

STEVENS & LEE
LAWYERS & CONSULTANTS

17 North Second Street
16th Floor
Harrisburg, PA 17101
(717) 234-1090 Fax (717) 234-1099
www.stevenslee.com

Direct Dial: (717) 255-7365
Email: mag@stevenslee.com
Direct Fax: (610) 988-0852

September 2, 2010

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd 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 et al v. Armstrong Telephone Company – Pennsylvania, et al; Docket Nos. C-2009 – 2098380 et al

Dear Secretary Chiavetta:

Enclosed for filing, please find Sprint's Exceptions in the above-captioned matter, which were electronically filed today.

Copies of the Exceptions have been served in accordance with the Certificate of Service. Thank you and please contact me if you have any questions.

Best regards,

STEVENS & LEE


Michael A. Gruin

Enclosures

cc: Hon. Kandace Melillo, ALJ
Certificate of Service

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A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

SPRINT'S EXCEPTIONS TO RECOMMENDED DECISION

Michael Gruin, Esquire
PA ID No. 78625
Stevens & Lee
17 North Second Street, 16th Floor
Harrisburg, PA 17101
717-255-7365
mag@stevenslee.com

Benjamin J. Aron (Admitted Pro Hac Vice)
Sprint Nextel Corporation, Government Affairs
2001 Edmund Halley Drive, Room 208
Reston, Virginia 20191
Tel: (703) 592-7618
Fax: (703) 592-7404
Email: benjamin.aron@sprint.com

September 2, 2010

Introduction

In accordance with 52 Pa. Code § 5.533, Sprint Communications Company L.P., Sprint Spectrum, L.P., and Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. (collectively “Sprint” or “Sprint Nextel”), hereby submit their Exceptions to the Recommended Decision (“RD”) of Administrative Law Judge Melillo (“ALJ Melillo”) in the Pennsylvania Public Utility Commission’s (“Commission”) *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund*, Docket No. I-00040105 *et al.* Initially, Sprint would like to recognize the effort, earnestness, fairness, and wisdom ALJ Melillo exhibited in presiding over the instant docket. The record before ALJ Melillo was voluminous, and at least eight unique reform proposals were advocated by the various parties. A review of the RD makes clear that ALJ Melillo exhaustively reviewed and fully comprehended each party’s proposals, evidence and arguments. Sprint thanks and commends ALJ Melillo for her efforts in this complex docket.

While Sprint recognizes and respects ALJ Melillo’s work in this docket, Sprint does not in all instances agree with the conclusions and recommendations contained in the RD. There are a number of instances where Sprint fundamentally disagrees with ALJ Melillo’s conclusions regarding arguments tendered by Sprint or other parties. Nevertheless, ALJ Melillo accurately concluded that Rural Local Exchange Carrier (“RLEC”) switched access rates are unjust, unreasonable and in need of reform, and Sprint will refrain from taking exception to each of the individual conclusions with which it disagrees insofar as the ALJ Melillo’s overall conclusion regarding the appropriate level of RLEC switched access rates was appropriately decided.

What Sprint will take exception to however, is the RD's overlong-timeframe for implementation of intrastate switched access reform and the potentially problematic conclusion regarding a reasonable rate for basic local exchange service ("BLES"). As explained below, that the record amply establishes that the recommended implementation timeline is overlong and the conclusion that a reasonable BLES rate is a mere \$23 is overly conservative.

Exception No. 1: The Recommended Schedule for Access Reform Is Unnecessarily Long.

The RD recommends "[p]hasing-in access charge reductions and associated rate rebalancing over a period of 2-4 years to avoid "flash-cuts" and customer rate shock, provide for adequate notice, and allow RLEC business plan revisions, and coordinate the rebalancing with a rulemaking that will consider targeted assistance to customers rather than companies."¹ But, as recognized by the Commission earlier this year, "an entire decade has passed since the Commission began reforming access charges in the *Global Order* and many of the same areas of concern may still persist. This Commission cannot forgo such an opportunity to effectuate industry-wide access reform any longer."² Sprint concurs with the Commission that it must not miss the opportunity to reform switched access rates. Neither should the Commission adopt a reform proposal that proposes an access reform schedule in excess of the maximum of two years advocated by Sprint in its Main Brief.³ Preferably, access reform should be instituted *immediately*.

¹ R.D. at 153 (Conclusion of Law No. 40)

² Opinion and Order, *AT&T Communications of Pennsylvania, Inc. v. Verizon North Inc. and Verizon Pennsylvania Inc.*, Docket No. C-20027195, at p. 19 (May 11, 2010).

³ See Sprint Main Brief at p. 67.

The market distortions which injure consumers and are caused by inflated switched access rates are well established on the record. Included in the Findings of Fact are the following:

- Inflated switched access rates deny consumers the benefits of competition. (Finding of Fact No. 10).
- Consumers are harmed when the prices for competing services are inflated by elevated access rates. (Finding of Fact No. 16).
- While the present system of high access charges is both competitively harmful and unsustainable, reductions in access charges will be beneficial to consumers. (Finding of Fact No. 20).
- Reductions in access costs will lead to lower long-distance rates. (Finding of Fact No. 21).

Even ignoring all other elements of the RD, it is obvious from the foregoing that all Pennsylvania consumers are presently being injured by high access rates.

The record also establishes that the RLECs can accomplish access reductions without undue consequences. In this regard, the record establishes the following:

- There is no difference, save jurisdiction alone, between intrastate and interstate switched access and the network functionality for both is identical. (Finding of Fact No. 17).
- Interstate switched access rates cover the cost of providing switched access and provide a reasonable return on investment. (Finding of Fact No. 30).
- If intrastate switched access rates are set at parity with interstate access rates, intrastate switched access rates will still cover costs and continue to provide a contribution to the local loop. (Finding of Fact No. 31).
- All RLECs can rebalance their rates if they approach the task with optimum rate design as the goal; and no RLEC has attempted to suggest redesigned rates that minimize the impact on residential customers. (Findings of Fact Nos. 57-58).

Taking the foregoing into account it is clear that consumers are presently injured by high access rates and those injuries will continue for years under the recommended reform schedule. It is also clear that the companies that are – via their inflated switched access rates – inflicting this injury on consumers throughout the state will remain fully compensated for the facilities used for switched access even at the rate level reached only after several years of rate reform. Given that the RLECs will at all times continue to make a profit on switched access, the only question is whether the RLECs will elect to shift the subsidies contained in switched access to their own consumers once they are precluded from saddling their competitors with that burden.

The RLECs reap profits from a panoply of services provided over the local network.⁴ Indeed, the RLECs have few customers that exclusively purchase BLES, as most RLEC customers today purchase BLES in a bundle with other telephonic or non-telephonic services. The majority of RLEC consumers spend more on RLEC provided services today than they will for BLES at the end of the recommended rate reform period. Similarly, with many more revenue sources than they had at the time that access rates were established, RLECs themselves may not be dramatically impacted by access reductions.

Exception No. 2: The Record Establishes that a Reasonable BLES Rate is in Excess of the Level Described in the RD.

Among the Conclusions of Law reached in the RD is that “[a]n appropriate residential affordability rate ... is \$23.”⁵ Sprint contends that an affordability rate that is unnecessarily low could serve as an unintended impediment to full interstate mirroring. Thus, overly conservative estimates should be rejected. The record establishes that a \$23

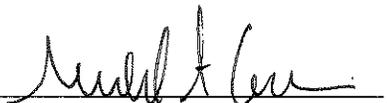
⁴ R.D. at 64-65. *See also* Sprint Main Brief at pp. 52-56

⁵ R.D. at 152 (Conclusion of Law No. 36)

affordability rate is demonstrably over-conservative. Record evidence indicates that the national average expenditure for telephone services for rural households is 2.62%, or \$86.50 per month.⁶ In light of such evidence, it can hardly be ignored that rates well in excess of \$23 per month are affordable rates for RLEC customers. Accordingly, the Commission should reject the overly conservative \$23 per month affordability level.

Conclusion

The RD reaches many accurate, important conclusions and represents an important step forwards in access reform. Unfortunately, access reform has been long-delayed, and on account of this, Sprint opposes any unduly long implementation schedule. Additionally, Sprint cautions the Commission that it should not without careful consideration accept and affordability level that if set unnecessarily low, may later impede implementation of interstate mirroring.


Michael Gruin, Esquire
PA ID No. 78625
Stevens & Lee
17 North Second Street, 16th Floor
Harrisburg, PA 17101
717-255-7365
mag@stevenslee.com

Benjamin J. Aron (Admitted Pro Hac Vice)
Sprint Nextel Corporation, Government Affairs
2001 Edmund Halley Drive, Room 208
Reston, Virginia 20191
Tel: (703) 592-7618
Fax: (703) 592-7404
Email: benjamin.aron@sprint.com

⁶ See Verizon Statement 1.0, Price Rebuttal, Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund – Phase I, at p. 24-27.

**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 :

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

Armstrong Telephone Company - :
Pennsylvania, et al. :
Respondents :

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Exceptions upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 and 1.55, via electronic mail and first class US Mail.

Norman J. Kennard, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
Harrisburg, PA 17108
nkennard@thomaslonglaw.com

Joel Cheskis, Esquire
Darryl Lawrence, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923
jcheskis@paoca.org

Suzan D. Paiva, Esquire
Verizon
1717 Arch Street
Philadelphia PA 19103
Suzan.D.Paiva@Verizon.com

Zsuzanna Benedek, Esquire
The United Telephone Company of PA,
LLC d/b/a CenturyLink
240 North Third Street, Suite 201
Harrisburg, PA 17101
Sue.Benedek@centurylink.com

Bradford M. Stern, Esquire
Martin C. Rothfelder, Esquire
Rothfelder Stern, L.L.C.
625 Central Avenue
Westfield, NJ 07090
bmstern@rothfelderstern.com

Steven C. Gray, Esquire
Office of Small Business Advocate
300 North 2nd St, Suite 1102
Harrisburg, PA 17101
sgray@state.pa.us

Christopher M. Arfaa, Esquire
Christopher M. Arfaa, P.C.
150 N. Radnor Chester Road, Suite F-200
Radnor, PA 19087-5245
carfaa@arfaalaw.com

Michelle Painter, Esquire
Painter Law Firm, PLLC
13017 Dunhill Drive
Fairfax, VA 22030
painterlawfirm@verizon.net

Pamela C. Polacek, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
Harrisburg PA 17108-1166
PPOLACEK@MWN.COM

Allison C. Kaster, Esquire
Adeolu Bakare, Esquire
PA Public Utility Commission
Office of Trial Staff
PO Box 3265
Harrisburg, PA 17105
akaster@state.pa.us

Theresa Cavanaugh, Esquire
John Dodge, Esquire
Davis, Wright, Tremaine, LLP
1919 Pennsylvania Ave, NW
Suite 200
Washington, DC 20006
johndodge@dwt.com

John F. Povalitis, Esquire
Ryan, Russell, Ogden & Seltzer P.C.
800 North Third Street, Suite 101
Harrisburg, PA 17102-2025
mtotino@ryanrussell.com
jpovalitis@ryanrussell.com

Garnet Hanly, Esquire
T-Mobile
401 9th Street, NW
Suite 550
Washington, DC 20004
Garnet.hanly@t-mobile.com

September 2, 2010



Michael A. Gruin, Esq.