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October 23, 2013

Via E-filing

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

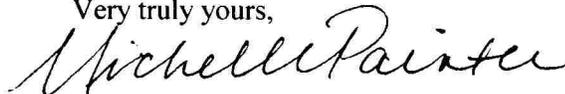
Re: AT&T Communications of Pennsylvania, LLC. v. Verizon North LLC and
Verizon Pennsylvania Inc., Docket No. C-20027195

Dear Secretary Chiavetta:

Please find enclosed an original and three (3) copies of the Comments of AT&T In Response to Secretarial Letter of October 23, 2013 for filing in the above-referenced matter.

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

Very truly yours,



Michelle Painter

cc: Certificate of Service
ALJ Cynthia Fordham

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a true copy of AT&T's Comments in Response to Secretarial Letter of October 3, 2013 to be served upon the parties of record in Docket No. C-20027195 in accordance with the requirements of 52 Pa. Code Sections 1.54 and 1.55 in the manner and upon the parties listed below.

Dated at Fairfax, VA this 23rd day of October, 2013.

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Michelle Painter

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF AT&T IN RESPONSE
TO SECRETARIAL LETTER OF OCTOBER 3, 2013**

In its October 3, 2013 Secretarial Letter, the Commission requests comments on how this case should proceed in light of the FCC's *USF/ICC Transformation Order*.¹ While the Commission is correct that Verizon's terminating intrastate access rates have been reduced to parity with interstate rates as a result of the FCC's Order, full reform of Verizon's intrastate access rates is a decade overdue and still needs to take place. Specifically, the Commission needs to take the next step by reducing Verizon's originating intrastate access rates to parity with interstate rates.

Because of the FCC's Order, the bulk of the work in reducing Verizon's intrastate access rates has already been completed. However, originating intrastate access rates remain overly

¹ *In re Connect America Fund, et al.*, WC Docket No. 10-90 *et al.* (FCC, Rel. Nov. 18, 2011), Report and Order and Further Notice of Proposed Rulemaking, *slip op.* FCC 11-61, 26 FCC Red 17663 (2011), and subsequent Reconsideration and Clarification rulings (collectively *USF/ICC Transformation Order*), *appeals pending*.

inflated, and well above the interstate rates. Verizon's intrastate originating rate remains twice as high as its interstate rate – Verizon's intrastate rate is approximately 1.6 cents per minute, while its interstate rate is .8 cents per minute. In the meantime, the FCC gave states discretion to oversee originating access reform. This Commission has been promising for over fourteen years that it would eliminate the subsidies in all access rates, and there is no better time than now to finally fulfill that promise. The good news is that accomplishing complete parity in Verizon's intrastate access rates is now a simple process that will lead to minimal increases in Verizon's local service rates – AT&T estimates that reforming Verizon's originating access rates on a revenue neutral basis will impact Verizon's local rates by approximately a dime per line per month. There is no reason for further delay, and the Commission should finalize this case by bringing Verizon's originating intrastate access rates to parity with Verizon's interstate rates.

**COMPLETE ACCESS REFORM FOR VERIZON HAS BEEN LONG DELAYED
IN PENNSYLVANIA**

This case has been open for nearly twelve years. 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).² 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.³ But there was no meaningful reduction in the intrastate rates for Verizon PA, the largest Pennsylvania ILEC, whose intrastate rates were simply restructured. 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

² Opinion & Order entered May 11, 2010, at p. 3.

³ July 28, 2004 Opinion and Order.

“the removal of all implicit subsidies from access charges” and “the reduction and possible elimination of the Carrier Charge.”⁴ 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 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.”⁵

After testimony and briefs were filed in Phase II, ALJ Fordham issued the 68-page *2005 Verizon Access Reform RD* on December 7, 2005. “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.”⁶ The ALJ stated that “[t]he first step is to remove the carrier charge.”⁷ 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.”⁸ Thus, “the carrier charge is no longer a valid way to address” loop costs.⁹ The ALJ also recommended that Verizon reduce its remaining intrastate charges “to interstate charge levels.”¹⁰ 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.¹¹ Had the Commission adopted this recommendation, Verizon’s rates would have been at parity by no later than 2008.

⁴ July 28, 2004 Order, at p. 17.

⁵ Id. at p. 20.

⁶ ALJ Recommended Decision of December 7, 2005 at p. 65.

⁷ Id.

⁸ Id. at p. 63.

⁹ Id.

¹⁰ Id. at p. 66.

¹¹ Id. at pp. 68-69, ¶¶ 3-6.

It is now the end of 2013, and the Commission has yet to act on ALJ Fordham's 2005 recommendations for reforming Verizon's intrastate access rates. Instead, the Commission repeatedly stayed this proceeding to wait for the FCC.¹² All the while, though, the Commission continued to remind Verizon 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."¹³ In April 2008, this Commission acknowledged that keeping intrastate access rates above interstate levels presents opportunities for gaming and arbitrage,¹⁴ 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."¹⁵ In May 2010, the Commission re-started this case "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*."¹⁶ Phase III of this case was then litigated throughout early-mid 2011. Briefs were filed in August and September 2011. Since then, this case has sat idle.

THERE IS NO REASON TO DELAY COMPLETING ACCESS REFORM

The Commission recognized the benefits of parity, and announced parity as its goal, in its landmark 1999 *Global Order*.¹⁷ Under the FCC's directive, all terminating access charges were

¹² Opinion & Order entered May 11, 2010, at pp. 1-2.

¹³ 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.

¹⁴ April 24, 2008 Order in Docket I-00040105 at p. 20.

¹⁵ Id. at p. 26.

¹⁶ Opinion & Order entered May 11, 2010, at pp. 18-19.

¹⁷ *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (Sept. 30, 1999)(*"Global Order"*) at p. 48.

reduced to parity by July 1, 2013.¹⁸ However, the FCC did not require originating access rates to be reduced, but has given states discretion to oversee originating reform.

Because of the FCC's actions, the process of implementing parity is even simpler than it was when this case was previously litigated. The FCC has taken responsibility for reforming intrastate charges for terminating access, and it has also taken care of addressing the reductions to those terminating access charges through a new recovery mechanism that includes (i) a new federal charge called the "Access Recovery Charge" or "ARC" and (ii) a new federal cost-support fund called the "Connect America Fund" or "CAF."¹⁹ The FCC's express purposes were to "free states from potentially significant financial burdens" and to protect consumers in "early adopter" states from large federally-driven rate increases.²⁰

Given the FCC's action to reform terminating access charges, this Commission can accordingly focus on completing the reform of originating access. In fact, the FCC has expressly permitted the states to begin the process of reforming originating access charges.²¹ And because the FCC has taken terminating access reductions and the associated recovery off this Commission's plate, the Commission can order originating access reductions now, with less of an impact on retail rates. In fact, AT&T estimates that reducing Verizon's intrastate access rates to parity with interstate rates will result in a local rate increase of approximately a dime per line per month. Given the multiple benefits to bringing intrastate access rates to parity with interstate rates, such a minimal increase to local rates can no longer be a deterrent to achieving long overdue complete access reform in Pennsylvania. The Commission's chance here is, in short, a golden opportunity to help Pennsylvania consumers, one that the Commission should not waste.

¹⁸ *USF/ICC Transformation Order*, ¶ 801.

¹⁹ *Id.* ¶¶ 849-853.

²⁰ *Id.* ¶ 795.

²¹ *Id.* ¶ 816 n.1542.

The Commission should also move forward with originating access reform to ensure another type of parity. Specifically, beginning in June 2014, there will be a discrepancy between originating access rates for VoIP-PSTN traffic as compared to traditional PSTN-PSTN traffic. The FCC rules require intrastate VoIP-PSTN toll calls to be charged at interstate originating access rates beginning in July 2014, while intrastate PSTN-PSTN calls will continue to pay the higher intrastate originating access rates.²² Once again, the consequence of not applying a single set of access pricing rules independent of technology will perpetuate marketplace distortions and impede the progress of migrating to all-IP networks. The Commission can and should eliminate this discrepancy by bringing all intrastate originating access rates to parity with interstate rates.

Finally, other states in which Verizon is an ILEC have either already implemented originating access reform or set a specific deadline to do so. In New Jersey, in February 2010 the Board of Public Utilities established comprehensive access reform.²³ And in New York, the Commission rejected Verizon's suggestion to take no action in the New York access reform proceeding until July 1, 2014. Instead, the New York Commission entered an Order which requires the Commission to "establish originating access charge reform to commence on or shortly after July 1, 2014," if the FCC does not act before then.²⁴ Pennsylvania can and should join the chorus of those neighboring states that have recognized the need to reform access rates comprehensively, on their own, and sooner rather than later.

For the reasons discussed herein, the Commission should not close this case, but instead should allow the parties to refresh the record to finalize the reduction of originating intrastate access rates to parity with interstate rates. Further delay in finalizing access reform is completely

²² *In re Connect America Fund, et al.*, WC Docket No. 10-90 *et al.* (FCC, Rel. Nov. 18, 2011), Second Order on Reconsideration, released April 25, 2012, ¶¶27-42.

²³ *In the Matter of the Board's Investigation and Review of Local Exchange Carrier Intrastate Exchange Access Rates*, Docket No. TX08090830, Order dated February 1, 2010.

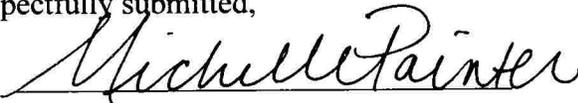
²⁴ *Proceeding to Examine Issues Related to a Universal Service Fund*, Case No. 09-M-0527, Order Regarding Phase III Issues, dated June 14, 2013.

unnecessary. The passage of time has not changed the fact that complete access reform is necessary and beneficial, but it has made it simpler to implement access parity on a revenue-neutral basis for Verizon. The Commission can give Verizon the opportunity to make up all the access revenue reductions with very slight increases in local service rates.

CONCLUSION

WHEREFORE, in light of the foregoing, AT&T respectfully requests that the Commission re-open the record for the limited purpose of obtaining information on the exact amount Verizon's local rates would need to be raised in order to reduce Verizon's originating intrastate access rates to parity with interstate rates on a revenue neutral basis. The Commission should then order Verizon to reduce its originating intrastate rates to parity with interstate rates within thirty days of a final Commission Order. The Commission should not close this case until all of Verizon's intrastate access rates are at parity with interstate rates.

Respectfully submitted,

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