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August 16, 2011

VIA OVERNIGHT DELIVERY

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

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

Dear Secretary Chiavetta:

Please find enclosed an original and nine (9) copies of the Main Brief of AT&T for filing in the above-referenced matter, along with Appendices A-C. Please note that the Brief (and Appendix C) contain proprietary information, and should be treated accordingly. A public copy is also enclosed.

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

Very truly yours,

Demetrios G. Metropoulos

DGM:pmp
Encls.

cc: Certificate of Service
Administrative Law Judge Cynthia Fordham
Cheryl Walker-Davis, Office of Special Assistants

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

MAIN BRIEF of AT&T

PUBLIC VERSION

August 16, 2011

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I. INTRODUCTION

This case gives the Commission the opportunity to quickly bring long-overdue relief to Pennsylvania's consumers – and for less than a dollar per line per month.

In the 1999 *Global Order*, the Commission recognized that Verizon's monopoly-era switched access rates were too high, that they were hurting Pennsylvania consumers, and that they were unsustainable in today's competitive market. In 2004, the Commission asked the ALJ to recommend "a plan that addresses further reductions or even a complete elimination or phase-out of the Carrier Charge."[1] Nearly six years ago, ALJ Fordham did just that, in her November 2005 Recommended Decision ("*2005 Verizon Access Reform RD*"). She recommended that the Commission order Verizon to eliminate its Carrier Charge and reduce its remaining intrastate switched access rates to parity with the corresponding interstate rates by 2007.

The ALJ's recommendation was right – but the Commission did not act on it. And the record developed in this case shows that the problem of high access rates has not gone away, but the passage of time has actually made matters worse for Pennsylvania consumers. Because Verizon's intrastate switched access rates have remained at the exact same inflated, consumer-harming levels, the record shows they have exacerbated a variety of problems in Pennsylvania's telecommunications market: inflating the prices that consumers pay for wireline long-distance services; depriving all consumers of fair choice and the benefits of fair competition; encouraging wireline local exchange carriers to continue investing in legacy switched networks (so they can keep collecting switched access subsidies) rather than migrating to advanced broadband networks as the General Assembly encouraged under Chapter 30; creating perverse opportunities and improper incentives for harmful arbitrage, which in turn has caused parties to waste resources on enforcement and litigation that should have been invested in efficiency and

[1] July 28, 2004 Order, at p. 20.

innovation; and, finally, artificially driving more consumers to competing technologies, thus eventually helping to destroy the wireline networks that inflated access charges were intended to support.

The Commission has, to its credit, rejected further delay and asked the parties to complete the straightforward task of refreshing the record that already provided compelling support for the reduction of Verizon's inflated rates. That task has been accomplished, and the Commission now has before it an updated record that not only reinforces the need for reform of Verizon's intrastate access charges, but also provides a clear-cut, uncomplicated process for completing that reform promptly.

That updated record confirms two dispositive points, neither of which is seriously disputed. First, no one disputes that the harms that high access charges wreak on Pennsylvania consumers have grown more severe, and the need for access reform has grown even more urgent. In fact, even as it seeks to forestall the reform of its own access rates in Pennsylvania, Verizon itself has been a loud and aggressive advocate for access reform nationally – not to mention for those rates Verizon pays to RLECs in this state. This is completely unsurprising, as Verizon's data show that since 2005 the flight of consumers from wireline networks, driven in large part by high wireline access charges, has accelerated at an alarming rate. As a result, Verizon has admitted that there is "overwhelming economic evidence about the benefits of [access] reform."[2]

At the same time, there is no credible dispute that ALJ Fordham's original recommendation for reducing Verizon's intrastate access rates to parity with interstate rates can be implemented simply, and immediately, on a revenue-neutral basis, with only a minimal increase in local rates that does not pose any issue with their continued affordability. Verizon's

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[2] AT&T Statement 3.0 (Panel Surrebuttal) Attachment A (Verizon Reply Comments in FCC Intercarrier Compensation Rulemaking), at p. 26.

present rates for basic local service range from $11.95 to $16.86 per month. Should Verizon decide to avail itself of the opportunity to rebalance access reductions to its local rates, it could make up for the elimination of its Carrier Charge with an increase to its local service rates of just 58 cents per line. And it could recover the remaining reductions in access revenues that would result from reducing its other intrastate access rates to interstate parity for just **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** per line. The total reduction of **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** per line on average would still leave all of Verizon's basic local rates below even the outdated $18 benchmark rate that was adopted eight years ago (and obviously much farther below the $23 affordability benchmark that the Commission adopted in the RLEC access case to supersede the old $18 rate). Even if one takes at face value Verizon's argument that all access charge reductions (even those Verizon assesses on competitive lines) must all be rebalanced solely to non-competitive lines, the resulting retail rate increases would still leave Verizon's end user rates at indisputably affordable levels. Verizon's policy witness admitted on cross-examination that it has not even raised any issue regarding affordability.[3]

The *2005 Verizon Access Reform RD* had proposed to reduce Verizon's intrastate access rates over two years, reaching full parity with interstate rates by 2007. Had the Commission adopted that recommendation then, Pennsylvania's consumers would already have had the benefit of four years of access reform. The Commission cannot regain that lost time, but it can learn a lesson from it. Given the delay that consumers already have experienced, the Commission should order Verizon to reduce its intrastate rates to interstate parity immediately, and in one step. Indeed, any prolonged process for implementing reform is both unnecessary

[3] June 14, 2011 Hearing Tr., at p. 210.

(because, as noted above, the entire access revenue reduction can be offset with a modest one-time increase in Verizon's local rates) and untenable given the undeserved, unintended windfall Verizon has reaped from collecting high access rates for the last six years.

The reform process is just as simple and straightforward as it sounds. And its opponents in this case have no real answer to that fact. Because the real issues in this case are undisputed, and because the relevant evidence all goes in favor of immediately implementing the ALJ's previous recommendation of access parity, these parties have resorted to pointless diversionary tactics. For its part, Verizon, which has aggressively advocated reducing the access charges it *pays* (as it did in the RLEC case), hypocritically continues to drag its feet when it comes to reducing the access charges it *collects*. Its latest tactic in that cause is to try to distract this Commission from the task of access reform with a variety of irrelevant complaints about local service rules.

This is an access charge reform case, however, not a local service rulemaking, and not an omnibus suggestion box for any complaints Verizon might have about statutes and regulations governing local service. Indeed, Verizon's policy witness admitted on cross-examination that many of Verizon's complaints are not even within the Commission's power to consider, much less fix, as they would require a legislative remedy.[4] Whatever problems Verizon has with those laws existed before this proceeding re-opened, and will continue to exist after this proceeding ends no matter what the Commission does here. Verizon's claim that the Commission delay providing relief to Pennsylvania's consumers in order to first addresss Verizon's grievances concerning matters such as reporting requirements and regulatory assessments rings hollow given Verizon's utter failure to help itself and take any action to address those issues during the

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[4] *Id.* at p. 155, 160-61.

six years this proceeding was stayed. And it is also hypocritical – the evidence also shows that when Verizon is the party paying access charges, it has urged regulators to adopt access reform as a prerequisite for local service reform, not the other way around.[5] The Commission should disregard Verizon's diversions, put Pennsylvania consumers first, and implement AT&T's straightforward solution for access reform.

The arguments against reform advanced by the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") are equally irrelevant. Both of them rehash an argument the ALJ rejected in the 2005 Recommended Decision, and with which Verizon itself strongly disagrees: the notion that inflated access charges are necessary to ensure that wireline long-distance carriers "contribute" to the cost of local loops, so that end users do not bear that cost alone. This argument rests on the fantastic and myopic assumption that the IXCs' "contribution" is itself not imposed on end users, but that the IXCs will simply donate this "contribution" out of pocket without passing their costs along to their end users the way that every business in America does. Contrary to the OCA/OSBA fallacy, consumers ultimately bear network costs no matter what fictions are used to "allocate" them – they are not magically erased or avoided by consumers by passing them through to the IXCs. The record shows that the process of shifting Verizon's costs to IXC customers through inflated access rates has a real societal cost, as it distorts consumer choice in the telecommunications marketplace and artificially disadvantages wireline long distance services.

Putting side the public advocates' illogic, their "contribution" argument is simply a philosophical sideshow in this case, because AT&T is *not* recommending here that the Commission eliminate the entire "contribution" currently embedded in switched access rates.

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5 *See, e.g.*, AT&T Cross Ex. 2.

AT&T simply proposes that intrastate switched access rates be reduced to parity with the interstate rates for the same access services, as the ALJ has already recommended. Implementing access parity will still leave intrastate rates well above incremental cost, so those rates will still make a substantial contribution towards other costs – substantial enough that the OCA itself has endorsed parity as an alternative to its do-nothing approach.

The public advocates' contribution theories are academic for a second reason: because the market already has settled that issue. Today, long-distance providers are competing against wireless carriers, cable, e-mail, social networking websites, Internet service providers and text messaging, all of which are largely immune from subsidy-laden access charges. As the ALJ previously found, the Commission cannot impose "contributions" on those competing technologies, and it is harmful to continue forcing only one group of consumers (long-distance customers) to "contribute" to local loops when customers served by competing technologies do not. It is well past time for the Commission to focus on those marketplace realities and finally reform Verizon's access rates in a manner that will benefit all Pennsylvania consumers.[6]

II. BACKGROUND AND PRIOR PROCEEDINGS

A. History of Prior Verizon Access Reductions

For more than a decade the Commission has recognized that high access charges are hurting Pennsylvania consumers, and it has understood the approach it should take towards a solution. In the *Global Order*, the Commission found "that current ILEC access charges are priced substantially above cost," and recognized that such rates must be reduced in order "to

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[6] AT&T attaches three Appendices to this Main Brief. Appendix A is AT&T's Proposed Findings of Fact. Appendix B is AT&T's Proposed Conclusions of Law and Ordering Paragraphs. Appendix C is an illustration showing how Verizon can rebalance the entire access reduction proposed by AT&T to local rates (if it chooses to do so) while keeping those rates below the old $18 cap.

maintain fair toll competition in Pennsylvania."[7] The Commission also recognized that access reductions "will yield toll rate reductions for toll end users" by "reducing the fees that long distance carriers pay."[8] Further, the Commission acknowledged "the vulnerability of implicit subsidies to competition" and the federal policy "to replace the system of implicit subsidies" generated by access charges "with 'explicit and sufficient' support mechanisms."[9]

While the Commission reached a similar conclusion for all LECs – that access charges must be reduced – it addressed the Verizon companies (then Bell Atlantic PA and GTE North) separately from the RLECs, and developed separate plans for implementing reductions to their respective access rates.[10] For example, the Commission rebalanced the access reductions for Sprint (now CenturyLink) and other RLECs in part by establishing a Pennsylvania Universal Service Fund ("PaUSF"); by contrast, Verizon Pennsylvania was not eligible for PaUSF support, and the Commission balanced its access reductions with opportunities to increase retail prices.[11]

The Commission also made clear that the 1999 reductions were only a first step towards eliminating the implicit and anti-competitive subsidies that remained embedded in access rates.[12] The Commission stated its intent to "complete intrastate access charge reform" and "presumably eliminate all subsidies in the access charge rate structure" in a further access investigation that was to be completed by December 31, 2001.[13] With respect to the Verizon companies, the

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7 *Re Nextlink Pennsylvania, Inc.*, Dockets No. P-00991648 & P-00991649, 93 PaPUC 172 (Sept. 30, 1999) ("*Global Order*") at p. 18.

8 *Id.* at p. 27.

9 *Id.* at p. 25.

10 *Id.* at pp. 18-31 (Bell Atlantic), pp. 31-37 (GTE) and pp. 45-51 (RLECs).

11 *Id.* at pp. 21-22 (Bell Atlantic) and pp. 48, 51 (RLECs).

12 *Id.* at p. 26.

13 *Id.* at pp. 58-59.

Commission expressly stated that the next round would "resolve further reductions and potential elimination of the Carrier Charge."[14]

The present proceeding has been going on for nearly a decade. It began in January 2002, when the Commission initiated a generic access investigation it had promised in the *Global Order* (albeit a year later than promised).[15] Consistent with its separate analysis of Verizon and the RLECs in the *Global Order*, the Commission bifurcated the investigation to address Verizon and the RLECs separately.[16]

After a fully litigated case, the Commission adopted a proposal by Verizon, the OCA and the OSBA that led to partial reductions in Verizon North's intrastate access rates (primarily the Carrier Charge) and allowed corresponding increases in retail rates for local service.[17] But there was no meaningful reduction in the intrastate rates for Verizon PA, the largest Pennsylvania ILEC, whose intrastate rates were simply restructured. In fact, Verizon PA's intrastate access rate was 1.8 cents per minute in 2003, and that is the same as Verizon PA's rate today.[18]

The Commission rejected the ALJ's recommendation to close the investigation, and instead remanded the case to ALJ Fordham to initiate Phase II and develop a record for further access reductions, including "the removal of all implicit subsidies from access charges" and "the reduction and possible elimination of the Carrier Charge."[19] The Commission expressly instructed that, "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

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14 *Id.* at p. 23 (Bell Atlantic); see also *id.* at p. 37 (stating that GTE Carrier Charge "will be included in the Commission investigation" to be initiated on or about January 2, 2001).

15 Opinion & Order entered May 11, 2010, at p. 3.

16 *Id.* at p. 4.

17 July 28, 2004 Opinion and Order.

18 AT&T Statement 1.0 (Panel Direct) at p. 30.

19 July 28, 2004 Order, at p. 17.

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."[20] Verizon, AT&T, the OCA, and the OSBA (among others) then filed three rounds of testimony and two rounds of briefs.[21]

On December 7, 2005, ALJ Fordham issued the 68-page *2005 Verizon Access Reform RD*. "Based on the Global Order, the pending FCC proceeding and other Commission actions," the ALJ reasoned, "it is clear that the time has come for additional reform."[22] The ALJ stated that "[t]he first step is to remove the carrier charge."[23] As the ALJ explained, "[w]ith the changes in the industry and the emergence of wireless and other technologies that use the local loop without paying the carrier charge, it is difficult to continue to charge the IXCs for using the local loop."[24] Thus, "the carrier charge is no longer a valid way to address" loop costs.[25]

Next, "based on the evidence in the record," the ALJ recommended that Verizon reduce its remaining intrastate charges "to interstate charge levels."[26] The ALJ found that each of Verizon's intrastate rate elements "exceed the interstate charges for these elements."[27] The ALJ found that "the Phase I reductions" in access charges benefited consumers because IXCs reduced long distance prices by implementing "additional unlimited calling plans."[28] Thus, the ALJ rejected arguments by Verizon and the public advocates that the IXCs did not show they had passed the reductions on to their customers.[29] To drive further consumer benefits, the ALJ recommended that the Commission (i) eliminate Verizon's Carrier Charge within six months to a

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20 *Id.* at p. 20.
21 *2005 Verizon Access Reform RD*, at pp. 6-8.
22 *Id.* at p. 65.
23 *Id.*
24 *Id.* at p. 63.
25 *Id.*
26 *Id.* at p. 66.
27 *Id.* at pp. 65-66.
28 *Id.* at p. 65.
29 *Id.*

year, (ii) reduce Verizon's intrastate switched access rates to interstate parity within one to two years, and (iii) rebalance Verizon's local rates. [30]

B. Six Years Of Inaction.

It is now 2011, but the Commission has yet to act on ALJ Fordham's 2005 recommendations for reforming Verizon's intrastate access rates. That is because the Commission stayed this proceeding in the hope that the FCC would soon adopt comprehensive reforms in its review of inter-carrier compensation[31] – a hope that has still not been realized. The stay was supposed to be 12 months, but the Commission repeatedly extended the annual stay until 2010. All the while, though, the Commission continued to remind Verizon (and the RLECs) that further access charge reductions were coming. In July 2007, the Commission agreed that "Act 183 and Section 3017(a) support this Commission's policy goals that local exchange carriers reduce dependence on access revenue from other carriers and rebalance those revenues."[32] In April 2008, this Commission acknowledged that keeping intrastate access rates above interstate levels presents opportunities for gaming and arbitrage,[33] and that existing access rates are anti-competitive, observing that it "continues to be the intention of this Commission ... to gradually lower intrastate access charges so as to allow for greater competition in the intrastate and interexchange toll markets."[34]

Verizon moved for yet another extension of the stay in August 2009, arguing that the Commission should complete the RLEC access investigation before addressing Verizon's rates. In May 2010, the Commission denied Verizon's motion. As the Commission explained, it

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30 *Id.* at pp. 68-69, ¶¶ 3-6.

31 Opinion & Order entered May 11, 2010, at pp. 1-2.

32 Opinion and Order in Dockets I-00040105, P-00981428F1000, R-00061375, P-00981429F1000, R-00061376, P-00981430F1000 and R-00061377 (July 11, 2007) at pp. 34, 35.

33 April 24, 2008 Order in Docket I-00040105 at p. 20.

34 *Id.* at p. 26.

rejected further delay "in order to resolve the outstanding issues with regard to access charges and the way they hampered competition in the telecommunications market that persisted at the time of the *Global Order*."[35] The Commission also pointed out "the need for a resolution of access charge issues concurrently with the other ILECs rather than on a piecemeal basis."[36] In addition, the Commission observed, "we have not seen any substantial resolution of intercarrier compensation issues by the FCC, and it is unclear whether the FCC will appropriately prioritize the area of intercarrier compensation and federal USF reform for ultimate resolution any time soon."[37] The Commission accordingly reopened the proceeding so the parties could refresh the record underlying the *2005 Verizon Access Reform RD*.[38]

III. THE REFRESHED RECORD CONCLUSIVELY CONFIRMS THE ALJ'S PRIOR RECOMMENDATION THAT VERIZON'S INTRASTATE ACCESS RATES SHOULD BE REDUCED TO PARITY WITH INTERSTATE RATES.

A. The Problems Of High Access Charges, And The Benefits Of Access Reform, Are Even More Clear Today.

As ALJ Fordham correctly recognized at that time, the evidence in 2005 already showed that Verizon's excessive intrastate switched access rates were hurting Pennsylvania consumers, and that reducing those rates to parity with the corresponding interstate rates would benefit Pennsylvania consumers. The refreshed record shows, without any real dispute, that six years of Commission inaction have only made the problems of access subsidies worse and the benefits of access reform more clear. Even Verizon and the OCA's witness Dr. Loube have acknowledged the benefits of access reform.

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35 Opinion & Order entered May 11, 2010, at pp. 18-19.
36 *Id.* at p. 19.
37 *Id.* at pp. 17-18.
38 *Id.* at pp. 21-22.

1. Access Reform Means Lower Long-Distance Prices For Pennsylvania Consumers.

In the original proceedings in this case, the ALJ found that past reductions in Verizon's access rates, as modest as they were, nevertheless led to reductions in retail long-distance prices for Pennsylvania consumers.[39] The refreshed record of today more than confirms that conclusion. As AT&T's witnesses described in their testimony and in response to the ALJ's question at the hearing, numerous states (including major industrial states like Massachusetts, Illinois, Ohio, Michigan and Texas) have, in one form or another, required LECs' intrastate switched access rates to mirror their interstate switched access rates, and have increased their competitiveness *vis-à-vis* Pennsylvania.[40] Alabama, Georgia, Kansas, Kentucky, Maine, Mississippi, Nevada, New Mexico, North Carolina, Oregon, Tennessee and Wisconsin have also enacted substantial access reform to align more closely intrastate and interstate switched access rates.[41] At the end of last year, Verizon's access rates were reduced to interstate parity in neighboring West Virginia.[42] And in February 2010, neighboring New Jersey ordered Verizon and other LECs to reduce their access rates to interstate parity.[43] New Jersey has now already completed over half of its transition to interstate parity.[44]

The uncontroverted evidence shows that states that have adopted access reforms have brought significant benefits to their consumers. AT&T presented a comprehensive five-year analysis showing the results of access reform in 20 states that have adopted intrastate access

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39 See *2005 Verizon Access Reform RD*, at pp. 45-47.

40 AT&T Statement 1.0 (Panel Direct) at p. 20 & Ex. G; AT&T Statement 3.0 (Panel Surrebuttal), Att. D; June 15, 2011 Hearing Tr., at pp. 423-25.

41 AT&T Statement 1.0 (Panel Direct) at p. 20.

42 *Id.* Verizon subsequently spun off its West Virginia operations to Frontier, but the same access rate reform applies to Frontier. *Id.* at p. 20 n.10.

43 *Id.* at p. 20.

44 *Id.*

reductions through legislation or state commission order.[45] The overwhelming and unchallenged evidence proved that AT&T's long-distance prices for intrastate calls decreased – indeed, long-distance prices decreased by *more* than the reduction in access costs.[46] In other words, AT&T gave its customers the full benefit of access reductions *and then some*.[47] Further, AT&T demonstrated that because of the need for access reform and the requirement for statewide pricing, AT&T is forced to sell retail long-distance in some areas of Pennsylvania below the wholesale cost of access.[48] These facts were also unchallenged. In addition, as AT&T witness Nurse testified at the hearing, AT&T is prepared to reduce its In-State Connection Fee for customers in Verizon territory to reflect reductions the Commission orders in access rates – and if reductions to interstate parity are achieved, the fee will be eliminated altogether.[49]

This real-world evidence simply confirms the results that Economics 101 tells us are inevitable. Unquestionably, decreases in wholesale access charges reduce the IXCs' costs of producing retail long-distance service.[50] Elementary economics tells us that a reduction in wholesale cost inputs will in turn lead to a decrease in retail prices.[51] Even a pure monopolist, including one that is completely unregulated, will reduce output prices in response to a reduction in input costs, not out of altruism but because that is the way to maximize profit.[52] And of course, the pressure to decrease price is even more intense in today's vigorously competitive market.[53]

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45 AT&T Statement 3.0 (Panel Surrebuttal) at p. 20.
46 *Id.*
47 *Id.*
48 June 15, 2011 Hearing Tr., at p. 424.
49 June 15, 2011 Hearing Tr., at p. 420.
50 AT&T Statement 1.0 (Panel Direct) at p. 19.
51 *Id.*
52 *Id.*
53 *Id.*

Reforming Verizon's access rates will bring additional benefits because it will also result in reductions to the access rates charged by competitive local exchange carriers. By law, "[n]o telecommunications carrier providing competitive local exchange telecommunications service may charge access rates higher than those charged by the incumbent local exchange telecommunications company in the same service territory unless such carrier can demonstrate that the higher access rates are cost justified.[54] Thus, once Verizon's intrastate access rates are reduced, all CLECs' access rates must also be immediately reduced to a level no higher than Verizon's.[55]

2. Access Reform Will Give Consumers The Benefits Of Fair Competitive Choice.

While the direct benefits of reduced long-distance prices are reason enough to adopt access reform, reducing the access burden drives even more benefits for all consumers by helping to level the competitive playing field, regardless from whom consumers buy their long-distance. In the *Global Order*, the Commission found that ILEC access reductions were necessary "to maintain fair toll competition in Pennsylvania."[56] The ALJ likewise recognized here that Verizon should not "continue to charge the IXCs for using the local loop" in light of the dramatic "changes in the industry" that have occurred since access charges were first introduced, particularly "the emergence of wireless and other technologies that use the local loop without paying the carrier charge."[57]

These conclusions were correct – and they apply with many times more force today. In Verizon's own words, "[t]he past decade – and particularly the past several years – have seen an

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54 66 Pa. C.S.A. §3017(c).

55 AT&T Statement No. 3 (Panel Surrebuttal) at pp. 14-16.

56 *Global Order*, at p. 18.

57 *2005 Verizon Access Reform RD*, at p. 63.

explosion in competitive alternatives."[58] Verizon's panel cites an FCC report showing that non-ILECs "served 32% of the wireline switched access lines in the state."[59] Further, Verizon notes that the number of wireless subscribers in Pennsylvania is "more than double the total number of ILEC lines in the state."[60] All told, Verizon states that it has lost **[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY]** of its Pennsylvania access lines since 1999.[61] And in recent years, AT&T's wireline long distance business has lost *billions* of minutes of traffic in Pennsylvania to other technologies, such as wireless, e-mail, text messaging and instant messaging.[62]

Here too, none of these real-world results should come as any surprise, because competitive alternatives do not incur access costs in the same way as wireline long distance service, and accordingly can offer more attractive retail prices.[63] For example, and as the ALJ identified in 2005, wireless carriers are not subject to access charges on most in-state wireless calls.[64] All calls within a "Major Trading Area" ("MTA") are treated as "local," and those wireless MTAs are much larger than the local calling areas for wireline calls.[65] There are two principal MTAs for the Commonwealth: the Philadelphia MTA covers most of eastern Pennsylvania, Delaware, and the southern half of New Jersey, while the Pittsburgh MTA covers most of western Pennsylvania, the northern half of West Virginia, and portions of Ohio.[66] Intra-MTA wireless calls are treated as local calls and subject to FCC-established reciprocal

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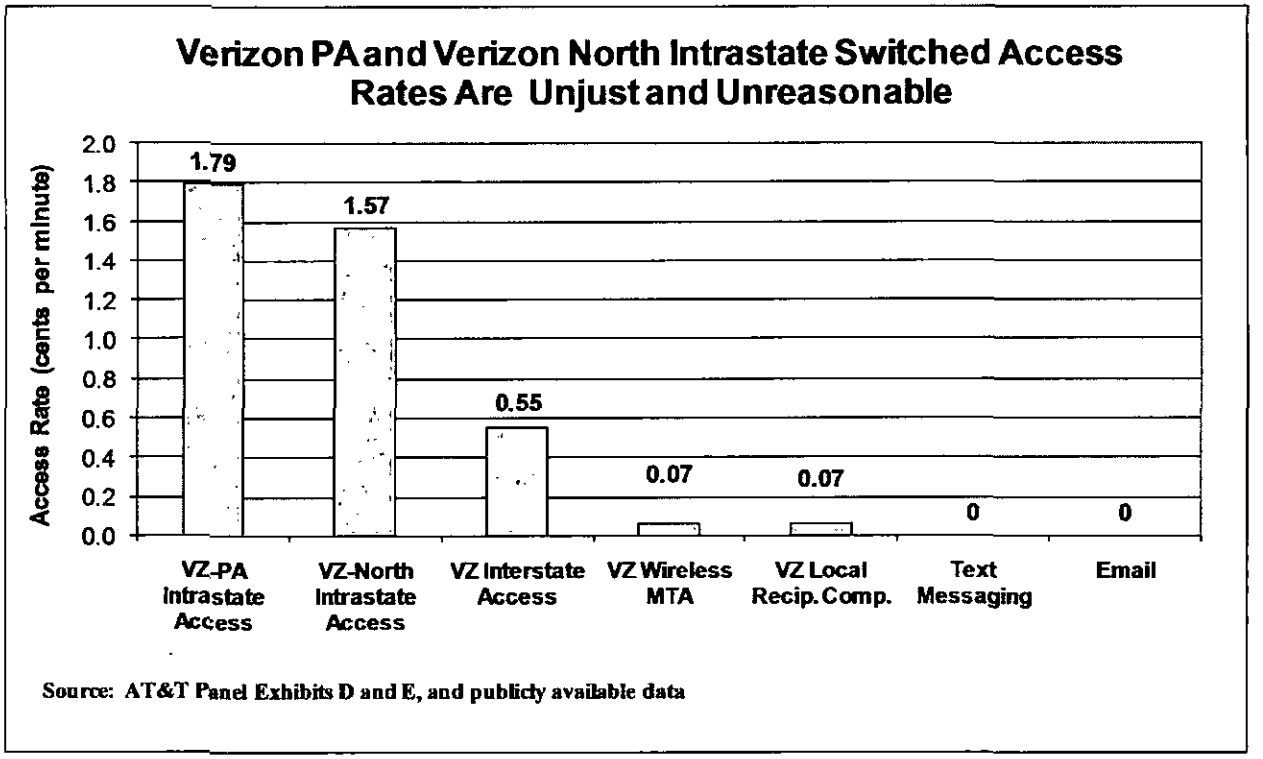
58 Verizon Statement 1.0 (Panel Direct) at p. 14.
59 *Id.* at p. 17.
60 *Id.*
61 *Id.* at p. 14.
62 AT&T Statement 1.0 (Panel Direct) at 14.
63 *Id.*
64 AT&T Statement 1.0 (Panel Direct) at p. 12.
65 *Id.*
66 *Id.* at p. 12 & Ex. F.

compensation termination charges of 0.07 cents per minute; meanwhile, switched access rates for wireline long-distance calls are ***30 times*** higher for the same functionality.[67]

Similarly, other alternative forms of long-distance communication like VoIP can generally complete communications for significantly reduced access costs – while other alternatives like e-mail, text messaging, and social networking websites essentially pay no per-minute access cost at all.[68] The chart below illustrates the vast disparities in the access charges that competing providers pay.

Figure 1



Verizon's access subsidies are simply incompatible with today's competitive market. With competition now widespread in all segments of the communications marketplace, Verizon should be recovering the costs of its retail services directly from its own retail customers, rather

67 *Id.* at p. 13.

68 *Id.*

than cowering behind obsolete subsidy payments from the customers of other carriers.[69] There is no consumer benefit from access subsidies. They are simply a shell game that surreptitiously moves subsidies from some customers to other customers with no net consumer benefit. As the ALJ has already and correctly realized, consumers who buy long-distance service from AT&T and other IXCs should no longer be forced to subsidize Verizon via high access charges when a host of new technologies and new entrants do not bear the same access burden.[70]

By the same token, the access reductions previously recommended by the ALJ – and compelled again by the refreshed record – will help wireline IXCs compete on a more equal footing (and thus more aggressively) against competing technologies. It is undisputed that consumers benefit from increased competition.[71] Moreover, rebalancing Verizon's local rates to more economically rational levels means that Verizon will have to compete more aggressively in the local market, instead of continuing to hide behind the shield of artificially subsidized local rates.[72] Consumers benefit when all providers compete aggressively, on the merits and on a level playing field.[73] When competitors present the market with honest prices reflecting their cost – rather than reflecting their ability to foist costs on captive wholesale customers – consumers benefit. Again, this conclusion is a matter of elementary economics.[74]

3. Access Reform Will Also Reduce Waste, Inefficiency, And Opportunities For Harmful Arbitrage.

Over and above the already-substantial benefits of reduced long-distance prices and better consumer choice, implementing parity between intrastate and interstate switched access

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69 AT&T Statement 1.0 (Panel Direct) at p. 16.
70 *2005 Verizon Access Reform RD*, at p. 63.
71 AT&T Statement 1.0 (Panel Direct) at p. 19.
72 *Id.*
73 *Id.*
74 *Id.*

rates will reduce the waste and inefficiency of today's disparate and irrational rate structures. For one thing, Verizon will have one set of access rates to bill and enforce, not two.[75]

In addition, symmetrical rates and rate structures will reduce the incentives and opportunities for harmful arbitrage that exist under the monopoly-era regime that persists today.[76] "Call pumping," "phantom traffic" and similar arbitrage schemes have arisen because of the wide disparity between interstate and intrastate access rates and between access rates and cost.[77] Such schemes cost consumers both directly (because consumers ultimately foot the bill for call pumping and other improper activities) and indirectly (because litigation over arbitrage activities is a waste of private and public resources).[78] Meaningful reductions in intrastate access rates, and parity with interstate rates, will reduce the incentives to engage in such schemes. [79] Less money wasted on administering an irrational system, and litigating over arbitrage activities, means more money for better pricing and investments that bring real benefits to consumers.[80]

These facts, too, are hardly news. The Commission recognized in the *Global Order* that "there is no functional difference between access provided on an interstate or an intrastate basis."[81] Thus, "any pricing differential that may exist" would create incentives for "tariff arbitrage," and "it is extremely important that intrastate access charges *mirror* their federal counterpart."[82]

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75 *Id* at p. 20.
76 AT&T Statement 1.0 (Panel Direct) at p. 20.
77 *Id.*
78 *Id.*
79 *Id.*
80 *Id.*
81 *Global Order*, at p. 49.
82 *Id.*

B. It Is Simple To Implement The ALJ's Recommendation Of Access Parity In A Revenue-Neutral Manner.

Six years of inaction have only made the problem of high access charges – and the benefits of access reform – more clear. Fortunately, the path forward is just as clear. As ALJ Fordham recognized in the *2005 Verizon Access Reform RD*, there is a straightforward step that will bring fast and meaningful relief to Pennsylvania consumers. The Commission should adopt ALJ Fordham's 2005 recommendation and order Verizon PA and Verizon North to (i) eliminate their Carrier Charges and (ii) reduce their intrastate access rates to mirror the level and structure of the corresponding interstate rates – but do so immediately, and in one step.

1. Even If Verizon Rebalances The Entire Access Reduction Proposed Here To Its Retail Rates For Local Service, There Is No Dispute That Those Rates Will Still Be Below Even The Outdated and Now Superseded $18 Rate Cap.

Chapter 30 requires the Commission to give Verizon the opportunity to recover access reductions on a revenue neutral basis. The modest parity reform previously recommended by the ALJ and supported by the refreshed record gives Verizon precisely that opportunity, as it can be implemented in a straightforward and revenue-neutral manner, while still keeping retail rates well within affordable levels. Verizon's own witness conceded at the hearing that it has "not made an affordability argument in this proceeding."[83]

Initially, Verizon represented that the total access revenue reduction that would result from bringing its intrastate rates to parity with interstate rates would be **[BEGIN VERIZON PROPRIETARY]** .[84] **[END VERIZON PROPRIETARY]** Even if Verizon immediately rebalanced local rates to the full extent of that amount over its total residence and business

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83 June 14, 2011 Hearing Tr. at p. 210.

84 Verizon Statement 1.0 (Panel Direct) at p. 57; AT&T Stmt. 1.0 (Panel Direct) at p. 23.

statewide lines, the resulting rate increase for basic local service on all lines would be (on an aggregate basis) only **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** per month, per line.[85]

During the course of the proceeding, it was revealed that the access revenue reduction identified by Verizon had only shown the impact of bringing traffic-sensitive rate elements to parity. Verizon did not provide the dollar impact of bringing non-traffic-sensitive rates to parity until the hearing. Once it did, it was clear that the modest incremental effect of including parity for *non*-traffic-sensitive rates does not affect the bottom-line conclusion that Verizon's local rates would remain below even the Commission's previous $18 rate cap, even if Verizon rebalanced the entire access reduction to local rates.[86] The incremental access reduction for non-traffic sensitive rate elements works out to **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in the aggregate,[87] or **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** per month, per line. Adding that amount to the monthly per-line access reduction for traffic-sensitive rate elements (which as described above, is **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]**) yields a total access reduction of just **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** per month, per line.

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85 AT&T Statement 1.0 (Panel Direct) at p. 21.

86 See Appendix C hereto, which demonstrates how the full rebalancing could occur and keep Verizon's residential rates below even $18. AT&T is not telling Verizon how to rebalance any revenue reductions from access reductions. AT&T is merely demonstrating that the full reductions can be implemented in a manner that keeps residential basic rates affordable.

87 June 14, 2011 Hearing Tr. at p. 113; see also AT&T Cross Examination Exhibit 9.

Verizon has said that it does not want a "prescriptive order" on retail rates,[88] and AT&T does not propose such an order here. For non-competitive lines, Verizon would have *more* pricing flexibility than it does today, as it would receive the opportunity to raise its local rates by the amount that would make up for the reduction in access revenues. But Verizon would not have an obligation to raise its rates by that amount, or by any amount. Verizon is free to use its own business judgment in determining how to make up for the reduction in access rates on those lines. The Commission would simply give Verizon the opportunity to raise its end user rates for non-competitive lines up to that amount, *if* Verizon chooses to do so. This is consistent with the statutory framework; in its order in the RLEC case, the Commission "agree[d] with AT&T that . . . Section 3017(a) of the Code gives the RLECs the *opportunity* to recover lost access revenues on a revenue neutral basis, but that each RLEC's response to access reform is left to the RLEC's discretion."[89]

As for competitive lines, the Commission need not say anything. Verizon already has more than enough regulatory flexibility to accommodate reductions in access revenue in the end user rates attributable to those lines. What is critical is that, as discussed below, these competitive lines are used to calculate the per line rebalancing limit for non-competitive lines (as Verizon admits it does in calculating the Carrier Charge).[90] That will ensure that customers served through those non-competitive lines are only bearing their fair proportionate share of any increases from Verizon's access rebalancing opportunity.

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88 June 14, 2011 Hearing Tr. at p. 186.

89 Opinion and Order issued July 18, 2011, Case Nos. I-00040105 and C-2009-2098380 *et al.*, ("*2011 RLEC Access Reform Order*") at p. 135.

90 June 14, 2011 Hearing Tr., at pp. 149-50.

2. It Is Both Irrelevant And Wrong For Verizon To Argue That Rebalancing Must Fall Entirely On Non-Competitive Lines.

The bottom line – that Verizon can rebalance the entire access reduction proposed here while still keeping its retail rates well below all parties' positions on affordability – is undisputed. Thus, Verizon resorts to a pointless diversion about the rebalancing calculation, arguing that all access rebalancing must be dumped solely on end user rates for non-competitive lines.

Verizon's argument is both irrelevant and wrong. It is irrelevant because even if one assumes for the sake of argument that Verizon was right, it would still not change the bottom line. Even under Verizon's proposal to foist all of the access rebalancing onto non-competitive customers, the resulting non-competitive retail rates would still be well below affordability levels, and in fact, below the outdated and now superseded $18 rate cap.[91]

In any event, Verizon is wrong in its assertion that the rebalancing calculation must occur entirely within the "non-competitive" category. Verizon derives access revenues from its "competitive" and "non-competitive" lines alike; in fact, its calculation of the access revenue reductions to be rebalanced includes access revenues from "competitive" lines.[92] And as Verizon witness Price admitted on cross-examination, Verizon not only assesses access charges on calls originated and terminated on these "competitive" lines, but also uses these lines to calculate the Carrier Charge.[93]

Verizon can't have it both ways. Competitive lines should either be counted in Verizon's access calculations (as Verizon does now) and rebalancing calculations (which Verizon opposes), or they should be excluded from both. Because Verizon chose to calculate the access

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91 AT&T Statement 3.0 (Panel Surrebuttal) at pp. 6-7.

92 *Id.* at pp. 7-8 & Attach. G thereto (Verizon discovery responses, nos. 5 and 6).

93 June 14, 2011 Hearing Tr., at pp. 149-50.

reduction for all lines, the retail rebalancing should also be spread over all lines to make for an apples-to-apples calculation.[94] If Verizon wanted to exclude competitive lines from the rebalancing exercise, it should have excluded them altogether and not dumped the associated access revenues into the calculation in the first place. All AT&T has done is include competitive lines in the denominator, to offset Verizon's inclusion of competitive lines in the numerator. Otherwise, Verizon's calculation would determine a meaningless, falsely inflated number: the price that "non-competitive" customers would have to pay to make up for access revenue reductions for "competitive" and "non-competitive" lines.

Moreover, the premise of Verizon's argument – that the Commission cannot regulate retail prices for competitive lines – has no bearing here, because the Commission would not be telling Verizon to do anything with retail prices for competitive lines. AT&T is not asking the Commission to prescribe prices for competitive lines, nor is it asking the Commission to consider non-regulated revenues as a way to offset access revenue reductions.[95] The rebalancing calculation simply tells the Commission how much flexibility to give Verizon on retail prices for *non*-competitive lines, so that Verizon has the opportunity to make up for reduced access charges on non-competitive lines. Verizon is free to make up for the reduced access revenues on competitive lines in whatever manner it decides best based on its own business judgment. Competitive lines are included in the rebalancing calculation solely to maintain an apples-to-

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94 *Id.* at p. 9.

95 In its recent *RLEC Access Reform Order* (at p. 127), the Commission held that "revenue neutral rebalancing may be accomplished only through allowed increases in noncompetitive services to offset reductions to access charges, rather than through consideration of non-jurisdictional or competitive revenues." AT&T's approach is fully consistent with that holding. AT&T calculates the increase in retail rates for non-competitive lines that would fully offset the proposed reductions to access charges for non-competitive lines, without any consideration of competitive revenues. AT&T includes competitive *lines* in the *denominator* of the calculation, to match Verizon's inclusion of competitive access revenues in the numerator.

apples computation: because Verizon included competitive lines in the access-revenue numerator, AT&T had to include them in the denominator, so that non-competitive lines would not be forced to bear the brunt of access reductions for competitive lines.

Another reason to reject Verizon's argument is that it leads to absurd results. Verizon itself essentially decides which of its lines remain in the "non-competitive" category and for which lines it will seek "competitive" classification.[96] If Verizon obtained competitive classification for all of its retail services – and Verizon's witnesses testified that there is ample competition even for its "non-competitive" services[97] – revenue neutral rebalancing would arguably be impossible under Verizon's view of the world because there would no longer be any retail non-competitive lines to absorb the access reductions.[98] Thus, Verizon's theory would allow Verizon to unilaterally exempt itself from access reform no matter how high its access rates were. At the hearing, Verizon's own Mr. Price conceded that "I saw that point in AT&T's testimony, and I think there's . . . a certain truth to that," and admitted that result "really makes no sense."[99] Although Mr. Price tried to blame the legislature for a "fundamental flaw . . . in the statute,"[100] the real problem is Verizon's contorted reading of the statute. The Commission must construe statutes to avoid absurd and patently unlawful results, not to create them as Verizon seeks to do.[101]

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96 AT&T Statement 3.0 at p. 5.

97 June 14, 2011 Hearing Tr., at p. 146; Verizon Statement 1.2 (Panel Surrebuttal) at p.11.

98 AT&T Statement 3.0 at p. 5 n.3.

99 June 14, 2011 Hearing Tr. at p. 151.

100 *Id.*

101 *In re: Alternative Energy Portfolio Standards Act of 2004,* Docket No. L-00060180, Proposed Rulemaking Order, July 25, 2006, *citing to* 1 Pa.C.S. §1922. See also *Williams v. State Farm Mutual Auto Ins. Co.*, 763 F. Supp. 121, 126 (E.D. Pa. 1991).

C. During The Years Of Inaction, Verizon And The OCA Have Publicly Acknowledged The Benefits Of Access Reform.

The extensive evidence already gathered before the stay supports the ALJ's 2005 recommendation of access parity. Refreshing the record has added further support – and urgency – to that recommendation. To top it off, despite opposing any Commission action here, Verizon and the OCA have themselves trumpeted the need for and the benefits of access reform in other proceedings.

On cross-examination, Verizon's witness Mr. Price admitted that Verizon does not dispute "the consumer benefits that AT&T talks about it in its testimony of reducing excessive access rates," nor does it dispute that "competition is harmed by excessive intrastate switched access rates."[102] He had to make that concession. In proceedings before the FCC, Verizon recently stated (correctly) that there is "overwhelming economic evidence about the benefits of [intercarrier compensation] reform."[103] Verizon itself told the FCC to "avoid any framework under which a state could act as a bottleneck to much-needed reform by failing to act in a timely manner."[104] Moreover, Verizon told *this* Commission not to wait for any FCC action in the RLEC case, and in its testimony here Verizon continues to tell the Commission to act promptly on access reform for the RLECs. Even in their pre-filed direct testimony in this case, Verizon's panel admits that they "agree that more economically efficient pricing of switched access rates is desirable, all else equal," and that they "have discussed the benefits of reducing access rates closer to cost in other proceedings"[105] – that is, in other proceedings like the RLEC case, when carriers other than Verizon are asked to reform their rates. There is simply no reason, other than

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102 June 14, 2011 Hearing Tr. at pp. 157, 171.

103 AT&T Statement 3.0 (Panel Surrebuttal) Attachment A, at p. 26 (Verizon Reply Comments in FCC Intercarrier Compensation Rulemaking).

104 AT&T Statement 3.0 (Panel Surrebuttal) Attachment B, at p. 23 (Verizon Comments in FCC Intercarrier Compensation Rulemaking).

105 Verizon Statement 1.0 (Panel Direct) at p. 53.

Verizon's naked self-interest, for Verizon to urge this Commission to do nothing about the largest Pennsylvania ILEC, Verizon, and fall further behind the curve.

The OCA's witness Dr. Loube also has been a vocal member of the chorus in favor of access reform – in other cases. In the RLEC case, Dr. Loube openly acknowledged the problems of the current access regime and advocated that the RLECs' intrastate switched access rates be reduced to parity with the corresponding interstate rates.[106] And in a white paper presented earlier this year to the Federal-State Joint Board on Universal Service (co-authored with Mr. Labros Pilalis of Commissioner James Cawley's Staff), Dr. Loube touted the benefits of access reform:

> Low per-minute retail rates tend to promote usage. Lower toll rates over the last 20 years have certainly helped increase toll traffic volumes. **Retail toll rates in turn, depend on the provider's costs of providing toll service, including access costs. To the extent that terminating access rates are reduced, and to the extent that competition requires toll providers to pass on such savings to end-users it is reasonable to believe that toll rates will decline and customers will use the network more frequently. That usage growth is desirable in almost all circumstances.**[107]

Dr. Loube also recognized the harms caused by high access rates:

> **High intercarrier compensation rates also can create undesirable incentives.** High LEC terminating rates, for example, can create an incentive for LECs to find ways to "pump" traffic volumes. Where traffic pumping occurs, the regulatory system must find ways to respond. The FCC's decision to lower rates for ISP-bound traffic may be perceived as an illustration of such a regulatory response to an unanticipated imbalance in traffic volumes.[108]

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106 June 14, 2011 Hearing Tr. at pp. 309-12; AT&T Cross Ex. 7 at pp. 8, 10; AT&T Cross Ex. 8 at p. 14.

107 *See INTERCARRIER COMPENSATION: A White Paper To The State Members Of The Federal-State Joint Board On Universal Service*, by Dr. Robert Loube and Labros E. Pilalis, February 7, 2011, p. 11 (emphasis added). A copy of the Loube/Pilalis white paper is Attachment D to AT&T Statement 3.0 (Panel Surrebuttal).

108 *Id.* (emphasis added).

In now opposing the ALJ's recommendation of access parity and advocating that the Commission do nothing, Verizon and the OCA are in the unenviable position of saying: "Don't do something that I told you is good for consumers, and instead keep the status quo even though that is hurting consumers." As shown in Section V, that position is just as absurd as it sounds.

IV. ACCESS CHARGE REFORM IS LONG OVERDUE AND SHOULD NOT BE DELAYED ANY LONGER.

The ALJ's *2005 Verizon Access Reform RD* recommended that Verizon eliminate its carrier charge within six months to a year, and that Verizon reduce its remaining intrastate switched access rates to parity with the corresponding interstate rates within a year to two years. If the Commission had adopted ALJ Fordham's recommendations when they were issued, Verizon would have eliminated its carrier charge by the end of 2006, and it would have achieved full parity by the end of 2007. Yet Verizon's carrier charge is still here today, and its other intrastate switched access rates remain at the same consumer-harming levels they were at six years ago. Unsatisfied with the massive windfall that it received from years of delay in access reform, Verizon asserts that even if the Commission adopts access charge reductions now, it nevertheless should delay implementation of that reform by adopting a lengthy transition period for any such reductions.

The Commission should reject any idea of further delays out of hand. The stay of proceedings has already given Verizon a six-year "transition period," and that is more than enough.[109] The six-year delay has wreaked irreparable and incalculable harm on Pennsylvania consumers and to competition.[110] Moreover, it is now over a decade since the Commission acknowledged the problem of implicit subsidies in the *Global Order*. Any further delay is simply untenable.

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109 AT&T Statement 1.0 (Panel Direct) at p. 24.

110 *Id.* at pp. 24-25.

It is also completely unnecessary. The passage of time, as unfortunate as it was, ironically has made it simpler to implement access parity on a revenue-neutral basis for Verizon today. As Section III.B above shows, the Commission can give Verizon the opportunity to make up all the access revenue reductions with modest increases in local service rates that would still leave those local rates well below the $23 rate benchmark that the Commission adopted in the RLEC access case – indeed, below the $18 rate cap that existed before that. There is no need for any transition to take such a small step.

AT&T recognizes that the Commission's July 18, 2011 *RLEC Access Reform Order* adopted a four-year transition period to implement access reductions for the RLECs. AT&T maintains that a transition of that length was unwarranted even for the RLECs, and the Commission has granted reconsideration of its order to consider AT&T's arguments on that and other issues. More to the point for this case, it is clear that the rationale for adopting a prolonged transition period for the RLECs is inapplicable here.

In particular, the transition period established in the *RLEC Access Reform Order* was driven by the Commission's decision to rebalance RLEC access reductions entirely through increases in retail rates for basic local service and avoid any additional use of the PaUSF. Because the size of the rate rebalancing that would have been required for most RLECs is significantly larger on a per-line basis than the rebalancing proposed here for Verizon,[111] the Commission decided to spread access reductions over four years.[112] For example, Ironton Telephone Company has a Carrier Charge of $17.99 per line per month, and Marianna-Scenery Hill Telephone Company has a Carrier Charge of $16.50. The per line rebalancing necessary for each of these companies is many multiples of the minimal rebalancing opportunity (less than a

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111 *2011 RLEC Access Reform Order*, at p. 140.

112 *Id.* at pp. 119-20.

dollar per line per month) that would result from eliminating Verizon's Carrier Charge and bringing its remaining rates to interstate parity.

Thus, the PaUSF considerations that led the Commission to adopt a transition period for RLEC reforms, right or wrong, are simply not present here. In this case, no party – and certainly not Verizon – presents any issue about whether, and if so how, to use PaUSF support for access rebalancing. As demonstrated above, the access rebalancing associated with reducing Verizon's intrastate rates to parity with interstate are quite modest, on a per-line basis, and the Commission can implement those access reductions in a revenue-neutral manner immediately without a significant impact on retail rates. Accordingly, there is no need for any transition to accomplish the modest reform of Verizon's access rates that the ALJ recommended in 2005, and that AT&T supports here.

V. THE COMMISSION SHOULD DISREGARD THE IRRELEVANT DIVERSIONS TO REFORM ASSERTED BY VERIZON AND THE PUBLIC ADVOCATES.

The present proceeding is a regulatory version of "no contest." Despite being given a full opportunity to refresh the record, none of the other parties has seriously disputed the relevant issues. No one has presented any evidence contesting the need for access reform or the benefits that access parity will bring to Pennsylvania consumers. Verizon itself has said that there is "overwhelming economic evidence" about those benefits[113] and that "we are not to disagree" with that evidence of "the consumer benefits . . . of reducing access rates."[114] No one disputes that parity can be implemented in a revenue-neutral manner while keeping retail rates well within affordable levels. Verizon itself concedes that it has "not made an affordability argument in this

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[113] AT&T Statement 3.0 (Panel Surrebuttal) Attachment A, at p. 26 (Verizon Reply Comments in FCC Intercarrier Compensation Rulemaking).

[114] June 14, 2011 Hearing Tr. at p. 157.

proceeding."[115] Yet Verizon and the public advocates nevertheless try to obstruct reform by distracting the Commission with irrelevant sidetracks. Verizon and the public advocates choose different "bridges to nowhere," but each diversion is equally irrelevant.

A. Verizon Advocates Access Reform For Everyone But Itself.

Verizon offers no dispute regarding the benefits of access reform, nor does it dispute that rebalancing access reductions would leave local rates at eminently affordable levels. Indeed, Verizon elsewhere has been a staunch advocate of the benefits of access reform. Further, Verizon acknowledges that it has lost a significant number of its lines to competing technologies that do not bear the burden of implicit subsidies (see pages 14-17 *supra*), which confirms that high access charges distort competition and are unsustainable in today's competitive market.[116]

So if Verizon had simply stayed within the scope of this docket, and addressed the access charge issues this Commission wanted the parties to address, it would have had to come out in support of access parity. But Verizon has the purely self-serving view that access subsidies are bad (unless Verizon is collecting them) and that access reform is good (until the Commission looks at Verizon's rates). Thus, Verizon spends most of its testimony improperly arguing that the Commission should ignore the problems caused by Verizon's implicit subsidies – problems that Verizon itself openly admits – and instead waste time thinking about something, anything other than Verizon's access charges. The Commission should not allow itself to be sidetracked by any of Verizon's diversions.

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115 *Id.* at p. 210.

116 Verizon Statement 1.0 (Panel Direct) at pp. 15-16.

1. The Commission Has Already Rejected Verizon's "RLECs First" Argument, And In Any Event The Commission Has Already Decided The RLEC Case.

Verizon has argued that the Commission should not do anything about Verizon's access rates until after it has addressed the RLECs' access rates. The Commission already rejected this argument when it denied Verizon's attempt to prolong the stay. The Commission's order denying the stay specifically acknowledges Verizon's argument "that the need to reduce its access charges is not as pressing as RLEC access charge reductions."[117] The Commission, however, "reject[ed] [Verizon's] request in order to resolve the outstanding issues with regard to access charges and the way they hampered competition in the telecommunications market that persisted at the time of the *Global Order*."[118] In addition, the Commission pointed out "the need for a resolution of access charge issues concurrently with the other ILECs rather than on a piecemeal basis."[119] Further, the Commission explained, "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."[120] As a result, "[t]his Commission cannot forgo such an opportunity to effectuate industry-wide access reform any longer."[121] Obviously, all these considerations are still present.

In any event, the Commission pulled the rug out from under Verizon's argument when it issued its order in the RLEC case on July 18, 2011. Saying "the RLECs should go first" makes no difference now, because the Commission issued its order in the RLEC case first. And the Commission's order in that case made it clear that it is not only determined to continue its

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117 Opinion & Order entered May 11, 2010, at p. 7.
118 *Id.* at pp. 18-19.
119 *Id.* at p. 19.
120 *Id.*
121 *Id.*

overall efforts at access reform, but that it is also committed to continue its efforts to reform Verizon's access rates on a separate track from the RLECs.[122]

The Commission should also reject Verizon's suggestion that it wait for some indefinite, interminable period until after the RLEC reforms are fully implemented before it even opens a proceeding to look at Verizon's access rates. Verizon witness Price admitted that he had no concrete idea as to how many years that wait would last or what the Commission would do in that future proceeding.[123] The Commission has already opened a proceeding to look at Verizon's rates – this one – and this investigation has been delayed long enough. Nor is there any need to "wait and see" how the RLEC access reforms turn out. There is ample evidence showing the results of past reforms in Pennsylvania and other states, and that evidence overwhelmingly shows that access reform benefits consumers. Verizon does not even dispute the benefits of access reform, and Verizon itself advocated that the Commission reduce the RLECs' rates without delay. In reopening this proceeding, the Commission squarely held that Verizon's rates would be addressed "concurrently with the other LECs" and rejected Verizon's idea of "piecemeal" resolution.[124]

2. Verizon's Complaints About Local Service Regulations Have No Place In This Access Proceeding.

Much of Verizon's testimony in this case has nothing to do with access, but is simply a laundry list of Verizon complaints about local service regulations. AT&T generally supports efforts to reduce regulation, and certainly agrees that asymmetric regulations are harmful. After all, the purpose of this proceeding is to address one regulatory scheme that is both asymmetric and unfair: Verizon's access charges, which fall disproportionately on consumers who buy

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122 *2011 RLEC Access Reform Order* at p. 17 n. 24.

123 June 14, 2011 Hearing Tr. at pp. 138-40.

124 Opinion & Order entered May 11, 2010, at p. 19.

wireline long-distance service. But this access case is *not* the place for Verizon to bring complaints about *other* regulations that apply to *non*-access services (and that in most cases also apply equally to AT&T and other carriers, not just Verizon).

Whatever complaints Verizon might have about *non*-access services are irrelevant to the issues in this case. They are all problems that pre-date this proceeding and fall well outside its scope. Verizon could have raised these complaints with the Commission or the General Assembly at any time during the six years it stayed this proceeding, yet it failed to do so.[125] And it can still raise those complaints now – *in a proper forum and format.* But Verizon cannot use its generalized grievances on these non-access issues as a reason to stall access reforms that this Commonwealth desperately needs.

Verizon's complaints about pricing flexibility are particularly off base. In the first place, AT&T's proposal here would give Verizon additional pricing flexibility to rebalance the access revenue reductions from the implementation of access parity. So Verizon should be applauding the effort to align rates for all services more closely with costs, not trying to stall reforms. At any rate, if Verizon wants *more* regulatory flexibility, the General Assembly has already told it how to proceed. Section 3016 tells LECs that they can petition the Commission for a determination that their services are competitive, and Verizon is free to file that petition any time it wants. Indeed, Verizon made several such filings, and the most recent iteration of Chapter 30 makes this process easier. At the hearing, Verizon witness Price could not explain why it has not sought a competitive classification for the few remaining services that remain under the non-competitive designation.[126] If Verizon still has some problem with the procedure for obtaining

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125 June 14, 2011 Hearing Tr. at pp. 146-147.

126 *Id.* at p 146.

regulatory flexibility under Section 3016, that complaint belongs in the General Assembly, not here.

Verizon goes even further afield in complaining about the statutory broadband deployment obligations it ***voluntarily*** elected to undertake as a condition of alternative regulation. Verizon is an extremely large, sophisticated and experienced business. It participated in developing the relevant legislation,[127] and it elected to voluntarily undertake those broadband deployment obligations as a condition of alternative regulation. The statute quite clearly spells out the *quid pro quo,* and the resulting benefits to Verizon. For example, Verizon's December 2015 deadline for broadband deployment reduces the inflation offset of its price stability mechanism, and Verizon elected to extend the time required to make broadband available to a customer from five to ten business days.[128] Plainly, Verizon decided that the benefits of alternative regulation were sufficient to justify the costs of the broadband deployment it now complains about (much of which deployment Verizon may have done anyway as a business matter).[129] In seeking a standstill on access reform, Verizon is improperly acting as if the IXCs have to foot the bill for Verizon's broadband deployment even though Verizon made the commitment and collects the broadband revenue. In any event, the Commission obviously cannot rewrite the broadband legislation, so any concerns Verizon has must be addressed to the General Assembly, not here. The Commission *can* do something about Verizon's access charges and it should; it cannot change the broadband legislation and it should not waste time worrying about that law.

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127 *Id.* at p. 160.

128 AT&T Statement 1.0 (Panel Direct) at p. 38.

129 *Id.*

Verizon's assertion that its "costs" of local service are higher than the related local service revenues also fall far outside the scope of the proceeding. This case is about the proper rates for Verizon's intrastate *access* charges. *If* Verizon really has been losing money on basic local service – and for the record, AT&T does not concede that point given the questions raised in the case about the validity of Verizon's "cost study" – those losses existed before this proceeding.[130] They would exist even if this proceeding had not taken place. In fact, Verizon admitted in discovery that "it is likely that such costs [of providing regulated R-1 and B-1 services] have always exceeded those services' revenues."[131] And Verizon's "losses" will continue to exist regardless of what the Commission does or does not do in this proceeding. In short, Verizon's asserted losses have nothing to do with the resolution of this case. The access reform proposed here is designed to be revenue-neutral, so Verizon will have the opportunity to be in the same financial position it was in before this proceeding began.[132]

Finally, Verizon's argument that regulatory reform is a necessary prerequisite to access reductions is a complete reversal from arguments it has advanced in other cases. For example, in the RLEC case Verizon witness Price expressed sympathy for the RLECs' complaints about regulatory burdens, but specifically did "*not* agree that RLEC access reductions and rate rebalancing should be delayed" while the Commission considered the RLECs' complaints.[133] And while he was working for MCI, Mr. Price urged the New Jersey Board to "immediately activate the AT&T access complaint and set an expeditious procedural schedule to address in a

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130 *Id.* at p. 39.

131 AT&T Cross Ex. 1 (response to Interrogatory No. 1(c)).

132 *Id.*

133 AT&T Cross Ex. 2 at p. 16; see also June 14, 2011 Hearing Tr. at p. 163.

comprehensive fashion the anticompetitive subsidies contained in intrastate access rates" – and to do so "*[b]efore* providing Verizon with additional regulatory flexibility."[134]

B. The Facts Of This Case Warrant The Continued Rejection Of The OCA's And The OSBA's Loop "Contribution" Argument.

Based on a complete evidentiary record, ALJ Fordham recommended in 2005 that Verizon's Carrier Charge be eliminated. Six years ago, when the market was not even as competitive as it is today, the ALJ correctly recognized that "the carrier charge is no longer a valid way to address" loop costs given "the changes in the industry and the emergence of wireless and other technologies that use the local loop without paying the carrier charge."[135] In making that recommendation, the ALJ noted that there was no proposal to impose charges on wireless and other intermodal technologies for the use of the loop, and rejected the OCA's and OSBA's arguments that the "loop is a joint cost that must be shared by all who use it."[136]

Undeterred by this prior rejection, and ignoring the real-world problems of high access charges and the real-world benefits that consumers would enjoy from access reform – not to mention the fact that this re-opening was intended to refresh, not re-argue, the record previously developed in this case – the OCA and the OSBA rehash the same argument that the ALJ correctly rejected in 2005: that is, their position that inflated access rates are necessary to ensure that the IXCs "contribute" to the cost of Verizon's loops. They maintain that such a "contribution" would somehow reduce the burden on end users (a fallacy that AT&T refutes below). Notwithstanding the Commission's decision in the *RLEC Access Reform Order* to establish a new $2.50 Carrier Charge for the RLECs, the ALJ's original rationale for rejecting the OCA's and OSBA's "contribution" argument in this case remains sound. In fact, the record

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134 AT&T Cross Ex. 3 at pp. 15-16; see also June 14, 2011 Hearing Tr. at pp. 166-67.

135 *2005 Verizon Access Reform RD*, at p. 63.

136 *Id.*

developed in this case shows that, regardless of the new RLEC Carrier Charge, such a charge is not appropriate and should be eliminated altogether for Verizon.

This is true for several reasons. The first reason to reject the OCA and OSBA's "contribution" argument for maintaining Verizon's Carrier Charge in this case is that Verizon itself strongly disagrees with it. Verizon has consistently and adamantly argued against the OCA and OSBA's positions on this issue. As far back as the mid-1990s, then-Bell Atlantic testified that the full cost of the loop must be attributed to local service only.[137] Verizon was consistent with that position in this case, as Verizon witness Mazziotti agreed at the hearing that "the loop is not a cost of switched access" because "[o]n a cost causative basis, the placement of the loop is caused by a person's decision to purchase local service."[138] Verizon's other witness in this case, Don Price, testified to the same effect in the RLEC access case:

> I agree that the historical practice of recovering loop costs in access rates was the result of a policy decision for revenue support and subsidy, as described by Dr. Loube, but ***it has no economic meaning in terms of cost causation, and it is an inefficient cost recovery mechanism.*** And the mere fact that subsidies were once used in setting access rates is not a justification for their continued use in today's competitive environment.[139]

Likewise, Verizon's Mr. Paul Vasington testified in a Washington state proceeding that "***it is fundamentally out of step with established economic principles of cost causation to allocate a portion of the local loop to switched access costs.***"[140] Mr. Vasington recognized that

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137 *In re: Formal Investigation to Examine and Establish Updated Universal Service Principles and Policies for Telecommunications Services in the Commonwealth*, Docket No. I-00940035, Order entered January 28, 1997.

138 June 14, 2011 Hearing Tr. at pp. 175, 218.

139 AT&T Statement 2.0 (Panel Rebuttal) at p. 20, quoting Verizon Statement 1.1 (Price Rebuttal), Docket No. I-00040105, March 10, 2010, p. 29 (emphasis added).

140 AT&T Statement 2.0 (Panel Rebuttal) at p. 21, quoting *Verizon v. United Telephone Company of the Northwest*, Redacted Rebuttal Testimony of Paul B. Vasington on Behalf of Verizon, Washington WUTC Docket No. UT-081393 (June 5, 2009) at p. 6 (emphasis added).

"[t]he cost of the loop is fixed, regardless of the number of calls made by that business or person" so that "[a]llocating the cost of that loop based on something other than the purchase of the dial tone line is arbitrary because it is not directly related to the manner in which the costs are incurred."[141] Given that Verizon does not *want* access charges to include a "contribution" towards loops, the Commission should not make Pennsylvania consumers pay such a contribution to Verizon.

The second reason for reaffirming the ALJ's previous rejection of OCA's and OSBA's efforts to retain the Carrier Charge is that no Carrier Charge is necessary to satisfy their "contribution" philosophy. Even if the Commission were to adhere to the OCA and OSBA's flawed loop contribution theory in this case (which it should not for the reasons discussed below), the evidence overwhelmingly demonstrates that IXCs will still be paying a substantial contribution towards the loop if Verizon's intrastate access charges are set at parity with their interstate rates. Verizon's average interstate switched access rate is 0.7¢ per minute. This is approximately 10 times the reciprocal compensation rate,[142] which the OCA agrees is a reasonable proxy for incremental access cost.[143] What this means is that ***Verizon's interstate rate is approximately 90% contribution.***

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141 *Id.*, quoting Vasington testimony at p. 8.

142 *Id.* Verizon's cost-based rate established by the FCC for terminating local calls is only 0.07 cents per minute. *See In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Traffic*, 16 FCC Rcd. 9151, ¶ 8 (April 27, 2001), *remanded on other grounds, WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), *cert. denied, Core Communications, Inc. v. FCC*, 538 U.S. 1012 (2003), *subsequent mandamus, In Re: Core Communications, Inc.*, 531 F.3d 849 (2008); *order on remand, In re High Cost Universal Support*, WC Docket No. 05-337 (rel. Nov. 5, 2008). The FCC specifically found that rate would be "sufficient to provide a reasonable transition from dependence on intercarrier payments *while ensuring cost recovery.*" *Id.* (emphasis added).

143 OCA Statement 1 (Loube Direct) at pp. 7-8. There is no dispute that the process to originate or terminate a local interoffice call is the same in all material respects as a long-distance call. AT&T Statement 1.0 (Panel Rebuttal) at pp. 26-27.

Given this fact, there is simply no basis for the claim that AT&T seeks to obtain a "free ride" or that AT&T's position will lead to IXCs not paying a substantial contribution towards the cost of local loops. To the contrary, the OCA's witness Dr. Loube acknowledged on cross-examination that the ALJ's recommendation of access parity "could be consistent" with a loop contribution policy, and that contribution to the local loop "wouldn't be eliminated" if interstate parity were adopted.[144] The OCA has even proposed a NASUCA model (which uses the interstate rate as a target) as its backup proposal in the prior phase of this proceeding.[145] The OCA's present opposition to parity is baffling, because if the Commission had adopted the OCA's fallback NASUCA proposal back when it was offered, Verizon's intrastate rates would be at interstate parity today, including the elimination of the Carrier Charge.[146]

The third reason to reject the public parties' effort to retain the Carrier Charge here is that, whatever purpose the Commission may believe that rate element may serve in implementing reform *for the RLECs*, it is plainly not applicable to Verizon. The specific history of this case alone bears that out. The proceedings that led to ALJ Fordham's 2005 Recommended Decision were prompted by the Commission's recognition that reductions to Verizon's $0.58 Carrier Charge were warranted. In fact, the Commission specifically remanded the case back to 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."[147] That direction should come as no surprise: even when it first established Verizon's Carrier Charge in the *Global Order*, the Commission advised Verizon that it would

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144 June 14, 2011 Hearing Tr. at p. 306.

145 June 14, 2011 Hearing Tr. at pp. 305-06. The NASUCA plan called for intrastate access rates at 0.5 cents per minute (*id.*), slightly *less* than Verizon's current interstate rate of 0.55 cents per minute.

146 *Id.* at pp. 305-06.

147 July 28, 2004 Order, at p. 17.

open proceedings to "resolve further reductions and potential elimination of the Carrier Charge" soon thereafter.[148]

This history makes clear that the Commission consistently has viewed access reform for Verizon as a process independent of reform for the RLECs, and that whatever approaches it may adopt for the RLECs are not a one-size-fits all solution for Verizon. The *RLEC Access Reform Order* itself reaffirms that "[r]eductions to Verizon's access charges have been and will continue to be considered separately," and specifically referenced this docket as the place where Verizon's charges would be resolved.[149] The Commission's decision to establish a Carrier Charge for the RLECs was based in part on the fact that the PaUSF was not being used to fund the RLECs' revenue reductions.[150] Given that the PaUSF was never in consideration as a revenue replacement source for Verizon, that factor does not apply in this particular case. And as discussed above, Verizon itself has rejected the notion of having access charges "contribute" to the cost of local loops.

The final reason for rejecting the public advocates' regurgitated "contribution" arguments in support of Verizon's Carrier Charge – to be clear, they have not advanced any *new* arguments or evidence, but have simply re-hashed the same arguments they made in 2005[151] – is that ALJ Fordham was absolutely right in rejecting them the first time. The theory that long distance carriers should contribute towards the cost of the local loop was developed during the monopoly era, when consumers in a closed system had little choice but to pay the access charges that were

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148 *Global Order*, at p. 23; see also *id.* at p. 37 (stating that "the GTE CC pool will be included in the Commission investigation").

149 *RLEC Access Reform Order*, at p. 17 n. 24.

150 *Id.* at p. 119.

151 *Tr.* at pp. 259, 304-305.

embedded in their long-distance prices.[152] Today, long distance providers are competing against wireless carriers, cable, e-mail, social networking websites, Internet service providers and text messaging, all of which are largely immune from subsidy-laden access charges.[153] The Commission cannot impose "contributions" on those competing technologies.[154] And attempting to force only one group of consumers, *i.e.*, long-distance customers, to continue subsidizing loops when customers served by competing technologies do not is anti-competitive and unfair.[155] In fact, just last year the OCA's Dr. Loube *agreed* in the RLEC case that it would be unfair and harmful to make IXCs and their customers contribute to local loops when competing long-distance technologies do not bear the same burden.[156] He was right, and so was the ALJ in 2005.

AT&T has proposed a revenue neutral rebalancing of access rates, so Verizon will have the opportunity to make the same overall revenue and the same contribution after implementing AT&T's modest access reform proposal as it did beforehand.[157] For all of the OCA's and OSBA's bombast, AT&T's proposal boils down to a mere **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** per month shift from Verizon's intrastate access rates to Verizon's local exchange rates. Given that small amount, the OCA's and OSBA's sky-is-falling arguments display a complete loss of perspective.

Finally, imposing a "contribution" on IXCs does *not* reduce the burden on end users. As with all businesses, the IXCs' costs are ultimately paid by end users. There is no rational basis to force consumers across the Commonwealth to pay higher wireline long-distance prices just to "contribute" to loops in the Verizon territories. Verizon's subsidized basic local service rates are

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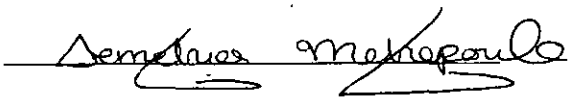
152 AT&T Statement 2.0 (Panel Rebuttal) at p. 7.
153 *Id.*
154 *Id.*
155 *Id.*
156 AT&T Cross Ex. 7 at p. 8.
157 AT&T Statement 2.0 (Panel Rebuttal) at p. 6.

far below any parties' definition of affordable. In fact, Verizon's basic local service rates will still be below the Commission's outdated and now eliminated $18 rate cap even if the Commission reduces Verizon's intrastate switched access rates to parity and even if Verizon rebalances the entire access reduction to local service. There is simply no reason to make all Pennsylvania consumers "contribute" to keep Verizon's rates far below the old $18 cap, particularly now that the Commission has held that there should not even be a cap, and has instead adopted an affordability benchmark at $23 per month.

VI. CONCLUSION

Comprehensive access reform for Verizon is long overdue, and the Commission has at last ended a six-year stay that wrought further harm on consumers and the competitive marketplace. The Commission has moved forward with access reform for the RLECs. Yet Verizon – which advocates access reform for *other* LECs – still suggests that the Commission should do nothing about its own problem of access subsidies. The Commission should reject Verizon's "do nothing" approach, and should order Verizon to immediately eliminate its Carrier Charge and to reduce its traffic sensitive intrastate access rates to mirror the level and structure of its interstate rates.

Respectfully submitted,

By: 

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AT&T'S PROPOSED FINDINGS OF FACT

I. BACKGROUND AND PROCEDURAL HISTORY

A. History of Prior Verizon Access Reductions

1. Switched access charges are the fees a local exchange carrier ("LEC") like Verizon assesses upon wireline long distance carriers (also called interexchange carriers or "IXCs") when the LEC originates or terminates long distance calls made or received by the LEC's local service subscribers. AT&T Statement 1.0 (Panel Direct) at p. 8.

2. Verizon PA's current intrastate access rates average about 1.8 cents per minute at each end of the call, while Verizon North's current intrastate access rates average about 1.6 cents per minute at each end. Verizon Statement 1.0 (Panel Direct) at p. 11.

3. Verizon also assesses access charges on interstate (state-to-state) long distance calls. The parties do not dispute that the access functionality is identical in all material respects.

4. Verizon's access rates for in-state calls are much higher than their corresponding interstate rates. Verizon's access charges for interstate calls average 0.55 cents per minute; thus, its overall average per-minute intrastate rate is more than three times the per-minute interstate rate. See AT&T Statement 1.0 (Panel Direct) at p. 9 & Ex. D (Verizon discovery response).

5. In the *Global Order*, the Commission found "that current ILEC access charges are priced substantially above cost," and recognized that such rates must be reduced in order "to maintain fair toll competition in Pennsylvania." *Re Nextlink Pennsylvania, Inc.*, Docket Nos. P-00991648 & P-00991649, 93 PaPUC 172 (Sept. 30, 1999) ("*Global Order*") at p. 18. The Commission also recognized that access reductions "will yield toll rate reductions for toll end users" by "reducing the fees that long distance carriers pay." Further, the Commission acknowledged "the vulnerability of implicit subsidies to competition" and the federal policy "to

replace the system of implicit subsidies" generated by access charges "with 'explicit and sufficient' support mechanisms." *Id.* at p. 25.

6. While the Commission reached a similar conclusion for all LECs – that access charges must be reduced – it addressed the Verizon companies (then Bell Atlantic PA and GTE North) separately from the RLECs, and developed separate plans for implementing reductions to their respective access rates. *Id.* at pp. 18-31 (Bell Atlantic), pp. 31-37 (GTE) and pp. 45-51 (RLECs).

7. For example, the Commission rebalanced the access reductions for Sprint (now CenturyLink) and other RLECs in part by establishing a Pennsylvania Universal Service Fund ("PaUSF"); by contrast, Verizon Pennsylvania was not eligible for PaUSF support, and the Commission balanced its access reductions with opportunities to increase retail prices. *Id.* at pp. 21-22 (Bell Atlantic) and pp. 48, 51 (RLECs).

8. The Commission stated its intent to "complete intrastate access charge reform" and "presumably eliminate all subsidies in the access charge rate structure" in a further access investigation that was to be completed by December 31, 2001. *Id.* at pp. 58-59.

9. With respect to the Verizon companies, the Commission stated that the next round would "resolve further reductions and potential elimination of the Carrier Charge." *Id.* at p. 23 (Bell Atlantic); see also *id.* at p. 37 (stating that GTE Carrier Charge "will be included in the Commission investigation" to be initiated on or about January 2, 2001).

B. History Of Present Proceeding.

10. The present proceeding began in January 2002, when the Commission initiated a generic access investigation. Opinion & Order entered May 11, 2010, at p. 3.

11. Consistent with its separate analysis of Verizon and the RLECs in the *Global Order*, the Commission bifurcated the investigation to address Verizon and the RLECs separately. *Id.* at p. 4.

12. After a fully litigated case, the Commission adopted a proposal by Verizon, the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") that led to partial reductions in Verizon North's intrastate access rates (primarily the Carrier Charge) and allowed corresponding increases in retail rates for local service. July 28, 2004 Opinion and Order.

13. Verizon PA's intrastate rates, however, were simply restructured. Verizon PA's intrastate access rate was 1.8 cents per minute in 2003, and that is the same as Verizon PA's rate today. AT&T Statement 1.0 (Panel Direct) at p. 30.

14. The Commission remanded the case to ALJ Fordham to initiate Phase II and develop a record for further access reductions, including "the removal of all implicit subsidies from access charges" and "the reduction and possible elimination of the Carrier Charge." July 28, 2004 Order, at p. 17.

15. The Commission instructed that, "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." *Id.* at p. 20.

16. Verizon, AT&T, the OCA, and the OSBA (among others) then filed three rounds of testimony and two rounds of briefs. Nov. 30, 2005 Recommended Decision on Remand ("*2005 Verizon Access Reform RD*"), at pp. 6-8.

17. On December 7, 2005, ALJ Fordham issued the 68-page *2005 Verizon Access Reform RD.* "Based on the Global Order, the pending FCC proceeding and other Commission actions," the ALJ reasoned, "it is clear that the time has come for additional reform." *Id.* at p. 65.

18. The ALJ stated that "[t]he first step is to remove the carrier charge." *Id.*

19. As the ALJ explained, "[w]ith the changes in the industry and the emergence of wireless and other technologies that use the local loop without paying the carrier charge, it is difficult to continue to charge the IXCs for using the local loop." *Id.* at p. 63. Thus, "the carrier charge is no longer a valid way to address" loop costs. *Id.*

20. Next, "based on the evidence in the record," the ALJ recommended that Verizon reduce its remaining intrastate charges "to interstate charge levels." *Id.* at p. 66. The ALJ found that each of Verizon's intrastate rate elements "exceed the interstate charges for these elements." *Id.* at pp. 65-66.

21. The ALJ found that "the Phase I reductions" in access charges benefited consumers because IXCs reduced long distance prices by implementing "additional unlimited calling plans." *Id.* at p. 65. Thus, the ALJ rejected arguments by Verizon and the public advocates, which had suggested that the IXCs did not show they had passed the reductions on to their customers. *Id.*

22. The ALJ recommended that the Commission (i) eliminate Verizon's Carrier Charge within six months to a year, (ii) reduce Verizon's intrastate switched access rates to interstate parity within one to two years, and (iii) rebalance Verizon's local rates. *Id.* at pp. 68-69, ¶¶ 3-6.

23. The Commission then stayed this proceeding in the hope that the FCC would soon adopt comprehensive reforms in its review of inter-carrier compensation. Opinion & Order entered May 11, 2010, at pp. 1-2.

24. The stay was set for 12 months, but the Commission repeatedly extended the annual stay until 2010.

25. All the while, though, the Commission continued to remind Verizon (and the RLECs) that further access charge reductions were coming. In July 2007, the Commission agreed that "Act 183 and Section 3017(a) support this Commission's policy goals that local exchange carriers reduce dependence on access revenue from other carriers and rebalance those revenues." Opinion and Order in Dockets I-00040105, P-00981428F1000, R-00061375, P-00981429F1000, R-00061376, P-00981430F1000 and R-00061377 (July 11, 2007) at pp. 34, 35.

26. In April 2008, this Commission acknowledged that keeping intrastate access rates above interstate levels presents opportunities for gaming and arbitrage, and that existing access rates are anti-competitive, observing that it "continues to be the intention of this Commission ... to gradually lower intrastate access charges so as to allow for greater competition in the intrastate and interexchange toll markets." April 24, 2008 Order in Docket I-00040105 at pp. 20, 26.

27. Verizon moved for another extension of the stay in August 2009, arguing that the Commission should complete the RLEC access investigation before addressing Verizon's rates. In May 2010, the Commission denied Verizon's motion. As the Commission explained, it rejected further delay "in order to resolve the outstanding issues with regard to access charges and the way they hampered competition in the telecommunications market that persisted at the time of the *Global Order*." Opinion & Order entered May 11, 2010, at pp. 18-19.

28. The Commission also pointed out "the need for a resolution of access charge issues concurrently with the other ILECs rather than on a piecemeal basis." *Id.* at p. 19.

29. In addition, the Commission observed, "we have not seen any substantial resolution of intercarrier compensation issues by the FCC, and it is unclear whether the FCC will appropriately prioritize the area of intercarrier compensation and federal USF reform for ultimate resolution any time soon." *Id.* at pp. 17-18.

30. The Commission accordingly reopened the proceeding so the parties could refresh the record underlying the *2005 Verizon Access Reform RD*. *Id.* at pp. 21-22.

II. THE PROBLEMS OF HIGH ACCESS CHARGES, AND THE BENEFITS OF ACCESS REFORM.

31. The refreshed record shows that in the past six years the problems of access subsidies have become worse and the benefits of access reform more clear.

A. Access Charge Reductions Drive Reductions In Retail Long-Distance Prices.

32. The refreshed record confirms the ALJ's 2005 finding that reductions in access rates drive reductions in retail long-distance prices.

33. Numerous states (including major industrial states like Massachusetts, Illinois, Ohio, Michigan and Texas) have, in one form or another, required LECs' intrastate switched access rates to mirror their interstate switched access rates. AT&T Statement 1.0 (Panel Direct) at p. 20 & Ex. G.

34. The uncontroverted evidence shows that states that have adopted access reforms have brought significant benefits to their consumers. AT&T presented a comprehensive five-year analysis showing the results of access reform in 20 states that have adopted intrastate access reductions through legislation or state commission order. AT&T Statement 3.0 (Panel

Surrebuttal) at p. 20 & Attachment D. AT&T's long-distance prices for intrastate calls decreased – indeed, long-distance prices decreased by *more* than the reduction in access costs. *Id.*

35. Further, AT&T demonstrated that because of the severe need of access reform, AT&T is forced to sell retail long-distance service below the wholesale cost of access. June 15, 2011 Hearing Tr., at p. 424.

36. AT&T witness Nurse testified at the hearing that AT&T is prepared to reduce its In-State Connection Fee for customers in Verizon territory to reflect reductions the Commission orders in access rates – and if reductions to interstate parity are achieved, the fee will be eliminated altogether. June 15, 2011 Hearing Tr., at p. 420.

37. Decreases in wholesale access charges reduce the IXCs' costs of producing retail long-distance service. AT&T Statement 1.0 (Panel Direct) at p. 19.

38. Elementary economics instructs that a reduction in wholesale cost inputs will in turn lead to a decrease in retail prices. *Id.*

39. Even a pure monopolist, including one that is completely unregulated, will reduce output prices in response to a reduction in input costs, not out of altruism but because that is the way to maximize profit. *Id.*

40. The pressure to decrease price is even more intense in today's vigorously competitive market. *Id.*

41. Reductions in Verizon's access rates will also cause reductions in access rates charged by competitive local exchange carriers, which are capped by law at the level of the incumbent LEC with which they compete, and thus bring additional benefits to Pennsylvania consumers. AT&T Statement No. 3 (Panel Surrebuttal) at pp. 14-16.

B. Access Charge Reductions Promote Competition And Consumer Choice.

42. In addition to the benefits of lower long distance prices, the Commission reaffirms its finding in the *Global Order*, where the Commission found that ILEC access reductions were necessary "to maintain fair toll competition in Pennsylvania." *Global Order*, at p. 18.

43. In Verizon's own words, "[t]he past decade – and particularly the past several years – have seen an explosion in competitive alternatives." Verizon Statement 1.0 (Panel Direct) at p. 14.

44. Verizon's panel cited an FCC report showing that non-ILECs "served 32% of the wireline switched access lines in the state." *Id.* at p. 17.

45. Further, Verizon showed that the number of wireless subscribers in Pennsylvania is "more than double the total number of ILEC lines in the state." *Id.*

46. Verizon stated that it has lost a large percentage of its Pennsylvania access lines since 1999. *Id.* at p. 14.

47. In recent years, AT&T's wireline long distance business has lost billions of minutes of traffic in Pennsylvania to other technologies, such as wireless, e-mail, text messaging and instant messaging. AT&T Statement 1.0 (Panel Direct) at 14.

48. It is undisputed that those competitive alternatives do not incur access costs in the same way as wireline long distance service, and accordingly can offer more attractive retail prices. *Id.*

49. For example, wireless carriers are not subject to access charges on most in-state wireless calls. AT&T Statement 1.0 (Panel Direct) at p. 12. All calls within a "Major Trading Area" ("MTA") are treated as "local," and those wireless MTAs are much larger than the local calling areas for wireline calls. *Id.* Intra-MTA wireless calls are treated as local calls subject to

FCC-established reciprocal compensation termination charges of 0.07 cents per minute; meanwhile, switched access rates for wireline long-distance calls are 30 times higher for the same functionality. *Id.* at p. 13.

50. Similarly, other alternative forms of long-distance communication like Voice over Internet Protocol ("VoIP") can generally complete communications for significantly reduced access costs – while other alternatives like e-mail, text messaging, and social networking websites essentially pay no per-minute access cost at all. *Id.*

51. The Commission finds that Verizon's access subsidies are incompatible with today's competitive market. With competition now widespread in all segments of the communications marketplace, Verizon should be recovering the costs of its retail services directly from its own retail customers, rather than from the customers of other carriers. AT&T Statement 1.0 (Panel Direct) at p. 16.

52. Consumers who buy long-distance service from AT&T and other IXCs should no longer be forced to subsidize Verizon via high access charges when a host of new technologies and new entrants do not bear the same access burden. *2005 Verizon Access Reform RD,* at p. 63.

53. By the same token, access reductions will help wireline IXCs compete on a more equal footing (and thus more aggressively) against competing technologies. It is undisputed that consumers benefit from increased competition. AT&T Statement 1.0 (Panel Direct) at p. 19.

54. Moreover, rebalancing Verizon's local rates to more economically rational levels means that Verizon will have to compete more aggressively in the local market, instead of relying upon artificially subsidized local rates. *Id.*

55. It is a matter of elementary economics that consumers benefit when all providers compete aggressively on the merits and on a level playing field. *Id.*

C. Access Parity Will Also Reduce Waste And Inefficiency.

56. Implementing parity between intrastate and interstate switched access rates will also reduce the waste and inefficiency of today's disparate and irrational rate structures.

57. The Commission recognized in the *Global Order* that "there is no functional difference between access provided on an interstate or an intrastate basis." *Global Order*, at p. 49. Thus, "any pricing differential that may exist" would create incentives for "tariff arbitrage," and "it is extremely important that intrastate access charges *mirror* their federal counterpart." *Id.*

58. With the implementation of access parity, Verizon will have one set of access rates to bill and enforce, not two. AT&T Statement 1.0 (Panel Direct) at p. 20.

59. In addition, symmetrical rates and rate structures will reduce the incentives and opportunities for harmful arbitrage that exist under the monopoly-era regime that persists today. *Id.*

60. "Call pumping," "phantom traffic" and similar arbitrage schemes have arisen because of the wide disparity in interstate and intrastate access rates and between access rates and cost. *Id.*

61. Such schemes cost consumers both directly (because consumers ultimately foot the bill for call pumping and other improper activities) and indirectly (because litigation over arbitrage activities is a waste of private and public resources). *Id.*

62. Meaningful reductions in intrastate access rates, and parity with interstate rates, will reduce the incentives to engage in such schemes. *Id.*

63. Less money wasted on administering an irrational system, and litigating over arbitrage activities, means more money for better pricing and investments that bring real benefits to consumers. *Id.*

D. Admissions By Verizon And The OCA.

64. Providing further support to the Commission's finding that reforming Verizon's access rates will benefit consumers, Verizon and the OCA have themselves acknowledged the need for and the benefits of access reform in other proceedings.

65. On cross-examination, Verizon's witness Mr. Price admitted that Verizon does not dispute "the consumer benefits that AT&T talks about it in its testimony of reducing excessive access rates," nor does it dispute that "competition is harmed by excessive intrastate switched access rates." June 14, 2011 Hearing Tr. at pp. 157, 171.

66. Before the FCC, Verizon recently stated that there is "overwhelming economic evidence about the benefits of [intercarrier compensation] reform." AT&T Statement 3.0 (Panel Surrebuttal) Attachment A, at p. 26 (Verizon Reply Comments in FCC Intercarrier Compensation Rulemaking).

67. Verizon told the FCC to "avoid any framework under which a state could act as a bottleneck to much-needed reform by failing to act in a timely manner." AT&T Statement 3.0 (Panel Surrebuttal) Attachment B, at p. 23 (Verizon Comments in FCC Intercarrier Compensation Rulemaking).

68. Moreover, Verizon told this Commission not to wait for any FCC action in the RLEC case, and in its testimony here Verizon continues to tell the Commission to act promptly on access reform for the RLECs.

69. Even in their pre-filed direct testimony in this case, Verizon's panel admits (at page 53) that they "agree that more economically efficient pricing of switched access rates is desirable, all else equal," and that they "have discussed the benefits of reducing access rates closer to cost in other proceedings."

70. Likewise, in the RLEC case, the OCA's witness Dr. Loube openly acknowledged the problems of the current access regime and advocated that the RLECs' intrastate switched access rates be reduced to parity with the corresponding interstate rates. June 14, 2011 Hearing Tr. at pp. 309-12; AT&T Cross Ex. 7 at pp. 8, 10; AT&T Cross Ex. 8 at p. 14..

71. And in a white paper presented earlier this year to the Federal-State Joint Board on Universal Service (co-authored with Mr. Labros Pilalis of the Commission's Staff), Dr. Loube touted the benefits of access reform.

III. IMPLEMENTATION OF ACCESS PARITY IN A REVENUE-NEUTRAL MANNER.

A. Verizon Can Rebalance The Entire Access Reduction While Keeping Retail Rates At Affordable Levels.

72. The Commission finds that it would be straightforward to implement access parity in a revenue-neutral manner, while still keeping retail rates well within affordable levels.

73. Verizon's own witness conceded at the hearing that it has "not made an affordability argument in this proceeding." June 14, 2011 Hearing Tr. at p. 210.

74. Even if Verizon immediately rebalanced local rates to the full extent of that reduction, over their total residence and business statewide lines, the resulting rate increase for basic local service on all lines would be (on an aggregate basis) less than a dollar per month, per line. AT&T Statement 1.0 (Panel Direct) at p. 21.

75. At the hearing, Verizon provided the additional impact of implementing parity on non-traffic-sensitive rates. The incremental effect of including parity for *non*-traffic-sensitive rates does not affect the Commission's finding that Verizon's local rates would remain below even the Commission's previous $18 rate cap, even if it rebalanced the entire access reduction to local rates. See Appendix C to AT&T Main Brief; see also June 14, 2011 Hearing Tr. at p. 113 & AT&T Cross Examination Exhibit 9. Adding the non-traffic sensitive amount to the monthly

per-line access reduction for traffic-sensitive rate elements yields a total access reduction that is still less than a dollar per month, per line.

76. Verizon would not have an obligation to raise its rates by that amount, or by any amount. Verizon is free to use its own business judgment in determining how to make up for the reduction in access rates. The Commission is simply giving Verizon the opportunity to raise its rates for non-competitive lines up to that amount, if Verizon chooses to do so.

B. Inclusion Of Competitive Lines In Rebalancing Calculation.

77. Verizon contends that all rebalancing must be applied solely to non-competitive lines.

78. The Commission need not reach that argument, because even if Verizon were correct, it would still not change the Commission's conclusion that non-competitive retail rates, after rebalancing, would still be well below affordability levels, and in fact, below the outdated and now abolished $18 rate cap. See Appendix C to AT&T Main Brief.

79. Moreover, the rebalancing calculation does not dictate or affect pricing on competitive services, but is simply a method for determining the amount of retail flexibility the Commission is to give on non-competitive lines.

80. Verizon is free to make up for the reduced access revenues on competitive lines in whatever manner it decides best based on its own business judgment.

81. Verizon derives access revenues from its "competitive" and "non-competitive" lines alike; in fact, its calculation of the access revenue reductions to be rebalanced includes access revenues from "competitive" lines. *Id.* at pp. 7-8 & Attach. G thereto (Verizon discovery responses, nos. 5 and 6).

82. Verizon witness Price admitted on cross-examination that Verizon not only assesses access charges on calls originated and terminated on these "competitive" lines, but it uses these lines to calculate the Carrier Charge. June 14, 2011 Hearing Tr., at pp. 149-50.

83. Because the access reduction is calculated for all lines, the retail rebalancing should also be spread over all lines to make for an apples-to-apples calculation. *Id.* at p. 9.

84. If Verizon wanted to exclude competitive lines from the rebalancing exercise, it should have excluded them altogether and not included the associated access revenues in the calculation in the first place.

85. Competitive lines are included in the rebalancing calculation solely to maintain an apples-to-apples computation, because Verizon included competitive lines in the access-revenue numerator, and because non-competitive lines should not be forced to bear the brunt of access reductions for competitive lines.

86. This calculation is for the sole purpose of determining the appropriate rebalancing amounts attributable to non-competitive lines. The Commission is not fixing Verizon's prices for competitive lines, nor is the Commission considering non-regulated revenues as a way to offset access revenue reductions.

IV. TIMING OF IMPLEMENTATION

A. No Further Transition Period Is Warranted.

87. The ALJ's *2005 Verizon Access Reform RD* recommended that Verizon eliminate its carrier charge within six months to a year, and that Verizon reduce its remaining intrastate switched access rates to parity with the corresponding interstate rates within a year to two years.

88. If the Commission had adopted those recommendations when they were issued, Verizon would have eliminated its carrier charge by the end of 2006, and it would have achieved full parity by the end of 2007.

89. The Commission rejects Verizon's suggestion that the access reductions proposed here be phased in over a lengthy transition period. The stay of proceedings has already given Verizon a six-year "transition period." AT&T Statement 1.0 (Panel Direct) at p. 24.

90. The six-year delay has resulted in irreparable harm to Pennsylvania consumers and to competition. *Id.* at pp. 24-25.

91. Moreover, there is no need for any transition period given that modest increases in local rates would be sufficient to rebalance all of the access reductions proposed here. Rebalancing the entire access reduction would still leave Verizon's local rates well below the $23 rate benchmark that the Commission adopted in the RLEC access case – indeed, below the $18 rate cap that existed before that.

92. While the Commission's July 18, 2011 *RLEC Access Reform Order* adopted a four-year transition period to implement access reductions for the RLECs (a period that is now under reconsideration and may be shortened), the evidence shows that no such transition period is needed for Verizon.

93. The transition period established in the *RLEC Access Reform Order* was driven by the Commission's decision to rebalance RLEC access reductions entirely through increases in retail rates for basic local service and avoid any additional use of the PaUSF. Due to the size of the rate rebalancing that would have been required for some RLECs (significantly larger on a per-line basis than the rebalancing proposed here for Verizon; *id.* at p. 140), the Commission decided to spread access reductions over four years (*id.* at pp. 119-20).

94. The PaUSF considerations that led the Commission to adopt a transition period for RLEC reforms, right or wrong, are simply not present here.

95. In this case, no party – and certainly not Verizon – presents any issue about PaUSF support for access rebalancing.

96. As the Commission has found above, the access rebalancing associated with reducing Verizon's intrastate rates to parity with interstate are quite modest, on a per-line basis, and the Commission can implement those access reductions in a revenue-neutral manner immediately without a significant impact on retail rates.

97. In fact, even if Verizon elects to rebalance all of the access reductions to retail rates, those rates would still be far below the $23 benchmark and even below the superseded $18 cap.

98. No one suggests that any PaUSF support is needed here, nor is there any need for a lengthy transition to reform Verizon's access rates.

B. The Commission Will Not Wait Any Longer For The FCC To Address Intrastate Switched Access Rates.

99. The Commission previously stayed this case because of the possibility that the FCC would implement reforms to intrastate access rates as part of comprehensive reforms of intercarrier compensation.

100. In its May 11, 2011 Order, the Commission rejected Verizon's suggestion of continued delay and lifted the stay.

101. Verizon no longer suggests that the Commission stay this proceeding pending possible action by the FCC.

102. The latest FCC Notice of Proposed Rulemaking provides no basis for any further delay. As the FCC recognized, "[t]he intercarrier compensation system is broken and needs to be fixed." *In re Connect America Fund: A National Broadband Plan For Our Future*, 2011 WL 466775, ¶ 508 (Notice of Proposed Rulemaking, rel. Feb. 9, 2011) ("*2011 NPRM*").

103. Moreover, the FCC observed "[t]here is general industry sentiment that intrastate rates should be reduced first because they are the highest, and because eliminating the discrepancy between intrastate and interstate access charges could reduce arbitrage." *Id.* ¶ 554.

104. In addition, the FCC is fully aware that some states "have undertaken intrastate access charge reform measures," including the interstate-intrastate parity approach that AT&T proposes here. *Id.* ¶ 543 & nn. 816, 819. Far from disapproving of such measures, the *2011 NPRM* "seek[s] comment on what steps the Commission should take to *encourage* states to reduce intrastate intercarrier compensation rates and how we could do so *without* penalizing states that have already begun" to reform intrastate rates. *Id.* ¶ 544 (emphasis added).

105. The FCC has even proposed that states that have adopted meaningful access reforms would be first in line (or perhaps the only states in line) for the first phase of federal broadband funds, and has "request[ed] accurate information concerning the status of intrastate access state reform activity to determine which states" have implemented enough reform to qualify for federal funds. *Id.* ¶ 544 & n.819.

106. Indeed, the FCC singled out "mirroring interstate rates" as a possible criterion for federal support. *Id.* ¶ 544.

107. That is the same "parity" reform that ALJ Fordham recommended in the *2005 Verizon Access Reform RD*, and that the Commission adopts here.

V. ARGUMENTS IN OPPOSITION TO ACCESS REFORM.

A. Verizon's Argument That The Commission Should Address The RLECs First.

108. Verizon offers no dispute regarding the benefits of access reform, nor does it dispute that rebalancing access reductions would leave local rates at affordable levels.

109. Verizon argues that the Commission should not do anything about Verizon's access rates until after it has addressed the RLECs' access rates. The Commission, however, has already "reject[ed] [Verizon's] request in order to resolve the outstanding issues with regard to access charges and the way they hampered competition in the telecommunications market that persisted at the time of the *Global Order.*" *Id.* at pp. 18-19.

110. In addition, the Commission pointed out "the need for a resolution of access charge issues concurrently with the other ILECs rather than on a piecemeal basis." *Id. at p. 19.*

111. Further, the Commission explained, "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." *Id.* As a result, "[t]his Commission cannot forgo such an opportunity to effectuate industry-wide access reform any longer." *Id.*

112. The Commission finds that all these considerations are still present.

113. The Commission also rejects Verizon's suggestion that it wait for some indefinite period until after the RLEC reforms are fully implemented before it even opens a proceeding to look at Verizon's access rates. Verizon witness Price admitted that he had no concrete idea as to how many years that wait would last or what the Commission would do in that future proceeding. June 14, 2011 Hearing Tr. at pp. 138-40.

114. There is ample evidence showing the results of past reforms in Pennsylvania and other states, and that evidence overwhelmingly shows that access reform benefits consumers.

115. Verizon does not dispute the benefits of access reform, and Verizon itself advocated that the Commission reduce the RLECs' rates without delay. In reopening this proceeding, the Commission squarely held that Verizon's rates would be addressed

"concurrently with the other LECs" and rejected Verizon's idea of "piecemeal" resolution. Opinion & Order entered May 11, 2010, at p. 19.

B. Verizon's Complaints About Local Service Regulations.

116. Verizon also contends that the Commission should not address Verizon's access rates until it addresses Verizon's grievances about local service regulations.

117. The Commission finds that Verizon's complaints about *non*-access services are irrelevant to the issues in this access case. They are all problems that pre-date this proceeding and fall well outside its scope.

118. The Commission further notes that Verizon could have raised its non-access complaints at any time during the six years it stayed this proceeding, yet it failed to do so. June 14, 2011 Hearing Tr. at pp. 146-147.

119. With respect to Verizon's complaints about pricing flexibility, the General Assembly has already told Verizon how to proceed. Section 3016 tells LECs that they can petition the Commission for a determination that their services are competitive, and Verizon is free to file that petition any time it wants. Indeed, Verizon made several such filings, and the most recent iteration of Chapter 30 makes this process easier.

120. At the hearing, Verizon witness Price could not explain why it has not sought competitive classification for the few remaining services that remain under the non-competitive designation. *Id.* at p 146.

121. Regarding Verizon's complaints about the statutory broadband deployment obligations it voluntarily elected to undertake as a condition of alternative regulation, the Commission finds that Verizon is an extremely large, sophisticated and experienced business. Verizon participated in developing the relevant legislation (*id.* at p. 160) and it elected to

voluntarily undertake those broadband deployment obligations as a condition of alternative regulation.

122. Plainly, Verizon decided that the benefits of alternative regulation were sufficient to justify the costs of the broadband deployment it now complains about.

123. Verizon's assertion that its "costs" of local service are higher than the related local service revenues also fall outside the scope of the proceeding.

124. This case is about the proper rates for Verizon's intrastate access charges. If Verizon has been losing money on basic local service – a point that is contested, given the parties' disputes over Verizon's local service "cost study" – those losses existed before this proceeding. *Id.* at p. 39. Any such losses would exist even if this proceeding had not taken place.

125. Verizon admitted in discovery that "it is likely that such costs [of providing regulated R-1 and B-1 services] have always exceeded those services' revenues." AT&T Cross Ex. 1 (response to Interrogatory No. 1(c)).

126. Verizon's "losses" will continue to exist regardless of what the Commission does or does not do in this proceeding. In short, Verizon's asserted losses have nothing to do with the resolution of this case.

127. The access reform proposed here is designed to be revenue-neutral, so Verizon will have the opportunity to be in the same financial position it was in before this proceeding began.

128. Finally, the Commission notes that Verizon's argument that regulatory reform is a necessary prerequisite to access reductions is contrary to arguments it has advanced in other cases. For example, in the RLEC case Verizon witness Price expressed sympathy for the

RLECs' complaints about regulatory burdens, but specifically did "*not* agree that RLEC access reductions and rate rebalancing should be delayed" while the Commission considered the RLECs' complaints. AT&T Cross Ex. 2 at p. 16; see also June 14, 2011 Hearing Tr. at p. 163.

129. While he was working for MCI, Mr. Price urged the New Jersey Board to "immediately activate the AT&T access complaint and set an expeditious procedural schedule to address in a comprehensive fashion the anticompetitive subsidies contained in intrastate access rates" – and to do so "*[b]efore* providing Verizon with additional regulatory flexibility." AT&T Cross Ex. 3 at pp. 15-16; see also June 14, 2011 Hearing Tr. at pp. 166-67.

C. The OCA's And The OSBA's Philosophical Argument That IXCs Must "Contribute" To Local Loops.

130. The OCA and the OSBA oppose access reform with the argument that IXCs and their customers should "contribute" to the cost of Verizon's loops.

131. While the Commission established a new $2.50 Carrier Charge for the RLECs in the *RLEC Access Reform Order*, that order is presently under reconsideration. Regardless of the result of that reconsideration, the Commission finds that such a charge is not appropriate for Verizon based on the evidence submitted in this case.

132. Verizon itself strongly disagrees with the public advocates' position. As far back as the mid-1990s, then Bell Atlantic testified that the full cost of the loop must be attributed to local service only. *In re: Formal Investigation to Examine and Establish Updated Universal Service Principles and Policies for Telecommunications Services in the Commonwealth*, Docket No. I-00940035, Order entered January 28, 1997.

133. At the hearing, Verizon witness Mazziotti agreed that "the loop is not a cost of switched access" because "[o]n a cost causative basis, the placement of the loop is caused by a person's decision to purchase local service." June 14, 2011 Hearing Tr. at pp. 175, 218.

Verizon's other witness in this case, Don Price, testified to the same effect in the RLEC access case. AT&T Statement 2.0 (Panel Rebuttal) at p. 20, quoting Verizon Statement 1.1 (Price Rebuttal), Docket No. I-00040105, March 10, 2010, p. 29 (emphasis added).

134. Likewise, Verizon's Mr. Paul Vasington testified in a Washington state proceeding that "it is fundamentally out of step with established economic principles of cost causation to allocate a portion of the local loop to switched access costs." AT&T Statement 2.0 (Panel Rebuttal) at p. 21, quoting *Verizon v. United Telephone Company of the Northwest,* Redacted Rebuttal Testimony of Paul B. Vasington on Behalf of Verizon, Washington WUTC Docket No. UT-081393 (June 5, 2009) at p. 6 (emphasis added).

135. Mr. Vasington recognized that "[t]he cost of the loop is fixed, regardless of the number of calls made by that business or person" so that "[a]llocating the cost of that loop based on something other than the purchase of the dial tone line is arbitrary because it is not directly related to the manner in which the costs are incurred." *Id.*, quoting Vasington testimony at p. 8.

136. Given that Verizon does not *want* access charges to include a "contribution" towards loops, the Commission will not make Pennsylvania consumers pay such a contribution to Verizon.

137. The Commission also eliminates Verizon's Carrier Charge because the evidence in this record overwhelmingly demonstrates that IXCs will still be paying a substantial contribution towards the loop if Verizon's intrastate access charges are set at parity with their interstate rates.

138. Verizon's average interstate switched access rate is 0.7¢ per minute. This is approximately 10 times the reciprocal compensation rate, which the OCA agrees is a reasonable proxy for incremental access cost. OCA Statement 1 (Loube Direct) at pp. 7-8. There is no

dispute that the process to originate or terminate a local interoffice call is the same in all material respects as a long-distance call. AT&T Statement 1.0 (Panel Rebuttal) at pp. 26-27. This means that Verizon's interstate rate is approximately 90% contribution.

139. The OCA's Dr. Loube acknowledged on cross-examination that the ALJ's recommendation of access parity "could be consistent" with a loop contribution policy, and that contribution to the local loop "wouldn't be eliminated" if interstate parity were adopted. June 14, 2011 Hearing Tr. at p. 306.

140. The OCA proposed a NASUCA model (which uses the interstate rate as a target) as its backup proposal in the prior phase of this proceeding. June 14, 2011 Hearing Tr. at pp. 305-06. If the Commission had adopted the OCA's fallback NASUCA proposal back when it was offered, Verizon's intrastate rates would be at interstate parity today, including the elimination of the Carrier Charge. *Id.* at pp. 305-06.

141. The Commission also rejects the public parties' position on this issue because of the specific history and facts of this case. When the first phase of this case maintained a $0.58 Carrier Charge, this Commission recognized that further reductions to Verizon's Carrier Charge were warranted. In fact, the Commission specifically remanded the case back to 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 p. 17.

142. When it first established Verizon's Carrier Charge in the *Global Order*, the Commission advised Verizon that it would open proceedings to "resolve further reductions and potential elimination of the Carrier Charge" soon thereafter. *Global Order*, at p. 23; see also *id.* at p. 37 (stating that "the GTE CC pool will be included in the Commission investigation").

143. Based on a complete evidentiary record, the ALJ recommended in 2005 that Verizon's Carrier Charge be eliminated. Six years ago, when the market was not even as competitive as it is today, the ALJ correctly recognized that "the carrier charge is no longer a valid way to address" loop costs given "the changes in the industry and the emergence of wireless and other technologies that use the local loop without paying the carrier charge." *2005 Verizon Access Reform RD*, at p. 63.

144. The recent *RLEC Access Reform Order* established a new $2.50 Carrier Charge designed to go towards the cost of the RLECs' local loops. While the Commission is presently reconsidering that aspect of the order, the decision to adopt such a rate for the RLECs has no bearing here. The Commission has consistently considered access reform implementation for Verizon separately from the RLECs.

145. The *RLEC Access Reform Order* reaffirms that "[r]eductions to Verizon's access charges have been and will continue to be considered separately," and specifically referenced this docket as the place where Verizon's charges would be resolved. *RLEC Access Reform Order*, at p. 17 n. 24.

146. The Commission's decision to establish a Carrier Charge for the RLECs was based in part on the fact that the PaUSF was not being used to fund the RLECs' revenue reductions. *Id.* at p. 119.

147. Given that the PaUSF was never in consideration as a revenue replacement source for Verizon, that factor does not apply in this particular case.

148. The Commission has above adopted a revenue neutral rebalancing of access rates, so Verizon will have the opportunity to make the same overall revenue and the same contribution after implementing modest access reform as it did beforehand. AT&T Statement 2.0 (Panel

Rebuttal) at p. 6. Those reductions boil down to less than a dollar per month shift from Verizon's intrastate access rates to Verizon's local exchange rates.

149. Verizon's subsidized basic local service rates are far below any parties' definition of "reasonable" or affordable. In fact, Verizon's basic local service rates will still be below the Commission's outdated and now eliminated $18 rate cap even if the Commission reduces Verizon's intrastate switched access rates to parity and even if Verizon rebalances the entire access reduction to local service. The Commission finds no reason to make all Pennsylvania consumers "contribute" to keep Verizon's rates below the old $18 cap, particularly now that the Commission has held that there should not even be a cap, and has instead adopted an affordability benchmark at $23 per month.

B

AT&T'S PROPOSED CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

I. Background.

1. Verizon PA and Verizon North (collectively, "Verizon") are "incumbent local exchange telecommunications companies" as defined by 66 Pa. C.S. §§ 3012 and 3017.

2. The Commission has jurisdiction over Verizon, and the Commission has authority to reduce each Verizon company's intrastate access rates to levels that comply with Pennsylvania law and Commission precedent. Intrastate access charges are non-competitive services and are therefore within the Commission's jurisdiction.

3. "Every rate made, demanded or received by any public utility...shall be just and reasonable." 66 Pa. C.S.A. §1301.

4. When the Commission finds that a public utility's rates are unjust, unreasonable, or discriminatory, it must determine just, reasonable, and non-discriminatory rates. *See* 66 Pa.C.S.A. §1309(a).

II. Reductions In Verizon's Intrastate Switched Access Rates.

5. Verizon's intrastate access rates are unjust and unreasonable in violation of 66 Pa § 1301, which requires that rates be just and reasonable.

6. The existing intrastate switched access charges are neither just nor reasonable, as they (i) fall disproportionately on one type of long-distance communications (wireline long distance service), (ii) substantially exceed interstate charges for the same service, thereby creating arbitrage opportunities, disputes, and inefficiencies, and (iii) can no longer be sustained in today's competitive environment.

7. Verizon's intrastate access rates violate 66 Pa.C.S.A. §3011(3), which states that it is the policy of the Commonwealth to "[e]nsure that customers pay only reasonable charges for protected services which shall be available on a nondiscriminatory basis."

8. The existing intrastate switched access charges are neither reasonable nor "nondiscriminatory." IXCs must pay large switched access charges, while their competitors (*e.g.*, wireless service, e-mail, social networking websites) do not, at least not in the same way or to the same extent as IXCs.

9. Intrastate rates that are several times higher than the corresponding interstate rates, when there is no logical basis for the distinction in charges, are not "reasonable."

10. Verizon's intrastate access rates violate 66 Pa.C.S.A §3011(5), which states that it is the policy of the Commonwealth to "[p]rovide diversity in the supply of existing and future telecommunications services and products in telecommunications markets throughout this Commonwealth by ensuring that rates, terms and conditions for protected services are reasonable and do not impede the development of competition."

11. IXCs must pay large intrastate switched access charges to complete intrastate long distance calls in the Verizon territories, while other technologies do not incur access costs in the same way. Given the substantial losses in wireline minutes over the past several years, it is clear that Verizon's existing intrastate switched access rates impede the development of competition by IXCs and reduce the diversity of supply.

12. The existing, vastly different access schemes for different types of competitors, which severely handicap one type of competitor (wireline long distance), do not "provide diversity in the supply of existing and future telecommunications services and products" but rather discourage the supply of one type of competitive service.

13. Because Verizon is using access subsidies to maintain local exchange rates at artificially low, subsidized rates, it is discouraging entry from other potential competitors and impeding the development of competition in local exchange service.

14. Verizon's intrastate access rates violate 66 Pa.C.S.A. §3011(8), which states that it is the policy of the Commonwealth to "[p]romote and encourage the provision of competitive services by a variety of service providers on equal terms throughout all geographic areas of this Commonwealth without jeopardizing the provision of universal telecommunications service at affordable rates."

15. The existing intrastate access rates do not promote or encourage the provision of competitive long-distance service on equal terms, because IXCs must pay large intrastate switched access charges to complete intrastate long distance calls, while other technologies do not incur access costs in the same way.

16. The existing intrastate access rates are used to maintain the RLECs' local exchange rates at artificially low, subsidized rates, and do not promote or encourage the provision of competitive local exchange service by a variety of service providers on equal terms.

17. Verizon's intrastate access rates violate 66 Pa.C.S.A. §3011(9), which states that it is the policy of the Commonwealth to "[e]ncourage the competitive supply of any service in any region where there is market demand."

18. The existing intrastate access rates do not encourage the competitive supply of long-distance service, because IXCs and their end users must pay large intrastate switched access charges to complete intrastate long distance calls, while other technologies do not incur access costs in the same way.

19. The existing intrastate access rates are used to maintain local exchange rates at artificially low, subsidized rates, thereby discouraging competitive supply of local exchange service.

III. Recovery Of Revenue Reductions In Compliance With 66 Pa.C.S.A. 3017.

20. Chapter 30's section 3017 states: "The commission may not require a local exchange telecommunications company to reduce access rates except on a revenue-neutral basis." 66 Pa.C.S.A. § 3017(a).

21. In its July 18, 2011 Opinion and Order in the RLEC case, the Commission "agree[d] with AT&T that . . . Section 3017(a) of the Code gives the RLECs the *opportunity* to recover lost access revenues on a revenue neutral basis, but that each RLEC's response to access reform is left to the RLEC's discretion." Opinion and Order issued July 18, 2011, Case Nos. I-00040105 and C-2009-2098380 *et al.*, ("*2011 RLEC Access Reform Order*") at p. 135.

22. By permitting Verizon to raise local service rates on non-competitive services up to the amount that would balance the entire access reduction on non-competitive lines ordered herein, the Commission has given Verizon sufficient opportunity to recover any access revenue reductions and thereby satisfied the requirements of section 3017(a).

23. Verizon is not required to increase local service rates on non-competitive services by any amount. As with the RLECs, Verizon's response to access reform is left to its discretion.

24. Section 3017 does not require the Commission to guarantee Verizon that it will always receive the same dollar amount of revenues they are making today. Such a guarantee would be contrary to Verizon's price-cap regulation.

25. Section 3017 does not require the Commission to protect Verizon from losses that it would incur through the normal operation of the competitive market, or to lock in Verizon's current levels of access revenues, which are otherwise continuing to decline as competition intensifies.

26. Verizon contends that under Section 3017 only non-competitive lines can be used to rebalance access reductions. "In applying the rules of statutory construction, the Commission

is to avoid results that are absurd, unreasonable, or that render a statute ineffective," *In re: Alternative Energy Portfolio Standards Act of 2004*, Docket No. L-00060180, Proposed Rulemaking Order, July 25, 2006, *citing to* 1 Pa.C.S. §1922. See also *Williams v. State Farm Mutual Auto Ins. Co.*, 763 F. Supp. 121, 126 (E.D. Pa. 1991).

27. Verizon's interpretation of Section 3017 is unreasonable and would render the statutory intent ineffective in that it arguably would impair, and perhaps even completely preclude, the Commission from reducing intrastate access rates that it has found to be unjust and unreasonable, especially if Verizon were to obtain competitive classification for all access lines.

28. "No telecommunications carrier providing competitive local exchange telecommunications service may charge access rates higher than those charged by the incumbent local exchange telecommunications company in the same service territory unless such carrier can demonstrate that the higher access rates are cost justified. 66 Pa. C.S.A. §3017(c).

29. If a Competitive Local Exchange Carrier ("CLEC") wants to charge intrastate access rates that are higher than Verizon's, it must first prove that its higher access rate is justified ***before*** it can charge a rate above Verizon's. Thus, once Verizon's intrastate access rates are reduced, all CLECs' rates must also be immediately reduced to a level no higher than Verizon's. AT&T Statement No. 3 at pp. 14-16.

IV. Regulatory "Burdens" in Verizon's Testimony

30. Pursuant to 66 Pa. C.S.A. §3106(a), Verizon has always had the ability to petition the Commission for competitive classification of its retail services. The Commission must issue a decision on such a petition within 60 days of the filing date, or within 150 days if a protest is timely filed, or the petition is deemed granted.

31. Once a service is declared competitive, the telephone company may price the service at its discretion, so long as the price is not below the cost to provide the service. 66 Pa. C.S.A. §3106(e)(1).

32. CLECs must comply with the requirements of 52 Pa. Code Sections 63 and 64. Thus, these are not requirements that apply to Verizon alone.

33. The Commission has no authority to modify Verizon's broadband deployment requirements – requirements to which Verizon agreed as part of a *quid pro quo* in Chapter 30. Tr. at p. 160.

34. The Commission has no authority to modify Verizon's obligations under 66 Pa. C.S.A. §3014 regarding the Bona Fide Retail Request program.

35. The Commission has no authority to modify the assessment requirements under 66 Pa. C.S. §§510, 511, 71 P.S. §309-4, or 73 P.S. §399.46. In addition, these assessment requirements apply equally to wireline CLECs. Tr. at pp. 160-161. See also AT&T Statement No. 3 (Panel Surrebuttal) at p. 17.

PROPOSED ORDERING PARAGRAPHS

THEREFORE, IT IS ORDERED:

1. That Verizon Pennsylvania and Verizon North's intrastate access rates shall be reduced to parity with their respective interstate access rate levels and structures within thirty (30) days of the issuance of this Order.
2. That after a Commission Order adopting this access reduction is entered and after notice through bill insert, bill message or separately mailed notice to all customers at least 30 days prior to the date of any rate change, Verizon, Pennsylvania and Verizon North may increase local rates to compensate for lost revenue from the reduction of intrastate access rates.

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a true copy of the Main Brief 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 (related to service by a participant) and 1.55 (related to service upon attorneys) in the manner and upon the parties listed below.

Dated at Chicago, Illinois, this 16th day of August, 2011.

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.arge Box

18" x 13" x 3")