

PAINTER LAW FIRM, PLLC

13017 DUNHILL DRIVE  
FAIRFAX, VIRGINIA 22030

MICHELLE PAINTER  
ATTORNEY AT LAW

703.201.8378  
FAX 703.968.5936  
E-mail: painterlawfirm@verizon.net

July 21, 2011

*Via Electronic Filing*

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

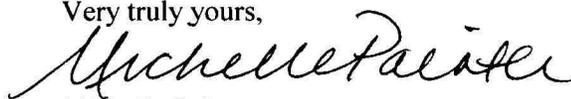
Re: AT&T Communications of Pennsylvania, LLC. v. Verizon North LLC and  
Verizon Pennsylvania Inc., Docket No. C-20027195

Dear Secretary Chiavetta:

Please find enclosed an original of AT&T's Answer to Verizon's Petition to Reopen the Record in the above-referenced matter, which was filed electronically today.

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 AT&T's Answer to Verizon's Petition to Reopen the Record 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 21st day of July, 2011.

**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](mailto:nkennard@thomaslonglaw.com)

Suzan D. Paiva  
Verizon  
1717 Arch Street, 10<sup>th</sup> Fl  
Philadelphia PA 19103  
(215) 466-4755  
[Suzan.D.Paiva@Verizon.com](mailto:Suzan.D.Paiva@Verizon.com)

Gregory M. Romano  
Verizon  
One Verizon Way VC54S204  
Basking Ridge, NJ 07920  
(908) 559-6181  
[gregory.m.romano@verizon.com](mailto:gregory.m.romano@verizon.com)

Benjamin J. Aron  
Sprint Nextel Corp.  
12502 Sunrise Valley Drive  
Reston, VA 20196  
(703) 592-7618  
[Benjamin.Aron@sprint.com](mailto:Benjamin.Aron@sprint.com)

Joel Cheskis, Esquire  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
(717) 783-5048  
[jcheskis@paoca.org](mailto:jcheskis@paoca.org)

Zsuzanna Benedek, Esquire  
CenturyLink  
240 North Third Street, Suite 300  
Harrisburg, PA 17101  
(717) 245-6346  
[sue.benedek@centurylink.com](mailto:sue.benedek@centurylink.com)

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

Michael A. Gruin  
Stevens & Lee  
17 North Second St, 16<sup>th</sup> Floor  
Harrisburg, PA 17101  
(717) 255-7365  
[mag@stevenslee.com](mailto:mag@stevenslee.com)

  
Michelle Painter

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

AT&T Communications of	:	
Pennsylvania, LLC, <i>et. al.</i>	:	
Complainant	:	
	:	
v.	:	Docket No. C-20027195
	:	
Verizon North LLC and	:	
Verizon Pennsylvania Inc.,	:	
Respondents	:	

**AT&T’S ANSWER TO VERIZON’S PETITION TO REOPEN THE RECORD**

Verizon’s latest attempt to delay any further reform to its intrastate access rates comes in the form of a Petition to Reopen the Record, in which it requests that the Commission extend the already prolonged schedule for this case even further on the ground that the then-pending Commission order in the RLEC access proceeding at Docket No. I-00040105 might necessitate the filing of unidentified additional evidence. As discussed further herein, Verizon has provided no sound basis for reopening the record or delaying this case beyond the time the parties have already agreed to extend it.<sup>1</sup> And now that the Commission’s Order resolving the RLEC access case has been issued, it is clear that any further delay is unnecessary as the parties should be in a position to reflect that decision in their briefs. Accordingly, Verizon’s Petition should be denied.

Verizon’s Petition must be viewed in the context of the considerable delay that already has afflicted this proceeding. Indeed, at Verizon’s insistence, this case has already been delayed beyond any possible definition of “reasonable.” As the ALJ noted on the first day of hearings, the Commission first recognized the need to reduce Verizon’s access rates twelve years ago, as

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<sup>1</sup> On July 14, 2011, after reaching agreement with the parties, Verizon sent an e-mail to ALJ Fordham requesting that the briefing dates be extended to allow the parties reasonable time to review the Commission’s Order in the RLEC access case. The Main Brief due date was moved from July 22 to August 16, and the Reply Brief due date was moved from August 12 to September 9. ALJ Fordham granted this extension via e-mail on July 14.

part of the *Global Order*. *Transcript at pp. 98-99*. This particular case was opened nearly a decade ago, or in January 2002. After an initial round of access reductions was ordered in 2004, the Commission agreed with AT&T that the case should not be closed, but that it should be remanded to the ALJ to implement further access reductions, including the possible elimination of the Carrier Charge. The Commission stated, “based on our previous goal in the *Global Order* that we may eventually dissolve the Carrier Charge, we believe it is in the best interest of the public for the ALJ to address and recommend a plan that addresses further reductions or even a complete elimination or phase-out of the Carrier Charge in the next phase of the investigation.” *July 28, 2004 Order at Docket No. C-20027195, p. 20*. This case was then fully litigated for a second time in 2005. The ALJ recommended, based on the evidence presented six years ago, that Verizon’s intrastate access rates should be reduced to parity within two years – or by 2007. This included eliminating Verizon’s Carrier Charge.

Verizon then commenced the delay-at-all-costs campaign. After Exceptions and Reply Exceptions were filed to the ALJ’s 2005 Recommended Decision and the case was ready for a final decision by the Commission, the case was first delayed in January 2007 at the urging of Verizon. Although the delay was supposed to be for one year, the Commission delayed the case again (at Verizon’s urging) through a December 2008 Order. Another year and a half passed, and Verizon again urged the Commission to delay any further reform. This time, the Commission refused to delay the case any longer, recognizing that “an entire decade has passed since the Commission began reforming access charges in the *Global Order* and many of the same areas of concern may still persist. This Commission cannot forgo such an opportunity to effectuate industry-wide access reform any longer...” *May 11, 2010 Order at p. 19*.

Even though the case was re-opened in May 2010, and despite AT&T’s efforts to move the case forward, nothing happened for seven months. A Prehearing Conference was held in

December 2010, and a schedule was established at that time that called for three rounds of testimony spread over more than four months. Two days of hearings were held in June 2011 – over a year after the Commission re-opened the case.<sup>2</sup> As part of this third phase of the case, there were fifteen pieces of testimony entered into the record, along with numerous cross examination exhibits. Verizon also was permitted to present oral rejoinder testimony. Needless to say, this third phase involved a complete and thorough litigation process.

Despite this extensive new record, Verizon’s Petition now requests that the record be reopened in order to set a schedule for two *more* rounds of testimony. Verizon claims that this is necessary as a result of the Commission’s action at the June 30, 2011 Public Meeting whereby the Commission adopted a decision in the RLEC access case at Docket No. I-00040105.<sup>3</sup> Verizon is wrong. There is no reason to re-open the record or delay reform any longer and the Commission should not allow Verizon to continue its delay campaign.

Verizon’s only reason for requesting an immediate suspension to the briefing schedule, and the establishment of a schedule for two more rounds of testimony, is to present evidence regarding the Commission’s recent decision in the RLEC access investigation. Verizon claims that its new testimony will address “new facts and policy issue in this case resulting from the Commission’s decision of the various relevant and disputed issues in the RLEC access investigation.” *Verizon Petition at p. 4*. The problem is that Verizon does not point to any actual new facts or policy issues in the Commission’s July 18 Order that necessitate two more rounds of testimony. Verizon has already been given approximately three more weeks to read and absorb

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<sup>2</sup> This prolonged schedule was contrary to AT&T’s proposed schedule, which called for two rounds of testimony, hearings in February 2011 and a Recommended Decision by May 18, 2011. *See* AT&T’s Prehearing Memorandum filed December 6, 2010.

<sup>3</sup> The Commission issued its Order in the RLEC case on July 18, 2011.

the Commission's Order and incorporate any points from that Order into its Briefs. No further "process" is needed.

Now that the Commission's Order has been issued, it is clear that there is absolutely no reason the parties cannot address the impact of that case, if any, in the Main and Reply Briefs. The Commission's Order says what it says, and the parties can make arguments about how, if at all, the Order should impact the issues in this Verizon case through legal briefing. Indeed, the Order makes it clear that "Verizon's access charges have been and will continue to be considered separately" from the issues that the Commission dealt with in the RLEC access proceeding. *July 18 Opinion and Order at p. 17 n. 24.*

Ironically, Verizon has argued throughout this case that its access rates should not be reformed until the Commission issued a decision in the RLEC access case. *Verizon Statement 1.0 (Price/Mazziotti Direct) at pp. 43-44.* In other words, Verizon claimed that the lack of a decision in the RLEC case was a reason for delaying this case. Now, Verizon argues the opposite – because there is a Commission decision in the RLEC case, Verizon claims this case should be further delayed.<sup>4</sup>

The Commission should not endorse Verizon's "delay for any reason" approach here. The Commission must recognize that this case has already been delayed long enough. The last Recommended Decision was released nearly six years ago. The Commission re-opened this case fourteen months ago. Verizon Pennsylvania, the state's largest local exchange carrier, has not had its intrastate access rates reduced since the *Global Order* – nearly twelve years ago.<sup>5</sup> The

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<sup>4</sup> If anything, the issuance of a decision in the RLEC case should prompt the Commission to act even more quickly in this case. When reopening this case, the Commission referenced the fact that the RLEC case had already been litigated, and found that the Verizon case should also move forward because there was a "need for a resolution of access charge issues concurrently with the other ILECs rather than on a piecemeal basis." *May 11, 2010 Order at p. 19.*

<sup>5</sup> The last round of access reductions in 2004 exclusively involved Verizon North's rates.

record in this case shows that consumers have been harmed by Verizon's delaying tactics over the past decade. The record also shows that the ALJ's conclusion nearly six years ago that competition mandated parity between intrastate and interstate rates is even more true today than it was in the past.

For all of the above reasons, AT&T respectfully requests that Verizon's Petition be denied, and that the Commission not delay this case any further beyond the years it has already been delayed, and beyond the time the parties already agreed to extend the briefing dates in order to take into consideration the Commission's July 18, 2011 Order in the RLEC access case.

Respectfully submitted,

By: 

Michelle Painter  
PA Bar ID No. 91760  
Painter Law Firm, PLLC  
13017 Dunhill Drive  
Fairfax, VA 22030  
Phone - (703) 201-8378  
E-mail - [painterlawfirm@verizon.net](mailto:painterlawfirm@verizon.net)

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

Demetrios G. Metropoulos  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606-4637  
Phone - (312) 701-8479  
E-mail - [demetro@mayerbrown.com](mailto:demetro@mayerbrown.com)

Counsel for AT&T

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