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August 19, 2011

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**Via Electronic Filing**

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

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

Dear Secretary Chiavetta:

Enclosed please find a Petition For Interlocutory Review And Answer To A Material Question, being filed on behalf of Verizon Pennsylvania Inc., Verizon North LLC, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services Inc. (collectively, "Verizon"), in the above captioned matter.

If you have any questions, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Suzan D. Paiva".

Suzan D. Paiva

SDP/meb

**Via E-Mail and First Class U.S. Mail**  
cc: The Honorable Dennis J. Buckley  
Attached Certificate of Service

**Via First Class U.S. Mail**  
cc: Chairman Robert F. Powelson  
Vice Chairman John F. Coleman, Jr.  
Commissioner Wayne E. Gardner  
Commissioner James H. Cawley  
Commissioner Pamela A. Witmer

**CERTIFICATE OF SERVICE**

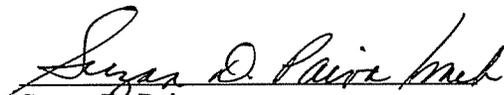
I, Suzan D. Paiva, hereby certify that I have this day served a copy of Verizon's Petition For Interlocutory Review And Answer To A Material Question, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 19<sup>th</sup> day of August, 2011.

**VIA E-MAIL and FIRST CLASS U.S. MAIL**

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Thomas, Long, Niesen & Kennard  
212 Locust Street, Suite 500  
Harrisburg, PA 17108

David Reams Jamieson, Esquire  
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Attorney for Verizon

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**VERIZON'S PETITION FOR INTERLOCUTORY REVIEW  
AND ANSWER TO A MATERIAL QUESTION**

Pursuant to 52 Pa. Code §5.302, Verizon Pennsylvania Inc. and Verizon North LLC (“Verizon”) petition this Commission for interlocutory review and answer to a material question. Verizon seeks review of the portion of the July 18, 2011 Order of Administrative Law Judge Dennis J. Buckley (“ALJ Order”) denying Verizon’s request to hold this matter in abeyance for a reasonable period of time until the Federal Communication Commission (“FCC”) has issued its pending decision on the crucial VoIP compensation issue presented here.<sup>1</sup>

**Material question:** Should the Commission suspend this proceeding given that the FCC is poised to make a determination this fall on the same VoIP compensation issue presented here?

**Suggested answer:** Yes. The Commission should suspend this proceeding for a limited period of time to avoid potentially conflicting regulatory results and to avoid wasting resources evaluating factual and legal issues that may either become moot may be in need of additional subsequent development in light of the FCC’s determination.

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<sup>1</sup> The ALJ Order also denied Verizon’s motion to dismiss on the ground that the Commission lacks authority to regulate the VoIP traffic at issue here, finding dismissal premature because of the need to develop a factual record. Verizon intends to renew its motion to dismiss at a later date to the extent any of Armstrong’s claims remain viable in light of the FCC’s ruling.

Granting interlocutory review and resolving this question will prevent substantial prejudice and expedite the conduct of the proceeding for the following reasons:

The Commission should suspend this proceeding so that the central question presented here – how VoIP providers like Armstrong should be compensated – can be evaluated in light of the FCC’s pending decision on intercarrier compensation. The FCC has expressly stated that it has never decided whether access charges apply to VoIP traffic, and that it intends to address that very question for the first time. One of the issues the FCC is actively considering is whether VoIP is an information service – a question that is determinative of *all* of Armstrong’s claims. And even if the FCC does not reach that question or answers it in the negative, its decision can be expected to *directly* affect Armstrong’s claims.

Developments at the FCC occurring after the ALJ Order was issued indicate that FCC action should no longer be characterized as “speculative” or “tentative.” (ALJ Order at 10). At the end of July, Verizon and numerous other companies and carrier associations filed with the FCC a consensus framework for resolution of intercarrier compensation and USF reform comprised of complementary proposals for rate-of-return and price-cap carriers.<sup>2</sup> An element in that overall framework is a prospective determination by the FCC that intrastate switched access charges will not apply to VoIP traffic.<sup>3</sup> The FCC has set a very short cycle for comments on the consensus framework (as well as a plan submitted by the State Members of the Federal-State Universal Service

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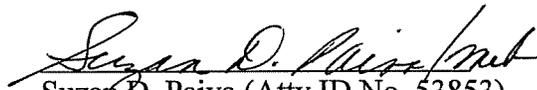
<sup>2</sup> See Letter from AT&T, Verizon, CenturyLink, Frontier, FairPoint, Windstream, USTelecom, National Telecommunications Cooperative Association, OPASTCO, and Western Telecommunications Alliance, to FCC Commissioners, FCC Docket Nos. WC 10-90 *et al.* (July 29, 2011); Letter from Verizon, AT&T, CenturyLink, Windstream, Fairpoint, and Frontier, to FCC Commissioners, *America’s Broadband Connectivity Plan* (July 29, 2011) (“ABC Plan”).

<sup>3</sup> See ABC Plan, Attachment 1, p. 10.

Joint Board), which will end this month – and it promptly denied a request to lengthen the expedited schedule. Unlike past developments at the federal level that did not result in concrete FCC action in the face of highly splintered industry advocacy, there is now a broad industry consensus on an overall framework that would include specific rules for VoIP compensation.

The FCC has therefore confirmed that it is in the “final stage” of its reform process.<sup>4</sup> Given that *this* case is at an early stage, the Commission should establish a schedule under which both factual development and briefing in this proceeding can take place after the FCC issues its VoIP compensation determination. Such a schedule would help avoid conflicting regulatory results and would ensure that the FCC’s determinations and analyses can be appropriately taken into consideration.

Respectfully submitted,



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Dated: August 19, 2011

Counsel for Verizon

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<sup>4</sup> J. Genachowski *et al.*, *Bringing Broadband to Rural America: The Home Stretch on USF and ICC Reform*, FCC blog entry dated August 8th, 2011, available at <http://www.fcc.gov/blog/bringing-broadband-rural-america-home-stretch-usf-and-icc-reform>.