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March 17, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2nd Floor)
Harrisburg, PA 17105-3265

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:

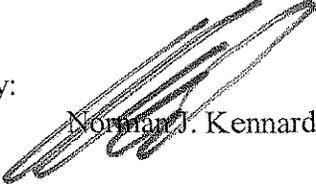
Enclosed for filing with the Commission is Complainant Armstrong Telecommunications Inc.'s Prehearing Conference Memorandum. A copy of this document has been served in accordance with the attached Certificate of Service.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By:


Norman J. Kennard

cc: Dennis J. Buckley, Presiding Administrative Law Judge

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Dennis J. Buckley, Presiding**

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	:	

**PREHEARING CONFERENCE MEMORANDUM
OF COMPLAINANT ARMSTRONG TELECOMMUNICATIONS INC.**

AND NOW, comes Armstrong Telecommunications Inc. (“Armstrong” or “Complainant”), by its attorneys, and submits this Prehearing Conference Memorandum in accordance with the Prehearing Conference Order of Administrative Law Judge Dennis J. Buckley, dated March 4, 2011, and in connection with the Prehearing Conference scheduled to be held in the above-captioned matter on March 21, 2011.

I. Introduction

This proceeding involves a formal complaint filed by Armstrong with the Pennsylvania Public Utility Commission (“Commission”) on December 16, 2010, against Verizon Pennsylvania Inc., Verizon North LLC, MCImetro Access Transmission Services, LLC, MCI Communications Services Inc. and other affiliates (collectively “Verizon” or “Respondent”) concerning Verizon’s

non-payment for the services provided by Armstrong and, which under Commission precedent, Armstrong is compelled to continue to provide despite such non-payment. Beginning with Armstrong's August 2010 CABs Bill, Verizon has disputed and refused to pay the CABs Bills submitted by Armstrong for exchange access services provided under Armstrong's State Access Tariff for the intrastate switched access service and Reciprocal Compensation services under the Verizon Interconnection Agreements. This refusal to pay is predicated on Verizon's position that such voice traffic is originated and/or terminated in IP.¹ As collateral support for unilaterally withholding payment, Verizon also alleges that Armstrong has charged Verizon intrastate switched access rates "higher than those charged by the incumbent local exchange telecommunications company in the same territory," in violation of 66 Pa. C.S. § 3017(c). However, Armstrong's tariffed access rates are set at a level equal to the incumbent local exchange carrier. Verizon's purpose is to force pricing concessions from Armstrong.

II. Counsel for Complainants

The names, mailing and e-mail addresses, telephone and fax numbers of Armstrong's counsel for this matter are as follows:

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¹ Verizon claims that because traffic delivered to Armstrong terminates in Internet protocol on a cable company network (fixed VoIP) access charges are not due. The Commission's decision in *Palmerton v. Global NAPs* completely repudiated such claims and Verizon's actions are in clear violation of that ruling.

Armstrong designates Norman J. Kennard as its counsel for purposes of inclusion on the service list for this proceeding.

III. Additional Parties

Armstrong does not anticipate that the joinder of additional parties will be necessary to resolve this case, but reserves the right to join additional parties in the future should circumstances warrant based on the development of the record.

IV. Issues

The issues and sub-issues which Armstrong intends to raise or which have been raised by Verizon in this proceeding, and Armstrong's positions related thereto, include the following:

- (1) Whether Verizon is refusing to pay lawful tariffed rates in violation of 66 Pa. C.S. § 3017(c)?

Position of Armstrong: Answered in the affirmative
Burden of Proof: Armstrong

- (2) Whether Verizon's refusal to pay the charges set forth in Armstrong State Access Tariff for intrastate Switched Access Services and unilaterally withholding of payment violates the Public Utility Code, including 66 Pa. C.S. §§1303 and 1304?

Position of Armstrong: Answered in the affirmative
Burden of Proof: Armstrong

- (3) Whether Verizon's refusal to compensate Armstrong for Exchange Access Services provided according to the terms of Armstrong's State Access Tariff violates that tariff and state laws?

Position of Armstrong: Answered in the affirmative
Burden of Proof: Armstrong

- (4) Whether Verizon's attempts to negotiate rates different than those specified in Armstrong's State Access Tariff violates the Public Utility Code, including 66 Pa. C.S. §§ 1303 and 1304, and other state laws?

Position of Armstrong: Answered in the affirmative
Burden of Proof: Armstrong

- (5) Whether Verizon's continuing, unilateral refusal to pay Armstrong's CABs Bills despite Armstrong's denial of Verizon's formal disputes, rather than filing a Complaint with the Commission, violates the dispute resolution provisions of Armstrong's State Access Tariff and Pennsylvania statutory law?

Position of Armstrong: Answered in the affirmative
Burden of Proof: Armstrong

- (6) Whether Verizon's refusal to pay amounts due and owing to Armstrong for terminating Verizon's Reciprocal Compensation Traffic breaches the Verizon ICAs in violation of state and federal law?

Position of Armstrong: Answered in the affirmative
Burden of Proof: Armstrong

- (7) Whether the traffic at issue is subject to Armstrong's state access tariff for intrastate switched access services when it is IP-originated and/or IP-terminated traffic?

Position of Armstrong: Answered in the affirmative. With regard to this issue, Armstrong submits that there is no factual dispute relative to this issue and that it is a purely legal question. While still in the process of discovery, Armstrong submits that since there are no factual disputes, Armstrong will likely file a partial motion for summary judgment with regard to this issue. The Commission's Order in Palmerton v. Global NAPs held that the originating carrier should be compensated according to the calling jurisdiction, which in this case is intrastate, interexchange. As such, the underlying technology used to originate and/or terminate calls exchanged between Armstrong and Verizon is legally irrelevant to this Complaint.
Burden of Proof: Verizon

- (8) Whether Armstrong's switched access charges for Pennsylvania intrastate traffic exceeded those that Armstrong may charge under 66 Pa. C.S. § 3017(c)?

Position of Armstrong: Answered in the negative.
Burden of Proof: Verizon

- (9) Whether Armstrong lawfully imposes under its tariff a charge for tandem-switched transport rate elements?

Position of Armstrong: Answered in the affirmative
Burden of Proof: Verizon

Armstrong reserves the right to bring additional issues to the Commission's attention as this matter progresses.

V. Witnesses

The witnesses that Armstrong may call and the subject matter of their proposed testimony include:

<u>Witness</u>	<u>General Subject Matter</u>
1 Bryan Cipoletti Chief Financial Officer	Facts and issues presented.
2 Expert witness(es) to be determined	Policy, <i>Palmerton v. GlobalNAPs</i>

Armstrong reserves the right to call additional witnesses, including an expert, or to substitute witnesses in the presentation of its case, if necessary, to address any issues that may arise during the course of this proceeding.

VI. Evidence

The direct evidence that Armstrong expects to submit in this proceeding will consist of the prepared testimony and accompanying exhibits of the witness(es) identified above. Armstrong likewise expects to submit additional information and evidence in testimony and exhibit form prior to the close of the record in this proceeding based on the conduct and development of discovery. Armstrong also may present additional evidence including, but not limited to, the following:

- (1) Rebuttal and oral rejoinder testimony and exhibits related thereto.
- (2) Responses to discovery.

- (3) Documentary materials such as agreements, letters and records.
- (4) Revisions to and updates of evidence previously submitted.

VII. Discovery

Discovery is underway for the proceeding with Armstrong and Verizon both having propounded their Set I Interrogatories and Request for Production of Documents on January 21, 2011 and February 9, 2011, respectively. Armstrong and Verizon have both filed objections and responses to the Set I discovery. The parties are currently discussing mutually acceptable resolutions to those discovery responses where objections were stated. Specifically, at this time, Armstrong is awaiting further responses to its Set I discovery. Additional discovery will likely be propounded by Armstrong, particularly in light of its intention to file a partial motion for summary of judgment.

VIII. Procedural Schedule

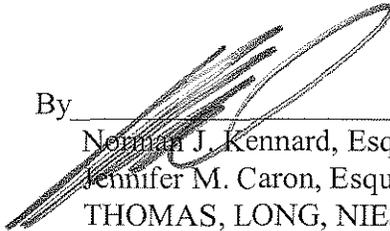
Armstrong is prepared to discuss and cooperate in the finalization of a litigation schedule acceptable to Judge Buckley at the Prehearing Conference. Hearings in June 2011 are requested.

IX. Possible Settlement

Armstrong is willing to discuss settlement negotiations concerning the issues raised in this matter.

Respectfully submitted,

By



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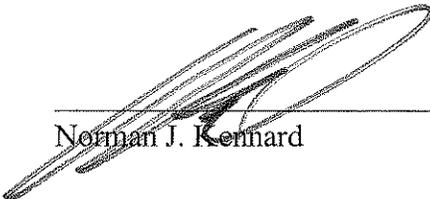
*Attorneys for
Armstrong Telecommunications Inc.*

DATE: March 17, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of March, 2011, served a true and correct copy of the foregoing Prehearing Conference Memorandum in the above-captioned proceeding, upon the persons and in the manner via first class and electronic mail as follows:

Suzan D. Paiva Esquire
Verizon
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Norman J. Kennard