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June 29, 2005

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PA PUBLIC UTILITY COMMISSION
06/29/05

VIA E-MAIL AND UPS OVERNIGHT DELIVERY

The Honorable Cynthia W. Fordham
Administrative Law Judge
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130

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

Dear Judge Fordham:

Enclosed is a copy of the Rebuttal Testimony on Remand of James J. Kane and Ann Amalia Dean on behalf of Verizon Pennsylvania Inc. and Verizon North Inc. in reference to the above captioned case. Please note that this testimony contains proprietary information.

Please do not hesitate to contact me if you have any questions.

DOCUMENT
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Very truly yours,

Suzan D. Paiva

SDP/slb

Via Email and UPS Overnight Delivery
cc: Attached Certificate of Service

Via UPS Overnight Delivery
James J. McNulty (cover letter and certificate of service only)

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served a copy of the rebuttal testimony of Verizon Pennsylvania Inc. and Verizon North Inc., 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 29th day of June, 2005.

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JUN 29 2005

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Via E-mail and Overnight Delivery

The Honorable Cynthia I. Fordham
Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, Pennsylvania 19130

PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

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

Dear Judge Fordham:

Enclosed please find the Rebuttal Testimony on Remand, Statement 1.1 Remand, of Michael D. Pelcovits submitted on behalf of MCImetro Access Transmission Services LLC ("MCI") in the above-referenced matter.

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

Very truly yours,

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Michelle Painter

cc: Certificate of Service
James McNulty, Cover Letter and Certificate of Service only

Enclosure

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JUN 29 2005

SERVICE LIST

PENNSYLVANIA PUBLIC UTILITY COMMISSION
CLERK OF COMMISSION

I hereby certify that I have this day caused a true copy of MCI's Rebuttal Testimony on Remand to be served upon the parties of record in Docket No C-20027195 in accordance with the requirements of 52 Pa. Code Sections 1.52 and 1.54 in the manner and upon the parties listed below.

Dated in Harrisburg, PA on June 29, 2005

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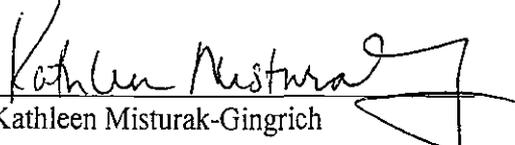
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COMMONWEALTH OF PENNSYLVANIA
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IN REPLY PLEASE
REFER TO OUR FILE

July 5, 2005

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
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ORIGINAL

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

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SECRETARY'S BUREAU

Dear Secretary McNulty:

Enclosed for filing please find an original and three (3) copies of the **Answer of the Office of Trial Staff to the Motion of Qwest Communications Corporation to Strike Remand Testimony** in the above-captioned proceeding.

Copies are being served on all active parties of record.

Sincerely,

Robert V. Eckenrod
Prosecutor
Office of Trial Staff

Enclosure

c: Parties of Record

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100

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

AT&T Communications of :
Pennsylvania, Inc. :

v. : Docket No. C-20027195

Verizon Pennsylvania Inc. and :
Verizon North Inc. :

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JUL 5 2004

**ANSWER OF THE OFFICE OF TRIAL STAFF
TO THE MOTION OF QWEST COMMUNICATIONS
CORPORATION TO STRIKE REMAND TESTIMONY**

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

TO THE HONORABLE CYNTHIA W. FORDHAM:

The Office of Trial Staff ("OTS"), by and through its prosecutor, Robert V. Eckenrod, Esquire, hereby files its Answer to the Motion of Qwest Communications Corporation ("Qwest") to strike testimony pursuant to Section 5.103 of the Pennsylvania Public Utility Commission's ("Commission") regulations.

I. Introduction

1. By way of introduction, the OTS notes that Qwest has respectfully mischaracterized the issues at hand regarding the scope of this proceeding in advocating its position. It is the contention of Qwest that this proceeding is somehow limited in scope because it is a remand proceeding and that the issues discussed by OTS in its testimony somehow falls outside of that scope. Indeed, Qwest maintains that this remand proceeding is limited to "...issues that have already been the subject of testimony and argument, e.g., phasing in further access rate reductions, elimination of the carrier line

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charge and the appropriateness of mirroring interstate access rates.”¹ Yet, while obviously these delineated areas of inquiry are important to the overall resolution of the proceeding, it should also be noted that the Commission sought further articulation on certain issues of policy related to access charge reform. Moreover, any additional inquiry relative to the propriety of further access charge reform must also be accompanied by an appraisal of the success or failure of initial access charge reforms. With regards to these areas of inquiry, OTS’s testimony is entirely within the scope of this proceeding.

For these reasons, and the arguments set forth below, Qwest’s Motion should be denied.

II. Background

2. On July 28, 2004, the Commission entered an Order in the above-captioned docket implementing the initial restructuring of access charges as mandated by conditions of the Verizon merger. Specifically, the proceeding was to result in access charge parity for Verizon PA and Verizon North; which it essentially did.

3. Moreover, in direct response to the concerns of the IXC’s², the Commission also determined that, while the initial purpose of the proceeding was to obtain access charge parity, it was also prudent to investigate “next steps” to further reduce access charge rates in the near future and to address significant policy issues.³ As a result, the Commission directed that the proceeding be remanded to the Office of Administrative

¹ Qwest Motion to Strike, pp. 1-2.

² Specifically, Qwest, MCI and AT&T.

³ *AT&T Communications of Pennsylvania, LLC v. Verizon North Inc. and Verizon Pennsylvania Inc.*, Docket No. C-20027195 (July 28, 2004), pp. 15-16.

Law Judge for further development of the record concerning further access charge reform and those policy issues raised by the IXC's.⁴

4. Pursuant to the procedural schedule established in this proceeding, OTS filed its Supplemental Direct Testimony on June 8, 2005.

5. In his Supplemental Direct Testimony, OTS Witness Kubas addresses the need for further access charge reform with, *inter alia*, reference to statements and actions of the IXC's since the initial phase of access charge reform.

III. Argument

6. Qwest's Motion should be denied because OTS Witness Kubas' testimony is directly relevant to the issues under investigation in this proceeding.

7. Rule 401 of the Pennsylvania Rules of Evidence defines relevant evidence as that "...evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Pa. R.E. 401.

8. Commission regulations permit the admission of "relevant and material evidence" into the record. 52 Pa. Code § 5.401.

9. The Honorable Cynthia W. Fordham, as presiding officer in this matter, has the authority to control the receipt of evidence and rule on its admissibility. 52 Pa. Code § 5.403.

10. Qwest argues that "[t]he remand phase of this proceeding was not intended to provide an opportunity for parties to freshly litigate issues outside the scope of this

⁴ Id., at pp. 16-17.

remand.”⁵ Qwest characterizes OTS Witness Kubas’ testimony as focusing on the level of long distance rates both inside and outside Pennsylvania and, thus, represents an effort to cloud the issue in this remand; namely the proper reductions to Verizon’s access rates *in Pennsylvania*.

11. Furthermore, Qwest argues that since the Commission does not possess legal authority to require “flow-through” of access charges to ratepayers, any discussion of whether access charge reductions were “flowed-through” to ratepayers is irrelevant.

12. The proper issue of this proceeding, as even conceded to by Qwest, is the propriety of access charge reductions and the significant policy issues surrounding this inquiry. Indeed, rather than limiting the scope of the proceeding, the Commission expanded the scope of the proceeding.

13. In fact, Qwest, along with the other IXC’s in this proceeding, advocated for the expansion of the scope of this proceeding beyond access charge parity to address further access charge reductions. As a result, Qwest should not be heard to complain now that this proceeding should not examine issues relative to further access charge reform.

14. OTS Witness Kubas’ testimony is wholly relevant to this inquiry. As a basic policy matter, the propriety of further access charge reform, i.e., whether further access charge reductions are necessary and/or proper, must be discussed in the context of whether any benefits, or harm, actually were realized by ratepayers, the IXC’s or Verizon. Such discussion of access charge reform cannot take place in a vacuum and,

⁵ Qwest Motion, p. 3.

while conceptual debate is helpful to further address the issue, practical experience is much more valuable in aiding the Commission in its inquiry.

15. While arguably the Commission may not be able to order a “flow-through” of access charge rate reductions to end users, the question of whether end users benefit from access charge reductions is relevant to question of whether further access charge reductions are necessary and/or appropriate. Simply stated, while Section 3018(b)(1) of the Public Utility Code does not permit the Commission to require access charge reductions to be flowed through to end users, the Code also does not require the Commission to reduce access charges any further.⁶

16. In fact, arguing from the other hand, Qwest itself raised the issue of “flow-through” in the previous proceeding when it stated that “[o]n the whole, customers will experience toll rate reductions that balance out any offsetting rate increases. The consumer is the ultimate winner in all aspects of this proposal.”⁷

17. Furthermore, OTS Witness Kubas’ testimony directly addresses promises and pledges made by Qwest and the other IXC’s in the initial phase of this proceeding. According to its statutory mandate, OTS is the only party in this proceeding that has the obligation to protect the interests of all parties, including customers, and Mr. Kubas’ testimony is a reflection of this mandate.⁸

⁶ 66 Pa. C.S. § 3018(b)(1).

⁷ Qwest Statement No. 1, p. 7; 10.

⁸ See 66 Pa. C.S. § 306.

18. Given the breadth of the remand proceeding and its emphasis on resolution of the need for further access charge reform and the policy issues attendant thereto, it is clear that Mr. Kubas' testimony is indeed relevant and should not be stricken.

IV. Conclusion

19. For the foregoing reasons, OTS respectfully requests that the Your Honor and the Commission deny Qwest's Motion to Strike Portions of the Remand Testimony of Verizon Pennsylvania, Inc. and the Office of Consumer Advocate and the Entire Remand Testimony of the Office of Trial Staff.

Respectfully submitted,



Robert V. Eckenrod
Prosecutor

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Pennsylvania Public Utility Commission
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Dated: July 5, 2005

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Answer of the Office of Trial Staff to the Motion of Qwest Communications Corporation to Strike Remand Testimony**, dated July 5, 2005, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below:

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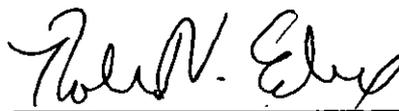
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Honorable Cynthia W. Fordham
Pennsylvania Public Utility Commission
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Robert V. Eckenrod
Prosecutor
Office of Trial Staff

Dated: July 5, 2005
Docket No.: C-20027195

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SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA



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July 7, 2005

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
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Re: AT&T Communications of Pennsylvania, Inc.
v. Verizon North Inc.,
Docket No. C-20027195

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Answer to Qwest's Motion to Strike in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Joel H. Cheskis
Assistant Consumer Advocate

Enclosures

cc: All parties of record
Hon. Cynthia Fordham, ALJ
*68614

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

AT&T Communications of
Pennsylvania, Inc.

Docket No. C-20027195

v.

Verizon North, Inc. and
Verizon Pennsylvania, Inc.

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SECRETARY'S BUREAU

**ANSWER
OF THE OFFICE OF CONSUMER ADVOCATE
TO QWEST'S MOTION TO STRIKE**

Pursuant to Section 5.103(c) of the regulations of the Pennsylvania Public Utility Commission, 52 Pa. Code § 5.103(c), the Pennsylvania Office of Consumer Advocate ("OCA") hereby files this Answer to the Motion of Qwest Communications Corporation ("Qwest") to Strike Portions of the Remand Testimony.

I. INTRODUCTION

On July 28, 2004, the Commission issued an Order regarding the reduction of Verizon Pennsylvania Inc. ("Verizon PA") and Verizon North, Inc. ("Verizon North") (collectively referred to as "Verizon") access charges. This Order, among other things, permitted Verizon to reduce and restructure its access charges by allowing them to file a revenue-neutral, rate rebalancing filing in which the net revenue reductions from access charge increases and decreases would be offset with increases in monthly basic service rates for residential and business local exchange customers. However, the Commission stated that policy issues and other access charge concerns that were not specifically resolved by a recommendation from the

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ALJ in her Recommended Decision would be remanded to the ALJ for further development of the record and the issuance of a further Recommended Decision.

In response to the July 28th Order, a procedural schedule was established for the remanded proceeding that, among other things, called for the filing of Direct Testimony on June 8, 2005. Pursuant to that schedule, the OCA filed the Direct Testimony of Dr. Robert Loube on that date. On June 24, 2005, Qwest filed the instant Motion to Strike seeking to strike portions of OCA testimony, portions of Verizon testimony and all of the testimony filed by the witness for the Commission's Office of Trial Staff ("OTS").

As discussed further below, the OCA submits that Qwest's Motion to Strike portions of OCA testimony is without merit and should be rejected.

II. ANSWER

A. Qwest's Motion To Strike Should Be Denied Because It Limits The Scope Of The Proceeding More Narrowly Than That Specifically Requested By The Commission.

As part of the July 28th Order, the Commission requested the development of, and a recommendation on, issues that were not included in the initial Recommended Decision issued by ALJ Fordham. In particular, the Commission delineated a series of issues that are to be addressed in this remand and specifically noted that the remanded proceeding was not limited to addressing only those issues. July 28th Order at 17. Additionally, the Commission directed that "the ALJ consider the merits of **each of the parties' positions** on this matter and make a recommendation based on the record evidence in the next phase of the investigation." Id. at 19 (emphasis added). As such, this remanded proceeding is not limited to "issues that have already been the subject of testimony and argument," as Qwest argues, Qwest Motion at 1-2, or to only issues that have been raised by Qwest and the other interexchange carriers ("IXCs"), AT&T

Communications of Pennsylvania (“AT&T”) and MCI WorldCom, Inc. (“MCI”). The Commission is to weigh the evidence offered by all parties concerning various issues related to whether further access reductions are necessary.

In its Motion, Qwest seeks to strike page 24, line 9 through page 28, line 11 of Dr. Loube’s Direct Testimony on Remand filed June 8, 2005. In that portion of Dr. Loube’s testimony, Dr. Loube shows how any reduction in Pennsylvania state access charges will not have a significant impact on the ultimate goal of reducing long distance prices. Loube Direct at 24. Dr. Loube further discusses how long distance rates have not gone down in Pennsylvania because each of the IXCs have added flat rate charges that are billed in addition to the per minute rates. Id. at 25. Furthermore, Dr. Loube testifies that the IXC rates have not been reduced as a result of the access rate reduction implemented by Verizon pursuant to the July 28th Order in this proceeding. Id. at 25-26. Finally, Dr. Loube’s testimony that Qwest now seeks to strike discusses the impact of national marketing concerns on IXC ratemaking decisions and the effect of further increases in local rates on telephone subscribership in Pennsylvania. Id. at 26-28.

The OCA agrees with Qwest that “the remand was not intended to provide opportunity for parties to litigate new issues outside the scope of this remand.” Id. at 2. However, whether or not further access reductions should take place is not a new issue outside the scope of this case. To what extent further access rate reductions are necessary is at the heart of this case and is directly related to whether such access reductions have produced or will produce reductions in consumer rates. If long distance rates are not falling as a result of access charge reductions, this is a major factor arguing against, and clearly relevant to, whether further access reductions are appropriate. It is these consumer benefits in the form of lower rates, and not just the potential for benefiting IXCs, that should be the principal factor considered in this remanded proceeding.

While Qwest may not agree with the OCA's positions in this remanded proceeding, the testimony from Dr. Loube at issue in Qwest's Motion is certainly relevant and should not be stricken.

More specifically, Qwest argues that "[t]he level of long distance rates both inside and outside Pennsylvania are not at issue in this remand, and thus, are beyond the scope of proper testimony." Qwest Motion at 3-4. Qwest argues that "attempts to raise this type of issue or argument as part of this remand litigation is not only inappropriate, but is a clear effort to cloud the distinct issue in this remand...". Id. at 4. However, at the least, the portions of Dr. Loube's testimony, which Qwest now seeks to strike, are relevant to whether or not further access charge reductions are necessary. Dr. Loube's testimony related to increasing charges for long distance service is also relevant to those policy concerns that were raised by IXCs in their Exceptions that the Commission directed be addressed in this proceeding. July 28th Order at 16-17. Simply because Qwest would like to avoid the facts set forth in Dr. Loube's testimony is no reason to exclude it from the record.

A careful review of the Exceptions provided by the IXCs in the initial phase of this proceeding also indicates that long distance rates were, in fact, discussed as a policy matter by the IXCs. For example, in Qwest's Exceptions, Qwest argues that access reductions will mean that consumers will "truly enjoy vigorous local or long distance competition." Qwest Exc. at 3. In MCI's Exceptions, MCI argues that "switched access charges are a significant input into the cost of providing long distance service." MCI Exc. at 13. These arguments at least suggest that when access charges are reduced, consumers will pay less for their long distance calls. Thus, the level of long distance rates after a rate reduction remain relevant to this proceeding as a result of the IXCs' own arguments.

Additionally, some of the IXCs discuss long distance rates in their own testimony in the remand portion of this proceeding. Qwest, in its Rebuttal Testimony on Remand, discusses reductions in long distances rates as part of bundled packages as well as the various costs that are associated with the provision of long distance service that have to be considered in pricing decisions. Qwest St. 2.0 at 17-18. In MCI's Rebuttal Testimony on Remand, MCI's witness provides extensive discussion that "competition in the long distance market will ensure that Pennsylvania consumers benefit from access reductions." MCI St. 1.1 Remand at 8-11. As part of that discussion, MCI argues that "competition will force each carrier to reduce its rates to reflect any cost reductions." Id. at 10.

In light of these discussions in Exceptions and in testimony, Qwest and MCI must have considered that long distance rates were relevant to this remanded proceeding. Qwest won a remand to have additional issues considered. Qwest now, however, cannot reframe or select which of those issues can be addressed in the remanded proceeding. Because long distance rates have been promoted by IXCs as linked to access reductions, the OCA is entitled to argue that such rates are not declining despite declining access charge rates. While Qwest may disagree with the OCA's argument, it is relevant and cannot be stricken from the record in this proceeding.

As such, Qwest's argument that the levels of long distance rates are not an issue in this proceeding, but are beyond the scope of proper testimony, is without merit and should be rejected. The July 28th Order does not limit the scope of issues to be presented as Qwest contends. Qwest provides no cite to the July 28th Order to support its view of the proceeding. Instead, the Commission asked all parties to consider whether or not access rates should be reduced. Qwest appears to interpret the scope of this proceeding as to how much, and when,

further access charge reductions will occur, not whether such further access charge reductions should occur. There is no indication that the Commission has predetermined that further access charge reductions are required, contrary to Qwest's arguments. Instead, the Commission should closely consider the extent to which consumers have benefited from past access reductions as a major factor in considering whether or not access charges should be reduced even further.

By their own actions, the IXC's have made long distance rates an issue in this remand. Dr. Loube's testimony regarding long distance rates is relevant to these issues and should not be stricken. Qwest's Motion to Strike should be denied because consideration of the impact of access charge reductions on long distance rates is appropriate in this remanded proceeding and such consideration is allowed by the Commission.

III. CONCLUSION

WHEREFORE, the Pennsylvania Office of Consumer Advocate respectfully requests that Qwest's Motion to Strike dated June 24, 2005 should be denied as it pertains to the OCA testimony.

Respectfully submitted,


Philip A. McClelland
Senior Assistant Consumer Advocate
Joel H. Cheskis
Assistant Consumer Advocate

For: Irwin A. Popowsky
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Dated: July 7, 2005

*84895

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Answer to Qwest's Motion to Strike, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of July, 2005.

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***indicates receiving proprietary
information if applicable**

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July 7, 2005

Via Email & UPS Overnight Delivery
Philip F. McClelland, Esquire
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

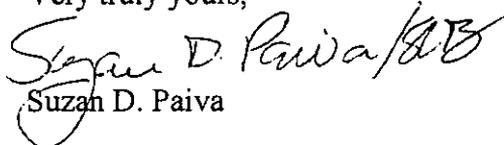
KJR

Dear Mr. McClelland:

Enclosed please find Verizon Pennsylvania Inc.'s and Verizon North Inc.'s second Revised Response to the Office of Consumer Advocate's Interrogatory I-5 (Set 1) to Verizon Pennsylvania Inc. and Verizon North Inc., in reference to the above captioned matter. Please note that the Revised Response contain proprietary information.

Please do not hesitate to contact me if you have any questions.

Very truly yours,


Suzan D. Paiva

SDP/meb

Via Email and UPS Overnight Delivery
cc: Attached Certificate of Service

Via UPS Overnight Delivery
James J. McNulty (cover letter and certificate of service only)
ALJ Cynthia W. Fordham (cover letter and certificate of service only)

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served a copy of the second Revised Response of Verizon Pennsylvania Inc. and Verizon North Inc. to the Office of Consumer Business Advocate's Interrogatory 4 of Set 1, 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 7th day of July, 2005.

VIA E-MAIL AND UPS OVERNIGHT DELIVERY

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July 11, 2005

Via E-mail and Overnight Delivery

Suzan Paiva
Verizon Pennsylvania
1717 Arch St, 32NW
Philadelphia, PA 19103

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

Dear Suzan:

Please find enclosed the supplemental response of MCI to Verizon Pennsylvania Inc. and Verizon North Inc.'s Interrogatories, Set I, in the above-referenced case.

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

Very truly yours,

A handwritten signature in cursive script that reads "Michelle Painter".

Michelle Painter

cc: Certificate of Service
James McNulty (cover letter and Certificate of Service only)

Enclosures

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JUL 11 2005
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

SERVICE LIST

I hereby certify that I have this day caused a true copy of MCI's supplemental response to Verizon Set I Interrogatories to be served upon the parties of record in Docket No C-20027195 in accordance with the requirements of 52 Pa. Code Sections 1.52 and 1.54 in the manner and upon the parties listed below.

Dated in Ashburn, VA on July 11, 2005

VIA E-MAIL AND OVERNIGHT DELIVERY

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Michelle Painter
Michelle Painter



July 11, 2005

Via E-mail and Overnight Delivery

The Honorable Cynthia I. Fordham
Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, Pennsylvania 19130

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

Dear Judge Fordham:

Enclosed please find the Surrebuttal Testimony on Remand, Statement 1.2 Remand, of Michael D. Pelcovits submitted on behalf of MCImetro Access Transmission Services LLC in the above-referenced matter.

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

Very truly yours,


Michelle Painter

**DOCUMENT
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cc: Certificate of Service
James McNulty, Cover Letter and Certificate of Service only

Enclosure

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SECRETARY'S BUREAU

SERVICE LIST

I hereby certify that I have this day caused a true copy of MCI's Surrebuttal Testimony to be served upon the parties of record in Docket No C-20027195 in accordance with the requirements of 52 Pa. Code Sections 1.52 and 1.54 in the manner and upon the parties listed below.

Dated in Ashburn, VA on July 11, 2005

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

Enclosed please find the original and three copies of the Motion of Verizon Pennsylvania Inc. and Verizon North Inc. to Strike Improper Legal Argument from Portions of the Remand Testimony of AT&T Communications of Pennsylvania, LLC, in reference to the above captioned matter.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Suzan D. Paiva, Esquire

SDP/ama

Via Email and UPS Overnight Delivery
cc: Attached Certificate of Service
Administrative Law Judge Cynthia W. Fordham

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88

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served a copy of the Motion of Verizon Pennsylvania Inc. and Verizon North Inc. to Strike Improper Legal Argument from Portions of the Remand Testimony of AT&T Communications of Pennsylvania, LLC, 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 11th day of July, 2005.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

AT&T COMMUNICATIONS OF
PENNSYLVANIA, INC.,

v.

VERIZON NORTH INC.

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:
:
:
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Docket No. C-20027195

**MOTION OF VERIZON PENNSYLVANIA INC. AND
VERIZON NORTH INC. TO STRIKE IMPROPER LEGAL
ARGUMENT FROM PORTIONS OF THE REMAND TESTIMONY
OF AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC**

Verizon Pennsylvania Inc. and Verizon North Inc. (collectively "Verizon") move to strike a portion of the June 29, 2005 Rebuttal Testimony submitted by E. Christopher Nurse, and Dr. Ola A. Oyefusi on behalf of AT&T Communications of Pennsylvania, LLC ("AT&T"), on the ground that this testimony contains legal argument that is not the proper subject of evidentiary testimony and that these non-lawyer witnesses are not qualified to make.¹ Specifically, Verizon moves to strike (1) the sentence appearing on page 4, lines 16 and 17 (beginning with "First"), (2) the full paragraph that appears on page 5, lines 3 through 13, (3) the sentence appearing on page 10, lines 22 and 23 (beginning with "Again"), and (4) the material beginning at page 11 line 1 and ending at page 12 line 14.

Verizon is not contending that AT&T may not make these arguments. Rather, the arguments should be removed from the testimony and be made in AT&T's briefs. It is not proper for Verizon's witnesses – also non-lawyers -- to be placed in the position of having to rebut legal arguments and interpretations made by AT&T's witnesses.

¹ AT&T's Direct Testimony on Remand states that Dr. Oyefusi has a Ph.D. in Economics and Mr. Nurse holds a B.A. in Economics and a Masters of Business Administration. Neither witness indicates that he holds a law degree.

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AT&T's witnesses wrongly contend that this Commission already ruled that all "subsidies" must be removed from access rates, and that it issued a "mandatory directive" to reduce intrastate access rates, suggesting that the purpose of this remand is simply to calculate the amount of the preordained access reduction. (AT&T Rebuttal at 4-5). They also contend that this Commission already rejected the proposition that it should wait for the outcome of the FCC's intercarrier compensation proceeding. (AT&T Rebuttal at 10-12).

Interpreting the meaning of this Commission's orders is a legal argument. AT&T's witnesses are not lawyers, and parties' arguments regarding the meaning and intent of the Commission's prior orders in this matter should be made in legal briefs. Thus, the "legal" interpretation by AT&T's witnesses of this Commission's July 28, 2004 Order (which they mislabel as a June 28, 2004 Order) is entitled to no weight as evidence in this proceeding and should be stricken.

AT&T's legal argument is also wrong. To the contrary, the Commission remanded this matter for the presiding officer to make a recommendation on the issues that she did not address in her first Recommended Decision, but it did not prejudge what the resolution of those competing arguments would be. According to the Commission:

Although the ALJ explained in detail each of the various Parties' positions, she opted to refrain from offering specific recommendations to numerous outstanding issues raised by the Parties in favor of recommending approval of the Verizon/OCA Joint Proposal. In light of the significant resources that have already been expended by the IXCs and the other Parties in this proceeding, we are of the opinion that it is not prudent to mark this proceeding closed without the benefit of a recommended decision on these outstanding issues. (07/28/04 Order at 16)

On the issue of "implicit subsidies that may exist in access charge rates" the Commission recognized that Verizon argued "while the Commission has stated the goal of *reducing*

implicit subsidies in access rates, the Commission has stopped short of declaring that access should be priced at ‘cost’ and that IXCs should be absolved of any contribution to local service. Verizon asserts that the Commonwealth Court approved the Commission’s decision in the *Global Order* to continue to price access above its cost as a sound exercise of the Commission’s specialized expertise in this area.” (*Id.* at 18). The Commission did not prejudge either that implicit subsidies still existed or that they needed to be completely eliminated at this time, but rather held that “[w]e shall, therefore, direct that the ALJ consider the merits of each of the Parties’ positions on this matter and make a recommendation based on the record evidence in the next phase of the investigation.” (*Id.* at 19).

The Commission also did not reject the possibility of waiting for the FCC to complete its intercarrier compensation proceeding before requiring further access rate rebalancing. The scope of the remand must be viewed in light of the Commission’s later January 18, 2005 Order, in which it “direct[ed] the ALJ to expand the scope of this proceeding for the purpose of addressing the impact the FCC action may have on our jurisdictional responsibilities, as well as its relationship to the final recommended decision on access rates arising from this remand proceeding.” (1/18/05 Order at 14). Clearly an *alternative that is available to the ALJ is to resolve the “merits” of the parties’ disputes over the remanded issues by deciding that Verizon’s carrier access charges should remain at current levels until the FCC acts in its intercarrier compensation proceeding.*

For the foregoing reasons, the Commission should strike (1) the sentence appearing on page 4, lines 16 and 17 (beginning with “First”), (2) the full paragraph that appears on page 5, lines 3 through 13, (3) the sentence appearing on page 10, lines 22 and 23

(beginning with "Again"), and (4) the material beginning at page 11 line 1 and ending at page 12 line 14 of AT&T's Remand Rebuttal Testimony.

Respectfully submitted,

Date: July 11, 2005



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Counsel for Verizon Pennsylvania Inc.
and Verizon North Inc.

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July 11, 2005

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Via UPS Overnight Delivery
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed please find the original and three copies of the Opposition of Verizon Pennsylvania Inc. and Verizon North Inc. to the Motion of Qwest Communications Corporation to Strike Portions of Remand Testimony, in reference to the above captioned matter.

Please do not hesitate to contact me if you have any questions.

Very truly yours,



Suzan D. Paiva, Esquire

SDP/ama

Via Email and UPS Overnight Delivery
cc: Attached Certificate of Service
Administrative Law Judge Cynthia W. Fordham

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JUL 11 2005

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

ORIGINAL

AT&T COMMUNICATIONS OF PENNSYLVANIA, INC.,

v.

VERIZON NORTH INC.

:
:
:
:
:
:

Docket No. C-20027195

OPPOSITION OF VERIZON PENNSYLVANIA INC. AND VERIZON NORTH INC. TO THE MOTION OF QWEST COMMUNICATIONS CORPORATION TO STRIKE PORTIONS OF REMAND TESTIMONY

In a stunning display of audacity, Qwest Communications Corporation ("Qwest") seeks to strike from the record testimony that shows that Qwest and the other IXC parties have failed to demonstrate that Pennsylvania end-user customers would experience any benefit from the access rate reductions they demand.

In other words, Qwest contends the Commission should further reduce the rates Qwest and other IXCs pay Verizon for access, and should increase retail end-user rates to rebalance that revenue as required by law,¹ without even considering whether such a rate rebalancing would be in the public interest. Plainly the public benefits of the IXCs' rate proposal (or in this case, the lack of public benefits) are highly probative evidence that the Commission must consider in making its decision. Accordingly, Qwest's Motion to Strike should be denied.

In this Phase II remand, Verizon Pennsylvania Inc. and Verizon North Inc. (collectively "Verizon") contend that – after a series of substantial Verizon access rate reductions leaving these companies with among the lowest access rates in the state -- there is no compelling reason for the Commission to rush to implement additional access

¹ 66 Pa. C.S. § 3017

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rebalancing for the Verizon companies before the FCC completes its pending intercarrier compensation proceeding.² The FCC has already concluded that comprehensive reform of the existing interstate and intrastate intercarrier compensation systems is needed, and the FCC is examining proposals for a unified intercarrier compensation regime. The FCC may completely preempt this Commission's jurisdiction over intrastate access rates, or, at the very least, may provide guidance to this Commission on the manner in which such rates should be altered.

Qwest and the other IXCs contend that the Commission should further rebalance Verizon's access rates now, without waiting for the FCC to complete its review of these issues and issue an order regarding comprehensive reform. They demand immediate action, notwithstanding the fact that they have already enjoyed approximately \$140 million in Verizon access reductions over the six years since the *Global Order* was entered, and they have failed to articulate any public benefit that would result from hasty additional access rebalancing at this time. While the position of the IXCs may benefit their own financial bottom lines, it does not represent the best interests of Pennsylvania consumers, and it is this public interest that the Commission must consider.

The specific question and answer Qwest seeks to strike from Verizon's direct testimony on remand is as follows:

Q. HAVE THE IXCS DEMONSTRATED ANY REASON FOR URGENCY IN ADDITIONAL INTRASTATE ACCESS REDUCTIONS?

A. No. The IXCs have not demonstrated that end-users would experience any benefit from such reductions. The record from Phase I indicates that the *only* parties that would benefit from such reductions would be the IXCs.

The IXCs have not pledged to pass through further access reductions to end-users, nor have they demonstrated or indicated that their access savings would

² *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92 (Rel. March 3, 2005).

result in lower toll rates or in any other benefit in toll options to end-users. Although Verizon is not seeking a flow-through of cost savings condition, the Commission should at least be aware that the revenue lost from access reductions is going directly to increase IXC profit levels in determining whether further reductions in intrastate access charges are warranted without waiting for the FCC. (VZ St. 1.0 Remand at 18, lines 1-12).

Qwest also seeks to strike more extensive testimony by the witnesses for the Office of Consumer Advocate ("OCA"), and the entire direct testimony on remand of the witness of the Office of Trial Staff (OTS"), both of which go into more detail regarding the IXCs' failure to prove that end-users gained any benefit from the Phase I rate rebalancing, or that they stand to benefit from the further rebalancing the IXCs seek in Phase II.

This Commission should not be deprived of hearing evidence relating to the lack of public benefits from the IXCs' proposal. The IXCs have claimed that consumers will benefit from the relief they demand. For example, Qwest's own witness opposes Verizon's argument that the Commission should await the FCC's action, contending that "such delay will only deny the benefits to consumers offered by access reform." (Qwest St. 2.0 at 1, lines 15-16). MCI contends that competition in the long distance market "will force each carrier to reduce its rates to reflect any cost reductions." (MCI Rebuttal at 10). Plainly it is relevant for this Commission to consider evidence demonstrating that no such benefits have occurred.

Qwest simplistically portrays its motion as seeking to strike references to a requirement to "flow through" access savings, because it contends that the Commission did not impose a flow through requirement in Phase I. However, the evidence it seeks to strike is much broader. The parties do not contend that there was an explicit flow through requirement in Phase I, but rather that the Commission should consider the

impact (if any) on prices from the last rate rebalancing in deciding whether to increase end-user rates here.

Qwest's Motion to Strike should therefore be denied and the Commission should make its decision on the issues in this remand upon a full record, including consideration of the benefits (or in this case, lack thereof) to be experienced by end-user customers as a result of the relief being demanded by the IXCs.

Respectfully submitted,

Date: July 11, 2005



William B. Petersen
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Philadelphia, PA 19103
(215) 963-6068

Counsel for Verizon Pennsylvania Inc.
And Verizon North Inc.

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served a copy of the Opposition of Verizon Pennsylvania Inc. and Verizon North Inc. to the Motion of Qwest Communications Corporation to Strike Portions of the Remand Testimony, 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 11th day of July, 2005.

VIA E-MAIL AND UPS OVERNIGHT DELIVERY

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July 11, 2005

VIA E-MAIL AND UPS OVERNIGHT DELIVERY

The Honorable Cynthia W. Fordham
Administrative Law Judge
1302 Philadelphia State Office Building
1400 West Spring Garden Street
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RE: AT&T Communications of Pennsylvania, LLC
v. Verizon North Inc. and Verizon Pennsylvania Inc.
Docket No. C-20027195

Dear Judge Fordham:

Enclosed is a copy of the Surrebuttal Testimony on Remand of James J. Kane and Ann Amalia Dean on behalf of Verizon Pennsylvania Inc. and Verizon North Inc. in reference to the above captioned case. Please note that this testimony contains proprietary information.

Please do not hesitate to contact me if you have any questions.

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Very truly yours,

Suzan D. Paiva

SDP/ama

Via Email and UPS Overnight Delivery

cc: Attached Certificate of Service

Via UPS Overnight Delivery

James J. McNulty (cover letter and certificate of service only)

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served a copy of the surrebuttal testimony of Verizon Pennsylvania Inc. and Verizon North Inc., 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 11th day of July, 2005.

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July 11, 2005

VIA UPS OVERNIGHT MAIL

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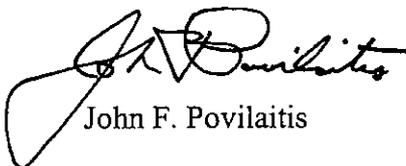
Re: AT&T Communications of Pennsylvania, Inc. v. Verizon North Inc.
and Verizon Pennsylvania Inc., Docket No. C-20027195

Dear Judge Fordham:

Enclosed please find copies of the Surrebuttal Testimony of Scott A. McIntyre (Remand Statement No. 3.0), submitted on behalf of Qwest Communications Corporation in the above-captioned proceeding. Copies of the testimony have been served in accordance with the attached Certificate of Service.

Very truly yours,

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John F. Povilaitis

Enclosures
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document(s) in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

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OALJ Hearing Report

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Location:	HBG	Hearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Date:	July 19, 2005	Testimony Taken:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications
of Pennsylvania, Inc.

v.
Verizon North, Inc.

Docket Number

C-20027195

DIRECT TESTIMONY OF MICHAEL D. PELCOVITS

ON BEHALF OF MCI METRO ACCESS TRANSMISSION SERVICES LLC ("MCI")

STATEMENT 1.0 REMAND

June 8, 2005

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1 **I. INTRODUCTION AND SUMMARY**

2 **Q. Please state your name, occupation, and business address.**

3 A. My name is Michael D. Pelcovits. I am a principal with the economic consulting firm
4 of Microeconomic Consulting and Research Associates (MiCRA). My business
5 address is 1155 Connecticut Avenue, N.W., Washington, D.C. 20036.

6 **Q. Have you already filed testimony in this proceeding?**

7 A. Yes. In Phase I of this proceeding, I filed rebuttal testimony on July 21, 2003 and
8 surrebuttal testimony on August 4, 2003, both on behalf of MCI.

9 **Q. What is the purpose of your current testimony?**

10 A. I will discuss the need for this Commission to move in the direction of eliminating
11 regulatory practices that distort the market by protecting some carriers at the expense
12 of others. I will discuss the need for the Commission to further reduce access rates
13 beyond the reductions in the first phase of this case. I will describe how the current
14 intrastate access rates continue to cause harm to the market, even with the initial
15 reductions. I will then demonstrate that intrastate access charges are excessive and
16 need to be reduced, by any measure of cost. I will discuss the effect that the Federal
17 Communication Commission's ("FCC's") current intercarrier compensation
18 proceeding should have on this proceeding. Finally, I will discuss how to implement
19 the requirement in the Pennsylvania statutes that any change in access charges be
20 revenue neutral.

1 **II. THE COMMISSION MUST ELIMINATE OUTDATED DISTORTIONARY REGULATORY**
2 **PRACTICES**

3 **Q. What regulatory practices need to be eliminated right away to help eliminate**
4 **distortions in the marketplace?**

5 A. The underbrush of old, traditional regulation must be cleared away so that the market,
6 not the regulator, picks winners and losers. It is important to eliminate regulations
7 that impose an unequal burden of subsidies on different firms. This will allow
8 competition to emerge without distortions that skew the market artificially to favor
9 one firm or group of firms over others. Most importantly, regulation should not
10 protect any carrier or type of carriers from the effect of competition.

11 The Commission should use this case to begin to address the remaining vestiges
12 of regulatory protectionism or the “benefits” bestowed on the ILECs under the
13 Commission’s existing scheme of regulation, which benefits are no longer justified in
14 the current competitive marketplace. The lingering vestiges of archaic rate base/rate
15 of return regulation born in the days of the old Bell System monopoly and designed to
16 protect ILEC revenue streams, often under the guise of promoting “universal
17 service,” seriously tilt the playing field against competitive wireline
18 telecommunications carriers and threaten to eliminate competition in traditional
19 wireline local and long distance markets. The Commission needs to reform the
20 regulatory protections that substantially advantage any carrier. No carrier should be
21 burdened by the old regulatory process; no carrier should be protected, and even
22 subsidized, by traditional regulatory policy and programs.

23

1 Q. What developments in the marketplace make it imperative to remove
2 distortionary regulations?

3 A. Twenty years after the breakup of the Bell System, the nature of the products offered
4 by the traditional wireline companies is changing and new technology has allowed
5 entry into traditional markets by entirely new categories of carriers. Stand-alone long
6 distance and stand-alone local consumer offerings are becoming much less common
7 as consumers are increasingly looking for bundles of services, not just local and long
8 distance, but local, long distance, wireline, broadband, entertainment and more.
9 Wireless telephony has now become an effective alternative to wireline service for
10 many customers. Also, the rapid explosion of computer applications that use the
11 Internet to transmit streaming audio and video and enable two-way voice
12 communications over the Internet (so-called "Voice over Internet Protocol" or
13 "VoIP"), are contributing to the decline of the "traditional" voice market. We are
14 seeing the entrance of new and different types of players in the communications
15 markets. Cable companies are increasingly offering phone service, while VoIP
16 providers, such as Vonage and the like, provide voice applications. Non-traditional
17 providers are also emerging in the market. For example, Skype provides free
18 computer-to-computer phone service with its peer-to-peer communications
19 application, and has recently added new applications such as SkypeIn and SkypeOut,
20 which extend service to any telephone. Also, AOL and MSN have recently
21 announced plans to offer communications applications.

22 The emergence of new, non-traditional carriers necessitates some fundamental
23 changes in state regulation. As one must conclude from the proliferation of non-
24 traditional service providers that compete directly with traditional wireline carriers,

1 telephony can no longer be thought of as traditional regulated “utility” services.

2 Rather, policymakers need to see “communications” as a broader market in which
3 many traditional and non-traditional players participate. Regulation that continues to
4 protect some carriers at the expense of others must be eliminated.

5 *The current regulatory system has its origins in the era of monopoly “utilities.”*
6 *That system treats traditional wireline telecommunications providers like other public*
7 *utilities and tries to draw a clear line between local and long distance services,*
8 *interstate and intrastate wireline traffic, and the different technologies that are used to*
9 *provide services that are for all intents and purposes substitutable and virtually*
10 *indistinguishable. While competition has transformed the industry and ushered*
11 *dramatic changes and innovation in technology, those market and technological*
12 *changes have been shoe-horned into the old regulatory structure. Convergence and*
13 *the proliferation of broadband services are ushering in a new era in communications*
14 *in which traditional carriers and non-traditional voice application providers compete*
15 *for customers (both consumer and business). The lines between local and long*
16 *distance, and intrastate and interstate jurisdiction, are becoming blurred and are of*
17 *little or no significance in the marketplace. Regulated carriers compete head-to-head*
18 *with non-regulated carriers for the same customers. These competitive forces from*
19 *non-regulated providers give policy makers no choice but to rethink how the industry*
20 *is and should be regulated.*

21 **Q. How does the need to remove distortionary regulatory policies relate to access**
22 **reform?**

23 **A. Reform of the current system of intrastate access charges in Pennsylvania is necessary**
24 **to remove substantial subsidies that have been too long tolerated by the legacy**

1 regulatory regime, but are no longer appropriate in a more competitive market. This
2 proceeding should re-examine the regulatory framework applicable to access rates
3 and modify it as appropriate in light of today's market realities. As explained above,
4 it is clearly appropriate to remove the underbrush of traditional regulations where it is
5 no longer necessary – for ILECs as well as other wireline service providers.

6 Traditional carriers are stuck with a hodgepodge of outmoded, irrational and subsidy-
7 ridden intercarrier compensation systems that include fees such as access charges,
8 which are a relic of the breakup of the Bell system. Wireless carriers face a different
9 hodgepodge of systems – but at a decided financial advantage. Interexchange carriers
10 pay high intrastate (as well as interstate) access charges to originate and terminate
11 long distance calls on ILEC networks. These high access charges are often justified
12 in the name of “universal service.” Other non-regulated providers pay lower or
13 different rates to ILECs for the same use of the same access facilities.

14 The Commission should act now in this proceeding to change the manner in
15 which access charges are assessed. It should reduce access rates to cost, or at a
16 minimum, reduce access rates to their interstate levels with a specific time frame for
17 finally reducing access rates to cost-based levels.

18 **III. ABOVE-COST ACCESS CHARGES HARM COMPETITION**

19 **Q. What did you recommend in your previous testimony?**

20 A. In my previous testimony I urged the Commission to bring access to cost, or at the
21 very least to bring intrastate access charges to the same level as interstate access
22 charges. Pricing access at cost would remove distortions in the marketplace and

1 thereby benefit consumers of intrastate long distance services by allowing the
2 realization of both static and dynamic efficiency gains.

3 As I previously explained, static efficiency occurs when the value that a buyer
4 places on consuming a good equals the marginal cost of producing the good. When
5 prices are set at cost, consumers and producers are given the right signals of when to
6 use, and how much to use, a particular good or service. By contrast, if prices are set
7 above cost, users will consume too little of a service and substitute other services
8 which are not as desirable.¹

9 Static efficiency is achieved in most industries within a free market economy
10 through the workings of competition. If a single firm attempts to price above cost
11 (thereby denying consumers the benefits of static efficiency), then other firms will
12 reduce prices to attract its customers' business. By contrast, a firm with significant
13 market power can set prices above cost unless it is prevented from doing so by
14 regulation.

15 Dynamic efficiencies are created over time by the acceleration of technological
16 change. To the extent that long distance rates are artificially high, usage will be
17 depressed below optimal levels and technological change will be skewed.
18 Specifically, technologies that rely upon the use of long distance will be discouraged,
19 and new services and innovations, which otherwise might have appeared, may fail to
20 materialize. The social costs of these effects are difficult to measure, but are certainly
21 an important consideration for the Commission.

¹ Richard Lipsey, Peter Steiner, Douglas Purvis, *Economics*, 8th Edition, 1987, at 248-249.

1 Q. **Have market developments exacerbated the problems of above-cost access**
2 **charges?**

3 A. Yes. The market for telephone service is moving toward all-distance packages, in
4 which the customer pays a single rate for an “all-you-can-eat” combination of local
5 and long distance calling. Leaving intrastate access charges at their current above-
6 cost levels will unreasonably raise the cost of companies seeking to compete with the
7 ILEC in the provision of these bundles. These companies will be unable to pay the
8 high terminating access charges to Verizon, while Verizon faces only the (lower)
9 economic cost of providing access to itself, and still be able to charge a price to the
10 end user that will be competitive with the price Verizon can charge.

11 Q. **How do the intrastate access charges paid by wireline long distance carriers**
12 **compare to the rates paid by the wireless carriers to the ILECs to terminate**
13 **comparable calls?**

14 A. Wireless carriers pay local transport and termination charges rather than access
15 charges on a substantial amount of intrastate traffic for which the wireline carriers
16 pay access charges. The local transport and termination rates are substantially lower
17 than intrastate access charges. For example, local switching costs 0.6212 cents per
18 minute for intrastate access, but only 0.1175 cents per minute under the local
19 transport and termination rates. Transport rates show a similar imbalance; a typical
20 minute of common transport costs 0.1628 cents as intrastate access, but only 0.0426
21 cents as local transport.²

22 The reason for this is that the regulations on intercarrier termination are different
23 for wireline IXCs and wireless carriers. While wireline IXCs must pay access

² Transport costs assume a tandem switch and transport termination charge, plus ten miles of per mile tandem transport.

1 charges on calls that terminate outside the ILEC's local calling area, wireless carriers
2 pay access charges only when calls terminate outside the much larger Major Trading
3 Areas (MTAs).

4 In Pennsylvania, this means that many intrastate long distance calls made over
5 wireless telephones do not pay access charges. I have attached as Exhibit 1 to my
6 testimony a map showing the MTA breakdown for the state of Pennsylvania. The
7 majority of the state is part of the Philadelphia or Pittsburgh MTAs, which means that
8 wireless calls within these very large geographic areas will incur very low termination
9 rates. For example, wireless carriers do not pay access charges on calls between
10 Harrisburg and Philadelphia.

11 The Commission should address this disparity in call termination rates for
12 wireline versus wireless companies by reducing access charges to cost-based levels as
13 part of this case.

14 **IV. PENNSYLVANIA INTRASTATE SWITCHED ACCESS RATES REMAIN ABOVE COST.**

15 **Q. What changes to access charges did the Commission make in Phase I of this**
16 **proceeding?**

17 A. The Commission adopted a proposal submitted by Verizon, the Office of Consumer
18 Advocate and Office of Small Business Advocate which had two main effects on
19 access charges.³ First, it restructured intrastate access charges so that they mirrored
20 the structure of interstate access charges. Second, it reduced the access rates,
21 primarily by reducing the carrier charge of Verizon North. Although, at the time of
22 the proposal, the parties estimated that the overall access reduction would be worth
23 \$55.6 million, according to recent information from Verizon, the new estimate of

³ See July 28, 2004 Opinion and Order at Docket No. C-20027195.

1 the reductions for 2005 is closer to \$49 million. According to a Verizon discovery
 2 response provided as part of this remand, the amount of estimated access reductions
 3 in 2005 from the Phase I decision is **BEGIN PROPRIETARY**

4 **END PROPRIETARY.**⁴

5 **Q. Did the Phase I decision change intrastate access rates sufficiently to prevent**
 6 **adverse competitive and efficiency effects?**

7 A. No. Conforming the intrastate access charge structure to the interstate structure had
 8 the benefit for both Verizon and its switched access customers of simplifying the
 9 tracking and confirmation of bills. However, the intrastate access charges remain too
 10 far above costs to remedy the inefficiencies and anti-competitive effects. There are
 11 many indicators that this is the case.

12 I demonstrated in my earlier testimony that interstate and intrastate switched
 13 access provide the same functions, and so in principle should cost the same. Despite
 14 this, the Commission's decision in Phase I left the primary switched access charges
 15 above their interstate counterparts, as can be seen in Table 1 below.

16 **Table 1: Verizon's Intrastate vs. Interstate Switched Access Rates**

Rate Element	Intrastate rates⁵ Cents per minute	Interstate rates⁶ Cents per minute	Intrastate as Percent of Interstate
Local Switching	0.6212	0.2431	255.5%
Tandem transport termination	0.0195	0.0000	∞
Tandem transport facility (per Mile)	0.0045	0.0030	150.0%
Tandem-switching	0.0983	0.1000	98.3%
Carrier Charge	\$0.58	0	∞

17 ⁴ See Exhibit 2 to this testimony, which is Verizon's response to OSBA Set I, #4.

⁵ Tariff PA PUC No. 302, §§ 6.9.2.(B); 6.9.3.(A); 6.9.7. The carrier charge is per line per month.

⁶ Tariff FCC No. 1, §§ 6.9.1.B; 6.9.2.A.

1 In fact, the Commission's Phase I decision affected only two of these rates, reducing
2 the local switching rate from \$0.9336 to \$0.6212, and the carrier charge from \$0.63 to
3 \$0.58. Even with these reductions, however, these rates remain well above their
4 interstate counterparts.

5 The relationship between intrastate and interstate access charges can also be
6 shown on a composite basis, by comparing the difference in revenues that would be
7 received if interstate rates were applied to intrastate access traffic. Verizon submitted
8 a comparison of the entire set of intrastate and interstate access charges in response to
9 an interrogatory by the Office of Consumer Advocate. Verizon computed the
10 revenues it would have received if its intrastate access demand had been priced at the
11 interstate rates. That computation showed that Verizon's access charge revenue
12 would have been **BEGIN PROPRIETARY**

13 **END PROPRIETARY** it would have collected in intrastate
14 access charges.⁷

15 **Q. Would setting intrastate access charges to interstate levels bring rates down to**
16 **the level of forward-looking cost?**

17 A. No. Even if intrastate access charges were reduced to the level of interstate access,
18 they would still remain well above cost. The unbundled network element (UNE)
19 rates for Verizon in Pennsylvania are based on the Commission's best estimate of
20 forward-looking economic cost. As seen in Table 2 below, those rates are even
21 further below the intrastate access rates adopted in the Phase I decision, than
22 interstate rates.

⁷ See Exhibit 3 to this testimony, which is Verizon's response to OCA 1-5_Q3.

1 **Table 2: Verizon's Intrastate Switched Access vs. UNE Rates**

Rate Element	Intrastate rates Cents per minute	Interstate rates ⁸ Cents per minute	UNE rates ⁹ Cents per minute
Local Switching	0.6212	0.2431	0.1274
Tandem transport termination	0.0195	0.0000	0.0206
Tandem transport facility (per Mile)	0.0045	0.0030	0.0010
Tandem-switching	0.0983	0.1000	0.0120
Carrier Charge	0.58	0	0

2
3 **Q. How do the intrastate switched access rates compare to the costs reported by**
4 **Verizon?**

5 A. In addition to being above the cost level determined by the Commission to be
6 reasonable in its examination of Verizon's UNE rates, Verizon's intrastate access
7 charges remain for the most part above even its own estimate of access costs. In the
8 Phase I proceeding, Verizon submitted results of its cost study for access services.¹⁰
9 Even though several of the inputs used in this cost study, including too-short
10 depreciation lives and an excessive cost of capital, resulted in estimated costs that are
11 too high, significant portions of those costs are still below the intrastate access
12 charges in place in Pennsylvania today as can be seen in Table 3 below.

13
⁸ Tariff FCC No. 1, §§ 6.9.1.B; 6.9.2.A.

⁹ Tariff PA PUC No. 216, §§ 3.C.2.b; 3.C.2.d; 3.C.3.b. The local switching rate is the average of the originating rate of 0.1373 cents and the terminating rate of 0.1175 cents. Even with the FCC's recent decision to allow the switching rate to be raised by \$1 per month as a transition mechanism to phasing out the local switching UNE, the local switching UNE rate would increase by only about 0.04 cents. This increase can be computed by dividing the \$1 increase by 2,465, which is the number of dial equipment minutes (176.2 billion, as reported in the 2004 ARMIS 43-04, row 1216, column b) per switched access line (5,957,098, as reported in ARMIS 43-08, row 490 column "fi") for Verizon Pennsylvania and Verizon North. However, the FCC's \$1 increase has nothing to do with a cost based analysis and therefore should not be used for purposes of setting cost-based access rates in this case.

¹⁰ See Testimony of Ann A. Dean and Gary Sanford on behalf of Verizon, Pa PUC Docket No. C-200271905, submitted June 25, 2003.

1 BEGIN PROPRIETARY

2 Table 3: Verizon's Intrastate Switched Access vs. Cost Study Results

Rate Element	Intrastate rates Cents per minute	Cost Study results ¹¹ Cents per minute	Intrastate as Percent of Cost Study Results
Local Switching	0.6212		
Tandem transport termination	0.0195		
Tandem transport facility (per Mile)	0.0045		
Tandem-switching	0.0983		
Carrier Charge	0.58		

3
4 END PROPRIETARY

5 Clearly, the current intrastate access charges remain well above any measure of the
6 cost of providing access service.

7 The Commission must, at the very least, take steps to bring intrastate access rates
8 down to the level of interstate access charges. Since economic costs, as reflected in
9 the UNE rates, are well below even that, the Commission would be justified in
10 reducing intrastate access to the level of the UNE rates.

11 **Q. Is there a cost-basis for the carrier charge imposed on interexchange carriers?**

12 A. No. The carrier charge is intended to recover a portion of the non-traffic sensitive
13 part of the network, e.g. the local loop, from long distance carriers and their
14 customers. By its very nature, however, the ILEC's non-traffic sensitive costs are not
15 affected by the level of long distance usage, and therefore they should not be
16 recovered on a usage sensitive basis. The historic practice of trying to "subsidize"

¹¹ See Dean/Sanford Direct Exhibit 1. The local switching cost is the average of the Feature Group D originating cost of BEGIN PROPRIETARY END PROPRIETARY and the terminating cost of BEGIN PROPRIETARY END PROPRIETARY.

1 local dial tone rates with higher long distance charges causes significant distortions in
2 the market by depressing demand, and encouraging customers to use alternative
3 technologies or carriers, regardless of the true cost differences between these
4 marketplace alternatives.

5 *Separate and apart from the issue of proper recovery of non-traffic sensitive costs,*
6 *it is important to note that there is no reason to believe that the actual economic costs*
7 *of the ILECs are as high as their embedded costs, upon which carrier charges have*
8 *been based. Therefore, it is questionable whether any rates or ratepayers should be*
9 *compensating the ILECs for this 58 cent “cost recovery.”*

10 **V. THE COMMISSION NEED NOT DELAY ACTION PENDING RESOLUTION OF OPEN FCC**
11 **PROCEEDINGS**

12 **Q. Does the FCC plan to restructure access rates?**

13 A. The FCC has begun a proceeding to develop a unified intercarrier compensation
14 regime. The outcome of this proceeding may be a change in how interstate access
15 charges are structured, and in the level of the rates.

16 **Q. Should the PA PUC wait until the FCC makes its final decision in this**
17 **proceeding before acting on intrastate access rates?**

18 A. No. The FCC proceeding was initiated by a Further Notice of Proposed Rulemaking
19 that was adopted on February 10, 2005. Initial comments were filed only on May 23,
20 2005, and replies are not due until June 22. There is no guarantee of when the FCC
21 will complete this rulemaking. Given the many interrelated issues included in the
22 FCC proceeding, including universal service, access charges, reciprocal
23 compensation, and end user charges, as well as the different and conflicting interests
24 of local exchange carriers, interexchange carriers, rural carriers, commercial mobile

1 radio service (i.e., cell phone and personal communication service) providers, and end
2 users, it is very likely that the FCC's proceeding will not be completed quickly.

3 *In addition, one issue on which the FCC is seeking comment is whether it can*
4 *mandate any changes to intrastate access as a result of this intercarrier compensation*
5 *proceeding. Thus, even if the FCC does complete this proceeding quickly, it is*
6 *unclear that its resolution will have any effect on the flexibility of the states to set*
7 *intrastate access rates.*

8 **Q. The CALLS Plan currently in effect for price cap regulation at the federal level**
9 **is set to expire this year. Should the Commission wait until the FCC decides on**
10 **a post-CALLS plan?**

11 A. No. The only proceeding the FCC is conducting at present to review price cap
12 regulation is examining only the special access basket. Under the current rules, the
13 CALLS plan will remain in effect until the FCC takes steps to change it. Since there
14 is no open proceeding for switched access, no revision of switched access price cap
15 regulation at the federal level can be expected in the near future, unless it is decided
16 in the intercarrier compensation proceeding.

17 The Commission should not delay resolving its own proceeding until after the
18 FCC completes its intercarrier compensation proceeding. Nor should it delay until
19 the FCC initiates and subsequently completes a post-CALLS review of switched
20 access price cap regulation. Delay will simply postpone the benefits that will accrue
21 to Pennsylvania customers from a more cost-based intrastate access regime.

1 VI. REVENUE NEUTRALITY CAN BE ACHIEVED WITH MINIMAL END USER IMPACT

2 Q. What constraints on access charge reductions exist?

3 A. In 2004, the Pennsylvania legislature passed amendments to the Public Utilities Code
4 that, *inter alia*, required that any access reductions mandated by the PA PUC must be
5 implemented on a revenue neutral basis.¹² This will require that any reductions that
6 the Commission mandates in this proceeding must be offset by revenue neutral
7 increases in other rates.

8 Q. How much of an increase in other rates would be needed to make up for
9 reducing access to cost?

10 A. Verizon has indicated that reducing intrastate access rates to interstate access rate
11 levels would require a total reduction for its two operating companies (Verizon
12 Pennsylvania and Verizon North) of **BEGIN PROPRIETARY** **END**
13 **PROPRIETARY**.¹³ Verizon also reports that its two operating companies in
14 Pennsylvania have a total of **BEGIN PROPRIETARY** **END**
15 **PROPRIETARY** lines. If intrastate access charges were cut to the level of interstate
16 access charges, and the entire reduction were recovered in a per-line charge assessed
17 on all business and residential lines, the resulting charge would be at most \$0.95 per
18 line per month.¹⁴ Furthermore, cutting the five rates listed in Table 2 to UNE levels
19 would add only about \$0.13 per line per month for a total of \$1.08 per line per month.

¹² See Public Utilities Code (66 PA.C.S.) – Omnibus Amendments Act of 2004, P.L. 1398, No. 183, § 3017(a).

¹³ See Exhibit 3 to this testimony.

¹⁴ Reductions in access charges, and the consequent reductions in long distance rates, will undoubtedly lead to increased long distance usage. The additional access revenues that the ILECs can expect to receive from these new minutes will partially offset the reduction in the access rates, and should be taken into account when setting the per line rate increase. Therefore, the per line rate that will actually yield revenue neutrality will be lower than 95 cents per month.

1 Q. How does this per-line charge compare to local rates in Pennsylvania?

2 A. The FCC compiles data on the monthly charges for local telephone service
3 throughout the country. For Pennsylvania, the FCC reports monthly rates for local
4 service in seven cities. Those rates range from a low of \$20.73 in New Castle to a
5 high of \$23.45 in Philadelphia and Pittsburgh.¹⁵

6 Q. How do local rates in Pennsylvania compare to those in neighboring states?

7 A. To put this additional charge in perspective, it is worth noting that Pennsylvania has
8 the lowest monthly local charge among all its neighboring states, except for New
9 Jersey. Rates in Pennsylvania are below those reported for Virginia (\$30.59 to
10 \$31.43), Maryland (\$27.94), and New York (\$20.44 to \$34.47). Only New Jersey,
11 with a rate of \$17.09, has a lower monthly rate. However, New Jersey has relatively
12 small local calling areas, which keeps its basic local rate low. Cutting intrastate
13 access to UNE levels and adding a per-line charge would still leave Pennsylvania
14 local rates below the levels of those rates in its neighboring states.

15 Q. From what services should any shortfall be recovered?

16 A. From an economic standpoint, it is best to recover any shortfall from services that are
17 priced below cost, or closer to cost than access is. As was shown in Tables 2 and 3
18 *supra*, most access rates are well in excess of costs, whether those costs are measured
19 by UNE rates or by Verizon's cost study. Moreover, the rate-to-cost ratio of switched

¹⁵ See Table 1.4 of Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Service, Industry Analysis & Technology Division, released May 25, 2005. This report can be viewed at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/ref05.pdf. The rates reflect flat rate service where available, and measured/message service with 100 local calls elsewhere, and include touch-tone service, surcharges, 911 charges, and taxes.

1 access charges is much higher than for most other services, e.g. local service, local
2 usage.

3 **Q. Should any per-line charge be assessed on end users or on interexchange**
4 **carriers?**

5 A. As I explained in my previous testimony, it does not make sense to assess per line
6 charges on the IXCs. Any such charge would become part of the marginal costs of
7 the long distance providers, which will be compelled to recover those costs from their
8 customers – in a manner that most closely reflects how they incur these costs. Since
9 the charge would be incurred on a per-line basis, the long distance carriers will be
10 driven to flow through this charge to their customers on a per-line basis, or by
11 charging high per-minute rates to low volume users. Therefore, at best, the charge
12 will simply convert a local per-line charge into a long distance per-line charge.
13 There is nothing to be gained by creating this mechanism that turns the long distance
14 carriers into intermediaries to collect some of the per-line costs from customers. The
15 additional steps required to compute the charge, bill it to long distance carriers, and
16 have the long distance carriers bill and collect it from their customers, create costs
17 and have no offsetting benefits. Any per line charge should therefore be assessed on
18 end users.

19 **Q. What changes in Verizon's rates for its bundled services, such as its Freedom**
20 **packages, would be needed?**

21 A. Verizon's packages of bundled services combine local and long distance service with
22 calling features, voice mail, and directory assistance. There should be no need for an
23 increase in the rates for bundled service, because on average the access savings
24 should be more than enough to offset any per-line charge. Since the bundles that

1 combine local and long distance service tend to attract the higher long distance users,
2 the savings on (imputed) access should more than offset the increase in per-line rates
3 and allow a reduction in the package price.

4 **VII. CONCLUSION**

5 **Q. Please summarize your recommendations.**

6 A. I recommend that the Commission move towards a policy of real deregulation and
7 eradicate the outdated policy of above-cost access charges. The Commission, as part
8 of this Phase II proceeding, should immediately reduce intrastate access charges to
9 forward-looking cost. The Commission has already established UNE rates at what it
10 estimates forward-looking costs to be. Therefore, the UNE rates can serve as a proxy
11 for the forward-looking costs of most access charge elements. A second-best target
12 for intrastate access charges would be the current level of interstate access charges,
13 which are much closer to forward-looking costs.

14 Failure to set access charges at cost will have harmful effects in the markets for
15 long distance and for the all-distance packages that are becoming popular and will
16 maintain a policy of protecting some carriers at the expense of others, which does not
17 make sense in a competitive environment.

18 Finally, the Commission should not wait for the FCC to complete its review of
19 intercarrier compensation, as this will simply delay the benefits of cost based access
20 charges.

21 **Q. Does this conclude your testimony?**

22 A. Yes, it does.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications	:	
of Pennsylvania, Inc.	:	Docket Number
	:	
v.	:	C-20027195
Verizon North, Inc.	:	

EXHIBIT 1

TO

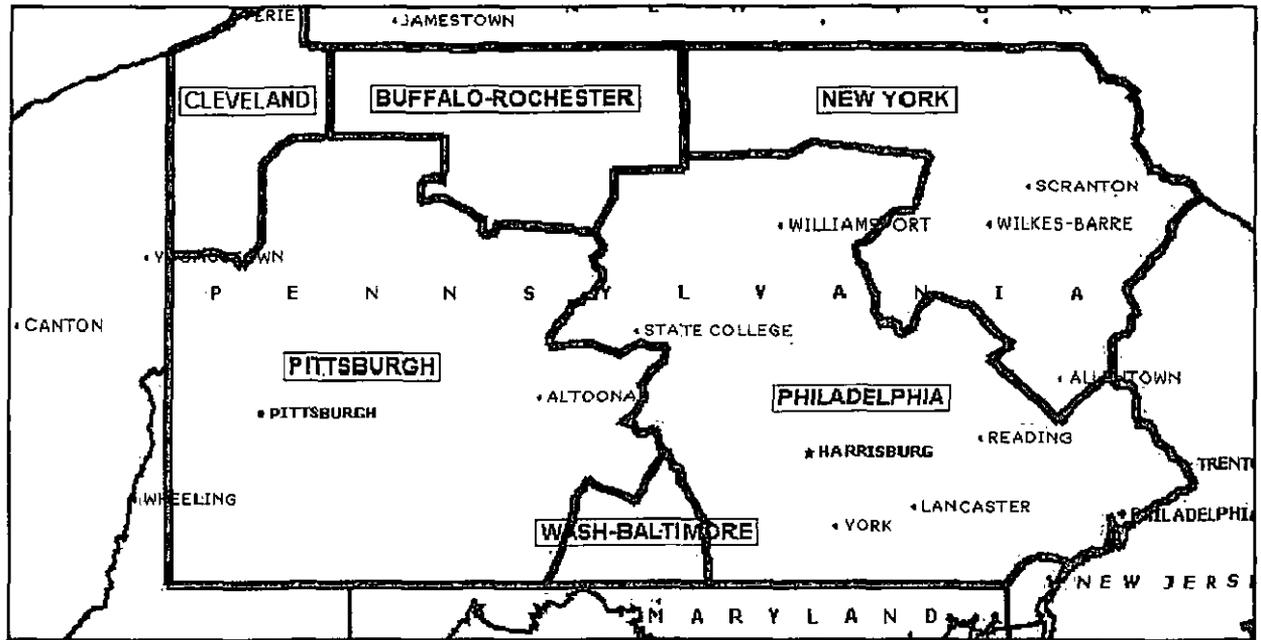
DIRECT TESTIMONY OF MICHAEL D. PELCOVITS

ON BEHALF OF MCI METRO ACCESS TRANSMISSION SERVICES LLC ("MCI")

STATEMENT 1.0 REMAND

June 8, 2005

Major Trading Areas in Pennsylvania



BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications	:	
of Pennsylvania, Inc.	:	Docket Number
	:	
v.	:	C-20027195
Verizon North, Inc.	:	

EXHIBIT 2

TO

DIRECT TESTIMONY OF MICHAEL D. PELCOVITS

ON BEHALF OF MCIMETRO ACCESS TRANSMISSION SERVICES LLC ("mci")

STATEMENT 1.0 REMAND

June 8, 2005

CONTAINS PROPRIETARY INFORMATION

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications	:	
of Pennsylvania, Inc.	:	Docket Number
	:	
v.	:	C-20027195
Verizon North, Inc.	:	

EXHIBIT 3

TO

DIRECT TESTIMONY OF MICHAEL D. PELCOVITS

ON BEHALF OF MCIMETRO ACCESS TRANSMISSION SERVICES LLC ("mci")

STATEMENT 1.0 REMAND

June 8, 2005

CONTAINS PROPRIETARY INFORMATION