

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Verizon Pennsylvania LLC	:	
And Verizon North LLC for Competitive	:	Docket No. P-2014-2446303
Classification of all Retail Services in Certain	:	
Geographic Areas, and for a Waiver of	:	Docket No. P-2014-2446304
Regulations for Competitive Services	:	

MAIN BRIEF OF AT&T

***** PUBLIC VERSION *****

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AT&T'S MAIN BRIEF

AT&T Corp. and Teleport Communications America, LLC (collectively, "AT&T") respectfully submit their Main Brief. AT&T's focus is on the subsidy issue under Pa. C.S. § 3016(f). AT&T believes that the only barrier to approving Verizon's Petition is Section 3016(f)(1), which prohibits Verizon from continuing to use revenues from a noncompetitive service (intrastate switched access) to subsidize its competitive services. The simple and lawful solution, proposed by AT&T, is to require Verizon to reduce its originating intrastate access rates to parity with its interstate originating access rates. If Verizon is not required to comply with Section 3016(f)(1), the Petition cannot be approved.

I. INTRODUCTION AND SUMMARY OF ARGUMENT

AT&T agrees that Verizon's local exchange service faces competition from like or substitute services in the areas at issue, and that reclassifying Verizon's local service in those areas as competitive will promote competition and benefit consumers. Before it can grant Verizon's Petition and achieve those benefits, however, the Commission must ensure that Verizon complies with Pa. C.S. § 3016(f). Section 3016(f), titled "Prohibitions," states that a local exchange telecommunications company "shall be prohibited from using revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize competitive services." Pa. C.S. § 3016(f)(1). This is an express prohibition, not a mere goal, and it reflects a clear statutory trade-off: in order to be allowed to treat a service as competitive, Verizon must give up any explicit or implicit subsidy of that service from noncompetitive services. That is part of the price of admission to competitive reclassification. And that trade-off makes perfect sense. If a service is competitive, the provider of that service should not be able to subsidize it with revenue from noncompetitive services. Allowing such a cross-subsidy would unfairly tilt the competitive playing field and undermine competition. Moreover, regulation across the nation

is steadily replacing implicit subsidies, which are an indirect, ineffective tool, with explicit subsidies, which are generally recognized as more efficient and accurately targeted.¹

The subsidy issue here involves Verizon's intrastate switched access charges. Verizon's terminating intrastate access charges are already at parity with its terminating interstate access charges and are moving toward bill-and-keep per the FCC's requirement. Verizon's intrastate originating access charges, however, are almost three times higher than its interstate originating access charges. AT&T Panel Direct at 7. Verizon's excess revenue from intrastate originating access charges implicitly subsidizes its local exchange service. In order for those local services to be declared competitive, then, and to avoid the prohibition in Section 3016(f)(1), Verizon has to give up that subsidy. The FCC has recognized that the same principles that support lowering terminating access charges also support lowering originating access charges,² and this Commission has recognized and pioneered access reform going all the way back to the 1999 *Global Order*.³

As the party seeking to reclassify its services as competitive under Section 3016, Verizon necessarily bears the burden of proving its compliance with *all* the requirements of Section 3016, and that includes ensuring *as part of this case* that Verizon's intrastate originating access charges will not be used to subsidize Verizon's competitive local services. The easiest way to do that, and one consistent with the approach taken in other states, is to require Verizon to reduce its intrastate originating access rates to equal its interstate originating access charge rates. That is

¹ AT&T takes no position on whether Verizon needs explicit subsidies, and there is no record on the matter.

² Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Connect America Fund*, 26 FCC Rcd. 17663, at ¶ 817 ("originating access charges also should ultimately be subject to the bill-and-keep framework"; "the legal framework of our decision today is inconsistent with the permanent retention of originating access charges") (2011) ("*ICC Order*"), *aff'd* 753 F.3d 1015 (10th Cir. 2014).

³ *Access Charges Investigation per Global Order of September 30, 1999*, Docket Nos. M-00021596, *et al.*, at 10, 2003 WL 21921043 (Pa. PUC July 15, 2003) ("*Global Order*").

the same result Verizon agreed to in New York and is urging the FCC to adopt on a nationwide level. Such interstate-intrastate parity can be achieved in a revenue-neutral manner with a relatively small increase to Verizon's local service rates, and will have the added benefit of promoting more competition in long-distance service and local/long-distance bundles. Requiring Verizon to have jurisdictional rate parity also will remove incentives for arbitrage or gamesmanship that exist when the same service (originating access) is priced significantly differently at the interstate and intrastate levels. Parity also will eliminate the current disparity between intrastate originating switched access rates applied to VoIP-PSTN intrastate toll calls (which are already at parity with interstate access per FCC rules) and TDM-to-TDM intrastate toll calls that are not currently at parity.

At bottom, AT&T is the only party that offers a realistic and lawful path forward, rather than ignoring the statutory requirement, as Verizon does, or ignoring the regulatory history of access-to-local subsidies, as the Office of Consumer Advocate ("OCA") does. Verizon has not offered a cogent rationale for why it should not be required to adjust its originating intrastate access rates to remove the subsidy and satisfy Section 3016(f)(1).

II. FACTUAL BACKGROUND AND STATEMENT OF THE CASE

The ALJ provided a thorough summary of the procedural history of this case in the January 6, 2015 Order Granting Admission of Supplemental Exhibits. In short, Verizon's Petition seeks to classify certain of its local exchange services as competitive in several cities and surrounding areas under Pa. C.S. § 3016. This is another in a series of roughly analogous Verizon Chapter 30 petitions to achieve competitive classification for various services and geographies. AT&T agrees that Verizon faces competition for the services in the instant petition in the geographic areas at issue, but has focused on another key aspect of the case. AT&T presented direct, rebuttal, and reply panel testimony by Mr. Christopher Nurse and Dr. Ola

Oyefusi discussing the subsidy issue that Verizon's Petition raises under Pa. C.S. § 3016(f). Mr. Nurse and Dr. Oyefusi explained that access charges, including originating access charges, have historically been designed and used to subsidize low-cost local exchange service, but that Section 3016(f)(1) prohibits that kind of subsidy for services classified as competitive. AT&T panel Direct at 7-9, 15-16; AT&T Panel Rebuttal at 3-5 and Ex. A. Mr. Nurse and Dr. Oyefusi explained how this subsidy, which presents a barrier to approving Verizon's Petition, can be removed in a manner consistent with precedents of this Commission, other state commissions, and the FCC. AT&T Panel Direct at 14-18. AT&T explained how the access reform necessary here can be implemented on a revenue-neutral basis, as recognized and required by Chapter 30, while causing only a minimal increase in Verizon's local exchange rate. *Id.* at 17-18; AT&T Panel Surrebuttal at 6-7. Verizon and the OCA were the only parties to address AT&T's testimony. The flaws in their positions are discussed below.

III. ARGUMENT

A. Whether the Petition Satisfies the Standard of Pa. C.S. § 3016(a)

As noted above, AT&T believes the Commission cannot approve Verizon's Petition without requiring Verizon to comply with Section 3016(f)(1), which can be done by adopting AT&T's proposal on originating intrastate access rates. This issue needs to be addressed here, and cannot be deferred. Indeed, any other approach would lead to Verizon immediately violating the "[p]rohibition" in Section 3016(f)(1) as soon as the Petition is approved. The Commission should not endorse such an illogical result, particularly when AT&T has proposed a logical, easy-to-implement solution that would have minimal impact on Verizon and consumers.

B. Other Issues

1. Price Change Opportunity

Reforming originating access rates now will shrink the base of revenues that otherwise would drive local rate increases under the Price Change Opportunity (“PCO”) process and formula. Whether Verizon implemented the offsetting local exchange rate increases before or after the subject access lines are removed from Commission rate-setting, the per-line effect is small. AT&T’s proposal is solidly in line with the statutory PCO opportunity.

2. Wholesale Issues

Not addressed in this brief.

3. Originating Access Charges and Section 3016(f)

a. Verizon’s Originating Intrastate Switched Access Charges Are Used to Subsidize Verizon’s Local Exchange Service

Switched access charges are the charges a local exchange carrier (“LEC”) like Verizon assesses upon wireline long distance carriers (also called interexchange carriers or “IXCs”) like AT&T when the LEC originates or terminates long-distance calls made or received by the LEC’s local service subscribers.⁴ Access charges were created after the AT&T divestiture in the early 1980s. Prior to divestiture – when there was a single, unified Bell system serving most of the population – the Bell companies supported below-cost local rates by pricing long-distance calls well above cost. *E.g.*, Order, *In the Matter of the Board’s Investigation and Review of Local Exchange Carrier Intrastate Access Exchange Access Rates*, Docket No. TX08090830, 2010 N.J. PUC LEXIS 65, *79-*80 (N.J. Bd. Pub. Utils., Feb, 1, 2010) (“*New Jersey Access Reform Order*”) (“Prior to the divestiture of AT&T in 1984, . . . toll calls were priced in excess of cost so that local service rates could be kept artificially low.”). That was not possible after divestiture,

⁴ Although origination and termination of long distance calls occur in one single sequence from a customer perspective, the access charges for originating and terminating functions are applied separately.

but, given the regulatory goal of universal service, there still needed to be a way to support below-cost local rates. *Id.* at *80. The FCC accordingly created the access charge regime. Under that regime, IXCs (or LECs in their IXC capacity or their affiliates) pay high rates for access to a LEC's network in order to enable the LEC to keep local rates low. "In other words, [after the Bell system divestiture] the FCC replaced its existing subsidy system, in which a single company shifted costs from local to long-distance services, to an access-charge regime, in which all long-distance companies paid above-cost prices for access to the local networks, thereby enabling the local telephone companies to pay for below-cost local service." P. Huber, M. Kellogg & J. Thorne, *FEDERAL TELECOMMUNICATIONS LAW*, § 6.2.1.2 at 554-55 (2d ed. 1999); *New Jersey Access Reform Order*, 2010 N.J. PUC LEXIS 65, at *80 ("Access charges were purposely set well above the cost to provide the service, to maintain the existing subsidy [of local service]."). As the FCC recognized, "[i]nterstate access charges . . . have traditionally been set above the economic cost of access, which has permitted [ILECs] to charge lower rates for local service in high-cost areas." *In the Matter of Federal-State Joint Board on Universal Service*, Report to Congress, 13 FCC Rcd. 11501, ¶ 146 (1998). And as recently as 2011, the FCC noted "the historical relationship between access charges as implicit subsidy mechanisms and the goal of universal service" and reiterated that "[a]ccess charges were designed to include a subsidy of the local network." *ICC Order*, 26 FCC Rcd. 17663, at n.1435; *id.*, ¶¶ 9, 14, 648, 736, 857, 859, 870 (all noting that access charges have been set to subsidize the local network); *In the Matter of High-Cost Universal Service Support*, 24 FCC Rcd. 6475, App. A at ¶ 173 (2008) (referring to "the implicit subsidies contained in interstate access charges").

States followed the same practice by authorizing LECs to charge high intrastate switched access charges to subsidize local exchange service rates. *E.g.*, *New Jersey Access Reform Order*,

2010 N.J. PUC LEXIS 65, at *80; *ICC Order*, ¶ 859 (“states have retained high intrastate intercarrier compensation rates to subsidize artificially low local rates”). This Commission acknowledged the subsidy in Pennsylvania in its *Global Order*, stating that “ILEC local service rates have been kept artificially low as a result of the access charge subsidies.” *Global Order* at 10, 2003 WL 21921043.

b. Response to OCA

The only witness to dispute that intrastate originating access charges subsidize local service was Dr. Loube for the OCA. He contended that access charges do not subsidize local exchange service because Verizon’s local service rates are already too high. Loube Rebuttal at 25-32. That argument fails.

The first prong of Dr. Loube’s argument is that revenue from Verizon’s intrastate originating access charges could only be a “subsidy” for local exchange service if local exchange service were priced below its incremental cost. Loube Rebuttal at 7-8. Dr. Loube contends that was not the case for Verizon local exchange service, based on his erroneous recalculation of local exchange service costs which removed a significant amount of fixed costs and improperly reallocated them elsewhere. The implication of Dr. Loube’s argument is that nothing in telecommunications could ever subsidize anything else, because in telecommunications fixed costs are high and incremental costs are low. As shown above and in Exhibit A to AT&T’s Panel Rebuttal Testimony, however, the FCC, this Commission, and others have long recognized that there are implicit and explicit subsidies in telecommunications, including from access rates to local service. The industry and regulators recognize the subsidies inherent in the intercarrier compensation scheme, and recognize that the subsidy exists without requiring a complex theoretical or cost-study debate based on differing views of the costs to be allocated to local service. Access rates have been laden with subsidies because it was national policy for decades

to overprice access service in order to keep regulated local exchange rates artificially low. Absent federal and/or state universal service funds or other explicit subsidies, as shown above, it is widely recognized that access charges have been overpriced for years to help implicitly subsidize low local service rates, a policy that no longer makes sense when local service is competitive, or is no longer necessary when explicit mechanisms have been created. Section 3016(f)(1) recognizes the historical fact of subsidies in telecommunications by making clear that in order to have its services declared competitive, and thus freed from price regulation, the carrier providing the service must give up subsidies from non-competitive services. Yet under Dr. Loubé's interpretation, the legislature largely wasted its time writing Section 3016(f)(1) because under his theory nearly nothing could be the source of subsidy nor the recipient of it.

Moreover, Dr. Loubé's claim is that originating access charges cannot be subsidizing local service because local service is already priced too high – a claim that is likely to shock most people familiar with how regulated prices for local exchange service have been set for decades. As noted above, rates have long been designed so that access charges subsidize local rates in order to keep local rates artificially low and thereby support universal service. Dr. Loubé simply ignores that history and recognized regulatory practice. Dr. Loubé's idea that Verizon's regulated local service rates are so high they subsidize other services turns regulatory history on its head.

Dr. Loubé's theory also depends on a highly unusual view of how costs should be allocated to local service. He contends that the "competitive" price for (state-jurisdictional) local exchange service should be the incremental cost plus 38% of common costs, and that Verizon's price is higher than his calculated result. Loubé Direct at 31. That calculation of the alleged costs of providing local service overlooks the FCC's cost separations rules, which require 75%

(not 38%) of common costs to be allocated to the state jurisdiction. 47 C.F.R. § 36.154; AT&T Panel Rebuttal at 7-8. And the vast bulk of those state-jurisdictional costs have to be recovered from local exchange service (since the primary state-jurisdictional services are local exchange and intrastate access, and intrastate state access rates are either transitioning down to bill-and-keep (terminating) or have been capped by the FCC (originating)). AT&T Panel Rebuttal at 8; AT&T Panel Surrebuttal at 5. As the Maine Commission recently found in rejecting a similar argument by Dr. Loube, one cannot simply ignore the FCC's cost-separations rule and gerrymander the allocation of common costs to remove them from local service. *Northern New England Operations, LLC d/b/a Fairpoint Communications-NNE Request for Increase in Rates and for Maine Universal Service Fund Support for Provider of Last Resort Service*, Docket No. 2013-00340, at 44-48, 2014 Maine PUC LEXIS 179, *111-*123 (Maine PUC, Nov. 21, 2014). Further, it is clear that Dr. Loube's improper reallocation of costs (in order to reach his predetermined end point) is what drives his result. Specifically, if one were to accept the rest of Dr. Loube's calculations, purely *arguendo*, but make a single correction to properly reflect the FCC-mandated 75% allocation of loop costs to the state jurisdiction, rather than just 38%, the alleged cost of providing local service would be almost \$40, not the \$21 that Dr. Loube claims. See Attachment 1 hereto (recomputing loop costs using Dr. Loube's figures but allocating 75% of costs to intrastate jurisdiction). Verizon's current local service rates are well below \$40, typically less than half of that.

c. Response to Verizon

Verizon does not dispute that its originating access charges contain implicit subsidies of local service. At page 14 of his rebuttal testimony, Mr. Vasington recognized that access rates have been set at a high level in order to “provide a contribution to basic service rates” and thereby “keep basic service prices at an ‘artificially low’ level” See also AT&T Panel

Rebuttal, Ex. A at 6-7 (collecting Verizon testimony in multiple cases noting that access charges subsidize local service). AT&T agrees. Nevertheless, Verizon claims AT&T has not proven those access charges subsidize Verizon's local exchange service in the particular areas at issue here. Vasington Rebuttal at 36; Tr. 43. Specifically, Verizon contends that extra revenues from access charges might contribute to a variety of services, so there is no certainty that they subsidize local exchange service in the areas at issue. Tr. 43. That argument fails for a number of reasons.

First, given the regulatory history discussed above and Verizon's admissions here and in past cases (see AT&T Panel Rebuttal, Ex. A at 6-7) there can be no doubt that Verizon's intrastate originating access charges subsidize Verizon's local service. As the petitioner seeking relief under Section 3016 here, then, it was Verizon's burden to show that its services classified as competitive will not use that subsidy in violation of the prohibition in Section 3016(f)(1). Verizon has not done that or even attempted to do that. As a result, Verizon's path to complying with Section 3016(f)(1) is to eliminate the subsidy at its source. That is precisely what AT&T proposes.

Second, as shown above, a primary purpose of high access rates is to subsidize local services, and the primary local service is local exchange service. AT&T Panel Surrebuttal at 5. While it is possible that some of those access revenues could instead be contributing to some other service or area, there is no evidence that local exchange service receives nothing, or anything less than the lion's share. Nor would such an assumption make sense, given the very low regulated price Verizon charges for local exchange service. Verizon's intrastate originating access rates are three times as high as its interstate originating access rates. AT&T Panel Direct at 7. Verizon makes **BEGIN CONFIDENTIAL** **END CONFIDENTIAL**

more from originating intrastate access than if that service were priced at parity with originating interstate access. *Id.* at 17 (using figure from Verizon’s discovery response to AT&T Set 1, No. 6, included in Ex. B to AT&T Panel Direct). That money has to go somewhere. And aside from local exchange service, the only other local services it could go to have *de minimis* volume or are federally price-regulated (*e.g.*, TELRIC rates for UNEs and interconnection). AT&T Panel Surrebuttal at 5. All terminating access charges are headed to bill-and-keep, so clearly the subsidy cannot flow there. That leaves local exchange service as the only major service left to receive a subsidy from originating access rates. *Id.* Moreover, given that the cross-subsidy of local service from access charges is implicit, it is not possible in a case with a 150-day deadline (or perhaps in any case) to precisely define where each dollar goes. If Verizon could have clearly or readily proven that the services at issue here are not subsidized by access service, it would have.⁵

d. The Subsidy Can Easily Be Removed

Given that Verizon’s originating intrastate access charges subsidize its local service, and that Section 3016(f)(1) “prohibit[s]” Verizon from using revenue from a non-competitive service to subsidize a competitive service, the question is how the Commission can fix the problem and thus enable itself to approve Verizon’s Petition. The Commission can do this by requiring Verizon to immediately reduce its intrastate originating access rates to match its interstate originating access rates, which will ensure there are no improper subsidies of competitive local

⁵ After largely ignoring the subsidy issue in written testimony, Mr. Vasington claimed in his live rejoinder testimony that access charges do not subsidize local service because local service rates cover the direct cost (but not total cost) of providing that service. Tr. 43. That new claim, however, is directly at odds with Verizon’s statement in several other proceedings and its briefs to the FCC that support reducing originating intrastate access charges to mirror originating interstate rates. *See* AT&T Panel Rebuttal Testimony Ex. A at 6-7; Verizon’s Feb. 24, 2012 Comments to FCC in WC Docket No. 10-90, *et al.*, at 4-7 (available at <http://apps.fcc.gov/ecfs/document/view?id=7021865697>) and Verizon’s Mar. 30, 2012 Reply Comments to FCC in WC Docket No. 10-90, *et al.*, at 3-6 (available at <http://apps.fcc.gov/ecfs/document/view?id=7021905468>).

exchange service. Under Pa. C.S. § 3017 the effect of this change will be revenue-neutral to Verizon, so Verizon can have no bona fide economic objection to it.

While such a reduction in intrastate access rates would have to be revenue-neutral under Section 3017, that can be done with relatively minor impact on consumers. If the Commission requires the access rate reduction to occur prior to Verizon's local services being classified as competitive (and limits the rebalancing to basic service lines that are included in this Petition), the per-line impact on local service rates would be just **BEGIN CONFIDENTIAL** **END CONFIDENTIAL**.⁶ AT&T Panel Direct at 18. That is far less than the typical amount Verizon needs to raise local rates when the service has been declared competitive elsewhere, and Verizon's expected revenue gains from moving to competitive pricing will far exceed the revenue shift resulting from moving originating intrastate access rates to parity with interstate rates.

e. The Subsidy Issue Must Be Addressed Here

Verizon's main objection to AT&T's proposal is that access charge rates should not be addressed in this case, but rather should be addressed at some future time in some other docket. That objection does not hold up.

Verizon first claims that compliance with Section 3016(f) is not a prerequisite to classifying the services at issue as competitive. Tr. 42-43. Section 3016(f), however, is titled "Prohibitions," and states that a local exchange provider "shall be prohibited from using revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize

⁶ This figure is computed by dividing the total amount of revenue decreased by adjusting Verizon's originating intrastate access rates to parity with interstate rates, which Verizon estimated as **BEGIN CONFIDENTIAL** **END CONFIDENTIAL** based on the number of basic service lines at issue here. AT&T Panel Direct at 17 (relying on Verizon response to AT&T Data Request 1-6, including in Ex. B to AT&T Panel Direct). This calculation is only to illustrate that this is the maximum per-line increase consumers could experience if the rebalancing of the access revenue reduction were limited to only the lines included in this petition. It is not intended to require Verizon to increase local rates by exactly this amount. Verizon may choose to expand the number lines for rebalancing beyond those included in this petition and thereby reduce consumer impact even more.

competitive services.” Pa. C.S. § 3016(f). As shown above, Verizon’s originating intrastate access charge revenues are used to subsidize its local exchange services. Addressing that issue is required by statute; it is not discretionary. And unless the Commission addresses that issue now, in this case where Verizon is seeking to have most of its services declared competitive, Verizon will continue to cross-subsidize its local exchange services when they are declared competitive – and thus be in immediate violation of Section 3016(f)(1). It would not make sense from a legal or policy perspective to wait for some future docket to eliminate the implicit subsidy from originating access charges when the problem is ripe now as a result of Verizon seeking to have most of its services declared competitive. Verizon is the party seeking reclassification under Section 3016 and therefore must not only satisfy Section 3016(a) but also satisfy all the other requirements the legislature included in Section 3016, including the prohibition on cross-subsidies. AT&T presented evidence that if Verizon’s services are reclassified and originating intrastate access rates are not lowered, Verizon will be in violation of Section 3016(f). Verizon has not refuted that evidence. Accordingly, before the Petition can be granted, Verizon’s originating intrastate access rates need to be lowed to parity with the corresponding originating interstate rate.

Verizon’s other argument is that access charges should be addressed in some other docket, such as Docket C-20027195. Verizon’s argument is irrelevant, for the pendency of another docket does not change the scope of this case or the requirements of Section 3016. Having voluntarily initiated this case under Section 3016, Verizon must satisfy those requirements before being granted the relief it seeks. It cannot ask the Commission to ignore certain requirements of Section 3016 it does not want to deal with now.

Furthermore, in adopting AT&T's solution to the Section 3016(f)(1) subsidy problem, the Commission would be continuing the nationwide path toward lower access charges. Just a few months ago, for example, the New York State Public Service Commission did just that when it issued an Order Implementing Originating Access Charge Reform, making New York the first state to implement such reform following the FCC's *ICC Order*. As a result of the New York Commission's action, intrastate originating access charges will be reduced to parity with interstate rates in two steps.⁷ The rates for all carriers in New York will be reduced halfway to interstate parity on January 1, 2015⁸ and all the way to interstate parity on January 1, 2016. As the New York Commission recognized:

This reform is necessary and important to reduce opportunities for arbitrage, to provide greater financial predictability and to foster a fairer, more competitively neutral market. Such changes will benefit all New Yorkers by fostering further innovation and benefits that come from a more robust competitive market.

* * *

While the reductions do not go so far as those established for terminating access charges [which continue downward to bill and keep], they represent a significant improvement over the status quo. By reducing subsidies, they further the goal of fostering the competitive market. These reductions bring New York in line with ***over 20 other states that have reduced their intrastate access charges to the interstate level***. This equivalency means our action will be entirely consistent and congruent with national reform efforts.⁹ (Emphasis added).

⁷ The New York order approved a proposal jointly submitted by several parties, including Verizon. AT&T Panel Direct, Exhibit 1. Thus, Verizon affirmatively offered and agreed to lower its intrastate originating access rates to match interstate rates.

⁸ Verizon recently filed its notice of reductions to intrastate originating access charges in New York.

⁹ Order Implementing Originating Access Charge Reform, *Proceeding to Examine Issues Related to a Universal Service Fund*, Case 09-M-0529, 2014 WL 5320580, at *8-9 (N.Y. Pub. Serv. Comm'n, Oct. 3, 2014) ("*New York Originating Access Order*").

This Commission similarly recognized the flaws in the access subsidy system over a decade ago in the *Global Order*, and ALJ Fordham recognized the same thing in her November 2005 Recommended Decision (“*2005 Verizon Access Reform RD*”) in Docket No. 20027915. ALJ Fordham’s *2005 Verizon Access Reform RD* recommended that the Commission eliminate Verizon’s Carrier Charge and reduce Verizon’s remaining intrastate switched access rates (terminating *and* originating) to parity with the corresponding interstate rates.

The only difference today is that the *2005 Verizon Access Reform RD* proposed to reduce Verizon’s access rates in two equal annual steps. The two-year time frame ALJ Fordham recommended in 2005 has long since passed. Given the substantial delays that have already occurred, and the subsidy Verizon has received from collecting high access rates for the last several years, the time to act is now.

The Commission further recognized the wisdom in having originating access rates be the same at the interstate and intrastate levels in June 2011 in Docket Nos. I-00040105, *et al.*¹⁰ The Commission required RLECs to gradually reduce their originating and terminating traffic-sensitive switched access charges to the same level as their corresponding interstate switched access charges. In 2012 the Commission ultimately stayed most of this decision and the RLECs’ terminating access rates were reduced in accordance with the FCC’s 2011 *ICC Order*.¹¹ The Commission also deferred any action on intrastate originating access charges in light of the FCC’s *ICC Order*. Since that time, however, the FCC has not acted on originating access

¹⁰ Opinion and Order, *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Service Fund*, Docket Nos. 00040105, *et al.* Case 2009-2098380 *et al.* (July 18, 2011) (“*RLEC Access Charge Order*”).

¹¹ Opinion and Order, *Investigation Regarding Intrastate Access Charges*, Docket Nos. I-00040105 and C-2009-209830, *et al.* (Aug. 9, 2012).

charges. There is no basis to wait for the FCC in this case, where Verizon needs to remove the subsidy from intrastate access in order to have its local services declared competitive.

Finally, Verizon itself recognizes that interstate-intrastate parity for originating access charges is a good thing and should occur as soon as possible. In comments filed in 2012 in the FCC's follow-up rulemaking to the *ICC Order*, Verizon urged prompt reductions to originating access charges just as the FCC had done for terminating access. As Verizon argued, the rationales for reducing terminating access charges apply just as strongly to originating access charges and reductions are just as urgently needed. *See* Verizon's Feb. 24, 2012 Comments to FCC in WC Docket No. 10-90, *et al.*, at 4-7¹²) and Verizon's Mar. 30, 2012 Reply Comments to FCC in WC Docket No. 10-90, *et al.*, at 3-6.¹³ In this case there are even stronger reasons to require interstate-intrastate parity of originating access charges. Interstate-intrastate parity will (i) eliminate the kind of subsidy that Section 3016(f) prohibits and that Verizon *must* remove as the trade-off the legislature required in order for Verizon's local services to be classified as competitive; (ii) create a level playing field among local service competitors; and (iii) improve competition in long-distance service, including by leading AT&T to reduce its In-State Connection Fee for consumers. AT&T Panel Direct at 12-14.

¹² Available at <http://apps.fcc.gov/ecfs/document/view?id=7021865697>.

¹³ Available at <http://apps.fcc.gov/ecfs/document/view?id=7021905468>.

IV. CONCLUSION AND REQUESTED RELIEF

The Commission should grant Verizon's Petition, *but only if* it first ensures that Verizon will not be in violation of Section 3016(f). The simple way to do that, and achieve a number of other benefits, is to do what several other states have done, what this Commission has said is appropriate, and what Verizon agreed to in New York – lower Verizon's intrastate originating access rates to match Verizon's interstate rate for the same service.¹⁴

Respectfully submitted,

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¹⁴ AT&T's proposed findings of fact, conclusions of law, and ordering paragraphs are in the attached appendices.

APPENDIX A

PROPOSED FINDINGS OF FACT

1. Rates for switched access service, including originating switched access service, have traditionally been set at high levels in order to provide subsidies for local services, including local exchange service, to keep rates for local service lower than they otherwise would be. AT&T Panel Direct at 7-8; AT&T Panel Rebuttal, Ex. A.

2. Pennsylvania has set intrastate rates for switched access service above cost to achieve this same result. AT&T Panel Direct at 14-15; AT&T Panel Surrebuttal at 6-7.

3. Pennsylvania has achieved one of the highest telephone penetration rates in the nation. Verizon Cross Ex. 3, Table 6.6.

4. Reform of terminating access rates, which began in 2012, has not caused telephone penetration rates in Pennsylvania to decline. Verizon Cross Ex. 3, Table 6.6.

5. Verizon's current rate for originating intrastate access service is almost three times higher than its rate for originating interstate access service. AT&T Panel Direct at 7.

6. Originating access service is provided in essentially the same manner whether the traffic is interstate or intrastate, and accordingly the cost of providing service is materially the same. AT&T Panel Direct at 7.

7. Verizon's originating intrastate access revenues are used to implicitly subsidize Verizon's local exchange service, including in the geographic areas that are the subject of Verizon's Petition in this case. AT&T Panel Direct at 6-7; AT&T Panel Rebuttal at 2-5; AT&T Panel Surrebuttal at 6.

8. Verizon's switched access service is a non-competitive service.

9. If Verizon's Petition were granted with no change to Verizon's originating intrastate access rates, Verizon would be able to use revenues earned from or expenses incurred by its intrastate originating access service to subsidize local exchange services that have been classified as competitive.

10. If Verizon is required to lower its intrastate originating switched access rates, Verizon's CLEC competitors would have to simultaneously lower their corresponding intrastate originating switched access rates under Pennsylvania law. This offers both competitive equity as well as cost savings to Verizon's IXC affiliate in Pennsylvania.

APPENDIX B

PROPOSED CONCLUSIONS OF LAW

1. Pa. C.S. § 3016(f)(1) prohibits a carrier from using revenues from a non-competitive service to subsidize a competitive service.
2. Compliance with Pa. C.S. § 3016(f)(1) is a statutory prerequisite to classifying Verizon's local exchange services as competitive.
3. As the petitioner, Verizon bears the burden of demonstrating that it will not be in immediate violation of Section 3016(f)(1) if its Petition is approved. If Verizon fails in that burden, the Commission must take steps to require Verizon to satisfy Section 3016(f)(1) before approving a petition under Section 3016.
4. A reasonable way to prevent a prohibited cross-subsidy in violation of Pa. C.S. § 3016(f)(1) is to require Verizon to reduce its rate for originating intrastate access service to match its rate for originating interstate access service.
5. Under Pennsylvania law, Verizon's access rate reductions would have to be offset on a revenue neutral basis. Pa. C.S. § 3017.

APPENDIX C

PROPOSED ORDERING PARAGRAPHS

1. In order to satisfy Pa. C.S. § 3016(f)(1), and thus in order to avoid an immediate and disruptive enforcement action to compel compliance with Section 3016(f)(1), Verizon is hereby required to immediately reduce and maintain its intrastate rate for originating switched access service to match its interstate rate for originating switched access service prior to treating the services at issue in its Petition as competitive.

2. As soon as Verizon makes the rate adjustment required in Ordering paragraph 1, its Petition shall be approved as satisfying all necessary requirements under Pa. C.S. § 3016.

3. The rate adjustment required in Ordering paragraph 1 should be achieved in a revenue-neutral manner.

4. If Verizon does not make the rate adjustment required in Ordering paragraph 1 within thirty (30) days of this Order, Verizon's Petition shall be denied because approval of the Petition would result in immediate violation of Pa. C.S. § 3016(f)(1) by allowing Verizon's non-competitive intrastate switched access service to subsidize Verizon's competitive local exchange service.