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May 20, 2010

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, 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 et al v. Armstrong Telephone Company – Pennsylvania, et al; Docket Nos. C-2009 – 2098380 et al

Dear Secretary Chiavetta:

Enclosed please find the Joint Motion of Celco Partnership d/b/a Verizon Wireless, Omnipoint Communications Inc. d/b/a T-Mobile, Omnipoint Communications Enterprises LLC d/b/a T-Mobile, Voicestream Pittsburgh LP d/b/a T-Mobile and Sprint Nextel, Inc. (collectively, the Wireless Carriers), to strike portions of the Main Brief of the Office of Consumer Advocate (OCA). This Motion was electronically filed today.

In accordance with 52 Pa.Code §5.103(c), the moving parties respectfully request that the Motion be considered on an expedited basis, and further request that the Presiding Officer direct the OCA to respond to this Motion within 5 calendar days from the date of service. Expedited resolution and a 5-day response time are appropriate, due to the fact that Reply Briefs in this matter are due on June 3, 2010. Expedited resolution of the Motion will provide certainty as to which sections of the OCA's Main Brief require a reply, and which do not. The moving parties also note that the OCA was put on notice that Sprint Nextel intended to file this Motion to Strike during the evidentiary hearing in this matter.

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Secretary Chiavetta
May 20, 2010

Page 2

Copies of this Motion have been served in accordance with the Certificate of Service.
Thank you and please contact me if you have any questions.

Best regards,

STEVENS & LEE



Michael A. Gruin

Enclosures

cc: Hon. Kandace Melillo, ALJ
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


| | | |
|---|---|--|
| Investigation Regarding Intrastate Access | : | |
| Charges and IntraLATA Toll Rates of | : | |
| Rural Carriers, and the Pennsylvania | : | Docket No. I-00040105 |
| Universal Service Fund | : | |
| | : | |
| AT&T Communications of | : | |
| Pennsylvania, LLC | : | |
| Complainant | : | |
| | : | |
| v. | : | Docket No. C-2009-2098380, <i>et al.</i> |
| | : | |
| Armstrong Telephone Company - | : | |
| Pennsylvania, et al. | : | |
| Respondents | : | |

NOTICE TO PLEAD

TO: Joel Cheskis, Esq., Office of Consumer Advocate

You are hereby notified to file a written response to the attached Motion within twenty (20) days from service hereof pursuant to 52 Pa. Code 5.103(c). All pleadings, such as an answer to the Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel. This Motion seeks to strike certain portions of the Main Brief of the Office of Consumer Advocate in this proceeding. Failure to respond to this Motion may result in the presiding officer issuing a ruling on the Motion without a response from you.

You are hereby further notified that the attached Motion includes a request that the presiding officer, pursuant to 52 Pa. Code §5.103(c), direct you to file a pleading in response to this Motion with five (5) days of service hereof.



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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

v.

Armstrong Telephone Company -
Pennsylvania, *et al.*

Docket Nos. C-2009-2098380, *et al.*

**WIRELESS CARRIERS' MOTION TO STRIKE
IMPERTINENT MATERIAL FROM THE OFFICE OF CONSUMER ADVOCATE'S
MAIN BRIEF AND APPENDICES
AND REQUEST FOR EXPEDITED CONSIDERATION**

Pursuant to 52 Pa. Code §§ 5.103 and 5.483 and 66 Pa. C.S. §§ 331(d), Cellco Partnership d/b/a Verizon Wireless, Omnipoint Communications Inc. d/b/a T-Mobile, Omnipoint Communications Enterprises LLC d/b/a T-Mobile, Voicestream Pittsburgh LP d/b/a T-Mobile and Sprint Nextel, Inc. (collectively, the Wireless Carriers), move to strike those portions of the main brief of the Office of Consumer Advocate (OCA) that argue that wireless carriers and voice-over-Internet-protocol (VoIP) providers should contribute to the Pennsylvania Universal Service Fund (PAUSF) in violation of the Commission's Opinion and Order entered on December 10, 2009 in the above-captioned consolidated proceedings (*December 2009 Order*). Since reply briefs must be filed by June 3, 2010, the Wireless Carriers respectfully request that the Presiding Officer consider the motion on an expedited basis and, pursuant to 52 Pa. Code 5.103(c), direct the OCA to submit any response within five (5) days from the date of service.

In support of their motion and request, the Wireless Carriers state as follows:

A. Summary of Argument

1. The *December 2009 Order* expressly excludes the question whether wireless and VoIP carriers should contribute to the PAUSF from the scope of this proceeding.¹ Every party other than the OCA has complied with this ruling. In contrast, the OCA has argued at great length that the PAUSF should be enlarged to include “any” service provider that uses the public switched telecommunications network at any point in providing their service (OCA Main Br. at 3) and that wireless carriers’ revenues, in particular, should be included in the PAUSF base (*id.* at 21).

2. These arguments are clearly barred by the *December 2009 Order* and therefore must be stricken. Failure to do so would reward the OCA for its noncompliance with a Commission order while penalizing the Wireless Carriers for their compliance. Such a result would not only violate basic requirements of fundamental fairness – it would also undermine the Commission’s authority to govern its own investigations.

3. Furthermore, to permit the OCA to litigate the issue of wireless contribution to the PAUSF after other parties have refrained from doing so in order to comply with the *December 2009 Order* would deprive the Wireless Carriers of their due process right to present evidence and otherwise be heard on a question that clearly affects their interests. Therefore, the offending portions of the OCA’s main brief and the appendices should be stricken from the record of this proceeding.²

¹ *December 2009 Order* at 24.

² The portions of the OCA’s submission to which this motion is directed are listed in Exhibit A, and copies of the relevant pages of the OCA main brief and appendices with the impertinent material struck through are attached hereto as Exhibit B.

B. Procedural Background

4. On December 20, 2004, the Commission entered an Order instituting an investigation at Docket No. I-00040105 with regard to whether there should be further intrastate access charge and intraLATA toll rate reductions in the rural incumbent local exchange carriers' (RLECs) territories and the rate issues/changes that should or would result if Pennsylvania Universal Service Fund (PA USF or Fund) disbursements were reduced.³ The *December 2004 Order* directed the Office of Administrative Law Judge (OALJ) to conduct the appropriate proceedings including, but not limited to, a fully developed analysis and recommendation on the following questions:

- a) Whether intrastate access charges and intraLATA toll rates should be further reduced or rate structures modified in the rural ILECs' territories.
- b) What rates are influenced by contributors to and/or disbursements from the PA USF?
- c) Should disbursements from the PA USF be reduced and/or eliminated as a matter of policy and/or law?
- d) Assuming the PA USF expires on or about December 31, 2006, what action should the Commission take to advance the policies of this Commonwealth?
- e) If the PA USF continues beyond December 31, 2006, should wireless carriers be included in the definition of contributors to the Fund? If included, how will the Commission know which wireless carriers to assess? Will the Commission need to require wireless carriers to register with the Commission? What would a wireless carrier's contribution be based upon? Do wireless companies split their revenue bases by intrastate, and if not, will this be a problem?

³ See *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund*, Docket No. I-00040105, Order entered December 20, 2004 (*December 2004 Order*).

- f) What regulatory changes are necessary to 52 Pa. Code §§63.161 – 63.171 given the complex issues involved as well as recent legislative developments?⁴

5. By Order entered August 30, 2005, the Commission stayed the entire I-00040105 Investigation in anticipation of developments in the Federal Communications Commission's (FCC) intercarrier compensation investigation.⁵ The stay was renewed several times. The Commission reopened the investigation by order entered April 24, 2008 for the limited purpose of addressing certain retail rate cap and universal service fund issues relating to the operations of the RLECs under alternative regulation. On July 23, 2009, ALJ Susan Colwell issued a recommended decision in the reopened portion of the investigation at Docket no I-00040105. ALJ Colwell recommended that the Commission convene a rulemaking for the purpose of defining the specific form of the Pennsylvania Universal Service Fund and its uses.⁶ ALJ Colwell's recommended decision remains before the Commission.

⁴ *December 2004 Order* at 5. On March 25, 2005, the Wireless Carriers filed a motion for a declaratory ruling acknowledging that the Commission lacks statutory jurisdiction to require wireless providers to contribute to the PaUSF. ALJ Colwell granted the motion "insofar as it depends on the determination that the wireless carriers are not public utilities within the meaning of the Public Utility Code." Order Disposing of Motions dated June 8, 2005, Dkt. No. I-00040105, at ordering para. 1. As ALJ Colwell observed:

The Commission's authority derives from the express measures stated in the Public Utility Code, which authorizes the Commission to supervise and regulate public utilities doing business within the Commonwealth. 66 Pa. C.S. § 501(b). The definition of "public utility" specifically states that the term does not include: ["(iv) Any person or corporation, not otherwise a public utility, who or which furnishes mobile domestic cellular radio telecommunications service." 66 Pa. C.S. § 102.

Id. at 4-5.

⁵ Opinion and Order entered Aug. 30, 2005, Docket No. I-00040105, at 19.

⁶ Recommended Decision, *In re Intrastate Access Charges, etc.*, Docket No. I-00040105, at 93 (Colwell, ALJ July 23, 2009).

C. The Commission Has Excluded The Question Whether Wireless Carriers And VoIP Providers Should Contribute To The PaUSF From Consideration In This Proceeding

6. The Commission initiated the instant proceeding on August 5, 2009 by consolidating the complaint proceedings at Docket Nos. C-2009-2098380, *et al.*, with the *RLEC Access Charge Investigation*.⁷ A prehearing conference was held on August 19, 2009. At the conference, the Wireless Carriers requested confirmation that the question of wireless contribution to the PAUSF was not within the scope of issues to be addressed in this proceeding. As the Presiding Officer has observed, “[t]his request and subsequent discussion about the scope of the proceeding, which extended over a considerable period of time, revealed a vast disagreement among the parties about scope.”⁸

7. Given the “critical importance” of determining the scope of this litigation, the Presiding Officer directed the parties to brief the question of scope.⁹ On September 15, 2009, after considering the parties’ memoranda of law and reply memoranda, the Presiding Officer issued an Order Adjudicating Scope of Consolidated Proceedings¹⁰ (*September 15 Order re Scope*). The *September 15 Order re Scope* determined that the scope of this proceeding encompassed issues (e) and (f) of the *December 2004 Order* (renumbered as Issue Nos. 5 and 6) and thus included the question of wireless providers’ contribution to the PAUSF.¹¹ The Order also concluded that an additional issue proffered by the Pennsylvania Telephone Association – whether to expand the pool of service providers that should be assessed to contribute to universal

⁷ Order entered August 5, 2009, Dkt. No. I-00040105, at 18 (emphasis added).

⁸ Order Adjudicating Scope of Consolidated Proceedings, Docket Nos. I-00040105, C-2009-209838, *et al.* (Sept. 15, 2009).

⁹ *Id.*

¹⁰ *See id.*

service – (PTA Issue No. 3) was properly within the scope of this proceeding.¹²

8. On September 25, 2009, several parties filed a petition for review and answer to the following material question:

Does the ALJ's September 15, 2009 *Order Addressing Scope of Consolidated Proceedings* correctly state the scope of the issues to be addressed in the consolidated proceeding that has been assigned to ALJ Melillo for the development of an evidentiary record and issuance of a Recommended Decision?¹³

The Wireless Carriers and others filed briefs in support of the petition; the OCA and others filed briefs in opposition.

9. The Commission granted the petition and answered the material question in the *December 2009 Order*. In doing so, the Commission unambiguously ruled that the issue of whether wireless carriers and VoIP service providers should contribute to the PaUSF *shall not be litigated in this proceeding*:

The disposition that answers the Material Question is in need of an additional clarification with regard to whether ALJ Melillo should consider the issue of requiring wireless and VoIP carriers to contribute to the PaUSF. Examination of whether wireless carriers and VoIP service providers should be contributors to the PaUSF should take place in the context of the investigation at Docket No. I-00040105 that has already been adjudicated before ALJ Colwell and any subsequent proceedings that may address the substantive nature and operation of the PaUSF. Engaging in litigation regarding what entities are the appropriate contributors to the PaUSF may unnecessarily distract from the primary focus of the consolidated proceeding on access charge reform at Docket No. I-00040105 and AT&T's Formal Complaint at Docket No. C-2009-2098380 *et al.* This clarification affects the answer to the Material Question that is relevant to Issue Nos. 5 and 6 from the Commission's *December 2004 Order* including associated

(..continued)

¹¹ *Id.* at 15-17.

¹² *Id.* at 19.

¹³ *See December 2009 Order* at 2.

derivative issue raised by the PTA at No. 3 as discussed in ALJ Melillo's Scope of Proceeding Order.¹⁴

10. This ruling precludes the parties from litigating (and the Presiding Officer from considering) the question of wireless and VoIP contribution to the PaUSF in this proceeding. Any "[e]xamination of whether wireless carriers and VoIP providers should be contributors to the PaUSF" must take place, if at all, in the context of a future rulemaking proceeding.¹⁵ Neither the OCA nor any other party sought reconsideration of the *December 2009 Order*.

11. Hearings in this matter were held on April 14-16, 2010. In order to comply with the *December 2009 Order*, neither the Wireless Carriers nor any other party (other than the OCA) introduced testimony or other evidence relating to the issue of requiring wireless carriers and VoIP providers to contribute to the PaUSF.¹⁶ The parties' main briefs were filed on May 13, 2010. Once again, in order to comply with the *December 2009 Order*, all parties except the OCA refrained from arguing the question whether wireless carriers and VoIP service providers should contribute to the PaUSF.

12. The OCA's main brief not only argues that wireless carriers and VoIP providers

¹⁴ *December 2009 Order* at 24 (footnotes omitted).

¹⁵ *See id.* at 24 ("Examination of whether wireless carriers and VoIP service providers should be contributors to the PaUSF should take place in the context of the investigation at Docket No. I-00040105 that has already been adjudicated by ALJ Colwell and any subsequent proceedings that may address the substantive nature and operation of the PaUSF.") and at 24 n.7 (clarifying that, although the investigation at Docket No. I-00040105 did not include consideration of wireless carriers' contribution to the PaUSF, the Commission "may consider this funding option in the event of a future rulemaking proceeding."). The Wireless Carriers maintain, as they have throughout this proceeding, that the Commission lacks jurisdiction under to require commercial mobile radio service (CMRS) providers to contribute to the PaUSF.

¹⁶ Although OCA's testimony, which addresses the precluded issue, was admitted, Sprint cautioned the presiding officer and all the parties that it's reluctance to challenge the Consumer Advocate regarding the inclusion of a precluded issue in testimony would not extend to briefs submitted by OCA or any other party, and that Sprint would challenge the inclusion of precluded issues in briefs via a Motion to Strike. (Tr. pp. 523-525.)

should be required to contribute to the PaUSF but also (a) declares that the contribution question is one of three principal questions presented in this proceeding (OCA Main Br. at 6), (b) proposes expansion of the PaUSF contribution pool to include wireless carriers and others as one of four “integrated steps” or “components” of a “comprehensive plan” for access reform, (*id.* at 3; *see id.* at 17, 20-21, 51, 57), and (c) insists that this “component” “must” be adopted (*id.* at 3; *see id.* at 20-21, 51). This can only be characterized as a flagrant violation of the *December 2009 Order*.¹⁷

13. The Commission’s decision to exclude the question of wireless and VoIP contribution to the PaUSF was motivated, in part, by a concern that “[e]ngaging in litigation regarding what entities are the appropriate contributors to the PaUSF may unnecessarily distract from the primary focus of the consolidated proceeding on access charge reform at Docket No. I-00040105 and AT&T’s Formal Complaint at Docket No. C-2009-2098380 *et al.*”¹⁸ The OCA’s submission advocates an access reform plan that requires inclusion of wireless carriers and VoIP providers in the PaUSF contribution base and then arguing that the plan “is contingent on the Commission’s 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.”¹⁹ Such advocacy is guaranteed to provoke litigation that will “unnecessarily distract from the primary focus of the[se] consolidated proceeding on access charge reform,” and thus directly contravene the

¹⁷ It is also an invitation to the Presiding Officer to violate a Commission order. As the OCA itself admits, any recommended finding or conclusion with respect to the wireless/VoIP contribution issue would contravene the *December 2009 Order*. *See* OCA Main Br. at 21 (quoting OCA St. 1 at 16-17) (“[A] finding regarding the recommendation to enlarge the PA UST contribution base may not be within the purview of the assigned issues in this portion of the proceeding . . .”).

¹⁸ *December 2009 Order* at 24.

¹⁹ OCA Main Br. at 21 (quoting OCA St. 1 at 16-17).

Commission's expressed intent.

14. The Commission's determinations regarding the scope of this proceeding are conclusive on the parties.²⁰ The *December 2009 Order* thus prevented the Wireless Carriers and other parties from presenting testimony and argument on the question whether they should be required to contribute to the PaUSF. The OCA must similarly be prevented from litigating the issue. Otherwise, the OCA will be rewarded for its noncompliance with a Commission order and the Wireless Carriers penalized for their compliance. Furthermore, to permit the OCA to litigate the issue of wireless contribution to the PAUSF after other parties have refrained from doing so in order to comply with the *December 2009 Order* would deprive the Wireless Carriers of their right to present evidence and otherwise be heard on a question that clearly affects their interests. Therefore, both fundamental fairness and basic requirements of due process require that the offending portions of the OCA's main brief be stricken from the record of this proceeding. *See, e.g., In re Verizon Communications Inc.*, 101 Pa. PUC 1, 2006 WL 995853, at *59 (Jan. 11, 2006) (motion to strike granted because party's inclusion of extra-record evidence in its brief violated the principle of fundamental fairness and the due process rights of other parties).

15. The OCA's unlawful submission should be stricken for an additional reason. The OCA has flouted a Commission order in an attempt to shift the focus of this investigation towards its own policy goals. The success or failure of this tactic will create a precedent for future proceedings and thus, if permitted, will inevitably undermine the Commission's authority to conduct its investigations as it sees fit.

²⁰ 66 Pa. C.S.A. § 316 ("Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.")

16. Therefore, pursuant to 52 Pa. Code. § 483(a) (relating to authority of presiding officer) and 66 Pa. C.S.A. § 331(d) (same), and in accordance with the *December 2009 Order*, those portions of the OCA's main brief and appendices arguing that wireless carriers and VoIP providers should contribute to the PaUSF should be stricken from the record of this proceeding.²¹

D. Expedited Consideration Of This Motion Is Warranted.

17. Reply briefs in this matter must be filed by June 3, 2010. The Wireless Carriers therefore respectfully request that the Presiding Officer consider the motion on an expedited basis and, pursuant to 52 Pa. Code 5.103(c), direct the OCA to submit any response within five (5) days of service. The shortened response time is justified in light of the fact that the OCA was put on notice that a motion to strike would be filed if its brief included the issue of requiring wireless carriers and VoIP providers to contribute to the Pa USF.²²

WHEREFORE, for all of the foregoing reasons, the Wireless Carriers respectfully request that the Presiding Officer, on an expedited basis –

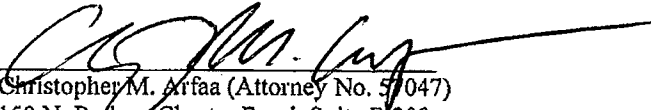
1. Direct the OCA to respond to this motion on or before May 25, 2010;
2. Grant the Wireless Carriers' motion to strike;
3. Enter an Order striking the portions of the OCA's main brief and appendices identified on Exhibit A and shown on Exhibit B and directing the OCA to re-file its main brief with the stricken portions redacted; and
4. Grant such further relief consistent with the foregoing that the Presiding Officer deems reasonable and just.

²¹ The portions of the OCA's submission to which this motion is directed are listed in Exhibit A. Copies of the relevant pages of the OCA main brief and appendices with the impertinent material struck through are attached hereto as Exhibit B.

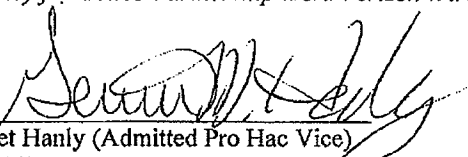
²² When the OCA's testimony addressing the precluded issue was admitted, Sprint informed all participants that Sprint would challenge the inclusion of precluded issues in briefs via a Motion to Strike. (Tr. pp. 523-525.)

DATED: May 20, 2010

Respectfully submitted,

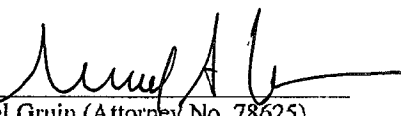

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EXHIBIT A

The following portions of the OCA Main Brief and appendices that violate the *December 10 Order* and should be stricken:

1. On page 3, numbered paragraph 4 in its entirety:

The revenue base of the Pennsylvania Universal Fund should be enlarged to include any service provider that uses the public switched telecommunications network at any point in providing their service.

2. On page 6, numbered question 3 in its entirety:

Whether the Pennsylvania Universal Service Fund should be expanded to require all carriers that provide service using the public switched telephone network to contribute to the Fund?

3. On page 17, numbered paragraph 4 in its entirety:

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.

4. On page 20-21, the carryover paragraph (including footnote 34) in its entirety:

Finally, under Step 4 of the OCA plan, to minimize the impact of the OCA recommendation on the size of the PA USF contribution factor, the OCA is also recommending that the Commission enlarge the PA USF revenue base to include any service provider that uses the PSTN at any point in providing their service. *Id.* As Dr. Loube testified,

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 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.

Id. at 16-17. Dr. Loube estimated that the PA USF revenue base would increase by \$4.4 billion by adding wireless revenue. *Id.* at 17 (citations omitted). Dr. Loube then calculated that increasing the fund payout \$64.3 million from the current \$33 million, for a total PA USF of approximately \$97.3 million, while increasing the fund revenue base from the current

\$2.9 billion to approximately \$7.3 billion by including wireless revenue, would increase the contribution factor by only 0.00166%. *Id.* This example does not address the impact of adding other services that use the PSTN to the contribution base, such as Voice over Internet Protocol (“VoIP”) providers. Clearly, adding more service providers as contributors to the revenue base will further reduce the impact of the OCA proposal on any one service provider. *Id.* at 17-18. Dr. Loube concluded by noting that 14 of 21 states that currently have state universal service funds require wireless carriers to contribute to those funds. *Id.* at 18.[fn34]

5. On page 23, the second and third sentences of the first paragraph (including footnote 35):

Given the \$97.3 million initial size of the PA USF under the OCA’s comprehensive proposal in this proceeding, and that, pursuant to FCC rules, common line investments and costs are separated between the intrastate and interstate jurisdictions on the basis of a 25/75 gross allocator, the expansion of the PA USF proposed by the OCA in this proceeding is reasonable. *Id.* at 52-53.[fn35] Dr. Laube stated: “in comparison to the interstate universal service fund support of common line costs, the [OCA’s] proposed increase in the Pennsylvania fund is reasonable.” *Id.* at 53.

6. Also on page 23, the second sentence of the second paragraph:

The OCA Comprehensive Proposal represents a reasonable revenue replacement for any RLEC intrastate access rate reductions the Commission may order as a result of this proceeding.

7. On page 32, the following words in the second sentence of the second full paragraph:

the expansion of the PA USF contribution and

8. On page 49, the following words in last sentence of the indented paragraph at the top of the page:

and the expansion of the contribution base to all users of the public switched telecommunications network.

9. On pages 51 and 52, the first paragraph on page 51 through the first full paragraph on page 52:

Nevertheless, under Step 4 of the OCA plan, in order to minimize the impact of the OCA recommendation on the size of the PA USF

contribution factor, the OCA is also recommending that the Commission enlarge the PA USF revenue base to include any service provider that uses the PSTN in providing their service. OCA St. 1 at 17. As Dr. Loube testified:

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 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.

Id. at 16-17.

Dr. Loube estimated that the PA USF revenue base would increase by \$4.4 billion, for example, by including intrastate wireless revenue. Id. at 17 (citations omitted). Dr. Loube then calculated that increasing the fund payout from the current \$33 million to approximately \$97.3 million pursuant to the OCA proposal in this proceeding, while increasing the fund revenue base from the current \$2.9 billion to approximately \$7.3 billion by including wireless revenue, would increase the contribution factor by only 0.00166%. Id. This example does not address the impact of adding other services that use the PSTN, such as Voice over Internet Protocol ("VoIP") providers, to the contribution base. Doing so would further reduce the impact of the OCA proposal on any one service provider. Id. at 17-18. Dr. Loube concluded by noting that 14 of 21 states that currently have state universal service funds require wireless carriers to contribute to those funds. Id. at 18; *see*, fn. 34, *supra*.

Qwest witness Easton expressed concern with regard to whether the OCA comprehensive plan would interfere with the federal universal service fund. Qwest St. 1-R at 6-7. As Dr. Loube testified, however, the OCA comprehensive plan will not interfere with or burden the federal universal service fund because the OCA comprehensive plan will retain the current practice that the contribution factor will be assessed against intrastate retail telecommunications revenue. OCA St. 1-S at 19.

Dr. Loube testified that it is appropriate to continue to support the access reforms already implemented. As Dr. Loube stated, "all users of that network have a responsibility to support the network. ... Nothing has happened that has changed the need for all users to support the network and, therefore, it is entirely appropriate to continue the current support program." OCA St. 1 at 58. Similarly, Dr. Loube noted that it is not appropriate to implement an additional toll line charge for local exchange customers because such a charge is the same as an increase in the basic

local rate, since all customers are required to pay the charge in order to obtain basic local telephone service. *Id.* Likewise, the Commission should not eliminate the current PA USF credits and allow carriers to increase basic local exchange service rates. As Dr. Loubé testified, doing so would create a return to the world prior to the Global Order, *supra*, and is not appropriate. *Id.* at 59. If the Commission decides to reduce intrastate access charges again, it is appropriate to implement additional contributions to the PA USF to offset access rate reductions in a revenue neutral fashion so long as the basic local exchange rate for the RLECs is 120% of the Verizon PA weighted average residential basic local exchange service rate. *Id.* at 53.

10. On page 52, the following words in the last sentence of the last paragraph:

which should be expanded to include in the base of contributors any service provider that uses the PSTN to provide service

11. On page 57, numbered paragraph 4 in its entirety:

The revenue basis 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 the service.”

12. In Appendix A, Section A, numbered paragraph 8 in its entirety:

The PA USF revenue base would increase by \$4.4 billion by adding wireless revenue. OCA St. 1 at 17 (citations omitted). Increasing the fund payout from the current \$33 million to approximately \$97.3 million pursuant to the OCA proposal in this proceeding, while increasing the fund revenue base to include wireless revenue, would increase the contribution factor by only 0.00166%. *Id.*

13. In Appendix C, paragraph 2 in its entirety:

That the Commission institute a further proceeding for the purpose of expanding the base of contributors to the Pennsylvania Universal Service Fund to include all service providers that use the Public Switched Telephone Network in Pennsylvania to provide service.

14. In Appendix C, the following words in paragraph 3:

upon completion of such a further proceeding ordered in paragraph 2,

EXHIBIT B

BEFORE THE
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, *et al.* :
v. : Docket Nos. C-2009-2098380, *et al.*
Armstrong Telephone Company – :
Pennsylvania, *et al.* :

MAIN BRIEF OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: May 13, 2010

recommends the elimination of the non-traffic sensitive carrier common line charge (“CCLC”), which is a type of access charge, and also recommends that the basic local service rates of some of the rural incumbent local exchange carriers (“RLECs”) be increased to levels that remain reasonable and affordable. These recommendations, however, are contingent upon the Commission expanding the PA USF and increasing the support from the PA USF for the RLECs. The increase in PA USF support to the RLECs allows all users of the joint and common plant to make a reasonable contribution to the support of the PSTN.

The four integrated steps of the OCA’s comprehensive plan presented in this proceeding are as follow:

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 exchange rates that are below 120 percent of the Verizon Pennsylvania weighted average residential basic local exchange service rate should be increased to that level, subject to an affordability constraint, while RLEC rates that are above 120 percent of the Verizon weighted average rate remain at their current levels;
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 four of these components must be adopted in their entirety in order to meet the goals of the OCA’s plan.

The OCA’s comprehensive proposal seeks to achieve a balance of the varying interests in this proceeding. Long distance companies, or interexchange carriers (“IXCs”), benefit by the

Suggested Answer: Yes

3. ~~Whether the Pennsylvania Universal Service Fund should be expanded to require all carriers that provide service using the public switched telephone network to contribute to the Fund?~~

Suggested Answer: Yes

IV. SHOULD THE RLECS' INTRASTATE SWITCHED ACCESS RATES BE REDUCED?²⁸

A. RLEC Intrastate Access Rates Should Be Reduced To Their Interstate Levels But Only If The Commission Adopts The OCA Comprehensive Plan In Its Entirety.

The OCA submits that the RLECs' intrastate switched access rates should be reduced, but only if the entire OCA comprehensive proposal presented in this proceeding is adopted by the Commission. As discussed in the Direct Testimony of OCA witness Dr. Loube, the OCA has presented in this proceeding a comprehensive plan designed to revise the RLECs' intrastate access rates and to maintain universal service in Pennsylvania. OCA St. No. 1 at 9-18. The OCA plan has four interlocking features that all must be adopted for any change in intrastate access levels to be found just and reasonable. Those components are:

1. RLEC intrastate access rates should be set equal to their respective interstate rate, including the elimination of the carrier common line charge;
2. RLEC residential basic local exchange rates that are below 120 percent of the Verizon Pennsylvania weighted average residential basic local exchange service rate should be increased to that level, subject to an affordability constraint, while RLEC rates that are above 120 percent of the Verizon weighted average rate remain at their current levels;
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.~~

²⁸ The outline of this brief was established by agreement of the parties pursuant to the direction of the Presiding Officer. All such headings and subheadings are bolded. As with all agreements among multiple parties, compromises were made in the development of the outline. The OCA comprehensive proposal presented in testimony is relevant to multiple sections of the outline. Therefore, some duplication may occur.

Id. at 15; *see also*, OCA Exh. RL-3.³² The OCA's proposed benchmark will increase every year in which Verizon increases its basic service rates, so long as the overall customer bill for basic local service remained less than 0.75% of the Pennsylvania median rural household income. Therefore, if 120% of the Verizon weighted average basic local exchange rate increases to \$17.50 next year, the RLEC support would be determined using the \$17.50 benchmark. Id. As a result, the amount of support required from the PA USF decreases each year under the OCA proposal. OCA St. 1-S at 15. In addition, the OCA comprehensive plan calculates support as if the RLEC business rates are increased by the same amounts as the residential rate. OCA St. 1 at 15.

Under Step 3 of the OCA plan, and as set forth in Section VI.B, *infra*, any additional revenue required to offset the revenue decrease associated with access rate reductions that is not made up by increasing the RLECs' basic local exchange service rate to 120% of the Verizon weighted average rate would be recovered from the PA USF. In order to reduce the RLECs' intrastate access rates to interstate levels and eliminate the state CCLC, the pay-out of the PA USF would increase in total by approximately \$64.3 million. Id. at 16; *see also*, OCA Exh. RL-4.³³

~~Finally, under Step 4 of the OCA plan, to minimize the impact of the OCA recommendation on the size of the PA USF contribution factor, the OCA is also recommending~~

³² Given the size of the increase to customers of Citizens of Kecksburg, the OCA submits that a phase-in of the increase would be appropriate. OCA St. 1 at n.6.

³³ Reducing the RLEC's intrastate access rates to their interstate rates and eliminating the state CCLC, as discussed above, would increase the PA USF payout to a total of \$79 million. OCA St. 1 at 16. This figure, however, is offset, in part, by increases in the intrastate switching and transport rate for those 21 carriers whose intrastate rates are less than their interstate rates. Id. There would also be an offset related to increased revenues for those RLECs with residential rates that are now less than the OCA benchmark. Id. Therefore, the total net increase to the PA USF under the OCA comprehensive plan is \$64.3 million.

~~that the Commission enlarge the PA USF revenue base to include any service provider that uses the PSTN at any point in providing their service. Id. As Dr. Loubé testified,~~

~~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 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.~~

~~Id. at 16-17. Dr. Loubé estimated that the PA USF revenue base would increase by \$4.4 billion by adding wireless revenue. Id. at 17 (citations omitted). Dr. Loubé then calculated that increasing the fund payout \$64.3 million from the current \$33 million, for a total PA USF of approximately \$97.3 million, while increasing the fund revenue base from the current \$2.9 billion to approximately \$7.3 billion by including wireless revenue, would increase the contribution factor by only 0.00166%. Id. This example does not address the impact of adding other services that use the PSTN to the contribution base, such as Voice over Internet Protocol ("VoIP") providers. Clearly, adding more service providers as contributors to the revenue base will further reduce the impact of the OCA proposal on any one service provider. Id. at 17-18. Dr. Loubé concluded by noting that 14 of 21 states that currently have state universal service funds require wireless carriers to contribute to those funds. Id. at 18.³⁴~~

As such, the OCA submits that the Commission should reduce the RLEC's intrastate access rates to the interstate levels, but only as part of adopting the OCA comprehensive proposal in its entirety as its resolution of this proceeding. If the Commission does not adopt the

³⁴ See, e.g., Alaska (3 AAC 53.340), Arizona (A.A.C.R14-2-R-1204-B-2), Connecticut (CT G.S. § 16-247e), Idaho, Kansas (K.S.A. 66-2008(a)) and Nebraska. See also, Bluhm, Peter, *et al.*, "State High Cost Funds: Purposes, Design and Evaluation." National Regulatory Research Institute, 2010 at n. 171, available at (<http://www.nrri.org/pubs/telecommunications/NRRI-state-high-cost-funds-jan10-04.pdf>).

Dr. Loube noted that the total common line support the RLECs receive from the ICLS and the IAS in Pennsylvania is \$35.5 million. Id. ~~Given the \$97.3 million initial size of the PA USF under the OCA's comprehensive proposal in this proceeding, and that, pursuant to FCC rules, common line investments and costs are separated between the intrastate and interstate jurisdictions on the basis of a 25/75 gross allocator, the expansion of the PA USF proposed by the OCA in this proceeding is reasonable. Id. at 52-53.³⁵ Dr. Loube stated: "in comparison to the interstate universal service fund support of common line costs, the [OCA's] proposed increase in the Pennsylvania fund is reasonable." Id. at 53.~~

As such, the Commission should reduce the RLECs' intrastate access rates, but only by adopting the OCA comprehensive proposal in its entirety. ~~The OCA comprehensive proposal represents a reasonable revenue replacement for any RLEC intrastate access rate reductions the Commission may order as a result of this proceeding.~~

C. The Commission Must Consider Changes In The Telecommunications Industry And Telecommunications Law During The Past Decade When Determining Whether The RLECs' Intrastate Access Rates Should Be Reduced.

When determining whether the RLEC's intrastate access rates should be reduced to their interstate levels, the Commission should consider changes in the telecommunications industry and telecommunications laws that have occurred during the past decade. In particular, while the OCA comprehensive plan includes the elimination of the state CCLC, and requires intrastate traffic sensitive access rates to equal interstate traffic sensitive access rates, it should be recognized that Pennsylvania state law does not require such changes. The original Chapter 30,

³⁵ *Citing, 47 C.F.R. § 36.154(e).* The \$35.3M/\$97.3M ratio nearly equals the 25/75 gross allocator.

access reductions since the FCC has indicated that it may change intrastate access rates as part of its proceeding. OCA St. 1 at 59.

The OCA recognizes that the FCC proceeding has been pending for many years and that the current inequities in the intercarrier compensation system in Pennsylvania can be resolved by adopting the entire OCA comprehensive proposal now. Nonetheless, the OCA wishes to address two specific issues raised by other parties regarding the timing of the OCA comprehensive proposal.

First, AT&T's panel witnesses suggested that the OCA comprehensive proposal seeks an immediate reduction in the RLEC intrastate access rates. AT&T St. 1.2 at 4. The AT&T witness testimony failed to recognize, however, that the OCA proposal is a comprehensive plan and that the intrastate access rate reduction was "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." OCA St. 1 at 4-5. The Commission may need to conduct an additional proceeding to accomplish that. If the Commission does not adopt all aspects of the OCA's comprehensive proposal, then the Commission should *not* reduce the RLECs' intrastate access rates. OCA St. 1-S at 25. Doing so would substantially harm universal service either through significant increases in basic local service rates or through the financial weakening of the RLECs. As such, the OCA does not seek an "immediate" reduction in RLEC intrastate access rates; rather such reduction should only occur when the Commission is in a position to implement all the components of the OCA comprehensive proposal.

Second, the Commission should also not adopt the AT&T panel witnesses' recommendation that the increase in the PA USF support should only be for a short transitional period. AT&T St. 1.2 at 4. As Dr. Loubé testified, if the Commission orders a long term

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 consumers are added to the network. This situation is 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.

OCA St. 1-S at 22-23. Universal service benefits everyone because the more people that can access the PSTN, the more benefit the PSTN is to all users. Furthermore, while Dr. Loubé agrees that the local loop facilities have traditionally been considered non-traffic sensitive, in areas served by Remote Terminals, such as rural areas, the entire loop is no longer non-traffic sensitive because the remote terminal concentrates traffic and, therefore, a portion of the loop becomes traffic sensitive. Id. at 23.

The Commission should reject any argument that places the entire burden to support the joint and common costs of the PSTN on basic local exchange customers only.

5. Conclusion.

The OCA submits that, if the Commission decides to reduce the RLEC intrastate access rates to their interstate access rate levels, the revenue required to maintain neutrality should first come by raising the basic local service rates to 120% of the Verizon weighted average rate in conjunction with the OCA's comprehensive proposal. Any further revenue required to maintain neutrality should come from the PA USF. The Commission should reject any argument that supports placing an unfair burden to pay for the entire PSTN on basic local exchange customers.

~~Nevertheless, under Step 4 of the OCA plan, in order to minimize the impact of the OCA recommendation on the size of the PA USF contribution factor, the OCA is also recommending that the Commission enlarge the PA USF revenue base to include any service provider that uses the PSTN in providing their service. OCA St. 1 at 17. As Dr. Loube testified:~~

~~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 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.~~

~~Id. at 16-17.~~

~~Dr. Loube estimated that the PA USF revenue base would increase by \$4.4 billion, for example, by including intrastate wireless revenue. Id. at 17 (citations omitted). Dr. Loube then calculated that increasing the fund payout from the current \$33 million to approximately \$97.3 million pursuant to the OCA proposal in this proceeding, while increasing the fund revenue base from the current \$2.9 billion to approximately \$7.3 billion by including wireless revenue, would increase the contribution factor by only 0.00166%. Id. This example does not address the impact of adding other services that use the PSTN, such as Voice over Internet Protocol ("VoIP") providers, to the contribution base. Doing so would further reduce the impact of the OCA proposal on any one service provider. Id. at 17-18. Dr. Loube concluded by noting that 14 of 21 states that currently have state universal service funds require wireless carriers to contribute to those funds. Id. at 18; see, fn. 34, supra.~~

~~Qwest witness Easton expressed concern with regard to whether the OCA comprehensive plan would interfere with the federal universal service fund. Qwest St. 1 R at 6-7. As Dr. Loube testified, however, the OCA comprehensive plan will not interfere with or burden the federal~~

~~universal service fund because the OCA comprehensive plan will retain the current practice that the contribution factor will be assessed against intrastate retail telecommunications revenue. OCA St. 1 S at 19.~~

~~Dr. Loube testified that it is appropriate to continue to support the access reforms already implemented. As Dr. Loube stated, "all users of that network have a responsibility to support the network. ... Nothing has happened that has changed the need for all users to support the network and, therefore, it is entirely appropriate to continue the current support program." OCA St. 1 at 58. Similarly, Dr. Loube noted that it is not appropriate to implement an additional toll line charge for local exchange customers because such a charge is the same as an increase in the basic local rate, since all customers are required to pay the charge in order to obtain basic local telephone service. Id. Likewise, the Commission should not eliminate the current PA USF credits and allow carriers to increase basic local exchange service rates. As Dr. Loube testified, doing so would create a return to the world prior to the Global Order, *supra*, and is not appropriate. Id. at 59. If the Commission decides to reduce intrastate access charges again, it is appropriate to implement additional contributions to the PA USF to offset access rate reductions in a revenue neutral fashion so long as the basic local exchange rate for the RLECs is 120% of the Verizon PA weighted average residential basic local exchange service rate. Id. at 53.~~

As such, if the Commission decides to reduce the RLEC intrastate access rate to their interstate access rates, revenue required to maintain neutrality should first come by raising the basic local service rates to 120% of the Verizon weighted average rate, subject to an affordability constraint, in conjunction with the OCA's comprehensive proposal. Any additional revenue required beyond that point should come from the PA USF, ~~which should be expanded to include in the base of contributors any service provider that uses the PSTN to provide service.~~

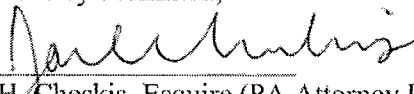
VIII. CONCLUSION

WHEREFORE, the Pennsylvania Office of Consumer Advocate respectfully requests the Pennsylvania Public Utility Commission adopt the following four steps as a resolution of this proceeding:

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 exchange rates that are below 120 percent of the Verizon Pennsylvania weighted average residential basic local exchange service rate should be increased to that level, subject to an affordability constraint, while RLEC rates that are above 120 percent of the Verizon weighted average rate remain at their current levels;
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.~~

The OCA respectfully submits that all of these four components should be adopted in their entirety.

Respectfully submitted,



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APPENDIX A
PROPOSED FINDINGS OF FACT

A. The OCA Comprehensive Proposal.

1. The carrier common line charge (“CCLC”) recovers the joint and common costs of the network from carriers that use the network and is not a subsidy. OCA St. 1 at 11.

2. If the CCLC were eliminated without adopting the other portions of the OCA comprehensive plan, 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. OCA St. 1 at 12.

3. Currently, the Verizon Pennsylvania weighted average rate is \$14.25. OCA St. 1 at 14; *see also*, OCA Exh. RL-2.

4. While twenty-two RLECs would be required to increase their basic local exchange rate to match the benchmark in order to receive PA USF funding under the OCA plan, those increases range from 10 cents to \$3.60, with the exception of Citizens of Kecksburg which would receive an increase of \$6.09. OCA St. 1 at 15; *see also*, OCA Exh. RL-3.

5. The OCA’s proposed benchmark would increase every year in which Verizon changes its basic service rates, so long as the overall customer bill remained less than 0.75% of the Pennsylvania median rural household income. OCA St. 1 at 15. Therefore, if 120% of the Verizon weighted average basic local exchange rate increases to \$17.50 next year, the RLEC support would be determined using the \$17.50 benchmark. Id.

6. The amount of support required from the PA USF decreases each year under the OCA comprehensive proposal. OCA St. 1-S at 15.

7. In order to reduce the RLECs’ intrastate access rates to interstate levels, the payout of the PA USF would increase by approximately \$64.3 million. OCA St. 1 at 16; *see also*, OCA Exh. RL-4.

~~8. The PA USF revenue base would increase by \$4.4 billion by adding wireless revenue. OCA St. 1 at 17 (citations omitted). Increasing the fund payout from the current \$33 million to approximately \$97.3 million pursuant to the OCA proposal in this proceeding, while increasing the fund revenue base to include wireless revenue, would increase the contribution factor by only 0.00166%. Id.~~

9. Dr. Robert Loube is the Vice President of Rolka Loube Saltzer Associates. OCA St. 1 at 1. His consulting practice centers on providing expert advice to state agencies involved in telecommunications regulation. Id. Prior to joining Rolka Loube Saltzer Associates, Dr. Loube worked at the Federal Communications Commission, the Public Service Commission for the District of Columbia and the Indiana Utility Regulatory Commission on issues associated

APPENDIX C
PROPOSED ORDERING PARAGRAPHS

THEREFORE, it is recommended:

1. That the OCA comprehensive proposal, as discussed herein, is adopted in its entirety.
2. ~~That the Commission institute a further proceeding for the purpose of expanding the base of contributors to the Pennsylvania Universal Service Fund to include all service providers that use the Public Switched Telephone Network in Pennsylvania to provide service.~~
3. That, upon completion of such a further proceeding ordered in paragraph 2, the Pennsylvania Rural Local Exchange Carriers set their intrastate access rates equal to their respective interstate rate, including the elimination of the carrier common line charge.
4. That, upon completion of such rate changes ordered in paragraph 3, the Pennsylvania Rural Local Exchange Carriers increase their basic local exchange rates that are below 120 percent of the Verizon Pennsylvania weighted average residential basic local exchange service rate to that level, so long as no local telephone bill is greater than 0.75% of the Pennsylvania median rural household income, with increases to Citizens of Kecksburg rates phased-in over two years, while RLEC rates that are above 120 percent of the Verizon weighted average rate remain at their current levels.
5. That, upon completion of such rate changes ordered in paragraphs 3 and 4, any remaining revenue required to offset the revenue decrease associated with access rate reductions should be recovered from the Pennsylvania Universal Service Fund in order to maintain revenue neutrality required by 66 PA CS § 3017.
6. That the Formal Complaints filed by AT&T Communications of Pennsylvania, LLC., et al. at Docket Nos. C-2009-2098380, et al., be marked CLOSED.

**BEFORE THE
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 :

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 and 1.55, via electronic mail and first class US Mail.

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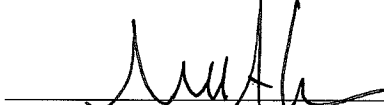
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May 20, 2010


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