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March 15, 2010

VIA ELECTRONIC FILING

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

AT&T Communications of Pennsylvania, LLC, TCG New Jersey, Inc. and TCG Pittsburgh, Inc. v. Armstrong Telephone Company-Pennsylvania, et.al.,
Docket Nos. C-2009-2098380, C-2009-2099805, C-2009-2098735

Dear Mr. McNulty:

I am writing on behalf of AT&T Communications of Pennsylvania, LLC, TCG Pittsburgh, and TCG New Jersey, Inc. (collectively, "AT&T"), to respond to Windstream's March 12, 2010, letter filing regarding portions of the Panel Rebuttal Testimony of E. Christopher Nurse and Dr. Ola A. Oyefusi filed in the above-referenced proceedings on March 10, 2010.

Shortly after AT&T's panel testimony was submitted, counsel for Windstream Communications, Inc. advised AT&T's counsel that Windstream had ceased the "traffic pumping" activities described at pages 53-58 of AT&T's Panel Rebuttal Testimony. From AT&T's perspective, this is a very positive new development. AT&T greatly appreciates Windstream's action, and is pleased that Windstream shares AT&T's opinion that such activities are improper. AT&T will submit additional testimony and evidence reflecting this new development in accordance with the procedural schedule in this case.

While Windstream's action is welcome news, AT&T wishes to make clear that the underlying, serious issues described in its Panel Rebuttal Testimony have not gone away. For example, North Pittsburgh, now owned by Consolidated Communications, continues to engage in traffic pumping. As of the date of this letter, calls to porn and chat lines served by North Pittsburgh continue to complete, and AT&T and other IXCs are continuing to be billed access charges for that traffic. This only serves to prove that high intrastate switched access rates continue to create incentives for Pennsylvania carriers to participate in traffic pumping activities. Reducing Pennsylvania's intrastate access charges will help eliminate the problem.

Indeed, Windstream's experience demonstrates the insidiousness of traffic pumping, and the problems it can create for Pennsylvania. According to Windstream, it was not even aware that the two Pennsylvania companies it was acquiring were engaged in traffic pumping until after its acquisition of

March 15, 2010

D&E and Conestoga closed on November 10, 2009. Windstream asserts that the very next day, November 11, 2009, it notified the traffic-pumpers their business was no longer welcome in the D&E and Conestoga service territories. Windstream reports that all D&E and Conestoga traffic pumping ended as of March 1, 2010.

At this point, it is unclear why it took Windstream 3-1/2 months to bring traffic pumping to an end, and it is equally unclear why Windstream took no action in mid-November, 2009 to inform AT&T and other IXC's that it had discovered traffic pumping and was putting an end to it. Likewise, it is unclear whether Windstream intends to return the \$411,000 which AT&T has paid D&E and Conestoga for completing calls to traffic-pumped Pennsylvania numbers since June, 2009.

But those are matters for another day and another venue. What is important here is that Windstream, like AT&T, agrees that traffic pumping activities are scams against consumers that must be stopped. We look forward to seeing Windstream's proposals for ensuring that Pennsylvania does not become a haven for traffic pumping, and we stand ready to work cooperatively with Windstream to craft a solution. To that end, AT&T expressly invites Windstream (and all other Pennsylvania RLECs, for that matter) to sign on to the access reform proposal set forth in AT&T's March 10, 2010, Panel Rebuttal Testimony. Among its many other attributes, AT&T's proposal will curb the traffic pumping that continues to plague Pennsylvania.

Finally, Windstream's March 12 letters to AT&T and to the PUC allege "defamation." Clearly those assertions constitute nothing more than legal posturing, attempted intimidation and puffery. There has been no defamation, nor was any intended. Truth is an absolute defense to defamation, and truth is established if the alleged defamation was substantially true. 42 Pa.C.S. §8343(b)(1). Schnabel v. Meredith, 378 Pa. 609, 612, 107 A.2d 860, 862 (1954); Chicarella v. Passant, 343 Pa. Super. 330, 341, 49 A.2d 1109, 1115 (1985). AT&T's evidence proves beyond question—and Windstream itself does not dispute -- that D&E and Conestoga have been engaged in traffic pumping, and that pumping continued for 3-1/2 months after the Windstream merger, while Windstream states that it acted to end the practice once it acquired the companies. Had AT&T know at the time it filed its March 10 rebuttal testimony that Windstream had taken action to cease traffic pumping activities, AT&T would have said so in its testimony; however, Windstream did not inform AT&T of its internal efforts until after AT&T filed its Rebuttal Testimony. Likewise, had AT&T known at the time it filed its March 10 testimony that the D&E and Conestoga traffic pumping had stopped a few days before, AT&T would have said so in its Testimony and, as we acknowledge in this letter, we will be submitting testimony to reflect that new development. But it cannot be defamation for AT&T to state that the two Windstream companies were engaged in traffic pumping because, as AT&T's evidence proves, that is an indisputable fact.

Please contact me if you have any questions or concerns with this matter.

Very truly yours,


Michelle Painter

cc: Hon. Kandace F. Melillo
Norman J. Kennard, Esq.
Kimberly K. Bennett, Esq.
Demetrios G. Metropoulos, Esq.
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of AT&T's Letter to Secretary McNulty 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 Fairfax, VA this 15th day of March 2010.

VIA E-MAIL AND FIRST CLASS MAIL

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