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May 20, 2009

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

Re: AT&T Communications of Pennsylvania, LLC v. Armstrong Telephone Company,
Pennsylvania, et al.

Docket Numbers C-2009-2098380, C-2009-2099805, C-2009-2098735

Dear Secretary McNulty:

Enclosed for filing on behalf of Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. (collectively "Sprint"), is its Opposition to Preliminary Objections and Motion for Stay or Consolidation on Behalf of the Pennsylvania Telephone Association ("Opposition"), in the above-referenced matter. This Opposition has been e-filed at the Pennsylvania Public Utility Commission's website. Copies have been served in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Handwritten signature of Judith D. Cassel in cursive script.

Judith D. Cassel

RLH:jdc
Enclosure

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A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

AT&T Communications of Pennsylvania, LLC Complainant	:	
	:	
v.	:	Docket No. C-2009-2098380, et al.
	:	
Armstrong Telephone Company - Pennsylvania, et al. ¹ Respondents	:	
	:	
TCG New Jersey, Inc. Complainant	:	
	:	
v.	:	Docket No. C-2009-2099805, et al.
	:	
Armstrong Telephone Company - Pennsylvania, et al. Respondents	:	
	:	
TCG Pittsburgh, Inc. Complainant	:	
	:	
v.	:	Docket No. C-2009-2098735, et al.
	:	
Armstrong Telephone Company – Pennsylvania, et al. Respondents	:	

**OPPOSITION TO PTA PRELIMINARY OBJECTIONS AND
MOTION FOR STAY OR CONSOLIDATION**

¹ Respondents in each of the Complaints filed by AT&T, TCG New Jersey and TCG Pittsburgh include thirty two Pennsylvania rural incumbent local exchange carriers.

Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. (collectively "Sprint"), by and through the undersigned counsel, hereby files its Opposition to Preliminary Objections and Motion for Stay or Consolidation on Behalf of the Pennsylvania Telephone Association (hereinafter the "Opposition"). In support of its Opposition, Sprint states as follows:

On April 30, 2009, on behalf of its member companies, the Pennsylvania Telephone Association ("PTA") filed its Preliminary Objections and Motion for Stay or Consolidation ("Preliminary Objections"). Therein, the PTA argues that AT&T² failed to state a cause of action; the PTA asks the Commission to conclude that the Complaint cannot be adjudicated when the subject matter involved, intrastate access rates, is also the subject of pending generic investigation; and the PTA requests that the Commission consolidate the AT&T's complaint with the Commission's long-pending rural local exchange carrier ("RLEC") access investigation.

On May 13, 2009, AT&T filed its "Answer of Complainants to Preliminary Objections and Motion for Stay or Consolidation." AT&T therein capably and thoroughly refutes the unfounded arguments for dismissal made by the PTA in the Preliminary Objections. AT&T also provided compelling and dispositive arguments against granting either a stay or a consolidation in this proceeding.³

To preserve the Commission's resources, Sprint will avoid making the same arguments that that AT&T has already made capably, other than to say that it supports AT&T's arguments and stands ready to support those arguments should the Commission desire to receive briefs or arguments in support thereof from Sprint. AT&T's arguments are well developed, supported by

² Complainants AT&T Communications of Pennsylvania, LLC, TCG New Jersey, Inc., and TCG Pittsburgh, Inc. are collectively referred to as "AT&T."

³ AT&T conditionally opposed consolidation of this proceeding.

law, precedent and policy, and need neither support nor buttressing from Sprint to succeed. It is beyond question that AT&T's Complaint is adequate to survive PTA's request for dismissal thereof. AT&T not only stated a procedurally adequate claim, but it presented a compelling case for the Commission to rapidly address and grant relief from anti-competitive forces – grossly inflated, unreasonable, unjust, and discriminatory switched access charges – within the market. Sprint will address a single issue that was not previously addressed by either the PTA or AT&T.

I. Rates Fixed Upon Complaint.

Pursuant to Pennsylvania law, when the Commission, upon complaint or on its own motion, and after reasonable notice and hearing, finds that the rates of a public utility, such as the PTA members, are unjust, unreasonable or otherwise contrary to law, the Commission must issue an order setting just and reasonable rates. 66 Pa. C.S. § 1309(a). The Commission's order setting such rates shall be issued within nine (9) months of the filing of the complaint. 66 Pa. C.S. § 1309(b). If the Commission's order granting relief is issued more than nine (9) months after the date the complaint is filed, then the relief granted by the Commission shall be retroactive to the date of the expiration of the aforementioned nine (9) month period. 66 Pa. C.S. § 1309(b).

In the matter at bar, AT&T has filed a complaint that alleges that the PTA members' intrastate switched access rates are unjust and unreasonable, and requests that the Commission order the PTA members' intrastate switched access rates to be lowered to match the level of their interstate rates. Thus, 66 Pa. C.S. § 1309(b) compels the Commission to either issue a decision on AT&T's complaint within nine (9) months of May 13, 2009 (the day AT&T filed its complaint), or to make such relief as may be granted retroactive to a date nine (9) months from

May 13, 2009. This consideration is important because the PTA has moved to either stay or consolidate AT&T's complaint.

As is AT&T, Sprint is opposed to any stay of AT&T's Complaint. Intrastate access charges in Pennsylvania are unreasonably high. The Commission has acknowledged this in past decisions and it remains true today. Carriers, including Sprint, have repeatedly asked the Commission for redress in various dockets, but to date no relief has been granted. Sprint applauds AT&T for taking the additional step of seeking redress via complaint, and, as evidenced by its Petition to Intervene, Sprint intends to join AT&T in pursuing a reduction of RLEC switched access rates to just and reasonable levels in this docket. While the Commission has considerable discretion in setting rates, its role in adjudicating complaints requesting relief from unjust and unreasonable rates is far more finite. Sprint and its customers have suffered, and continue to suffer, injury as a result of the unreasonably inflated access rates charged by RLECs in Pennsylvania. Sprint joins AT&T in seeking to put an end to this injury as soon as possible. As Pennsylvania law dictates a nine-month window for a decision, and makes retroactive any relief granted after the nine-month window, the matter before the Commission will only be complicated by any stay of these proceedings.

Like AT&T, Sprint does not necessarily oppose a consolidation of this Complaint with the Commission's existing investigation of RLEC intrastate switched access rates. Such a consolidation, however, should only be ordered if the Commission immediately resumes its open investigation of RLEC intrastate switched access rates and includes the resolution of the issues raised by AT&T in its complaint and Sprint in its Intervention Petition within the statutorily prescribed timeframe. Unless the Commission addresses all of these matters in any Order permitting consolidation of these proceedings, Sprint is opposed to consolidation of the AT&T

complaint with the Commission's long-pending rural local exchange carrier ("RLEC") access investigation, as it would have the same affect as granting the PTA request for a stay – which Sprint directly opposes for the reasons outlined above.

WHEREFORE, Petitioner respectfully requests that this Commission deny the relief requested in the Preliminary Objections and Motion for Consolidation for the reasons stated herein and in AT&T's Opposition.

Respectfully Submitted,



FOR: Sprint Communications Company, L.P.,
Sprint Spectrum, L.P., Nextel Communications
of the Mid-Atlantic, Inc., and NPCR, Inc.

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Dated: May 20, 2009

CERTIFICATION OF SERVICE

I hereby certify that I have served a copy of the foregoing Petition For Intervention upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 and 1.55, via electronic mail.

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Renardo L. Hicks

Dated: May 20, 2009