

ORIGINAL

IN THE COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

COMMONWEALTH TELEPHONE
COMPANY

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Docket No. I-00920020

JOINT PETITION FOR
SETTLEMENT OF INVESTIGATION

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Filed: October 18, 1993

IN THE COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

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COMMONWEALTH TELEPHONE
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Docket No. I-00920020

**JOINT PETITION FOR
SETTLEMENT OF INVESTIGATION**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

The Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA"), and Commonwealth Telephone Company ("Commonwealth") (hereinafter collectively referred to as "Joint Petitioners"), join in this Petition For Settlement of Investigation ("Settlement Petition" or "Settlement") and hereby respectfully request that the Pennsylvania Public Utility Commission ("Commission"): (1) Approve the Settlement set forth in this Petition; (2) Permit Commonwealth to file the Tariff Supplement attached hereto as Appendix "A" to become effective upon Commission approval of the Settlement Petition and under the terms of this settlement; (3) Approve the depreciation and amortization schedules set forth herein; and (4) Terminate the inquiry and investigation at Docket No. I-00920020 and mark the record "closed" (See, Footnote No. 5 regarding OCA position).

In support of this Settlement Petition, the Joint Petitioners state as follows:

1. Commonwealth is a telephone public utility providing telephone service to the entire Counties of Sullivan and Wyoming and portions of Berks, Bradford, Bucks, Chester, Columbia, Dauphin, Lackawanna, Lancaster, Lehigh, Luzerne, Lycoming, Monroe, Northampton, Schuylkill, Susquehanna, Tioga, and York Counties. This service territory encompasses 5,067 square miles. As of December 31, 1992, Commonwealth provided service to 203,844 main access lines. Of these, 163,305 are residential and 38,584 are business (including company lines). CTCO's operating territory is very rural, containing only 38.8 access lines per square mile (as compared to a Pennsylvania average of 151.0 lines per square mile). The Company's 79 central offices serve an average of 2,500 lines and 65 square miles.

2. By Order entered April 8, 1992, the Commission instituted an investigation "to gather additional information" from CTCO relative to Corporate Operations Expense, Plant-In-Service and Other Operating Income. Interrogatories addressing these three issues were appended to the Order as Attachment "A", which were answered by CTCO on April 30, 1992.

3. The Commission then entered an Opinion and Order on July 9, 1992, which directed "a further investigation into the appropriateness of Commonwealth's affiliated transactions" and "all relevant earnings information to determine whether Commonwealth's return...is reasonable...." Order at 2. The matter was assigned

to the Office of Administrative Law Judge and the OTS was directed to participate. Id. at 3 (Ordering ¶'s 2 and 3).

4. On August 6, 1992, the OTS noticed its appearance in the proceeding. On July 9, 1992, the OCA filed a Notice of Intervention.

5. On July 9, 1992, AT&T filed a formal Complaint. The relief sought by AT&T in that complaint was a reduction in the tariffed rates it pays to CTCO for access services. By timely Motion filed July 29, 1992, CTCO moved to strike or dismiss the Complaint of AT&T on the grounds that it raised issues outside the scope of the Commission's investigation and requested relief not available in the proceeding. By Order dated December 18, 1992, the presiding Administrative Law Judge ("ALJ") denied CTCO's Motion. AT&T's Complaint was consolidated with the instant proceeding.

6. Prehearing conferences were held on December 29, 1992 and August 6, 1992, at which the parties discussed and resolved various procedural issues relating to the conduct of the proceedings.

7. On May 3, 1993, CTCO filed testimony and exhibits regarding affiliate and earnings issues, as follows: CTCO Statement No. 1 (S. Burnside); CTCO Statement No. 2 (J. Laffey); CTCO Statement No. 3 (D. Cawley); CTCO Statement No. 4 (P. Mazza); CTCO Statement No. 5 (E. Robinson); CTCO Statement No. 6 (S. McDaniel); and CTCO Statement No. 7 (F. Hanley). Additionally, CTCO filed Supplemental Direct Testimony regarding additional accounting issues on May 21, 1993 as CTCO Statement No. 3-A.

8. Extensive discovery has been conducted by the parties and answered by CTCO. The OCA has propounded 16 Sets of discovery, consisting of a total of 486 interrogatories. The OTS has propounded 57 interrogatories, and AT&T has propounded 107 interrogatories. Additionally, the OTS and OCA conducted on-site document review and informal discovery at the Company's headquarters located in Dallas, Pennsylvania, for two (2) days, June 21 and 22, 1993. Approximately twenty (20) data requests were also answered by CTCO.

9. On-the-record hearings were held on July 1 and 2, 1993, during which CTCO presented its witnesses and exhibits, all of which were subject to full cross examination.

10. Thus, the issues identified by the Commission in its Orders establishing this investigation, have been the subject of thorough discovery and review by all of the parties.

11. The Joint Petitioners have held numerous settlement conferences since issuance by the Commission of its second Opinion and Order and, as a result, Joint Petitioners have reached the settlement embodied herein. Although Joint Petitioners have not sought to identify, nor would they be able to agree upon, the specific adjustments which support their respective conclusions, they do agree to and request approval of the Settlement Petition. Joint Petitioners are also in full agreement that the proposed settlement is in the best interest of CTCO's customers and CTCO.

12. The terms and conditions of this Settlement Petition are as set forth below:

- (a) CTCO shall provide touch-tone service free of charge¹ to all residential subscribers effective for service rendered on and after January 1, 1994.
- (b) In the event that AT&T joins this Settlement Petition, then CTCO shall implement an access line cap of carrier common line ("CCL") charges of \$3.52 per month effective for service rendered on and after January 1, 1994.² In the event that AT&T does not join in this settlement before adoption by the Commission Order approving this Settlement Petition, then CTCO shall flow back to ratepayers the same amount through some other change in rates. In such an event, the parties to this settlement will file, within 30 days of a final Commission Order, an additional joint petition to the PUC that will determine what other rate changes will occur to flow that money back to ratepayers.
- (c) CTCO shall implement Extended Area Service by December 31, 1994 to the 17 routes listed in Appendix "B" hereto.³
- (d) CTCO shall record depreciation expense at the rates currently in use, which are listed in Appendix "C" attached hereto, at least until its next depreciation study is complete. The Joint Petitioners agree that the Appendix "C" depreciation rates expressly exclude any component for the prospective cost of removal.

CTCO shall not restate its depreciation reserve as a result of its historic practice of estimating salvage prospectively. However, CTCO retains the right to propose an adjustment to its depreciation reserve in any future proceeding to exclude those prospective salvage costs which the Company has historically booked. The Joint Petitioners reserve the right to oppose any such claim on any ground, except that the claim is untimely, because the issue has not been resolved in this proceeding.

¹ The current monthly Residential touch tone charge is \$1.00.

² The proposed \$3.52/month/line charge is derived based upon 1993 CCL revenues and 1993 access lines.

³ The Joint Petitioners agree that movement of exchanges within the Company's current rate bands and/or the creation of new rate bands shall not be prohibited by this Settlement.

- (e) Effective January 1, 1994 and continuing thereafter, CTCO shall flow through to income the state income tax impacts resulting from book and tax timing differences related to depreciation, unbilled revenues and cost of removal, and Commonwealth shall amortize the then outstanding balance of accumulated deferred state income taxes using a thirty-six (36) month amortization schedule. The flow through accounting for state income tax expense and the amortization of the state deferred tax reserve, shall apply for both book accounting purposes and for ratemaking purposes.
- (f) CTCO shall implement the following Modernization Goals:
- i. 100% conversion of central offices to digital technology by December 31, 1993;
 - ii. 100% deployment of fiber-optic cable on interoffice trunks by December 31, 1994; and
 - iii. Full deployment of Signalling System-7 ("SS-7") by December 31, 1998.
- (g) CTCO shall file, within three (3) months of entry of an Order approving this Settlement Petition, the following with this Commission:
- i. A request for clarification and/or amendment of the existing CCI/CTCO Affiliated Interest Agreement, Docket No. G-00920315, to establish the level of CCI profit;
 - ii. A request for modification of the current C-TEC/CTCO Affiliated Interest Agreement, Docket No. G-890183, to exclude intangible assets from the 3-factor formula calculation. With this filing, CTCO shall clarify the C-TEC/CTCO Affiliated Interest Agreement to require the true-up of budgeted figures with actual figures in finalizing the 3-factor formula calculation for the allocation of C-TEC residual costs (also known as "Management Fees"). A trued-up 3 factor allocation formula will be used in determining CTCO's "Management Fees" to be included in its

calendar year earning reports submitted to the PUC.⁴; and

- iii. A request for clarification and/or amendment of the Tec-Air/CTCO Affiliated Interest Agreement, Docket No. G-900214, relative to indirect costs related to Tec-Air activities permitted.

CTCO will serve a copy of such filing directly upon both the OCA and OTS. The OCA and OTS reserve the right to oppose any such filings made by CTCO on any ground, strictly provided, however, that the Joint Petitioners may not recommend or seek a change in the revenues or rates existing upon the implementation of this Settlement Petition. See, ¶ 12(h), infra. Joint petitioners shall be permitted to use portions of the record in this case and the stipulated facts attached hereto as Appendix "G" in those affiliated interest agreement proceedings. The parties have incorporated their respective positions on these various affiliated issues in reaching the proper revenue requirement for CTCO reflected in this Settlement.

- (h) CTCO agrees not to file a rate increase that would constitute a general rate increase under 66 Pa. C.S. § 1308(d) prior to January 1, 1997. The Joint Petitioners agree not to initiate or recommend the initiation of, individually or jointly, prior to January 1, 1997, a complaint or investigation which proposes a reduction in CTCO's rates or revenues. However, the foregoing limitations upon the Joint Petitioners contained in this sub-paragraph shall not prohibit any future proceeding which may be initiated by the Petitioners in order to make changes in rates related solely to mandatory rate changes resulting from legislative, regulatory, tax, or accounting changes which fundamentally affect CTCO and are not already implemented as of the date of the filing of this Petition (hereinafter "Fundamental Event"). Such a Fundamental Event includes, but is not limited to, the conversion by CTCO to a cost-based method of settlement before the Federal Communications Commission. In the event that CTCO seeks an increase in basic service revenues that would

⁴ Quarterly reports filed by CTCO under 52 Pa. Code § 71.1, et seq., will contain a footnote indicating that the 3-factor formula is unreconciled for an identified portion of the reporting period.

constitute a general rate increase under 66 Pa. C.S. § 1308 as a result of such a Fundamental Event, then the OCA and OTS are fully relieved of their obligations under this sub-paragraph.

- (i) If the Commission initiates a proceeding prior to January 1, 1997, directed at CTCO to investigate and/or affect the rates and/or revenues existing upon implementation of this settlement, then the OCA agrees not to take any position in such proceeding which recommends, advocates, or would support revenues or rates different from those existing upon the implementation of this Settlement Petition. See, ¶ 12(h), supra.
- (j) The rates established under this settlement shall be deemed just and reasonable rates pursuant to 66 Pa. C.S. §§ 1301 and 1309(a), upon entry of an Order approving such rates by the Commission.

13. Joint Petitioners agree that the rates contained in Appendix "A" hereto are in the public interest. Joint Petitioners agree further that the proposed Settlement is in the public interest for the following reasons:

- (a) The settlement results in a decrease of approximately \$2,634,000 in CTCO's on-going, annual jurisdictional net operating revenues, composed of the following: (i) elimination of residential touch tone charge, \$1,600,000 million; (ii) acceleration of extended area service, \$699,000; and (iii) capping of CCL charge or other rate reduction in the amount of \$335,000.
- (b) The on-going modernization of CTCO's network is assured.
- (c) The affiliate issues are identified and defined by this Settlement Petition, which further provides for the presentation of these issues for Commission review within three (3) months. However, under the terms of this settlement, the resolution of affiliate issues does not delay the implementation of the rate reduction contemplated herein.
- (d) CTCO has agreed not to propose an increase in rates which would constitute a general rate increase for a three (3) year period.

- (e) This Settlement avoids protracted litigation and the related expense to the parties, the Commission and CTCO's ratepayers.

The Joint Petitioners have prepared and attached to this Joint Petition, as Appendices "D" (CTCO), "E" (OTS), and "F" (OCA), respectively, Statements of Position setting forth the bases upon which they believe the Settlement, including the rates contained in Appendix "A" are in the public interest.

14. The Settlement is proposed by Joint Petitioners to settle the instant case and is made without any admission against, or prejudice to, any position which any Joint Petitioner might adopt during litigation of this proceeding or any other proceeding, except as expressly set forth herein. The Commission's approval of this Settlement shall not be construed as binding or persuasive precedent in any other Commission proceeding or in any appeal from a Commission proceeding, except to the extent required to effectuate the terms and conditions of the Settlement in this and future proceedings involving CTCO. The Settlement is conditioned upon the Commission's approval of all the terms and conditions contained herein without modification or amendment, except to the extent outlined herein below. It is expressly understood by the Joint Petitioners that this Settlement is conditional and shall have no force and effect unless accepted and adopted in its entirety by the Commission, except that this paragraph shall be effective regardless of whether the Settlement is accepted and adopted by the Commission. Any party may withdraw from the Settlement and proceed with litigation of this proceeding if the

Commission does not approve all of the terms and conditions of the Settlement or alters or amends any of the terms and conditions of the Settlement. If the Commission disapproves any portion of the Settlement or modifies any term or provision thereof, a Joint Petitioner, in order to withdraw from the Settlement, must file with the Commission, and serve upon all parties, a statement that such Joint Petitioner is withdrawing from the Settlement within five (5) business days after the Commission enters an Order rejecting or modifying any term or condition of the Settlement.

15. If the Commission does not approve the Settlement and the proceeding continues to further hearings, Joint Petitioners preserve their respective rights to proceed to full hearings, including the right to submit direct, rebuttal and surrebuttal testimony as well as to conduct full cross-examination, briefing and argument, which rights are waived in reliance upon Commission acceptance of the Settlement.

16. AT&T, at the time of execution of this Settlement Petition, has declined to become a signatory party. The Joint Petitioners have offered AT&T the option of joining in this Settlement in exchange for a cap upon CCL charges, which offer will remain open until the date upon which this Commission adopts an Order approving this Settlement Petition. In the event that AT&T declines to formally accept this offer by that time, then the revenue reduction of \$335,000 associated with the CCL cap will be credited for the benefit of ratepayers through some alternative rate reduction as previously discussed. The parties recognize

AT&T's due process right to proceed with its Complaint. However, the parties do not believe that the exercise of this right should delay implementation of the Settlement and the tariff set forth in Appendix "A" tariff hereto. CTCO and OTS request that AT&T's Complaint be severed from the instant proceeding and placed at a new, separate docket. The OCA does not join in this request. The Joint Petitioners, at their individual option, may participate in any proceeding concerning AT&T's Complaint provided, however, that they shall do so in a manner consistent with the terms and conditions of this Settlement Petition, including Paragraph 12(h).

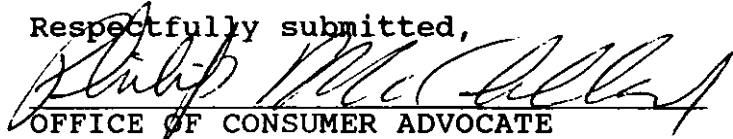
17. All the terms and conditions of this Settlement are set forth herein and there are no other terms and conditions left unstated.

WHEREFORE, Joint Petitioners, by their duly authorized representatives, respectfully request that this Commission enter an Order which:

- (a) Authorizes Commonwealth to file a tariff in the form of Appendix "A" hereto, to become effective for service rendered on and after January 1, 1994. In the event that AT&T has joined in this Settlement Petition prior to adoption of a Commission Order, then CTCO's CCL charge set forth in Telephone Tariff -- Pa. P.U.C. No. 9 shall be capped at \$3.52 per line per month for service rendered on and after January 1, 1994. In the alternative, if AT&T does not join in this settlement, then CTCO shall flow these revenues to ratepayers through an alternative means.
- (b) Fully approves and adopts all other terms and conditions contained herein; and

- (c) Severs AT&T's Complaint and places it in a new, separate docket⁵ and terminates the investigation at Docket No. I-00920020 and marks the record "closed".

Respectfully submitted,



OFFICE OF CONSUMER ADVOCATE

By: Philip F. McClelland, Esquire



OFFICE OF TRIAL STAFF

By: Carol F. Pennington, Esquire

Kandace F. Melillo, Esquire


COMMONWEALTH TELEPHONE COMPANY

By: Norman James Kennard, Esquire

Submitted: October 18, 1993

⁵ As noted previously, OCA does not join in this request to sever AT&T's complaint. The OCA does support the termination of the investigation and marking of the record closed with respect to all other, non-AT&T issues in the case.

Commonwealth Telephone Company

Section 6
 First Revised Sheet 19
 Canceling Original Sheet 19

MISCELLANEOUS SERVICE AND EQUIPMENT

(Continued)

L. PUSH BUTTON CALLING - (TOUCH TONE) (C)

1. Push button calling service provides for the originating of telephone calls through the use of push buttons and associated tones in lieu of rotary dial. This service is available in all exchanges operated by Commonwealth Telephone Company.
2. A key system equipped for Dial Selective Intercommunication requires an adapter to convert tones received from a push button telephone to a dial pulse to operate the Dial Intercom system.

3. <u>RATES</u>	<u>Installation Charge #</u>	<u>Monthly Charge</u>
For each line equipped with push button calling capability, per customer.		
Business.....	---	\$1.50
Residence.....	---	0.00 (D)
Additional charge for each push button telephone provided by the Telephone Company.....		
	---	0.50 *
For each adapter required for a Key System equipped with Dial Selective Intercommunications.....		
	*****	12.50

In addition to nonrecurring charges in Section 3.

* Rates apply only to units existing in service as of February 14, 1983.

(C) Indicates Change

(D) Indicates Decrease

Issued:

Effective:

PENNSYLVANIA INDEPENDENT
TELEPHONE ASSOCIATION

Revised Page 118A
Cancels Revised Page 118A

ACCESS SERVICE

3 Carrier Common Line Access Service (cont'd)

3.8 Rates and Charges (cont'd)

The rates listed below for Carrier Common Line Access apply to:

	<u>Transmittal Charge</u>		
	Access Minute	Each Minute	
	<u>Terminating</u>	<u>Originating</u>	
BROOKVILLE TELEPHONE COMPANY ****	\$0.0465	\$0.0465	(C)

3.8 Rates and Charges

The rates listed below for Carrier Common Line Access apply to provisions of IntraLATA access service only.

ALLTEL PENNSYLVANIA	\$0.0346	\$0.0346	
CITIZENS UTILITIES CO. OF PA	0.0770	0.0770	
COMMONWEALTH TELEPHONE COMPANY	0.0433	0.0433 (C)	
DENVER AND EPHRATA TEL AND TEL CO	0.0451	0.0451	
MURRAYSVILLE TELEPHONE COMPANY	0.0410	0.0410	
NORTH PENN TELEPHONE COMPANY	0.0471	0.0577	
NORTH PITTSBURGH TELEPHONE CO	0.0426	0.0426	

(C) Indicates Change

Issued:

Effective:

PENNSYLVANIA INDEPENDENT
TELEPHONE ASSOCIATION

Cancels

Revised Page 118C

Revised Page 118C

ACCESS SERVICE

3. Carrier Common Line Access Service (cont'd)

3.8 Rates and Charges (cont'd)

The carrier common line access element shall no longer be applicable to Interexchange Carriers for the provision of InterLATA access service. The following Carrier Common Line Access, per line, per month, charge will apply:

ALLTEL PENNSYLVANIA, INC.	\$2.05
ARMSTRONG TELEPHONE COMPANY NORTH	2.96
THE BENTLEYVILLE TELEPHONE COMPANY	1.01
BREEZEWOOD TELEPHONE COMPANY	6.25
CANTON TELEPHONE COMPANY	2.74
CITIZENS TELEPHONE COMPANY OF KECKSBURG	1.42
CITIZENS UTILITIES COMPANY OF PA	5.73
COMMONWEALTH TELEPHONE COMPANY	3.52 (D)
CONESTOGA TELEPHONE & TELEGRAPH COMPANY	2.25
DENVER AND EPHRATA TELEPHONE AND TELEGRAPH CO	3.45
ENTERPRISE TELEPHONE COMPANY	4.00
IRONTON TELEPHONE COMPANY	2.88
LAKEWOOD TELEPHONE COMPANY	2.98
MAHANAY & MAHANTANGO TELEPHONE COMPANY	5.13
THE MURRAYSVILLE TELEPHONE COMPANY	1.64
NORTH-EASTERN PA TELEPHONE COMPANY	1.57
NORTH PENN TELEPHONE COMPANY	7.85
NORTH PITTSBURGH TELEPHONE COMPANY	2.49
OSWAYO RIVER TELEPHONE COMPANY	7.21
PALMERTON TELEPHONE COMPANY	8.57
PYMATUNING INDEPENDENT TELEPHONE COMPANY	1.88
SUGAR VALLEY TELEPHONE COMPANY	3.18
VENUS TELEPHONE CORPORATION	7.62
YUKON WALTZ TELEPHONE COMPANY	1.65

(D) Indicates Decrease

Issued:

Effective:

COMMONWEALTH TELEPHONE COMPANY
1994 IMPLEMENTATION -- EAS ROUTES

EAS Routes

1. Gap to Lancaster
2. Atglen to Coatesville
3. Ulster to Sayre
4. Covington to Wellsboro
5. Coopersburg to Emmaus
6. Blossburg to Wellsboro
7. Blossburg to Mansfield
8. Muhlenburg to Sweet Valley
9. Nicholson to Tunkhannock
10. Laceyville to Tunkhannock
11. Sweet Valley to Kingston
12. Sweet Valley to Wilkes-Barre
13. Rawlinsville to Millersville
14. Muncy Valley to Hughesville
15. Tioga to Wellsboro
16. Huntington Mills to Benton
17. New Albany to Wyalusing

Depreciation RatesACCOUNT DESCRIPTIONS
ACCOUNT NUMBERSRATE
%GENERAL SUPPORT ASSETS

211199 Land	
211220 Vehicles	7.89
211500 Garage Work Equipment	3.30
211600 Other Work Equipment	3.58
212140 Building Real Property	6.00
212199 Buildings	3.89
212200 Furniture	6.09
212311 Electronic Office Equip.	11.73
212312 Other Office Equipment	3.68
212320 Co. Communications Eq.	10.30
212400 General Purpose Computers	17.30

CENTRAL OFFICE (C.O.) ASSETSDIGITAL ELECTRONIC SWITCHING:

221210 C.O. Equipment	7.52
221210 Dereg. C.O. Equipment	30.40
221220 Software	1.90
221230 Spares (Remote)	12.33
221231 Spares (Host)	10.31
221240 Remote Equipment	7.86
221250 Centralized Test Equipment	8.66

C.O. TRANSMISSION ASSETS

223123 Microwave	3.13
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ANALOG CIRCUIT TRANSMISSION ASSETS

223212 Carrier Equipment (Sub)	8.24
223213 AML Equipment	13.13
223214 VFR	6.29
223216 Modems in C.O.	13.02

DIGITAL CIRCUIT TRANS

223251 Carrier Equipment (Trunk)	10.58
223252 Carrier Equipment (Sub)	12.72
223253 Fiber Optic (Trunk)	11.28
223255 D T I (Remote)	6.59
223256 D T I (Host)	7.36

Depreciation RatesACCOUNT DESCRIPTIONS
ACCOUNT NUMBERSRATE
%INFORMATION ORIGINATING TERMINATING ASSETS

235100 Pay Stations	8.71
236202 Other Terminal Equipment	3.59

POLES, CABLE, WIRE FACILITIES ASSETS

241100 POLES	3.26
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AERIAL CABLE

242110 Fiber	4.47
242151 Metallic	2.67

UNDERGROUND CABLE

242210 Fiber	2.70
242251 Metallic	2.70

BURIED CABLE

242310 FIBER	4.18
242351 Metallic	3.99

Intra Building Network Cable

242610 Fiber	3.40
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243100 Aerial Wire	-1.76
244110 Conduit Systems	2.81

IN THE COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

COMMONWEALTH TELEPHONE
COMPANY

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Docket No. I-00920020

**STATEMENT OF COMMONWEALTH TELEPHONE
COMPANY IN SUPPORT OF JOINT PETITION
FOR SETTLEMENT OF INVESTIGATION**

Commonwealth Telephone Company ("CTCO" or "Company") supports the Joint Petition for Settlement of Investigation ("Settlement Petition" or "Settlement") as being in the public interest and the best interest of the Company and its subscribers, for the following reasons:

A. CTCO BACKGROUND

1. Commonwealth provides service to over 200,000 access lines in areas of Pennsylvania which are predominantly rural by every possible description, demographic or topographical. There are no political subdivisions within CTCO's territory that exceed 10,000 in population. The Company's 79 central offices average 2,500 lines and cover an average of over 65 square miles. CTCO's

service territory contains only 39 access lines per square mile, whereas Pennsylvania, overall, has 151 access lines per square mile. Even within the contiguous United States, including the vast expanses out West, the average number of access lines per square mile nationally is 47 access line per mile.

B. CURRENT RATES

2. Despite the rural nature of its service territory, CTCO has been able to successfully maintain comparatively low rates for its customers. CTCO's monthly local service rates are the fourth lowest among the 31 local exchange carriers ("LECs") doing business in Pennsylvania. Its average one-party residential rates are 30% below the statewide industry average. This is even more significant when one considers that the average rates in Pennsylvania are about one-half of the national average. The Company's local exchange rates are substantially lower (52-28%) than the four larger Pennsylvania LECs.

3. CTCO has not changed its basic rates since 1978. Every other major LEC in Pennsylvania has had one or two rate increases awarded since that time. With the exception of AllTel (who had a rate increase in 1985), no other major LEC has decreased rates during that time. According to this Commission's Telecommunications Infrastructure Study (March 1993), the other major local carriers in Pennsylvania have undertaken substantial increases in local service rates during the 25 year period studied.

CTCO's local rates, during that same time frame, have remained virtually constant, affected only by the TRA-1986 and STAS surcharges during that time period.

4. Moreover, CTCO voluntarily reduced its intrastate carrier common line ("CCL") charge in September 1986. The rate in effect at that time for all carriers concurring in the Pennsylvania Telephone Association ("PTA") access charge tariffs, including CTCO, was \$.0471 per minute. CTCO reduced its per minute CCL charge to \$.0433.¹

C. SERVICE LEVELS

5. CTCO's customer service levels are excellent as measured against any standard. During the last four years, for which such statistics have been compiled by this Commission, CTCO has consistently been below the Pennsylvania average justified complaint rate and residential complaint rate. As stated in the Commission's Bureau of Consumer Services in its most recent (1992) Chapter 64 report:

Commonwealth has had the best justified complaint rate among major companies in 1992. Commonwealth maintains its ranking as the most effective company for the fourth year in a row. (Emphasis supplied.)

¹ This reduction in CCL was totally unrelated and apart from the TRA-1986 negative surcharge which became effective on July 1, 1987 and continued until rolled in effective March 11, 1990.

6. CTCO provides excellent service and is continuing to improve upon its already exceptional performance. CTCO has had an outstanding record over a long period of time in the area of service quality, by which it has totally exceeded Commission standards and most, if not all, of the LECs in Pennsylvania.

D. COMPANY EFFICIENCY

7. These achievements in the area of service are even more significant when one considers the Company's efficiency levels, as measured by the ratio of access lines per employee. Despite its highly rural territory with topographically difficult features and a dispersed population base, CTCO is the fourth most efficient telephone company in Pennsylvania. In 1986, CTCO performed with 222 access lines per employee, whereas in 1992 it served 336 access lines per employee.

E. THE INVESTIGATION

8. This investigation was initiated, in largest measure, due to increases in parent management fees billed by C-TEC to CTCO. Due to the Motion of Chairman Rolka adopted at Public Meeting of June 4, 1992, this proceeding also focused upon CTCO's earnings.

9. In pursuit of the issues identified by the Commission, the parties instituted thorough and complete discovery of CTCO. Each and every interrogatory, informal request for documents, and data request was answered by the Company. The Office of Consumer

Advocate ("OCA") and Office of Trial Staff ("OTS") spent two days in Dallas, Pennsylvania, reviewing the Company's original documents and interviewing CTCO personnel. On the basis of the information thus compiled, the parties have an excellent understanding of CTCO's affiliated transactions and its financial performance. This proceeding has been treated as a rate case with additional, special focus upon affiliated transactions.

F. PROPOSED RATE DECREASE

10. The Settlement proposes revenue reductions of over \$2.6 million. Based upon the 1993 test year utilized in this proceeding, CTCO's total company rate of return achieved after implementation of the settlement rates will be 7.7% overall and 9.0% on equity², pursuant to the attached analysis. On a Part 36 separated basis, CTCO's intrastate rates already yield a net intrastate operating loss, which equates to a negative return on property of 1.6% and a return on equity of negative 8.0%. Thus, it is very clear that interstate earnings are subsidizing intrastate operations and effectively, a residual ratemaking result is already accomplished without further adjustment.

² The Company presents these total company figures, because of this Commission's recent statements regarding residual jurisdictional ratemaking. See, for example, Petition of Bentleyville Telephone Company, P-930654, Opinion and Order entered May 26, 1993. While CTCO does not endorse residual ratemaking, it is cognizant of the Commission's concerns.

It should be further noted that these financial results include revenues from competitive services such as Directory Advertising and intrastate Billing & Collection.³ Thus, the earnings side of this investigation is resolved favorably to the benefit of CTCO's subscribers.

G. RESOLUTION OF AFFILIATE ISSUE

11. Consistent with the Commission's Order instituting this investigation, the affiliated transaction issues have been thoroughly investigated. These issues were the subject of extensive discovery and CTCO filed substantial testimony on affiliated transactions, which were subject to full cross-examination. As a result, the parties have been able to identify and define three issues which require clarification and/or amendment by this Commission.

12. The underlying facts relating to affiliated transactions are not in issue and the parties have entered into a stipulation of facts (attached to the Settlement as Appendix "G"). The issues presented are basically ones of law and regulatory policy. Therefore, further hearings are unnecessary.

³ In a recent Order dismissing an earnings investigation, the Commission utilized Part 36 separated results for an average schedule company and excluded Yellow Pages from the analysis in identifying the return on equity which was used as a basis for the dissolution of an Order to Show Cause. Pennsylvania Public Utility Commission v. Buffalo Valley Telephone, R-I-00920014, Opinion and Order entered August 25, 1993.

The parties have proposed that the PUC resolve the issues in a separate "G Docket" proceeding to be filed by CTCO. This is appropriate for several reasons. First, this Commission has the necessary staff and established procedures for dealing with affiliated interest matters. Second, the agreements to be clarified and/or amended were previously submitted and approved pursuant to this "G Docket" process. Finally, the parties desire to institute the rate reductions contemplated in the Settlement as quickly as possible and complete the litigation in this docket expediently in order to minimize the already considerable expense associated with this proceeding, which is ultimately borne by the ratepayer.

13. As expressed in this Settlement, the parties have considered the dollar value of the various reserved affiliate issues in deriving the Settlement rate reduction. Therefore, there is no need to delay implementation of the rate reduction pending resolution of these affiliated issues. Moreover, CTCO would point out that any disallowance of expense claimed by CTCO can only force it to absorb additional, unrecovered expense and further deteriorate its rate of return.

H. NETWORK MODERNIZATION

14. As another term of the Settlement, CTCO has formally agreed to meet network modernization objectives relating to digital office conversion, fiber deployment, and installation of SS-7.

Given the legislative pronouncement now codified at Chapter 30 of the Public Utility Code, this feature of the Settlement is clearly in the public interest.

I. AT&T COMPLIANCE

15. AT&T has not yet joined in this Settlement despite having been offered an access line cap upon the CCL charge. This offer to AT&T is memorialized in the Settlement and remains open to AT&T until the Public Meeting at which the Commission approves this Settlement. In the first year, capping access charges on an access line basis has a value of \$335,000, because the growth in this access element is reduced. CTCO calculates that over the next six years, the capping of access charge payments will save AT&T alone \$4 million. Further, the capping preserves the 1986 CCL charge decrease, above-mentioned, which now has an accumulated value to AT&T alone of \$3.7 million.

16. The parties have recognized AT&T's due process rights to continue its litigation at a separate docket. AT&T's participation has not addressed the central issues of this proceeding -- the cost of affiliated transactions and over-earnings. AT&T's issues -- CLD's marketing of its toll services and CTCO's access charges --

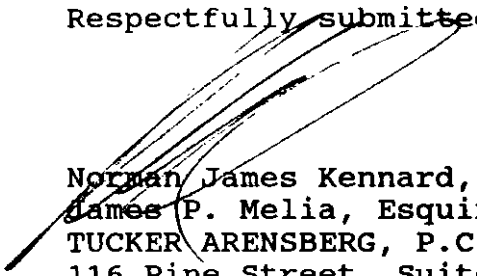
are not central to this proceeding, but are discreet and severable.⁴

J. CONCLUSION

17. Thus, the Settlement resolves all issues raised by the Commission at this docket. CTCO submits that, in its totality, the Settlement serves the public interest and resolves the proceeding in a fair and equitable manner.

18. In summary, for the above stated reasons, CTCO submits that the Settlement completely and fairly resolves the issues in this proceeding and should be adopted by Your Honor and this Commission as in the public interest.

Respectfully submitted,


Norman James Kennard, Esquire
James P. Melia, Esquire
TUCKER ARENSBERG, P.C.
116 Pine Street, Suite 403
Harrisburg, PA 17101
(717) 238-2900

Dated: October 15, 1993

ATTORNEYS FOR COMMONWEALTH
TELEPHONE COMPANY

⁴ This Commission, in prior proceedings, frequently has continued the litigation of a non-signatory party's complaint into a separate docket.

ATTACHMENT TO APPENDIX "D", Page 1 of 2

**COMMONWEALTH TELEPHONE COMPANY
REGULATED INCOME STATEMENT
Adjusted for Settlement Offer
For the Test Year Ended December 31, 1993**

<u>DESCRIPTION</u>	<u>Revised 12 Months Ended 12/31/93</u>
OPERATING REVENUES:	
Local Network Services Revenues	20,951,000
Network Access Services Revenues	62,689,000
Long Distance Network Services	25,512,000
Miscellaneous Revenues	2,398,000
Uncollectible Revenues	(610,000)

Total Operating Revenues	110,940,000

OPERATING EXPENSES AND TAXES:	
Depreciation Expense	26,648,491
Extraordinary Retirement	0
Plant Specific Operations Expenses	20,621,794
Plant Non-Specific Operations Expenses	16,345,659
Customer Operations Expenses	5,003,109
Corporate Operations Expenses	18,528,200

Total Operating Expenses	87,147,253
Investment Tax Credit, Net	(697,000)
State Income Tax	36,474
Other Operating Taxes	4,624,000
Federal Income Tax	(53,807)
Deferred Federal Income Tax, Net	2,708,476
Deferred State Income Tax, Net	1,194,130

Total Operating Expenses and Taxes	94,959,526

Other Operating Income/(Expense)	0

Net Regulated Operating Income	15,980,474
	=====

ATTACHMENT TO APPENDIX "D", Page 2 of 2

COMMONWEALTH TELEPHONE COMPANY
 REGULATED AVERAGE RATE BASE
 For the Test Year Ended December 31, 1993

	12 Months Ended <u>12/31/93</u>	12 Months Ended <u>12/31/92</u>	Average
Original cost of telecommunications plant in service	381,706,234	353,623,892	367,665,063
Property held for future telecommunications use	504,104	504,104	504,104
Telecommunications plant under construction- short term	6,119,484	6,119,484	6,119,484
	<u>388,329,822</u>	<u>360,247,480</u>	<u>374,288,651</u>
Deductions:			
Accumulated Depreciation	141,696,522	128,948,899	135,322,711
Customer Deposits	307,484	307,484	307,484
Contributions in Aid of Construction	0	0	0
Customers' Advances for Construction	0	0	0
Accumulated Deferred Operating Income Taxes	48,799,000	44,834,269	46,816,635
	<u>190,803,006</u>	<u>174,090,652</u>	<u>182,446,829</u>
Net Investment	197,526,816	186,156,828	191,841,822
Material and Supplies	1,580,000	2,088,274	1,834,137
Cash Working Capital	6,295,000	6,295,000	6,295,000
Rural Telephone Bank Class B Stock	7,548,250	7,548,250	7,548,250
	<u>212,950,066</u>	<u>202,088,352</u>	<u>207,519,209</u>
Regulated Rate Base - Normalized	=====	=====	=====
Rate of Return			7.70%
			=====

APPENDIX "E"

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	
v.	:	Docket No.
	:	I-00920020
COMMONWEALTH TELEPHONE COMPANY	:	

OFFICE OF TRIAL STAFF'S
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT
OF INVESTIGATION

TO THE HONORABLE GEORGE M. KASHI, ADMINISTRATIVE LAW JUDGE:

The Office of Trial Staff (OTS) respectfully requests that the terms and conditions of the foregoing Joint Petition For Settlement Of Investigation (Joint Petition) be approved by the Administrative Law Judge (ALJ) and by the Pennsylvania Public Utility Commission (Commission). OTS submits that the Joint Petition is in the public interest and, in support thereof, avers as follows:

1. By Order entered April 8, 1992, the Commission instituted an investigation to gather additional information from Commonwealth Telephone Company (CTCO) relative to Corporate Operations Expense, Plant-In-Service and Other Operating Income.

2. The Commission then entered an Order on July 9, 1992, which directed a further investigation into CTCO's

affiliated transactions and all relevant earnings information to determine whether CTCO's return is reasonable. The matter was assigned to the Office of Administrative Law Judge (OALJ) for a Recommended Decision and the scheduling of such further proceedings as may be necessary. OTS was directed to participate.

3. Extensive discovery was conducted by the parties concerning the issues in this investigation. In addition, the OTS and the Office of Consumer Advocate (OCA) conducted on-site document review and informal discovery at the Company's headquarters located in Dallas, Pennsylvania on June 21 and 22, 1993.

4. Prehearing conferences were held on August 6, 1992, and December 29, 1992, before ALJ George M. Kashi. On-the-record hearings were held on July 1 and 2, 1993, during which CTCO presented its witnesses and exhibits.

5. Pursuant to Commission regulations at 52 Pa. Code §5.231, the parties participated in a number of settlement discussions and, as a result, the Joint Petitioners were eventually able to come to an agreement which is reflected in the foregoing Joint Petition.

6. The within Joint Petition provides for a decrease of approximately \$2,634,000 in CTCO's on-going, annual jurisdictional net operating revenues. This decrease, which resulted from the give and take of the negotiation process,

reflects OTS's consideration of the appropriate level of affiliate charges.

These affiliate charges are purportedly premised upon affiliated interest agreements on file with the Commission. The Joint Petition specifically provides that certain affiliate issues identified in this proceeding are to be presented to the Commission within the next three months for resolution. Meanwhile, pursuant to this Joint Petition, a rate decrease is implemented without delay to CTCO's ratepayers, providing for rate relief sooner than if these matters were to be fully litigated herein.

7. The Joint Petition also provides for the on-going modernization of CTCO's network.

8. Through this Settlement, CTCO is able to avoid the additional rate case expense associated with full litigation of this proceeding. This savings in expenses best serves the interests of both the Company and its ratepayers.

9. CTCO has agreed not to propose an increase in rates which would constitute a general rate increase for a three (3) year period. This provides a measure of rate stability which might not exist if the matter were to proceed to full litigation.

10. OTS supports the Joint Petition because its effect is to accomplish substantially those proposals which it believes to be in the public interest. The proposed Settlement is just and reasonable, achieves a fair resolution of difficult

legal issues, and avoids the necessity for further proceedings between the parties at this time. Nevertheless, if this Settlement is rejected and the matter proceeds to full litigation, OTS is prepared to take a litigation posture which is difficult from the terms of the proposed Settlement.

WHEREFORE, for the reasons set forth herein and embodied in the Joint Petition for Settlement, the Office of Trial Staff respectfully requests that the Administrative Law Judge and the Commission approve the Joint Petition for Settlement at Docket No. I-00920020, as the terms and conditions are in the best interests of the Company, its ratepayers, and the public.

Respectfully submitted,

Kandace F. Melillo
Kandace F. Melillo
Carol F. Pennington
Prosecutors
Office of Trial Staff
Pennsylvania Public Utility
Commission

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-1976

Dated: October 15, 1993

IN THE COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

COMMONWEALTH TELEPHONE
COMPANY

:
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Docket No. I-00920020

STATEMENT OF OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF JOINT PETITION
FOR SETTLEMENT OF INVESTIGATION

Introduction

The Office of Consumer Advocate of the Commonwealth of Pennsylvania, ("OCA"), one of the signatory parties to the Joint Petition For Settlement Of Investigation ("Joint Petition"), submits that the terms and conditions of the Joint Petition are in the public interest and should be approved by the PUC.

The Joint Petition provides for Commonwealth Telephone Company ("Commonwealth" or "Company") to voluntarily implement a number of changes in rates and services that will include the provision of touch tone service to all residential customers at no charge and will result in a decrease of approximately \$2,634,000 in Commonwealth's on-going, annual jurisdictional net operating revenues. In addition, Commonwealth will stay-out for three-years, will modernize its network, and will refile its affiliated interest agreements. As a result of the touch tone "roll-in", most of Commonwealth's residential customers will experience a substantial reduction in their payments to Commonwealth under the terms of the Joint Petition. All Commonwealth's customers will benefit from

Commonwealth's other commitments. As a result, Commonwealth's ratepayers will experience substantial benefits sooner than they otherwise might have received at the conclusion of full litigation concerning this matter.

Reductions In Ratepayer Costs

Commonwealth residential customers on average currently pay \$5.80 for basic service and approximately 76% elect to pay an additional \$1.00 for touch tone service. The Joint Petition provides that Commonwealth will provide touch-tone service free of charge to all residential subscribers. As such, 76% of Commonwealth's residential subscribers will receive a 14.7% reduction in their basic/touch tone rates while the remaining subscribers will have the option of adding touch tone service free of charge. Altogether residential customers are receiving an effective \$1.6 million dollar reduction in payments to Commonwealth as a result of this change. The provision of touch tone free of charge will encourage all ratepayers to use touch tone service to set up calls and therefore increase the overall efficiency of the network. This will benefit all users and Commonwealth as well.

If AT&T joins the Settlement Petition, an access line cap of carrier common line ("CCL") charges of \$3.52 per month would go into effect for service rendered on and after January 1, 1994. As such, Commonwealth's access revenues would be reduced by approximately \$335,000 in 1994. The OCA further notes that if AT&T decides not to enter this settlement, it can continue litigating its issues with a full opportunity to achieve the relief it has

sought in this proceeding. If AT&T does not join in this Settlement Petition, then Commonwealth shall flow back to ratepayers the same amount through other changes in rates.

Finally, Commonwealth shall implement Extended Area Service ("EAS") by December 31, 1994 to 17 routes set forth in the Joint Petition, at a net cost to Commonwealth of approximately \$699,000 in 1994. Local calling area restrictions are one of the most frequent customer complaints received by the OCA. Accordingly, this provision provides substantial relief to all of Commonwealth's customers in the affected calling areas.

Rate Stability

The Joint Petition provides for rate stability by prohibiting Commonwealth from filing for a rate increase pursuant to 66 Pa.C.S. § 1308(d), and prohibiting OCA from filing for a rate decrease, until January 1, 1997.

Commitments To Modernization

The Joint Petition contains a number of modernization commitments for Commonwealth that will benefit all of its customers. Commonwealth will complete conversion of 100% of its central offices to digital technology by December 31, 1993. Commonwealth will have 100% deployment of fiber-optic cable on interoffice trunks by December 31, 1994; and, full deployment of Signalling System-7 by December 31, 1998. These commitments will benefit Commonwealth's residential and business customers by ensuring a modern system that will provide additional benefits and services to Commonwealth customers.

Affiliate Transactions

As part of this proceeding, the OCA has thoroughly examined Commonwealth's affiliated expenses. In its initial order, the PUC expressed concern about a substantial increase in Commonwealth's affiliated interest expenses. Order at 2, Attachment A (April 8, 1992); Motion of Chairman David W. Rolka (June 3, 1992). This concern has been addressed in part in this proceeding. Specifically, in this proceeding the OCA has examined in detail through numerous interrogatories, on-site discovery, informal discussions, and cross-examination Commonwealth's affiliated expenses. The rate reduction in this Petition reflects in OCA's view, a partial resolution of these issues.

In addition, however, as set forth in the Joint Petition, Commonwealth has agreed to modify and refile within three months with the Commission the Company's affiliated interest agreements with Commonwealth Communications Inc., Tec-Air, and C-TEC. The purpose of this refiling will be to clarify and/or amend certain aspects of these affiliate agreements. Once those agreements are refiled, the OCA and other parties will be able to address whether the amendments satisfy their and the Commission concerns. The OCA has agreed, however, that it will not seek rate reductions in these further proceedings beyond those which are already reflected in this settlement.

The specific issues concerning each affiliate agreement to be addressed in these subsequent proceedings are set forth in paragraph 12(g) of the Joint Petition and described below.

Commonwealth's refiled C-TEC affiliated agreement will require the true-up of budgeted figures with actual figures in finalizing the 3-factor formula calculation for the allocation of C-TEC residual costs (also known as "Management Fees"). This change will reduce prospectively Commonwealth's allocated portion of C-TEC's management fee charges. Using actual figures in the Company's method of allocating C-TEC management fees would have reduced Commonwealth's allocated portion of managements fee charges in 1992 by 5.8% or by \$688,500 on an intrastate basis.

The other affiliate issues to be addressed in these G Dockets include: (1) Whether intangible assets, depreciation and amortization expense should be included in the 3-factor formula for the calculation of C-TEC's residual costs; (2) what constitutes an appropriate level of profit for work performed by CCI for Commonwealth; and, (3) whether indirect costs should be included in Tec-Air's charges to Commonwealth.

Commonwealth's refiling of its affiliate agreements preserves the rights of the parties to address the affiliated transaction issues set forth above and in paragraph 17(g) of the Joint Petition. In addition, the Joint Petition permits parties to use the record from this proceeding in these upcoming proceedings. Furthermore, the parties have attached hereto a stipulated synopsis of many of the essential facts concerning these discrete affiliate issues. The OCA respectfully suggests that it may be appropriate to assign ALJ Kashi to that case so as not to break this line of judicial inquiry. Finally, the OCA supports the refiling of these

affiliated interest agreements because as set forth below, it resolves an important procedural concern that has been raised by Commonwealth in the current proceeding.

Importance of this Settlement In Light of Lyness

After the initiation of this proceeding, the Pennsylvania Supreme Court decided Lyness v. State Board of Medicine, (Lyness), 605 A.2d 1204 (1992). During this proceeding, Commonwealth has raised the argument that under Lyness this Commission may be unable to properly adjudicate this proceeding as a result of the manner in which this case was initiated, i.e., by Commission Order. While the OCA does not agree with the Company's interpretation of Lyness, the OCA submits that the settlement of this case and refileing of affiliate agreements in other dockets entirely would clearly render the Lyness issue moot and thus avoid potentially extensive delays in resolving this matter. Moreover, OCA submits that the relief provided by the Joint Petition will provide real and immediate benefit to Commonwealth ratepayers.

If the settlement is not adopted the OCA wishes to make it clear that it does not concede Commonwealth's arguments that the Commission would be precluded from reducing Commonwealth's rates or otherwise adjudicating this proceeding. The OCA submits, however, that one means of avoiding Lyness issues entirely is to accept the benefits offered by this settlement and continue with the above described affiliate transaction issues in separate proceedings which Commonwealth will voluntarily file under the terms of the Joint Petition.

Conclusion

The OCA supports the above described Joint Petition for Settlement because it provides a reduction of costs to all ratepayers, rate stability, assurances of modernization, preserves the rights of parties to address certain affiliate issues, and resolves an important legal issue in this proceeding. For all of these reasons, OCA finds the Petition to be in the public interest and respectfully requests the PUC to approve the Petition in its entirety.

Respectfully submitted,



Philip F. McClelland
Mark J. Shostak
Assistant Consumer Advocates

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Attorney General
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120
(717) 783-5048

Dated: October 15, 1993



Mark A. Keffer
Senior Attorney

Room 3-D
3033 Chain Bridge Road
Oakton, VA 22185
703 691-6046
FAX 703 691-6093

RES

November 5, 1993

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M.A. & U.S. DIV.
INFO. CONTROL DIV.

Mr. John G. Alford, Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265

Re: Docket No. I-920020

Dear Mr. Alford:

Enclosed for filing in the above-cited docket are an original and nine copies of AT&T's Objections to the Joint Settlement Petition.

Very truly yours,

Mark A. Keffer

Enclosures

cc: Parties of Record

DOCUMENT
FOLDER

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUC

v.

**COMMONWEALTH
TELEPHONE COMPANY**

Docket No. I-920020

AT&T's OBJECTIONS TO THE JOINT SETTLEMENT PETITION

The Commission should reject the October 18, 1993, Joint Petition for Settlement of Investigation ("Joint Settlement Petition") filed by Commonwealth, OCA and OTS, because (1) the settlement proposes to reduce local rates while leaving access charges virtually unchanged, even though Commonwealth's local rates are already among Pennsylvania's lowest and its access charges among the highest, and even though Commonwealth's own cost studies show that local rates are priced substantially below cost and access rates substantially above; and (2) the settlement proposes to defer to three future proceeding issues which the ALJ was directed to resolve in this case.

Rather than approve the Joint Petition, the ALJ should direct that this case shall continue forward to resolve all of the issues that have been raised in this proceeding, including those specifically identified by the Commission.

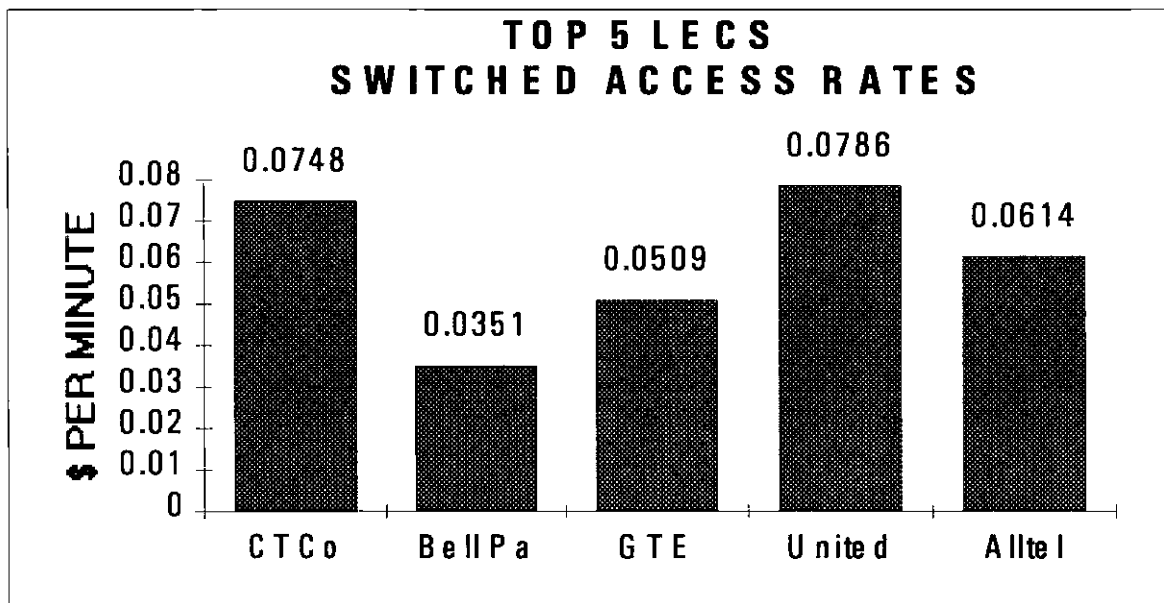
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I. Although the relationship between Commonwealth's local rates and access charges already is extremely unbalanced, the Joint Petition proposes to make it even worse.

A. Commonwealth's access charges are among the highest in the state and priced well above fully distributed cost; in contrast, its local rates are among the lowest in Pennsylvania and are priced far below cost.

Commonwealth's local rates are among the lowest in Pennsylvania, but only because its access rates have been kept incredibly high, virtually the highest of any major Pennsylvania local exchange carrier:



NOTE: The access rates shown here are per-minute for one end of a call. For a typical call an IXC pays access on each end; "originating access" to the LEC serving the calling customer, and "terminating access" to the LEC serving the called customer.

It is not as though Commonwealth needs high access charges to cover its costs.

The company's own cost study shows that intrastate access rates are some \$2.6 million above fully-distributed costs,¹ even before any of the adjustments

AT&T believes are appropriate.²

¹ AT&T witness Rozycki explained (at pp. 5-7) how telephone companies perform fully distributed cost studies. His testimony explained that, inasmuch as regulation serves as a

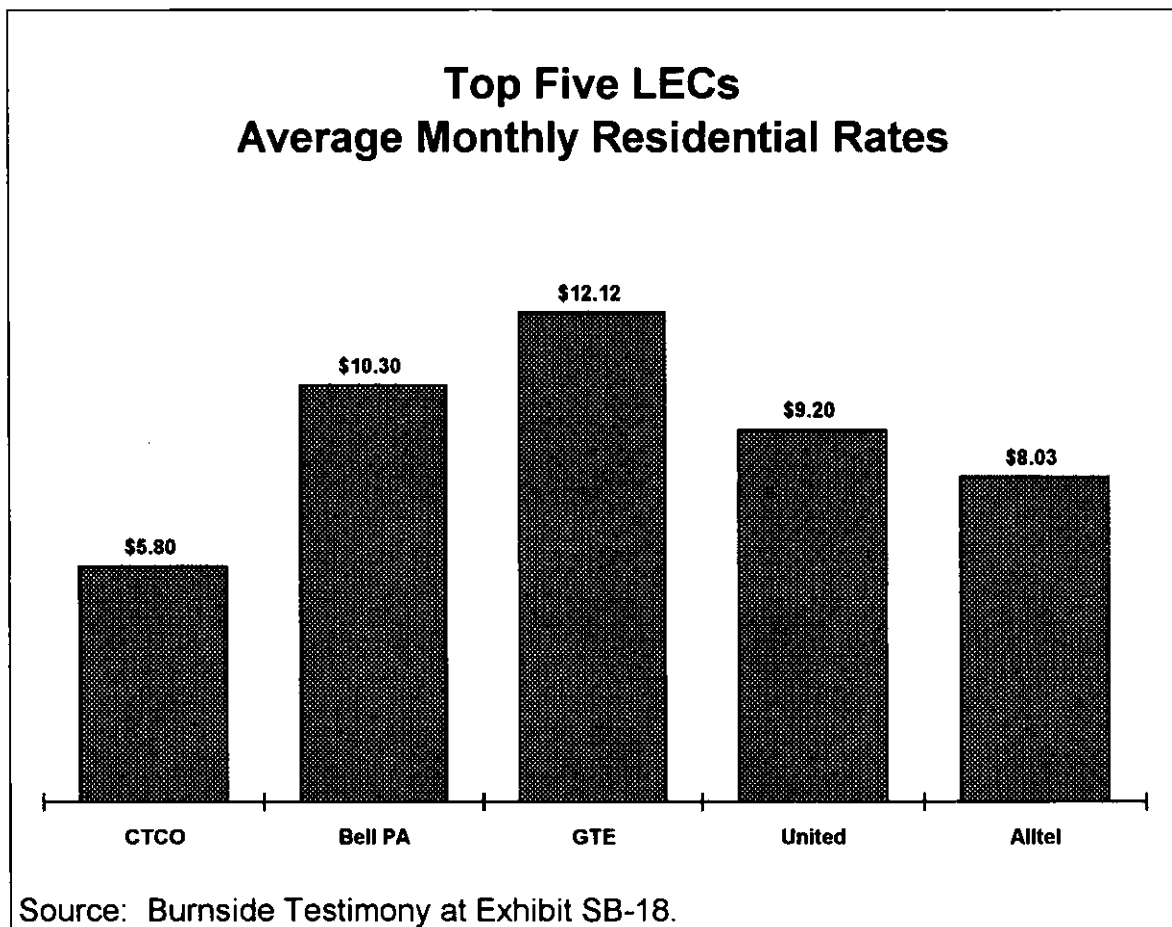
Commonwealth's excessive access earnings become even more apparent when one considers what Commonwealth is doing in the interstate arena. Although the Company clearly has the knowledge and expertise to perform Part 36 and Part 69 access cost studies, it has chosen, instead, to become the nation's largest "average schedule"³ company. At "average schedule" rates, Commonwealth collects interstate access revenues that are \$14 million above fully distributed costs. Stated another way, if Commonwealth became an interstate "cost" company instead of being the nation's largest "average schedule" company, its annual interstate access revenues would be \$14 million lower. See Testimony of AT&T witness Rozycki at pp. 8-9.

substitute for competition, then regulated prices should approximate those which would exist in a fully-competitive market. Prices in competitive markets tend to reflect costs, and must at least cover the total service long run incremental costs ("TS-LRIC"). In the telecommunications industry, however, companies often do not perform TS-LRIC studies, but instead perform fully distributed cost studies. Unlike a TS-LRIC study, which measures only the direct costs of a service, a fully distributed cost study allocates all of a company's costs to its various services. Generally, telephone companies perform these studies using the FCC's "Part 36" rules (47 CFR Part 36). Because these rules assign more common and overhead costs than would be supportable in a competitive marketplace, they are a useful method of identifying an upper limit to the amount of contribution above incremental cost which should be recovered from the service. In this case, Commonwealth witness Laffey prepared a Part 36 study showing Commonwealth's costs for a 1993 projected test year. See Laffey Direct at Exh. JJJ-2.

- 2 AT&T witness Rozycki (at pp. 10-11) identified three specific adjustments that should be made to Commonwealth's cost study. First, the studies need to re-allocate non-traffic sensitive costs based on relative usage, rather than on an arbitrary factor that over-assigns costs to access services. Second, Commonwealth's intrastate access costs should be restated to exclude a portion of Commonwealth's \$14.1 million interstate overearnings. Third, Commonwealth's needs to remove about \$870,000 in billing costs still assigned to intrastate interLATA in its Part 36 study.
- 3 As AT&T witness Rozycki testified (at pp. 8-9), typically, average schedule companies are very small firms that do not have the resources or the wherewithal to conduct cost studies. Commonwealth, however, is a large company with substantial resources. It claims to be the 20th largest telephone company in the nation (out of about 1200), and probably is the largest "average schedule" company in the country.

Thus, on a total company basis, Commonwealth is collecting over \$16 million more in access charges than are warranted by its own unadjusted fully-distributed cost studies.

At the same time, Commonwealth's local rates are among the lowest in Pennsylvania, and do not come close to covering the costs of providing local service. Compared to other major local exchange carriers, Commonwealth's local service rates are very cheap:



Not surprisingly, Commonwealth's low rates are below cost. The Company's own cost study shows that Commonwealth's local services have costs of

\$54.5 million, but produce revenues of only \$23.3 million. See Rozycki Testimony at p. 21.

B. Given the existing relationships between toll, access, and their underlying costs, sound regulatory policy requires that access charges be reduced by a greater percentage than local service rates.

Given the relationships between Commonwealth's access rates and local service rates -- access charges that are extremely high vs. local rates that are extremely low; access priced way above cost vs. local service priced way below -- it makes no sense to reduce local rates even further and leave access rates virtually unchanged. True, there are cases where this Commission has required access charges to subsidize local service, but no other case has featured such *extreme* differences between local and access. At some point, the Commission has to acknowledge there are limits. It needs to acknowledge that, where price/cost relationships are this disjointed, it is time to begin limiting the subsidy access charges will be required to produce, and to require local service customers to pay a more significant portion of their costs of service. The Commission needs to acknowledge that, with access prices this high, not only are Commonwealth's customers harmed⁴, but customers across Pennsylvania are harmed as well.⁵ In this case, where local rates are already extremely low and access is extremely high, and where local rates are way below cost and

⁴ This harm occurs because some IXCs are reluctant to serve in Commonwealth's territory, and because the IXCs that do serve are unwilling to offer some services when faced with such high access charges. AT&T's testimony indicates that it will not offer its Reach Out Pennsylvania in Commonwealth's territory for just that reason. Thus, because Commonwealth's access charges are overpriced, Commonwealth's customers have fewer choices for their long distance services.

⁵ Because IXCs are required to maintain geographically averaged rates, Commonwealth's high access charges result in higher-than-necessary IXC rates statewide for those carrier that choose to serve in Commonwealth's territory. If there continues to be a dramatic disparity between the access charges of the various LECs, there will be ever-increasing pressure for geographic price deaveraging.

access is way above cost, sound regulatory policy, simple logic, and basic fairness all indicate that changes need to be made.

Even in cases where cost studies have not been available, the Commission has precluded the subsidy from access from growing any more pronounced. For example, in Docket P-900490, the Commission found that where ALLTEL was going to reduce rates, but had not performed service-specific cost studies, it was appropriate to reduce rates by a fixed percentage across the board.⁶ Had that occurred in this case, access, local and other services would be reduced by about 3.5% each⁷. Under the Joint Settlement Petition, however, residential customers would see a 15% reduction,⁸ and access customers would not get any reduction at all, based on test year revenues.⁹

In this case, however, Commonwealth *has* performed service-specific cost studies which show, clearly, that access is way overpriced and local service is way underpriced, relative to cost. Couple this with the fact that Commonwealth's access charges are among the State's highest, and local rates already are among the lowest, and there is strong support for reducing access charges by a percentage amount greater than any reduction in local service rates.

⁶ See Order entered March 15, 1991.

⁷ Based on the \$2.6 million reduction identified in the Joint Settlement Petition and the \$73.5 million in total intrastate operating revenues reported in Commonwealth's response to OCA Set 15, question 4.

⁸ The average local rate is \$5.80, and the existing Touch Tone charge is \$1.00. If Touch Tone charges are eliminated, the effective local service rate reduction for those customers is \$1.00. $\$1.00/\$6.80=14.7\%$ reduction.

⁹ Even if one viewed Commonwealth's projections of future CCL savings as a "reduction," it would be just 2.4% of Commonwealth's anticipated 1993 access revenues, far below the 15% reduction being extended to residential customers.

C. The per-line CCL "cap" offered to AT&T in the Joint Settlement Petition is an inadequate response to the shortcomings in Commonwealth's access pricing.

Contrary to Commonwealth's Statement in Support of the Joint Petition, the parties' offer to AT&T to cap the Carrier Common Line Charge, by itself, does not constitute much of an access rate reduction. In the first place, the Commission has consistently required LECs to cap the Carrier Common Line every time the issue has been addressed.¹⁰ By offering the cap in "settlement," Commonwealth is simply "offering" to do something it would be required to do anyway. Moreover, Commonwealth's calculations about the value of the CCL cap are deceptive. The test year for this case is 1993, and the proposed cap is

¹⁰ To date, capping has been required for the following 25 companies:

Bell of Pennsylvania, Docket R-842779, October 24, 1985
GTE, Docket R-850229, April 10, 1986
Venus Telephone, Docket R-870657, October 2, 1987
Sugar Valley Telephone, Docket R-870685, October 2, 1987
Citizens Utilities, Docket R-870640, January 16, 1988
Pymatuning Independent Telephone, Docket R-880915, June 1, 1988
Oswayo River Telephone, Docket R-880984, July 26, 1988
Canton Telephone, Docket R-881117, January 12, 1989
Enterprise Telephone, Docket R-891207; September 8, 1989
Conestoga Telephone, Docket P-890381, March 20, 1990
Lakewood Telephone Company, Docket R-891443, May 2, 1990
Breezewood Telephone Co., Docket R-901666, January 4, 1991
ALLTEL Pennsylvania, Inc., Docket No. P-900490, March 15, 1991
Denver and Ephrata Tel. Co., Docket R-912035, August 29, 1991
North Pittsburgh Tel. Co., Docket R-912138, December 20, 1991
Bentleyville Telephone Company, Docket R-922207, April 30, 1992
ALLTEL-Murraysville Tel. Co., Docket R-922429, October 1, 1992
North Eastern Pennsylvania Tel. Co., Docket I-870076, October 5, 1992
Citizens Tel. Co. of Kecksburg, Docket I-870076, October 5, 1992
Ironton Tel. Co., Docket I-870076, October 5, 1992
Yukon Waltz Tel. Co., Docket I-870076, October 5, 1992
North Penn Tel. Co., Docket I-870076, October 5, 1992
Mahanoy & Mahantango Tel. Co., Docket I-870076, October 5, 1992
Armstrong Tel. Co. North; Docket I-870076, October 5, 1992
Palmerton Tel. Co., Docket R-922483, November 24, 1992

Additionally, Armstrong Telephone Co. has agreed to cap its CCLC by January 1, 1994, and ALLTEL-Brookville has committed to cap at the conclusion of the merger of ALLTEL's Pennsylvania companies.

based on 1993 CCL revenues. Thus, for the test year the proposed reductions is **zero**. For future years, it is true that a per-line cap can result in reductions, but only if the growth in the number of lines is less than the growth in access minutes. When Commonwealth says that a per line is worth \$335,000 in 1994, and that it will save AT&T \$4 million over the next **six years**, it is basing those numbers on projections and assumptions which have not been put in the record, which have not been examined by AT&T or the Commission, and which may never come to pass.¹¹

Of course, the Commission should not be taken in by long term projections of "savings" which make it seem like those savings are bigger than they really are. Apart from the fact that the numbers are based on untested and unsubstantiated projections, the simple fact is that over the same **six year** period for which Commonwealth calculates AT&T's "savings," the proposed local service reductions would reduce Commonwealth's revenues from already-below-cost services by about \$14 million (\$2.3 million per year X 6 years; see Commonwealth statement at p. 8). And if this amount were adjusted for growth the same way that AT&T's "savings" apparently were, the \$14 million figure would be much higher.

D. AT&T's testimony identifies specific changes that should be made in Commonwealth's access charges.

AT&T's evidence identifies the changes that should be made in Commonwealth's access charges. First, AT&T witness Rozycki recommends that, based on a re-allocation of Commonwealth's intrastate Non-Traffic

¹¹ AT&T has served interrogatories on Commonwealth to determine how the company calculated the value of the rate changes proposed in the Joint Settlement Petition, particularly what assumptions were used in the projections. AT&T reserves the right to supplement these Objections once those responses are received.

Sensitive costs to reflect Subscriber Line Usage ("SLU"),¹² Commonwealth's Carrier Common Line Charge can be reduced to recover \$3.0 million annually.¹³ As the Commission has done with other large LECs, it should "cap" Commonwealth's CCLC so that the \$3.0 million in CCLC revenues becomes a fixed annual number.

With regard to Commonwealth's traffic sensitive access charges, AT&T recommends that its existing rates be reduced across-the-board by 37.5%. Commonwealth's own Part 36 cost study shows a traffic-sensitive switched access revenue requirement of \$5.14 million, which needs to be adjusted downward to compensate, partially, for Commonwealth's overcollection of interstate access charges. AT&T accomplished this by allocating the \$14 million interstate overearnings among the "other", intrastate intraLATA and intrastate interLATA categories in Commonwealth's intrastate Part 36 study, which reduces Commonwealth's intrastate interLATA revenue requirement by about \$1.7 million. Subtracting the \$1.7 million from the revenue requirement in Commonwealth's study reduces the total traffic sensitive revenue requirement to about \$3.5 million. Given that Commonwealth expects its 1993 traffic-sensitive

12 SLU is a more logical allocator of non-traffic sensitive costs than the "SPF" factor Commonwealth used in its studies. SLU is a measurement of the relative usage of dial tone lines. If the usage on a customer's dial tone line were 14% interstate, 7% intrastate interLATA, 15% intrastate intraLATA and 64% local, those would be the SLU factors for that customer. Aggregating usage characteristics for all customers gives the SLU factors for the total company. In contrast, the SPF, or Subscriber Plant Factor, is simply a formula intended to produce a multiple of SLU. SPF was developed at a time when all telephone service was a monopoly and when both the industry and regulators were focused on getting as many people connected to the network as possible. To achieve that goal, the regulators chose to make toll prices high and local service prices low, relative to their respective costs. They developed the SPF as a way to over-assign costs to toll services and, as interexchange competition began to develop, to access services. See Rozycki testimony at 12-15.

13 This is in contrast to the \$6.1 million CCLC revenue requirement identified in Commonwealth's cost studies, and the \$8.2 million in interLATA NTS revenues Commonwealth projected it will collect in 1993. At a minimum, Commonwealth's CCLC should be capped at a level no higher than the \$6.1 million SPF-based cost figure identified in Commonwealth's Part 36 study.

access revenues to be about \$5.6 million, an across-the-board reduction of 37.5% will result in Commonwealth collecting its \$3.5 million revenue requirement.¹⁴ See Rozycki Testimony at 18-20.

Thus, overall, AT&T recommends that Commonwealth's CCL revenues be reduced from \$8.2 million to \$3.0 million and "capped" at that level. Traffic-sensitive access charges should be reduced 37.5%, from \$5.6 million to \$3.5 million,¹⁵ and then the line termination and intercept rate elements be consolidated into the local switching rate element to make the intrastate and interstate rate structures consistent.

E. Even if Commonwealth's local rates were increased to offset access reductions, they would still be below those of the other major local exchange carriers.

A \$7.3 million access reduction does not necessarily mean that local rates need to increase by that amount. First, Commonwealth's toll rates can be increased. In fact, if those rates are not high enough to cover Commonwealth's access charges, they should be increased anyway, regardless of what happens to other services, because Commonwealth should not be allowed to charge less for its "retail" toll service than it charges other carriers for the "wholesale" access inputs they need to offer their services. See Rozycki testimony at 23-24.

If Commonwealth still needed additional revenues after that, it would not be inappropriate for the Commission to consider modest increases in Commonwealth's local rates. Even under a "worst case" scenario where the

¹⁴ AT&T also recommends that Commonwealth fold its line termination and intercept into the local switching rate element. This will simplify the tariff, simplify the access bills, and result in an intrastate rate structure that corresponds to the interstate rate structure.

¹⁵ At a minimum, the Commission should reduce Commonwealth's traffic-sensitive access charges from \$5.60 million to the \$5.14 million revenue requirement identified in Commonwealth's own study, with no adjustment to offset interstate access overearnings. This would reduce traffic-sensitive by only 8.2%.

entire \$7.3 million access reduction AT&T advocates would be shifted to residential local service, the average monthly rate would increase by approximately \$3.73 per month, to an average of \$9.53. As shown on page 4, infra, this is well below the average residential rates of Bell and GTE, and virtually the same as that of United. Still, however, Commonwealth's local service revenues would be only about \$30.4 million, which still would not come close to the \$54.5 million in local service costs shown in Commonwealth's own Part 36 study.

As further perspective, consider that Commonwealth's local rates have not been increased since 1978. If the \$5.80 average residential rate had kept up with the Consumer Price Index over those years, today that rate would be over \$13.40, well above any rate change that would occur in this case.

See Rozycki testimony at 20-22.

II. The Joint Settlement Petition attempts to defer to three separate proceedings issues that the ALJ was directed to address in this case.

The Commission's Order entered July 9, 1992, states, unambiguously, that:

...the presiding ALJ be, and hereby is, directed to make specific findings of fact concerning Commonwealth's affiliated interest charges and overall earnings. Order at p. 3.

Despite this clear mandate from the Commission, the parties to the Joint Settlement Petition want to "sidestep" the affiliate issues in this case, and instead have those questions addressed in three separate investigations. See Joint Settlement Petition at para. 12(g).

Aside from the obvious questions about whether the ALJ in this case wants to approve a Settlement Petition that throws back to the Commission issues it sent to him, this approach also has potential harm for AT&T. Each of the three proposed separate affiliate investigations has the potential to reduce Commonwealth's regulated costs, and thus its rates. If AT&T wants to protect its interests, it would have to participate in three separate cases, and make its arguments three separate times. This is not a very efficient or cost-effective way to approach these issues.

III. Conclusion and recommendations.

The Commission should reject the proposed settlement agreement. Even though Commonwealth's access charges are among the very highest in Pennsylvania and recover far more than their costs, and even though Commonwealth's local rates are already among the lowest in the state and way below cost, the Joint Settlement Petition, incredibly, proposes to reduce local service rates even further, and leaves access charges virtually unchanged. Moreover, the Joint Settlement Petition fails to address affiliated interest issues that the Commission expressly directed the ALJ to address in this case.

Rather than approve the Joint Settlement Petition, the ALJ should direct that this case will continue forward to resolve all outstanding issues, including: (1) whether Commonwealth is overearning, (2) whether Commonwealth's affiliate interest agreements are appropriate and in the public interest, (3) in light of the relationship between Commonwealth's local and access rates, the amount by which Commonwealth's access charges should be reduced, (4) whether Commonwealth's toll rates need to be increased to cover relevant access charges, and (5) the actions required to preclude Commonwealth from

continuing to give unwarranted competitive advantages to its affiliate,
Commonwealth Long Distance.

Respectfully submitted,

**AT&T COMMUNICATIONS OF
PENNSYLVANIA, INC.**

By 

Mark A. Keffer
3033 Chain Bridge Road
Room 3D
Oakton, VA 22185
(703) 691-6046

November 5, 1993

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November 1993 copies of AT&T's Objections to the Joint Settlement Petition have been sent first class mail, postage prepaid, and/or hand delivered to:

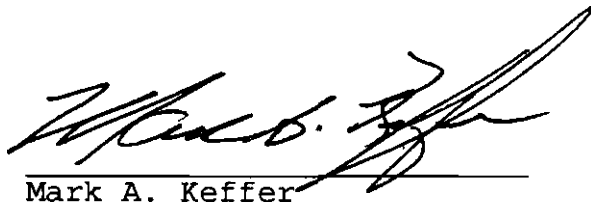
Hon. George M. Kashi
Administrative Law Judge
Pennsylvania Public Utility
Commission
North Office Building
Harrisburg, PA 17120

Philip F. McClelland
Assistant Consumer Advocate
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Michael Swindler, Esq.
Office of Small Business
Advocate
Commerce Building
Suite 1102
300 North Second Street
Harrisburg, PA 17101

Norman J. Kennard, Esq.
Tucker Arensburg, P.C.
116 Pine Street
Harrisburg, PA 17101

Kandace F. Melillo, Esq.
Prosecutor, Office of Trial
Staff
Public Utility Commission
210 North Office Bldg.
P.O. Box 3265
Harrisburg, PA 17105-3265


Mark A. Keffer