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May 25, 2012

Via Hand Delivery

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

In re: Implementation of the Federal Communications Order of November 18, 2011 as Amended or Revised; Docket No. M-2012-2291824

Dear Secretary Chiavetta:

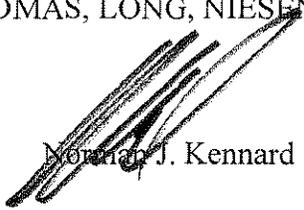
Enclosed for filing please find the original and three copies of the Joint Petition of The Pennsylvania Telephone Association, The United Telephone Company of Pennsylvania LLC, d/b/a CenturyLink, and AT&T for Protective Order. Copies have been served in accordance with the attached Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By:


Norman J. Kennard

Enclosures

cc: Per Certificate of Service

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2012 MAY 25 PM 2:33
P.U.C.
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of the Federal Communications :
Commission's Order of November 18, 2011 : M-2012-2291824
As Amended or Revised and Coordination :
With Certain Intrastate Matters :

**JOINT PETITION OF
THE PENNSYLVANIA TELEPHONE ASSOCIATION,
THE UNITED TELEPHONE COMPANY OF PENNSYLVANIA LLC,
D/B/A CENTURYLINK
AND AT&T FOR PROTECTIVE ORDER**

The Pennsylvania Telephone Association ("PTA"), The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink ("CenturyLink") and AT&T Communications of Pennsylvania, LLC, TCG New Jersey, Inc., and TCG Pittsburgh, Inc. ("AT&T") (collectively "Joint Petitioners"), hereby move pursuant to § 5.423 of the Commission's Rules and Regulations, 52 Pa. Code § 5.423, for the entry of a Protective Order to restrict access to proprietary information to be filed or otherwise provided in connection with this proceeding. In support of this Petition, Joint Petitioners state as follows:

1. In connection with this proceeding, Joint Petitioners anticipate that they may be required to file with this Commission and/or furnish to the parties nonpublic proprietary information and documents that contain competitively sensitive information. Joint Petitioners would be substantially harmed if this information were filed and/or provided to the parties without restriction, because it then would become public information available for review by actual or potential competitors for Joint Petitioners. For example, if the material is not kept in a proprietary folder in the Secretary's office, then competitors could obtain copies of the

information. Also, information not marked proprietary could be publicly released in orders or other official documents available on the Commission's website or from the Secretary's office.

2. This proceeding involves the implementation of access rate changes associated with the FCC's *ICC/USF Transformation Order*.

3. Joint Petitioners believe that the litigation of this matter will be facilitated by the adoption, at the earliest possible time, of the Protective Order attached as Exhibit A hereto to govern the treatment of party proprietary materials. This Order would protect all proprietary materials from disclosure to the public or to employees of competitors of producing parties who would use proprietary information to harm them competitively.

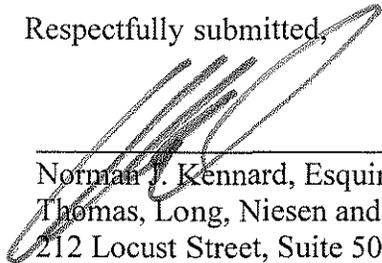
4. The text of the Proprietary Order attached is identical to a Protective Order entered by Judge Melillo under Docket No. C-2009-2098380, *et al.*, on June 30, 2009,¹ and is substantially similar to other Protective Orders routinely entered by this Commission. This particular form of Order contains changes to the previous standard form that were made by ALJ Rainey in the Verizon/MCI merger case specifically to satisfy concerns raised by the OCA, OSBA and OTS that their outside experts should be afforded the same access to highly confidential information as counsel of record without seeking advance permission of the producing party due to the fact that these parties are not business competitors.² Accordingly, this form of Order does not totally prohibit disclosure of any category of information or limit disclosure beyond what is required under 52 Pa. Code § 5.423(b) and (c) and, accordingly, does not provide restrictions that require special consideration under § 5.423(c).

¹ *AT&T Communications of Pennsylvania, LLC v. Armstrong Telephone Company-Pennsylvania, et al.*, Docket No. C-2009-2098380, *et al.*; *TCG New Jersey, Inc. v. Armstrong Telephone Company-Pennsylvania, et al.*, Docket No. C-2009-2099805, *et al.*; and *TCG Pittsburgh, Inc. v. Armstrong Telephone Company-Pennsylvania, et al.*, Docket No. C-2009-2098735, *et al.*

² *Joint Application of Verizon Communications Inc. and MCI, Inc. for Approval of Agreement and Plan of Merger*, Nos. A-310580F9, *et al.*

THEREFORE, Joint Petitioners respectfully request that the Protective Order attached as Exhibit A hereto be entered.

Respectfully submitted,



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Dated: May 25, 2012

EXHIBIT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of the Federal Communications :
Commission's Order of November 18, 2011 : M-2012-2291824
As Amended or Revised and Coordination :
With Certain Intrastate Matters :

PROTECTIVE ORDER

1. This Protective Order is hereby granted with respect to all materials and information identified at Ordering Paragraphs 2 and 3 which are filed with the Commission, produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 shall use and disclose such information only in accordance with this Order.

2. The materials subject to this Order are all correspondence, documents, data, information, studies, methodologies and other materials which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, discovery procedures or cross-examination or provides as a courtesy to the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate or any other party, which are claimed to be of a proprietary or confidential nature and which are designated "PROPRIETARY" (hereinafter collectively referred to as "Proprietary Information").

3. In addition, parties may designate extremely sensitive Proprietary Information as "HIGHLY CONFIDENTIAL" (hereinafter referred to as "Highly Confidential Information") and thus secure the additional protections set forth in this Order pertaining to such material. Highly Confidential Information shall be only such Proprietary Information that constitutes or describes the producing party's marketing plans including *inter alia*, costing and pricing aspects thereof, competitive strategies, market share projections, marketing materials that have not yet been used, customer-identifying information, or customer prospects for services that are subject to competition.

4. Proprietary Information and Highly Confidential Information shall be made available to the Commission and its Staff for use in this proceeding. For purposes of filing, to the extent that Proprietary Information or Highly Confidential Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information or Highly Confidential Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. Public inspection of Proprietary Information or Highly Confidential Information shall be permitted only in accordance with this Order.

5. Proprietary Information and Highly Confidential Information shall be made available to counsel of record in this proceeding pursuant to the following procedures:

a. Proprietary Information. To the extent required for participation in this proceeding, a party's counsel may afford access to Proprietary Information made available by another party (the "Producing Party") to the party's expert(s), subject to the following restrictions:

i. Such expert(s) may not hold any of the following positions with any competitor of the Producing Party: (a) an officer, board member, stockholder, partner, owner other than stock or employee who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the Producing Party; or (b) an officer, board member, stockholder, partner, owner other than stock of any affiliate of a competitor of the Producing Party; provided, however, that any expert shall not be disqualified on account of being a stockholder, partner or owner unless his/her interest in the business constitutes a significant potential for violations of the limitations of permissible use of the Proprietary Information. For purposes of this Order, stocks, partnership, or other ownership interest valued at less than \$100,000 and/or constituting less than a 2%

interest in a business does not, in itself, establish a significant potential for violation.

ii. If a party's independent expert, another member of the independent expert's firm or the independent expert's firm generally also serves as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the Producing Party, said independent expert must: (1) advise the Producing Party of the competitor's or affiliate's name(s); (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a competitor of the Producing Party; and (3) if segregation of such personnel is impractical, the independent expert shall give to the Producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the Producing Party. The Producing Party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized.

b. Highly Confidential Information. Information designated as Highly Confidential shall be provided only to counsel of record. If the counsel of record desires to disclose its contents to persons other than counsel of record, she or he shall submit a written request to the Producing Party's counsel. If the requesting and producing parties are unable to reach agreement with respect to such a request, they may submit the issue orally to the presiding Administrative Law Judge for resolution.

c. No other persons may have access to Proprietary Information or Highly Confidential Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary Information or Highly Confidential Information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

6. Prior to making Proprietary Information or Highly Confidential Information available to any person as provided in ordering paragraph 5, counsel for a party of record shall deliver a copy of this Order to such person and shall receive a written

acknowledgment from that person in the form attached to this Order and designated as “Appendix A”. Counsel shall promptly deliver to the Producing Party a copy of this executed acknowledgment form.

7. A Producing Party shall designate data or documents as constituting or containing Proprietary Information or Highly Confidential Information by affixing an appropriate proprietary stamp or typewritten designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information or Highly Confidential Information, the Producing Party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information or Highly Confidential Information.

8. Any federal agency which has access to and/or receives copies of the Proprietary Information or Highly Confidential Information will consider and treat the Proprietary Information or Highly Confidential Information as within the exemption from disclosure provided in the Freedom of Information Act as set forth at 5 U.S.C.A. §552(b)(4) until such time as the information is found to be non-proprietary.

9. Any state agency which has access to and/or receives copies of the Proprietary Information or Highly Confidential Information will consider and treat the Proprietary Information or Highly Confidential Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act as set forth at 65 P.S. §66.1(2) until such time as the information is found to be non-proprietary.

10. Any public reference to Proprietary Information or Highly Confidential Information by the Commission or by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information or Highly Confidential Information to fully understand the reference and not more. The Proprietary Information or Highly Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

11. Part of any record of this proceeding containing Proprietary Information or Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in ordering paragraph 10 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information or Highly Confidential Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to an Order of an Administrative Law Judge or the Commission. Unresolved challenges arising under Paragraph 12 shall be decided on motion or petition by the presiding officer and/or the Commission as provided in 52 Pa. Code §5.423(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent such guidance is available.

12. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information or Highly Confidential Information; to question or challenge the admissibility of Proprietary Information or Highly Confidential Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary Information or Highly Confidential Information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary Information or Highly Confidential Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary or Highly Confidential, the party claiming that the information is Proprietary or Highly Confidential retains the burden of demonstrating that the designation is necessary and appropriate.

13. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary Information or Highly Confidential Information shall be immediately returned upon request to the party furnishing such Proprietary Information or Highly Confidential Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information or Highly Confidential Information

have been destroyed. This provision shall not apply to the Commission, its Staff, the Office of Trial Staff, the Office of Consumer Advocate, or the Office of Small Business Advocate.

Date: _____

Administrative Law Judge

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Federal Communications :
Commission's Order of November 18, 2011 : M-2012-2291824
As Amended or Revised and Coordination :
With Certain Intrastate Matters :

TO WHOM IT MAY CONCERN:

The undersigned is the expert officer, member, employee or counsel of _____
_____ (the retaining party).

The undersigned has read and understands the Protective Order issued in the above captioned proceeding, which Order deals with the treatment of Proprietary and Highly Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order. The undersigned agrees that any Proprietary and Highly Confidential Information shall be used or disclosed only for purposes of preparation for, and conduct of the above captioned proceeding, and any administrative or judicial review thereof, and shall not be disclosed or used for any other purposes whatsoever.

Signature

Print Name

Address

Employer

Date: _____

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of May, 2012, I did serve a true and correct copy of the foregoing upon the persons below via electronic and first class mail as follows:

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