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September 9, 2009

VIA ELECTRONIC FILING

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, PA 17120

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

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

Dear Mr. McNulty:

Enclosed please find Verizon's Reply Memorandum Regarding the Scope of the Case, being filed by 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. (collectively "Verizon") in the above-captioned consolidated matter.

If you have any questions, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Suzan D. Paiva".

Suzan D. Paiva

SDP/slb

VIA E-MAIL and UPS DELIVERY
cc: The Honorable Kandace F. Melillo

VIA E-MAIL and FIRST CLASS MAIL
cc: Attached Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Verizon's Reply Memorandum Regarding the Scope of the Case, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 9th day of September, 2009.

VIA E-MAIL and FIRST CLASS U.S.MAIL

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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

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

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

**VERIZON'S REPLY MEMORANDUM
REGARING THE SCOPE OF THE CASE**

Verizon Pennsylvania Inc., Verizon North Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, MCI metro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services Inc. (collectively "Verizon") submit this reply memorandum regarding the scope of the investigation.

All parties agree that the scope of the case includes examining whether the switched access rates of the rural incumbent local exchange carriers ("RLECs") should be reduced. The fundamental point of disagreement is the extent to which issues relating to the structure of the state universal service fund ("USF") are also within the scope of this proceeding. Verizon disagrees with the arguments advanced by the RLECs and the Office of Consumer Advocate ("OCA") seeking to expand the scope of this case to

include issues such as bringing in new contributors such as wireless and VoIP carriers for the USF and making other changes to the existing USF regulations. The manner in which the Commission should address the fundamental structure of the USF and its implementing regulations was already “adjudicated” by ALJ Colwell in her July 23, 2009 Recommended Decision and the Commission specifically directed that the same issues are not to be “relitigated” here. (8/5/09 Order at 19).

ALJ Colwell recommended that the Commission convene a rulemaking to “reconstruct[]” the current USF. (7/23/09 RD at 88). The RLECs and OCA should not be permitted to use this case to reargue the same issues decided by ALJ Colwell simply because they did not agree with her decision. Rather, they have the opportunity to address those matters by filing exceptions to ALJ Colwell’s recommendation, as each of them did on August 28, 2009. Further, if the Commission adopts ALJ Colwell’s recommendation to open a rulemaking, they will have the opportunity to advance their arguments in that forum before the current regulations are changed.

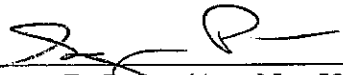
OCA candidly admits that ALJ Colwell’s decision “discusses some issues” that OCA seeks to address again here and that OCA does not agree with her decisions. (OCA Memorandum at 7). Embarq similarly argues that it should be permitted to relitigate issues that ALJ Colwell decided relating to the USF because it contends that she should not have addressed them. (Embarq Memorandum at 14). But regardless of whether these parties agree with ALJ Colwell’s decisions, she did “adjudicate” the issue of fundamentally changing the USF and the proper avenue for them to disagree with her holdings is through exceptions to her recommendation and through litigation in any ensuing rulemaking. Contrary to Embarq’s arguments, moreover, the Commission in its

October 9, 2008 Order on Reconsideration clearly authorized ALJ Colwell to address fundamental restructuring, including decreasing or eliminating the USF.¹

There is no purpose to be served by allowing the RLECs and OCA to delay and complicate this proceeding by arguing over fundamental changes to the USF. As Verizon explained in its September 2, 2009 memorandum, a rulemaking would be required before the Commission could expand the contributors to the USF or make any other fundamental changes to the form or structure of the fund, because those issues are codified in existing regulations that, among other things, define the contributing base. The Commission will decide whether or not to convene such a rulemaking when it addresses ALJ Colwell's RD. There is no benefit to be gained by complicating this case with issues that cannot be resolved in this non-rulemaking proceeding. Indeed, it is telling that neither the RLECs nor the OCA explain why it is necessary to address those issues here, when they would certainly have to be litigated in a proper rulemaking before the implementing regulations could be changed. Allowing the RLECs and OCA to raise, and requiring the other parties to respond to, pointless arguments will – as Sprint explained – “obfuscate the primary focus” of this case, “delay” resolution and “result in an unwieldy investigation.” (Sprint Memorandum at 3). Rather, the presiding officer should hold that “general issues about the structure of the Pennsylvania USF are not part of this case as they were already adjudicated by ALJ Colwell and no party has presented any extraordinary circumstances for re-litigating the USF issues in this matter.” (AT&T Memorandum at 12).

¹ 10/9/08 Order on Reconsideration (“we did not intend for there to be a preclusion of evidence that funding for the PAUSF should decrease.”)

Respectfully submitted,



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Dated: September 9, 2009