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ORIGINAL

August 30, 2006

VIA OVERNIGHT MAIL

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AUG 30 2006

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

I enclose an original and three (3) copies of the Status Report of Sprint Nextel Corporation for filing in the above-referenced docket in accordance with the August 30, 2005 Opinion and Order issued by the Pennsylvania Public Utilities Commission. All parties have been served in accordance with the attached Certificate of Service.

Please return a filed-stamped copy of this letter in the enclosed self-addressed, postage-prepaid envelope. If you have any questions, please feel free to contact me. Thank you for your attention to this matter.

Sincerely,
Jennifer A. Duane

Jennifer A. Duane

Enclosure

cc: Susan D. Colwell, Administrative Law Judge
Parties on the attached Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AUG 30 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

STATUS REPORT OF SPRINT NEXTEL CORPORATION

In accordance with Ordering Paragraph 7 of the Pennsylvania Public Utility Commission's ("Commission" or "PUC") Opinion and Order, entered on August 30, 2005 in the above-captioned proceeding, Sprint Nextel Corporation ("Sprint Nextel") hereby submits its status report to the Commission on behalf of Sprint Communications Company L.P. ("Sprint"), its interexchange and competitive local exchange carrier ("CLEC") entity, and its wireless entities operating in the state, Sprint Spectrum, L.P. d/b/a Sprint PCS and Nextel Communications, Inc. ("Nextel"), and NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners").¹ The Commission directed the parties to this investigation to submit status reports to the Commission upon the termination of the twelve-month stay it implemented in its August 30th Opinion and Order or upon the issuance of an FCC ruling in its *Unified Intercarrier Compensation* proceeding.² The Commission asked the parties to address common or related matters in the instant investigation and the FCC's proceeding as well as the need for any coordination of those matters or any new matters that may arise once the instant investigation is reinstated.³ Both Sprint and Nextel intervened in this proceeding and actively participated in this matter prior to the entry of the Commission's stay.

¹ Since the Commission entered its August 30, 2005 Opinion and Order, Sprint Corporation completed its merger with Nextel Communications, Inc. and acquired Nextel Partners. It also spun off its incumbent local exchange company operating in Pennsylvania, United Telephone Company of Pennsylvania d/b/a Sprint, now known as Embarq Corporation.

² Opinion and Order at 17, 20.

³ *Id.* at 20.

Since the Commission issued its Opinion and Order, the FCC's *Unified Intercarrier Compensation*⁴ docket remains open and ongoing. Most recently, on July 24, 2006, a coalition of telecommunications carriers participating in the National Association of Regulatory Utility Commissioners' ("NARUC") Task Force on Intercarrier Compensation ("NTIFC") filed a proposal addressing intercarrier compensation issues with the FCC in the ICC docket. The proposed plan, commonly known as the Missoula Plan, attempts to fashion reforms in intercarrier compensation under both state and federal law. On August 9, 2006, the FCC published notice of the Missoula Plan in the Federal Register and sought initial comments from interested parties by September 25, 2006 and reply comments by November 11, 2006. This comment period has since been extended until October 25 and December 11, 2006, respectively.⁵

On August 23, 2006, the Commission entered an order acknowledging the Missoula plan filing and noting that it contains provisions that "affect matters under the Commission's jurisdiction, including the Commission's authority to set intrastate carrier access charges."⁶ The Commission concluded that it should "take an active role in formulating and submitting its own substantive comments and reply comments."⁷ To that end, the Commission scheduled a workshop for September 11, 2006 to seek input from the telecommunications industry, consumer groups and other government agencies on the Missoula plan to facilitate its

⁴ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-33, Further Notice of Proposed Rulemaking (March 3, 2005 ("ICC Docket")).

⁵ The FCC's Wireline Competition Bureau granted on August 29, 2006 a request made by NARUC to push back the comment dates to provide parties with additional time to analyze the impact of the Missoula plan.

⁶ *In the Matter of FCC Intercarrier Compensation Proceedings at FCC in CC Docket No. 01-92*, Docket No. M-00061972, Order at 2 (August 23, 2006).

⁷ *Id.*

preparation of comments in the FCC's ICC docket.⁸ Interested parties may submit comments or presentations to the Commission on the Missoula plan by September 5, 2006.

Additionally, there is legislative activity underway at the federal level addressing universal service reform. Earlier this month, the Senate Commerce Committee released the latest version of its communications bill that incorporated elements of the House-passed bill, H.R. 5252 (the Communications Opportunity, Promotion and Enhancement Act of 2006 ("COPE")). The amended Senate bill, known as the Advanced Telecommunications and Opportunities Reform Act or the Communications Act of 2006, would, among other things, strengthen and expand the federal Universal Service Fund ("USF"). The full Senate is expected to consider this bill in the next few months.

In its August 30th Opinion and Order, this Commission stated that its investigation into intrastate access and universal service issues should be stayed for a period *not to exceed* twelve months or until the FCC issues its ruling in its Unified Intercarrier Compensation proceeding, whichever occurs earlier.⁹ The twelve-month stay period has now passed and Sprint Nextel supports the Commission's resumption of this investigation. The FCC opened its ICC docket in 2001 and has yet to reach any definitive conclusions on the intercarrier compensation system governing the telecommunications industry. Any action by the FCC will certainly not occur in the remainder of 2006 given the recent extension of the comment cycle for consideration of the Missoula plan. No changes in this area at the federal level are likely until mid-2007 at the earliest. The Commission should avoid further delaying the consideration of these important issues to await actions at the federal level that may take years to materialize, if ever.

⁸ *Id.*

⁹ Opinion and Order at 17.

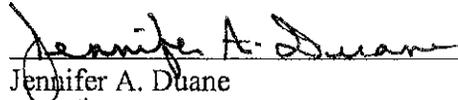
The Commission initiated its investigation to determine whether there should be further intrastate access and intraLATA toll reductions in the service territories of the rural incumbent local exchange carriers and to analyze the implications for the Pennsylvania Universal Service Fund (USF) as a result of these actions. The questions the Commission posed in its December 20, 2004 Order opening this investigation remain relevant to the Commission's determination of intrastate intercarrier compensation obligations and the continuation of the universal service fund requirements in Pennsylvania. The Commission's investigation into these issues can be coordinated with the ongoing activities at the federal level, including the Commission's review of the Missoula plan. Both regulatory bodies will be working toward the same objective – to remove implicit subsidies from switched access rates. Any action undertaken at this time can be consistent with the current Missoula reform plan before the FCC. The Missoula plan moves intrastate access rates for all local exchange carriers to at least mirror the interstate access rates. In fact, the plan calls for the state Commissions to authorize the rate changes of the Track 1 and 2 originating intrastate access rates and the Track 3 originating and terminating intrastate access rates.¹⁰ By implementing reform in advance of any possible federal reform plan, the Commission could also reform Track 1 and 2 terminating intrastate access rates. The Commission should move forward with reforms that are consistent with the direction of the Missoula plan by mirroring intrastate access rates at interstate access rate levels.

Accordingly, for the foregoing reasons, Sprint Nextel urges the Commission to resume its investigation into intrastate access charges and the state universal service fund.

¹⁰ The Missoula Plan divides carrier lines into three categories, or "Tracks," based on the size and regulatory classification of the company. Track 1 includes the lines of all RBOCs and other non-rural carriers, such as CLECs, IXCs and CMRS carriers. Track 2 includes the lines of most mid-sized rural carriers and Track 3 covers the lines of the smallest, rate-of-return-regulated rural carriers. Missoula Plan, Executive Summary at 1.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

A handwritten signature in cursive script, reading "Jennifer A. Duane", is written over a horizontal line.

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Dated: August 30, 2006

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AUG 30 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I, Mable L. Semple, certify that I have served a true copy of the "Status Report of Sprint Nextel Corporation" upon the following parties in this proceeding by both electronic mail and Federal Express Overnight Delivery(*) or by First Class Mail as noted below.

Dated in Washington, DC on Wednesday, August 30, 2006

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Mable L. Semple update 8/30/06

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August 30, 2006

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

Dear Secretary McNulty:

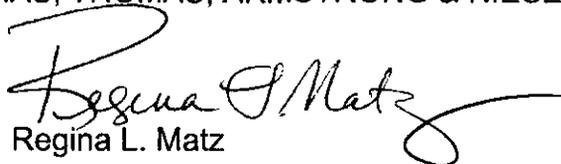
Pursuant to the Order entered August 30, 2005, enclosed for filing on behalf of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania are an original and three copies of a Joint Motion to the Commission requesting the Commission to further stay the above referenced investigation.

A copy of the attached Motion has been served in accordance with the attached Certificate of Service.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By


Regina L. Matz

Enclosure

cc: Honorable Susan D. Colwell (courtesy copy)
Certificate of Service

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ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

2006-11-30 PM 3:19
SECRETARY'S BUREAU

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

**JOINT MOTION OF
THE RURAL TELEPHONE COMPANY COALITION,
OFFICE OF CONSUMER ADVOCATE,
OFFICE OF TRIAL STAFF,
AND EMBARQ PENNSYLVANIA
FOR THE COMMISSION TO FURTHER STAY THIS INVESTIGATION
PENDING RESOLUTION OF THE FCC INTERCARRIER
COMPENSATION PROCEEDING AT CC DOCKET NO. 01-92**

Pursuant to the Order entered August 30, 2005 ("August 30, 2005 Order"), in the above referenced proceeding, the Rural Telephone Company Coalition¹ ("RTCC"), Office of Consumer Advocate ("OCA"), Office of Trial Staff ("OTS"), and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania ("Embarq Pennsylvania") (f/d/b/a Sprint), (collectively "Joint Movants") hereby file this motion requesting the Pennsylvania Public Utility Commission ("PUC" or "Commission") grant a

¹The RTCC comprises the following rural incumbent local exchange carriers: Windstream Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc., Armstrong Telephone Company - PA, Armstrong Telephone Company-North, Bentleyville Communications Corporation, d/b/a The Bentleyville Telephone Company, Buffalo Valley Telephone Company, Citizens Telephone Company of Kecksburg, Commonwealth Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company d/b/a D&E Telephone Company, Deposit Telephone Company, Frontier Communications of Breezewood, Inc., Frontier Communications of Canton, Inc., Frontier Communications of Lakewood, Inc., Frontier Communications of Oswayo River, Inc., Frontier Communications of Pennsylvania, Inc., The Hancock Telephone Company, Hickory Telephone Company, Ironton Telephone Company, Lackawaxen Telecommunications Services, Inc., Laurel Highland Telephone Company, Mahanoy & Mahantango Telephone Co., Marianna & Scenery Hill Telephone Company, The North-Eastern Pennsylvania Telephone Company, North Penn Telephone Company, North Pittsburgh Telephone Company, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, Sugar Valley Telephone Company, Venus Telephone Corporation, West Side Telephone Company and Yukon-Waltz Telephone Company.

further stay of the above referenced investigation.² The Commission granted a stay of the above investigation for one-year, or until the Federal Communications Commission ("FCC") issued a ruling in its pending intercarrier compensation proceeding at CC Docket No. 01-92,³ whichever occurred earlier. The Commission indicated it would entertain future requests for further stays "for good cause shown and for the purpose of coordinating this Commission's actions with the [FCC's] ruling in its *Unified Intercarrier Compensation* proceeding."⁴ The Commission also required Joint Movants to provide a status report to the Commission at the end of the one year stay "pertaining to common or related matters in the instant investigation" and the FCC's FNPRM "and the need for any coordination of those matters or any new matters that may arise once the instant investigation is reinstated."⁵

By separate submission filed this date, the Joint Movants submitted a Joint Status Report, incorporated herein, which, inter alia, addresses the events that have occurred with respect to access reform on the federal level since the Commission first granted this stay. The Joint Movants herein respectfully file this Joint Motion with the Commission requesting a further stay for an additional period of one year from the date of Commission entry of an Order acting upon this Motion, or until the FCC resolves said

²Joint Movants discussed this Motion with Verizon, which informed Joint Movants that it will not join the Motion, and likely will oppose the relief requested on the basis of the Order entered by the Commission disposing of D&E Telephone Company's 2006 PSI filing at Docket Nos. R-00061377 and P-00981430F1000. Currently pending before the Commission at the D&E 2006 PSI docket are a Petition for Reconsideration and other documents, including an "Amicus Curiae Response of Verizon." The proper forum in which to address Verizon's issue is at that docket. Any discrete "issue" Verizon has with D&E's access rates does not constitute grounds sufficient to warrant denial of the relief requested in this Joint Motion, particularly given the broad public interest issues raised by Joint Movants herein.

³See *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-33, Further Notice of Proposed Rulemaking (released March 3, 2005) ("FNPRM").

⁴August 30, 2005 Order, Ordering Paragraph 6.

⁵August 30, 2005 Order, Ordering Paragraph 7.

proceeding, whichever occurs first. Such a Stay would allow parties to avoid expending unnecessary time and expense relating to this investigation when actions at the federal level will likely significantly impact further state reform. Further, in light of the Motion of Vice Chairman Cawley and the Commission's Order at Docket No. M-00061972 regarding the recently filed Missoula Plan,⁶ as addressed more fully in the Joint Status Report, Joint Movants also believe it is a more prudent expenditure of this Commission's limited resources to focus, for the time being, on addressing the uniform intercarrier compensation reform proceeding at the FCC, which has potential to impact intrastate access rates and definitely will impact both the evidentiary record to be adduced in this matter and the ultimate resolution of this investigation. In support of the motion, the Joint Movants state as follows:

1. This investigation was instituted as a result of the Commission's prior Order entered July 15, 2003, at M-00021596, *In re: Access Charge Investigation per Global Order of September 30, 1999* ("2003 Order"), at 12 in which the Commission discussed the continuation of access reform in Pennsylvania in an efficient and productive manner. The history of the matter was set forth in the initial Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate and Office of Trial Staff to Defer This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding ("Initial Motion"), which resulted in the Commission's August 30, 2005 Order, and will not be repeated here.⁷

2. Following the institution of this Investigation at Docket No. I-00040105, the FCC on March 3, 2005, entered its Order instituting an intercarrier compensation

⁶ *Re: FCC Intercarrier Compensation – Workshop and Solicitation of Comments on the Missoula Plan*, Docket No. M-00061972, Secretarial Letter and Order entered August 23, 2006.

⁷This Motion is presented directly to the Commission, pursuant to the August 30, 2005 Order.

proceeding at CC Docket No. 01-92, which has been published in the Federal Register. The FCC in this proceeding is examining the intercarrier compensation system including interstate and intrastate access, reciprocal compensation and universal service. In the FNPRM, the FCC stated that one of the main reasons reform is needed is because the current intercarrier compensation system is based on jurisdictional and regulatory distinctions that are no longer linked to technological or economic differences (FNPRM at ¶15). The FCC also established several goals for the intercarrier compensation reform process including the preservation of universal service (FNPRM at ¶32), promotion of economic efficiency (FNPRM at ¶31) and maintenance of competitive and technology neutrality (FNPRM at ¶33).⁸

3. As discussed in the Initial Motion, various comprehensive access reform proposals intended to replace the "outmoded system of intercarrier payments in the telecommunications industry with a uniform regime suited for competitive markets and new technologies" were submitted to the FCC. While these plans were pending consideration and action by the FCC, on July 18, 2006 a new plan, the Missoula Plan, was submitted to the FCC.⁹ The Missoula Plan was the product of a NARUC Task Force, including the involvement of numerous working groups and stakeholders. Generally, the Missoula Plan seeks to unify intercarrier charges for all traffic over a four-year time period, reduce intercarrier compensation rates, provide an ability to recover those reduced rates through explicit means, move rates for all traffic closer together, and

⁸One factor identified by the FCC reform proceeding is the fact that the industry is no longer served solely by wireline local and long distance carriers but is served by ISPs, wireless providers and VoIP providers. These nontraditional providers play a role in the future communications market and must be considered in intercarrier compensation reform. However, this Commission does not have full jurisdiction over all of these providers and their services.

⁹ Joint Movants raise and address the Missoula Plan in this Joint Motion and Joint Status Report for the sole purpose of demonstrating the need for further stay of this Commission generic investigation. Discussion of the Missoula Plan in these pleadings should not be construed or interpreted as support of the Missoula Plan by Joint Movants either collectively or individually.

establish uniform default interconnection rules. By Notice issued July 25, 2006, the FCC requested that parties submit Comments on the Missoula Plan by September 25, 2006 and Reply Comments by November 9, 2006.¹⁰ Further, as identified above, on August 17, 2006, this Commission adopted a Motion of Vice Chairman Cawley convening a workshop and facilitated discussion of interested participants, to benefit the Commission's possible submission of comments to the FCC. Accordingly, this FCC proceeding continues to have significant potential to directly impact if not render moot the issues in the instant proceeding.

4. Virtually all of the proposals, not the least of which is the new Missoula Plan, could have a significant impact on rural access reform. In many of these proposals, the proposed reforms cover both interstate and intrastate access rates and affect both interstate and intrastate Universal Service Funds ("USF"). Most of the proposed plans propose that rural carriers should continue to receive funding of their networks to foster universal service and in many cases create supplemental rural universal service funding or access charge replacement funding to compensate rural carriers for additional required access reform.

5. As Vice Chairman Cawley aptly acknowledged in his Motion, the Missoula Plan contains provisions "affecting matters that under this Commission's jurisdiction such as the setting of intrastate carrier access charges."¹¹ Indeed, pursuant to the Commission's Secretarial Letter seeking comments from interested Pennsylvania stakeholders on the Missoula Plan and specifically identifying five areas of interest, the

¹⁰The details of the Missoula Plan, FCC actions and Congressional activity in this arena are addressed in more detail in the Joint Status Report and are incorporated herein.

¹¹ *Re: FCC Intercarrier Compensation – Workshop and Solicitation of Comments on the Missoula Plan*, Docket No. M-00061972 (Motion of Vice Chairman James H. Cawley).

Commission apparently believes the Missoula Plan has the potential to impact all Pennsylvania jurisdictional rates as well as the Pennsylvania Universal Service Fund.

The Plan eliminates differences between state access, interstate access, and reciprocal compensation or intercarrier compensation rates. The reduction in the intercarrier compensation rates will lead to a significant reduction in revenue. While the Missoula Plan covers 6 years, the rate reached at the end of the 4-year rate transition period differs by carrier given the "track" or group which each carrier follows.¹² Originating and terminating access rates change over a three or four-year period depending on the type of carrier (Track 1, Track 2 or Track 3) and eventually unify with reciprocal compensation rates. The ultimate, unified rate achieved differs depending on whether the rate is for originating or terminating and by type of carrier. For example, the ultimate terminating rate all Track 1 carriers will be \$0.0005. For Track 3 carriers, the ultimate terminating rate will be their current interstate access rate levels.

Track 1 carriers will face three different Subscriber Line Charge ("SLC") constraints during the first four steps of the plan. These include a maximum residential/single- and multi-line business- SLC cap of \$10.00, an average SLC increase cap each step, and a residential rate increase cap for each step. In Step 5, the maximum SLC cap is allowed to increase with inflation and the other two caps are eliminated. Track 2 and Track 3 carriers will be limited by a \$8.75 residential/single-line business SLC cap.

In addition, the Missoula Plan proposes to create a new Restructure Mechanism to help carriers replace the revenues they lose as a result of the Plan, but only to the extent they are not already recovered through reformed intercarrier charges and

¹² Track 1 consists of RBOCs and other large price-capped ILECs, CLECs, wireless providers and non-rural carriers. Track 2 covers most mid-sized rural carriers, some of which are price-capped and some of which are rate-of-return regulated. Track 3 consists of smaller rate of return regulated rural carriers.

increased SLCs. This allows Track 3 carriers to recover their base-year revenues through a revenue neutral process. If the SLC increases are insufficient, then Track 3 carriers will recover the residual revenue from the Restructure Mechanism. In addition, the Missoula Plan increases the funding under the embedded high cost loop mechanism, and initiates a voluntary incentive plan that a carrier may elect to join. Clearly, the Missoula Plan is the result of on-going comprehensive intercarrier compensation reform initiatives.

6. Accordingly, Joint Movants contend it would be unreasonable, unproductive and inefficient for this Commission to act further on rural access reform in advance of the FCC. All the reasons set forth in the Initial Motion upon which the Commission granted the stay remain timely and relevant, and as current circumstances are addressed further herein and in the Joint Status Report, continue to support a further stay of any action in the pending state investigation until more definitive action is taken by the FCC. Commission resources should not be needlessly expended developing a potentially inadequate and inapplicable record and a rushed result.

7. Most notably, one of the issues specifically posed by the FCC, and addressed in the Missoula Plan, is the FCC's authority to preempt the state's regulation of intrastate access and local interconnection and the establishment of alternative cost recovery mechanisms within the intrastate jurisdiction. While interested parties may oppose FCC preemption of state jurisdiction over intrastate access charges, the PUC must seriously consider the potential for its authority in this area to be altered significantly by an FCC decision. In addition, it is quite likely that, even if the FCC does not fully preempt this area, it may offer guidelines to the states for access reform or encourage other reforms through incentive mechanisms or otherwise in a manner that could significantly impact Pennsylvania carriers and consumers. The high degree of

potential for impending FCC action in this area cautions against the PUC acting on intrastate access charges in advance of the FCC.

8. The FCC's resolution of its unified intercarrier compensation proceeding will impact Pennsylvania ILECs, intrastate universal service funding and intrastate rates that are paid by Pennsylvania consumers. If an evidentiary record is adduced in this investigation because the matter is not stayed, that record likely will be moot or stale given the myriad, interwoven issues yet to be resolved by the FCC. Also, if changes are made at this time relating to intrastate rates and universal service funding, the Pennsylvania ILECs, which have already implemented substantial intrastate access reform, and their consumers, who have already encountered substantial local service increases in order to offset prior intrastate access reductions, may receive no credit for such reform under proposals pending before the FCC and may face additional subscriber line charges or other rate increases independent of whatever action this Honorable Commission takes. Pennsylvania consumers and carriers will lose the opportunity to benefit fully from increased federal funding simply because they may have moved too quickly in reducing their access rates before new federal mechanisms were put in place. In particular, funding from the Restructuring Mechanism may be reduced significantly or eliminated entirely for some carriers, and funding from the Early Adopter Fund will not replace local Pennsylvania rate increases. Thus, the Joint Movants herein submit that not only would it be prudent to stay the current proceeding, but also to act in advance of the FCC would not be sound public policy.

9. Moreover, in support of extending the existing 12-month stay for an additional time period, Joint Movants note pending United States Congressional legislation designed to change existing federal USF funding and potentially related issues when the U.S. Congress returns from August recess on September 5, 2006. As addressed in further detail in the Status Report, a stand-alone USF bill called the

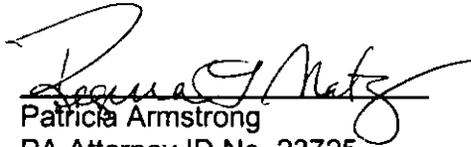
Universal Service Reform Act of 2006 (HR 5072) was introduced by Representatives Rick Boucher and Lee Terry this year. A comprehensive legislative telecommunications reform initiative sponsored by Senator Stevens (HR 5252) also contains stabilization provisions for federal universal service funding purposes. Further stay of the procedural schedule at Docket No. I-00040105 remains both judicious and warranted until changes arising from the federal legislative landscape have settled and are known.

10. Accordingly, the Joint Movants respectfully request that the Commission act expeditiously on this Motion and, based on the circumstances existing today, issue an Order staying this matter pending the outcome of the FCC unified intercarrier compensation proceeding at Docket No.01-92, for at least a period of twelve months after the Commission enters an order acting on this Motion, or until the FCC acts on its Unified Intercarrier Compensation proceeding, whichever is earlier.

WHEREFORE, for all the foregoing reasons, the Joint Movants respectfully request that:

1. The Commission issue an Order further staying the proceeding.
2. Grant such further relief consistent with the foregoing that it deems reasonable and just.

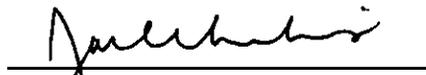
Respectfully submitted,



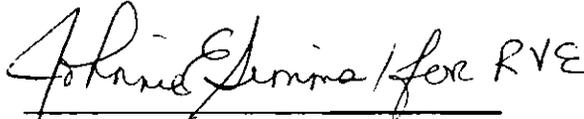
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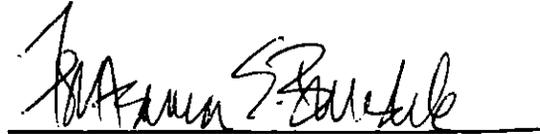
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DATE: August 30, 2006

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of August, 2006, served a true and correct copy of the foregoing Joint Motion on behalf of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania upon the persons and in the manner listed below:

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August 30, 2006

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James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary McNulty:

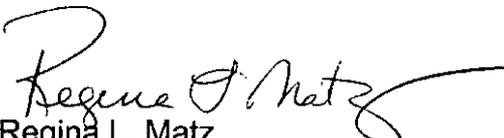
Pursuant to the Order entered August 30, 2005, enclosed for filing on behalf of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania are an original and three copies of a Joint Status Report to the Commission in the above referenced investigation.

A copy of the attached Status Report has been served in accordance with the attached Certificate of Service.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By


Regina L. Matz

Enclosure

cc: Honorable Susan D. Colwell (courtesy copy)
Certificate of Service

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

JOINT STATUS REPORT

Pursuant to Ordering Paragraph 7 of the Pennsylvania Public Utility Commission's ("Commission") August 30, 2005 Order in the above-referenced proceeding, the Parties¹ submit this Joint Status Report and seek via a Joint Motion for Further Stay filed simultaneously herewith an additional twelve (12) month stay.

The Commission in its August 30 Order provided in Ordering paragraph 7 as follows:

7. That upon the expiration of the twelve-month stay of the instant investigation or the issuance of a Federal Communications Commission ruling in *Unified Intercarrier Compensation* proceeding, whichever occurs earlier, the Parties to this proceeding shall submit status reports to the Commission pertaining to common or related matters in the instant investigation and the Federal Communications Commission's *Unified Intercarrier Compensation* proceeding and the need for any coordination of those matters or any new matters that may arise once the instant investigation is reinstated.

The primary areas, pertaining to common or related matters in the investigation are at the federal level, including proposed changes to federal telecommunications legislation and pending Federal Communication Commission ("FCC") proceedings.

¹The Parties herein comprise the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff, and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania (f/d/b/a Sprint).

First, the United States Congress has pending legislation designed to change existing federal USF funding and potentially related issues which may be addressed when the U.S. Congress returns from its August recess on September 5, 2006. A stand-alone USF bill called the Universal Service Reform Act of 2006 (HR 5072) was introduced by Representatives Rick Boucher and Lee Terry this year. The legislation had proposed, for example, to broaden the base of contributions to the federal USF fund to include a host of service providers, allow USF funding to be used by carriers to provide broadband services in addition to traditional funding of voice services, and place caps on the size of the federal fund. In addition, a comprehensive legislative telecommunications reform initiative sponsored by Senator Stevens (HR 5252) also contains stabilization provisions for federal universal service funding purposes.

Second, with respect to the FCC, the FCC on March 3, 2005, entered an Order instituting an intercarrier compensation proceeding at CC Docket No. 01-92. The FCC in the proceeding is examining the intercarrier compensation system including interstate and intrastate access, reciprocal compensation and universal service. As discussed in the Initial Motion to Defer filed by the RTCC, Office of Trial Staff, and Office of Consumer Advocate on May 23, 2005 in the above proceeding, various comprehensive access reform proposals intended to replace the "outmoded system of intercarrier payments in the telecommunications industry with a uniform regime suited for competitive markets and new technologies" were submitted to the FCC. While these plans were pending consideration and action by the FCC, on

July 18, 2006, a new plan, the "Missoula Plan," was submitted to the FCC.² The Missoula Plan was the product of a National Association of Regulatory Utility Commissioners Task Force for Intercarrier Compensation³ and included the involvement of numerous working groups and stakeholders.⁴ By Notice issued July 25, 2006, the FCC requested that parties submit Comments on the Missoula Plan by September 25, 2006 and Reply Comments by November 9, 2006. By further Order released August 29, 2006, the FCC extended the filing dates for comments and replies to October 25, 2006, and December 11, 2006, respectively, noting "the importance of the issues raised in the Missoula Plan[.]"⁵

Generally, the Missoula Plan seeks to unify intercarrier charges for all traffic over a four-year time period, provide an ability to recover reduced rates through explicit means, move rates for all traffic closer together, and establish uniform default interconnection rules.

Select copies of slides of the August 17, 2006 *ex parte* FCC submission by the Missoula Plan supporters that provide details that help illustrate pertinent points of the Plan are attached hereto as Exhibit A. The Plan eliminates the differences between state access, interstate access and reciprocal compensation rates (intercarrier

²Joint Movants raise and address the Missoula Plan in this Joint Status Report, and the accompanying Joint Motion for Further Stay, for the sole purpose of demonstrating the need for further stay of this Commission generic investigation. Discussion of the Missoula Plan in these pleadings should not be construed or interpreted as support of the Missoula Plan by Joint Movants either collectively or individually.

³However, the proposal was not endorsed by NARUC or its ICC task force.

⁴The Missoula Plan lists numerous industry supporters, including AT&T, Inc., BellSouth Corp., Cingular Wireless LLC, Commonwealth Telephone Co., Global Crossing Ltd., Level 3 Communications, Inc., and hundreds of small telecommunications companies represented by the Rural Alliance. Several entities have voiced some initial concerns with the proposal, including Comcast Corp., Cox Communications, Inc., XO Communications, LLC, Alltel Communications, Inc., CTIA, the National Cable & Telecommunications Association, the National Association of State Utility Consumer Advocates, and CompTel. See, *Telecommunications Reports*, "Missoula Plan' Aims To Unify Varied Schemes For Intercarrier Compensation," (08/01/2006).

⁵*In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Order Released August 29, 2006, at ¶2.

compensation rates). For the Bell Operating Companies and some non-rural and large rural carriers, intercarrier compensation rates will be significantly impacted. For many rural rate-of-return carriers, the rates will be unified at the current interstate access levels.

The unification of intercarrier compensation rates likely will lead to significant reduction in revenue. Carriers under the Plan would be allowed to offset intercarrier compensation revenue reductions by increasing federal subscriber line charges. In addition, a new fund, the Restructure Mechanism, would be created to provide additional support to carriers.

While the Missoula Plan covers 6 years, the unified rate at the end of the rate transition period differs by carrier given the "track" or group which each carrier follows.⁶ Originating and terminating access rates change over a three or four-year period depending on the type of carrier (Track 1, Track 2 or Track 3) and eventually unify with reciprocal compensation rates. The ultimate, unified rate achieved differs depending on whether the rate is for originating or terminating and by type of carrier. For example, the ultimate terminating rate all Track 1 carriers will be \$0.0005. For Track 3 carriers, the ultimate terminating rate will be their current interstate access rate levels.

Track 1 carriers will face three different Subscriber Line Charge ("SLC") constraints during the first four steps of the plan. These include a maximum residential/single- and multi-line business- SLC cap of \$10.00, an average SLC increase cap each step, and a residential rate increase cap for each step. In Step 5, the maximum SLC cap is allowed to increase with inflation and the other two caps are

⁶Track 1 consists of RBOCs and other large price-capped ILECs, CLECs, wireless providers and non-rural carriers. It comprises 92 ILEC study areas with approximately 142 million lines. Track 2 covers most mid-sized rural carriers, some of which are price-capped and some of which are rate-of-return regulated. It includes 158 study areas. Track 3 consists of smaller rate of return regulated rural carriers. It comprises 1,185 study areas.

eliminated. Track 2 and Track 3 carriers will be limited by a \$8.75 residential/single-line business SLC cap.

In addition, the Missoula Plan proposes to create a new Restucture Mechanism to help carriers replace the revenues they lose as a result of the Plan, but only to the extent they are not already recovered through reformed intercarrier charges and increased SLCs. This allows Track 3 carriers to recover their base-year revenues through a revenue neutral process. If the SLC increases are insufficient, then Track 3 carriers will recover the residual revenue from the Restructure Mechanism. In addition, the Missoula Plan increases the funding under the embedded high cost loop mechanism, and initiates a voluntary incentive plan that a carrier may elect to join.

Clearly, the Missoula Plan is the result of on-going comprehensive intercarrier compensation reform initiatives. Joint Movants individually are reviewing the various components of the Plan, along with the other proposals submitted in the FCC's unified intercarrier compensation proceeding at CC Docket No. 01-92. At this juncture, and without endorsement for the Missoula Plan, Joint Movants submit that a stay of this generic Commission investigation is certainly warranted because further rebalancing of intrastate access rates prior to FCC action may cause Pennsylvania rural carriers to lose interstate support funds.⁷

Specifically, the Missoula Plan establishes a process for state and interstate access rate unification. Where rate reductions cause declines in intercarrier compensation revenue, carriers are allowed to recover revenue reductions by

⁷Moreover, provisions of the Missoula Plan may not guarantee recovery of any local rate increases. The Missoula Plan includes an Early Adopter Fund that provides support for states that have already taken measures to reduce state access rates. At present, the Early Adopter Fund will replace only explicit state universal service funds. It does not appear that the Early Adopter Fund will allow states to reduce local rates. In footnote 27, the Missoula Plan sponsors state that they are investigating the possibility of extending the Plan to cover local rate increases that were used to rebalance access rates. To date, however, there have been no firm proposals. Clearly, a further stay of this generic investigation is warranted given the lack of finality regarding scope and implementation of the envisioned Early Adopter Fund, as well as other provisions in the Missoula Plan.

increasing their interstate SLC until SLC reaches the SLC cap. The residential SLC cap for Track 2 and Track 3 carriers is \$8.75. Thus, for example, some carriers will increase their residential SLCs by \$2.25 from \$6.50 to \$8.75 to recover the revenue reductions. If the SLC increase is insufficient to recover the revenue reductions, then the carriers are allowed to recover the residual revenue from a new fund called the Restructure Mechanism.

If, however, the PUC requires carriers to reduce their state access rates and increase their retail local rates, support provided by the Restructure Mechanism will diminish and possibly be reduced to zero. Thus, the total bill (SLC plus the local retail rate) for customers of rural Pennsylvania carriers may increase if the Commission acts prior to the FCC's adoption of a final intercarrier compensation reform plan.

The following example illustrates how Pennsylvania consumers' rates would be higher if the PUC takes immediate action. Assume that a carrier is charging a \$6.50 SLC, a local rate of \$14.00 and the required access reduction is the equivalent of \$4.00 per line. If the PUC takes immediate action, the local rate becomes \$18.00 and the SLC remains at \$6.50, and the total bill would be \$24.50 (\$18.00 local rate plus \$6.50 SLC). However, if the FCC adopts the Missoula Plan, the local rate remains at \$14.00, the SLC increases to \$8.75 and the carrier receives \$1.75 per-line from the Restructure Mechanism. The total bill is \$22.75 (\$14.00 local rate plus \$8.75 SLC). The consumer saves \$1.75.

In addition, the Missoula Plan estimates that the Restructure Mechanism will cost every U.S. consumer 21 cents per month. Because immediate PUC action would probably have a very small impact on the nationwide Restructure Mechanism funding requirement, immediate action would still require Pennsylvania consumers to pay 21 cents into the Restructure Mechanism and receive nothing in return.

In a most immediate response to the action before the FCC, on August 17, 2006, this Commission adopted a Motion of Vice Chairman Cawley convening a workshop and facilitated discussion of interested participants, to benefit the Commission's provision of comments to the FCC on the Missoula Plan.⁸ By Secretarial Letter and Order entered August 23, 2006,⁹ the Commission invited interested members of the public to provide presentations or comments on the interlinked effects of the Missoula Plan within Pennsylvania, arising from the following issues:

1. Interstate Carrier Access Charges;
2. Intrastate Carrier Access Charges;
3. Federal universal service fund (USF) contributions and support payments;
4. PA USF contribution and support payments;
5. Setting of rates for intrastate regulated telecommunications services under Chapter 30; and
6. Impact on existing interconnection agreements and agreements between competing telecommunications carriers in PA.

Given the existing legislative and regulatory landscape, particularly the events that have occurred in the period since the Commission last stayed this matter, it is

⁸In addition to the action of the Commission based upon Vice-Chairman Cawley's Motion, Administrative Law Judge Louis Cocheres also recently issued a Recommended Decision at Docket No. I-00030096 in which he summarized his recommendation as follows:

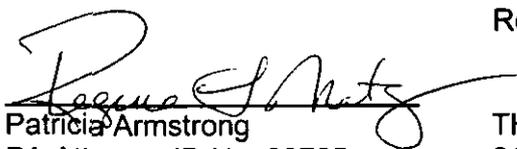
From a totally practical standpoint, implementing any new compensation regime on a state-wide basis will cost the Local Exchange Carriers (LECs) time and money. No matter how good the Pennsylvania compensation plan might be, the results of the NPRM will undoubtedly be different (and hold the potential to preempt the state law) which in turn would cause the LECs to expend more time and money. Accordingly, I find it impossible to recommend making any major changes in the compensation regime during the pendency of the NPRM.

ALJ's Recommended Decision at 1 (emphasis added).

⁹Re: *FCC Intercarrier Compensation – Workshop and Solicitation of Comments on the Missoula Plan*, Docket No. M-00061972, Secretarial Letter and Order entered August 23, 2006.

both impractical and inefficient to reactivate the instant investigation at this time and, as requested in the Joint Motion for Further Stay, a further twelve (12) month stay is appropriate. As Vice Chairman Cawley aptly acknowledged in his Motion, the Missoula Plan contains provisions "that affect matters that are under this Commission's jurisdiction such as the setting of intrastate carrier access charges."¹⁰ Commission resources should not be needlessly expended developing a potentially inadequate and inapplicable record and a rushed result.

Respectfully submitted,



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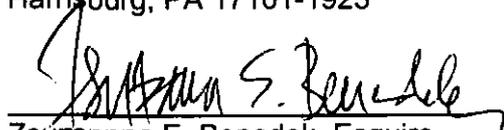
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DATE: August 30, 2006

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¹⁰ Re: FCC Intercarrier Compensation – Workshop and Solicitation of Comments on the Missoula Plan, Docket No. M-00061972 (Motion of Vice Chairman James H. Cawley).

EXHIBIT A

Missoula Plan Overview

- **Six year plan unifies intercarrier charges for majority of nation's lines and moves *all intercarrier rates for all traffic* closer together**
- **Some parts of the Plan are discretionary for States, all others are mandatory**
- **Tailors reform based on three categories of carrier, or *Tracks***
- **Provides alternative sources for recovery through federal SLC increases and a new Restructure Mechanism**
- **Establishes uniform default interconnection rules**
- **Addresses phantom traffic and other intractable industry disputes such as VoIP-to-PSTN compensation, Virtual FX and IntraMTA wireless compensation**
- **Requires NPRMs at Steps 4 and 6 to determine whether additional reform is appropriate**
- **Provides additional funding to: insulate Lifeline customers from SLC increases; establish an Early Adopter Fund; and increase certain high cost funding**
- **Creates an incentive regulation option for qualifying rate of return ILECs**

Carrier Categories

- **Missoula Plan creates three carrier categories, or *Tracks* – reform tailored for each Track**
- **Track 1 carrier category**
 - RBOC ILECs, all non-CRTC ILECs and all non-ILEC carriers, e.g., CMRS, CLEC and IXC carriers
 - Comprises 92 ILEC study areas with approximately 146.2M ILEC lines
- **Track 2 carrier category**
 - Most mid-size ILECs
 - Comprises 158 ILEC study areas with approximately 12.5M ILEC lines
- **Track 3 carrier category**
 - Smallest ROR ILECs
 - Comprises 1,185 study areas with approximately 7.3M ILEC lines
- **Carriers must meet the following definition of a Covered Rural Telephone Company (CRTC) to be treated as a Track 2 or 3 carrier**
 - Carrier must be an ILEC in a particular study area as of August 1, 2006, meet the definition of rural in the Act, not be owned by a BOC or its affiliate and serve less than 1M lines; or
 - Carrier must be an ILEC and qualify as a 2% carrier under the criteria contained in section 251(f)(2) in all study areas it holds as of August 1, 2006 and
 - ✓ must have a holding company average of less than 19 lines per square mile; or
 - ✓ must be non-rural, interstate ROR and select incentive regulation by December 31, 2006.

Intercarrier Compensation Transition

	Termination Charges		Origination Charges
	Reciprocal Compensation	Terminating Access	Originating Access
Track 1	<p>Step 3: <i>Termination</i> charges for all traffic unify at \$0.0007. <i>Transport</i> charges for dedicated transport unify at interstate direct trunk transport rate levels.</p> <p>Step 4: <i>Termination</i> charge decreases to \$0.0005.</p>		<p>Step 4: Charges unify as follows:</p> <ul style="list-style-type: none"> ➤ \$0.002 for end office switching; ➤ \$0.0025 for tandem switched transport; ➤ Interstate direct trunk transport rate levels for dedicated transport. <p><i>Or, carriers may eliminate originating access.</i></p>
Track 2	<p>Step 3: <i>Termination</i> charges for all traffic unify at \$0.0005. <i>Transport</i> charges for tandem switched transport unify at:</p> <ul style="list-style-type: none"> ➤ \$0.0105 for ROR study areas; ➤ \$0.0075 or \$0.0097 (when originating is eliminated) for price cap or incentive regulation study areas; ➤ Interstate direct trunk transport rate levels for dedicated transport. 		<p>Step 4: Charges unify as follows:</p> <ul style="list-style-type: none"> ➤ \$0.002 for end office switching and \$0.0105 for tandem switched transport in ROR study areas; ➤ \$0.002 for end office switching and \$0.0075 for tandem switched transport in price cap or incentive regulation study areas; ➤ Interstate direct trunk transport rate levels for dedicated switched transport. <p><i>Or, carriers may eliminate originating access.</i></p>
Track 3	<p>Step 1: <i>Transport</i> and <i>Termination</i> rates capped at interstate access levels. Existing EAS arrangements with other ILECs continue unchanged.</p>	<p>Step 4: Intrastate access charges unify at interstate access rate levels.</p>	<p>Step 4: Intrastate access charges unify at interstate access rate levels.</p>

Alternative Sources of Revenue

- **As intercarrier compensation rates are reduced, carriers will have an opportunity to recover resulting lost revenues through SLC cap increases**
 - Track 1 SLC caps increase to \$10.00 over 4 steps
 - ✓ **Pricing constraint No. 1:** Average SLC rate may increase by no more than \$0.75 at Step 1, \$1.50 at Step 2, \$2.50 at Step 3 and \$3.50 at Step 4
 - ✓ **Pricing Constraint No. 2:** Individual residential and single-line business SLC rates may increase by no more than \$0.95 at Step 1, \$1.90 at Step 2, \$3.10 at Step 3 and \$4.30 at Step 4
 - ✓ Beginning at Step 5, the SLC cap rises with inflation each year
 - Track 2 residential & single line business SLC caps increase to \$8.75 over 3 steps – MLB increases to \$10.00 at Step 3
 - Track 3 residential & single line business SLC caps increase to \$8.75 over 3 steps
- **A new common line price cap basket structure and additional pricing flexibility will apply to all price cap carriers**
- **Restructure Mechanism provides for recovery of revenues, to the extent they aren't recovered through SLC cap increases**
 - The Plan supporters' current best estimate of the Restructure Mechanism at the end of the transition is approximately \$1.5B.

“Dialing In” Intercarrier Compensation Reform

	<u>Track 1</u>	<u>Track 2</u>	<u>Track 3</u>
Dial No. 1 --- Intercarrier Rates			
Origination	\$0.0045	\$0.0095	\$0.0171
Termination	\$0.0005	\$0.0080	\$0.0171
Dial No. 2 --- End User Rates			
Interstate SLC cap increases	\$3.50/Line/Month	\$2.25/Line/Month	\$2.25/Line/Month
Dial No. 3 --- Restructure Mechanism		\$1.500B	

Restructure Mechanism		\$1.500B	\$0.21
Early Adopter		\$0.200B	\$0.03
Universal Service Fund Adjustments		\$0.525B	\$0.06
Additional Lifeline	\$0.225B		
High Cost Fund Adjustments	\$0.300B		
Total ICR Support		\$2.225B	\$0.30
Total ICR Support recovered through a monthly per connection unit charge			

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August 30, 2006

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

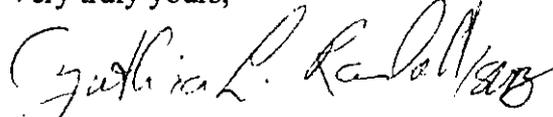
RE: Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund
Docket No. I-00040105

Dear Mr. McNulty:

Enclosed please find the original and three copies of the Status Report of Verizon Pennsylvania Inc., Verizon North Inc. and MCI metro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, being filed pursuant to the Commission's August 30, 2005 Order in the above-captioned matter.

If you have any questions, please feel free to contact me.

Very truly yours,


Cynthia L. Randall

CLR/slb

VIA UPS DELIVERY
cc: ALJ Susan D. Colwell

VIA USPS FIRST CLASS
cc: Attached Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

I-00040185

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**STATUS REPORT OF VERIZON PENNSYLVANIA INC.,
VERIZON NORTH INC. AND MCIMETRO ACCESS TRANSMISSION
SERVICES, LLC d/b/a VERIZON ACCESS TRANSMISSION SERVICES**

Verizon Pennsylvania Inc., Verizon North Inc. and MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services (“Verizon”) hereby submit this Status Report pursuant to the Commission’s August 30, 2005 Order. The Commission’s Order required the parties to file status reports upon the earlier of the expiration of the twelve-month stay ending August 30, 2006, or the issuance of the Federal Communications Commission’s (“FCC’s”) ruling in CC Docket No. 01-92 (the “Intercarrier NPRM”). The stay of this proceeding expired August 30, 2006.

In its August 30, 2005 Order, the Commission asked the Parties to include in their status reports “common or related matters in the instant investigation and the [Intercarrier NPRM] and the need for any coordination of those matters or any new matters that may arise once the instant investigation is reinstated.” (August 30 Order at Ordering Paragraph 7). Because the FCC has not yet issued a ruling in the Intercarrier NPRM, at this time Verizon has nothing new to report with respect to any common or related matters in this proceeding and the Intercarrier NPRM. Verizon reserves its right to raise all pertinent arguments in its own testimony and in response to the comments and testimony of other parties regarding the impact of any FCC ruling on intrastate rural ILEC access reform.

With respect to new matters that have arisen during the twelve-month stay, three of the parties to this proceeding – Denver & Ephrata Telephone & Telegraph Company (“D&E”) and its affiliates Buffalo Valley Telephone Company (“Buffalo”) and Conestoga Telephone & Telegraph Company (“Conestoga”) – have unilaterally and dramatically raised their already-high access rates. Although the Commission gave these carriers the opportunity to bank their proposed access charge increases or to allocate the increases to basic local exchange services, D&E, Buffalo and Conestoga declined both of these options. As a result, the Commission expanded the scope of this proceeding to include an examination of whether these access rate increases are “consistent with the regulations and policies governing the Pennsylvania Universal Service Fund, the Compan[ies] previously granted request for suspension of further intrastate access reform in Docket No. I-00040105, the Compan[ies] previously approved Amended Chapter 30 Plan set forth in Docket P-00981430F1000, and the continuing statutory obligations set forth in Sections 3011(1)-(13), 3019(h) and Chapter 13 of the Public Utility Code.”¹

Verizon fully intends to address these issues relating to these rural ILEC access increases in this proceeding. It is long past time when Verizon should be required to provide a double subsidy to D&E and other rural carriers – in the form of universal service fund support *plus* intrastate access rates that are very much higher than the access rates that Verizon itself is allowed to charge – and that continue to *increase*, as in the case of D&E,

¹ See *Buffalo Valley Telephone Company Supplement No. 54 to Tariff PA PUC No. 7 Supplement No. 8 to Tariff PA PUC No. 8, Docket No. R-00061375, and 2006 Annual Price Stability Index / Service Price Index Filing of Buffalo Valley Telephone Company, Docket No. P-00981428F1000* (Order entered June 23, 2006); *Conestoga Telephone & Telegraph Company Supplement No. 206 to Tariff PA PUC No. 10 Supplement No. 7 to Tariff PA PUC No. 11, Docket No. R-00061376, and 2006 Annual Price Stability Index / Service Price Index Filing of Conestoga Telephone & Telegraph Company, Docket No. P-00981429F1000* (Order entered June 23, 2006); and *Denver & Ephrata Telephone & Telegraph Company Supplement No. 251 to Tariff PA PUC No. 15 and Supplement No. 10 to Tariff Pa PUC No. 16, Docket No. R-00061377 and 2006 Annual Price Stability Index/Service Price Index Filing of Denver & Ephrata Telephone & Telegraph Company, Docket No. P-00981430F1000* (Order entered June 23, 2006).

Buffalo and Conestoga. Verizon believes that these rural carriers' break with the status quo is fundamentally inconsistent with the stay ordered by this Commission on August 30, 2005 and inconsistent with long-standing access reform objectives of this Commission. Therefore, Verizon reserves the right to raise all pertinent arguments, including seeking a roll-back of these increases and/or a corresponding elimination of universal service fund support to D&E, Buffalo and Conestoga – universal service fund support that was premised on the assumption that it would be used to replace revenue lost from access rate decreases that these carriers have now rescinded.

Date: August 30, 2006


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(215) 466-7146

Attorney for
Verizon Pennsylvania Inc.
Verizon North Inc.
MCImetro Access Transmission
Services, LLC d/b/a Verizon Access
Transmission Services

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Status Report of Verizon Pennsylvania Inc. Verizon North Inc. and MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 30th day of August, 2006

VIA USPS FIRST CLASS MAIL

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GENERAL COUNSEL

August 30, 2006

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James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

I enclose for filing in the referenced matter the original and four copies of the Status Report of Wireless Carriers.

Thank you for your assistance. If you have any questions or require further information, please do not hesitate to contact me.

DOCUMENT
FOLDER

Very truly yours,

Christopher M. Arfaa

Christopher M. Arfaa

CMA/cms
Enclosures

cc: Hon. Susan D. Colwell (w/encl. via Federal Express – overnight delivery)
Certificate of Service (w/encl. via Federal Express – overnight delivery)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AUG 30 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

I-00040105

STATUS REPORT OF WIRELESS CARRIERS

ORIGINAL

Pursuant to Ordering Clause 7 of the Commission's Opinion and Order entered August

30, 2005 in this matter, T-Mobile Northeast LLC, f/k/a Omnipoint Holdings Inc. d/b/a T-Mobile, d/b/a T-Mobile, Voicestream Pittsburgh LP d/b/a T-Mobile, and Cellco Partnership d/b/a Verizon Wireless (collectively, the "Wireless Carriers"), submit this status report to the Commission pertaining to common or related matters in the instant investigation and the Federal Communications Commission's Unified Intercarrier Compensation ("UIC") proceeding and the need for any coordination of those matters or any new matters that may arise once the instant investigation is reinstated. Each of the Wireless Carriers is an intervenor in this proceeding and has been an active participant.¹

Since the Commission's Opinion and Order, the UIC proceeding has continued and has yet to be concluded by way of a substantive FCC decision. As they previously stated in support of the May 23, 2005 *Motion to Defer*, the Wireless Carriers continue to submit that the outcome of the FCC proceeding "will almost certainly dictate some of the rights and responsibilities of carriers and state commissions with respect to most of the issues that are the subject of this

¹ See, *Order Disposing of Motions* issued by ALJ Colwell on June 8, 2005 in this proceeding at 1-6, 8. As described therein, the Wireless Carriers have asserted that the Commission lacks jurisdiction over their provision of "commercial mobile service", as defined at 47 C.F.R. § 331(d)(1), pursuant to 66 Pa. C.S. § 102. The Wireless Carriers continue to make such assertion and make no admissions to the contrary by the filing of this status report.

investigation.”²

Moreover, the Commission has taken notice of new proposals before the FCC regarding unified intercarrier compensation since the issuance of its August 30, 2005 Opinion and Order. Specifically, the Commission has ordered the holding of a workshop and facilitated discussion no later than September 15, 2006 for the purpose of soliciting comments and presentations on the so-called “Missoula Plan”, which is among other, competing universal service reform proposals, but for which the FCC is currently seeking specific comment. The Commission perceives that the proposed Plan “contains provisions that affect matters under this Commission’s jurisdiction including the Commission’s authority to set intrastate carrier access charges.” Order dated August 23, 2006, Pa. PUC Docket No. M-00061972 (the “*Workshop Order*”), at 2. The Commission’s perception, and its conclusion that “it should take an active role in formulating and submitting its own substantive comments and reply comments”³ to the FCC on the Missoula Plan, underscore the fact that continuing the investigation in the instant docket would not be an efficient use of the Commission’s resources or those of interested parties.

In addition to the proceedings before the FCC, new federal legislation is pending with respect to universal service reform, which could have an impact on the Commonwealth’s legal authority with respect to intrastate universal service programs. In particular, H.R. 5252 (known as the “Communications Opportunity, Promotion, and Enhancement Act of 2006”, or “COPE

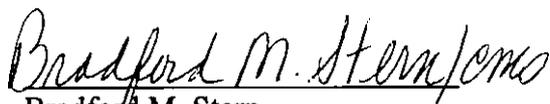
² See, *Order Disposing of Motions*, at 8.

³ *Id.*

Act”), which has passed the House and been reported out of Senate committee with revisions.⁴ contains provisions that could have such impact.

In sum, the FCC’s UIC proceeding and the pending federal legislation may substantially alter the law governing intrastate universal service programs. These continuing federal administrative and legislative activities thus present a “moving target” of uncertain result with respect to the parameters and outcome of any further investigation undertaken in this docket at this time. The Wireless Carriers respectfully submit that there is therefore no value in continuing an active investigation on the questions posed by the Commission in its December 16, 2004 Order initiating this investigation. The Commission’s and interested parties’ resources would be better spent elsewhere to address intrastate intercarrier compensation issues.

Respectfully submitted,



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DATED: August 30, 2006

⁴ See, Senate Commerce Committee, H.R. 5252RS, released June 28, 2006 (cited as the “Advanced Telecommunications and Opportunities Reform Act” or the “Communications Act of 2006”). It is anticipated that the full Senate will address the bill this Fall.

CERTIFICATE OF SERVICE

I, Christopher M. Arfaa, hereby certify that I have this day caused to be served a copy of:
the foregoing document upon the persons listed below by the means indicated in accordance with
the requirements of 52 Pa. Code § 1.54:

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Dated: August 30, 2006


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August 30, 2006

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James J. McNulty, Secretary
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Mr. McNulty:

Enclosed please find the original and three copies of the Status Report of Verizon
Pennsylvania Inc., Verizon North Inc. and MCImetro Access Transmission Services, LLC d/b/a
Verizon Access Transmission Services, being filed pursuant to the Commission's August 30,
2005 Order in the above-captioned matter.

If you have any questions, please feel free to contact me.

Very truly yours,


Suzan D. Paiva

CLR/slb

VIA UPS DELIVERY

cc: ALJ Susan D. Colwell

VIA USPS FIRST CLASS

cc: Attached Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Investigation Regarding Intrastate Access :
Charges and IntraLATA Toll Rates of : I-00040105
Rural Carriers, and the Pennsylvania :
Universal Service Fund :

SEP 12 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**VERIZON'S OPPOSITION TO THE MOTION
OF THE RURAL TELEPHONE COMPANY
COALITION, OFFICE OF CONSUMER ADVOCATE,
OFFICE OF TRIAL STAFF, AND EMBARQ FOR THE
COMMISSION TO FURTHER STAY THIS INVESTIGATION
PENDING RESOLUTION OF THE FCC INTERCARRIER
COMPENSATION PROCEEDING AT CC DOCKET NO. 01-92**

Verizon Pennsylvania Inc., Verizon North Inc. and MCImetro Access
Transmission Services, LLC d/b/a Verizon Access Transmission Services (collectively
"Verizon") hereby oppose the Motion filed by the Rural Telephone Company Coalition
("RTCC"),¹ Office of Consumer Advocate ("OCA"), Office of Trial Staff ("OTS"), and
The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania
("Embarq") (collectively, "Joint Movants") to stay this investigation of rural ILEC access
rates (the "Rural Access Reform Proceeding") pending resolution of the Federal
Communication Commission's ("FCC's") Intercarrier Compensation Proceeding, CC

¹ The RTCC consists of the following rural incumbent local exchange carriers: Windstream Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc., Armstrong Telephone Company - PA, Armstrong Telephone Company-North, Bentleyville Communications Corporation, d/b/a The Bentleyville Telephone Company, Buffalo Valley Telephone Company, Citizens Telephone Company of Kecksburg, Commonwealth Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company d/b/a D&E Telephone Company, Deposit Telephone Company, Frontier Communications of Breezewood, Inc., Frontier Communications of Canton, Inc., Frontier Communications of Lakewood, Inc., Frontier Communications of Oswayo River, Inc., Frontier Communications of Pennsylvania, Inc., The Hancock Telephone Company, Hickory Telephone Company, Ironton Telephone Company, Lackawaxen Telecommunications Services, Inc., Laurel Highland Telephone Company, Mahanoy & Mahantango Telephone Co., Marianna & Scenery Hill Telephone Company, The North-Eastern Pennsylvania Telephone Company, North Penn Telephone Company, North Pittsburgh Telephone Company, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, Sugar Valley Telephone Company, Venus Telephone Corporation, West Side Telephone Company and Yukon-Waltz Telephone Company.

Docket No. 01-92 (the “Intercarrier NPRM”). The Commission should deny the Motion because, as the Commission itself has already observed, three of the Joint Movants have unilaterally and dramatically raised their access rates – actions inconsistent with their request for a stay. Indeed, the relief requested would directly conflict with the Commission’s recent rulings reviewing the PSI filings of Denver & Ephrata Telephone & Telegraph Company (“D&E”), Buffalo Valley Telephone Company (“Buffalo Valley”) and Conestoga Telephone & Telegraph Company (“Conestoga”).² In those rulings, the Commission allowed these three companies – all of which are among the Joint Movants – to increase access rates as part of their 2006 Annual Price Stability Index/Service Price Index (“PSI/SPI”) Filings, but did so on the express condition that these rates would be subject to further investigation in this Rural Access Reform Proceeding regarding whether the access increase is “consistent with . . . [D&E’s] previously granted request for suspension of further intrastate access reform.” (D&E Access Order at 15). As the Commission observed, “[w]e believe that D&E’s proposed access services rate increases in the instant filing could undermine our decision to suspend this investigation of further access services reforms, particularly reductions in access services rates, because the proposal reverses the current reforms by increasing the existing access service rates. Such a result could undermine the progress already achieved in our efforts to reduce and reform access services charges and promote competition. We believe that maintenance of the current regulatory status quo, pending federal action, necessitates preservation of D&E’s current access services rates.” (Id. at 11). Having chosen to raise their access rates, D&E and its affiliates cannot now be heard to invoke the need for a stay. It would

² See Orders entered June 23, 2006 at Docket Nos. R-00061377 and P-00981430F1000 (“D&E Access Order”), Nos. R-00061375 and P-00981428F1000 (“Buffalo Valley Access Order”) and Nos. R-00061376 and P-00981429F1000 (“Conestoga Access Order”).

be fundamentally inconsistent with these rulings to grant a further stay of the Rural Access Reform Proceeding without resolving this and other issues raised by the Commission in the D&E, Buffalo Valley and Conestoga Access Orders.

BACKGROUND

This proceeding was instituted by the Commission on December 20, 2004 to consider “whether there should be further intrastate access charge reductions and intraLATA toll rate reductions in the service territories of rural incumbent local exchange carriers . . . and all rate issues and rate changes that should or would result in the event that disbursements from the Pennsylvania Universal Service Fund . . . are reduced.”³ On August 30, 2005, the Commission granted, in part, a Motion to Defer the Rural Access Reform Proceeding filed by the Joint Movants – including the D&E companies – and stayed the case for one year or until the FCC issues a ruling in the Intercarrier NPRM,⁴ whichever occurs first.

On May 3, 2006, while the Commission’s stay was still in place, D&E, Conestoga and Buffalo Valley proposed, as part of their annual PSI/SPI filings, to increase their annual revenues from intrastate switched access rates by over \$2 million.⁵ In D&E’s case this was fully 96% of its allowable PSI revenue increase – a proposal that the Commission found “unfairly targets access services by subjecting them to an overwhelming majority of the rate increases.” (D&E Order at 12). In its Orders

³ Order Instituting Investigation, Docket No. I-00040105, entered December 20, 2004 at 1.

⁴ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-33, Further Notice of Proposed Rulemaking (released March 3, 2005) (“Intercarrier NPRM”).

⁵ See Secretarial Letter dated May 5, 2006 (noting that “D&E Telephone and Telegraph Company, Conestoga Telephone and Telegraph Company and Buffalo Valley Telephone Company . . . are proposing substantial rate increases to access charges to the tune of \$978,739, \$908,460 and \$253,931, respectively.”)

addressing these filings the Commission criticized this unprecedented move to raise access rates in this manner, noting that it “appears to contradict long-standing access service reform in Pennsylvania including Docket No. I-00040105.” (D&E Access Order at 5). The Commission also observed that “D&E’s proposal may also contravene the Commission’s grant of a recent request of the ILECs, including D&E, to suspend the investigation of further reductions in access services rates” in the Rural Access Reform Proceeding. (D&E Access Order at 9).

While the Commission ultimately allowed the D&E companies’ proposed access rate increases to go into effect, it also expressly ruled that if the D&E companies did not bank the proposed increases or allocate them to basic local exchange services, the Rural Access Reform Proceeding would be expanded to include an examination of whether the D&E companies’ access rate increase “is consistent with the regulations and policies governing the Pennsylvania Universal Service Fund, the Company’s previously granted request for suspension of further intrastate access reform in Docket No. I-00040105, the Company’s previously approved Amended Chapter 30 Plan set forth in Docket P-00981430F1000, and the continuing statutory obligations set forth in Sections 3011(1)-(13), 3019(h) and Chapter 13 of the Public Utility Code.” (D&E Access Order at 15).

To date, the D&E companies have not banked their proposed increase or allocated it to basic local exchange services.

ARGUMENT

In approving the D&E companies' request for an increase in their access rates, the Commission made clear the price that would accompany this increase – the resumption of this proceeding. The Commission gave these companies the opportunity to bank their proposed access charge increases or to allocate this revenue instead to basic local exchange services. The D&E companies declined both of these options, and instead have moved forward and imposed their dramatically higher access rates.

In light of D&E's decision, the Commission cannot now grant the Motion in which these D&E companies have joined. This Motion, which seeks the continuation of the suspension of this proceeding, ignores the dispositive fact that the D&E companies have elected, despite clear warning from the Commission, to move forward and impose their access rate increases, a decision the Commission already concluded, "could undermine" any further suspension of the Rural Access Reform Proceeding by disrupting "maintenance of the current regulatory status quo." (D&E Access Order at 11). Having taken a step that undermines the basis for the Commission's original decision to suspend this docket, and having willfully disregarded the Commission's warning about the consequences of such an action, D&E and its affiliates have surrendered the right to a further stay of this proceeding. Their actions to disturb the status quo by increasing their access rates (and paving the way for potential similar increases by other rural telephone companies while this stay is in effect) are fundamentally at odds with the rationale for a stay. D&E and its affiliates thus have forfeited the regulatory pact that, for the past year, has immunized them and other rural ILECs from cuts in their access rates.

While the Joint Movants suggest in passing that the “proper forum” to address the issue of the D&E companies’ access rates is the individual dockets addressing the D&E PSI filings (Joint Motion at 2, n. 2), the Commission already rejected that premise and recognized that it is more appropriate to consider these rates in the present, more comprehensive docket, in part because “acceptance of these proposed access services rates increases could also trigger multiple requests for similar access services rate increases throughout Pennsylvania. A deluge of access services rate increases and local rate increases could erode the precarious gains made on access services reform and universal service.” (D&E Access Order at 12-13). It defies logic for the Joint Movants to suggest that the Commission should stay this case and at the same time leave the rural ILECs free to raise their already inflated access rates during the stay period immune from any comprehensive investigation, and relegate any substantive inquiries to a piecemeal process under the tight timetables required for examining individual PSI filings.

It is long past the time when Verizon should cease to be required to provide a double subsidy to D&E and other rural carriers – in the form of universal service fund support *plus* intrastate access rates that are very much higher than the access rates that Verizon itself is allowed to charge and that continue to *increase*, as in the case of the D&E companies. To put matters in perspective, D&E has now increased its per-line carrier charge by \$1.20 – nearly 30% – resulting in a carrier charge of \$5.24 per line. After this increase, its carrier charge will be virtually unchanged from the time of the *Global Order* seven years ago – in contrast to Verizon North Inc., which since that time has *lowered its own carrier charge from \$8.64 to 58¢* (the same as Verizon Pennsylvania Inc.’s carrier charge). D&E’s increase alone is over twice as much as Verizon’s entire

carrier charge, and its resulting \$5.24 carrier charge is an order of magnitude larger than Verizon's much smaller charge. It is precisely because this increase is so large – and because rural ILEC access charges in general and D&E's rates in particular are so high – that the Commission was concerned with D&E's break from the status quo, and justifiably so. Act 183 requires CLECs operating in Verizon's territory to charge access rates no higher than Verizon's, but rural ILECs like D&E are charging access rates many multiples of the rates Verizon is charging. *See* 66 Pa. C.S. § 3017(c). In light of D&E's actions, it is time for this double disparity to be addressed. These reasons alone justify denying the Motion and moving forward with the investigation of rural carrier access rates.⁶

For the reasons set forth above, Verizon urges the Commission to deny the Motion and resume this proceeding to consider the issues raised in the D&E, Buffalo Valley and Conestoga Access Orders. At a minimum, if the Commission considers granting the requested stay, then as a condition of doing so it should also (1) bifurcate the question of whether the access rates of D&E, Conestoga and Buffalo Valley are just and reasonable and whether those companies should continue to receive subsidies from the USF, and investigate those issues immediately, and (2) prohibit any of the companies

⁶ Verizon has filed Exceptions asking the Commission to refrain from any action in Docket No. C-20027195, in which the Commission is considering reductions in Verizon's own access rates. There is no reason to rush forward to consider further rebalancing of Verizon's access rates, which are among the lowest in the state and below the national average, for the reasons set forth in the Exceptions and other pleadings of Verizon and other entities in that proceeding. In particular, the status quo remains in place in the Verizon docket, since Verizon has not sought to raise access rates while the stay was pending. To the contrary, in sharp contrast to D&E and its affiliates, Verizon has already reduced its access rates by approximately \$140 million since the *Global Order*, and rebalanced \$50 million of access revenue onto basic local rates just last year. Verizon has not proposed to increase any of its access rates in its own PCO/PSI filings, but has recovered that revenue from local rates or by banking the increases. In light of D&E's decision to violate one of the basic premises in support of a stay by raising its access charges, the Commission has no choice but to move forward and address improper subsidies that exist in these access charges. In the meantime, however, there is no need for the Commission to address Verizon's already low access rates.

subject to this investigation from raising their access rates during the period of the stay.

If Joint Movants are unwilling to accept these reasonable conditions, then the stay should not be extended and the entire investigation should promptly go forward.



Suzan D. Paiva (Atty No. 53853)

Verizon

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Dated: September 11, 2006

Attorney for Verizon Pennsylvania Inc.,
Verizon North Inc. and MCImetro Access
Transmission Services, LLC d/b/a Verizon
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Verizon's opposition to the Motion to Further Stay the Investigation, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 11th day of September, 2006

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Via UPS Overnight

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
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SEP 01 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

Qwest Communications Corporation ("Qwest") submits this status report, pursuant to the Pennsylvania Public Utility Commission ("Commission") Order entered on August 30, 2005 at the above-captioned docket ("August 30th Order"). In the said Order, the Commission requested that the parties submit status reports at the expiration of the 1-year stay.

Since the Commission's August 30th Order, the FCC's *Unified Intercarrier Compensation* docket remains pending.¹ In terms of recent activity, on July 24, 2006, the National Association of Regulatory Utility Commissioners ("NARUC") Task Force on Intercarrier Compensation ("NTFIC") filed a proposal with the FCC known as the Missoula Plan. The FCC has established a comment period with respect to the plan of October 25, 2005 for initial comments and December 11, 2006 for reply comments.

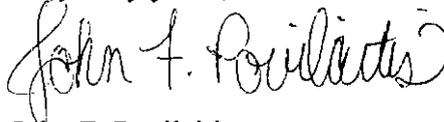
Qwest concurs with the conclusion of Sprint Nextel Corporation that the Commission should resume the investigation. Qwest submits that the Commission's investigation into intrastate access charges and the state universal service fund can be coordinated with the activities at the FCC as both regulatory entities are working towards the same goal: to remove implicit subsidies from switched access rates. Moreover, the

¹ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-02, FCC 05-03. Further Notice of Proposed Rulemaking (March 3, 2005).

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FCC opened the *Unified Intercarrier Compensation* Docket in 2001 and at this point, the proceeding remains pending without any definitive resolution on intercarrier compensation. Thus, it has been over five years, and the FCC has yet to establish a unified intercarrier compensation reform plan. Therefore, the Commission should not await actions at the federal level, which may take years to materialize and finally resolve in the appellate courts, and should avoid further delay in considering the important issues raised in the above proceeding.

Very truly yours,



John F. Povilaitis

Enclosures
JFP/ck

c: Certificate of Service
The Honorable Susan D. Colwell

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SEP 01 2006

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

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:
:
:
:

Docket No. I-00040105

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document(s) in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

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September 11, 2006

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RECEIVED

SEP 11 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

I enclose for filing in the above-referenced docket an original and three (3) copies of the Answer of Sprint Nextel Corporation to the Joint Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq Pennsylvania for the Commission to Further Stay this Investigation Pending Resolution of the FCC Inter-carrier Compensation Proceeding at CC Docket No. 01-92. All parties have been served in accordance with the attached Certificate of Service.

Please return a filed-stamped copy of this letter in the enclosed self-addressed, postage-prepaid envelope. If you have any questions, please feel free to contact me. Thank you for your attention to this matter.

Sincerely,

DOCUMENT
FOLDER

Jennifer A. Duane
Jennifer A. Duane

Enclosure

cc: Susan D. Colwell, Administrative Law Judge
Parties on the attached Certificate of Service

RECEIVED

SEP 11 2006

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Docket No. I-00040105

**SPRINT NEXTEL CORPORATION'S ANSWER TO THE JOINT MOTION OF THE
RURAL TELEPHONE COMPANY COALITION, OFFICE OF CONSUMER
ADVOCATE, OFFICE OF TRIAL STAFF, AND EMBARQ PENNSYLVANIA FOR
THE COMMISSION TO FURTHER STAY THIS INVESTIGATION PENDING
RESOLUTION OF THE FCC INTERCARRIER COMPENSATION PROCEEDING
AT CC DOCKET NO. 01-92**

In accordance with 52 Pa. Code § 5.103, Sprint Nextel Corporation ("Sprint Nextel") submits this Answer in response and in opposition to the August 30, 2006 Joint Motion submitted by the Rural Telephone Company Coalition ("RTCC"), the Office of Consumer Advocate ("OCA"), the Office of Trial Staff ("OTS") and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania ("Embarq") (f/d/b/a Sprint), (collectively the "Joint Movants") requesting that the Pennsylvania Public Utilities Commission ("Commission") continue to stay this investigation pending resolution of the Federal Communications Commission's ("FCC") *Unified Intercarrier Compensation* proceeding at CC Docket No. 01-92 ("ICC Docket"). Sprint Nextel submits this Answer on behalf of Sprint Communications Company L.P ("Sprint"), its interexchange and competitive local exchange carrier ("CLEC") entity, and its wireless entities operating in the state, Sprint Spectrum, L.P. d/b/a Sprint PCS and Nextel Communications, Inc. ("Nextel"), and NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners").¹

¹ Since the Commission entered its August 30, 2005 Opinion and Order, Sprint Corporation completed its merger with Nextel Communications, Inc. and it also acquired Nextel Partners in a subsequent transaction. Additionally, it spun off its incumbent local exchange company operating in Pennsylvania, United Telephone Company of Pennsylvania d/b/a Sprint, now known as Embarq Pennsylvania.

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In its Opinion and Order issued on August 30, 2005, the Commission granted a stay of its investigation into intrastate access and universal service issues for a period *not to exceed* twelve months or until the FCC issues its ruling in its *Unified Intercarrier Compensation* proceeding, whichever occurs earlier.² As Sprint Nextel discussed in the status report it filed on August 30, 2006 in this proceeding, the twelve-month stay period has now passed and Sprint Nextel supports the Commission's resumption of this investigation. In contrast, the Joint Movants request a further stay for an additional period of one year from the date the Commission issues an order acting upon their motion or until the FCC resolves its *Unified Intercarrier Compensation* proceeding, whichever occurs first.³ The Joint Movants argue that continuing the stay would allow the parties to avoid expending unnecessary time and expense on this investigation in light of actions at the federal level that may significantly impact state efforts addressing intrastate access reform.⁴

For reasons set forth more fully below, Sprint Nextel urges the Commission to deny the Joint Movant's Motion for Further Stay of these proceedings. Intrastate access reform, particularly for the rural carriers, is urgently needed. Sprint Nextel, for one, continues to pay an average intrastate access rate in Pennsylvania that is much higher than the national average intrastate access rate and significantly higher than interstate access rates paid in Pennsylvania. The Commission has adopted a policy to promote competitive local markets by bringing the access rates of the incumbent local exchange carriers closer to cost.⁵ This policy to eliminate the implicit subsidies existing in intrastate access rates has been delayed for far too long. Further delay is not warranted. The Commission should move forward to implement its

² August 30, 2005 Opinion and Order at 17.

³ Joint Movants' Motion for Further Stay at 3-4.

⁴ *Id.* at 3.

⁵ *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Exchange Carriers and the Pennsylvania Universal Service Fund.*, Docket No. I-00040105, Order at 3 (December 20, 2004).

policy of intrastate access reform and any associated rate rebalancing. If the FCC acts while this investigation is ongoing, that action should be factored into this proceeding and any necessary adjustments to coordinate with the federal activity can be addressed at that time.

Sprint Nextel's Response to the Motion's Numbered Paragraphs

1. Sprint Nextel admits that the Commission entered an Order on July 15, 2003 in Docket No. M-00021596 entitled *In re: Access Charge Investigation per Global Order of September 30, 1999* and that Order speaks for itself. Sprint Nextel further admits that the Commission's July 15th Order stated its intention to implement continued access reform in Pennsylvania in an efficient and productive manner.
2. Sprint Nextel admits that the FCC issued a Further Notice of Proposed Rulemaking ("FNPR") on March 3, 2005 to address intercarrier compensation issues in its existing CC Docket No. 01-92, which was opened in 2001. The FNPR speaks for itself. In further response, Sprint notes that the FCC previously issued a Notice of Proposed Rulemaking ("NPR") on intercarrier compensation issues in April 2001 in this same docket, but it did not develop any final rules governing intercarrier compensation based on the information and record gathered from parties in response to that notice.
3. The assertions of Paragraph 3 are admitted in part and denied in part. Sprint Nextel admits that several proposals to reform the intercarrier compensation regime have been submitted to the FCC for consideration over the past several years. Most recently, on July 24, 2006, a coalition of telecommunications carriers participating in the National Association of Regulatory Utility Commissioners' ("NARUC") Task Force on Intercarrier Compensation ("NTIFC") filed in the FCC's CC Docket No. 01-92 a proposal, commonly known as the Missoula Plan, that addresses intercarrier compensation issues and attempts to unify

intercarrier charges over a four-year time period. The FCC has established a comment period to permit interested parties to provide input on the Missoula Plan.⁶ Additionally, the Commission has acknowledged that the Missoula Plan affects matters under its jurisdiction, including its authority to set intrastate carrier access charges.⁷ It has scheduled a workshop for September 11, 2006 to discuss the Missoula Plan with representatives of the telecommunications industry, consumer groups and other government agencies to facilitate its preparation of comments in the FCC's ICC docket. Sprint Nextel denies, however, that the FCC's ongoing *Unified Intercarrier Compensation* proceeding will render moot the issues under consideration in the instant proceeding.

4. The assertions of Paragraph 4 are admitted in part and denied in part. Sprint Nextel admits that the various intercarrier compensation reform proposals before the FCC, including the Missoula Plan, could have a significant impact on rural access reform. At this point, however, the Missoula Plan is the only one of the numerous ICC reform plans pending at the FCC that has any realistic chance of succeeding. All other ICC reform plans are likely off the table. The Missoula Plan retains a significant role for state Commissions to reform intrastate access and in resuming this investigation the Commission should focus on the implications of the Missoula Plan on intrastate access charge and universal service reform in Pennsylvania. If the Missoula plan is approved, the states may have a limited window to act on intrastate access reform. If the Missoula Plan fails, intrastate access reform in Pennsylvania will still be

⁶ On August 9, 2006, the FCC published notice of the Missoula Plan in the Federal Register and sought initial comments from interested parties by September 25, 2006 and reply comments by November 11, 2006. This comment period was extended to October 25 and December 11, 2006 respectively after the FCC's Wireline Competition Bureau granted on August 29, 2006 a request made by NARUC to push back the comment dates to provide parties with additional time to analyze the impact of the Missoula Plan.

⁷ *In the Matter of FCC Intercarrier Compensation Proceedings at FCC in CC Docket No. 01-92*, Docket No. M-00061972, Order at 2 (August 23, 2006)

necessary and the Commission will have this investigation as a ready vehicle in which to undertake that reform in the rural territories.

5. Sprint Nextel concurs in Paragraph 5's description of key elements of the Missoula Plan. Notably, the Joint Movants discuss how the Missoula Plan eliminates differences between intrastate access, interstate access, and reciprocal compensation rates. Over time, the Missoula plan moves intrastate access rates for *all* local exchange carriers to at least mirror the interstate access rates. Originating and terminating access rates are reduced over a three to four year period depending on the type of carrier (Track 1, Track 2, or Track 3).⁸ The plan calls for the state Commissions to authorize the rate changes of the Track 1 and 2 originating intrastate access rates and the Track 3 originating and terminating intrastate access rates. Additionally, the Missoula plan establishes a new Federal USF program called the "Early Adopter Fund" to replace state high cost USF program funding with new Federal support. States qualify to participate in this program only if they implement the voluntary provisions of the plan noted above. Currently, \$200 million is earmarked for the program but the FCC can increase its size as needed.

6. Sprint Nextel denies that it would be unreasonable, unproductive and inefficient for this Commission to act on further rural access reform in advance of the FCC. There is no guarantee that the FCC will act to reform intercarrier compensation. The FCC opened its Intercarrier Compensation docket in 2001 and has yet to reach any definitive conclusions on the intercarrier compensation system governing the telecommunications industry. Any action by the FCC will certainly not occur in the remainder of 2006 given the recent extension of the

⁸ The Missoula Plan divides carrier lines into three categories, or "Tracks," based on the size and regulatory classification of the company. Track 1 includes the lines of all RBOCs and other non-rural carriers, such as CLECs, IXCs and CMRS carriers. Track 2 includes the lines of most mid-sized rural carriers and Track 3 covers the lines of the smallest, rate-of-return-regulated rural carriers. Missoula Plan, Executive Summary at 1.

comment cycle for consideration of the Missoula plan. No changes in this area at the federal level are likely until mid-2007 at the earliest. The Commission should avoid further delaying the consideration of these important issues to await actions at the federal level that may take years to materialize, if ever.

Moreover, the Commission initiated its investigation to determine whether there should be further intrastate access and intraLATA toll reductions in the service territories of the rural incumbent local exchange carriers and to analyze the implications for the Pennsylvania Universal Service Fund (USF) as a result of these actions. It opened this investigation to further its policy to promote competition in the local market by bringing the incumbent local exchange carrier's access charges closer to costs and to eliminate implicit subsidies embedded in access rates. The Commission's investigation into the issues of intrastate access reform and state universal service obligations can be coordinated with the ongoing activities at the federal level, including the Commission's review of the Missoula plan. Both regulatory bodies will be working toward the same objective – to remove implicit subsidies from switched access rates. The Commission should move forward with reforms that are consistent with the direction of the Missoula plan by mirroring intrastate access rates at interstate access rate levels.

7. Sprint Nextel disagrees that the issue of the FCC's authority to preempt the states' regulation of intrastate access and the establishment of alternative cost recovery mechanisms within the intrastate jurisdiction warrants imposing the further stay that the Joint Movants request. Until the FCC acts in this manner, and it is entirely uncertain whether such preemptive action would be upheld, the Commission retains jurisdiction over intrastate access charges and state universal service recovery mechanisms and can proceed in this investigation

consistent with that authority. In addition, if, as the Joint Movants note, the FCC declines to fully preempt the states but instead offers guidelines to the states for access reform, the FCC pronouncements could be incorporated into the Commission's analysis and recommendations for intrastate access and universal service reform undertaken in the instant investigation.

8. While Sprint Nextel admits that the FCC's resolution of its *Unified Intercarrier Compensation* proceeding will have an impact on Pennsylvania local exchange carriers, intrastate universal service funding and the intrastate rates that are paid by Pennsylvania consumers, it denies that any evidentiary record that is compiled by moving forward with this investigation will be moot or stale as a result of actions taken by the FCC. As Sprint Nextel has noted, the Commission should coordinate its investigation with the ongoing FCC proceedings to consider the Missoula Plan as it moves forward to build an evidentiary record documenting the need for rural intrastate access reform. Such an approach is not unprecedented. The Commission previously determined that the remand proceedings in the Verizon Access Reform matter should proceed and rejected arguments that access reform should be deferred until the completion of the FCC's *Unified Intercarrier Compensation* proceeding.⁹ The Commission directed the Administrative Law Judge ("ALJ") to expand the scope of the Verizon Remand proceeding to take into account the intercarrier compensation reform plans pending before the FCC and the impact of any FCC action on the Commission's jurisdictional responsibilities over access reform to the extent the FCC issued a decision prior to the resolution of the Verizon Remand proceeding.¹⁰ Consistent with the Commission's directive, the ALJ issued a recommended decision on remand in the Verizon proceeding on November 30, 2005 that directed Verizon to reduce its intrastate access charges to interstate

⁹ *AT&T Communications of Pennsylvania, LLC v. Verizon North Inc. and Verizon Pennsylvania Inc.*, Docket No. C-20027196, Opinion and Order at 14-16 (January 18, 2005).

¹⁰ *Id.* at 15-16.

levels in a revenue-neutral manner. Notably, the ALJ denied requests made by various parties to stay the proceeding until the FCC issued a ruling in the *Unified Intercarrier Compensation* proceeding. In the Verizon matter, the ALJ was able to conduct an evidentiary proceeding into intrastate access reform while factoring into her recommended decision the activity underway at the federal level affecting intercarrier compensation. A similar approach would be entirely appropriate in the instant proceeding.

9. Sprint Nextel admits that there is legislative activity underway at the federal level addressing universal service reform and a number of bills have been introduced in both the House and Senate relating to various aspects of telecommunications reform. Last month, the Senate Commerce Committee released the latest version of its telecommunications reform initiative, sponsored by Senator Stevens, that incorporated elements of the House-passed bill, H.R. 5252 (the Communications Opportunity, Promotion and Enhancement Act of 2006 (“COPE”)). The amended Senate bill, known as the Advanced Telecommunications and Opportunities Reform Act or the Communications Act of 2006, would, among other things, strengthen and expand the federal Universal Service Fund. The full Senate is expected to consider this bill in the next few months; however, there is no time frame set for deliberations and any definitive legislative action in this arena may not take place for several congressional sessions.

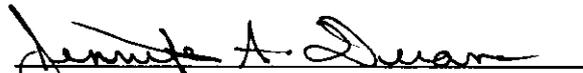
10. The assertions of Paragraph 10 are summaries of the Joint Movants’ request for relief to which no response is required. As demonstrated in this Answer, Sprint Nextel opposes the Joint Movants’ request for a further stay in this proceeding pending the outcome of the FCC’s *Unified Intercarrier Compensation* proceeding in CC Docket No. 01-92 and it urges the Commission to restart the instant investigation.

Conclusion

Accordingly, for the foregoing reasons, Sprint Nextel urges the Commission to deny the request of the Joint Movants for a further twelve-month stay in this investigation into intrastate access charges and the state universal service fund. Sprint Nextel recommends that the Commission resume its investigation as promptly as possible.

Respectfully submitted,

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Dated: September 11, 2006

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

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SEP 11 2006

Docket No. I-00040105

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Service List

I hereby certify that I have on this 11th day of September 2006 served a true and correct copy of Sprint Nextel Corporation's Answer to the Joint Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq Pennsylvania for the Commission to Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92 on the following persons by electronic and First Class U.S. Mail.

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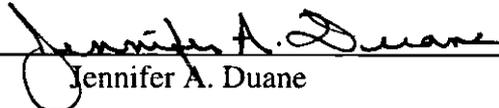
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September 11, 2006

VIA UPS Overnight Delivery

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

Dear Mr. McNulty:

Enclosed please find the original and three copies of Verizon's Opposition to the Motion of the Rural Telephone Coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq for the Commission to Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92, in the above-captioned matter.

If you have any questions, please feel free to contact me.

Very truly yours,

Suzan D. Paiva

SDP/slb

VIA UPS DELIVERY
cc: ALJ Susan D. Colwell

VIA USPS FIRST CLASS
cc: Attached Certificate of Service

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SEP 12 2006

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access :
Charges and IntraLATA Toll Rates of : I-00040105
Rural Carriers, and the Pennsylvania :
Universal Service Fund :

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**VERIZON'S OPPOSITION TO THE MOTION
OF THE RURAL TELEPHONE COMPANY
COALITION, OFFICE OF CONSUMER ADVOCATE,
OFFICE OF TRIAL STAFF, AND EMBARQ FOR THE
COMMISSION TO FURTHER STAY THIS INVESTIGATION
PENDING RESOLUTION OF THE FCC INTERCARRIER
COMPENSATION PROCEEDING AT CC DOCKET NO. 01-92**

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Verizon Pennsylvania Inc., Verizon North Inc. and MCImetro Access
Transmission Services, LLC d/b/a Verizon Access Transmission Services (collectively
"Verizon") hereby oppose the Motion filed by the Rural Telephone Company Coalition
("RTCC"),¹ Office of Consumer Advocate ("OCA"), Office of Trial Staff ("OTS"), and
The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania
("Embarq") (collectively, "Joint Movants") to stay this investigation of rural ILEC access
rates (the "Rural Access Reform Proceeding") pending resolution of the Federal
Communication Commission's ("FCC's") Intercarrier Compensation Proceeding, CC

¹ The RTCC consists of the following rural incumbent local exchange carriers: Windstream
Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc., Armstrong Telephone Company - PA, Armstrong
Telephone Company-North, Bentleyville Communications Corporation, d/b/a The Bentleyville
Telephone Company, Buffalo Valley Telephone Company, Citizens Telephone Company of Kecksburg,
Commonwealth Telephone Company, Conestoga Telephone and Telegraph Company, Denver and
Ephrata Telephone and Telegraph Company d/b/a D&E Telephone Company, Deposit Telephone
Company, Frontier Communications of Breezewood, Inc., Frontier Communications of Canton, Inc.,
Frontier Communications of Lakewood, Inc., Frontier Communications of Oswayo River, Inc., Frontier
Communications of Pennsylvania, Inc., The Hancock Telephone Company, Hickory Telephone
Company, Ironton Telephone Company, Lackawaxen Telecommunications Services, Inc., Laurel
Highland Telephone Company, Mahanoy & Mahantango Telephone Co., Marianna & Scenery Hill
Telephone Company, The North-Eastern Pennsylvania Telephone Company, North Penn Telephone
Company, North Pittsburgh Telephone Company, Palmerton Telephone Company, Pennsylvania
Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone
Company, Sugar Valley Telephone Company, Venus Telephone Corporation, West Side Telephone
Company and Yukon-Waltz Telephone Company.

Docket No. 01-92 (the “Intercarrier NPRM”). The Commission should deny the Motion because, as the Commission itself has already observed, three of the Joint Movants have unilaterally and dramatically raised their access rates – actions inconsistent with their request for a stay. Indeed, the relief requested would directly conflict with the Commission’s recent rulings reviewing the PSI filings of Denver & Ephrata Telephone & Telegraph Company (“D&E”), Buffalo Valley Telephone Company (“Buffalo Valley”) and Conestoga Telephone & Telegraph Company (“Conestoga”).² In those rulings, the Commission allowed these three companies – all of which are among the Joint Movants – to increase access rates as part of their 2006 Annual Price Stability Index/Service Price Index (“PSI/SPI”) Filings, but did so on the express condition that these rates would be subject to further investigation in this Rural Access Reform Proceeding regarding whether the access increase is “consistent with . . . [D&E’s] previously granted request for suspension of further intrastate access reform.” (D&E Access Order at 15). As the Commission observed, “[w]e believe that D&E’s proposed access services rate increases in the instant filing could undermine our decision to suspend this investigation of further access services reforms, particularly reductions in access services rates, because the proposal reverses the current reforms by increasing the existing access service rates. Such a result could undermine the progress already achieved in our efforts to reduce and reform access services charges and promote competition. We believe that maintenance of the current regulatory status quo, pending federal action, necessitates preservation of D&E’s current access services rates.” (Id. at 11). Having chosen to raise their access rates, D&E and its affiliates cannot now be heard to invoke the need for a stay. It would

² See Orders entered June 23, 2006 at Docket Nos. R-00061377 and P-00981430F1000 (“D&E Access Order”), Nos. R-00061375 and P-00981428F1000 (“Buffalo Valley Access Order”) and Nos. R-00061376 and P-00981429F1000 (“Conestoga Access Order”).

be fundamentally inconsistent with these rulings to grant a further stay of the Rural Access Reform Proceeding without resolving this and other issues raised by the Commission in the D&E, Buffalo Valley and Conestoga Access Orders.

BACKGROUND

This proceeding was instituted by the Commission on December 20, 2004 to consider “whether there should be further intrastate access charge reductions and intraLATA toll rate reductions in the service territories of rural incumbent local exchange carriers . . . and all rate issues and rate changes that should or would result in the event that disbursements from the Pennsylvania Universal Service Fund . . . are reduced.”³ On August 30, 2005, the Commission granted, in part, a Motion to Defer the Rural Access Reform Proceeding filed by the Joint Movants – including the D&E companies – and stayed the case for one year or until the FCC issues a ruling in the Intercarrier NPRM,⁴ whichever occurs first.

On May 3, 2006, while the Commission’s stay was still in place, D&E, Conestoga and Buffalo Valley proposed, as part of their annual PSI/SPI filings, to increase their annual revenues from intrastate switched access rates by over \$2 million.⁵ In D&E’s case this was fully 96% of its allowable PSI revenue increase – a proposal that the Commission found “unfairly targets access services by subjecting them to an overwhelming majority of the rate increases.” (D&E Order at 12). In its Orders

³ Order Instituting Investigation, Docket No. I-00040105, entered December 20, 2004 at 1.

⁴ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-33, Further Notice of Proposed Rulemaking (released March 3, 2005) (“Intercarrier NPRM”).

⁵ See Secretarial Letter dated May 5, 2006 (noting that “D&E Telephone and Telegraph Company, Conestoga Telephone and Telegraph Company and Buffalo Valley Telephone Company . . . are proposing substantial rate increases to access charges to the tune of \$978,739, \$908,460 and \$253,931, respectively.”)

addressing these filings the Commission criticized this unprecedented move to raise access rates in this manner, noting that it “appears to contradict long-standing access service reform in Pennsylvania including Docket No. I-00040105.” (D&E Access Order at 5). The Commission also observed that “D&E’s proposal may also contravene the Commission’s grant of a recent request of the ILECs, including D&E, to suspend the investigation of further reductions in access services rates” in the Rural Access Reform Proceeding. (D&E Access Order at 9).

While the Commission ultimately allowed the D&E companies’ proposed access rate increases to go into effect, it also expressly ruled that if the D&E companies did not bank the proposed increases or allocate them to basic local exchange services, the Rural Access Reform Proceeding would be expanded to include an examination of whether the D&E companies’ access rate increase “is consistent with the regulations and policies governing the Pennsylvania Universal Service Fund, the Company’s previously granted request for suspension of further intrastate access reform in Docket No. I-00040105, the Company’s previously approved Amended Chapter 30 Plan set forth in Docket P-00981430F1000, and the continuing statutory obligations set forth in Sections 3011(1)-(13), 3019(h) and Chapter 13 of the Public Utility Code.” (D&E Access Order at 15).

To date, the D&E companies have not banked their proposed increase or allocated it to basic local exchange services.

ARGUMENT

In approving the D&E companies' request for an increase in their access rates, the Commission made clear the price that would accompany this increase – the resumption of this proceeding. The Commission gave these companies the opportunity to bank their proposed access charge increases or to allocate this revenue instead to basic local exchange services. The D&E companies declined both of these options, and instead have moved forward and imposed their dramatically higher access rates.

In light of D&E's decision, the Commission cannot now grant the Motion in which these D&E companies have joined. This Motion, which seeks the continuation of the suspension of this proceeding, ignores the dispositive fact that the D&E companies have elected, despite clear warning from the Commission, to move forward and impose their access rate increases, a decision the Commission already concluded, "could undermine" any further suspension of the Rural Access Reform Proceeding by disrupting "maintenance of the current regulatory status quo." (D&E Access Order at 11). Having taken a step that undermines the basis for the Commission's original decision to suspend this docket, and having willfully disregarded the Commission's warning about the consequences of such an action, D&E and its affiliates have surrendered the right to a further stay of this proceeding. Their actions to disturb the status quo by increasing their access rates (and paving the way for potential similar increases by other rural telephone companies while this stay is in effect) are fundamentally at odds with the rationale for a stay. D&E and its affiliates thus have forfeited the regulatory pact that, for the past year, has immunized them and other rural ILECs from cuts in their access rates.

While the Joint Movants suggest in passing that the “proper forum” to address the issue of the D&E companies’ access rates is the individual dockets addressing the D&E PSI filings (Joint Motion at 2, n. 2), the Commission already rejected that premise and recognized that it is more appropriate to consider these rates in the present, more comprehensive docket, in part because “acceptance of these proposed access services rates increases could also trigger multiple requests for similar access services rate increases throughout Pennsylvania. A deluge of access services rate increases and local rate increases could erode the precarious gains made on access services reform and universal service.” (D&E Access Order at 12-13). It defies logic for the Joint Movants to suggest that the Commission should stay this case and at the same time leave the rural ILECs free to raise their already inflated access rates during the stay period immune from any comprehensive investigation, and relegate any substantive inquiries to a piecemeal process under the tight timetables required for examining individual PSI filings.

It is long past the time when Verizon should cease to be required to provide a double subsidy to D&E and other rural carriers – in the form of universal service fund support *plus* intrastate access rates that are very much higher than the access rates that Verizon itself is allowed to charge and that continue to *increase*, as in the case of the D&E companies. To put matters in perspective, D&E has now increased its per-line carrier charge by \$1.20 – nearly 30% – resulting in a carrier charge of \$5.24 per line. After this increase, its carrier charge will be virtually unchanged from the time of the *Global Order* seven years ago – in contrast to Verizon North Inc., which since that time has *lowered its own carrier charge from \$8.64 to 58¢* (the same as Verizon Pennsylvania Inc.’s carrier charge). D&E’s increase alone is over twice as much as Verizon’s entire

carrier charge, and its resulting \$5.24 carrier charge is an order of magnitude larger than Verizon's much smaller charge. It is precisely because this increase is so large – and because rural ILEC access charges in general and D&E's rates in particular are so high – that the Commission was concerned with D&E's break from the status quo, and justifiably so. Act 183 requires CLECs operating in Verizon's territory to charge access rates no higher than Verizon's, but rural ILECs like D&E are charging access rates many multiples of the rates Verizon is charging. *See* 66 Pa. C.S. § 3017(c). In light of D&E's actions, it is time for this double disparity to be addressed. These reasons alone justify denying the Motion and moving forward with the investigation of rural carrier access rates.⁶

For the reasons set forth above, Verizon urges the Commission to deny the Motion and resume this proceeding to consider the issues raised in the D&E, Buffalo Valley and Conestoga Access Orders. At a minimum, if the Commission considers granting the requested stay, then as a condition of doing so it should also (1) bifurcate the question of whether the access rates of D&E, Conestoga and Buffalo Valley are just and reasonable and whether those companies should continue to receive subsidies from the USF, and investigate those issues immediately, and (2) prohibit any of the companies

⁶ Verizon has filed Exceptions asking the Commission to refrain from any action in Docket No. C-20027195, in which the Commission is considering reductions in Verizon's own access rates. There is no reason to rush forward to consider further rebalancing of Verizon's access rates, which are among the lowest in the state and below the national average, for the reasons set forth in the Exceptions and other pleadings of Verizon and other entities in that proceeding. In particular, the status quo remains in place in the Verizon docket, since Verizon has not sought to raise access rates while the stay was pending. To the contrary, in sharp contrast to D&E and its affiliates, Verizon has already reduced its access rates by approximately \$140 million since the *Global Order*, and rebalanced \$50 million of access revenue onto basic local rates just last year. Verizon has not proposed to increase any of its access rates in its own PCO/PSI filings, but has recovered that revenue from local rates or by banking the increases. In light of D&E's decision to violate one of the basic premises in support of a stay by raising its access charges, the Commission has no choice but to move forward and address improper subsidies that exist in these access charges. In the meantime, however, there is no need for the Commission to address Verizon's already low access rates.

subject to this investigation from raising their access rates during the period of the stay.

If Joint Movants are unwilling to accept these reasonable conditions, then the stay should not be extended and the entire investigation should promptly go forward.



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Dated: September 11, 2006

Attorney for Verizon Pennsylvania Inc.,
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Transmission Services, LLC d/b/a Verizon
Access Transmission Services

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Verizon's opposition to the Motion to Further Stay the Investigation. upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 11th day of September, 2006

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September 12, 2006

VIA UPS Overnight Delivery

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DOCUMENT
FOLDER

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

Dear Mr. McNulty:

Yesterday Verizon filed an original and three copies of its Opposition to the Motion of the Rural Telephone Coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq for the Commission to Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92, in the above-captioned matter.

However, Verizon inadvertently used a cover letter from an August 30, 2006 filing in the same matter. Here, under the correct cover letter, is the same, unchanged September 11, 2006 filing. We respectfully request that you use these copies with corrected cover letters. We regret the error by which we placed the wrong cover letter on the filing.

If you have any questions, please feel free to contact me.

Very truly yours,


Suzan D. Paiva

SDP/slb

cc: **VIA UPS DELIVERY**
ALJ Susan D. Colwell

cc: **VIA USPS FIRST CLASS**
Counsel of Record

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

6

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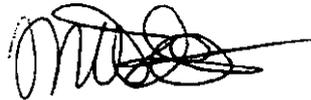
Re: Investigation Regarding Intrastate Access Charges and IntraLATA
Toll Rates of Rural Carriers and the Pennsylvania Universal
Service Fund, Docket No. I-00040105

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Answer of Qwest Communications Corporation To The Motion of The Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff and Embarq for the Commission To Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92, filed in the above-captioned proceeding. Copies have been served in accordance with the attached Certificate of Service.

**DOCUMENT
FOLDER**

Very truly yours,



Matthew A. Totino

Enclosures
JFP:ck

c: Certificate of Service
The Honorable Susan D. Colwell

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SECRETARY'S BUREAU

42

**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 :
:

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SECRETARY'S BUREAU

**ANSWER OF QWEST COMMUNICATIONS CORPORATION TO THE
MOTION OF THE RURAL TELEPHONE COMPANY COALITION, OFFICE
OF CONSUMER ADVOCATE, OFFICE OF TRIAL STAFF AND EMBARQ FOR
THE COMMISSION TO FURTHER STAY THIS INVESTIGATION PENDING
RESOLUTION OF THE FCC INTERCARRIER COMPENSATION
PROCEEDING AT CC DOCKET NO. 01-92**

Pursuant to the Pennsylvania Public Utility Commission's ("Commission") Regulations at 52 Pa. Code §§ 5.61 and 5.103, Qwest Communications Corporation answers and opposes the motion of the Rural Telephone Company Coalition ("RTCC"), the Office of Consumer Advocate ("OCA"), the Office of Trial Staff ("OTS") and Embarq Pennsylvania ("Embarq") (together, "Joint Movants") to further stay this proceeding pending the outcome of the Federal Communications Commission's ("FCC") intercarrier compensation proceeding at Docket No. 01-92 ("IC Docket") or for at least 12 months, whichever is earlier ("Motion"). The request for a further stay should be denied, and the Commission should avoid any further delay in considering the important issues raised in the above proceeding. In support thereof, Qwest avers as follows:

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JAN 12 2007

I. Introduction

1. By Order entered on August 30, 2005, the Commission granted a stay of its investigation to consider further access charge reform and state universal service fund ("USF") issues for a period of 1 year or until the FCC issued a ruling at the IC Docket. As Qwest indicated in its status report letter previously filed at this docket, the 1-year stay has ended, the FCC has not issued a ruling at the IC Docket and the time is now for the Commission to resume its investigation into the important issues raised at the above-captioned docket.

2. In support of their Motion, Joint Movants cite to recent activity at the FCC¹ to justify a further stay. However, no such further stay is warranted for several reasons. First, the Commission should not await actions at the federal level, which, given the history of the IC Docket, may take years to materialize and to resolve, likely, in the appellate courts. Second, the Commission's investigation into intrastate access charges and the state USF can be coordinated with the activities at the FCC as both regulatory entities work towards the same goal: to remove implicit subsidies from switched access rates. Therefore, Qwest requests that the Commission deny the request for a further stay of this proceeding and continue with this investigation.

¹ On July 24, 2006, the National Association of Regulatory Utility Commissioners ("NARUC") Task Force on Intercarrier Compensation ("NTFIC") filed a proposal with the FCC known as the Missoula Plan. The FCC has established a comment period with respect to the plan of October 25, 2005 for initial comments and December 11, 2006 for reply comments.

II. Argument

3. As noted above, this is not the first request for a stay of this important investigation, pending the completion of the IC Docket. This is also not the first time the rural ILECs have attempted to delay intercarrier compensation reform, pending the FCC's proceeding.²

4. Qwest submits that the request for yet another stay is inconsistent with Commission's intent expressed in the December 20, 2004 order initiating the above investigation to consider further access charge reform and state universal service fund ("USF") issues:

As stated in our prior Order of July 15, 2003, at M-00021596, In re: Access Charge Investigation per Global Order of September 30, 1999, at 12, at that time we did not declare the access rates established by that Order as the final word on access reform. Rather, we characterized the Order as the next step in implementing continued access reform in Pennsylvania in an efficient and productive manner.

* * *

In the Commission's judgment it is now an appropriate time to consider further access charge reform.³

Qwest submits that the Motion represents yet another attempt to unduly and unreasonably delay this proceeding. Qwest urges the Commission to stay on course with the

² *Generic Investigation in re: Impact on Local Carrier Compensation if a Competitive Local Exchange Carrier Defines Local Calling Areas Differently than the Incumbent Local Exchange Carrier's Local Calling Areas but Consistent with Established Commission Precedent*, Docket No. I-00030096. In this case dealing with a possible modification of CLEC local calling areas, the Pennsylvania Telephone Association ("PTA") urged the Commission not to act until the FCC completed its proceeding on intercarrier compensation. Although the ILECs opposed intercarrier compensation reform through a modification of CLEC local calling areas, the ILECs claimed that they were in favor of further access reform. The rural ILECs in this case, which are all virtually the same as the PTA companies in the CLEC Local Calling Areas Case, appear now to have reversed course and advocate that the Commission delay any further access reform for what will likely be another several years.

³ *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund*, Docket No. I-00040105, Order entered December 20, 2004.

declaration in its December 20th order that the time is right to consider further access charge reform.

5. The Motion provides the recent submission of the Missoula Plan to the FCC, which purportedly could have significant impact on rural access reform, as its main justification for a further stay.⁴ However, the impact of the plan, which is simply the most recent plan filed with the FCC in the IC docket, is speculative at best, and the Plan is not a sufficient justification to continue to delay this long-overdue investigation into access charge reform in the rural areas and state USF issues.

6. To begin, the Commission should not await actions at the federal level, which, given the history of the IC Docket, may take years to materialize and to resolve, likely, in the appellate courts. The FCC opened the IC Docket in 2001 and at this point, the proceeding remains pending without any definitive resolution on intercarrier compensation. Thus, it has been over five years, and the FCC has yet to establish a unified intercarrier compensation reform plan. Therefore, with no definitive end to the IC Docket in the near future, the Commission should not await action at the federal level.

7. In addition, the Commission's investigation into intrastate access charge reform and the state USF can be coordinated with the activities at the FCC, regardless of whether the FCC eventually adopts the Missoula plan, one of the previously filed plans, or some integration of multiple plans. Both regulatory entities are working towards the same goal: to remove implicit subsidies from switched access rates. One of the purported

⁴ Motion, pp. 6-12. Even more proposals than those inventoried by RTCC/OCA/OTS/Embarq could be considered by the FCC IC docket because the FCC has indicated its willingness to consider alternative proposals that combine elements of different plans. *In the matter of Developing a Unified Intercarrier Compensation Regime Further Notice of Proposed Rulemaking*, CC Docket No. 01-92, ¶ 62 (“If we were to adopt one proposal or combine different components of the plans we seek comment on implementation and transition issues for such an approach.”).

objectives of the IC Docket is to bring intrastate access rates and interstate access rates into parity. The implementation of intrastate access charge reform in advance of any possible federal reform, which takes intrastate rates the direction of interstate rates, will only serve to bring the Commission closer to this objective. Therefore, the Commission should view a continuation of the above investigation as being consistent with federal objectives.

8. In summary, the Commission knew about the existence of the FCC intercarrier compensation rulemaking case when it opened this proceeding and appropriately initiated a review into further access reform and the future of universal service funding. The time is now for the Commission to continue with its investigation. The FCC's IC Docket is complex and will take considerable time to resolve. Moreover, any Commission decision to set intrastate access rates at or near interstate rates will complement the objective of bringing intrastate rates closer to parity with interstate rates.

III. Conclusion

Based on the foregoing, the motion of the Joint Movants for further delay should be denied so that the important issues set for investigation in this proceeding can be resolved.

IV. Qwest's response to the numbered paragraphs in the Motion.

Qwest responds to the specific allegations of the motion as follows:

1. Admitted in part. Denied in part. It is admitted that this proceeding was instituted by Commission order entered on December 20, 2004. Any other allegations regarding the said order are denied as the Commission's order speaks for itself. Any

allegations regarding the initial motion of RTCC, OCA and OTS for a stay are denied as the pleading speaks for itself.

2. Admitted in part. Denied in part. It is admitted that the FCC initiated the Further Notice of Proposed Rulemaking ("FNPRM") in the already existent IC Docket by order entered in March of 2005. To the extent that this paragraph contains any legal conclusions, no response is required. In any event, any other allegations regarding the said order are denied as the FCC's order speaks for itself. Any allegations regarding the FNPRM issued at the IC Docket are denied as the FNPRM speaks for itself.

3. Admitted in part. Denied in part. Any allegations regarding the various access reform proposals are denied as the proposals speak for themselves. It is admitted that on or about July 18, 2006, the Missoula Plan was submitted to the FCC. Any other allegations regarding the Missoula Plan are denied as the plan speaks for itself. It is admitted that by notice on July 25, 2006, the FCC established a comment cycle for the Missoula Plan. It is further admitted that on August 17, 2006, the Pennsylvania Commission adopted a motion by Vice Chairman relating to the Missoula Plan. Any other allegations regarding the Vice Chairman's motion are denied as the motion speaks for itself. It is denied that the FCC's proceeding renders moot the issues in this proceeding. The precise impact of the FCC proceeding is speculative at this time. To the extent that footnote 9 in this paragraph contains any legal conclusions, no response is required. To the extent that footnotes 9 and 10 in this paragraph contain information that is neither an averment of fact nor an allegation of a violation of any law, regulation or tariff, no response is required.

4. Admitted in part. Denied in part. Certain characteristics of the aforementioned intercarrier compensation proposals could require changes in intrastate access charges or local telephone rates. Any allegations regarding the content of the various access reform proposals are denied as the proposals speak for themselves.

5. Denied. Any allegations regarding the Vice Chairman's motion referenced in this paragraph are denied as the Motion speaks for itself. Any allegations regarding the content of the various access reform proposals are denied as the proposals speak for themselves.

6. Denied. It is specifically denied that it is unreasonable, unproductive or inefficient for the Commission to further delay its investigation into access charge reform in advance of the FCC. It is further denied that a continuation of the investigation into access charge reform and state USF issues would needlessly expend resources and would lead to the development of an inadequate or inapplicable record in this case. Qwest further answers that nothing in the FCC's order or the proposals suggests that states should defer access charge reform until the FCC concludes its docket. In fact, the Missoula Plan specifically includes an "early adopter" provision, which contemplates that states have already, and continue to rebalance intrastate access rates.

7. Denied. To the extent that this paragraph contains any legal conclusions regarding federal preemption, no response is required. In any event, any allegations regarding the preemption issues addressed in the Missoula Plan are denied as the plan speaks for itself. Qwest denies that the Missoula Plan, in any way, acts as a justification for the Commission to suspend its consideration of access charge and state USF reform. Qwest further answers that the potential for the plan to preempt the Commission's

authority over intrastate access rates is entirely speculative, given that the FCC has yet to act in this manner and given that it is unclear whether such preemption is lawful and would be upheld by the appellate courts. Qwest further answers that the potential for the FCC to provide guidelines to the states for access charge reform is entirely speculative, given that it may take years for the FCC to finalize its actions and provide any such guidelines.

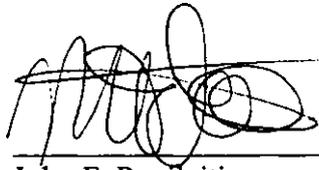
8. Denied. The allegations in this paragraph regarding the impact of the FCC's future intercarrier compensation order on intrastate access charges and the state USF is entirely speculative and unknown at this time. Therefore, Qwest denies that the FCC's intercarrier compensation order should serve as a basis for any further delay of the above-captioned investigation. Qwest further denies that the FCC's proceeding renders moot the universal service and access charge issues in this proceeding. In fact, the Pennsylvania state USF is structured in a manner inconsistent with its use as a recovery mechanism in access reform. This issue should be addressed prior to any action by the FCC. Any conclusion regarding the impact of the FCC's intercarrier compensation proceeding on universal service and access charge issues is speculative at best.

9. Denied. Any allegations regarding the legislation referenced in this paragraph are denied as any legislation speaks for itself. By way of further answer, Qwest denies that pending federal legislation should, in any way, act as a justification for the Commission to suspend its consideration of access charge and state USF reform. There is no definitive timetable for the consideration of any such legislation, and the legal impact that any future legislation may have on intrastate access charge reform and related state USF issues is entirely speculative and unknown at this time.

10. Denied. This paragraph represents a request for relief to which no response is required.

WHEREFORE, Qwest Communications Corporation requests that the Commission deny the motion to further stay this proceeding pending the outcome of the intercarrier compensation proceeding at FCC Docket No. 01-92 or for at least 12 months, whichever is earlier. Instead, Qwest submits that the Commission should continue with its long-overdue investigation into intrastate access charge reform and state USF issues.

Respectfully submitted,



Date: September 12, 2006

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document(s) in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

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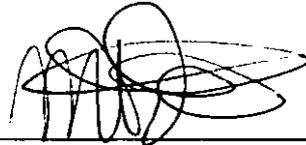
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September 19, 2006

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Pennsylvania Public Utility Commission
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PA PUBLIC UTILITY COMMISSION
REGULATORY BUREAU

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

Dear Secretary McNulty:

I enclose for filing in the referenced matter the original and four copies of the Answer of the Wireless Carriers to the Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff and EMBARQ for the Commission to Further Stay this Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92.

Thank you for your assistance. If you have any questions or require further information, please do not hesitate to contact me.

Very truly yours,


Christopher M. Arfaa

CMA/cms
Enclosures

cc: Hon. Susan D. Colwell (w/encl. via Federal Express – overnight delivery)
Certificate of Service (w/encl. via Federal Express – overnight delivery)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION
1500 MARKET STREET, SUITE 1000
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Investigation Regarding Intrastate Access :
Charges and IntraLATA Toll Rates of Rural :
Carriers and the Pennsylvania Universal : I-00040105
Service Fund :

**ANSWER OF THE WIRELESS CARRIERS TO THE MOTION OF THE RURAL
TELEPHONE COMPANY COALITION, OFFICE OF CONSUMER ADVOCATE,
OFFICE OF TRIAL STAFF AND EMBARQ FOR THE COMMISSION TO FURTHER
STAY THIS INVESTIGATION PENDING RESOLUTION OF THE FCC
INTERCARRIER COMPENSATION PROCEEDING AT CC DOCKET NO. 01-92**

Omnipoint Communications Inc. d/b/a T-Mobile, Voicestream Pittsburgh LP d/b/a T-Mobile, and Cellco Partnership d/b/a Verizon Wireless (collectively, the "Wireless Carriers"), file this answer to the above-stated Motion. The Wireless Carriers support the Motion, for the reasons discussed in their Joint Status Report dated August 30, 2006 in this proceeding. The Wireless Carriers reserve, however, any and all rights as to positions they may take in this or any other proceeding regarding the Missoula Plan or any other proposals or matters regarding intercarrier compensation and related matters such as interstate and intrastate universal service.

The Wireless Carriers note that Verizon Pennsylvania's September 11, 2006 answer to the Motion opposes the relief requested and proposes, as an alternative, bifurcation of this proceeding. The Wireless Carriers take no position on bifurcation of this proceeding for the purpose of addressing the limited matter of specific intrastate carrier access rates of three rural incumbent telephone companies, as described in Verizon Pennsylvania's answer, provided that any proceeding on that limited matter would neither address nor seek to respond to the issues raised in Question (e) set forth in the Commission's December 20, 2004 Order initiating this

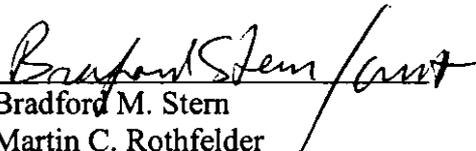
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investigation, or any related issues.¹

Respectfully submitted,


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DATED: September 19, 2006


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¹ Question (e) of the Commission's December 20, 2004 Order states: "If the Fund continues beyond December 31, 2006, should wireless carriers be included in the definition of contributors to the Fund? If included, how will the Commission know which wireless carriers to assess? Will the Commission need to require wireless carriers to register with the Commission? What would a wireless carrier's contribution be based on? Do wireless companies split their revenue bases by intrastate, and if not, will this be a problem?"

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CERTIFICATE OF SERVICE

I, Christopher M. Arfaa, hereby certify that I have this day caused to be served a copy of: the foregoing document upon the persons listed below by the means indicated in accordance with the requirements of 52 Pa. Code § 1.54:

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Dated: September 19, 2006



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September 19, 2006

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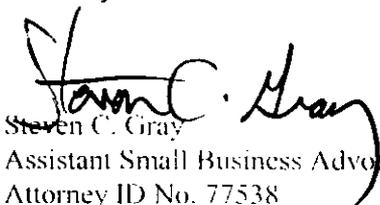
**Re: Investigation Regarding Intrastate Access Charges and
IntraLATA Toll Rates of Rural Carriers, and the
Pennsylvania Universal Service Fund
Docket No. I-00040105**

Dear Secretary McNulty:

I am delivering for filing today the original plus three copies of the Answer on behalf of the Office of Small Business Advocate to the Joint Motion of The Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq Pennsylvania For the Commission to Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92. in the above captioned matter.

Two copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

Sincerely,


Steven C. Gray
Assistant Small Business Advocate
Attorney ID No. 77538

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Enclosure

cc: Parties of Record

Allen G. Buckalew

SECRETARY'S BUREAU

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BEFORE THE
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SECRETARY'S BUREAU

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

**ANSWER OF THE
OFFICE OF SMALL BUSINESS ADVOCATE
TO THE JOINT MOTION OF THE
RURAL TELEPHONE COMPANY COALITION,
OFFICE OF CONSUMER ADVOCATE, OFFICE OF TRIAL STAFF,
AND EMBARQ PENNSYLVANIA FOR THE COMMISSION TO
FURTHER STAY THIS INVESTIGATION PENDING RESOLUTION OF THE
FCC INTERCARRIER COMPENSATION PROCEEDING
AT CC DOCKET NO. 01-92**

Pursuant to 52 Pa. Code §5.103(c), the Office of Small Business Advocate (“OSBA”) answers the Joint Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq Pennsylvania (the “Moving Parties”) for the Commission to Further Stay this Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92 (“Joint Motion”) filed with the Pennsylvania Public Utility Commission (“Commission”) on August 30, 2006.

Responses to the Joint Motion’s Numbered Paragraphs

1. Admitted.
2. Admitted in part. By way of further response, the FCC Order at CC

Docket No. 01-92 speaks for itself.

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3. Admitted in part. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92, the so-called Missoula Plan, and the August 17, 2006, Motion of Vice Chairman Cawley speak for themselves. Furthermore, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

4. Admitted in part. By way of further response, the proposals of the various parties to the FCC CC Docket No. 01-92 speak for themselves.

5. Admitted in part. By way of further response, the so-called Missoula Plan, and the August 17, 2006, Motion of Vice Chairman Cawley speak for themselves. Furthermore, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

6. Admitted in part, except for the averments of Paragraph 6 which are requests for relief and conclusions of law to which no response is required. By way of further response, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

7. Admitted in part, except for the averments of Paragraph 7 which are requests for relief and conclusions of law to which no response is required. By way of further response, the FCC Order at CC Docket No. 01-92, and the so-called Missoula Plan speak for themselves. Furthermore, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

8. Admitted in part, except for the averments of Paragraph 8 which are requests for relief and conclusions of law to which no response is required. By way of

further response, the OSBA agrees that the FCC proceeding could significantly impact the issues raised in this proceeding.

9. Admitted in part, except for the averments of Paragraph 9 which are requests for relief and conclusions of law to which no response is required. By way of further response, any proposed legislation before the United States Congress speaks for itself. Furthermore, the OSBA agrees with the conclusion of the Joint Status Report to the Commission, submitted by the Moving Parties on August 30, 2006, that the proceedings before the FCC have not yet concluded and could significantly impact the issues raised in this proceeding.

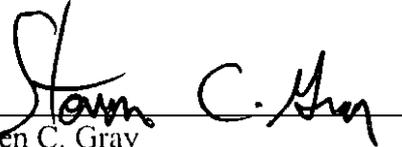
10. The averments of Paragraph 10 are requests for relief to which no response is required.

Conclusion

THEREFORE, the Office of Small Business Advocate requests that the
Commission:

Grant the Joint Motion in its entirety.

Respectfully submitted,



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For:

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Dated: September 19, 2006

BEFORE THE
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Charges and IntraLATA Toll Rates of Rural : Docket No. I-00040105
Carriers, and the Pennsylvania Universal :
Service Fund :

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CERTIFICATE OF SERVICE

I certify that I am serving two copies of the Answer to the Joint Motion of the Rural Telephone Company coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq Pennsylvania For the Commission to Further Stay This Investigation Pending Resolution of the FCC Inter-carrier Compensation Proceeding at CC Docket No. 01-92, on behalf of the Office of Small Business Advocate, by e-mail and first class mail (unless otherwise noted) upon the persons addressed below:

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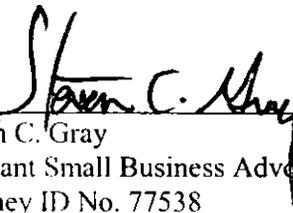
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CHARLES E. THOMAS
(1913 - 1998)

September 25, 2006

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

ORIGINAL

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

Dear Secretary McNulty:

Enclosed herewith for filing on behalf of Denver and Ephrata Telephone and Telegraph Company, Conestoga Telephone and Telegraph Company and Buffalo Valley Telephone Company are an original and three (3) copies of their Response to Verizon's Opposition to Further Stay in the above-referenced proceeding. A Certificate of Service is attached.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By



Michael L. Swindler

DOCUMENT
FOLDER

Enclosure

cc: Certificate of Service

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Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DENVER AND EPHRATA TELEPHONE AND TELEGRAPH COMPANY,
CONESTOGA TELEPHONE AND TELEGRAPH COMPANY
AND
BUFFALO VALLEY TELEPHONE COMPANY
RESPONSE TO VERIZON'S OPPOSITION TO FURTHER STAY

NOW COMES, Denver and Ephrata Telephone and Telegraph Company ("D&E"), Conestoga Telephone and Telegraph Company ("Conestoga"), and Buffalo Valley Telephone Company ("Buffalo Valley"), hereinafter collectively "D&E Companies" or "Companies," by their attorneys, pursuant to 52 Pa. Code §5.63, and respond to "Verizon's Opposition to the Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff, and Embarq for the Commission to Further Stay this Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No.01-92" ("Opposition"), as follows:

BACKGROUND

1. On August 29, 2006, the Rural Telephone Company Coalition ("RTCC"), Office of Consumer Advocate, Office of Trial Staff, and Embarq Pennsylvania filed a Joint Motion requesting that the above-captioned investigation ("USF/Access III Investigation) be stayed for an additional 12-months or until the Federal Communications Commission ("FCC") acts on its pending Unified Intercarrier Compensation proceeding at Docket No. 01-92.

2. The D&E Companies participated in this Joint Motion as members of the RTCC, which includes numerous other rural local exchange carriers ("rural ILECs").

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3. By letter dated September 12, 2006. Verizon filed its Opposition pleading. The Opposition pleading, in addition to responding to the Joint Motion, seeks alternative relief urging:

[T]he Commission to deny the Motion and resume this proceeding to consider the issues raised in the D&E, Buffalo Valley and Conestoga Access Orders. At a minimum, if the Commission considers granting the requested stay, then as a condition of doing so it should also (1) bifurcate the question of whether the access rates of D&E, Conestoga and Buffalo Valley are just and reasonable and whether those companies should continue to receive subsidies from the USF, and investigate those issues immediately, and (2) prohibit any of the companies subject to this investigation from raising their access rates during the period of the stay. If Joint Movants are unwilling to accept these reasonable conditions, then the stay should not be extended and the entire investigation should promptly go forward.

Verizon Opposition at 7.

4. Since the affirmative request for bifurcation relief sought by Verizon involves only the D&E Companies, the Companies take this opportunity to specifically address the bifurcation request and the faulty contentions upon which it is based.

D&E COMPANIES' CHAPTER 30 FILINGS

5. The "D&E, Buffalo Valley, and Conestoga Access Orders" referred to by Verizon address the D&E Companies' annual Chapter 30 filings filed with the Commission on May 3, 2006 ("2006 Chapter 30 filings").¹ The 2006 Chapter 30 filings were filed pursuant to the Companies' Amended Chapter 30 Plans approved by the Commission, which provide the right to annually increase or decrease rates and revenues on the basis of changes in the Gross Domestic Product Price Index. The rate changes proposed included increases in the D&E and Buffalo Valley carrier common line ("CCL") charges, a decrease in the Conestoga CCL, increases in the Companies' intrastate switched access charges mirroring their interstate access charges, increases in the Buffalo Valley basic exchange rates and minor increases in all three Companies non-basic local service rates.

¹See Orders entered June 23, 2006, at Docket Nos. R-00061377 and P-00981430F1000, Nos. R-00061375 and P-00981428F1000, and Nos. R-00061376 and P-00981429F1000, collectively "June 23, 2006 Orders."

6. Although Verizon was served with notice of the 2006 Chapter 30 filings, it elected not to participate therein.

7. By Orders entered June 23, 2006, the Commission raised concerns with the increases placed on the D&E Companies' intrastate access charges and provided the Companies with the alternative to instead increase basic exchange rates or bank the revenue entitlements. The June 23 Orders, however, provided the D&E Companies with the option of implementing the proposed rate changes including the access charge increases if adjusted for a change in the annual revenue entitlement calculation procedure. If the D&E Companies elected to pursue the latter alternative, the Commission directed that the following issues related thereto be consolidated with the instant USF/Access III Investigation at Docket No. I-0004015, ordering:

6. That, in the event that the Company does not choose either of the alternatives set forth in Ordering Paragraph 4 above, the proposed access services rate increase be permitted to go into effect as filed subject to any final determinations on access reform, including the pending intrastate access reform proceeding in Docket No. I-0004015 as it now exists or changes made by the Commission or at the federal level.

7. That the access reform proceeding in Docket No. I-0004015 shall examine, but not be limited to, whether this proposal is consistent with the regulations and policies governing the Pennsylvania Universal Service Fund, the Company's previously granted request for suspension of further intrastate access reform in Docket No. I-0004015, the Company's previously approved Amended Chapter 30 Plan set forth in Docket P-00981430F1000, and the continuing statutory obligations set forth in Sections 3011(1)-(13), 3019(h) and Chapter 30 of the Public Utility Code.

See June 23 Orders, Ordering Paragraphs 6-7.

8. The D&E Companies on July 10, 2006, filed Petitions for Reconsideration, which are incorporated herein by reference, challenging the change directed in their revenue entitlement calculations and the concerns raised in the June 23 Orders regarding increases in their intrastate access charges. In the Petitions, the Companies summarized (i) the extensive steps they have taken beginning with the Global proceeding² to achieve intrastate

²Joint Petition of Nextlink Pennsylvania, Inc., et al., 196 PUR4th 172 (1999).

access reform, (ii) their commitment to rural Pennsylvania evidenced by the acceleration in their Chapter 30 broadband commitments under Act 183³ to achieve universal broadband availability throughout their rural service territories by December 31, 2008, and (iii) the extensive intermodal competition they are facing hindering their ability to grow revenues and earnings to offset the capital cost arising from their accelerated Chapter 30 broadband commitments. The Companies explained that intermodal competition precluded further increases in their basic exchange rates and that the minor increases proposed to their intrastate access charges were the only realistic means to achieve additional revenues to carry-out their accelerated Chapter 30 broadband commitments.

9. While the Petitions for Reconsideration were pending, the D&E Companies on July 28, 2006, elected to file tariff supplements changing their rates, including intrastate access rates, consistent with their 2006 Chapter 30 filings. The rates, however, were adjusted to reflect the modification in the calculation of their annual revenue entitlements as directed by the Commission.

10. By letter dated July 20, 2006, Verizon, the largest ILEC in the Commonwealth and the only ILEC not making an accelerated broadband commitment under Act 183, filed what it labeled as a "Response as Amicus Curiae" challenging the D&E Companies Petitions for Reconsideration and their minor increases in intrastate access charges.⁴

11. On July 31, 2006, the D&E Companies filed a "Motion to Strike or Dismiss Amicus Curiae Response of Verizon" on the grounds that Verizon had notice of the 2006 Chapter 30 filings and elected not to oppose the rate changes therein, and that its "Amicus Response" was an improper pleading under the Commission's rules of practice.

³See 66 Pa.C.S. §3301 et seq.

⁴The annual impact for Verizon of the increases in the D&E Companies' intrastate access charges is \$512,000, which equates to just .0000084 of its annual \$60.298 billion of operating costs (12/31/05).

12. The Petitions for Reconsideration and Motion to Strike or Dismiss Amicus Curiae Response of Verizon are pending before the Commission.

VERIZON'S OPPOSITION PLEADING

13. Verizon, in its Opposition pleading, is disingenuous in the positions that it raises before this Honorable Commission.

14. In footnote 6 of the Verizon Opposition, Verizon argues that its position urging a full-scale investigation of the D&E Companies intrastate access rates before the FCC's Unified Intercarrier Compensation proceeding is completed is not in conflict with its position at Docket No. C-20027195 ("Verizon Access Proceeding").⁵ This pending Verizon Access Proceeding actually involves a challenge to the reasonableness of Verizon's intrastate access charges. In that proceeding, Verizon counsel recognized that the FCC intercarrier compensation proceeding "will comprehensively address all types of intrastate compensation, including ... intrastate access rates" and has argued that there will be "grave risks" in "any rush by the Commission to get ahead of the FCC."⁶ Yet, when the identical circumstances exist for the D&E Companies and all other rural carriers in the Commonwealth, Verizon seeks to challenge the Companies' intrastate access rates before the FCC resolves its intercarrier compensation proceeding. Using Verizon's words and argument, such a challenge would most definitely result in grave risks and should be stayed until the FCC proceeding is resolved. It would be totally inconsistent to proceed with an investigation of the D&E Companies intrastate access rates while at the same time provide a stay of the pending proceeding addressing Verizon's intrastate access rates. The D&E Companies also respectfully submit that it makes absolutely no sense to incur significant

⁵AT&T Communications of Pennsylvania, Inc. v. Verizon North Inc. and Verizon Pennsylvania Inc., Docket No. C-20027195.

⁶See June 2, 2006 letter of Suzan D. Paiva to James J. McNulty, Secretary, at Docket No. C-20027195, a copy of which is attached as Appendix A hereto.

litigation time and expense to address the D&E Companies' access rates when the resolution thereof will be directly impacted and could be nullified by the FCC.

Applicable Orders and Regulations

15. The Verizon Opposition fails to recognize that the D&E Companies beginning with the Global Order and thereafter have been leaders among the rural ILECs in instituting and achieving intrastate access charge reform. As shown in their Petitions for Reconsideration, the D&E Companies have significantly reduced their intrastate access charges within the last six years and placed the revenue burden resulting therefrom on local rates.⁷ Such access reform has resulted in the D&E Companies' CCLs being substantially below the \$7.00 benchmark established in the Global Order and endorsed by Verizon, and are significantly below the existing CCL rates of most other rural ILECs in Pennsylvania.⁸

16. Verizon argues that the D&E Companies decision to increase their intrastate access charges after the June 23 Orders is "fundamentally at odds with the rationale for another stay."⁹ Contrary thereto, the Companies election to mirror their interstate switched access charges, and both D&E and Buffalo Valley's election to increase their CCLs by an amount which is far less than their post-Global reductions therein (with the rates remaining below the \$7.00 Global benchmark), is not at odds with a further stay. As Verizon has advised this Commission, the FCC proceeding will address "all types of intercarrier compensation, including ... intrastate access rates."¹⁰ Thus, not staying this proceeding could result in the grave risks referred to by Verizon at Docket No. C-20027195.

⁷ See D&E Petition for Reconsideration at 8-9, Conestoga Petition for Reconsideration at 8-10, and Buffalo Valley Petition for Reconsideration at 8-10.

⁸ The CCLs for the vast majority of other rural ILECs exceed \$7.00 with many being above \$10.00 per month.

⁹ Verizon Opposition at 5.

¹⁰ See Appendix A hereto.

17. The D&E Companies do not dispute that the June 23 Orders and Ordering Paragraphs 7 therein did question whether the access charge increases are consistent with the regulations and policies governing the Pennsylvania Universal Service Fund ("PA USF"), the stay of the current USF/Access III Investigation, the Companies approved amended Chapter 30 Plans, and the continuing statutory obligations under Chapters 13 and 30 of the Public Utility Code. The June 23 Orders, however, earlier recognized that resolution of the issues presented in the D&E Companies 2006 Chapter 30 filings is "a very difficult issue and that it require a careful balancing of multiple and sometimes conflicting considerations."¹¹

18. D&E's management sought to achieve additional revenues to assist with the continuation of their accelerated Chapter 30 broadband commitments, i.e. commitments which Verizon elected not to make to the Commonwealth. Management, however, was extremely concerned with the impact further basic exchange rate increases would have on the Companies' continuing loss of access lines.¹² Based upon a straight-forward review of the Global Order, the Companies amended Chapter 30 Plans, access rate changes of other carriers since the Global order and the Commission's USF regulations at 52 Pa. Code §63.161 et seq., the D&E Companies concluded that there is no prohibition precluding rural ILECs from increasing their intrastate access rates. The Commission's Order entered August 20, 2005, at Docket No. I-00040105, which initially stayed the current USF/Access III Investigation, likewise contained no prohibition in intrastate access charge increases during the stay.

19. Turning to Act 183, the primary purpose of this legislation was to accelerate broadband deployment throughout Pennsylvania. For those ILECs willing to make an accelerated commitment, the Act provided incentives which included reductions in regulatory

¹¹See D&E June 23 Order at 13.

¹²See D&E Petition for Reconsideration at 13-14; Conestoga Petition for Reconsideration at 13-14; and Buffalo Valley Petition for Reconsideration at 13-14.

requirements and reductions in the inflation offsets for their price cap formulas. Section 3017 of the Act,¹³ which is the Chapter 30 legislative section applicable to intrastate access charges, also does not preclude ILECs from increasing their intrastate access charges through the annual Chapter 30 rate filing process.

20. Unlike Verizon, the D&E Companies assumed the risk and amended their Chapter 30 Plans pursuant to Act 183. Through their amended plans, they committed to accelerating their provision of universal broadband availability to their rural service territories to December 31, 2008. The Companies made this commitment on the understanding that Act 183 provided them with the discretion under their amended plans to increase their rates (including access) to achieve additional revenues on the basis of inflationary changes to carry-out their accelerated broadband commitments.

21. Under these circumstances, D&E's management engaging in a careful balancing of all considerations and acting in good faith concluded it was in the best interest of the Companies, their customers, and service territories to implement the rates as proposed in their 2006 Chapter 30 filings as adjusted.

D&E Companies' Position

22. The D&E Companies respectfully submit that the Joint Motion filed on August 29, 2006, seeking a further stay in the USF/Access III Investigation should be granted for the reasons set therein. The justification for granting the stay is confirmed by Verizon's June 2, 2006 letter at Docket No. C-20027195. As to the issues concerning the D&E Companies' right to increase their intrastate access charges through the Chapter 30 process, those issues are identified in Ordering Paragraph 7 of the June 23 Orders. The issues, which are basically legal questions, include whether the intrastate rate changes are "consistent with the regulations and policies governing the Pennsylvania Universal Service Fund, the Company's previously granted request for suspension of further intrastate access reform in

¹³66 Pa.C.S. §3017.

Docket No. I-00040105, the Company's previously approved Amended Chapter 30 Plan set forth in Docket No. P-00981430F1000, and the continuing statutory obligations set forth in Sections 3011(1)-(13), 3019(h) and Chapter 13 of the Public Utility Code."¹⁴ The D&E Companies vehemently oppose Verizon's assertion that such legal questions should be expanded into a full scale investigation into what "just and reasonable" intrastate access rates should be for the D&E Companies and whether such Companies "should continue to receive subsidies from the USF."¹⁵ The PA USF is not a subsidy payment as Verizon would lead the Commission to believe, but a support mechanism previously included in rates. These issues involving intercarrier compensation and universal service funding will most definitely be impacted by the FCC's resolution at CC Docket No. 01-92. The FCC's resolution will affect all rural carriers in the Commonwealth and may entail a federal overhaul of the intercarrier compensation system. Only following resolution of the FCC proceeding will this Commission in the current USF/Access III Investigation be in a position to address the intrastate access rates of the D&E Companies and other rural ILECs. Every rural carrier has a vested interest in access charge and universal service fund issues. Under the circumstances, the D&E Companies' intrastate access rates should not be reviewed in an isolated bifurcated vacuum separated from the other rural ILECs. In the alternative, the D&E Companies submit that if a bifurcated proceeding is opened, it should be limited solely to the legal questions raised in Ordering Paragraphs 7 and any questions as to the justness and reasonableness of their intrastate access rates and USF support be stayed and resolved together with the other rural ILECs in the Commission's USF/Access III Investigation. Consistent with Ordering Paragraphs 7, such bifurcated proceeding should be a paper proceeding addressing whether rural carriers such as the D&E Companies were prohibited

¹⁴ See June 23 Orders at Ordering Paragraphs 7.

¹⁵ Verizon Opposition at 7.

by a prior Commission order or regulation or under Act 183 or their amended Chapter 30 Plans from increasing their intrastate access charges in their 2006 Chapter 30 filings.

Verizon's Erroneous Access Rate and PA USF Contentions

23. Verizon takes issue with the rural ILECs' access rates in general and the D&E Companies' access rates in particular. Verizon argues that it is providing rural ILECs a "double subsidy ... in the form of universal service fund support plus intrastate access rates that are very much higher than the access rates that Verizon itself is allowed to charge."¹⁶ Although the D&E Companies believe that the matter now at issue is whether this USF/Access III Investigation should be stayed, the Companies take this opportunity to respond to the erroneous arguments raised by Verizon. It is obvious that Verizon will ultimately seek to substantially modify or overturn the PA USF on the basis of these arguments.

24. The Telecommunications Act of 1996 ("TCA-96"), Section 254(b)(3), clearly provides that rates for local service should not differ greatly between rural and urban areas:

(3) ACCESS IN RURAL AND HIGH COST AREAS.—Consumers in all regions of the Nation, including low-income consumers and those in rural insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

47 U.S.C. §254(b)(3). Section 254 of TCA-96 includes extensive universal service provisions with the authority given to the FCC and state regulatory agencies to continue and/or develop further universal support mechanisms. Specifically, Section 254(f) permits state agencies to adopt rules that will preserve and enhance universal service.

25. In the Global proceeding, Verizon joined with the rural ILECs to sponsor the plan that ultimately resulted in this Commission's existing Universal Service Fund

¹⁶Verizon Opposition at 6.

mechanism, i.e. the PA USF. In adopting the plan, the Commission recognized that the PA USF is a means "to preserve the affordability of local service rates in rural service territories."¹⁷ The PA USF was established as a support mechanism to replace revenues previously received in billed rates. The PA USF is not a subsidy fund to rural carriers and a goal of the USF/Access III Investigation is to determine whether the PA USF should remain as it is today, should be increased with additional decreases made to access rates or should be reduced with those revenue amounts moving back into billed access rates.

Double Subsidy

26. Verizon's claim that it is providing, through the PA USF, a double subsidy is false. Verizon is endeavoring to convince the Commission that it has the same cost and revenue structure as the rural ILECs in Pennsylvania. The PA USF plan adopted in the Global Order at Verizon's request was designed based on the following criteria: reduce intrastate traffic sensitive rates to parity with interstate rates and structure, reduce toll rates to a benchmark of \$0.09 per minute, increase average residential local rates to a ceiling of \$16.00 and reduce intrastate common line rates to a monthly CCL benchmark of \$7.00 per line.¹⁸ D&E received only \$11,851 per month in PA USF as a result of the Global Order. None of this amount was due to reductions in access rates. This small amount of USF support was to permit D&E to recover its estimated cost to fund the PA USF which this Commission agreed should be part of the support to all rural ILECs. For Verizon to now insinuate in its erroneous pleading that D&E somehow received PA USF for reductions in access and now, by reversing some of its prior years access rate decreases, has caused a "double subsidy" payment by Verizon via access charges and USF, is nothing more than a pure fabrication.

¹⁷ See, Global Order, 196 PUR4th at 236.

¹⁸ Id. at 237.

27. D&E and Buffalo Valley, at the time of the Global Order, established monthly per-line CCLs of \$6.11 and \$7.00, respectively. Since the Global Order, D&E and Buffalo Valley, through their Chapter 30 filings, have voluntarily made reductions to the CCL and increases to local rates. Average D&E residential rates during this time have nearly doubled, from approximately \$10.40 per line to approximately \$17.50 per line with the result being a significant loss in access lines. Average Buffalo Valley residential rates during this time have more than doubled, from \$7.00 per line to \$14.50 per line. As a result of increased competition, loss of access revenues due to changes in wireless compensation, phantom traffic issues on the part of carriers like Verizon-MCI, and with their continued commitment to Chapter 30 and the acceleration of broadband deployment while attempting to keep local exchange rates affordable, D&E and Buffalo Valley simply elected to reverse a small portion of their post-Global CCL reductions in order to generate revenues necessary to support their accelerated Chapter 30 broadband commitments. If D&E and Buffalo Valley had not elected to make voluntary reductions in their CCLs since the Global Order with the offsetting increases in their average residential rates, their CCLs would be higher and their residential rates would be much lower than what they are today. From D&E's standpoint, residential end users have experienced increases of more than \$7.00 over this time period, more than what they pay today in Federal SLC charges. To increase rates any further would have put the average D&E residential one party rate over \$19 and above the \$18 cap established by the Commission for USF purposes. Thus, for Verizon to insinuate that either D&E or Buffalo Valley somehow by reversing a small portion of the post-Global Order decreases in CCL have caused a "double subsidy" payment by Verizon is wrong.

28. The double subsidy contention is also inaccurate with respect to Conestoga. Conestoga, in Global, reduced its intrastate switched access rates to mirror interstate, reduced its carrier charge to \$7.00 per line and received PA USF of \$127,290 per month as compensation for making said access reductions. Since Global, Conestoga has voluntarily

made additional reductions to the CCL and increases to local rates. Average residential rates during this time have increased 81%, from approximately \$7.90 per line to approximately \$14.30 per line. In its 2006 Chapter 30 filing, Conestoga further reduced the CCL to a rate of \$4.44 per line or 37% below the level established in the Global Order. No one can argue that Conestoga has not forced local end users to pay a greater share of the cost. This increase is roughly equal to the FCC interstate SLC amount of \$6.50. For Verizon to now insinuate that Conestoga somehow by decreasing its CCL and mirroring its interstate charges has caused a "double subsidy" payment by Verizon is very misleading.

Mirroring of Interstate Rates

29. Verizon also claims that D&E, Conestoga, and Buffalo Valley are in violation of the Global Order because of the increases in their intrastate switched access charges for the purpose of mirroring their interstate rates.¹⁹ Both the Global Order and the recent June 23 Orders²⁰ recognize that intrastate access rates should be at parity with interstate rates. All parties in the Global proceeding *including* Verizon agreed that parity reduced tariff arbitrage and is therefore appropriate. Now, Verizon appears to be arguing that it is appropriate for intrastate access rates to be lower than interstate access rates and thus not at parity. It is plain to see that when interstate rates are not at parity with intrastate rates, tariff arbitrage will exist regardless of whether intrastate rates are higher or lower than their interstate counterparts. To eliminate tariff arbitrage, which was a goal of the Global Order and supported by all participants and the Commission, intrastate and interstate access rates must be at parity. Since interstate rates are set annually based on FCC rules and regulations, intrastate rates must change to remain in parity with their interstate counterpart.

¹⁹Verizon Opposition at 7.

²⁰See e.g., Buffalo Valley June 23, 2006 Order at 8 which recognizes that "mirroring interstate rates is a step towards attaining cost-based intrastate access service charges while avoiding arbitrage and promoting competition."

The D&E Companies' 2006 Chapter 30 filings mirroring their access rates are directly consistent with the objectives of the Global Order.

Verizon v. D&E Companies' Access Rates

30. Verizon's Opposition also implies that rural ILECs such as the D&E Companies must establish intrastate access rates similar to the rate levels established by Verizon for its access compensation.²¹ Verizon serves almost every urban area in Pennsylvania, e.g., Pittsburgh, Erie, Harrisburg, York, Wilkes-Barre, Scranton, and Philadelphia. In fact, it is one of the largest telecommunications carriers in the world. In contrast, D&E for example serves only two exchanges of approximately 15,000 lines, two exchanges of approximately 9,000 lines and the remaining exchanges below 4,000 lines. Whereas Conestoga is similar in size to D&E but Buffalo Valley is smaller. Clearly, with their limited density, the cost to provide service to the D&E Companies' rural customers is far greater than what Verizon incurs. Consequently, there is no basis in Verizon's attempt to compare its access rates with the D&E Companies' access rates.²²

CONCLUSION

31. In conclusion, the D&E Companies respectfully submit that the Verizon Opposition must be denied. The pleading contains many misstatements of fact and is misleading, and serves only to benefit the shareholders of Verizon. Requiring the D&E Companies to place increases in unit costs recoverable through the Chapter 30 plan process only on local customers, who have already seen their rates increase dramatically over the last six years, and not on access customers when all customers share in the use of the network has the effect of making Verizon's wireless affiliate carrier's service more appealing, serving the true interests of Verizon in this proceeding. This USF/Access III

²¹Verizon Opposition at 6-7.

²²Also, see Supplemental Comments of the Rural Telephone Company Coalition, FCC Intercarrier Compensation – Workshop and Solicitation of Comments on the Missoula Plan, Docket No. M-00061972, at 5-15.

Investigation and all of the complex issues involving access rates and universal service support should be stayed pending resolution of the FCC's Unified Intercarrier Compensation proceeding at Docket No. 01-92. Likewise, any issue of intrastate access charge reform and USF support applicable to the D&E Companies should be stayed for the same reasons set forth by Verizon and by other rural carriers. Without such stays, significant time and expense could be incurred for naught since the FCC resolution will directly impact issues of access charge reform and USF support in Pennsylvania. The D&E Companies also submit that their 2006 Chapter 30 filing increases in intrastate access rates should be stayed consistent with the June 23, 2006 Orders at Docket Nos. R-00061377 and P-00981430F1000 (D&E), Nos. R-00061375 and P-00981428F1000 (Buffalo Valley), and Nos. R-00061376 and P-00981429F1000 (Conestoga) and resolved as part of the USF/Access III Investigation.

Respectfully submitted,

THOMAS, THOMAS, ARMSTRONG & NIESEN



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Dated: September 25, 2006

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Appendix A

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PENNSYLVANIA PUBLIC UTILITY COMMISSION
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June 2, 2006

Via UPS Overnight Delivery
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: AT&T Communications of Pennsylvania, Inc. v.
Verizon North Inc. and Verizon Pennsylvania Inc.
Docket No. C-20027195

Dear Secretary McNulty:

On behalf of Verizon Pennsylvania Inc. and Verizon North Inc. ("Verizon"), I am responding to the May 17, 2006 letter of Qwest Communications Corporation ("Qwest") urging the Commission to decide the Exceptions to the December 7, 2005 Recommended Decision of ALJ Cynthia Williams Fordham in the above matter.

While there is no deadline for the Commission to decide this case, if the Commission chooses to act now then it should grant Verizon's Exceptions and close or stay this proceeding pending the outcome of the Federal Communications Commission's ("FCC") intercarrier compensation proceeding – which will comprehensively address all types of intercarrier compensation, including the intrastate access rates at issue in this case. *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92 (FNPRM Rel. March 3, 2005).

Qwest demands that Verizon's access rates be reduced "without further delay" – which of course operates to Qwest's financial advantage – but Qwest glosses over or ignores the rest of the story, including the substantial considerations that counsel *against* precipitously rebalancing Verizon's intrastate access rates at this time.

Conveniently omitted from Qwest's "unfortunate story of delay and postponement," for example, is the fact that Verizon's intrastate access rates have already been decreased by *approximately \$140 million* since the *Global Order* – including the rebalancing early last year that reduced revenue from access by over \$50 million and increased basic local rates to recover that revenue. Qwest also ignores the fact that, as

the RD itself noted, Verizon's intrastate access rates are already "well below the national average" (RD at 64) and among the very lowest in Pennsylvania. Qwest provides no compelling reason why these rates cannot stay at this present, already below-average level until the FCC completes its proceeding.

Qwest takes the opportunity to fault the Commission and the ALJ for not acting faster, but Qwest fails to mention, much less to rebut, the substantial record evidence that supports waiting for the FCC. In fact, the record shows little consumer benefit to be gained from rushing ahead of the FCC, because isolated intrastate access reductions in Pennsylvania, without the more comprehensive action that only the FCC can take, are likely to have little market impact. In contrast, consumers are certain to experience costs from the demanded rebalancing, in the form of mandatory basic rate increases of as much as \$1.50 per line per month required by revenue neutrality mandate of 66 Pa.C.S. § 3017. The record also shows that there are grave risks that may accompany any rush by the Commission to get ahead of the FCC, such as the possible loss of federal funding sources as an alternative to these required end-user rate increases.

For these reasons, as set forth in the filed Exceptions, Verizon, OCA, OSBA and OTS agree that the Commission should wait for the FCC to complete its case. If the Commission chooses to render a decision on the RD now, then it should close or stay this matter pending the outcome of the FCC's intercarrier compensation proceeding.

Very truly yours,

Suzan D. Paiva

cc: The Honorable Wendell F. Holland, Chairman
The Honorable James H. Cawley, Vice-Chairman
The Honorable Bill Shane, Commissioner
The Honorable Kim Pizzingrilli, Commissioner
The Honorable Terrance J. Fitzpatrick, Commissioner
Cynthia W. Fordham, Administrative Law Judge
Attached Certificate of Service
Cheryl Walker Davis, OSA

ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S BUREAU

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

CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of September, 2006, served a true and correct copy of the foregoing Response on behalf of Denver and Ephrata Telephone and Telegraph Company, Conestoga Telephone and Telegraph Company and Buffalo Valley Telephone Company upon the persons and in the manner listed below:

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COMMONWEALTH OF PENNSYLVANIA
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IN REPLY PLEASE
REFER TO OUR FILE

November 21, 2006

Mary Jane Phelps, Director
Pennsylvania Code & Bulletin
Room 647, Main Capitol Building
Harrisburg, PA 17120

DOCUMENT
FOLDER

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

Dear Ms. Phelps:

Enclosed please find two (2) copies of the Commission's order in the above-captioned proceeding. The Commission requests that this order be published in its entirety as a notice in the Pennsylvania Bulletin.

Very truly yours,

Karen O. Moury
Director of Operations

Enclosure

cc: Regulatory Coordinator DelBiondo
Docketing ✓

DOCKETED
JAN 5 - 2007