y	Y	49,475	$ 147,867	$ 147,867	$ 147,867	$ 147,867	$ 1,774,404	$ 2.99
170171	HICKORY TEL CO	R	A	Y	Y	1,271	$ 11,645	$ 11,645	$ 11,645	$ 11,645	$ 139,740	$ 9.16
170175	IRONTON TEL CO	R	A	Y	Y	4,695	$ 35,340	$ 35,340	$ 35,340	$ 35,340	$ 424,080	$ 7.53
170176	WINDSTREAM PA	R	C	Y	Y	187,495	$ 195,260	$ 195,260	$ 195,260	$ 195,260	$ 2,343,120	$ 1.04
170177	LACKAWAXEN TELECOM	R	C	Y	Y	3,056	$ 13,340	$ 13,340	$ 13,340	$ 13,340	$ 160,080	$ 4.37
170179	LAUREL HIGHLAND TEL	R	A	Y	Y	5,254	$ 38,253	$ 38,253	$ 38,253	$ 38,253	$ 459,036	$ 7.28
170183	MAHANOY & MAHANTANGO	R	C	Y	Y	3,547	$ 13,609	$ 13,609	$ 13,609	$ 13,609	$ 163,308	$ 3.84
170185	MARIANNA - SCENERY	R	C	Y	Y	2,166	$ 16,046	$ 16,046	$ 16,046	$ 16,046	$ 192,552	$ 7.41
170189	ARMSTRONG TEL CO-PA	R	C	Y	Y	1,465	$ 44,621	$ 44,621	$ 44,621	$ 44,621	$ 535,452	$ 30.46
170191	NORTH EASTERN PA TEL	R	A	Y	Y	10,882	$ 73,819	$ 73,819	$ 73,819	$ 73,819	$ 885,828	$ 6.78
170192	NORTH PENN TEL CO	R	C	Y	Y	4,915	$ 80,768	$ 80,768	$ 80,768	$ 80,768	$ 969,216	$ 16.43
170193	NORTH PITTSBURGH TEL	R	A	Y	Y	55,249	$ 212,930	$ 212,930	$ 212,930	$ 212,930	$ 2,555,160	$ 3.85
170195	ARMSTRONG TEL NORTH	R	A	Y	Y	481	$ 7,190	$ 7,190	$ 7,190	$ 7,190	$ 86,280	$ 14.95
170196	PALMERTON TEL CO	R	A	Y	Y	9,128	$ 67,826	$ 67,826	$ 67,826	$ 67,826	$ 813,912	$ 7.43
170197	PENNSYLVANIA TEL CO	R	A	Y	Y	1,318	$ 11,800	$ 11,800	$ 11,800	$ 11,800	$ 141,600	$ 8.95
170200	PYMATUNING IND TEL	R	A	Y	Y	2,027	$ 15,502	$ 15,502	$ 15,502	$ 15,502	$ 186,024	$ 7.65
170204	SOUTH CANAAN TEL CO	R	A	Y	Y	2,556	$ 22,099	$ 22,099	$ 22,099	$ 22,099	$ 265,188	$ 8.65
170206	SUGAR VALLEY TEL CO	R	C	Y	Y	1,028	$ 9,077	$ 9,077	$ 9,077	$ 9,077	$ 108,924	$ 8.83
170210	VENUS TEL CORP	R	A	Y	Y	1,261	$ 12,526	$ 12,526	$ 12,526	$ 12,526	$ 150,312	$ 9.93
170215	YUKON - WALTZ TEL CO	R	A	Y	Y	779	$ 9,689	$ 9,689	$ 9,689	$ 9,689	$ 116,268	$ 12.44
170277	WEST SIDE TEL CO-PA	R	A	Y	Y	39	$ 1,458	$ 1,458	$ 1,458	$ 1,458	$ 17,496	$ 37.38
											$ 30,126,408	

Exhibit RL-12
BEGIN CONFIDENTIAL

		OCA Plan			AT&T Alternative 1			AT&T Alternative 2		
Carrier	current residential rate	Rate with OCA Plan	Rate Increase	Percent Increase	AT&T Alternative 1	Rate Increase	Percent Increase	AT&T 2	Rate Increase	Percent Increase
Armstrong North										
Armstrong Pennsylvania										
Bentleyville										
Buffalo Valley										
Citizens of Kecksburg										
Conestoga										
Consolidated Comm of PA										
Denver & Ephrata										
Frontier Breezewood										
Frontier Canton										
Frontier Commonwealth										
Frontier Lakewood										
Frontier Oswayo River										
Frontier Pennsylvania										
Hickory										
Ironton										
Lackawaxen										
Laurel Highland										
Marianna & Scenery Hill										
NEPA										
North Penn										
Palmerton										
Pennsylvania										
Pymatuning										
South Canaan										
TDS - M&M										
TDS - Sugar Valley										
Venus										
Windstream										
Yukon Waltz										
Century Link										
Average rate Increase										
Average Percentage Rate Increase										

END CONFIDENTIAL;

APPENDIX A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act	)	GN Docket No. 09-47
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion	)	GN Docket No. 09-137

COMMENTS – NBP PUBLIC NOTICE #25

COMMENTS OF AT&T INC. ON THE TRANSITION FROM THE LEGACY CIRCUIT-SWITCHED NETWORK TO BROADBAND

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December 21, 2009

TABLE OF CONTENTS

INTRODUCTION AND SUMMARY

AT&T strongly supports a Commission Notice of Inquiry regarding the transition from the circuit-switched legacy network to broadband and IP-based communications. That transition is underway already: with each passing day, more and more communications services migrate to broadband and IP-based services, leaving the public switched telephone network ("PSTN") and plain-old telephone service ("POTS") as relics of a by-gone era. That transition creates substantial pressure on cornerstones of the regulatory framework that governs much of today's communications, including in particular universal service and intercarrier compensation. But it also creates enormous opportunity. The Commission has been charged by Congress with formulating a National Broadband Plan that will result in broadband availability for 100% of the United States. That auspicious goal is within reach, but only if the Commission marshals its resources and those of other stakeholders to develop and execute a strategy that enables the deployment of the enormous amount of infrastructure necessary to reach it. As we explain in these comments, a key component of that strategy is the orderly transition away from, and retirement of, the PSTN.

Part I of these comments discusses the importance of that transition, explaining that Congress's goal of universal access to broadband will not be met in a timely or efficient manner if providers are forced to continue to invest in and to maintain two networks. Broadband is dramatically changing the way Americans live, work, obtain health care, and interact with the government. Congress and the Commission have rightly made universal broadband access a core national priority. But achieving this goal will take an enormous investment of capital. Private investment from network operators has brought broadband access to over 90% of Americans, and these operators will continue to play a pivotal role in bringing broadband to the

remaining 8-10% of citizens who do not currently have broadband access. It is accordingly crucial that the Commission pursue forward-looking regulatory policies that remove disincentives to private investment and encourage operators to extend broadband to unserved areas.

Any such forward-looking policy must enable a shift in investment from the legacy PSTN to newly deployed broadband infrastructure. While broadband usage – and the importance of broadband to Americans' lives – is growing every day, the business model for legacy phone services is in a death spiral. Revenues from POTS are plummeting as customers cut their landlines in favor of the convenience and advanced features of wireless and VoIP services. At the same time, due to the high fixed costs of providing POTS, every customer who abandons this service raises the average cost-per-line to serve the remaining customers. With an outdated product, falling revenues, and rising costs, the POTS business is unsustainable for the long run. Yet a web of federal and state regulations has the cumulative effect of prolonging, unnecessarily, the life of POTS and the PSTN.

Due to technological advances, changes in consumer preference, and market forces, the question is *when*, not *if*, POTS service and the PSTN over which it is provided will become obsolete. In the meantime, however, the high costs associated with the maintenance and operation of the legacy network are diverting valuable resources, both public and private, that could be used to expand broadband access and to improve the quality of broadband service. It is for that reason that one of the most important steps the Commission can take to facilitate an orderly transition to an all-broadband communications infrastructure is to eliminate the regulatory requirements that prolong the life of POTS and the PSTN. A smooth transition to an all-broadband world is essential to attaining the goal of universal broadband service.

In Part II of these comments, we discuss legal and policy issues surrounding the retirement of POTS and the PSTN, and in doing so identify actions the Commission should take now to facilitate the transition to broadband. We explain, first, that perhaps the single most important feature of Commission action at this time is the establishment of a firm deadline at which point the transition will be complete, and we advise the Commission to seek comment on when that deadline should be, taking into account Commission experience in managing the transition to digital broadcasting as well as the retirement of analog cellular networks. Part II also identifies issues that are ripe for decision *today* – including the scope of federal authority over broadband and IP-based services, as well as intercarrier compensation and federal universal service reform – that the Commission must resolve in order to establish the preconditions for a successful transition to broadband. Finally, Part II identifies additional topics of inquiry – including in particular the actions necessary to ensure that legacy state requirements do not impede the transition to broadband – that the Commission should examine as it puts in place a plan to manage the inevitable transition from the PSTN to broadband.

DISCUSSION

I. PHASEOUT OF CIRCUIT-SWITCHED POTS SERVICE AND THE PSTN IS ESSENTIAL TO ACHIEVING UNIVERSAL ACCESS TO BROADBAND

A. Universal Broadband Access Is a Critical National Priority

As this Commission emphasized in the Public Notice and elsewhere, Congress has made broadband deployment a core national objective.[1] The American Recovery and Reinvestment

[1] *See* Public Notice, *Comment Sought on Transition from Circuit-Switched Network to All-IP Network*, NBP Public Notice #25, DA 09-2517 (rel. Dec. 1, 2009) ("Public Notice") (citing American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2), 123 Stat. 115 (to be codified at 47 U.S.C. § 1305)); *see also* FCC News Release, *FCC Chairman Genachowski Commends NCTA's Adoption Plus (A+) Program, available at*

Act of 2009 directs the Commission to create a national broadband plan that seeks to "ensure that all people of the United States have access to broadband capability,"[2] and indeed the promotion of broadband deployment has been a longstanding congressional and Commission objective. Section 706(a) of the Telecommunications Act of 1996, for example, directs the Commission to "encourage the deployment . . . of advanced telecommunications capability to all Americans" by, among other things, "methods that remove barriers to infrastructure investment."[3] The Commission previously has recognized that this provision creates a "statutory responsibilit[y]" to "accelerate broadband deployment."[4]

Congress's and this Commission's objective of robust broadband deployment is well-founded. Widespread deployment of broadband and IP-based services holds enormous potential. As the Commission has explained, "[n]ew, innovative broadband products and applications . . . are fundamentally changing not only the way Americans communicate and work, but also how

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http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-294940A1.pdf (Chairman Genachowski) ("Ensuring that all Americans have access to affordable broadband service is a national priority – one that the Commission is actively working on as part of our National Broadband Plan.").

[2] 123 Stat. at 516 (to be codified at 47 U.S.C. § 1305). Congress has also declared that it is "the policy of the United States . . . to promote the continued development of the Internet and other interactive computer services and other interactive media." 47 U.S.C. § 230(b). Robust broadband deployment directly advances the goal of promoting advanced communications services that depend on broadband Internet access to thrive.

[3] 47 U.S.C. § 157 note.

[4] *See* Report and Order and Further Notice of Proposed Rulemaking, *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, 22 FCC Rcd 5101, ¶ 1 (2007), *aff'd, Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008); *see also* Report and Order and Notice of Proposed Rulemaking, *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, 20 FCC Rcd 14853, ¶¶ 3 n.8, 8 (2005) ("*Wireline Broadband Order*") (the 1996 Act provides the Commission with "express directives . . . to encourag[e] broadband deployment, generally, and promot[e] and preserv[e] a freely competitive Internet market, specifically"), *aff'd, Time Warner Telecom, Inc. v. FCC*, 507 F.3d 205 (3d Cir. 2007).

they are educated and entertained, and care for themselves and each other."[5] Beyond that, broadband is an engine of investment and economic growth in its own right – even in the current downturn[6] – as well as a platform for innovation and growth in other sectors of the economy. "Especially in otherwise isolated areas, high-speed Internet access puts people in contact with resources that are physically out of reach, improving individual welfare by increasing access to educational, medical, commercial, and professional resources. Positive externalities resulting from broadband such as increased economic growth and improved government services also improve the community's overall welfare, benefiting both Internet users and nonusers."[7]

The full realization of the enormous benefits of broadband will require aggressive action in both the public and private spheres. The Commission's deregulatory policies with respect to broadband Internet access service have been remarkably successful in driving the deployment and adoption of broadband services. Between 1999 and 2007, the number of broadband

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[5] Notice of Inquiry, *In re A National Broadband Plan for Our Future*, 24 FCC Rcd 4342, ¶ 4 (2009).

[6] AT&T alone expects to invest $17-18 billion in its networks in 2009. *See* AT&T News Release, *AT&T to Invest More than $17 Billion in 2009 to Drive Economic Growth* (Mar. 10, 2009), *available at* http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=26597.

[7] John M. Peha, The Brookings Institution, *Bringing Broadband to Unserved Communities*, at 5 (July 2008), *available at* http://www.brookings.edu/~/media/Files/rc/papers/2008/07_broadband_peha/07_broadband_peha.pdf; *see also* Comments of AT&T Inc., *In re A National Broadband Plan for Our Future*, GN Docket No. 09-51, at iii (filed June 8, 2009) ("*AT&T NBP Comments*") (Broadband "can enable the transportation system to run more smoothly, deliver new efficiencies to the electric grid, expand access to the health-care system while improving its quality, provide new work options that enable us to cut travel and reduce emissions, connect students to expanded educational resources, bring increased effectiveness to government, and otherwise improve the lives of citizens in countless ways that we have only begun to understand.").

connections in the United States increased from fewer than 3 million to more than 121 million.[8] Today, broadband services are available to approximately 90% of American households, and 66% of households currently subscribe to a broadband service.[9] Even as usage has expanded, moreover, broadband speeds have increased and prices have fallen.[10]

At the same time – and despite much effort – the national goal of universal broadband service remains elusive. Eight to ten percent of households still do not have access to broadband, and many more than that have access but choose not to subscribe. As the *CITI Report* makes clear, those figures are the result of realities – such as the high cost of bringing broadband to certain parts of the country, and the correlation between low income and low broadband subscribership – that will not change on their own.[11] Rather, sustained government action is necessary to expand broadband availability in high-cost areas of the country, and to narrow and eventually eliminate the gap between broadband availability and subscription.[12]

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[8] *See* FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *High-Speed Services for Internet Access: Status as of December 31, 2007*, at Table 1 (Jan. 2009) ("*High-Speed Services for Internet Access, Dec. 31, 2007*"), *available at* http://hraunfoss.fcc.gov/edocs_public/ attachmatch/DOC-287962A1.pdf (showing 121,165,311 high-speed lines as of December 2007).

[9] *See* Robert C. Atkinson & Ivy E. Schultz, Columbia Inst. For Tele-Info., *Broadband in America: Where It Is and Where It Is Going*, at 25-26 (Nov. 11, 2009) ("*CITI Report*"), *available at* http://www.broadband.gov/docs/Broadband_in_America.pdf; *see also AT&T NBP Comments*, at 4-5.

[10] *See* Federal Trade Commission Staff Report, *Broadband Connectivity Competition Policy*, at 10-11 (2007), *available at*, http://www.ftc.gov/reports/broadband/v070000report.pdf; *AT&T NBP Comments*, at 80.

[11] *See CITI Report*, at 7, 70.

[12] *See* Comments of AT&T Inc. on the Report of the Columbia Institute for Tele-Information, *International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act*, GN Docket Nos. 09-47, 09-51, and 09-137, at 9-12 (filed Dec. 4, 2009) ("*AT&T Comments on CITI Report*").

These actions, however, will be expensive. Congress's goal of universal broadband access cannot be achieved without massive new investments in infrastructure. The customers who are easiest to serve already have access to broadband; the remaining unserved customers overwhelmingly live in sparsely populated, high-cost areas that cannot economically be served absent government support. Indeed, Commission staff has estimated that it will take an investment of approximately $350 billion to make available 100 mbps broadband service to all American consumers.[13] Demand-side measures – such as digital literacy programs, free or subsidized computers, and broadband service subsidies – will likewise require the outlay of public funds. Especially in an era of budget deficits and fiscal belt-tightening, universal broadband service is simply too costly to be achieved through government funding alone. Investment from service providers is critical, both for upgrading current networks and providing universal service. As Commission staff observed just last week, a "[g]uiding principle[]" for the Commission as it formulates the National Broadband Plan is that "[p]rivate sector investment is essential."[14] It is the responsibility of this Commission – as well as state regulators – to pursue

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[13] *See* FCC National Broadband Plan, *September Commission Meeting: 141 days until Plan is due*, at 45 (Sept. 29, 2009), *at* http://www.fcc.gov/Daily_Releases/ Daily_Business/2009/db0929/ DOC-293742A1.pdf; *see also* FCC Transcript, *National Broadband Plan Workshop: Technology/Fixed Broadband*, at 20:1-4 (Aug. 13, 2009), *at* http://www.broadband.gov/docs/ws_ 05_tech_ fixed_transcript.pdf (Adam Drobot, CTO, Telcordia) ("[W]hoever pays the bill to wire up the nation at high broadband speeds, in our estimation, is something that would be well north of $300 billion."); FCC Transcript, *National Broadband Plan Workshop: Deployment – Wired*, at 57:22-58:5 (Aug. 12, 2009), *at* http://www.broadband.gov/docs/ws_02_deploy_wired_ transcript.pdf (Craig Moffett, VP and Sr. Analyst, U.S. Telecommunications, Cable and Satellite, Sanford Bernstein) ("[I]f I were to just scale up to what Verizon's doing, I'm talking about $300 billion-plus for the country. Scaled for sort of geographically adjusted, I'm at probably a half a trillion dollar project or somewhere in that range, maybe more to do something like that.").

[14] FCC Staff Presentation, *National Broadband Plan Policy Framework*, at 5 (Dec. 16, 2009) ("*NBP Policy Framework*"), *available at* http://hraunfoss.fcc.gov/edocs_public/ attachmatch/DOC-295259A1.pdf.

regulatory policies that will remove disincentives to private investment and encourage operators to extend service to remaining customers who still lack access to broadband.

B. POTS Service and the Legacy PSTN Are Diverting Critically Needed Funds that Could Be Used for Broadband Deployment

Foremost on the Commission's agenda for enabling private investment to facilitate widespread deployment of broadband infrastructure should be the elimination of regulatory requirements that divert resources from broadband to the PSTN.

1. If broadband and IP-based services represent the future of telecommunications, the PSTN and POTS are now relics of an earlier era. The business model that sustained circuit-switched voice service over the last century is dying. For decades, POTS was the primary if not the exclusive option for voice communications, and nearly all households subscribed. But in recent years technological change and market forces have made POTS and the PSTN increasingly obsolete. Those same forces make a full transition to broadband inevitable.

Consumers today have more options for voice services than ever before. Over 99% of Americans live in areas with cellular phone service, and approximately 86% of Americans subscribe to a wireless service.[15] Many of these individuals see no reason to purchase landline service as well. Indeed, the most recent data show that more than 22% of households have "cut the cord" entirely.[16] And, as industry analysts have found, this trend away from landline service

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[15] Thirteenth Report, *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*, 24 FCC Rcd 6185, ¶ 2 (2009).

[16] Stephen J. Blumberg & Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics, CDC, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January - June 2009*, at 1-2 (Dec. 16, 2009) ("Blumberg & Luke"), *available at* http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200912.pdf (statistics as of June 2009).

"is accelerating, as secular and cyclical impacts force consumers to rethink the relevance of wireline."[17]

Demand for VoIP service – from both cable companies and over-the-top providers such as such as Vonage, Skype, and many others – is also booming. At least 18 million households currently use a VoIP service,[18] and it is estimated that by 2010, cable companies alone will be providing VoIP to more than 24 million customers; by 2011, there may be up to 45 million total VoIP subscribers.[19]

In view of the range of alternatives for voice service – many of which offer distinct advantages over traditional landline service – it is not surprising that the POTS business model is in a precipitous decline. The numbers speak for themselves. Today, less than 20% of Americans rely exclusively on POTS for voice service.[20] Approximately 25% of households have abandoned POTS altogether, and another 700,000 lines are being cut *every month*.[21] From 2000

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[17] Jason Armstrong, et al., Goldman Sachs, *The Quarter in Pictures: 3Q2009 North America Communications Services Review*, at 20 (Nov. 2009); *see also* Blumberg & Luke, at 1 (in addition to the 22.7% of customers who have already abandoned wireline service, another 14.7% of households now make all or nearly all of their calls on wireless phones).

[18] The National Cable Television Association estimates that 16 million customers obtain VoIP service from a cable company, and Vonage alone serves an additional 2.6 million customers. *See* Comments of AT&T, *In re High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, at 26 (filed Nov. 26, 2008) ("*AT&T Universal Service Comments*").

[19] *See* Jessica Reif Cohen, et al., Bank of America/Merrill Lynch, *Battle for the Bundle: The Internet Goes Negative*, at 13, Table 12 (Aug. 19, 2009) (estimating 24.2 million subscribers at YE10); *see also AT&T Universal Service Comments*, at 28 (citing estimates of 45 million VoIP customers by 2011).

[20] *See Ex Parte* Letter from Mary L. Henze, AT&T, to Marlene Dortch, FCC, GN Docket No. 09-51, at 6 (filed Nov. 24, 2009) ("AT&T *ex parte* filing") (citing National Center for Health Statistics data).

[21] *See* Craig Moffett, Bernstein Research, *Weekend Media Blast: The Wireline Problem*, at 2 (May 15, 2009) ("Moffett, *Weekend Media Blast*").

to 2008, the number of residential switched access lines has fallen by almost half, from 139 million to 75 million.[22] Non-primary residential lines have fallen by 62% over the same period; with the rise of broadband, few customers still need a second phone line for dial-up Internet service. Total interstate and intrastate switched access minutes have fallen by a staggering 42% from 2000 through 2008.[23] Indeed, perhaps the clearest sign of the transformation away from POTS and towards a broadband future is that there are probably now more broadband connections than telephone lines in the United States.[24]

And the customers who keep POTS are using it less. Wireless phones, email, instant messaging, blogs, and social networking sites have greatly reduced the need for legacy voice services, even for customers who retain POTS service. Between 2000 and 2008, aggregate switched access minutes *per line* declined by 13.2%.[25]

These trends are exacting a substantial toll on ILEC revenue from POTS service, which fell from $178.6 billion in 2000 to $130.8 billion in 2007, a 27% decrease.[26] This revenue trend, moreover, is irreversible for the reasons identified above. One industry analyst has noted that

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[22] *See* AT&T *ex parte* filing, at 4 (citing Table 8.2 of the *Trends in Telephone Service* report, supplemented with AT&T model data).

[23] *See id.* at 3 (citing Tables 10.1 and 10.2 of *Trends in Telephone Service* report, supplemented with AT&T model estimates).

[24] *See AT&T NBP Comments*, at iv & n.5 (citing *High-Speed Services for Internet Access, Dec. 31, 2007*, at Table 1 (showing 121,165,311 high-speed lines as of December 2007, with an annual rate of increase over 30 percent); FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Local Telephone Competition: Status as of December 31, 2007*, at Table 1 (Sept. 2008), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-285509A1.pdf (showing 158,436,758 end-user switched access lines as of December 2007, with an annual rate of decrease over 5 percent)).

[25] *See* AT&T *ex parte* filing, at 3 (citing Tables 10.1 and 10.2 of *Trends in Telephone Service* report, supplemented with AT&T model estimates).

[26] *See id.* at 2 (citing Table 2 of the Telecommunications Industry Revenue Report, released Sept. 2009).

"wireline voice revenues are likely to decline into perpetuity with the only question being at what pace."[27] Another was more blunt: focusing on consumers' increasing reliance on wireless and cable VoIP, he predicted that within five years only 36% of households will subscribe to POTS, and described the resulting revenue loss as "a death sentence."[28]

The decline in POTS *revenues* is of course only half the picture, but the other half is equally grim. While POTS revenues are plummeting, costs are not. Every time a household or business cuts its landline, the fixed costs of providing POTS must be spread over a smaller customer base, thus raising the average cost of serving the remaining customers. "[P]erhaps more than any other business in the world, the wireline TelCo is a fixed cost business."[29] According to one estimate, the average per-line cost of maintaining the legacy network has risen from $43 per year in 2003 to $52 per year today.[30]

2. These trends have profound implications for broadband deployment. The legacy PSTN network – which is rapidly hemorrhaging customers and revenue – is now diverting much-needed funds from investments in broadband networks. By one estimate, in 2008, traditional ILECs spent in the aggregate approximately $28 billion on capital expenditures, with over fifty percent of this sum (52.2%) going to the legacy network.[31] In other words, a huge proportion of the capital resources available to some of the largest telecommunications providers in the

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[27] Greg MacDonald, et al., National Bank Financial, *U.S. Telecom Services*, at 14 (Oct. 1, 2009) (emphasis omitted).

[28] Moffett, *Weekend Media Blast*, at 2.

[29] *Id.*

[30] *See* Saul Hansell, *Will the Phone Industry Need a Bailout, Too?*, N.Y. Times (May 8, 2009), *available at* http://bits.blogs.nytimes.com/2009/05/08/will-the-phone-industry-need-a-bailout-too/.

[31] *See CITI Report*, at 29-30.

country is being directed, not towards improving broadband speeds or bringing broadband to more customers, but rather towards maintaining an increasingly obsolete network that is no longer capable of providing the services and features that American consumers and policymakers demand.

The collapsing POTS business model and the related diversion of funds from broadband efforts raise questions of public, not private, priorities. In most industries, a dramatic fall in demand for an outdated product would lead firms to stop producing the old product and focus their investment and resources on newer ones. No one prevented horse-drawn carriage manufacturers from switching to automobiles the moment it became clear that the antecedent technology was obsolete. But many network operators do not have this luxury. ILECs were historically parties to a regulatory compact that involved exclusive franchises in exchange for a commitment to offer service to all customers in a serving area at reasonable rates. That commitment was codified in an overlapping regime of federal and state regulations, including tariff requirements, obligation-to-serve rules, and carrier-of-last-resort obligations.[32] And, while the exclusive franchises that formed the *quid* of that regulatory *quid pro quo* have long since vanished, the core obligations on ILECs largely remain in place and preclude service providers from abandoning POTS in response to technological change and market demand. The combined effect of these legacy regulations is to require ILECs to dedicate substantial resources to an antiquated network and outdated service, thus hindering their ability to make the investments necessary to achieve ubiquitous broadband deployment.

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[32] *See* Notice of Proposed Rulemaking, *In re High-Cost Universal Service Support*, 23 FCC Rcd 1495, ¶ 23 (2008) ("Historically, only incumbent LECs received universal service support and had the obligation to serve customers subject to rates and terms specified by state regulatory authorities: so-called "carrier of last resort" obligations.").

The Commission has faced a similar dilemma before. In 2002, the Commission phased out longstanding rules that required wireless carriers to provide service in accordance with certain analog standards. In abandoning those rules, the Commission explained:

> [T]he analog requirement places a financial burden on cellular licensees who would prefer to use their spectrum and other resources on digital technology rather than setting aside a portion to support their analog facilities. Cellular licensees that deploy digital technologies must also maintain a minimum scale analog network. These cellular licensees incur operation and maintenance costs for two mobile telephony networks in order to comply with Commission rules. Also, by maintaining two networks, operation and maintenance costs associated with the digital network may be higher because the carrier is not able to optimize the system as efficiently as it would if there was only one network. . . . The analog requirement prevents cellular licensees from choosing to efficiently utilize their spectrum by installing an all-digital network and potentially providing additional advanced services.[33]

The same considerations apply here. ILECs are presently forced to maintain two networks, driving up costs and diverting resources from the advanced broadband network that is undoubtedly the future of communications. It makes no sense to require service providers to operate and maintain two distinct networks when technology and consumer preferences have made one of them increasingly obsolete. For precisely this reason, a coalition of independent LECs has already recognized the inevitability of a transition to broadband and the retirement of the PSTN, and it has formulated a strategy for accomplishing that transition with minimal disruption.[34] The Commission should promptly do the same.

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[33] *Year 2000 Biennial Regulatory Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services*, 17 FCC Rcd 18401, ¶ 12 (2002) ("*CMRS Analog Sunset Order*").

[34] *See* Letter from Stuart Polikoff, OPASTCO, to Marlene H. Dortch, FCC, GN Docket No. 09-51, at 2 (filed Oct. 5, 2009) (proposing a seven-year transition of high-cost universal service support from POTS to broadband, after which "the public switched telephone network is fully converted to a broadband network").

II. THE COMMISSION SHOULD TAKE SEVERAL STEPS TO FACILITATE THE TRANSITION TO BROADBAND

As the above discussion makes clear, market forces and innovation are *already* making POTS and the PSTN obsolete; the only question is whether the transition will be accomplished efficiently and with minimal disruption, or whether instead POTS and the PSTN (and the obligation to maintain that network) will continue to drain resources from broadband investment for years to come. The Commission can play a crucial role in this transition by establishing a date-certain for the sunset of the PSTN and setting the ground rules for an orderly transition to an all-broadband communications infrastructure. In this Part, AT&T outlines key actions that the Commission should take now in order to effectuate a smooth transition to broadband.

A. Setting a Firm Deadline for Sunset of the PSTN

Perhaps the most important question relating to the logistics of phasing out the PSTN involves setting a deadline for the sunset of the PSTN and POTS. To that end, the Commission should issue a Notice of Inquiry that explains the importance of a firm deadline for the phaseout of POTS service and the PSTN, and it should ask what that deadline should be.

The Commission's past use of deadlines in effecting similar transitions should provide a wealth of data for comments. The transition from analog to digital broadcasting, for example, was "decades in the making and . . . s[aw] a number of [purported] deadlines come and go."[35] In October 2005, however, Congress finally set a firm deadline of February 2009 for the completion of the transition.[36] Many commenters believed at the time that this deadline was too ambitious,

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[35] John Eggerton, *Ready or Not, Here Comes DTV*, Broadcasting & Cable (Feb. 18, 2008), *at* http://www.broadcastingcable.com/article/112503-Ready_or_Not_Here_Comes_DTV.php.

[36] *See* Digital Television Transition and Public Safety Act of 2005, Pub. L. No. 109-171, §§ 3001-3002, 120 Stat. 4, 21-22 (2006).

and that the transition would be plagued with logistical problems.[37] But the use of a firm deadline galvanized all stakeholders, and the transition was widely regarded as a success. As then-Acting Chairman Copps explained the day after the transition: "Five years ago, no one knew when the DTV transition would end. And yet yesterday broadcasters, cable and satellite providers, consumer electronics manufacturers and retailers – and, most importantly, consumers – were by-and-large ready to turn off full-power analog signals for good."[38] Just four years after Congress established a firm date for the transition – and with only one minor extension of the deadline[39] – all Americans now have access to digital television, and the Commission has reclaimed billions of dollars worth of valuable spectrum.

The transition from analog to digital commercial mobile radio service ("CMRS") standards is also instructive. To facilitate competition and provide uniform standards for the nascent cellular phone market, in the early 1980s, the Commission required all wireless carriers to provide service in accordance with an analog standard known as "Advanced Mobile Phone Service." By 2002, the Commission concluded that those rules were no longer necessary to promote competition and, indeed, were actually deterring investment in advanced digital

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[37] *See, e.g.*, Edmund L. Andrews, *Digital TV, Dollars and Dissent: The Political Battle Grows Over the Use of New Broadcast Technology*, N.Y. Times (Mar. 18, 1996).

[38] Remarks of Acting FCC Chairman Michael J. Copps in the Wake of the Digital Television Transition (June 13, 2009), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-291388A1.pdf; *see also* Statement of Commissioner Jonathan S. Adelstein on the Digital Television Transition (June 13, 2009), *available at* http://hraunfoss.fcc.gov/edocs_public/ attachmatch/DOC-291389A1.pdf ("Things went about as smoothly as we could have hoped."); *id.* ("[T]he Commission's outreach effort has been vast, comprehensive and effective, reaching from every public housing unit in urban areas and to every farm in rural parts of America.").

[39] *See* DTV Delay Act, Pub. L. No. 111-4, § 2, 123 Stat. 112 (2009) (extending transition date to June 12, 2009).

networks.[40] After deciding to abandon the analog standard, the Commission established a five-year phaseout period to eliminate the obsolete standard quickly while also ensuring that public safety officials, persons with disabilities, and small and rural carriers would have adequate time to adjust to the new technology.[41] The Commission should invite comments on the extent to which this transition, too, could provide a model for the broadband transition.

In addition to the need for inquiry regarding the existence of a firm deadline for the phaseout of the PSTN, the *length* of the transition period is also a critical consideration. As explained above, the POTS business is in terminal decline. For that reason, it is almost certainly the case that the longer the PSTN must be maintained, the more resources will be diverted away from much-needed investments in broadband. The Commission should therefore seek comment on how quickly the transition can be accomplished. Even if a proposed deadline appears a stretch at first glance, the success of the analog-to-digital transitions for CMRS and broadcast television would appear to support the conclusion that, with proper leadership from the Commission, service providers, consumers, government agencies, equipment manufacturers, the public safety community, and other stakeholders can work together to make the transition happen smoothly and in a timely manner.

B. Creating the Preconditions for a Successful Transition Through the Resolution of Several Longstanding Issues

There are additional concrete steps the Commission can and should take now to facilitate the transition to broadband. A central goal of telecommunications regulation at the state and federal level has long been – and remains today – the provision of universal service at affordable rates. Today, that goal is served by a complex morass of state and federal regulatory

[40] *See CMRS Analog Sunset Order* ¶ 12.

[41] *See id.* ¶¶ 17, 22-30.

requirements that creates enormous inefficiencies in the industry. The retirement of the PSTN and the transition to broadband and IP-based services represents an opportunity not only to bring the benefits of broadband to all Americans, but also to replace that regulatory morass with a more coherent regulatory framework that enables the Commission to achieve its policy goals. After the transition, implicit subsidies that now enable widespread availability of POTS – while at the same time creating substantial opportunities for arbitrage and consuming resources of providers and regulators alike – will be replaced with explicit support mechanisms that ensure the widespread availability of broadband. The current intercarrier compensation regime – with all the arbitrage and inefficiencies associated with that regime – will be replaced with the unregulated IP-based model that currently characterizes the exchange of Internet traffic. And overlapping (and at times competing) jurisdictional domains will be replaced with coherent federal regulation that is consistent with the any-distance nature of communications today.

Critically, the Commission *already* has before it proceedings that will enable it to take significant strides towards each of these goals. These proceedings are fully briefed and ripe for decision *today*, and they must be addressed promptly. Indeed, the resolution of these proceedings, while not sufficient to completing the transition to broadband, is an indispensable first step: unless these issues are resolved promptly, the industry will be ill-prepared to move seamlessly and efficiently to a broadband future.

Commission Jurisdiction. The boundaries of state and federal jurisdiction over communications have historically been predicated on the ability to discern the end points of individual telephone calls and to determine whether those calls are intrastate or interstate. That distinction has long been tenuous, and the rapid migration to IP-based and wireless services has pushed it beyond the breaking point. The integrated packages of capabilities and features that

increasingly comprise the communications marketplace undermine the historical understanding that a "call" has only two end points. Customers today can access information and reach individuals in numerous places simultaneously, using numerous applications that are typically offered as part of a single integrated service package. And mobility – long a defining characteristic of wireless service – is increasingly becoming a feature of other business and consumer applications as well, rendering it increasingly impossible to determine where communications begin and end.[42]

The Commission's assertion of its own jurisdiction has not kept pace with these rapid technological developments. In the *Vonage Order*,[43] the Commission articulated the importance of a procompetitive, deregulatory environment for the provision of VoIP and concluded that legacy state common-carrier regulation is incompatible with the federal interest in permitting competitive forces to drive the development and deployment of the service (as well as the broadband facilities over which it rides). But, although the Commission made clear in that order that the federal jurisdictional principles it applied in that order would apply not only to nomadic service but also to facilities-based VoIP,[44] it has not yet followed through on that statement and

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[42] Moreover, the prospect of using telephone numbers to distinguish the end points of a call by assuming they are physically tethered to a particular geographical location is less valid with every passing day, especially since mobile wireless numbers now exceed wireline numbers. *See* FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Local Telephone Competition: Status as of December 31, 2007*, at Tables 1, 14 (Sept. 2008), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-285509A1.pdf (showing 158,436,758 end-user switched access lines and 249,235,715 wireless subscribers as of December 2007).

[43] Memorandum Opinion and Order, *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404 (2004) ("*Vonage Order*"), *petitions for review denied, Minnesota Pub. Utils. Comm'n v. FCC*, 483 F.3d 570 (8th Cir. 2007).

[44] *See id.* ¶ 25 n.93 (stressing that the "integrated capabilities and features" of VoIP "are inherent features of most, if not all, IP-based services having basic characteristics found in DigitalVoice, including those offered or planned by facilities-based providers"); *id.* ¶ 32

expressly foreclosed the states from asserting jurisdiction over such offerings. As a result, states continue to express uncertainty regarding the scope of their jurisdiction over new and evolving IP-based services, thus undermining the regulatory certainty and stability that is necessary to foster deployment of VoIP and the broadband facilities over which it rides.[45]

The Commission should act promptly to resolve that uncertainty and to expressly establish its jurisdiction over broadband and IP-based services, including facilities-based VoIP. As AT&T and others have explained in detail,[46] the historical jurisdictional division between state and federal jurisdiction is fundamentally incompatible with IP-based technology and the multiple, simultaneous communications that IP-based technology enables. Recognition of that principle, now, is critical to establishing a proper understanding of the respective roles of this Commission and the states as the industry transitions to broadband and retires the PSTN.

Intercarrier Compensation and Universal Service. The transition away from POTS and the PSTN also implicates important policy questions with respect to universal service. Despite Congress's express admonition that implicit subsidies should be eliminated and replaced with explicit universal service funding mechanisms, implicit subsidies remain endemic in today's communications marketplace, particularly in the intercarrier compensation regime, distorting competition and creating numerous opportunities for arbitrage. At the same time, the federal

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(explaining that *all* services, including facilities-based services, sharing Vonage's "basic characteristics" – including "a requirement for a broadband connection from the user's location; a need for IP-compatible [customer premises equipment]; and a service offering that includes a suite of integrated capabilities and features, able to be invoked sequentially or simultaneously, that allows customers to manage personal communications dynamically" – would be equally exempt from state regulation).

[45] *See* Letter from Robert W. Quinn, AT&T, to Chairman Kevin Martin, FCC, WC Docket Nos. 04-36 and 06-122, CC Docket No. 96-45, at 2 (July 17, 2008) (providing illustrative examples of state proceedings).

[46] *See, e.g., id.* at 3-10.

contribution mechanism for the federal Universal Service Fund is badly broken. Due to the downward spiral of the POTS business model, assessments for universal service – which are based on interstate telecommunications revenues – are being drawn from a constantly shrinking revenue base. The contribution factor will shortly exceed 14%, and this number will only increase as POTS revenues continue to fall.[47] Meanwhile, the high-cost Universal Service Fund is being used to support legacy voice services even as universal broadband access remains an elusive goal.

Universal service remains a critically important mechanism for ensuring that all consumers have access to the nation's telecommunications network. The difficulty, however, is that the network they have access to is increasingly obsolete. The challenge, then, is to transition universal service alongside the transition to a broadband telecommunications infrastructure – *i.e.*, to make universal service policies "flexible enough to adjust to changes in technology and demand for broadband services."[48] Customers who rely on universal service today should not be left behind as the nation moves to broadband and IP-based services. But the nation *is* moving, and the Commission must therefore act to ensure that universal service remains relevant and achievable. These considerations raise several issues on which the Commission should act now, in order to establish the groundwork for a complete migration to broadband and away from the PSTN.

First, the Commission should reform intercarrier compensation. On this topic perhaps more than any other, the time for platitudes is over. As AT&T has explained at length in prior

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[47] *See* Public Notice, *Proposed First Quarter 2010 Universal Service Contribution Factor*, DA 09-2588, CC Docket No. 96-45, at 3 (Dec. 11, 2009), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2588A1.pdf.

[48] *NBP Policy Framework*, at 10.

comments, the current intercarrier compensation regime is plagued with inefficiencies and distortions that are undermining competition and deterring investment.[49] One of the many benefits of a transition to broadband and IP-based services would be the mooting of nearly all issues pertaining to intercarrier compensation. If voice service becomes just another application on a high-speed, packet-switched network, then switched access charges, reciprocal compensation, and any other forms of intercarrier compensation will presumably disappear – along with the inefficiencies, regulatory disparities, and arbitrage opportunities that currently accompany these charges. But the Commission needs to start that transition now. If it does not begin the hard work now of moving carriers away from implicit subsidies and arbitrage-based business models through comprehensive intercarrier compensation reform, it will be next to impossible to shift to an IP-based framework for the exchange of all traffic down the road.

Second, the Commission should make clear that it has statutory authority under 47 U.S.C. § 254 and/or Title I to begin an immediate transition of high-cost universal service support from POTS to broadband. Section 254 makes clear that the Commission does possess such authority.[50] Two of the enumerated universal service principles instruct the Commission to promote universal access to "advanced telecommunications *and information services*"[51] –

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[49] *See AT&T Universal Service Comments*, at 1-7 ("Under today's intercarrier compensation framework, designed for a pre-Internet and pre-competition era, identical functionalities are priced at dramatically different levels depending upon jurisdiction, technology, and regulatory status. Those regulatory disparities distort competition and investment while promoting arbitrage and sometimes outright fraud."); *see also AT&T NBP Comments*, at 83-93.

[50] The Joint Board has already concluded that "[broadband] should be eligible for support under section 254, with the goal of making it available to all." *In re High-Cost Universal Service, Report of the Federal-State Joint Board on Universal Service*, 22 FCC Rcd 20477, ¶¶ 55-62 (2007).

[51] 47 U.S.C. § 254(b)(2)-(3) (emphasis added).

evincing Congress's expectation that the Commission's universal service priorities would not be limited to legacy voice services. And the definition of "universal service" in Section 254 also rejects a static focus on legacy technologies and services: "Universal service is an *evolving* level of telecommunications services that the Commission shall establish periodically . . . taking into account advances in telecommunications and information technologies and services."[52] The current list of supported services – which only includes POTS-based features such as access to the PSTN, access to interexchange service, and access to operator and directory services – does not adequately reflect the technological innovations of recent years: "[M]any of the Commission's nine supported functionalities and services are obsolete in a broadband world where voice is simply one of many applications."[53] The Commission should therefore clarify that it has the authority to fund broadband, including broadband information services, pursuant to its authority under Section 254, and it should establish a framework that does so in a meaningful manner.

Third, and relatedly, the Commission should alter its methodology for distributing universal service funds to focus on broadband, thereby facilitating broadband deployment and in the process preparing stakeholders for a complete shift to broadband and away from the PSTN. AT&T has offered a detailed proposal – similar to the programs suggested by the Joint Board – for transitioning high-cost universal service support from legacy services to broadband.[54] That

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[52] *Id.* § 254(c)(1) (emphasis added).

[53] Comments of AT&T, Inc., *In re A National Broadband Plan for Our Future*, NBP Public Notice #19, at 15 (filed Dec. 7, 2009) ("*AT&T NBP Public Notice #19 Comments*"); *see also* 47 C.F.R. § 54.101(a) (listing supported services).

[54] *See* Comments of AT&T Inc., *In re High-Cost Universal Service Support*, WC Docket No. 05-337, at 19-25 (filed May 8, 2009); Comments of AT&T Inc., *In re High Cost Universal Service Support*, WC Docket No. 05-337 (filed April 17, 2008).

proposal entails the creation of two new funds to promote universal broadband access: a Broadband Incentive Fund for wireline service and an Advanced Mobility Fund for mobile wireless services. Ultimately, all high-cost support would be awarded through these programs, with service providers submitting applications for funds to construct new broadband facilities in unserved areas. Participation in the program would be voluntary, thereby ensuring that funding is adequate to support the planned projects and to ensure that all consumers have access to service. AT&T's proposal would lay the groundwork for a successful transition of the Universal Service Fund to broadband, and it should be adopted without delay.

Fourth, the Commission must fix the universal service contribution regime. As noted above and explained in detail elsewhere, the current methodology – which is based on interstate telecommunications revenues – is not sustainable, forward-looking, or competitively neutral. The Commission should replace it, now, with a telephone numbers and connections-based framework that would fund universal service "in a manner that more closely reflects the changing cast of providers who benefit from the shift to broadband."[55]

C. Seeking Comment on a Range of Legal and Policy Questions Related to the Transition

At the same time as it moves promptly to resolve longstanding issues that will establish the preconditions for a successful transition to broadband, the Commission should also set its sights further down the road, to anticipate potential challenges to that transition and to ensure that, after the retirement of the PSTN, the Commission is able to continue to fulfill the policy goals established by Congress. We explained above the importance of establishing a firm deadline for the retirement of the PSTN and recommended including that topic in a Notice of

[55] *AT&T NBP Public Notice #19 Comments*, at 3-5.

Inquiry. In this section, we address other issues on which the Commission should seek comment in that Notice of Inquiry.

1. Carrier-of-Last-Resort and Other Potential Legacy Obstacles to the Transition

The Notice of Inquiry should seek comment on whether and the extent to which legacy state legal requirements are an obstacle to universal broadband access. As noted above, incumbent LECs historically provided service pursuant to an exclusive franchise that was coupled with extensive "carrier of last resort" ("COLR") and other legacy requirements that imposed an obligation to serve all customers, at regulated rates, within a particular area. The exclusive franchise portion of that regulatory compact has long since vanished, but ILECs in many cases remain obliged to provide basic voice service throughout their service areas, including in rural and high-cost areas, often at rates significantly below cost.[56] Because these state requirements are not generally imposed on cable companies or competitive providers of voice and data service, they permit competitive providers to focus on the customers who are easiest to serve, while leaving ILECs bound by COLR rules to serve the highest-cost and most-difficult-to-serve customers. Under these circumstances, ILECs may have little incentive to upgrade their networks or invest in broadband in high-cost areas. This investment will continue to lag as long as ILECs are forced to keep providing legacy services at below-cost rates.[57]

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[56] *See, e.g.*, General Order, *In re Possible amendments to the "Local Competition Regulations"*, Docket No. R-29564, at 22, App. A § 601(A) (La. P.S.C. Dec. 14, 2006) (ILECs "are obligated to provide basic local service to all customers upon request for such service within the ILECs' historically designated service areas until relieved of this obligation by the Commission"); *see also AT&T NBP Public Notice #19 Comments*, at 19-20 (providing overview of COLR requirements).

[57] *Accord United States Telecom Ass'n v. FCC*, 290 F.3d 415, 424-25 & n.2 (D.C. Cir. 2002) ("low UNE prices" that result from TELRIC have the "direct effect" of "reduc[ing] the

Equally important, to the extent these requirements require the continued availability of POTS service, they may serve as a legal obstacle to the retirement of the PSTN and, thus, as an impediment to the transition to broadband.

The Commission accordingly should seek comment on whether and the extent to which legacy COLR and related obligations conflict with the federal policy objective of universal broadband deployment and whether such obligations could reasonably coexist with a phaseout of POTS and the PSTN.[58] In AT&T's view, the transition away from the PSTN to broadband and IP-based services cannot occur successfully without transitioning away from the legacy state regulatory requirements that force continued investment in and maintenance of the PSTN. That transition will require the elimination not only of all legacy state requirements that mandate the continued provision of POTS, but also any such requirements that hinder the retirement of physical network assets used to provide POTS. The Commission should accordingly seek comment on how best to accomplish that transition. It should ask, for example, whether and the extent to which the Commission must foreclose state regulation of all broadband and IP-based services; what steps the Commission can take to encourage states voluntarily to eliminate legacy requirements that impede the transition; and whether the Commission should make federal

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incentives for innovation and investment in facilities" and "inherently tend to expand" that effect).

[58] *Accord Vonage Order* ¶ 21 & n.78 (noting FCC's "long-standing national policy of nonregulation of information services" and its unwillingness to apply "public-utility type" regulations to such services); *Vonage Holdings Corp. v. Minnesota Pub. Utils. Comm'n*, 290 F. Supp. 2d 993, 1002 (D. Minn. 2003) (acknowledging "the recognizable congressional intent to leave the Internet and information services largely unregulated"), *aff'd on other grounds*, 394 F.3d 568 (8th Cir. 2004); *see also Geier v. American Honda Motor Co.*, 529 U.S. 861, 873 (2000) (state law may not "stand[ ] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress").

universal service funding for broadband conditional on states removing legacy POTS obligations.

2. ILEC Obligations under Section 251 of the 1996 Act

The Commission should also use a Notice of Inquiry to seek comment on how the pro-competitive, de-regulatory regime set forth in Section 251 of the 1996 Act would apply after the transition to broadband.

First, the Commission should invite comment regarding the role of unbundling under 47 U.S.C. § 251(c)(3) after the sunset of the PSTN and POTS. In light of the development of a competitive broadband market, the Commission has refused to impose unbundling and other legacy common-carrier regulations on next-generation loop architecture.[59] That deregulatory policy has resulted in an enormous amount of investment in broadband and made the goal of universal broadband within reach.[60] The Commission should seek comment on the best ways to build upon those successes as the industry transitions to broadband and phases out the PSTN.

Second, the Commission should solicit comment on the proper role of state commission-approved interconnection agreements in connection with the transition from the PSTN to

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[59] *See* Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978 ¶¶ 272-280, 288-295 (2003) (subsequent history omitted); *see also* Declaratory Ruling and Notice of Proposed Rulemaking, *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*, 17 FCC Rcd 4798 (2002), *aff'd in part, vacated in part, and remanded, Brand X Internet Servs. v. FCC*, 345 F.3d 1120 (9th Cir. 2003), *rev'd and remanded, National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005); *Wireline Broadband Order*; Declaratory Ruling, *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, 22 FCC Rcd 5901 (2007); Memorandum Opinion and Order, *United Power Line Council's Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service*, 21 FCC Rcd 13281 (2006).

[60] *See, e.g.*, Comments of AT&T Inc. on Berkman Center Report, at 28-29, GN Docket Nos. 09-47, 09-51, and 09-137 (filed Nov. 16, 2009); *AT&T Comments on CITI Report*, at 9-10.

broadband. Those agreements establish terms and conditions for access to legacy facilities and services that will be retired as the industry transitions to broadband. The Commission should seek comment on how best to ensure that the existence of these agreements does not serve to impede the transition by preventing providers from retiring legacy facilities and services.

3. Public Safety, Law Enforcement, and Accessibility Issues

The Commission should also seek comment on how the transition from the PSTN to broadband will affect a broad range of social policy programs that the Commission administers. In the VoIP context, the Commission has consistently demonstrated its ability to ensure that federal social policy interests – including, for example, law enforcement, privacy, and disabilities access – are not compromised in the course of introducing new technology.[61] The retirement of the PSTN and the transition to broadband will present similar challenges. As the PSTN declines into oblivion and broadband takes its place, consumers are increasingly relying for their communications needs on services and applications that may fall outside the Commission's traditional regulatory authority. That inevitable migration, which is already underway, requires the Commission to give thought to how best to pursue federal social policy goals in an era when many if not most communications occur using non-traditional services. It makes little sense, for example, to put in place a regulatory structure to serve the needs of law enforcement and public safety but to exclude from that structure IP-based applications that increasingly supplant traditional communications services – doing so would create a law-enforcement-free zone of

[61] *See, e.g.*, First Report and Order and Notice of Proposed Rulemaking, *In re IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 5 (2005) (requiring interconnected VoIP providers to provide E911 service but granting these firms "flexibility to adopt a technological solution that works best for them"), *aff'd, Nuvio Corp. v. FCC*, 473 F.3d 302 (D.C. Cir. 2006); First Report and Order and Further Notice of Proposed Rulemaking, *Communications Assistance for Law Enforcement and Broadband Access and Services*, 20 FCC Rcd 14989, ¶ 8 (2005).

communications that could frustrate national security and public safety, while at the same time compromising competitive neutrality. The Commission should accordingly seek comment on how best to ensure competitive neutrality and sufficiently broad coverage to serve the needs of the public and law enforcement, including how the Commission can meet the needs of law enforcement and public safety in circumstances where most communications occur as applications that run over a broadband network.

The Commission should likewise seek comment on disability issues. As the Commission has recognized, "[p]ersons with disabilities can benefit, perhaps more than any other group of Americans, from advanced services. Advanced services can bring this population significant educational, employment, and recreational opportunities."[62] The Commission accordingly should invite comment on the ways in which persons with disabilities will benefit from the transition to an all-broadband network and steps that would help to ensure a smooth transition for these individuals.

The Commission also should seek comment on how the schools and libraries and rural health care programs would be affected by the phaseout of the PSTN. In particular, comments should address how schools, libraries, and rural health care providers would benefit from the transition, as well as the steps that would have to be taken to ensure a minimally disruptive transition for these entities.

Likewise, the Notice of Inquiry should address how to ensure that the phaseout of the PSTN does not leave individuals who do not use computers without service. There is every reason to believe that such individuals can be accommodated easily in a transition away from the

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[62] Second Report, *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 15 FCC Rcd 20913, ¶ 234 (2000); *see also AT&T NBP Comments*, at 51-52.

PSTN; there are, for example, already inexpensive devices that allow VoIP customers to plug traditional telephones directly into broadband connections.[63] AT&T expects that comments will demonstrate myriad ways to ensure that the transition to broadband does not negatively affect consumers without computers.

4. Eliminating the PSTN Regulatory Superstructure

Finally, the Commission should seek comment on how best to facilitate the transition in light of the plethora of state and federal regulations pertaining to POTS service and the PSTN. As explained above, AT&T's view is that the assertion of federal jurisdiction over broadband and IP-based services is critical to the success of the transition, and that assertion will itself serve to eliminate certain vestigial aspects of federal and state telecommunications regulations (including, for example, separations-related requirements). But certain state and federal public-utility style regulations may remain – *e.g.*, service quality requirements, reporting, recordkeeping, data collection, accounting, and other requirements – that could impede the transition.[64] For example, depreciation and amortization rules may hinder the transition by limiting how quickly carriers may write off retired equipment. The Commission should ask for comments to identify such regulations and to describe whether and how those regulations could obstruct the transition. And, to the extent that such legacy regulations are incompatible with a

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[63] Vonage provides its customers with a small, portable device that allows existing cord or cordless phones to be plugged into any broadband connection. *See* Vonage, *Phone Adapter*, *at* http://www.vonage.com/how_vonage_works_adapters/?lid=adapter_link.

[64] *See, e.g.*, *Vonage Order* ¶ 10 (describing Minnesota public utility regulations a state commission sought to apply to Vonage's VoIP service); Memorandum Opinion and Order, *Petition for Declaratory Ruling That pulver.com's Free World Dialup Is Neither Telecommunications Nor a Telecommunications Service*, 19 FCC Rcd 3307, ¶ 15 (2004).

transition away from the PSTN, comments should address how to ensure that such regulations are phased out or displaced so as not to impede that process.

CONCLUSION

The Commission should promptly take the steps discussed above to facilitate a prompt and efficient transition to broadband and retirement of the PSTN.

Respectfully submitted,

/s/ Cathy Carpino

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December 21, 2009

OCA Statement 1-S
4/15/10 Hrg

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 TCG New Jersey, Inc. and TCG Pittsburgh, Inc. v. Armstrong Telephone Company-Pennsylvania, et. al.	))))	Docket No. C-2009-2098380, et al.,

SURREBUTTAL TESTIMONY OF DR. ROBERT LOUBE

ON BEHALF OF

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

April 1, 2010

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SURREBUTTAL TESTIMONY OF
ROBERT LOUBE

I. Introduction and Summary

Q: Please state your name and business address.

A: My name is Robert Loube. My business address is 10601 Cavalier Drive, Silver Spring, Maryland 20901.

Q: On whose behalf are testifying?

A: I am testifying on behalf of the Pennsylvania Office of Consumer Advocate ("OCA").

Q: Are you the same Robert Loube that filed Direct Testimony in this matter on January 20, 2010?

A. Yes.

Q: Please summarize your testimony.

A: My Surrebuttal Testimony will examine the issues raised by the Rebuttal Testimony of Verizon witness Mr. Price, Qwest witness Mr. Easton, Sprint witness Mr. Appleby and the AT&T Panel witnesses. With regard to the testimony of Mr. Price, I will discuss why Verizon's intrastate traffic sensitive access rates are not an acceptable benchmark for the rural incumbent local exchange carrier ("RLEC") intrastate traffic sensitive access rates. I will explain why the access revenue reduction should ~~be~~ not be recovered only from retail end-user customers. I will demonstrate that Verizon's retail rates have not been artificially constrained by

regulation, and I will show that the OCA comprehensive plan will not be a permanent guaranteed source of revenue. With regard to Mr. Easton's testimony, I will address the impact of the reduction in access charges on long-distance rates. I will discuss the impact of the Buffalo Valley case on this proceeding, and I will clarify the relationship between the Pennsylvania Universal Service Fund ("PA USF") and the federal universal service mechanisms. With regard to Mr. Appleby's testimony, I will discuss his contention that the RLEC's are seeking a rate-of-return regulation solution to this proceeding and whether loop facilities investments and costs should be assigned only to basic local exchange service. With regard to the AT&T Panel witnesses, while I appreciate that AT&T has moderated its position in this case in its Rebuttal Testimony, there are still differences between their position and the OCA's comprehensive proposal in this case. For example, I will explain that the OCA comprehensive plan does not support an immediate reduction in access charges on a standalone basis. Rather the plan supports the adoption of an interrelated set of recommendations. In addition, I will discuss the fact that all users of the network should contribute to the support of network joint and common costs, the establishment of a just and reasonable benchmark and the need to provide a permanent replacement for any reduction in access charges and changes in support levels over time.

II. Response to Verizon

Q: What are your concerns with regard to the Rebuttal Testimony of Mr. Price?

A: My concerns include: (1) re-statement of the argument from Mr. Price's Direct Testimony that RLEC access rates should be set equal to Verizon's intrastate access rates; (2) the insistence that the access reduction should be recovered only from retail end-user customers; (3) the assertion that Verizon's residential rates have been artificially constrained and therefore, those rates should not be used to determine the comparability standard; and (4) the allegation that the OCA is proposing a permanent guaranteed revenue offset.

Q: What is the basis for Mr. Price's recommendation that RLEC intrastate rates should be reduced to Verizon's intrastate rates?

A: The basis is that the RLEC rates are substantially higher than Verizon's rates. Mr. Price notes that average RLEC rate is approximately 5 cents per minute while the Verizon rate is 1.7 cents per minute. In addition, Mr. Price notes that some RLECs are charging more than 10 cents for the same service.

Q: Please explain your concerns regarding Mr. Price's recommendation and the basis for that recommendation.

A: My first concern is that Mr. Price ignores the fact that RLEC traffic sensitive costs may be higher than Verizon's traffic sensitive costs. The RLEC traffic sensitive costs are approximately equal to their interstate

traffic sensitive rates. The Verizon traffic sensitive rate is less than the RLEC interstate traffic rate for 29 of 30 PTA RLECs. Thus, if the RLECs were to adopt the Verizon traffic sensitive rate, 29 of the 30 PTA RLECs would be required to sell traffic sensitive access services at below cost. My second concern is that Verizon's comparisons are skewed by the inclusion of the carrier line charge on a per minute basis. All parties to this proceeding agree that the overwhelming portion of any access revenue reduction that would take place if the Commission were to order interstate and intrastate access rate parity would be tied to the reduction in the carrier line charge. Any comparisons between Verizon and RLEC rates should compare the traffic sensitive rates separate from the combination of traffic sensitive and common line rates. For 16 of the 30 carriers, the intrastate rates are less than the interstate rates. Thus, without even reducing the RLEC rates to the Verizon intrastate rates, there are already 16 RLECs with rates below cost.

Q: What are reasonable intrastate traffic sensitive rates for the RLECs?

A: Reasonable intrastate traffic sensitive rates for the RLECs would be to set the intrastate traffic sensitive rate equal to the interstate traffic sensitive rate as discussed in my comprehensive plan. This rate setting principle would reduce the incentive for regulatory arbitrage, set rates approximately equal to cost, and prevent basic service from supporting access services. Adopting the Verizon proposal would establish below cost rates and force basic service to support access service.

Q: What is your concern with Mr. Price's insistence that access revenue reductions be collected from retail end-user customers?

A: My concern is that Mr. Price's insistence on recovering access revenue reductions from retail end-user customers is based on the false premise that carriers should obtain all of their revenue from their retail customers. Wholesale customers are also customers of the company. When Verizon provides long distance services to customers of the RLECs, every call that is transported over Verizon's long distance network terminates or originates on RLEC loop facilities. Thus, wholesale customers, such as Verizon's long distance network, consume the services provided by the facilities and equipment of every carrier, and wholesale customers should not be provided with a free-ride on those facilities and equipment.

Q: Does Mr. Price provide any rationales for why the RLEC intrastate access rates should be reduced?

A: Yes. He claims that the difference between the intrastate and interstate rates distorts economic incentives and leads to economic inefficiencies and that the high access rates contain implicit subsidies that have maintained low basic exchange rates.

Q: Does the difference between the RLEC intrastate and interstate rates require a reduction in the intrastate rates?

A: No. The distortion and inefficiencies could be eliminated by either reducing the intrastate rates or increasing the interstate rates. As I stated in my Direct Testimony, the only reason for reducing the intrastate rate to

eliminate those distortions is because the Commission is pre-empted by the Federal Communications Commission ("FCC") from establishing the best solution of one rate for all intercarrier compensation, with that rate being the ratio of all intercarrier compensation revenue divided by all intercarrier compensation minutes. Such a one rate rule would eliminate most of the distortions without an increase in local rates or PA USF support.

Q: Even though Mr. Price asserts that subsidies exist, has he defined the term "subsidy"?

A: No.

Q: Have you provided the Commission of a definition of the term "subsidy"?

A: Yes. A service receives a subsidy if the rate for the service is below the incremental cost of the service and a service pays a subsidy if the rate for that service is above the stand-alone cost of the service. Please see my discussion of this issue in my January 20th Direct Testimony in this proceeding at pages 69 to 75.

Q: Has Mr. Price provided any criticism of the definition of the term "subsidy" that you have put forth in this proceeding?

A: No.

Q: Has Mr. Price provided any evidence that shows that the rate for basic local exchange service is below the incremental cost of that service?

A: No. Instead, he merely repeats that there is a subsidy without ever presenting evidence that a subsidy exists.

Q: Have you provided any evidence that supports a conclusion that basic local exchange service is not receiving a subsidy?

A: Yes. In the proceeding conducted by ALJ Colwell at this docket, I showed that local rates are greater than the closest available proxy for incremental cost. That proxy was the total cost of service less the joint and common cost associated with loop facilities and equipment. (Loube, Direct Testimony, page 25, lines 9-12).

Q: If basic local exchange rates are not being subsidized then why should there be a PA USF?

A: The fund is required to ensure that there is sufficient revenue to support the network that provides not only basic local exchange service but also access service, and data services. Basic local exchange rates would have to be increased substantially above the just and reasonable standard to support the network that provides services to all customers. Currently, access charges, along with support from both the federal and the PA USF, fill-in the gap between just and reasonable basic local exchange rates and total network costs. Thus, as long as basic local exchange rates are at just and reasonable levels, any reductions in access revenue must come from the only remaining source of revenue, universal service funds.

Q: Are you referring to rate-of-return cost of service when you discuss network cost?

A: No. Pennsylvania regulates incumbent local exchange carriers according to price-cap regulation as set forth in Chapter 30 of the Public Utility Code. Therefore, comparisons to rate-of-return cost of service are not relevant to this discussion. Instead, I was referring to the economic total network cost of service that is derived from economic engineering models such as the FCC's Synthesis Model.

Q: What type of cost does the Synthesis Model calculate?

A: The FCC's Synthesis Model calculates the forward-looking economic cost of a network that provides all of the telecommunications services sold by the carrier. It uses most efficient network design and most efficient technologies. Input costs are current input costs and are not the embedded costs used in a rate-of-return proceeding. The model cost would be the cost of an efficient entrant into the market if that entrant served the entire market.

Q: What is the relationship between just and reasonable rates and model costs for the RLECs?

A: According to the economic cost study I submitted in the proceeding before ALJ Colwell, the forward-looking model costs of the network are between 1.8 and 6.7 times higher than the just and reasonable benchmark rate of $17.09 discussed in my Direct Testimony. This implies that it would be impossible to require the basic local exchange rate to recover all network costs and keep the basic local exchange rate at a just and reasonable level.

Q: What is your concern with Mr. Price's assertion that Verizon's basic exchange rates have been artificially constrained by regulation?

A: My concern is that the assertion is just plain wrong. Verizon rates have not been artificially constrained by regulation. If anything Verizon rates are too high and its urban rates are especially too high.

Q: Why does Mr. Price believe that Verizon's rates have been artificially constrained?

A: Mr. Price bases his assertion on the fact that for some years Verizon was not allowed to increase its rates and, in other years, Verizon actually had to lower its rates, and only since 2004 has Verizon been able to increase its rates with inflation.[1] Thus, Mr. Price is asserting that any regulation that does not allow Verizon to increase it rates at the level of inflation is an artificial constraint.

Q: Do you agree that a price-cap formula that holds rate increases below the level of inflation is an artificial constraint?

A: No. Price cap regulation establishes an annual allowed change in price that is equal to the long-run trend in industry cost. If the carrier's change in cost is below the long term trend, then the carrier is rewarded with additional profits equal to the difference in the change in price and its change in cost. If the carrier's change in cost is above the industry long run trend, the carrier absorbs the loss which is the difference between the

[1] In addition, the AT&T panel witnesses repeat the argument that Verizon rates are too low due to the fact the carrier common line charge provides revenue equal to 58 cents per line. That argument is based on the unsupported claim that the carrier common line charge is a subsidy.

allowed price change and its higher cost increase. Therefore, through increases and decreases in profits, price-cap regulation provides the carrier with an incentive to reduce expenses in order to increase profits. Nothing in price-cap regulation requires that the allowed rate increase should be equal to the general level of inflation. If the long term industry cost trend is less than the general level of inflation, then price cap regulation would reduce rates every year.

Q: How is the industry long-term cost trend determined?

A: The industry long-term cost trend is determined by the rate of inflation of industry inputs and the productivity of those inputs. The inflation rate increases costs and hopefully productivity decreases costs. Determining industry input inflation is not as easy as it may seem and it can vary substantially from year to year. For example, if the earthquake in Chile had occurred in the northern copper mines, it might have generated a huge increase in copper cable prices. To smooth the variations in industry annual input price change, most price cap formulas use annual changes in a GDP price inflator with an adjustment for the long term difference between industry input inflation and economy wide inflation and an additional offset for productivity. According to Chapter 30, these adjustments and offsets are called the "inflation offset."

Q: Was the inflation offset unreasonably high prior to the change in Chapter 30 in 2004?

A: The inflation offset was not unreasonably high prior to the change in ~~the~~ Chapter 30 in 2004. Verizon PA's inflation offset was 2.93% in its original Chapter 30 plan. In comparison, the FCC had studied the productivity of local exchange carriers and other factors affecting its equivalent of the inflation offset. The FCC first adopted ~~an~~ An offset of 3%. Later, however, the FCC increased that offset to 4.0%, and later again increased the offset to 6.5%. In the CALLS Order, the FCC established that the offset should equal the inflation rate, which for all practical proposes freezes the access rates for price cap carriers. In Delaware, the Verizon inflation offset is 3%.

Q: Why do you believe that Verizon's residential rates may be too high?

A: The residential rates may be too high because neither Verizon nor the Commission has addressed the issue of separating the cost of non-regulated services such as video services from the cost of telephone services. Prior to the FCC's Wireline Broadband Order, Verizon was required to separate the cost of non-regulated services from the cost of regulated services. In the Wireline Broadband Order, the FCC found that Verizon no longer had to perform Part 64 studies with regard to information services. In its ARMIS Forbearance Order, the FCC found it no longer had a federal need to require Verizon to conform to its cost assignment rules, including its Part 64 rules. The FCC emphasized that it did not preempt any state accounting requirements adopted under state authority.

Q: What is the implication of the FCC orders?

A: Under these Orders, Verizon is no longer required to separate its telephone company investments and expenses between regulated and non-regulated services at the very time when Verizon is investing heavily in providing additional non-regulated services, such as video services, using its FiOS network. The productivity of such a network is the ratio of the rate of growth of the output of all these services divided by the rate of growth of all of the inputs of these services. Because no one has conducted a productivity study of the combined network, it is impossible to claim that the inflation offset that is embodied in the Chapter 30 law is too high or too low. Until such a study is performed, any assertion on Verizon's part that its rates have been artificially constrained is purely speculative and should not have any bearing on this case.

Q: Have Verizon's urban rates been constrained?

A: No. On the contrary, regulation has consistently established high urban residential rates.

Q: Why do you assert that regulation has maintained high urban rates?

A: The Verizon urban residential rates are high because those rates are established using value of service pricing and because those rates are substantially higher than Verizon's unbundled network element ("UNE") rates in urban zones.

Q: What is value of service pricing?

A: Value of service pricing occurs when customers are charged on the basis of the size of their local calling areas. Value is based on the number of customers that can be called in any customer's local calling zone. The value increases when the number of customers in the calling zone increases. Thus, under this principle and because of this principle, regulation has maintained higher rates in Verizon urban density cells 1 and 2 than in more rural density cells 3 and 4 because customers in density cells 1 and 2 can call more people in their local calling area then customers in density cells 3 and 4 can. As such, in choosing to set rates under the value of service principle rather than according to the cost of providing service, regulation has maintained artificially high rates in urban areas in Pennsylvania.

Q: Why does the fact that urban residential retail basic local exchange rates are greater than UNE rates imply that regulation has artificially increased urban rates?

A: As I noted above, UNE rates include the cost of the network required to provide all services. As such, UNE rates approach the stand-alone cost of service. If the rate for one service allows for the recovery of the cost of the network that provides all other services, then that service, in this case residential basic local exchange service, is supporting all other services. Moreover, if the rate is above the stand-alone cost of the network then that service is subsidizing all other services. On the other hand, in a competitive market, price would approach the forward-looking cost of

service. A comparison of Table 1-S costs to Verizon's urban rates shows that Verizon's urban rates are above the UNE cost of service. Such a relationship supports a conclusion that Verizon's urban rates are artificially high.[2]

TABLE 1-S	Loop	Port	Switching	Total
Zone 1	6.77	1.68	2.55	11.00
Zone 2	9.25	1.68	2.55	13.48
Average	8.01	1.68	2.55	12.24
Separations Factors	0.75	0.8725	1	
State Cost	6.01	1.47	2.55	10.02
125% of State Cost				12.53
SLC				6.05
State Revenue Responsibility				6.19
125% of State Revenue Responsibility				7.74

Q: What is the implication of the artificially high Verizon urban rates for determining the benchmark?

A: The implication is that the benchmark should not rely solely on Verizon's urban rates. Rather, it is reasonable to use all of Verizon state-wide rates, including the high urban rates and the low rural rates, to determine the benchmark.

Q: Please discuss your concern regarding Mr. Price's allegation that the OCA is proposing a permanent guaranteed revenue offset.

A: The allegation is not correct. The OCA proposal would reduce PA USF support whenever the benchmark, determined as Verizon state-wide

[2] Table 1-S calculations are based on Verizon's UNE rates and the National Regulatory Research Institute's UNE Matrix methodology for determining the UNE cost of service. The State Cost

average rates, increases. Given that it is likely that Verizon's state-wide average rate will increase annually, the OCA proposal would reduce support annually.

Q: Please explain.

A: In the first year, PA USF support replaces the access revenue reduction associated with the OCA comprehensive plan's access rate recommendation. In the second and all future years, the benchmark would increase as the Verizon average state-wide rate increases. Under the OCA's comprehensive plan, the RLECs will have the opportunity to increase local revenue by the difference between the current benchmark ($17.09) and the new benchmark times the number of lines in the second year times 12 months. For example, if the carrier serves 10,000 lines and the benchmark increases to $17.50, then the PA USF support would decrease by $49,200 (41 cents times 10,000 lines times 12 months) in the second year, and with every further increase in the benchmark, the fund size would also decrease. Based on the 2,044,768 lines served by RLECs in 2008, the decrease for the entire fund would be approximately $10 million in the second year (41 cents times 2,044,768 times 12 months).

Q. Do you have any other concerns about Verizon's Rebuttal Testimony?

A. Yes. In general, as with Verizon's Direct Testimony, Verizon's Rebuttal seems to place a greater emphasis on competition than on universal

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calculation uses the loop gross allocator and Verizon's frozen DEM allocator. The State Revenue Responsibility calculation uses the Verizon Pennsylvania Subscriber Line Charge.

service when there is no support for that in state or federal law. Such an emphasis, either implicit or explicit, must be rejected.

III. Response to Qwest

Q: What issues raised in Mr. Easton's Rebuttal Testimony do you wish to address?

A: I wish to address the alleged need to reduce RLEC intrastate access rates to Verizon's intrastate access rates. Second, I wish to address the impact of the reduction of RLEC access rates on long distance rates. Third, I wish to discuss Mr. Easton's legal conclusion regarding the impact of the Buffalo Valley decision on this proceeding. Finally, I will clarify how the OCA comprehensive plan will affect the PA USF contribution base.

Q: What is the basis for Mr. Easton's recommendation to reduce RLEC intrastate access rates to match Verizon intrastate access rates?

A: The basis for his argument is that the differential between the rates is an incentive for carriers to engage in traffic pumping. He cites to the existence of 13 cent per minute interstate access rates in Iowa to support his claim.

Q: Will any Pennsylvania carriers have 13 cent per minute access rates if the Commission adopts the OCA comprehensive plan?

A: No. The RLEC's weighted average rate is about 5 cents. Most RLEC interstate access rates are between 1 and 3 cents. Thus, the incentive to engage in traffic pumping is smaller in Pennsylvania than in Iowa because the differential between RLEC rates and non-rural carriers' rates is

substantially smaller in Pennsylvania than in Iowa. Parties wishing to engage in traffic pumping would be more likely to operate in Iowa rather than in Pennsylvania.

Q: Will reducing RLEC traffic sensitive intrastate access rates to Verizon traffic sensitive intrastate access rates cause unnecessary harm?

A: Yes. The unnecessary harm would be to reduce the rates to below cost levels. Charging less than cost is inefficient. It would require excessive increases in basic local service or excessive increases in PA USF support payments or both.[3]

Q: Will the reduction in Pennsylvania RLEC intrastate access rates provide a consumer benefit in the form of reduced toll rates?

A: No. Mr. Easton readily admits this when he states "long-distance rates are set on a national basis using a model that includes access costs for multiple jurisdictions." (Easton Rebuttal Testimony, page 4, lines 1-2). Because long-distance rates are set nationally, this proceeding will have very little impact on those rates. Even though the consumer benefit associated with access reduction will probably be either extremely small or non-existent, the OCA is supporting a plan to reduce access rates in order to provide a plan that will preserve universal service and affordable rates while attempting to match anticipated FCC mandates.

[3] With regard to the carrier common line charge, both the A&T proposal and the OCA comprehensive plan eliminate the RLEC carrier common line charge, while Verizon will retain its 58 cent per-line charge.

Q. At page 5 of Mr. Easton's Rebuttal Testimony, he references the recent decision by the Pennsylvania Commonwealth Court regarding the appeal of the Buffalo Valley Telephone Company's 2006 Price Stability Mechanism, or PSM, filing made pursuant to their Chapter 30 plans. There he states "And, to the extent that either a 120% or 125% benchmark results in a particular RLEC rate exceeding the $18.00 cap on residential basic local exchange service, counsel informs me that the Commonwealth Court of Pennsylvania has recently affirmed the Commission's decision that this rate cap can be exceeded for such a purpose." Do you agree with Mr. Easton's characterization of the Court's decision?

A. No. While I am not a lawyer, on advice of counsel, Mr. Easton is confusing two separate issues in making that statement. At issue in that appeal was the use of the PA USF to maintain an $18 rate cap on basic local exchange service rates when that cap is exceeded due to the implementation of the inflation-based annual PSM filings made by the individual RLECs. Such filings indicate how much the RLECs can increase their noncompetitive revenues pursuant to their Commission-approved Chapter 30 plans. In this investigation, however, we are talking about using the PA USF to offset revenue-neutral rate rebalancing increases associated with any reduction of intrastate access rates. The use of the PA USF to offset intrastate access reductions was not an issue in that appeal and remains in place today.

Q: Mr. Easton expressed concern with regard to whether the OCA Plan would interfere with the federal USF program (Easton page 6 line 1 to page 7 line 8). Is his concern reasonable?

A: No. The OCA recommendation retains the current PA USF practice that the contribution factor will be assessed against intrastate retail telecommunications revenue. With regard to VoIP and wireless providers, the intrastate retail telecommunications revenue would be determined using 1 minus the interstate safe harbor that the FCC has established for those carriers.[4] Thus, the OCA comprehensive plan will not interfere with or burden the federal USF program.

IV. Response to Sprint

Q: Do you agree with Mr. Appleby's assertion that the RLEC's have attempted to turn this proceeding into a rate case but have failed to produce the financial information to prove their case (Appleby, Rebuttal Testimony, page 12)?

A: I do not agree with that statement because the RLECs have not attempted to turn the case into a rate case. Instead, they are following the requirements in Chapter 30 and requesting the right to obtain replacement revenue associated with an anticipated Commission directive to reduce access rates.

[4] In cases where carriers chose not to use the safe harbor but instead use an interstate revenue percentage based on the usage of their network, the intrastate percentage would be 1 minus the carrier's interstate percentage.

Q: Is Mr. Appleby attempting to turn the case into a rate-of-return regulation rate case?

A: Yes. Mr. Appleby wishes to determine the state jurisdictional revenue requirement. He suggests that this should be done by first applying Part 64 rules to separate the RLECs non-regulatory costs from its regulatory costs. Next, he would use a fully distributed cost model that incorrectly assigns the entire cost of the loop to basic service customers to determine the cost of providing local service because such an extreme allocation is the only way to support his claim that local service is being subsidized. He would consider all vertical service revenue and revenue earned by affiliates selling complementary services as pro forma support revenue that could be used to offset the reduction in access revenue. Finally he would make PA USF support contingent on a showing that the TELRIC cost of service is above the AT&T inflation adjusted benchmark. Each of Mr. Appleby's adjustment may be relevant in a rate-of-return proceeding. However, unless there is a change in the Pennsylvania law, I have been advised by counsel, that those adjustments cannot be implemented.

Q: Is there any other issue raised by the rebuttal of Mr. Appleby that is different from the issues raised by the other parties?

A: Yes. Mr. Appleby states that "the entire loop expense – 100% is incurred as soon as a customer orders basic local service. The entire cost of the local loop is created and should be paid by an RLEC's local customer." (Appleby, Rebuttal Testimony, page 5, line 22 to page 6, line 3).

Q: Do you agree with Mr. Appleby's statement regarding loop cost causation and recovery?

A: No.

Q: Please explain.

A: The local loop provides multiple services such as access to long-distance carriers, Internet data services and in some instances video services. Thus, the entire loop expense is not incurred solely to provide local service. It has been incurred to provide the multitude of services that it provides and cost recovery is the responsibility of all of those services.

Q: Have the federal courts recognized that cost recovery is a function of all of the services that use the loop?

A: Yes. Since the United States Supreme Court decision in Smith v. Illinois,[5] the courts have recognized that the cost recovery of the loop is a function of the services that use the loop and it is incorrect to allocate 100% of loop expense to local service.

Q: Does the FCC recognize that the loop is a joint and common cost associated with the provision of multiple services?

A: Yes. For example, the FCC has recently stated:

> For example, a copper loop can be used to provide analog voice service as well as data service using DSL technology. The cost of the loop is therefore common to both voice and DSL services. The incremental cost of voice service, assuming that DSL is already provided, therefore does not include any of the long run incremental cost of the loop itself. Similarly, the incremental cost of DSL, assuming voice is already provided, includes only that portion that

[5] *Smith v. Illinois Bell Telephone Co.*, 282 U.S. 133 (1930).

may be required to condition the loop to meet the higher quality standards that may be required for the data transmission.[6]

Q: Does Mr. Appleby's own Rebuttal Testimony conflict with his statement?

A: Yes. Mr. Appleby states that "the singularly narrow-band, voice-only network that was tasked with delivery of only voice services is being modified into a broadband network capable of delivering voice, broadband, and so many more services to the citizens of Pennsylvania." (Appleby, Rebuttal Testimony, page 40, lines 10-13). The statement on page 40, indicating that the network is being transformed into a broadband network, clearly demonstrates that his statement on page 5, that the loop is provisioned for and should be recovered only from local service, is wrong and antiquated.

Q: Mr. Appleby also provides several examples in his Rebuttal Testimony to rebut the assertion made by Office of Trial Staff witness Kubas that competitive carriers are attempting to receive a free ride on RLEC facilities by reducing or eliminating intrastate access charges. Please comment on the examples of joint use of the telephone network discussed by Mr. Appleby (Rebuttal Testimony, pages 5-11).

A: As Mr. Appleby acknowledges, both the calling party and called party benefit from the existence of the public switched network. That is, the value of a telephone network for any consumer increases as more

[6] In the Matter of High Cost Universal Service Support, Further Notice of Proposed Rulemaking,

consumers are added to the network. This situation is technically known as a positive externality. The existence of a positive externality is the foundation of the economic argument for universal service funds. Therefore, Mr. Appleby's examples support the expansion of the PA USF and the expansion of the contribution base to all users of the public switched telecommunications network.

Q: Do you agree with Mr. Appleby that the loop facilities are non-traffic sensitive facilities?

A: I agree that loop facilities have traditionally been considered non-traffic sensitive, and I agree that in some cases those facilities retain that characteristic. However, in areas served by remote terminals (and rural areas are more likely to be served by remote terminals than urban areas) the entire loop is no longer traffic sensitive because the remote terminal concentrates traffic and, therefore, a portion of the loop becomes traffic sensitive. Moreover, it is clear that changes in loop design and thus costs are a function of the type of traffic carried by the loop. In many instances, a loop that carries voice and data is more expensive than a loop that carries just voice, and a loop that carries video services is more expensive than a loop that carries only data and voice. Thus, loop costs are a function of the traffic requirements of the loop.

WC Docket No. 05-337, released November 5, 2008, Appendix A, ¶ 247.

V. Response to AT&T

Q: What is your general impression of the AT&T panel witnesses' Rebuttal Testimony?

A: In general, the AT&T Rebuttal Testimony is moving toward a reasonable position regarding the issues in this proceeding. There is a recognition of the need to establish a rate benchmark, there is a willingness to allow traffic sensitive intrastate rates to match traffic sensitive interstate rates and there is agreement that it is necessary to expand PA USF support. However, I still have some concerns with the AT&T Rebuttal Testimony that I will discuss below.

Immediate Reduction vs a Comprehensive Plan

Q: The AT&T Panel witnesses assert that "OCA recommends that the RLEC's intrastate access rates *immediately* be reduced to parity with their interstate rate levels and structure." (page 4 lines 3 to 4). Did your testimony support the *immediate* reduction in intrastate access rates?

A: No. The AT&T Panel witnesses' description of my testimony is incomplete and therefore inaccurate.

Q: What did you recommend?

A: I recommended a comprehensive plan. As the AT&T panel noted, that plan included the reduction of intrastate access rates. However, those reductions were "contingent on the Commission adopting the other parts

of the OCA plan that include the expansion of the PA USF contribution and an increase of support from the PA USF for the RLECs." (Loube, Direct Testimony, page 4, line 21 to page 5, line 2).

Q: If the Commission does not adopt the OCA recommended comprehensive plan, should the Commission reduce intrastate access rates?

A: No. If the Commission does not adopt the other elements of the OCA recommended comprehensive plan, then the Commission should not reduce intrastate access rates. Such a reduction would substantially harm universal service either through significant increases in basic local service rates or through the weakening of the financial stability of the RLEC so that those carriers would no longer be in the position to meet their obligations to provide universal service throughout their service territories or to upgrade their networks.

Transitional Support

Q: Do you agree with the AT&T panel witnesses' recommendation (Panel Rebuttal Testimony, page 4, line 11) that the increase in the PA USF support should be only for a short transitional period?

A: No. If the Commission orders a long term reduction in access rates, it must be accompanied by additional PA USF support on a long-term basis as well. Moreover, in order to preserve universal service and to maintain just and reasonable rates, local rates cannot be the only source of revenue replacement. Thus, if the Commission reduces access rates it must be

prepared to expand PA USF support and to increase the long-term support to RLECs.

Benchmark

Q: Please summarize the AT&T panel witnesses' position regarding the local rate benchmark.

A: The AT&T panel witnesses assert that the basic local exchange residential rate benchmark should be set at $22 in the first year after this proceeding and then it should be increased by $1 each year for the next three years. They believe that a $22 benchmark is appropriate because that value reflects the impact of inflation on the existing $18 rate cap through mid-year 2010. Next, the AT&T witnesses increase the benchmark by $1 per year for three years to allow rates to return to "real" rates. Finally, they assert that I have argued elsewhere that a 125 percent benchmark would be appropriate.

Q: Is it appropriate to start the calculation of the benchmark at the $18 rate cap?

A: No. The rate cap and the benchmark measure two different concepts. The rate cap is the maximum rate that any RLEC could charge. Its purpose is to prevent rate increases above a reasonable level. Under the OCA's proposal, the benchmark is the floor rate that a RLEC must adopt in order to receive PA USF support. If an RLEC does not increase its rates to the benchmark then the RLEC forfeits the revenue equal to the difference between its rate and the benchmark times its lines. Thus, the benchmark

drives rate increases and differs from the rate cap that prevents rate increases.

Q: Why is inflation an inappropriate method for determining the current benchmark?

A: The use of inflation rates to determine the current benchmark is inappropriate because a benchmark so determined would meet neither an affordability nor a comparability standard.

Q: How are inflation adjusted rates different from affordable rates?

A: Inflation adjusted rates are simply rates increased by the average rate of price change in the economy, while affordable rates must be measured against the real median family income because it is the real median family income that measures the ability of families to purchase goods and services. According to the Census Bureau for Pennsylvania families, the real median family income, measured in 2008 dollars peaked at $52,901 in the year 2001. As of 2008, the Pennsylvania median family income had decreased to $51,402. That is, Pennsylvania median family income did not keep up with the rate of inflation. In 2008, Pennsylvania families had to get by on less than they had in 2001, and thus affordable rates are lower in 2008 then they were in 2001. Given that the economy has not been doing well since 2008, it is likely that the Pennsylvania median family income is lower today than it was in 2008.

Q: Is there any other basis for showing that the $22 benchmark based on the inflation concept is inappropriate?

A: Yes. The RLEC current average rate is approximately $16.16. Using the 2.5 percent average annual inflation rate for the period 2003 through 2009, the mid-year 2010 highest possible benchmark would be $19.45, not $22.00.

Q: Why are inflation adjusted rates inappropriate for determining a comparable rate?

A: An inflation adjusted rate merely increases rates relative to changes in general prices in the economy. It has nothing to do with comparable rates for telephone services. To determine comparable rates, it is necessary to review the rates of other carriers in Pennsylvania.

Moreover, applying that inflation rate to the $18 rate cap drives AT&T's proposed benchmark well above the just and reasonable benchmark. It requires an immediate 33 percent RLEC residential rate increase and thus, harms universal service and has a punitive impact on Lifeline customers.

Q: Do you agree with the AT&T's Panel witnesses' desire to increase rates by $1 per year after the rates have been increased to $22?

A: No. There is no justification for that increase. The $1 increase is even excessive compared to inflation because a $1 increase to a $22 rate is 4.5 percent increase, which is substantially higher than the average inflation rate of 2.5 percent.

Q: How do the AT&T Panel witnesses defend the $1 per year increase?

A: The AT&T Panel witnesses assert that "allowing the benchmark to increase by $1 each year generally will allow rates to return to "real" rates." (AT&T Rebuttal Testimony, page 14, lines 19-20.)

Q: Have the AT&T Panel witnesses defined the term "real" rates?

A: No.

Q: Can you discern an applied meaning of the term "real" rates?

A: It appears to me that the AT&T witnesses use the term "real" rates to mean rates that would require retail customers to bear the full burden of paying for the entire cost of supporting the joint and common costs of the network. Thus, "real" rates would increase basic local service rates by the alleged and unsupported subsidy claim. "Real" rates would require local rates to increase by the full amount of the carrier common line charge. "Real" rates would allow long distance carriers a free ride on the joint and common parts of the network and require customers purchasing basic local exchange non-competitive service to support competitive services. The additional $1 increase each year for three successive years, in my view, is completely arbitrary and unsupported.

Reasonableness of the 120 Percent Benchmark

Q: What is the basis for the AT&T Panel witnesses' assertion that the OCA's 120% benchmark is arbitrary?

A: The basis for the assertion is the claim that I have sponsored another benchmark, 125%, in another venue.

Q: Is it reasonable to support two different benchmark percentages?

A: It is reasonable to support different benchmark percentages because the percentages are applied to different standards. In this proceeding, the benchmark is a rate benchmark applied to the Verizon state wide average rate and, in the FCC proceeding referenced by the AT&T Panel witnesses, the benchmark is a cost benchmark applied to the forward-looking urban cost. In addition, the cost benchmark supported in the FCC's comments is related to support for non-rural carriers, and the benchmark supported by testimony in this proceeding is for rural carriers. In general, because non-rural carriers have other revenue sources, such as substantial special access revenue, it is appropriate for the rural carrier benchmark to be below the non-rural carrier benchmark.

Q: What would have been the benchmark in this proceeding if you had adopted a benchmark equal to 125% of the Pennsylvania urban cost as you did in the FCC proceeding AT&T referenecs?

A: The benchmark rate would be much lower. As illustrated in Table 1-S, above, the benchmark would be either $7.74 based on intrastate revenue responsibility or $12.53 based on intrastate separated UNE cost of service.

Q: Are there other reasons for rejecting benchmarks that are higher than 120% of the Verizon state average rate?

A: Yes. The Tenth Circuit Court of Appeals has twice remanded to the FCC orders that rely on benchmarks that are above 120%. First, the Court remanded an order that established a 135% benchmark,[7] and second, the

[7] *Qwest Corp. v. FCC,* 258 F.3d 1191, 1202 (10th Cir. 2001) ("*Qwest* I").

Court remanded an order that relied on a two standard deviation calculation to establish the benchmark.[8]

Q: Does this conclude your testimony?

A: Yes.

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[8] *Qwest Communications International, Inc. v FCC*, 398 F.3d 1222(10th Cir. 2005) ("*Qwest II*")

OTS Statement No. 1
Witness: Joseph Kubas
4/15/10 Hbg TX

INVESTIGATION REGARDING INTRASTATE ACCESS CHARGES AND INTRALATA TOLL RATES OF RURAL CARRIERS AND THE PENNSYLVANIA UNIVERSAL SERVICE FUND
Docket No. I-00040105

AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC V. ARMSTRONG TELEPHONE COMPANY PENNSYLVANIA, ET AL.
Docket No. C-2009-2098380, et al.

Direct Testimony

of

Joseph Kubas

Office of Trial Staff

Concerning:

Intrastate Access Charges
Basic Local Exchange Rates

Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

A. My name is Joseph Kubas and my business address is Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105.

Q. IN WHAT CAPACITY ARE YOU EMPLOYED?

A. I am employed as a Fixed Utility Valuation Engineer with the Office of Trial Staff (OTS).

Q. PLEASE DESCRIBE THE ROLE OF OTS IN RATE PROCEEDINGS.

A OTS is responsible for protecting the public interest in rate proceedings. The OTS analysis in this proceeding is based on its responsibility to represent the public interest. This responsibility requires the balancing of the interests of ratepayers and the Company.

Q. WHAT IS YOUR EDUCATIONAL AND EMPLOYMENT EXPERIENCE?

A. An outline of my educational and employment experience is attached as Appendix A.

Q. WHAT SPECIFIC ISSUES ARE YOU GOING TO ADDRESS?

A. I will address AT&T Communications of Pennsylvania, LLC, TCG New Jersey Inc., and TCG Pittsburgh, Inc. (AT&T) complaint concerning the intrastate access charges of the Rural Local Exchange Companies (RLECs) in Pennsylvania. I will

also address the direct testimony filed on behalf of Verizon Pennsylvania Inc., Verizon North, Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services, Inc., d/b/a Verizon Business Services (collectively, Verizon), the testimony filed on behalf of Comcast Phone of Pennsylvania, LLC, and Comcast Business communications, LLC (collectively, Comcast), the testimony filed on behalf of Sprint Communications Company LP, Sprint Spectrum LP, Nextel Communications of The Mid-Atlantic, Inc., and NPCR, Inc., (collectively, Sprint), and the testimony filed on behalf of Qwest Communications Company, LLC (Qwest).

Q. WHAT COMPANIES COMPRISE THE RLECS?

A. The RLECs include: Armstrong Telephone Company - North, Buffalo Valley Telephone Company, Commonwealth Telephone Company, LLC, Frontier Communications of Breezewood, LLC, Bentleyville Telephone Company, Citizens Telephone Company of New York, Frontier Communications of Canton, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Oswayo River, LLC,. Citizens Telephone Co. of Kecksburg, Conestoga Telephone and Telegraph Company, Denver & Ephrata Telephone & Telegraph Company, Hickory Telephone Company, Ironton Telephone Company, The North-Eastern Pennsylvania Telephone Company, Lackawaxen Telecommunications Services, Laurel Highland Telephone Company, TDS Telecom/Mahanoy & Mahantango

Telephone Company, Marianna and Scenery Hill Telephone Company, North Penn Telephone Company, Consolidated Communications of Pennsylvania Co. Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Co., South Canaan Telephone Company, TDS Telecom/Sugar ValleyTelephone Company, Venus Telephone Corporation, Windstream Pennsylvania LLC, Yukon-Waltz Telephone Company, and Embarq Pennsylvania.

Q. WHAT ARE THE PRIMARY FUNCTIONS OF THE RLECS?

A. RLECs provide end-user customers with Basic Local Exchange Service (BLES), premium services such as caller ID, and some toll services. The RLECs also provide a service to Interexchange Service Companies (IXCs) that enable the IXCs to use part of the RLEC network to originate and terminate their toll traffic to end user customers. This service is known as access service. The provision of access service provides a source of revenue for the RLECs.

Q. WHAT ARE THE PRIMARY SOURCES OF REVENUE FOR THE RLECS?

A. The RLECs receive their primary revenue from BLES rates, the Federal Subscriber Line Charge (FSLC), intrastate and interstate access charges, and toll charges. To a lesser extent, they receive revenue from premium services and Universal Service funding.

Q. WHAT IS AN IXC AND WHAT SERVICES DO THEY PROVIDE?

A. An IXC is a company that provides long distance calling service outside a customer's local calling area, usually charging customers for each minute of a call. AT&T is the IXC that filed this complaint. Sprint, Verizon, Comcast and Qwest are also IXCs that are now active parties in this proceeding. Some IXCs provide flat rate long distance plans, some provide BLES and internet service themselves or through affiliates. An RLEC can also be affiliated with an IXC, such as Windstream or D&E, offering long distance to customers through an affiliate.

Access Service and Charges

Q. WHY DO IXC'S NEED ACCESS SERVICE?

A. Access service enables the IXCs to use part of the RLEC's network without building a network of their own to each individual customer. Access is a service provided by local exchange carriers to other carriers for originating or terminating interexchange or "toll" calls. Access charges generally apply to calls that begin and end in different local calling areas. Interstate access charges apply to calls that begin and end in different states, and intrastate access charges apply to calls that begin and end in different local calling areas within the same state. The Federal Communications Commission (FCC) oversees interstate access rates, and the states oversee intrastate access rates. Traffic sensitive access rates, such as switching, are assessed on a minute of use basis, where non-traffic sensitive access rates such as the Carrier Common Line Charge (CCLC) are assessed on a per-line basis.

Q. HAVE INTRASTATE ACCESS CHARGES BEEN THE SUBJECT OF PENNSYLVANIA PUBLIC UTILITY COMMISSION ("COMMISSION") ORDERS OVER PAST YEARS?

A. Yes. During my employment with the Commission, I have worked on and testified in many intrastate access charge and intrastate access charge related cases. The Commission has issued many orders over the years that reduced intrastate access charges to their current level and increased BLES rates that end users pay the RLECs. On December 20, 2004, the Commission issued an Order at Docket No. M-00021596 to investigate whether further reductions and corresponding increases to BLES rates should occur. The investigation was postponed in 2005, 2006, and 2007 pending comprehensive access charge and universal service funding at the federal level. On April 24, 2008, the Commission granted a one year extension of the investigation of RLEC intrastate access charges (Investigation Regarding Intrastate Access Charges and intraLATA Toll Rates of Rural Carriers and The Pennsylvania Universal Service Fund, Docket No. I-00040105, Order entered April 24, 2008) (Generic Access Investigation).

AT&T Formal Complaint

Q. PLEASE SUMMARIZE THE COMPLAINT FILED BY AT&T.

A. AT&T is asking the Commission to lower RLEC intrastate access charges so that they are the same as the RLEC interstate access rates. Verizon, Sprint, Comcast and Qwest have intervened in support of AT&T's complaint.

Q. WHY DO AT&T, VERIZON, SPRINT, COMCAST AND QWEST ARGUE FOR LOWER INTRASTATE ACCESS CHARGES?

A. Quite simply, these parties want to pay less to use a network they did not build and do not own in order to increase profits. Reducing intrastate access charges saves these IXCs money. Also, anytime an RLEC lowers intrastate access charges, they are generally permitted to increase BLES rates through the rebalancing process. Higher RLEC BLES rates allow the Competitive Local Exchange Companies (CLECs), which are often IXCs or their affiliates, to increase their BLES rates while maintaining or increasing the number of customers served.

Q. WHAT IS THE BASIS FOR THE AT&T FORMAL COMPLAINT?

A. AT&T believes that RLEC current intrastate access charges are too high, excessive and subsidy laden (AT&T St. No. 1, pp. 6-9). AT&T also claims that intrastate access rates should be the same as interstate access rates because interstate access rates must be recovering the interstate costs they are designed to recover (AT&T St. No. 1, p. 37).

Q. IF RLEC INTRASTATE ACCESS RATES ARE REDUCED, HOW DOES AT&T PROPOSE THE RLECS RECOVER THE LOST REVENUE?

A. AT&T claims that RLEC can simply increase BLES rates and that this would not be a problem for customers (AT&T St. No. 1, p. 6).

Q. DOES THE AT&T FORMAL COMPLAINT INCLUDE ALL OF THE SPECIFIC INTRASTATE ACCESS RATES THAT IT WISHED TO CHANGE?

A. No. Other than the broad statement that intrastate access charges should be equal to interstate access charges, no specific rates were provided. AT&T did include a schedule comparing what it believes are the RLEC's average composite intrastate and interstate access charges (AT&T Formal Complaint, p. 7).

Q. DID AT&T'S TESTIMONY INCLUDE ANY SPECIFIC INTRASTATE ACCESS RATES THAT IT WISHED TO CHANGE?

A. Yes. The only specific intrastate access rate mentioned was the Carrier Common Line Charge (CCLC). AT&T believes that the CCLC each RLEC currently charges should be reduced to zero (AT&T St. No. 1, p. 46). No other specific intrastate or interstate access rate comparison was provided in the AT&T testimony.

Q. IS IT SURPRISING THAT AT&T WOULD FILE THIS COMPLAINT BUT FAIL TO INCLUDE A LIST OF RATES THAT LED TO THE COMPLAINT?

A. Yes. It is surprising that a customer with a complaint before the Commission would not inform the Commission of each specific rate or rates that are the subject of the complaint, each specific rate the customer would like to pay and the financial impact on the customer of such a rate change.

Q. DID AT&T PROVIDE RATE SCHEDULES AS PART OF THE COMPLAINT?

A. No. AT&T should have provided schedules showing the current intrastate access charge for each RLEC and the proposed intrastate access charge rate that it is seeking in this complaint. In addition, AT&T should have provided a schedule showing the charges, billing units and revenue that it paid to each of the RLECs under current rates and what it would pay under the rates that they are seeking. This would show the expense impact on AT&T if RLEC intrastate access charges are changed as requested in the Formal Complaint.

Q. WHY SHOULD AT&T HAVE PROVIDED THIS RATE DATA?

A. There are several reasons. First, I am advised by counsel that AT&T has the burden of proof and that the broad accusations contained in the complaint concerning intrastate access rates do not satisfy this burden. The complaint

broadly asserts that intrastate access rates are too high, but does not inform the Commission what those rates are and what the rates should be. Second,without this data, there is no way to verify the allegations made by AT&T that the disparity between many of the RLEC's intrastate and interstate access rates is as dramatic as AT&T claims. Since this allegation does not include a list of all RLEC intrastate access rates, AT&T leaves the Commission to guess which RLECs are included and how dramatically different they are. It is not the Commission's or the RLEC's duty to research tariffs and perform the analysis that AT&T failed to do. Third, there may be justification for different intrastate rates, but without analyzing the specific rates and the revenue received the impact on BLES rates is unknown. Because of the lack of specificity in AT&T's Formal Complaint and testimony, the Commission has no way of knowing whether making intrastate access charges the same as interstate access charges is in the public interest.

Q. DO YOU AGREE WITH AT&T'S CLAIM THAT RLEC INTRASTATE ACCESS RATES ARE EXCESSIVE, SUBSIDY LADEN AND SUBSIDIZE BLES?

A. No. Since AT&T and the other IXCs have failed to provide a current cost of service study to support these claims, they have not shown that the current RLEC intrastate access rates are excessive or subsidy laden. While the Commission may have indicated that intrastate access charges provided some unspecified subsidy to

BLES rates in the past; however, since that time, intrastate access charges have been reduced, BLES rates have increased, and costs have changed over the past 15 years. The mathematical ease of changing rates is no justification for doing so.

Q. DO YOU AGREE WITH AT&T'S CLAIM THAT INTERSTATE ACCESS RATES ARE RECOVERING THEIR COST AND INTRASTATE ACCESS RATES SHOULD BE EQUAL TO INTERSTATE ACCESS RATES?

A. No. I disagree with the premise that RLEC interstate access rates are covering the cost of providing interstate access service as AT&T has failed to provide any cost analysis to support this claim. Even if interstate access charges were recovering interstate access costs, there may be cost or policy reasons for differences between intrastate and interstate rates. The FCC has jurisdiction over interstate service and has its own policies and cost recovery methods that it believes operate in the best interest of interstate communications. Similarly, the Commission has its own policies and cost recovery methods that it believes operate in the best interest of intrastate communications. I am unaware of any Commission or FCC requirement that intrastate access rates be equal to interstate access rates.

Q. DO YOU AGREE WITH AT&T'S CLAIM THAT IT WOULD NOT BE A PROBLEM TO SIMPLY INCREASE BLES RATES SO THAT INTRASTATE ACCESS RATES CAN BE LOWERED?

A. No. The mathematical ease of changing rates is not a justification for doing so. This is a self-serving solution to a problem that AT&T has not proven exists. AT&T ignores the fact that the price of BLES may already exceed the cost of providing BLES for some or all RLECs. Therefore, any further increase in the price of BLES would be unfair to BLES customers. Neither AT&T nor any other IXC provided such a study. The Commission should not use AT&T's broad allegations or base decisions on unproven speculation to establish rates without knowing if the price of BLES is above or below the cost of providing BLES, for each RLEC.

Non Traffic Sensitive Access Charge

Q. WHAT IS THE CARRIER COMMON LINE CHARGE AND WHAT IS IT DESIGNED TO RECOVER?

A. The CCLC is an access rate designed to recover some of the cost of the local loop. Currently there is no interstate CCLC that IXCs pay, but most of the RLEC's have an intrastate CCLC.

Q. WHAT IS A LOCAL LOOP?

A. A local loop is the physical link or circuit that connects the customer to the telecommunication provider's network.

Q. WHAT REASON DOES AT&T GIVE FOR SUPPORTING THE ELIMINATION OF THE CCLC?

A. AT&T states that the CCLC is a "subsidy element" (AT&T St. No. 1, p. 46). AT&T claims that the charge is in place to "subsidize" local service and the CCLC should be zero (AT&T St. No. 1, p. 50). Through this position, AT&T wishes to have free and unlimited use of a major part of the public switched telephone network that it did not build and does not own.

Q. IS AT&T CORRECT THAT THE CCLC HAS NO COST BASIS?

A. No. Since the local loop is a shared facility, the cost should be allocated to the services that are carried over the local loop and from the entities that provide those services. The Commission has stated that the local loop is a joint cost (Pennsylvania Public Utility Commission v. Bell Atlantic, Docket No. R-000963550, Order entered December 16, 1996). Moreover, in April 2003, the Commission determined that the CCLC does have a cost basis by defining the CCLC as an access charge designed to recover a portion of the cost of the local loop that IXCs use in the origination and termination of long distance calls (Pennsylvania Public Utility Commission v. North Pittsburgh Telephone Company, Docket No. R-00038087, p. 2, Order entered April 10, 2003). This definition is consistent with the Commission's prior determination that the local loop is a joint cost and that the cost of the local loop should be recovered from all of the services that use it.

Q. HAS THE COMMISSION RECENTLY ADDRESSED EFFORTS BY AT&T AND OTHER IXCS TO ELIMINATE VERIZON'S CCLC?

A. Yes. In the recent AT&T Communications of Pennsylvania, LLC v. Verizon North, Inc. and Verizon Pennsylvania, Inc. compliant, the Commission determined that Verizon's $0.58 per line CCLC should not be eliminated (Docket No. C-20027195, Order entered January 8, 2007).

Q. DO IXCS PAY A CCLC FOR INTERSTATE CALLS THAT USE THE LOCAL LOOP?

A. No. The FCC determined years ago that the portion of the local loop allocated to interstate traffic should be paid for by end-users through a Federal Subscriber Line Charge (FSLC) rather than from companies such as IXCs that use the loop to originate and terminate calls. Since a portion of interstate access costs are recovered from end-users through the FSLC, the RLEC interstate access rates do not recover their full cost from IXCs that use the local loop to provide interstate toll service.

Q. SHOULD THE INTRASTATE CCLC BE TREATED THE SAME WAY?

A. No. I believe that the FCC improperly shifted the cost of the local loop to end users because this cost used to be recovered from the companies that profit from providing services to customers over the local loop. The RLEC FSLC is not a small charge, currently approximately $6.00 - $7.00 per month per line for

residential customers. Whether imbedded in basic local exchange rates or through an Intrastate Subscriber Line Charge (ISLC), the Commission should not improperly shift the recovery of the instate portion of local loop costs to end-users and let the IXCs also become intrastate freeloaders.

Q. HAS THE COMMISSION EVER APPROVED AN ISLC FOR ANY LOCAL EXCHANGE COMPANY IN PENNSYLVANIA?

A. No, and it is my opinion that none should be approved in this case.

Traffic Sensitive Intrastate Access Charges - Switching and Other Intrastate Access Rates

Q. SHOULD THE COMMISSION DIRECT RLECS TO MAKE TRAFFIC SENSITIVE INTRASTATE ACCESS CHARGES EQUAL TO INTERSTATE ACCESS CHARGES IN THIS CASE?

A. No.

Q. WHY DO YOU RECOMMEND THE COMMISSION NOT ORDER RLECS TO REDUCE TRAFFIC SENSITIVE INTRASTATE ACCESS CHARGES?

A. As described above, AT&T has failed to show the exact non-traffic sensitive rates it wishes changed as part of this complaint. Also, AT&T has failed to show that the cost of providing intrastate switched access service is below the current switched access rate. For some RLECs, such as CentryLink d/b/a United PA, the

current intrastate traffic sensitive rates are the same as the interstate traffic sensitive rates. Finally, AT&T also failed to show the impact on the RLEC's BLES rates if there is any such impact if traffic sensitive rates are changed.

AT&T Promises

Q. WHAT DOES AT&T PROMISE TO DO IF THE FORMAL COMPLAINT IS SUCCESSFUL?

A. In order to convince the Commission that customers will benefit from lower intrastate access charges, AT&T makes two promises to the Commission. First, AT&T promises that it will reduce the current $0.94 per line "Instate Connection Fee". Second, AT&T promises that it will reduce rates for its prepaid calling cards if the Commission satisfies its complaint (AT&T St. No. 1, p. 59).

Q. SHOULD THE COMMISSION GRANT THE FORMAL COMPLAINT BECAUSE OF AT&T'S PROMISE TO REDUCE THE INSTATE CONNECTION FEE OR CALLING CARD RATE?

A. No. AT&T is only promising that some of the charges it applies to end users will be less. However, AT&T is not promising that a customer's total bill will be the same after intrastate access charges are reduced to equal interstate access rates. Paying the same or higher total bill after the requested BLES rate increases and access charge reductions is not a benefit to customers.

Q. SHOULD AT&T'S INSTATE CONNECTION FEE PROMISE CONVINCE THE COMMISSION TO GRANT THE FORMAL COMPLAINT?

A. No. First, AT&T is proposing only to reduce one surcharge, not eliminate it. A one cent reduction would technically satisfy this promise, but would fall well short of the savings AT&T will experience if the formal complaint is granted. Second, there is no guarantee from AT&T that it will not increase the Instate Connection Fee in the future. Since the Commission does not regulate these types of charges, the Commission has no regulatory authority to prevent AT&T from simply increasing the rate the following month. Third, and most problematic, is my concern that AT&T will simply create another entirely new charge at any time to increase revenue. Fourth, there is no promise from AT&T that it will not increase one of the other existing per minute charges, monthly minimum fees, or surcharges (such as the current $2.39 per month Cost Recovery Charge that AT&T customers are required to pay).

Q. SHOULD THE CALLING CARD RATE PROMISE CONVINCE THE COMMISSION TO GRANT THE FORMAL COMPLAINT?

A. No. Similar to the Instate Connection Fee, AT&T has failed to specify the reduction. While there may not be a monthly calling card fee, AT&T will still be free to raise any current calling card fee or create a new calling card fee that eliminates or surpasses the unspecified per minute discount.

Verizon

Q. DOES VERIZON AGREE THAT THE RLECS INTRASTATE ACCESS RATES ARE TOO HIGH?

A. Yes (Verizon St. No. 1.0, pp. 3-6, 8-23).

Q. WHAT DOES VERIZON RECOMMEND IN ITS TESTIMONY?

A. Verizon recommends that its own intrastate access rates should be used as a "benchmark" to establish RLEC intrastate access rates (Verizon St. No. 1.0, p. 17).

Q. WHAT ARE SOME OF THE REASONS VERIZON GIVES FOR THIS RECOMMENDATION?

A. Verizon also believes that RLEC intrastate access charges are too high, unjust and unreasonable, and excessive (Verizon St. No. 1.0, pp. 1, 5). Verizon claims that a benchmark level would be a simple and effective means to quickly move excessive RLEC access rates to more "efficient levels" (Verizon St. No. 1.0, pp. 1 and 17).

Q. DID VERIZON PROVIDE A TABLE THAT SHOWS WHAT THE RLEC ACCESS RATES SHOULD BE UNDER ITS PROPOSAL?

A. Yes. Contrary to AT&T, Verizon provided a schedule showing its own intrastate access charges which are generally what intrastate access charges it wants the RLECs to charge (Verizon St. No. 1, p. 19).

Q. UNDER VERIZON's PROPOSAL, WHAT WOULD HAPPEN IF THE INTRASTATE ACCESS RATE OF AN RLEC IS CURRENTLY LOWER THAN THE CORRESPONDING VERIZON ACCESS RATE?

A. As I understand the Verizon proposal, if an RLEC's access rate is below the corresponding Verizon access rate, the RLEC's access rate would not be increased.

Q. DO YOU AGREE WITH VERIZON'S PROPOSAL?

A. No.

Q. WHY DO YOU RECOMMEND THAT THE VERIZON INTRASTATE ACCESS RATE PROPOSAL NOT BE APPROVED?

A. There are several reasons. First, as described above, before intrastate access charges are reduced, there should be a cost study that shows the cost of providing intrastate access is below the current rate. Verizon did not do this. Second, Verizon's proposal lacks details for the Commission to determine the exact impact on BLES rates. Third, the provision that an RLEC access rate that is lower than Verizon's corresponding rate should not be increased, but that any RLEC access rate higher than the corresponding Verizon access rate should be immediately lowered is self-serving and one-sided. Verizon comes out ahead because any RLEC intrastate access rate that is higher than the corresponding Verizon intrastate access rate will be decreased and the RLEC's BLES rates will increase. RLECs and their customers lose because any intrastate access charge below the

corresponding Verizon intrastate access charge will not be increased and the RLEC's BLES rates will not be decreased. This is in spite of the fact that Verizon will continue to charge that RLEC a higher intrastate access charge when the RLEC terminates a toll call to a Verizon customers on the Verizon network. Either way, there is no consideration for the fact that the lower RLEC intrastate access charge may not be recovering its corresponding cost and should be increased, while the RLEC BLES rates may be above cost and should be reduced. The Commission should not allow access reform to be based on self-serving policies where Verizon wins both ways.

Sprint

Q. DOES SPRINT ALSO CLAIM THAT THE RLECS INTRASTATE ACCESS RATE ARE TOO HIGH?

A. Yes (Sprint Corrected Main Testimony of James. A. Appleby).

Q. WHAT DOES SPRINT RECOMMEND IN ITS TESTIMONY?

A. Sprint recommends that each RLEC's intrastate access rates be set at their corresponding interstate access rate (Sprint p. 4).

Q. WHAT ARE SOME OF THE REASONS SPRINT GIVES FOR THIS RECOMMENDATION?

A. Sprint claims that RLEC intrastate access charges are inflated as measured against interstate access rates, Pennsylvania recognized the need for access charge changes in the past, and that intrastate access rates provide "excess profit" to the RLECs (Sprint, pp. 4, 8, 15).

Q. ARE THE FIRST TWO REASONS LISTED ABOVE THE SAME ARGUMENTS MADE BY AT&T?

A. Yes. Therefore, I disagree with these claims for the same reasons stated above.

Q. WOULD YOU ADDRESS THE THIRD REASON LISTED ABOVE CONCERNING EXCESS PROFIT?

A. Yes. I will address Sprint's claim that RLECs are making "excess profit" on intrastate access charges.

Q. DO THE PROFITS OF THE RLECS MATTER?

A. No. RLEC profits have not been regulated by the Commission for the past ten years. The concept behind the RLEC price cap regulation is that RLECs are free to make as much profit (or absorb as much loss) as they can as long as the RLEC follows its Chapter 30 (now Act 183) Plan. No fair rate of return is currently established or ordered by the Commission for the RLECs.

Q. HAS SPRINT SUPPORTED ITS CLAIM OF EXCESS PROFITS?

A. No. Sprint makes this broad statement but provided no analysis or summary describing the "excess profit" each RLEC is supposedly earning on intrastate access charges. The profit of a particular service can only be determined by a cost of service study and, since Sprint has not provided cost of service studies, there is no support for this claim. Also, there is no explanation as to what Sprint believes would be the normal profit that the RLEC would be entitled to earn.

Q. DID SPRINT DISTRIBUTE SUPPLEMENTAL TESTIMONY ON NOVEMBER 30, 2009?

A. Yes.

Q. WHAT DID SPRINT CLAIM CONCERNING RATE REBLANCING IN THIS SUPPLEMENTAL TESTIMONY?

A. Sprint recommends that the Commission include the revenue opportunities the RLEC have received or will potentially generate for all other services the RLECs provide their customers on the local switched network as part of any rate rebalancing (Sprint Supplemental, p. 10-11).

Q. HOW DOES SPRINT BELIEVE THE COST OF THE LOCAL SWITCHED NETWORK SHOULD BE RECOVERED?

A. Apparently Sprint believes that when an RLEC uses the local switched network to provide other services, those other services should contribute to the cost of the local switched network. However, when an IXC or wireless carrier uses the local switched network to originate or terminate calls, they should have free use of the local loop and almost free use of other parts of the local switched network.

Q. SHOULD THIS RECOMMENDATION BE APPROVED?

A. No. As described above, if a provider of a service uses the local switched network, they should contribute to the cost of each and every part of the network that it uses.

Q. SHOULD THE COMMISSION LOWER INTRASTATE ACCESS RATES UNDER THE PREMISE THAT THE RLECS CAN OR WILL SIMPLY RECOVER THE LOST REVENUE FROM OTHER SERVICES?

A. No. First, such a recommendation is contrary to basic cost recovery and fairness. Second, Sprint's recommendation is premised on the claim that BLES needs to be subsidized. As described above, there is no support for this claim. Therefore, there is no reason to conclude that the revenue from other services should be used to subsidize BLES.

Comcast

Q. DID COMCAST DISTRIBUTE TESTIMONY ON NOVEMBER 30, 2009?

A. Yes.

Q. DOES COMCAST COMPARE INTRASTATE ACCESS RATES TO INTERSTATE ACCESS RATES IN THIS PROCEEDING?

A. Yes. Like the other IXCs, Comcast makes the unsupported claim that intrastate access rates are above cost and must be reduced (Comcast 1.0, p.10). Comcast goes on to make the comparison of intrastate access charges to interstate access charges to justify lowering intrastate access charges and gain free unlimited access to the local loop that they do not own.

Q. DID COMCAST CLAIM THAT RLEC'S ACCESS CHARGES ARE ABOVE COST?

A. Yes. Comcast cited the results of an access cost of service study provided by Sprint Nextel to the FCC that indicates that cost of local switching and common transport is above cost (Comcast 1.0, p. 5).

Q. SHOULD THE COMMISSION RELY ON THE RESULTS OF THIS SPRINT NEXTEL STUDY TO DETERMINE INTRASTATE ACCESS CHARGES?

A. No. First, the inputs and methodology of Sprint Nextel are unknown, which casts doubts on the results of the study. For example, it is not known if the study properly allocated shared costs such as the local loop. Second, Sprint Nextel have an incentive to support a study that shows the lowest possible cost for switching and transport because there are two LEC services they use to complete calls. Finally, as described above, the FCC cost recovery methodology may be different than the cost recovery methodology the Commission has determined or should determine to be appropriate.

Q. DID COMCAST MAKE THE SAME ARGUMENT AS SPRINT CONCERNING RLEC REVENUE?

A. Yes. In summary, Comcast recommends that the Commission include the revenue opportunities the RLEC have received or will potentially generate for all other services the RLECs provide their customers on the local switched network to subsidize BLES as part of any rate rebalancing. Comcast also believes that if an RLEC is affiliated with a larger corporation, such as CenturyLink, the revenue from the affiliates should be used to subsidize the cost of the local network and BLES rates (Comcast 1.0, pp. 14-20).

Q. UNDER THIS RECOMMENDATION, DOES SPRINT BELIEVE THAT ANY SERVICE CARRIED OVER THE LOCAL SWITCHED NETWORK SHOULD BEAR SOME OF THE COST OF THE LOCAL SWITCHED NETWORK?

A. Apparently not. ~~Comcast~~ Sprint recommends that when an RLEC uses the local switched network to provide services other than BLES, those other services should contribute to the cost of the local switched network. However, Comcast believes that when an IXC or wireless carrier uses the local switched network to originate or terminate their calls, they should have free and unlimited use of the local loop and almost free use of other parts of the local switched network.

Q. SHOULD THE COMMISSION CONSIDER THE FINANCIAL STRENGTH OF AN RLEC'S PARENT CORPORATION WHEN DETERMINING INTRASTATE ACCESS RATES?

A. No. Comcast provided eight pages of testimony attempting to direct the Commission towards the size of some of the RLEC's affiliates and away from the actual issue in this case which is cost recovery. Corporate size and financial strength are simply not the issue. Rather, the issue in this proceeding is the recovery of RLEC network cost and who should pay for the cost of the local switched network, especially the cost of the local loop. If corporate size and wealth are to be considered, the Commission should also consider the size and financial strength of IXCs, wireless companies, and cable companies. Comcast is

the largest cable company in the country and is more than 10 times larger than Windstream, based on 2008 revenue reported in Value Line (OTS Ex. No. 1, Sch. 2). Under Comcast's criteria, it would probably be required to pay higher access charges than it currently pays in order to support of the cost of the local switched network that they use.

Q. WHAT WOULD BE A MORE REASONABLE APPROACH TO COST RECOVERY?

A. A more reasonable recommendation would be to require IXCs and wireless companies that use the local switch network to pay some of the cost of the local switched network that they use, including the local loop, through reasonable intrastate access charges, regardless of the size of the company buying or selling access.

Qwest

Q. WHAT IS QWEST ADVOCATING IN ITS TESTIMONY?

A. Qwest is proposing that the RLEC's intrastate access charges are too high and should be reduced to match Verizon's intrastate access rates (Qwest St. No. 1, p. 6).

Q. IS THIS RECOMMENDATION DIFFERENT THAN THE POSITION QWEST TOOK IN THE VERIZON ACCESS CHARGE CASE AT DOCKET NO. C-20027195?

A. Yes. While the general desire to lower access charges is the same, Qwest's recommendation in the Docket C-20027195 case was for Verizon's intrastate access charges be reduced to equal Verizon's interstate access charges.

Q. WHAT IS THE MAJOR DIFFERENCE IN THESE TWO RECOMMENDATIONS?

A. The major difference is the CCLC. In the C-20027195 proceeding, Qwest advocated that Verizon's $0.58 per month per line CCLC be reduced to zero. As I understand Qwest's recommendation in this case, it is recommending that the RLEC's CCLC be reduced (or in some cases increased) to $0.58 per month per line.

Q. SINCE VERIZON'S CCLC RATE IS A PER MONTH RATE PER LINE, IS IT POSSIBLE TO CONVERT THE $0.58 PER MONTH PER LINE CCLC RATE TO A PER MINUTE OF USE RATE FOR COMPARISON PURPOSES?

A. Yes. The equivalent CCLC for Verizon - PA is approximately $0.0076 per Minute Of Use (MOU) (Verizon St. No. 1, p. 19).

Q. DOES QWEST PROVIDE BLES TO END USERS AND ACCESS SERVICE TO IXCS IN OTHER STATES?

A. Yes. Qwest provides basic local exchange service to end users, and access service to other IXCs in the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming through its affiliates.

Q. DOES QWEST CHARGE A CARRIER CHARGE FOR INTRASTATE SERVICE IN SOME OF THESE THIRTEEN STATES?

A. Yes. Qwest maintains a CCLC and collects the revenue that it generates in Colorado, Idaho, Iowa, Minnesota, Montana, North Dakota, South Dakota and Utah (OTS Ex. No. 1, Sch. 1).

Q. HOW DOES THE QWEST CCLC COMPARE TO VERIZON'S $0.0076 PER MOU CCLC THAT IT IS RECOMMENDING FOR THE RLECS?

A. According to online tariffs, the $0.0076 per MOU Verizon rate is higher than the Qwest CCLC in Arizona, New Mexico and Iowa. The $0.0076 per MOU Verizon CCLC is less than Qwest charges IXCs in Colorado, Northern and Southern Idaho, Montana, Minnesota, North Dakota and South Dakota (OTS Ex. No. 1, Sch. 1)

Q. SHOULD QWEST'S RECOMMENDATION TO REDUCE THE RLEC CCLC TO $0.58 PER MONTH PER LINE BE APPROVED?

A. No. This recommendation should not be approved for the reasons listed above and one additional reason.

Q. WHAT IS THE ADDITIONAL REASON FOR NOT ACCEPTING QWEST'S RECOMMENDATION TO REDUCE THE RLEC CCLC TO $0.58 PER MONTH PER LINE?

A. As described above, Qwest charges more than $0.58 per month per line in six states where it operates as a provider of BLES. By advocating for a lower CCLC than it charges, Qwest's recommendation is in direct conflict with its own behavior.

Q. WHY WOULD QWEST MAINTAIN A POSITION IN PENNSYLVANIA THAT IS CONTRARY TO WHAT IT DOES IN OTHER STATES?

A. When Qwest is the recipient of access charges, it wants those rates to be as high as possible; however, when it pays access charges in other states such as Pennsylvania, it wants the rates to be as low as possible. Qwest is happy to keep its CCLC higher than $0.0076 per MOU in six states, but at the same time advocates a large reduction in the RLEC's CCLC in Pennsylvania. The Commission should not lower the CCLC Qwest pays the RLEC's in Pennsylvania before Qwest lowers the CCLC rate it charges IXCs in its home states.

OTS Recommendation

Q. SHOULD THE COMMISSION REQUIRE THE RLECS TO MAKE EACH INTRASTATE RATE THE SAME AS THE INTERSTATE RATE?

A. No. RLEC access rates and BLES rates should be based on cost. Since AT&T has failed to provide cost justification for its proposal, there is no support for its recommendation. The Commission recently determined that the Verizon CCLC should remain in place, and the Commission should not reverse this determination and require the RLEC's to reduce or eliminate their CCLC. Also, any rebalancing should consider the impact on BLES and the customers that pay for BLES. AT&T has failed to provide a current cost of service study to support these claims. It has not shown that the current RLEC intrastate access rates are excessive or subsidy laden. AT&T's vague promises to reduce one of its fees and reduce calling card rates offer no proof that customers will benefit from reductions in intrastate access charges. Verizon, Sprint, Comcast, and Qwest have not provided valid justification for their respective positions in support of the Formal Complaint filed by AT&T. Therefore, the Formal Complaint filed by AT&T should be denied.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

Appendix A

JOSEPH KUBAS

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Education: Bachelor of Science in Civil Engineering Technology, 1985, University of Pittsburgh at Johnstown, Johnstown, PA.

Continuing Education: Legal Principles and Practices of Surveying at the University of Maryland. Economics, Accounting, Lotus, at the Howard Community College. 33 Credit hours of accounting at the University of Pittsburgh at Johnstown. Managing Multiple Priorities at the Pennsylvania State University. Various PA-PUC and Utility Company Seminars.

Professional Exams: Engineer In Training, 1985,
Uniform Certified Public Accounting Exam, 1993.

Title: **RATE CASE REVIEW SPECIALIST**
December 2009 - Present

Pennsylvania Public Utility Commission
Office of Trial Staff

Duties: Perform the duties of a Rate Case Review Specialist in the Office of Trial Staff (OTS).

Analyze and review valuation engineering, and rate structure data submitted by Water, Sewer, Telephone, Gas and Steam Heat utilities to justify utility service rates or alternative forms of regulation, by researching, analyzing, and reviewing rate case filings, tariff filings, acquisitions and investigations. Participate in on-site inspections of utility properties to determine the used and usefulness of the plant-in service and make recommendations. Prepare interrogatories in the areas of rate base, rate structure, revenue and quality of service in order to obtain additional information regarding a utility's filing. Analyze present revenue, proposed revenue, rate structure and tariff issues. Recommend adjustments to rate base, depreciation, revenue and rate structure and other issues concerning utilities. Prepare testimony and exhibits for the purpose of establishing the OTS positions in formal and informal proceedings before the Commission. Participate in Commission

consultative report proceedings and collaboratives undertaken by the Commission.

Title: **FIXED UTILITY VALUATION ENGINEER III**
December 1999 - December 2009

Pennsylvania Public Utility Commission
Office of Trial Staff

Duties: Perform the duties of a Fixed Utility Valuation Engineer III in the Office of Trial Staff (OTS).

Analyze and review valuation engineering, and rate structure data submitted by Water, Sewer, Telephone, Gas and Steam Heat utilities to justify utility service rates or alternative forms of regulation, by researching, analyzing, and reviewing rate case filings, tariff filings, acquisitions and investigations. Participate in on-site inspections of utility properties to determine the used and usefulness of the plant-in service and make recommendations. Prepare interrogatories in the areas of rate base, rate structure, revenue and quality of service in order to obtain additional information regarding a utility's filing. Analyze present revenue, proposed revenue, rate structure and tariff issues. Recommend adjustments to rate base, depreciation, revenue and rate structure and other issues concerning utilities. Prepare testimony and exhibits for the purpose of establishing the OTS positions in formal and informal proceedings before the Commission. Participate in Commission consultative report proceedings and collaboratives undertaken by the Commission.

Title: **FIXED UTILITY VALUATION ENGINEER II**
April 1996 - December 1999

Pennsylvania Public Utility Commission
Office of Trial Staff and Bureau of Fixed Utility Services

Duties: Perform the duties of a Fixed Utility Valuation Engineer II in the Office of Trail Staff (OTS) and Bureau of Fixed Utility Services.

Title: **FIXED UTILITY VALUATION ENGINEER TRAINEE, I & II** May 1993 - March 1996

Pennsylvania Public Utility Commission
Office of Trial Staff
Telecommunications and Water Division

Duties: Perform the duties of a Fixed Utility Valuation Engineer II in the Rate Structure/Engineering Section of the Telecommunications and Water Division of the Office of Trial Staff (OTS).

Title: **CIVIL ENGINEER**
May 1985 - January 1991

Clark Finefrock & Sackett Inc.
7135 Minstrel Way
Columbia, MD 21045

Duties: Engineering, Surveying, Computer, and Field Inspection work related to land development projects in Maryland.

Testimony Before the Pennsylvania Public Utility Commission

1.	National Utilities Inc. (Water)	R-00953416	April 1996
2.	Consumer Pennsylvania Water Company - Roaring Creek Division	R-00973869	May 1997
3.	Philadelphia Suburban Water Company	R-00973952	August 1997
4.	Bell Atlantic - Pennsylvania Inc.	P-00971307	March 1998
5.	City of Bethlehem- Bureau of Water	R-00984375	September 1998
6.	Pennsylvania Telephone Association - Chapter 30 Plan	P-00981425	December 1998
7.	GTE North Inc. Telephone Chapter 30 Plan	P-00981449	February 1999
8.	Pennsylvania American Water Co.	R-00994638	August 1999
9.	Philadelphia Suburban Water Co.	R-00994868	February 2000
10.	PG Energy (Gas)	R-00005119	June 2000
11.	Pennsylvania American Water - Coatesville Acquisition	A-212285-F07201	July 2000
12.	T. W Phillips Gas and Oil Company	R-00005459	October 2000
13.	Verizon North - Chapter 30 Plan	P-00001854	January 2001
14.	Philadelphia Gas Works	R-00006042	April 2001
15.	PFG Gas Inc. & Penn Fuels Gas Co.	R-00013679	July 2001
16.	Pennsylvania American Water Co.	R-00016339	August 2001
17.	Philadelphia Suburban Water Co.	R-00016750	February 2002
18.	Philadelphia Gas Works	R-00017034	May 2002
19.	PFG Gas Inc. & Penn Fuels Gas Co	R-00027389	July 2002

20.	Verizon - Pennsylvania, Inc.	P-00021973	September 2002
21.	Verizon - Pennsylvania, Inc.	P-00937105-F0002	January 2003
22.	Pennsylvania American Water Co.	R-00027982	April 2003
23.	Dominion Peoples 1307(f)	R-00038170	May 2003
24.	Verizon PA / Verizon North	C-20027195	July 2003
25.	National Fuel Gas Distribution, Inc.	R-00038168	July 2003
26.	Aqua Pennsylvania Inc.	R-00038805	February 2004
27.	Dominion Peoples 1307 (f)	R-00049153	May 2004
28.	PPL Electric Utilities	R-00049255	June 2004
29.	National Fuel Gas Distribution, Inc.	R-00049656	December 2004
30.	City of Lancaster - Sewer	R-00049862	March 2005
31.	Dominion Peoples 1307(f)	R-00050267	May 2005
32.	Verizon PA / Verizon North	C-20027195	June 2005
33.	PPL Gas Utilites Inc. 1307(f)	R-00050540	July 2005
34.	United Telephone	A-313200-F0007	February 2006
35.	Aqua Pa	R-00051030	February 2006
36.	T.W. Phillips 1307(f)	R-00051134	March 2006
37.	City of Dubois	R-00050671	May 2006
38.	T.W. Phillips	R-00051178	May 2006
39.	The Peoples Natural Gas Co. 1307(f)	R-00061301	June 2006
40.	Meted/Penelec	R-00061366 R-00061367	July 2006
41.	The York Water Company	R-00061322	July 2006
42.	PPL Gas Utilities Corporation	R-00061398	August 2006
43.	National Fuel Gas Distribution, Inc.	R-00061493	September 2006
44.	Pennsylvania American Water Co.	P-00062241	January 2007
45.	Philadelphia Gas Works	R-00061931	March 2007
46.	PPL Electric	R-00072155	July 2007
47.	Pennsylvania-American Water Co.	R-00072229	August 2007
48.	Valley Energy	R-00072349	August 2007
49.	City of Bethlehem	R-00072492	January 2008
50.	Aqua Pennsylvania, Inc.	R-00072711	February 2008
51.	T.W. Phillips 1307(f)	R-2008-2013026	April 2008
52.	Columbia Gas	R-2008-2011621	May 2008
53.	The Peoples Natural Gas Co. 1307(f)	R-2008-2022206	May 2008
54.	PECO Energy	P-2008-2032333	June 2008
55.	NRG Energy Center Harrisburg	R-2008-2028395	July 2008
56.	PAWC - Coatesville Wastewater	R-2008-2032689	Aug 2008
57.	York Water	R-2008-2023067	Aug 2008
58.	Pike County Power and Light (Gas)	R-2008-2046520	Oct 2008
59.	Columbia Water	R-2008-2045157	Jan 2009
60.	T. W. Phillips Gas (1307-f)	R-2008-2075250	Mar 2009
61.	The Peoples Natural Gas Co. (1307-f)	R-2009-2088069	May 2009
62.	UGI Utilities Inc. (1307-f)	R-2009-2105911	July 2009

63.	PAWC Water	R-2009-2097373	July 2009
64.	Penn Estates Water	R-2009-2117532	Oct 2009
65.	Penn Estates Sewer	R-2009-2117740	Oct 2009

OTS Exhibit No. 1
Witness: Joseph Kubas
4/15/10 MG PR

INVESTIGATION REGARDING INTRASTATE ACCESS CHARGES AND INTRALATA TOLL RATES OF RURAL CARRIERS AND THE PENNSYLVANIA UNIVERSAL SERVICE FUND
Docket No. I-00040105

AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC, V, ARMSTRONG TELEPHONE COMPANY OF PENNSYLVANIA, ET AL.
Docket No. C-2009-2098380 et al.

Exhibit to Accompany

the

Direct Testimony

of

Joseph Kubas

Office of Trial Staff

Concerning:

Intrastate Access Charges
Basic Local Exchange Rates

Issued: 3-31-06

Effective: 4-1-06
Per Decision No. 68604

3. CARRIER COMMON LINE ACCESS SERVICE

3.7 RATE TERMS AND CONDITIONS (CONT'D)

3.7.4 PERCENT INTERSTATE USE (PIU)

When the customer reports interstate and intrastate use of in-service Switched Access Service, Carrier Common Line Access rates will be billed only to intrastate Switched Access Service access minutes based on the data reported by the customer as set forth in 2.3.10, preceding, (Jurisdictional Reports), except where the Company is billing according to actuals by jurisdiction. Intrastate Switched Access Service access minutes will, after adjustment as set forth in 3.6.4, preceding (Resale), when necessary, be used to determine Carrier Common Line Access rates as set forth in 3.7.5, following.

3.7.5 DETERMINATION OF RATES

After the adjustments as set forth in 3.6.4 and 3.7.4, preceding, have been applied, when necessary, to Switched Access Service access minutes, rates for the involved customer account will be determined as follows:

A. Carrier Common Line Access rates shall not be reduced as set forth in 3.6.1, preceding, unless Switched Access rates, as set forth in 6.8, following, are applied to the customer's Switched Access Services.

B. The terminating access per minute rate applies to all terminating access minutes of use.

C. The originating access per minute rate applies to all originating access minutes of use.

3.8 RATES

	RATE PER ACCESS MINUTE
• Originating	$0.000000 (R)
• Terminating	0.000000 (R)

Qwest Corporation

3. CARRIER COMMON LINE ACCESS SERVICE

3.8 RATE TERMS AND CONDITIONS (CONT'D)

3.8.5 DETERMINATION OF RATES

After the adjustments as set forth in 3.6.4 and 3.8.4, preceding, have been applied, when necessary, to Switched Access Service access minutes, rates for the involved customer account will be determined as follows:

A. Carrier Common Line Access rates shall not be reduced as set forth in 3.6.1, preceding, unless Switched Access rates, as set forth in 6.8, following, are applied to the customer's Switched Access Services.

B. The terminating access per minute rate applies to all terminating access minutes of use.

C. The originating access per minute rate applies to all originating access minutes of use.

3.9 RATES

	RATE PER ACCESS MINUTE
• Originating	$0.009020
• Terminating	0.009020 (R)

3. CARRIER COMMON LINE ACCESS SERVICE

3.9 RATES

	RATE PER ACCESS MINUTE
• Terminating Per Access Minute	$0.029265
• Originating Per Access Minute	0.021533

3. CARRIER COMMON LINE ACCESS SERVICE

3.9 RATES

	RATE PER ACCESS MINUTE
• Terminating Per Access Minute	$0.020432 (R)
• Originating Per Access Minute	0.015303 (R)

3. CARRIER COMMON LINE ACCESS SERVICE

3.9 RATES AND CHARGES

The rate for Carrier Common Line Access is:

	USOC	RATE PER ACCESS MINUTE
• Access Minutes		
- Originating	N/A	$ 0.001258 (R)
- Terminating	N/A	0.001258 (R)
• Per Line, per month	FLG	25.00
- Certified Exemption	S45EX	–

3. CARRIER COMMON LINE ACCESS SERVICE

3.9 RATES AND CHARGES

The rates for Carrier Common Line Access are:

	RATE PER ACCESS MINUTE
• Originating	
- Premium	$0.001896
- Discount Premium	0.001422
- Non-Premium	0.000853
• Terminating	
- Premium	0.011202 (R)
- Non-Premium	0.005041 (R)

3. CARRIER COMMON LINE RECOVERY CHARGE

3.2 FACTOR

	FACTOR
• Carrier Common Line Recovery	$2.899

3. CARRIER COMMON LINE ACCESS SERVICE

3.7 RATE CONDITIONS (CONT'D)

3.7.4 PERCENT INTERSTATE USE (PIU)

When the customer reports interstate and intrastate use of in-service Switched Access Service, Carrier Common Line Access rates will be billed only to intrastate Switched Access Service access minutes based on the data reported by the customer as set forth in 2.3.10, preceding (Jurisdictional Reports), except where the Company is billing according to actuals by jurisdiction. Intrastate Switched Access Service access minutes will, after adjustment as set forth in 3.6.4, preceding (Resale), when necessary, be used to determine Carrier Common Line Access rates as set forth in 3.7.5, following.

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A. Carrier Common Line Access rates shall not be reduced as set forth in 3.6.1, preceding, unless Switched Access charges, as set forth in 6.8, following, are applied to the customer's Switched Access Services.

B. The terminating access per minute rate applies to all terminating access minutes of use.

C. The originating access per minute rate applies to all originating access minutes of use.

3.8 RATES

	RATE
• Terminating, per access minute	$0.000000 (R)
• Originating, per access minute	0.000000 (R)

3. CARRIER COMMON LINE ACCESS SERVICE

3.8 RATE TERMS AND CONDITIONS (CONT'D)

3.8.5 DETERMINATION OF RATES

After the adjustments as set forth in 3.6.4 and 3.8.4, preceding, have been applied, when necessary, to Switched Access Service access minutes, rates for the involved customer account will be determined as follows:

A. Carrier Common Line Access rates shall not be reduced as set forth in 3.6.1, preceding, unless Switched Access rates, as set forth in 6.8, following, are applied to the customer's Switched Access Services.

B. The terminating access per minute rate applies to all terminating access minutes of use.

C. The originating access per minute rate applies to all originating access minutes of use.

3.9 RATES

	RATE PER ACCESS MINUTE
• Originating	$0.018941 (R)
• Terminating	0.018941 (R)

Qwest Corporation
Access Service
Tariff

State of South Dakota
Issued: 1-14-2004

3. CARRIER COMMON LINE ACCESS SERVICE

3.9 RATES AND CHARGES

	RATE PER ACCESS MINUTE	
		(T)
		(D)
• Terminating Per Access Minute	$0.038420 (R)	
• Originating Per Access Minute	0.038420 (R)	

(D)

[1] This page previously canceled Pages 15 and 16, Release 1. (T)

Qwest Corporation
Qwest Corporation

Issued: 6-14-2004
(A.L. 2004-12)

Effective: 7-1-2004

3. CARRIER COMMON LINE ACCESS SERVICE

3.7 RATE REGULATIONS (CONT'D)

3.7.4 PERCENT INTERSTATE USE (PIU)

When the customer reports interstate and intrastate use of in-service Switched Access Service, Carrier Common Line Access rates will be billed only to intrastate Switched Access Service access minutes based on the data reported by the customer as set forth in 2.3.10, preceding, (Jurisdictional Reports), except where the Company is billing according to actuals by jurisdiction. Intrastate Switched Access Service access minutes will, after adjustment as set forth in 3.6.4, preceding (Resale), when necessary, be used to determine Carrier Common Line Access rates as set forth in 3.7.5, following.

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After the adjustments as set forth in 3.6.4 and 3.7.4, preceding, have been applied, when necessary, to Switched Access Service access minutes, rates for the involved customer account will be determined as follows:

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B. The terminating access per minute rate applies to all terminating access minutes of use.

C. The originating access per minute rate applies to all originating access minutes of use.

3.8 RATES

	RATE
• Originating Per Access Minute	$0.004700 (R)
• Terminating Per Access Minute	0.004700 (R)

WINDSTREAM CORP. NYSE-WIN

RECENT PRICE 9.29 | P/E RATIO 10.7 (Trailing: 10.3 / Median: NMF) | RELATIVE P/E RATIO 0.62 | DIV'D YLD 10.8% | VALUE LINE 742

TIMELINESS 3 New 9/26/08
SAFETY 3 New 12/29/06
TECHNICAL 3 Lowered 5/29/09
BETA .95 (1.00 = Market)

2012-14 PROJECTIONS

	Price	Gain	Ann'l Total Return
High	17	(+85%)	23%
Low	11	(+20%)	13%

Insider Decisions

	O	N	D	J	F	M	A	M	J
to Buy	0	2	1	0	0	2	0	0	0
Options	0	0	0	0	0	0	0	0	0
to Sell	0	0	0	0	0	0	0	0	0

Institutional Decisions

	4Q2008	1Q2009	2Q2009
to Buy	187	177	180
to Sell	222	211	208
Hld's(000)	304097	287229	272088

LEGENDS
..... Relative Price Strength
Options: Yes
Shaded area: prior recession
Latest recession began 12/07

High: 14.4 15.6 14.0 9.5
Low: 11.1 12.4 6.4 6.3

Target Price Range 2012 | 2013 | 2014

Percent shares traded: 24 / 16 / 8

% TOT. RETURN 8/09

	THIS STOCK	VL ARITHMETIC INDEX
1 yr.	-23.0	-4.4
3 yr.	-17.5	0.4
5 yr.	—	32.3

Windstream's history began with the founding of Allied Telephone Co. in Little Rock, AR in 1943. In 1983, Allied merged with Mid-Continent Telephone Co. of Ohio, forming ALLTEL Corp. ALLTEL acquired Standard Group, Inc. and Aliant Comm. in 1999. That telco, over the years, purchased thousands of phone lines from GTE, Verizon and others. On July 17, 2006, in a $9.1-bill. equity and debt transaction, ALLTEL spun off its wireline operations, which merged with VALOR Comm. to form Windstream. Acquired CT Comm. on August 31, 2007 for $585 mill., including assumed debt.

CAPITAL STRUCTURE as of 6/30/09
Total Debt $5226.2 mill. Due in 5 Yrs $2500.0 mill.
LT Debt $5202.0 mill. LT Interest $395.0 mill.
(LT Interest earned: 1.9x; total interest coverage: 1.9x)
Leases, Uncapitalized Annual rentals $24.3 mill.
Pension Assets-12/08 $654.0 mill.
Obligations $945.4 mill.
Pfd Stock None
Common Stock 436,709,299 shs.
as of 7/31/09
MARKET CAP: $4.1 billion (Mid Cap)

CURRENT POSITION ($MILL.)	2007	2008	6/30/09
Cash Assets	72.0	296.6	245.4
Other	425.8	412.1	383.3
Current Assets	497.8	708.7	628.7
Accts Payable	161.9	134.0	119.8
Debt Due	24.3	24.3	24.2
Other	454.9	507.0	483.0
Current Liab.	641.1	665.3	627.0
Fix. Chg. Cov.(%)	269	274	270

ANNUAL RATES of change (per sh)	Past 10 Yrs.	Past 5 Yrs.	Est'd '06-'08 to '12-'14
Revenues	--	--	Nil
"Cash Flow"	--	--	2.0%
Earnings	--	--	1.0%
Dividends	--	--	Nil
Book Value	--	--	-9.5%

Calendar	QUARTERLY REVENUES ($ mill) Mar.31	Jun.30	Sep.30	Dec.31	Full Year
2006	703.0	731.3	771.4	827.6	3033.3
2007	783.7	826.7	822.6	827.8	E3260.8
2008	800.0	799.9	794.1	777.5	E3171.5
2009	755.0	752.9	748	734.1	2990
2010	735	738	738	739	2950

Calendar	EARNINGS PER SHARE A Mar.31	Jun.30	Sep.30	Dec.31	Full Year
2006	.27	.29	.21	.26	1.03
2007	.21	.24	.25	.28	D.98
2008	.27	.27	.24	.20	E .98
2009	.20	.21	.22	.22	.85
2010	.22	.22	.22	.22	.88

Calendar	QUARTERLY DIVIDENDS PAID B ■ Mar.31	Jun.30	Sep.30	Dec.31	Full Year
2006	--	--	--	.20	.20
2007	.25	.25	.25	.25	1.00
2008	.25	.25	.25	.25	1.00
2009	.25	.25	.25		

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	© VALUE LINE PUB., INC.	12-14
	--	--	--	--	--	--	--	6.36	7.17	7.22	6.85	6.80	Revenues per sh	7.05
	--	--	--	--	--	--	--	1.89	2.14	2.12	2.05	2.10	"Cash Flow" per sh	2.30
	--	--	--	--	--	--	--	1.03	.98	.98	.85	.88	Earnings per sh A	1.05
	--	--	--	--	--	--	--	.20	1.00	1.00	1.00	1.00	Div'ds Decl'd per sh B ■	1.00
	--	--	--	--	--	--	--	.78	.80	.72	.70	.70	Cap'l Spending per sh	.75
	--	--	--	--	--	--	--	.99	1.54	.57	.45	.40	Book Value per sh	.60
	--	--	--	--	--	--	--	476.80	454.50	439.40	436.00	435.00	Common Shs Outst'g C	432.00
	--	--	--	--	--	--	--	13.0	14.5	11.5	Bold figures are Value Line estimates		Avg Ann'l P/E Ratio	13.5
	--	--	--	--	--	--	--	.70	.77	.70			Relative P/E Ratio	.90
	--	--	--	--	--	--	--	1.5%	7.0%	8.9%			Avg Ann'l Div'd Yield	7.1%
	--	--	--	--	--	2933.5	2923.5	3033.3	3260.8	3171.5	2990	2950	Revenues ($mill)	3035
	--	--	--	--	--	396.3	381.7	450.5	465.8	434.9	370	383	Net Profit ($mill)	455
	--	--	--	--	--	40.2%	41.2%	38.3%	35.1%	39.4%	38.0%	38.0%	Income Tax Rate	39.0%
	--	--	--	--	--	13.2%	13.1%	14.9%	14.3%	13.7%	12.5%	13.0%	Net Profit Margin	15.0%
	--	--	--	--	--	6.6%	6.4%	92.1%	88.4%	95.5%	96.5%	96.5%	Long-Term Debt Ratio	95.0%
	--	--	--	--	--	93.4%	93.6%	7.9%	11.6%	4.5%	3.5%	3.5%	Common Equity Ratio	5.0%
	--	--	--	--	--	3967.6	3727.9	5926.0	6031.0	5610.5	5400	5335	Total Capital ($mill)	5250
	--	--	--	--	--	3074.3	2963.6	3939.8	4042.3	3897.1	3750	3875	Net Plant ($mill)	4255
	--	--	--	--	--	10.0%	10.5%	9.4%	11.4%	11.4%	10.5%	11.0%	Return on Total Cap'l	12.0%
	--	--	--	--	--	10.4%	10.9%	NMF	NMF	NMF	NMF	NMF	Return on Shr. Equity	NMF
	--	--	--	--	--	10.4%	10.9%	NMF	NMF	NMF	NMF	NMF	Return on Com Equity	NMF
	--	--	--	--	--	10.4%	10.9%	NMF	NMF	NMF	NMF	NMF	Retained to Com Eq	8.5%
	--	--	--	--	--	--	--	23%	102%	102%	118%	114%	All Div'ds to Net Prof	95%

BUSINESS: Windstream Corporation is the largest domestic, rural wireline telecommunications company. Primarily provides local telephone service to over three million customers, located mainly in rural areas across 16 states. Also operates long distance phone, Internet, product distribution, network management and telecom information segs. Sold directory pub. bus. 11/07, wireless ops. 12/08. Access lines: 2.95 mill. (12-mo. grwth, -5.5%). Has 1.94 mill. long distance, 1.02 mill. broadband and 311,600 digital TV accounts. Off. & dir. own less than 1% of com; NFJ Inv. Grp, 5.0% (3/09 proxy). 2008 deprec. rate: 5.2%. Has 7,350 empls. Pres. & CEO: Jeff Gardner. Inc.: DE. Addr.: 4001 Rodney Parham Rd., Little Rock, AR 72212. Tel.: 501-748-7000. Web: www.windstream.com.

We have adjusted our Windstream estimates for the recent sale of assets. Last month, the telco sold its product distribution subsidiary, Windstream Supply, to Walker and Associates for $100 million in cash. Windstream Supply accounted for $75 million of annual revenue. Considering this, and the current business environment, we've cut our 2009 and 2010 top-line estimates by $35 million and $80 million, to $2.99 billion and $2.95 billion, respectively. Our 2009 share-net estimate is down three cents, to $0.85, and our 2010 estimate, at $0.88, is two cents lower.

Our presentation does not reflect two pending acquisitions. The Federal Communications Commission has consented to Windstream's $335 million takeover of D&E Comm., a central Pennsylvania telco. At press time, D&E stockholders were set to vote on the deal. Assuming their approval (and that of state regulators), D&E should join the company by the end of this year. Windstream has offered D&E stockholders .65 of a common share and $5.00 cash for each of their shares; it will assume $183 million in debt. Too, management may well complete the purchase of Lexcom, a North Carolina carrier, for $141 million, within the next few months. D&E and Lexcom generate $148 million and $44 million in revenue and $64 million and $16 million in operating income a year, respectively. The prospective parent stands to gain 188,000 access lines, 53,000 Web accounts and 12,000 cable customers.

Meantime, the company is performing reasonably well in a tough operating environment. Residential and business customers, reacting to a weak economy, are canceling wireline service. Windstream continues to offer enhanced, bundled (local, long distance, video and Internet) offerings to limit account defections. Management is in the midst of transforming the telco from a voice-centered organization to a broadband & enterprise-based entity. We're cautiously optimistic that business will strengthen, and revenue and earnings, on a continuing operations basis, post a modest improvement in 2010.

The stock offers investors a high yield. Windstream is careful to contain operating risk, while maintaining strong cash flow that fully covers the dividend.

David M. Reimer *September 25, 2009*

(A) Diluted earnings. Excludes net nonrecurring gains/(loss): 2006, 22¢; '07, 85¢; 2Q, '08, (3¢); 4Q, '08, (2¢). Next earnings report due early November.
(B) Dividends paid in mid- January, April, July and October.
■ Dividend reinvestment plan available.
(C) In millions.
(D) Excludes directory publishing unit and includes CT Comm.
(E) Excludes former CT Comm. wireless operations.

Company's Financial Strength	B
Stock's Price Stability	80
Price Growth Persistence	NMF
Earnings Predictability	NMF

COMCAST CORP. NDQ-CMCSK

RECENT PRICE 16.64 | P/E RATIO 14.7 (Trailing: 14.7 / Median: NMF) | RELATIVE P/E RATIO 0.85 | DIV'D YLD 1.7% | VALUE LINE 816

TIMELINESS 2 Raised 9/25/09
SAFETY 3 Raised 12/25/92
TECHNICAL 3 Raised 7/31/09
BETA 1.00 (1.00 = Market)

2012-14 PROJECTIONS

	Price	Gain	Ann'l Total Return
High	30	(+80%)	17%
Low	20	(+20%)	6%

Insider Decisions

	O	N	D	J	F	M	A	M	J
to Buy	0	0	0	0	0	0	0	0	0
Options	0	0	0	0	0	0	0	0	0
to Sell	0	0	0	0	0	0	0	0	0

Institutional Decisions

	4Q2008	1Q2009	2Q2009
to Buy	155	158	171
to Sell	214	203	188
Hld's(000)	698241	682831	700049

LEGENDS
7.0 x "Cash Flow" p sh
Relative Price Strength
2-for-1 split 5/99
3-for-2 split 2/07
Options: Yes
Shaded area: prior recession
Latest recession began 12/07

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	© VALUE LINE PUB., INC.	12-14
High:	19.7	36.4	34.9	30.9	25.1	22.0	23.6	22.8	28.7	29.6	22.5	17.3								
Low:	9.8	18.7	18.6	21.3	10.9	15.0	17.3	17.0	16.7	17.3	12.1	10.3								
Sales per sh	2.01	1.92	4.68	4.13	4.58	4.64	5.51	5.83	6.82	3.69	5.43	6.12	6.94	5.23	10.26	11.89	12.35	12.85	Sales per sh	14.30
"Cash Flow" per sh	.36	.36	.91	.66	.66	.50	1.29	1.29	1.64	.70	1.25	1.69	1.84	1.48	2.82	3.16	3.40	3.55	"Cash Flow" per sh	4.10
Earnings per sh A	d.15	d.11	d.05	d.07	d.22	d.33	.21	d.57	d.68	.19	d.07	.29	.33	.47	.74	.91	1.10	1.20	Earnings per sh A	1.45
Div'ds Decl'd per sh B	.03	.03	.03	.03	.03	.03	.01	--	--	--	--	--	--	--	--	.25	.28	.30	Div'ds Decl'd per sh B	.40
Cap'l Spending per sh	.24	.38	.87	.69	.86	.81	.79	1.16	1.54	.59	1.23	1.10	1.13	.92	2.05	2.00	1.95	2.00	Cap'l Spending per sh	1.90
Book Value per sh E	d1.31	d1.01	d1.15	.53	1.03	2.92	8.66	9.86	10.21	11.37	12.34	12.48	12.54	8.63	13.73	14.04	14.80	15.70	Book Value per sh E	18.65
Common Shs Outst'g C	665.06	717.11	718.01	978.08	1072.8	1109.3	1127.8	1408.9	1417.8	3372.2	3377.1	3318.1	3207.9	4772.9	3011.0	2880.6	2891.0	2891.0	Common Shs Outst'g C	2891.0
Avg Ann'l P/E Ratio	--	--	--	--	--	--	NMF	--	--	NMF	--	NMF	NMF	47.3	33.7	20.6	Bold figures are Value Line estimates		Avg Ann'l P/E Ratio	18.0
Relative P/E Ratio	--	--	--	--	--	--	NMF	--	--	NMF	--	NMF	NMF	2.55	1.79	1.24			Relative P/E Ratio	1.20
Avg Ann'l Div'd Yield	.5%	.5%	.5%	.5%	.4%	.2%	--	--	--	--	--	--	--	--	--	1.3%			Avg Ann'l Div'd Yield	.9%
Sales ($mill)							6209.2	8218.6	9674.2	12460	18348	20307	22255	24966	30895	34258	35660	37135	Sales ($mill)	41370
Operating Margin							30.3%	30.1%	27.9%	29.8%	34.8%	37.1%	38.2%	37.8%	37.2%	38.3%	38.0%	39.0%	Operating Margin	39.5%
Depreciation ($mill)							1216.0	2631.3	3448.0	2032.0	4438.0	4623.0	4803.0	4823.0	6208.0	6400.0	6550	6845	Depreciation ($mill)	7670
Net Profit ($mill)							264.4	d794.5	d1129	319.0	d218.0	970.0	1098.0	2235.0	2267.0	2701.0	3195	3450	Net Profit ($mill)	4185
Income Tax Rate							60.7%	--	--	41.7%	--	45.6%	45.5%	37.5%	44.5%	37.6%	34.0%	37.0%	Income Tax Rate	37.0%
Net Profit Margin							4.3%	NMF	NMF	2.6%	NMF	4.8%	4.9%	9.0%	7.4%	7.9%	9.9%	9.3%	Net Profit Margin	10.1%
Working Cap'l ($mill)							4231.5	1102.2	1419.5	d8307	d4251	d5100	d3675	d2238	d4285	d5223	d3125	500	Working Cap'l ($mill)	10000
Long-Term Debt ($mill)							8707.2	10517	11742	27957	23835	20093	21682	27992	29828	30178	29000	28900	Long-Term Debt ($mill)	28500
Shr. Equity ($mill)							10341	14086	14473	38329	41552	41422	40219	41167	41340	40450	42835	45430	Shr. Equity ($mill)	53950
Return on Total Cap'l							2.7%	NMF	NMF	1.0%	1.1%	2.9%	3.1%	4.7%	4.8%	5.6%	3.0%	3.0%	Return on Total Cap'l	4.0%
Return on Shr. Equity							2.6%	NMF	NMF	.8%	NMF	2.3%	2.7%	5.4%	5.5%	6.7%	7.5%	7.5%	Return on Shr. Equity	8.0%
Retained to Com Eq							2.3%	NMF	NMF	.8%	NMF	2.3%	2.7%	5.4%	5.5%	5.3%	5.5%	5.5%	Retained to Com Eq	5.5%
All Div'ds to Net Prof							4%	--	--	--	--	--	--	--	--	20%	25%	25%	All Div'ds to Net Prof	28%

% TOT. RETURN 8/09

	THIS STOCK	VL ARITH. INDEX
1 yr.	-29.8	-4.4
3 yr.	-35.8	0.4
5 yr.	-19.2	32.3

Target Price Range 2012 | 2013 | 2014

CAPITAL STRUCTURE as of 6/30/09
Total Debt $33.1 bill. Due in 5 Yrs $27.7 bill.
LT Debt $28.9 bill. LT Interest $2.4 bill.
(Total interest coverage: 2.1x) (42% of Cap'l)

Leases, Uncapitalized $385 mill.
Pension Assets 12/08 $181.0 mill. Oblig. $152.0 mill.
Pfd Stock None

Common Stock 2,869,794,561 shares
(2,061,081,040 Class A shs.; 799,269,146 Class A Special shs.; 9,444,375 Class B shs.) D
MARKET CAP: $47.8 billion (Large Cap)

CURRENT POSITION ($MILL.)	2007	2008	6/30/09
Cash Assets	963	1195	4051
Receivables	1645	1626	1677
Other	1059	895	809
Current Assets	3667	3716	6537
Accts Payable	3336	3393	3070
Debt Due	1495	2278	4167
Other	3121	3268	3320
Current Liab.	7952	8939	10557

ANNUAL RATES of change (per sh)	Past 10 Yrs.	Past 5 Yrs.	Est'd '06-'08 to '12-'14
Sales	7.5%	11.5%	7.5%
"Cash Flow"	15.0%	16.0%	7.5%
Earnings	--	--	12.0%
Dividends	--	--	Nil
Book Value	23.5%	1.5%	7.0%

Calendar	QUARTERLY SALES ($ mill) Mar.31	Jun.30	Sep.30	Dec.31	Full Year
2006	5595	5908	6432	7031	24966
2007	7388	7712	7781	8014	30895
2008	8389	8553	8549	8765	34256
2009	8835	8938	8885	9002	35660
2010	9200	9300	9250	9385	37135

Calendar	EARNINGS PER SHARE A Mar.31	Jun.30	Sep.30	Dec.31	Full Year
2006	.09	.09	.20	.09	.47
2007	.17	.19	.18	.20	.74
2008	.19	.21	.26	.27	.91
2009	.27	.33	.24	.26	1.10
2010	.30	.33	.27	.30	1.20

Calendar	QUARTERLY DIVIDENDS PAID B Mar.31	Jun.30	Sep.30	Dec.31	Full Year
2005	--	--	--	--	--
2006	--	--	--	--	--
2007	--	--	--	--	--
2008	--	.0625	.0625	.0625	.19
2009	.0625	.07			

BUSINESS: Comcast Corp. is the nation's leading cable TV operator, with approximately 23.9 million video subscribers in 39 states and the District of Columbia. Internet service has approx. 15.3 million subscribers; phone service, 7.0 million. Also owns regional sports/national cable networks (including E! the entertainment channel, Golf Channel, Style), entertainment-based Internet businesses (Fandango), and major sports franchises/multipurpose arenas (Philadelphia 76ers/Flyers). Has about 100,000 employees. Insiders own 5.0%. Class A Special stock; 100% Class B stock. Dodge & Cox owns 8.9% of Class A (3/09 proxy). Chairman, Pres. & CEO: Brian L. Roberts. Inc.: PA. Addr.: 1500 Market St., Philadelphia, PA 19102. Tel.: 215-665-1700. Web: www.comcast.com.

We still expect Comcast to post weaker top-line growth this year. Our $35.66 billion revenue target for 2009 implies a 4% year-over-year advance. Comparatively, the nation's largest cable service provider enjoyed 12% top-line growth in 2008. The Philadelphia-based company continues to experience a slowdown in gross connect activity across all of its service categories. Consumer pullback amid economic uncertainty is partly to blame. So, too, is growing competitive pressure. An early-year marketing focus on converting nonpay-TV viewers (during the over-the-air analog-to-digital signal transition) also likely hurt bundled-service additions.

We've, nonetheless, raised our 2009 share-net estimate by a nickel, to $1.10. The revision largely reflects positive variances below the operating line. The tax rate should come in lower than previously envisioned, thanks to the favorable settlement of uncertain levies and an associated increase in accrued interest. Investment income ought to exceed initial expectations, as well.

The company is investing in new products and services to further drive sales and strengthen its competitive position. Comcast has already installed wideband DOCSIS 3.0 in nearly 50% of its service area. It stands a good shot at reaching the 75% level by the end of 2009. As Comcast deploys this wideband capability, it is doubling the Internet speeds of existing data customers and introducing new premium services. The company is also in the process of launching a wireless data service (High-Speed 2go) and is trialing an on-demand cable program service for online viewers.

We do have some concerns. Comcast already generates a good amount of monthly revenue from its double and triple play subscribers. Getting high take-rate customers to pay for additional services is likely to become increasingly tough. The company also faces stiff competition from satellite broadcasters as well as from Verizon and AT&T.

Comcast shares are ranked 2 (Above Average) for year-ahead relative price performance. At the current quotation, however, long-term appreciation potential doesn't stand out.

Nils C. Van Liew *September 25, 2009*

(A) Egs. based on weighted avg. Cl. A and Cl. B shs. before '99, diluted after. Excl. n/r gains/(losses): '93, ($1.78); '94, ($0.03); '95, ($0.01); '97, ($0.05); '98, $0.98; '99, $0.98; '00, $2.98; '01, $1.65; '02, ($0.54); '03, $1.54; '05, ($.08); '06, $0.32; '07, $0.09; '08, $0.06. Egs. may not sum due to rounding. Next egs. rprt due late Oct. (B) Div'd reinstated 4/08. (C) In mill., adjusted for stock splits. (D) Special Cl. A shs. not entitled to vote. Cl. B stockholders entitled to 15 votes per sh. (E) Incl. intang. In '06, $77.5 bill., $26.90/sh.

Company's Financial Strength	B+
Stock's Price Stability	80
Price Growth Persistence	20
Earnings Predictability	40

OTS Statement No. 1-SR
Witness: Joseph Kubas
4/15/10 10bg Tx

INVESTIGATION REGARDING INTRASTATE ACCESS CHARGES AND INTRALATA TOLL RATES OF RURAL CARRIERS AND THE PENNSYLVANIA UNIVERSAL SERVICE FUND
Docket No. I-00040105

AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC V. ARMSTRONG TELEPHONE COMPANY PENNSYLVANIA, ET AL.
Docket No. C-2009-2098380, et al.

Surrebuttal Testimony

of

Joseph Kubas

Office of Trial Staff

Concerning:

Intrastate Access Charges
Basic Local Exchange Rates

Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

A. My name is Joseph Kubas and my business address is Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105.

Q. ARE YOU THE SAME JOSEPH KUBAS THAT FILED OTS STATEMENT NO. 1 AND OTS EXHIBIT NO. 1 IN THIS PROCEEDING?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of my surrebuttal testimony is to address the rebuttal testimony of AT&T Communications of Pennsylvania, LLC, TCG New Jersey Inc., and TCG Pittsburgh, Inc. (AT&T) concerning the intrastate access charges of the Rural Local Exchange Companies (RLECs) in Pennsylvania. I will also address the rebuttal testimony filed on behalf of Verizon Pennsylvania Inc., Verizon North, Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services, Inc., d/b/a Verizon Business Services (collectively, Verizon); the rebuttal testimony filed on behalf of Comcast Phone of Pennsylvania, LLC, and Comcast Business Communications, LLC (collectively, Comcast); the

testimony filed on behalf of Sprint Communications Company LP, Sprint Spectrum LP, Nextel Communications of The Mid-Atlantic, Inc., and NPCR, Inc., (collectively, Sprint); and the rebuttal testimony filed on behalf of Qwest Communications Company, LLC (Qwest).

Q. WHAT SPECIFIC ISSUES DO YOU ADDRESS?

A. I will address AT&T, Comcast, Qwest and Sprint's support of AT&Ts complaint through rebuttal testimony concerning the intrastate access charges of the Rural Local Exchange Companies (RLECs) in Pennsylvania.

AT&T

Q. WHAT IS THE PRIMARY POSITION OF AT&T?

A. In this proceeding, AT&T recommended that all RLEC intrastate access charges be reduced to be in parity with the RLECs interstate access charges including the immediate elimination of each RLEC's Carrier Common Line (CCLC) charge (AT&T St. No. 1-2, p. 1, and p. 4).

Q. DID YOU ADDRESS AT&T'S RECOMMENDATION IN YOUR DIRECT TESTIMONY?

A. Yes. I provided direct testimony outlining why such a recommendation was unsupported and not in the public interest (OTS St. No. 1, p. 6).

Q. WHAT IS THE FIRST AT&T CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address AT&T claims regarding occurrences in other states. For example, AT&T claims that the New Jersey Board of Public Utilities recently ordered substantial and immediate intrastate access reform (AT&T St. No. 1.2, p. 2 and pp. 33-34).

Q. IS THE ACTION OF OTHER JURISDICTIONS INCLUDING STATE COMMISSIONS RELEVANT IN PENNSYLVANIA?

A. No. Just as the FCC has determined a different methodology for recovering cost, other states also may utilize a different methodology for recovering cost. The New Jersey incumbent local exchange company cost studies that were rejected by the New Jersey Commission were not provided by AT&T. It would certainly be possible that this Commission would reach a different conclusion concerning the cost studies for Pennsylvania RLECs. As a result, different cost studies could support different results in Pennsylvania than the results found in New Jersey.

Q. WHAT IS SECOND AT&T CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address AT&T's claim that the OCA proposal in this case could be approved with a modification that allows RLEC Basic Local Exchange Service (BLES) rates to increase from the existing $18.00 per month to $22.00 per month, which would be the new benchmark. As proposed by AT&T, the monthly benchmark would increase by $1.00 per year until it reaches $25.00 per month. After the third year, AT&T proposes that the benchmark BLES rate be increased by the rate of inflation each year (AT&T St. No. 1-2, p. 4).

Q. DO YOU DISAGREE WITH THIS RECOMMENDATION?

A. Yes.

Q. WHY DO YOU DISAGREE WITH THIS RECOMMENDATION?

A. I disagree with the recommendation because it includes the elimination of the CCLC. It is essentially the original AT&T recommendation to increase BLES rates without a study showing that current BLES rates are priced below cost. As described in my direct testimony, there is no support for increasing BLES rates and no cost support for eliminating the intrastate CCLC. Allowing IXCs free unlimited use of the local loop is not in the public interest (OTS St. No. 1, pp. 13-14).

Q. WHAT IS THE THIRD AT&T CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address AT&T's assertion that BLES rates are below cost, and that the RLECs are asking that every single one of its customers be subsidized (AT&T St. No. 1.2, p. 27, 31).

Q. IS THE CLAIM VALID?

A. No. As described above, AT&T provided no cost support for the claim that RLEC BLES rates are below cost. Further, if there is no support that BLES rates are below cost, there is no support for the claim that BLES rate are being subsidized. Therefore, there is no support for the claim that RLECs are requesting that every single BLES customer receive a subsidy.

Q. WHAT IS THE FOURTH AT&T CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. The fourth claim I that would like to address is AT&T's notion that it is well known that access rates contain a subsidy towards local rates and there is no evidence to prove otherwise (AT&T St. No. 1.2, p. 46).

Q. WHAT DID AT&T PROVIDE TO SUPPORT THIS CLAIM?

A. AT&T only provided a quote from the Commission's 1999 Global order, which fails to provide actual support for this claim.

Q. DOES A STATEMENT IN THE 1999 GLOBAL PROVE AT&T IS CORRECT IN 2010?

A. No. More than ten years have passed since this Commission order was issued and circumstances have changed, including the reductions in RLEC access charges that took place in 1999 and in the 2000s. Since AT&T failed to provide recent data, its claim is not supported in this case.

QWEST

Q. WHAT IS THE PRIMARY POSITION OF QWEST?

A. Qwest recommended that RLEC intrastate switched access rates be reduced to a level equal to Verizon's intrastate access rates (Qwest St. 1-R, p.3).

Q. WHAT IS THE FIRST QWEST CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address is Qwest's claim that the cost of the local loop should be borne by the end user (Qwest St. 1-R, p. 7).

Q. SHOULD THE COST OF THE LOOP BE BORNE BY THE END USER?

A. No. For the reasons described in my direct testimony, the local loop is a joint cost.

Q. WHAT IS THE SECOND QWEST CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address Qwest's claim that my analysis of Qwest's own CCLC rates is flawed because I excluded six states where Qwest operating companies have no CCLC (Qwest St. No. 1-R, p. 12).

Q. DID YOU FAIL TO MENTION THE SIX STATES WHERE QWEST OPERATING COMPANIES HAVE NO CCLC?

A. No. I listed 13 states in which Qwest operates as an incumbent local exchange company (OTS St. No. 1, p. 28, line 4-6). Then I listed the eight states in which Qwest has a CCLC in place (OTS St. No. 1, p. 28, line 11), which clearly demonstrates that the remaining five states are states where Qwest does not charge a CCLC. As an example, I include the CCLC page from Arizona and New Mexico as part of my exhibit that clearly show where Qwest does not charge a CCLC rate (OTS Ex. No. 1, Sch. 1, p. 1, 8). Therefore, Qwest's belief that my analysis is flawed is not a valid criticism.

Q. WHAT IS THE THIRD QWEST CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address Qwest's claim that my analysis and conclusions are not meaningful because the CCLC per minute rate charged by Qwest in Minnesota is less that the CCLC rate charged by Verizon in Pennsylvania (Qwest St. No. 1-R, p. 13).

Q. IS YOUR ANALYSIS FLAWED BECAUSE THE AVERAGE CCLC RATE IN MINNESOTA IS LESS THAT VERIZON CCLC RATE IN PENNSYLVANIA?

A. No. Since the terminating CCLC rate is higher than Verizon's CCLC, the CCLC in Minnesota should be considered higher than the CCLC rate Verizon charges in Pennsylvania.

Q. SHOULD THE COMMISSION CONSIDER YOUR CONCLUSION FLAWED BECAUSE THE QWEST CCLC RATE MAY BE LOWER IN ONE STATE DEPENDING ON HOW IT IS CALCULATED?

A. No. My analysis continues to show that there are at least seven undisputed states where Qwest charges a higher CCLC than Verizon charges in Pennsylvania.

Q. DID QWEST ADDRESS ITS INCONSISTENT PRACTICE IN THESE REMAINING SEVEN STATES?

A. No. Rather than address the very point I was trying to make concerning its double standard on access charges in at least seven states, Qwest has chosen to quibble over one or two states. Qwest never explained why the Commission should reduce the CCLC in Pennsylvania when Qwest charges its customers a higher CCLC in seven other states. That explanation must be provided before the Qwest proposal is considered by the Commission.

Sprint

Q. WHAT IS THE PRIMARY POSITION OF SPRINT?

A. Sprint claims that much has changed over the years and that now is the time for the RLEC intrastate rates to be reduced to equal their interstate rates (Sprint Rebuttal, p. 3).

Q. DID YOU ADDRESS SPRINT'S RECOMMENDATION IN YOUR DIRECT TESTIMONY?

A. Yes. I provided direct testimony outlining why such a recommendation was unsupported and not in the public interest (OTS St. No. 1, p. 19).

Q. WHAT IS THE FIRST SPRINT CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address Sprint's claim that the entire loop expense is incurred as soon as the customer orders basic service (Sprint Rebuttal, p. 6).

Q. HAVE YOU HEARD THIS SAME ARGUMENT BY OTHER PARTIES AND IN OTHER CASES?

A. Yes. However, as described in my direct testimony, the Commission has determined that the local loop is a shared facility (OTS St. No. 1, p. 12).

Q. WHAT IS YOUR RESPONSE?

A. My response is that since the IXCs use the RLEC's local loops to originate or terminate long distance calls to over one million customers in Pennsylvania, they should contribute to the cost of the local loop. Without the RLEC local loops, they would have to either build their own network, which would be very costly, or find another method to connect to these 1,000,000 customers. In other words, since they use it, they should pay some of the cost of it.

Q. WHAT IS THE SECOND SPRINT CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would to address Sprint's example concerning a customer who orders landline service, but uses cellular service for all inbound and outbound calls. Sprint alleges that IXC's are required to pay for this loop, even though an IXC does not use the local loop.

Q. WHAT SHOULD SPRINT UNDERSTAND ABOUT COST RECOVERY?

A. Sprint should understand that the rates set by an RLEC are designed to recover the entire cost of the RLEC network. One cannot look at the individual cost of one low or high use customer to determine if one RLEC rate is recovering the exact cost incurred to provide service to one customer. Rates are averaged for simplicity and economic reasons. The same example could be reversed where an RLEC customer primarily uses their landline service for instate long distance calls. In that case, the IXC's would underpay for a reasonable share of the cost of the local loop, since the customer is paying a large part of the cost of the local loop in their BLES rate, not in toll rates even though the customer rarely use the local loop to make a local call.

Q. WHAT IS THE THIRD SPRINT CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. I would like to address Sprint's example concerning a customer who orders a sofa using a landline phone. Sprint claims that under my "theory", the furniture store got a free ride on my local loop because it used my loop to sell the sofa.

Q. WHAT POINT DOES SPRINT MISS IN THIS EXAMPLE?

A. Sprint fails to mention is that the furniture store paid for its share of the RLEC's network because they have telephone service. The counter argument to this example is that this furniture store would probably not let another furniture store use part of its building or land free of charge to operate its own furniture store. Under Sprint's flawed economic hypothesis, customers of the original store pay for the land, and buildings of the business, but any other business should be permitted use the facilities free of charge. This analogy is exactly what the IXC's are requesting in this case and shows what would happen if the CCLC is eliminated and IXCs are permitted to use the RLEC's network free of charge.

Verizon

Q. WHAT IS THE PRIMARY POSITION OF VERIZON?

A. Verizon recommends that the RLEC access charges be reduced to a level equal to its intrastate access rates (Verizon St. No. 1.1, p. 3).

Q. DID YOU ADDRESS VERIZON'S ARGUMENTS FOR THIS POSITION IN DIRECT TESTIMONY AND IN THIS SURREBUTTAL TESTIMONY?

A. Yes. My opinion remains the same concerning the arguments and positions put set forth by Verizon in Verizon St. No. 1.1.

Q. WHAT IS ONE VERIZON CLAIM THAT YOU WOULD LIKE TO ADDRESS?

A. The one Verizon claim I would like to address is that high access charges result in customer's shouldering some unidentified "burden" (VZ St. No. 1.1, p. 17).

Q. WHAT "BURDEN" IS VERIZON REFERRING TO?

A. The exact "burden" is not specified or quantified.

Q. DOES YOUR RECOMMENDATION PLACE AN UNFAIR "BURDEN" ON CUSTOMERS, VERIZON OR ANY OTHER IXC?

A. No. My recommendation allows the RLECs to recover some of the cost of the network from other companies that use its network. Had Verizon done a cost study to support its "burden" claim, the RLECs and the other parties could have addressed it. Since Verizon has failed to quantify this alleged "burden", its "burden" argument is not valid.

Q. SHOULD ACCESS CHARGES BE CONSIDERED A "BURDEN" ON IXCS AND CUSTOMERS?

A. No. As described in my direct testimony, access charges are a method of cost recovery (OTS St. No. 1, p. 4). IXCs such as Verizon should look upon access charges as a benefit, allowing them to originate and terminate

traffic to these rural customers without having to build or maintain a network to connect to each and every customer, which would be very costly.

Conclusion

Q. PLEASE SUMMARIZE YOUR RECOMMENDATION.

A. I recommend that the RLEC access charges remain the same and the RLEC CCLC remain in place. There is no reason for the Commission to reverse itself on the CCLC simply to satisfy the complaint of AT&T and the unproven claims and theories of AT&T, Comcast, Sprint, Qwest and Verizon.

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes.