

PAINTER LAW FIRM, PLLC
13017 DUNHILL DRIVE
FAIRFAX, VIRGINIA 22030

MICHELLE PAINTER
ATTORNEY AT LAW

703.201.8378
FAX 703.968.5036
E-mail: painterlawfirm@verizon.net

December 6, 2010

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Re: AT&T Communications of Pennsylvania, Inc. v. Verizon North Inc. and Verizon
Pennsylvania Inc., Docket No. C-20027195

Dear Secretary Chiavetta:

Please find enclosed the Prehearing Memorandum of AT&T in the above-referenced matter.

Please contact me if you have any questions or concerns with this matter.

Very truly yours,


Michelle Painter

cc: Certificate of Service
ALJ Cynthia Fordham

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a true copy of the Prehearing Memo of AT&T to be served upon the parties of record in Docket No. C-20027195 in accordance with the requirements of 52 Pa. Code Sections 1.54 and 1.55 in the manner and upon the parties listed below.

Dated at Fairfax, VA this 6th day of December, 2010.

VIA E-MAIL AND FIRST CLASS MAIL

Norman J. Kennard, Esquire
Regina L. Matz, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
Harrisburg, PA 17108
(717) 255-7600
nkennard@thomaslonglaw.com

Suzan D. Paiva
Verizon
1717 Arch Street, 10th Fl
Philadelphia PA 19103
(215) 466-4755
Suzan.D.Paiva@Verizon.com

Johnnie Simms
PA Public Utility Commission
Office of Trial Staff
PO Box 3265
Harrisburg, PA 17105
jsimms@state.pa.us

John F. Povalitis
Ryan, Russell, Ogden & Seltzer P.C.
800 North Third Street, Suite 101
Harrisburg, PA 17102-2025
(717) 236-7714
jpovalitis@ryanrussell.com

Harry Geller
PA Utility Project
118 Locust St
Harrisburg, PA 17101

Joel Cheskis, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048
jcheskis@paoca.org

Zsuzanna Benedek, Esquire
CenturyLink
240 North Third Street, Suite 201
Harrisburg, PA 17101
(717) 245-6346
sue.benedek@centurylink.com

Steven C. Gray, Esquire
Office of Small Business Advocate
300 North 2nd St, Suite 1102
Harrisburg, PA 17101
(717) 783-2525
sgray@state.pa.us

Michael A. Gruin
Stevens & Lee
17 North Second St, 16th Floor
Harrisburg, PA 17101
(717) 255-7365
mag@stevenslee.com

Benjamin Aron
Sprint Nextel Corp.
2001 Edmund Halley Drive, Rm 208
Reston, VA 20191
Benjamin.aron@sprint.com



Michelle Painter

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

AT&T Communications	:	
of Pennsylvania, LLC, <i>et. al.</i>	:	Docket Number
	:	
v.	:	C-20027195
	:	
Verizon North, Inc. and Verizon Pennsylvania, Inc.	:	

**PREHEARING MEMORANDUM
OF AT&T**

Pursuant to 52 Pa. Code §5.222(d) and ALJ Fordham’s December 3, 2010 Prehearing Order #5 On Remand, AT&T Communications of Pennsylvania, LLC, TCG Pittsburgh, and TCG New Jersey, Inc. (collectively “AT&T”) hereby submit the following Prehearing Memorandum in the above-referenced case.

I. INTRODUCTION

The Commission’s May 11, 2010 Opinion and Order lifting the stay in this proceeding documents its long procedural history. For purposes of this new phase of the case, however, one point in that history is particularly pertinent. That is, on November 30, 2005, after two separate cycles of full evidentiary proceedings, which extended over the better part of two separate years, ALJ Cynthia Williams Fordham issued a Recommended Decision recommending (1) that Verizon’s carrier charge be eliminated within six months to a year, and (2) that Verizon’s intrastate access rates be fully reduced to their interstate levels within one to two years.

Nothing has changed in the intervening five years to undermine these conclusions. To the contrary, the passage of time has underscored the need to implement them as quickly as possible. Indeed, Verizon itself, in testimony filed just last year in the Rural Local Exchange Carrier (“RLEC”) access proceeding, expressly acknowledged that high access rates distort the market and harm consumers by “suppress[ing] demand for the services of those carriers that must pay the excessive access charges and reduc[ing] incentives for local entry by firms that might be able to provide service more efficiently than the other LEC if they were not required to subsidize the less efficient operations.”¹ As Verizon’s witness put it, “Perpetuating this irrational rate structure in today’s competitive environment is fundamentally anti-consumer.”²

The task at hand in this reopening, then, should be focused on refreshing the record that already has been developed – and that the ALJ found warranted decisive action to reduce Verizon’s access rates – to provide the basis for properly and quickly implementing the ALJ’s prior recommendations, to the benefit of Pennsylvania’s consumers. AT&T anticipates that the evidence will show that bringing Verizon’s intrastate access rates to parity with its interstate rates will not be a difficult endeavor. In fact, based on publicly available information, it appears that rebalancing Verizon’s rates so that reductions in wholesale access revenues are recovered from Verizon’s retail access lines would mean that Verizon’s average residential single-line rates would increase by less than a dollar per line per month, and the monthly rate for a typical single-line flat rate residence customer would still be more than \$2.00 *less* than the

¹ Direct Testimony of Don Price on behalf of Verizon, July 2, 2009, Docket Nos. C-2009-2098380 *et. al.* at pp. 9-10.

² *Id.*

Commission's seven year-old \$18 residential rate cap that two ALJs have recommended eliminating.³

II. ISSUES AND WITNESSES

The issues in this case should be fairly limited, and amenable to resolution on a reasonable timetable. As Verizon itself has acknowledged,⁴ there is already an extensive record in this case. In fact, the primary issue of whether Verizon's intrastate access rates should be reduced, and by how much, has already been fully litigated in this docket *twice*, and properly decided in the November 30, 2005 Recommended Decision. This third phase thus should simply involve updating the record, primarily to provide current calculations concerning the revenue impact of bringing Verizon's intrastate rates to parity with interstate rates and levels.

AT&T also intends to present testimony to confirm that the changes in the market in the past five years only strengthen the need to promptly implement the recommendation to reduce Verizon's intrastate rates to parity with their interstate rates and structure. Given the passage of time, and given the decline in Verizon's access volumes and revenues over the past five years, the evidence will show there is no longer a need to phase in access reductions over an elongated period, but, rather, that Verizon's intrastate switched access rates and rate structure can be set at parity with its corresponding interstate rates and rates structure without delay, and with no adverse impact on Verizon's retail subscribers.

³ See ALJ Recommended Decision of Susan Colwell, July 22, 2009 at p. 90 and ALJ Recommended Decision of Kandace F. Melillo, August 3, 2010 at p. 118.

⁴ See May 11, 2010 Opinion and Order at 6.

At this time, AT&T's witnesses are: E. Christopher Nurse and Dr. Ola Oyefusi. AT&T reserves the right to add any additional witnesses depending on the scope of other parties' testimony.

III. SCHEDULE AND DISCOVERY

Given the extensive history in this case, and the fact that the parties have been on notice since May 2010 that this case would be re-opened, AT&T proposes that the following schedule be adopted:

January 7, 2011 – Direct Testimony of all Parties

February 4, 2011 – Reply Testimony of all Parties

February 21-23, 2011 – Hearings

March 23, 2011 – Main Briefs

April 13, 2011 – Reply Briefs

May 18, 2011 – Recommended Decision

This type of schedule is very similar to the last phase in this case. At that time, a prehearing conference was held on May 29, 2003, where it was established that Direct Testimony would be due on June 25, 2003 and hearings were held on August 25 and 26 – three months after the prehearing conference. In this case, AT&T is requesting that hearings be held two and a half months after the prehearing conference, which is entirely reasonable given that this case has already been fully litigated, and given that the parties already have had several months to prepare their cases. AT&T proposes three days of

hearings, but that can be increased or decreased depending on the number of witnesses presented by other parties.

AT&T has already begun discovery in this case. AT&T recommends that the discovery time frames be modified to answers due within 10 days and objections due within 5 days.

IV. SETTLEMENT

AT&T is always willing to discuss settlement; however, at this time the case should not be delayed or put on hold in order to discuss settlement.

V. SERVICE ON AT&T

AT&T will be represented in this case by the following counsel, who should be served with copies of all documents in this proceeding:

Michelle Painter
Painter Law Firm, PLLC
13017 Dunhill Drive
Fairfax, VA 22030
Phone – (703) 201-8378
Fax – (703) 968-5936
E-mail – painterlawfirm@verizon.net

Robert C. Barber
AT&T
3033 Chain Bridge Road
Oakton, VA 22185
Phone – (571) 354-4267
E-mail – rb2865@att.com

VI. CONCLUSION

AT&T submits that its proposed schedule should be adopted so that this case can move forward on a reasonable schedule that takes into account the extensive prior history of this proceeding, as well as the fact that seven months have already passed since the Commission re-opened this case to refresh the record.

Respectfully submitted,



Michelle Painter
Painter Law Firm, PLLC
13017 Dunhill Drive
Fairfax, VA 22030
Phone – (703) 201-8378
Fax – (703) 968-5936
E-mail – painterlawfirm@verizon.net

Robert C. Barber
AT&T
3033 Chain Bridge Road
Oakton, VA 22185
Phone – (571) 354-4267
E-mail – rb2865@att.com

Counsel for AT&T

Date: December 6, 2010