

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

FAX (717) 783-7152
consumer@paoca.org

IRWINA. POPOWSKY
Consumer Advocate

April 11, 2012

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Implementation of the Federal
Communications Commission's Order of
November 18, 2011 As Amended or
Revised and Coordination with Certain
Intrastate Matters
Docket No. M-2012-2291824

Dear Secretary Chiavetta:

Enclosed please find the Comments of the Office of Consumer Advocate and the presentation materials of Dr. Robert Loube on behalf of the OCA in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Shaun A. Sparks".

Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney I.D. # 87372

Enclosures

cc: Office of Administrative Law Judge
Office of Special Assistants
Certificate of Service

154881

CERTIFICATE OF SERVICE

Re: Implementation of the Federal Communications Commission's Order of November 18, 2011 As Amended Or Revised and Coordination With Certain Intrastate Matters
Docket No. M-2012-2291824

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Comments and presentation materials 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 11th day of April 2012.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Allison Kaster
Johnnie Simms
Bureau of Investigation and Enforcement
Pa. Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Norman J. Kennard
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
Harrisburg, PA 17101

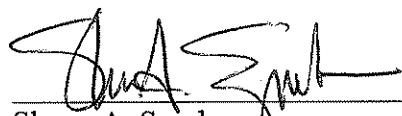
Suzan D. Paiva
Verizon
1717 Arch Street, 3 East
Philadelphia, PA 19103

Zsuzanna Benedek, Esq.
CenturyLink
240 North Third St., Suite 300
Harrisburg, PA 17101

Steven C. Gray, Esq.
Office of Small Business Advocate
300 North Second Street
Suite 1102 Commerce Bldg.
Harrisburg, PA 17101

Steve Samara
Pennsylvania Telephone Association
30 North Third Street, Suite 300
Harrisburg, PA 17101

Christopher M. Arfaa, Esq.
150 N. Radnor Chester Rd., Suite F-200
Radnor, PA 19087



Shaun A. Sparks
PA Attorney I.D. #87372
E-Mail: SSparks@paoca.org
Barrett C. Sheridan
PA Attorney I.D. # 61138
E-Mail: BSheridan@paoca.org

Counsel for
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
154853

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Federal :
Communications Commission's Order :
of November 18, 2011 As Amended Or : Docket No. M-2012-2291824
Revised and Coordination With Certain :
Intrastate Matters :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney I.D. # 87372
E-Mail: ssparks@paoca.org
Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
E-Mail: bsheridan@paoca.org
Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: April 11, 2012

I. INTRODUCTION

On March 22, 2012 the Pennsylvania Public Utility Commission (Commission) issued its Opinion and Order (March 22 Order) regarding the above-referenced Docket. The March 22 Order invited interested stakeholders to provide the Commission with appropriate information and material regarding the Commission's implementation of the Federal Communications Commission's (FCC) directives in advance of carrier tariff filings necessary to advance the intercarrier compensation reforms mandated by the FCC.

The March 22 Order requested that interested stakeholders address five key areas of inquiry to assist the Commission and also provided for an April 20, 2012 on-the-record collaborative at which stakeholders could make presentations regarding their respective interests. The OCA provides these Comments and the associated presentation of its expert Dr. Robert Loube in response to the Commission's request for information and materials. The OCA and Dr. Loube will participate in the April 20 on-the-record collaborative where the OCA will make Dr. Loube available for the presentation of these materials and any panel discussions developed by the Commission.

I. COMMENTS

The March 22 Order requests that commentators address, at a minimum, the five questions presented in the Order. These Comments, in conjunction with Dr. Loube's presentation on behalf of the OCA, will address questions 1, 2, 4, and 5. Regarding question 3, the OCA believes that carriers are better suited to inform the Commission about interconnection agreements between and among affected carriers and about how those agreements ought to be modified.

Question No. 1. – Commission Authority.

The OCA believes that the Commission has the authority to address issues related to intercarrier compensation reform. Answering the question of how that authority is manifest, however, requires significant nuance. The OCA points out that while these Comments address Commission jurisdiction and authority, Dr. Loubé's presentation raises additional issues that the Commission should consider in developing its oversight role in intercarrier compensation reform.

The March 22 Order requested comment on the scope and boundaries of the Commission's authority and jurisdiction to exercise appropriate legal boundaries and enforcement while implementing the directives of the FCC's Order. The OCA submits that the Commission has the requisite authority to assure that regulated Pennsylvania telecommunications services are of appropriate quality and are offered at just and reasonable rates. See 66 Pa.C.S. §§ 1301, 1501. Section 501 of the Code provides the Commission with the general powers to enforce, execute, and carry out by regulations, orders or other means both the provisions of the Public Utility Code "and the full intent thereof..." 66 Pa.C.S. § 501. The Commission has the authority to inspect the facilities and records of public utilities and may require public utilities to provide copies of reports filed with federal agencies.¹ 66 Pa.C.S. § 504, 506.

The OCA notes that Section 3011 of the Public Utility Code charges the Commission with the task of maintaining universal service at affordable rates while encouraging deployment of broadband services and facilities, balancing mandated deployment and market-

¹ Thus the Commission could request Pennsylvania ILECs that participate in the Recovery Mechanism to provide the Commission with copies of the reports and data required by the FCC for monitoring compliance. See FCC Order, ¶¶ 921-923.

driven deployment of broadband facilities, and guarding against rates for protected services subsidizing the competitive ventures of competitive services. See e.g. 66 Pa.C.S. § 3011(1), (2), (4). The OCA submits that to fulfill the intent of the General Assembly, the Commission's inquiries and review of telecommunications public utilities' operations must be broad in scope.

Pursuant to Section 214(e) of the Telecommunications Act, the Commission has already played a role in assuring that federal universal service policy is advanced in Pennsylvania, through the designation of incumbent local exchange carriers and others as eligible telecommunications carriers.² 47 C.F.R. § 214(e). The Commission has annually confirmed to the FCC that Pennsylvania ILECs will use high cost support for its intended purposes. The Commission has reviewed and arbitrated requests for interconnection. The FCC's November 18 Order changes how telecommunications carriers will compensate one another terminating intrastate calls, establishes a method for recovery of reduced revenues subject to specific limitations, and provides for universal support for voice and broadband through the Connect America Fund ("CAF"). The FCC Order directly impacts the interests of Pennsylvania telecommunications carriers and end users, particularly Pennsylvania residential consumers. The OCA submits that the Commission may properly inquire and as necessary account for decisions by telecommunications carriers as to the utilization of the federal Eligible Recovery mechanism, inclusive of Access Recovery Charge ("ARC") and CAF support as these impact Pennsylvania interests.

² Section 104 of the Public Utility Code states "The provisions of this part, except when specifically so provided, shall not apply, or be construed to apply, to commerce with foreign nations, or among the several states, except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress." The OCA submits that Section 104 does not restrict the Commission's authority in this context, where the FCC Order is based on the Telecommunications Act of 1996 and the FCC has acknowledged the continued role of state commissions. See e.g. FCC Order, ¶ 813.

Question No. 2. – Appropriate methods and examples.

Please refer to the presentation of OCA expert Dr. Robert Loube.

Question No. 4. – Utilization of available intercarrier compensation support.

Please refer to the presentation of OCA expert Dr. Robert Loube.

Question No. 5. – Informal dispute resolution.

The OCA believes that the development of specific procedures for informal dispute resolution are appropriate and will benefit both telecommunications carriers and Pennsylvania consumers who depend on telephone service at just and reasonable rates. The OCA submits that past “OP 12” dispute resolution processes established by the Commission may serve as a model.³ The OCA emphasizes that any informal dispute resolution process must be transparent and allow for appropriate participation by interested parties. As with the OP 12 process, this approach may allow for common problems to be reviewed efficiently and assure that the interests of end users may be considered.

³ The “OP 12” process refers to Ordering Paragraph 12 of the Commission’s 2001 Order regarding the possible structural separation of Verizon Pennsylvania. The Ordering Paragraph stated:

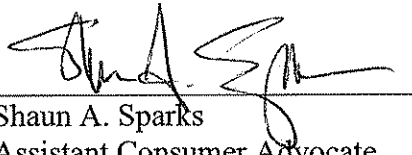
12. That the Parties to this proceeding shall be afforded the availability of monthly meetings, which will be mediated by a Commissioner or a senior staff member, with appropriate waivers, to address operational and performance issues. Informal determinations may be reached as a result of these meetings, to which parties may object by providing formal notice to the Commission.

Re: Structural Separation of Bell Atlantic-Pennsylvania, Inc Retail and Wholesale Operations, Docket No. M-00001353, Order at 45 (Apr. 11, 2001).

III. CONCLUSION

The OCA thanks the Commission for the opportunity to provide these Comments and the presentation of Dr. Robert Loube on the Implementation of the Federal Communications Commission's Order of November 18, 2011 As Amended Or Revised And Coordination With Certain Intrastate Matters. The OCA looks forward to continuing to work with the Commission, Staff and the stakeholders on these important issues.

Respectfully Submitted,



Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney I.D. # 87372

E-Mail: ssparks@paoca.org

Barrett C. Sheridan

Assistant Consumer Advocate
PA Attorney I.D. # 61138

E-Mail: bsheridan@paoca.org

Tanya J. McCloskey

Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044

E-Mail: TMcCloskey@paoca.org

Counsel for:

Irwin A. Popowsky

Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: April 11, 2012

Collaborative Workshop Session
Regarding the Implementation of
the FCC's November 18, 2011 Order

The Presentation of Dr. Robert Loube on
behalf of

The Pennsylvania Office of the Consumer
Advocate

April 20, 2012

1. Appropriate legal boundaries of the Commission authority and jurisdiction

- Jurisdictional Issues
- NECA Pool Issues
- Additional Data Reporting Issues

Jurisdictional Separations Issues

- Does the elimination of LSS cause the expense adjustment associated with that support to revert to the Intrastate jurisdiction?
- Can states assign ARC revenue and Recovery Mechanism support to the Intrastate jurisdiction?
- How do the FCC's forbearance orders and the current forbearance petition affect the state's authority in these matters?

NECA Traffic Sensitive Pool Issues

- The revenue for the NECA Traffic Sensitive Pool includes:
 - \$200 million of LSS
 - \$175 million in network access revenue
 - LSS will be eliminated and network access revenue will decrease substantially
- Is it appropriate to assign any other revenues to the TS pool, such as Recovery Mechanism Support?

Data Requirements

- Carriers should provide income statements that allocate revenue and costs among the federal and state jurisdictions and a carrier's deregulated affiliates
- Carriers that operate in more than one state should provide ARC revenue and Recovery Mechanism support calculations on Pennsylvania stand-alone basis.

2. Appropriate and demonstrative methods and quantitative examples

- Carriers should provide the Commission with their baseline revenue, calculated using an October 1, 2010 through September 30, 2011 fiscal year.
- The Commission must decide what part of the CCL is considered part of transitional intrastate services.
- Carriers should provide the Commission with these calculations based on Pennsylvania stand-alone data.

Additional Question 2 information

- Carriers should provide the Commission with all billing determinants and revenue required to make the rate and revenue calculations used to determine the revenue offset.
- Carriers should provide the Commission with their plans to use ARC revenue and Recovery Mechanism to offset state access reductions or whether the carrier plans to use the funds for other purposes.

4. Broadband Obligations and the use of federal universal support

- Federal broadband deployment obligations include: 4 Mbps downstream and 1 Mbps upstream, with latency suitable for real-time applications and services such as VoIP, and with monthly usage capacity reasonably comparable to that of residential terrestrial fixed broadband offerings in urban areas.

4. Broadband Obligations and the use of federal universal support

- The federal obligation requires faster speeds than are required by current Pennsylvania law.
- The 4Mbps downstream requirement should not be a problem for most carriers
- Carrier should identify why the 1Mbps upstream requirement might impose additional cost on the carrier and whether those costs would be recovered by utilizing ARC revenue and RM support.

Changes in Existing Federal Universal Service Programs

- Price Cap Carriers
 - When the FCC adopts its broadband model, scheduled for January 1, 2013, current support will be eliminated
 - The current support that will be eliminated represents 84% of federal support funds received by PA ILECs
- Rate of Return Carriers
 - LSS support will be eliminated on June 30, 2012
 - LSS support represents 5% of federal support funds received by PA ILECs and 31% of federal support received by Rate of Return Carriers

Price Cap Carrier Federal Universal

Support – Part 1

Study Area Name	Price Cap Holding Company	* Frozen High Cost Monthly Support	Total High Cost Monthly
UTC OF PENNSYLVANIA	CenturyTel, Inc. dba CenturyLink	\$ 433,362	\$ 433,362
NORTH PITTSBURGH TEL	Consolidated Communications, Inc.	\$ 361,424	\$ 361,424
BENTLEYVILLE TEL CO	FairPoint Communications, Inc.	\$ 32,289	\$ 32,289
MARIANNA - SCENERY	FairPoint Communications, Inc.	\$ 21,813	\$ 21,813
FRONTIER-BREEZEWOOD	Frontier Communications Corporation	\$ 11,803	\$ 11,803
FRONTIER-CANTON	Frontier Communications Corporation	\$ 7,788	\$ 7,788
COMMONWEALTH TEL CO	Frontier Communications Corporation	\$ 1,616,970	\$ 1,616,970
FRONTIER-PA	Frontier Communications Corporation	\$ 30,956	\$ 30,956
FRONTIER-LAKEWOOD	Frontier Communications Corporation	\$ 3,485	\$ 3,485
FRONTIER-OSWAYO RIVR	Frontier Communications Corporation	\$ 20,330	\$ 20,330

Price Cap Carrier Federal Universal Service Support – Part 2

Study Area Name	Price Cap Holding Company	* Frozen High Cost Monthly Support	Total High Cost Monthly
VERIZON NORTH-PA	Verizon	\$ 180,808	\$ 180,808
VERIZON N-PA(CONTEL)	Verizon	\$ 145,899	\$ 145,899
VERIZON N-PA(QUAKER)	Verizon	\$ 133,359	\$ 133,359
VERIZON PENNSYLVANIA	Verizon	\$ 668,035	\$ 668,035
BUFFALO VALLEY TEL	Windstream Corporation	\$ 126,079	\$ 126,079
THE CONESTOGA TEL	Windstream Corporation	\$ 298,947	\$ 298,947
DENVER & EPHRATA	Windstream Corporation	\$ 305,166	\$ 305,166
WINDSTREAM PA	Windstream Corporation	\$ 178,873	\$ 178,873
Total		\$ 4,577,386	\$ 4,577,386

Rate of Return Carrier Federal USF Support

Study Area Name	HCL Monthly Support	ICLS Monthly Support	Frozen LSS Monthly Support	Total High Cost Monthly
CITIZENS - KECKSBURG	\$ -	\$ 27,996	\$ 11,406	\$ 39,402
HICKORY TEL CO	\$ -	\$ 11,359	\$ 7,708	\$ 19,067
IRONTON TEL CO	\$ -	\$ 33,629	\$ 26,375	\$ 60,004
LACKAWAXEN TELECOM	\$ -	\$ 18,833	\$ 17,296	\$ 36,846
LAUREL HIGHLAND TEL	\$ -	\$ 40,796	\$ 15,738	\$ 56,534
MAHANAY & MAHANTANGO	\$ -	\$ 13,358	\$ 4,976	\$ 18,334
ARMSTRONG TEL CO-PA	\$ 32,755	\$ 40,800	\$ 19,797	\$ 93,352
NORTH EASTERN PA TEL	\$ -	\$ 103,762	\$ 47,215	\$ 150,977
NORTH PENN TEL CO	\$ 30,069	\$ 65,907	\$ 29,631	\$ 125,607
ARMSTRONG TEL NORTH	\$ 1,823	\$ 7,384	\$ 6,125	\$ 15,332
PALMERTON TEL CO	\$ -	\$ 62,732	\$ 33,875	\$ 98,878
PENNSYLVANIA TEL CO	\$ -	\$ 13,475	\$ 5,660	\$ 19,135
PYMATUNING IND TEL	\$ -	\$ 14,208	\$ 8,265	\$ 22,473
SOUTH CANAAN TEL CO	\$ -	\$ 24,172	\$ 9,867	\$ 34,039
SUGAR VALLEY TEL CO	\$ -	\$ 10,145	\$ 3,244	\$ 13,389
VENUS TEL CORP	\$ -	\$ 12,238	\$ 7,607	\$ 19,845
YUKON - WALTZ TEL CO	\$ 1,007	\$ 8,875	\$ 8,630	\$ 18,512
WEST SIDE TEL CO-PA	\$ 737	\$ 1,662	\$ 944	\$ 3,343
Total	\$ 66,391	\$ 511,331	\$ 264,359	\$ 845,069

New Federal Universal Support Mechanisms

- Price Cap Carriers
 - CAF II Model support is limited to geographic areas not served by other unsubsidized broadband providers
 - The baseline revenue in the Recovery Mechanism support does not include former LSS support
- Rate of Return Carriers
 - The baseline revenue in the Recovery Mechanism includes former LSS support

Additional New Federal Universal Service Programs

- CAF I Price Cap Carrier Support
 - \$300 million to support the build-out of broadband facilities
 - It is not clear how much, if any, of these funds will support investment in Pennsylvania
- Remote Area Support
 - \$100 million for all Remote areas in the country

Data Requirements

- Monitor the financial status of the Rural ILECS
- Monitor interexchange carrier rates to ensure that access reductions are passed through to residential consumers
- Monitor FCC mandated broadband deployment and quality of service requirements
- Mapping the support areas

Data Requirements: Mapping

- The CAF II support mechanism will divide a geographic region into three areas: a low-cost unsupported area, a high cost model supported area and a very high cost remote area that will not receive model support.
- The CAF II support mechanism will not provide support in areas where an unsubsidized broadband provider operates.
- Alternative broadband providers' service areas and model cost regions are not uniquely aligned with Census block boundaries.
- The Commission should enhance the current mapping procedures such that it can uniquely determine support boundaries.