**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held March 15, 2012

Commissioners Present:

Robert F. Powelson, Chairman

John F. Coleman, Jr., Vice Chairman, Statement

Wayne E. Gardner

James H. Cawley

Pamela A. Witmer, Statement

Investigation Regarding Intrastate Access I-00040105

Charges and IntraLATA Toll Rates of

Rural Carriers and The Pennsylvania

Universal Service Fund

AT&T Communications of Pennsylvania, *et al.* C-2009-2098380, *et al.*

 v.

Armstrong Telephone Company - Pennsylvania, *et al.*

**OPINION AND ORDER**

**BY THE COMMISSION:**

 Before the Pennsylvania Public Utility Commission (Commission) for consideration are: (1) The Joint Petition for Limited Reconsideration and Stay filed on August 2, 2011, by the Pennsylvania Telephone Association (PTA)[[1]](#footnote-1) and The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink (CTL) (PTA/CTL Joint Petition or Joint Stay Petition); and (2) the Petition for Reconsideration and Clarification filed on August 2, 2011, by AT&T Communications of Pennsylvania, LLC, TCG Pittsburgh and TCG New Jersey, Inc. (collectively AT&T) (AT&T Petition) with regard to our Opinion and Order entered July 18, 2011 (*July 2011 Order*) in the above-captioned proceedings. Answers to the PTA/CTL Joint Petition and the AT&T Petition were filed by a number of parties. On August 11, 2011, we granted reconsideration of the PTA/CTL Joint Petition and the AT&T Petition pending review of their merits.

 In order that we may conclude our review of the pending Petitions, we shall reopen the record in this proceeding for the receipt of additional information regarding the effects of the recent decision of the Federal Communications Commission (FCC) Order[[2]](#footnote-2) on our *July 2011 Order*. The statutory operating authority of this Commission permits us to reopen a proceeding for the receipt of additional evidence so that we can rule properly on the Petitions before us, including whether or not to amend our *July 2011 Order*, or grant a stay of its directives totally or in part.[[3]](#footnote-3)

**I. History of the Proceeding**

 A detailed procedural history of this proceeding is contained on pages 2-10 of our *July 2011 Order* and, for the sake of brevity, will not be repeated here. We will, however, address the procedural history beginning with where the procedural history in our *July 2011 Order* ended.

 In our *July 2011 Order*, we concluded the above-captioned *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Universal Service Fund* (*RLEC Access Charge Investigation*) and the related complaint proceedings. The *July 2011 Order* addressed all of the issues exhaustively litigated in separate proceedings before Administrative Law Judges Susan D. Colwell and Kandace F. Melillo. In very general terms, in our *July 2011 Order*, we attempted to balance competing policy objectives, including promoting competition through fair intercarrier compensation policies, and ensuring the universal availability of telecommunications service through appropriate benchmarks for basic local exchange service. In balancing these competing objectives, we determined that the responsibility to support the public switched telephone network (PSTN) should be shared among all users of the network, including but not limited to basic local exchange customers. We established a benchmark of $23.00 for residential basic local service and a total monthly affordable bill of $32.00, to include basic local service plus all necessary taxes, fees and surcharges. We required incumbent rural local exchange carriers (RLECs) to reduce their intrastate access charges to their interstate levels in three steps, beginning in March 2012, while maintaining a carrier charge of $2.50. Finally, we determined to open a rulemaking to address potential changes to the Pennsylvania Universal Service Fund (PaUSF).

 As noted, on August 2, 2011, the PTA and CTL filed a Joint Petition for Limited Reconsideration and Stay of the *July 2011 Order*. On that same date, AT&T filed a Petition for Reconsideration and Clarification of the *July 2011 Order*. On August 11, 2011, we issued an Opinion and Order granting reconsideration of the *July 2011 Order* pending further review of the merits pursuant to Rule 1701 of the Pennsylvania Rules of Appellate Procedure, Pa. R.A.P. Rule 1701.

 On August 19, 2011, we issued a Secretarial Letter and proposed template depicting the manner and format of the revenue neutral rebalancing calculations to be performed and submitted by the RLECs, as provided by the *July 2011 Order*. Comments and Reply Comments regarding the proposed template have been filed by the PTA, CTL and AT&T. The filing of the *PTA/CTL Joint Petition* and the *AT&T Petition*, and the existence of credible indications that action by the FCC on long-awaited reforms in the federal Universal Service Fund and intercarrier compensation mechanisms was imminent, effectively halted further implementation of our *July 2011 Order*.

 Answers to the *PTA/CTL Joint Petition* were filed by the following Parties on the dates noted: (1) Verizon Pennsylvania Inc. (Verizon PA), Verizon North, Inc. (Verizon North) and MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (collectively Verizon) on August 10, 2011; (2) Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel Communications of the Mid-Atlantic, Inc. and NPCR, Inc. (collectively Sprint) on August 12, 2011; and (3) AT&T on August 12, 2011.

 Answers to the *AT&T Petition* were filed by the following Parties on the dates noted: (1) PTA/CTL on August 9, 2011; and (2) the Office of Small Business Advocate (OSBA) on August 12, 2011.

 The Office of Consumer Advocate (OCA) filed an Answer to both the *PTA/CTL Joint Petition* and the *AT&T Petition* on August 9, 2011. Comcast Phone of Pennsylvania, LLC d/b/a Comcast Digital Phone and Comcast Business Communications, LLC (collectively Comcast) filed an Answer to both the *PTA/CTL Joint Petition* and the *AT&T Petition* on August 10, 2011.

 For the reasons explained below, we shall reopen the record in these consolidated proceedings for the limited purpose of examining the effects on our *July 2011 Order* of the FCC’s *CAF Order*. Pending the filing of updated petitions and answers thereto pursuant to today’s Opinion and Order, we shall defer ruling on the *PTA/CTL Joint Petition* and the *AT&T Petition*.

**II. Discussion**

 The FCC’s November 18, 2011 *CAF Order* adopted a series of changes and reforms in the federal USF mechanism and in various parameters of intrastate and interstate intercarrier compensation.[[4]](#footnote-4) The *CAF Order* interacts with, and materially affects, rulings that this Commission already has rendered in certain adjudications and their subsequent implementation. Accordingly, we have determined to coordinate the progress and/or disposition of certain matters that are pending before the Commission with the FCC’s *CAF Order*.

 This Commission and many other parties that participated in the underlying federal proceeding have appealed the FCC’s *CAF Order* to the U.S. Courts of Appeal of appropriate jurisdiction.[[5]](#footnote-5) Such appeals are being consolidated for hearing before the U.S. Court of Appeals for the 10th Circuit in Denver, Colorado. Nevertheless, the FCC’s *CAF Order* has not been stayed, and its implementation triggers a series of compliance obligations and associated deadlines that involve both regulated telecommunications carriers and State utility commissions. For example, the Commission and its Staff already have been processing a series of intrastate tariff filings from incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) involving switched carrier access services for wholesale Voice over Internet Protocol (VoIP) traffic.[[6]](#footnote-6) These intrastate tariff filings were triggered by the FCC’s imposition of interstate switched carrier access rates on the wholesale VoIP traffic at issue.[[7]](#footnote-7) Therefore, it is imperative that this Commission take appropriate actions to synchronize and properly coordinate some of our own rulings with the intrastate implementation of the FCC’s *CAF Order*.

 The August 2, 2011 PTA/CTL Joint Petition requested relief that largely was premised on the then-ongoing developments in the underlying federal rulemaking proceeding that resulted in the adoption and issuance of the FCC’s *CAF Order*. The PTA/CTL invoked a proposal that had been put forward by certain members of the industry on or about July 29, 2011, for the FCC’s consideration titled the America’s Broadband Connectivity (ABC) Plan. The PTA/CTL Joint Petition argued that the potential adoption by the FCC of the ABC Plan would have had interlinked effects on the Commission’s *July 2011 Order* in the *RLEC Access Charge Investigation*.[[8]](#footnote-8) More presciently, the OCA argued that “[a]t a minimum, the Commission should reconsider the *July 18, 2011 Order* to determine what impact, if any, an FCC decision on the ABC Plan could have on the decisions of the Commission.”[[9]](#footnote-9) The OCA further argued that “[i]mplementing the *July 18, 2011 Order* without an understanding of the impact of the ABC Plan may harm consumers with cumulative effects of multiple, end user retail rate increases.”[[10]](#footnote-10)

 The November 18, 2011 release of the 751-page *CAF Order* puts this Commission, the interested parties, and Pennsylvania’s end-user consumers of telecommunications services well beyond the interim ABC Plan proposal to the FCC. Setting aside the issue of the numerous federal appeals of the *CAF Order* that currently are pending, including the Commission’s own, a review of the FCC’s *CAF Order* readily discloses that it has multiple and interlinked effects on a number of regulated telecommunications carriers operating in Pennsylvania and their respective end-user consumers. These multiple and interlinked effects have both legal and technical dimensions, and they impact past rulings of this Commission as well as its future regulatory oversight and enforcement responsibilities.

 In the area of intercarrier compensation reform, where the FCC has invoked direct and/or indirect federal preemption of this Commission’s jurisdiction, there is the transitional adoption of interstate switched carrier access rates for traffic termination, and the institution of the federal “Eligible Recovery” mechanism for the partial and transitional recovery of lost intrastate and interstate switched carrier access revenues.[[11]](#footnote-11) This federal “Eligible Recovery” mechanism implicates the federal Connect America Fund (CAF), the reformed high-cost portion of the federal USF, as well as the new federal Access Recovery Charge (ARC) that potentially will be imposed on end-users of wireline tele­communications services. Different transitional time frames and parameters for these intercarrier compensation mechanisms apply for distinct categories of ILECs that are regulated by both this Com­mission and the FCC.[[12]](#footnote-12) The FCC’s adoption of a Residential Rate Ceiling of $30 per month for basic wireline telephone service also affects potential transitional benefits from carrier participation in the federal “Eligible Recovery” mechanism.[[13]](#footnote-13) The FCC’s Residential Rate Ceiling is based on the state basic local residential service rate plus the federal subscriber line charge (SLC) and the ARC; the flat rate for residential local service, mandatory extended area service (EAS) charges, and state sub­scriber line charges; per-line state high cost and/or access replacement universal service contributions; state E911 charges; and state telecommunications relay service (TRS) charges.”[[14]](#footnote-14) In comparison, our *July 2011 Order* established a basic residential telephone rate benchmark of $23 per month for the rural ILECs.[[15]](#footnote-15) Our $23 benchmark is a “bare bones” rate and excludes the various E911, TRS, and the federal SLC-ARC elements that are included in the FCC’s Residential Rate Ceiling. Federal price cap carriers also may accrue FCC-mandated broadband deployment obligations if such carriers resort to transitional CAF funding under the federal Eligible Recovery mechanism for lost carrier access revenues.[[16]](#footnote-16)

 Despite its liberal use of federal preemption, the FCC’s *CAF Order* assigns to the States numerous and concrete tasks that are associated with the federal USF and intercarrier compensation reforms. For example, the *CAF Order* states the following in relation to the intercarrier compensation reforms:

In particular, state oversight of the transition process is necessary to ensure that carriers comply with the transition timing and intrastate access charge reductions outlined above. Under our framework, rates for intrastate access traffic will remain in intrastate tariffs. As a result, to ensure compliance with the framework and to ensure carriers are not taking actions that could enable a windfall and/or double recovery, state commissions should monitor compliance with our rate transition; review how carriers reduce rates to ensure consistency with the uniform framework; and guard against attempts to raise capped intercarrier compensation rates, as well as unanticipated types of gamesmanship. Consistent with states’ existing authority, therefore, states could require carriers to provide additional information and/or refile intrastate access tariffs that do not follow the framework or rules adopted in this Order. Moreover, state commissions will continue to review and approve interconnection agreements and associated reciprocal compensation rates to ensure that they are consistent with the new federal framework and transition. Thus, we will be working in partnership with states to monitor carriers’ compliance with our rules, thereby ensuring that consumers throughout the country will realize the tremendous benefits of ICC reform.

*CAF Order*, ¶ 813, at 277 (footnote omitted).

 Similar State oversight and accountability roles also are contemplated in the FCC’s reforms of the federal USF mechanism, the operation of the new CAF, and eligible telecommunications carrier (ETC) access to CAF funding. For example, the *CAF Order* states:

First, we require that states — and entities not falling within the states’ jurisdic­tion (i.e., federally-designated ETCs) — certify that all federal high-cost and CAF support was used in the preceding calendar year and will be used in the new calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, regardless of the rule under which the support is provided.

\* \* \*

Second, we maintain states’ ongoing role in annual [ETC] certifications. Several commenters take the position that responsibility for ensuring USF recipients comply with their public interest obligations should remain with the states. As discussed above, we agree that the states should play an integral role in assisting the Commission in monitoring compliance, consistent with an overarching uniform national framework. States will continue to certify to the Commission that support is used by state-designated ETCs for the intended purpose, which is modified to include the provision, maintenance, and upgrading of facilities capable of delivering voice and broadband services to homes, businesses and community anchor institutions.

*CAF Order*, ¶¶ 609-610, at 197 (footnotes omitted, emphasis in the original).

 It is beyond doubt that the FCC’s *CAF Order* creates a new set of circumstances both for regulated telecommunications carriers operating within Pennsylvania and their end-user consumers. The *CAF Order* impacts our *July 2011 Order* in certain and most likely material respects. Because this Commission needs to proceed with the implementation of the FCC’s *CAF Order* — federal appeals notwithstanding — we need further information concerning how the related FCC actions impact our *July 2011 Order*. In this manner, the Commission can reach an informed decision, after adequate notice and opportunity to the various interested parties to be heard, regarding the implementation of its *July 2011 Order* in whole or in part, and in coordination with the FCC’s directives.

 As previously noted, the PTA/CTL Joint Petition and the AT&T Petition are pending before the Commission. In order for the Commission to conclude its review of the pending Petitions, the record in this proceeding must be reopened for the receipt of additional information regarding the effects of the FCC’s recent *CAF Order* on our decision in the *RLEC Access Charge Investigation*. The Commission’s statutory authority permits us to reopen this proceeding for receipt of additional evidence so that we properly can rule on the petitions before us, and decide whether to amend our *July 2011 Order* or grant a stay of its directives in whole or in part. The Commission has the requisite statutory authority to rescind or modify its own Orders under Sections 501, 703(f) and 703(g) of the Code, 66 Pa. C.S. §§ 501, 703(f) and 703(g).

 The FCC’s *CAF Order* effects on this Commission’s jurisdiction over intrastate regulated telecommunications services and providers are such that they materially change both conditions of fact or of law that were relevant in reaching our decisions in our *July 2011 Order*. Thus, the Commission is obliged to timely examine the cross-effects of the FCC’s *CAF Order* on our *July 2011 Order* in the *RLEC Access Charge Investigation*, and the public interest requires the limited reopening of the proceeding and its evidentiary record. In addition, our *July 2011 Order* noted the following:

We are of the opinion that we can proceed independently from the eventual outcome of the FCC’s NPRM that is dealing with interstate intercarrier compensation and federal USF reforms. However, we reserve the right to initiate subsequest [*sic*] proceedings and issue appropriate Orders that will seek to coordinate the potential outcomes of the FCC’s initiatives with our decision today to the extent necessary, while also safeguarding the due process rights of all interested and participating parties.

*July 2011 Order* at 123.

 Accordingly, the record in the above-captioned proceeding should be reopened for the limited purpose of addressing the cross-effects of the FCC’s *CAF Order* on our *July 2011 Order*, and whether one or more aspects of our *July 2011 Order* should be permanently stayed. Procedurally, this will be accomplished by providing the affected Parties to this proceeding the opportunity to appropriately update their respective Joint Petition for Limited Reconsideration and Stay and/or Petition for Reconsideration and Clarification. Furthermore, because the FCC’s *CAF Order* may have different effects on individual PTA members, in order to safeguard applicable due process rights we will permit such PTA members either to continue participating in an updated PTA/CTL Joint Petition, or to file their own updated Petition. Both the updated petitions and the answers thereto should include appropriate verified statements with appropriate data and information addressing the cross-effects between the FCC’s *CAF Order* and this Commission’s *July 2011 Order*.

 The duly updated petitions and the accompanying verified statements should address at a minimum the following relevant issues:[[17]](#footnote-17)

1. Whether the substance and the time frame of the FCC’s intercarrier compensation reforms should totally or partially replace the Commission’s intrastate carrier access charge reform directives contained in our *July 2011 Order*.
2. Will there be cross-effects on various regulated telecommunications carriers with intrastate operations in Pennsylvania and their end-user consumers if the Commission proceeds with the implementation of its *July 2011 Order* while the FCC’s directives in the *CAF Order* also are coming into effect? The interested Parties should address at a minimum the following relevant areas, with appropriate technical evidentiary quantification to the extent possible:
3. Can or will the implementation of the *July 2011 Order* have cross-effects with the FCC’s mechanisms of Eligible Recovery and potentially available federal CAF support and over what time frame?
4. Can or will the implementation of the July 18, 2011 Order in conjunction with the FCC Order directives have potential cross-effects for end-user consumers of intrastate regulated retail telecommunications services and over what time frame?
5. Will the FCC’s adoption of a Residential Rate Ceiling for purposes of the federal Eligible Recovery mechanism and associated CAF support distributions have any cross-effects on the Commission’s findings regarding the adopted $23 per month benchmark rate in the *July 2011 Order*?
6. How will the Pennsylvania ILECs that have alternative regulation and network modernization plans (NMPs) in place under Chapter 30 of the Public Utility Code, 66 Pa. C.S. §§ 3011 *et seq.*, be affected by the implementation of the FCC’s intercarrier compensation reforms? Will they be able to seek intrastate rate relief of any type beyond the levels provided under the FCC’s Eligible Recovery mechanism and associated federal CAF support? Interested parties at a minimum should address the following areas:
7. The continuous applicability of the Commission’s directives that the mandated intrastate switched carrier access charge reform and the associated “revenue neutral rate rebalancing called for in this Opinion and Order does not implicate the RLECs’ various Chapter 30 exogenous event provisions.” *July 2011 Order*, at 141.[[18]](#footnote-18)
8. The legal and technical interaction between the FCC’s intercarrier compensation reforms, the “revenue neutrality” mandated for ILEC intrastate carrier access reforms under Section 3017(a) of Chapter 30, 66 Pa. C.S. § 3017(a), the rural ILEC Chapter 30 NMPs, and Section 3019(h) of Chapter 30, 66 Pa. C.S. § 3019(h).
9. Whether implementation of the contemplated federal ARC by any Pennsylvania Chapter 30 rural ILEC could lead to the permissible creation of revenues that would become part of the intrastate regulated services revenue pool that is utilized in the ILECs’ annual price stability mechanism and price cap formula submissions under Section 3015 of Chapter 30, 66 Pa. C.S. § 3015(a)(1)(iii).
10. The need, if any, of appropriate recordkeeping requirements for affected carriers in the event that the FCC’s *CAF Order* is overturned in whole or in part on appeal, and intrastate intercarrier compensation amounts that have been paid or received in the interim need to be adjusted in accordance with the relevant provisions of the Public Utility Code. *See generally* 66 Pa. C.S. § 1312.

 Interested parties have had adequate opportunity to examine the FCC’s *CAF Order* and compare it to our *July 2011 Order*. Therefore, it is appropriate that the updated petitions with appropriate verified statements should be submitted no later than twenty (20) days following the entry of this Opinion and Order, and that answers thereto with appropriate verified statements should be submitted ten (10) days thereafter.

**III. Conclusion**

For the reasons explained above, we shall reopen the record in these consolidated proceedings for the limited purpose of examining the effects of the FCC’s recent CAF Order on our *July 2011 Order*. Pending the filing of updated petitions and answers thereto pursuant to today’s Opinion and Order, we will defer ruling on the PTA/CTL Joint Petition and the AT&T Petition; **THEREFORE,**

 **IT IS ORDERED:**

 1. That the record in the above-captioned proceedings is reopened for the limited purpose of examining the cross-effects of the Federal Communication Commission’s recent decision in *In re Connect America Fund*, WC Docket No. 10-90 *et al.*, FCC 11-161 (November 18, 2011) on the Commission’s Opinion and Order entered on July 18, 2011, in these proceedings.

 2. That AT&T Communications of Pennsylvania LLC, TCG New Jersey, Inc., and TCG Pittsburgh, Inc. may file an updated Petition for Reconsideration and Clarification, accompanied by a verified statement and appropriate data, consistent with the requirements of this Opinion and Order, within twenty (20) days of the date of entry of this Opinion and Order.

 3. That the Pennsylvania Telephone Association and The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink may file an updated Joint Petition for Limited Reconsideration and Stay accompanied by a verified statement and appropriate data, consistent with the requirements of this Opinion and Order, within twenty (20) days of the date of entry of this Opinion and Order.

 4. That individual members of the Pennsylvania Telephone Association may elect to file individual petitions for reconsideration, clarification and/or stay in lieu of participating in a filing by the Pennsylvania Telephone Association and that such petitions should be accompanied by verified statements and appropriate data consistent with this Opinion and Order.

 5. That answers to updated petitions shall be filed within ten (10) days following the filing of an updated petition and that such answers shall be accompanied with appropriate verified statements and appropriate data consistent with this Opinion and Order.

 6. That a copy of this Opinion and Order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, all of those jurisdictional incumbent local exchange carriers listed in Annex B to the *July 18, 2011 Order*, and all other active Parties of Record.

 **BY THE COMMISSION,**

 Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: March 15, 2012

ORDER ENTERED: March 20, 2012

1. The PTA represents thirty rural incumbent local exchange carriers in this proceeding, including: Armstrong Telephone Co. – PA; Armstrong Telephone Co. – North; Bentleyville Telephone Co.; Buffalo Valley Telephone Co.; Citizens Telephone Co. of Kecksburg; Commonwealth Telephone Co. LLC d/b/a Frontier Communications Commonwealth Telephone Co.; Frontier Communications of Breezewood, LLC; Frontier Communications of Canton, LLC; Frontier Communications of Lakewood, LLC; Frontier Communications of Oswayo River, LLC; Frontier Communications of Pennsylvania, LLC; Conestoga Telephone & Telegraph Co.; Denver and Ephrata Telephone and Telegraph Co.; Hickory Telephone Co.; Ironton Telephone Co.; Lackawaxen Telecommunications Services; Laurel Highland Telephone Co.; TDS Telecom/Mahanoy & Mahantango Telephone Co.; Marianna and Scenery Hill Telephone Co.; The North-Eastern PA Telephone Co.; North Penn Telephone Co.; Consolidated Communications of PA Co.; Palmerton Telephone Co.; Pennsylvania Telephone Co.; Pymatuning Independent Telephone Co.; South Canaan Telephone Co.; TDS Telecom/Sugar Valley Telephone Co.; Venus Telephone Corp.; Windstream PA, LLC.; and Yukon-Waltz Telephone Co. [↑](#footnote-ref-1)
2. *In re Connect America Fund*, WC Docket No. 10-90 *et al.*, FCC 11-161 (November 18, 2011) (*CAF Order*). [↑](#footnote-ref-2)
3. See, Sections 501, 703(f) and 703(g) of the Public Utility Code (Code), 66 Pa. C.S. §§ 501, 703(f) and 703(g). [↑](#footnote-ref-3)
4. The FCC has issued additional reconsideration and clarification Orders in the same proceeding and the issuance of further such FCC rulings is anticipated. [↑](#footnote-ref-4)
5. *See generally, Pa. PUC v. FCC et al.*, No. 11-9585 (10th Cir. filed December 5, 2011). [↑](#footnote-ref-5)
6. *See generally,* Verizon Pennsylvania Inc., Revisions to Switched Access Service Tariff No. 302 (VoIP PSTN Intrastate Access Intercarrier Compensation), Docket No. R-2011-2276346 (Secretarial Letter issued January 31, 2012). [↑](#footnote-ref-6)
7. *See generally,* FCC *CAF Order*, Appendix A, Final Rules, 47 C.F.R. §§ 51.913(a) & 51.913(b), at 515-516. [↑](#footnote-ref-7)
8. PTA/CTL Joint Petition at 12-14. [↑](#footnote-ref-8)
9. OCA Answer to PTA/CTL Joint Petition at 10. [↑](#footnote-ref-9)
10. *Id.* at 11. [↑](#footnote-ref-10)
11. *CAF Order*, ¶¶ 850-853, at 294-298. [↑](#footnote-ref-11)
12. *CAF Order*, Fig. 9, at 271-272. The FCC distinguishes between federal price cap carriers and rate of return or ROR carriers. Verizon Pennsylvania Inc., Verizon North LLC, CenturyLink (ex-Embarq/United Tel. Co. of PA), Frontier Communications and its affiliated ILECs, and Windstream PA, LLC (ex-ALLTEL PA), are classified as federal price cap carriers by the FCC. Certain other rural ILECs operating in Pennsylvania are classified as federal ROR carriers. We note that Consolidated Communications Inc. and Windstream Corp. on behalf of certain of their respective Pennsylvania ILEC affiliates recently petitioned the FCC to change their classification to federal price cap carriers (Consolidated Communications of PA, Windstream D&E, Inc., Windstream Conestoga, Inc., Windstream Buffalo Valley, Inc.). *In re Joint Petition of Price Cap Holding Cos. for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief*, FCC WC Docket No. 12-63, filed March 1, 2012. [↑](#footnote-ref-12)
13. *CAF Order*, ¶ 852, at 296. [↑](#footnote-ref-13)
14. *CAF Order* at 296, fn. 1645. [↑](#footnote-ref-14)
15. *July 2011 Order* at 157-158. [↑](#footnote-ref-15)
16. *CAF Order*, ¶ 853, at 298. The FCC imposed retail broadband access deployment obligations associated with the utilization of CAF funding by federal price cap carriers are based on the 4 Mbps downstream and 1 Mbps upstream speed standard. *CAF Order*, Fig. 1, at 40. [↑](#footnote-ref-16)
17. To the extent that the submitted technical analyses contain data alleged to be proprietary, the interested Parties can proceed with the appropriate confidentiality designations in accordance with Commission rules and pre-existing Protective Orders in the proceeding below. [↑](#footnote-ref-17)
18. The Commission also noted that: “It is the revenue neutral nature of the rate changes contemplated by this decision that set this action apart from other regulatory action that could negatively impact RLEC revenue streams and thereby be subject to an exogenous event claim for recovery.” *July 2011 Order* at 141. [↑](#footnote-ref-18)