

February 22, 2011

*Via Hand Delivery*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, Filing Room  
Harrisburg, PA 17101

Re: Armstrong Telecommunications Inc. v. Verizon Pennsylvania Inc., Verizon North LLC, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services Inc., Docket Nos. C-2010-2216205, C-2010-2216311, C-2010-2216325 and C-2010-2216293

Dear Secretary Chiavetta:

Enclosed please find an original and three (3) copies of the Objections of Armstrong Telecommunications Inc. certain Interrogatories of Verizon.

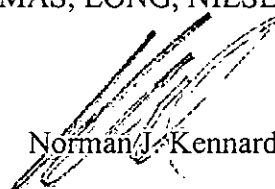
Please be advised that the undersigned has previously contacted counsel for Verizon to discuss its objections prior to the formal filing hereof. No resolution was reached as a result of these discussions.

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

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By:

  
Norman J. Kennard

NJK:tlt  
enclosure  
cc: Per Certificate of Service

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Armstrong Telecommunications Inc.,	:	
Complainant	:	
v.	:	Docket Nos. C-2010-2216205
	:	C-2010-2216311
Verizon Pennsylvania Inc., Verizon North	:	C-2010-2216325
LLC, MCImetro Access Transmission	:	C-2010-2216293
Services, LLC, d/b/a Verizon Access	:	
Transmission Services and MCI	:	
Communications Services Inc.	:	
Respondents	:	

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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**OBJECTIONS OF ARMSTRONG TELECOMMUNICATIONS INC.  
TO CERTAIN INTERROGATORIES OF  
VERIZON PENNSYLVANIA INC., VERIZON NORTH LLC,  
MCIMETRO ACCESS TRANSMISSION SERVICES, LLC  
d/b/a VERIZON ACCESS TRANSMISSION SERVICES AND  
MCI COMMUNICATIONS SERVICES INC.**

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Armstrong Telecommunications Inc. (“Armstrong”), by and through its counsel in the above-captioned matter, and pursuant to the Commission’s regulations at 52 Pa. Code §§ 5.342 and 5.361, objects to the Interrogatories, Data Requests and Requests for Admissions of Verizon Pennsylvania Inc., Verizon North LLC, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services Inc. (“Verizon”) as follows:

**A. Discovery Standards**

1. Commission regulations permit for the discovery of “any matter, not privileged, which is relevant to the subject matter involved in the pending action.” 52 Pa. Code §5.321(c).

2. Generally speaking, this Commission applies a standard of relevance which is less restrictive than that required by parties in order to present a document into the evidentiary record.

It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code §5.321(c). This broad approach to discovery is narrowed in certain circumstances. For example, material sought to be discovered must be relevant to the subject matter of the action and must not be privileged. *Id.* Further, materials are not discoverable if sought in bad faith or if the request is of such a nature that it would cause unreasonable annoyance, embarrassment, oppression, burden or expense. 52 Pa. Code §5.361(a)(1), (2).

3. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make a fact at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two-part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that:

It must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence.

*Id.* at 284.

4. Pennsylvania's courts have acknowledged that all discovery comes with some measure of annoyance and burden. *See, e.g., Merrifield v. Gavern*, 10 Pa.D.&C. 4<sup>th</sup> 541 (1991). The mere fact that discovery will be time consuming, burdensome and costly is not grounds for objection if this is the inevitable result of the facts under examination. *See Nardell v. Scranton-Spring Brook Water Service Company*, 24 Pa.D.&C. 2d 663 (1961).

## **B. General Objections**

1. Armstrong objects to Verizon's Instructions and Definitions to the extent they purport to impose upon Armstrong any different or additional obligations from those imposed under the Public Utility Code and this Commission's regulations at 52 Pa. Code. In responding to this discovery, Armstrong intends to and will respond in accordance with standard and acceptable Commission practice.

2. Armstrong objects to each request to the extent that it seeks documents or information equally available through public sources or records because such requests subject Armstrong to unreasonable and undue annoyance oppression, burden and expense. Armstrong will refer the requesting party to the Commission for all publicly available documents on record at the Commission, or to any other publicly available source.

3. Armstrong objects to each request to the extent that it seeks to impose an obligation on Armstrong to respond on behalf of subsidiaries, affiliates, or other persons that are not subject to the jurisdiction of the Pennsylvania Public Utility Commission (the "Commission") or are not parties to this proceeding on the grounds that such discovery is overly broad, unduly burdensome, oppressive, irrelevant and not likely to lead to the discovery of relevant or admissible evidence, and not permitted by applicable discovery rules.

4. Armstrong objects to each request to the extent it seeks information that requires complex responses. The function of interrogatories is to pose simple questions relating to a particular subject matter that may be answered by a brief categorical statement.

5. Armstrong has interpreted each request to apply to Armstrong's regulated intrastate operations in Pennsylvania and will limit its responses accordingly. To the extent any request is intended to apply to matters that take place outside of the Commonwealth of

Pennsylvania and which are not related to Pennsylvania intrastate operations subject to the jurisdiction of the Commission and are not the subject of this proceeding, Armstrong objects to each such request as irrelevant, overly broad, unduly burdensome, not likely to lead to the discovery of relevant or admissible evidence, and oppressive.

6. Armstrong objects to each request to the extent it seeks information not reasonably calculated to lead to the discovery of admissible evidence and not relevant or material to the subject matter of this proceeding.

7. Armstrong objects to each request to the extent it is duplicative and overlapping, cumulative of another request, overly broad, and/or seek responses in a manner that is unduly burdensome, expensive, oppressive, or excessively time consuming to Armstrong to produce.

8. Armstrong objects to each request to the extent it seeks to obtain "all," "each," or "every" document, item, customer, or other such piece of information because such discovery is overly broad and unduly burdensome.

9. Armstrong objects to each request as overly broad and unduly burdensome to the extent such request seeks to have Armstrong create documents not in existence at the time of the request, or to produce documents not in Armstrong's possession, custody or control. Armstrong further objects to each request to the extent it seeks an analysis, calculation, or compilation which Armstrong has not performed previously and which Armstrong objects to performing.

10. Armstrong objects to each request as overly broad and unduly burdensome to the extent it is not limited to any stated period of time, or it pertains to a stated period of time that is longer than is relevant for purposes of the issues in this proceeding.

11. Armstrong objects to each request to the extent that it seeks to require information regarding "all persons." Such a request is unduly burdensome.

12. To the extent that any requested information is confidential and/or contains proprietary information, Armstrong will only produce it pursuant to the Protective Agreement in this docket. Any and all confidential and/or proprietary information produced by Armstrong in this proceeding is subject to the Protective Order.

13. Armstrong objects to the extent that any request seeks information subject to the attorney/client privilege, attorney work-product exemption, or other applicable privileges or immunities from disclosure, as contrary to the laws and rules governing privilege and exemption.

14. The objections, responses, and documents produced in response to each request are not intended nor should be construed in any manner to waive Armstrong's right to object to any and all requests as to their competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, in or at the hearing of this or any other proceeding.

### **C. Specific Objections**

In addition to the general objections set forth above, Armstrong objects to the Verizon Definitions 2 and 3, and Interrogatories Set I, Nos. 5, 6, 7, 8, 9, 10, 11, 13, 14, 18, 33 and 35 on the following specific grounds:

1. **Definitions Nos. 2 and 3 read as follows:**

2. "Armstrong" shall mean individually and collectively Armstrong Telecommunications, Inc. and all predecessors and successors in interest, affiliates, parents, subsidiaries, subdivisions, and divisions of such entities.

3. "AUI" shall mean individually and collectively Armstrong Utilities, Inc. and all predecessors and successors in interest, affiliates, parents, subsidiaries, subdivisions, and divisions of such entities.

**Objection:** Verizon's definitions of the Complainant Armstrong and its affiliate cable operator, Armstrong Utilities, Inc. ("AUI"), are overly broad so as to include all other affiliated

companies, including all parents and any subsidiaries, as well as any subdivisions or divisions of such entities. By defining Armstrong and AUI so broadly, Verizon seeks to impose the unnecessary and burdensome obligation to review all files across the entire spectrum of corporate entities when answering each interrogatory. Moreover, such information, if obtained, would be irrelevant to either the Complaint or Verizon's counterclaims. Although Armstrong believes that Verizon's legal claim, that it is not legally required to pay access rates because Verizon's traffic ultimately terminates on a cable company network in Internet protocol is specious, Armstrong does not object to AUI answering certain questions relevant to Verizon's claim. Beyond that, Verizon is not entitled to undertake discovery of any other Armstrong-related entities or for any other purpose.

2. **Interrogatory VZ I-5** - With regard to each carrier to which Armstrong has directly handed off traffic destined to be terminated by Verizon in Pennsylvania from January 1, 2008 through the present:

- (1) Identify the carrier by name and OCN.
- (2) Is Armstrong aware whether or not the carrier to which it delivers the traffic hands off the traffic to another carrier(s) before delivery to Verizon?
- (3) Provide copies of all agreements between Armstrong and each identified carrier regarding the acceptance and delivery of Armstrong's traffic.
- (4) Provide copies of all agreements between Armstrong and each identified carrier regarding compensation for accepting, delivering or terminating IP-originated traffic.
- (5) For each such carrier, identify the physical location on Armstrong's or the other carrier's network at which Armstrong exchanges traffic with that carrier.
- (6) For each such carrier, state whether Armstrong exchanges traffic with that carrier in IP protocol or TDM protocol.
- (7) For each such carrier, describe how Armstrong compensates the carrier for its acceptance and delivery of Armstrong's traffic, including the specific rate paid.

- (8) For each such carrier, identify and produce all documents or correspondence relating to the compensation for the delivery or termination of Armstrong's traffic.
- (9) For each such carrier, state the number of minutes-of-use of traffic destined to Verizon that was handed off to that carrier separately for each month from January 1, 2008 to the present.

**Objection:** Armstrong objects to Verizon Set I-5 on several grounds. First, the multiple questions and subparts included in this discovery question are extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake the investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided over the most recent twelve month period. Moreover, Armstrong objects to subpart 8 as overly broad and requiring an unreasonable investigation. Armstrong objects to Verizon's inquiry into its current arrangements with interexchange carriers to whom Armstrong hands off toll traffic destined for Verizon customers, including providing written agreements (subparts 3 and 4), compensation (subparts 4 and 7) and volumes (subpart 9). Verizon is simply seeking to discover support for a theory-of-the-case which it has raised without any knowledge of the truth of its averments. Verizon has no basis for making such claims and now seeks facts to develop an averment made in bad faith. Moreover, the agreements are confidential and restrict outside disclosure on behalf of both parties. Network confidentiality issues are also raised by Verizon's attempts to discover other carriers' traffic. Armstrong notes that Verizon also objects to disclosing its intermediate carrier agreements (Verizon response to Armstrong Set I-40) and offers to discuss the matter further with Verizon. Finally, Armstrong is unwilling and objects to being required to dig through voluminous and dated files to discovery "all documents and correspondence," as requested in Verizon Set I-5(8). Armstrong will answer Set I-5(1), (2) and (5).

3. **Interrogatory VZ I-6** - State whether at any time from January 1, 2008 through the present Armstrong has directly handed off traffic to any of the following carriers, or any company known to be affiliated with the following carriers:

- (1) Level 3 Communications, LLC
- (2) Neutral Tandem – Pennsylvania, LLC
- (3) XO Communications Services Inc.
- (4) Global NAPs South, Inc.
- (5) CommPartners, LLC
- (6) AT&T Communications of Pennsylvania, LLC
- (7) Sprint Communications Company L.P
- (8) Infotelecom, LLC
- (9) One Communications affiliates, including but not limited to Choice One Communications of Pennsylvania, Inc. and CTC Communications Corp.

**Objection:** The discovery question is overly extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake the investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided over the most recent twelve month period.

4. **Interrogatory VZ I-7** - For each of the carriers for which the answer to interrogatory I-6 is “yes,”

- (1) Identify and produce copies of all agreements between Armstrong and such carrier and any other documents relating to the delivery or handling of Armstrong’s traffic.
- (2) State the number of minutes-of-use of traffic handed off by Armstrong to that carrier for each month from January 1, 2008 to the present.
- (3) State the number of minutes-of-use of traffic handed off by Armstrong to that carrier destined to be terminated by Verizon for each month from January 1, 2008 to the present.

**Objection:** Armstrong objects to Verizon Set I-7 as unnecessary, unduly burdensome and not likely to lead to relevant information. First, Verizon's request that Armstrong undertake investigations over a three year period is unduly burdensome, unnecessary and overly extensive. Armstrong will provide data, if available, at the time answers are provided over the most recent twelve month period. Moreover, the data sought in Set I-7(1) and (2) is irrelevant. The subject raised by Verizon in its spurious counterclaim relates to traffic delivered to Verizon. Set I-7(1) and (2) request information about all of Armstrong traffic, both state and interstate, that is completely unrelated to Verizon. Armstrong objects to Verizon's inquiry into its current arrangements with interexchange carriers to whom Armstrong hands off toll traffic destined for Verizon customers, including providing written agreements (Set I-7(1)) and volumes (Set I-7(3)). Verizon is simply seeking to discover support for a theory-of-the-case which it has raised without any knowledge of the truth of its averments. Verizon has no basis for making such claims and now seeks facts to develop an averment made in bad faith. Moreover, the agreements are confidential and restrict outside disclosure on behalf of both parties. Network confidentiality issues are also raised by Verizon's attempts to discover other carriers' traffic. Armstrong will not be answering this interrogatory.

5. **Interrogatory VZ I-8** - Separately for each month from January 2008 through the present, state the total intrastate end office switched access minutes-of-use and the total intrastate switched access charges billed by Armstrong to Verizon Pennsylvania Inc. for each of the following ILEC territories:

- (1) CenturyLink Territory
- (2) Citizens of Kecksburg Territory
- (3) Windstream (former Alltel) Territory

- (4) Consolidated/North Pittsburgh Territory

**Objection:** The discovery question is overly extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake the investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided for the most recent twelve month period.

6. **Interrogatory VZ I-9** - Separately for each month from January 2008 through the present, state the total intrastate end office switched access minutes of use and the total intrastate switched access charges billed by Armstrong to Verizon North Inc. for each of the following ILEC territories:

- (1) CenturyLink Territory
- (2) Citizens of Kecksburg Territory
- (3) Windstream (former Alltel) Territory
- (4) Consolidated/North Pittsburgh Territory

**Objection:** The discovery question is overly extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake a special investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided for the most recent twelve month period.

7. **Interrogatory VZ I-10** - Separately for each month from January 2008 through the present, state the total intrastate end office switched access minutes of use and the total intrastate switched access charges billed by Armstrong to MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services for each of the following ILEC territories:

- (1) CenturyLink Territory

- (2) Citizens of Kecksburg Territory
- (3) Windstream (former Alltel) Territory
- (4) Consolidated/North Pittsburgh Territory

**Objection:** The discovery question is overly extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake the investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided for the most recent twelve month period.

8. **Interrogatory VZ I-11** - Separately for each month from January 2008 through the present, state the total intrastate end office switched access minutes of use and the total intrastate switched access charges billed by Armstrong to MCI Communications Services Inc. for each of the following ILEC territories:

- (1) CenturyLink Territory
- (2) Citizens of Kecksburg Territory
- (3) Windstream (former Alltel) Territory
- (4) Consolidated/North Pittsburgh Territory

**Objection:** The discovery question is overly extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake the investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided for the most recent twelve month period.

9. **Interrogatory VZ I-13** - Please provide the following information:

- (1) Identify each local exchange in which AUI provides local telephone service and/or broadband service in Pennsylvania.
- (2) State the number of access lines to which AUI provided local telephone service in Pennsylvania as of 12/31/2008, 12/31/2009 and 12/31/2010 (or the most recent date for which such information is available, if earlier).

- (3) State the number of broadband connections AUI provided in Pennsylvania as of 12/31/2008, 12/31/2009 and 12/31/2010 (or the most recent date for which such information is available, if earlier).

**Objection:** Armstrong objects to Verizon Set I-13(2) and (3) as unnecessary, unduly burdensome and not likely to lead to relevant information. AUI is a cable company and neither its rates nor services are jurisdictional to the Commission. While, as noted previously, Armstrong does not object to Verizon's limited inquiry into AUI's operations as related to Verizon's spurious claims that, because the traffic delivered is terminated in Internet protocol, Verizon is excused, therefore, from compensating Armstrong under its lawful tariffs. However, the number of AUI voice (telephone) and broadband connections is wholly irrelevant to this topic and discovery will not lead to any relevant information. Armstrong will answer Set I-13(1).

10. **Interrogatory VZ I-14** - Please state the number of access lines to which Armstrong provides local telephone service in Pennsylvania as of 12/31/2008, 12/31/2009 and 12/31/2010 (or the most recent date for which such information is available, if earlier).

**Objection:** Armstrong objects to Verizon Set I-14 as unnecessary, unduly burdensome and not likely to lead to relevant information. AUI is a cable company and neither its rates nor services are jurisdictional to the Commission. While, as noted previously, Armstrong does not object to Verizon's limited inquiry into AUI's operations as related to Verizon's spurious claim that, because the traffic delivered is terminated in Internet protocol, Verizon is excused, therefore, from compensating Armstrong under its lawful tariffs. However, the number of AUI voice (telephone) and broadband connections is wholly irrelevant to this topic and discovery will not lead to any relevant information. Armstrong will not be answering this interrogatory.

11. **Interrogatory VZ I-18(1)** - Provide the following information:

- (1) From January 1, 2008 to the present, has Armstrong received traffic directly delivered to it for termination by Armstrong or its cable affiliate from any of the following carriers?
- a. Level 3 Communications, LLC
  - b. Neutral Tandem – Pennsylvania, LLC
  - c. XO Communications Services Inc.
  - d. Global NAPs South, Inc.
  - e. CommPartners, LLC
  - f. AT&T Communications of Pennsylvania, LLC
  - g. Sprint Communications Company L.P
  - h. Infotelecom, LLC
  - i. One Communications affiliates, including but not limited to Choice One Communications of Pennsylvania, Inc. and CTC Communications Corp.

**Objection:** The discovery question is overly extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake the investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided for the most recent twelve month period.

12. **Interrogatory VZ I-33** - Please state Armstrong's average rate per minute-of-use for interstate switched access and provide any tariff citation(s).

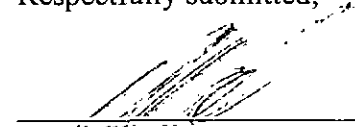
**Objection:** Armstrong objects to Verizon Set I-33 as unnecessary, unduly burdensome and not likely to lead to relevant information. Armstrong's interstate rates are wholly irrelevant to this proceeding, not jurisdictional and discovery will not lead to any relevant information. Armstrong will not be answering this interrogatory.

13. **Interrogatory VZ I-35** - Separately for each year 2008, 2009 and 2010, state:

- (1) The total revenue received by Armstrong for intrastate switched access service; and
- (2) The total amount paid by Armstrong to other carriers for intrastate switched access service.

**Objection:** The discovery question is overly extensive and unduly burdensome, particularly where Verizon requests that Armstrong undertake the investigation over a three year period. Armstrong will provide data, if available, at the time answers are provided for the most recent twelve month period.

Respectfully submitted,



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Jennifer M. Caron, PA Attorney ID No. 200993  
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Armstrong Telecommunications, Inc.

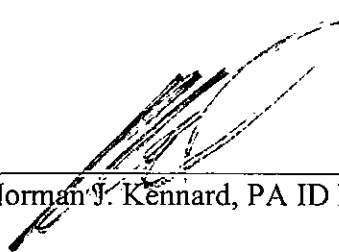
Dated: February 22, 2011

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of February, 2011, I did serve a true and correct copy of the foregoing upon the persons below via electronic mail and first class mail as follows:

Suzan DeBusk Paiva, Esquire  
Verizon  
1717 Arch Street, 3<sup>rd</sup> Floor  
Philadelphia, PA 19103



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Norman J. Kennard, PA ID No. 22921

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