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June 27, 2011

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

In re: Pennsylvania Public Utility Commission v. Verizon Pennsylvania, Inc.,
Docket No. R-2011-2234464

Pennsylvania Telephone Association v. Verizon Pennsylvania Inc.,
Docket No. C-2011-2237456

Pennsylvania Public Utility Commission v. Verizon North, LLC,
Docket No. R-2011-2234462

Pennsylvania Telephone Association v. Verizon North, LLC,
Docket No. C-2011-2237496

Dear Secretary Chiavetta:

Enclosed please find the Prehearing Conference Memorandum of the Pennsylvania Telephone Association, as electronically filed today. Copies have been served in accordance with the attached Certificate of Service.

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

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By: 
Charles E. Thomas, III

Enclosures

cc: Dennis J. Buckley, Administrative Law Judge

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

R-2011-2234464

Verizon Pennsylvania Inc.

Pennsylvania Telephone Association

v.

C-2011-2237456

Verizon Pennsylvania Inc.

Pennsylvania Public Utility Commission

v.

R-2011-2234462

Verizon North, LLC

Pennsylvania Telephone Association

v.

C-2011-2237496

Verizon North, LLC

**PREHEARING CONFERENCE MEMORANDUM OF
THE PENNSYLVANIA TELEPHONE ASSOCIATION**

Pursuant to the Commission's regulations at 52 Pa. Code §5.222(d) the Pennsylvania Telephone Association ("PTA")¹ and submits this Prehearing Memorandum in connection with the Initial Prehearing Conference scheduled to be held in the above-captioned matter on Tuesday, June

¹ For purposes of this consolidated proceeding, the following companies are represented by and under the name of the Pennsylvania Telephone Association: Armstrong Telephone Company – Pennsylvania; Armstrong Telephone Company – North; Bentleyville Telephone Company; Citizens Telecommunications Company - New York; Citizens Telephone Company of Kecksburg; Commonwealth Telephone Company LLC d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Breezewood, LLC; Frontier Communications of Canton, LLC; Frontier Communications of Lakewood, LLC; Frontier Communications of Oswayo River, LLC; Frontier Communications of Pennsylvania, LLC; Consolidated Communications of Pennsylvania Company; TDS Telecom/Deposit Telephone Company; Hickory Telephone Company; Ironton Telephone Company; Lackawaxen Telecommunications Services; Laurel Highland Telephone Company; TDS Telecom/Mahanoy & Mahantango Telephone Company; Marianna and Scenery Hill Telephone Company; The North-Eastern Pennsylvania Telephone Company; North Penn Telephone Company; Palmerton Telephone Company; Pennsylvania Telephone Company; Pymatuning Independent Telephone Company; South Canaan Telephone Company; TDS Telecom/Sugar Valley Telephone Company; Venus Telephone Corporation; West Side Telephone Company; and Yukon-Waltz Telephone Company (hereinafter collectively referred to as the "RLECs").

28, 2011, at 10:00 a.m. in Hearing Room 4 of the Commonwealth Keystone Building, Harrisburg, Pennsylvania.

I. Introduction

On May 19, 2011, the Commission entered Orders in these proceedings directing that investigations be instituted to determine the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in:

- (1) Proposed Tariff Telephone – Pa. P.U.C. No. 219, filed by Verizon Pennsylvania, Inc., on April 5, 2011, and
- (2) Proposed Tariff Telephone – Pa. P.U.C. No. 10 filed by Verizon North LLC, on April 5, 2011.

Those Commission Orders suspended the tariffs until December 4, 2011 and assigned the cases to the Office of Administrative Law Judge for Alternative Dispute Resolution, if possible, or the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.

On June 20, 2011, presiding Administrative Law Judge Dennis J. Buckley issued a Prehearing Order setting an Initial Prehearing Conference, for which this Prehearing Memorandum has been prepared.

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

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II. Presently Identified Issues

As the Commission identified in its May 19, 2011 Orders, the investigation focuses on the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in the tariff filings and whether the matter is in fact appropriately the subject of a tariff at all. The Orders further note:

Investigation and analysis of the proposed tariff filing and the supporting data indicate that the proposed filing may be unlawful, unjust, unreasonable, and contrary to the public interest. It also appears that consideration should be given to the reasonableness of the Respondent's existing rates, rules, and regulations[.]

III. Burden of Proof

Pursuant to Section 315 of the Public Utility Code, 66 Pa.C.S. § 315, Verizon Pennsylvania Inc. and Verizon North LLC (collectively "Verizon") bear the burden of proof as to the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in the tariffs. Verizon has provided no support, no testimony, and no evidence at all relative to their filings.

IV. Responses to Paragraph 4 of the Prehearing Order

(a) PTA service list entry:

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(b) Names of witnesses and subject matter of testimony:

Until Verizon's direct testimony is filed the PTA is unable to identify its witness(es) but anticipates calling Mr. Gary Zingaretti as a witnesses to address the issues. The PTA respectfully reserves the right to call additional witnesses, or to substitute witnesses to present testimony, if necessary. The PTA also reserves the right to present additional testimony and witnesses as necessary to respond to the testimony of other parties and to address additional issues that may be identified through discovery.

(c) List of issues and position:

1. The RLECs submit the Tariffs are improper in form and substance, are incorrect, unclear, inappropriate, and wholly unsupported, and propose rates and terms that are unnecessarily onerous upon the RLECs.
2. Tandem transit traffic service is not the appropriate subject for a tariff filing and, instead, should be negotiated between the parties seeking and offering such service.
3. Even assuming *arguendo* that tandem transit traffic service is an appropriate subject matter for a tariff filing, the RLECs believe that a thorough investigation will likely reveal that the Tariffs are unjust, unreasonable, unfair, arbitrary, and anticompetitive in violation of the Public Utility Code.

4. Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501, requires in pertinent part that “... every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service.” The terms of Verizon’s Tariffs are unreasonable, and no support has been filed from which to make any such finding of reasonableness.
5. Verizon’s Tariffs are also not properly filed as required by Verizon’s Chapter 30 Plans. It appears that Tandem Traffic Transit Service has not been deemed to be a competitive service and may be contrary to Chapter 30 of the Public Utility Code.
6. As small local exchange carriers, the RLECs must use Verizon’s transit services to interconnect with other local carriers. The RLECs currently have no ability to assure that Verizon provides them with the requisite call detail for billing any of these third party carriers or for assuring that calls are truly local and not ones that should be charged intercarrier compensation. The RLECs are concerned that the Tariffs will, in fact, encourage the circumvention of intercarrier compensation.
7. Even assuming *arguendo* that these Tariffs are permitted under Verizon’s Chapter 30 Plans, there is virtually no documentary support whatsoever in the filings to support the rates or terms and conditions set forth in the Tariffs or to justify the approval of the tariff filings, as required under the Commission’s rules and regulations. Nothing in Chapter 30 limits the requirements of Section 1301 of the Public Utility Code, 66 Pa.C.S. § 1301. In fact, it is a fundamental

principle under Chapter 30 that rates for utility services remain just and reasonable.²

8. At the present time, Verizon is effectively a monopoly provider of tandem transit traffic service for the RLECs. Verizon's use of its effective monopoly status to impose a substantial increase in the rate charged for local tandem transit traffic is unjust, unreasonable, unfair, arbitrary, and anticompetitive in violation of the Public Utility Code.
9. Verizon should not be permitted to establish the transit rights and obligations of other telecommunications carriers (such as the RLECs) without fully justifying both the rates and the terms and conditions of service. The issue of tandem transit traffic service is a volatile and controversial topic in the telecommunications industry, and it follows that establishment of terms and conditions of carrier-to-carrier services such as this are more apropos to the contract negotiation process than simple tariff filings.
10. In addition to the statutory concerns discussed above, the PTA, upon initial review of the Tariffs and without the benefit of discovery, notes the following preliminary issues and concerns with the Tariffs:
 - a. "Tandem" is defined as a switching entity that has billing and recording capabilities, but the Tariffs make no mention as to what will be recorded and what records will be provided to RLECs.³

² See *In re Lifeline Tracking Report*, 100 Pa.P.U.C. 553, Docket No. M-00051900 (Order entered December 30, 2005) (citing various provisions of Sections 3011-3019).

³ See, e.g., Verizon North LLC Transit Tariff, Section 2.3.

- b. The definition of the terminating Local Service Provider must exclude Verizon and any third party's network that uses Verizon's switching to provide its end user service.
- c. The service description and classifications are vague and ambiguous. The definition of "Telephone Exchange Services," for instance, fails to specify what is included and thus is subject to the transit Tariffs. Given what is at issue in the Tariffs and noting that the definition refers to "within the same exchange area," it must only apply to truly local service based upon geographic location of the calling and called parties. The RLECs cannot be expected to pay transit services for what amounts to nonlocal access services. This definition is unquestionably vague, and the RLECs are entitled to be assured that only true local calls would be subject to transit, just as all other calls should be subject to access.
- d. Language throughout the Tariffs indicates that Tandem Transit Traffic Service is not appropriate for tariff filings, but rather is a matter that should be properly negotiated between parties seeking and offering such services. Notable examples include the provisions regarding assignment and Verizon's right to discontinue service.
- e. Section 3.5.1 of the Tariffs mandates that RLECs must have interconnection facilities to each tandem in a LATA where tandem transit traffic is delivered to Verizon, a requirement that is illegal, costly, anticompetitive, and wholly unreasonable.

- f. The Tariffs appears to require the RLECs to make unspecified investments in order to implement the various trunks inherently necessitated by the Tariff as provided in Section 3.5, thus allowing Verizon to dictate the trunks which the RLECS must install and without any provision for the recovery of what may be significant costs to the RLECs. The existing networks have functioned adequately for decades, but, through its Tariffs, Verizon appears to be giving itself the power to mandate alterations and changes that would cause the RLECs to incur significant costs that are neither appropriate nor necessary. Indeed, calls have been completed historically without the need for reconfiguration of trunking and the inherent significant additional investment which would accompany such reconfiguration. The additional investment that may be required is discretionary with Verizon under the tariffs and, therefore, unreasonable.
- g. Section 3.5.5 of the Tariffs is wholly inappropriate, as the RLECs have no control over the traffic or over the other Local Service Provider. Yet, the Tariffs make the RLECs responsible for any liability to third party Local Service Providers.
- h. Section 3.5.6 of the Tariff requires the RLECs to establish direct interconnections when traffic volumes reach 200,000 combined minutes of use per month. Unless Verizon is willing to require that of the other Local Service Providers, including all CLECs, CMRS carriers, and the like, there are no means for the RLECs, as ILECs, to compel a CLEC provider to establish that direct connection.

- i. Section 4.2.1 of the Tariffs states that the Tandem Transit Traffic Service is provided only for tariffed mandatory local calls. While such a requirement may be appropriate, the Tariffs are vague and ambiguous with respect to how “mandatory local calls” are determined. As previously noted, it must be based upon the geographic location of the originating and terminating end use customer.
 - j. Section 3.6.1 of the Tariffs specifies the different types of applicable rates and charges, viz. monthly rates, usage rates, and nonrecurring charges. However, with respect to the actual rates set forth in Section 5, only the rates for usage charges are identified. If there are no monthly rates or nonrecurring charges, the language referring to such items should presumably be removed.
 - k. There are no provisions relative to the records and call detail to be provided by Verizon. Verizon has historically controlled and provided call detail, often in inadequate detail, and has in fact removed and or altered call detail. The RLECs submit that such a practice is illegal and discriminatory.
11. The PTA thus anticipates that disputed issues of material fact will include, but will not be limited to: (i) the appropriateness and lawfulness of the proposed Tariffs and the terms, conditions, and rates contained therein; and (ii) whether such terms, conditions, and rates are just and reasonable. The PTA expects specific disputed issues of material fact and issues of law to develop as discovery and possible settlement discussions ensue in this proceeding.

12. In sum, and as demonstrated above, Verizon's filings raise serious questions as to lawfulness, justness, and reasonableness of the proposed Tariffs and their terms, conditions, and rates related to the proposed Tandem Transit Traffic Service. The PTA submits that the Tariffs are improper, unlawful, unsupported, unjust, unreasonable, arbitrary, and anticompetitive in violation of the Public Utility Code and Verizon's Chapter 30 Plans and contrary to the public interest.

V. Statement of evidence relating to issues

The PTA is not able to identify the evidence it will place into the record at this time.

VI. Consolidation

PTA has no objection to the consolidation of these matters.

VII. Proposed Procedural Schedule

The PTA has approached Verizon to establish a schedule, but one has not been reached at the present time. At a minimum, the PTA believes that Verizon should be required to submit its direct testimony immediately, particularly given the paucity of justification contained in the tariff filing made on April 5th, almost two and one-half months ago. The PTA believes that the procedural steps are as follows:

- Direct testimony - Verizon
- Rebuttal testimony - PTA
- Evidentiary hearings
- Main Briefs
- Reply Briefs
- Recommended Decision

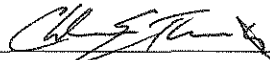
VIII. Discovery

The PTA has not commenced discovery. However, given Verizon's unwillingness to extend the statutory deadline, it will be essential that Verizon respond to discovery in a far more expedited manner than provided for in the regulations.

IX. Mediation

The PTA has agreed to mediation and is awaiting a reply from Verizon to the agreement it proposed on April 11, 2011.

Respectfully submitted,

By  _____

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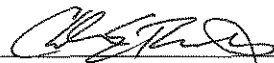
*Attorneys for Complainant
Pennsylvania Telephone Association*

Date: June 27, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June, 2011, I did serve a true and correct copy of the foregoing document upon the persons below via electronic mail and first class mail as follows:

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