

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access)	
Charges and IntraLATA Toll Rates of)	Docket No. I-00040105
Rural Carriers and the Pennsylvania)	
Universal Service Fund)	

**DIRECT TESTIMONY
OF**

**AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC
TCG PITTSBURGH, INC. AND
TCG NEW JERSEY, INC.**

BY

E. CHRISTOPHER NURSE

and

DR. OLA OYEFUSI

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AT&T Statement 1.0

DECEMBER 10, 2008

1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2
3 **Q. MR. NURSE, PLEASE STATE YOUR FULL NAME, ADDRESS AND**
4 **CURRENT RESPONSIBILITIES.**

5 A. My name is E. Christopher Nurse, and my business address is 1120 20th Street, N.W.,
6 Suite 1000, Washington, D.C. 20036. I am Vice President, Regulatory & External
7 Affairs, for AT&T's Atlantic Region, which extends from Virginia to Maine. Among
8 other things, I am responsible for presenting AT&T's perspectives on a broad range of
9 state legislative and regulatory matters, including legislative and regulatory initiatives
10 associated with intercarrier subsidization issues, such as universal service funding and
11 retail rate caps.

12 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND.**

13 A. I received a B.A. in Economics from the University of Massachusetts at Amherst. In
14 1996, I received a Masters in Business Administration from Southern New Hampshire
15 University, in Manchester New Hampshire.

16 **Q. WHAT IS YOUR EXPERIENCE IN THE TELECOMMUNICATIONS**
17 **INDUSTRY?**

18 A. I have 28 years experience in the telecommunications industry, including over eleven
19 years with AT&T through its acquisition of Teleport Communications Group, Inc.
20 (TCG). Prior to that, I was a Telecommunications Analyst with the New Hampshire
21 Public Utilities Commission from 1991 until 1997, entrusted with a broad range of
22 responsibilities. Assigned to the Engineering Department, I was the lead analyst or a
23 contributing analyst to nearly all telecommunications matters before the New Hampshire
24 Commission.

1 **Q. HAVE YOU APPEARED AS A WITNESS IN OTHER REGULATORY**
2 **PROCEEDINGS?**

3 A. Yes. I have testified before this Commission as well as state commissions in: Delaware,
4 the District of Columbia, Kansas, Massachusetts, Maryland, New Hampshire, New
5 Jersey, New York, Oklahoma, Vermont, Virginia and West Virginia, and the Federal
6 Communications Commission. I testified in numerous Chapter 30 proceedings and was
7 heavily involved in this Commission's Global Order, which established the Universal
8 Service Fund and retail rate cap. A listing of my testimony is attached to this document.

9
10 **Q. DR. OYEFUSI, PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

11 A. My name is Dr. Ola A. Oyefusi and my business address is 7125 Columbia Gateway
12 Drive, Columbia 21046.

13
14 **Q. DR. OYEFUSI WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

15 A. I am employed by AT&T as a Manager in the National Access Management
16 Organization. In that capacity, I am responsible for managing efforts to reduce the costs
17 to AT&T for interconnecting its network with all others regardless of class of service or
18 technology. The scope of that responsibility covers approximately twenty-six (26) states.

19 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
20 **PROFESSIONAL EXPERIENCE.**

21 A. I hold a Ph.D. in Economics from George Mason University in Fairfax, Virginia.
22 Additionally, I hold M.A. and B.S. degrees in Economics from Morgan State University
23 in Baltimore, Maryland.

24 I began my career with AT&T in 1999, and have been responsible for analyzing
25 and managing AT&T's access and local connectivity expenses. Among other duties, I
26 have been responsible for providing analytical support to determine the cost and the rates

1 for unbundled network elements ("UNEs"). Also, I am responsible for reviewing and
2 interpreting access tariffs to confirm applicability of specific rate elements and manage
3 AT&T's cost of providing long distance service.

4 Prior to joining AT&T, and from 1991 until 1999, I was employed by the Public Service
5 Commission of the District of Columbia as an economist and commission advisor where
6 I reviewed and analyzed rate filings submitted by the energy and telecommunications
7 companies. I also prepared revenue and cost analyses to support testimony and
8 comments on issues affecting the energy and telecommunications industries.

9 From 1985 through 1991, I held teaching and research positions at George Mason
10 University's Center for Study of Public Choice and Morgan State University.

11 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

12 **A.** Our testimony makes two points:

- 13 1. The Commission must eliminate the existing arbitrary retail rate caps for all local
14 exchange carriers ("LECs"), including for the rural LECs.
- 15 2. Likewise, pursuant to Act 183, the costs of Act 183 network modernization plan
16 commitments should not be foist onto long distance or other telephone companies
17 and their customers through increases to the Pennsylvania Universal Service Fund
18 ("PaUSF") because, as discussed herein, the recovery of those costs has already
19 been addressed by Act 183's modifications to the price cap formula.

1 **II. DISCUSSION**

2 **A. RETAIL RATE CAP**

3
4 **Q. WHAT ACTION SHOULD THE COMMISSION TAKE WITH RESPECT TO**
5 **THE ARBITRARY \$18 RETAIL RATE CAP?**

6
7 A. The Commission should eliminate the \$18 arbitrary retail rate cap for two primary
8 reasons. First, the rate cap is inconsistent with the current intent of the law that permits
9 all incumbent local exchange carriers (“ILECs”) to raise their rates every year at the same
10 level as inflation as a means to fund the ILECs’ broadband deployment commitments.
11 Second, the rate cap is unnecessary and inconsistent with the current competitive
12 telecommunications market in Pennsylvania. The local telecommunications market is
13 sufficiently competitive to ensure that prices are kept at affordable levels.

14
15
16 **Q. IS THE EXISTING \$18 LOCAL RATE CAP CONSISTENT WITH THE**
17 **LANGUAGE AND INTENT OF ACT 183?**

18
19 A. No. The Legislature instructed the Commission to allow local exchange rates to increase
20 with the rate of inflation; they happen to do so as a way to help fund broadband
21 deployment. The Commission, however, has not complied with the Legislature’s
22 instructions, but, instead, has tried to preserve an arbitrary \$18 local exchange rate cap
23 and force local exchange carriers to defer the inflation increases by “banking them,” or
24 attempt to recover them from other services, such as intrastate access. As explained
25 herein, the Commission’s hesitance in adhering to the law is creating a regulatory house
26 of cards that is near collapse.

27 Chapter 30 first passed in 1993. Initially, carriers were permitted to increase
28 prices pursuant to a formula that allowed rates to increase at the rate of inflation less a

1 productivity factor. In times of low inflation, the productivity offset factor was often
2 larger than the inflation rate, thus causing local rates to remain steady or even decline in
3 nominal terms. Thus, the statute's formulation has kept the *nominal* local exchange rates
4 unchanged between 1993 and 2004, while the *real* rates were declining steadily. The
5 Legislature has understood this phenomenon and since changed the statute; however, the
6 Commission has not changed its policies to be consistent with the law. This is the nexus
7 to today's policy and legal inconsistency.

8 In 2004, the Pennsylvania Legislature passed Act 183 and eliminated the
9 productivity offset *if* a company agreed to modify its network modernization plan and
10 accelerate its broadband deployment throughout its service territory. This is where the
11 Legislature linked nominal rate increases to increased broadband deployment.

12 Specifically, 66 Pa. C.S.A. §3015(a) permits rural ILECs to either eliminate the
13 productivity offset entirely, thereby allowing the carriers to increase their nominal retail
14 rates each year by the rate of inflation¹, or to reduce the productivity offset to .5%
15 depending on whether ILECs commit to 100% broadband deployment by 2013 or 2015,
16 respectively.²

17 In eliminating the productivity offset, the Legislature specifically allowed ILECs
18 to raise their local rates by the rate of inflation. This makes sense. The Legislature
19 wanted to give ILECs an incentive to deploy broadband networks, which in turn benefits
20 local consumers. However, it obviously costs money to build out such a network.

21 Therefore, the Legislature permitted ILECs to raise their local rates by the rate of

¹ An increase in the nominal rate by the rate of inflation would be a constant rate on a real basis.

² According to the Commission's Autumn 2007 Keystone Connection Report, 29 rural ILECs committed to reaching full broadband availability by December 31, 2008, while Embarq and Windstream committed to achieve 100% broadband availability by December 31, 2013, thereby allowing all such companies to fully eliminate the productivity offset under the law.

1 inflation each year, which would permit the ILECs to recover *from their end users* the
2 costs of broadband deployment. In exchange for the increased investment and operating
3 costs, consumers would get the benefit of an available broadband network, even in rural
4 territories.

5 A rate cap of \$18 that is over five years old cannot be reconciled with the
6 Legislature's intent and subsequent action to allow carriers to raise rates each year by the
7 amount of inflation. The Legislature's stated policy is that local exchange rates are
8 permitted to increase at the rate of inflation in order to fund broadband deployment. The
9 Commission's policy preferences, whatever they might be, must yield to the statute.

10
11 **Q. WHY IS THE \$18 RATE CAP "ARBITRARY?"**

12 **A.** It is arbitrary because it has no basis in fact; it was not a product of an empirical study or
13 model. The rate cap was initially established as a political compromise in the
14 Commission's *Global* proceeding which set the cap at \$16 by stipulation.³ That was
15 increased to the current \$18 rate cap in July 2003 based on another settlement among
16 various industry participants.⁴ There was no evidence submitted about the
17 appropriateness of the \$18 rate or whether it was in any way related to customers'
18 abilities to afford local telephone service at that rate. Because the \$18 rate cap is *per se*
19 arbitrary, the Commission simply should not attach any particular weight or significance
20 to it other than the fact that regulatory lag perpetuated its existence. The rate cap has not
21 been modified or raised for over five years.

22

³ *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999)(*Global Order*); 196 P.U.R. 4th 172, *aff'd sub nom. Bell Atlantic Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa.Cmwlth. 2000), *alloc. granted*, 844 A.2d 1239 (Pa. 2004).

⁴ See Docket Nos. M-00021596 *et. al.*

1 **Q. THERE IS STILL A REQUIREMENT THAT RATES BE AFFORDABLE. ISN'T**
2 **A RATE CAP NECESSARY TO BE CONSISTENT WITH THIS**
3 **REQUIREMENT?**

4
5 A. No, it is not necessary to cap retail rates to assure their affordability. The Pennsylvania
6 communications market has become increasingly competitive, even in the rural
7 territories. Currently, there are multiple alternative local service providers in most
8 service areas from which consumers can choose. In such a competitive marketplace, if
9 one carrier chooses to set rates that are too high, then market forces will ensure that rates
10 are kept just and reasonable. Indeed, Commissioner Powelson recently recognized that
11 *the market* will provide an effective cap below which all rates will be set.⁵

12
13 **Q. WHAT TYPE OF COMPETITION EXISTS IN THE RURAL AREAS?**

14 A. There is increasing competition from multiple types of competitive telecommunications
15 service providers that is evident from the continuous decline in the number of access
16 lines. There is some intra-modal traditional wireline competition, as well as the
17 increasing presence of inter-modal competition from alternative service providers,
18 especially IP-based competitors not utilizing the ILEC's local loop, e.g. VoIP providers
19 and cable telephony providers who provide service over their own networks (e.g.
20 Comcast). This competition has exploded in the past five years since the \$18 rate cap
21 was established.

22
23

⁵ Joint Petition of Buffalo Valley Telephone Company, Conestoga Telephone and Telegraph Company, and Denver and Ephrata Telephone Company (D&E Companies) and the Office of Consumer Advocate (OCA) to Rescind and/or Amend Prior Commission Orders: Docket Nos. P-00981428F1000; R-00061385 *et. al.*; Dissenting Statement of Commissioner Robert F. Powelson; October 9, 2008.

1 **Q. DO PENNSYLVANIA CUSTOMERS BUY WIRELESS SERVICE?**

2
3 A. Yes. According to a February 2008 FCC report, during the second half of 2006, 11.8%
4 of adults lived in households with only wireless phones, which was a 51% increase from
5 the 7.8% in the second half of 2005 and 237% greater than the 3.5% in 2003. In addition,
6 one in four adults aged 18-24 years lived in households with only wireless telephones,
7 and *nearly 30 percent of adults aged 25-29 years lived in wireless-only households.*⁶

8 According to a study by the National Center for Disease Control, “. . . *nearly one out of*
9 *every six American homes (15.8%) had only wireless telephones* during the second half
10 of 2007. In addition, *more than one out of every eight American homes (13.1%)*
11 *received all or almost all calls on wireless telephones despite having a landline*
12 *telephone in the home.*⁷

13
14 **Q. ARE THERE WIRELESS CARRIERS IN RURAL TERRITORIES?**

15 A. Yes. According to the FCC’s Twelfth Annual Competition Report on Commercial
16 Mobile Radio Services (“CMRS”) released in February of 2008, 99.3% of the total US
17 population in rural counties is covered by at least one wireless provider.⁸ The FCC,
18 citing to a 2006 National Telecommunications Cooperative Association (“NTCA”)
19 survey, which represents primarily rural companies, stated that “competition is strong in
20 rural areas, with member providers facing considerable competition from other

⁶ In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services; WT Docket No. 07-71, Twelfth Report, Released February 4, 2008 (“FCC Twelfth Competition Report”) (emphasis added).

⁷ Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.htm> (emphasis added).

⁸ Twelfth Competition Report at ¶106.

1 carriers—the average respondent indicated that their company competes with between
2 three and five other [wireless] carriers.”⁹

3
4 **Q. WHAT ARE WIRELESS PENETRATION RATES IN PENNSYLVANIA?**

5 A. According to the FCC’s most recent reported statistics, since 2001, wireless subscribers
6 in Pennsylvania have *more than doubled*, increasing from 4.37 million in June 2001 to
7 9.2 million in June 2007.¹⁰ Pennsylvanians have never in history had greater access to
8 connectivity. An \$18 cap on retail rates is an obsolete artifact in this contemporary
9 environment.

10
11 **Q. ARE THERE OTHER FORMS OF COMPETITION IN PENNSYLVANIA?**

12
13 A. Yes. There are numerous competitive local exchange carriers (“CLECs”) as well as
14 competition from cable companies and VoIP providers. Nationwide, the number of cable
15 voice customers has increased from 1.3 million subscribers in 2001 to over 15.1 million
16 in 2007.¹¹ Four of the nation’s top cable companies are headquartered in Pennsylvania --
17 Comcast, Service Electric, Armstrong, and Pencor (Blue Ridge).¹² This year, Comcast
18 filed to become certificated in the operating territories of four rural ILEC’s -- Windstream,
19 Frontier/Commonwealth, Consolidated/North Pittsburgh and Conestoga. Comcast is also
20 authorized to provide service in Embarq’s territory. Comcast expects to reach more than

⁹ *Id.* at ¶109 citing 2006 NTCA Wireless Survey, at 9.

¹⁰ Trends in Telephone Service, Industry Analysis and Technology Division Wireline Competition Bureau: August 2008; Table 11.2. See www.fcc.gov/web/iatd/trends.html.

¹¹ <http://www.ncta.com/Statistic/Statistic/ResidentialTelephonyCustomers.aspx>

¹² <http://www.bcapa.com/broadband-technology/voice.php>

1 200,000 households in rural territories in Pennsylvania by providing Voice over Internet
2 Protocol (“VoIP”) service.¹³ Cable providers operate their own facilities, and so are not
3 reliant on the continued availability of unbundled network elements at Commission
4 established wholesale prices. Cable providers typically offer a formidable “triple play”
5 of voice, internet, and video services in a very competitively priced bundle, on a single
6 transaction and single bill. Cable telephony is a robust and aggressive competitor for
7 telephone services in urban and rural areas.

8
9 **Q. IS THERE A NEED FOR A RETAIL RATE CAP IN A MARKET AS**
10 **COMPETITIVE AS THE PENNSYLVANIA TELECOMMUNICATIONS**
11 **MARKET?**

12
13 A. No. With the amount of competition that exists in Pennsylvania, and that continues to
14 grow, it is no longer necessary for the Commission to impose a regulatory rate cap on
15 retail rates. The market will determine the appropriate rates above which a consumer will
16 seek an alternative provider. The implicit assumption in a retail rate cap is that
17 consumers are captive, that they could be compelled to buy the monopolist’s telephone
18 service at a high price above what a competitive market would allow. This is not the
19 scenario in today’s world, when millions of consumers choose not to purchase wired
20 telephone service regardless of the price and instead select other options to fulfill their
21 telecommunications needs at prices that may be higher than basic wireline service.

22 That is not to say the Commission has no role in overseeing the market. In the
23 unlikely event a particular ILEC were to file a tariff proposing an increase in local retail
24 rates that substantially exceeds what other carriers are charging, or that establishes

¹³ See *Keystone Connection*, Winter/Spring 2008, p. 11.

1 questionable terms or conditions, or that otherwise proposes some extraordinary measure
2 that merits scrutiny, the Commission always has the authority to review the tariff and
3 ensure that it complies with the just and reasonable standard. If the proposed provisions
4 are deemed to be unjust and/or unreasonable, the Commission can always prevent the rate
5 change from going into effect. However, garden variety changes in retail prices, terms
6 and conditions should no longer be regulated pursuant to standards applied to a long-gone
7 monopoly market. Simply put, there should not be a rate cap on local rates anymore
8 given the dramatic changes to the market in the last nine years since the Commission first
9 adopted the cap -- customers are now empowered by a degree of choice not available a
10 decade ago.

11
12 **Q. HAVE OTHER STATES RELAXED REGULATION OF RETAIL LOCAL**
13 **SERVICE RATES?**

14
15 **A.** Yes. Other states are recognizing that with so many carriers and technologies present in
16 the market, it is simply not necessary to regulate the retail rates of local telephone
17 service. According to an April 2007 Report by the National Regulatory Research
18 Institute, "rate deregulation of *all* retail local exchange services provided by the largest
19 incumbents or by all the ILECs in a state will be in effect in at least ten percent of the
20 states by 2010."¹⁴

21
22
23

¹⁴ State Retail Rate Regulation of Local Exchange Providers as of December 2006, April 2007;
<http://nri.org/pubs/telecommunications/07-04.pdf>

1

2 **Q. IF THE COMMISSION DOES NOT ELIMINATE THE RATE CAP, MUST IT AT**
3 **LEAST MODIFY THE RATE CAP?**

4

5 A. Yes, it must be raised to at least keep track with inflation, as the Legislature intended.

6

The rate cap has only been raised a total of \$2 since 1999. It has not been raised at all
7 since 2003. If the Commission had permitted the rate cap to increase even just by the rate
8 of inflation, which would have been entirely reasonable, today the cap would be at least
9 \$20.71.

10

Other states have higher rate caps or no rate caps at all, and this has not led to a
11 significant decrease in telephone penetration. For instance, New York has a rate cap of
12 \$23 and Wyoming has a rate cap of \$32.34. In addition, many other states permit annual
13 rate increases without being constrained by arbitrary rate caps.¹⁵ In Michigan, basic local
14 rates are subject to a "just and reasonable" standard rather than a mandatory rate cap. In
15 Minnesota, smaller ILECs are permitted to price basic services based on the market. In
16 Iowa, the Utilities Board recently deregulated single-line telephone service recognizing
17 that competition was sufficient to provide market constraints on retail rates.¹⁶ The
18 Missouri Legislature recently passed a law significantly deregulating local services.¹⁷
19 Despite dire predictions, the empirical evidence is that local price deregulation does not
20 lead to abusive local service prices at unaffordable levels, or generating extra-normal
21 profits.

22

¹⁵ Telephone Subscribership in the United States (Data Through March 2008), Released August 2008;
http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-284923A1.pdf, Table 1.

¹⁶ In Re: Possible Extension of Board Jurisdiction Over Single Line Flat-Rated Residential and Business Rates for Local Exchange Carriers. Docket No. INU-08-1.

¹⁷ Missouri Revised Statutes, Chapter 392.

1 **Q. WILL RAISING THE RATE CAP LEAD TO LOWER TELEPHONE**
2 **PENETRATION RATES?**

3
4 A. No, there is absolutely no evidence that is the case. First, none of the rural ILECs
5 involved in this case have conducted any cost studies in the past ten years on their costs
6 to provide basic telephone service.¹⁸ In addition, none of the rural ILECs have conducted
7 any studies on affordability. What empirical evidence does show in the FCC's most
8 recent report is that the telephone subscribership penetration rate in the U.S. was 95.2%
9 as of March 2008.¹⁹ Pennsylvania's subscribership rate was 97.7% as of March 2008.
10 Also, the subscribership rate in Pennsylvania has increased each year since March 2006
11 despite some increases in retail rates and federal Subscriber Line Charges (SLC).²⁰

12
13 **Q. ARE CUSTOMERS MOVING AWAY FROM THE CONCEPT OF STAND-**
14 **ALONE BASIC LOCAL SERVICE?**

15
16 Yes. Many customers have chosen to obtain a bundled service at much higher rates than
17 the stand-alone basic local service rate. If a customer is voluntarily choosing to subscribe
18 to a more expensive bundled service of basic local, features, and long distance, it is
19 difficult to claim that the customer would somehow suffer from an increase to the basic
20 local service rate cap that doesn't apply to his package.

21 In a very real sense, these bundled offerings also compare with national wireless
22 plans and VoIP offerings that, in many instances, do not differentiate between local and
23 long distance calling. It makes little sense for the Commission to artificially constrain
24 basic local rates at \$18 when a preponderance of Pennsylvania consumers are buying

¹⁸ PTA and Embarq responses to OCA Set II and PTA response to OCA Set I, #25.

¹⁹ Telephone Subscribership in the United States (Data Through March 2008), Released August 2008:
http://braunfoss.fcc.gov/edocs_public/attachmatch/DOC-284923A1.pdf.

²⁰ *Id.* at Table 3.

1 bundled wireline and wireless plans that give them both local and long distance calling at
2 bundled rates that often exceed \$50 per month. Why is the Commission capping basic
3 service rates at \$18 when the average wireless bill is nearly \$50/month?²¹
4

5 **Q. WHAT ABOUT LOW INCOME CUSTOMERS ON LIFELINE PLANS?**

6 A. No carrier is arguing that Lifeline rates should be deregulated. AT&T certainly does not
7 object to the Commission maintaining a requirement that carriers offer heavy discounts to
8 low-income customers. The \$18 retail cap therefore has nothing to do with low income.
9

10 **Q. WHAT IS YOUR CONCLUSION ON WHAT THE COMMISSION SHOULD DO**
11 **WITH RESPECT TO THE RETAIL RATE CAP?**
12

13 A. The Commission should eliminate the rate cap. It is unnecessary in today's highly
14 competitive local market. It is a waste of Commission resources, and a distraction from
15 genuine priorities. If the Commission decides to keep a rate cap—which it should not--
16 carriers should be permitted to increase it annually at least at the rate of inflation, as the
17 Legislature intended.
18

19 **B. PENNSYLVANIA UNIVERSAL SERVICE FUND**

20 **Q. SHOULD THE COMMISSION INCREASE THE PENNSYLVANIA UNIVERSAL**
21 **SERVICE FUND IN ORDER TO ACCOMMODATE THE RURAL ILECS'**
22 **CHAPTER 30 ANNUAL REVENUE INCREASES?**
23

24 A. Absolutely not. The Pennsylvania Universal Service Fund ("PaUSF") was created by
25 regulation "to assure and maintain universal service *and to promote the development of*

²¹ See Frends in Telephone Service, FCC Industry Analysis and Technology Division, Wireline Competition Bureau, August 2008, Table 11.3. As of June 2007, the average monthly bill for wireless services was \$49.94.

1 *competition in telecommunications markets throughout this Commonwealth.*²² The
2 regulations establishing the PaUSF further state that the purpose of the PaUSF “ is to
3 maintain the affordability of local service rates for end-user customers *while allowing*
4 *rural telephone companies to reduce access charges and intraLATA toll rates, on a*
5 *revenue-neutral basis, thereby encouraging greater competition.*²³ Therefore, by
6 Pennsylvania regulation, the PaUSF was created for the sole purpose of reducing access
7 charges and intraLATA toll rates. In addition, it was intended to operate in a manner that
8 encourages local telephone competition. Thus, extending the PaUSF to fund the Chapter
9 30 retail rate increases of rural ILECs could be counter to the regulations establishing the
10 PaUSF, as well as directly contrary to its purpose and intent.

11
12 **Q. WOULD EXPANDING THE PENNSYLVANIA USF TO FUND RURAL ILECS’**
13 **CHAPTER 30 RATE INCREASES BE ANTI-COMPETITIVE?**

14
15 A. Yes, because it extends the outdated cross-subsidization practice that needs to be re-
16 evaluated in a competitive world. In the nine years since the PaUSF was established, the
17 telecommunications marketplace has changed dramatically. Competition particularly
18 from cable and VoIP providers has exploded and those alternative providers are not
19 saddled with the same regulatory burdens as wireline companies. Wireless carriers pay
20 significantly lower rates than wireline carriers to terminate calls over the same facilities.
21 It is critical to level the playing field so that wireline long distance services can compete
22 fairly with those alternative technologies. Consumers should choose between competing
23 technologies based on their *merits* -- that is, they should be empowered to make choices

²² 52 Pa. Code §63.161(2) (emphasis added).

²³ 52 Pa. Code §63.161(3) (emphasis added).

1 because of the real cost, features, and quality of service, not because one technology is
2 saddled with hidden regulatory subsidies designed to benefit other services or service
3 providers, while other technologies are not comparably burdened. Increasing the
4 subsidies in order to fund rural ILECs' broadband deployment will ensure that outdated
5 regulatory practices, rather than consumers, will decide market winners and losers.

6
7 **Q. HOW WOULD INCREASING THE PENNSYLVANIA UNIVERSAL SERVICE**
8 **FUND BE CONTRARY TO LEGISLATIVE INTENT AND POLICY?**

9
10 A. This was discussed earlier in this testimony. The Legislature passed Act 183 in 2004. A
11 primary goal of that legislation was to encourage the accelerated deployment of
12 broadband networks. The Legislature provided incentives for ILECs to deploy the
13 broadband networks on an accelerated basis by eliminating the productivity offset in the
14 ILEC's price cap formula if a company agreed to advance its broadband deployment.²⁴
15 The Legislature certainly knew that eliminating the productivity offset would mean that
16 retail rates would be permitted to increase by the rate of inflation, and this effect would
17 compound year over year. Although the Legislature also wanted to keep rates affordable,
18 this action to increase below-cost, local service rates made sense. Customers receive a
19 direct benefit from having broadband networks available to them when they otherwise
20 might not be built, or might not be built nearly as quickly. In order to fund those
21 networks, and bring the benefits to the customers, the Legislature allowed ILECs to
22 increase their local rates. This is a direct *quid pro quo* between obtaining higher local
23 rates in exchange for increased local deployment of broadband. A carrier must file an
24 amended network modernization plan agreeing to accelerate the deployment of

²⁴ 66 Pa.C.S.A. §3015(a).

1 broadband networks pursuant to a defined timeline in order to obtain the ability to
2 increase their rates and eliminate the productivity offset.

3 Thus, forcing companies who compete directly with the rural ILECs to help fund
4 their competitor's advanced network deployment would be both contrary to the intent of
5 Chapter 30 and contrary to access charge reduction goals which led to the creation of the
6 Pennsylvania USF in the first place. The Commission should not force other carriers and
7 those carriers' customers to fund the build out of the rural ILECs' broadband networks,
8 which is exactly what the Commission would be doing if it expanded the PaUSF beyond
9 its intended purpose.

10
11 **Q. DOES COMMISSION PRECEDENT SUPPORT INCREASING THE**
12 **PENNSYLVANIA USF TO FUND RURAL ILECS' CHAPTER 30 RETAIL RATE**
13 **INCREASES?**

14
15 **A.** No, it does not. The PaUSF was established for the *specific purpose* of funding switched
16 access and toll rate decreases. That is, the PaUSF was established to move overpriced
17 services down towards their costs. Likewise, the Act 183 reform of the price cap formula
18 increased the rates for underpriced local service. This is a rational reform mechanism.
19 Moving prices towards cost is a cornerstone of improving competition. In addition, the
20 PaUSF was established in order to level the competitive playing field by *reducing* anti-
21 competitive implicit subsidies.²⁵ If the Commission now were to *increase* the size of the
22 PaUSF so that one group of companies is forced to fund the capital network
23 improvements of their competitors, the Commission would be (a) taking the PaUSF in
24 exactly the opposite direction of its purpose, (b) further distorting full and fair

²⁵ *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999)(*Global Order*); 196 P.U.R. 4th 172, *aff'd sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa.Cmwlth. 2000), *alloc. granted*, 844 A.2d 1239 (Pa. 2004).

1 competition by imposing cost burdens on some carriers but not others, and (c) picking
2 winners and losers in the Pennsylvania telecommunications market by regulatory fiat,
3 rather than allowing Pennsylvania consumers to decide for themselves which services
4 and service providers best meet their needs.

5 When the Commission first established the PaUSF in 1999, it recognized that as
6 Pennsylvania moved towards a fully competitive environment, cross subsidization should
7 not and could not last indefinitely. In fact, the Commission specifically planned to
8 *eliminate* the PaUSF by the end of 2003.²⁶ As the Commission noted in 2004, "The Fund
9 was conceived to be an *interim* funding mechanism operating during the period of access
10 charge reform. According to the Commission's Order establishing the Fund, it was
11 originally scheduled to expire on December 31, 2003."²⁷ Even in its Order initiating this
12 case, the Commission stated that, "At some point, the system of the PaUSF whereby
13 other operating companies in the Commonwealth support the incumbent rural ILECs
14 during what is *supposed to be a transitory time* between local telephone monopolies into
15 competitive markets must be reexamined."²⁸ Regardless of when the Commission
16 follows through on its promise to eliminate the PaUSF, the Commission should definitely
17 *not* increase the PaUSF in this proceeding solely to fund rural ILECs' network
18 modernization which the Legislature has funded through other means. Any such decision
19 would be contrary to the Legislature's intent, contrary to this Commission's prior orders
20 and, most importantly, contrary to the interest of Pennsylvania consumers who stand to
21 gain the most when competition is full, fair, and untainted by regulatory tinkering that

²⁶ Global Order at 153.

²⁷ Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund, Docket No. 1-00040105, December 20, 2004, p. 3.

²⁸ April 24, 2008 Order at p. 19 (emphasis added).

1 distorts the market.

2
3 **Q. DO COMMISSION REGULATIONS SUPPORT AN EXPANSION OF THE**
4 **PENNSYLVANIA USE TO FUND RURAL ILEC CHAPTER 30 RATE**
5 **INCREASES?**
6

7 A. No. The regulations prohibit the Commission from expanding the PaUSF to fund rural
8 ILECs' Chapter 30 rate increases. 52 Pa. Code §63.161(3) states that the purpose of the
9 fund is "to maintain the affordability of local service rates for end-user customers while
10 allowing rural telephone companies to reduce access charges and intraLATA toll rates,
11 on a revenue-neutral basis, thereby encouraging greater competition." There is nothing in
12 the regulations that permits the Fund to be used for the broadband deployment costs of
13 rural ILECs. As discussed previously, misusing the PaUSF in that manner would in fact
14 discourage competition and favor one set of competitors over another.

15 As far back as 1998, an Administrative Law Judge ("ALJ"), in evaluating access
16 charges and universal service issues, very astutely recognized the need for the
17 Commission to eliminate the system of carrier cross-subsidization in a competitive
18 environment. The reasoning that ALJ Michael Schnierle used ten years ago stands today:

19 Despite the existence of distortions and inefficiencies, this system of
20 cross-subsidies has been justified on policy grounds, principally as a
21 means to serve universal service goals. By providing ILECs with a stream
22 of subsidized revenues from certain customers, the system has allowed
23 regulators to demand below-cost rates for other customers, such as basic
24 telephone service for those customers in high-cost areas. For all intents
25 and purposes, the system serves as a hidden tax collected by the telephone
26 companies. Low cost telephone customers are required to pay more than
27 they would have to pay in a competitive market, to allow the telephone
28 companies to charge less to customers whose cost of service would
29 otherwise be higher.

30
31 The existing system (of implicit subsidies and support flows) is
32 sustainable only in a monopoly environment where ILECs are guaranteed

1 an opportunity to earn returns from certain services and customers that are
2 sufficient to support the high cost of providing other services to other
3 customers. The new competitive environment envisioned by the
4 Telecommunications Act of 1996 threatens to undermine this structure
5 over the long run.²⁹

6
7 ALJ Schnierle went on to further state:

8
9 If society wants to replace the monopoly regulation of local telephone
10 service with open competition, (as it has indicated by the enactment of
11 Chapter 30 and the Telecommunications Act of 1996), then it must be
12 prepared to allow prices for local telephone service to be more reflective
13 of reality.³⁰

14
15 The ALJ's reasoning was correct ten years ago and it is even more appropriate today.

16 Funding rural ILECs' broadband deployment was never contemplated when the PaUSF
17 was established, and, in any event, would be ill advised in today's highly competitive
18 environment.

19
20
21 **Q. ARE THERE ANY OTHER CIRCUMSTANCES UNDER WHICH THE**
22 **COMMISSION MIGHT WANT TO ADDRESS THE SIZE AND SCOPE OF THE**
23 **UNIVERSAL SERVICE FUND?**

24
25 A. Yes. Today the rural ILECs maintain very high intrastate access rates which, they argue,
26 are necessary to subsidize their costs of providing local telephone service. The very
27 existence of those access charges, of course, is making it virtually impossible for AT&T
28 and other interexchange carriers to compete against wireless carriers, VoIP providers,
29 internet services providers, social networking websites, and other forms of
30 communications which are largely exempt from intrastate access charges. This
31 Commission has acknowledged the problem but, for years now, has been waiting to see if
32 the FCC was going to cure the problem through its Intercarrier Compensation Reform

²⁹ Re: Intrastate Access Charge Reform, Docket No. R-00960066, Recommended Decision, June 30, 1998 at

p. 6.

³⁰ *Id.* at p. 25.

1 proceeding. It has now become clear, however, that the FCC is not going to act, and that
2 the matter of intrastate access reform is being left to the states (a position which state
3 regulators, including the Pennsylvania Commission, argued was the right way to address
4 intrastate access reform issues). Previously the Commission ruled that the ILECs'
5 intrastate access rates would not be at issue in this proceeding. But at whatever point the
6 Commission finally steps up to the issue, whether it be by expanding the scope of this
7 proceeding or opening another separate ILEC access reform docket, the Commission may
8 want to examine whether, for some of the smaller ILECs with the highest costs, there will
9 be a continuing need to provide those carriers with PaUSF support when their intrastate
10 access charges are reduced to parity with their interstate access rates.

11
12 **Q. WHAT IS YOUR CONCLUSION REGARDING THE PENNSYLVANIA**
13 **UNIVERSAL SERVICE FUND?**

14
15 A. Our conclusion is that the Commission should not attempt to expand the PaUSF to fund
16 rural ILECs' Chapter 30 network modernization commitments that the Legislature
17 intended to fund through other means, and which, for the most part, have now been
18 completed. Using the PaUSF in a manner that would force carriers to fund other carriers'
19 broadband deployment would be contrary to Pennsylvania legislative intent and policy,
20 would be contrary to Pennsylvania Commission regulations and precedent, and most
21 importantly, would be bad for Pennsylvania consumers.

22
23 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

24 A. Yes it does.

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

Testimony of E. Christopher Nurse

ST	Docket No.	Docket Name	Testimony	Date
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Rebuttal Testimony with Kirchberger	07/18/2003
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Surrebuttal Testimony with Kirchberger	08/04/2003
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Direct Testimony with Oyefusi	06/08/2005
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Rebuttal Testimony with Oyefusi	06/29/2005
PA	C-20027195	Access Complaint - AT&T Communications of Pennsylvania, LLC v Verizon North Inc. and Verizon Pennsylvania Inc	Surrebuttal Testimony with Oyefusi	07/11/2005
PA	I-00030096	Generic Investigation in re: Impact On Local Carrier Compensation if A Competitive Local Exchange Carrier Defines Local Calling Areas Differently Than the Incumbent Local Exchange Carrier's Local Calling Areas but Consistent With Established Commission Precedent	Direct Testimony	04/14/2004
PA	I-00030099	Development of an Efficient Loop Migration Process	Direct with Kirchberger	01/09/2004

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

Docket No.	Docket Name	Testimony	Date
R-00049524	Pennsylvania Public Utility Commission v. Verizon Pennsylvania Inc. Tariff No. 216 Revisions regarding Four Line Carve-Out	Rebuttal with Kirchberger	10/06/2004
P-00021973	Petition of Verizon Pennsylvania Inc. for a Determination that its Provision of Business Telecommunications Services to Customers Generating Less Than \$10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code	Direct Testimony	09/09/2002
P-00021973	Petition of Verizon Pennsylvania Inc. for a Determination that its Provision of Business Telecommunications Services to Customers Generating Less Than \$10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code	Rebuttal Testimony	10/18/2002
P-00021973	Petition of Verizon Pennsylvania Inc. for a Determination that its Provision of Business Telecommunications Services to Customers Generating Less Than \$10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code	Surrebuttal Testimony	10/25/2002
P-00981423	Petition of ALLTEL Pennsylvania, Inc. for Approval of an Alternative Form of Regulation and Network Modernization Plan	Direct Testimony	12/17/1998
P-00981423	Petition of ALLTEL Pennsylvania, Inc. for Approval of an Alternative Form of Regulation and Network Modernization Plan	Surrebuttal Testimony	01/26/1999
P-00981425	Biennial NMP Implementation Update Reports for all PA	Surrebuttal Testimony	01/29/1999

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
		Rural Telecommunications Carriers and Verizon North Inc.		
PA	P-00991643	Joint Petition of NEXTLINK Pennsylvania, Inc., RCN Telecommunications Services of Pennsylvania, Inc., Hyperion Telecommunications, Inc., ATX Telecommunications, Focal Communications Corporation of Pennsylvania, Inc., CTSI, Inc., MCI Worldcom, e.Spire Communications, and AT&T Communications of Pennsylvania, Inc., for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.	Direct Testimony	06/08/1999
PA	P-00981449	Petition For Alternative Regulation and Network Modernization Plan of GTE North Incorporated	Direct Testimony	02/26/1999
PA	P-00981449	Petition For Alternative Regulation and Network Modernization Plan of GTE North Incorporated	Surrebuttal Testimony	04/07/1999
PA	P-00981410	Petition of the United Telephone of Pennsylvania for approval under Chapter 30 of the Public Utility Code of an Alternative Regulation and Network Modernization Plan	Direct Testimony	01/19/1999
PA	P-00991648	Joint Petition of Nextlink Pennsylvania, Inc., et al., for Adoption of Partial Settlement Resolving Pending Telecommunications Issues	Direct Testimony	04/22/1999
PA	P-00991649	Joint Petition of Bell Atlantic-Pennsylvania, Inc., et al., for Resolution of Global Telecommunications Proceedings	Direct Testimony	04/22/1999

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
PA	A-310200F0002	Joint Application of Bell Atlantic Corporation and GTE Corporation For Approval of Agreement and Plan of Merger	Direct Testimony	03/03/1999
PA	A-310200F0002	Joint Application of Bell Atlantic Corporation and GTE Corporation For Approval of Agreement and Plan of Merger	Surrebuttal Testimony	05/19/1999
PA	R-00994697	Verizon Pennsylvania, Inc. Revision to Tariff - Telephone Pa. P.U.C. No. 218 CLEC Collocated Interconnection Service	Rebuttal Testimony	12/21/1999
PA	P-00981423	Petition of ALLTEL Pennsylvania, Inc. for Approval of An Alternative Regulation and Network Modernization Plan	Direct Testimony	12/17/1998
PA	I-00960066	Generic Investigation of Intrastate Access Reform	Rebuttal Testimony	07/29/1997
NJ	TO06120841	In the Matter of the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive	Direct Testimony	01/09/2007
NJ	TO06120841	In the Matter of the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive	Rebuttal Testimony	02/20/2007
NJ	TX06030230	In the Matter of the Proposed Readoption and Expansion of the Board of Public Utilities' Rules Governing Telecommunications Services and Carriers, N.J.A.C. Chapter 14	Declaration	10/20/2006
NJ	TO99120934	In the Matter of the Application of Bell Atlantic-New Jersey, Inc. for Approval of a Modified Plan for an Alternative Form of Regulation and to Reclassify All Rate Regulated Services as Competitive Services	Testimony	08/09/2000
NJ	TO03090705	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Direct Testimony with Kirchberger	02/02/2004
NJ	TO03090705	In the Matter of the Implementation of the Federal	Testimony on Metrics	02/08/2004

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
		Communication Commission's Triennial Review Order		
NJ	TO03090705	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Surrebuttal with Kirchberger	02/26/2004
NJ	TO03090705	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Panel Testimony on Hot Cuts with Hou, Kahn, Nurse, Kirchberger & Walsh	02/09/2004
NJ	TO01020095	In the Matter of the Application of Verizon New Jersey, Inc. for Approval of an Extension of its Plan for an Alternative Form of Regulation	Direct Supplemental Joint Testimony with Oyefusi	01/10/2004
NJ	TO01020095	In the Matter of the Application of Verizon New Jersey, Inc. for Approval of an Extension of its Plan for an Alternative Form of Regulation	Reply Testimony	05/15/2004
NJ	TO01090541	In the Matter of the Consultative Report on the Application of Verizon New Jersey Inc for FCC Authorization to Provide In-Region IntraLATA Service in New Jersey	Declaration with Fawzi and Kirchberger	10/19/2001
NJ	TO01090541	In the Matter of the Consultative Report on the Application of Verizon New Jersey Inc for FCC Authorization to Provide In-Region IntraLATA Service in New Jersey	Declaration	10/19/2001
NJ	TO00110893	AT&T-Verizon 2001 Arbitration of Interconnection	Direct Panel with Kirchberger, Talbott & Schell	02/25/2003
NJ	TO00110893	AT&T-Verizon 2001 Arbitration of Interconnection	Rebuttal Panel with Kirchberger, Talbott & Schell	03/18/2003
NJ	TO00060356	In the Matter of the Board's Review of Unbundled Network Element Rates Terms and Conditions of Bell-Atlantic New Jersey, Inc.	Testimony	07/18/2000
NJ	TO00060356	In the Matter of the Board's Review of Unbundled Network Element Rates Terms and Conditions of Bell-Atlantic New Jersey, Inc.	Rebuttal Testimony	10/12/2000
MD	8882	In the Matter of the Petition of AT&T Communications of	Panel Direct with Kirchberger.	03/03/2003

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
		Maryland, Inc. for Arbitration Pursuant to 47 U.S.C. §252 (b) Concerning Interconnection Rates, Terms and Conditions	Schell & Talbott	
MD	8882	In the Matter of the Petition of AT&T Communications of Maryland, Inc. for Arbitration Pursuant to 47 U.S.C. §252 (b) Concerning Interconnection Rates, Terms and Conditions	Panel Rebuttal with Kirchberger. Schell & Talbott	05/16/2003
MD	8918	In the Matter of the Review of Verizon Maryland Inc.'s Price Cap Regulatory Plan	Direct with Kirchberger	08/02/2002
MD	8918	In the Matter of the Review of Verizon Maryland Inc.'s Price Cap Regulatory Plan	Rebuttal with Kirchberger	10/13/2002
MD	8918	In the Matter of the Review of Verizon Maryland Inc.'s Price Cap Regulatory Plan	Surrebuttal with Kirchberger	10/25/2002
MD	8921	In the Matter of the Review by the Commission Into Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. §271	Declaration with Kirchberger	07/15/2002
MD	8921	In the Matter of the Review by the Commission Into Verizon Maryland Inc.'s Compliance with the Conditions of 47 U.S.C. §271	Phase B Declaration with Kirchberger	10/10/2002
MD	8983	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Direct with Kirchberger	01/26/2004
MD	8983	In the Matter of the Implementation of the Federal Communication Commission's Triennial Review Order	Rebuttal with Kirchberger	03/05/2004
MD	8988	In the Matter of the Approval of a Batch Cut Migration Process for Verizon Maryland Inc. Pursuant to the Federal Communication Commission's Triennial Review Order	Testimony	02/11/2004
MD	8988	In the Matter of the Approval of a Batch Cut Migration Process for Verizon Maryland Inc. Pursuant to the Federal Communication Commission's Triennial Review Order	Panel Testimony with Kahn, Walsh & Kirchberger	02/11/2004

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
MD	8988	In the Matter of the Approval of a Batch Cut Migration Process for Verizon Maryland Inc. Pursuant to the Federal Communication Commission's Triennial Review Order	Testimony with Kirchberger	02/11/2004
DC	962	In the Matter of the Implementation of the District of Columbia's Telecommunications Act of 1996 and Implementation of The Telecommunications Act of 1996	Direct Panel with Oyefusi & Kirchberger	10/09/2001
DC	962	In the Matter of the Implementation of the District of Columbia's Telecommunications Act of 1996 and Implementation of The Telecommunications Act of 1996	Surrebuttal Panel with Oyefusi & Kirchberger	04/22/2002
DC	1011	In the Matter of Verizon Washington, DC Inc.'s Compliance with the Conditions Established in Section 271 of The Federal Telecommunications Act of 1996	Declaration with Kirchberger	09/30/2002
DC	1011	In the Matter of Verizon Washington, DC Inc.'s Compliance with the Conditions Established in Section 271 of The Federal Telecommunications Act of 1996	Declaration (OSS) with Kirchberger	09/30/2002
DC	1024	In the Matter of the Implementation of the Triennial Review Order in the District of Columbia	Direct Testimony with Kirchberger	01/12/2004
DE	02-001	In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance With the Conditions Set Forth in 47 U.S.C. Section 271	Declaration	04/08/2002
DE	02-001	In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance With the Conditions Set Forth in 47 U.S.C. Section 271	Declaration with Kirchberger	
DE	02-001	In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance With the Conditions Set Forth in 47 U.S.C. Section 271	Supplemental Declaration	04/11/2002
DE	99-251	In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of CLEC Collocation Interconnection Services	Direct Testimony	01/14/2000

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
DE	99-251	In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of CLEC Collocation Interconnection Services	Surrebuttal Testimony	03/31/2000
DE	03-446	In the Matter of The Consideration of the Triennial Review Order of the Federal Communications Commission Related to Access to Unbundled Network Elements	Direct Testimony with Kirchberger	02/11/2004
VA	PUC-2002-00046	In the Matter of Verizon Virginia Inc's compliance with the conditions set forth in 47 U.S.C. §271 (c)	Declaration with Kamal & Kirchberger	05/03/2002
VA	PUC-2002-00088	Petition of Cavalier Telephone, LLC For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and for Expedited Relief to Order Verizon to Provision Unbundled Network Elements in Accordance With the Telecommunications Act of 1996	Direct Testimony with Kirchberger	04/25/2003
VA	PUC-2002-00088	Petition of Cavalier Telephone, LLC For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and for Expedited Relief to Order Verizon to Provision Unbundled Network Elements in Accordance With the Telecommunications Act of 1996	Rebuttal Testimony with Kirchbereger & Oyefusi	06/02/2003
VA	PUC-2007-00108	Petition of Sprint Nextel for reductions in intrastate carrier access rates of Central Telephone Company of Virginia and United Telephone-Southeast, Inc.	Direct Testimony with Oyefusi	08/01/2008
VA	PUC-2007-00108	Petition of Sprint Nextel for reductions in intrastate carrier access rates of Central Telephone Company of Virginia and United Telephone-Southeast, Inc.	Direct Testimony	08/01/2008
VA	PUC-2007-00108	Petition of Sprint Nextel for reductions in intrastate carrier access rates of Central Telephone Company of Virginia and United Telephone-Southeast, Inc.	Rebuttal Testimony	09/19/2008

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
WV	02-0809-T-P	Verizon West Virginia Inc. Petition in the matter of Verizon west Virginia Inc.'s Compliance with conditions set forth in 47 U.S.C. §271 (c)	Declaration with Kirchberger	10/28/2002
WV	02-0809-T-P	Verizon West Virginia Inc. Petition in the matter of Verizon west Virginia Inc.'s Compliance with conditions set forth in 47 U.S.C. §271 (c)	Declaration (OSS) with Kirchberger	10/28/2002
WV	02-0809-T-P	Verizon West Virginia Inc. Petition in the matter of Verizon west Virginia Inc.'s Compliance with conditions set forth in 47 U.S.C. §271 (c)	Declaration (UNEs) with Kirchberger	10/28/2002
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Direct Testimony	07/31/2001
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Rebuttal Testimony	08/17/2001
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Direct Testimony with Kalb	11/09/2001
FCC	00-251	Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc	Rebuttal Testimony with Kalb	11/20/2001

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
NY	02-C-1425	Proceeding on Motion of the Commission to Examine the Process and Related Costs of Performing Loop Migrations on a More Streamlined Basis	Direct Testimony	02/27/2002
MA	98-57	Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on December 11, 1998, to become effective January 10, 1999, by New England Telephone and Telegraph Company d/b/a Bell Atlantic- Massachusetts	Direct Testimony	11/01/2000
MA	02-8	Investigation by the Department of Telecommunications and Energy On Its Own Motion. Pursuant to G.L. c. 159 §§12 and 16 Into The Collocation Security Policies of Verizon New England, Inc. d/b/a Verizon Massachusetts	Rebuttal Testimony	05/15/2002
MA	DTC 07-9	Petition for Investigation Under Chapter 159, Section 14 of the Intrastate Switched Access Rates of CLECs	Direct Testimony	08/20/2008
CT	03-02-17	Application of the Southern New England Telephone Company to Approval to Reclassify Certain Private Line Services from the Non-Competitive to Competitive Category	Direct Testimony	05/09/2003
FL	040156-TP	Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.	Direct Testimony	02/25/2005
FL	040156-TP	Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.	Rebuttal Testimony	03/25/2005
GA	19393-U	In re: Generic Proceeding to Examine Local Exchange Carriers' Policies Pertaining to Digital Subscriber Line	Direct Testimony	11/19/ 2004

ATTACHMENT TO DIRECT TESTIMONY OF AT&T

ST	Docket No.	Docket Name	Testimony	Date
		Service		
GA	19393-U	In re: Generic Proceeding to Examine Local Exchange Carriers' Policies Pertaining to Digital Subscriber Line Service	Rebuttal Testimony	01/10/2005
OK	PUD 200400493	Petition for Arbitration to determine the terms for Interconnection Agreement between SBC Oklahoma and AT&T Communications of the Southwest, Inc. and TC Systems, Inc.	Direct Testimony	02/18/2005
KS	05-AT&T-366- ARB	In the Matter of the Application of AT&T Communications of Southwest, Inc. and TCG Kansas City Inc. for Compulsory Arbitration of Unresolved Issues with SBC Kansas Pursuant to Section 252(b) of the Telecommunications Act of 1996	Direct Testimony	02/24/2005
NH	DR 94-305		Hearing Testimony	02/14/1995
VT	7316	Investigation into Regulation of Voice over Internet Protocol ("VOIP") services	Pre-filed Testimony	04/07/08
CT	08-07-15	Petition of the Office of Consumer Counsel for Enforcement of Quality of Service Standards for The Southern New England Telephone Company d/b/a AT&T Connecticut	Direct Testimony	11/18/08

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access)	
Charges and IntraLATA Toll Rates of)	Docket No. I-00040105
Rural Carriers and the Pennsylvania)	
Universal Service Fund)	

**REBUTTAL TESTIMONY
OF
AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC
TCG PITTSBURGH, INC. AND
TCG NEW JERSEY, INC.**

BY

E. CHRISTOPHER NURSE

and

DR. OLA OYEFUSI

RECEIVED

MAR 26 2009

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

AT&T Statement 1.1

JANUARY 15, 2009

1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2

3 **Q. ARE YOU THE SAME E. CHRISTOPHER NURSE AND DR. OLA**
4 **OYEFUSI WHO FILED DIRECT TESTIMONY IN THIS CASE?**

5 **A. Yes we are.**

6 **Q. PLEASE SUMMARIZE THE PURPOSE OF YOUR REBUTTAL TESTIMONY.**

7 **A. Our testimony responds to the Direct Testimony filed on behalf of the Pennsylvania**
8 **Telephone Association (“PTA”), the Office of Consumer Advocate (“OCA”), and The**
9 **United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania**
10 **(“Embarq”). The Direct Testimony of those parties does not change our position that the**
11 **Commission should eliminate Pennsylvania’s retail rate cap (or, at a minimum, must**
12 **allow the cap to increase with inflation consistent with 66 Pa. C.S.A. §3015(a)), nor does**
13 **the Direct Testimony of those parties change our view that the Commission should not**
14 **expand the Pennsylvania Universal Service Fund (“PaUSF”) beyond its intended purpose;**
15 **any such expansion would be contrary to Chapter 30 and Act 183’s proscribed means of**
16 **funding the network modernization commitments of the rural incumbent local exchange**
17 **carriers (“RLECs”).**

18

19

20

21

22

23

1 **II. DISCUSSION**

2 **A. THE RETAIL RATE CAP SHOULD BE ELIMINATED, OR AT LEAST**
3 **INCREASED BY INFLATION AS THE LEGISLATURE INTENDS**

4
5 **Q. DO YOU AGREE WITH PTA, OCA AND EMBARQ THAT THE COMMISSION**
6 **SHOULD LEAVE THE RETAIL RATE CAP AT \$18?**

7
8 **A.** No, we do not, and neither does the Legislature. Although their reasoning is different,
9 PTA, OCA and Embarq all argue that the retail rate cap should remain in place, and
10 should stay at the same arbitrary \$18 level that has been in place for 5 1/2 years.

11 However, this position is contrary to the evidence, and more importantly, is at sharp odds
12 with – and is incompatible with – the current law permitting all ILECs to raise their rates
13 every year at the same level as inflation as a means to fund the ILECs’ network
14 modernization plan commitments.

15 **Q. IS THERE SUBSTANTIAL EVIDENCE THAT A RETAIL RATE CAP IS**
16 **UNNECESSARY TO PROTECT PENNSYLVANIA CONSUMERS?**

17
18 **A.** Yes. The concept of a “rate cap” is a holdover from a monopoly environment which, the
19 evidence shows, no longer exists in Pennsylvania. The theory behind the rate cap is that
20 it protects consumers when those consumers lack competitive alternatives. But the
21 evidence proves beyond any serious argument that there is an abundance of competition,
22 in all corners of Pennsylvania.

23 The evidence put forth by even the rural companies themselves shows that
24 competition is strong and exists throughout Pennsylvania, even in the rural areas.

25 Embarq states that it is facing “strong and aggressive competitive challenges by
26 competitors such as wireless and cable companies.”¹ PTA testified that, “[t]o a great
27 extent, the PTA companies face in-territory, intermodal competition today principally

¹ Embarq Direct Testimony of Russell R. Gutshall (“Embarq Direct”) at p. 22.

1 from wireless carriers, facilities-based CLECs, cable companies and broadband VoIP
2 providers.”² PTA further testified that “competition in rural areas is vibrant.”³ PTA
3 companies also discuss this intense competition in financial reports filed at the SEC. For
4 example, in its June 30, 2008 10-Q quarterly report, Frontier Communications
5 Corporation (“Frontier”) stated:

6 Competition in the telecommunications industry is intense and increasing.
7 We experience competition from many telecommunications service providers,
8 including cable operators, wireless carriers, voice over internet protocol
9 (VOIP) providers, long distance providers, competitive local exchange
10 carriers, internet providers and other wireline carriers. We believe that as of
11 June 30, 2008, approximately 58% of the households in our territories are able
12 to be served VOIP service by cable operators.⁴

13
14 Frontier further stated that competition “will continue to intensify” throughout
15 2008 and in 2009. Frontier acknowledged that “The communications industry is
16 undergoing significant changes. The market is extremely competitive, resulting in lower
17 prices.” North Pittsburgh Systems, Inc. (“North Pitt”), in its third quarter 2007 10-Q
18 quarterly report, also recognized the intense competition that exists throughout its
19 territory. Specifically, North Pitt stated as follows:

20 The national wireless companies have built robust networks that cover the
21 majority of our LEC territory. In addition, the two cable companies that
22 overlay the majority of our territory each launched, in 2006, aggressive
23 triple play packages of voice, video and broadband service. In general,
24 these cable companies have very modernized networks, a high percentage
25 of homes passed and a high penetration rate for their video services.⁵

26
27 There is no need for a regulatory-imposed retail rate cap when competition exists.

² PTA Direct Testimony of Joseph J. Laffey (“PTA Direct”) at p. 6.

³ *Id.* at p. 10.

⁴ <http://phx.corporate-ir.net/phoenix.zhtml?c=66508&p=irol-SECText&TEXT=aHR0cDovL2NjYm4uMTBrd2I6YXJkLmNvbS94bWVvZmlsaW5nLnhtbD9yZXBvPXRlbmsmaXBhZ2U9NTgxMDc1MSZhdHRhY2g9T04%3d>, p. 18.

⁵ [http://www.northpittsburgh.com/statements/5074NPSI%203Q07%2010-Q%20\(EDGAR%20FINAL%20110907\).pdf](http://www.northpittsburgh.com/statements/5074NPSI%203Q07%2010-Q%20(EDGAR%20FINAL%20110907).pdf), p. 16.

1 In a competitive marketplace, market forces will ensure that rates are kept just and
2 reasonable. The market provides an effective rate cap such that regulatory intervention is
3 not necessary. If a carrier sets rates too high, then customers can and will move to a
4 competitive alternative.

5
6 **Q. THE PTA AND OCA WITNESSES STATE THAT RAISING THE LOCAL RATE**
7 **CAP WILL LEAD TO LOWER PENETRATION RATES IN PENNSYLVANIA.**
8 **DO YOU AGREE?**

9
10 **A.** No. The PTA witness confuses eliminating and/or raising the local rate cap with actual
11 increases to local rates. PTA states throughout its testimony that raising the local rate cap
12 will drive customers off the public switched telephone network. This statement misses
13 the mark for several reasons. First, eliminating or raising the cap does not necessarily
14 mean that rates will automatically or immediately increase. The affected carriers will
15 respond to the market – a market which even *the RLECs* assert is competitive. In some
16 instances prices may increase, but, if competition is such that a carrier cannot increase its
17 prices, the carrier will need to explore other ways to manage its earnings, such as, for
18 example, by increasing its productivity or introducing new services. Today, several rural
19 ILECs still have rates below the \$18 cap, but have chosen to “bank” retail revenue
20 increases permitted under the law rather than raise rates to the retail cap.

21 Second, and more importantly, there is no evidence to support a claim that
22 eliminating or raising the cap will lead to lower penetration rates. PTA’s claims that
23 penetration rates in Pennsylvania have recently declined due to increases in the
24 Subscriber Line Charge (“SLC”) are wrong. More on that below.

25 Third, and as also discussed below, when determining whether eliminating or

1 raising the local rate cap will lead to decreased penetration rates, the Commission must
2 evaluate how many customers are even purchasing basic local service in Pennsylvania.
3 The fact is that, today, a large number of customers purchase bundled local/long distance
4 services, and a change in the basic service rate will not affect those customers much, if at
5 all. The Commission can take great comfort in observing that consumers are voting with
6 their feet and leaving behind the purported “protection” of the \$18 rate cap, to instead
7 buy more expensive bundled services which, obviously, many consumers see as a better
8 value. If the \$18 rate cap offered meaningful protection or value to consumers, then they
9 would be flocking to it, and not stampeding from it.

10 Fourth, as to the customers who are of greatest concern to the Commission –
11 those low income customers who subscribe to Lifeline services – increasing the basic
12 local service cap should not affect them, because even if basic local service rates increase
13 with the cap, the Commission can (and should) direct that Lifeline rates remain
14 unchanged.

15
16 **Q. WHAT IS WRONG WITH THE CLAIM THAT PENNSYLVANIA TELEPHONE**
17 **PENETRATION RATES HAVE DECLINED IN RECENT YEARS?**

18
19 **A.** Contrary to what the PTA witness asserts, penetration rates have in fact *increased* in
20 Pennsylvania in the past several years. The PTA witness cites to the non-binding
21 comments⁶ signed by Pennsylvania Commission staff counsel, (“Staff FCC Comments”)
22 submitted to the FCC as support for his claim that increased rates will necessarily lead to

⁶ Staff FCC Comments at p. 3. “[C]omments should not be construed as binding on the PaPUC or individual commissioners in any proceeding before the PaPUC.” The comments further note that the “[c]omments could change in response to subsequent events.” (Exhibit JIL-6 at p. 3.)

1 decreased penetration levels.⁷ The penetration levels cited in the Staff FCC Comments
2 were drawn from the FCC's 2007 Universal Service Monitoring Report.⁸ Both the Staff
3 FCC Comments and the PTA witness have materially misinterpreted the FCC Report,
4 because both overlooked important changes in the methodology the FCC used to gather
5 data for its Universal Service Monitoring Report.⁹ Through November 2004, the FCC's
6 survey question asked simply "Is there a telephone in this house/apartment?" The FCC
7 realized, however, that the phrasing of this question may have caused respondents to
8 focus exclusively on traditional wireline phone service and not include wireless services
9 in their responses, and so in December 2004, the question was changed to "Does this
10 house, apartment, or mobile home have telephone service from which you can both make
11 and receive calls? *Please include cell phones, regular phones, and any other type of*
12 *telephone.*" (emphasis added). The Report expressly notes that:

13 Because of the increasing number of households that have wireless
14 only, there was some concern that some of these households may not think
15 of their mobile phones when asked if they have a telephone.
16 Consequently, beginning in December 2004, CPS changed its telephone
17 question to the wording given above. It is possible that some of the drop
18 in the penetration rate between November 2004 and March 2005 is for
19 households who had a [wireless] phone, but did not have [wireline]
20 service.¹⁰
21

22 Once the FCC's survey question was changed to capture both wireline and wireless
23 service, the FCC's data shows that an increasing percentage of Pennsylvania households

⁷ PTA Direct Testimony at p. 8. In those Staff FCC Comments, which are attached to the PTA's testimony as Exhibit JIL-6, the staff makes the claim that there was a decline in penetration rates in Pennsylvania caused by the adoption of the CALLS Order by the FCC and the 2001 SLC increase.

⁸ *Id.*

⁹ These changes in methodology are expressly disclosed in the report, but for some unknown reason, they were ignored by PTA and the Commission staff.

¹⁰ Universal Service Monitoring Report, CC Docket No. 98-202, Data Received through June 2007, Footnote 4, page 6-2. This 2007 Report can be found at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279226A1.pdf.

1 have telephone service:¹¹

- 2 ▪ 2005 annual average -- 95.6%.
- 3 ▪ 2006 annual average --96.3%.
- 4 ▪ 2007 annual average -- 97.0%.
- 5 ▪ Average as of March 2008 -- 97.7%.

6
7 Thus, contrary to what PTA witness Laffey claims, the evidence is that telephone
8 penetration rates in Pennsylvania have *increased* in the past several years. Given the
9 massive proliferation of wireless phones, cable telephony, and VoIP services, more
10 Pennsylvanians are connected, and in more ways, than ever before.

11 This increase in telephone penetration is not unique to Pennsylvania. According
12 to the most recent Universal Service Monitoring Report, telephone penetration rates
13 nationally are increasing as well:

14 Census Bureau figures for March 2008 show that the percentage of
15 households subscribing to telephone service is 95.2%. This is a
16 statistically significant increase of 0.6% from the 94.6% of March 2007.
17 The average penetration rate for the year 2007 was 94.8%, which is a
18 statistically significant increase of 1.2% from the 2006 average of
19 93.6%.¹²

20
21 Thus, contrary to the claims of the PTA and the Staff FCC Comments to the FCC,
22 increases in the federal Subscriber Line Charge did *not* reduce penetration rates in either
23 Pennsylvania or in the nation as a whole.

24 **Q. YOU NOTED ABOVE THAT AN INCREASING NUMBER OF CONSUMERS**
25 **ARE FOREGOING BASIC LOCAL SERVICE AND INSTEAD PURCHASING**
26 **BUNDLES OF SERVICES. WILL THIS HELP MITIGATE THE IMPACT OF**
27 **INCREASING OR ELIMINATING THE \$18 BASIC LOCAL SERVICE CAP?**

28
29 **A. Yes. PTA and OCA testify that raising the basic local service rate cap will lead to dire**
30 **consequences for customers in Pennsylvania. However, trends in Pennsylvania and**

¹¹ Universal Service Monitoring Report, CC Docket No. 98-202, Data Received through June 2008, Table 6.9. This 2008 Report can be found at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287688A1.pdf.

¹² *Id.* at p. 6-4.

1 throughout the nation reflect that more and more customers are foregoing basic local
2 service in favor of bundled packages of local, long distance and features, and willingly
3 spend much more than \$18 on these bundled offerings. Many companies are promoting
4 their bundled services both on their websites and in financial reports.

5 Nearly 5 years ago, the FCC chairman noted in a speech to NARUC that [then]
6 51 million customers subscribed to bundled offerings. Specifically, Chairman Martin
7 stated:

8 “Telecommunications companies are packaging local and long distance
9 services, just like the Act envisioned, and consumers are buying these
10 bundles. MCI’s Neighborhood plan and Verizon’s One Rate plan have
11 been a phenomenal success, with 51 million customers now subscribing to
12 bundled offerings. The RBOCs now offer LD/Local bundles in all of their
13 states to almost 85% of all American households.”¹³
14

15 In July 2007, JD Powers noted the importance of bundling voice and data, stating
16 that: “The study finds that 86 percent of cable-based voice subscribers also subscribe to
17 data services from the same provider—up from 71 percent in 2006. Conversely,
18 36 percent of telecommunications-based voice subscribers also use their provider to
19 fulfill their data needs, which is an increase of 7 percentage points over 2006. The
20 impact of bundling is further evidenced by the boost in importance weight of the
21 offerings and promotions factor, which has increased by 3 percent since the 2006
22 study.”¹⁴

23 In February 2008, Consumer Reports noted consumers are “bombarded with
24 pitches to receive your cable TV, Internet, and phone service from one provider.”¹⁵

¹³ <http://www.fcc.gov/commissioners/martin/documents/NARUC3-8-04.pdf>.

¹⁴ <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2007108>.

¹⁵ <http://www.consumerreports.org/cro/electronics-computers/tvs-services/bundled-services-2->

1 It is clear that consumers are willing to pay more than \$18 for their telephone
2 services. Indeed, a glimpse of providers' web sites reveals that packages often exceed
3 \$50 per month. Windstream, for example, advertises \$60 and \$80 bundles.¹⁶ Embarq
4 promotes bundles of \$50 and \$80/month.¹⁷ Frontier's June 30, 2008 10-Q quarterly
5 report acknowledges the company is attempting to retain customers by offering bundled
6 services, noting that it "hope[s] to achieve our customer retention goals by bundling
7 services around the local access line . . . to offer bundled packages of . . . high-speed
8 internet, unlimited long distance calling, enhanced telephone features and video
9 offerings."¹⁸ Likewise, North Pitt's 3Q07 10-K acknowledges it has been "aggressive" in
10 promoting its bundled services:

11 [W]e have been aggressive in marketing these newer plans to our existing
12 toll customers, who may have been on higher rated calling plans. As a
13 result of the combination of winning toll customers away from the
14 traditional IXCs and the conversion of existing customers on higher rated
15 plans, we have experienced an approximate 3,800 subscriber line increase
16 to our unlimited packaged plan, 1000 anytime minutes plan and 250
17 anytime minutes plan in our ILEC territory over the past twelve-month
18 period. These plans, however, have been aggressively priced to compete
19 with plans marketed by our competitors, such as wireless carriers, VoIP
20 providers and the two main cable companies in our ILEC territory. For
21 instance, in 2005, we charged over \$55.00 on average for the individual
22 services that now comprise our unlimited calling plan (local dial tone, toll
23 and enhanced features). Today, we have priced our unlimited calling plan
24 at \$39.95, with a six-month promotional price of \$29.95 (as a stand-alone
25 service) or \$19.95 (when combined with DSL).¹⁹
26

08/overview/bundled-services-ov.htm.

¹⁶ <http://www.windstream.com/residential/bundles.aspx>.

¹⁷ http://www.embarq.com/Residential/Voice/BundledServices?tid=1_2008_IMF_286.

¹⁸ <http://phx.corporate-ir.net/phoenix.zhtml?c=66508&p=irol-SECText&TEXT=aHR0cDoyL2NjYm4uMTBrd2l6YXJkLmNvbS94bWwvZmlsaW5nLnhtbD9yZXByPXRlbmsmaXBhZ2U9NTgxMDc1MSZhdHRhY2g9T04%3d>, p. 19.

¹⁹ [http://www.northpittsburgh.com/statements/5074NPSI%203Q07%2010-Q%20\(EDGAR%20FINAL%20110907\).pdf](http://www.northpittsburgh.com/statements/5074NPSI%203Q07%2010-Q%20(EDGAR%20FINAL%20110907).pdf), p. 19.

1 North Pitt claims it has “. . . continued to be successful in bundling toll in our edge-out
2 markets...*with nearly an 84% subscription rate.*”²⁰

3 AT&T attempted to obtain details regarding the number and percentage of
4 customers that are purchasing standalone basic service versus bundled services from the
5 PTA companies and Embarq. However, they refused to provide the data.²¹ It is
6 disingenuous, at best, for these companies to claim that customers will be harmed by the
7 elimination or increase of the retail basic local service rate cap when, in fact, a large
8 portion of their customers will not even be affected, or are already voluntarily paying
9 substantially higher rates for their bundles of telephone service. RLEC websites are
10 heavily marketing bundles at rates that far exceed the \$18 retail rate cap. In fact,
11 Embarq’s average monthly revenue per household *increased* from 2007 to 2008, with the
12 average monthly revenue well over \$50/month.²²

13 **Q. DOES THE OCA TESTIMONY SUPPORT THE CONCLUSION THAT**
14 **ELIMINATING OR INCREASING THE RATE CAP ABOVE \$18 WILL LEAD**
15 **TO DECREASED PENETRATION RATES?**

16
17 **A.** No. To the contrary, OCA witness Colton’s testimony regarding affordability concludes
18 that the affordability rate in Pennsylvania is \$31, which includes the SLC, surcharges and
19 taxes. This is quite a bit higher than the \$26.57 that PTA claims the \$18 cap would be
20 with the same SLC, surcharges and taxes added on.

21
²⁰ *Id.* at 22 (emphasis added).

²¹ See Attachment 1 to this Rebuttal Testimony. AT&T filed a Motion to compel the production of the data on January 12, 2009.

²² See Embarq’s third quarter 2008 10-Q at p. 15, where it shows that the average monthly revenue per household increased from \$53.89 as of September 30, 2007 to \$56.59 as of September 30, 2008. This Report can be found at <http://investors.embarq.com/phoenix.zhtml?c=197829&p=irol-SECText&TEXT=aHR0cDovL2NjYm4uMTBrd2I6YXJkLmNvbS94bWwvZmlsaW5nLnhtbD9yZXBvPXRlbnmsmaXBhZ2U9NTk0NzEIOCZhdHRhY2g9T04mc1hCUkw9MQ%3d%3d>.

1 **Q. DO YOU AGREE WITH THE OCA TESTIMONY THAT THE \$18 RATE CAP**
2 **SHOULD NOT BE RAISED BECAUSE IT IS HIGHER THAN THE COST OF**
3 **PROVIDING SERVICE FOR ALL RURAL ILECS?**

4
5 A. No, we do not. The OCA testimony regarding the cost of providing basic local service is
6 hopelessly flawed and discredited on so many different levels that it must be completely
7 disregarded by this Commission. First, the OCA attempts to contort the FCC's Synthesis
8 Model for purposes of calculating rural ILECs' costs of providing basic local service,
9 even though the FCC has explicitly said the Model cannot be used for that purpose. This
10 threshold error is irreparable, fatal, and dispositive.

11 Second, the OCA erroneously concludes that the cost of providing basic local
12 service should not include the cost of the local loop. This violates cost causation
13 principles and—conveniently for his OCA client—removes substantially all of the cost of
14 providing local service. Both, or either of these errors are fatal to the OCA's cost
15 analysis.

16 **Q. PLEASE COMMENT ON OCA WITNESS LOUBE'S COST ANALYSIS USING**
17 **THE FCC SYNTHESIS MODEL.**

18
19 A. OCA witness Loube's analysis is meaningless and invalid for the purpose of this case.
20 The FCC adopted the Synthesis Model for calculating forward-looking cost as part of its
21 methodology for calculating high-cost support for *non-rural carriers*.²³ It is a clear and
22 indisputable error to attempt to employ a *non-rural carrier* model to produce costs for
23 *rural carriers*.

24 The Model was completed after approximately three to four years of constant
25 review and collaborations between the FCC staff, Federal-State Joint Board, industry

²³ See FCC's CC Docket No. 96-45, 97-160, In the Matter of Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs (Tenth Report & Order) released November 2, 1999, ¶2.

1 participants, and a series of *ex-parte* filings and presentations. Once the Model was
2 completed, the FCC engaged in another six months of review to ensure adequate
3 validation.

4 After all of this analysis and validation, the FCC *explicitly* concluded that the
5 Synthesis Model would be used to calculate costs for non-rural carriers, and that it is
6 *inappropriate* for calculating rural carriers' costs.²⁴ This fact is undisputed, and
7 Dr. Loube has admitted as much in his own testimony.²⁵

8
9 **Q. DR. LOUBE CLAIMS HIS "ADJUSTMENTS" MAKE THE MODEL**
10 **ACCEPTABLE FOR USE IN DETERMINING RURAL CARRIERS' COSTS.**
11 **PLEASE COMMENT.**

12
13 **A.** If all it took to modify the Synthesis Model to determine rural companies' costs were the
14 handful of adjustments Dr. Loube recommends, the FCC could have (and would have)
15 made those changes long ago. The fact is that Dr. Loube's changes do not make the
16 Synthesis Model appropriate to use for the rural companies in this case. Model
17 development involves a highly complex and transparent process that typically takes a
18 lengthy period to thoroughly complete—*i.e.*, years, not weeks -- and would require
19 efforts more extensive than a mere swap of user adjustable inputs or other company
20 specific data as Dr. Loube suggests in his testimony.

21 Proper cost modeling involves sophisticated development, such as: 1) geocoding
22 of customer location; 2) outside plant design; 3) switching and interoffice structure; and
23 4) general purpose systems.²⁶ Each is a highly technical, and usually a highly

²⁴ *Id.* at fn. 2.

²⁵ See Direct Testimony of Dr. Robert Loube ("OCA Loube Direct") at p. 22, lines 18 - 22.

²⁶ See FCC's Tenth Report & Order, ¶5.

1 controversial undertaking, resolved through comprehensive and detailed scrutiny from
2 multiple entities. Although the FCC anticipated that the Model could be improved, the
3 authority to make changes was delegated to the FCC's Wireline Competition Bureau
4 through a process that facilitates adequate review and validation by competing, interested
5 parties. There is no evidence that Dr. Loube submitted his proposed changes to the
6 FCC's Wireline Competition Bureau, or that he subjected his proposals to any sort of
7 review and validation process to ensure that his changes were thoroughly vetted, accurate
8 and reliable.

9 Moreover, even Dr. Loube concedes that it would take extensive additional data
10 from the rural carriers to make the Synthesis Model applicable to rural carriers. He
11 admits, at page 24 of his Direct Testimony that, "If the carriers had been able to answer
12 my questions...with the proper amount of specificity, I would have been able to correct
13 many of the problems that the Rural Task Force identified." He then acknowledges he
14 had difficulty obtaining such information, noting that, using Armstrong Telephone Co. as
15 an example, "... there were a number of inputs for which current data were not
16 available." In fact, not a single rural carrier provided a complete set of data to Dr. Loube.

17 Not to be deterred, Dr. Loube simply cobbled together inputs from wherever he
18 could find them, such as from "similarly situated small rural carriers,"²⁷ or older cost
19 default data from the Synthesis Model.²⁸ But cost models do not work in this way – one
20 cannot simply pull data from multiple, unrelated sources and generate reliable results.

21 While Dr. Loube claims he relied on the rural task force analysis in making his
22 adjustments, he neglects to mention that the rural task force concurred in the FCC

²⁷ OCA Loube Direct at pp. 23-24. Dr. Loube does not define what he means by "similarly situated," or how he determined which data to pull from which carriers or where that data even came from.

²⁸ *Id.* at 24.

1 conclusion that the Synthesis Model is inappropriate to calculate costs for the rural
2 carriers for USF support determination.²⁹ Although the rural task force did perform a
3 Synthesis Model run for the RLECs, this was not to endorse its use, but only to test its
4 suitability to calculate the rural LECs' costs.³⁰ After testing its suitability, the rural task
5 force concurred in the FCC's conclusion that the Synthesis Model should not be used for
6 calculating rural carriers' costs, finding that the costs generated by the Synthesis Model
7 produce results that vary widely from reasonable estimates of forward looking costs for
8 rural carriers.

9 In short, the adjusted Synthesis Model results presented by Dr. Loube are utterly
10 and fatally flawed and must be disregarded.

11 **Q. OCA WITNESS LOUBE COMPARES HIS COST RESULTS TO VERIZON'S**
12 **COSTS. SHOULD THIS COMPARISON BE GIVEN ANY WEIGHT, AND DOES**
13 **IT VALIDATE DR. LOUBE'S RESULTS FOR THE RURAL CARRIERS?**

14
15 **A.** No. It is obviously flawed logic to attempt to validate the improper use of a non-rural
16 carrier Model for rural carriers by testing it against Verizon, a non-rural carrier. When
17 one considers that the Synthesis Model has been declared inappropriate by the FCC, and
18 that Dr. Loube's methodology and use of inputs were flawed, one must conclude that the
19 results derived by Dr. Loube are useless.

20 **Q. WHAT OTHER ACTIONS DID YOU TAKE TO CONFIRM THAT OCA**
21 **WITNESS LOUBE'S STUDY IS UNRELIABLE?**

22
23 **A.** To further test Dr. Loube's results, we compared his Synthesis Model results to the most
24 recent federal Universal Service Fund submission of the study area line costs for the

²⁹ A Review of the FCC's Non-Rural Universal Service Fund Method and the Synthesis Model for Rural Telephone Companies, Rural Task Force White Paper 4, September 2000, p.48.

³⁰ *Id.* p.5.

1 Pennsylvania rural carriers.³¹ The information from the Universal Service Fund
2 submission contains cost data filed and attested to by the ILECs. The data forms the
3 basis for the amount each company receives from the federal USF. Specifically, the cost
4 submitted by a carrier is compared to a national average benchmark to determine the
5 level of support for each carrier. The ILEC submission includes the estimated study area
6 cost per loop, which is based on a modified embedded cost methodology. Generally,
7 forward looking costs like that calculated by the Synthesis Model, are expected to be
8 lower than embedded costs if the run is done correctly, because they are supposedly
9 based on forward looking, newer, and more efficient technologies and practices.
10 However, the results of our comparison, which are shown in Attachment 2, shows the
11 opposite - that the embedded costs submitted to the FCC, which are calculated by the
12 rural carriers themselves, are lower than Dr. Loube's Synthesis Model results. The
13 conclusion shows that Dr. Loube's results are way off base. For example, it confirms
14 that: 1) the use of Synthesis Model for rural carriers is inappropriate when costs
15 submitted by the same carriers for federal USF support are significantly different for
16 most of the rural carriers;³² and 2) Dr. Loube's claim that the loop cost does not belong
17 with the cost of local service is invalid – such costs are included in the costs submitted by
18 the rural carriers in their federal universal service annual filing.

19 **Q. DR. LOUBE CLAIMS (AT P. 21) THAT “LOOP COSTS ARE JOINT COSTS**
20 **AND NOT PART OF THE INCREMENTAL COST OF LOCAL SERVICE.” IS**
21 **HE CORRECT?**

22
23 **A. No. He is absolutely wrong. This conclusion is completely flawed both as a matter of**

³¹ See Universal Service Fund Data, NECA Study Results, 2007 Report - USF07R07.ZIP.

³² In fact, the Synthesis model forward looking costs that Dr. Loube presents are at least 50% higher than the average modified embedded cost submitted by the Pennsylvania rural carriers for USF support purposes. The reverse is usually the norm.

1 economics and as to the operative facts.

2 It is important to note why this issue matters. The actual results of Dr. Loube's
3 cost model runs show that the cost of local service is much higher than the current \$18.00
4 rate cap. Therefore, by removing, or assuming away, the cost of the loop, which is the
5 *vast majority* of the total cost, Dr. Loube was able to achieve the results he wanted –
6 namely, that all RLECs' costs of providing local service are lower than the \$18.00 rate
7 cap. This is the entire basis for his conclusion that the cap should remain at its current
8 level, despite the fact that the other OCA witness found that rates as high as \$31 would be
9 affordable to Pennsylvania customers.

10 Dr. Loube's conclusion is simply wrong. It is indisputable that the loop is a major
11 part of local exchange service, and that loop costs are a major component of the costs of
12 basic local service. Local loops were an indispensable part of local service before
13 telephone companies even offered long-distance service. Dr. Loube, and other consumer
14 advocate witnesses, have trotted out this same argument in every Commission access
15 proceeding for nearly 20 years; essentially, the implication is that access revenues are not
16 really subsidizing local service (or other service) costs, because some arbitrary portion of
17 the recovery of local loop costs should be removed from local service cost development
18 and assigned to access or other services.³³ In this case, Dr. Loube takes his analysis to
19 the extreme and argues that loop costs should be removed *entirely* from calculating the

³³ Prior reforms by the FCC reveal Dr. Loube's erroneous conclusion. In the access reform order, the FCC began to remove implicit subsidies from rate structures and ruled that costs should be allocated in the manner incurred. Specifically, loop costs and other non-traffic sensitive costs were removed from access rates and the FCC allowed ILECs to recover these costs directly from the end users in the form of End User Common Line charge (EUCL) or other end user flat rated charges. This reform supports our view that loop costs are incurred for the end user and should be included in the cost of local service. See FCC's CC Docket No. 96-262, 94-1, 91-213, 95-72, In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges (First Report and Order released May 16, 1997) ¶¶6, 11, 12, 28, 36, 37, 38, 39, 40.

1 costs of local service.

2 Dr. Loubé is wrong, and his tired old argument simply does not have any place in
3 today's telecommunications environment. Loop costs are not "shared" across services.
4 Rather, loop costs are fixed, non-traffic sensitive costs that are incurred when the
5 customer first places an order for local service. Those costs do not vary according to how
6 the customer uses the loop; the costs are the same regardless of whether the customer
7 makes only local calls, only long distance calls, or no calls at all. The telephone
8 companies construct the loop for the purpose of providing local telephone service. Once
9 the loop cost is incurred for local, there is no further cost of the loop by using that loop
10 for other services. The cost of a local loop cannot be avoided by not making toll calls,
11 nor increased by making abundant toll calls, but the cost of a loop can be entirely avoided
12 by *not* ordering local service. Therefore, from an operational or economist's perspective,
13 it is the local service customer's decision to order local telephone service that causes the
14 telephone company to incur the cost of extending a loop from its central office to the
15 customer's premise. Thus, based on very basic and economically accepted cost causation
16 principles, the loop cost is attributable exclusively to local service for cost development
17 purposes.³⁴

18 Dr. Loubé's attempt to separate the loop cost from the total cost of providing local
19 service is aimed at yielding a forced result to reach his desired conclusion. As discussed
20 earlier, loop costs do not vary based on whether the customer uses the telephone to make
21 only local calls, uses it for only long distance calls, uses the line only for DSL/Internet
22 access or, indeed, does not make any calls at all. Loop costs are fixed and non-traffic

³⁴ *Id.* at ¶ 36-37.

1 sensitive.³⁵ Non-traffic sensitive costs generally should be reflected in non-traffic
2 sensitive rates. Loop costs are non-traffic sensitive and should be reflected in flat rated,
3 local exchange service rates.

4 Regardless, continuing to debate how loop costs should be recovered serves no
5 purpose here, because cost development and cost recovery (or rate design) are two
6 distinct processes. Dr. Loube appears to be confusing these concepts. The Legislature
7 has determined that it will permit the RLECs' local exchange rates to increase with the
8 rate of inflation in order to help fund RLEC broadband deployment. Thus, for that reason
9 alone, OCA's analysis regarding the RLECs' costs of providing local service is irrelevant
10 and should be disregarded. However, even if the Commission for some reason wanted to
11 determine the RLECs' costs of providing local service, it cannot rely upon the OCA's
12 cost analysis for the reasons stated herein – namely, OCA's intentional misuse of the
13 Synthesis Model is fatally flawed, and OCA's contorted, incremental cost theory which
14 removes the loop cost from the cost of basic local service is flat wrong.

15
16 **Q. DO YOU AGREE WITH EMBARQ'S CONCLUSION THAT THE**
17 **COMMISSION SHOULD DO NOTHING WITH RESPECT TO THE \$18 RATE**
18 **CAP?**

19
20 **A. No.** Throughout its Direct Testimony, Embarq argues that there is no need to address the
21 \$18 rate cap because most rural ILECs have not attempted to raise their rates above \$18.
22 This position is very short sighted and does nothing to advance telecommunications
23 reform as the Legislature intends. As AT&T thoroughly discussed in its Direct

³⁵ Indeed the fallacy of arbitrary loop allocation is demonstrated by the scenario of Seasonal Suspension Service, where the telephone company has the same loop costs, and—by definition—the customer has no usage at all. Likewise, the loop costs do not decrease for a customer who affirmatively selects "No PIC" i.e. no presubscribed long-distance carrier.

1 Testimony, the Pennsylvania Legislature expressly permitted RLECs to raise their rates
2 by the rate of inflation. Even Embarq acknowledged that the elimination of the
3 productivity offset was a *quid pro quo* of Act 183.³⁶ In other words, the Legislature
4 permitted carriers to increase their local rates as an incentive and a means to deploy
5 broadband networks, and to ensure the costs of broadband deployment could be
6 recovered from their end users who benefit from the broadband build out. A rate cap of
7 \$18 that is over five and a half years out of date cannot exist concurrently with a law that
8 allows these annual rate increases. As discussed above and in AT&T's Direct
9 Testimony, the Commission should eliminate the rate cap, or, at a minimum, increase it
10 by the rate of inflation since the cap was first implemented, and automatically escalate
11 the cap on an annual, going-forward basis.

12 **Q. DOES THE PRICE OF BASIC LOCAL SERVICE NECESSARILY DRIVE THE**
13 **SUBSCRIPTION RATE?**

14
15 **A.** No, and consider what has happened in New Jersey as proof. New Jersey historically had
16 an incredibly low basic local service rate which, until recently, had been below
17 \$9.00/month for over 20 years.³⁷ New Jersey has among the highest household incomes
18 in the country. Yet despite this extraordinary combination of extremely low retail
19 (nominal) rates, compounded by very high household income, ILECs in New Jersey have
20 experienced substantial line losses over the past several years.³⁸ This shows that nominal
21 increases, or even real decreases, in the basic local service rate are not the primary drivers
22 of customers' decisions to purchase basic local service. Eliminating the rate cap will not

³⁶ Embarq Direct at p. 17.

³⁷ In The Matter Of The Board Investigation Regarding The Reclassification Of Incumbent Local Exchange Carrier (ILEC) Services As Competitive, Docket No. TX07110873; I/M/O The Application Of United Telephone Company Of New Jersey Inc. d/b/a Embarq For Approval Of A Plan For Alternative Regulation, Docket No. TO08060451, *Order*, August 20, 2008, pg. 28.

³⁸ http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-285509A1.pdf, Table 10.

1 bring the dire consequences alleged by PTA and OCA.

2
3 **B. PENNSYLVANIA UNIVERSAL SERVICE FUND**

4 **Q. PTA, EMBARQ AND OCA ALL ARGUE THAT THE PA USF SHOULD BE**
5 **EXPANDED TO ALSO FUND RURAL ILECS' ALTERNATIVE REGULATION**
6 **PLAN COMMITMENTS. DO YOU AGREE?**

7
8 **A.** No, we do not. Those commitments have already been funded by the benefits of price
9 cap regulation implemented by Chapter 30 in 1993, and further accelerated by the rewrite
10 of Act 183 in 2004 which added the inflation price escalator. Furthermore, the RLECs
11 have *already* deployed broadband – most at 100%. The PaUSF was established for a
12 very different, very targeted and very limited purpose – to help rural ILECs reduce their
13 intrastate access charges and intraLATA toll rates. Both the Pennsylvania Code and
14 Commission orders establishing the PaUSF explicitly acknowledge that the PaUSF was
15 created exclusively for rate rebalancing purposes, and in particular to reduce intrastate
16 access and intraLATA toll rates.

17 **Q. IN OTHER CONTEXTS, HAS EMBARQ ACKNOWLEDGED THE**
18 **PENNSYLVANIA USF HAS A LIMITED PURPOSE THAT DOES NOT**
19 **INCLUDE THE FUNDING OF BROADBAND DEPLOYMENT?**

20
21 **A.** Yes. Embarq's testimony,³⁹ as well as its alternative regulation plan, expressly
22 acknowledge the PaUSF cannot be used for purposes of funding RLECs' alternative
23 regulation plan costs. Specifically, Embarq's plan states that "any universal service
24 funding received by the Company shall be on a revenue neutral basis and shall be used to
25 reduce access rates or to reduce other rates."⁴⁰ Thus, by its own terms, Embarq's

³⁹ Embarq Direct at p. 12.

⁴⁰ See Exhibit RRG-2 to Embarq Direct Testimony, p. 20, Paragraph 2(c).

1 alternative regulation plan would not permit Embarq to receive funding from the PaUSF
2 as a way to implement Act 183 rate increases.

3 **Q. PTA WITNESS LAFFEY CLAIMS THAT THE PA USF CAN ALREADY BE**
4 **USED TO FUND ANY INCREASES IN THE RURAL ILECS' RETAIL RATES**
5 **ABOVE THE \$18 CAP. DO YOU AGREE?**

6
7 A. No. PTA witness Laffey's testimony is misleading and should be disregarded. His
8 claim, it appears, is that rural ILECs already can recover funds from the PaUSF to avoid
9 increasing retail rates above the \$18 cap,⁴¹ but every single document he cites as
10 "support" deals with instances where the PaUSF was being used to fund revenue losses
11 associated with access rate and toll rate reductions. Indeed, those documents make it
12 abundantly clear that the PaUSF is to be used *exclusively* as a mechanism to fund access
13 and intraLATA toll rate reductions. For instance, Paragraph 5(c) of the Small Company
14 Universal Service Fund Settlement, which was attached to Mr. Laffey's testimony as
15 Exhibit JIL-1, specifically states that the "Fund will be used to fund the immediate rate
16 rebalancing needs of these smaller, rural local exchange carriers." Section II(B) of that
17 same Exhibit JIL-1 states that revenues received from the PaUSF "shall be used to
18 rebalance, on a revenue neutral basis, the rate/revenues derived from access and/or other
19 services according to the rules set forth herein."

20 PTA witness Laffey also cites to the *Global Order*⁴² to support his proposition
21 that carriers can use the PaUSF as a substitute for any type of retail rate increase. Again,
22 his interpretation of a Commission decision misses the mark by a wide margin. As with

⁴¹ PTA Direct at pp. 3-4, 11-13, 23.

⁴² *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999
(*Global Order*); 196 P.U.R. 4th 172, *aff'd sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility
Commission*, 763 A.2d 440 (Pa.Cmwlth. 2000), *alloc. granted*.

1 the other documents Mr. Laffey cites, the *Global Order* makes clear that the PaUSF was
2 established solely to fund access and toll rate decreases:

3 Although it is referred to as a fund, it is actually a pass through
4 mechanism to facilitate the transition from a monopoly environment to a
5 competitive environment -- an exchange of revenue between telephone
6 companies which attempts to equalize the revenue deficits occasioned by
7 mandated decreases in their toll and access charges. For purposes of this
8 Order, the word "fund" actually refers specifically to the amount of money
9 that equals the net revenue deficit resulting from revenue neutral rate
10 structure and rebalancing changes of the companies.⁴³

11
12 The same holds true for the other documents Mr. Laffey references, including the
13 Alltel settlement agreement and the RTCC/Sprint Joint Proposal, both of which recognize
14 that the entire purpose of the PaUSF is to fund revenue decreases as a result of access and
15 toll rate reductions.

16 Not one of the documents Mr. Laffey cites supports his claim that rural ILECs
17 can receive money from the PaUSF in order to fund their alternative regulation plan
18 commitments. No document he references allows the PaUSF to be used for any other
19 purpose other than to fund access and toll reductions.

20 **Q. PTA WITNESS LAFFEY CLAIMS THAT IF THE COMMISSION ELIMINATES**
21 **THE PA USF WITHOUT AN ALTERNATIVE FUNDING MECHANISM,**
22 **ACCESS RATES WOULD HAVE TO INCREASE. DO YOU AGREE?**

23
24 **A.** No. PTA witness Laffey is relying on language from the small company settlement plan
25 attached to the *Global Order*. However, the Commission did not adopt that plan in its
26 entirety. Specifically, the Commission stated that it was adopting the plan, "as modified
27 herein,"⁴⁴ which means, plainly, that if there is any discrepancy between the
28 Commission's Final Order and the settlement plan, the Commission's Order prevails.
29 Nothing in the *Global Order* permits an increase in access rates. Rather, the *Global*

⁴³ Global Order at p. 142.

⁴⁴ *Id.* at 151.

1 *Order* states that if the PaUSF is eliminated without alternative funding, *residential and*
2 *business rates* would be permitted to increase to the levels they would have been without
3 the USF credits, but nothing in the Order says access rates could be raised to pre-USF
4 levels.⁴⁵

5 Of course, it makes perfect sense that the Commission would not permit access
6 rates to increase. The *Global Order's* goal was to reduce access rates to eliminate anti-
7 competitive cross subsidies and to promote the development of competition. The PaUSF
8 was always expressly intended to "be an interim funding mechanism operating during the
9 period of access charge reform."⁴⁶ Even the regulations currently in place regarding the
10 PaUSF state that the "purpose of the Fund is to maintain the affordability of local service
11 rates for end-user customers while allowing rural telephone companies to reduce access
12 charges and intraLATA toll rates, on a revenue-neutral basis, thereby encouraging greater
13 competition."⁴⁷

14 In fact, the Commission correctly has recognized that access rates must be
15 *decreased* in order to permit competition to develop and to be sustainable, and any move
16 towards increasing access rates to 1999 levels would be contrary to all Commission
17 precedent and sound public policy. If the Commission were to eliminate or reduce the
18 size of the PaUSF as part of this case, it could not increase the level of intrastate access
19 rates, as PTA's witness argues.⁴⁸ Increasing access rates – and in fact leaving them at
20 their current level – is in direct conflict with Act 183's pro-competitive policy to
21 "[p]rovide diversity in the supply of existing and future telecommunications services and

⁴⁵ *Id.*

⁴⁶ *Order Instituting Investigation*, Docket No. I-00040105, entered December 20, 2004, p. 3.

⁴⁷ 52 Pa. Code §63.161(3).

⁴⁸ PTA Direct at p. 22.

1 products in telecommunications markets throughout this Commonwealth by ensuring that
2 rates, terms and conditions for protected services are reasonable and *do not impede the*
3 *development of competition*⁴⁹ and would further frustrate the intent of the federal
4 Telecommunications Act requirements, at Section 254, that subsidies be made explicit.
5 The Commission has stated that it agrees that “Act 183 and Section 3017(a) support this
6 Commission’s policy goals that local exchange carriers reduce dependence on access
7 revenue from other carriers and rebalance those revenues.⁵⁰ This Commission has also
8 acknowledged that keeping intrastate access rates above interstate levels presents
9 opportunities for gaming and arbitrage,⁵¹ and that existing access rates are anti-
10 competitive, observing, that it “continues to be the intention of this Commission...to
11 gradually lower intrastate access charges *so as to allow for greater competition* in the
12 intrastate and interexchange toll markets.”⁵²

13 While the Commission declined to make access rate levels a part of this
14 proceeding,⁵³ the Commission will need to reduce access rates, and soon, inasmuch as
15 high intrastate access charges are impeding the ability of traditional wireline long
16 distance providers to compete against wireless carriers, VoIP providers, e-mail, social
17 networking sites, and other forms of communication which do not incur access charges in
18 the same way. High access rates are an unreliable and instable foundation for
19 Pennsylvania’s RLECs. The fully competitive market envisioned by the Legislature

⁴⁹ 66 Pa.C.S.A. §3011(5) (emphasis added).

⁵⁰ Opinion and Order in Dockets I-00040105, P-00981428F1000, R-00061375, P-00981429F1000, R-00061376, P-00981430F1000 and R-00061377 (July 11, 2007) at pp. 34, 35.

⁵¹ April 24, 2008 Order in Docket I-00040105 at p. 20.

⁵² *Id.* at p. 26 (emphasis added).

⁵³ See April 24, 2008 Order initiating this case.

1 cannot be achieved so long as the Commission imposes discriminatory cost burdens on
2 only some carriers.

3 In short, the Commission should disregard the PTA's unsupported and misleading
4 threats that it must increase intrastate access rates if the Commission reduces or
5 eliminates the PaUSF. As this Commission has acknowledged, "the system of the PaUSF
6 whereby other operating companies in the Commonwealth support the incumbent rural
7 ILECs during what is supposed to be a transitory time between local telephone
8 monopolies into competitive markets must be reexamined."⁵⁴ The solution to examining
9 and potentially eliminating explicit subsidies is most certainly not to increase implicit
10 subsidies in a manner that is anti-competitive, contrary to ten years of Commission
11 precedent and harmful to Pennsylvania consumers.

12
13 **Q. SHOULD THE COMMISSION USE THE PA USF TO FUND RURAL ILECS'**
14 **"BANKED" REVENUE INCREASES?**

15
16 **A.** Absolutely not. A key purpose of Act 183 was to permit the LECs to increase end-user
17 rates to fund broadband deployment. Under the Act, the consumers are the ones who
18 benefit from broadband and the ones who pay for it. That is as it should be. Here,
19 however, the rural LECs want to turn that notion on its head. Where they have elected to
20 forego retail price increases – either because they did not want to raise prices for
21 competitive reasons or because they are already at the \$18 cap – the LECs have "banked"
22 the increases Act 183 permits until some future time when they elect to increase prices
23 and/or the cap has been eliminated or raised. Permitting the LECs to recover those
24 "banked" revenues from the PaUSF would mean that, rather than recovering the cost of

⁵⁴ *Id.* at 19.

1 broadband deployment from their own end-user customers as the Legislature intended,
2 they would be shifting their broadband costs to other carriers and other consumers. To
3 the extent AT&T pays into the USF, for example, it would mean that AT&T and its
4 customers, most of whom are not in the rural LECs' territories, would be paying the rural
5 LECs' broadband deployment costs. While it is certainly understandable that the LECs
6 want someone else to pay their costs, that is not what the Legislature intended, and it is
7 not something the Commission can allow.

8 Indeed, allowing the PaUSF to be used to fund the alternative regulation plan
9 commitments of the RLECs would be directly contrary to Commission precedent and
10 public policy, which dictate reducing subsidies, not increasing them. This is especially
11 true if the Commission were to allow RLECs to use the PaUSF to recover both future
12 revenue increases and banked revenues, as advocated by PTA, Embarq and the OCA. By
13 banking permitted revenue increases, the RLECs were willing to forego revenues without
14 any expectation or requirement that such increases would be recovered from the PaUSF.
15 In some cases, RLECs electing to "bank" revenues do not even have retail rates that are
16 at the \$18 rate cap. For example, Citizens Telephone Company of Kecksburg has banked
17 \$238,901 in revenues since 2005 despite the fact that their residential retail rate is
18 \$11.00/month.⁵⁵ Conestoga Telephone Company has banked \$1,161,945 in revenues
19 since 2006 while having residential retail rates in the range of \$12.14-\$16.67.⁵⁶
20 Windstream PA, LLC has banked over \$7 million since 2006 despite having a residential

⁵⁵ See Exhibit JLL-7 to PTA's Direct Testimony for banked revenue amounts and Price Direct Table 1 attached to Verizon's Direct Testimony, as well as Verizon's Exhibit 4 to its Direct Testimony for residential retail rates.

⁵⁶ *Id.*

1 retail rate of \$16.00.⁵⁷ In Embarq's case, the company voluntarily chose to freeze rates at
2 the \$18 cap as part of a merger settlement filed with the Commission. These LECs'
3 willingness to forego revenue increases should speak volumes about those carriers'
4 alleged need for those additional revenues.

5 Suffice it to say, allowing carriers to recover "banked" revenues from the PaUSF
6 would increase the size of the state USF substantially, which means, simply, that
7 consumers across Pennsylvania, most of whom reside in Verizon's service territory,
8 would be saddled with rural LECs' broadband deployment costs. In many instances,
9 carriers trying to compete with the rural LECs would be forced to pay the rural LECs'
10 costs. Clearly, any such increase in the USF would be anti-competitive, in that it would
11 be increasing subsidies the Commission and Legislature have both vowed to eliminate.

12
13 **Q. WHY WOULD IT BE "DOUBLE" FUNDING TO INCREASE THE PA USF TO**
14 **FUND THE RLECS' NETWORK MODERNIZATION COMMITMENTS?**

15
16 **A.** First, all but two of the RLECs have already fulfilled their network modernization
17 commitments by year end 2008; an achievement of which Pennsylvania can rightly be
18 proud. But the Legislature in the Act 183 rewrite of Chapter 30 expressly established a
19 *quid pro quo* mechanism to fund the ILECs' *acceleration* of their network modernization
20 commitment. Specifically the Legislature removed the productivity factor from the price
21 cap formula thus allowing the inflation factor to drive up the price cap; this—and not a
22 state USF—is the mechanism the Pennsylvania General Assembly decided to implement
23 to fund the ILECs' accelerated broadband build out. To allow recovery from the PaUSF
24 would be "double dipping," because it would recover the same accelerated investment

⁵⁷ *Id.*

1 once from the inflation-driven retail rates increases, and then from the PaUSF. This
2 would be a windfall for the RLECs and a hidden tax on the Pennsylvania consumers.

3
4 **Q. PTA, EMBARQ AND THE OCA ARGUE THAT THE COMMISSION SHOULD**
5 **INCREASE THE SIZE OF THE USF TO RECOGNIZE CARRIER OF LAST**
6 **RESORT OBLIGATIONS. HAVE ANY OF THE PARTIES PRESENTED DATA**
7 **TO DEMONSTRATE THEY NEED ADDITIONAL CARRIER OF LAST**
8 **RESORT SUPPORT BEYOND WHAT THEY ALREADY RECEIVE?**

9
10 A. No. While the parties make various assertions regarding the “substantial cost upon the
11 RLECs” of their “obligations as the carrier of last resort,”⁵⁸ they have declined to provide
12 any information which quantifies those costs, or, for that matter, which identifies the
13 portions of their service areas no other provider has been willing to serve. AT&T asked
14 Embarq and PTA to identify what they have spent to extend service into areas where no
15 other firms are willing to provide communications services. AT&T also asked them to
16 identify the costs of maintaining service in the portions of their service territories no other
17 firms are willing to serve. Neither Embarq nor the PTA responded with this information,
18 and Embarq simply objected to providing any such information.⁵⁹ The Commission
19 should not increase the RLECs’ PaUSF funding unless and until the RLECs can
20 demonstrate the increase is warranted, and that proof is noticeably absent here.

21
22 **Q. THE SAME PARTIES ARGUE THERE ARE NO ANTI-COMPETITIVE**
23 **CONCERNS WITH INCREASING THE AMOUNT OF PA USF**
24 **DISTRIBUTIONS IN ORDER TO FUND RLECS’ ALTERNATIVE**
25 **REGULATION PLAN COMMITMENTS. DO YOU AGREE?**

26
27 A. No. Forcing competitors to make higher USF contributions to pay for the RLECs’
28 alternative regulation plans would be very anti-competitive. The RLECs’ competitors

⁵⁸ PTA Direct at p. 17.

⁵⁹ See Attachment 3 to this Rebuttal Testimony.

1 should not be saddled with an obligation to fund the RLECs' network modernization plan
2 commitments.

3 Moreover, increasing the PaUSF to force other carriers to fund the RLECs'
4 broadband deployment would detract from the PaUSF's intended purpose; *i.e.*, to help
5 offset further RLEC access reductions. The only time the Commission should consider
6 increasing the size of the PaUSF is if it is also going to reduce the RLECs' switched
7 access rates to promote competition. Since the Commission was unwilling to make
8 access rate levels an issue in this case, it should also decline to increase the size of the
9 PaUSF. Once the Commission opens a proceeding to address RLEC access rates, it can
10 then address the size of the fund.

11 This Commission has already recognized that "the system of the PaUSF whereby
12 other operating companies in the Commonwealth support the incumbent rural ILECs
13 during what is supposed to be a transitory time between local telephone monopolies into
14 competitive markets must be reexamined."⁶⁰ The notion of forcing AT&T and other
15 competitors to expand their "support" of the RLECs solely to fund the RLECs'
16 alternative regulation plan commitments is anti-competitive and should be rejected out of
17 hand.

18 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

19 **A. Yes it does.**

⁶⁰ *Id.* at 19.

ATTACHMENT 1

**REBUTTAL TESTIMONY
OF**

**AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC
TCG PITTSBURGH, INC. AND
TCG NEW JERSEY, INC.**

BY

E. CHRISTOPHER NURSE

and

DR. OLA OYEFUSI

ATT-2: For each company represented by PTA in this case, please provide the following information:

- a. For each month beginning January 2005 to the present, provide the absolute number and percentage of each company's customers purchasing stand-alone basic service with no features.
- b. For each month beginning January 2005 to the present, provide the absolute number and percentage of each company's customers purchasing bundled services.
- c. For each month beginning January 2005 to the present, provide the average bill for each PTA company's customers purchasing (i) only basic service, (ii) basic service and features, and (iii) bundled services.

Objection: PTA objects to this Interrogatory on the grounds that the request is overly broad, will cause unreasonable and unnecessary annoyance, oppression, burden and expense, would require the making of an unreasonable investigation since the information requested is not maintained in the format requested by AT&T and would have to be compiled by special study and analysis, and seeks information that is irrelevant and will not lead to discovery of admissible evidence.

Highly similar questions regarding the breakouts of bundled services were previously posed by Comcast (See, Comcast I-6). The ALJ ruled that the subject matter of such interrogatories are "beyond the scope of this investigation." ALJ Order dated September 30, 2008 at 15.

**Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund**

Docket No. I-00040105

**Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T**

AT&T-5

Please provide the following information:

- a. For each month beginning January 2005 to the present, provide the absolute number and percentage of each company's customers purchasing stand-alone basic service with no features.
- b. For each month beginning January 2005 to the present, provide the absolute number and percentage of each company's customers purchasing bundled services.
- c. For each month beginning January 2005 to the present, provide the average bill for each PTA company's customers purchasing (i) only basic service, (ii) basic service and features, and (iii) bundled services.

Objection:

Embarq PA objects as the question imposes duties beyond those required by the Pennsylvania Public Utility Code and the Commission's regulations. The information sought is not relevant and not likely to lead to admissible evidence. AT&T's question seeks information well beyond the "express and limited" issues as identified by the Commission – *e.g.*, process for implementing rate caps, process for increases to PA USF, and/or the development of a needs-based test to qualify for the PA USF.

Embarq PA also objects to this request because a response to this question would require unreasonable investigation and a special study that would be unduly burdensome, expensive, and oppressive to complete. Further, in seeking data for each month from January 2005, the question is overly broad.

ATTACHMENT 2

**REBUTTAL TESTIMONY
OF**

**AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC
TCG PITTSBURGH, INC. AND
TCG NEW JERSEY, INC.**

BY

E. CHRISTOPHER NURSE

and

DR. OLA OYEFUSI

**ATTACHMENT 2
REBUTTAL TESTIMONY OF NURSE AND OYEFUSI**

Local Service Cost Comparison

	Data from Loube Exhibit RL-7			FCC USF Data	
	Loop Cost per Line	Non-Loop Cost per line	Total Cost per line	FCC USF Study Area Monthly Cost per Loop ^A	Loube to FCC Cost Ratio
Alltel PA (Windstream)	39.06	5.16	\$44.22	\$25.21	1.75
ARMSTRONG TEL NORTH	\$70.66	\$9.87	\$80.53	\$45.04	1.79
ARMSTRONG TEL CO-PA	\$56.07	\$6.68	\$62.75	\$73.49	0.85
BUFFALO VALLEY TEL	\$31.51	\$3.37	\$34.88	\$27.63	1.26
CITIZENS - KECKSBURG	\$42.67	\$5.18	\$47.85	\$34.08	1.40
C-Tec (Commonwealth Tel Co)	\$38.75	\$4.42	\$43.17	\$27.63	1.56
DENVER & EPHRATA	\$24.44	\$2.91	\$27.35	\$27.63	0.99
FRONTIER-BREEZEWOOD	\$98.71	\$16.42	\$115.13	\$28.75	4.00
FRONTIER-CANTON	\$58.21	\$5.80	\$64.01	\$24.52	2.61
FRONTIER-PA	\$27.84	\$2.71	\$30.55	\$15.56	1.96
FRONTIER-LAKEWOOD	\$41.04	\$6.97	\$48.01	\$23.43	2.05
FRONTIER-OSWAYO RIVR	\$76.93	\$14.54	\$91.47	\$19.56	4.68
HICKORY TEL CO	\$50.82	\$7.58	\$58.40	\$38.96	1.50
IRONTON TEL CO	\$27.94	\$5.26	\$33.20	\$32.93	1.01
LACKAWAXEN TELECOM	\$47.68	\$5.89	\$53.57	\$21.55	2.49
LAUREL HIGHLAND TEL	\$59.53	\$6.97	\$66.50	\$36.78	1.81
MAHANOEY & MAHANTANGO	\$61.10	\$7.98	\$69.08	\$32.94	2.10
MARIANNA - SCENERY	\$48.04	\$7.92	\$55.96	\$42.03	1.33
NORTH PENN TEL CO	\$74.43	\$7.13	\$81.56	\$52.00	1.57
NORTH PITTSBURGH TEL (Cons	\$26.18	\$2.53	\$28.71	\$27.63	1.04
PALMERTON TEL CO	\$34.62	\$3.92	\$38.54	\$36.96	1.04
PENNSYLVANIA TEL CO	\$64.72	\$7.75	\$72.47	\$38.94	1.86
PYMATUNING IND TEL	\$34.34	\$6.08	\$40.42	\$37.60	1.07
SOUTH CANAAN TEL CO	\$54.30	\$7.72	\$62.02	\$38.93	1.59
SUGAR VALLEY TEL CO	\$81.82	\$8.82	\$90.64	\$39.30	2.31
BENTLEYVILLE TEL CO	\$37.50	\$5.66	\$43.16	\$36.83	1.17
THE CONESTOGA TEL	\$27.59	\$3.07	\$30.66	\$27.63	1.11
NORTH EASTERN PA TEL	\$57.70	\$9.45	\$67.15	\$38.82	1.73
UTC OF PENNSYLVANIA	\$34.79	\$3.41	\$38.20	\$26.38	1.45
VENUS TEL CORP	\$76.98	\$9.01	\$85.99	\$38.99	2.21
YUKON - WALTZ TEL CO	\$38.53	\$7.86	\$46.39	\$39.72	1.17

^A -- Source:

FCC Loop Cost Info from: <http://www.fcc.gov/wcb/iatd/neca.html>

See Universal Service Fund Data: NECA Study Results, 2007 Report, USF07R07.ZIP

ATTACHMENT 3

**REBUTTAL TESTIMONY
OF**

**AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC
TCG PITTSBURGH, INC. AND
TCG NEW JERSEY, INC.**

BY

E. CHRISTOPHER NURSE

and

DR. OLA OYEFUSI

Investigation Regarding Intrastate Access Charges
And IntraLATA Toll Rates of Rural Carriers, and the
Pennsylvania Universal Service Fund
Docket No. I-00040105

ATT Interrogatories and Request for Production of Documents - Set I
Answers of The Pennsylvania Telephone Association

Person Answering: Joseph Laffey

ATT-8: On page 16, you discuss the PTA companies' carrier of last resort status and PTA companies' provision of service in rural areas with sparse population densities and high costs of service. Please identify each PTA company's costs in 2006, 2007 and 2008, or for any other time period between 2003-2008 for which data are available, for extending basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

Response: No company represented by the PTA has undertaken a study during the timeframes suggested of the cost of extending basic local exchange services to customers in Pennsylvania who reside in areas in which voice service is not available from any other provider.

**Investigation Regarding Intrastate Access Charges
And IntraLATA Toll Rates of Rural Carriers, and the
Pennsylvania Universal Service Fund
Docket No. I-00040105**

**ATT Interrogatories and Request for Production of Documents - Set I
Answers of The Pennsylvania Telephone Association**

Person Answering: Joseph Laffey

ATT-9: Please identify each PTA company's costs in 2006, 2007 and 2008, or for any other time period between 2003-2008 for which data are available, for maintaining the equipment used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

Response: No company represented by the has undertaken a study on the cost of maintaining the equipment used to provide basic local exchange service in Pennsylvania to customers residing in an area in which voice service is not available from any other provider.

Investigation Regarding Intrastate Access Charges
And IntraLATA Toll Rates of Rural Carriers, and the
Pennsylvania Universal Service Fund
Docket No. I-00040105

ATT Interrogatories and Request for Production of Documents - Set I
Answers of The Pennsylvania Telephone Association

Person Answering: Joseph Laffey

ATT-10: Please identify each PTA company's costs in 2006, 2007 and 2008, or for any other time period between 2003-2008 for which data are available, for extending outside plant used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

Response: No company represented by the PTA has undertaken a study during the timeframe indicated for extending outside plant used to provide basic local exchange services in Pennsylvania to customers who reside in an area in which voice service is not available from any other provider.

**Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund**

Docket No. I-00040105

**Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T**

AT&T-2

At pg. 24, you discuss Embarq's carrier of last resort obligations. Please identify Embarq's costs in 2006, 2007 and 2008 year to date, or for any other time period between 2003-2008 for which data are available, for extending basic local exchange services to customers who reside in an area in which voice service is not available from any other provider

Objection:

Embarq PA objects as the question imposes duties beyond those required by the Pennsylvania Public Utility Code and the Commission's regulations. The information sought is not relevant and not likely to lead to admissible evidence. The Commission's order and the prehearing order in this matter do not expressly require "cost studies." If the Commission intended to require cost studies, *per se*, it would have expressly said so.

Finally, Embarq PA objects to this request because a response to this question would require unreasonable investigation and a special study that would be unduly burdensome, expensive, and oppressive to complete. First, in order to respond to the question as posed, Embarq would have to determine which areas of its service territories do not have voice services available from any other provider, an effort which would entail a comprehensive study undertaken on a specific customer-residing basis to determine where voice services are offered by other providers relative to Embarq's service territories. Second, for areas which voice services are not available from any other provider, Embarq would have to analyze and perform a special study of its costs to identify and allocate costs to such areas in which voice service is not available from such other providers. The question as posed is unduly burdensome and responding thereto would be unduly expensive, imposing duties not required by the Commission's rules governing discovery. Embarq does not have a study detailing its costs for "extending" basic local exchange services to customers who reside in an area in which voice service is not available from any other provider. Embarq also objects on the basis that the question is overly broad and burdensome in its use of the terms "provider" and "extending" basic local exchange service. Neither term is defined and is burdensome, potentially imposing duties not required by the Commission's rules governing discovery.

**Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund**

Docket No. I-00040105

Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T

AT&T-3

Please identify Embarq's costs in 2006, 2007 and 2008 year to date, or for any other time period between 2003-2008 for which data are available, for maintaining the equipment used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

Objection:

Embarq PA objects as the question imposes duties beyond those required by the Pennsylvania Public Utility Code and the Commission's regulations. The information sought is not relevant and not likely to lead to admissible evidence. The Commission's order and the prehearing order in this matter do not expressly require "cost studies." If the Commission intended to require cost studies, *per se*, it would have expressly said so.

AT&T's question seeks information well beyond the "express and limited" issues as identified by the Commission – e.g., process for implementing rate caps, process for increases to PA USF, and/or the development of a needs-based test to qualify for the PA USF.

Finally, Embarq PA objects to this request because a response to this question would require unreasonable investigation and a special study that would be unduly burdensome, expensive, and oppressive to complete. First, in order to respond to the question as posed, Embarq would have to determine which areas of its service territories do not have voice services available from any other provider, an effort which would entail a comprehensive study undertaken on a specific customer-residing basis to determine where reliable voice services are offered by other providers relative to Embarq's service territories. Second, for areas which voice services are not available from any other provider, Embarq would have to analyze and perform a special study of its costs of maintaining the equipment used and allocate costs to such areas in which voice service is not available from such other providers. The question as posed is unduly burdensome and responding thereto would be unduly expensive, imposing duties not required by the Commission's rules governing discovery. Embarq does not have a study detailing its costs for "maintaining the equipment" used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider. Embarq also objects on the basis that the question is overly broad and burdensome in its use of the terms "maintaining," "equipment" and "provider." Neither term is defined and is burdensome, potentially imposing duties not required

**Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund**

Docket No. I-00040105

**Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T**

AT&T-4

Please identify Embarq's costs in 2006, 2007 and 2008, or for any other time period between 2003-2008 for which data are available, for extending outside plant used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

Objection:

Embarq PA objects as the question imposes duties beyond those required by the Pennsylvania Public Utility Code and the Commission's regulations. The information sought is not relevant and not likely to lead to admissible evidence. The Commission's order and the prehearing order in this matter do not expressly require "cost studies." If the Commission intended to require cost studies, *per se*, it would have expressly said so. AT&T's question seeks information well beyond the "express and limited" issues as identified by the Commission – *e.g.*, process for implementing rate caps, process for increases to PA USF, and/or the development of a needs-based test to qualify for the PA USF.

Finally, Embarq PA objects to this request because a response to this question would require unreasonable investigation and a special study that would be unduly burdensome, expensive, and oppressive to complete. First, in order to respond to the question as posed, Embarq would have to determine which areas of its service territories do not have voice services available from any other provider, an effort which would entail a comprehensive study undertaken on a specific customer-residing basis to determine where reliable voice services are offered by other providers relative to Embarq's service territories. Second, for areas which voice services are not available from any other provider, Embarq would have to analyze and perform a special study of its costs of extending outside plant and allocate costs to such areas in which voice service is not available from such other providers. The question as posed is unduly burdensome and responding thereto would be unduly expensive, imposing duties not required by the Commission's rules governing discovery. Embarq does not have a study detailing its costs for "extending outside plant" used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

**Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund**

Docket No. I-00040105

**Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T**

by the Commission's rules governing discovery.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access)	
Charges and IntraLATA Toll Rates of)	Docket No. I-00040105
Rural Carriers and the Pennsylvania)	
Universal Service Fund	

**SURREBUTTAL TESTIMONY
OF**

**AT&T COMMUNICATIONS OF PENNSYLVANIA, LLC
TCG PITTSBURGH, INC. AND
TCG NEW JERSEY, INC.**

BY

E. CHRISTOPHER NURSE

and

DR. OLA OYEFUSI

AT&T Statement 1.2

PUBLIC VERSION

FEBRUARY 10, 2009

RECEIVED

MAR 26 2009

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2
3 **Q. ARE YOU THE SAME E. CHRISTOPHER NURSE AND DR. OLA**
4 **OYEFUSI WHO FILED DIRECT AND REBUTTAL TESTIMONY IN THIS**
5 **CASE?**

6 A. Yes we are.

7 **Q. PLEASE SUMMARIZE THE PURPOSE OF YOUR SURREBUTTAL**
8 **TESTIMONY.**

9 A. Our Surrebuttal Testimony responds to the Rebuttal Testimony filed on behalf of the
10 Pennsylvania Telephone Association ("PTA"), the Office of Consumer Advocate
11 ("OCA"), and The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq
12 Pennsylvania ("Embarq"). These parties continue to misrepresent Commission policy and
13 precedent. They want to perpetuate the arbitrary \$18 residential basic service rate cap
14 even though the Legislature has permitted the cap to increase by at least the rate of
15 inflation. They want to expand the Pennsylvania Universal Service Fund ("PaUSF") to
16 force Pennsylvania residents in Philadelphia, Pittsburgh, and the other major portions of
17 the Commonwealth not served by the RLECs to bear an ever greater share of the RLECs'
18 costs. Rather than have RLEC customers pay the RLECs' costs of providing service,
19 these parties want the costs imposed on someone else, which provides them with a
20 competitive advantage over firms not receiving the same subsidies.

21 But these positions simply cannot be sustained in today's competitive
22 environment. The RLECs uniformly acknowledge they now face competition in their
23 service territories. It would be unfair and unjust for the Commission to continue
24 subsidizing the RLECs alone. When those subsidy burdens are imposed on carriers in
25 other parts of Pennsylvania, those carriers will be hindered in their ability to compete in
26 their urban and suburban markets against a wave of new entrants and new technologies.

1 many of them unregulated. Consistent with the pro-competition policies established by
2 the Legislature, the Commission should eliminate the rate cap, and should not fund
3 RLECs' Act 183 network modernization plan commitments from the PaUSF.

4
5 **II. DISCUSSION**

6 **A. THE PTA, OCA AND EMBARQ HAVE FAILED TO JUSTIFY**
7 **MAINTAINING THE \$18 RATE CAP**

8
9 **Q. THE PTA AND EMBARQ DISAGREED WITH AT&T'S POSITION THAT THE**
10 **\$18 RATE CAP IS ARBITRARY. PLEASE RESPOND.**

11
12 A. On pages 15-16 of his Rebuttal Testimony, PTA witness Laffey testified that he
13 disagreed with AT&T's characterization of the \$18 rate cap as arbitrary. On pages 2-3 of
14 Embarq witness Gutshall's Rebuttal Testimony, he stated that the \$18 rate cap is not
15 arbitrary. However, both of those witnesses provide no evidence to support their
16 conclusions because no such evidence could possibly exist. The creation of the \$18 cap
17 was indeed arbitrary; it was not based on cost analyses; it was not based on affordability
18 studies; indeed, it was a compromise. The undisputed fact is that each time the
19 Commission has adopted a price for the rate cap, it was not based on any studies or
20 factual evidence, but was simply the adoption of a compromise position of various
21 parties. Embarq witness Londerholm acknowledged that the \$18 rate cap was not
22 developed based on costs, and that the Commission has "not undertaken cost study
23 reviews to set the \$18 rate cap benchmark."¹ Most importantly, neither party explains
24 why a rate cap that was established over 5½ years ago should remain at its same level
25 today given the substantial changes in the telecommunications market that have occurred

¹ Embarq Londerholm Rebuttal Testimony at pp. 10-11.

1 even since the cap was last set in mid-2003. These parties are not even willing to
2 acknowledge the need to adjust the benchmark for inflation.

3
4 **Q. THE PTA AND OCA TESTIFIED THAT ACT 183 MANDATES THAT THE \$18**
5 **RATE CAP REMAIN IN PLACE. DO YOU AGREE?**

6
7 **A.** We absolutely do not agree with the PTA and OCA, and neither does the Pennsylvania
8 Commission. In a pleading filed with the Commonwealth Court the Commission has
9 publicly called the PTA and OCA position “absurd.”² That alone is sufficient to dispose
10 of their arguments.

11 PTA witness Laffey stated on page 16 of his Rebuttal Testimony that Section
12 3015(g) of Act 183 was intended to preserve the existing rate cap. OCA witness Dr.
13 Loube spent a considerable amount of time testifying about the legal basis of the rate cap,
14 stating on page 5 of his Rebuttal Testimony that Section 3015(g) provides a legal basis
15 for maintaining the rate cap at \$18. The Commission has already rejected the argument
16 that Act 183, and specifically Section 3015(g), somehow eliminated the Commission’s
17 authority to modify the rate cap. The Commission stated that the “argument is without
18 merit and is an absurd result which the General Assembly did not intend.”³

19 The Commission’s position is consistent with our direct and rebuttal testimony
20 where we emphasized that, in eliminating the productivity offset in exchange for
21 accelerating the broadband build out, thereby permitting RLECs to increase rates by the
22 rate of inflation, the Legislature created a *quid-pro-quo* whereby end user customers may

² Buffalo Valley Telephone Company, et. al. v. Pennsylvania Public Utility Commission, No. 847 C.D. 2008 and Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission, No. 940 C.D. 2008, Advance Form Brief of Respondent Pennsylvania Public Utility Commission, December 31, 2008 at p. 35 (“PUC D&E Brief”). This Brief is attached to Verizon witness Don Price’s Rebuttal Testimony as Exhibit 1.
³ PUC D&E Brief at p. 35.

1 have to pay more, but those same customers would receive more -- they would directly
2 receive the benefit of an advanced network deployed on an accelerated timetable. It
3 strains credibility for parties to propose that the Legislature was advancing its
4 competition policy, which is also an explicit policy of Act 183, by forcing other
5 companies to subsidize local rates that are already arguably below cost, either through
6 increased access rates or increased funding from the PaUSF. Keeping local rates frozen
7 while increasing access rates would be directly contrary to the legislative and the
8 Commission policy to advance competition, especially when access rates are indisputably
9 well above cost. Instead the Legislature intended that RLEC's would have the opportunity
10 to increase retail local rates, driven by inflation, but that broadband networks would be
11 available years sooner to consumers' net benefit.⁴ For all of these reasons, an \$18 rate
12 cap is squarely *inconsistent* with Act 183, and is most definitely not mandated by it as
13 claimed by the PTA and OCA.

14
15 **Q. PTA WITNESS LAFFEY CLAIMED THAT THE RATE CAP WAS NOT**
16 **ESTABLISHED SOLELY FOR ACCESS-AND-TOLL RATE REBALANCING.**
17 **WHY IS HE WRONG?**

18
19 At pages 19-20 of his Rebuttal Testimony, Mr. Laffey stated that nothing in the
20 Commission's *Global Order*⁵ limited the rate cap solely for rate rebalancing purposes.
21 He claimed that parties who assert this position are revisiting and changing history. Here,
22 however, it is Mr. Laffey who is rewriting history. The Commission has already made it

⁴ It is an absurd proposition that the Legislature intended for long distance carriers to finance accelerated broadband deployment through access rate increases, because access rate increases are anti-competitive and IXCs derive no benefit from broadband deployment. Obviously, consumers and the RLECs--the providers of broadband--both derive the direct benefit from broadband deployment.

⁵ *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999 (*Global Order*); 196 P.U.R. 4th 172, *aff'd sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa.Cmwlth. 2000), *alloc. granted*.

1 clear that Mr. Laffey's interpretation is just plain wrong. Specifically, the Commission
2 stated as recently as December 31, 2008 that:

3 "rate caps were established in the context of setting parameters for rate
4 rebalancing **to reduce access and intraLATA toll rates, not as a broader limitation on**
5 **a rural ILEC's implementation of their annual revenue increase opportunities** under
6 their alternative regulation plans."⁶

7
8 This passage directly contradicts the PTA's claim: the Commission made it inescapably
9 clear that the rate cap in fact was established solely in the context of access-and-toll rate
10 rebalancing. A rate cap should not undermine the legislative intent to allow the
11 opportunity for retail rate increases in order to fund the Act 183 acceleration of the
12 RLECs' network modernization plan commitments.

13
14 **Q. THE PTA CLAIMED THAT THERE IS NOT SUFFICIENT COMPETITION TO**
15 **CONSTRAIN RATE INCREASES. DO YOU AGREE?**

16
17 A. Not at all. First, this is an incredible argument for the PTA to make. What it says, in
18 effect, is that the PTA companies do not want pricing flexibility because they may raise
19 their retail rates too high. Stop and think about that one for just a moment: would a
20 utility decline additional pricing flexibility because the utility fears it might not be able to
21 restrain itself from increasing prices? The absurdity of the argument underscores that, in
22 fact, the PTA's true motivation is that it wants to keep its retail rates artificially low so
23 that it can undercut its competitors through subsidies imposed on other carriers and
24 customers across Pennsylvania. In other words, as we noted above, the PTA is hoping
25 the rest of Pennsylvania will keep picking up the PTA's tab for no proven reason.

26 Moreover, although PTA claimed that "there are still areas of little or no

⁶ PUC D&E Brief at p. 36 [emphasis added].

1 alternative service.”⁷ it does not provide information to support its claim that these fringe
2 areas are relevant to constrain market power. PTA companies themselves should know
3 where they do, or do not, face competitive alternatives, yet, when asked, they failed to
4 provide such information.

5 PTA did provide some information regarding competition, such as information
6 regarding wireless service in Pennsylvania taken from the 2008 Legislative Budget and
7 Finance Committee report on cell phone service in Pennsylvania, but the PTA’s
8 assertions regarding the Report are misleading.⁸ Contrary to PTA’s claims, the Report
9 demonstrates that there is substantial wireless competition throughout Pennsylvania. The
10 Report states on the very first page that “Pennsylvania has cell phone coverage
11 throughout most of the state, and most of the population can choose from four or more
12 cell phone providers.” While the Report did state that no-signal zones exist in remote
13 areas of the Commonwealth, and in particular the Northern Tier, the Report concluded
14 that “there is at least some coverage in every county, and there are areas in each county
15 where there is a choice of four or more carriers.”⁹ In addition, the Report found that as of
16 June 2007, over 9.2 million Pennsylvania residents, or 74%, have cell phone service –
17 that is residents, not households. This is an astounding number, and makes it clear that
18 residents are willing and able to purchase wireless service throughout Pennsylvania,
19 including the same rural areas the PTA alleged lack choices.

20 The FCC’s recently-released Thirteenth Annual report on the state of wireless
21 services further rebuts the PTA’s allegations.¹⁰ The FCC found that approximately

⁷ PTA Rebuttal at p. 23.

⁸ PTA Laffey Surrebuttal Testimony at pp. 24-25.

⁹ Cell Phone Service in Pennsylvania, Legislative Budget and Finance Committee, November 2008, p. S-1.

¹⁰ In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993;

1 98.5% of the U.S. population living in rural counties has at least one or more carriers
2 offering mobile telephone service.¹¹ The FCC further found at page 10 of the report that,

3 increasingly, consumers are choosing to “cut the cord:”

4 During the second half of 2007, 14.5 percent of U.S. adults lived in
5 households with only wireless phones, up from 11.8 percent in the second
6 half of 2006, 7.8 percent in the second half of 2005, and more than
7 quadruple the percentage (3.5 percent) in the second half of 2003.

8 In the same period, one in three adults aged 18-24 years (31
9 percent) lived in households with only wireless telephones, and 34.5
10 percent of adults aged 25-29 years lived in wireless-only households.

11
12 The FCC Report showed at Table A-2 that wireless subscribership in Pennsylvania
13 increased from 9.2 million to over 9.6 million from June 2007 to December 2007 – an
14 increase of over 400,000 subscribers in six months alone.¹²

15 Additionally, there is the existence of very significant competition from VoIP
16 providers – both “over the top” or nomadic VoIP providers like Vonage and Skype, but
17 also facilities-based VoIP providers such as cable operators like Comcast. Moreover,
18 consumers have a great many communications alternatives to traditional voice services
19 today, such as e-mail, instant messaging, text messaging, and the Internet itself which
20 allows consumers to conduct business and government transactions and to obtain
21 information. All of these voice and non-voice communications services compete with all
22 voice service providers today, including PTA, and so certainly would constrain PTA’s

Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services; WT Docket No. 08-27, Thirteenth Report, Released January 16, 2009 (“FCC Thirteenth Competition Report”). This Report can be found at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-54A1.pdf.

¹¹ FCC Thirteenth Report at ¶104. Paragraph 102 of the Report defines a “rural area” as a county with a population density of 100 persons or fewer per square mile.

¹² The population of Pennsylvania at year end 2007 was 12,400,959, so over 77% of Pennsylvanians had a wireless phone. See

http://factfinder.census.gov/servlet/SAFF?_lang=en&_sse=on&ActiveGeoDiv=geoSelect&_useL=V&_pct=104&_submenuld=population_0&ds_name=null&ci_nbr=null&qr_name=null®=null”&_keyword=&_industry

1 rates from a competitive perspective.

2
3 **Q. OCA'S WITNESS LOUBE ALSO STATED THAT WIRELESS IS NOT A**
4 **MEANINGFUL ALTERNATIVE BECAUSE MOST CUSTOMERS KEEP BOTH**
5 **THEIR LANDLINE AND WIRELESS SERVICE. PLEASE RESPOND.**

6
7 A. First, it should be noted that when AT&T asked the OCA to provide any studies and/or
8 documentation reviewed regarding wireless service penetration in Pennsylvania, OCA
9 responded that it has not conducted or reviewed any such studies or documentation.¹³
10 Second, accepting his contention *arguendo*, the OCA is proving our point that the
11 Commission should eliminate the \$18 rate cap as unnecessary in today's environment.
12 There were more than 9.6 million cellular telephones in Pennsylvania at year-end 2007:
13 nearly eight in ten Pennsylvania residents now have a cell phone. The OCA testified that
14 the average wireless rate is \$49/month.¹⁴ Having so many customers willing to pay
15 \$49/month *on top of* their landline service speaks volumes about what customers are
16 willing and able to spend on their telephone service. There is no need for an \$18 rate cap
17 to "protect" consumers who willingly spend \$49/month for wireless.

18 To the extent that the OCA is concerned about those very limited number of
19 customers who want to purchase basic local service only, the Commission already has
20 Lifeline and Link Up programs in place to assist those customers who may have
21 difficulty affording basic local service. No one is proposing that rates for Lifeline
22 services be increased, nor should they be. As mentioned in our two prior rounds of
23 testimony, AT&T fully agrees that Lifeline services should continue to be available to
24 those customers, at existing rates. However, there is no need to perpetuate an arbitrary

¹³ See Attachment I to this Surrebuttal Testimony.

¹⁴ OCA Rebuttal Testimony of Dr. Loubé ("OCA Loubé Rebuttal") at p. 21.

1 and unnecessary rate cap for the vast majority of customers who voluntarily pay
2 substantially more than \$18/month for their telephone service, and who have competitive
3 alternatives if they believe RLEC rates are too high.

4
5 **Q. EMBARQ'S WITNESS GUTSHALL TESTIFIED THAT AT&T'S POSITION OF**
6 **ELIMINATING THE RATE CAP WOULD *FORCE* RLECS TO INCREASE**
7 **LOCAL RATES? IS THAT TRUE?**

8
9 **A.** That is not even remotely true. Eliminating the rate cap does not compel any carrier to
10 raise any rates. In fact, the existing \$18 rate cap has not forced carriers to raise rates to
11 the \$18 level – most carriers have local rates that are lower than \$18, often choosing to
12 bank revenues rather than raising rates.

13 It appears Embarq wants a rate cap so it can draw more out of the state USF and
14 insulate itself against competitive losses. Simply put, Embarq wants to receive *revenues*
15 *above \$18/month for basic local service*, but does not want to have to actually charge
16 customers over \$18/month, because that might result in competitive defections. That
17 might be good for Embarq, but Embarq's competitors would have to charge their own
18 customers higher prices to cover their own costs, plus the subsidy to Embarq. Worse,
19 under a fixed cap as Embarq supports, the proportion of Embarq's revenue derived from
20 its own customers will go down, while the proportion recovered from the PaUSF would
21 increase every year. The competitive disparity would grow over time.

22 Yet again, this proves our point that the rate cap is simply not sustainable in
23 today's competitive environment. If Embarq does not want to raise its rates above
24 \$18/month because it may lose customers to competition, then it should be required to
25 find ways to become more efficient, or expand the scope of its product offerings, rather

1 than rely on subsidies from others. As we have already stated throughout our testimony
2 filed in this case, competition – not artificial subsidies or arbitrary rate caps – will

3 constrain the market and ensure that rates will remain just and reasonable for customers.

4 It is hardly fair to Embarq's competitors that Embarq can receive PaUSF support -- which
5 has no nexus to density, cost, or need, but which is simply a regulatory artifact to keep
6 revenues steady as a result of reduced access and toll revenues and an arbitrary rate cap --
7 to compensate it for anything over \$18/month while its unsubsidized competitors can
8 only charge what the competitive market will allow. This is an especially unfair result
9 when Embarq has already voluntarily agreed to not raise rates or receive revenues above
10 \$18/month.

11
12 **Q. OCA WITNESS COLTON TESTIFIED AT PAGE 2 THAT COMPETITION**
13 **CANNOT BE RELIED UPON TO CONSTRAIN LOCAL RATES BECAUSE**
14 **COMPETITORS ARE NOT ACTIVELY MARKETING STANDALONE LOCAL**
15 **SERVICE. DO YOU AGREE?**

16
17 A. No. Mr. Colton's support for this flawed statement is a search he conducted on the
18 website UtilityChoice.org, which is *not* the Pennsylvania Commission's Utility Choice
19 website. Because Mr. Colton provided absolutely no details regarding the search he
20 conducted, it is impossible to duplicate his results. However, the *Commission's* Utility
21 Choice website¹⁵ is authoritative and it flatly disproves Mr. Colton's claim. The
22 Commission website section on local telephone competition makes it clear that carriers
23 are required to notify customers of the price of their least expensive *local basic service*.¹⁶
24 Thus, whether competitors are actively marketing the local basic service is irrelevant –

¹⁵ <http://www.puc.state.pa.us-utilitychoice/home.aspx>

¹⁶ See Attachment 2 to this Surrebuttal Testimony. When clicking on the "Pricing Information" section of this website, the only data that comes up is information regarding telephone assistance programs, such as Lifeline, and not any company's particular offerings.

1 they offer it and are required to notify customers about that service.

2 Regardless, the fact that most companies are marketing bundles is hardly

3 surprising. As we testified in our Rebuttal Testimony, the entire industry is moving
4 towards bundles, including the RLEC's themselves. Although PTA refused to provide
5 any information regarding the number of each company's customers who are purchasing
6 bundles versus standalone local service, Embarq did provide some limited information.¹⁷
7 This data showed that while the number of Embarq's customers who purchase basic local
8 or local with some features continues to decrease, the number of Embarq's customers
9 purchasing bundles has increased from December 2007 to December 2008. In addition,
10 Embarq's data demonstrates that its customers on average are paying much higher rates
11 than the \$18/month rate cap, which is illustrative as to what customers can actually
12 afford. Specifically, Embarq's customers purchasing local services only (including some
13 with features) are paying an average of \$30.19/month.¹⁸

14 Today, however, the majority of Embarq's residential customers are purchasing
15 bundles. The average bill for bundled services has increased by over \$2/month in the
16 past year, to \$57.63/month as of December 2008. Thus, it is not at all unexpected that
17 carriers are marketing bundled services – that is what consumers want and that is what
18 consumers are willing to purchase, despite the fact that the prices are *three* times the \$18
19 rate cap. If the customers believe the \$18 cap provides needed protection for them, they
20 will gravitate to it, and not purchase packaged offers where they voluntarily spend more.

¹⁷ See Attachment 3 to this Surrebuttal Testimony. Embarq claimed that it was unable to provide data on those customers purchasing only standalone basic local service. Therefore, Embarq provided two categories of information: (1) customers purchasing basic local and local with features, and (2) customers purchasing bundles of services that include services other than local.

¹⁸ The arithmetic of averaging makes it clear that the number of \$18 customers has to be low when the average local rate is \$12/month above the \$18/month rate cap.

1 Embarq's data prove AT&T's point that there is no need to preserve a basic local
2 service rate cap when the majority of customers no longer want barebones, basic-only
3 local service. To the extent particular customers choose to purchase only standalone
4 local service, and those customers have difficulty affording such service, the Commission
5 should target any subsidy programs at helping those particular customers.

6
7 **B. THE PaUSF CANNOT AND SHOULD NOT BE EXPANDED TO FUND**
8 **RLECS' ACT 183 NETWORK MODERNIZATION PLAN**
9 **COMMITMENTS**

10
11 **Q. PTA WITNESS LAFFEY CLAIMS THAT THE PaUSF WAS NOT INTENDED**
12 **TO BE "INTERIM" OR "TRANSITIONAL." DOES THAT DISTORT THE**
13 **COMMISSION'S ORIGINAL INTENT?**

14
15 A. Yes. Mr. Laffey testified that he was a witness in the *Global* case, and therefore he has
16 unique insight into the Commission's actual intent with respect to the PaUSF, not
17 available to other readers of the Commission's orders.¹⁹ While both an errant and novel
18 theory, the Commission's orders speak for themselves. Mr. Laffey's testimony provides
19 a tortured interpretation of the Commission's *Global Order*, and twists the actual
20 language in an effort to modify its true meaning.

21
22 **Q. MR. NURSE, WERE YOU ALSO A WITNESS IN THE GLOBAL**
23 **PROCEEDING?**

24
25 A. Yes. I was heavily involved in the *Global* proceedings on behalf of AT&T. I engaged in
26 countless workshop and negotiation sessions with commissioners and staff and I testified
27 on behalf of AT&T. Based on my own experience and the language in the *Global Order*,
28 as well as Commission orders since the *Global Order*, it is clear that the Commission

¹⁹ PTA Laffey Rebuttal Testimony at p. 32.

1 always intended the PaUSF to exist for a limited purpose (to fund access and toll rate
2 reductions), and always intended to find a way to terminate the fund once the market
3 became competitive.

4
5 **Q. HOW ARE THE COMMISSION'S ORDERS CLEAR ON THIS POINT?**

6 **A.** The Commission has specifically stated that the "Fund was conceived to be an interim
7 funding mechanism operating during the period of access charge reform."²⁰ There is no
8 ambiguity in that. Mr. Laffey spent several pages of his testimony attempting to explain
9 away the meaning of "interim," but it does not change what the Commission expressly
10 said, and the reality that the PaUSF was not intended to be permanent. In fact, in the
11 *Global Order*, the Commission provided a specific date for the PaUSF to terminate
12 (December 31, 2003), and ordered a further investigation to occur by 2001. It is utterly
13 impossible to square a fund created to terminate on a date certain with a purported notion
14 that the fund was intended to be perpetual. And while the Commission delayed ending
15 the PaUSF while it waited to see if the FCC was going to implement intercarrier
16 compensation reform (it did not; intrastate access reform remains subject to state
17 jurisdiction), there can be no serious debate on whether the Commission expressly
18 intended the PaUSF to be interim and transitional in nature.

19 Rather than simply intending to replace the interim fund with a permanent fund,
20 as Mr. Laffey claims was the Commission's hidden agenda, the Commission noted that
21 the reduction and possible elimination of a fund would be in the best interest of
22 competition. The fund was a balancing act; a transitional mechanism to wean the RLECs

²⁰ . Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund, Docket No. 1-00040105, Order, December 20, 2004, p. 3.

1 off of very high access rates, allow the RLECs to decrease toll rates, while concurrently
2 opening the ILECs' local markets to competition. An interim fund is consistent with that
3 market opening reform. In terms of creating alternate funding for the toll-and-access
4 revenues, the Commission anticipated the possibility of an end user line item charge
5 assessed directly on customers rather than forcing competitors to subsidize the RLECs.
6 This is also the model that the Federal Communications Commission has followed with
7 the End User Common Line Charge (EUCLC) or Subscriber Line Charge (SLC). This
8 Commission stated as follows with respect to the carrier pool (or PaUSF):

9 We believe that the sooner that we resolve the reduction and possible
10 elimination of the carrier pool, the better it would be for the competitive
11 environment in Pennsylvania. Therefore, we shall initiate an investigation
12 on or about January 2, 2001, to further refine a solution to the question of
13 how the Carrier Charge (CC) pool can be reduced. At its conclusion, but
14 no later than December 31, 2001, the pool will be reduced. In addition,
15 we shall consider the appropriateness of a toll line charge (TLC) [which
16 would be assessed against end user customers] to recover any resulting
17 reductions.²¹

18 This in and of itself disproves Mr. Laffey's interpretation, and it also
19 demonstrates that expanding the PaUSF, as PTA, OCA and Embarq request, is
20 moving in exactly the wrong direction.
21

22
23
24 **Q. PTA, OCA AND EMBARQ ALL ARGUE THAT THE PaUSF CAN ALREADY BE**
25 **USED TO FUND ALTERNATIVE REGULATION PLAN INCREASES. WHY**
26 **ARE THEY WRONG?**

27
28 A. This is not even a colorable argument. If this argument were true, then the question to
29 ask is why the PaUSF has not been used for this purpose in the intervening nine years?
30 There are several responses. First, the Commission has specifically rejected this position.
31 Second, the Pennsylvania regulations governing the PaUSF make it clear that the PaUSF

²¹ Global Order at p. 59.

1 is to be used solely to fund access and toll rate reductions, and to encourage
2 competition.²² Third, the PaUSF is sized to fund the access and toll reductions from 1999
3 and 2003. No witness has explained, as a practical matter, how the RLECs can even use
4 the fund for whatever increases they choose to implement above the rate cap when the
5 money is not there to support their positions, and the rules governing the fund expressly
6 preclude it.

7
8 **Q. WHAT HAS THE COMMISSION SAID RECENTLY THAT FURTHER**
9 **DISPROVES THE OTHER PARTIES' ASSERTIONS REGARDING THE**
10 **PURPOSE OF THE PaUSF?**

11 **A.** In its recent brief to the Commonwealth Court, the Commission agreed that the PaUSF is
12 not intended to be used for anything other than to fund access and toll rate reductions.
13 The Commission also recognized that the current regulations make it clear that the
14 PaUSF was established solely to fund access and toll reductions. Specifically, in
15 response to virtually identical arguments made by PTA and OCA to those being made in
16 this case, the Commission responded in a manner that is entirely consistent with AT&T's
17 position that the PaUSF was created exclusively to fund access and toll rate reductions,
18 and may not be used for any other rate increases. The Commission stated as follows:

- 19 • "PaUSF regulations which govern the maintenance and application of the
20 PaUSF make no provision for allowing USF reimbursement if a fund
21 recipient's retail rates exceed any benchmark."²³
- 22 • "The current language of the regulation at 52 Pa. Code §63.161 states that
23 the purpose of the Fund is to fund access and toll reductions."²⁴
- 24

²² 52 Pa. Code §63.161(3), which states: "The purpose of the Fund is to maintain the affordability of local service rates for end-user customers while allowing rural telephone companies to reduce access charges and intraLATA toll rates, on a revenue-neutral basis, thereby encouraging greater competition."

²³ Buffalo Valley Telephone Company, et. al. v. Pennsylvania Public Utility Commission, No. 847 C.D. 2008 and Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission, No. 940 C.D. 2008, Advance Form Brief of Respondent Pennsylvania Public Utility Commission, December 31, 2008 at p. 39. This Brief is attached to Verizon witness Don Price's Rebuttal Testimony as Exhibit 1.

- 1
2 • “If the legislature or the Commission intended for the purpose of the
3 PaUSF to include funding rate increases over and above rate caps, then
4 Section 63.161 would have expressly stated as such.”²⁵

- 5
6 • “[U]nder the current language of the regulations it is not appropriate to
7 allow the D&E Companies to draw revenues from the PaUSF for their PSI
8 revenue increases.”²⁶

9
10 Additionally, the Commission recognized the logistical impossibility of allowing
11 all retail rate increases to be recovered from the PaUSF. The PaUSF is sized based on
12 the amount of revenues lost from access and toll rate reductions, therefore there is no
13 money in the Fund to serve as a substitute for the RLECs’ retail rate increases. The
14 Commission argued that to “have rural ILEC’s file rate increases sporadically,
15 unpredictably, and frequently throughout a calendar year and expect to receive increasing
16 revenues after the yearly budget of the Fund has been set in December of the prior year,
17 could be problematic to administering the PaUSF.”²⁷ It goes without saying that the
18 Commission certainly knows the intent of its orders and regulations better than Mr.
19 Laffey.

20
21 **Q. EMBARQ WITNESS LINDSEY TESTIFIED THAT THE PaUSF SHOULD BE**
22 **USED TO FUND ANY RATE INCREASES ABOVE \$18, INCLUDING EVEN**
23 **THOSE TO FUND EMBARQ’S PAST AND FUTURE ACT 183 ALTERNATIVE**
24 **REGULATION COMMITMENTS. DO YOU AGREE WITH THIS POSITION?**

25
26 A. No. First, for the reasons just stated, the Commission has already unequivocally stated
27 that the current PaUSF is not intended for that purpose, and the regulations as currently
28 written *do not allow* the PaUSF to be used for that purpose. Second, based on Embarq’s

²⁴ *Id.* at p. 21.

²⁵ *Id.* at p. 39. This emphatic statement directly from the Commission as to what their order intended indisputably outweighs Mr. Laffey’s interpretations as to the Commission’s intent.

²⁶ *Id.* at p. 41.

²⁷ *Id.* at p. 40.

1 own testimony, if Embarq's position was adopted, it would increase demands on the
2 PaUSF to an outrageously large size, and that would only fund Embarq's alternative
3 regulation plan. Embarq calculated that if the PaUSF is used solely to fund Embarq's
4 alternative regulation rate increases, Embarq *alone* would need nearly \$50 million a year
5 from the fund.²⁸ This would more than double the size of the current PaUSF for one
6 company alone, and would increase Embarq's draw from the fund by six-fold, or
7 approximately \$42 million/year. Embarq has not even remotely demonstrated that it
8 needs this unbelievable sum of money annually in order to maintain affordable residential
9 rates. This type of increase in the size of the PaUSF for only one carrier is not reasonable
10 or realistic, and in and of itself demonstrates the untenable position of the RLECs and the
11 OCA. Finally, and most importantly, Embarq has not adequately explained why citizens
12 across the rest of Pennsylvania should be paying Embarq's costs of implementing its Act
13 183 alternative regulation plan commitments.

14
15 **Q. IS THERE EVIDENCE TO SUGGEST THE RLECS DO NOT NEED USF**
16 **MONIES TO FUND THEIR ACT 183 ALTERNATIVE REGULATION PLAN**
17 **COMMITMENTS?**

18 A. Yes. As we stated in our Direct Testimony, most of the RLECs already have met their
19 broadband deployment commitments and, therefore, cannot argue they need USF monies
20 for that purpose. Indeed, North Pittsburgh Systems, Inc. acknowledged in its Third
21 Quarter 2007 10-Q that it did "not anticipate that the acceleration of our broadband
22 commitment date under our amended Network Modernization Plan will require any

²⁸ Embarq Londerholm Rebuttal Testimony at pp. 13-15.

1 material additional amount of capital expenditures from what otherwise is planned to be
2 spent in the normal course of business.”²⁹

3
4 **Q. EMBARQ WITNESS LONDERHOLM’S TESTIMONY DISCREDITS THE OCA**
5 **COST MODEL, BUT THEN RELIES ON THE MODEL TO CALCULATE**
6 **EMBARQ’S “NEEDS” FROM THE PaUSF. WHAT IS YOUR REPOSE?**

7
8 A. On the one hand, Ms. Londerholm correctly recognizes that the OCA cost model is
9 hopelessly flawed. But immediately after properly discrediting the OCA cost model, she
10 nevertheless uses the results from the cost model to justify her own points and calculate
11 the amount of money Embarq supposedly “needs” from the PaUSF. Assuming Embarq is
12 adequately earning today, and Embarq has never proven that it is not, it is mystifying
13 why a flawed cost model would suddenly increase, by more than six times, Embarq’s
14 need for revenue.

15 Embarq cannot have it both ways. Embarq cannot simultaneously argue that, on
16 the one hand, the cost model used by Dr. Loube is fatally flawed--which is correct-- but
17 on the other hand claim that the results of that flawed model can be used for a “basic
18 understanding of costs.”³⁰ As we testified in our Rebuttal Testimony, the FCC found that
19 it was inappropriate to use the OCA cost model for rural carriers, and Dr. Loube’s
20 attempts to “fix” the model were insufficient and lack peer review. Any party’s attempt
21 to use the “inappropriate” model for purposes of this case is a plain error, and accordingly
22 should be disregarded as fatally flawed.

23
²⁹ See p. 32 of North Pittsburgh Systems, Inc.’s 2007 3rd Quarter 10-Q filing:
[http://www.northpittsburgh.com/statements/5074NPSI%203Q07%2010-Q%20\(FINAL%20FINAL%20110907\).pdf](http://www.northpittsburgh.com/statements/5074NPSI%203Q07%2010-Q%20(FINAL%20FINAL%20110907).pdf)

³⁰ Embarq Londerholm Rebuttal Testimony at pp. 5-6.

1 **Q. PTA AND EMBARQ AFFIRMATIVELY ASSERT THAT THEIR CARRIER OF**
2 **LAST RESORT OBLIGATIONS ENTITLE THEM UNDER ACT 183 TO**
3 **ADDITIONAL FUNDS FROM THE PaUSF, BUT ARE UNABLE TO PROVIDE**
4 **EVIDENCE ON THE OBLIGATIONS. PLEASE RESPOND.**

5
6 A. First, to be clear, AT&T is not arguing against the notion of Carrier of Last Resort
7 (“COLR”). Rather, our position is that carriers claiming COLR responsibilities as a basis
8 for additional PaUSF funding should be able to support those claims. Embarq and the
9 PTA affirmatively assert that their COLR obligations entitle them to increased
10 reimbursement from the PaUSF. We simply asked them if they have any basis for the
11 claim. They responded that they have no documentation and no support for that
12 additional funding.

13 The claims should be dismissed if they are not supported with evidence. Embarq
14 acknowledged it does not have information regarding which areas of its service territories
15 do not have voice services available from any other provider, or any information
16 regarding its COLR costs.³¹ PTA responded in the same fashion.³² If the parties cannot
17 provide any information regarding their COLR obligations, then the Commission should
18 disregard their testimony regarding the need to have additional subsidies and funding
19 from the PaUSF, which was not even created for the purpose of funding COLR costs.

20
21 **Q. PTA WITNESS LAFFEY IMPLIED THAT AT&T IS BEING INCONSISTENT IN**
22 **ITS POSITION REGARDING EXPANSION OF THE PaUSF BECAUSE AT&T**
23 **RECEIVES BOTH FEDERAL AND STATE UNIVERSAL SERVICE FUNDING**
24 **IN OTHER STATES. PLEASE RESPOND TO THIS CLAIM.**

25
26 A. We are not sure how it is relevant to the issues in this case, but Mr. Laffey spends several
27 pages of his rebuttal testimony at pages 55-57 providing information about the

³¹ See Attachment 4 to this Surrebuttal Testimony. *See also* Embarq’s objections, which were attached to our Rebuttal Testimony as Attachment 3.

³² PTA’s objections were attached to our Rebuttal Testimony as Attachment 3.

1 unremarkable fact that AT&T receives federal universal service funding and state
2 universal service funding in states other than Pennsylvania.

3 First, with respect to federal universal service funding, all carriers that receive
4 money from the federal USF presumably qualify under the governing federal rules. None
5 of those apply to Pennsylvania intrastate matters. If a company serves rural areas and
6 qualifies for federal funding, then that carrier will obtain funds from the federal USF.
7 AT&T has never once argued that the RLECs or any other carrier should stop receiving
8 funds from the federal USF for which they continue to qualify. AT&T is proud to be the
9 largest provider of rural service in America. Our affiliates provide service in some
10 substantially more rural areas than the PTA companies or Embarq-PA. At bottom, the
11 federal USF references are an irrelevant diversion. Similarly, matters related to other
12 states' universal service funds are not helpful or relevant to the issues in *this* case. Each
13 state has its own unique characteristics and background associated with their own state
14 USFs, all of which do not apply to the unique circumstances found in Pennsylvania.

15 AT&T supports the principles and objectives of universal service funding.
16 However, increasing the PaUSF to fund the RLECs' Act 183 network modernization
17 commitments is inconsistent with Pennsylvania Commission orders, contrary to
18 Pennsylvania regulations, contrary to Pennsylvania legislation, against the intent of the
19 fund's creation, and is neither targeted nor fair.

20
21 **Q. PTA WITNESS LAFFEY TESTIFIED AT PAGES 8-9 THAT THE NEED FOR**
22 **STATE USF IS DRIVEN BY THE EXISTENCE OF COLR OBLIGATIONS IN**
23 **LOW DENSITY AREAS. CAN YOU PLEASE RESPOND?**

24 A. There is nothing in Pennsylvania law or the Commission's order or regulations which
25 support this claim, but there is plenty which expressly precludes it, as discussed above.

1 We disagree with the conclusion that all RLECs' are automatically entitled to additional
2 funding from the PaUSF to pay for their Act 183 network modernization plans, or any
3 other purpose other than that allowed by the regulations.

4 We do agree that the lower the customer density, the higher the cost of providing
5 local service; this is a truism of network economics. In response to the PTA and
6 Embarq's objections to Comcast and Verizon's testimony regarding whether all RLECs
7 should be entitled to funding, and Mr. Laffey's testimony regarding the densities of
8 Verizon and certain RLECs,³³ we conducted an evaluation of the RLECs in Pennsylvania
9 and arrived at a number of interesting findings³⁴:

- 10 • Out of the 50 states, Pennsylvania is ranked as the tenth most densely populated
11 state (eleventh if you include the District of Columbia).³⁵
- 12
- 13 • There are some PTA members whose service areas are more densely populated
14 than Verizon's is in Pennsylvania.
- 15
- 16 • Ironton Telephone Company has a density of 235.6 households/square mile –
17 more densely populated than Verizon's Pennsylvania service area.
- 18
- 19 • Denver & Ephrata Telephone & Telegraph Company has a density of 197
20 households/square mile – also more densely populated than Verizon's
21 Pennsylvania service area.
- 22
- 23 • North Pittsburgh Telephone Company has a density of 164 households/square
24 mile – essentially equal to Verizon.
- 25
- 26 • Verizon's density is 165 households/square mile, which given the enormous
27 density of Pittsburgh and Philadelphia metro areas, means Verizon must serve
28 some very sparsely populated areas in order to have an average density of 165
29 households/square mile.
- 30
- 31

³³ PTA Laffey Rebuttal Testimony at p. 52 and Exhibit JJI-11.

³⁴ A spreadsheet with summaries of the density areas is attached to this Surrebuttal Testimony as Attachment 5. The wire center areas are derived from the TeleAtlas and the 2008 Households are from Claritas PrimeLo, which draws the underlying data from the US Census.

³⁵ California and Texas, where AT&T is the ILEC, are both less dense than Pennsylvania, and yet as of this year, AT&T will be a net payor into both of those states' USFs.

1 This all points to the ridiculousness of a policy whereby Verizon's customers,
2 including the urban poor and their highly rural customers, subsidize the PTA companies.

3 who, in some cases, serve higher or comparably dense areas on average, and whose rates
4 are sometimes lower.

5
6 **Q. OCA WITNESS LOUBE TESTIFIED AT PAGE 17 THAT THE COMMISSION'S**
7 **POLICY TO PROHIBIT ACCESS RATE INCREASES IS FORCING LOCAL**
8 **RATES TO INCREASE BY AMOUNTS GREATER THAN INFLATION.**
9 **PLEASE RESPOND.**

10
11 A. First, it is entirely reasonable and logical that retail local rates would go up, and that
12 wholesale access rates would go down. Since their inception, access rates have
13 historically been set at artificially high levels well above cost so that basic local telephone
14 service could be priced below cost. While one can debate the relative merits of such an
15 arrangement, there is general agreement that the system worked reasonably well when all
16 telecommunications was wireline service, and all local telephone service was a
17 monopoly. Today, however, monopoly telephone service has given way to competition,
18 where a broad range of carriers use a host of technologies to serve Pennsylvania
19 consumers. That competition has given consumers more choices and has forced carriers
20 to become more efficient. It also has created an urgent need for the Commission to
21 address the subsidies which remain embedded in Pennsylvania switched access charges.
22 Interexchange carriers such as AT&T simply cannot be expected to compete against
23 wireless carriers. VoIP providers, e-mail, social networking web sites, and other forms of
24 communication when IXCs are being forced to pay access charge subsidies the other
25 competitors do not pay.

1 Dr. Loubé, however, continues to subscribe to the old implicit subsidy
2 methodology now fully discredited by federal laws and by the Pennsylvania Commission.

3 Dr. Loubé's criticisms of the Commission's policy to not increase access rates is
4 misguided, and involves a fundamental misunderstanding of the need to reduce, and not
5 increase access rates in a competitive market.

6
7 **Q. DR. LOUBE TESTIFIED AT PAGE 25 THAT THE ONLY GOAL OF THE**
8 **COMMISSION SHOULD BE DECREASED RETAIL RATES, AND NOT THE**
9 **DEVELOPMENT OF COMPETITION. HE FURTHER TESTIFIED AT PAGES**
10 **24—25 THAT THERE IS NO DIRECT BENEFIT TO ACCESS REDUCTIONS.**
11 **DO YOU AGREE?**

12
13 A. Absolutely not. This argument is ridiculous and does not recognize the reality of the
14 telecommunications market today. As we previously testified, 77% of Pennsylvanians
15 have *voluntarily* chosen to subscribe to wireless service, paying an average of \$49/month,
16 and many pay for landline service on top of that. Large portions of those customers
17 choosing to keep their landline service *voluntarily* choose to purchase bundles of local
18 and long-distance, local and broadband, or local and luxury optional features at rates
19 averaging over \$50/month.

20 Unfortunately, Dr. Loubé does not seem to understand how Pennsylvania
21 consumers are harmed if competition is curtailed and flawed cross-subsidization policies
22 favor some types of carriers over another. LEC intrastate access rates distort the
23 Pennsylvania telecommunications market and harm Pennsylvania consumers. Excessive
24 Pennsylvania access rates make in-state long distance prices higher than they should be.
25 Few consumers understand why it continues to cost more to call from Philadelphia to
26 Pittsburgh than from Philadelphia to San Francisco. The implicit subsidies hidden in

1 access charges cause rates for some services to be under-priced, while other rates, most
2 notably in-state long distance, remain too high. The pricing signals being given to

3 Pennsylvania customers remain blurred, resulting in consumers shifting usage to services
4 that may be less economically efficient (but subsidized).

5 The current access charge system, where the implicit subsidies intended to help
6 keep basic local telephone service affordable are levied *exclusively* on the wireline IXCs,
7 is both discriminatory and, ultimately, unsustainable. Indeed, as the market proves time
8 and again, any effort to impose access subsidies on one class of customers simply results
9 in those customers finding ways to avoid them. In recent years, AT&T's wireline long
10 distance business, like other wireline carriers, has lost millions of minutes of traffic to
11 other technologies, such as, e-mail, text messaging and instant messaging, in part because
12 those alternatives do not incur access costs in the same way as long distance service.

13 With regard to wireless in particular, customers have flocked to that service. As we
14 previously testified, there are over 9.6 million wireless telephones in service in
15 Pennsylvania as of December 2007. There are, of course, many reasons that customers
16 have embraced wireless services, but one factor cannot be overlooked: Customers
17 respond to pricing signals, and FCC rules which permit wireless carriers to terminate
18 traffic within extremely large Major Trading Areas ("MTAs") at very low FCC-
19 established rates that have helped fuel the dramatic growth of wireless.

20 These days, it is true that Pennsylvania RLEC's (like other LEC's more generally)
21 are losing access lines at a substantial rate due to a variety of reasons, including primarily
22 competitive alternatives. We agree with the PTA companies that these losses are hurting
23 economies of scale and shifting more joint and common costs onto remaining customers.

1 We also note that while competition is harder than the monopoly life of guaranteed
2 revenues and no competitive pressure—this is the reality and carriers need to adjust to it.

3 Fortunately, LECs are responding to the loss of telephone lines by offering highly
4 desirable broadband services and video service to their customers. Essentially, to
5 survive, wireline carriers have to successfully pursue an economy of scope to replace the
6 economy of scale that was undermined by the introduction of competition. The solution
7 to competition is not to insulate some carriers from competitive losses by forcing other
8 carriers to subsidize them.

9 Reducing intrastate access charges will benefit Pennsylvania consumers. For one
10 thing, reductions in access expenses in Pennsylvania will drive the market to reduce
11 wireline long distance rates for Pennsylvania consumers. Those reductions, in turn, will
12 force competing technologies to look for ways to reduce their costs, enhance their
13 efficiency, deliver innovative new offerings and, in general, better meet the needs of
14 Pennsylvania communications users, both business and residence. That is how
15 competitive markets operate and is the reason why, contrary to Dr. Loube's claim, fair
16 and effective competition should in fact be a goal in itself.

17 Regulatory handicapping -- such as imposing costs on one class of carriers that
18 others do not face -- only distorts the market. When one group of competitors faces
19 regulatory burdens others do not, the firms competing with the burdened class do not
20 have to try as hard to win customers. More to the point, in a telecommunications market
21 where customers have choices, attempts to saddle customers of regulated services with
22 uneconomic costs and subsidy obligations only serve to push customers to services not
23 burdened by such costs and obligations. In the old days, regulators may have been able

1 to manage cross-subsidies among services offered on a closed monopoly network, but not
2 today. Thus, reducing access rates ultimately leads to increased competition and lower
3 prices, both of which benefit consumers in Pennsylvania.

4
5 **Q. OCA WITNESS LOUBE TESTIFIED AT PAGE 27 THAT TOLL RATES HAVE**
6 **NOT DECREASED AS A RESULT OF ACCESS REDUCTIONS. DO YOU**
7 **AGREE?**

8
9 A. No. This is simply a baseless claim. First, as discussed thoroughly above, there are
10 multiple benefits to reducing access rates – reduced toll rates is just one of the ways in
11 which reducing access rates benefits consumers. Second, Dr. Loube is simply wrong that
12 toll rates have not decreased over the years. In support of his position, Dr. Loube
13 attempts to bootstrap to his own testimony he filed in 2005 in the Verizon access case,
14 but he cannot point to a Commission finding that adopted his claim. AT&T filed
15 responsive testimony in that case and demonstrated conclusively that toll rates absolutely
16 *did* decrease as a result of access reductions.³⁶ AT&T expects this trend of lower toll
17 rates in response to access reductions will continue because as access charges decline and
18 competition in the long distance and toll market intensifies, IXC's must reduce end user
19 toll rates to avoid further erosion in wireline long distance minutes. Further, AT&T did
20 an analysis of its toll rates in Pennsylvania since 2004 and found that its toll rates are
21 actually below the rates AT&T pays the RLEC's for intrastate access charges.³⁷ Thus, it
22 is ludicrous for the OCA to argue that AT&T's toll rates should have decreased further
23 when there have been no access reductions since 2003, and AT&T's toll rates are already
24 below the amount they are forced to pay the RLEC's for intrastate access.

³⁶ That responsive testimony, which contains proprietary information, is attached hereto as Attachment 6.
³⁷ See Attachment 7 to this Surrebuttal Testimony, which contains information that is proprietary to AT&T.

1
2 **Q. MR. LAFFEY TESTIFIED AT PAGES 49-51 THAT IT IS NOT ANTI-**
3 **COMPETITIVE FOR COMPETITORS TO INCREASE THEIR**
4 **SUBSIDIZATION OF RLECS IN LIEU OF INCREASED RETAIL RATES. IS**
5 **THIS CONSISTENT WITH PRIOR STATEMENTS BY MR. LAFFEY?**
6

7 A. No. In 2002 and 2003, as part of Conestoga Telephone and Telegraph Company
8 ("Conestoga") and Buffalo Valley Telephone Company ("Buffalo Valley") revenue
9 neutral rate rebalancing filings, Mr. Laffey filed a sworn affidavit attesting to the facts
10 stated in each filing. In all three of those filings, which are all virtually identical,
11 Conestoga and Buffalo Valley recognized that "rate subsidization is not sustainable in a
12 competitive environment."³⁸ Each of those filings involved revenue neutral rate
13 rebalancing requests on behalf of the RLEC's whereby the RLEC's requested a reduction
14 in their access rates in exchange for increased local rates. The RLEC's specifically agreed
15 with AT&T's position in this case, which is that instead of relying on subsidies from
16 other carriers, local rates must be permitted to rise in a competitive environment so that
17 they are more aligned with costs. Specifically, the RLEC's stated that "offering services,
18 particularly residential services, at artificially low rates discourages competitors from
19 seeking to serve the residential market. If consumers are to have choices in
20 telecommunications carriers, then all carriers must be able to price and compete
21 according to their own efficiencies."³⁹ In all three of these filings, again sworn to by Mr.

³⁸ Conestoga Telephone and Telegraph Company Revenue-Neutral Rate Rebalancing Filing, Docket No. R-00027260, April 30, 2002 at p. 14; Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing, Docket No. R-00027256, April 30, 2002; Buffalo Valley Telephone Company Revenue-Neutral Rate Rebalancing Filing for Year 2003, Docket No. R-00038351.

³⁹ Conestoga 2002 filing at p. 19; Buffalo Valley 2002 filing at p. 18. The wording in the Buffalo Valley 2003 filing at pp. 15-16 is slightly different, but makes the same point -- "BVT contends that offering services that are priced without consideration of underlying costs creates advantages for competitors that are uneconomic in nature. When costs are ignored in the rate-setting process, certain customers pay far more than the actual costs of providing the underlying service, making BVT particularly vulnerable to competition relative to these customers."

1 Laffey, the RLEC's also agree with AT&T that implicit subsidies in access rates must be
2 removed.⁴⁰ and provide a variety of reasons consistent with ours about the harms to
3 competition and consumers if the antiquated system of subsidization is permitted to
4 continue in today's competitive environment.⁴¹

5 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

6 **A.** Yes it does.

⁴⁰ Conestoga 2002 filing at p. 14; Buffalo Valley 2002 filing at p. 14; Buffalo Valley 2003 filing at p. 11.

⁴¹ Because all 3 of these rate rebalancing filings are virtually identical, AT&T has only attached the relevant sections from the most recent filing by Buffalo Valley as Attachment 8 to this Rebuttal Testimony.

ATTACHMENT 1

AT&T Surrebuttal Testimony of E. Christopher Nurse and Dr. Ola Oyefusi
Docket No. I-00040105

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access)	
Charges and IntralATA Toll Rates of)	Docket No. 1-00040105
Rural Carriers and the Pennsylvania)	
Universal Service Fund)	

**ANSWERS TO AT&T's
FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
ADDRESSED TO THE OFFICE OF CONSUMER ADVOCATE**

ATT-2 On pages 5-7 of Mr. Colton's Direct Testimony, Mr. Colton discusses the problems associated with the inability to obtain telephone service. Please answer the following questions:

 (a) Has Mr. Colton conducted or reviewed any studies and/or documentation to determine the amount of customers who subscribe to wireless service in the territories of rural ILEC's in Pennsylvania?

 (b) Has Mr. Colton conducted or reviewed any studies and/or documentation to determine the amount of customers who subscribe *only* to wireless service -- i.e. no wireline telephone--in the territories of rural ILEC's in Pennsylvania?

 (c) Alternatively, has Mr. Colton conducted or reviewed any studies and/or documentation to determine the amount of customers who do not subscribe to wireless service in the territories of rural ILEC's in Pennsylvania?

 If the answer to the above questions is yes, please provide all such studies and/or documentation. In addition, for each of the above questions, has Mr. Colton conducted or reviewed any longitudinal studies, i.e. studies of such service penetration over time.

Response:

(a) No. Mr. Colton has not conducted and/or reviewed any such studies that pertain solely to the service territories of rural ILEC's in PA.

(b) No. Mr. Colton has not conducted and/or reviewed any such studies that pertain solely to the service territories of rural ILEC's in PA.

(c) No. Mr. Colton has not conducted and/or reviewed any such studies that pertain solely to the service territories of rural ILEC's in PA.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access)	
Charges and Intra-ATA Toll Rates of)	Docket No. 1-00040105
Rural Carriers and the Pennsylvania)	
Universal Service Fund)	

**ANSWERS TO AT&T'S
FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
ADDRESSED TO THE OFFICE OF CONSUMER ADVOCATE**

ATI -6 Have either OCA witnesses conducted and/or reviewed any studies and/or documentation to determine the average monthly amount that residential customers pay for wireless telephone service in the territories of the rural ILEC's in Pennsylvania? If so, please provide all such studies and/or documentation.

Response:

No. Neither Dr. Loube nor Mr. Colton have conducted and/or reviewed any such studies that pertain solely to the service territories of rural ILEC's in PA.

ATTACHMENT 2



- [What is Local Telephone Choice](#)
- [How to Shop](#)
- [Pricing Information](#)
- [Low-Income Programs](#)
- [Frequently Asked Questions](#)
- [Telephone Providers](#)
- [Educational Materials](#)
- [Consumer Protections](#)
- [Glossary of Terms](#)



What is Local Telephone Choice

Home \ Local Telephone

General

General

Q: Do I have to choose a new local service provider (LSP)?

A: No. You don't have to choose a new local service provider.

Q: What exactly am I choosing?

A: You are choosing the local service provider (LSP) that provides your basic local telephone service. Service with an LSP allows you to make local calls. They may also provide your local toll and long distance service if you choose them for these services. LSPs must tell customers the cost of the least expensive local basic service. You may have to choose another provider for local toll and long-distance service.

Q: When will I be notified if there is a change in the cost or terms of my local telephone service?

A: LSPs should send customers a notice 45 days before they make any changes to the terms of your services. This does not apply if the change benefits you, such as a price decrease. You have the right to change providers if you are not satisfied with the new terms of service.

Q: Will I receive a written notice of confirmation about my terms of service?

A: LSPs should send you terms of service within three working days of placing your order for new local telephone service. It must list the products, services and prices you agreed to when you placed your order along with any special conditions such length of a contract if there is a minimum period to the contract.

Q: May I keep my telephone number if I change my local service provider?

A: In most cases, you can keep your phone number if you are choosing a new LSP and are staying in the same house or local area. Regional portability is not currently in effect. A Federal Communications Commission (FCC) decision will be made in the future to implement regional portability.

Q: What happens if my new local service provider goes out of business?

A: They should notify you in advance in writing of the date that they will no longer provide service. If you want to continue service, you would need to select another LSP and make arrangements for the new service to be installed before the date given that service will be stopped by the current LSP.

Q: If I choose a new local telephone service provider, when will my new service start?

A: Yes. All LSPs are required to provide TRS service. Therefore, TRS will not be affected if you choose a new local service provider.

Q: What is included in basic local service?

A: Basic local service includes dial tone, touch-tone, federal line cost charge, Pennsylvania relay charge, federal universal service fund surcharge, local number portability surcharge, 911 emergency service fee and a local calling plan to make and receive telephone calls in your local calling area. The local calling plan of Verizon, Sprint/United, ALLTEL, Commonwealth, Denver & Ephrata, North Pittsburgh and other incumbent LSPs local calling areas are listed in the front of your local telephone directory under "local calling area." Use this information when making comparisons between LSP offers. The local calling areas are based on where you live and your telephone number, which are defined by boundaries usually containing a city, town or community and its surrounding areas.

Q: What is Telecommunications Relay Service (TRS)?



What is Local Telephone Choice -

Home \ Local Telephone

How to Shop -

Telephone

Pricing Information -

The following are local telephone assistance programs: Lifeline, Link-Up-America and UTAP. To learn more about these programs, please **download PDF** brochure.

Low-Income Programs -

Frequently Asked Questions -

Telephone Providers -

Educational Materials -

Consumer Protections -

Glossary of Terms -



ATTACHMENT 3

Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund

Docket No. I-00040105

Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T

Sponsor: Russell Gutshall

AT&T-5

Please provide the following information:

- a. For each month beginning January 2005 to the present, provide the absolute number and percentage of each company's customers purchasing stand-alone basic service with no features.
- b. For each month beginning January 2005 to the present, provide the absolute number and percentage of each company's customers purchasing bundled services.
- c. For each month beginning January 2005 to the present, provide the average bill for each PTA company's customers purchasing (i) only basic service, (ii) basic service and features, and (iii) bundled services.

Response:

Subject to and without waiver of any general and specific objections, Embarq Pennsylvania states:

	Dec 07	Dec 08
Non-bundle customers	107,160	86,633
Bundle customers	113,948	115,554
Non-bundle average local bill	30.33	30.19
Bundle average local bill	\$ 55.26	\$ 57.63

ATTACHMENT 4

Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund

Docket No. I-00040105

Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T

Sponsor: Russell Gutshall

AT&T-2

At pg. 24, you discuss Embarq's carrier of last resort obligations. Please identify Embarq's costs in 2006, 2007 and 2008 year to date, or for any other time period between 2003-2008 for which data are available, for extending basic local exchange services to customers who reside in an area in which voice service is not available from any other provider

Response:

Subject to and without waiver of any general and specific objections, Embarq states it has not calculated its costs of extending basic local exchange service to customers who reside where voice service is not available from any other provider.

Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund

Docket No. 1-00040105

Response of The United Telephone Company of Pennsylvania LLC *d/b/a* Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T

Sponsor: Russell Gutshall

AT&T-3

Please identify Embarq's costs in 2006, 2007 and 2008 year to date, or for any other time period between 2003-2008 for which data are available, for maintaining the equipment used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

Neither term is defined and is burdensome, potentially imposing duties not required by the Commission's rules governing discovery.

Response:

Subject to and without waiver of any general and specific objections, Embarq states it has not calculated its costs of maintaining the equipment used to provide basic local exchange service to customers who reside in areas where voice service is not available from any other provider.

Investigation Regarding Intrastate Access Charges and Intra-LATA Toll Rates of Rural Carriers,
and the Pennsylvania Universal Service Fund

Docket No. 1-00040105

Response of The United Telephone Company of Pennsylvania LLC d/b/a Embarq Pennsylvania To
Set I Interrogatories Propounded by AT&T

Sponsor: Russell Gutshall

AT&T-4

Please identify Embarq's costs in 2006, 2007 and 2008, or for any other time period between 2003-2008 for which data are available, for extending outside plant used to provide basic local exchange services to customers who reside in an area in which voice service is not available from any other provider.

Response:

Subject to and without waiver of any general and specific objections, Embarq states it has not calculated its costs of extending outside plant used to provide basic local exchange service to customers who reside in areas where voice service is not available from any other provider.

ATTACHMENT 5

State Household Density Across the United States

PA is Not A Relatively Rural State

	State	Land Area in Square Miles	2008 Households	HH/SQ MI
1	AK	548,227	242,084	0.4
2	WY	97,831	209,349	2.1
3	MT	144,741	385,984	2.7
4	ND	70,093	283,192	4.0
5	SD	74,711	305,615	4.1
6	NM	121,095	755,862	6.2
7	ID	81,407	562,835	6.9
8	NV	111,490	979,853	8.8
9	NE	78,630	705,259	9.0
10	UT	82,079	835,304	10.2
11	KS	82,429	1,083,189	13.1
12	OR	95,697	1,480,302	15.5
13	ME	30,765	547,911	17.8
14	CO	102,297	1,877,663	18.4
15	OK	68,197	1,417,823	20.8
16	AZ	113,874	2,376,191	20.9
17	AR	52,117	1,117,978	21.5
18	IA	55,990	1,202,460	21.5
19	MS	46,799	1,072,763	22.9
20	MN	79,149	2,020,121	25.5
21	VT	9,077	255,896	28.2
22	WV	24,122	761,746	31.6
23	TX	261,681	8,482,591	32.4
24	MO	68,899	2,350,828	34.1
25	AL	51,048	1,860,694	36.4
26	WA	66,847	2,520,460	37.7
27	LA	43,549	1,660,968	38.1
28	WI	54,411	2,236,350	41.1
29	KY	39,775	1,722,426	43.3
30	NH	9,199	528,181	57.4
31	SC	30,086	1,733,653	57.6
32	TN	41,566	2,492,515	60.0
33	GA	57,798	3,547,198	61.4
34	HI	6,419	442,269	68.9
35	MI	56,801	3,915,814	68.9
36	IN	35,869	2,481,174	69.2
37	NC	48,614	3,571,753	73.5
38	VA	39,440	2,990,281	75.8
39	CA	155,712	12,588,407	80.8
40	IL	55,515	4,783,256	86.2
41	PA	44,698	4,915,491	110.0
42	OH	40,975	4,577,721	111.7
43	FL	53,654	7,389,025	137.7
44	NY	47,270	7,209,899	152.5
45	DE	1,918	332,642	173.5
46	MD	9,891	2,148,722	217.2
47	CT	4,838	1,348,538	278.7
48	MA	7,815	2,462,536	315.1
49	RI	1,107	434,563	392.4
50	NJ	7,396	3,194,205	431.9
51	DC	61	257,819	4,200.6
National Total		3,513,667	114,659,359	32.6

The PTA ICOs Serve Relatively Non-Rural Areas

Company Name	Land Area in Square Miles	Sum of 2008 HHs	HH/SQ MI	PTA Subtotals by Category	% of PTA Total
IRONTON TELEPHONE CO.	19	4,428	235.6		
DENVER & EPHRATA TELE CO.	206	40,764	197.9		
VERIZON	24,404	4,046,539	165.8		
CONSOLIDATED/N. PITTSBURG TELE CO.	281	46,067	164.0	91,259	11%
<i>Three PTA Companies, representing 11% of the PTA access lines, have an average household density equal to or greater than Verizon's average density, even when including Pittsburgh and Philadelphia</i>					
CONESTOGA TELE CO.	330	38,567	117.0		
PALMERTON TELE CO.	109	10,708	98.7		
BENTLEYVILLE TELE CO.	29	2,655	91.2		
YUKON - WALTZ TELE CO.	11	907	83.4		
PYMATUNING INDEPENDENT TELE CO.	28	1,785	64.8		
EMBARQ/UNITED	5,814	302,967	52.1		
BUFFALO VALLEY TELE CO.	282	13,745	48.8		
COMMONWEALTH TELE CO	4,700	171,140	36.4		
LACKAWAXEN TELECOM. SERVICES, INC.	64	2,228	34.6		
MARIANNA - SCENERY HILL TELE CO.	65	2,215	34.0	546,917	63%
<i>The PTA Companies above, representing 73% of the PTA access lines, have an average household density greater than the national average household density of 32.6 HH/Sq Mi.</i>					
<i>Only 27% of the PTA access lines are below the national average household density of 32.6 HH/Sq mi., predominantly Windstream</i>					
SOUTH CANAAN TELEPHONE CO.	80	2,490	31.2		
HICKORY TELEPHONE CO.	39	1,184	30.4		
WINDSTREAM	5,744	168,452	29.3		
CITIZENS/FRONTIER	1,154	33,040	28.6		
MAHANAY & MAHANTONGO TELE CO.	143	3,655	25.5		
ARMSTRONG TELE CO.	73	1,835	25.0		
LAUREL HIGHLAND TELEPHONE CO.	173	3,966	23.0		
PENNSYLVANIA TELE CO.	52	1,078	20.8		
NORTH EASTERN PENNSYLVANIA TELE CO.	460	8,479	18.4		
UNASSIGNED AREA	41	745	18.1		
NORTH PENN TELEPHONE CO.	250	3,835	15.4		
VENUS TELE CORP	76	1,127	14.8		
SUGAR VALLEY TELE CO.	72	890	12.4	230,776	26.6%
PTA Total Excluding Verizon	20,293	868,952	42.8	868,952	

ATTACHMENT 6

CONTAINS PROPRIETARY DATA

AT&T Surrebuttal Testimony of E. Christopher Nurse and Dr. Ola Oyefusi
Docket No. I-00040105



ATTACHMENT 7



CONTAINS PROPRIETARY DATA



AT&T Surrebuttal Testimony of E. Christopher Nurse and Dr. Ola Oyefusi
Docket No. J-00040105

ATTACHMENT 8

AT&T Surrebuttal Testimony of E. Christopher Nurse and Dr. Ola Oyefusi
Docket No. 1-00040105

Attx cross

**California Public
Utilities Commission**

CPUC Home

[Word Document](#) [PDF Document](#)

FOR IMMEDIATE RELEASE Docket #: R.06-06-028

Media Contact: Terrie Prosper, 415.703.1366, news@cpuc.ca.gov**PUC BETTER TARGETS HIGH COST FUND AREAS,
SAVES PHONE CONSUMERS \$300 MILLION**

SAN FRANCISCO, September 6, 2007 - The California Public Utilities Commission (PUC) today took action to save telephone consumers over \$300 million a year by decreasing the California High Cost Fund-B (CHCF-B) and better targeting the subsidy in truly high cost, hard-to-serve areas. The PUC also authorized a small inflation increase of 2.36 percent to AT&T and Verizon's basic rates, beginning January 1, 2008.

The CHCF-B program began in 1996 to ensure that basic telephone service was available and affordable in high cost, hard-to-serve areas. It is funded by a surcharge on intrastate phone services on consumer telephone bills. As California's population continues to grow, many areas that were once defined as hard-to-serve are now thriving metropolitan or suburban areas with a competitive communications market. Incumbent phone companies now face vigorous competition from wireless, cable, Voice over Internet Protocol, and competitive local exchange carriers.

By today's decision, the CHCF-B, currently at \$436 million annually, will decline by approximately \$315.4 million by July 1, 2009, representing a 74 percent reduction in subsidy expenditures. Thus, the CHCF-B retail surcharge born by telephone consumers will be reduced from 1.3 percent to 0.5 percent, effective January 1, 2008.

"This decision today continues our focus on updating our regulatory programs in light of rapid technological changes and increased competition in the voice marketplace," commented PUC President Michael R. Peevey. "We are committed to bringing affordable voice services to our most rural citizens."

"Consumers and competition alike will find good in this decision," said Commissioner Dian M. Grueneich. "California telephone customers will experience a decrease in the High Cost Fund-B surcharge they pay and California telephone competitors will experience a more level playing field."

"I commend the Commission for undertaking the first comprehensive review of the High Cost Fund-B since its creation over 10 years ago. This review was long overdue," said Commissioner John Bohn. "In the future, we expect to address the value of High Cost Fund-B subsidies in a more expedient fashion."

"Our vote today will save California consumers over \$300 million a year and establish a process to bring broadband services delivering voice to the rural parts of the state," said Commissioner Rachelle Chong, the Assigned Commissioner to the docket.

"This is a decision that will actually keep money in the pockets of ratepayers," added Commissioner Timothy Alan Simon.

Last year in its Uniform Regulatory Framework proceeding, the Commission determined that basic residential rates of the largest incumbent telephone companies should remain at current levels pending action in the CHCF-B proceeding. Today's decision determines that a transition period is needed from

current basic rate levels to competitive market pricing. It allows AT&T and Verizon to begin that transition on January 1, 2008, by authorizing a basic rate increase tied to inflation, as allowed by the Digital Infrastructure and Video Competition Act of 2006 passed by the state Legislature last year. Should AT&T or Verizon choose to increase its basic rate on January 1, 2008, the rate increase will be no more than \$0.25 for AT&T customers and no more than \$0.41 for Verizon customers. The PUC will separately determine suitable transitional increases in the basic service rate caps for each respective ILEC post January 1, 2009, in the next phase of this proceeding.

The PUC also proposed the creation of a limited California Advanced Services Fund (CASF) to develop broadband infrastructure that delivers voice in unserved and underserved high cost areas of California. The PUC will address whether and how to establish the CASF in the next phase of this proceeding. The goal of this CASF is to bridge the digital divide in these unserved and underserved areas in a technology neutral manner. Economic and social benefits to these rural regions will flow from state-of-the-art broadband infrastructure.

California remains on the vanguard of states with an explicit high cost program for universal service purposes. Twenty-two other states have created high cost funds since California created the second state high cost fund more than a decade ago.

For more information on the PUC, please visit www.cpuc.ca.gov.

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