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June 2, 2009

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Rosemary Chiavetta, Secretary
Commonwealth of Pennsylvania
Public Utility Commission
400 North Street
Harrisburg, PA 17120

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

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

Dear Ms. Chiavetta:

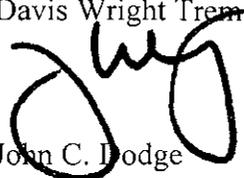
On behalf of Comcast Phone of Pennsylvania, LLC d/b/a Comcast Digital Phone and Comcast Business Communications, LLC (collectively "Comcast"), enclosed please find an original and nine (9) copies of Comcast's Reply Brief in the above-captioned matters. Comcast's Reply Brief contains no proprietary information.

Kindly date-stamp the additional copy of Comcast's Reply Brief as received and return it in the prepaid, self addressed envelope provided.

Should you have any questions, please contact the undersigned.

Respectfully submitted,

Davis Wright Tremaine LLP



John C. Dodge

cc: Hon. Kandace Melillo
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Regarding Intrastate Access	:	
Charges and IntraLATA Toll Rates of Rural	:	Docket No. I-00040105
Carriers and the Pennsylvania Universal	:	
Service Fund	:	
	:	
AT&T Communications of	:	
Pennsylvania, LLC	:	
Complainant	:	
v.	:	Docket No. C-2009-2098380,
	:	<i>et al.</i>
Armstrong Telephone Company -	:	
Pennsylvania, <i>et al.</i>	:	
Respondents	:	

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

REPLY BRIEF
OF
COMCAST PHONE OF PENNSYLVANIA, LLC AND
COMCAST BUSINESS COMMUNICATIONS, LLC

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Dated: June 3, 2010

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TABLE OF CONTENTS

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU 1

INTRODUCTION..... 1

ARGUMENT..... 2

I. STATEMENT OF QUESTIONS AND SUMMARY OF POSITIONS..... 2

 A. Retroactivity of any Access Rate Reductions 2

 B. Compliance 3

II. FACTUAL AND LEGAL BACKGROUND 3

III. BURDEN OF PROOF 3

IV. SHOULD RLECS' INTRASTATE SWITCHED ACCESS RATES BE REDUCED? 3

 1. CenturyLink's Criticisms of Dr. Pelcovits' Regression Analyses Are Superficial and Wrong 5

 2. PTA Misstates Dr. Pelcovits's Testimony Regarding Market Power 7

V. IF THE RLECS' INTRASTATE SWITCHED ACCESS RATES SHOULD BE REDUCED, TO WHAT LEVEL SHOULD THEY BE REDUCED AND WHEN? 9

 A. Rate Levels..... 9

 B. Timing..... 9

VI. IF THE RLECS' INTRASTATE SWITCHED ACCESS RATES SHOULD BE REDUCED, HOW SHOULD ANY REVENUE REDUCTIONS BE RECOVERED IN COMPLIANCE WITH 66 Pa.C.S.A. 3017? 9

 A. Meaning of the Revenue Neutrality Requirement under 3017 9

 B. Rate Increases..... 12

 C. Pennsylvania USF 12

VII. GENERAL LEGAL ISSUES..... 13

 A. Retroactivity of any Access Rate Reductions 13

 B. Compliance 13

VIII. CONCLUSION..... 13

TABLE OF AUTHORITIES

RECEIVED

JUN 2 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Cases

Bell Atlantic-Pa, Inc. v. Pa. PUC, 763 A.2d 440 (Pa. Cmwlth. 2000):.....4

Buffalo Valley Tel. v. Pa. PUC, 990 A.2d 67 (2009).....3, 4

MCI Worldwide, Inc. v. Pennsylvania Public Utility Commission, 577 Pa. 294,
844 A.2d 1239 (2004)4

Smith v. Ill. Bell Tel. Co., 282 U.S. 133 (1930)10, 12

PUC and FCC Regulatory Decisions

Access Charge Investigation per Global Order of September 30, 1999, Docket
No. M-00021596 (Opinion and Order entered July 15, 2003)4

*Applications filed by Qwest Communications International Inc. and CenturyTel
Inc., d/b/a CenturyLink for Consent to Transfer of Control, Public Notice,*
WC Docket No. 10-110 (rel. May 28, 2010)5

Donnelly Directory v. The Bell Telephone Company of Pennsylvania,
66 Pa. PUC 376 (1988)11

*Implementation of Chapter 30 of the Public Utility Code; Streamlined Form of
Regulation*, Docket No. M-00930483, 1995 Pa. PUC LEXIS 58, *52.....11

In the Matter of Developing a Unified Intercarrier Compensation Regime,
20 FCC Rcd 4685 (2005).....7

*In the Matters of AT&T Corp., v. Business Telecom, Inc., Sprint Communications
Company, L.P., v. Business Telecom, Inc.*, 16 FCC Rcd 12312 (2001)7

*Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of
Rural Carriers, and the Pennsylvania Universal Service Fund*,
Docket No. I-0040105 (Aug. 5, 2009).....4, 12

Statutes

66 Pa.C.S.A. § 3011(3)7

66 Pa.C.S.A. § 30127, 11

66 Pa.C.S.A. § 30179

66 Pa.C.S.A. § 3017(a) passim

Other

Barr, et al., “The Gild That Is Killing The Lily,” 73 Geo. Wash. U.S. Rev. 429 (2005).....11, 12

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**COMCAST PHONE OF PENNSYLVANIA, LLC AND
COMCAST BUSINESS COMMUNICATIONS, LLC
REPLY BRIEF**

Comcast Phone of Pennsylvania, LLC d/b/a Comcast Digital Phone and Comcast Business Communications, LLC (collectively "Comcast") hereby submit their Reply Brief in the above-captioned matter.

INTRODUCTION

The Rural Local Exchange Carriers ("RLECs")¹ argue that their current intrastate switched access rates are just and reasonable, and they cannot offer reasonably priced local exchange service or meet their Carrier of Last Resort ("COLR") obligations without continuing to receive subsidies from their competitors in the form of intrastate switched access charges and Pa-USF transfer payments. The RLECs' positions overlook the law and the facts. For example, the RLECs disregard governing Pennsylvania statute and long-standing policy that a determination of just and reasonable rates in the past does not limit the Commission's authority to reform access charges on a going-forward basis. In addition, the RLECs ignore long-standing Pennsylvania policy to reduce incumbent carriers' dependence on switched access charges for implicit subsidies.

The evidence Comcast offers also clearly demonstrates why the Commission should not accept the RLECs' assertions. First, the RLECs' intrastate access charges are unrelated to the cost of access service or the purported high cost of serving rural Pennsylvania territory. Second, the RLECs' intrastate access charges are exponentially higher than the prices for equivalent interstate termination services. Third, the RLECs derive substantial and growing revenues from unregulated services that use the subsidized local loop along with local and access service, yet the RLECs claim that their only revenue sources to offset reduced access charges are from local exchange service or the Pa-USF.

¹ The United Telephone Company of Pennsylvania, LLC d/b/a CenturyLink ("CenturyLink") and the Pennsylvania Telephone Association ("PTA").

These facts are in stark contrast to the RLECs' unsubstantiated positions, and confirm that reform is necessary now to effectuate the Commission's long-standing policy to reduce incumbent local carriers' dependence on switched access service revenues.

ARGUMENT

Comcast will respond to issues raised in the initial round of briefing in an order corresponding to the initial briefing outline.

I. STATEMENT OF QUESTIONS AND SUMMARY OF POSITIONS

Comcast incorporates by reference the discussion under Section I in its Initial Brief and adds the following, additional comments.

- **Burden of Proof** Comcast adopts and endorses the burden of proof analyses supplied by AT&T, Qwest, Sprint and Verizon as further cited below. The RLECs bear the burden to prove that their current intrastate access charges are just and reasonable and should not be reduced by the Commission.

- **General Legal Issues**

Comcast has not developed its own Proposed Findings of Fact or Conclusions of Law. Comcast would accept the Proposed Findings of Fact or Conclusions of Law proffered by AT&T, Sprint or Verizon, or a combination thereof.

- A. Retroactivity of any Access Rate Reductions**

Comcast does not contend that the RLECs should be directed to refund intrastate access charges on a retroactive basis.

B. Compliance

Comcast believes that the RLECs should be directed to comply concurrently with any Commission determination to lower their intrastate access charges, and Comcast recommends that the Commission direct the RLECs to reissue relevant tariff pages with an effective date identical to the effective date for the Commission's final order reducing their intrastate access charges.

II. FACTUAL AND LEGAL BACKGROUND

Comcast incorporates by reference the Factual and Legal Background included in its Initial Brief at pages 3-4.

III. BURDEN OF PROOF

Comcast adopts and endorses the burden of proof analyses supplied by AT&T,² Qwest,³ Sprint⁴ and Verizon.⁵ The RLECs bear the burden to prove that their current intrastate access charges are just and reasonable and should not be reduced by the Commission.

IV. SHOULD RLECS' INTRASTATE SWITCHED ACCESS RATES BE REDUCED?

As recently reiterated by the Commonwealth Court, the Commission has a "longstanding and well-litigated policy to reduce switched access rates" that dates back at least to 1999.⁶ The purpose underlying this policy is to replace the system of implicit subsidies embedded in incumbent LECs' intrastate switched access charges with "explicit and sufficient" support mechanisms to attain

² AT&T Communications of Pennsylvania, LLC, TCG Pittsburgh, and TCG New Jersey (collectively "AT&T") Main Brief at 16-17.

³ Qwest Communications Company LLC ("Qwest") Main Brief at 3-4.

⁴ Sprint Communications Company L.P., Sprint Spectrum, L.P., and Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. (collectively "Sprint") Main Brief at 21-22.

⁵ Verizon Main Brief at 9-10.

⁶ *Buffalo Valley Tel. v. Pa. PUC*, 990 A.2d 67, 89 (2009).

universal service in a competitive environment.⁷ The RLECs have partnered with the Commission to implement this policy, agreeing in 2003 the Commission “should take steps toward implementing access and toll rate reform and begin addressing subsidy levels now.”⁸ In 2004 the Commonwealth Court approved the Commission’s decision to phase down RLEC access charges, “to a degree now, and then further, pursuant to a future proceeding.”⁹

The Commonwealth Court’s summation of Commission policy,¹⁰ RLEC acquiescence to that policy and the certainty of future proceedings arising from the policy is illuminative in at least two respects. First, as the court implies, the RLECs have had actual notice of future reductions in their intrastate access charges for a decade. Second, and despite their protestations in this case, the RLECs have taken full advantage of this notice, using the intervening period to modernize their networks and diversify their revenue sources.¹¹ The RLECs have become larger, more sophisticated and consolidated within their ranks to meet the new competitive landscape.¹² In short, the RLECs are in good financial and technological shape at present implement further access charge reforms. One is tempted to ask with respect to access charge reform, if not now, when? When will the RLECs be better positioned to fulfill the long awaited access reform promises they have made? The record in this case shows clearly there is no reason to wait any longer.

⁷ *Id.*

⁸ *Id.*, citing *Access Charge Investigation per Global Order of September 30, 1999*, Docket No. M-00021596 (Opinion and Order entered July 15, 2003).

⁹ *Id.*, citing *Bell Atlantic-Pa, Inc. v. Pa. PUC*, 763 A.2d 440, 480 (Pa. Cmwlth. 2000), vacated in part on other grounds, *MCI Worldwide, Inc. v. Pennsylvania Public Utility Commission*, 577 Pa. 294, 844 A.2d 1239 (2004).

¹⁰ Order, *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund*, Docket No. I-0040105 at 19 (Aug. 5, 2009) (“It has been, and continues to be the intention of this Commission . . . to gradually lower intrastate access charges so as to allow for greater competition in the intrastate and interexchange toll markets”).

¹¹ See, e.g., Comcast Statement I at 15-16. See also PTA Direct at 18; Sprint Main Brief at 51-55.

¹² AT&T Statement 1.0 at 61-65.

Viewed against this history, the RLECs' insistence that their current intrastate access charges are "not discriminatory,"¹³ or that they are "just and reasonable,"¹⁴ or that other parties have yet to point to a statute, rule or order supporting further access charge reforms, or that the Commission is not "required" to reduce RLEC access charges¹⁵ rings hollow.¹⁶ Obviously the Commission can (and should) further reduce RLEC access charges for the facts and reasons that Comcast and other interexchange carriers have put forth in this phase of this proceeding. The authority the Commission needs to proceed is contained in Section 3017(a): "The commission may not require a local exchange telecommunications company to reduce access rates except on a revenue-neutral basis."¹⁷ Explicit in that subsection is the full authority to require a local exchange telecommunications company to reduce access charges. Any other reading of Section 3017(a) would lead to an absurd result.

1. CenturyLink's Criticisms of Dr. Pelcovits' Regression Analyses Are Superficial and Wrong

CenturyLink's initial brief repeats the mistaken criticism that Dr. Pelcovits's regression analyses are "meaningless."¹⁸ CenturyLink's argument on brief was undercut at hearing by CenturyLink's own witness, Mr. Lindsey, who first agreed on the stand that Dr. Pelcovits examined

¹³ PTA Main Brief at 29.

¹⁴ *Id.* at 30-32. *See also* CenturyLink Main Brief at 18-19.

¹⁵ CenturyLink Main Brief at 20.

¹⁶ Similarly, the RLECs' concern with the emergence of competition in their territories (*see, e.g.*, CenturyLink Main Brief at 33) is simply out of step with the policies and laws of the Commonwealth of Pennsylvania. The RLECs' preoccupation with the size of the interexchange carrier parties in these consolidated proceedings also is irrelevant and puzzling. The size of any purchaser of RLEC monopoly access service has no bearing on the non-traffic sensitive costs or subsidies included in the RLECs' intrastate switched access charges. Moreover, once CenturyLink completes its purchase of Qwest the resulting conglomerate will be larger than Comcast. *See Applications filed by Qwest Communications International Inc. and CenturyTel Inc., d/b/a CenturyLink for Consent to Transfer of Control, Public Notice*, WC Docket No. 10-110 (rel. May 28, 2010) (http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-993A1.doc.)

¹⁷ 66 Pa.C.S.A. § 3017(a).

¹⁸ CenturyLink Main Brief at 44.

whether setting intrastate switched access rates at parity with interstate switched access rates would lead to a local rate impact that was correlated with density.¹⁹ As Mr. Lindsey testified, Dr. Pelcovits's regression analyses examined any correlation between "displaced switched access from proposed rate reductions on the local rates." Mr. Lindsey went on to add ". . . I think all parties agree that that's the case, there is little correlation."²⁰ In short, CenturyLink's witness agreed with Dr. Pelcovits that there is little or no correlation between setting intrastate access rates at parity and a local rate impact correlated with density.

CenturyLink's Mr. Lindsey went even further, conceding on the stand that, even though CenturyLink's "rebuttal" regression analysis showed a high correlation between cost and density, if access rates are not correlated with density, access rates cannot be correlated with cost.²¹ This is the other point of Dr. Pelcovits' testimony: The RLECs' current intrastate access rates are in no way related to the primary justification offered up to sustain the current access subsidy regime, *i.e.*, that the rates implicitly offset the cost of serving less dense areas. Absent that causal justification, the RLECs' current intrastate access rates (along with their Pa-USF receipts) are no more than an unsubstantiated transfer payment from interexchange carriers to the RLECs.

Finally, CenturyLink's attempt on brief to suggest that Dr. Pelcovits only "claimed" to have undertaken multiple regression analyses²² also was entirely undercut by Mr. Lindsey at hearing: "He [Dr. Pelcovits] had run several regressions. . . I do know his workpapers had multiples."²³ CenturyLink's briefing implication that Dr. Pelcovits only ran a single regression analysis, and only "claimed" to have undertaken others, is flatly wrong, as CenturyLink's own witness concedes.

¹⁹ Tr. 399.

²⁰ Tr. 398.

²¹ Tr. 401-402.

²² CenturyLink Main Brief at 37.

²³ Tr. 398.

For all these reasons, the Commission should reject CenturyLink's unfounded and specifically rebutted criticisms of Dr. Pelcovits' regression analyses. These analyses demonstrate that there is no correlation between the impact on local rates of setting intrastate switched access rates at parity with interstate switched access rates and density, and that therefore the RLECs' current access rate overcharges cannot be correlated with cost. Dr. Pelcovits performed (and supplied the results of) multiple regression analyses to support these observations. His ultimate point—that the RLECs' main justification for maintaining the current access charge regime, density, is unsupported by the evidence—remains valid and unrefuted.

2. PTA Misstates Dr. Pelcovits's Testimony Regarding Market Power

At page 39 of its opening brief, PTA argues that Comcast has exaggerated the position of the RLECs as carriers with “substantial market power.”²⁴ Presumably PTA refers to the following statement from Dr. Pelcovits' Rebuttal Testimony: “Consumers benefit when prices are aligned with cost, rather than being set by a carrier with substantial market power.”²⁵ There are two types of market power the RLECs enjoy that are relevant to access. First, there can be no doubt that the RLECs enjoy *absolute* market power with respect to the provision of switched access service—a non-competitive “protected service” under 66 Pa.C.S.A. §§ 3011(3) and 3012—to their end user customers.²⁶ Indeed, such service is a bottleneck monopoly resulting from the lack of any relationship between the end user and the terminating carrier. When an interexchange carrier transports a call for termination by a Pennsylvania RLEC to that RLEC's end user customer, the interexchange carrier has no market alternative to the RLEC for such termination service, and the end user has no reason to care

²⁴ PTA Main Brief at 39.

²⁵ Comcast Statement 1-R at 11.

²⁶ See, e.g., *In the Matter of Developing a Unified Inter-carrier Compensation Regime*, 20 FCC Rcd 4685, ¶¶ 24, 34 (2005) (reiterating the problem of “terminating access monopolies”); *In the Matters of AT&T Corp., v. Business Telecom, Inc., Sprint Communications Company, L.P., v. Business Telecom, Inc.*, 16 FCC Rcd 12312, ¶ 26 (2001) (“Once an end user decides to take service from a particular LEC, that LEC controls an essential component of the wireline system that provides interexchange calls, and it becomes a bottleneck for IXCs wishing to complete calls to, or carry calls from, that end user.”)

how high these charges are set.²⁷ While the RLECs are beginning to experience competition (in fulfillment of the policies of the General Assembly and the Commission), there is no evidence in the record of this case that they do not still enjoy “substantial market power” as commonly understood (*i.e.*, the ability of a firm to alter the market price of a good or service) with respect to terminating access service. Indeed, Comcast is not aware that any RLEC has petitioned to remove access as a protected, non-competitive service pursuant to Chapter 30.

In any event, PTA conflates two distinct concepts from Dr. Pelcovits’ rebuttal testimony. In the first instance, as noted above, Dr. Pelcovits observed that the RLECs maintain substantial market power with respect to terminating access service. Some pages later, Dr. Pelcovits noted that “the *toll* market and the market for *bundles* are workably competitive”²⁸, and of course these markets are entirely different from the access market. Thus, Dr. Pelcovits rightly concluded that the inquiry into “pass through,” *i.e.*, flowing through access charge reductions in the form of lower toll rates, was a red herring, since

the toll carriers’ rates are constrained to cost-based levels. Hence, if the cost of providing toll service falls due to a decrease in access charges, then the toll rates will flow through the benefits of the access charge reduction to customers.²⁹

Whether or not the Commission chooses to accept the economic maxim shared by Dr. Pelcovits regarding flow throughs and working markets, the Commission should understand that Dr. Pelcovits did not premise the validity of that maxim on the RLECs’ substantial market power for access. PTA did, wrongly.

²⁷ *Id.* See also Comcast Statement 1 at 11.

²⁸ *Id.* at 14 (emphases added).

²⁹ *Id.* Dr. Pelcovits’s observations also entirely rebut CenturyLink’s claim that “Access reductions will not cause competition to increase and will not provide any net measureable consumer benefits.” CenturyLink Main Brief at 22; see also *id.* at 24-28. The toll market is competitive, and if the cost of providing toll falls, toll providers will correspondingly flow through such benefits.

The Commission should ignore PTA's attempt to discredit Dr. Pelcovits and instead determine that the RLECs enjoy substantial market power in the provision of intrastate switched access service. Separately the Commission should determine that because the toll market and market for bundles are competitive, the issue of a strict pass through of access charge reductions is moot.

V. IF THE RLECS' INTRASTATE SWITCHED ACCESS RATES SHOULD BE REDUCED, TO WHAT LEVEL SHOULD THEY BE REDUCED AND WHEN?

A. Rate Levels

Comcast incorporates by reference the discussion under Section V.A in its Initial Brief.

B. Timing

Comcast incorporates by reference the discussion under Section V.B in its Initial Brief.

VI. IF THE RLECS' INTRASTATE SWITCHED ACCESS RATES SHOULD BE REDUCED, HOW SHOULD ANY REVENUE REDUCTIONS BE RECOVERED IN COMPLIANCE WITH 66 Pa.C.S.A. 3017?

A. Meaning of the Revenue Neutrality Requirement under 3017

PTA makes the claim in its initial brief that "basic local service rates and the PA USF are the only practical sources available to insure revenue neutrality."³⁰ PTA further argues that, "the regulatory body may consider only revenues from the services within its jurisdiction."³¹ PTA concludes, "the revenues from competitive services reflect the compensation due to the firm for the risks of a competitive business and cannot be treated as 'compensation' for lower regulated rates set by the regulator."³² PTA's authorities for these propositions, in order, are: none; a 1930 decision

³⁰ PTA Main Brief at 49. CenturyLink takes the same position: "The Commission can rebalance access rate reductions through local rates and other rates (*e.g.*, noncompetitive services) contained in a local exchange telecommunications company's alternative regulation plan if the facts and circumstances so allow." CenturyLink Main Brief at 51.

³¹ *Id.* at 51.

³² *Id.*

addressing jurisdictional separations for the original AT&T system; and a law review article. Comcast will address each proposition in turn.

Dr. Pelcovits established in the prior phase of these proceedings that the RLECs have diversified into unregulated services which are sold in Pennsylvania and typically use the same facilities as local service and access service.³³ Thus, just as the RLECs have taken up the opportunity to sell unregulated services over joint and common facilities (largely financed through regulated rates), the Commission can fairly consider whether revenues from those unregulated services contribute to revenue neutrality under Section 3017(a):

The question of whether a subsidy needs to be provided to the carrier serving a high-cost area also cannot be answered on a service-by-service basis. For example, the revenues from local exchange service alone may be insufficient to cover the cost of a stand-alone local exchange service in a high-cost area. Nevertheless, it cannot be said that the local exchange service is being subsidized, or that the carrier requires a subsidy to continue providing service to customers in that high-cost area. Rather, the needs test for the subsidy . . . should examine the entirety of the revenue opportunities available to the ILEC.³⁴

In short, the Commission should not limit its consideration of revenue neutrality to regulated services because the RLECs as rational economic actors do not run their diversified businesses in such a fashion.³⁵

The 1930 Supreme Court decision upon which PTA relies is inapposite. In that case the Court decided, *inter alia*, that a federal district court erred when, on appeal from a state commission rate case decision, it adjusted Illinois Bell's intrastate ratebase downward (essentially shifting costs to interstate accounts) on the theory that Illinois Bell's affiliates' profitable interstate rates could cover what theretofore had been intrastate costs.³⁶ The Supreme Court determined that by ignoring any distinction between intrastate and interstate operations, the district court unlawfully regulated

³³ Comcast Statement 1.0-S (Direct Testimony of Michael D. Pelcovits), Docket No. I-00040105, at 12-17.

³⁴ *Id.* at 16-17.

³⁵ For example, CenturyLink does not separately account for non-competitive service revenues. Tr. 380.

³⁶ *Smith v. Ill. Bell Tel. Co.*, 282 U.S. 133, 148 (1930) (hereinafter *Smith*).

interstate rates, over which neither the Illinois Commission nor by extension the district court had jurisdiction.³⁷ In this case no party has proposed that the Commission adjust the RLECs' ratebases (not that such a regulatory concept is relevant anymore for the RLECs under alternative regulation) to shift costs to interstate accounts, ignore the distinction between intrastate and interstate operations or regulate interstate rates. Rather, parties including Comcast simply have urged the Commission to consider whether Section 3017(a) empowers the Commission to recognize unregulated service revenues in the calculation of revenue neutrality. A plain reading of the statute suggests the Commission does have such authority.

A better factual analogy than the 80-year old division of monopoly rents relied upon by PTA is the Commission's modern treatment of Yellow Pages revenues earned by small LECs. The prices charged by RLECs for Yellow Pages services and advertisements are detariffed, and thus not subject to regulation or oversight by the Commission.³⁸ Yet, consistent with Commission precedent regarding small LECs dating back at least until 1995,³⁹

when a service such as the Yellow Pages operation requires utilization of public utility facilities and is an adjunct to the provision of telephone services, then its operations fall within the context of Commission jurisdiction. [Even though] the Commission may detariff a telecommunications service ancillary to regulated services, [that] does not render this Commission without jurisdiction to examine expenses *and revenues* associated with that service when it utilizes ratepayer supported property.⁴⁰

Finally, the law review article cited by PTA, while obviously not binding authority, is only superficially relevant to consideration of revenue neutrality under Section 3017(a). The article asks whether a deficiency in a regulated rate offset by a recognition of unregulated revenues constitutes an

³⁷ *Id.* at 148-149.

³⁸ 66 Pa.C.S.A. § 3012. *See also* Tr. 557.

³⁹ Re: *Implementation of Chapter 30 of the Public Utility Code; Streamlined Form of Regulation*, Docket No. M-00930483, 1995 Pa. PUC LEXIS 58, *52 ("the revenues from such services will be treated 'above the line' for regulatory accounting and ratemaking treatment purposes").

⁴⁰ *Donnelly Directory v. The Bell Telephone Company of Pennsylvania*, 66 Pa. PUC 376 (1988) (emphasis added). The *Smith* decision reinforces that a regulator should not ignore altogether actual uses to which regulated property is put.

impermissible taking.⁴¹ A similar sentiment was expressed in the *Smith* case. Here, presuming the Commission further reduces RLEC access charges, there will be no “deficiency” giving rise to a takings claim for the simple reason that what is being removed from access prices are *subsidies* for local service, not true *costs* of access service. Comcast is unaware of any authority suggesting that a state commission cannot shift subsidies among services that use ratepayer supported facilities owing to takings concerns. So long as the Commission provides the RLECs with a reasonable opportunity⁴² to recoup those subsidies elsewhere (*e.g.*, from noncompetitive services and/or from competitive services that use joint and common facilities), there would be no “taking” under Section 3017(a).

B. Rate Increases

Comcast incorporates by reference the discussion under Section VI.B in its Initial Brief.

C. Pennsylvania USF

The evidence developed in this proceeding is overwhelmingly in favor of further and immediate access charge reductions for the RLECs. Those reductions should not be held hostage by necessary reforms to the Pa-USF, as so identified by Judge Colwell.⁴³ The Commission thus should move immediately to order access charge reductions while concurrently launching a new proceeding to determine the specific changes needed to effectuate reforms to the Pa-USF.⁴⁴

⁴¹ *Barr, et al.*, “The Gild That Is Killing The Lily,” 73 *Geo. Wash. U.S. Rev.* 429, 461-62 (2005).

⁴² PTA refers to a “realistic opportunity” for revenue neutrality. PTA Main Brief at 49. CenturyLink refers to a “realizable revenue-neutral recovery”. CenturyLink Main Brief at 53.

⁴³ Recommended Decision, *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund*, Docket No. I-00040105, at 88-89 (July 22, 2009).

⁴⁴ *Id.* at 91, 93. In this regard, Comcast notes CenturyLink counts DSL broadband lines as access lines for the purposes of federal USF and the count of carrier charge lines. Tr. 381. Inclusion of DSL access in USF calculations would appear to contravene at least the intent of such programs to offset a portion of the high cost of telecommunications service.

VII. GENERAL LEGAL ISSUES

A. Retroactivity of any Access Rate Reductions

Comcast does not contend that the RLECs should be directed to refund intrastate access charges on a retroactive basis.

B. Compliance

Comcast believes that the RLECs should be directed to comply concurrently with any Commission determination to lower their intrastate access charges, and Comcast recommends that the Commission direct the RLECs to reissue relevant tariff pages with an effective date identical to the effective date for the Commission's final order reducing their intrastate access charges.

VIII. CONCLUSION

The Commission's long-standing policy is to reduce incumbent LEC access charges by removing historical subsidies embedded in such access charges. The RLECs have been willing participants in the development and execution of this policy. The RLECs have had 10 years to ready themselves for further access charge reform and resulting competition. The RLECs are well positioned to accommodate both. CenturyLink's criticisms of Dr. Pelcovits's regression analyses are unavailing and undercut by its own witness's live testimony in this case. PTA's observations regarding RLEC market power and revenue neutrality under Section 3017(a) are misplaced and wrong as regards issues of fact and matters of law. The Commission should now proceed to reform access charges as suggested by Comcast and others, and move to the next phase of the process, Pa-USF reform.

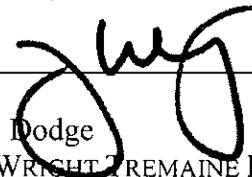
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**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

June 3, 2010

Respectfully submitted,



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CERTIFICATE OF SERVICE

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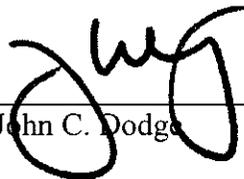
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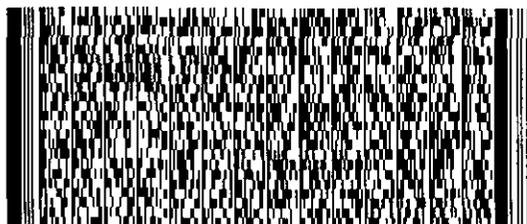
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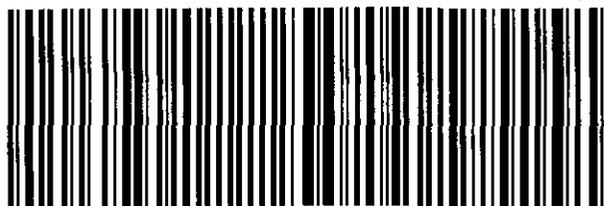


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