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April 11, 2012

Via Electronic Filing

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

Re: Implementation of the Federal Communications Commission's Order of November 18, 2011 As Amended or Revised and Coordination With Certain Intrastate Matters, Docket No. M-2012-2291824

Dear Secretary Chiavetta:

Please find enclosed AT&T's Comments In Response to the Commission's March 22, 2012 Order, which was filed electronically today in the above-referenced matter.

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

Very truly yours,

Michelle Painter

Michelle Painter

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of AT&T's Comments In Response to the Commission's March 22, 2012 Order 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 Fairfax, VA this 11th of April 2012.

VIA FIRST CLASS MAIL

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Michelle Painter

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Federal Communications Commission's Order of November 18, 2011 As Amended Or Revised And Coordination With Certain Intrastate Matters	:	Docket No. M-2012-2291824

AT&T's COMMENTS IN RESPONSE TO THE COMMISSION'S MARCH 22, 2012 ORDER

AT&T commends the Commission for taking the initiative, through both its March 22, 2012 Order and the April 3, 2012 Secretarial Letter, to ensure that carriers in Pennsylvania comply fully with the requirements of the Federal Communications Commission's November 18, 2011 Order ("*FCC Order*"). The Commission recognized in its March 22 Order the "critical importance" of the reductions in intrastate access rates that the *FCC Order* requires to take effect on July 1, and of the concomitant need for this Commission to engage in oversight and enforcement duties to implement those reforms. To that end, the Commission, in its March 22 Order, established an on-the-record collaborative for stakeholders in this process to address implementation issues. Through the April 3 Secretarial Letter, the Commission then took the following important steps:

- Required LECs to file tariff supplements no later than May 14, 2012 to revise rates in accordance with the FCC Order's requirements;
- Required LECs to file the supporting information that was used to calculate the rates set forth in those tariff supplements, and provide that information through a common template that is under development;

- Stated that LECs that fail to file the tariff supplements may be subject to civil penalties of up to $1000 per violation in accordance with 66 Pa. C.S. §3301(a) and (b); and
- Established a protective order to cover the submission of confidential data.

These steps provide an invaluable start in helping the Commission fulfill its "critical role" in the reform process established by the FCC.[1] At the same time, as the Commission itself acknowledges in both its March 22 Order and April 3 Secretarial Letter, there is additional work to be done to complete and refine the general oversight and enforcement structure that the Commission already has begun to put in place. Accordingly, before addressing the list of issues posed in the March 22 Order, AT&T offers the following recommendations to assist the Commission in evaluating the forthcoming tariff filings and securing complete compliance with the FCC's requirements.

A. Data Collection. The Commission acted with great foresight in requiring all LECs to provide the supporting information that will be used to calculate the rates set forth in their May 14 tariff supplements. The need for such information is compelling because, as the Commission noted in the April 3 Secretarial Letter, the reductions that the *FCC Order* requires to go into effect on July 1 do not simply involve a comparatively straightforward percentage reduction in each LEC's intrastate rates. Rather, the rules promulgated by the FCC establish a more involved process under which all LECs establish new rates to reflect a 50 percent reduction in the revenues generated by their interstate and intrastate rates at a specified demand level.[2]

[1] *See FCC Order* at ¶813.

[2] *See* 47 CFR §§ 51.907, 51.909, 51.911.

These calculations necessarily involve a set of variables, such as interstate and intrastate rate elements and rate structure, and FY 2011 usage levels. The rules vest the LECs with a certain degree of discretion in determining the final intrastate rates that will implement the required revenue reduction. How a carrier implements those calculations – and more to the point, whether it did so properly -- may not be readily apparent from the simple filing of a tariff, which might otherwise only show the final rates the carrier proposes to charge.

Without additional data, then, compliance cannot be confirmed from the tariff alone. The Commission properly anticipated that concern by requiring the LECs to complete an informational template that the Commission will issue in draft form this week. In anticipation of the promulgation of that draft, AT&T recommends that the final template require the submission of the following specific information:

1. Fiscal Year 2011[3] intrastate demand (volume) for intrastate access services (by rate element)
2. All intrastate access rates in effect as of December 29, 2011.
3. All interstate access rates in effect as of December 29, 2011.
4. If the carrier's intrastate rate structure and the interstate rate structure are not the same, a full explanation of how the LEC will map its Fiscal Year 2011 intrastate demand for intrastate access services into its interstate rate structure to determine the interstate revenues used in the FCC-mandated revenue reduction calculations.
5. A full description of the methodology the carrier used to establish revised intrastate rates to reflect the calculated revenue reduction.[4]

[3] 47 C.F.R. §51.903 – Definitions: (e) Fiscal Year 2011. Fiscal Year 2011 means October 1, 2010 through September 30, 2011.

[4] *See* 47 C.F.R. §§51.907(b)(2)(iv) and (v); 51.909(b)(2)(iv) and (v).

6. A full description of the rate structure option to be utilized as of July 1, 2012 (if the carrier in fact currently has different intrastate and interstate rates structures for carrier access charges).

The first three data points are self-explanatory, as they serve as the foundation for the revenue calculations the LECs are required to undertake. The remaining three points are also important, especially insofar as in many (if not most) cases carriers' interstate and intrastate rate structures and elements do not precisely align. Thus, the "mapping" required under point 4 would ensure, for example, that a LEC is not inappropriately assigning a disproportionate amount of intrastate usage to a high interstate rate element that in fact has little or no usage, or that the LEC is not "mapping" its intrastate demand into its interstate rates in a manner that fails to reflect how the LEC would have charged carriers had the usage, in fact, been interstate. Such practices, if left unchecked, could result in a higher interstate revenue figure, which in turn ultimately would result in a lower total revenue reduction when interstate revenues are subtracted from the intrastate revenues.

Similarly, point 5 would require the LEC to explain how it translated the properly calculated revenue difference into new intrastate rates. This information is necessary to again deter cosmetic rate reductions to intrastate rate elements that have little or no usage associated with them, while leaving the rate elements with higher demand relatively unchanged.

Finally, the information sought in point 6 reflects the choice a LEC with divergent interstate and intrastate rate structures is required to make with its July 1, 2012 rates. In the second phase of the FCC-ordered reforms, which will be effective July 1, 2013, carriers with different rate structures will be required to adopt a common structure based on its interstate configuration.[5] In this first set of reductions, however, a carrier may elect to establish rates using

[5] *See* 47 CFR §§ 51.907(c) and 51.909(c).

its intrastate access rate structure or it may elect to apply its interstate access rate structure and interstate rates.[6] In that latter case the carrier will be entitled to assess a transitional per-minute charge based on end office switching minutes. The Commission thus should require the LECs to specify the election they are making under these provisions, and, if a carrier elects to apply its interstate rate structures and rates, demonstrate how the transitional charge was calculated and applied.[7]

B. Bifurcation of the Carrier Charge. In addition to the data requests listed above, the Commission should require carriers to provide information regarding a unique Pennsylvania intrastate access rate element – the Carrier Charge ("CC"). As the Commission is aware, most (but not all) Pennsylvania ILECs assess the CC, which is a per-line charge that is recovered from toll carriers based on their proportional share of total terminating and originating minutes of use. In its current form, then, the CC encompasses both terminating and originating access traffic. The July 1, 2012 reductions required under the *FCC Order* involve intrastate terminating rates, and still other provisions of that Order bear on originating rates. Thus, in order to comply with the *FCC Order,* carriers will need to bifurcate the CC into its proper originating and terminating access components, and apply the provisions of the *Order* accordingly. To ensure this is done properly -- and specifically to determine the exact percentage that is attributed to originating access versus terminating access for the CC -- each carrier that currently charges a CC should be required, as part of its May 14 data submission, to provide the data and back up calculations

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[6] *See* 47 CFR §51.907(b)(2) (iv) &(v) for price cap carriers ; 47 CFR §51.909(b)(2)(iv) & (v) for rate- of-return carriers ; and 47 §51.911(b)(4) &(5) for CLECs.

[7] The new FCC rules in fact require carriers electing to establish new intrastate rates in this manner to "notify the appropriate state regulatory authority of their election" in the new tariff filings. 47 CFR §51.907(b)(2)(v); 47 CFR §51.909(b)(2)(v).

demonstrating how it has historically billed the industry CC between originating versus terminating access, and submit proposed originating and terminating CC rates based on that data.

C. Enforcement Provisions. The April 3 Secretarial Letter puts carriers on notice that their failure to file the tariff supplements could subject them to civil penalties under Pennsylvania law. Although that warning hopefully will serve as a deterrent against noncompliance, the fact remains that the imposition of any such penalties would require additional contested proceedings before the Commission and, assuming a carrier was ultimately found liable, likely would not take effect for many months after the new rates were supposed to go into effect. Thus, to reinforce the deterrent effect of these prospective penalties AT&T recommends that the Commission also adopt a self-effecting remedy for a carrier's noncompliance.

Specifically, to encourage all carriers to file this information, and to ensure the July 1 access reductions are implemented as the *FCC Order* intends, the Commission should declare a presumption that any carrier failing to file the data ordered by the Commission has failed to properly reform their intrastate access rates in accordance with the *FCC's Order*. As a result, all such carriers' intrastate access tariffs would be considered null and void as of July 1, 2012, pending a full investigation of the rates and supporting data. This approach was recently adopted by the Maryland Public Service Commission, which stated "[if] appropriate tariffs, consistent with federal and state law are not filed as required. . . carriers will be unable to lawfully charge for intrastate access traffic until such time as the PSC accepts for filing appropriate tariff revisions."[8] Similarly, the Public Utilities Commission of Ohio ordered that local exchange companies who fail to file the requisite information on a timely basis would have their relevant

[8] Notice of Required Tariff Filings, Md.P.S.C., March 29, 2012, at 1. This Notice is provided as Attachment A.

tariffs deemed "unjust and unreasonable as of July 1, 2012", and would be prohibited from charging for intrastate intercarrier traffic compensation until they have Commission-approved tariffs.[9] Adoption of this same approach in Pennsylvania will provide an even stronger incentive for all LECs to make all filings on time and in full compliance with the *FCC Order*.

Responses to Commission Questions

1. **The appropriate legal boundaries of the Commission's authority and jurisdiction to exercise appropriate oversight and enforcement while implementing the FCC's directives including but not limited to:**

   a. **Requiring the timely submission of the proposed tariffs and supporting data demonstrating that the FCC-mandated intercarrier compensation reforms comply with the FCC's directives and do not lead to a potential "windfall and/or double recovery" if and when a carrier also utilizes the federal Eligible Recovery mechanism inclusive of the ARC and CAF support.**

Response: The Commission clearly has authority to enforce state requirements regarding the new intrastate tariff supplements, and to require carriers to submit data showing how the carriers developed the new rates set forth in those tariffs. Indeed, the *FCC Order* explicitly looks to the states to engage in this data collection role. At the same time, the Order does not give the state commissions a role in evaluating, much less approving, a carrier's decision to adopt an ARC or to set it at a particular level.

The *FCC Order* relies upon existing intrastate tariffing regimes as the means of implementing its required rate reductions: "Under our framework, rates for intrastate access

[9] *In the Matter of the Commission's Investigation into Intrastate Carrier Access Reform Pursuant to Sub. S.B. 162*, Case No. 10-2387-TP-COI, Entry, P.U.C.O. Feb. 29, 2012, at 3. This order is provided as Attachment B.

traffic will remain in intrastate tariffs."[10] And it specifically relies on the state commissions to monitor the implementation of the intrastate access rate reductions. The FCC emphasized that "state oversight of the transition process is necessary to ensure that carriers comply with the transition timing and intrastate access charge reductions" required in the Order. Because rates for intrastate access traffic will remain in intrastate tariffs, the state commissions' responsibility is to "monitor compliance with [the] 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."[11] In this regard, the state commissions should make sure that "carriers are not taking actions that could enable a windfall and/or double recovery."[12]

Consistent with the role it assigns to state commissions to develop data and monitor implementation of the intrastate access rate reductions, the FCC Order also provides for a state commission to collect and evaluate data from carriers concerning the calculation of their "Eligible Recovery," which is the term the Order gives to that portion of the intrastate access reductions ILECs will be able to recover by way of the new federal mechanisms. Specifically, the FCC Order requires the submission of certain data to the states to help states "with authority over intrastate access charges . . . monitor implementation of the recovery mechanism and compliance with our rules, and help guard against cost-shifting or double dipping by carriers."[13] For example, Price Cap carriers are required to submit "data regarding all FY 2011 switched

[10] *FCC Order* ¶813.

[11] *Id.*

[12] *Id.*

[13] *FCC Order* ¶ 880.

access MOU and rates, broken down into categories and subcategories corresponding to the relevant categories of rates being reduced."[14] Rate of Return carriers are required to provide similar (and perhaps even more detailed data) to establish their baseline for recovery.[15]

But this state-specific data collection and monitoring role, albeit important in its own right as a check on a carrier's ability to over-recover its required access reductions, is as far as the *FCC Order* goes in providing a role for the state commissions relative to the federal recovery mechanisms. More to the point, the *Order* does not give the state commissions any direct authority over the calculation and assessment of the ARC. To the contrary, the *FCC Order* makes it clear that evaluation of the ARC is within the jurisdiction of the FCC, not the states: "[T]he new ARC will be . . . separately tariffed and reported *to the Commission* to enable monitoring to ensure carriers are not assessing ARCs in excess of their Eligible Recovery."[16] This is reinforced by the provisions of the FCC Order concerning monitoring of the recovery mechanism. Those provisions require all incumbent LECs that participate in that mechanism – including those that charge any end user an ARC -- to file annually specific data, aggregated on a holding company basis, ***with the FCC.***[17] As the *Order* explains, these filings will permit the FCC to monitor compliance with its requirements, including "ensur[ing] that carriers are not charging ARCs that exceed their Eligible Recovery and that ARCs are reduced as Eligible Recovery decreases."[18]

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[14] *Id.*

[15] *FCC Order* ¶898

[16] *FCC Order* ¶912.

[17] *FCC Order* ¶¶921-923.

[18] *FCC Order* ¶922. This distinction in the FCC and state commission roles is noted even in the paragraph of the Order emphasizing the state's oversight role, as a footnote to that same provision

Limiting the state commissions' role vis-à-vis the ARC is consistent with the flexibility the FCC granted to carriers in developing and implementing it. The *FCC Order* contemplates that, subject to certain limitations,[19] carriers will be able to exercise their own business judgment in determining whether and how to assess the ARC. Indeed, the *FCC Order* makes clear that carriers have the discretion, "based on competitive constraints or other considerations," to decide not to assess the full ARC in a particular state, or even to choose not to charge an ARC at all.[20] This business judgment also extends to the ability of a carrier to determine *at the holding company level* how it wants to use the ARC to allocate Eligible Recovery among that company's affiliated ILECs.[21] The FCC saw this mechanism not only as an important means of spreading the recovery among a broader set of customers, but as enabling carriers to more fully recover their Eligible Recovery from end users with rates below the $30 Residential Rate Ceiling, thus limiting the potential impact on the CAF.[22]

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references the requirement for carriers "to file with their interstate tariffs all data, including as relevant intrastate rates and MOU, necessary to verify eligibility for ARC replacement funding." *FCC Order* ¶813 and n. 1530.

[19] These limitations include restrictions associated with the type of customers (there are different levels of permissible initial ARCs rates and annual increases for residential and single-line business customers versus multi-line business) and with whether the customer is on Lifeline service (no ARCs are permissible). *See FCC Order* ¶908-09. Any carrier that elects not to receive support from the CAF also is required to allocate its Eligible Recovery by the proportion of the carrier's mix of residential and business lines, thus limiting the ability to target ARC recovery to residential and single line business customers to the exclusion of multi-line business customers. *FCC Order* ¶911. A carrier's ability to assess an ARC on customers in a particular state also is limited by the effect of the $30 monthly Residential Rate Ceiling adopted in the FCC Order. *FCC Order* ¶913.

[20] *FCC Order* ¶908 and n. 1781.

[21] *FCC Order* ¶910. As noted earlier, the FCC found that this could result in holding companies "allocat[ing] ARC amounts to markets where their incumbent LECs face less competitive pressure . . . ." *FCC Order* n. 1791.

[22] The FCC in fact noted that this could result in holding companies "allocat[ing] ARC amounts to markets where their incumbent LECs face less competitive pressure . . . ." *FCC Order* ¶910 and n. 1791.

In summary, there is no question regarding the Commission's authority to monitor the compliance of the companies subject to its jurisdiction with the rate reduction requirements of the *FCC Order*, or of exercising the data collection roles that the *Order* spells out for the state with regard to those reductions and the calculation of a carrier's Eligible Recovery. At the same time, insofar as the question by the Commission contemplates a role in evaluation and approving a carrier's decisions concerning the use of the federal recovery mechanisms, and in particular whether to assess an ARC and in what amount, the *FCC Order* makes clear that there is no such role for this or any other state commission. That is instead a task that the FCC reserved to itself.

b. Requiring the timely submission of the necessary assurances, jurisdictional allocations and accompanying data by incumbent local exchange carriers (ILECs) that are subsidiaries or affiliates of holding companies demonstrating that the federal Eligible Recovery amounts at issue arising from their interstate and intrastate carrier access services are properly allocated or otherwise attributed to their Pennsylvania operations and do not include any cross-jurisdictional amounts.

Response: The regulatory authority of this Commission "extends only to utilities covered by the public utility code and to subjects covered by that law."[23] Indeed, the provision of Pennsylvania law imposing a duty to furnish information to the Commission applies by its terms only to a "public utility."[24]

Given that statutory framework, the Commission unquestionably has authority to require carriers that are certificated as public utilities to provide information supporting their tariff filings implementing the *FCC Order*. In the same vein, and as is specifically envisioned by the

[23] *Springdale Township v. Allegheny County Bd. Of Property Assessment,* 467 A.2d 74, 78, 78 Pa. Cmwlth. 100, 106-07 (1983).

[24] 66 Pa.C.S. §505.

FCC Order, the Commission has authority to obtain the calculations from those public utilities establishing their "Eligible Recovery." However, the Commission does not appear to possess any authority to require carriers to provide information concerning entities that are not subject to its regulatory jurisdiction. To the contrary, as noted in response to 1(a) above, the *FCC Order* requires holding companies to submit data concerning the ARC to the FCC, not the states.[25] Thus, to the extent the question contemplates requiring carriers to produce data from their respective holding company level, or from other states, or from any other entity that is not a "public utility" under Pennsylvania law, the Commission lacks any clear authority under either state law or the *FCC Order* for such an effort.

c. Monitoring any broadband deployment requirements under the *FCC Order* standards where the relevant obligation may have been triggered by a federal price cap utilization of federal Eligible Recovery and CAF intercarrier compensation support.

Response: The FCC Order requires recipients of support from the Connect America Fund (CAF) to test their broadband networks for compliance with the specified speed and latency requirements in that Order and to report the results annually to the Universal Service Administrative Company ("USAC").[26] In addition, the Order looks to the states to assist the FCC in monitoring and compliance and therefore require[s] funding recipients to send a copy of their annual broadband performance report to the relevant state of Tribal government."[27]

[25] *FCC Order* ¶¶921-923.

[26] *FCC Order* ¶109.

[27] *Id.*

2. **Appropriate and demonstrative methods and quantitative examples of the following:**

   a. **How carriers will determine the federal Eligible Recovery amounts inclusive of the ARC and CAF support. This information should be provided in a disaggregated fashion for the relevant components (ARC versus CAF support), and for the applicable time frames when such support components will be recovered or otherwise utilized. This information also should be provided based on the appropriate ILEC classifications, e.g., federal price cap and rate-of-return (ROR) ILECs, while also taking into account the existing ILEC basic residential local exchange service rates vis-à-vis the FCC's Residential Rate Ceiling.**

   b. **How, within specific and applicable time frames, carriers will properly document and verify the reconciliation between the access reforms contemplated in the *FCC Order* and the utilization of the federal Eligible Recovery mechanism inclusive of the ARC and CAF support. This information also should be provided based on the appropriate ILEC classifications, e.g., federal price cap and ROR ILECs, while also taking into account the existing ILEC basic residential local exchange service rates vis-à-vis the FCC's Residential Rate Ceiling.**

Response: As a CLEC in Pennsylvania, AT&T is not entitled to look to the federal recovery mechanism, but instead must rely on its end user rates.[28] But it is important to again emphasize the distinct roles the Commission has with respect to the federal recovery mechanism. As noted in response to Question 1 above, the Commission has been assigned a role in the *FCC Order* to collect data pertinent to a carrier's calculation of its Eligible Recovery. In contrast, the state commissions have not been assigned any role in evaluating whether a carrier uses an ARC to recover that sum, or in what amount, or in what jurisdiction. Specifically, the ARC is subject

[28] *FCC Order* ¶¶ 850, 864-66.

only to FCC review, and the data concerning that charge is only required to be submitted to the FCC.[29]

3. The potential modifications that will be required in existing interconnection agreements in order to timely effectuate the FCC's directives on intercarrier compensation where such interconnection agreements also involve wireline and wireless carriers.[30]

Response: The FCC made clear that the reforms it prescribed in its Order "constitute a change in law. . . ."[31] At the same time, the FCC did not require a "fresh look" at the terms of existing interconnection agreements, but rather recognized that implementation of the reforms in ICAs would depend on the change of law and dispute provisions in such agreements.[32] Accordingly, the Commission should look to the parties to existing ICAs to avail themselves of any change of law or renegotiation provisions in those agreements.

4. Whether individual federal price cap ILECs operating in Pennsylvania will be utilizing Eligible Recovery and CAF intercarrier compensation support with the concurrent accrual of broadband deployment obligations under the *FCC Order* standards.

Response: This question is not applicable to AT&T's operations in Pennsylvania. AT&T would note that the reporting requirements applicable to price cap carriers that are eligible and elect to receive CAF intercarrier compensation support are set forth in 47 CFR §54.304(c).

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[29] 47 CFR §51.919. See also *FCC Order* ¶813 and n. 1530.

[30] FCC Order on Reconsideration, WC Docket No. 10-90 *et al.*, December 23, 2011

[31] *FCC Order* ¶815.

[32] *Id.*

5. The use of properly designed informal dispute resolution processes with or without the involvement of Commission Staff for addressing such areas as:

a. The verification of intrastate intercarrier compensation rates and amounts.

b. **Intercarrier compensation disputes that may arise within or outside the context of interconnection agreements and where such disputes may involve both direct and indirect interconnection.**

AT&T supports the use of informal dispute resolution processes as a means of verifying a carrier's calculations of the revenue and rate reductions required by the FCC Order, and for addressing other issues that may be associated with the required filings. This is subject to the understanding that the parties' voluntary decision to engage in such informal processes would not operate to waive the right of any party to seek redress through formal complaint procedures available under the Commission's rules. To facilitate such informal procedures, the Commission should clarify that the forthcoming protective order will permit all interested stakeholders that execute the appropriate confidentiality agreement will have access to the completed data templates that the carriers are required to submit on May 14, and that carriers will in fact provide electronic copies of the tariff supplements and supporting templates to such stakeholders. Obviously, the need for any dispute process should be minimized by adoption of the self-effecting enforcement mechanism that the Maryland and Ohio Commission's have implemented.

With respect to disputes that may arise in the context of interconnection agreements, the parties should be required to avail themselves of the dispute resolution provisions in those agreements.

Respectfully submitted,

By: 

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Counsel for AT&T

DATED: April 11, 2012

ATTACHMENT A

STATE OF MARYLAND

PUBLIC SERVICE COMMISSION

March 29, 2012

NOTICE OF REQUIRED TARIFF FILINGS

To: All Maryland Regulated Facilities-Based Local Exchange Carriers

By Federal Communications Commission ("FCC") Order # FCC 11-161, dated December 29, 2011, the FCC established a framework to migrate tariff charges for switched access to a bill-and-keep régime over several years. As part of the phase-in, carriers are required to reduce certain intrastate switched access rates to half the difference between their intrastate and interstate switched access rates. In the Order, the FCC determined that state tariff filings are an appropriate method to bring charges into compliance with the Order.

Pursuant to 47 C.F.R. §51.907 and §51.911 as revised in the FCC's Order, the first reduction in access rates must occur by July 1, 2012. In order to ensure that tariff filings can be accepted on time, the Commission is requiring facilities based local exchange carriers to file no later than May 1 2012, tariff revisions that are consistent with the FCC Order and with a proposed effective date of July 1, 2012.

Through the same Order, the FCC also determined that all IP related traffic, intrastate or otherwise, would be henceforth charged at interstate rates, and that such rates should be implemented through intrastate tariff filings. While the FCC established December 29, 2011 as the effective date of these new rates, the FCC did not establish a date by which all intrastate tariff filings should be updated.

In order to ensure compliance with the FCC Order, the PSC is requiring that carriers file revisions to intrastate tariffs reflecting implementation of the IP traffic provisions by July 1, 2012.

Failure to comply with this mandate will result in your company being out of compliance with both the FCC Order and applicable provisions of the Maryland Annotated Code, Public Utilities Article. If appropriate tariffs, consistent with federal and state law are not filed as set forth in this letter, carriers will be unable to lawfully charge for intrastate access traffic until such time as the PSC accepts for filing appropriate tariff revisions.

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410-767-8000 • Toll Free: 1-800-492-0474 • FAX: 410-333-6495
MDRS: 1-800-735-2258 (TTY/Voice) • Website: www.psc.state.md.us

If you have any questions about these requirements, please contact Juan Alvarado at (410) 767-8044 or Carlos Candelario at (410) 767-8053.

Tariff filings should be addressed to David J. Collins, Executive Secretary, Maryland Public Service Commission, William Donald Schaefer Tower, 6 St. Paul Street, 16th Floor, Baltimore, Maryland 21202.

By Direction of the Commission,

/s/ David J. Collins

David J. Collins
Executive Secretary

ATTACHMENT B

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation into Intrastate Carrier Access Reform Pursuant to Sub. S.B. 162.	))))	Case No. 10-2387-TP-COI

ENTRY

The Commission finds:

(1) On June 13, 2010, the governor of the state of Ohio signed into law Substitute Senate Bill 162 (Sub. S.B. 162), which revises state law as it pertains to the provision of telecommunications services. Among other things, Sub. S.B. 162 provides that the Commission may order changes in a telephone company's rates for carrier access within Ohio. The effective date of Sub. S.B. 162 was September 13, 2010.

(2) By Entry of November 3, 2010, (November 3 Entry) the Commission initiated this docket for the purpose of opening a generic investigation into intrastate carrier access reform as authorized by Sub. S.B. 162.

In its November 3 Entry, the Commission described that carrier access charges are charges assessed by local exchange carriers to providers of telephone toll service for access to the local telephone network and are intended to recover a portion of the cost of the local telephone facilities. Additionally, the Commission recognized that carrier access charges comprise a significant portion of the revenue received by small incumbent local exchange carriers (ILECs), as well as three mid-sized ILECs: Windstream Ohio, Inc. and Windstream Western, Inc. (collectively, Windstream) and CenturyTel of Ohio, Inc. dba CenturyLink (CenturyLink). The Commission explained how it has received complaints, both formal and informal, from providers of telephone toll service that the carrier access rates that they were being assessed are excessive. The Commission noted that during this time frame, the ILECs listed above have also experienced a precipitous decline in access minutes of use for which they assess carrier access charges, thus eroding a significant pillar of their financial support.

(3) The November 3 Entry set forth a Commission staff proposal (Staff Proposal) regarding an access restructuring plan and a series of

questions pertaining to the proposed plan that would reduce certain ILEC (i.e., small ILECs, Windstream, and CenturyLink) access charges and allow those ILECs to recoup the revenues lost from the access reductions through an intrastate Access Recovery Fund.[1] Additionally, the Staff drafted two data requests (attached as Appendices C and D, Entry of November 3, 2010), that it proposed be issued. The Commission invited all stakeholders and other interested parties to provide responses to the questions posed in Appendix B and to provide any additional comments regarding the proposed plan and proposed data requests.

(4) On November 18, 2011, the Federal Communications Commission (FCC) released its Report and Order and Further Notice of Proposed Rulemaking (Report and Order) in WC Docket No. 07-135 et al., *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers.* In its Report and Order, the FCC adopted a transitional intercarrier compensation restructuring framework for both intrastate and interstate telecommunications traffic exchanged with a local exchange carrier, which will ultimately result in bill and keep.

During the first phase of the its intercarrier compensation restructuring, the FCC directed that for price cap carriers, rate-of-return carriers, and certain competitive local exchange carriers (CLECs) (i.e., those that benchmark rates to price cap or rate-of-return carriers) with intrastate terminating switched end office and transport rates, originating and dedicated transport rates, and reciprocal compensation rates that are above the carrier's interstate access rates, the respective intrastate rates must be reduced by 50 percent of the differential between the rate and carrier's interstate access rates by July 1, 2012.

(5) In order to allow for the timely review and implementation of the requisite reductions, the Commission directs all affected ILECs to file, in this docket, the appropriate application on or before March 21, 2012, and all affected CLECs to file the appropriate application on or before April 4, 2012. The applications should satisfy the criteria set forth in 47 C.F.R. 51.907, 51.909 and 51.911 for price cap and rate-of-return ILECs and CLECs, respectively. All

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1 Pursuant to the June 28, 2001, Opinion and Order, Case No. 00-127-TP-COI, *In the Matter of the Commission's Investigation into the Modification of Intrastate Access Charges,* AT&T Ohio, Cincinnati Bell, Verizon North (nka Frontier North), and Embarq (nka CenturyLink) were ordered to reduce intrastate access rates to parity with their interstate access rates.

applications shall include supporting calculations for the proposed transitional intrastate access rates. The current intrastate access rates will remain in effect through June 30, 2012. Unless suspended by the Commission, the new intercarrier compensation rates shall be automatically effective beginning on July 1, 2012, subject to a true-up to the extent that the Commission subsequently determines that the submitted rates require modification. Applications suspended by the Commission will be subject to a true-up as of July 1, 2012, once approved. For those local exchange companies that fail to file the requisite application on a timely basis, the applicable effective intercarrier compensation rates will be deemed as unjust and unreasonable as of July 1, 2012, and such carriers will be prohibited from charging for intrastate intercarrier traffic until they have Commission approved tariffs.

(6) To the extent that an ILEC or CLEC seeks confidential treatment of portions of the information supporting its application, the appropriate motion should be filed pursuant to Rule 4901-1-24, Ohio Administrative Code. Interested entities should enter into the necessary protective agreements to the extent that there is interest in reviewing information that has been designated as being confidential.

It is, therefore,

ORDERED, That each affected ILEC and CLEC should file an application to amend its tariff in accordance with Finding (5). It is, further,

ORDERED, That the tariff amendment applications shall be effective in accordance with Finding (5). It is, further,

ORDRED, That, in accordance with Finding (5), those ILECs and CLECs that fail to file the requisite application to amend their intercarrier compensation rates will be prohibited from charging for intrastate intercarrier traffic effective July 1, 2012. It is, further,

ORDERED, That a copy of this entry be served via the Commission's telephone industry electronic mail listserve, upon all ILECs, all competitive local exchange carriers, all providers of telephone toll service, all wireless service providers registered with the Commission, the office of the Ohio Consumers' Counsel, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Paul A. Centolella

Steven D. Lesser

Andre T. Porter

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Barcy F. McNeal
Secretary