



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265  
May 5, 2003

IN REPLY PLEASE  
REFER TO OUR FILE

M-00021596 et al

JULIA CONOVER ESQUIRE  
VERIZON-PENNSYLVANIA, INC.  
1717 ARCH STREET - 32 NW  
PHILADELPHIA PA 19103

**DOCKETED**  
MAY 21 2003

Access Charge Investigation per Global Order of September 30, 1999 (M-00021596, P-00991648, P-00991649)

In re the Joint Application of Bell Atlantic Corporation and GTE Corporation for approval of Agreement and Plan of Merger (A-310200F0002, A-311350F0002, A-310222F0002)

AT&T Communications of Pennsylvania, Inc. V Verizon North, Inc. (C-20027195)

Verizon Pennsylvania's 2003 Price Change Opportunity (M-00031694)

AT&T Communications of Pennsylvania, Inc. V Verizon Pennsylvania Inc. Re: Verizon Pennsylvania Inc.'s 2003 PCO (M-00031694C0001, P-00930715)

**DOCUMENT**

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on May 1, 2003 has adopted an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty  
Secretary

tab  
encls  
cert. mail

See Attached List for Additional Parties

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held May 1, 2003

Commissioners Present:  
Glen R. Thomas, Chairman  
Robert K. Bloom, Vice Chairman  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick  
Kim Pizzingrilli

**DOCKETED**  
MAY 21 2003

Access Charge Investigation per Global Order of September 30, 1999	:	Docket Nos. M-00021596 P-00991648 P-00991649
In re the Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger	:	Docket Nos. A-310200F0002 A-311350F0002 A-310222F0002
AT&T Communications of Pennsylvania, Inc. v. Verizon North Inc.	:	Docket No. C-20027195
Verizon Pennsylvania's 2003 Price Change Opportunity	:	Docket No. M-00031694
AT&T Communications of Pennsylvania, Inc., v. Verizon Pennsylvania Inc. Re: Verizon Pennsylvania Inc.'s 2003 PCO	:	Docket Nos. M-00031694C0001 P-00930715

**DOCUMENT**

**ORDER**

**BY THE COMMISSION:**

Presently before this Commission for consideration are two separate joint petitions for reductions in our generic access charge investigation at M-00021596, et al. On

December 16, 2002, the Rural Telephone Company Coalition (RTCC), The United Telephone Company of Pennsylvania (Sprint/United), Office of Trial Staff (OTS), Office of Consumer Advocate (OCA) and Office of Small Business Advocate (OSBA) filed a Joint Proposal for Access Charge Reductions (RTCC/Sprint Proposal) for the rural telephone companies and Sprint/United pursuant to the generic access charge investigation at M-00021596. The proposal was published January 4, 2003 at 33 Pa.B. 97, and comments and replies have been received by the Commission.

On December 30, 2002, Verizon Pennsylvania Inc. (Verizon-Pa.) and Verizon North, Inc. (Verizon-North) filed a separate Joint Petition (Verizon Joint Petition) regarding the further reduction of their access charges pursuant to the BellAtlantic-Pa.-GTE Merger Order,<sup>1</sup> the Global Order of 1999<sup>2</sup>, and the generic access charge investigation at M-00021596. This joint proposal was published January 18, 2003 at 33 Pa.B. 502, and comments and replies have been received.

### **Procedural History**

The Global Order of September 30, 1999 reduced access charges of all local incumbent exchange carriers operating in Pennsylvania. That Order directed a Pennsylvania Universal Service Fund (PaUSF) be established to enable the rural incumbent local exchange carriers (ILECs) and Sprint/United to reduce access charges and intraLATA toll rates while at the same time not raising residential basic service prices over a \$16.00/month cap. The Global Order also called for an investigation to be initiated in January 2001 to further refine a solution to the question of how the carrier

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<sup>1</sup> *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).

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

charge (CC) pool can be reduced and to consider the appropriateness of a toll line charge to recover any resulting reductions.

The mandated access charge investigation was delayed because of Verizon's Section 271 hearings in January and February of 2001. Also, at that time, the RTCC and Sprint/United were given some time to put together a settlement proposal in an effort to save time and costs involved with litigation and to narrow the issues. It was expected that the settlement proposal would take notice of the recent FCC's MAG<sup>3</sup> and CALLS<sup>4</sup> Orders which had further reduced interstate access charges for rural and non-rural companies, respectively. Ultimately, we opened a docket at M-00021596 in January 2002 to accommodate the access charge investigation required by the Global Order in the form of a collaborative proceeding.

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 our Merger Order at A-310200F0002.<sup>5</sup> The complaint was docketed at C-20027195. Thereafter, the complaint was initially dismissed by Chief Administrative Law Judge Robert Christianson, but later reinstated by Commission Order entered December 24, 2002. That order also bifurcated the access charge investigation so that all Verizon matters, including the complaint, were to be litigated at the C-20027195 docket.

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<sup>3</sup> *In re: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers et al., Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45 and Report and Order in CC Docket Nos. 98-77 and 98-166, FCC 01-304, November 8, 2001.*

<sup>4</sup> *In Re: Access Charge Reform, et al., Sixth Report and Order in CC Docket Nos. 96-262 and 94-1 Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, May 31, 2000.*

<sup>5</sup> *Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger, Docket No. A-310200F0002, etc. (Opinion and Order entered November 4, 1999) (Merger Order).*

On November 26, 2002, Verizon-Pa. submitted its annual Price Change Opportunity (PCO) filing requesting authority to use its \$17.7 million negative PCO money for 2003 to fund its contributions to the PaUSF. That filing was docketed at M-00031694 and P-00930715 (Verizon's Chapter 30 Plan docket). On January 31, 2003, AT&T filed a complaint at M-00031694C0001 challenging Verizon-Pa.'s proposal to use its negative PCO money to support Verizon's 2003 contribution to the PaUSF. On February 27, 2003, Verizon-Pa. filed an answer and motion to dismiss the complaint.

On December 16, 2002, RTCC, Sprint/United, OCA, OTS and OSBA filed a Joint Proposal seeking revenue-neutral access charge reductions. AT&T and MCI WorldCom filed comments opposing the proposal. Specifically, AT&T and MCI WorldCom call for more detail about the resulting access rates. AT&T and MCI WorldCom emphasize the need to move switched access rates to cost-based levels.

On December 30, 2002, the Verizon Joint Petition was filed. Qwest, OCA, OTS, OSBA, AT&T and MCI WorldCom filed comments in opposition to the Verizon Joint Petition. AT&T and MCI WorldCom emphasize the need to move switched access rates to costs. Qwest emphasizes a need to mirror interstate access charges. AT&T, MCI WorldCom, OCA and OSBA are not in favor of revenue-neutral reductions. OTS opposes the petition because no cost studies were filed to support the petition and other rates besides residential could be increased or Verizon could adjust the Price Stability Mechanism to remain revenue-neutral.

On April 2, 2003, Verizon-Pa. filed a letter with the Commission stating that it did not oppose the RTCC/Sprint Joint Proposal at M-00021596. On the same date, Sprint/United and the RTCC filed letters in support of Verizon-Pa. being able to use its negative PCO money to pay its 2003 contribution to the PaUSF.

## Discussion

We appreciate the RTCC and Sprint/United's efforts in agreeing to one proposed access charge reduction plan, and we appreciate the OCA, OTS and OSBA's agreement with the proposal. However, AT&T and MCI WorldCom oppose the plan and request more detail about the resulting access rates. AT&T and MCI WorldCom emphasize the need to move switched access rates to cost-based levels. Furthermore, AT&T objects to the continuing need for a reliance on the PaUSF for access charge reductions. AT&T also argues that the current regulations do not require wireless carriers to contribute to the PaUSF and that this is unfair to those carriers that do contribute.

Accordingly, while the joint proposal has the consensus of the RTCC, Sprint/United, OCA, OTS, OSBA and Verizon, it does not have the consensus of either AT&T or MCI WorldCom, which pay millions of dollars in access charges each year. And while the RTCC and Sprint/United have offered cost data to support their petition, there has been no evidentiary hearing and no cost studies have been offered to support the data. Given that this is a non-unanimous joint proposal, we hesitate to rule on the RTCC/Sprint Joint Proposal prior to a formal evidentiary hearing where opposing parties would have an opportunity to cross-examine the factual evidence. Since there appear to be contested material factual issues regarding, for example, the cost justification of traffic-sensitive rates and how low the intrastate access charges should be, we believe the RTCC/Sprint Joint Proposal should be referred to the Office of Administrative Law Judge for an evidentiary hearing and recommended decision at our Access Charge Investigation docket. We recognize that the parties to the proceeding have raised factual and non-factual/policy issues. The Commission is committed to developing a full record while ensuring judicial efficiency. To that end, the presiding ALJ has the discretion to classify the issues as either factual or non-factual/policy and to permit the parties to brief those issues that do not warrant an evidentiary hearing.

We will also consolidate with the RTCC/Sprint Joint Proposal the Verizon-Pa. 2003 PCO filing at M-00031694 and AT&T's PCO complaint at M-00031694C0001 because the issue of whether Verizon-Pa. has the authority to use its negative PCO money to pay its contributions owed the PaUSF is intricately related to issues expressed in the RTCC/Sprint Joint Proposal.

In addition, there remains uncertainty amongst contributing carriers to the PaUSF as to whether or not the PaUSF will continue beyond 2003. Although our Global Order calls for the Fund to expire December 31, 2003, the subsequent regulations codified at 52 Pa.Code §§ 63.161-63.171 do not have a sunset provision. To address this concern, we will require the Administrative Law Judge to issue a recommended decision in time for us to approve a final Order before December 31, 2003.

Turning our attention to the Verizon Joint Petition, we appreciate Verizon-Pa. and Verizon-North agreeing to one proposed access charge reduction plan. However, Qwest, OCA, OTS, OSBA's, AT&T and MCI WorldCom all have objections to the current proposal. AT&T and MCI WorldCom emphasize the need to move switched access rates to cost. Qwest emphasizes a need to mirror interstate access charges. AT&T, MCI WorldCom, OCA, and OSBA are not in favor of revenue-neutral reductions. OTS requests this Commission deny Verizon's Joint Proposal because Verizon is subject to a rate freeze through December 31, 2003, no cost studies were filed to support the proposal, and other rates besides residential could be increased, including business rates and optional services, or Verizon could adjust the Price Stability Mechanism to get to revenue neutral. OTS requests the Commission reject Verizon's proposed elimination of the carrier charge.

Since there appear to be contested material factual issues, just as in the RTCC/Sprint Joint Proposal, regarding, for example, what the cost of traffic sensitive rates are and how low the intrastate access charges should be, we believe the Verizon

Joint Petition should also be referred to the Office of Administrative Law Judge for evidentiary hearings and a recommended decision. We recognize that the parties to the proceeding have raised factual and non-factual/policy issues. The Commission is committed to developing a full record while ensuring judicial efficiency. To that end, the presiding ALJ has the discretion to classify the issues as either factual or non-factual/policy and to permit the parties to brief those issues that do not warrant an evidentiary hearing. Recognizing that we have previously bifurcated our generic access charge investigation at M-00021596 so as to separate the Verizon and the RTCC/Sprint access charge investigations, the two joint petitions shall be kept on separate tracks but with the same six month deadline from the date of entry of this order. The Verizon Joint Petition is consolidated with the *AT&T v. Verizon North* Complaint at C-20027195 regarding Verizon-North's access charges pursuant to our Order of December 24, 2002, and therefore should proceed under that docket number. The assigned ALJ will also address, at this docket, Verizon's compliance with the Merger Order directive that Verizon-North and Verizon-Pa. have access charges which are at parity with each other.

**THEREFORE,**

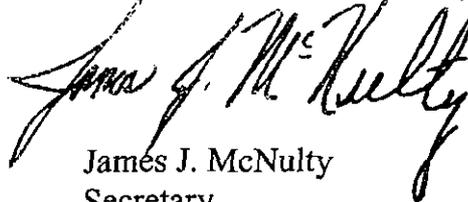
**IT IS ORDERED**

1. That the RTCC/Sprint/United/OCA/OSBA/and OTS Joint Petition at M-00021596, et al. be consolidated with *Verizon Pennsylvania Inc.'s 2003 PCO* at M-00031694 and *AT&T Communications of Pennsylvania, Inc. v. Verizon Pennsylvania Inc. Re: Verizon Pennsylvania Inc.'s 2003 PCO* at M-00031694C0001. The dockets shall be consolidated to M-00021596 and shall be assigned to the Office of Administrative Law Judge for an evidentiary hearing, briefing, and recommended decision within six months from the date of entry of this order.

2. That Verizon's Joint Petition for Access Charge Reductions, which is consolidated with *In re the Joint Application of Bell Atlantic Corporation and GTE*

*Corporation for Approval of Agreement and Plan of Merger* at Docket Nos. A-310200F0002, A-311350F0002, and A-310222F0002, as well as with *AT&T Communications of Pennsylvania, Inc. v. Verizon North, Inc.* at C-20027195 regarding Verizon-North's access charges shall be assigned to the Office of Administrative Law Judge for an evidentiary hearing and recommended decision within six months from the date of entry of this Order. These dockets shall be consolidated to C-20027195.

**BY THE COMMISSION,**



James J. McNulty  
Secretary

(SEAL):

ORDER ADOPTED: May 1, 2003

ORDER ENTERED: MAY 0 5 2003

RENARDO L HICKS ESQUIRE  
XO COMMUNICATIONS  
2690 COMMERCE DRIVE  
HARRISBURG PA 17110

JAMES H CAWLEY ESQUIRE  
RHOADS & SINON  
ONE MARKET SQUARE 12TH FL  
PO BOX 1146  
HARRISBURG PA 17108-1146

DERRICK WILLIAMSON ESQUIRE  
PAMELA POLACEK ESQUIRE  
MCNEES WALLACE & NURICK  
PO BOX 1166  
HARRISBURG PA 17108-1166

RUSSELL M BLAU ESQUIRE  
TAMAR E FINN ESQUIRE  
SWIDLER BERLIN SHEREFF  
FRIEDMAN  
3000 K STREET NW  
WASHINGTON DC 20007

WALTER COHEN ESQUIRE  
OBERMAYER REBMAN MAXWELL &  
HIPPLE  
204 STATE STREET  
HARRISBRUG PA 17101

MICHELLE BILLAND ESQUIRE  
CARL GIESEY ESQUIRE  
1133 19TH STREET NW 4<sup>TH</sup> FLOOR  
WASHINGTON DC 20036

DANIEL CLEARFIELD ESQUIRE  
ALAN KOHLER ESQUIRE  
WOLF BLOCK SCHORR SOLIS-  
COHEN  
212 LOCUST STREET STE 300  
HARRISBURG PA 17101

CHRISTY G KUNIN ESQUIRE  
BLUMENFELD & COHEN  
1615 M STREET NW STE 700  
WASHINGTON DC 20036

JOSEPH A DWORETZKY ESQUIRE  
WILLIAM B PETERSON ESQUIRE  
HANGLEY ARONCHICK SEGAL &  
PUDLIN  
ONE LOGAN SQUARE 12TH FL  
PHILADELPHIA PA 19103

MICHAEL C ATHAY ESQUIRE  
CITY OF PHILADELPHIA  
1515 ARCH STREET  
PHILADELPHIA PA 19102-1595

RICHARD METZGER V PRES  
FOCAL COMMUNICATIONS  
1120 VERMONT AVENUE NW  
WASHINGTON DC 20005

ROSS A BUNTROCK ESQUIRE  
R AAMOTH A KLEIN E SORIANO  
KELLEY DRYE & WARREN LLP  
1200 19TH STREET NW 5TH FL  
WASHINGTON DC 20005

JULIA O STROW  
INTERMEDIA COMMUNICATIONS  
3625 QUEEN PALM DRIVE  
TAMPA FL 33679

ROBERT C BARBER ESQUIRE  
AT&T COMMUNICATIONS  
ROOM 3-D  
3033 CHAIN BRIDGE ROAD  
OAKTON VA 22185

LINDA OLIVER ESQUIRE  
COLUMBIA SQUARE  
555 13TH STREET NW  
WASHINGTON DC 20004

TERRY MONROE VICE PRES  
COMPETITIVE TELECOM ASSN  
1900 M STREET NW STE 800  
WASHINGTON DC 20036

ANDREW O ISAR DIRECTOR  
TELECOMMUNICATIONS RESELLERS  
4312 92ND STREET NW  
GIG HARBOR WA 98335

CHRISTOPHER D MOORE ESQUIRE  
401 9<sup>TH</sup> STREET NW STE 400  
WASHINGTON DC 20004

RICHARD HRIP  
ZSUZSANNA E BENEDEK ESQUIRE  
UNITED TELEPHONE COMPANY  
340 N 3<sup>RD</sup> STREET 2<sup>ND</sup> FLOOR  
HARRISBURG PA 17101

KENNETH ZIELONIS ESQUIRE  
STEVEN & LEE  
208 NORTH THIRD STREET  
PO BOX 12090  
HARRISBURG PA 17108-2090

CRAIG A DOLL ESQUIRE  
25 NORTH FRONT STREET  
2ND FLOOR  
HARRISBURG PA 17101-1606

PATRICIA ARMSTRONG ESQUIRE  
REGINA MATZ ESQUIRE  
D MARK THOMAS ESQUIRE  
THOMAS THOMAS ARMSTRONG & NIESEN  
PO BOX 9500  
HARRISBURG PA 17108-9500

ROGER POOLE DIRECTOR  
NETWORK ACCESS SOLUTIONS  
100 CARPENTER DRIVE STE 206  
STERLING VA 20164

JULIA A CONOVER ESQUIRE  
VERIZON PENNSYLVANIA  
1717 ARCH STREET 32NW  
PHILADELPHIA PA 19103

CHRISTOPHER B CRAIG ESQUIRE  
545 MAIN CAPITOL BUILDING  
HARRISBURG PA 17120

MESSENGER

EDWARD J FUHR ESQUIRE  
RICHARD D GARY ESQUIRE  
HUNTON & WILLIAMS  
951 EAST BYRD STREET  
RICHMOND VA 23219

LINDA C SMITH ESQUIRE  
DILWORTH PAXSON LLP  
305 N FRONT STREET STE 403  
HARRISBURG PA 17101-1236

JOHN LAPENTA DIRECTOR  
FAIRPOINT COMMUNICATIONS  
6324 FAIRVIEW RD 4TH FLOOR  
CHARLOTTE NC 28210-3236

FRANK J MILLER ESQUIRE  
ERIC NELSEN ESQUIRE  
HUBER LAWRENCE & ABELL  
605 THIRD AVENUE 27TH FLOOR  
NEW YORK NY 10158

JOHN POVOLITIS ESQ  
RYAN RUSSELL OGDEN & SELTZER  
800 NORTH THIRD STREET  
STE 101  
HARRISBURG PA 17102-2025

STEVEN P HERSHEY ESQUIRE  
ECKERT SEAMANS CHERIN &  
MELLOTT LLC  
1515 MARKET STREET 9TH FL  
PHILADELPHIA PA 19102-1909

MARTIN ARIAS ESQUIRE  
CAVALIER TELEPHONE MID-  
ATLANTIC  
965 THOMAS DRIVE  
WARMINSTER PA 18974

RODNEY L JOYCE ESQUIRE  
SHOOK HARDY & BACON LLP  
HAMILTON SQUARE  
600 14TH STREET NW STE 800  
WASHINGTON DC 20005-2004

HARRY S GELLER  
PA UTILITY LAW PROJECT  
118 LOCUST STREET  
HARRISBURG PA 17101-1414

THOMAS J SNISCAK ESQUIRE  
NORMAN KENNARD ESQUIRE  
MALATESTA HAWKE & MCKEON  
PO BOX 1778  
HARRISBURG PA 17105-1778

HONORABLE JAMES J RHOADES  
SENATE OF PENNSYLVANIA  
32 E CENTRE STREET  
MAHANOEY CITY PA 17948

JOANNE M SCANLON PRESTIA  
252 CHAPMAN ROAD  
PO BOX 6066  
NEWARK DE 19714-6066

FRANCES MARSHALL ESQUIRE  
TELECOMMUNICATION TASK FORCE  
1401 H STREET NW STE 8000  
WASHINGTON DC 20530

MICHAEL J NOLEN DIRECTOR  
AT&T COMMUNICATIONS  
1600 MARKET STREET FL 16  
PHILADELPHIA PA 19103

DAVID E FREET PRESIDENT  
PA TELEPHONE ASSOCIATION  
PO BOX 1169  
HARRISBURG PA 17108-1169

CHRISTOPHER B CRAIG  
SENATOR VINCENT J FUMO  
545 MAIN CAPITOL  
HARRISBURG PA 17120  
MESSENGER

ANGELA T JONES ESQUIRE  
SMALL BUSINESS ADVOCATE  
COMMERCE BLDG STE 1102  
300 NORTH SECOND STREET  
HARRISBURG PA 17101  
MESSENGER

IRWIN A POPOWSKY ESQUIRE  
OFFICE OF CONSUMER ADVOCATE  
FORUM PLACE 5TH FLOOR  
555 WALNUT STREET  
HARRISBURG PA 17101-1921  
MESSENGER

KANDACE F MELILLO ESQUIRE  
PA PUC OFFICE OF TRIAL STAFF  
PO BOX 3265  
HARRISBURG PA 17105-3265  
MESSENGER

FRANK WILMARTH ESQUIRE  
PA PUC LAW BUREAU  
PO BOX 3265  
HARRISBURG PA 17105-3265  
MESSENGER

HONORABLE ALAN KUKOVICH  
PENNSYLVANIA SENATE  
SENATE BOX 203039  
HARRISBURG PA 17120  
MESSENGER

NICKOLAS GIORDANO  
GOVERNORS OFFICE  
TELE POLICY GROUP  
310 FINANCE BUILDING  
HARRISBURG PA 17120  
MESSENGER

AMY MUNRO  
PA DEPT OF EDUCATION  
HARRISTOWN 2 10TH FL  
333 MARKET STREET  
HARRISBURG PA 17126-0333  
MESSENGER

AUDREY P POWELL  
HOUSE OF REPRESENTATIVES  
ROOM 313 SOUTH OFFICE BLDG  
HARRISBURG PA 17120-2020  
MESSENGER

SCOTT J RUBIN ESQUIRE  
3 LOST CREEK DRIVE  
SELINGROVE PA 17870

RICHARD GARY  
VERIZON NORTH INC  
951 EAST BYRD STREET  
RICHMOND VA 23219

THOMAS A LEONARD ESQUIRE  
OBERMAYER REBMAN MAXWELL  
HIPPEL  
1617 JFK BLVD  
ONE PENN CENTER 19<sup>TH</sup> FL  
PHILADELPHIA PA 19103-1895

LAURA ROECKLEIN ESQUIRE  
DOW LOHNES & ALBERTSON  
1200 NEW HAMPSHIRE AVE NW  
SUITE 800  
WASHINGTON DC 20036

RONALD L REEDER MANAGER  
CTSI INC  
3950 CHAMBERS HILL ROAD  
HARRISBURG PA 17111

GEORGE L HUBER MANAGER  
CHOICE ONE COMMUNICATIONS  
100 CHESTNUT STREET STE 700  
ROCHESTER NY 14604-2417

HONORABLE KEITH R MCCALL  
PA HOUSE OF REPRES  
MAIN CAPITOL BLDG  
HOUSE BOX 202020  
HARRISBURG PA 17120-2020  
MESSENGER

JOHN D FILIPOWICZ  
ASST GENL COUNSEL  
RCN TELECOM SERVICES INC  
105 CARNEGIE CENTER  
PRINCETON NJ 08540-6215

MICHAEL KLEIN ESQUIRE  
LEBOEUF LAMB GREENE &  
MACRAE LLP  
200 N THIRD ST SUITE 300  
BOX 12105  
HARRISBURG PA 17108-2105

VERONICA SMITH EXEC DIR  
PENNSYLVANIA PUBLIC  
UTILITY COMMISSION  
PO BOX 3265  
HARRISBURG PA 17105-3265  
MESSINGER

L OLIVER J PURVIS ESQUIRE  
B CAMPBELL ESQUIRE  
HOGAN & HARTSON LLP  
COLUMBIA SQUARE  
555 THIRTEENTH STREET NW  
WASHINGTON DC 20004-1109

SUSAN JIN DAVIS ESQUIRE  
COVAD COMMUNICATIONS  
7799 LEESBURG PIKE  
SUITE 900 N  
FALLS CHURCH VA 22043

DAVID HILL  
BELL ATLANTIC-PA  
1320 COURTHOUSE ROAD  
8<sup>TH</sup> FLOOR  
ARLINGTON VA 22201

RONALD F WEIGEL DIRECTOR  
VERIZON  
STRAWBERRY SQUARE FLOOR 4  
HARRISBURG PA 17101

MARIANNE M HERTZOG REG  
ANLYST  
NEXTLINK  
925 BERKSHIRE BOULEVARD  
WYOMISSING PA 19610

JAMES SCHELTEMA  
BLUMENFELD & COHEN  
1625 MASSACHUSETTS AVE NW  
SUITE 300  
WASHINGTON DC 20036

JOHN BASSETT  
LARRY KRAJCI  
ALLTEL COMMUNICATIONS  
ONE ALLIED DRIVE  
LITTLE ROCK AR 72203-2177

JANET TUZINSKI  
DENVER & EPHRATA TELEPHONE  
& TELEGRAPH  
130 E MAIN STREET  
PO BOX 458  
EPHRATA PA 17522

KELLY M GOODNIGHT  
NORTH PITTSBURGH TELEPHONE  
4008 GIBSONIA ROAD  
GIBSONIA PA 15044-9311

CASSANDRA GUINNESS  
SR ANALYST  
FRONTIER COMMUNICATIONS OF  
PENNSYLVANIA  
180 SOUTH CLINTON AVENUE  
ROCHESTER NY 14646

JOHN KEISTER  
VENUS TELEPHONE CORPORATION  
COUNTY LINE ROAD  
BOX 75  
VENUS PA 16364

JOSEPH J LAFFEY SR VP ADMIN  
BUFFALO VALLEY TELEPHONE CO  
202 EAST FIRST STREET  
BIRDSBORO PA 19508

GEORGE ACHTZIGER SUPERINTDT  
CITIZENS TELEPHONE CO OF  
KECKSBURG  
PO BOX 156  
ROUTE 982  
MAMMOTH PA 15664-1056

JOHN SUTPHEN MGR GOV AFFRS  
CITIZENS TELE OF NY  
137 HARRISON STREET  
PO BOX 609  
JOHNSTOWN NY 12095

THOMAS G LAGER  
PALMERTON TELEPHONE COMPANY  
465 DELAWARE AVENUE  
PO BOX 215  
PALMERTON PA 18071

JOHN S ROCKER VP  
YUKON-WALTZ TELEPHONE CO  
PO BOX 298  
YUKON PA 15698-0398

KURT HEBGEN ADMIN TARIFFS  
TDS TELECOM-MAHANOY  
PO BOX 5158  
MADISON WI 53705-0158

JAMES J KAIL CH FINCL OFF  
BENTLEYVILLE TELEPHONE CO  
608 MAIN STREET  
BENTLEYVILLE PA 15314

MARILEE PLETCHER  
LAUREL HIGHLAND TELEPHONE  
CO  
PO BOX 168  
STAHLSTOWN PA 15687

SCOTT W HORNE PRESIDENT  
MARIANNA SCENERY HILL TEL  
PO BOX 308  
17 MAGNOLIA AVE  
MARIANNA PA 15345

HAROLD M SWITZER VP/GM  
LACKAWAXEN TELEPHONE CO  
PO BOX 8  
ROUTE 590  
ROWLAND PA 18457-0008

BARBARA J DIRENZO CONTRL  
ARMSTRONG TELEPHONE CO-PA  
ONE ARMSTRONG PLACE  
BUTLER PA 16001

THOMAS A MENDICINO  
SEC/TREASURER  
NORTH-EASTERN PA TEL CO  
720 MAIN ST PO BOX D  
FOREST CITY PA 18421

KEVIN J ALBAUGH  
PENN TELECOM  
2710 ROCHESTER ROAD  
CRANBERRY TOWNSHIP PA 16066

RUTH A ROBBINS  
NORTH PENN TELEPHONE CO  
34 MAIN STREET  
PO BOX 349  
PRATTSBURGH NY 14873

ELEANOR M SNYDER TREASURER  
PYMATUNING IND TELEPHONE CO  
5 EDGEWOOD DRIVE  
GREENVILLA PA 16125

PATRICIA L STEWART  
IRONTON TELEPHONE COMPANY  
4242 MAUCH CHUNK ROAD  
IRONTON PA 18037-9608

HICKORY TELEPHONE COMPANY  
75 MAIN STREET  
PO BOX 426  
HICKORY PA 15340-0426

HTC COMMUNITCATIONS  
75 MAIN STREET  
PO BOX 426  
HICKORY PA 15340-0426

JACK A PERSING PRESIDENT  
SOUTH CANAAN TELEPHONE CO  
PO BOX 160 ROUTE 296  
SOUTH CANAAN PA 18459

MIKE ARDIA REG ACCT  
LEVEL 3 COMMUNICATIONS LLC  
1025 ELDERADO BOULEVARD  
BROOMFIELD CO 80021

MONICA MCINTYRE FINLEY  
REVENUE & EARNING  
CITIZENS TELECOM CO OF NY  
5600 HEADQUARTERS DRIVE  
PLANO TX 75024

TONY YACAVINO  
BOULEVARD COMMUNICATIONS  
4008 GIBSONIA ROAD  
GIBSONIA PA 15044

LISA FESLER  
UNIVANC TELECOMMUNICATIONS  
373 INVERNESS DR S # 100  
ENGLEWOOD CO 80112

AMES MANCUSO  
CLEARWORLD COMMUNICATIONS  
3100 S HARBOR BLVD STE 300  
SANTA ANA CA 92704

THAD GORETSKI  
CIMCO COMMUNICATIONS INC  
18 W 100 22<sup>ND</sup> ST SUITE 109  
OAKBROOK TERRACE IL 60181

REGINA RUBINO  
COMMONWEALTH LONG DISTANCE  
100 CTE DRIVE  
DALLAS PA 18612

DONALD SUVA  
TRANSCOMMUNICATIONS INC  
5751 UPTAIN ROAD SUITE 200  
CHATTANOOGA TN 37411

LAURIE BRAINERD  
ILD TELECOMMUNICATIONS  
8401 DATAPOINT DRIVE  
SUITE 1000  
SAN ANTONIA TX 78229

DECHANE CAMERON  
MAXXIS COMMUNICATION INC  
1901 MONTREAL RD STE 108  
TUCKEE GA 30084

D KELLY AMMON  
W2COM INTERNATIONAL  
3500 PARK CENTER DRIVE  
DAYTON OH 45414

CORPORATE COMPLIANCE  
124 W CAPITOL SUITE 250  
LITTLE ROCK AR 72201

LILLY LUU  
DIECA COMMUNICATIONS INC  
4250 BURTON DRIVE  
SANTA CLARA CA 95054

BOBBIE COWAN  
UNITED SERVICES TELEPHONE  
5209 LINBAR DR STE 605  
NASHVILLE TN 37211

TOM ANDERSON  
PROMISE VISION TECHNOLOGY  
1221 N PENN  
OKLAHOMA CITY OK 73120

JULIE GRATON  
US TELECOMMUNICATIONS INC  
5251 110<sup>TH</sup> AVE SUITE #118  
CLEARWATER FL 34691

MELISSA STIPPICH  
CYBERSENTRY  
412 E MADISON ST SUITE 1200  
TAMPA FL 33602

HATTIE G RUDD-MCGREGOR  
SNET AMERICA INC  
6 DEVINE STREET 1<sup>ST</sup> FLOOR  
NORTH HAVEN CT 06473

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TELSCAPE USA INC  
2700 POST OAK BLVD  
SUITE 1000  
HOUSTON TX 77056

CHRIS STOCKHOFF  
HJN TELECOM INC  
6455 E JOHNS CROSSING  
SUITE 285  
DULUTH GA 30097

JOYCE JOHNSON  
CLARICOM NETWORKS INC  
D/B/A STAPLES COMM  
4 RESEARCH DR SUITE 500  
SHELTON CT 06484

LINDA GUERRERO  
INTERNATIONAL TELCOM  
417 2<sup>ND</sup> AVE WEST  
SEATTLE WA 98119

KATHRYN L THOMAS  
SHARED COMMUNICATIONS SERV  
110 STONY POINT ROAD 2<sup>ND</sup> FL  
SANTA ROSA CA 95401

BETHANY J MILLAR GENL MGR  
HANCOCK TELEPHONE COMPANY  
CORNER OF READ & E MAIN ST  
PO BOX 608  
HANCOCK NY 13783

SUSAN JAMES  
ADELPHIA BUSINESS SOLUTIONS  
MAIN AT WATER STREET  
COUDERSPORT PA 16915

JOHN M HANCOCK CORP CNSL  
DIALTEK LLC  
1000 2<sup>ND</sup> AVENUE SUITE 1601  
SEATTLE WA 98104

CARLA J SPANN SR MGR  
ALLEGIANCE TELECOM OF PA  
1950 N STEMMONS FREEWAY  
SUITE 3026  
DALLAS TX 75207

ROSEMARIE J VAN DER MOLEN  
HEALTH GROUP TELECOM  
1962 W 26<sup>TH</sup> STREET  
ERIE PA 16508

THERESA M SCHNEIDER REG ANA  
CRG INTERNATIONAL INC  
2000 RIVEREDGE PARKWAY  
SUITE 900  
ATLANTA GA 30328-4618

TIN BOBBYN SR VP  
IRONTON TELEPHONE COMPANY  
326 S 2<sup>ND</sup> STREET  
EMMAUS PA 18049

GRACE P MUELLER REG ANALYST  
PAETEC COMMUNICATIONS INC  
290 WOODCLIFF DRIVE  
FAIRPORT NY 14450

MITCHELL SADOFF MGR REG AFF  
ARBROS COMMUNICATIONS  
LICENSING COMPANY  
1100 WAYNE AVE 8<sup>TH</sup> FLOOR  
SILVER SPRING MD 20910

DAVID E SCHWENCKE PRESIDENT  
FULL SERVICE NETWORK  
1420 CENTRE AVENUE  
PITTSBURGH PA 15219

DOUGLAS A VAN WINKLE  
TARIFF ANALYST  
CTC COMMUNICATIONS  
PAMELA L HINTZ DIRECTOR  
360 SECOND AVENUE  
WALTHAM MA 02451

DARLENE N TERRY MGR TARIFFS  
UNITED TEL CO OF PA  
MAILSTOP KSOPHE0102-1D350  
6360 SPRINT PARKWAY  
OVERLAND PARK KS 66251

DEBORAH S ARNOTT VP  
IG2 INC  
80-02 NEW GARDENS ROAD  
SUITE 5000  
KEW GARDENS NY 11415

HONORABLE WILLIAM J HEYDT  
MAYOR OF ALLENTOWN  
CITY HALL  
435 HAMILTON STREET  
ALLENTOWN PA 18101-1699

JOSEPH POLITO JR  
DIR OF TELECOM SALES  
SNIP LINK LLC  
100 S TWINBRIDGE DRIVE  
PENNSAUKEN NJ 08110

KENT HEYMAN VP/GENL CNSL  
MPOWER COMMUNICATIONS CORP  
175 SULLYS TRAIL  
PITTSFORD NY 14534

JOHN F FRUSTACI PRESIDENT  
SHARED NETWORK USERS GROUP  
117 EAST BUTLER AVENUE  
AMBER PA 19002

TERRI B NATOLI VP & REG  
TELIGENT SERVICES INC  
8065 LEESBURG PIKE  
SUITE 400  
VIENNA VA 22182

MARGARET JARA TARIFF ANAL  
TCG DELAWARE VALLEY INC  
555 CORPORATE DRIVE  
ROOM 32A33  
BRIDGEWATER NJ 08807-1265

THOMAS R CLARK  
SYNERGISTIC COMMUNICATIONS  
PO BOX 62102  
KING OF PRUSSIA PA 19406

COURTNEY WALKER TARIFF ANAL  
EXCEL COMMUNICATIONS INC  
8750 NORTH CENTRAL  
EXPRESSWAY  
DALLAS TX 75231

ANNE LYNCH REG MANAGER  
1-800-RECONEX  
2500 INDUSTRIAL AVENUE  
HUBBARD OR 97032

CAROL P KUHNOW DIR TRFS  
US WEST INTERPRISE AMERICA  
1999 BROADWAY SUITE 700  
DENVER CO 80202

CHALERANTZ E PERRY ESQUIRE  
HOOKS COMMUNICATIONS GROUP  
BAKER & PERRY LLP  
8181 PROFESSIONAL PLACE  
SUITE 240  
LANDOVER MD 20785

LARRY KRAJCI STAFF MGR-  
STATE GOVT AFFAIRS  
ALLTEL PENNSYLVANIA INC  
ONE ALLIED DRIVE  
LITTLE ROCK AR 72203-2177

LANCE J M STEINHART ESQUIRE  
GROUP LONG DISTANCE INC  
6455 EAST JOHNS CROSSING  
SUITE 285  
DULUTH GA 30097

ELIZABETH A CORDDRY  
COMPLIANCE RPTNG CONSULTANT  
PO DRAWER 200  
WINTER PARK FL 32790-0200

JILL PAPPENHAUSEN  
THE FURST GROUP INC  
459 OAKSHADE ROAD  
SHAMONG NJ 08088

TERESA S REFF SR FINANCIAL  
ANALYST  
GLOBAL CROSSING TELECOM  
180 SOUTH CLINTON AVENUE  
ROCHESTER NY 14646

MARTIN ARIAS DIR OF  
BUSINESS DEVELOPMENT  
CAVALIER TELEPHONE MID-  
ATLANTIC LLC  
965 THOMAS DRIVE  
WARMINSTER PA 18974

ROBERT G CHAPMAN  
CONECTIV COMMUNICATIONS INC  
252 CHAPMAN ROAD  
PO BOX 6066  
NEWARK DE 19714-6066

PAMELA L HINTZ DIRECTOR  
REG/TRF COMPLIANCE  
CTC COMMUNICATIONS CORP  
360 SECOND AVENUE  
WALTHAM MA 02451

EASTERN TELELOGIC CORP  
630 FREEDOM BUSINESS CENTER  
SUITE 200  
KING OF PRUSSIA PA 19406

JUDITH ST LEDGER-ROTY ESQ  
1301 K ST NW  
SUITE 1100 EAST TOWER  
WASHINGTON DC 20005

ASHLEY SCHANNAUER SOLICITOR  
CITY OF PITTSBURGH  
DEPARTMENT OF LAW  
313 CITY-COUNTY BLDG  
PITTSBURGH PA 15219

MCI TELECOMMUNICATIONS CORP  
1133 19<sup>TH</sup> ST NW 11<sup>TH</sup> FL  
WASHINGTON DC 20036

KEITH TOWNSEND ESQ  
1850 "M" ST NW 11<sup>TH</sup> FL  
WASHINGTON DC 20036

A NEWSPAPER PUBLISHERS ASSN  
2717 NORTH FRONT ST  
HARRISBURG PA 17110

VINCENT MAISANO VP  
230 SOUTH BROAD ST 15<sup>TH</sup> FL  
PHILADELPHIA PA 19102

SUSAN M SHANAMAN ATTORNEY  
21 NORTH 4<sup>TH</sup> ST  
HARRISBURG PA 17101

RANDALL LOWE ESQ  
JOSEPH V GOTE ESQ  
PIPER & MARBURY  
1200 NINETEENTH ST NW  
WASHINGTON DC 20036-2430

LEE L SWLWYN PRESIDENT  
ECONOMICS AND TECHNOLOGY INC  
ONE WASHINGTON MALL  
BOSTON MA 02108-2617

KEITH M LADD PRESIDENT  
PO BOX 780 RT 100  
UWCHLAND PA 19480

PAUL KOUROUPAS MANAGER  
REG AFFAIRS  
ONE TELEPORT DR SUITE 301  
STATEN ISLAND NY 10311

KIMBERLY K HUDSON ESQ  
COMMUNITY LEGAL SERVICES  
SYLVANIA HOUSE  
1424 CHESTNUT ST  
PHILADELPHIA PA 19107-5697

VINCENT J MAISANO INTERN'L VP  
230 SOUTH BROAD ST 15<sup>TH</sup> FL  
PHILADELPHIA PA 19102

DONALD N DAVID ESQ  
DREYER & TRAUB  
101 PARK AVE  
NEW YORK NY 10178

JOHN MCMANUS CHAIR  
PA STATE LEGIS COMM  
1000 HECKLER DR  
PITTSBURGH PA 15220

PETER J STAPP  
DIDIGAL DIRECT OF PITTSBURGH INC  
TERRACE TOWER II  
5619 DTC PARKWAY  
ENGLEWOOD CO 80111-3000

GENE MOLINO  
1613 FARR ST  
SCRANTON PA 18504

CECIL O SIMPSON JR GEN ATTY  
OFFICE OF THE JUDGE ADVOCATE  
GENERAL  
DEPARTMENT OF DEFENSE  
901 NORTH STUART ST  
ARLINGTON VA 22203-1837

L C MITCHELL  
DELOITTE & TOUCHE  
220 ROSS AVE SUITE 1600  
DALLAS TX 75201

ENRICO C SORIANO COUNSEL  
SHARED COMMUNICATION SVCS  
1800 JOHN F KENNEDY BLVD  
SUITE 219  
PHILADELPHIA PA 19103

DAVID V STIVISION ESQ  
63071 ARROWHEAD RD  
CAMBRIDGE OH 43725-8777

JACK KENNEDY DIRECTOR  
PO BOX 15202  
PHILADELPHIA PA 19125

M M BAYLSON ESQ  
M H MAXMAN ESQ  
DUQNE MORRIS & HECKSCHER LLP  
SUITE 4200 ONE LIBERTY PL  
PHILADELPHIA PA 19103-7396

CHRISTOPHER D MOORE ESQ  
1850 M ST NW SUITE 1100  
WASHINGTON DC 20036

JOSEPH C CRAWFORD ESQ  
WOLF BLOCK SCHORR & SOLIS COHEN  
12<sup>TH</sup> FL PACKARD BLDG  
111 S 15<sup>TH</sup> ST  
PHILADELPHIA PA 19102-2678

JOHN CENTER GENERAL COUNSEL  
FEDERAL TRANSTEL INC FTT  
5555 GLENRIDGE CONNECTOR SUITE 200  
ATLANTA GA 30342

MICHAEL E ADLER ESQ  
DUQNE MORRIS & HECKSCHER LLP  
305 N FRONT ST 5<sup>TH</sup> FL  
PO BOX 1003  
HARRISBURG PA 17108-1003

TERRY A LUPIA ESQ  
TRACY W WERTZ ESQ  
OFFICE OF ATTORNEY GENERAL  
14<sup>TH</sup> FL STRAWBERRY SQ  
HARRISBURG PA 17120

JAMES SCHELTEMA ESQ  
CARL D GIESY ESQ  
1133 19<sup>TH</sup> ST NW ROOM 427  
WASHINGTON DC 20036

**MESSENGER**

GARY N HORTON MAYORAL ASST  
626 STATE ST  
ERIE PA 16501-1128

FLOYD W WARNER PRESIDENT  
PA CHAMBER OF BUSINESS & INDUSTRY  
417 WALNUT ST  
HARRISBURG PA 17101-1902

CHARLES D SNELLING  
711 HAMILTON MALL  
ALLENTOWN PA 18101-2407

MARLENE D MOSCO PRESIDENT  
PNC BANK  
9<sup>TH</sup> & STATE STS BOX 8480  
ERIE PA 16553

HONORABLE JAMES J RHOADES  
SENATE PO BOX 203029  
THE STATE CAPITOL  
HARRISBURG PA 17120-3029

JOHN O DUDLEY  
212 LOCUST ST PO BOX 12060  
HARRISBURG PA 17108

**MESSENGER**

THOMAS W SNYDER ESQ  
1801 CALIFORNIA ST SUITE 4900  
DENVER CO 80202

PA PUBLIC UTILITY COMMISSION  
BUREAU OF FUS  
PO BOX 3265  
HARRISBURG PA 17105-3265

PA PUBLIC UTILITY COMMISSION  
OFFICE OF SPECIAL ASSISTANTS  
PO BOX 3265  
HARRISBURG PA 17105-3265

**MESSENGER**

**MESSENGER**

HONORABLE JAKE CORMAN  
SENATE BOX 203034  
MAIN CAPITOL BLDG  
HARRISBURG PA 17120-3034

HONORABLE GIBSON E  
ARMSTRONG  
SENATE PO BOX 203013  
HARRISBURG PA 17120-3013

HONORABLE ANTHONY HARDY  
WILLIAMS  
SENATE BOX 203008  
THE STATE CAPITOL  
HARRISBURG PA 17120-3008

**MESSENGER**

**MESSENGER**

**MESSENGER**

MARC A MOYER  
305 NORTH FRONT ST  
HARRISBURG PA 17101

HONORABLE DONALD SNYDER  
HOUSE OF REPRESENTATIVES  
ROOM 128 MAIN CAPITOL BLDG  
HARRISBURG PA 17120-2020

**MESSENGER**