

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY EXCEPTIONS OF
THE UNITED TELEPHONE COMPANY OF PENNSYLVANIA LLC d/b/a
CENTURYLINK**

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Dated: September 17, 2010

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I. SUMMARY OF REPLY EXCEPTION

The telecommunications market in Pennsylvania is not the same as it was 10 years ago or even 5 years ago. Due to the changed telecommunications market, there is no logic or support for a Commission finding that significant reductions to switched access reductions today will cause significant reductions in long distance rates. Stand-alone long distance markets essentially no longer exist. AT&T and aligned parties are no longer “IXCs” battling for long distance customers. The days of a causal link between reducing switched access rates and promoting competition and lower rates are long gone. Even the FCC in the National Broadband Plan (“NBP”) is not relying upon the “competition benefit” points that the ALJ and other parties tout as reasons for RLEC access reductions. The NBP specifically recommends that the FCC should create a Connect America Fund to deliver universal service.¹ For AT&T and aligned parties, the end game they seek has nothing to do with rate or non-rate benefits to consumers in rural Pennsylvania or to competition. For these parties, this case is all about reducing their access expense without sharing any corresponding benefits to consumers in rural Pennsylvania.

Under the Recommended Decision (“RD” or “Decision”), rural Pennsylvanians would face significant rate increases and compromised COLR/universal service obligations for no net corresponding consumer benefits. In Exceptions, A&T and aligned parties simply seek that the Commission implement the Decision’s flawed mirroring and consumer rate increase recommendations even faster and with suggested “process” changes designed to make the significant consumer rate increases occur sooner. Implementing the flawed RD sooner is reckless. Doing so only serves to increase the access expense savings of the global, intermodal

¹ *FCC’s National Broadband Plan*, rel. March 17, 2010, Recommendation 8.2, “The FCC should create the Connect America Fund (CAF.)”, p. 145.

carriers participating in this case meanwhile rural Pennsylvanians are left with significant rate increases and the RLECs are left with unfunded regulatory and statutory mandates.

This Commission has already significantly reduced RLEC access rates. The General Assembly did not mandate specific access reductions in Act 183, but did expressly limit the Commission's ability to impose access reductions unless done on a revenue-neutral basis.² The Commission is not obligated to reduce RLEC switched access rates. Certainly, the Commission is not obligated to implement immediate reductions to RLEC access rates and immediate increases to consumer rates as recommended by Judge Melillo.

Existing RLEC switched access rates are just and reasonable because they are a critical part of a regulatory pricing compact that includes RLEC local rates (and other noncompetitive rates), RLEC switched access rates, and the PA USF (since the Commission's *Global Order*). Rural Pennsylvanians directly and tangibly benefit from this regulatory compact as they receive universal service at affordable local rates, receive safe and reliable service through RLECs' honoring of carrier-of-last-resort ("COLR") obligations, and are the recipients of significant infrastructure deployment requirements under Act 183. In order for parties to sustain their burden of going forward with evidence in this case, CenturyLink maintains that the proponents of RLEC access reductions must show net benefits to rural consumers in Pennsylvania. And, they have miserably failed to do so.³

In today's intermodal telecommunications marketplace, VoIP, wireless, and cable competitors, are strong and growing competitors in urban and suburban areas, in addition to rural town centers. However, competition remains elusive in many rural outlying areas. In these rural outlying areas, cable telephony is frequently not available, wireless services are less prevalent

² 66 Pa.C.S. §3017(a). CenturyLink fully addressed the application of the revenue neutral requirement in its briefs. CTL MB at pp. 20-21, 49-56; CTL RB at pp. 34-39.

³ See generally, CTL Ex. at pp. 52-56.

(and where they are they tend to offer less reliable service than in more populated areas), and VoIP services that rely on broadband availability are not as readily available. The competitors of the ILEC do not bear the burden of COLR obligations and tend to not serve the highest-cost customers in areas of low population density. High-cost areas or customers are the antithesis of high levels of competition. Meanwhile, competition in the rural town centers erodes the very implicit subsidy on which consumers of rural ILECs have depended to receive high quality, reliable communications services and rates comparable to urban consumers.

CenturyLink continues to abide by its broadband commitments under Act 183 and continues to faithfully honor COLR/universal service obligations. The RD and the Exceptions seeking to implement “immediately” a flawed RD must be rejected. As CenturyLink’s consumer survey and the record demonstrate, rebalancing the ALJ’s recommended access reductions on the backs of rural consumers works on paper but does not provide a realizable opportunity for revenue neutrality. And, immediate expense reductions to these diverse, global carriers who are not 100% invested in rural Pennsylvania is simply not in the public interest and significantly harms rural Pennsylvania.

CenturyLink maintains that switched access reductions for Pennsylvanian’s RLECs have not been demonstrated to be good public policy and are not appropriate at this time.⁴ The United States is in the one of the most difficult economic times. Steep consumer rate increases just to fund access expense savings of AT&T and aligned parties are just unconscionable. Moreover, as CenturyLink’s consumer survey demonstrates, increasing retail consumer rates further exacerbates cost recovery of COLR/universal service obligations – and thereby implicates constitutional confiscation issues – and sets into motion further upward pressure on retail rates of

⁴ For a discussion of the justness and reasonableness of RLEC switched access rates and the tangible and direct benefits inuring to rural consumers as a result of existing RLEC switched access see CenturyLink’s briefs. *See, e.g.*, CTL MB at pp. 16-39.

the consumers who remain with CenturyLink. Obviously, the Pennsylvania Universal Service Fund (“PA USF”) remains critical to any RLEC switched access reductions ordered by the Commission.

If the Commission determines to reduce RLEC switched access rates, then as CenturyLink witness Mr. Bonsick testified during cross examination, the remedy is found in recombining the access and the PA USF cases and carefully developing regulatory policy to ensure appropriate resources to satisfy COLR/universal service obligations in rural Pennsylvania so that no unfunded mandates result, to set a reasonable residential benchmark rate consistent with competitive market realities and the record, and to significantly rely upon the PA USF to meet revenue neutrality required by Section 3017(a).⁵ 66 Pa.C.S. §3017(a). Coordination with any activity at the FCC is also critical, rather than rushed implementation of a flawed Decision.

CenturyLink’s replies to the Exceptions of AT&T, Sprint, Verizon, OCA and OSBA are set forth below. The lack of a reply to a particular party or to a particular Exception, or portion thereof, should not be necessarily construed as agreement by CenturyLink to that party’s statements and positions.

II. CENTURYLINK REPLY EXCEPTIONS

A. REPLY TO AT&T AND SPRINT

1. AT&T Exception Nos. 1 and 2; Sprint No. 1 **The ALJ’s timeframe for consumer rate increases / access rate decreases**

Sprint and AT&T except to the ALJ’s 2-4 year phase-in of RLEC switched access reductions, seeking “immediate”⁶ implementation of the ALJ’s erroneous mirroring

⁵ Tr. at pp. 426-428. *See also*, CTL St. 3.1(Surrebuttal) at pp. 7-8.

⁶ *See, e.g.*, Sprint Ex. at p. 3.

recommendation. Immediate implementation of the RD means immediate increases to rural Pennsylvanians' telephone rates as recommended by the ALJ.

Rushed implementation of a wrong RD is not rational access reform, is not in the public interest, and only serves to immediately reduce AT&T's and Sprint's access expense. Each rationale offered by Sprint and AT&T is addressed below. The Commission should dismiss each claimed need for speed.⁷

a. ALJ's finding of "unjust and unreasonable" RLEC access rates does not require immediate implementation of the RD.

AT&T argues that the Code and the Legislature do not allow the Commission to knowingly charge unjust and unreasonable RLEC access rates for a prolonged transition period.⁸ The Commission is making policy decisions that involve intrastate switched access rates, local exchange rates, potentially other consumer rates, and the PA USF. Indeed, the Commission in the *Global Order* undertook a transition approach to implementing RLEC access reductions and associated retail rate increases, along with support from the then newly-created PA USF. AT&T's proposed remedy of speed ignores the complexity of the issues at play and wrongly seeks to implement sooner an already deeply flawed RD.

The ALJ's RD and the phase-in and process envisioned to implement the RD are unreasonable and flawed. CenturyLink objects to the ALJ's timeline and transition process.⁹ The problem with the ALJ's timeline and transition period is not remedied by immediate access reductions that will only harm consumers sooner and destroy COLR/universal service policy in Pennsylvania sooner. Rather, the remedy is rejection of the Decision's recommendations for

⁷ Both Verizon and OCA also seek various clarifications regarding the ALJ's \$23.00/monthly residential rate, as addressed by CenturyLink below.

⁸ AT&T Ex. at pp. 22-23. *See also*, Sprint Ex. at pp. 3-5.

⁹ *See*, CTL Ex. at pp. 60-61.

incomplete mirroring, to significantly increase consumer rates and to not rely upon the PA USF.¹⁰

The Commission is not just determining whether RLEC access rates are just and reasonable, the Commission is fashioning regulatory policy regarding COLR/universal service, the PA USF, and a reasonable retail residential rate benchmark. AT&T's rush for only that part that affects *it* persistently fails to recognize the complexity of the issues at play with any continued reform of RLEC switched access rates given today's intermodal telecommunications market. The myriad issues involved with RLEC switched access rate reductions require an analysis of risks and benefits.¹¹

In terms of the benefits, neither the ALJ nor AT&T/Sprint undertakes an analysis of consumer benefits as doing so would demonstrate rural Pennsylvanians are *not* on net benefitted by illusory promises of consumer benefits due to increased competition. Not in Pennsylvania and certainly not in rural Pennsylvania. AT&T and Sprint's claims that competition will somehow benefit consumers through rates benefits and non-rate benefits (e.g., new products and services) in rural Pennsylvania remain illusion and theory.¹² And, *de minimus* reductions to the in-state access fee of AT&T (and only AT&T) are not going to benefit rural Pennsylvania and, even if so, are woefully inadequate given the magnitude of consumer rate increases recommended by the ALJ.¹³

CenturyLink has also shown that RLEC switched access volumes are less than one third of one percent of AT&T's total long distance volumes.¹⁴ Therefore, reducing RLEC switched access rates will effectively produce no consumer benefits attributable to long distance rates.

¹⁰ *Id.*

¹¹ *See generally*, CTL MB at pp. 21-24.

¹² *See generally*, CTL Ex. at pp. 54.

¹³ CTL Ex. at pp. 52-56. *See also*, CTL MB at pp. 21-28.

¹⁴ CTL St. 1.1, Attachment A (2008 AT&T Local Switching Minutes of Use).

Rather, rural Pennsylvanians are directly and tangibly disadvantaged due to significant rate increases and additional upward pressure on local rates and noncompetitive rates just to fund access reductions of the magnitude recommended by the ALJ and sought to be implemented immediately by Sprint and AT&T. There are no net consumer benefits with the ALJ's recommended RLEC access reduction. The Commission need not immediately act to change RLEC intrastate switched access rates.

As to risks, the impact of the request for immediate reductions to an already flawed ALJ Decision serves to shift greater risk to rural Pennsylvania consumers. As CenturyLink's witnesses testified, rational reform of RLEC switched access rates means changing the way that high cost areas are supported in order to ensure that high quality communications services remain available, affordable, and comparable to similar services offered to consumers in lower-cost areas and that the historical, timeless commitment to universal service is maintained.¹⁵ As CenturyLink Panel Witnesses further explained:

Reform is not simply the reduction of access charges for the sake of cost savings to interexchange carrier; carriers that are not even actively pursuing the residential market anymore. And, reform certainly does not mean "squeezing the balloon" so that the support derived from one set of entities is lower while these parties and the Pennsylvania Public Utility Commission ("PA PUC" or "Commission") look the other way to avoid seeing the very predictable impact of reduced services, increased prices, and an increasingly jeopardized universal service policy. The impact of universal service and access policies on rural Pennsylvanians and the carriers who serve them is very real. If this balloon pops, it will be easy for all to look back in an ex post fashion and see that a one-sided decision in this proceeding contributed the end of universal service policy in the rural areas of Pennsylvania. . . . The proponents of immediate access reductions . . . do not in any way share or assume the risks of their proposals being wrong for rural Pennsylvanians. They present positions convenient to them and request that the rates they pay be reduced immediately providing rhetoric only on rebalancing as an alleged "opportunity." Yet, they have done no studies or analyses of the impact of their proposals and, notably,

¹⁵ CTL St. 1.1 at pp. 2-3.

whether their very own proposals are viable and sustainable in rural Pennsylvania.¹⁶

Thus, any continued reform must be a holistic solution that carefully considers each part of the equation – local rates, RLEC switched access rates, other noncompetitive rates, and the PA USF – rather than immediately reducing RLEC access rates only to reach a flawed RD result.

AT&T nonetheless alleges that the RD’s implementation schedule “leads to perverse and bizarre results” (AT&T Ex. at p. 30-31) and is inconsistent with the ALJ’s finding that RLEC rates are unjust and unreasonable.¹⁷ For the reasons set forth in CenturyLink’s Exceptions and herein, the errors in the ALJ’s implementation timeline are exacerbated rather than remedied by the allegedly implementing just and reasonable access rates “as soon as possible.”¹⁸ AT&T’s exceptions and Exhibit A are not an alternative to the RD, but are merely a regurgitation of AT&T’s misguided record positions. As CenturyLink’s consumer survey demonstrates, AT&T’s mirroring proposals and its request for immediate reductions to RLEC access rates are not an opportunity for revenue neutrality, but will result in *revenue decreases*.¹⁹ Section 3017(a) is not satisfied, unfunded regulatory mandates result, and consumers are left with retail rate increases that provide no direct, tangible net benefits to rural Pennsylvanians. The Commission should be extremely skeptical of AT&T’s thinly-veiled proposals and should promptly reject the same as these do no more than provide access expense reductions to AT&T and aligned parties at the expense of consumers and all other policy objectives.

Finally, AT&T’s reference to a 20-day implementation of access reductions in New Jersey for the three ILECs operating in that state is completely irrelevant.²⁰ The factual

¹⁶ *Id.*

¹⁷ *See also*, Sprint Ex. at pp. 3-4; AT&T Ex. at p. 41.

¹⁸ AT&T Ex. at pp. 33-35 and 22-24.

¹⁹ *See*, CTL Ex. at pp. 29-35.

²⁰ AT&T Ex. at p. 23.

circumstances and the regulatory compact in place in Pennsylvania to New Jersey are vastly different. CenturyLink's local residential rate in New Jersey was \$7.95/month from 1991 until 2008, when local residential were increased to \$10.95/month in 2008.²¹ In January 2010, as authorized by a settlement, CenturyLink's New Jersey sister affiliate increased the local residential rate to \$13.45 per month. The final allowed increase will raise residential local rates to \$15.45 per month – which is considerably lower than CenturyLink's current \$18.00/month residential rate in Pennsylvania. Certainly, the \$15.45/month residential rate in New Jersey is nowhere near ALJ Melillo's \$23.00/month recommended residential rate. AT&T's reliance upon New Jersey is completely inapposite.

b. Claims that competition and “competitors” are allegedly harmed are erroneous.

Both AT&T and Sprint make several similar claims to the effect that competition and competitors will be harmed if the Commission does not move quickly to reduce RLEC switched access rates and reject the ALJ's 2-4 year phase-in of access reductions.²² AT&T is dead wrong and self-servingly suggests this Commission only “focus on how to promptly eliminate the anti-competitive bloat” in RLEC access rates.²³

First, the Commission need not make “immediate” access rate reductions – or access rate reductions at all – because as the record demonstrates the Pennsylvania telecommunications marketplace of today no longer has the causal link between access reductions and price reductions or service enhancements. The days of Candice Bergen calling consumers to sell competitive long distance services are long gone. The “IXC” players participating in this case are no longer the same carriers that battled one another when a stand-alone product long distance

²¹ Tr. at pp. 470, 423-424.

²² See, e.g., AT&T Ex. at pp. 14, 29-30.

²³ AT&T Ex. at p. 30.

market existed.²⁴ Even the FCC in the NBP does not appear to be seeking to reduce intrastate switched access rates to interstate levels in order to promote competition.²⁵ The NBP specifically recommends that the FCC should create a Connect America Fund to deliver universal service.²⁶ Switched access rate reductions for Pennsylvania’s RLECs will simply reduce the expenses paid by Comcast, Verizon, AT&T and Sprint – all of which are Fortune 100 corporations and no longer the entities or carriers they were when the Commission in 1999 entered the *Global Order*. Today, there is no causal nexus between intrastate switched access rate reductions and alleged enhancement to competition.²⁷ Allegations of “market distortions”²⁸ or “inefficiencies” are no longer germane and must be rejected.²⁹

Second, the undisputed changes in the telecommunications marketplace require rejection of one-sided changes to regulatory policy as both the ALJ recommends and as AT&T and Sprint suggest. AT&T and aligned parties are not entitled to have only their issue in the regulatory compact addressed, particularly as they have proposed. So long as RLECs have costly COLR/universal service obligations and solely bear the costs of serving high-cost and less dense areas of the state, the competitive playing field is not level for RLECs.³⁰ Addressing the “access issue” without also holistically addressing the funding necessary to meet COLR/universal service obligations would result in lopsided and arbitrary policy making destined for failure both short term and long term. If the Commission is going to proceed with continued reform of RLEC

²⁴ CTL Ex. at pp. 35.

²⁵ Based upon CenturyLink’s review of the FCC’s Plan, the FCC’s overall aim for intercarrier compensation and other reform do not appear to be based upon the removal of subsidies to foster competition, but rather to the development of federal regulatory policy designed to further broadband development in the United States.

²⁶ *FCC’s National Broadband Plan*, rel. March 17, 2010, Recommendation 8.2, “The FCC should create the Connect America Fund (CAF.)”, p. 145.

²⁷ *See also*, CTL Ex. at pp. 19-22.

²⁸ Sprint Ex. at pp. 3-4. *See also*, AT&T Ex. at p. 15.

²⁹ *See generally*, CTL Ex. at pp. 19-25. *See also*, CTL MB at pp. 31-35.

³⁰ CTL Ex. at pp. 42-43, citing confidential cost information.

switched access rates, then that reform must holistically address COLR/universal service and revenue-neutral recovery through the PA USF.

Indeed, the PA USF remains even more critical today than in 1999. The request for speed to implement the ALJ's erroneous mirroring result leaves open serious ramifications. The request clearly is designed to saddle RLECs with unfunded regulatory mandates, and leave consumers in rural Pennsylvania with compromised COLR/universal telephone service at significantly increased retail rates. The result, in CenturyLink's view, is not consistent with the General Assembly's statements of policy and with the requirements of Act 183. The record fully supports a Commission finding that measured, comprehensive and rational reform is necessary and should be fashioned at a pace necessary to protect consumers and to promote the public interest, rather than to increase the pace of the access expense savings that will inure to AT&T and aligned parties.

Third, AT&T, Sprint, Verizon, and Comcast are not at a competitive disadvantage due to RLEC intrastate switched access rates. As the record shows, in terms of wireless market growth, the number of wireless subscribers in Pennsylvania has grown from fewer than 3 million in 1999 to nearly 10 million in 2008, an increase of more than 300%.³¹ Similarly, local service competition is flourishing in the dense areas of Pennsylvania and does not appear to suffer the effects of so-called market distortions. Removal of alleged "implicit subsidies" immediately and the mirroring of interstate rates are not necessary for competition in today's telecommunications market.

The Commission should not rush to re-price RLEC intrastate switched access based upon outdated and inapplicable notions that competitors and competition will be harmed. The

³¹ See, CTL Ex. at pp. 20-22.

Exceptions of AT&T and Sprint are contrary to marketplace realities and the record and should be dismissed.

c. Consumers will not be “harmed” by not having the “Benefits” of access reform sooner.

Sprint and AT&T contend that consumers are harmed and will not receive the claimed “benefits” of access reductions without immediately reducing access rates.³² The assertions are without merit and should be dismissed.

These claims are astonishing as neither AT&T nor Sprint demonstrated how consumers allegedly benefitted from prior access reductions or how rural Pennsylvanian’s will tangibly and directly benefit with additional RLEC switched access rate reductions.³³ In the record, Sprint, AT&T and Verizon (former MCI) could not identify any specific reductions that they ostensibly shared with Pennsylvania consumers as a result of prior Commission-imposed access reductions.³⁴ Unsupported claims of “trust us” or “just trust competition” remain hollow and meaningless assertions. As such, the alleged consumer’s benefits do not justify the ALJ’s mirroring result and now AT&T and Sprint’s request to implement a flawed Decision immediately.

Even if the Commission were to assume that somehow consumer benefits will flow from RLEC access reductions, there is no support in this record for the assumption made by AT&T and others (including the ALJ) that rural Pennsylvanians will benefit from access reductions in excess of the harms of significant rate increases and compromised regulatory policy. There is absolutely no commitment made in this record in terms of investment, products, or comparable rate reductions for rural Pennsylvanians who will see their local telephone rates and other rates

³² Sprint Ex. at pp. 4-5. AT&T Ex. at pp. 6, 13-16.

³³ See, CTL Ex. at pp. 52-56. See also, CTL MB at pp. 24-28.

³⁴ In the Commission’s July 2003 Order approving the RLEC Access Settlement, the Commission at ordering paragraph 8, required that IXCs flow through access reductions on a dollar-for-dollar basis. CTL MB at p. 26-27.

skyrocket merely to fund the ALJ's recommended access rate reductions. As addressed CenturyLink's briefs, claims of rate and non-rate consumer benefits are unsupported and illusory.³⁵

Consumers in rural Pennsylvania directly and tangibly benefit from the Commission's existing pricing policies and the PA USF. Through COLR service obligations that exist for RLECs, rural Pennsylvania directly benefits from the RLECs' undertaking of COLR obligations – and no net consumer benefits analysis has been demonstrated to justify compromising these policies. CenturyLink incurs significant costs in compliance with the COLR/universal service policies.³⁶ Whatever ethereal and hollow consumer benefits may exist, implementing the Decision's flawed mirroring result "immediately" does not in any way address how customers of CenturyLink will continue to benefit from unfunded COLR/universal mandates. All risk of access reform would be borne by consumers – with no concomitant net consumer benefits demonstrated by AT&T or any other party. Clearly, rural Pennsylvanians and the public interest most certainly lose under the Decision and the immediate reductions of access rates as sought by AT&T and Sprint.

AT&T also claims the record shows that competition is the best way to ensure that universal service is maintained.³⁷ Competition is not a surrogate for universal service as addressed in CenturyLink's Exceptions.³⁸ CenturyLink herein emphasizes that no party or any affiliate of any party (e.g., AT&T wireless) has stood up and committed to provide safe and reliable telephone service pursuant to Section 1501 of the Code and thereby to commit to the necessary investment and incur operation and maintenance expenses to serve and be ready to

³⁵ See, e.g., CTL RB at pp. 19-22.

³⁶ CTL Ex. at pp. 5-6; CTL MB at p. 53; CTL RB at pp. 60-61.

³⁷ AT&T Ex. at p. 15.

³⁸ CTL Ex. at pp. 39-40 and 28-29.

serve both residential and business customers regardless of geography or circumstance. The record demonstrates:

- In February 2005, AT&T in its application to the Commission regarding the SBC/AT&T transaction admitted that it would not pursue mass market consumers and will not be a substantial competitor in the local or long distance wireline market.³⁹
- Sprint confirmed that it was deemphasizing residential wireline long distance service: "Although we [Sprint] continue to provide voice services to residential customers, we no longer actively market those services." Meanwhile, Sprint's 2008 annual SEC 10-K report further indicates that Sprint is not fully passing the savings from access reductions to its customers but retaining portions to support internal gross margin objectives. Specifically, in discussing the Costs of Service and Products or Wireline Service Sprint states: "Service gross margin percentage decreased from 32% in 2006 to 31% in 2007 and then increased to 34% in 2008, primarily as a result of revenue growth in our cable IP business and improved access cost rates." (*emphasis added*).⁴⁰
- Comcast in discovery responses admitted that it does not have COLR obligations in Pennsylvania.⁴¹
- Sprint sent letters to certain "nuisance" wireless customers to discontinue wireless service.⁴²

Based upon the record, the Commission can and should promptly dismiss claims that the ALJ's mirroring recommendation must be implemented "sooner" in order to realize what are nothing more than hollow, unsupported assertions of consumer benefits.

d. Claims that universal service will not be harmed by faster implementation of a wrong ALJ Decision are outright disingenuous and wrong.

Astonishingly, AT&T contends access reform as set forth in the RD – will not harm universal service.⁴³ The record amply demonstrates that AT&T is wrong. Unlike CenturyLink, AT&T conducted no consumer survey and provided no credible record support for the claim that

³⁹ CTL Ex. at p. 20.

⁴⁰ See, CTL MB at p. 32, fn. 76, *citing* Sprint's 2008 10-K filing with the SEC. at p. 5.

⁴¹ See, CTL St. 1.1 at p. 13, *citing* Exhibit CTL Panel-6 (Comcast response to CTL 1-23).

⁴² CTL Cross Examination Exhibit 3.

⁴³ AT&T Ex. at p. 13.

consumers can and will continue to pay significantly increased local rates and other rates such that this Commission can find Section 3017(a)'s revenue neutrality requirement is met. Given CenturyLink's consumer survey, the flip assertion is simply flat out contrary to the record.⁴⁴ Moreover, adopting the Decision will constitute a 180 degree change from the Commission's comprehensive approach to access reform starting with the *Global Order* and implementation of the PA USF.

In addition, while activity and results from other states are not relevant to the factual and regulatory circumstances in Pennsylvania, placing in context the result recommended by the ALJ and supported by AT&T may be useful for context purposes. Based upon the 20 states contended by AT&T as requiring parity, only two states (Maine and New Mexico) have mandated intrastate/interstate access parity for all ILECs. In Maine, the statute does not require parity if, based upon Commission find, a given company's local rates will rise too dramatically. Maine also implemented a state USF fund to provide an opportunity to further cushion the impact of intrastate/interstate access rate parity. In the second state, New Mexico, the re-pricing of switched access rates to interstate levels was accompanied by a local rate cap of \$15.28 and a state USF fund to allow recovery of any lost revenue due to the move to parity.⁴⁵

Similarly, in none of the other state Commissions issuing orders in litigated proceedings involving the switched access rates of CenturyLink's sister affiliates have the state Commissions approved a residential rate cap in the magnitude of \$23.00/month with no state USF support. Notably, in Kansas, the local monthly residential rate is \$17.73, comparable to CenturyLink's existing \$18.00/month residential rate in Pennsylvania. The Kansas Commission implemented mirroring between CenturyLink's intrastate and interstate rates and did not increase the existing

⁴⁴ CTL Ex. at pp. 29-35.

⁴⁵ CTL MB at pp. 45-46.

residential rate of \$17.73/month. The Kansas Commission instead ordered 100% recovery through the existing Kansas universal service fund. Specifically:

- New Jersey: In New Jersey, CenturyLink is one of three ILECs. CenturyLink's local residential rate in New Jersey was \$7.95/month from 1991 until 2008,⁴⁶ when local residential were increased to \$10.95/month in 2008. In January 2010, as authorized by the settlement and the Board's orders, CenturyLink increased that rate to \$13.45 per month. While no state USF was implemented, the third allowed step will increase local residential rates to \$15.45 per month. Corresponding increases were approved for business rates as well.
- Kansas: The existing residential local rate for CenturyLink's ILEC affiliate in Kansas is \$17.73/month. The Kansas Corporation Commission in its discretion ordered a reduction in CenturyLink's intrastate switched access rates to mirror its interstate rates based upon that Commission's exercise of discretion pursuant to the statutory scheme in Kansas.⁴⁷ The mirroring ordered by the Kansas Commission was completely implemented through an increase to the Kansas USF support for CenturyLink – not local rates or any other rates.
- Virginia: As the Virginia Commission in its May 29, 2009 Order noted for the one (out of two CenturyLink affiliated local companies operating in Virginia): "[T]he median residential basic local exchange rate for Centel is \$10.65 per month; thus, a 10% increase thereto would increase the monthly rate by \$1.07, to \$11.72 per month." The 10%

⁴⁶ Unlike the Commission's prior reform efforts regarding RLEC switched access rates, CenturyLink's \$7.95/month residential local rate (\$7.80/month plus the U-Touch rate of \$.75/month minus a \$.60 monthly tax credit) had been in effect in New Jersey since 1991. Tr. at pp. 470, 423-424.

⁴⁷The order can be obtained from the following hyperlink: <http://www.kcc.state.ks.us/scan/201003/20100310103628.pdf> A subsequent order did not change the Kansas Commission's overall findings and conclusion.

increase is a defined limit within CenturyLink's Virginia alternative regulation plan. The legislature in Virginia subsequently implemented legislative changes.

CenturyLink supports comprehensive and rational access reform. Comprehensive and rational reform as recommended by CenturyLink would reduce intrastate switched access rates only if implemented in a revenue-neutral manner through additional explicit support from the PA USF.⁴⁸ To do less as proponents of access reductions seek would create unfunded and/or inadequately funded legislative and regulatory requirements, would unravel universal service principles, would erode funding for both Act 183's broadband obligations and RLECs' COLR obligations, and would leave Pennsylvania's most vulnerable constituents at risk.⁴⁹

- e. **The theory that costs should be recovered from the RLECs' own customers should not be accorded any weight and certainly should not be accorded greater weight when fashioning policy than COLR/universal service objectives.**

Claims that access rates should be priced closer to costs must be rejected.⁵⁰ With AT&T's proposals, as adopted by the ALJ, consumers in rural Pennsylvania are certain to get significant increases in local rates and other rates, as well as upward pressure exerted on rural consumer rates. COLR/universal service in rural Pennsylvania would be gone.

Under monopoly rate regulation, revenue allocations were guided by the concept of "residual pricing," whereby revenue increases from all other sources were maximized and only the remaining rate increase which could not be absorbed elsewhere (*i.e.*, the residual) was allocated to local dial tone service.⁵¹ Through this regulated pricing process, local service remained at an affordable level because toll and access services were priced above cost to support below cost local service rates and to ensure universal service.

⁴⁸ 66 Pa. C.S. § 3017(a).

⁴⁹ *See, e.g.*, CTL St.1.1 at pp. 4-5.

⁵⁰ AT&T Ex. at pp. 20-21 and 13-15.

⁵¹ For a more in-depth discussion of residual pricing, see the Commission's *Global Order*, slip opinion, at pp. 11-16.

This case is about setting pricing policy for interlinked rates, not about setting only one component of complex pricing issues at or to “cost.” RLEC local rates are not priced based upon costs. RLEC intrastate switched access rates are not priced based upon costs. Beginning with the Commission’s *Global Order* and thereafter, RLECs’ local rates were gradually increased as part of rebalancing needed to reduce intrastate switched access rates. In 1999 and 2003, along with the PA USF, the Commission decreased RLECs’ local rates as part of the rebalancing to reduce RLECs’ intrastate switched access rates. The Commission again undertook pricing decisions – not costing decisions – concerning RLEC local rates and switched access rates.

In the years since the Commission’s RLEC reform initiatives, competition of a formidable kind has emerged in rural town centers like Gettysburg, Hanover, Fayetteville and Bedford and shows no sign of decreasing notwithstanding existing intrastate switched access rate levels.⁵² However, competition is not ubiquitous and certainly is not a substitute for COLR/universal policy.⁵³ As customers in these rural town centers leave CenturyLink, the costs to continue to provide adequate and reliable telephone service to all customers irrespective of costs or location – consistent with the RLECs’ COLR/universal obligations – have to be spread over a smaller number of customers. Per unit costs do not magically “go away” when CenturyLink loses a customer to competition.⁵⁴ The costs to make investments, to maintain investments, and to evolve network investments have to be recovered over a smaller set of customers. In the highest cost portions of rural high-cost service areas, where competition is minimal or non-existent, providing service these customers is generally uneconomic. Support from intrastate switched access rates (and the PA USF) is required to continue to serve these customers.

⁵² CTL Ex. at p. 62. *See also*, CTL St. 3.0 at p. 7.

⁵³ CTL Ex. at pp. 39-40.

⁵⁴ CTL St. 3.1 at p. 5. *See also*, Tr., at pp. 368-369.

Rebalancing of significant RLEC reductions as recommended by the ALJ through retail rate increases is no longer viable policy, is not consistent with the record, especially CenturyLink's consumer survey, and places RLECs at a competitive disadvantage. Without the continuance of a robust state USF, consumer rate increases to fund the magnitude of access reductions recommended by the ALJ run contrary to Act 183 revenue-neutral requirement and provide inadequate support for the funding of COLR/universal service policy.

f. Sprint's "profit" claims are untrue and irrelevant.

Without citation to the record, Sprint makes two utterly erroneous and unsupported statements regarding "profits" ostensibly in an effort to sway the Commission to make a swift and reckless decision in this proceeding. First, Sprint claims that RLECs "will at all times continue to make a profit on switched access."⁵⁵ Sprint's statement is completely untrue and is unsupported by the record. The average amount of revenue received by CenturyLink per line demonstrated that switched access revenues contribute significantly to CenturyLink's costs of providing residential service.⁵⁶ The revenues from CenturyLink's intrastate switched access rates, along with other revenues such from the PA USF, are not profits but rather are necessary to provide safe and reliable telephone service at reasonable rates in CenturyLink's high-cost, less dense service areas. And, the historic regulatory compact resulting in existing rates are not "profits" for CenturyLink, but instead partially offset the cost of implementing COLR/universal service policy. The Commission cannot make a finding in Sprint's favor.

Second, Sprint claims that RLECs "reap profits from panoply of services provided over the local network" and have "many more revenue sources" today.⁵⁷ The ALJ properly rejected Sprint's attempt to use revenues from services and companies not within the Commission's

⁵⁵ Sprint Ex. at p. 5.

⁵⁶ See, CTL Ex. at pp. 14-15, citing confidential information.

⁵⁷ Sprint Ex. at p. 5.

jurisdictional purview.⁵⁸ The ALJ's conclusion that unregulated revenues cannot be used for revenue neutrality required by Section 3017(a) is equally applicable to Sprint's attempt to use this point to support immediate interstate mirroring. As addressed in CenturyLink's Briefs, Sprint's revenue claims are flawed and incomplete.⁵⁹ Sprint's conjuring of revenues associated with unregulated, competitive services, or affiliates must be rejected. Accordingly, non-jurisdictional revenues cannot be relied upon to meet revenue neutrality and are not relevant to the timing of any action undertaken by the Commission concerning RLEC switched access rates.

g. Sprint wrongly asserts that RLECs remain “fully compensated for the facilities used for switched access.”

Sprint's assertion that RLECs remain “fully compensated for the facilities used for switched access” is meritless and contrary to the record. As addressed in CenturyLink's Exceptions, the ALJ erred in concluding that national interstate rates set in 2000 for CenturyLink through the FCC's CALLS order equal to or even comparable to Pennsylvania's intrastate rates today.⁶⁰ Mirroring interstate rates without mirroring the interstate methods for achieving those rates fails to achieve cost recovery and is incomplete.⁶¹

Moreover, Sprint's *assumption* of compensatory interstate rates is based upon the erroneous view that pricing policy should be based upon network “functionality.” As addressed in CenturyLink's Exceptions, this “facilities used” approach to pricing decisions wrongly limits the Commission's discretion to fashion holistic results and remains a meritless basis for any continued rational reform of RLEC intrastate switched access rates.⁶² The pricing decisions of this Commission cannot be based upon reasons that only address one part of the myriad issues at

⁵⁸ RD at pp. 98-99.

⁵⁹ CTL RB at pp. 38-40, 61-62.

⁶⁰ CTL Ex. at pp. 8-17.

⁶¹ CTL Ex. at pp. 12-17.

⁶² *See*, CTL Ex. at pp. 17-19.

play given the historic regulatory compact involving RLECs' local rates, intrastate switched access rates, and the PA USF. Sprint has failed in its Exceptions or on the record to demonstrate any need for immediate access reductions that accomplish no more than providing access expense reductions for this global, admittedly wireless carrier.

**2. AT&T Exception No. 3; Sprint Exception No. 2:
The ALJ's \$23.00/month residential rate**

AT&T argues that the ALJ's \$23.00/month residential rate is really \$23.43.⁶³ AT&T also claims that the \$23.43 rate is just the "minimum affordability rate." Per AT&T, the maximum "should actually be \$23.32/month (exclusive of fees and surcharges).⁶⁴

AT&T's statements are not relevant as the \$23.00/month rate or any amount near or above that rate will not result in revenue neutrality as required by Section 3017(a).⁶⁵ In support, AT&T claims only OCA, Verizon and AT&T presented the only evidence in this proceeding of affordability.⁶⁶ However, none of these parties presented an actual survey of consumers to determine affordability. Conversely, CenturyLink presented a Pennsylvania-specific consumer survey demonstrating – not affordability – but that 29.5% of CenturyLink's residential customers would be highly likely to leave CenturyLink with just a \$2 price increase, while 41.4% would be highly likely to leave with a \$3 price increase. And, 61.5% of customers would leave CenturyLink with a \$5 increase as recommended by the ALJ, or higher as argued by AT&T. All revenue, not just access revenues, associated with these customers leaving CenturyLink would be gone while CenturyLink would retain the majority of the costs to continue to be ready to provide service as required by Section 1501 of the Pennsylvania Public Utility Code and the

⁶³ AT&T Ex. at p. 35.

⁶⁴ *Id.* Per the Decision and AT&T, these ranges also would increase over time if the Pennsylvania median rural household income increases. RD at p. 116.

⁶⁵ 66 Pa.C.S. § 3017(a).

⁶⁶ AT&T Ex. at p. 35.

Commission's regulations.⁶⁷ CenturyLink's consumer survey thus demonstrates that both the ALJ's \$23.00/month rate and the \$23.43/month rate will result in revenue decreases, rather than revenue neutrality as required by statute.

AT&T also claims that in the proceeding before Judge Colwell, the record shows customers are moving towards bundles, including CenturyLink's customers which AT&T asserts pay an average of \$57.63 per month.⁶⁸ Sprint makes a similar claim in its Exceptions.⁶⁹

As addressed in CenturyLink's Exceptions, the total number of residential lines, including bundles and stand alone lines, purchased by CenturyLink's customers has consistently declined since January 2007.⁷⁰ Total residential customers have declined in every month of the past three years. The record shows that more of CenturyLink's customers are simply moving away from CenturyLink rather than to higher priced products. For every seven stand-alone lines that were lost, only one bundled line was gained throughout this time period.⁷¹ AT&T's theories based bundle pricing are contrary to the record and should be rejected.

Sprint also claims the ALJ's \$23.00/month residential rate is "unnecessarily low and could serve as an unintended impediment to full interstate mirroring."⁷² Sprint in its Exceptions cites to Verizon's testimony and claims the "national average expenditure for telephone services" for rural households is \$86.50 per month.⁷³ The record demonstrates that the \$23.00/month residential rate in the Decision – and thus any amount near and above that rate – will not result in

⁶⁷ CTL Ex. at pp. 35-39.

⁶⁸ AT&T Ex. at p. 37.

⁶⁹ Sprint Ex. at p. 5.

⁷⁰ CTL Ex. p. 35 (confidential information), *citing* CTL St. 1.1 at pp. 38-39.

⁷¹ *Id.*

⁷² Sprint Ex. at p. 5.

⁷³ *Id.*, at p. 6, fn 6. However, Sprint in its Main Brief had stated that it "does support a residential basic local service rate affordability benchmark initially set at \$21.97" to account for inflation and would increase with inflation each year. Sprint MB at p. 7.

revenue neutrality and will jeopardize COLR/universal service in rural high-cost less dense areas of the Commonwealth Sprint's Exceptions are meritless and should be rejected.

3. AT&T Exception No. 4: Technical conferences

Per AT&T, tariff changes to implement access reductions are “not a difficult process” and a four-month period for technical conferences is not necessary.⁷⁴ AT&T requests that tariffs to be filed within twenty days of a final Commission Order.

The ALJ did not adopt “workshops” but imposed technical conferences simply to implement, as CenturyLink in its Exceptions addressed, deeply flawed recommendations regarding the RLECs' local rates, noncompetitive rates, and access rates. On this basis, technical conferences as envisioned in the Decision should be rejected.

To now suggest implementation of a flawed Decision sooner is wrong. Both the ALJ's Decision and the positions of AT&T approach must be rejected. Making “all CCLs ...go to zero” is nothing but a mathematical tariff game to AT&T.⁷⁵ AT&T's view is one focused only on reducing RLEC access rates, as this is how AT&T can reduce the expense it pays to RLEC and ILECs in general while blatantly disregarding the real harms caused to rural Pennsylvanians. The faster the ALJ's significant RLEC access rate reductions occur, the sooner AT&T realizes significant savings relative to its access expense. The resultant immediate and long-term impacts to local rates, noncompetitive rates, COLR/universal service obligations are simply outside AT&T's selective viewpoint that access tariff changes are “not a difficult process.” Of course, the tariff changes are not difficult in such a selective world created by AT&T. Mathematical games on paper have no relationship to reality and should be rejected.

⁷⁴ *Id.*, at p. 39-40.

⁷⁵ *Id.*

The reality, however, is that AT&T's positions and the ALJ's RD implicate sizable, unprecedented revenue reductions associated with a flawed mirroring result. The reality is that both the ALJ and AT&T are incongruent with the measured approach taken by the Commission to date regarding the pricing of local, other rates, access rates and the PA USF. Technical conferences as envisioned by the Decision and AT&T's rush to access reductions irrespective of consequences must be rejected.

Finally, AT&T's claim that workshops will "cost consumers \$24 million" is pure fiction.⁷⁶ No party has proposed sharing with consumers such amounts and thus a "consumer cost" is utter hyperbole. Nowhere in the record has AT&T or any party demonstrated that consumers will see significant rate decreases, specific products or investments, or any measureable and meaningful benefit from the sizable consumer rate increases recommended by the ALJ. Rather, the record demonstrates that many consumers in competitive areas will deem the ALJ's consumer rate increases sufficient to actively change carriers – to the very carriers seeking to cost shift onto the RLECs. The Commission should see through AT&T's one-sided approach of seeking what it "immediately" wants irrespective of the impact to rural Pennsylvanians, COLR/universal obligations, and the public interest in general.

In summary, the ALJ's technical conferences are unreasonable and should be rejected for the reasons set forth in CenturyLink's Exceptions.⁷⁷ Relegating a flawed plan to technical conferences does not cure the RD's defects relative to Section 3017(a).

⁷⁶ See, AT&T Ex. at pp. 41-42, Attachment D.

⁷⁷ See, CTL Ex. at pp. 59-63.

B. REPLY TO VERIZON

1. Verizon Exception No. 1: Statewide switched access rates

While Verizon does not except to the Decision’s mirroring recommendation, Verizon asks the Commission “to recognize that, while the RD would implement an appropriate *interim step* for now, it may be appropriate in the future to consider additional RLEC access reductions and to look at a more equitable uniform benchmark rate” regarding intrastate switched access rates.⁷⁸ Verizon’s request is premature. Actually, Verizon’s statements demonstrate why neither the mirroring result nor the statewide-benchmark rate is viable without significantly relying upon rebalancing of any RLEC access rate reductions through the PA USF. When carriers have widely disparate costs, and public policy seeks retail rate and access rate comparability, the only viable option is to use the PA USF to support the remainder of costs.

Verizon asks that the Commission “leave open the possibility” of a specific rate remedy – i.e., a uniform access rate benchmarks. The fashioning of policy for re-pricing of RLEC intrastate switched access rates (along with local rates and the PA USF) need not be predetermined at this time and should not be limited to the one specific outcome. The Commission can re-price RLEC intrastate switched access rates *to* a specific end result or re-price moving *toward* a specific end result.⁷⁹ However, the Commission should not at this point determine that another end rate or rate pricing approach is appropriate. The party seeking a specific rate has the burden of proof to demonstrate the justness and reasonableness of proposed rates.⁸⁰ Verizon is not foreclosed from making rate proposals in the future, but this proceeding should not predetermine that Verizon’s proposed benchmarking could be reasonable. That issue is for another day and remains Verizon’s burden to prove.

⁷⁸ VZ Ex. at p. 2.

⁷⁹ See, e.g., CTL Ex. at pp. 9, 19, 56.

⁸⁰ RD at pp. 48-49.

As to the substantive merits of Verizon’s request, a statewide uniform benchmark for the pricing of intrastate switched access rates is not conceptually wrong or ill-suited for Pennsylvania.⁸¹ Furthermore, if the PA USF is relied upon for rebalancing to achieve statewide access rates, then cost recovery is not an issue and Section 1307(a) is not an issue. What is wrong with Verizon’s proposal in this case is that it seeks to set that statewide uniform switched access rate *at Verizon’s access rate levels*. As the record demonstrates, and as the ALJ correctly found, Verizon PA’s intrastate switched access rates are not an appropriate pricing proxy for RLECs’ intrastate switched access rates. Thus, this record does not support use of Verizon PA’s intrastate switched access rate level for re-pricing of RLEC switched access rates.

2. Verizon Exception No. 2: Verizon’s “process” proposals

Verizon requests several “process improvements” in order to implement quickly the ALJ’s erroneous rate rebalancing recommendations. CenturyLink opposes the proposals in so far as the RD’s mirroring recommendation is flawed and therefore any “process improvements” to effectuate that end are also deeply flawed. CenturyLink filed Exceptions regarding the ALJ’s technical conferences.⁸²

For example, Verizon requests to have the Commission in its order provide “directions on the manner and format of calculations” for the significant local rate increases and sizable increases to noncompetitive rates.⁸³ Similarly, Verizon requests that the RLECs provide workpapers in native format and all underlying assumptions to support the significant consumer rate increases to local and all noncompetitive rates set into motion by the Decision.

Conceptually, these proposals are not problematic, but these claimed “process improvements” do not change the fact that rural Pennsylvania will be adversely impacted by

⁸¹ CTL MB at pp. 81-82; CTL RB at p. 64.

⁸² CTL Ex at pp. 59-64.

⁸³ VZ Ex. at p. 4.

funding access expense reductions for Verizon, AT&T, Sprint and others when there have been no corresponding net consumer benefits. Verizon's process changes do not change the fact that the process, upon end, will result in unfunded regulatory mandates and compromised constitutional rights due to the lack of cost recovery associated with COLR/universal service obligations.

3. Verizon Exception No. 3: Verizon's clarifications of the \$23.00 rate

Verizon does not except to the \$23.00/month rate, but makes several recommendations regarding the Decision's use of that rate. First, Verizon requests that the Commission direct any particular RLEC, faced with residential rate increases exceeding \$23.00 to increase its business rates in a greater proportion to residential rates until they reach the national average of \$36.59. Second, Verizon requests that the Commission direct RLECs "to reasonably consider additional increases to other noncompetitive rates."⁸⁴ Third, Verizon seeks that the Commission "leave the option open to use a higher affordability level in the future or for an individual RLEC following closer examination in this proceeding."⁸⁵

Verizon's Exceptions confirm what the record amply demonstrates: Significant reductions to RLEC switched access rates when rebalanced on the backs of rural Pennsylvania consumers will result in sizable consumer rate increases and will put into play a policy of upward pressure on telephone rates only to fund access reductions. These parties have the burden to demonstrate how their requested access rate reductions will provide net consumer benefits.⁸⁶ They have not done so and the ALJ has failed to do so. Access reductions will adversely and significantly impact rural Pennsylvanians and will provide no corresponding net benefits.

⁸⁴ *Id.*, at p. 6.

⁸⁵ *Id.*, at p. 7.

⁸⁶ CTL Ex. at p. 52-56.

Furthermore, embedded in Verizon's position is the unsupported assumption that significantly increasing the B1 rate to \$36.59/month or other increases to noncompetitive rates will satisfy revenue neutrality as required by Section 3017(a). CenturyLink's average B1 rate currently is \$26.00/month. Verizon is thereby suggesting a near \$10.00 increase to CenturyLink's B1 rate.

For CenturyLink, noncompetitive services consist of business services and other services such as Caller ID and numerous vertical features. Noncompetitive services also include charges to the state and other carriers for 911 and information services, IXC non-recurring charges or porting charges paid by CLECs.⁸⁷ As the proponent of specific rate increases, Verizon has the burden of proof.⁸⁸ Verizon did not produce a survey or any other credible evidence to demonstrate the justness and reasonableness of the rate increases recommended by the ALJ and supported by the Verizon. They are not. Verizon has failed.⁸⁹

Moreover, raising business rates and all other noncompetitive rates on paper does not provide any "opportunity" for revenue neutrality. The opportunity is non-existent and Section 3017(a) is not satisfied. Rather, Verizon's "clarification" certainly will certainly make it easier for Verizon's business marketing unit to take customers away from CenturyLink. Verizon's approach and that of the ALJ regarding RLEC business rate increases and increases to other noncompetitive services must be rejected.

Clearly, AT&T and aligned parties are fond of arguing that Section 3017(a) only requires an "opportunity" for revenue neutrality. Yet, they do not define opportunity and their record positions merely assume rate increases will provide an "opportunity" for actual revenues. This assumption is inapplicable in today's telecommunication's marketplace. Business rates are

⁸⁷ CTL RB at p. 50.

⁸⁸ *See, e.g.*, CTL Ex. at p. 5.

⁸⁹ *See*, CTL Ex. at pp. 59-60, 27-28.

subject to high levels of competition in today's intermodal telecommunications market. The record simply does not support the justness or the reasonableness for regulatory pricing constraints on business rates.

Furthermore, both the RD and Verizon's Exceptions err in the assumption that there is an opportunity for revenue neutrality if only approached with "an open mind" and undertaken as a matter of "rate design."⁹⁰ The "rate design" concept does not fit alternative rate regulation and remains pure fiction given marketplace realities. No record support exists for the bald assumption that rate design will achieve revenue neutrality for CenturyLink or any other RLEC. For an ILEC like Verizon with many access lines and considerable scale and scope, revenue neutrality may be satisfied likely through much smaller local rate increases and increases to Verizon's noncompetitive rates.

The "rate design" concept does not fit CenturyLink's circumstances. For CenturyLink, fairytale notions that comprehensive reform of RLECs' access rates can be realized through rate design are belied the record and logic. As the record also shows, and as no party disputes, existing revenues from regulated services are not sufficient to recover the cost of service in CenturyLink's rural, high-costs exchanges.⁹¹ And, CenturyLink (along with other RLECs) in annual price cap filings routinely bank revenues that they are unable to apply to rate increases associated with noncompetitive services (including business rates) for purposes of annual price stability mechanism filings.⁹² Indeed, unutilized headroom in excess of millions exists per the terms of CenturyLink's alternative regulation plan.⁹³ Significant increases to local telephone

⁹⁰ VZ Ex. at p. 5.

⁹¹ CTL Ex at p. 74 (containing confidential cost information).

⁹² PTA St. 1.1 at pp. 19-20, CTL St. 1.1 at pp. 17-18.

⁹³ CTL St. 1.1 at p. 18.

rates *and* noncompetitive rates (including CenturyLink’s B1 rate) will only cause additional revenue losses and inability to fund COLR/universal service.

Thus, the Commission cannot make a finding based upon substantial evidence that increases to CenturyLink’s B1 rate and other noncompetitive services will result in an opportunity for revenue neutrality under Section 3017(a). The PA USF remains critical to any rational, continued reform of RLEC intrastate switched access rates. The Commission should reject Verizon’s Exception.

Finally, Verizon seeks that the Commission “leave the option open to use a higher affordability level in the future or for an individual RLEC following closer examination in this proceeding.”⁹⁴ To the extent Verizon seeks increases beyond the ALJ’s \$23.00/month residential rate in the future, Verizon’s request is premature. To the extent Verizon seeks increases beyond the ALJ’s \$23.00/month residential rate in this proceeding, then the record does not support such as proposal, as set forth above and in CenturyLink’s Exceptions.⁹⁵

4. Verizon Exception No. 4: ALJ’s alternative - Interim PA USF increases

The ALJ alternatively recommended that the Commission adopt AT&T’s modified proposal which would require temporary expansion of the PA USF.⁹⁶ Verizon objects to the ALJ’s decisions, arguing that the Commission should not expand the PA USF – even on temporary basis – and that a rulemaking would be required.⁹⁷

CenturyLink also objected to the ALJ’s retail rate rebalancing recommendation and failure to rely upon the PA USF.⁹⁸ Both the ALJ’s primary position to rebalance access

⁹⁴ VZ Ex. at p. 7.

⁹⁵ CTL Ex. at pp. 25-41.

⁹⁶ RD at p. 136.

⁹⁷ VZ Ex. at pp. 8-10.

⁹⁸ CTL Ex. at p. 25-56.

reductions on the back of consumers in rural Pennsylvania and the AT&T-based alternative position fail to recognize that the PA USF is critical – now more than ever – given the intermodal competitive telecommunications market in Pennsylvania. Competition of a formidable kind has emerged in rural town centers and shows no sign of decreasing notwithstanding existing intrastate switched access rate levels. When customers leave CenturyLink, the per unit costs associated with those lines do not “go away.” As customers in these rural town centers leave CenturyLink, the costs to continue to provide adequate and reliable telephone service to all customers irrespective of costs or location as consistent with COLR/universal obligations have to be spread over a smaller number of customers – particularly in the more high-cost, less dense areas where intermodal competition is not present.

CenturyLink’s Pennsylvania-specific consumer survey demonstrated that that 29.5% of CenturyLink’s residential customers would be highly likely to leave CenturyLink with just a \$2 price increase. With the ALJ’s recommended \$5.00/month (or more) residential rate increases as supported by Verizon, 61.5% of CenturyLink’s residential customers would leave CenturyLink.⁹⁹ The RD fails to address how CenturyLink will ever recover its costs, comply with COLR/universal service obligations with significant revenue reductions associated with customers fleeing CenturyLink for the sole purpose of reducing access expense savings for these large, global carriers like AT&T and Verizon.

Clearly, both the ALJ’s primary and alternative recommendations err for failing to rely upon the PA USF and, if adopted, would not enable cost recovery (particularly if the Commission’s caps retail rates or sets a retail benchmark) and thus would foreclose cost recovery from remaining customers. Due process and constitutional confiscation issues are clearly implicated by the ALJ’s flawed RD and Verizon’s attack on the PA USF. Thus, Verizon’s

⁹⁹ CTL Ex. at pp. 30-31.

wrongly and contrary to the record claims that consumers will be adversely impacted by even a temporary increase to the PA USF.¹⁰⁰ Continuation of a robust and permanent PA USF is the only viable and sustainable means by which to ensure that intrastate switched access reductions do not decrease revenue support necessary for cost-intensive COLR/universal service in Pennsylvania.

Verizon also claims that temporary increases to the PA USF are unfair and anticompetitive relative to other carriers paying into the PA USF – in particular, Verizon. The PA USF is not anticompetitive or unfair as CenturyLink addressed in its Exceptions.¹⁰¹ The PA USF is competitively neutral, fair, and the only sustainable means by which to ensure that rural Pennsylvanians are not left with unfunded and/or inadequately funded legislative and regulatory mandates.¹⁰² The PA USF does not guarantee revenues, but rather on competitively-neutral basis ensures the COLR/universal service policies remain viable and sustainable in Pennsylvania in the short term and the long term.

Moreover, the remedy to Verizon's attacks on the PA USF is not to dismantle COLR/universal service policies and disadvantage rural telephone consumers in Pennsylvanians. The remedy is to expand the base of contributors to PA USF to comport to the realities of the intermodal marketplace.¹⁰³ The PA USF is absolutely critical to the implementation of rational

¹⁰⁰ VZ Ex. at p. 10.

¹⁰¹ CTL Ex. at pp. 51.

¹⁰² As Messrs. Lindsey and Harper further explained:

As the primary instruments of the state and federal universal service/COLR policy, ILECs must be fairly compensated for the cost of fulfilling this social compact. Funding provides an “insurance policy” for universal service – not for RLECs as claimed by Verizon (at page 5). Failure to fund this policy creates an unfunded mandate that competitively disadvantages ILECs and places implementation of universal service policy at-risk. Failure to fully fund also may result in non-ILECs not paying their fair share of the burden of this social obligation. This would produce an unfair outcome that would create a competitive advantage for non-ILECs who would neither be required to serve the highest cost customers nor fully participate in funding the universal service obligation borne by the ILECs to do so. CTL St. 1.1 at pp. 15-16.

¹⁰³ See, CTL MB at pp. 54-55; CTL RB at pp. 10.

access reform and is necessary given Section 3017(a) and the evolving telecommunications marketplace. With expansion of the PA USF, the benefits of continued RLEC access reform will directly and tangibly continue to benefit rural Pennsylvanians. The Commission should reject both Verizon's Exception and the ALJ's failure to rely upon the PA USF for effectuating continued reform of RLEC switched access rates.

C. REPLY TO QWEST

1. Qwest Exception No. 2: Arbitrage

Qwest states that its access rate benchmark pricing proposal "will reduce existing arbitrage opportunities and encourage competition."¹⁰⁴ Arbitrage is an important industry issue and CenturyLink supports regulatory efforts to redress arbitrage opportunities.¹⁰⁵

CenturyLink maintains that the main issue with any continuation of switched access reform for RLECs in Pennsylvania is revenue neutrality through the PA USF. The PA USF *both* makes implicit subsidies explicit on a competitively-neutral basis *and* promotes COLR/universal service without creating unfunded regulatory mandates. Pricing allegedly to redress arbitrage opportunities is a secondary issue to any Commission balancing of policies to achieve such a balance between adequate funding for COLR/universal service obligations and making implicit subsidies in RLEC access rates explicit through the PA USF.

D. REPLY TO OCA

1. OCA Exception No. 1: Periodic refreshing of the ALJ's \$23.00/month

OCA requests that the \$23.00 rate "should be periodically refreshed" to address changes in taxes, fees and surcharges, as well as increases or decreases to the Pennsylvania rural median

¹⁰⁴ Qwest Ex. at p. 5.

¹⁰⁵ CTL RB at p 23.

household income.¹⁰⁶ The ALJ had recommended that the \$23.00/month rate would increase if the Pennsylvania median rural household income increases over time.¹⁰⁷ If the ALJ's \$23.00 residential rate is adopted and OCA's clarification is granted, then the Commission also should clarify that any PA USF receipts could be affected and could increase (or decrease) depending upon such a refresh to the affordability retail rate.

2. OCA Exception No. 2: ALJ's \$23.00/month residential rate

The ALJ erred when significantly reducing intrastate switched access rates and when determining to rebalance the revenue decreases associated with those access reductions by recommending a \$23.00/month retail residential affordability rate and other untenable, unspecified increases to noncompetitive service rates. To the extent the Commission adopts the ALJ's recommended \$23.00/month rate, CenturyLink agrees with OCA that the ALJ's recommended \$23.00/month residential rate cannot be exceeded and that any additional amounts beyond that \$23.00/month residential rate should come from the PA USF.¹⁰⁸

The ALJ erred in imposing significant, unrealizable residential rate increases along with increases to virtually every known noncompetitive service to accommodate the significant reductions to RLEC switched access rates recommended by the ALJ. The ALJ's failure to rely upon the PA USF violates Section 3017(a) and results in unfunded regulatory mandates.¹⁰⁹ To the extent the Commission adopts the ALJ's recommended \$23.00 rate (or any retail rate limit), OCA's clarification is necessary to ensure revenue neutrality and may be necessary given the ambition of Decision and market realities for individual RLECs.

¹⁰⁶ OCA Ex. at p. 14. See also, OCA Ex. at pp. 17-20. Specifically, OCA notes that pending requests before the FCC in the intercarrier compensation docket seek to increase the federal SLC from \$6.50 to \$10.00. OCA notes *increases or decreases* to the rural median household income should result in increases or decreases to the \$23.00 residential rate.

¹⁰⁷ RD at p. 116.

¹⁰⁸ OCA Ex. at pp. 14-17.

¹⁰⁹ *Id.*, at p. 14.

Thus, to the extent the Commission adopts OCA's clarification, the Commission should make clear that the \$23.00/month rate should not be exceeded and that, if rebalancing of RLECs' intrastate switched access rate reductions requires additional revenue recovery, then any additional amounts beyond that \$23.00/month residential rate or beyond unrealizable increases to noncompetitive service rates should come from the PA USF. Furthermore, the same clarification sought by OCA should apply to the rates for noncompetitive services recommended for rebalancing by the ALJ – albeit not specified as to which rates and what amount. The Commission at a minimum should give the impacted RLEC the opportunity to demonstrate that any of the noncompetitive rate increases resulting from the Decision's force feeding of consumer rate increases do not result in viable revenue neutrality and/or create unfunded regulatory mandates and thereby require reliance upon the PA USF to satisfy Section 3017(a).

E. REPLY TO OSBA

1. OSBA Exception No. 2: OSBA's total-revenues approach

OSBA excepts to the RD for failing to adopt OSBA's pricing approach to setting intrastate switched access rates.¹¹⁰ OSBA in this proceeding recommended that each RLEC's intrastate switched access rates should be set to recover revenues equal to the RLEC's total interstate access revenue from the federal Subscriber Line Charge ("SLC") and from traffic-sensitive charges.¹¹¹

OSBA is correct that its proposal "would provide more access revenue" and "would provide significantly more contribution to the RLECs' loop costs" *when compared to the ALJ's RD*.¹¹² However, as addressed in CenturyLink's Exceptions, the ALJ's Decision fails to recognize the methods by which the FCC derived the low interstate rates – *i.e.*, through the

¹¹⁰ OSBA Ex. at pp. 10-14.

¹¹¹ *Id.*, at p. 14.

¹¹² *Id.*

federal SLC *and* through explicit federal universal service support.¹¹³ The OSBA’s proposal is just as incomplete and infirm as the ALJ’s Decision.¹¹⁴

The FCC undertook holistic reform and developed the existing low interstate “rates and structure” (per the ALJ) *with additional federal universal service funding support*.¹¹⁵ Both the Decision and OSBA’s proposal are incomplete in that both fail to recognize the explicit federal USF funding critical to the method by which today’s interstate switched access “rates and structure” were developed.¹¹⁶ CenturyLink supports re-pricing intrastate switched access rates in a rational manner whereby explicit support from the PA USF would be substantially relied upon for any reductions to CenturyLink’s switched access rates. Since OSBA’s proposal fails in this regard, as does the Decision, both should be dismissed.

2. OSBA Exception No. 3: Elimination of rate caps

OSBA requested elimination of all retail rate caps in the record below. The ALJ imposed a retail limit applicable to residential rates, but on business rates. OSBA now claims the Decision is “discriminatory.”¹¹⁷ In terms the relief sought by OSBA on Exceptions, OSBA does not go so far as seeking that the Commission impose limits on the business rates, but only reiterates OSBA’s litigation position that all caps (or constraints) on residential local exchange rates should be eliminated.¹¹⁸

¹¹³ CTL Ex. at p. 10.

¹¹⁴ OSBA also argues that the Commission must decide whether it wishes to continue its policy of having the IXC’s contribute toward the cost of the loop. OSBA Ex. at pp. 12-13. CenturyLink supports recovery of loop costs. CTL RB at p. 7. Loop costs in CenturyLink’s rural, less dense areas are significant as the record from the Judge Colwell proceeding demonstrates. *See*, CTL Ex. at pp. 14-15. However, OSBA’s total-revenues approach, which excludes rebalancing through the PA USF, is not a comprehensive cost recovery approach.

¹¹⁵ *See*, CTL Ex. at p. 8.

¹¹⁶ RD at p. 142.

¹¹⁷ OSBA Ex. at p. 16-18.

¹¹⁸ *Id.*, at p. 18. The water, gas and electric industries, or significant components thereof, are still subject to rate of return regulation and are not subject to competition; they remain monopolies. The recovery of costs to comply with regulatory obligations as incurred by a utility subject to rate of return regulation is made through the rate case process. The cost shifting recommended by the ALJ can be viable in monopoly environments. However, the RLECs situation is far removed from a monopoly position. The RLECs are not subject to rate of return regulation,

A reasonable rate limit on residential rates is appropriate when rebalancing RLEC switched access rates and is consistent with the Commission's prior access reform actions. As the record demonstrates, the ALJ's recommended residential rate limit of \$23.00/month is not reasonable as it is too high and flawed.¹¹⁹ However, to the extent the Commission adopts the ALJ's mirroring recommendation and does not rely upon the PA USF as recommended, OSBA's approach of eliminating all retail rate benchmarks, notably the residential retail rate benchmark, conceptually may be required.

In this scenario, as CenturyLink's survey demonstrates, a significant number of customers likely will leave CenturyLink and take all revenues (not just access revenues) with them. This result, in turn, leaves a smaller base of customers – customer who likely not in the rural town centers which have competitive options – over which CenturyLink would be required to recover its costs and meet COLR/universal service obligations. Conceptually, rate increases above the ALJ's recommended \$23.00/month cap likely would be necessary given CenturyLink's high-cost, less dense areas.¹²⁰ While broadband infrastructure is not funded by access revenues, this scenario seriously erodes revenue support and therefore creates tension between resources needed for funding of COLR/universal service and the continued ability to make broadband infrastructure commitments consistent with CenturyLink's commitments per Act 183. This scenario is not CenturyLink's preferred approach. Rather, CenturyLink supports reasonable residential rate caps and supports continuation of a robust PA USF to rebalance RLEC access rate reductions, if any are determined to be undertaken by the Commission.

but rather are still subject the regulatory obligations such as COLR and universal service, yet cannot recover their costs through continually cases aimed at setting base rates. OSBA's reference to other utility industries is inapposite and should be rejected.

¹¹⁹ CTL Ex. at p. 28.

¹²⁰ *Id.*, at p. 31.

OSBA's proposal to eliminate the residential rate cap also is premised on a very narrow view of universal service. OSBA views local exchange service rate caps as having the effect of treating customers "as low-income customers in need of assistance to pay their monthly telephone bill."¹²¹ Universal service is a much broader and more complex policy than the ability of a customer to pay their telephone bill. Affordability is a secondary consideration to availability. Without network availability, the affordability question is rendered moot.

In rural areas of the Commonwealth, RLECs are the Commission's instruments of universal service policy and implement this policy through costly COLR obligations.¹²² Per Section 1501 of the Code and the Commission's regulations, RLECs are required to meet specific service installation requirements, including the installation of 95 percent of our primary service orders completed within 5 working days and 90 percent of our non-primary service orders completed within 20 days.¹²³ For an RLEC serving high-cost, less dense areas of the Commonwealth, that means constructing and maintaining facilities and providing safe and reliable telephone service to any new or returning consumers, irrespective of where that customer lives in CenturyLink's territory. CenturyLink and other RLECs continually upgrade and maintain their facilities even for customers who have departed our network for the services of another carrier. This responsibility is borne uniquely by ILEC's and can be an expensive proposition. OSBA's narrow view of the function and benefits of universal service should be rejected.

¹²¹ OSBA Ex. at p. 15.

¹²² *See, e.g.*, CTL Ex. at pp. 14-15.

¹²³ CTL MB at pp. 67-72; CTL RB at pp. 13-16.

III. CONCLUSION

CenturyLink respectfully requests that the Commission issue an order granting CenturyLink's Exceptions and adopting the positions of CenturyLink as set forth in these Reply Exceptions and take any other action that the Commission deems appropriate.

Respectfully submitted,

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Dated: September 17, 2010