

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Investigation Regarding Intrastate Access
Charges and IntraLATA Toll Rates of
Rural Carriers and the Pennsylvania
Universal Service Fund

Public Meeting held June 30, 2011
1189996-OSA

AT&T Communications of Pennsylvania, *et al.*

v.

Armstrong Telephone Company -
Pennsylvania, *et al.*

Docket Nos. I-0004015
C-2009-2098380, *et al.*

STATEMENT OF COMMISSIONER WAYNE E. GARDNER

Before the Commission for consideration is the proposed Opinion and Order of our Office of Special Assistants concerning the above-captioned, two consolidated dockets. The first matter is our generic investigation into the Pennsylvania (telecommunications) Universal Service Fund (PA USF) and the July 23, 2009, Recommended Decision (RD) of presiding Administrative Law Judge (ALJ) Susan D. Colwell. The second matter is the *Generic Access Charge Investigation* and consolidated formal complaints of AT&T, *et al.*, filed against the intrastate access rates of 32 rural, incumbent local exchange carriers (rural ILECs). On August 3, 2010 ALJ Kandace Melillo issued a RD on this matter.

Our action today is a continuation of the work that began with the Commission's seminal Global Order.¹ That order balanced several complex legal and policy concerns while implementing competition into the local exchange telecommunications markets consistent with state law (Chapter 30, revised 2004) and the federal Telecommunications Act of 1996, 47 U.S.C. § 151, *et seq.* I offer my thanks and commend the high quality and diligent work of the Commission's staff, the presiding ALJs and the parties for their efforts in these cases.

Since the Global Order, that sector of the U.S. economy representing the convergence of Information, Communications and Technology (ICT), and led by investment in broadband, is among the top contributors to the nation's Gross Domestic Product (GDP), adding nearly \$900 billion annually to the economy. This sector also represents some of the fastest growing and highest earning jobs. See 18 Media L. & Policy (Spring 2009).

Access reform is but one of the legal and regulatory policy issues faced by this Commission in the telecommunications arena. Access charges refer to the compensation paid to the rural ILECs for the use of their networks by other telecommunications service providers for calls that originate or terminate in Pennsylvania. There has been more than a decade of legal and policy debate concerning what charges should apply to other modes of ICT that benefit by, or use, the facilities of the rural and non-rural ILECs in the conduct of their business. In the same time there has not been significant change in the intrastate access rates charged by the rural ILECs, due, in part, to this Commission's deferral of state proceedings to anticipated action by

¹ *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 Pa PUC 172 (September 30, 1999) (*Global Order*); 196 P.U.R. 4th 172, *aff'd sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa. Cmmwlth. 2000), vacated in part *MCI WorldCom Inc. v. Pa. PUC*, 577 Pa. 294, 844 A.2d 1239 (2004).

the Federal Communications Commission (FCC). The FCC continues to review a series of federal initiatives that may impact certain matters under consideration here as part of its National Broadband Plan.

In addition to developments at the federal level, our task has been made difficult by the inherent tension between the goals of intrastate access charge reform and the goals of maintaining universally available telecommunications service at affordable rates. Pursuant to Chapter 30, access charge reform must occur in a "revenue neutral" manner. Consequently, reductions in access charges place upward pressure on the rural ILECs' charges for other noncompetitive services.

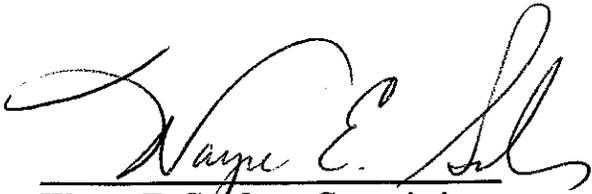
The majority decision will immediately implement further intrastate access charge rate reductions to a level that will achieve parity with their federal counterparts. These reductions are to be phased-in over a period of four years. For companies who are truly "high cost" and cannot achieve these reductions in a revenue-neutral manner over this period of time, these companies may petition the Commission for additional time for implementation. The directive to bring intrastate access rates to parity with federal interstate access levels is to be achieved without affecting the current size or configuration of the PA USF.

We also permit the imposition of a Common Carrier Line (CCL) charge of up to \$2.50 for the recovery of non-traffic sensitive intrastate access costs. This recognizes the "intermodal" nature of telecommunications, the joint and common costs that should be recovered from the local loop and the fact that there are many services and service providers that benefit from the "last mile" into a customer's home. A revised affordability, "benchmark" rate for residential service of \$23 is also adopted in this proceeding.

Finally, this Commission will institute an Advanced Notice of Proposed Rulemaking to consider revisions to the existing PA USF system. The existing PA USF was formed at a time when the telecommunications market was nascent. Thus, while the policy goals of universally available, affordable service in high cost areas, was not transitional, the means to achieve these goals through the operation of the PA USF structure was. There has been severe criticism of the PA USF presented in this record. Several parties have argued that the PA USF has become counter-productive to competition as the PA USF has moved from its originally intended purpose – a replacement of access and toll revenues lost due to access reform. It is now viewed by some as a guarantor of revenue and profitability to recipient ILECs.

Our Global Order expressly contemplated that the Commission would progressively re-evaluate the legal and policy decisions that were made in 1999, to accomplish a more permanent solution to balance the goals of access and toll reform and universally available telecommunications service to the citizens of the Commonwealth of Pennsylvania. I believe that time has come. While I recognize the carrier of last resort obligations of the rural ILECs, I remain committed to examination of the extent of these obligations in light of current market and technology conditions.

June 30, 2011
Date


Wayne E. Gardner, Commissioner