

Suzan DeBusk Paiva  
Assistant General Counsel  
Pennsylvania



1717 Arch Street, 17W  
Philadelphia, PA 19103

Tel: (215) 466-4755  
Fax: (215) 563-2658  
Suzan.D.Paiva@Verizon.com

September 2, 2009

**VIA ELECTRONIC FILING**

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

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

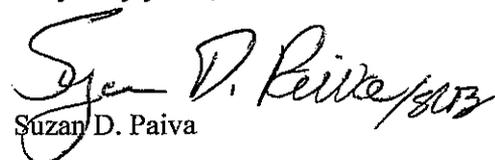
And AT&T Communications of Pennsylvania, LLC,  
v. Armstrong Telephone Company-Pennsylvania, et al.  
Docket No. C-2009-2098380, et al.

Dear Mr. McNulty:

Enclosed please find Verizon's Memorandum Regarding the Scope of the Case, being filed by Verizon Pennsylvania Inc., Verizon North Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services Inc. (collectively "Verizon") in the above-captioned consolidated matter.

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

Very truly yours,

  
Suzan D. Paiva

SDP/slb

**VIA E-MAIL and UPS DELIVERY**  
cc: The Honorable Kandace F. Melillo

**VIA E-MAIL and FIRST CLASS MAIL**  
cc: Attached Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of Verizon's Memorandum Regarding the Scope of the Case, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 2<sup>nd</sup> day of September, 2009.

**VIA E-MAIL and FIRST CLASS U.S.MAIL**

Norman J. Kennard, Esquire  
Regina L. Matz, Esquire  
Jennifer M. Sultzaberger  
Thomas, Long, Niesen & Kennard  
212 Locust Street, Suite 500  
Harrisburg, PA 17108  
Rural Telephone Company Coalition

Bradford M. Stern, Esquire  
Rothfelder Stern, L.L.C.  
625 Central Avenue  
Westfield, NJ 07090  
Omnipoint Communications Inc. d/b/a T-Mobile; Omnipoint Communications Inc. d/b/a T-Mobile and Voicestream Pittsburgh LP d/b/a T-Mobile Nextel Communications, Inc.

Christopher M. Arfaa, Esquire  
Christopher M. Arfaa, P.C.  
150 N. Radnor Chester Road, Suite F-200  
Radnor, PA 19087-5245  
Cingular Wireless LLC  
Cellco Parthnership d/b/a Verizon Wireless

Renardo L. Hicks, Esquire  
Stevens & Lee, P.C.  
17 North Second Street  
16<sup>th</sup> Floor  
Harrisburg, PA 17101

Joel Cheskis, Esquire  
Barrett Sheridan, Esquire  
Christy Appleby, Esquire  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Steven C. Gray, Esquire  
Office of Small Business Advocate  
300 North 2<sup>nd</sup> St, Suite 1102  
Harrisburg, PA 17101

Zsuzanna Benedek, Esquire  
Embarq Corporation  
240 North Third Street, Suite 201  
Harrisburg, PA 17101

Michelle Painter  
Painter Law Firm, PLLC  
13017 Dunhill Drive  
Fairfax, VA 22030  
AT&T Communications of PA, LLC,  
TCG Pittsburgh and TCG New Jersey

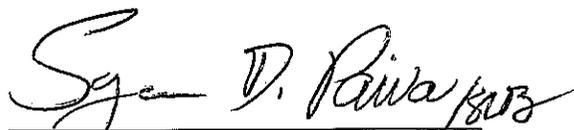
Barry A. Naum, Esquire  
McNees Wallace & Nurick LLC  
P.O. Box 1166  
100 Pine Street  
Harrisburg, PA 17108-1166  
Broadband Cable Association of PA

John Povilaitis, Esquire  
Matthew Totino, Esquire  
Ryan, Russell, Ogden & Seltzer P.C.  
800 North Third Street, Suite 101  
Harrisburg, PA 17102-2025  
Counsel for Qwest

Alan Kohler, Esquire  
Deanne M. O'Dell, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8<sup>th</sup> Floor  
P.O. Box 1248  
Harrisburg, PA 17108-1248  
Counsel for Comcast Phone of  
Pennsylvania, LLC and Comcast  
Business Communications LLC

Benjamin J. Aron  
Sprint Nextel Corporation  
Mailstop: VARESP0201-208  
2001 Edmund Halley Drive  
Reston, VA 20191

Allison C. Kaster, Esquire  
Adeolu Bakare, Esquire  
Office of Trial Staff  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120



Suzan D. Paiva  
Pennsylvania Bar ID No. 53853  
1717 Arch Street, 17 NW  
Philadelphia, PA 19103  
(215) 466-4755

Attorney for  
Verizon Pennsylvania Inc.  
Verizon North Inc.  
MCI metro Access Transmission Services, LLC  
d/b/a Verizon Access Transmission Services

**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	:	
AT&T Communications of	:	
Pennsylvania, LLC	:	
Complainant	:	
	:	
v.	:	Docket No. C-2009-2098380, et al.
	:	
Armstrong Telephone Company -	:	
Pennsylvania, et al.	:	
Respondents	:	

**VERIZON'S MEMORANDUM  
REGARING THE SCOPE OF THE CASE**

Pursuant to the presiding officer's direction at the August 19, 2009 prehearing conference (as confirmed in the August 20, 2009 procedural order), Verizon Pennsylvania Inc., Verizon North Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services Inc. (collectively "Verizon") submit this memorandum regarding the scope of the investigation. Verizon also incorporates the discussion of the scope set forth in its August 17, 2009 prehearing memorandum.

As set forth in the Commission's August 5, 2009 order, the scope of the proceeding is to "undertake the initiative of reexamining the area of intrastate carrier access charges for the RLECs." (8/5/09 Order at 18). The Commission stated that "the *access charge investigation* should be resumed at this time," but cautioned that "the issues already

adjudicated before Administrative Law Judge Susan Colwell during the limited reopening of the investigation shall not be relitigated absent extraordinary circumstances.” (8/5/09 Order at 19) (emphasis added).

While no party disagrees with the fact that potential reduction of the RLECs’ access rates and rebalancing of that revenue to other rates under 66 Pa. C.S. § 3017(a) is certainly within the scope of the case, the discussions at the prehearing conference revealed considerable disagreement regarding the extent to which other issues relating to the state universal service fund (“USF”) should be included in the scope of the case given the fact that ALJ Colwell’s recommended decision provided a broad adjudication of issues relating to the USF. ALJ Colwell recommended that the Commission convene a rulemaking to “reconstruct[]” the USF “to provide assistance to those customers who need it, and for those companies who can meet a stringent test for determining that they serve an area whose costs are so high that the company itself deserves extra help for that area alone.” (7/23/09 RD at 88). The Commission did not limit its prohibition on relitigation only to those issues originally assigned to ALJ Colwell, but instead broadly barred relitigation of any issue “adjudicated” in her proceeding.

The presiding officer at the August 19, 2009 prehearing conference asked the parties to address whether the specific issues listed in the Pennsylvania Telephone Association’s prehearing memorandum are or are not within the scope of the case:

- 1. Whether intrastate access charges and intraLATA toll rates should be further reduced or rate structures modified in the rural ILECs’ territories.**

Yes, this issue is within the scope. This is the central issue to be litigated in this phase of the proceeding.

**2. What rates are influenced by contributions to and/or disbursements from the Fund?**

No, this issue is not within the scope. If it is necessary to address this issue at all, then it should be part of the overall examination of “reconstructing” the USF in the rulemaking that was recommended by ALJ Colwell in her adjudication.

**3. Should disbursements from the Fund be reduced and/or eliminated as a matter of policy and/or law?**

No, this issue is not within the scope. Rather, ALJ Colwell already adjudicated this issue by deciding that disbursements should be reduced or eliminated if the recipient company cannot “meet a stringent test for determining that they serve an area whose costs are so high that the company itself deserves extra help for that area alone.” This issue should be examined as part of the overall examination of “reconstructing” the USF that was recommended by ALJ Colwell in her adjudication.

**4. Assuming the Fund expires on or about December 31, 2006, what action should the Commission take to advance the policies of this Commonwealth?**

This issue is within the scope to the extent the parties may argue whether or not rebalancing the RLECs’ access rates advances the policies of the Commonwealth.

**5. If the Fund continues beyond December 31, 2006, should wireless carriers be included in the definition of contributors to the Fund? If included, how will the Commission know which wireless carriers to assess? Will the Commission need to require wireless carriers to register with the Commission? What would a wireless carrier's contribution be based on? Do wireless companies split their revenue bases by intrastate, and if not, will this be a problem?**

As Verizon stated in its prehearing memo, this issue is not properly included within the scope of this phase of the case. To the contrary, the Commission clearly did not intend to include changes to the fundamental structure of the USF in this phase. The Commission stated that “the *access charge investigation* should be resumed at this time,” but cautioned that “the issues already adjudicated before Administrative Law Judge Susan Colwell during the limited reopening of the investigation shall not be relitigated absent extraordinary circumstances.” (8/5/09 Order at 19) (emphasis added). ALJ Colwell has already recommended that the Commission convene a rulemaking to address any fundamental changes to the USF, and her “adjudication” is already before the Commission through its review of ALJ Colwell’s RD, and should not be litigated here.

Rather than contemplating that changes to the USF would be considered in this phase of the proceeding, the Commission held the exact opposite by making clear that “[u]ntil there is a resolution to access charge reform, the *status quo* stays in place, and the PaUSF shall continue *under the existing regulations* . . . until such time as new regulations are promulgated [through a proper rulemaking] eliminating or modifying the Fund.” (8/5/09 Order at 20-21) (emphasis added). The “existing regulations” exempt wireless carriers as contributors to the USF by stating that “wireless carriers are exempt from this subchapter under 66 Pa.C.S. § 102(2)(IV) (relating to definitions).” 52 Pa. Code. § 63.162. That aspect of the regulations could not be changed without a rulemaking, and thus there is no point to addressing the prospect of such a change in this non-rulemaking proceeding. Injecting this issue would do nothing but complicate and delay the litigation, for no purpose. Thus, as the Commission directed, this phase of the case must presume that the USF operates unchanged “under the existing regulations”

pending the outcome of any rulemaking that might be convened as a result of ALJ Colwell's recommendation.

6. **What regulatory changes are necessary to 52 Pa. Code §§ 63.161-63.171 given the complex issues involved as well as recent legislative developments?**

No, this issue is not within the scope. It would require a rulemaking and should be part of the overall examination of "reconstructing" the USF that was recommended by ALJ Colwell in her adjudication.

7. **The appropriateness of continuation of the PaUSF to continue to support the access reforms already implemented, and/or the development and implementation of a Toll Line Charge or another universal service fund to recover any revenue deficiencies effectuated by any change in the current PaUSF or the current rural access rates.**

No, this issue is not within the scope. The Commission has maintained the status quo with regard to the current USF and the prospect of changes to it should be considered as part of the overall examination of "reconstructing" the USF that was recommended by ALJ Colwell in her adjudication.

8. **The appropriateness of eliminating the current PaUSF credits on local service customer bills and increasing access charges on access customer bills to the extent the current PaUSF is reduced without replacement funding implemented.**

No, this issue is not within the scope. The Commission has maintained the status quo regarding the current USF and the prospect of any changes to it should be part of the overall examination of "reconstructing" the USF that was recommended by ALJ Colwell in her adjudication.

9. **The pool of service providers that should be assessed to contribute to universal service support in Pennsylvania.**

No, this issue is not within the scope. It would require a rulemaking and should be part of the overall examination of "reconstructing" the USF that was recommended by ALJ Colwell in her adjudication, as discussed with regard to the wireless carrier issue above.

**10. The impact on rural intrastate access rates and/or rate structures from any further federal action on intercarrier compensation, access, and universal service issues.**

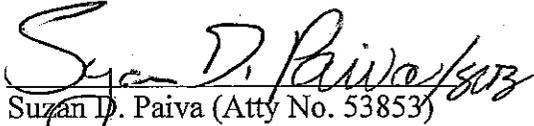
Yes, this issue is within the scope, to the extent there are developments in the federal arena during the litigation of this case.

**11. Whether further rural intrastate access charge reform is necessary in light of the elimination in Act 183 of the mandatory access reductions that were contained in the original Chapter 30 law in Act 183.**

Yes, to the extent any party wishes to raise such an argument, it would be related to issue number 1.

**12. Any other issues that may arise and/or be determined to be relevant to the Phase III investigation of rural access rates.**

This issue is overly broad. Issue that are reasonably related to the investigation and not already adjudicated by ALJ Colwell could be within the scope.

  
Suzan D. Paiva (Atty No. 53853)  
Verizon  
1717 Arch Street, 17th Floor  
Philadelphia, PA 19103  
(215) 466-4755

Dated: September 2, 2009