

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re The Joint Application of	:	
Bell Atlantic Corporation and GTE	:	
Corporation for Approval of Agreement	:	
And Plan of Merger	:	Docket No. C-20027195
	:	
AT&T Communications of Pennsylvania, Inc.	:	
v. Verizon North, Inc.	:	

REPLY BRIEF OF QWEST COMMUNICATIONS CORPORATION

NON-PROPRIETARY VERSION

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Dated: September 29, 2003

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REPLY BRIEF OF QWEST COMMUNICATIONS CORPORATION

I. INTRODUCTION

Qwest Communications Corporation (“Qwest”) submits its Reply Brief to the Pennsylvania Public Utility Commission (“Commission”) proposing to effectuate a restructuring of the intrastate carrier access charges imposed by Verizon Pennsylvania Inc. (“Verizon-PA”) and Verizon North, Inc. (“Verizon-North”)(collectively “Verizon”).

Qwest uses this Reply Brief to express its support for phasing in the intrastate access charge reductions, as long as the reductions achieve parity with interstate rates on a revenue-neutral and competitively-neutral basis. Despite unsubstantiated claims by the public advocates on a few issues, there remains no question that the Commission should eliminate the non-cost-based Carrier Charge (“CC”), while reducing the inflated, traffic-sensitive access rates to parity with interstate access rates. With intrastate access charges reduced to interstate levels, Pennsylvania consumers will enjoy reduced intrastate long distance rates without Commission intervention.

II. BACKGROUND

As Qwest explained in its Main Brief, the Commission initiated this proceeding to implement the changes required by the *Merger Order*¹ and the *Global Order*.² Specifically, the *Global Order* provided “for an investigation to achieve permanent solutions to access charge reform on or about January 2, 2001.”³ The *Merger Order* states that creating parity between the Verizon ILEC companies must be achieved as “a part of the Commission’s statewide investigation pertaining to access charges” pursuant to the *Global Order*.⁴ The *Merger Order* demonstrated that the Commission intended to ensure that, after the Commission implemented additional reductions to access charges, Verizon’s access rates would be uniform statewide. Qwest urges the Commission to embrace its obligation to Pennsylvania consumers and carriers to continue promoting competition in Pennsylvania by removing the implicit subsidies in Verizon’s access charges, which entails reducing intrastate access rates to interstate rates on a revenue-neutral and competitively-neutral basis, as well as eliminating the CC.

Pursuant to the Commission’s direction, Main Briefs were filed in this proceeding on September 18, 2003 by AT&T Communications of Pennsylvania, Inc. (“AT&T”), MCI WorldCom (“MCI”), Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”), Office of Trial Staff (“OTS”), Qwest and Verizon. Qwest submits its Reply Brief to respond to various issues addressed in the Main Briefs of the other aforementioned parties.

¹ *Re Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger*, Docket Nos. A-310200F0002, A-311350F0002, and A-310222F0002, (November 4, 1999) (“*Merger Order*”).

² *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999) (“*Global Order*”); 196 P.U.R. 4th 172, *aff’d sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa.Cmwith. 2000), *alloc. granted*.

³ *Merger Order* at 57.

⁴ *Id.*

As Qwest also explained in its Main Brief, in participating in this proceeding and submitting this Reply Brief, Qwest has considered and addressed the issues raised from the collective perspective of the various entities within the Qwest corporate family.⁵ Having various types of service providers in the Qwest family of companies permits Qwest to understand the access charge issues from the perspective of various types of market participants and allows Qwest to balance the respective interests within its corporate family in much the same way the Commission will work to balance the interests of the parties in this proceeding. Despite Verizon's criticism of Qwest not having achieved interstate parity for access charges in every state where Qwest is the ILEC,⁶ the record shows that in every recent situation where the opportunity has arisen and the conditions have allowed for rate rebalancing of intrastate access rates to interstate levels, Qwest has achieved, or is achieving, such rebalancing.⁷ In fact, Mr. McIntyre clearly states that "we're making the exact same case in every state where it comes up within our territory that we're making here."⁸

Accordingly, Qwest cautions the Commission in its Main Brief against merely ordering Verizon to set the switched access rates at parity between Verizon-North and Verizon-PA.⁹ Instead, Qwest demonstrated that the record supports requiring revenue-neutral and competitively-neutral reductions in Verizon's intrastate switched access charges to the level of parity with interstate rates.¹⁰ Finally, Qwest in its Main Brief encourages the Commission to defer to the marketplace instead of instituting an unnecessary regulatory mandate for

⁵ Qwest Main Brief at 2-3; *see also* Qwest St. No. 1.0, pp. 6, 13; Tr. at 378-380.

⁶ Verizon Main Brief at 45 *citing* 382.

⁷ Tr. at 385-386.

⁸ Tr. at 385.

⁹ Qwest Main Brief at 5-6.

¹⁰ Qwest Main Brief at 5-6.

interexchange carriers (“IXCs”) to pass through any reductions to end user customers.¹¹ This Reply Brief outlines the fact that no other party has raise any argument in their Main Briefs, which justifies ignoring the Commission’s responsibility to achieve reductions in Verizon’s intrastate switched access rates, namely to interstate levels on a revenue-neutral and competitively-neutral basis.

III. ARGUMENT

A. QWEST CAN SUPPORT PHASING IN THE INTRASTATE ACCESS CHARGE REDUCTIONS, AS LONG AS THE REDUCTIONS ACHIEVE PARITY WITH INTERSTATE RATES ON A REVENUE-NEUTRAL AND COMPETITIVELY-NEUTRAL BASIS.

Fundamentally, Qwest supports AT&T’s conclusion in its Main Brief that the Commission should adopt the joint settlement proposed by Verizon and OCA as the “first step” in the rectification of Verizon’s intrastate access charges in Pennsylvania.¹² As Qwest’s Mr. McIntyre explained at the hearing, phasing in access charge reductions is a standard approach to obtaining a revenue-neutral and competitively-neutral offset. There is no question that a reduction in Verizon’s intrastate access charges are necessary, but having to achieve the substantial reduction through a phased approach only further evidences the need to reduce the intrastate access charges. Therefore, the end result of reducing Verizon’s access charges must achieve parity with interstate rates on a revenue-neutral and competitively-neutral basis.

Prior to the hearing, OCA and Verizon proposed a settlement position that provides for increases of up to \$40 million from residential basic local service and an increase up to, but not more than \$1.00 per residential line across the Verizon PA/Verizon North customer base.¹³ The

¹¹ Qwest St. No. 1.0, p. 7.

¹² AT&T Main Brief at 37-43; *see* Qwest Main Brief at 5.

¹³ Verizon Exhibit DMB 1; Tr. 437-443, 447-448.

reduction in access charges reflected in the OCA/Verizon alternative settlement simply falls short in terms of adequate movement toward interstate access charges. “The reduction of **Begin Proprietary *** End Proprietary** contemplated in the OCA/Verizon alternative settlement proposal could be considered, at best, an appropriate first step in an established multi-phase reduction of access charges, which calls for total access charge reductions of **Begin Proprietary *** End Proprietary** until parity with interstate rates is achieved.”¹⁴

In fact, the record demonstrates that the Commission should require revenue-neutral and competitively-neutral reductions in Verizon’s intrastate switched access charges to the level of parity with interstate rates.¹⁵ AT&T agrees that “[t]he record emphatically demonstrates that the telecommunications markets in Pennsylvania cannot endure another prolonged wait for comprehensive reform.”¹⁶ Phasing in reductions to intrastate access charges is a standard approach, as explained in McIntyre testimony at hearing.¹⁷ In fact, states frequently establish a set timetable in which the Commission requires the LEC to accomplish reductions in phases, especially when the requisite reductions are sizable enough to produce a significant monthly offset per local line.

Reducing Verizon’s intrastate access charges a total of **Begin Proprietary *** End Proprietary** to parity with its interstate rates results in approximately monthly **Begin Proprietary *** End Proprietary** increase per local line on a revenue neutral basis.¹⁸

Offsetting this total monthly increase to local customers—excluding those customers purchasing packages—justifies the use of a phased-in reduction, not the continued disregard of how

¹⁴ Qwest Main Brief at 5.

¹⁵ Qwest Main Brief at 2.

¹⁶ AT&T Main Brief at 42-43.

¹⁷ Tr. at 385-386.

¹⁸ AT&T Cross Exh. 7.

unreasonably elevated Verizon's excessive intrastate access rates are in Pennsylvania.

"Consequently, the Commission should not only commence the race with the implementation of the Verizon/OCA proposal, but complete it in an identified timeframe", AT&T explains.¹⁹ The end result of such reduction, however, must achieve parity with interstate rates on a revenue-neutral and competitively-neutral basis for all the reasons explained throughout the Qwest Main Brief.

B. THE RECORD SUPPORTS ELIMINATING THE CC, WHILE REDUCING THE ACCESS RATES TO PARITY WITH INTERSTATE ACCESS IN A REVENUE-NEUTRAL AND COMPETITIVELY-NEUTRAL MANNER.

Several parties attempt to derail the necessary reductions in Verizon's intrastate switched access charges, with various illogical and misguided theories about the reduction. Qwest in this Reply Brief focuses on the two main themes underlying these theories: (1) that the CC is a reasonable mechanism for recovering the cost of the loop,²⁰ and (2) that removing the CC will allow IXCs a "free ride".²¹ The bases for these themes are without support. First, recovering costs associated with the loop from non-cost causers, through a CC, is inequitable, unreasonable and not competitively-neutral. Second, IXCs not only pay for having their intrastate toll services ride over the local loop, they will pay excessively for the ride even with the elimination of the CC. For these reasons, the Commission should disregard these unfounded arguments—to retain the status quo of the IXCs continuing to subsidize the local service provided to Pennsylvania end users, instead of recognizing the unquestionable need to eliminate the CC and reduce Verizon's intrastate access rates to interstate levels.

¹⁹ AT&T Main Brief at 42-43.

²⁰ OCA Main Brief at 34; OTS Main Brief at 11-12; OSBA Main Brief at 15-16.

²¹ OTS Main Brief at 5; *see also* OCA Main Brief at 14-23; OSBA Main Brief at 15; Verizon Main Brief at 42-44.

1. Recovering Costs for the Loop from Non-Cost Causers is Inequitable.

OCA, OTS and OSBA erroneously argue in their Main Briefs that continuing to impose a CC charge—and even increasing the CC charge—is “reasonable”.²² However, imposing any CC charge on IXCs is recovering costs of the loop from a non-cost causer. As Qwest explained in its Main Brief, the CC, which IXCs pay to Verizon for intrastate long distance services, “is the clearly identifiable subsidy”, which “has no direct access cost component and therefore represents pure contribution.”²³ Verizon further explained “[t]he end-user’s decision to gain connectivity to the network causes the telephone company to incur costs, which are the costs of providing the local loop facility that connects the customer to the network.”²⁴ Thus, “[t]he CC imposed upon providers of intrastate long distance services, therefore, must be an implicit subsidy of the local service, which must be made an explicit charge.”²⁵

Achieving a shift to the cost causer—the local end user customer—will create an economically sound and competitively-neutral rate structure that will encourage vigorous competition in the market for telecommunications services to the benefit of all consumers. Alternatively, requiring only one type of service provider to pay subsidies for facilities that numerous services utilize, as contemplated by parties that support the continued imposition of the CC, is inequitable and not competitively-neutral.

Moreover, the CC charge is unreasonable as these charges cannot be appropriately allocated to intrastate toll end users. The IXCs must pay the CC to Verizon each month on all of

²² OCA Main Brief at 34; OTS Main Brief at 11-12; OSBA Main Brief at 15-16.

²³ Qwest Main Brief at 12-13 *citing* Qwest St. No. 1.0, p. 8; AT&T St. No. 1.0, pp. 26-28; MCI St. No. 1.0, p. 37; MCI St. No. 2.0, p. 10; Tr. 314-315.

²⁴ Verizon St. 3.0, p. 3.

²⁵ Qwest Main Brief at 12-13 *citing Global Order* at 10; *see also* AT&T St. No. 1.0, pp. 8-9; Tr. 263-280; 408.

the end user lines, regardless of whether the end user had any intrastate toll calls that month. In turn, the IXCs takes into consideration the CC charges when determining its retail rates and package plans. The end result is that end users who have more intrastate toll calls each month must pay for the CC fees associated with the lines of those end users making less intrastate toll calls. Requiring a non-cost causer, such as an IXC, to pay the CC is inequitable, but the lack of a means to pass the cost on to the real cost causer—the end user—makes continuing to impose the CC on IXCs unreasonable.

2. IXCs Pay Verizon a Surplus for Intrastate Switched Access, Even Without the CC Charge.

The public advocates also contend in their Main Briefs that the IXCs will get a “free ride” on the local loop without the CC.²⁶ In particular, OTS claims that “to completely eliminate the CC for both Companies . . . would allow [the IXCs] to have free unlimited access to the local loop.”²⁷ This contention is not only unsubstantiated, it is also incorrect. IXCs not only pay for having their intrastate toll services ride over the local loop, they will pay excessively for the ride even with the elimination of the CC.

IXCs pay traffic-sensitive rates to Verizon for intrastate access charges, in addition to the CC charge. As the record demonstrates, these traffic-sensitive rates *more than* cover Verizon’s costs for carrying the IXCs’ intrastate toll traffic with a reasonable return. In fact, the surplus resulting from the traffic-sensitive access rates alone cover the origination and termination of the intrastate toll traffic on the local loop. Accordingly, the Commission should disregard this unfounded argument, along with any argument that charging any CC, especially a higher CC,

²⁶ OTS Main Brief at 5; *see also* OCA Main Brief at 14-23; OSBA Main Brief at 15; Verizon Main Brief at 42-44.

²⁷ OTS Main Brief at 5.

can be reasonable. Instead, Qwest encourages the Commission to focus on the unequivocal need to eliminate the CC and reduce Verizon's intrastate access rates to interstate levels.

C. PENNSYLVANIA CONSUMERS WILL ENJOY REDUCED INTRASTATE LONG DISTANCE RATES WITHOUT COMMISSION INTERVENTION

Verizon mistakenly asserts that "toll services to end users are priced based on what the market will bear – not based on the magnitude of any particular ILECs' intrastate charges."²⁸ To get to this conclusion, Verizon has misconstrued not only the explanation of the IXCs, but the understanding of the Commission. "IXCs are setting their rates on a national level using flat rates that have no relationship with access rates of any specific ILEC"²⁹ does not mean that there is no correlation between access charges and retail toll rates. It means that the access rates of *all* LECs in whose territories the IXC offers service must be taken into account, along with various other charges and fees, in determining what the retail toll rate will be.³⁰

In fact, MCI explains that "a reduction in access costs, leading to a reduction in the costs of interexchange carriers, will benefit consumers through reduced costs, proper pricing signals and encouragement of new services and innovations."³¹ AT&T, MCI and Qwest also point out in the record, that, as a result of market pressures, IXCs have developed nationwide pricing plans, which attempt to recover the costs of intrastate and interstate switched access charges, along with various other costs associated with providing long distance services.³² More importantly,

²⁸ Verizon Brief at 42-43.

²⁹ Verizon Main Brief at 43, n. 112 citing *Implementation of the Telecommunications Act of 1996: Imputation Requirements for the Delivery of IntraLATA Services by Local Exchange Carriers*, No. M-00960799; *Rulemaking Re Generic Competitive Safeguards Under 66 Pa. C.S. §§3005(b) and 3005(g)(2)*, No. L-00990141 (Opinion and Order entered January 29, 2002) at 14.

³⁰ Verizon Main Brief at 42-43 citing Tr. 271-272, 274, 322, 326-327 (AT&T).

³¹ MCI Main Brief at 6.

³² Tr. 270-271, 326-328; see also Qwest S₅ No. 1.0, p. 15.

perhaps, is that the switched access charges vary not only from state to state, but also from LEC to LEC.

Determining the proper charges for long distance services must take into account each of these costs, and any changes to those costs whether voluntary or mandatory. In addition, the competitive long distance charges must accurately consider the number of customers nationwide, and the calling patterns of those customers. This task becomes infinitely more difficult when attempting to develop and maintain plans and packages to remain competitive in the IXC marketplace. The various charges associated with developing the various plans sold to various types of customers across the country makes monitoring any change to those rates practically impossible and administratively a nightmare.

For this reason, Qwest reiterates its recommendation that the Commission refrain from requiring IXC carriers in a competitive marketplace to adhere to a regulatory mandate to flow through any reductions in access charges to retail rates on a dollar-for-dollar basis to end users. Qwest agrees with the fundamental premise embodied in the flow-through mechanism—that reductions in intrastate access charges should result in a decrease in the rates end-users pay for toll services. The interexchange market, however, is sufficiently competitive to ensure flow-through without the need for carriers to document flow-through to state commissions.³³

³³

Id., p. 7.

IV. CONCLUSION

Accordingly, Qwest urges the Commission to take the steps, outlined in its Main Brief, to ensure that the telecommunications marketplace can continue to thrive in the manner in which the Commission has endeavored to create, by:

- a. Restructuring Verizon's intrastate switched access rates beyond merely creating parity between the existing rates of Verizon-North and Verizon-PA;
- b. Adopting a clear policy position that the ILECs' intrastate access rates must be at parity with interstate access rates;
- c. Reducing Verizon's intrastate switched access charges to the interstate level in a revenue-neutral and a competitively-neutral manner;
- d. Establishing a clear timetable in which to phase in reductions to Verizon's intrastate access rates to achieve parity with interstate access rates; and
- e. Refraining from imposing additional regulations in a competitive IXC environment that mandate a flow-through of any resulting reductions of intrastate access charges to end user customers.

Respectfully submitted,



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PA PUBLIC UTILITY COMMISSION
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I. INTRODUCTION

The Main Briefs reflect a grudging movement by some parties toward the moderate OCA/Verizon Joint Proposal as a reasonable resolution of this proceeding. The OCA and Verizon have already agreed that the Commission should rebalance Verizon's rates by adopting uniform traffic sensitive rates for the two Verizon companies, significantly reducing Verizon North's access revenue by using Verizon PA's lower \$0.63 carrier charge, and offsetting these reductions with modest basic rate increases of no more than \$1 for residential customers and similar increases for business customers spread across the lines of both companies.

AT&T now agrees that "the access reductions contemplated in the Verizon/OCA proposal reflect a significant step in the right direction towards a complete access reform for both Verizon companies. As such, AT&T does not interpose any objection to the Commission approval of the proposal." (AT&T Brief at 41). Presumably Qwest and MCI also would not turn down the **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in annual access savings they and the other IXCs would gain from approval of the OCA/Verizon proposal. The only question for the IXCs, then, is whether and when the Commission should consider any access reductions beyond the OCA/Verizon proposal. The record here does not demonstrate that any further reductions are warranted at this time.

Among the public advocates, while the OCA has briefed its "litigation position" that total access revenues should not be reduced, it remains steadfast in its support of the OCA/Verizon proposal as a "reasonable compromise of the issues involved in this proceeding that achieves the Commission's goals." (OCA Brief at 33). The OTS has moved a little closer, too, conceding that the restructure of local transport and local switching rates so that these rates are the same for both companies "is not objectionable as a concept," and that the proposal to adopt a \$0.63 carrier charge is "an improvement over the original proposal" to eliminate the carrier charge altogether. (OTS

Brief at 5). OTS and OSBA continue to oppose any rate rebalancing, however, because they believe IXCs are already paying much less than their “fair share” of the costs of the local loop, (OTS Brief at 6; OSBA Brief at 16), and that even a minimal basic rate increase is not justified or rational. (OTS Brief at 13; OSBA Brief at 9-15). These positions are contrary to all of the Commission’s recent holdings on rate rebalancing and access pricing and simply are not reasonable in today’s competitive environment.

The Commission should approve the OCA/Verizon proposal, but should not require any further access reductions at this time. The OCA/Verizon proposal achieves the “statewide” access rates required by the *Merger Order* and affords the relief demanded in the AT&T Complaint of reducing Verizon North’s access charges to the level of Verizon PA’s. It is acceptable to Verizon, OCA and AT&T as the “next step” for the Verizon companies.

As to the future, however, the Commission need not pronounce this case to be “the final word on access reform.”¹ Rather than committing itself *now* to a precise schedule of future access reductions and basic rate increases, as AT&T suggests, the Commission should instead allow itself the opportunity to evaluate the effects on the market of this substantial access reduction, along with the reductions approved in the Sprint/RTCC Settlement and other developments pending before the Legislature and the FCC. It then can consider whether any future proceedings are warranted to evaluate further rebalancing of end user and access rates for the Verizon companies.

¹ See *Access Charge Investigation per Global Order of September 30, 1999*, Docket Nos. M-00021596 (Opinion and Order entered July 15, 2003) (“*Sprint/RTCC Settlement Approval Order*”) at 12.

II. THE COMMISSION SHOULD PROMPTLY APPROVE THE OCA/VERIZON JOINT PROPOSAL REGARDING RATE REBALANCING FOR THE VERIZON COMPANIES AS A REASONABLE RESOLUTION OF THIS PROCEEDING

A. The OCA/Verizon Joint Proposal Is Supported By The Record, Is Within This Commission's Discretion To Approve And Is Acceptable As The "Next Step" To OCA, Verizon And AT&T

It is evident from the Main Briefs that the OCA/Verizon Joint Proposal is supported by the record and should be adopted as a reasonable resolution of this proceeding. As AT&T noted, "the first step in that process is the approval of the settlement proposal that has been introduced in this case by Verizon and the Office of Consumer Advocate." (AT&T Brief at 2). In fact, the record reflects that all of the quibbles with the details of the proposal have been satisfied.

For example, AT&T had stated in its testimony that Verizon's addition of the new trunk port rates should not increase overall traffic sensitive revenues,² but now indicates in its brief that the OCA/Verizon proposal to subtract the \$17 million in revenue to be gained from adding those new elements from the local switching rate satisfies its concern. (AT&T Brief at 37-39). Similarly, AT&T had objected in its testimony to the blending of the local switching rates of the two companies, resulting in a melded local switching rate of \$0.0088 per minute that would be an increase over Verizon North's current rate of \$0.0060 per minute (but a decrease of Verizon PA's current \$0.0093).³ AT&T has now indicated in its brief that it will no longer interpose this objection since the OCA/Verizon Joint Proposal will adopt a melded local switching rate of \$0.0069 (by virtue of the revenue subtraction discussed above). (AT&T Brief at 40).⁴ As OTS noted, the

² AT&T St. 1.0 (Kirchberger/Nurse Rebuttal) at 27.

³ *Id.* at 29-30.

⁴ Tr. 67. MCI apparently has not studied the record as well as AT&T has, for it unreasonably dismisses the "significant[]" reduction in Verizon North's carrier charge on the ground that it "comes at the cost of increasing the per minute switching rate." (MCI Brief at 15). This criticism makes no sense. The proposed increase to Verizon North's local switching rate is minimal (\$0.0060 to \$0.0069) and whatever slight revenue might be gained there pales in

restructure of local transport and local switching rates so that these rates are the same for both companies “is not objectionable as a concept.” (OTS Brief at 5).

In sum, there is no dispute over the details of the initial access rate restructuring and the adoption of uniform rates for the two companies. The only dispute is over what should be done next.

On one side of the spectrum, OTS and OSBA contend that Verizon should stop at the point where the rates are blended and uniform, without any overall access revenue reduction. They contend this would leave both companies with a carrier charge of \$1.20, but actually the record reflects that if the Commission satisfies the two AT&T concerns discussed above (making the addition of the trunk port rate elements revenue neutral within traffic sensitive rates and keeping the melded local switching rate at \$0.0069), then a carrier charge of \$1.44 for each company would be required.⁵

At the opposite extreme, the IXC's argue that reducing the carrier charge to \$0.63, resulting in a [BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY] access revenue savings to them, is not enough and is only a “first step.” They argue that the “next step” is complete elimination of the carrier charge and reduction of the traffic sensitive rates so that IXC's will realize at least an additional [BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY] in annual access savings. (See, e.g., AT&T Brief at 42).

As the Commonwealth Court recognized in reviewing this Commission's access pricing decision from the *Global Order*, the Commission will be “unable to satisfy both these far apart

comparison to the *over \$50 million* in revenue the IXC's will save by the reduction in Verizon North's carrier charge.

⁵ See Exhibit DMB 1 to VZ St. 1.1; VZ Main Brief at 13, n. 23.

competing views simultaneously.”⁶ The Court further held that the Commission is neither required to reduce access rates to “cost” (as the IXCs contend here) nor prohibited from implementing some additional gradual access reductions (as OTS and OSBA contend). Rather, it is within this Commission’s sound discretion to determine where to draw the line. The Court cautioned the Commission to consider all relevant interests in drawing that line:

One of the lessons of this proceeding is that the cost of excessively priced elements must be reduced to a point nearer to actual incremental cost, but not so greatly as to eliminate the support such revenue provides to other areas of the system that need that support.⁷

Under the Commonwealth Court’s interpretation of the law, this Commission is fully within its discretion to approve the OCA/Verizon Joint Proposal. Moreover, the OCA/Verizon Joint Proposal fully satisfies the requirements of the *Merger Order* and provides the relief demanded by AT&T in the complaint under which this proceeding has been docketed. In the merger case, the Commission adopted the provisions of a Memorandum of Understanding with the Attorney General that required Verizon to propose “statewide” access rates for the two companies, and the Order further described this requirement as rate “parity.”⁸ The OCA/Verizon proposal, which in essence brings the Verizon North access rates down to the level of Verizon PA and adopts uniform rate elements for the two companies, certainly satisfies the requirements of the *Merger Order*. The AT&T Complaint against Verizon North asserted that “VZ North’s rates are grossly out of step with the carrier access rates currently charged by Verizon Pennsylvania,” and asks the Commission to

⁶ *Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440, 480 (Pa. Commw. 2000).

⁷ *Id.*

⁸ *Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger*, Docket Nos. A-310200F0002; A-310222F0002; A-310291F0003; A-311350F0002, 1999 Pa. PUC LEXIS 86 (Opinion and Order entered November 4, 1999) (“*Merger Approval Order*”).

“[r]educ[e] Verizon North, Inc.’s carrier access charges to a level that is no higher than the rate currently charged by Verizon Pennsylvania.” The OCA/Verizon Proposal also provides the relief that AT&T demanded.

In sum, the OCA/Verizon proposal is amply supported by the record, is within this Commission’s discretion and provides the relief requested in the dockets before this Commission. It therefore should be adopted as the resolution of this proceeding.

B. The Commission Should Not Establish The Future Schedule Of Reductions As AT&T Suggests, But Rather Should Follow Its Precedent In The Sprint/RTCC Order And Determine In The Future Whether Another Proceeding Is Required

AT&T pronounces itself satisfied for the time being with the access reductions that would result from the OCA/Verizon Joint Proposal, but it also asks the Commission to commit itself now to specific access reductions and offsetting rate increases over a two-year period, to get to the point where Verizon’s intrastate access rates mirror its current interstate rates. AT&T projects that these two steps would further reduce Verizon’s access revenue by **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** beyond the reductions that would result from the OCA/Verizon proposal, and that two end-user rate increases of about 80 cents per month would be required. (AT&T Brief at 42).

While Verizon appreciates AT&T’s efforts to moderate its position, there are a number of reasons why the Commission should not commit itself in advance to precise access reductions and end-user rate increases as AT&T proposes. Rather, the Commission should close this proceeding now, by adopting the OCA/Verizon Joint Proposal, with the same understanding expressed in the

Sprint/RTCC Settlement Approval Order that this proceeding may not be the “final word on access reform.”⁹

First, AT&T’s proposal presumes that this Commission has already found that the end goal is to arrive at access rates that mirror current interstate rates, but the record here does not support such a finding, as discussed in Verizon’s Main Brief and in Section IV below. Indeed, the Commonwealth Court has already held that it would be reasonable and within this Commission’s discretion to end up with access rates priced above cost, requiring IXCs to continue to share in some portion of network costs.¹⁰ The Commission need not determine the appropriate end point, or decide whether access rates should ultimately be set at cost, if it simply approves the OCA/Verizon proposal and ends this proceeding now.

Second, all the arguments the IXCs make for access reductions are based on their (incorrect) notions about the impact of the current level of access rates on the markets for intrastate toll services and bundled offerings.¹¹ The Commission should give itself the chance to implement the significant access reductions contemplated by the OCA/Verizon proposal, as well as the access reductions that will flow from the Sprint/RTCC Order, and evaluate the state of the market after those reductions have been implemented. The Commission should not be put in the position of pre-ordaining future access reductions without the benefit of evaluating that evidence.

Third, AT&T implies that an additional **[BEGIN VERIZON PROPRIETARY]**
[END VERIZON PROPRIETARY] access revenue reduction over two years will satisfy the IXCs, and that the Commission would reach the “finish line” with respect to Verizon’s access rates. (AT&T Brief at 42). Verizon suspects that this is not the case, and that the IXCs will

⁹ *Sprint/RTCC Settlement Approval Order* at 12.

¹⁰ 763 A.2d at 480.

¹¹ See VZ Main Brief at 37-44; this Reply Brief at Section IV (A).

continue to demand reductions even after AT&T's two phases, because they have already stated they believe current interstate rates exceed their notion of "cost."¹² Therefore, the Commission will not avoid a future proceeding by now adopting AT&T's request to set a schedule for future access reductions.

Finally, there are many developments ongoing outside the record of this proceeding that could well influence this Commission's thinking on whether and to what extent rates should be rebalanced. There is no reason for the Commission to pre-ordain the outcome by assuming it is appropriate to "mirror" current interstate rates or by adopting a two-year schedule of specific access decreases and basic rate increases, and thereby deprive itself of the opportunity to consider the impact of these developments. For example, the Chapter 30 statute sunsets at the end of 2003 and the Legislature is expected to enact a new or modified statute to replace it. That statute may affect access and local service pricing policy. Additionally, as Qwest points out, "[s]witched access is included as part of the FCC's pending intercarrier compensation docket and will continue to receive attention in anticipation of the 2005 expiration of the CALLS and MAG plans. The FCC is considering a bill-and-keep regime for the exchange of most, if not all, intercarrier traffic, including switched access." (Qwest Brief at 20).

Therefore, the Commission should close this proceeding with its adoption of the OCA/Verizon proposal, finding that this is an appropriate "next step" and that the Commission may again address issues of Verizon's access pricing in future proceedings.¹³

¹² See, e.g., AT&T Brief at 6 ("Verizon's interstate rates are themselves priced at levels that exceed the incremental cost Verizon incurs in providing access services."). Moreover, the IXCs believe that interstate access rates will continue to fall, so there is no reason to assume that two years from now the rates that result from AT&T's proposal will actually "mirror" the interstate rates in effect at that time. See Qwest Brief at 20 (contending that "the FCC appears to continue moving in a direction that significantly reduces interstate switched access rates.")

¹³ OTS requests that as part of the resolution of this proceeding Verizon North should implement

III. THE PUBLIC ADVOCATES' OPPOSITION TO RATE REBALANCING IS BASED ON FLAWED REASONING AND AN OUTDATED REGULATORY THEORY OF LOOP ALLOCATION

A. The Commonwealth Court Did Not Mandate Any Specific Allocation Of Loop Costs, But Rather Held That This Commission Has Discretion In Pricing Access

OCA (which briefs its “litigation position” against access reductions, but supports the OCA/Verizon Joint Proposal) relies on the Commonwealth Court’s opinion affirming the portion of the *Global Order* relating to access rate reductions. OCA argues that this appellate opinion supports the public advocates’ argument that the Commission must maintain the *status quo* and must require the IXCs to continue the same level of contribution to network costs that they make today.¹⁴ In fact, the Commonwealth Court opinion supports the Commission’s adoption of the OCA/Verizon Joint Proposal, because the Court affirmed this Commission’s discretion to determine what portion, if any, of contribution to network costs should continue to be contained in access rates. In short, the Commonwealth Court decision neither requires the Commission to price access at cost (as the IXCs demand) nor requires the Commission to maintain the current level of contribution (as the public advocates contend), but allows this Commission to view the record as a whole and determine where to draw the line.

The Commonwealth Court agreed with this Commission’s arguments defending its Global decision, and flatly rejected AT&T’s contention that the Commission was prohibited from pricing access above “cost” and that therefore the Commission had acted “arbitrarily” in failing to reduce access rates to cost in that order. OCA reads too much into the Commonwealth Court’s discussion,

a tariff change to calculate its carrier charge separately for IXCs, ITORP and itself, as Verizon PA does in its tariffs. (OTS Brief at 6, 12). While some billing system changes would be required, Verizon could implement this tariff change, but may need additional time beyond the implementation of the access restructure to be able to do the necessary system work.

¹⁴ OCA Brief at 5 (citing *Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa. Commw. 2000)).

however, by implying that the Court *required* the PUC to continue to “allocate” some portion of loop costs to access, and ruled that it would *never* be appropriate to allocate 100% of loop costs to basic service. (OCA Brief at 5). What the Court actually held was that this Commission has the discretion to require that some portion of “network costs” (including but not limited to “the cost of the local loop”) should be borne by access rates.¹⁵ The Court further found that the Commission had appropriately exercised that discretion in the *Global Order* by requiring a reduction that would still leave Verizon PA’s access rates above cost, and planning to review the issue again in a future proceeding. The Court therefore found that the Commission’s plan for a “gradual transition in improving the placement of cost burdens is a valid approach in establishing rate structure,” and that “[t]he record and the law support the PUC’s decision to reduce the above-cost access charges in phases, to a degree now, and then further, pursuant to a future proceeding.”¹⁶

The Commonwealth Court opinion is also instructive because it rejects the false premise of all of the IXC arguments here – the erroneous contention that the Commission is somehow bound to arrive at “cost based” access rates. The Court emphasized that it would be reasonable for the Commission ultimately to conclude that access rates should never be reduced to “cost,” and that the Commission’s goal is to determine, in the exercise of its sound discretion, where to draw the line so that access is providing neither too little nor too much support to network costs.¹⁷

Adoption of the OCA/Verizon proposal as the “next step” in its review of Verizon’s access pricing, without precluding the possibility of further review in a future proceeding, would comport perfectly with the direction given to this Commission by the Commonwealth Court. Under the

¹⁵ 763 A.2d at 480 (confirming the “soundness of the PUC’s view, based on the evidence” to reduce access rates to a level that still requires access to share in the payment of some network costs).

¹⁶ *Id.*

¹⁷ *Id.*

record here, the appropriate place to draw the line on access reductions is with the revenue neutral reductions contained in the OCA/Verizon proposal.

B. This Commission Is Not Required To “Allocate” The Loop, And Even If It Chooses To Do So, It Has The Discretion To Allocate Most Or All Of The Costs To Basic Local Service

The public advocates oppose any rebalancing of Verizon’s rates because they contend that Verizon has not properly “allocated” the loop. OCA’s primary criticism of the proposal for rebalancing is that “both AT&T and Verizon would allocate 100% of the cost of the local loop facilities to basic local service.” (OCA Brief at 14).¹⁸ OSBA states that Verizon is wrong in believing that “dial tone line rates should be set to cover 100% of the cost of the local loop,” and that Verizon has not provided sufficient cost “justification” to shift any revenue to basic rates. (OSBA Brief at 12, 14-15). OTS primarily argues that IXCs are already paying less than the percentage of the loop that should be allocated to them, so there is no cost “justification” for rate rebalancing. (OTS at 13).

The OCA/Verizon proposal to raise basic rates by less than \$1.00 does not even come close to allocating “100% of the cost of the local loop” to basic service. Indeed, there is no dispute that under the OCA/Verizon proposal, access rates would still remain above anyone’s version of access costs, and therefore IXCs would still be providing some contribution to network costs. As Verizon demonstrated in the table on page 27 of its Main Brief, even if one artificially reduced dial tone line costs by using any of the allocation percentages suggested in the record – even Mr. Dunkel’s absurd and unprecedented 51% -- Verizon’s local service rates are still below their allocated portion of cost, and it would still be reasonable to raise them by the modest \$1 contemplated in the

¹⁸ While supporting the OCA/Verizon proposal, OCA briefs its “litigation position” against any rate rebalancing.

OCA/Verizon proposal. This is true both under Verizon's cost study and using the improperly understated costs posited by the public advocates. Therefore, the advocates' vague complaint that Verizon believes 100% of loop costs should be allocated to basic service does not provide a basis to reject the proposal here.

Even if, for the sake of argument, the Commission still finds the "allocation" concept to be relevant, the advocates fail to recognize that this Commission has moved beyond the outdated theory of price regulation (represented by the 1996 and 1997 orders they rely upon) that artificially depressed basic local service rates by "allocating" substantial portions of network costs to other services, such as access. Instead, the Commission's current view on these pricing issues is exemplified by the 1998 Recommended Decision of Judge Schnierle in the generic access investigation, where he concluded that "while a case might be made to allocate a *small* portion of the loop to access," a policy allocating a substantial portion of loop costs to anything other than basic service "simply fails to recognize the reality 'on the ground,' and is doomed to failure in a competitive environment."¹⁹ The Commission in the *Global Order* "incorporate[d] . . . by reference" Judge Schnierle's "various conclusions regarding the necessity of access reform in a competitive environment."²⁰

That this Commission is following Judge Schnierle's recommendation to reduce the contribution provided by access, and to raise basic rates as a replacement for these "implicit subsidies," is evident from the numerous Chapter 30 rate rebalancings the Commission has approved over the years and from its approval of the Sprint/RTCC Settlement.²¹ Indeed, the public

¹⁹ *Generic Investigation of Intrastate Access Charge Reform*, Docket No. I-00960066 (Recommended Decision, June 30, 1998) ("*1998 Access Recommended Decision*") at 51-52.

²⁰ *Joint Petition of Nextlink Pennsylvania, Inc.*, No. P-00991648-1649 (Opinion and Order entered September 30, 1999) ("*Global Order*") at 27.

²¹ See VZ St. 1.1 (Berry/Wirl Surrebuttal) at 10.

advocates gloss over the fact that this Commission has been steadily reducing the contribution provided by access, so that Verizon PA's carrier charge today is only a fraction of the carrier charge that would exist if the Commission were in fact using the allocation percentages the advocates posit. For example, OTS assumes that 10% is allocated to access (and 74% to basic service), but if that were the case OTS admits the carrier charge would have to be at least \$1.50 even under OTS's faulty cost estimates.²² OSBA argues that the Commission should be allocating 25% to access, requiring an even higher carrier charge than OTS's theory.²³ Since the Commission is already allocating far less than 25%, or even 10%, to access, it necessarily must be assuming that far more would be allocated to basic service than the advocates contend.

Indeed, it is notable that even the public advocates do not agree on what percentage should be allocated to basic service,²⁴ and they point to nothing that requires this Commission to limit its allocation of dial tone line costs to basic service to any particular percentage.²⁵ Rather, as the Commonwealth Court recognized in response to this Commission's own arguments, the Commission has discretion to determine where to place the "cost burdens."²⁶ Even if the Commission still believes the outdated concept of loop allocation has any relevance, the *Global Order's* incorporation of Judge Schnierle's conclusions, and its statements regarding the replacement of implicit subsidies, show that the Commission intends to steadily increase its

²² Under the costs demonstrated by Verizon's cost studies, the carrier charge would have to be over \$4.00 to cover 10% of dial tone line costs. Even under the understated cost estimates from UNE rates, the carrier charge would have to be over \$2.00 to cover 10% of the costs.

²³ OSBA St. 1 (Buckalew Rebuttal) at 12.

²⁴ OCA's witness contends that only 51% of dial tone line costs should be allocated to basic rates. OCA St. 1.0 (Dunkel Rebuttal) at 54. OTS's witness contends that 74% should be allocated to basic rates. OTS St. 1 (Kubas Direct) at 6-8; Tr. 393.

²⁵ In fact, OSBA's Mr. Buckalew admits that the Commission may allocate loop costs "any way it decides is reasonable." OSBA St. 1.0 (Buckalew Rebuttal) at 12.

²⁶ 763 A.2d at 480.

allocation to basic rates until it approaches 100%. The OCA/Verizon proposal does not require the Commission to adopt basic local service rates reflective of anything close to 100% of loop costs at this time.

OCA relies on a 1996 Order in a rate rebalancing case where the former Bell Atlantic was denied permission to raise certain dial tone line rates based on the evidence in that case.²⁷ OCA uses that order to argue that the Commission cannot consider allowing Verizon to rebalance rates here. (OCA Brief at 24-25). OCA reads far too much into this Order. Contrary to OCA's implication, the Commission did *not* find that Verizon's basic rates already cover their costs, or that Verizon should never be permitted to rebalance rates. To the contrary, the Commission was careful to limit its conclusion to the record before it at that time, and held that "our general concurrence with the ALJ's conclusions that Bell did not meet its burden of proof in this Rate Rebalancing, is without prejudice to our consideration of the existence of subsidies by lower cost (generally more urban) to higher cost (generally more rural) customers."²⁸ This holding was in response to an Exception by AT&T arguing that "[a] number of cost studies and their results have been submitted in the record . . . and although the studies vary in their treatment and allocation of joint and common costs, including loop costs, they all identify a significant subsidy to high cost customers from low cost customers. . . . The parties have only disagreed as to the amount of the subsidy."²⁹

To the extent OCA portrays this 1996 order as a Commission policy against revenue neutral rate rebalancing, that is not accurate. The ALJ in that case made a point of noting that "my overall negative recommendation should not be construed as opposition to the concept of rate rebalancing.

²⁷ *Pennsylvania Public Utility Commission v. Bell Atlantic – Pennsylvania, Inc.*, No. R-00963550, etc (Opinion and Order entered December 16, 1996) ("*Rate Rebalancing Order*").

²⁸ *Id.* at 12.

²⁹ *Id.*

Rate rebalancing as a response to competition and a regulatory tool can be appropriate, but this particular plan is not.”³⁰ The Commission stated that “our disposition of the issues in the instant proceeding should not be construed as broad based precedent for the proper role of rate rebalancing in the regulation of telecommunications service providers.”³¹

The OCA and OSBA also argue that 66 Pa.C.S. § 1325 precludes the Commission from approving this rate rebalancing because Verizon did not demonstrate cost justification for raising basic rates more than the overall increase to Verizon’s revenue (which is 0 since this rebalancing would be revenue neutral). (OCA Brief at 30-31; OSBA Brief at 12-15). Their argument boils down to a claim that the “cost” of providing basic service that one must use when justifying a rate increase under this statute includes less than 100% of the cost of the dial tone line, and that the OCA/Verizon proposal would not pass muster under such a standard. Their argument fails for several reasons.

First, it would be reasonable for the Commission to reverse its 1996 holding in the rate rebalancing case and to conclude that § 1325 was not intended to apply to revenue neutral rate rebalancings under Chapter 30 at all. (VZ Main Brief at 22-23). Second, even if the statute applies, the “direct cost of providing the service,” which the statute plainly states must be included in the cost for this analysis, logically must include 100% of the cost of the dial tone line facility, because this facility is essential to provide local service. (VZ Main Brief at 25). Third, even if one assumed that the statute required the comparison to use less than 100% of dial tone line costs, Verizon’s weighted average rate for residence basic local service of \$12.55 for Verizon North and \$13.31 is still substantially less than the cost under any of the allocation scenarios posited by the advocates in

³⁰ *Id.* at 6.

³¹ *Id.*

this case, and the minimal \$1 increase proposed here would still be amply “justified” in light of the “cost.” (VZ Main Brief at 23-27).³² Fourth, this Commission has approved numerous other ILEC rate rebalancing plans without discussing or requiring a showing on §1325, and it would be arbitrary and capricious to apply the statute to Verizon in a manner different from the way it has been applied to all other ILECs.³³

Finally, this Commission has stated its intention to rule consistently with the FCC on issues of loop allocation.³⁴ OCA takes out of context quotes of various FCC statements to wrongly contend that the FCC accepts OCA’s view that the local loop is a shared cost and cannot be allocated wholly to the end-user. Like this Commission, however, the FCC’s more recent policy has been to move “implicit subsidies” from access rates and place those costs on end-users. Thus, the FCC does *not* allocate the cost of the loop in its own cost model, the Synthesis Model, which is the basis for computing universal service support needs and making federal universal service distributions.³⁵ When it comes to pricing interstate access, moreover, the FCC has decided to

³² OCA confuses the argument more by using a figure of \$19.64 to represent Verizon’s average revenue per line, per month. (OCA Brief at 31). OCA then compares that figure to the minimal 51% of loop costs that OCA allocates to basic local service. This is not an “apples to apples” comparison because OCA has added into the revenue side an additional \$6.14 to represent the federal subscriber line charge (“SLC”), but OCA does not include on the cost side of the equation the portion of loop costs OCA would allocate to interstate (federal) access. OCA’s cost figures suffer from numerous other problems which are described in this Reply Brief and Verizon’s Main Brief, but at a minimum the average revenue figures OCA should be using for this comparison are \$12.55 for Verizon North and \$13.35 for Verizon PA.

³³ See, e.g., OCA Cr. Ex. 7 (including Statement of Commissioner Rolka).

³⁴ See Verizon Main Brief at 53 (citing *In re: Formal Investigation to Examine and Establish Updated Universal Service Principles and Policies for Telecommunications Services in the Commonwealth*, Docket No. I-00940035 (Opinion and Order entered July 31, 1997).)

³⁵ VZ St. 3.0 (Taylor Surrebuttal) at 25-26 (“If the FCC believed that loop costs were shared, it would not have set up its cost model in this manner.”)

recover the *full* cost of the local loop that is allocated to the federal jurisdiction through fixed subscriber line charges that are charged to end-users, not IXCs.³⁶

In sum, the advocates' arguments about loop allocation do not provide a basis to reject the OCA/Verizon proposal.

C. The Public Advocates' Attempts To Understate Verizon's Dial Tone Line Costs Are Flawed, Inconsistent And Unreasonable

Because even their outdated loop allocation arguments still do not show Verizon's average revenue from basic service to cover its basic service costs, the advocates also improperly attempt to understate Verizon's cost of providing basic service by attacking Verizon's dial tone line cost study and putting in their own alternative cost estimates. Their absurdly low cost estimates do not withstand scrutiny.

Verizon's cost studies demonstrated that Verizon's cost of providing the residential dial tone line facility (loop and port) is [BEGIN VERIZON PROPRIETARY]

[END VERIZON PROPRIETARY]³⁷ Most unreasonable, OTS contends that Verizon's dial tone line costs are actually only \$15.09. (OTS Brief at 11). Verizon's Mr. Sanford and Ms. Dean detailed the numerous mistakes behind OTS's number, and notably even the OCA arrives at a higher cost figure by correcting for some (but not all) of OTS's mistakes.

³⁶ VZ St. 3.0 (Taylor Surrebuttal) at 26; *In the Matter of Access Charge Reform et al*, CC Docket Nos. 96-262, 94-1, 99-249, and 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1; Report and Order in CC Docket No. 99-249; and Eleventh Report and Order in CC Docket No. 96-45, rel. May 31, 2000, ("*CALLS Order*"). This point also refutes OCA's argument that the U.S. Supreme Court also accepted the notion that the loop is a shared cost in *Smith vs. Illinois Bell Telephone*. While *Smith vs. Illinois Bell* may imply that interstate services must be priced to recover some portion of loop plant, it is silent on how those costs should be recovered from interstate services. The FCC has decided that interstate loop costs should be recovered through flat-rated charges from the end user, i.e., from the ultimate cost-causer of loop facilities. *Id.*

³⁷ VZ St. 2.0 (Dean/Sanford Direct) at 20.

OTS's \$15.09 is flawed because it (1) starts with UNE rates which are set on an extremely hypothetical standard; (2) leaves out the costs of the port, which is an essential component of the dial tone line (the UNE port cost is \$1.14); (3) fails to account for the fact that residential costs are higher than business costs, but that UNE rates average these costs together (OCA adds 10% to adjust for this) and similarly uses all lines instead of just residential lines, which would yield a higher cost; and (4) fails to account for the fact that UNE rates do not include retail costs, which are significant and must be included when predicting dial tone line costs (Verizon used a 25.69% mark-up to correct for this error, reflective of the Commission's current wholesale discount).³⁸ (VZ Main Brief at 23-24). As Verizon explained in its Main Brief, beginning with UNE rates but making the other necessary adjustments would yield a UNE-based cost of the loop and port of \$23.48 for Verizon as a whole and \$29.08 for Verizon North taken separately, but even these adjusted numbers do not fully reflect Verizon's forward-looking dial tone line costs because they are based on UNE rates, which have been significantly modified based on this Commission's view of TELRIC. (VZ Main Brief at 24).

The OCA's cost estimates, in the range of \$18 to \$20 are also flawed. (OCA Brief at 28). In two instances, OCA uses UNE rates which are not proper for this purpose in any event, and also fails to adjust those rates upward to account for the retail costs that they exclude. OCA's third estimate is based on NECA universal service loop requirements, which Verizon explained are not properly used for this purpose because they are based on historical costs and exclude certain retail costs. (VZ Main Brief at 51).

Because all of the advocates' efforts to allocate the loop begin from the flawed premise of understated costs, the Commission should reject their arguments altogether.

³⁸ VZ St. 2.1 (Dean/Sanford Surrebuttal) at 3-9.

D. Verizon Has Provided Sufficient Detail Regarding The Basic Rate Increases

OSBA argues that the Commission should reject the OCA/Verizon joint proposal because Verizon has not provided sufficient detail as to the proposed increases to business customers, and so the Commission should simply require Verizon to leave its access revenue as it is, but increase Verizon PA's carrier charge to offset the decrease to Verizon North's and make them the same. (OSBA Brief at 9-12). The Commission should reject this argument.

First, OSBA ignores the substantial detail that Verizon *did* provide regarding the business increases. For example, Ms. Berry testified that the increase to weighted average business rates would be less than 60 cents per line per month, and that the total revenue to be collected from this increase would be [BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY].³⁹ This level of detail is actually *more* than was provided in the record before the Commission when it approved the Sprint/RTCC Settlement. For that rate rebalancing, the record before the Commission indicated only that the increase to basic business rates would not exceed the increase to basic residential rates and that the increases would be done in steps with limits to each step.⁴⁰ The parties to the Sprint/RTCC proceeding were provided with a bit more detail, but even this detail was no more specific than the detail that Verizon has provided to the Commission here – amounting to an identification of the potential amount of the increase to weighted average rates, which the RTCC's counsel stated are still subject to change in the companies' final tariff filings.⁴¹

³⁹ Tr. 59, 135 (indicating that the necessary increase to weighted average business rates would be less than 60 cents, although of course any individual customer's rates might by more or less than the average.)

⁴⁰ *Sprint/RTCC Approval Order*, Attachment A.

⁴¹ See DMB Exhibit 2 to VZ St. 1.1 Ms. Armstrong, counsel for the RTCC companies, explained on the record that even the numbers that were supplied to the parties were tentative estimates, and that additional tariff filings would be made to specify the rate increases and decreases:

Second, OSBA ignores the unique history of this case. This is not an ordinary rate request proceeding. Here, the Commission *asked* Verizon to make a proposal to achieve statewide access rates for the two companies, and specifically instructed that any revenue reductions could be proposed on a revenue neutral basis. Verizon has complied with this request, and the OCA/Verizon proposal is premised on the assumption that the Commission wanted to reduce Verizon North's rates to match Verizon PA's, rather than raising Verizon PA's rates to achieve "parity." Before Verizon can provide any more specificity on exactly which rates it would increase to effect such a change, it needs more direction from the Commission regarding whether the OCA/Verizon proposal is an acceptable resolution of the merger commitment and the AT&T complaint.

Finally, OSBA complains that there is "no substantial evidence to support notice of a rate increase to business customers." (OSBA Brief at 12). However, Verizon's proposal contains the identical requirements regarding public notice of the rate increases that are contained in the Sprint/RTCC settlement – which Verizon understands the public advocates requested as part of that settlement.⁴² Additionally, the record already reflects that the increase to the average rate will be less than 60 cents. Verizon will make specific tariff filings in order to comply with the Commission's order in this case (as Sprint and the RTCC companies are doing for their case).⁴³

some of the numbers impacting both the traffic sensitive rates and the carrier common line charge depend upon options that the companies have yet to make, so that the scenarios that the parties are looking at make certain assumptions. So whether or not, when the RTCC members actually implement the settlement proposal, they will adjust their carrier common line rate and/or their traffic sensitive rates has not yet been determined and will not be determined until such time as each of the companies actually make their filings later this year.

Tr. 161.

⁴² Both the Verizon proposal and the Sprint/RTCC Settlement require "notice through bill insert, bill message or separately mailed notice to all customers at least 30 days prior to the date of any rate change." VZ Ex. 1 (Verizon Proposal); Sprint/RTCC Approval Order, Attachment A.

⁴³ Tr. 161.

Thus, Verizon's customers will receive the same level of notice that the Commission approved as adequate, with the OSBA's support, in the Sprint/RTCC approval order. There is no reasonable basis for OSBA to complain here.

E. It Would Be Inequitable For The Commission To Deny Verizon's Rate Rebalancing Proposal In The Face Of Its Routine Approval Of Similar Rebalancing Plans For Other ILECs, Including Its Approval Of The Sprint/RTCC Settlement

OTS continues its unconvincing efforts to distance its opposition to Verizon's proposal from its active support of precisely the same proposal for all of the other ILECs in Pennsylvania through the Sprint/RTCC Settlement. OSBA admits that Verizon's petition "proposed access charge reductions similar in methodology to those presented by RTCC/Sprint in their settlement proposal," (OSBA Brief at 3), but then never explains why OSBA actively supported the Sprint/RTCC settlement – which is projected to result in hefty business rate increases for many customers -- but continues to oppose Verizon's moderate proposal here.⁴⁴ OCA's "litigation position" also unconvincingly attempts to argue that Verizon should be singled out for different treatment on this issue. Not only is there no reasonable explanation for the public advocates to support that settlement but oppose Verizon's proposal, but also it would be inequitable for the Commission to adopt the advocates' litigation position in the face of the Commission's recent approval of the Sprint/RTCC Settlement.

OTS argues that the proposals are different because the RTCC companies propose to raise both residential and commercial rates. (OTS Brief at 19). As Verizon demonstrated in its Main

⁴⁴ Alltel, for example, plans to increase its weighted average business rates by a total of [BEGIN RTCC PROPRIETARY] [END RTCC PROPRIETARY] North Pittsburgh similarly plans to increase its weighted average business rates by a total of [BEGIN RTCC PROPRIETARY] [END RTCC PROPRIETARY] The average Sprint/RTCC business increase is [BEGIN RTCC PROPRIETARY] [END RTCC PROPRIETARY]

Brief, the Verizon proposal contains the identical language to the Sprint/RTCC Settlement regarding the option to raise business rates, and the OCA/Verizon proposal will also result in a business rate increase. (Verizon Main Brief at 19). OTS also contends that the proposals are different because the RTCC companies are moving switched access toward interstate and are not adding or increasing switched access rates. (OTS Brief at 17-18). This is a distinction without a difference, because Verizon is proposing to restructure Verizon North's rates simply to comply with the *Merger Order* requirement to have "statewide" rates, and will "mirror" interstate rate structure for both companies, something that is consistent with the intent of the Sprint/RTCC Settlement. Moreover, under the OCA/Verizon proposal Verizon's traffic sensitive rates would be lower than 24 of the Sprint/RTCC companies. (Verizon Main Brief at 16). OTS also complains that the proposals are different because the RTCC companies will reduce their average carrier charge from \$7 only to \$5.21, whereas under the OCA/Verizon proposal the carrier charge would be \$0.63. (OTS Brief at 18). However, there is a wide range in the resulting carrier charges under the projected implementation of the Sprint/RTCC Settlement, and at least one company plans a carrier charge of \$1.22.⁴⁵

OCA contends the Verizon companies should be treated differently because Verizon's access rates are already lower than the other ILECs, implying that Verizon PA's "ahead of the curve" access rates are already sufficiently low. (OCA Brief at 9-10). That may be true for Verizon PA, but the OCA/Verizon proposal only results in a small decrease for Verizon PA. The relevant reductions are to reduce Verizon North's rates, particularly its current carrier charge of \$8.64, which the advocates must concede is higher both than the current and projected RTCC average. Verizon North's situation is therefore no different from the Sprint/RTCC companies. OCA also contends

⁴⁵ Tr. 399 (Kubas); OTS St. 1 (Kubas Direct) at 23, 25-26.

that Verizon is proposing “greater access reductions” than the Sprint/RTCC companies. (OCA Brief at 9). While it is true that the overall revenue reduction is larger, Verizon is spreading it over a greater number of lines, so the end user rate increase under the OCA/Verizon proposal is less than half the Sprint/RTCC average, and in this sense the rate increase is smaller.

OCA also argues that the Sprint/RTCC companies have “higher costs on average” than Verizon, based on a comparison of NECA loop costs. (OCA Brief at 10). As Verizon demonstrated, however, Verizon North – which is the subject of the access reductions – has NECA loop costs in the same range as those of Sprint and some of the RTCC companies, and yet the resulting end-user rates for Verizon North will be substantially lower. (VZ Main Brief at 52). The following table exhibits the comparison of NECA loop costs and proposed residential rates for Verizon North and some of the comparable companies.⁴⁶

ILEC	NECA Loop Costs	Proposed Weighted Average R-1 Rates After Rebalancing
Frontier PA	\$13.21	\$15.00
Frontier Lakewood	\$18.81	\$15.00
Frontier Oswayo	\$19.64	\$16.00
Verizon North	\$20.27	\$13.55
Buffalo Valley	\$21.61	\$15.00
Denver & Ephrata	\$21.68	\$18.00
North Pittsburgh	\$21.69	\$15.00
Sprint/United	\$21.90	\$18.00
Conestoga	\$21.98	\$15.00

In sum, given the evidence of record, it would be inequitable and arbitrary for the Commission to deny Verizon the modest rate rebalancing proposed here in the face of the Commission’s approval of the Sprint/RTCC Settlement just a few months ago.

⁴⁶ Exhibit DMB 2 to VZ St. 1.1; Exhibit WDA-4 to OCA St. 1; VZ St. 2.1 (Dean/Sanford Surrebuttal) at 11.

IV. WHILE VERIZON SUPPORTS A REASONABLE RATE REBALANCING THAT WILL SUBSTANTIALLY REDUCE ACCESS REVENUE, THE IXC'S HAVE NOT DEMONSTRATED THAT THIS COMMISSION SHOULD GO BEYOND THE OCA/VERIZON PROPOSAL OR ADOPT A POLICY OF PRICING ACCESS AT ANY VERSION OF "COST"

The IXCs are not fully satisfied with the substantial access reductions contemplated by the OCA/Verizon proposal because they contend that this Commission must reduce access rates to their notion of "cost," or to mirror interstate rates as a step toward "cost." As discussed above, the Commonwealth Court approved this 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, cautioning that "the cost of excessively priced elements must be reduced to a point *nearer* to actual incremental cost, but not so greatly as to eliminate the support such revenue provides to other areas of the system that need that support."⁴⁷ The IXCs have not demonstrated any reason for the Commission to reduce rates beyond the level of the OCA/Verizon proposal at this time, nor is there any basis to pre-ordain a two-year schedule of substantial further reductions as AT&T suggests.

A. It Is Not Necessary To Reduce Access Rates Beyond The OCA/Verizon Proposal To Spur Competition In The IntraLATA Toll Market

The IXCs' primary arguments in support of drastic access reductions relate to the impact of intrastate access charges on the market for in-state long distance services. The IXCs contend, among other things, that their business is suffering and they cannot compete with wireless carriers, e-mail and Verizon's own long distance services because their costs of intrastate access are too high. This Commission and the Commonwealth Court have consistently found that it is not necessary for intrastate access rates to be set at "cost" for IXCs to be able to compete in Pennsylvania's in-state long distance market on a fair basis. The record supports the same conclusion here.

⁴⁷ *Id.* (emphasis added).

First, as Verizon discussed in its Main Brief, IXCs have gained a significant share of the IntraLATA toll market even with access rates priced as they are today, and in fact Verizon North, with its substantially higher access rates, has only **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** of the toll market in its territory. (VZ Main Brief at 39-40).

Second, the IXCs complain that Verizon's entry into the long distance market puts them in a "price squeeze." (AT&T Brief at 18-21; MCI Brief at 7-9). As Verizon explained in its Main Brief, this Commission has rejected the "price squeeze" argument and has held that among other things, its "imputation" rules (where Verizon must demonstrate that total toll revenues exceed the total access charges that would apply on a total services level) provide sufficient protection to the IXCs.⁴⁸ Indeed, the "price squeeze" makes no sense because Verizon would make more money charging access to the IXCs than charging its end-user customers a price lower than access. (VZ Main Brief at 40-42).

While the IXCs attempt to portray Verizon's entry two years ago into the InterLATA long distance market as changing the analysis, in fact Verizon has always offered in-state long distance calling in the form of IntraLATA toll. Moreover, this Commission expressly considered Verizon's impending long distance entry in the *Global Order*, and nonetheless reclassified Verizon PA's in-state toll services as competitive, finding that its imputation rules would provide sufficient protection to the IXCs.⁴⁹ Indeed, AT&T's reference to Judge Schnierle's findings in a *different* 1998 Recommended Decision, regarding whether the IntraLATA toll market should be classified as competitive is irrelevant. (AT&T Brief at 23). The Commission addressed these findings by Judge

⁴⁸ Imputation applies where the in-state toll service is provided by the ILEC, such as Verizon PA. Where Verizon Long Distance provides long distance service, it is required to purchase access from the same tariff and under the same terms and conditions as other long distance carriers. 47 U.S.C. § 272; VZ St. 3.0 (Taylor Surrebuttal) at 35.

⁴⁹ *Global Order* at 238-242.

Schnierle's in the *Global Order* and ruled that, among other things, the access reductions that it had required in the *Global Order* (which resulted in Verizon PA's current rates, the same rates OCA and Verizon propose to adopt for Verizon North) were sufficient to care for the concerns raised by Judge Schnierle.⁵⁰ AT&T's complaint that Verizon's long distance minutes have been rising since Verizon entered the InterLATA long distance market likewise proves nothing about intrastate access pricing. (AT&T Brief at 24-25). As discussed above, Verizon imputes its access charges and Verizon Long Distance actually pays access charges, so the increase in demand for Verizon's services is more likely to be due to better service, advertising and customer interest in the existence of a new competitor.⁵¹

There is similarly no basis for AT&T's argument that the emergence of packaged and bundled plans that include a long distance component changes this analysis. AT&T complains that Verizon PA is offering a "Freedom" package under which a customer could obtain unlimited local,

⁵⁰ *Id.* at 240 ("We also recognize as valid the concerns expressed by ALJ Schnierle about whether the service will remain competitive in the future. These concerns are addressed today by, *inter alia*, our decision to lower BA-PA's [local switching] access charges to \$.009 per minute at each end, our adoption of the FCC's methodology for intraLATA presubscription cost recovery (which method provides for the allocation of presubscription costs to all carriers, not just IXCs), and, our decision to wait until BA-PA completes all steps necessary to secure Section 271 approval before we make the competitive designation effective.")

⁵¹ For the same reason, there is no basis for MCI's argument that the average revenues derived from access charges to IXCs versus from Verizon affiliates provides indirect evidence of a price squeeze. (MCI Brief at 8). The Verizon companies still impute or pay access. As Dr. Taylor explained, many factors could cause any particular company to have different average revenues per minute from others, such as different network designs that affect the type of switched access services and the nature of switched access elements that each carrier requires. For example, an IXC that tends to be located closer to the end office requires less interoffice transport and tandem switching services than other carriers that tend not to be located as close to the end office. Intrastate switched access services have different fixed and variable rate elements that have an impact on a carrier's revenue per minute even though, on a per unit basis, carriers are paying the same price. *Id.* at 40-41.

toll and long distance calling plus other features for \$54.95 per month. (AT&T Brief at 20).⁵² The record shows, however, that several other carriers, including MCI, offer similar bundled packages at a price around \$49.99.⁵³ In fact, Dr. Taylor noted that the CLEC products came first, and that Verizon's Freedom package was a response to IXC flat-rated plans, such as MCI's "The Neighborhood" plan.⁵⁴

Finally, AT&T's own actions belie its claims about pricing competition in the toll market. AT&T admits that it actually charges its end users in Verizon PA's territory rates that are intended to reflect even *higher* access rates than Verizon PA charges, in the form of a \$1.95 In-State Connection Fee that is intended to offset not only Verizon PA's intrastate access rates, but also some of AT&T's access costs from the rural ILECs.⁵⁵ Clearly then, AT&T believes the market in Verizon PA's territory will bear rates reflective of higher access charges than Verizon PA actually imposes. Indeed, AT&T's and MCI's effort to portray the in-state long distance business as a market that is in trouble is directly contrary to the statements of the other IXC participant here,

⁵² AT&T's convoluted argument that the long distance part of the plan is priced at \$15 also makes no sense. (AT&T Brief at 21-22). Actually, under AT&T's own analysis, the local service package that AT&T claims comprises the other \$39.95 of the price includes unlimited IntraLATA toll calling, so even the improbable customer AT&T posits who makes 15 minutes of toll calls a day would not be paying only \$15 for that privilege. See Tr. 285; AT&T St. 1.0, Exhibit K-N 4 (Verizon Local Package Basic includes "unlimited ... regional toll calling"). Moreover, the pricing of the product reasonably should also average in those customer who only make a minute or two of toll calls for the whole month, and not only the cost of the high volume caller in AT&T's example.

⁵³ VZ Cr. Ex. 4, 5, 6 and 7 (demonstrating that MCI, Cavalier, FSN and Z-Tel offer such plans in Pennsylvania); Tr. 289 (admitting that AT&T was aware of the existence of these products in Pennsylvania).

⁵⁴ VZ St. 3.0 (Taylor Surrebuttal) at 44. AT&T unconvincingly attempts to argue that these CLECs might be pricing their services at a loss. (AT&T Brief at 23 and 24). Not only is there no evidence to support AT&T's claim, but it makes no sense that four different companies would offer these products if they were not profitable, or that they would continue to underprice Verizon by \$5 if that were the case.

⁵⁵ Tr. 326-28.

Qwest, which admits that “fierce competition” among the approximately 500 certificated IXC’s in Pennsylvania is bringing the IXC’s “average rate per minute down in Pennsylvania year after year.” (Qwest Brief at 23).⁵⁶

Third, the IXC’s complain that wireless carriers have a cost advantage and that slashing intrastate access rates will somehow put the IXC’s back on the same footing as wireless carriers. (MCI Brief at 6; Qwest Brief at 14-15; AT&T Brief at 10). This argument is flawed for many reasons. The record shows that a large reason for that advantage is that wireless carriers supply the customer with the telephone, and so are not dependent on the local telephone network at all to originate calls, and thus do not have to pay originating access. Not only would this advantage exist for the wireless carriers no matter how high or low Verizon’s intrastate access rates were priced, but IXC’s can duplicate this advantage by providing their own local service to customers – as MCI and many other carriers already do in Pennsylvania – and thereby avoiding originating access, too.⁵⁷ In fact, a comparison of the price of a typical wireless plan that provides some degree of unlimited local and long distance calling to MCI’s and other carriers’ wireline local service plans that also offer unlimited long distance does not support the IXC’s argument.⁵⁸ There is also no basis to AT&T’s claim that the increase in total minutes that wireless carriers have terminated on Verizon’s network demonstrates that IXC’s are at a disadvantage because of intrastate access rates. (AT&T

⁵⁶ Qwest makes this point to argue that the Commission should trust the market to flow through any savings from access reductions.

⁵⁷ VZ St. 3.0 (Taylor Surrebuttal) at 43.

⁵⁸ MCI’s wireline local service “The Neighborhood” plan with unlimited local and long distance (including toll) is offered in Pennsylvania for \$49.99. VZ Cr. Ex. 4. Several other carriers offer the same plan for virtually the same price. VZ Cr. Ex. 5, 6 and 7. Verizon Wireless’s plan is not as “unlimited” as MCI’s local plan, because only a set number of minutes are included in the flat fee, and runs from \$34.99 for 300 unlimited minutes to \$199.99 for 3,200 unlimited minutes. AT&T St. 1.0, Exhibit K-N 5 (Verizon Wireless “America’s Choice” Plan).

Brief at 16-17). While it may be true that more customers are using wireless phones, as Dr. Taylor explained there are many complex reasons for the growth and maturity of the wireless market and its use as a substitute for traditional landline phones, and it is not logical to conclude that intrastate access rates play a significant role.⁵⁹

B. While It Is Not Necessary For This Commission To Define Precisely The Cost Of Providing Access Service, The IXCs Understate Access Costs To Advance Their Own Agenda

As Verizon explained in detail in its Main Brief, the “cost” of access is of limited relevance only to define the “price floor,” and even in an increasingly competitive market it is reasonable to expect carrier access charges to continue to defray at least some portion of the ILEC’s unique costs of providing ubiquitous availability and universal service. (VZ Main Brief at 45-48). AT&T continues to argue that the Commission should view the “cost” of access to be lower than depicted in Verizon’s access cost study, and that the Commission should use tentative unbundled network element (“UNE”) rates to estimate these costs. (AT&T Main Brief at 43-48). Verizon has already explained that the specialized “TELRIC” pricing methodology that the IXCs try to use here does not apply to access charges, and that the FCC has consistently rejected their attempts to price access on that basis. (VZ Main Brief at 47-48).⁶⁰ In any event, however, if the Commission adopts the

⁵⁹ These reasons include: (i) changes in customers taste and preferences—*e.g.*, college age and young professionals tend to be more willing to use primarily wireless for telecommunications needs, (ii) improved wireless service quality as technology advances, (iii) newer advanced data services such as web browsing and sending pictures via wireless calls and (iv) increasingly attractive equipment, pricing, services and packages (such as family shared plans offered by wireless carriers). VZ St. 3.0 (Taylor Surrebuttal) at 43.

⁶⁰ MCI and AT&T are also incorrect in contending that UNE rates for “reciprocal compensation” are relevant to estimate switched access costs. (MCI Brief at 13; AT&T Brief at 51). As Ms. Dean explained, UNE reciprocal compensation cost studies do not include all of the costs that must be included for switched access (such as getting started costs and the RTU factor). Tr. 191.

OCA/Verizon proposal it need not sort out at this time the cost basis for setting the price floor for access rates.

C. MCI's Opposition To Revenue Neutrality Is Unreasonable, Self-Serving And Contrary To Law

MCI is the only party actively to oppose revenue neutrality here. It does so based on the self-serving argument that the Commission should just lower access rates and make Verizon absorb the substantial revenue loss, so that the Commission does not have to worry about the consequences of raising end-user basic rates. (MCI Brief at 15-17). MCI made the exact same argument to Judge Schnierle in the 1998 generic access case, and he found it to be “extreme,” “without merit,” made simply for MCI’s convenience and a violation of Verizon’s Chapter 30 Plan.⁶¹ Indeed, while MCI disingenuously opposes revenue neutrality to sidestep the public advocates’ arguments against local rate increases, MCI claims to agree with Verizon that the costs of the loop should be “recovered from the cost causer – the end user.” (MCI Brief at 14). MCI’s argument against revenue neutrality would leave Verizon unable to recover its costs of the loop and would jeopardize universal service and Verizon’s financial stability.

As Verizon explained at length in its Main Brief, if the Commission determines that any access reduction is warranted here, it must be done on a revenue neutral basis through increases to basic service rates. First, the *Merger Order* that required this proceeding stated that any reductions could be revenue neutral. (Verizon Main Brief at 31-32). Second, this Commission has consistently permitted access reductions to be revenue neutral, including in the *Global Order*, the *Sprint/RTCC Order* and the numerous rate rebalancing plans it has approved over the years. (Verizon Main Brief at 32-34). Third, revenue neutrality is consistent with the actions of the FCC

⁶¹ VZ Main Brief at 36 (citing 1998 Access RD at 73).

in the federal arena, which has replaced subsidies in access rates with an end-user SLC. (Verizon Main Brief at 34). Fourth, as AT&T concedes and as Judge Schnierle found, raising basic end-user rates will have a pro-competitive benefit. (Verizon Main Brief at 35). Finally, revenue neutrality is required by the Verizon Chapter 30 plans. (Verizon Main Brief at 35). Not only did Judge Schnierle agree that MCI's proposal would violate Verizon PA's Chapter 30 Plan, but also this Commission in the 1996 Rate Rebalancing case rejected ALJ Cocheres's recommendation that Verizon PA reduce access rates by \$17 million without a revenue neutral offset. According to the Commission, under Verizon PA's "Chapter 30 Alternative Regulation Plan that was approved without modifications, we can only permit price changes that are revenue neutral," and on that basis the Commission authorized rate increases sufficient to constitute a revenue neutral offset to the access decreases.⁶²

Particularly unprincipled is MCI's contention that Verizon's request for revenue neutrality "reflects a backward-looking view of the regulatory world and market." (MCI Brief at 15). As MCI well knows, it is the "regulatory world" that limits Verizon's ability to raise its basic end user rates to cover its costs and requires it to seek permission for a rate increase. Unlike MCI, which has complete pricing freedom with respect to its local service offerings, Verizon does not. While MCI accuses Verizon of pandering to the notion of the "competitive market" only when it serves Verizon's own purposes, it is actually MCI that is guilty of that unfair and inconsistent brand of argument. If the pricing issues before this Commission were not regulated, Verizon could simply reduce its access rates and increase its end user rates without asking for regulatory permission.⁶³

⁶² *Rate Rebalancing Order* at 40-41.

⁶³ As Judge Schnierle noted, "an unwillingness to rebalance rates suggests an unwillingness to trust the market to bring about lower prices. If that is the case, I suggest that society rethink the notion of attempting to have competition in the local exchange market." *1998 Access RD* at 58.

IV. CONCLUSION

For the foregoing reasons, the Commission should approve the OCA/Verizon Joint Proposal as a reasonable resolution of this proceeding, should close this proceeding now and should reject AT&T's proposal for a future schedule of access reductions.

Respectfully submitted,

Date: September 29, 2003



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Verizon's new long distance services are, for the very large part, outside this Commission's jurisdiction. Moreover, while Verizon might have gained some "revenue" from long distance customers, it has also incurred costs in entering this market. There is nothing in the record even to demonstrate that Verizon has made a net profit on its long distance entry in Pennsylvania.



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October 18, 2004

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OCT 18 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: Compliance with *Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement And Plan of Merger, AT&T Communications of Pennsylvania, Inc. v. Verizon North, Inc.*, Docket No. C-20027195, Opinion and Order. (July 23, 2004).

Dear Ms. Conover:

Qwest Communications Corporation ("Qwest") hereby notifies Verizon Pennsylvania Inc. ("Verizon PA") and Verizon North Inc. ("Verizon North" and collectively "Verizon") of Verizon's failure to comply with the Opinion and Order entered on July 23, 2004 by the Pennsylvania Public Utility Commission ("Commission") in the above docket ("*July 23, 2004 Order*"). If Verizon continues to fail to comply with the *July 23, 2004 Order* in a timely manner, Qwest will have no alternative but to seek expedited enforcement from the Commission.

To date, Verizon has not submitted revisions to its intrastate access tariffed rates as required by the *July 23, 2004 Order*. In the *July 23, 2004 Order*, the Commission adopted the Petition for Resolution filed by Verizon PA, Verizon North, the OCA and the OSBA as the first phase of access charge reform in Pennsylvania. Though the *July 23, 2004 Order* did not identify a specific date by which Verizon must file its reduced intrastate access rates required in the *Order*, the Pennsylvania rules provide for a due date for compliance with Commission orders, when rate adjustments are required. Pursuant to Section 5.92 of the Pennsylvania rules, a public utility subject to a final Commission decision modifying rates is required to make the necessary revisions for compliance with the decision within 20 days, which would have made Verizon's tariff filing due August 12, 2004, with new rates effective on or before August 13, 2004.

Since August 12, 2004, Qwest has made numerous verbal and email inquiries to Verizon regarding the timing of its compliance with the *July 23, 2004 Order*. Most recently, you indicated that the soonest Verizon intends on undertaking any compliance efforts is January 1, 2005, nearly six months after the entry of the final Commission order prescribing the tariffed rate

changes. Moreover, Verizon has remained vague about whether what efforts might occur on January 1, 2005—whether it be beginning to develop customer notices, or at last making its compliance tariff filing with the new access rates. Each day of unreasonable delay in Verizon making the required access rate reductions adversely affects Qwest's cost of doing business in Pennsylvania.

This continued delay and uncertainty has forced Qwest to provide this letter to Verizon, which I am also providing to the Commission, to outline Qwest's expectations with regard to the timing and scope of Verizon's compliance with the *July 23, 2004 Order* that is appropriate at this time. Specifically, Qwest asserts that Verizon is out of compliance with the *July 23, 2004 Order*, and must file its tariff revisions to its intrastate switched access rates as soon as possible. Further, because of the failure in complying with the Order by the regulatory deadline, Verizon must make its compliance tariff filing with rate revisions effective retroactive to August 13, 2004. This will result in a credit for the overpayment of switched access rates to affected interexchange carriers, including Qwest. In order to reconcile these credits, Qwest also requests that Verizon provide Qwest an impact statement reflecting the impact of the Order's reductions associated with the revisions to Verizon's access rates in Pennsylvania pursuant to the *July 23, 2004 Order*.

Unless Verizon undertakes these steps toward complying with the *July 23, 2004 Order* by October 27, 2004, Qwest will have no choice but to seek expedited enforcement by the Commission to ensure timely and absolute compliance. Please do not hesitate to contact me at 303 383 6614 with any questions or concerns regarding this letter.

Sincerely,



Kristin L. Smith
Senior Attorney - Regulatory
Qwest Communications

cc: James J. McNulty, Secretary, Commission
Cheryl Walker Davis, Director, Office of Special Assistants
Bohdan R. Pankiw, Chief Counsel, Law Bureau
Denise Strucko, Switched Access Services, Director, Verizon
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October 27, 2004

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OCT 27 2004

RE: Access Charge Proceeding, Docket No. C-20027195 PA PUBLIC UTILITY COMMISSION!
SECRETARY'S BUREAU

Dear Ms. Smith,

This is in response to your October 18, 2004 letter alleging that Verizon has failed to comply with the Pennsylvania Public Utility Commission's ("Commission") Order in Verizon's Docket No. C-20027195. The Commission's Order approved a significant restructure of the switched access rates for both Verizon Pennsylvania Inc. ("Verizon PA") and Verizon North Inc. ("Verizon North" and collectively "Verizon"), offset on a revenue neutral basis by increases in business and residence exchange rates. Verizon has not failed to comply with the Commission's order; to the contrary, Verizon is currently in the process of implementing those changes and expects to implement them fully by February 2005.

As your letter correctly pointed out, the Commission's Order did not identify a specific date by which Verizon's access rebalancing had to be implemented. Your suggestion that this rebalancing could have been implemented in August is simply wrong. The Commission's order was entered on July 28, 2004. Ordering paragraph five requires that Verizon provide notice to all customers "at least 30 days prior to the date of any rate change." Given the order entry date and the 30-day notice requirement, implementation in August was impossible. The bill insert, which must be sent to all residence and business retail customers of both Verizon PA and Verizon North, has to be scheduled internally at least two months in advance. Since the Commission required the access rate reductions to be revenue neutral, those rate reductions necessarily could not have been implemented prior to the implementation of the residence and business local exchange increases. Even if these rate changes were simple and straightforward – and they were not – the earliest the rate rebalancing could have been implemented is November. Similarly, there is no basis for any retroactive adjustments in access rates, as you suggest in your letter, since the offsetting residence and business local exchange increases have not been implemented yet, nor can they be until notice is sent as required by the Commission's Order.

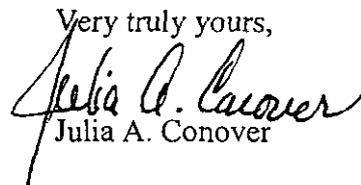
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In any event, implementation of the rate changes ordered by the Commission is more complicated than a simple rate rebalancing. As you are aware, implementation requires a complete restructuring of Verizon North's transport rate elements, because Verizon North had never implemented Local Transport Restructure (LTR). In addition new port rate elements from the interstate jurisdiction must be established for both Verizon PA and Verizon North. These activities take time and resources, and in particular programming resources to implement complex billing changes. In addition, the impact of the rate changes themselves has to be recalculated. Verizon's original petition was filed in December 2002 and was based on rates, revenues and volumes from 2002. Ordering paragraph five of the Commission's order requires Verizon to rerun its rate and revenue calculations "based on updated usage volumes." Updating this information is not a simple matter on the access side, because of the LTR rate restructures. In essence, Verizon must determine the impact of updated volumes based on a rate structure that is not currently in place. These rate impacts must be calculated before Verizon can prepare customer notification and tariff changes.

During the course of this proceeding, other parties recognized that Verizon's rate rebalancing and restructuring could not be implemented quickly. In AT&T's response to Verizon's Petition for Reconsideration, filed August 9, 2004, AT&T stated that the access reductions would take place at "the end of 2004, if not later." (AT&T's Response, page 7) MCI's Response noted that reductions will take place "later this year or early next year." (MCI's Response, note 8) This timeframe is also consistent with the time needed to implement the Rural Telecommunications Carrier Coalition's (RTCC) access rate rebalancing last year. Although the Commission approved that restructure in July of 2003, all of the new tariffs were not filed until the end of 2002.

As I have discussed with counsel for Qwest, Verizon is moving ahead with implementation of the access charge changes required by the Commission's Order. Verizon is planning a December bill insert for all retail customers. On January 31, 2005, which is approximately 30 days after the last customer receives the bill insert, access and retail tariffs will be filed. The new rates will become effective on February 1, 2005.

In sum, Verizon is complying with the Commission's Order, and is planning to implement the rate changes within a reasonable time frame. There is therefore no basis for seeking enforcement of the Commission's Order. I trust that this will be satisfactory to Qwest.

Very truly yours,

Julia A. Conover

cc: James J. McNulty, Secretary
Cheryl Walker Davis, Director, Office of Special Assistants
Bohdan R. Pankiw, Chief Counsel, Law Bureau
John Povilaitis, Qwest counsel

ORIGINAL

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November 17, 2004

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VIA HAND DELIVERY

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Harrisburg, PA 17120

**DOCUMENT
FOLDER**

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

Petition of Verizon Pennsylvania Inc., Verizon
North Inc., Office of Small Business Advocate
and Office of Consumer Advocate For Resolution
of Litigation

Verizon Pennsylvania Inc.'s 2003 Price Change
Opportunity

Verizon Pennsylvania Inc.'s 2004 Price Change
Opportunity, Docket No. P-00930715

Verizon North Inc.'s 2004 Price Change
Opportunity, P-00001854

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SECRETARY'S BUREAU

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Joint Petition of AT&T Communications of Pennsylvania LLC, MCI WorldCom Communications, Inc. and Qwest Communications Corporation for Clarification of the Commission's Order Entered on July 28, 2004 at the Above-Captioned Docket Regarding The Compliance Obligations Of Verizon Pennsylvania Inc. and Verizon North Inc.

109

Very truly yours,

John F. Povilaitis CK
John F. Povilaitis

Enclosures
JFP/ck

c: Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications of Pennsylvania, LLC

v.

Verizon North Inc. and Verizon Pennsylvania Inc.

Petition of Verizon Pennsylvania Inc., Verizon North Inc., Office
of Small Business Advocate and Office of Consumer Advocate
For Resolution of Litigation

Verizon Pennsylvania Inc.'s 2003 Price Change Opportunity

Verizon Pennsylvania Inc.'s 2004 Price Change Opportunity

Verizon North Inc.'s 2004 Price Change Opportunity

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**JOINT PETITION OF AT&T COMMUNICATIONS OF PENNSYLVANIA LLC,
MCI WORLDCOM COMMUNICATIONS, INC. AND QWEST
COMMUNICATIONS CORPORATION FOR CLARIFICATION OF THE
COMMISSION'S ORDER ENTERED ON JULY 28, 2004 AT THE ABOVE-
CAPTIONED DOCKET REGARDING THE COMPLIANCE OBLIGATIONS OF
VERIZON PENNSYLVANIA INC. AND VERIZON NORTH INC.**

I. Introduction

The purpose of this pleading is two-fold: (1) to ask the Commission to establish a date certain—February 1, 2005 at the latest—by which Verizon Pennsylvania Inc. (“Verizon PA”) and Verizon North Inc. (“Verizon North”) (collectively “Verizon”) must implement the access reductions the Commission ordered on July 23, 2004, and (2) to ask the Commission to complete the access reform process, either by commencing the remand contemplated in the Order entered on July 28, 2004 in the above docket (“*July 28th Order*”), or, even better, resolve the access problem once and for all by directing

Verizon to reduce its access charges based on facts already present in this record and to implement offsetting increases in basic exchange rates.

To that end, AT&T Communications of Pennsylvania LLC ("AT&T"), MCI WORLDCOM Communications, Inc. ("MCI") and Qwest Communications Corporation ("Qwest") (collectively the "IXCs") file this petition for clarification, pursuant to Sections 5.41 and 5.572(a) of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code §§ 5.41 and 5.572. The IXCs seek clarification of the Commission's order entered on July 28, 2004 at the above-captioned docket, which adopted phase one of access charge reform in Pennsylvania. Specifically, the IXCs seek clarification in the form of a date certain by which Verizon is required to make its compliance filing which includes tariff changes reflective of the new access rates ordered by this Commission. Good cause exists for the Commission to consider this Petition in light of the lengthy period of time that Verizon plans to take before complying with the Commission's order. In support thereof, the IXCs aver as follows:

II. Background

1. AT&T is a certificated telecommunications carrier in Pennsylvania providing, for purposes of this proceeding, long distance services throughout the Commonwealth, and paying tens of millions of dollars in access expenses to Verizon Pennsylvania and Verizon North. MCI also is a certificated telecommunications carrier in Pennsylvania, which provides long distance service throughout the Commonwealth and makes large access payments to Verizon Pennsylvania and Verizon North. Qwest is a certificated telecommunications carrier in Pennsylvania that is: (a) one of the country's largest Interexchange Carriers ("IXCs"), paying switched access charge expenses to

incumbent LECs (“ILECs”); (b) a facilities-based competitive LEC (“CLEC”) that competes for the customers of ILECs in more than two dozen cities; and (c) one of the nation’s largest providers of Internet backbone services and of various other services based on *Internet Protocol*.

2. By way of background, on December 30, 2002, Verizon filed a Joint Petition regarding the further reduction of their intrastate access charges pursuant to *the Bell Atlantic-Pa.-GTE Merger Order*,¹ *the Global Order* of 1999,² and the *Generic Access Charge Investigation* at M-00021596.³ On March 21, 2002, AT&T filed a formal complaint against Verizon North seeking to have Verizon North’s access charges reduced to Verizon PA’s levels pursuant to the requirements in the Commission’s *Merger Order*.

3. Although Verizon PA and Verizon North agreed to one proposed access charge reduction plan, the public advocates and the IXCs objected to the Joint Petition. Given that there were contested, material factual issues (i.e., what the cost of traffic sensitive rates are and to what level the intrastate access charges should be reduced), the Commission referred the Joint Petition to the Office of Administrative Law Judge (“OALJ”) for evidentiary hearings and a recommended decision. The Commission consolidated the Verizon Joint Petition for Access Charge Reductions with the *AT&T Communications of Pennsylvania, Inc. v. Verizon North, Inc.* complaint at C-20027195 regarding Verizon-North’s access charges. In accordance with the Commission's order, the matter was assigned to Administrative Law Judge Cynthia Williams Fordham.

¹ *Re Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger*, Docket Nos. A-310200F0002, A-311350F0002, and A-310222F0002, (November 4, 1999) (*Merger Order*).

² *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999) (*Global Order*); 196 P.U.R. 4th 172, *aff’d sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa.Cmwlth. 2000), *alloc. granted*.

4. Following discovery, hearings and briefing, the ALJ issued a Recommended Decision on October 31, 2003, which adopted uniform access rates for both Verizon PA and Verizon North and initiated reductions in Verizon PA's intrastate access charges based on a settlement reached by the Office of Consumer Advocate ("OCA") and Verizon. Neither the IXC intervenors nor the Office of Small Business Advocate ("OSBA") supported the settlement. Exceptions were filed to the Recommended Decision.

5. On February 26, 2004, Verizon, OSBA and OCA filed a Petition for Resolution of Litigation. In the petition, Verizon and the public advocates proposed to adopt uniform access rates and rate structures for the two Verizon companies and reduce Verizon North's carrier line charge equal to that of Verizon PA. Petitioners requested, *inter alia*, that the Commission adopt the same level of access charge reductions as authorized in ALJ Fordham's Recommended Decision but with the additional limitation that increases to business basic local service rates would be no greater than the increases to residential basic local service rates. Essentially, the Petition established parity between Verizon PA's and Verizon North's existing Traffic Sensitive Access Charges and the Carrier Charge rate per minute, while at the same time, the Petition mitigates against a significant rate increase on residential and business local exchange customers that would result from access rate reductions.

6. In the *July 28th Order*, the Commission took the first step towards meaningful access charge reform in Pennsylvania by adopting the Petition for Resolution that was filed by Verizon PA, Verizon North, the OCA and the OSBA. The Commission

³ *Access Charge Investigation per Global Order of September 30, 1999*, Docket Nos. M-00021596, etc.

viewed the Petition as phase one of access charge reform in Pennsylvania and remanded the proceeding back to the OALJ for consideration of further access charge reform.

7. On or about August 9, 2004, Verizon filed a Petition for Reconsideration of the portions of the *July 28th Order* that remanded the case to OALJ. Timely responses in opposition to the petition were filed by AT&T, MCI, Qwest and OSBA. A timely response in support of certain aspects of the petition was filed by OCA.

8. In terms of implementing the adopted access rate changes, Ordering Paragraph No. 5 of the *July 28th Order* directed the following:

That upon entry of this Opinion and Order and after notice through bill insert, bill message or separately mailed notice to all customers at least 30 days prior to the date of any rate change, Verizon Pennsylvania Inc. and Verizon North Inc. shall file revised tariffs or tariff supplements, to become effective on one day's notice, effecting the rates resulting from a final calculation based on updated usage volumes, consistent with the terms of the Joint Petition for Resolution of Litigation that was filed on February 26, 2004.

Thus, Verizon was directed to submit its compliance filing to become effective on one-day's notice, after providing the requisite notice of the rate changes to its customers.

9. In terms of an actual deadline for the compliance filing, the Commission's *July 28th Order* did not explicitly provide a specific date. However, the intent of the Commission was clear; Verizon was to proceed with customer notification of the approved rate changes and the new rates were to be effective after that interval on one day's notice.

10. Initially, Qwest had informal verbal communications with the General Counsel for Verizon, who indicated that the compliance filing would occur by the end of 2004. However, based upon recent correspondence, the compliance filing date was subsequently pushed back to January 1, 2005 and again to February 1, 2005, which will

be over six months after the entry of the final Commission order prescribing the rate changes. A copy of the letter that Qwest sent to Verizon's General Counsel requesting a clarification of the compliance filing date and the response from Verizon's General Counsel thereto is enclosed as Attachment A.

III. Discussion

11. Although the Commission's *July 28th Order* does not provide a specific date by which Verizon must make its compliance filing containing the new access charge rates, the *July 28th Order* and the Commission's general regulations governing the implementation of rate changes indicate a clear intent that access charge rate reform is to occur in an expedient manner.

12. There is no question that the Commission's *July 28th Order* was clear that access charge reform has been long overdue and is to occur without further delay. As noted by the Commission, the *Global Order* initially ordered that the investigation into access charge reform commence by January 2, 2001 with an original deadline to complete the case and reduce rates by December 31, 2001. The Commission further noted that this proceeding addresses Verizon's compliance filing in response to the directives in the Bell-Atlantic/GTE *Merger Order* to establish statewide access rates. That filing occurred on December 30, 2002, which was almost two years ago. Thus, the Commission acknowledged that access charge reform, which was promised in the *Global Order*, has been lingering now for nearly three years and that "it is not prudent to delay further access charge reform at this time." *July 28th Order* at p. 16.

13. Moreover, pursuant to Section 5.92 of the Commission's regulations, 52 Pa. Code § 5.92, a public utility that is the subject to of a final Commission decision

modifying rates is required to file a tariff revision consistent with the Commission's decision within 20 days of the entry of the final order, unless otherwise directed by the Commission. Thus, under the black letter law of the Commission's regulations, Verizon's compliance filing containing the new access rates was technically due on or before August 12, 2004, absent modification by the Commission.

14. Nevertheless, the IXCs are mindful that the customer notification requirement imposed by the Commission's *July 28th Order* on Verizon would appear to make compliance with the 20-day time frame unworkable. The IXCs view the Commission's *July 28th Order* as a modification to the Commission's general 20-day time period to make a compliance rate filing.

15. Recognizing that Verizon must balance the Commission's clear intent to prevent further delay of access charge reform with the fact that the parties must provide customer notification, the IXCs believe that a reasonable period of time for implementation has now elapsed and further delay only benefits Verizon in retaining revenues due to the IXCs in the form of access reductions. Verizon admits in its response to Qwest that, the earliest it could have implemented the rate change was November 1, 2004. It appears the only reason Verizon has not done so is to take advantage of the fact that the Commission has not specified exactly when Verizon must act.

16. Furthermore, each month of delay in the implementation of lower access rates financially harms the IXCs by maintaining rates at levels determined to be unreasonably high in July of 2004. Verizon's compliance plan has these unreasonable rates in effect for six months after the Commission's decision. No additional delay in the effective date of these rates should be permitted.

V. Statement of the Relief Sought

17. The parties request that the Commission clarify the *July 28th Order* in the above-captioned docket with regard to a definitive date by which Verizon must file implement the access charge rate changes adopted by the said order, effective on one day's notice. In Verizon's letter to Qwest, dated October 27, 2004, Verizon admits that November 1, 2004 could have been the date of implementation. Instead, by its own admission and on its own volition, Verizon unilaterally decided to delay implementation of the *July 28th Order*, to the further financial detriment of the IXCs which the *July 28th Order* sought to avoid. In its October 27th letter, Verizon also committed to implement the rate changes no later than February 1, 2005. Should Verizon fail to meet the February 1, 2005 date, the IXCs ask that the Commission order Verizon to compensate the IXCs for the reduction in rates that should have been in effect on this date.

18. Due to the urgent need for immediate access charge reform and the fact that the record has already been fully developed in this proceeding, the parties to this pleading further request that the Commission issue a final decision on further access charge reform without remanding the case to the OALJ for additional proceedings. As noted in the Oppositions filed by AT&T, MCI and Qwest on August 19, 2004 regarding *Petition of Verizon Pennsylvania, Inc. and Verizon North, Inc. for Reconsideration*, the record in this case is fully developed and supports immediate aggressive action by the Commission to further reduce Verizon's intrastate access rates. There is no debate that access rates need to be rebalanced, nor is there any meaningful debate that these access charges leave AT&T, MCI and Qwest at a severe competitive disadvantage relative to wireless carriers and VoIP providers, who can offer "free" long distance because they pay

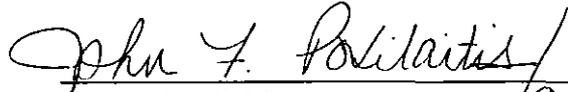
no access charges on calls. The Commission clearly agrees with AT&T, MCI and Qwest that Verizon/OCA/OSBA settlement fails to achieve the necessary reductions to access charges in Pennsylvania. As AT&T recommended, the Commission can largely eliminate the Verizon access problem in two years, at a cost of two monthly local rate increases of less than 80 cents each.

19. If, however, the Commission believes that a remand is still required for further access charge reform, the IXCs request that the remand proceeding receive expedited consideration, due to the urgent need for immediate access charge relief. The access problem is severe, and growing worse. Time is of the essence.

20. Verizon and Qwest have already informally exchanged their views in writing on the issue of compliance timing. See Attachment A. The IXCs note that the Commission's regulation governing exceptions and replies to compliance rate filings provides for abbreviated time frames – ten (10) days for exceptions and five (5) days for responses. Due to the urgent need for immediate access charge relief and the familiarity that the parties have with the issues raised by this petition, the IXCs also request that the Commission provide an abbreviated 10-day response period in which parties have until November 29, 2004 to file a response to the petition.

WHEREFORE, the IXCs respectfully request that the Commission grant this petition and clarify its order entered on July 28, 2004 at the above-captioned docket and require Verizon to submit its compliance filing with the new access charge rates on or before January 31, 2005, effective on one day's notice. In addition, the Commission should promptly provide further access charge relief and at a minimum, conclude the remanded proceeding before the ALJ on an expedited basis.

Respectfully Submitted:

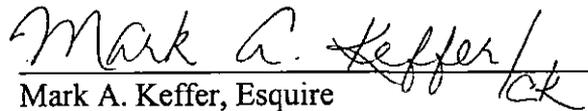

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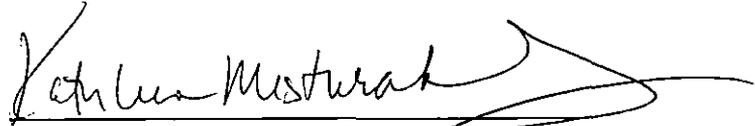
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Counsel for
MCI WORLDCOM Communications, Inc.

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ATTACHMENT A



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Kristin L. Smith
Senior Attorney

October 18, 2004

Julia A. Conover
Vice President and General Counsel
Verizon – Pennsylvania
1717 Arch Street, 32N
Philadelphia, PA 19103

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SECRETARY'S BUREAU

RE: *Compliance with Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement And Plan of Merger, AT&T Communications of Pennsylvania, Inc. v. Verizon North, Inc., Docket No. C-20027195, Opinion and Order (July 23, 2004).*

Dear Ms. Conover:

Qwest Communications Corporation (“Qwest”) hereby notifies Verizon Pennsylvania Inc. (“Verizon PA”) and Verizon North Inc. (“Verizon North” and collectively “Verizon”) of Verizon’s failure to comply with the Opinion and Order entered on July 23, 2004 by the Pennsylvania Public Utility Commission (“Commission”) in the above docket (“*July 23, 2004 Order*”). If Verizon continues to fail to comply with the *July 23, 2004 Order* in a timely manner, Qwest will have no alternative but to seek expedited enforcement from the Commission.

To date, Verizon has not submitted revisions to its intrastate access tariffed rates as required by the *July 23, 2004 Order*. In the *July 23, 2004 Order*, the Commission adopted the Petition for Resolution filed by Verizon PA, Verizon North, the OCA and the OSBA as the first phase of access charge reform in Pennsylvania. Though the *July 23, 2004 Order* did not identify a specific date by which Verizon must file its reduced intrastate access rates required in the *Order*, the Pennsylvania rules provide for a due date for compliance with Commission orders, when rate adjustments are required. Pursuant to Section 5.92 of the Pennsylvania rules, a public utility subject to a final Commission decision modifying rates is required to make the necessary revisions for compliance with the decision within 20 days, which would have made Verizon’s tariff filing due August 12, 2004, with new rates effective on or before August 13, 2004.

Since August 12, 2004, Qwest has made numerous verbal and email inquiries to Verizon regarding the timing of its compliance with the *July 23, 2004 Order*. Most recently, you indicated that the soonest Verizon intends on undertaking any compliance efforts is January 1, 2005, nearly six months after the entry of the final Commission order prescribing the tariffed rate

changes. Moreover, Verizon has remained vague about whether what efforts might occur on January 1, 2005—whether it be beginning to develop customer notices, or at last making its compliance tariff filing with the new access rates. Each day of unreasonable delay in Verizon making the required access rate reductions adversely affects Qwest's cost of doing business in Pennsylvania.

This continued delay and uncertainty has forced Qwest to provide this letter to Verizon, which I am also providing to the Commission, to outline Qwest's expectations with regard to the timing and scope of Verizon's compliance with the *July 23, 2004 Order* that is appropriate at this time. Specifically, Qwest asserts that Verizon is out of compliance with the *July 23, 2004 Order*, and must file its tariff revisions to its intrastate switched access rates as soon as possible. Further, because of the failure in complying with the Order by the regulatory deadline, Verizon must make its compliance tariff filing with rate revisions effective retroactive to August 13, 2004. This will result in a credit for the overpayment of switched access rates to affected interexchange carriers, including Qwest. In order to reconcile these credits, Qwest also requests that Verizon provide Qwest an impact statement reflecting the impact of the Order's reductions associated with the revisions to Verizon's access rates in Pennsylvania pursuant to the *July 23, 2004 Order*.

Unless Verizon undertakes these steps toward complying with the *July 23, 2004 Order* by October 27, 2004, Qwest will have no choice but to seek expedited enforcement by the Commission to ensure timely and absolute compliance. Please do not hesitate to contact me at 303 383 6614 with any questions or concerns regarding this letter.

Sincerely,



Kristin L. Smith
Senior Attorney - Regulatory
Qwest Communications

cc: James J. McNulty, Secretary, Commission
Cheryl Walker Davis, Director, Office of Special Assistants
Bohdan R. Pankiw, Chief Counsel, Law Bureau
Denise Strucko, Switched Access Services, Director, Verizon
Anne Cullather, Senior Director, Industry Affairs
John Povilaitis, Ryan Russell, Qwest counsel

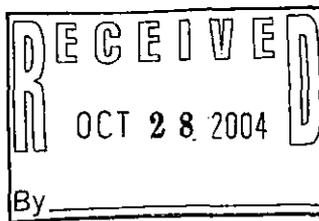
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October 27, 2004

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VIA UPS Overnight Delivery

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RE: Access Charge Proceeding, Docket No. C-20027195

Dear Ms. Smith,

This is in response to your October 18, 2004 letter alleging that Verizon has failed to comply with the Pennsylvania Public Utility Commission's ("Commission") Order in Verizon's Docket No. C-20027195. The Commission's Order approved a significant restructure of the switched access rates for both Verizon Pennsylvania Inc. ("Verizon PA") and Verizon North Inc. ("Verizon North" and collectively "Verizon"), offset on a revenue neutral basis by increases in business and residence exchange rates. Verizon has not failed to comply with the Commission's order; to the contrary, Verizon is currently in the process of implementing those changes and expects to implement them fully by February 2005.

As your letter correctly pointed out, the Commission's Order did not identify a specific date by which Verizon's access rebalancing had to be implemented. Your suggestion that this rebalancing could have been implemented in August is simply wrong. The Commission's order was entered on July 28, 2004. Ordering paragraph five requires that Verizon provide notice to all customers "at least 30 days prior to the date of any rate change." Given the order entry date and the 30-day notice requirement, implementation in August was impossible. The bill insert, which must be sent to all residence and business retail customers of both Verizon PA and Verizon North, has to be scheduled internally at least two months in advance. Since the Commission required the access rate reductions to be revenue neutral, those rate reductions necessarily could not have been implemented prior to the implementation of the residence and business local exchange increases. Even if these rate changes were simple and straightforward – and they were not – the earliest the rate rebalancing could have been implemented is November. Similarly, there is no basis for any retroactive adjustments in access rates, as you suggest in your letter, since the offsetting residence and business local exchange increases have not been implemented yet, nor can they be until notice is sent as required by the Commission's Order.

In any event, implementation of the rate changes ordered by the Commission is more complicated than a simple rate rebalancing. As you are aware, implementation requires a complete restructuring of Verizon North's transport rate elements, because Verizon North had never implemented Local Transport Restructure (LTR). In addition new port rate elements from the interstate jurisdiction must be established for both Verizon PA and Verizon North. These activities take time and resources, and in particular programming resources to implement complex billing changes. In addition, the impact of the rate changes themselves has to be recalculated. Verizon's original petition was filed in December 2002 and was based on rates, revenues and volumes from 2002. Ordering paragraph five of the Commission's order requires Verizon to rerun its rate and revenue calculations "based on updated usage volumes." Updating this information is not a simple matter on the access side, because of the LTR rate restructures. In essence, Verizon must determine the impact of updated volumes based on a rate structure that is not currently in place. These rate impacts must be calculated before Verizon can prepare customer notification and tariff changes.

During the course of this proceeding, other parties recognized that Verizon's rate rebalancing and restructuring could not be implemented quickly. In AT&T's response to Verizon's Petition for Reconsideration, filed August 9, 2004, AT&T stated that the access reductions would take place at "the end of 2004, if not later." (AT&T's Response, page 7) MCI's Response noted that reductions will take place "later this year or early next year." (MCI's Response, note 8). This timeframe is also consistent with the time needed to implement the Rural Telecommunications Carrier Coalition's (RTCC) access rate rebalancing last year. Although the Commission approved that restructure in July of 2003, all of the new tariffs were not filed until the end of 2002.

As I have discussed with counsel for Quest, Verizon is moving ahead with implementation of the access charge changes required by the Commission's Order. Verizon is planning a December bill insert for all retail customers. On January 31, 2005, which is approximately 30 days after the last customer receives the bill insert, access and retail tariffs will be filed. The new rates will become effective on February 1, 2005.

In sum, Verizon is complying with the Commission's Order, and is planning to implement the rate changes within a reasonable time frame. There is therefore no basis for seeking enforcement of the Commission's Order. I trust that this will be satisfactory to Quest.

Very truly yours,


Julia A. Conover

cc: James J. McNulty, Secretary
Cheryl Walker Davis, Director, Office of Special Assistants
Bohdan R. Pankiw, Chief Counsel, Law Bureau
John Povilaitis, Qwest counsel

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

AT&T Communications of Pennsylvania, LLC

C-20027195

v.

Verizon North Inc. and Verizon Pennsylvania Inc.

Petition of Verizon Pennsylvania Inc., Verizon North Inc., Office
of Small Business Advocate and Office of Consumer Advocate
For Resolution of Litigation

Verizon Pennsylvania Inc.'s 2003 Price Change Opportunity

P-00930715

Verizon Pennsylvania Inc.'s 2004 Price Change Opportunity

Verizon North Inc.'s 2004 Price Change Opportunity

P-00001854

CERTIFICATE OF SERVICE

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

VIA FIRST CLASS AND ELECTRONIC MAIL

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