

1 STEVEN C. GRAY, Esquire
Office of Small Business Advocate
2 Suite 1102, Commerce Building
300 North Second Street
3 Harrisburg, Pennsylvania 17101
(Counsel for Office of Small Business Advocate)

4 PHILIP F. McCLELLAND, Esquire
5 JOEL H. CHESKIS, Esquire
Office of Consumer Advocate
6 555 Walnut Street
5th Floor, Forum Place
7 Harrisburg, Pennsylvania 17101-1923
(Counsel for Office of Consumer Advocate)

8 ROBERT V. ECKENROD, Esquire
9 Pennsylvania Public Utility Commission
Office of Trial Staff
10 Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
(Counsel for Office of Trial Staff)
11 MICHELLE PAINTER, Esquire
12 MCI
22001 Loudoun County Parkway, C2-2-105
13 Ashburn, Virginia 20147
(Counsel for MCImetro Access Transmission Service)

14 JENNIFER DUANE, Esquire
15 Sprint/United
401 9th Street, NW, Suite 400
16 Washington, DC 20004
(Counsel for Sprint/United)

17 BRADFORD M. STERN, Esquire
18 Rothfelder Stern LLC
625 Central Avenue
19 Westfield, New Jersey 07090
(Counsel for Omnipointe Communications, Inc.,
20 d/b/a T-Mobile; Omnipointe Communications, Inc.,
d/b/a T-Mobile; and Voicestream Pittsburgh LP,
21 d/b/a T-Mobile Nextel Communications, Inc.)

22 ALAN C. KOHLER, Esquire
Wolf Block Schorr Solis-Cohen LLP
23 212 Locust Street, Suite 300
Harrisburg, Pennsylvania 17101
24 (Counsel for AT&T)

25

1 MARK A. KEFFER, Esquire
2 AT&T
3 1120 20th Street, NW
4 Washington, DC 20036
5 (Counsel for AT&T)

6 SUSAN DeBUSK PAIVA, Esquire
7 Verizon
8 1717 Arch Street, 32nd Floor
9 Philadelphia, Pennsylvania 19103
10 (Counsel for Verizon PA and Verizon North)

11 JOHN F. POVILAITIS, Esquire
12 Ryan Russell Ogden & Seltzer
13 800 North Third Street, Suite 101
14 Harrisburg, Pennsylvania 17102
15 (Counsel for Qwest Communications Corporation)

16 CHRISTOPHER M. ARFAA, Esquire
17 Drinker Biddle & Reath LLP
18 One Logan Square
19 18th & Cherry Streets
20 Philadelphia, Pennsylvania 19103
21 (Counsel for Cingular Wireless LLC and
22 Cellco Partnership d/b/a Verizon Wireless)

23 ***
24
25

WITNESS INDEX

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

WITNESSES

DIRECT CROSS REDIRECT RECROSS

None

FORM 2

EXHIBIT INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NUMBER

FOR IDENTIFICATION IN EVIDENCE

None

FORM 2

Any reproduction of this transcript
is prohibited without authorization
by the certifying reporter.

P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL:

1
2
3 Good morning. It's Wednesday, February 16, 2005. This is
4 the place set for the pre-hearing conference in the case
5 captioned Investigation Regarding Intrastate Access Charges
6 and IntraLATA Toll Rates and Rural Carrier Charges and the
7 PA Universal Service Fund, docketed at Investigation Docket
8 00040105.

9 I'm Administrative Law Judge Susan Colwell,
10 assigned by the Commission to preside in this matter; and I
11 note for the record the attendance of the following counsel
12 -- and I just gave the green sheet away. The Office of
13 Consumer Advocate, Philip McClelland and Joel Cheskis.

14 MR. McCLELLAND: Yes, Your Honor.

15 JUDGE COLWELL: The Office of Small Business
16 Advocate, Steven Gray.

17 MR. GRAY: Good morning, Your Honor.

18 JUDGE COLWELL: Office of Trial Staff, Robert
19 Eckenrod.

20 MR. ECKENROD: Good morning, Your Honor.

21 JUDGE COLWELL: Jennifer Duane for Sprint.

22 MS. DUANE: Here, Your Honor.

23 JUDGE COLWELL: All right. We just met.
24 Good morning.

25 MS. DUANE: Good morning, Your Honor.

1 JUDGE COLWELL: Patricia Armstrong for the
2 Rural Telephone Company Coalition, and Mr. Niesen is also
3 signed in.

4 MS. ARMSTRONG: Mr. Niesen and Ms. Matz are
5 also here on behalf of the Rural Telephone Company
6 Coalition.

7 JUDGE COLWELL: Which kind of brings us to
8 the first point I have to make, and that is that we do have
9 microphones at all the tables. Because of the size of the
10 room, I ask you, if you have to speak, please do so into the
11 microphone. Make sure the red lights are on. Sometimes
12 when you turn them on, they make that noise. So you might
13 want to only turn it on if you're using it.

14 Okay. Mr. Stern.

15 MR. STERN: Good morning, Your Honor.

16 JUDGE COLWELL: Good morning. You're here on
17 behalf of Omnipointe Communications, doing business as
18 T-Mobile, Voicestream Pittsburgh, doing business as
19 T-Mobile, and Nextel Communications?

20 MR. STERN: Yes, Your Honor.

21 JUDGE COLWELL: Ms. Michelle Painter is
22 signed in for MCI. We have Mr. Kohler for AT&T, Mr.
23 Povilaitis for Quest Communications.

24 MR. POVILAITIS: Good morning, Your Honor.

25 JUDGE COLWELL: Good morning.

1 And Mr. Arfaa.

2 MR. ARFAA: Good morning, Your Honor.

3 JUDGE COLWELL: You're here on behalf of
4 Cingular Wireless and Cellco Partnership, doing business as
5 Verizon Wireless.

6 Who did I miss?

7 MS. PAIVA: Susan Paiva, Your Honor, from
8 Verizon Pennsylvania and Verizon North.

9 JUDGE COLWELL: Good morning.

10 Anybody else?

11 MR. KOHLER: Your Honor.

12 JUDGE COLWELL: Yes, sir.

13 MR. KEFFER: I am Mark Keffer, K-E-F-F-E-R.
14 I'm also representing AT&T.

15 JUDGE COLWELL: Good morning, Mr. Keffer.

16 Okay. The first thing I have is a motion for
17 admission pro hac vice. Zsuzanna Benedek has moved for
18 admission pro hac vice for Jennifer Duane. Any objections
19 to this motion?

20 (No response.)

21 JUDGE COLWELL: Hearing none, the motion is
22 granted.

23 The next thing I have are petitions to
24 intervene. I had asked for entries of appearance, and some
25 of you in a show of an admirable abundance of caution also

1 filed petitions to intervene. They were filed by Omnipointe
2 Communications Enterprises, doing business as T-Mobile;
3 Voicestream Pittsburgh, doing business as T-Mobile Nextel
4 Communications; AT&T; Qwest; Verizon; and Cingular Wireless;
5 Cellco Partnership, doing business as Verizon Wireless. Are
6 there any objections to these petitions?

7 MS. ARMSTRONG: Your Honor, on behalf of the
8 Rural Telephone Company Coalition, we have no objection to
9 the petitions to intervene. We would reserve our right to
10 object to perhaps a scope of their participation depending
11 upon how this matter evolves, but we will not object to
12 intervention.

13 JUDGE COLWELL: Fair enough.

14 Anyone else?

15 (No response.)

16 JUDGE COLWELL: Okay, then, everybody is
17 granted.

18 Do we have any other preliminary matters
19 which we need to discuss before we begin with the directions
20 from the Commission's order?

21 (No response.)

22 JUDGE COLWELL: This is a quiet room for
23 having so many people in it. Okay.

24 The stated purpose of this investigation is
25 to determine whether there should be further intrastate

1 access charge reductions and intraLATA toll rate reductions
2 in the service territories of rural incumbent local exchange
3 carriers and all rate issues and rate changes that should or
4 would result in the event that disbursements from the PA
5 Universal Service Fund are reduced. After we complete this
6 investigation, I am to issue a decision with a fully
7 developed analysis and recommendation on at least the six
8 questions stated in the text of the order.

9 Some of you were thorough in giving me a lot
10 to work with. Some of you chose to defer what we were going
11 to do. But my agenda right off the bat is to tell you that
12 there are six specific questions in the Commission's order
13 which I am required to address. So that's one thing that's
14 not negotiable. I have to absolutely put that in there.

15 At this point, I need to make sure there's at
16 least one party willing to address every one of those six
17 questions. So, if you have your orders handy, you might
18 want to turn to the paragraph section.

19 The first one, whether intrastate access
20 charges and intraLATA toll rates should be further reduced
21 or rate structure modified in the rural ILECs' territories.
22 I see a show of hands. Who's going to address that?

23 MS. ARMSTRONG: Your Honor, might we go off
24 the record just for one moment on that question?

25 JUDGE COLWELL: Yes. We're off the record.

1 (Whereupon, a discussion was held
2 off the record.)

3 JUDGE COLWELL: While we were off the record,
4 the parties discussed possible approaches to handling this
5 case. We are going to set a meeting for two months' time;
6 and, at that time, the parties, after consultation with each
7 other, are going to be able to tell me how they are going to
8 approach each of the issues listed in the Commission's
9 order. That's nice. I don't have to go through the whole
10 list to find out who's going to tell me about what.

11 I did get some recommendations from several
12 of the other parties. Do any of the parties who filed those
13 want to discuss those at this time? I know OCA gave me a
14 list.

15 Mr. McClelland.

16 MR. McCLELLAND: Your Honor, I think you have
17 given us the opportunity to develop those concerns that we
18 put in there. I think the two-month period will be very
19 helpful to do that. And, if I also may, there has been some
20 discussion of FCC activity on this; and I believe it will
21 probably have at least another notice from the FCC which
22 will also be helpful during that two-month period. So
23 that's all well.

24 JUDGE COLWELL: Okay. I think the other ones
25 are pretty much in keeping with what we have said.

1 Anybody else have any concerns that they
2 would like to have addressed at this time? Speak up now.

3 Yes, sir.

4 MR. McCLELLAND: If I can just ask a
5 question. If you were speaking of getting together, were
6 you saying in two months' time?

7 JUDGE COLWELL: Yes.

8 MR. McCLELLAND: And would that be April
9 18th, which is a Monday?

10 JUDGE COLWELL: I thought we could handle
11 that off the record. We'll discuss that off the record when
12 we get time for everybody.

13 MR. McCLELLAND: Good enough.

14 JUDGE COLWELL: Because you also need to set
15 some time to talk to each other.

16 MR. STERN: Your Honor, a clarification,
17 then. So, at two months' time, I presume we can extend
18 partial issues to be presented to you before then for
19 resolution.

20 JUDGE COLWELL: Sure.

21 MR. STERN: If the parties partially settle
22 on a certain issue, I would presume you will separate next
23 week if we got it to you.

24 JUDGE COLWELL: What I want to avoid is
25 issuing six different orders. Now, I understand that you're

1 talking about the wireless issue.

2 MR. STERN: The legal jurisdiction issue.

3 JUDGE COLWELL: And that in my mind is the
4 only one that has the potential for being separated from the
5 rest of this investigation. So, if anybody else disagrees,
6 please let me know right now, but I haven't seen it. It
7 isn't necessarily a given, but it has potential. I can see
8 why you want to move it. The rest of them are part of this
9 investigation and different aspects really are the same
10 issues.

11 MR. STERN: I'm focusing on that one issue,
12 Your Honor.

13 JUDGE COLWELL: Okay. So, yes, I understand
14 that, if you come to some agreement and you want to file for
15 that next week, I would see something in writing next week.
16 But please don't do that with all the other issues.

17 All right. Does anybody else have any other
18 concerns? Speak up now. This is a difficult case, not just
19 for you but for me as well; and you're way more familiar
20 with the issues than I am. So don't assume I understand it.

21 (No response.)

22 JUDGE COLWELL: Okay. What we're doing to do
23 is, I will issue an order that will set the next meeting
24 date; and it will also direct you to address the issues that
25 are in this Commission order. It will be due five days

1 before that hearing. By then, you should have met or spoken
2 on conference calls enough so that you understand each
3 other's issues and approaches; and these should have taken
4 some shape better than they have at this point.

5 So, is there anything else for the record
6 today?

7 (No response.)

8 JUDGE COLWELL: Okay. Hearing no response,
9 we'll go off the record.

10 (Whereupon, at 10:55 a.m., the
11 hearing was adjourned.)

12 ***

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me, or under my direction, and that this transcript is a true and accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: Judith E. Shuller
Judith E. Shuller, CSR

RECEIVED

2005 MAR -7 AM 8:53

SECRETARY'S BUREAU

FORM 2