

PTA Statement No. 1SR  
Docket No. C-2009-2098386 *et al.*  
Witness: Gary M. Zingaretti  
Date Admitted: 4/16/10  
RDT HBG

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 :  
  
AT&T Communications of Pennsylvania, *et al.* :  
v. : Docket No. C-2009-2098380, *et al.*  
  
Armstrong Telephone Company of :  
Pennsylvania, *et al.* :

PREPARED REBUTTAL DIRECT TESTIMONY OF  
GARY M. ZINGARETTI  
ON BEHALF OF THE  
PENNSYLVANIA TELEPHONE ASSOCIATION COMPANIES

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## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	SUMMARY OF SURREBUTTAL TESTIMONY .....	1
III.	THE IXCS CONTINUE TO ADVOCATE IRRATIONAL, PUNITIVE AND SELF-SERVING ACCESS “REFORM” THAT IS NOT SUPPORTED BY THE RECORD .....	3
	A. Cost Studies and Access Reform .....	3
	B. Access Charges and Industry Practice .....	20
	C. RLEC Obligations in a Regulated Competitive Market .....	26
	D. Sprint’s Spurious Allegations of Competitive/Noncompetitive Cross- Subsidization .....	37
	E. Revenue Neutrality .....	39
	F. Local Rates .....	47
	G. Alleged Customer Benefits of Access Reductions .....	50
IV.	FCC ACTION .....	55
V.	PROPOSED SOLUTIONS .....	55
	A. AT&T’s Proposal .....	55
	B. OCA’s Proposal .....	57
	C. Other Parties’ Proposals .....	58
	D. The PTA’s Proposal .....	60
VI.	CONCLUSION .....	63

1 **I. INTRODUCTION**

2 **Q. Please state your name, title and business address.**

3 A. My name is Gary M. Zingaretti. I hold the position of Senior Vice President for ICORE,  
4 Inc., 326 South Second Street, Emmaus, PA 18049.

5

6 **Q. Have you previously submitted testimony in this proceeding?**

7 A. Yes. I previously submitted Direct Testimony, which has been marked as PTA Statement  
8 No. 1.

9

10 **Q. What is the purpose of your surrebuttal testimony?**

11 A. The purpose of this testimony is to respond to the Rebuttal Testimony presented by other  
12 parties in this proceeding, notably Verizon, AT&T, Sprint, Comcast, Qwest, and the  
13 OSBA.

14

15 **II. SUMMARY OF SURREBUTTAL TESTIMONY**

16 **Q. Would you please summarize your surrebuttal testimony?**

17 A. Yes. AT&T, Sprint, Verizon, and Comcast have submitted testimony that would, on a  
18 flash cut basis, both impose substantial local rate increases on the PTA Companies' local  
19 customers and leave those companies with substantial revenues losses. In exchange,  
20 AT&T and the rest would reap the benefits of approximately \$90 million in reduced  
21 intrastate access charge expenses with nothing more than economic rhetoric and  
22 platitudes offered as customer benefits. Pretending to follow the OCA's leadership,  
23 AT&T in reality accepts the access reductions proposed by the OCA, but rejects the

1 OCA's concomitant compensatory and explicit universal service support. Instead, AT&T  
2 offers up explicit support in year one that is less than 25% of the mandated access  
3 revenue reductions, half of that in year two, about 5% of it in year three, and zero after  
4 year four. The access expense savings, however, continue forever.

5 Verizon offers no specifics and simply alleges that it is sufficient to offer the  
6 RLECs the opportunity to recover revenues through unspecified rate increases on  
7 noncompetitive rates other than local (and access, of course), regardless whether those  
8 revenues will ever be actually realized. Sprint hurls incorrect accusations about the  
9 RLECs' cost structures and financial positions, and draws incorrect conclusions about  
10 negative impacts on other carriers from RLEC intrastate access rates that are based on  
11 presumptions and inferences.

12 The proposals of these carriers are based upon their advocacy for a cost-based  
13 standard that has never been defined or imposed by this Commission, and has never been  
14 the basis of prior rural intrastate access reform. In light of the substantial intrastate  
15 access reductions already implemented by the RLECs, and the FCC's March 17, 2010  
16 action, this Commission should not rush forward to further pursue a state policy that has  
17 significant potential to impact gravely the RLECs and their rural local exchange  
18 customers for years to come. Pennsylvania has already undertaken substantial access  
19 reform and mandated ubiquitous network modernization deployment. The  
20 accomplishments of the Pennsylvania RLECs on these issues are well documented at the  
21 Commission. The Commission should not hurry to place its rural carriers ahead of the  
22 curve again, especially when further state reform may be unnecessary or unwise in light  
23 of the FCC's recent action.

1           On the other hand, my testimony contains PTA suggested principles to guide the  
2 Commission in its resolution of the issues in this docket and the PTA Companies once  
3 again offer to meet and discuss proposals, in a more productive and less combative forum  
4 as was done previously, that will offer a resolution that works for the benefit of all  
5 affected parties.

6  
7 **III. THE IXCS CONTINUE TO ADVOCATE IRRATIONAL, PUNITIVE, AND SELF-**  
8 **SERVING ACCESS “REFORM” THAT IS NOT SUPPORTED BY THE**  
9 **RECORD.**

10  
11 **A. Cost Studies and Access Reform**

12 **Q. Were intrastate access rates ever set on the basis of cost?**

13 **A.** No. In my Direct Testimony, I addressed this Commission’s prior rural access  
14 reductions, and also addressed the difficulties presented by those parties that seek “cost  
15 studies.” The prices approved for telephone companies historically were not set based  
16 upon a strict cost analysis, as were other traditional utilities. Rather, in a regulatory  
17 process that allowed regulators to advance the public policy goals of affordable and  
18 universal service, telephone rates were established for regulated telecommunications  
19 services under a regulatory process known as “residual pricing” or “residual ratemaking.”  
20 The Commission acknowledged this concept during the Global Proceeding when it first  
21 addressed access charge reform within the context of reconciling the regulatory impact of  
22 this long-standing public policy goal with the new federal and state goals of local  
23 competition:

24           Over the course of time, however, the Commission has permitted various  
25 changes to the different rate elements either through general rate increases,  
26 rate rebalancing/restructuring, STAS (state tax adjustment surcharge) roll-  
27 in filings, or Settlement Petitions, so that today access charge rates are not

1 standardized. In some instances, access charges were reduced so as to be  
2 closer to actual costs but in others, as a result of residual pricing,<sup>10</sup> they  
3 have been increased.  
4

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5 <sup>10</sup> Residual pricing is a tariff pricing mechanism used by utility regulators in the  
6 monopoly environment in which access and toll rates, as well as vertical local services,  
7 are priced at rates well above their costs, but at prices that the market will bear, in order  
8 to keep basic local exchange telephone service rates affordable.<sup>1</sup>  
9  
10

11 **Q. Were the ensuing PUC access reductions in 2000 and 2003 ever based upon cost**  
12 **analyses?**

13 A. No. The Phase I Access/USF reform that was adopted in the *Global Order*, as I  
14 addressed in my Direct Testimony, was a practical, revenue-based solution. It adopted  
15 access reform that reduced and reformulated access rates on a revenue-neutral basis, and  
16 established a PAUSF that provided for universal service support based not upon an  
17 analysis of each individual rural company's cost or access line density, but rather the  
18 access revenues that were lost as a result of the access reductions. Similarly, the Phase II  
19 Access/USF reform was a mixture of pragmatic rebalancing and PAUSF support such  
20 that through implementation of a combination of RLEC local rate increases coupled with  
21 an internal redistribution of \$2 million within the existing PAUSF support mechanism,  
22 the Commission approved further access reductions that again were revenue based and  
23 revenue neutral. They were not based upon individual RLEC cost studies or individual  
24 review of access line densities.  
25

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<sup>1</sup> *Global Order* at 15, note 10.

1 Q. With respect to individual RLEC rate rebalancing filings that reduced intrastate  
2 access charges, were any of those filings based upon cost studies?

3 A. No.

4

5 Q. Is it correct to say that over a ten year period in which the PUC has twice engaged  
6 in state-wide rural intrastate access reform, and during which individual RLECs  
7 also rebalanced rates, these reductions were implemented and corresponding  
8 explicit USF support provided without applying a cost-based standard?

9 A. Yes it is.

10

11 Q. Was the Recommended Decision of ALJ Michael Schnierle, quoted by some parties  
12 in this proceeding,<sup>2</sup> issued in one of the dockets incorporated for resolution in the  
13 *Global Order*?

14 A. Yes.

15

16 Q. Did the Commission adopt ALJ Schnierle's Recommended Decision?

17 A. No.

18

19 Q. Could you please elaborate?

20 A. Briefly, the Commission's efforts in the pending USF and access dockets, though  
21 spanning a number of years, were not fruitful. The universal service investigation was  
22 initially opened in 1994. By 1998, the date of ALJ Schnierle's Recommended Decision

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<sup>2</sup> See e.g. AT&T Rebuttal at p. 27.

1 in the access proceeding, there were multiple dockets opened and multiple Commission  
2 orders entered, but no access reform accomplished.

3  
4 **Q. Please describe the results of the access and universal service investigations.**

5 A. In these investigations, the PUC asked the parties to develop a cost model, a benchmark  
6 rate, and a USF plan.

7 The Commission had to sort through no fewer than four models: (1) the Bell  
8 Model; (2) the AT&T/MCI Hatfield Model, including what those parties subsequently  
9 modified and introduced as an “improved” version which alleged to incorporate aspects  
10 of Sprint’s model but was also alleged to be a wholesale alteration intended to produce  
11 low USF requirement (and which in fact did produce some of the lowest basic service  
12 costs); (3) the Sprint Benchmark Cost Model (BCM), which was also later reintroduced  
13 by Sprint as an “improved” BCM 2; and (4) the OCA’s Johnson Cost Model.

14 Of course, as the Commission acknowledged, each respective sponsor claimed its  
15 model was superior to the rest. Some models used embedded costs (e.g. the Bell model as  
16 described by others, although Bell insisted it used forward looking costs), while others  
17 used TSLRIC (or forward looking costs).

18  
19 **Q. How was that issue addressed by the PUC?**

20 A. At the time, the Commission defined the local loop as a joint cost and not a direct cost of  
21 providing only basic local service. Even that model pushed what the Commission  
22 considered to be too much revenue responsibility on the local ratepayer and setting access  
23 upon any cost model was never adopted. As the current testimony from the parties

1 demonstrates, responsibility for the loop remains a contentious issue. Yet, allocation of  
2 the loop is critical to performance of any cost study. That is why the Commission  
3 adopted the more pragmatic revenue approach.  
4

5 **Q. Has the FCC ever endorsed a TELRIC cost model for the RLECs?**

6 A. No. While the FCC has endorsed forward looking costs models for the non-rural  
7 companies, it likewise recognized that “the forward looking cost mechanisms available at  
8 that time could not predict the costs of serving rural areas with sufficient accuracy.”<sup>3</sup>  
9 Forward looking models have yet to be endorsed by the FCC for RLECs, and in fact thus  
10 far have been rejected for rural costing purposes. In the end, the Commission declined to  
11 give complete approval to any model.  
12

13 **Q. So should the RLECs have undertaken cost studies in this proceeding, as Sprint and  
14 others state?<sup>4</sup>**

15 A. No. In response to discovery, the RLECs explained this cost history to Sprint and the  
16 other carriers that asked whether the PTA had performed any cost studies. The reality is  
17 that there is no accepted cost methodology upon which the RLECs could develop a study.  
18

19 **Q. What was achieved with respect to universal service in those pre-Global dockets?**

20 A. With respect to USF funding, some carriers advanced having a state-wide fund such as  
21 was eventually adopted in the *Global Order*. Others, however, advanced USF funding

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<sup>3</sup> *Federal-State Joint Board on Universal Service*, CC Docket NO. 96-45, Report and order, 12 FCC Rcd 8937-45 paras. 297-313 (1997).

<sup>4</sup> See e.g. Sprint Rebuttal at pp. 14-18.

1 based upon individual RLEC service areas, which the Commission dismissed. Ultimately  
2 the record supported the Commission sizing a USF of just under \$123 million, about 30%  
3 of which was to be distributed to Bell. That number was subsequently revised upward.  
4

5 **Q. What did the Commission find with respect to a residential benchmark rate?**

6 A. The Commission determined that a \$20.00 rate for a basic local rates, with unlimited  
7 local service and exclusive of the SLC, provided a good starting point for purposes of  
8 determining universal service funding levels. I note, however, that in establishing this  
9 rate level, the Commission also directed that consumers receive reductions to toll bills at  
10 the same time.

11 While these access and universal service proceedings did not produce any  
12 resolution with respect to a rural costing methodology, they did open the discussions and  
13 provide the spring board for the successful actions the Commission ultimately took in the  
14 *Global Order*, which was then extended through approval of the 2003 Joint Access  
15 Proposal. As the Commission recognized, establishment of a universal service funding  
16 mechanism was necessary in Pennsylvania to maintain affordable rates, to maintain or  
17 increase subscribership, to encourage competition in all markets in all of Pennsylvania,  
18 and to fulfill the network modernization mandates of Pennsylvania so that advanced  
19 services would be available throughout the Commonwealth. Advancement of these goals  
20 has been largely successful due to the Commission's Global and post-Global actions.  
21 However, these achievements will not be sustainable if the Commission were to abandon  
22 the concept of explicit universal service support now.  
23

1 **Q. What is the proper role of cost analysis in this case?**

2 A. There is no role for local or access service cost studies in this case given the absence of  
3 cost studies in this Commission's access reform efforts over the past decade. Ironically  
4 even as all parties to this proceeding acknowledge the increased role of that competition  
5 plays in the telecommunications market, the IXCs nonetheless seek to relegate the  
6 RLECs to a standard of regulation that was never imposed historically even under the  
7 period of strict monopoly regulation.

8 Moreover, the majority of the RLECs are regulated under price cap regulation.  
9 For price cap RLECs, the Price Stability Mechanism ("PSM") determines the allowable  
10 revenue increase. The application of these two economic standards is the Chapter 30  
11 methodology for determining just and reasonable rates. Allowable revenues are derived  
12 by multiplying the revenues received from PAPUC jurisdictional "non-competitive" (i.e.,  
13 regulated) services times the change in the rate of inflation as measured by GDP-PI.<sup>5</sup>

14  
15 **Q. How does price cap regulation limit the role of rate of return rate setting?**

16 A. RLECs covered by a price cap plan are no longer tied to a rate of return analysis as a  
17 measure of financial need. The following language is standard in PAPUC price cap  
18 plans:

19 The PSP set forth in the Plan is in complete substitution of rate base/rate of  
20 return regulation and is the exclusive basis upon which the Company's rates  
21 and services are regulated on and after the date of Commission approval of  
22 this Plan. All tariff filings for noncompetitive services are subject to review  
23 under the terms of this Plan.<sup>6</sup>

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<sup>5</sup> For those RLECs operating under the streamlined (SRP) form of rate regulation, the RLEC's return on common equity must support a need to increase (or decrease) rates.

<sup>6</sup> See e.g. Amended Alternative Form of Regulation and Network Modernization Plan of Alltel Pennsylvania, Inc., Part 3, p. 20. The PTA Companies again request, as they did before ALJ Colwell, that the Plans, which are on file at

(continuation)

1  
2 The percent change in GDP-PI is the substitute measure of these companies' economic  
3 need under alternative regulation. On this point, Verizon concurs: Rates established  
4 under price caps are not based upon rate base/rate of return calculations and "the  
5 Commission is no longer privy to the RLECs' costs or profits."<sup>7</sup>

6 To require that individual rates be set at cost would be a back door form of rate of  
7 return regulation. If individual RLEC rates were limited to some cost basis, then the  
8 overall company revenues would no longer be price cap regulated. The situation  
9 deteriorates even more if the costing technique excludes certain services from the  
10 recovery of joint and common (e.g., loop) costs, as the IXC's advocate.

11  
12 **Q. Is there any legal or regulatory requirement that intrastate access rates be cost  
13 based?**

14 A. No, I am not aware of any. Counsel advises that they are aware of none either. So, even  
15 were the IXC's to demonstrate that access rates are above some cost methodology, this is  
16 not a basis for reducing rates.

17  
18 **Q. Have the complainant IXC's provided a cost study to support their claim that access  
19 rates are above cost in order to justify the lower access rates they seek?**

20 A. No.

21  
22 **Q. Did the IXC's attempt to discover the information needed to undertake a cost study?**

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the Commission, be recognized as public documents from which official or judicial notice of facts may be taken pursuant to the Commission's regulations at 52 Pa. Code §§ 5.406 and 5.408, respectively.

<sup>7</sup> Verizon Rebuttal at p. 7.

1 A. No. No IXC sought to obtain the information necessary to conduct such a study on its  
2 own. Sprint argues that AT&T, as the complainant, cannot be expected to have the  
3 financial information necessary to produce an access service cost study.<sup>8</sup>  
4 Notwithstanding Sprint's assertion, the OCA conducted a cost study of local service in  
5 the proceeding before ALJ Colwell to rebut the IXC claim that local service rates were  
6 below cost. The IXCs undertook no corollary study of their own.

7

8 **Q, What about Sprint's allegation that there are many new services available that**  
9 **should support the network than were available in 2003, when the Commission**  
10 **undertook its second phase of rural access rate reductions on a revenue neutral**  
11 **basis?**

12 A. This statement is too broad and sweeping to be of any value. It ignores the loss or  
13 diminution of other older services and uses federally jurisdictional services as its  
14 rationale. Sprint claims that: "Nearly everything has changed," -- RLECs now offer a full  
15 slate of services over the local exchange access network, specifically local, toll, long  
16 distance, high speed internet and "other services."<sup>9</sup> However, Sprint admitted it did not  
17 review the availability of the RLECs' specific services in 2003,<sup>10</sup> and all these were  
18 around in 2000 and 2003. Only the mix is different. There are now fewer lines providing  
19 local and toll/long distance service. There are now more high speed lines, true, but **there**  
20 **are also fewer local lines being used for dial-up calling.** According to published FCC  
21 statistical information, in 1998, 26.2% of households had Internet access (dial-up). By

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<sup>8</sup> Sprint Rebuttal at p. 18.

<sup>9</sup> Sprint Rebuttal at p. 5.

<sup>10</sup> See PTA Exhibit GMZ-17.

1 2000 that Internet access grew to 41.5%, with broadband (“high speed”) comprising only  
2 4.4% (37.1% dial-up). In 2008, Internet access was 61.7% with 50.8% of households  
3 accessing by broadband, and 10.9% through dial-up.<sup>11</sup> Some of this post-2000 increase  
4 in broadband would be cable modem service as FCC statistics indicate cable modem  
5 service represents 34.1% of all high speed connections while DSL is only 28.3%.<sup>12</sup> So  
6 the RLECs have had a shift in the type of usage (narrowband vs. broadband), but not in  
7 the overall usage or even necessarily in the amount of usage of their facilities for internet  
8 access.

9 Another service mentioned by Mr. Appleby is video over copper, for which the  
10 RLECs may provide the broadband access necessary to facilitate IPTV. This is not  
11 widespread. Video over copper is provided in the service territory of only six  
12 Pennsylvania RLECs. Additionally, Mr. Appleby fails to account for the extraordinary  
13 amount of investment, including reduction of loop length to produce the band width  
14 necessary to provide video services. It is my experience that video service providers  
15 incur large expenses including programming and franchise fees. Sprint’s video over  
16 copper argument must be dismissed since the vast majority of RLECs do not provide this  
17 service, and Sprint fails to take into account investments and expenses which offset this  
18 revenue.

19  
20 **Q. Is Mr. Appleby correct that the PA PUC could “allocate” loop costs to broadband**  
21 **DSL services?**

---

<sup>11</sup> FCC Trends in Telephony (August 2008), Chart 2.10.

<sup>12</sup> FCC Trends in Telephony (August 2008), Chart 2.2.

1 A. No. The FCC has sole jurisdiction over DSL service. The revenues from a federal  
2 service cannot be used to compensate for intrastate revenue reductions. As Mr. Loubé for  
3 the OCA recognized, contributions to local loop cost from the RLEC's broadband  
4 services is not required by the FCC for policy reasons.<sup>13</sup>

5

6 **Q. Does Sprint's method of allocating loop costs to broadband make any sense even**  
7 **were a cost study relevant and the service he cites not federally jurisdictional?**

8 A. No. Mr. Appleby presents a Consumer Electronics Association Report<sup>14</sup> for the  
9 proposition that adults with broadband spend on average 2.4 hours a day on line and  
10 comparing this with voice usage, concludes that intrastate access represents only 1.94%  
11 of the total line usage. The point of this example is that the cost of the local loop should  
12 not be recovered from any other party other than the cost causer, which Sprint contends is  
13 the end user.<sup>15</sup>

14 There are several flaws in Sprint's simplistic representation. First, as noted  
15 previously, broadband is not purchased exclusively from the telephone company and not  
16 all telephone company voice customers also purchase broadband service. Moreover,  
17 broadband service can be used for both voice and Internet access simultaneously. Just  
18 think of the on-line game playing where the players can talk to each other. Also,  
19 broadband is used for voice. Good examples here are Vonage and Magic Jack. Further,  
20 Sprint admits it has no data at all to draw any conclusions applicable to the RLECs

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<sup>13</sup> OCA Direct at pp. 43-44.

<sup>14</sup> Exhibit 14R.

<sup>15</sup> Sprint Rebuttal at p. 67.

1 themselves and their customers' use of the internet from 2003 to the present.<sup>16</sup> Finally, as  
2 mentioned previously broadband is an interstate regulated service and Mr. Loube  
3 correctly points out that the FCC does not require contributions to the local loop for  
4 broadband beyond the federal Subscriber Line Charge, which is paid by the end user.

5  
6 **Q. What agreement is there among the parties in this case with respect to how a cost**  
7 **study should be performed to develop cost-based access and local rates, including**  
8 **loop allocation?**

9 A. None. The same disputes that I described from over a decade ago continue to fester as  
10 soon as the door to conducting cost studies is opened.

11  
12 **Q. What conclusion should be drawn from the lack of cost studies?**

13 A. None. Cost-based rates have never been required in Pennsylvania. Cost has never been  
14 set as the objective by the Commission. The access reductions adopted by the  
15 Commission in 2000 and 2003-04, as noted previously, were revenue driven.

16  
17 **Q. Do the IXCs, nevertheless, seek to draw any conclusions from the lack of a cost**  
18 **study?**

19 A. Yes. They propose to severely reduce the RLECs' revenues, claiming that in the absence  
20 of a cost study, it may be concluded that the portion of access rates above the interstate  
21 rate is excessive. Sprint argues that the RLECs must justify their rate on a cost basis or  
22 they will be reduced -- "it now makes sense that before permitting the RLECs to continue

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<sup>16</sup> See PTA Exhibit GMZ-17.

1 collecting overcharges [they] must be required to prove that their residential basic rates  
2 are provided below cost.”<sup>17</sup> I leave the legal arguments to the attorneys, but this is a  
3 bizarre application of the burden of proof concept as I know it. Furthermore, simply  
4 because intrastate rates are higher than interstate rates does not make them unreasonable.  
5 The interstate rate is lower as a result of the FCC’s access reform including CALLS and  
6 MAG, as I described in my Direct Testimony. The FCC reduced access rates, but only  
7 allowed small increases in the SLC and established new USF support mechanisms. It  
8 would be improper simply to compare the rates.

9 Sprint even goes so far as to claim that the studies that were not conducted were  
10 adverse to the RLECs. The logic is as follows -- Sprint asked the RLECs to produce cost  
11 studies, which they did not do, so therefore; “I conclude that the RLECs’ financial  
12 information must not support the RLEC contention that subsidies are needed or the  
13 RLECs would disclose the results.”<sup>18</sup> The PTA answer was that we did not possess such  
14 studies, not that we would not disclose them.

15  
16 **Q. Is a rate reduction appropriate as proposed by AT&T, Verizon, Qwest and Sprint?**

17 **A.** No.

18  
19 **Q. Is this the solely the opinion of the PTA?**

---

<sup>17</sup> Sprint elsewhere claims: “If the RLECs cannot prove a financial need, then high access rates are not a subsidy at all, they are simply excess profits for the RLECs.” Sprint Rebuttal at p. 19.

<sup>18</sup> Sprint Rebuttal at p. 15.

1 A. No. As the OTS recognizes, since AT&T, *et al.* failed to provide cost justification, they  
2 have not supported the complaint. Without a cost of service study, AT&T has not shown  
3 that intrastate access charges are “excessive” or “subsidy laden.”  
4

5 **Q. Has the lack of a cost study precluded the IXC's from claiming that access provides a  
6 subsidy?**

7 A. Not at all. Any mention of access charges, which of course is the subject of this  
8 proceeding, is frequently prefaced by terms intended to be pejorative, such as “burden,”  
9 “subsidy,” “distortive price signals,” “profit laden,” “incumbent favoring,” “enriching,”  
10 “unjustified,” and “overcharged.” Descriptions of the degree to which access rates are  
11 above-cost are also rhetorical.

12 The only proof presented by the IXC's is that they prefer not to pay access charges  
13 for use of the RLECs' networks.  
14

15 **Q. What is your reaction to AT&T's and Comcast's analyses of relationships between  
16 loop costs and access line density to universal service support?<sup>19</sup>**

17 A. I am not surprised at their conclusions because the variables do not relate to the manner  
18 in which universal service support was designed.

19 Given the history of the development of intrastate access rates and universal  
20 service support, one should not expect a direct correlation between access rates and  
21 universal service support. Comcast's regression analysis was unnecessary and irrelevant  
22 given the development of universal service support and intrastate access rates in

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<sup>19</sup> Comcast Rebuttal at pp. 7-9; AT&T Rebuttal at p. 47.

1 Pennsylvania. A simple review of relevant history shows that it was a practical solution  
2 based upon the RLECs' acknowledged high cost, low density areas. Universal service  
3 support was initially offered to Verizon as it, too, has the COLR obligation. However,  
4 being the largest ILEC in Pennsylvania, and the second largest in the nation, and serving  
5 primarily urban areas, Verizon also has internal support mechanisms that it can rely upon.  
6 Ultimately, Verizon declined external USF support on the state level, as did most  
7 competitive carriers, including the cable companies and wireless carriers who elected to  
8 forego universal service support by declining to seek ETC designation and the  
9 requirement to offer basic local service ubiquitously on request in their entire service  
10 area. The construct of individual cost studies was never the basis for USF funding or the  
11 pricing of intrastate access rates. Pursuit of a cost-based path here would be a useless and  
12 fruitless exercise as well.

13  
14 **Q. Do some parties claim that the PAUSF was supposed to expire several years ago?**

15 **A.** Yes. Both the OSBA and Verizon witnesses describe the current PAUSF as an interim  
16 funding mechanism during a period of access charge reform that was scheduled to expire  
17 on December 31, 2003, and which was extended by the Commission's Order entered July  
18 15, 2003, adopting the RLEC's phase II access/USF reform. AT&T states that the  
19 PAUSF was always intended to be reduced or eliminated. These witnesses generally  
20 conclude that adopting PAUSF relief to accommodate access rate reductions would be an  
21 unreasonable conversion of an "interim funding mechanism into a very large, long-term

1 access cost subsidy.”<sup>20</sup> These characterizations are all inaccurate, misrepresenting the  
2 status of universal service support.

3  
4 **Q. Are claims that the PAUSF was supposed to be extinguished by now correct?**

5 No. The **design** of the PAUSF was interim, the **existence** of the Fund was not. The  
6 PAUSF was never set to expire without some form of replacement funding. In fact, the  
7 PAUSF adopted by the Commission clearly provided that, if the PAUSF were eliminated  
8 and no replacement funding adopted in its place, the access rate reductions and existing  
9 PAUSF credits on customer bills would be immediately reversed.<sup>21</sup>

10 Interim-to-be-revised-and-replaced going forward was not equivalent to  
11 temporary-to-be-phased-out. The goal was never the removal of “subsidies,” but rather  
12 the replacement of *implicit* support with *explicit* support. As stated by the Commission:

13 Recognizing the vulnerability of implicit subsidies to competition, TA-96  
14 requires that the FCC and the states take the necessary steps to *strive to*  
15 *replace the system of implicit subsidies with "explicit and sufficient"*  
16 *support mechanisms* to attain the goal of universal service in a competitive  
17 environment.<sup>22</sup>

18  
19 Verizon witness Price has already acknowledged this,<sup>23</sup> so repeating the issue in this  
20 proceeding is no more than an effort to divert attention from the real issue, which is how  
21 to render implicit support “explicit and sufficient.”

22  

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<sup>20</sup> OSBA Rebuttal at p. 8-9; Verizon Rebuttal at p. 44; AT&T Rebuttal at p. 15.

<sup>21</sup> As the Commission noted in the *Global Order*, in the event that “no alternative funding has been established through that investigation,” then “residential and business universal service credits will be eliminated.” *Global Order* at 151. Further, the terms of the Small Company USF adopted by the Commission allowed for the access and toll reductions to be reversed. See PTA Exh. (Direct) JLL-1; Settlement at 4-5 (¶ B.5(d)(6)) and 8 (¶ C.11(g) and Appendix A at 4 (¶ II.C.2) before ALJ Colwell.

<sup>22</sup> *Global Order* at 26-27 (emphasis added).

<sup>23</sup> Verizon St. 1 at 7 (before ALJ Colwell).

1 **Q. What ideas did the Commission express about PAUSF re-design in the future?**

2 The Commission expressly considered future implementation of some other form of  
3 explicit support, such as the Toll Line Charge:

4 Since no party has advocated the initiation of an intrastate Subscriber Line  
5 Charge (SLC) or Toll Line Charge (TLC) in this proceeding, we shall not  
6 authorize one at this point but will examine the appropriateness of such a  
7 charge in the context of the Commission Investigation in 2001.<sup>24</sup>

8  
9 Even Sprint confirmed this in the Global Proceeding:

10 The small/rural company fund is a *transitional* fund to be used until the  
11 Commission establishes a *permanent* universal service fund, *consistent*  
12 *with federal rules*. The Commission will initiate an investigation on or  
13 about January 2, 2003 to *develop a long-term solution to universal service*.  
14 This proceeding should be coordinated with the long-term review of the  
15 Carrier Charge.<sup>25</sup>

16  
17 This phase of the Commission's rural access investigation should be focused on a  
18 final solution to rendering implicit support explicit, as it was ordained to be by the  
19 Commission in the *Global Order*. Parties hostile to explicit support denigrate the RLECs  
20 and universal service, but ignore the Commission's original directive from the *Global*  
21 *Order*. Reasonable, affordable, and comparable universal service in rural and urban  
22 markets, however, remain legitimate statutory and regulatory goals.

23  
24 **Q. Was it necessary for the Commission to take some action to ensure the continuation**  
25 **of the PAUSF beyond December 31, 2003?**

26 A. No. Continuation of the fund beyond 2003 was effectuated by the Commission's  
27 promulgation and adoption of regulations that have no sunset date.

28

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<sup>24</sup> *Global Order* at 59.

<sup>25</sup> *Global Order* at 46, quoting Sprint's Main Brief (emphasis added).

1 **Q. What is your reaction to OSBA witness Wilson’s comments regarding the business**  
2 **and residential rate caps?**

3 A. Those issues are pending before the Commission in the phase of the RLEC investigation  
4 conducted by ALJ Colwell. Thus, the PTA Companies rely on the positions they  
5 articulated in that proceeding without repeating them here.

6  
7 **B. Access Charges and Industry Practice**

8 **Q. Sprint claims that RLEC access charges are unfair to wireless carriers.<sup>26</sup> Do you**  
9 **agree?**

10 A. No. Contrary to that assertion, wireless carriers actually have significant advantages  
11 when considering intercarrier compensation. The rules governing the compensation for  
12 wireless traffic are set by the FCC, and these rules and regulations are considerably  
13 different than those that apply to wireline to wireline traffic.

14  
15 **Q. How are the intercarrier compensation rates different for wireless carriers?**

16 A. First, the classification of traffic as local vs. access is set based on the Major Trading  
17 Areas (“MTAs”). A wireless call which originates and terminates in the same MTA is  
18 treated as a local call for intercarrier compensation purposes. The rates for this traffic are  
19 subject to negotiation and execution of an interconnection agreement between the  
20 carriers. These rates are generally lower than the rates billed for intrastate switched  
21 access, and are set on an incremental basis as set forth at 47 C.F.R. 51.705(a).

22

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<sup>26</sup> Sprint Rebuttal at p. 21.

1 **Q. Does reciprocal compensation apply to all wireless traffic?**

2 A. No. Switched access rates may apply. Under the FCC's rules, wireless carriers are  
3 required to pay switched access charges for calls which originate in one MTA and  
4 terminate in another MTA ("Inter-MTA traffic"). InterMTA traffic is a very small subset  
5 of intrastate traffic exchanged between wireless carriers and the PTA Companies.

6  
7 **Q. How do you know that this intrastate/inter-MTA traffic is a small subset of**  
8 **intrastate wireless to wireline traffic?**

9 A. The quantification of traffic that is inter-MTA is a negotiated percentage that is part of  
10 the interconnection agreement. It is my experience that inter-MTA traffic has been  
11 represented by wireless carriers at or close to 0% of overall wireless to wireline traffic.  
12 This results in no (or only very marginal) access charges being assessed to wireless  
13 carriers.

14  
15 **Q. Sprint claims that wireless carriers collect nothing at all when a long distance call**  
16 **terminates to their customers.<sup>27</sup> Is this claim relevant to this proceeding?**

17 A. No. Any conclusion the PA PUC reaches in this case would not impact wireless carrier's  
18 ability to bill access charges for terminating interexchange traffic since the FCC has  
19 already ruled that wireless carriers cannot bill tariffed switched access rates.<sup>28</sup>

20

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<sup>27</sup> Sprint Rebuttal at p. 21.

<sup>28</sup> See Declaratory Ruling in WT Docket No. 01-316, *In the Matter of Petitions of Sprint PCS and AT&T Corp. For Declaratory Ruling Regarding CMRS Access Charges*, ¶ 14, Released July 3, 2002.

1 **Q. What has been the RLECs' experience on wireless compensation matters with**  
2 **Sprint?**

3 A. For most of the RLECs, Sprint has not paid anything for termination of their wireless  
4 calls for years. Twelve RLECs, after having received no payment from Sprint for years  
5 and after several requests for negotiation of an interconnection agreement, have finally  
6 executed agreements which have been or will be filed with the Commission in March  
7 2010. The final agreements took almost one and a half years to negotiate and execute.  
8 These agreements provide for a reciprocal compensation rate applicable to both RLEC  
9 and Sprint originated traffic. Historically, neither Sprint nor the RLECs paid anything to  
10 each other and now they will both pay – at equal and symmetrical rates. It is inconsistent  
11 with Sprint's actual experience to say that there is any imbalance in the rates.

12

13 **Q. Changing to another type of carrier, Sprint claims that the RLEC access rates**  
14 **create a competitive disadvantage for CLECs compared to the RLECs.<sup>29</sup> Do you**  
15 **find any merit to this argument?**

16 A. None whatsoever. Sprint would have us believe that CLECs operating in rural markets  
17 only bill the largest LEC (i.e. Verizon) access rate. If this is the case, it is because of  
18 CLEC billing limitations, not state or federal rules. Sprint acknowledges that “Cable  
19 telephony providers and CLECs in general are permitted to charge the same rate level as  
20 the RLECs...”<sup>30</sup> This is true of both intrastate and interstate access charges. To feign a  
21 competitive disadvantage, Sprint paints a picture of complex billing system modifications  
22 required to bill the appropriate charges.

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<sup>29</sup> Sprint Rebuttal at p. 22.

<sup>30</sup> See Sprint Rebuttal at p. 22.

1 Sprint fails to recognize that when a CLEC serving area includes multiple LECs,  
2 it is allowed to develop and bill a blended access rate for all traffic. The FCC has  
3 expressly concluded that "... a weighted average calculation based on the number of  
4 minutes of use generated by a competitive LEC's end-user customers in different LEC  
5 territories is consistent with this standard."<sup>31</sup> This weighted average approach to billing  
6 is something that ICORE has done in the past for CLEC clients. It is not difficult to  
7 develop or apply this rate, nor should the prospect of such rate application be given any  
8 weight as discriminatory or anti-competitive.

9  
10 **Q. Comcast similarly claims that it is billing less than the incumbent RLEC rate for**  
11 **intrastate terminating access charges.<sup>32</sup> Is their position different than Sprint's?**

12 **A.** Comcast is not clear. In certain circumstances, Comcast does charge the incumbent  
13 RLEC rate, but in other cases it claims to bill some other rate to avoid billing disputes. It  
14 should be noted that Comcast Business Communications LLC's intrastate access tariff,  
15 PA PUC Tariff No. 8, does not even include rates for any RLEC exchanges. Neither  
16 does Comcast Phone of Pennsylvania's PA PUC Tariff No. 4. These tariffs refer only to  
17 charges assessed in Verizon's and Embarq's territory. Comcast's tariffs both call for the  
18 application of different intrastate switched access rates based on the incumbent LEC.  
19 This is in direct contrast to the description provided in Comcast's rebuttal testimony.

20  

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<sup>31</sup> CC Docket 96-262, Eighth Report and Order In the Matter of Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers, Released May 18, 2004 at ¶ 48.

<sup>32</sup> Comcast Rebuttal at p. 12.

1 Q. **Sprint's witness Mr. Appleby sets forth a series of examples of local wireline lines**  
2 **with no usage and claims the CCL prejudices the IXCs. Are his criticisms valid?**

3 A. No. I think it would be helpful first to explain the calculation and application of the  
4 carrier charge. Each month, each PA RLEC develops its individual carrier charge  
5 revenue amount by applying its carrier charge rate per line to the number of lines in  
6 service for that month. This produces the total carrier charge revenue to be billed by each  
7 RLEC for that particular month.

8 The total carrier charge revenue amount is then allocated to each long distance  
9 provider that utilizes the RLEC's network to originate and/or terminate interexchange  
10 traffic. This allocation is based on each IXC's share of total interexchange usage. The  
11 RLEC's own interexchange service also receives an allocation of this charge based on its  
12 relative share of interexchange minutes of use.

13

14 Q. **Can you review each of his examples?**

15 A. Sure. In Mr. Appleby's **first example** he describes a customer who does not make use of  
16 his wireline service in a given month. The assertion is that the customer's interexchange  
17 carrier is then billed for a portion of that loop. This is not an accurate portrayal. The  
18 carrier charge is not developed or applied on a line by line basis. It is not billed to a  
19 carrier based solely on that customer's selection of the carrier to be their long distance  
20 provider. To illustrate this, assume that the customer described by Mr. Appleby was the  
21 only customer served by that particular long distance carrier in that RLEC's territory.  
22 This long distance company's relative allocation of the carrier charge would be zero  
23 based on the ratio of their minutes to total intrastate minutes. **The IXC would not pay**

1        **any carrier charge to the RLEC.** By assessing the charge based on relative usage, each  
2 user of the RLEC network pays a share of the carrier charge consistent with their  
3 utilization of the network.

4            In Mr. Appleby's **second example** the customer from Example 1 continues to not  
5 use the wireline network for inbound and outbound calls, but in this case he has added  
6 DSL service to his line. Mr. Appleby suggests that in this example the long distance  
7 carrier again must pay a portion of the carrier charge even though the line is not used for  
8 voice traffic. This part of the argument is the same as Example 1 above which I have  
9 already explained and rejected -- **no carrier charge is billed.** The added twist in this  
10 example is the conclusion that the customer's DSL service is being subsidized because  
11 the DSL service makes no contribution to the local loop. **This too is incorrect.**

12  
13 **Q. Has the FCC addressed the issue of loop allocation for DSL service?**

14 A. Yes. The FCC has already concluded that DSL is an interstate service.<sup>33</sup> Therefore, the  
15 FCC has sole jurisdiction over DSL service and has ruled that existing interstate loop  
16 allocations capture all interstate uses of the loop, including DSL. No further allocation is  
17 required or permitted for DSL service.

18  
19 **Q. Did the FCC consider the cross subsidization argument in that proceeding?**

20 A. Yes, it did and dismissed that concern. AT&T argued that the change in regulatory  
21 treatment of broadband services "means that the treatment of broadband costs must be

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<sup>33</sup> Report and Order and Notice of Proposed Rulemaking in CC Docket No. 02-33, *et. al.*, released September 23, 2005.

1 revised so that costs are not lumped in with regulated services cost.”<sup>34</sup> Contrary to this  
2 position, Verizon argued “... there is no realistic threat of cross-subsidy between  
3 broadband and regulated services....”<sup>35</sup> The FCC sided with Verizon, finding that the  
4 cost of reclassifying broadband transmission from regulated accounts “would impose  
5 significant burdens that outweigh these potential benefits.”<sup>36</sup>

6  
7 **C. RLEC Obligations in a Regulated Competitive Market**

8 **Q. The IXCs argue that the market is fully competitive and the RLECs are simply**  
9 **imposing their own costs on their competitors. Do you agree?**

10 **A.** No. First, the market is not fully competitive, because of legacy regulation and COLR  
11 obligations imposed upon the RLECs. Moreover, the rural carriers have a relatively  
12 smaller and less dense customer base over which to spread those costs.

13  
14 **Q. Some of the IXC testimony denies that COLR even exists. Can you respond?**

15 **A.** The assertion that there is no COLR obligation is incorrect and obviously one that not  
16 even AT&T itself believes.<sup>37</sup> As AT&T recognized in filings before the FCC,  
17 incumbents hold the COLR obligation:

18 ILECs were historically parties to a regulatory compact that involved  
19 exclusive franchises in exchange for a commitment to offer service to all  
20 customers in a serving area at reasonable rates. That commitment was  
21 codified in an overlapping regime of federal and state regulations,  
22 including tariff requirements, obligation-to-serve rules, and carrier-of-last-  
23 resort obligations. And, while the exclusive franchises that formed the

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<sup>34</sup> See AT&T letter to the FCC dated March 25, 2004, in CC Docket No. 02-33.

<sup>35</sup> See Verizon letter to the FCC dated January 6, 2004 in CC Docket No. 02-33.

<sup>36</sup> Report and Order and Notice of Proposed Rulemaking in CC Docket No. 02-33, *et al.*, released September 23, 2005, ¶ 134.

<sup>37</sup> AT&T Rebuttal at pp. 28-29.

1            *quid* of that regulatory *quid pro quo* have long since vanished, the core  
2 obligations on ILECs largely remain in place and preclude service  
3 providers from abandoning POTS in response to technological change and  
4 market demand.<sup>38</sup>  
5

6            The obligation to serve is a basic, fundamental precept of regulation. Certainly, as  
7 AT&T acknowledged, this obligation existed before the advent of competition. The  
8 RLECs have never been relieved of it. They are certificated by the Commission each  
9 year as ETCs, as explained in my Direct Testimony. The obligation to serve is deeply  
10 embedded in the RLECs' DNA and is a guiding aspect of their credo. If the obligation  
11 does not exist, then the Commission should advise the Companies so that they can revise  
12 their business plans accordingly.  
13

14 **Q. Do all IXC's deny the COLR obligation is imposed on the RLECs?**

15 A. No. Sprint acknowledges the existence of the COLR obligation, noting that no state has  
16 relieved the RLEC of this obligation when reducing access rates.<sup>39</sup> I do not agree,  
17 however, with Sprint's description that the obligation is limited to those instances when  
18 no other service provider is available. The RLECs do not investigate the availability of a  
19 competitor before making a commitment to provide service. Rather, they do what they  
20 do -- they provide service. And even if other service providers are available, unless the  
21 Commission has released the RLEC of its COLR obligation, the RLEC remains as the  
22 carrier of last resort.

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<sup>38</sup> *In the Matter of International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act, A National Broadband Plan for Our Future, Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket Nos. 09-47, 09-51, and 09-137, Comments of AT&T Inc. on the Transition from the Legacy Circuit-Switched Network to Broadband, filed December 21, 2009 at 12 (footnotes omitted).

<sup>39</sup> Sprint Rebuttal at p. 55.

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Q. What about AT&T's claim that its certification imposes the COLR obligation on it?

A. I disagree with AT&T's implication that by becoming certificated, a CLEC has a duty to serve all customers in the territories in which the CLEC receives certification.<sup>40</sup> A "duty to serve" as AT&T notes is not the equivalent of a "duty to serve all." While CLECs are certificated on the basis of the underlying ILEC territory, I am aware of no CLEC that completely blankets the ILEC's service territory. In fact, in my experience, the CLEC tariffs limit the service to the availability of facilities. AT&T's own tariff provides a perfect example of this "COLR Disclaimer":

2. GENERAL REGULATIONS  
2.1 UNDERTAKING OF THE COMPANY  
2.1.1 General

The Company undertakes to provide the services offered in this tariff on the terms and conditions and at the rates and charges specified herein.

...

Services, features and functions will be provided where facilities, including but not limited to, billing capability, technical capability and the ability the Company to purchase unbundled network elements ("UNEs") (as that terms is defined by applicable law), either alone or in combination (including a combination of unbundled switching with other UNEs), are available. AT&T reserves the right to withdraw any service provided pursuant to this tariff or to modify its terms and conditions, upon 30 days notice, in the event that changes occur (including regulatory changes) which affect either the availability of facilities to AT&T, or the terms and conditions upon which they are obtained. The foregoing is in addition to all other existing rights retained by AT&T to modify or withdraw its services at any time.

The Company's obligation to furnish service, features and/or facilities is also dependent upon its ability to provide, secure and retain, without unreasonable expense to the Company (a) suitable facilities and rights for the construction and maintenance of the necessary circuits and equipment,

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<sup>40</sup> AT&T Rebuttal at p. 29, fn. 38.

1 (b) suitable space for its plant and facilities in the building where service  
2 is or is to be provided, (c) facilities for interconnection from alternate  
3 suppliers.<sup>41</sup>  
4

5 In addition, CLECs generally do not serve all classes of customers like the RLECs  
6 since most provide service only to business customers. The RLECs have an obligation to  
7 provide service to all customers in their service areas. Certainly, were such an obligation  
8 imposed, the CLECs would complain that such a provision would violate the  
9 Telecommunications Act at Section 253(a) (removal of barriers to entry). Indeed, “the  
10 IXC/CLEC community opined that under the federal act, the obligation to serve could not  
11 be imposed as an entry requirement for non-rural LEC service territories...” when the  
12 Commission promulgated its original Telecommunications Act policies.<sup>42</sup> The  
13 Commission agreed, recognizing that the obligation to serve commitment would be  
14 addressed through the universal support eligibility procedures, which are the ETC  
15 certifications that were discussed in my prior testimony. With respect to RLEC service  
16 territories, there is no obligation to provide COLR either, unless the “rural exemption”  
17 from resale under Section 251(c) were pierced. This has not occurred and the CLECs  
18 competing in the RLECs’ service territories are facilities-based and do not need or want  
19 the RLECs’ wholesale services.

20 From this, I conclude that the RLECs have an obligation to serve which has never  
21 been diminished or moderated by the Commission and the CLECs have no such

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<sup>41</sup> AT&T Communications of Pennsylvania, LLC, Local Exchange Services, Section 2, Original Sheet 1.

<sup>42</sup> *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799, Order entered June 3, 1996.

1 obligation. Notably the Commission, in staff comments before the FCC, also recognized  
2 the incumbents' COLR.<sup>43</sup>

3  
4 **Q. Can the cost of the COLR obligation be quantified?**

5 A. I have never seen the cost of the COLR obligation identified by any type of cost study  
6 and would not know how to do so without separate account tracking and special  
7 accounting systems, which do not exist. Neither does Mr. Appleby nor anyone else know  
8 how to measure the of the COLR obligation. We requested that Sprint's witness tell us  
9 how the costs would be measured and he was unable to do so.<sup>44</sup> However, just because  
10 COLR costs cannot be measured or are not measured does not mean there is not a cost.  
11 Nor does the inability to measure the cost lead to the conclusion that the costs are not  
12 significant.<sup>45</sup> Providing ubiquitous high quality coverage today, as only the RLECs do,  
13 requires an expansive network, not only to build but also to maintain, and that in turn  
14 requires substantial investment.

15  
16 **Q. Is COLR an advantage to the RLECs as Mr. Appleby suggests?**

17 A. In a simplistic sense, because they are in business in a rural area, they can do business in  
18 the rural areas. But being in Pymatuning has its drawbacks from an ability to grow the  
19 company. Therefore, Mr. Appleby's assertion that the COLR obligation is actually an

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<sup>43</sup> See PTA Exhibit JIL-7 in the proceeding before ALJ Colwell ("CETCs do not have identical service obligations [as rural carriers]. CETCs are not required to provide service ubiquitously throughout a rural carrier's study area. CETCs are not required to undertake expensive broadband deployment commitments under state law.").

<sup>44</sup> See PTA Exhibit GMZ-17.

<sup>45</sup> Sprint Rebuttal at p. 56.

1 advantage is greatly exaggerated.<sup>46</sup> First, the COLR obligation is at the retail customer  
2 level and requires the extension of local loop facilities to serve the customer. The  
3 connecting transport to which Mr. Appleby refers, connecting cell sites to the wireless  
4 carrier's switch are large capacity transport lines along the backbone of the RLEC's  
5 network. The availability of these facilities to provide interstate service, frankly is both  
6 irrelevant to this debate over switched access and local rates, and, again, is not  
7 jurisdictional to the PA PUC either. Both CenturyLink and Windstream are price cap  
8 companies under FCC regulation and their earnings on any particular service are a  
9 product of their overall price cap, inflation-based form of regulation.

10 The assertion that it is "cheaper to build a broadband network over a legacy voice  
11 network," is also overstated.<sup>47</sup> The network to which Mr. Appleby refers is, of course, a  
12 copper-based network. While the traditional LECs were able to obtain a network solution  
13 in the late 1980's to provide faster data speeds over a copper network, this technology has  
14 its limitations and can only be expanded up to limited speeds. Faster speeds, such as  
15 those now envisioned by the FCC (100 mbps), will require significant additional  
16 investment, contrary to Sprint's legacy network assertion. Moreover, the DSL solution  
17 requires substantial line conditioning and other technical installation to work. So, while  
18 being the first carrier there may have its advantages, the advantage is limited and is  
19 certainly offset by the obligation to be the "only" carrier there. Other "incumbent"  
20 systems like those of the cable television companies, since they rely upon coaxial cable,  
21 have greater capacity and do not need to be completely replaced to achieve higher speeds.

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<sup>46</sup> Sprint Rebuttal at pp. 57-59.

<sup>47</sup> Sprint Rebuttal at p. 57.

1 Thus, actually, the “legacy CATV network” is a greater advantage to the cable companies  
2 than the RLECs’ network is to them.

3 Finally, while certainly all carriers want to expand their networks, the fact that  
4 they do not have an obligation to do so and have not agreed to do so is the telling  
5 difference. As I noted in my Direct Testimony, Comcast, although it possesses a “legacy  
6 cable tv” network, has not sought ETC status. And the wireless carriers have admittedly  
7 spotty coverage in many rural areas.

8  
9 **Q. What do you mean by legacy regulation?**

10 A. RLECs are heavily regulated. Attempts, through legislation, to reduce the burden of  
11 regulatory compliance have yielded some modest reduction, but regulatory costs for the  
12 RLECs remain substantial. CLECs are less regulated. The Pennsylvania “VoIP Freedom  
13 Act” exempts from regulation the voice products of cable companies and other “VoIP”  
14 providers.<sup>48</sup> Wireless carriers also are exempt.

15  
16 **Q. Verizon and Sprint seem to claim that they are rural carriers too. What is your  
17 reaction?**

18 A. I don’t dispute that Verizon and Sprint serve rural areas. It is a question of degree and  
19 composition, however, and they are in no way rural carriers.

20 In my Direct Testimony, I did not assert that Verizon and Sprint do not serve rural  
21 territories. My point, clearly stated, was that “rural is relative.” It is true that Verizon’s  
22 2006 network biennial update reported that Verizon served over “1.1 million rural access

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<sup>48</sup> 73 P.S. §§ 2251.1-2251.6.

1 lines,” but the same report also reported a total of 5.1 million access lines served by  
2 Verizon. In other words, only approximately 20% of the lines provisioned by Verizon  
3 PA and Verizon North are classified, by the Commission, as rural. Of course, 100% of  
4 the RLECs’ lines are rural.

5 Verizon has conceded that its urban customers subsidize its rural customers. In a  
6 prior proceeding:

7 ... Bell claimed that the urban residential customers paid more than their  
8 fair share of costs and, consequently, subsidized rural and other high cost  
9 residential customers [clarified as “residential dial tone line service”].  
10 By lowering urban residential rates and raising rural and other high cost  
11 residential rates, Bell proposes moving both groups within one market  
12 basket closer to cost.<sup>49</sup>

13  
14 Given that rates in urban areas of Verizon are still higher than those in Verizon’s rural  
15 areas, it would appear that this internal cross-subsidization continues.

16 Without an urban customer base to “average down” their costs per customer, the  
17 RLECs are legitimately seeking external support for rural telephone consumers.

18 Mr. Price also acknowledges that Verizon has sold much of its rural operations,  
19 selling rural operating territory in at least 20 states in numerous transactions to rural  
20 telephone operating companies. In fact, as Verizon’s Chief Financial Officer John  
21 Killian stated with respect to Verizon’s rural divestiture, “[t]hese are good properties, but  
22 *they’re much more rural in nature, and they really don’t fit with the strategy we have for*  
23 *FiOS and broadband[.]*”<sup>50</sup>

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<sup>49</sup> *PA PUC, et al. v. Bell Atlantic-Pennsylvania, Inc.*, Docket R-00963550, Opinion and Order entered December 16, 1996 at 9 (footnote omitted).

<sup>50</sup> *Wall Street Journal*, May 14, 2009, “Verizon Sells Phone Lines In 14 States To Frontier,” Amol Sharma, page B1 (emphasis added).

1 **Q. What about Sprint's claim to be a rural wireless carrier?**

2 A. Sprint points to its rural customers and facilities as proof of its "ruralness." As with  
3 Verizon, however, Sprint paints its select rural picture, but does not reveal its more urban  
4 operations for comparison purposes. A review of Sprint's coverage map and statements  
5 on its website shows large portions in Pennsylvania that are either not served or where  
6 service is rated as only good to fair.<sup>51</sup> These maps show high level estimates under  
7 "optimal conditions," and Sprint admits "[c]overage isn't available everywhere."<sup>52</sup> While  
8 at the higher resolution levels shown in the copy, most areas appear to be dark green. If  
9 one drills down to the lower resolution levels, the areas of good and fair coverage begin  
10 to emerge. Only the green areas are on Sprint's own system. While all wireless carriers  
11 enter into "roaming agreements" to allow the greatest possible customer coverage, it is  
12 really not reasonable for the purposes of determining its "ruralness" for Sprint to include  
13 other carriers' networks. Plus, Sprint reports that its new investment is targeted for  
14 Austin, TX, Charlotte, NC, Chicago, IL, Dallas/Ft. Worth, TX, Greensboro, NC,  
15 Honolulu and Maui, HI, Raleigh, NC, San Antonio, TX, and Seattle, WA – hardly the  
16 rural Pennsylvania market.<sup>53</sup> This comports with Sprint's investment patterns. While  
17 Sprint has made some rural investment, Sprint's largest investments are made in the more  
18 densely populated counties and those surrounding them, like the five county Philadelphia  
19 area.

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<sup>51</sup> See PTA Exhibit GMZ-18.

<sup>52</sup> See PTA Exhibit GMZ-17.

<sup>53</sup><http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTg4OTR8Q2hpbGRJRDM0tMXxUeXBIPtM=&t=1>, "Sprint Nextel Reports Third Quarter 2009 Results" at 2.

1 Again, I am not denigrating these carriers' networks. I am simply pointing out  
2 that in the geographic and customer mix of these companies, these carriers have been  
3 allowed to develop selectively to focus on lower-cost urban areas against which higher  
4 rural costs can be averaged.

5 On one final point, these companies also point to the number of customers they  
6 serve in rural areas as indicating their rural nature. For example, Verizon states that its  
7 1.1 million customers are greater "than all of the RLECs put together."<sup>54</sup> Sprint asserts  
8 that it provides service to more customers in RLEC service territories than all but three  
9 RLECs.<sup>55</sup> These observations simply point to the shear magnitude of these carriers.

10  
11 **Q. How do the complainant carriers compare in size and scope to the RLECs in this**  
12 **case?**

13 **A.** No contest. The companies seeking lower access rates are immense corporations; they  
14 are megacarriers, compared to even the largest RLEC systems:

15 (In \$ Billions, Except Customers in Millions)  
16

	Market Cap (3/17/10)	Revenue (2009)	EBITDA (2009)	Net Income (2009)	No. of Customers
AT&T (A)	152.9	123.0	41.2	12.5	151.8
Verizon (VZ)	85.5	107.8	35.7	3.7	139.4
Comcast (CMCSA)	49.9	35.8	13.8	3.6	47.1
Sprint (S)	10.8	32.3	6.4	- 2.4	53.2
Qwest (Q)	8.7	12.3	4.1	0.7	14.2
CenturyLink (CTL)	10.5	5.0	2.5	0.5	9.3
Windstream (WIN)	5.1	3.0	1.5	0.3	4.1
Frontier (FTR)	2.4	2.1	1.1	0.1	2.9

17  
18 Many of the RLECs represented in this proceeding by the PTA are much, much  
19 smaller and not publicly traded. Those RLECs that are larger have merged out of a need

<sup>54</sup> Verizon Rebuttal at p. 22.

<sup>55</sup> Sprint Rebuttal at p. 32.

1 to obtain a scaled scope of operations, as a matter of company survival. Consider the fact  
2 that many of the stand-alone names in Pennsylvania have now merged in order to  
3 maintain financial viability. In each of the “change of control” cases presented to the  
4 Commission, the acquired company has described the difficulties and challenges of the  
5 rural company, as technology and competition move forward.

6  
7 **Q. Verizon states that, on the wireline side of its business, it also is losing access lines  
8 and has other COLR and regulatory obligations. How do you respond?**

9 A. The PTA understands and is sensitive to these concerns. The current USF contribution  
10 provided by Verizon is earmarked from an earlier Verizon Price Change Opportunity or  
11 PCO rate decrease, which the Commission has consistently agreed to apply to Verizon’s  
12 PAUSF contribution. It is for this reason that the PTA continues to advocate that the  
13 contributing source of the USF funds be expanded to include wireless carriers and **all**  
14 VoIP providers (including nomadic). I am advised that the Commission has previously  
15 stated that wireless carriers can be required to contribute in its Order implementing  
16 provisions of the Telecommunications Act of 1996 and had set the matter up for  
17 investigation previously in an earlier order establishing this investigation.<sup>56</sup> The  
18 Commission removed this issue from this case, as I understand it. The PTA intends to  
19 pursue its advocacy of this position when the Commission opens it up for discussion.

20 Moreover, Verizon could be a part of the PAUSF. Verizon made the decision not  
21 to seek inclusion. Before ALJ Colwell, the PTA witness stated that the PTA would not  
22 oppose the inclusion of Verizon now.

---

<sup>56</sup> In fact, wireless carriers are subject to federal USF contribution requirements, and many are subject on the state level as well, as Sprint acknowledges. Sprint 2009 10-K at 8, 11.

1 To the extent, however, that Verizon is arguing that it is in the same position  
2 relative to its ability to recover costs as the RLECs, I would respectfully disagree. As  
3 noted elsewhere, only 20% of Verizon's lines are rural. Its much greater number of  
4 access lines as the second largest telecommunications carrier in the United States gives it  
5 much greater scale and scope, and ability to absorb such changes, particularly given that  
6 much of the customer migration is to wireless services, which Verizon is well-positioned  
7 to attract.

8  
9 **D. Sprint's Spurious Allegations of Competitive/Noncompetitive Cross-**  
10 **Subsidization.**

11  
12 **Q. In its Rebuttal Testimony, Sprint claimed the RLECs are subsidizing competitive**  
13 **broadband services with non-competitive access revenues. Do you agree?**

14 A. No. Mr. Appleby starts with incorrect assumptions which lead to a series of incorrect  
15 conclusions.<sup>57</sup> In summary, the testimony begins with the assumption that broadband is a  
16 non-regulated service, then concludes that broadband investment has been assigned to the  
17 intrastate jurisdiction while broadband revenues are in the interstate jurisdiction. This  
18 leads to the allegations that broadband services are being subsidized by intrastate access  
19 charges. I will address each of these incorrect assumptions below.

20  
21 **Q. In the PTA Companies' Biennial Network Modernization Plan Reports ("NMP**  
22 **Reports"), are the Companies required to jurisdictionalize broadband investment?**

23 A. No, there is no requirement to jurisdictionalize broadband investment in the NMP  
24 updates provided by the PTA companies. In fact, the Commission imposed no

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<sup>57</sup> Sprint Rebuttal at pp. 33-39.

1 requirements on how the RLECs were to report their broadband investment, and provided  
2 very little instruction as well. However, Mr. Appleby has concluded that all broadband  
3 investments are allocated to the intrastate jurisdiction.<sup>58</sup> Following this incorrect  
4 assumption, Mr. Appleby states that broadband revenue is assigned to the interstate  
5 jurisdiction. The conclusion he then reaches is that there is a jurisdictional mismatch of  
6 revenues and expenses which prevents the PUC from accurately evaluating the financial  
7 results of the RLECs. This too is incorrect. The annual reports filed by the PTA RLECs  
8 provide regulated revenue and expenses for each year. The PTA companies are  
9 providing total company financial data, not intrastate only results. Charges for regulated  
10 broadband service are included in the Network Access Services Revenue on Page 3 of  
11 each LEC's annual report. This is the reporting required of the RLECs and provides an  
12 accurate assessment of regulated operations of each company.

13  
14 **Q. Even if there were a misallocation of expenses or investment, would that impact the**  
15 **intrastate rates charged by the RLECs?**

16 **A.** No. While this makes a nice theoretical argument, the practical answer is that these  
17 carriers' rates are no longer based on costs. Therefore, a misallocation of costs or  
18 investment by the PTA RLECs will not affect the rates charged by the RLECs. This  
19 renders moot the entire discussion by Sprint of whether misallocation can provide a  
20 subsidy to either competitive or interstate services. This is further explained through the  
21 table below.

22  

---

<sup>58</sup> Sprint Rebuttal at p. 35.

Federal Regulation	State Regulation	# of RLECs	Analysis of impact on intrastate rate-making.
Average Schedule	Price Cap	10	Expenses and investment do not drive average schedule settlements. These payments are based on formulas developed by NECA which create revenue rates which are then applied to demand units (i.e. lines and minutes). State rates for Price Cap regulated LECs are not impacted by expenses or investment levels. No impact on intrastate rates.
Average Schedule	SRP	8	State rates cannot be changed unless total company rate of return is lower than the authorized rate of return. Any issues with allocation would be captured in the review of total company authorized rate of return. No impact on intrastate rates.
Cost	Price Cap	4	State rates for Price Cap regulated LECs are not impacted by expenses or investment levels. No impact on intrastate rates.
Cost	SRP	2	State rates cannot be changed unless intrastate rate of return is lower than the authorized rate of return. If intrastate earnings are understated due to misallocation of expense or investment, it will be equally offset by a reduction in interstate cost-based settlements. No impact on total company regulated rates.
Price Cap	Price Cap	6	Relationship between revenues and expenses / investment is completely eliminated in this scenario. No impact on intrastate rates.

1

2

3

**E. Revenue Neutrality**

4

**Q. What are the revenue losses to the RLECs that would result from reducing the RLECs' intrastate access rates to their interstate level?**

5

6

**A.** As set forth in my Direct Testimony, applying the RLECs' 2008 interstate rates to their intrastate access minutes, the RLECs will experience an immediate revenue reduction of

7

1           \$63.9 million<sup>59</sup> or 17.5% of their total intrastate revenues. CenturyLink has identified its  
2           loss as \$27.76 million.<sup>60</sup> This is a total of \$91.66 million in revenue reduction to  
3           Pennsylvania's rural telephone companies and, of course, is a corresponding and equal  
4           expense reduction to the IXCs.

5           The Office of Consumer Advocate identified the RLEC loss/IXC gain as \$76.85  
6           million.<sup>61</sup> AT&T, in its Rebuttal Testimony, models its proposal on an estimated \$82.6  
7           million in access charge reductions.<sup>62</sup> No other parties except these four -- PTA,  
8           CenturyLink, OCA and AT&T -- have calculated the amounts at issue.

9  
10   **Q.    What is your understanding of the appropriate regulatory treatment of these RLEC**  
11   **losses?**

12   A.    As I set forth in my Direct Testimony, prior access reductions in 2000 and then again in  
13    2003-2004 were undertaken on a revenue neutral basis by the Commission. This was  
14    accomplished by a combination of local rate increases set at levels that were sustainable  
15    by the RLECs in the marketplace, and which were based upon concepts of comparability  
16    and affordability. The original *Global Order* rate rebalancing set the RLECs' rates based  
17    upon a benchmark to the Verizon rates, set a benchmark rate for both residential and  
18    business customers, with the residual loss defaulting to the PAUSF. This fund design  
19    was endorsed by both the "1648" and "1649" petitioners, including Verizon and AT&T.  
20    The Commission adopted the fund proposed by the 1649 petitioners, led by Verizon and  
21    the RLECs.

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<sup>59</sup> PTA Direct at p. 16.

<sup>60</sup> CenturyLink Statement 1.0 at 17.

<sup>61</sup> OCA Exhibit RL-4.

<sup>62</sup> AT&T Rebuttal at p. 23.

1           The Chapter 30 Plans adopted by the Commission recognize “exogenous events”  
2 as recoverable for the price cap companies, expressly including: “Subsequent regulatory  
3 and legislative changes (state and federal) which affect revenues or expenses, to the  
4 extent not captured in GDP-PI[.]”<sup>63</sup> The appropriate treatment of governmentally-  
5 imposed, revenue-reducing changes is defined in the Plan: “Exogenous revenue changes  
6 shall be flowed through on a dollar-for-dollar basis, utilizing the most recent per book  
7 revenue levels, without any investigation or review of earnings.”<sup>64</sup> A decision by this  
8 Commission to reduce the RLECs’ intrastate access revenues certainly qualifies as an  
9 exogenous event, further confirming our view of revenue neutrality.

10           Subsequently, with the reenactment of Chapter 30 under Act 183, the concept of  
11 “revenue neutrality” was formally codified into Pennsylvania statute.

12  
13 **Q. What does revenue neutrality mean?**

14 **A.** There are several parameters to revenue neutrality, which I think should be fairly  
15 obvious: (a) revenue losses caused by access rate reductions should be recovered from  
16 other services within the Commission’s jurisdiction, since access charges are part of the  
17 “pot” of revenues regulated by the Commission and subject to the operation of the  
18 Chapter 30 rate-setting mechanisms; and (b) the offset setting increases should be capable  
19 of being **actually** realized and not based upon speculation, vague assumptions, unrealistic  
20 opportunities, or other means that would not accomplish revenue neutrality.

21  

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<sup>63</sup> See e.g. Amended Alternative Form of Regulation and Network Modernization Plan of Alltel Pennsylvania, Inc., Part 3.A, p. 23.

<sup>64</sup> See e.g. Amended Alternative Form of Regulation and Network Modernization Plan of Alltel Pennsylvania, Inc., Part 3.A, p. 23.

1 **Q. What have the IXCs proposed with respect to revenue neutrality?**

2 A. The IXCs, with the exception of Qwest, all argue that the rate decreases they seek should  
3 be entirely funded by end use customers or the RLECs themselves.  
4

5 **Q. What is the basis of their conclusion?**

6 A. They do so on the basis of various rationales:

- 7 • Under economic theory, all costs of the loop should be allocated to the end user as  
8 the sole cost causer;
- 9 • The assignment of lost revenue recovery to non-regulated services (e.g., those that  
10 are labeled “competitive” under the companies’ Chapter 30 Plans); and/or
- 11 • Nonjurisdictional services, such as DSL (broadband) regulated by the FCC should  
12 absorb some of the reduction.
- 13 • If these services cannot absorb the IXC access rate decreases, then the RLECs  
14 themselves are responsible for the financial shortfall.

15

16 **Q. Do the proposals presented by Verizon, Sprint, Comcast and AT&T seriously**  
17 **address the requirement of revenue neutrality?**

18 A. No, they do not. The actual (in)ability of the RLECs to recover the lost revenues is  
19 masked behind the notion of “opportunity.” The issue of recoverability is summarily  
20 dismissed as the RLECs’ risk. Even these parties are doubtful about actual recoverability  
21 of revenue losses under their plans:

- 1 • AT&T states that the business decision is left to the discretion of the RLECs as to  
2 whether or not they actually will increase their retail rates.<sup>65</sup>
- 3 • Verizon attempts to turn the prospect of revenue loss into a positive, asserting that  
4 the notion that some customers might defect to competitors actually confirms that  
5 universal service would not be jeopardized by an increase in local exchange  
6 rates.<sup>66</sup>
- 7 • Sprint also acknowledges its complete indifference to revenue neutrality when it  
8 states that, if the Commission does not want to investigate whether the RLECs  
9 need “access overcharges, the Commission can permit the marketplace to  
10 constrain RLEC profits by exposing the inflated access revenue to the discipline  
11 of the marketplace.”<sup>67</sup>

12  
13 **Q. Will the IXCs’ proposals (with the exception of Qwest) actually be revenue neutral?**

14 **A.** No. The economic theory of cost causation, while it may sound good in the abstract,  
15 does not even attempt to address whether dollar recoverability is accounted for.  
16 Moreover, as previously explained in this testimony, the notion that the RLECs’ end use  
17 customer should pay all costs of the loop is simply wrong and has not been regulatorily  
18 endorsed.

19 Sprint, for example, argues that average revenue per customer has increased for  
20 the RLECs (without any citation or quantification for this assertion), claiming that this  
21 demonstrates that other services can pick up the loss, without identifying what those

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<sup>65</sup> AT&T Rebuttal at p. 36.

<sup>66</sup> Verizon Rebuttal at p. 40.

<sup>67</sup> Sprint Rebuttal at p. 19.

1 services are or exploring their ability to do so.<sup>68</sup> Only slightly more specific, Sprint also  
2 asserts that the RLECs are “well positioned and prepared to overcome a reduction in their  
3 access rates by intensifying their attention on providing more and better services to end  
4 users.”<sup>69</sup> No better is Sprint’s goading to work harder, predicting that, with lost access  
5 revenues, the “RLECs will work tirelessly to broaden the take rate for broadband services  
6 if the access subsidies no longer cushion the RLECs profits.”<sup>70</sup> There is no attempt by  
7 Sprint to identify the steps that might be taken or predict the degree to which the RLECs  
8 might increase broadband penetration or broadband revenues. Obviously, the RLECs are  
9 already working hard to overcome the competitive losses they are experiencing in the  
10 marketplace, losses that are not passed through to end user customers. I find Sprint’s  
11 attitude extremely cavalier and totally irresponsible.

12  
13 **Q. What is Verizon’s position?**

14 A. Staying within the state jurisdictional, regulated “revenue bucket,” Verizon argues that  
15 the PTA companies focus too narrowly on local residential rates and expands the search  
16 for other services to increase rates to include “allocating more revenue to business rates  
17 and/or allocating some of the revenue to other noncompetitive service rates.”<sup>71</sup>

18  
19 **Q. What is your reaction to Verizon’s proposal?**

20 A. On the business rate side, all the calculations presented by the PTA already include all  
21 business lines and **do** allocate rate increases to business rates. If the witness means that

---

<sup>68</sup> Sprint Rebuttal at p. 17.

<sup>69</sup> Sprint Rebuttal at p. 40.

<sup>70</sup> Sprint Rebuttal at p. 41.

<sup>71</sup> Verizon Rebuttal at p. 39.

1 greater than average increases should be allocated to business rates, this is not  
2 sustainable. Business customers, as a customer segment, are more competitive than  
3 residential customers and have long complained that their rates should not be higher than  
4 residential rates. The PTA allocation of rate increases to business customers is calculated  
5 on an across-the-board basis, and would do nothing to moderate this complained-of  
6 differential between business and residential loop rates. But, at least it does not make it  
7 worse.

8  
9 **Q. What about Verizon's proposal to allocate some of the revenue loss to other**  
10 **noncompetitive service rates?**

11 A. With respect to allocating "some" of the revenue to other noncompetitive service rates,  
12 the witness does not identify those services to which he is referring. Assuming that these  
13 are other tariffed services besides dialtone services, the RLECs have already maximized  
14 those rate levels. As I explained in my Direct Testimony, the RLECs have been able to  
15 realize only two-fifths of the allowable increases under their Chapter 30 Plans. In the  
16 increases that they have taken, the RLECs have **already** maximized the revenue available  
17 from these other services, such as vertical features, non-recurring charges, etc. There is  
18 no "headroom" to increase these services now for the purpose of decreasing the IXCs'  
19 access rates. So, it is not a matter of the RLECs "deliberately creating obstacles to a  
20 reasonable rebalancing to support their claim for risk-free, carrier funded USF subsidies"  
21 (refuted below).<sup>72</sup>

22  

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<sup>72</sup> Verizon Rebuttal at p. 39.

1 **Q. Is Verizon’s position with respect to revenue neutral recovery of lost access revenues**  
2 **consistent with Verizon’s previous interpretation of Act 183’s requirement that**  
3 **access reductions be revenue neutral?**

4 A. No. In this proceeding, Verizon testifies the RLECs need only be give the “opportunity”  
5 to recover revenues lost as a result of Commission-mandated reductions to access rates.<sup>73</sup>

6 Whether or not the RLECs will **actually** be able to realize those revenues is not a  
7 consideration. However, in the Verizon access remand proceeding that remains pending  
8 before the Commission, Verizon interpreted Section 1307 of Act 183 as requiring more  
9 than an “opportunity” to recover lost revenues. Verizon unequivocally testified then that  
10 “Act 183 requires revenue neutrality, which means that the access reductions would have  
11 to be offset with **actual revenue recovered by Verizon** from some other source.”<sup>74</sup> The  
12 mere “opportunity,” whether imputed through revenues from nonjurisdictional services as  
13 some parties contend, or through rate increases to other services that will never be  
14 realized, as Verizon contends, was insufficient.

15  
16 **Q. Are the RLECs requesting “risk-free” revenue guarantees from the PAUSF to**  
17 **recover the revenue losses associated with further reducing access rates to interstate**  
18 **parity?**

19 A. No. I do not believe my testimony ever addressed the design of the PAUSF recovery for  
20 further access reductions. While it is true that the current PAUSF captured  
21 approximately \$23 million in year 2000 access reductions for the PTA Companies and  
22 has been distributing relatively that same amount since, this was the design proposed by

---

<sup>73</sup> Verizon Rebuttal at p. 31.

<sup>74</sup> Verizon Statement 1.1, Docket No. C-20027195, dated June 29, 2005 (emphasis added).

1 the same parties that now criticize it. Both the "1648" and the "1649" petitioners  
2 endorsed this aspect of the PAUSF, but now complain about it as if it were imposed upon  
3 them. The price cap RLECs actually agree that, were the access reductions not  
4 substituted to the PAUSF and remained in access rates, these amounts would have been  
5 lost as access lines were lost. However, this dynamic was not fully appreciated in 1999  
6 when the *Global* proceeding was conducted, nor was the current, accelerating loss of  
7 access lines expected. The Companies operating under price cap regulation, therefore,  
8 would not oppose expressing the proposed reduction in access revenues that are  
9 recovered from the Fund in terms of dollars per access line and not a fixed sum so that  
10 USF Fund receipts would fluctuate with changes in access lines.

11  
12 **F. Local Rates**

13 **Q. What local rates do the IXC's recommend?**

14 A. AT&T recommends a rate cap for residential customers of \$25.00. Verizon disagrees  
15 that there should be any benchmark. Sprint recommends \$21.97.

16  
17 **Q. Do these carriers assert that these rate levels meet the comparability test?**

18 A. No, they argue that there is no requirement, nor should there be, that rural Pennsylvania  
19 rates be comparable to those charged to urban customers.<sup>75</sup> The IXCs note that the  
20 comparability test was rejected by ALJ Colwell in the prior phase of this proceeding,  
21 which is true, although that Recommended Decision remains pending. The PTA  
22 companies disagree with the IXCs on this point for several reasons, including the basic

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<sup>75</sup> AT&T Rebuttal at pp. 7-15; Verizon Rebuttal at p. 34.

1 dilemma presented by customers in RLEC rural areas being charged with rates that are  
2 considerably higher than in Verizon's rural area, as the largest incumbent carrier in  
3 Pennsylvania. As noted by Mr. Price in his testimony, the Verizon rural rates (Density  
4 Cells 3 and 4) range from \$11.95 to \$15.40.<sup>76</sup> These rates are considerably lower than  
5 the targets set by the IXC's for the smaller rural companies. Moreover, under the standard  
6 of comparability of rural and urban rates, Verizon's Density Cell 1 and 2 rates (urban  
7 areas) are \$16.32 and \$16.62, respectively. Applying the same 115% comparability  
8 adjustment testified to by Mr. Laffey before Judge Colwell, the comparable rate is \$18.94  
9 (the simple average of Verizon's DC 1 and 2 rates x 1.15).

10  
11 **Q. Do the IXC's assert that the local rates in magnitudes of \$25.00 per month are**  
12 **affordable?**

13 A. Yes, they do. The IXC's argue that a rate of \$33.82 (composed of a \$25.00 tariff rate plus  
14 the subscriber line charge, the 911 surcharge, the relay charge, and the federal universal  
15 service charge<sup>77</sup>) is "affordable."

16  
17 **Q. Are such rates sustainable?**

18 A. No. Nor do the IXC's, as noted above, assert that such rates are. Raising rates to this  
19 level are referred to as "discretionary," "an opportunity," or, at times more candidly, as  
20 "exposing the inflated access revenue to the discipline of a marketplace."

21 Looking at AT&T's Attachment 5, local rates will increase in one case by as  
22 much as \$11.00 per month (doubling) and by a similar amount for various others. The

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<sup>76</sup> Verizon Rebuttal at p. 37.

<sup>77</sup> See PTA St. 1 at p. 5 before ALJ Colwell.

1 average increase in monthly residential service is \$6.73 based on the 2008 residential  
2 access lines and the AT&T proposed rate changes. This is an increase of more than 40%  
3 over existing residential rates. At the end of the day, Pennsylvania will have RLECs with  
4 very high cost rural rates, as contrasted with Verizon, whose rural rates are actually lower  
5 than its urban rates.

6 The likelihood of massive customer attraction campaigns waged by the cable and  
7 wireless carriers in the (relatively) higher density areas of an RLEC's service area while  
8 this transition is taking place, with promotional and other offers, seeking to take  
9 advantage of what they've accomplished in the regulatory arena, is guaranteed. The  
10 massive migration by those customers who have an option to pursue these attractive  
11 offers will be dramatic. Losses to the rural carriers and the burden upon their remaining  
12 customers, the ones without options because the competitors will not serve them, will be,  
13 without exaggeration, staggering. The RLECs fully expect, based upon already  
14 experienced line losses at current local rate levels, that the local line losses will accelerate  
15 dramatically in response to the final rates set forth in AT&T Attachment 5.

16 In turn, RLECs in many instances will be unable to pass the proposed increases  
17 on to their customers as a result of a competitive marketplace, which means the RLECs  
18 will have to absorb the revenue reductions and will have to reduce capital expenditures  
19 needed to continue to provide quality service to rural customers in Pennsylvania.

20  
21 **Q. The IXCs have criticized CenturyLink's poll. Are their criticisms valid?**

22 **A.** The PTA believes that the CenturyLink poll is valid and the criticisms overstated. It  
23 confirms statements made to me by the PTA Companies that the customer polling

1 performed by CenturyLink is an accurate depiction of today's telecommunications  
2 marketplace. CenturyLink's poll was taken in various spots across the Commonwealth.  
3 CenturyLink's service territory is distributed in many portions in Pennsylvania and  
4 adjacent to RLEC service territories. There is no doubt that, were the PTA RLECs to  
5 undertake the same poll, that the same responses would be provided.

6  
7 **G. Alleged Customer Benefits of Access Reductions**

8 **Q. What customer benefits have these parties demonstrated or committed to?**

9 A. At this point in Pennsylvania, nothing measurable. AT&T points to recent action in New  
10 Jersey where it has lowered its in-state connection fee by roughly 30%. That is no more  
11 than the same nominal gesture AT&T offered in Pennsylvania, which is not likely to  
12 match or even approximate in magnitude the amount of access savings that AT&T will  
13 realize.

14  
15 **Q. On what do you base that conclusion?**

16 A. AT&T states it implemented a roughly 30% reduction, reducing its residential connection  
17 fee from \$1.85 to \$1.20. So, in exchange for millions of dollars of access reductions,  
18 AT&T's long distance customers will realize an approximate savings of 65 cents per  
19 month. Sixty-five cents will not even buy you a cup of coffee anymore. Plus, AT&T  
20 refused to disclose the number of customers receiving this reduction as well as the total  
21 annualized access expense reductions AT&T expected to receive.

22 We know, however, that the impact of this "savings" is marginalized because it  
23 does not apply to every AT&T customer subscribing to AT&T's long distance service.

1 Rather, by the express terms of AT&T's New Jersey tariff, the savings will only accrue to  
2 those AT&T customers subscribing to AT&T's stand-alone long distance service. This  
3 proves exactly the point I made in my Direct Testimony – allegations of customer  
4 benefits are illusory and elusive. As I stated, AT&T abandoned the long distance mass  
5 market in 2004 citing changing technology and competition from the RBOCs. AT&T  
6 purposely embarked on a path that discouraged the sale of stand alone long distance  
7 service, and allowed those fortunate few customers who stand to save 65 cents to  
8 “dwindle[] away over time through churn.”<sup>78</sup> Even Sprint admits that the stand-alone  
9 long distance market is “greatly diminished.”<sup>79</sup> So AT&T offers very little to very few.

10  
11 **Q. Has AT&T made promises of flow through benefits in the past?**

12 A. Oh yes, vehemently and convincingly. In the late 1990's access charge investigation I  
13 referenced earlier in my testimony, AT&T's witness Blaine Darrah III “guaranteed” that  
14 Pennsylvania consumers would receive the benefit of “every single dollar” of access  
15 price reductions that AT&T received. It also committed to providing the Commission  
16 proof that it met its guarantee even though, as the Commission acknowledged even back  
17 then, other than for accepting AT&T's offer of proof, the Commission had little recourse  
18 to require such a flow through since the Commission no longer regulated IXCs' rates.  
19 Similar promises were made during the Global Proceeding, and the Commission imposed  
20 the same obligation upon those carriers in the RLECs' 2003 access reform proceeding.

21  
22 **Q. And was that proof provided?**

---

<sup>78</sup> See PTA Ex. GMZ-15 at ¶9.

<sup>79</sup> Sprint Rebuttal at p. 20.

1 A. It's unclear whether AT&T or any other beneficiary of access rate reductions ever  
2 complied with the "guarantees" promised over the years by providing the "dollar for  
3 dollar" customer relief the Commission expected. In the Commission's July 15, 2003  
4 Order approving the RLECs' Phase II Access/USF reform, the Commission  
5 acknowledged that there was "some demonstrated savings to IXC customers."<sup>80</sup>  
6 However, by 2004, AT&T balked when called upon to provide further evidence of the  
7 flow through of specific customer benefits.

8  
9 **Q. What do you mean?**

10 A. By letter dated April 7, 2004, AT&T, with MCI's concurrence, advised the Commission  
11 that it was unable to verify the access reductions made the by RLECs, and therefore it  
12 could not make any report to the Commission on the use of those reductions. AT&T  
13 further questioned the Commission's legal authority over use of the reductions since the  
14 IXCs' services were not subject to Commission regulation.

15  
16 **Q. What happened next?**

17 A. By response dated April 26, 2004, the RLECs referred the Commission's attention to the  
18 public filings made by each RTCC company, including the compliance filings and tariff  
19 supplements that proved implementation of the revenue neutral rate rebalancing. The  
20 RLECs noted that as parties to their Chapter 30 proceedings, these filings were also  
21 served directly upon AT&T. A copy of AT&T's, MCI's and the RLECs' correspondence  
22 is attached to my testimony at PTA Exhibit GMZ-19. To my knowledge, that was the

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<sup>80</sup> July 15, 2003 Order at p. 11.

1 end of any “guarantee” to flow back reductions to customers on a “dollar for dollar  
2 basis,” or to even attempt to prove to the Commission how reductions specifically  
3 benefited Pennsylvania consumers such that those Pennsylvania consumers, particularly  
4 those whose local rates increased, benefited from lower intrastate access rates.

5  
6 **Q. But hasn’t AT&T offered a specific reduction to its Pennsylvania in-state connection  
7 fee?**

8 A. Yes it has, and I expect it to be in the same order of magnitude that will be experienced  
9 by consumers in New Jersey. In terms of guaranteeing to the Commission that hard and  
10 fast benefits will flow through, the carriers continue to do no more than offer up more  
11 economic theory and platitudes.

- 12 • **AT&T.** AT&T is most blunt, saying “it would be premature for AT&T to  
13 commit to any price reductions.”<sup>81</sup> Nonetheless, AT&T promises, though it will  
14 not commit to, “significant consumer and competitive benefits that will result  
15 from reduced intrastate access rates[.]”<sup>82</sup> Espousing “basic economics principle,”  
16 AT&T admits that “all firms, even a pure monopolist, completely unconstrained  
17 by government regulation, *will maximize profit*”<sup>83</sup> but suggests that long distance  
18 service prices “would be expected to fall[.]”<sup>84</sup>  
19
- 20 • **Comcast.** Exaggerating the position of the RLECs as carriers with “substantial  
21 market power” vis-à-vis Comcast,<sup>85</sup> Comcast dismisses the “pass-through issue  
22 [as] a red herring” that is “irrelevant” and “should not be factored into this  
23 proceeding[.]”<sup>86</sup> Instead, Comcast asks the Commission to “accept the logical  
24 policy judgment” that it will do the right thing and pass through benefits to  
25 consumers.<sup>87</sup>

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<sup>81</sup> AT&T Rebuttal at p. 50.

<sup>82</sup> AT&T Rebuttal at p. 32, referring back to 4 pages in AT&T’s Direct Testimony, which as I stated in my Rebuttal Testimony, presented no more than illusory suggestions of benefits.

<sup>83</sup> AT&T Rebuttal at p. 48.

<sup>84</sup> AT&T Rebuttal at p. 51.

<sup>85</sup> Hardly “new market entrants” at this point in time, there are likely at least 800,000 cable telephony customers in Pennsylvania, “a number that is rapidly growing.” Verizon Rebuttal at p. 21. That number exceeds the number of customers served by all the PTA Companies combined.

<sup>86</sup> Comcast Rebuttal at p. 14.

<sup>87</sup> Comcast Rebuttal at p. 16.

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- **Sprint.** Offering nothing concrete, Sprint describes “potential consumer benefits” suggesting that carriers “could . . . expand service coverage, improve service quality, improve customer care or develop new products and services the customers will want”<sup>88</sup> while simultaneously suggesting that “[a]ll consumers benefit by competitive choice”<sup>89</sup> presumably including, rather incredulously, those RLEC customers whose local rates would double under AT&T’s proposal. Admitting that the RLECs retain the COLR obligations,<sup>90</sup> Sprint confuses the availability of ubiquitous service with the availability of options, suggesting that universal service will be “strengthened by the availability of more options for the consumer to choose for their communications needs”<sup>91</sup> even if there are no other ubiquitous carriers in RLECs’ service territories to provide those options. However, Sprint “no longer actively market[s]” voice services to residential customers,<sup>92</sup> is “de-emphasizing stand-alone voice service,”<sup>93</sup> and only selectively “target[s] business subscribers.”<sup>94</sup>
  - **Verizon.** Similarly offering zero concrete benefits, and now also warning the Commission it has no authority at all to even consider imposing the type of pass-through commitment required in prior RLEC reform proceedings,<sup>95</sup> Verizon urges the Commission to rely solely on competition to “ensure that such benefits [e.g. advanced technology, improved service quality or customer service, new features/services] are passed along to consumers in one way or another[.]”<sup>96</sup> Since “[w]ith FiOS, [Verizon is] redefining the consumer telecom business as a broadband and video business[.]”<sup>97</sup> it is unlikely that consumers who do not purchase Verizon’s bundled services will experience any benefit.

27 In terms of real benefits, the carriers offer little the Commission, or any consumer,  
28 can wrap their hands around. Customers, particularly those that stand to see their local  
29 rates increase substantially, deserve to know that they will see some relief on the other  
30 side.

31

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<sup>88</sup> Sprint Rebuttal at p. 24.

<sup>89</sup> Sprint Rebuttal at p. 27.

<sup>90</sup> Sprint Rebuttal at p. 55.

<sup>91</sup> Sprint Rebuttal at p. 54.

<sup>92</sup> Sprint Nextel Corp. 2008 10-K at 5.

<sup>93</sup> Sprint 2009 10-K at 5.

<sup>94</sup> Sprint 2009 10-K at 4.

<sup>95</sup> Verizon Rebuttal at p. 18.

<sup>96</sup> Verizon Rebuttal at p. 18.

<sup>97</sup> Verizon 2008 Annual Report at 3.

1 **IV. FCC ACTION**

2 **Q. Has the FCC undertaken any action since you filed Direct Testimony?**

3 A. Yes. On March 16, 2010, the FCC released its much awaited National Broadband Plan  
4 (“NBP”).

5

6 **Q. What topics did the FCC address?**

7 A. In the NBP, the FCC addresses a host of issues to increase broadband deployment to  
8 unserved areas and ensure that the benefits of broadband are available to all Americans.

9 **Q. What did the FCC state relative to intercarrier compensation?**

10 A. The FCC states that it should adopt a framework for long term reform that lowers per  
11 minute access charges. In the initial stages of the NBP, intrastate switched access rates  
12 would be reduced to interstate levels over a reasonable period of time. To offset the  
13 revenue reductions, the NBP would allow gradual increases in SLC rates and provide  
14 from the new “Connect America Fund,” intended to support the provision of affordable  
15 broadband and voice service.

16

17 **Q. Would it be a mistake for Pennsylvania to get out in front of this federal effort?**

18 A. Yes, for exactly the reasons set forth in my Direct Testimony.

19

20 **V. PROPOSED SOLUTIONS**

21 **A. AT&T’s Proposal**

22 **Q. AT&T states that it is “genuinely impressed with the leadership demonstrated by**  
23 **the OCA’s testimony.” Does AT&T follow that leadership?**

1 A. No and only to the extent it advantages itself. AT&T adopts the OCA's offer of an  
2 immediate and massive access charge decrease. The other two aspect of the OCA's  
3 recommendation, a residential rate cap of \$17.09 and an ongoing USF were ignored for  
4 the most part. This is equivalent to the PTA accepting the OCA's leadership in proposing  
5 a \$90 million increase to the fund, but rejecting the part where access rates are reduced.

6  
7 **Q. Please describe AT&T's proposal set forth in its rebuttal testimony.**

8 A. AT&T's position has not changed, except as to timing. AT&T originally proposed an  
9 immediate reduction in intrastate access to the interstate level, an immediate increase in  
10 local rates to \$22.00 and no USF funding. In its rebuttal testimony, AT&T revised this to  
11 offer the same immediate reduction in access rates, but also triggered an immediate and  
12 very large increase in local rates to \$22.00 followed by three \$1.00 annual increases,  
13 using the mechanism of the PAUSF to temporarily span the shortfall.

14 AT&T's Attachment 5 details its proposal. In year 1, AT&T and the other IXCs  
15 would be awarded the full \$82.6 million decrease (their calculation<sup>98</sup>) in access rates that  
16 the IXCs seek. Of that amount, the IXCs would return \$19.6 million to the PAUSF (i.e.,  
17 the RLECs). Local rates would immediately spike by almost \$64 million or an average  
18 of \$5.82 per line per month. As local rates thereafter continue to climb (over the next  
19 three years), the IXCs return progressively less to the PAUSF and the RLECs. In years 2,  
20 3 and 4, while the IXCs continue to benefit from the \$82.6 million per year (again, their  
21 number) access rate reduction, the IXCs return progressively less to the PAUSF, \$9.8  
22 million, \$4.2 million and, finally, \$0.95 million, respectively, as local rate payers (or,

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<sup>98</sup> I do not agree with AT&T's calculation of the rate impact at AT&T Rebuttal at p. 23. I calculated that parity would create an almost \$64 million revenue loss. See my Direct Testimony at p. 16.

1 more likely, the RLECs themselves) absorb the entire loss.<sup>99</sup> At the end of year four,  
2 AT&T's original objective (interstate parity) is obtained, with most of the reduction (76%  
3 of it) front end loaded into the first year. Achieving three quarters of the full objective in  
4 the first year and the remainder over the ensuing three years while dramatically limiting  
5 the amount of explicit support is a very good deal for AT&T and the rest.

6 However, new local rates at or above \$33.82 (including taxes and surcharges) is a  
7 very bad deal for those RLEC customers who may remain after the massive proposed  
8 increases, and to the RLECs themselves since they are not likely to receive any benefits  
9 from the IXC's.

10  
11 **B. OCA's Proposal**

12 **Q. What was the OCA's proposal?**

13 **A.** The OCA proposed its own plan which has the following major components:

- 14 • RLEC intrastate access rates would be set equivalent to their respective interstate  
15 rates, including elimination of the CCL.
- 16 • Residential rates that are currently below 120% of the VZ PA state wide average  
17 rate would be increased (currently average Verizon rate of \$14.25 x 1.2 = \$17.09,  
18 the new benchmark).
- 19 • RLEC local rates above the \$17.09 benchmark would remain at current levels.
- 20 • Any remaining revenue required to offset access revenue decreases would be  
21 recovered from the PAUSF.
- 22 • The PAUSF contributors should be expanded to include any service provider that  
23 uses the PSTN, including wireless and VoIP carriers.

---

<sup>99</sup> Assuming of course there will be no loss of customers as local rates, in some cases, double ("Frontier (sic) Kecksburg").

1 The OCA repeatedly cautioned against adopting any single portion of this plan and not  
2 the whole, because simply eliminating the state CCL “would be extremely harmful to  
3 RLECs and their residential customers[.]”<sup>100</sup> This, of course, is exactly what AT&T did.

4  
5 **C. Other Parties’ Proposals**

6 **Q. What is Sprint’s proposal?**

7 A. First, Sprint proposes that intrastate access charges be reduced to the interstate level.  
8 Second, Sprint recommends the current rate cap be increased to \$21.97 and adjusted for  
9 inflation going forward.<sup>101</sup> Third, USF support for any shortfall would be available from  
10 the USF only in very limited circumstances, if at all. As a preliminary step to this USF  
11 process, as I understand it, each RLEC would be required “to establish its cost of  
12 residential basic local service using a TELRIC based cost of service study.”<sup>102</sup> To the  
13 extent that this calculated cost under TELRIC (no loop costs are assigned) is above the  
14 permitted rate, the “per line remainder” would be the recovery that the RLEC is permitted  
15 to “collect each month from the PAUSF for each residential customer that only purchases  
16 basic local service.”<sup>103</sup> If the customer purchases any features whatsoever, including long  
17 distance or vertical features, “the RLEC will not receive any PAUSF support on those  
18 lines.” This support would be withdrawn as access lines are lost.<sup>104</sup> The failure to

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<sup>100</sup> OCA Direct at p. 12.

<sup>101</sup> Sprint Rebuttal at p. 45.

<sup>102</sup> Sprint Rebuttal at p. 50.

<sup>103</sup> Sprint Rebuttal at p. 50.

<sup>104</sup> Sprint Rebuttal at p. 51.

1 establish the cost of service above the permitted rate would render the RLEC ineligible  
2 for PAUSF receipts.<sup>105</sup>

3 As I read Sprint's proposal, it is designed, intentionally so, to preclude any  
4 recovery by RLECs from the USF. A TELRIC cost study does not include allocation of  
5 the loop and the cost of service without the loop included would likely be very low.  
6 Indeed, the Dr. Loube's calculation in the proceeding before ALJ Colwell calculated that  
7 CenturyLink's current local service rates exceed their incremental cost. Obviously, when  
8 these rates are increased under the Sprint's proposal, local rates will continue to be in  
9 excess of such a calculated cost. Sprint's proposal will place the burden upon the RLECs  
10 to undertake a study in the first place and then debate the costing methodology. These  
11 cost studies are very expensive to design and litigate, and of course as I established, there  
12 is no approved methodology for the RLECs.

13 Of course, by identifying TELRIC as a selected method, Sprint has already  
14 positioned itself as the winner of that debate. The problem with the TELRIC method and  
15 the lack of loop allocation, is that nobody pays for the loop. In other words, the local  
16 loop is orphaned and only partially recovered. Sprint's assertion that this should be  
17 sufficient because all customers purchasing anything more than stand-alone dialtone  
18 service "purchase enough [other] services provisioned over the local network to permit  
19 the RLEC to manage the transition away from access charges,"<sup>106</sup> is no more than wishful  
20 thinking, as described above.

21  
22 **Q. What is Verizon's proposal?**

---

<sup>105</sup> Sprint Rebuttal at p. 50.

<sup>106</sup> Sprint Rebuttal at 52.

1 A. Verizon's proposal is very simple. The RLECs' intrastate access rates should be reduced  
2 to parity with Verizon's intrastate access rates, a change that will result in greater revenue  
3 loss than parity with the RLECs' interstate rates. Otherwise, there should be no retail  
4 local service benchmark, and there should be no Pennsylvania universal service support.  
5 Of course, the PTA disagrees with this proposal for all the reasons stated previously.

6  
7 **Q. What does Qwest propose?**

8 A. The PTA appreciates the fact that Qwest's position in this case is much more responsible  
9 than its brethren IXCs. This may reflect the fact that Qwest does not operate wireless  
10 carriers in Pennsylvania, as do AT&T and Verizon, or have any interest in promoting  
11 migration to cable telephony, as do Sprint and Comcast. Qwest recommends that the  
12 RLECs' intrastate switched access rates mirror those of Verizon, a matter with which the  
13 PTA disagrees, as noted before. However, Qwest also recommends a benchmark  
14 approach to local rates and "would not object to a benchmark set at 120% of the Verizon  
15 Pennsylvania level."<sup>107</sup> The PTA believes that Qwest then supports a funding of the  
16 difference from a universal service fund. Of all of the IXCs, Qwest's proposal is the  
17 most responsible as above described.

18

19 **D. The PTA's Proposal**

20 **Q. Do the PTA Companies have a proposal for intrastate access reform?**

21 A. As stated in my Direct Testimony: "The PTA Companies do not oppose further  
22 intrastate access reform." As I further indicated, flash cuts and high local rates, however,

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<sup>107</sup> Qwest Rebuttal at p. 5.

1 do not represent rational or responsible reform. As I noted, resolution is made  
2 particularly difficult if the issue of current PAUSF funding is included. Moreover,  
3 changes recommended in the FCC's recently released National Broadband Plan further  
4 complicate the resolution in Pennsylvania. My concluding statement, however, was that  
5 the PTA Companies remain committed to work with the parties in resolving the issues  
6 via a settlement process. No party has accepted that offer and the PTA Companies renew  
7 it with this Surrebuttal Testimony.

8  
9 **Q. Can you explain the PTA's suggested approach to rational reform in more detail?**

10 **A.** Yes, I'd be glad to. The PTA proposes the following principals be followed:

- 11 • **Benchmark Rate.** We stand by our testimony before ALJ Colwell that a  
12 reasonable benchmark is appropriate.
- 13 • **Intrastate Switched Access Rates.** The PTA Companies would also support a  
14 reduction in intrastate access rates to interstate parity over a reasonable period of  
15 time. Certain other states have adopted a seven to ten year "glide path" with  
16 equal access charge reductions over that period of time as a reasonable  
17 accommodation of the interests of both retail customers and access customers.
- 18 • **Local Rate Increases.** Further, the PTA Companies would agree in concept that,  
19 subject to working out the specific numbers and details, retail rates up to the  
20 benchmark rate, as adjusted every year, would be the first source of access charge  
21 reduction revenue neutrality, with the incremental PAUSF only relied upon after  
22 the benchmark is reached. Since rates for business customers vary greatly  
23 between local exchange carriers (as well as between residential and business

1 customers in the rate structure of each RLEC), and are often subject to contracts,  
2 business rates could follow a similar rate of change subject to the current business  
3 rate mark-up above residential rates, market conditions, and/or contractual  
4 restrictions.

- 5 • **PAUSF Design for Price Cap Companies.** My testimony also recognizes that  
6 any incremental amounts distributed from the PAUSF to offset such intrastate  
7 switched access charge reductions (after retail increases are accounted for) should  
8 be reduced as Price Cap Companies experience reductions in the number of  
9 access lines. This should be achieved by initially calculating incremental PAUSF  
10 support on a per line basis for each Price Cap Company and distributing the  
11 support based on the number of access lines, adjusted annually, in service for each  
12 Price Cap Company.

- 13 • **Federal Changes.** Any Pennsylvania changes need to be harmonized with the  
14 Federal outcome.

- 15 • **Broadening the Contribution Base.** The PTA Companies believe that the  
16 contribution base for the PAUSF should be expanded to include wireless carriers  
17 and VoIP service providers.

18 The PTA Companies propose that these principles, which are an accommodation  
19 of all parties' perspectives, represent a moderate and rational point of view, and  
20 importantly would minimize harmful impacts to consumers, should be adopted by the  
21 Commission, with the parties allowed to develop the details and present an  
22 implementation plan.

23

1 V. **CONCLUSION**

2 Q. **Does this conclude your testimony?**

3 A. Yes, this concludes my Surrebuttal Testimony at this time. I reserve the right to file  
4 additional testimony as the schedule in this proceeding allows.

Docket # 1-0  
Docket # C-2009-209838C  
4/16/10 RDH HPG  
PTA Exhibit GMZ-17

1. (As Modified by Agreement of Parties) Reference Appleby Rebuttal Testimony at 5. Fully and completely identify Mr. Appleby's understanding of each and every service offered by each RLEC in 2003. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to the question on the grounds that some or all of the information requested is publicly available to PTA more easily than it is available to Sprint, in PTA's possession and more easily available to PTA than to Sprint, or was requested by Sprint in discovery and PTA refused to produce such information (*see e.g.* PTA's response to Sprint-PTA 2-3 and Sprint-PTA 14(a) in which PTA refused to provide information regarding services it currently offers); as such the request to produce such information is abusive, oppressive, unreasonable, and unduly burdensome. Sprint objects to undertaking the special study that would be required to provide a response to this question. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint does not possess such a list. Each RLEC is fully aware of the services offered in 2003 and offers today. Each carrier is also aware that it has expanded the availability of broadband service since 2003. Sprint's testimony broadly captures this expansion of service availability.

2. (As Modified by Agreement of the Parties) Reference Appleby Rebuttal Testimony at 5. Fully and completely identify Mr. Appleby's understanding of each and every service currently offered by each RLEC. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to the question on the grounds that some or all of the information requested is publicly available to PTA more easily than it is available to Sprint, in PTAs possession and more easily available to PTA than to Sprint, or was requested by Sprint in discovery and PTA refused to produce such information (*see e.g.* PTA's response to Sprint-PTA 2-3 and Sprint-PTA 14(a) in which PTA refused to provide information regarding services it currently offers); as such the request to produce such information is abusive, oppressive, unreasonable, and unduly burdensome. Sprint objects to undertaking the special study that would be required to provide a response to this question. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

See response to 1 above.

3. (As Modified by Agreement of the Parties) Reference Appleby Rebuttal Testimony at 5. Fully and completely identify Mr. Appleby's understanding of each and every service that each RLEC offers currently that was not offered in 2003. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to the question on the grounds that some or all of the information requested is publicly available to PTA more easily than it is available to Sprint, in PTAs possession and more easily available to PTA than to Sprint, or was requested by Sprint in discovery and PTA refused to produce such information (*see e.g.* PTA's response to Sprint-PTA 2-3 and Sprint-PTA 14(a) in which PTA refused to provide information regarding services it currently offers); as such the request to produce such information is abusive, oppressive, unreasonable, and unduly burdensome. Sprint objects to undertaking the special study that would be required to provide a response to this question. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

See response to 1 above. Sprint's testimony broadly captures this expansion of service availability.

4. Reference Appleby Rebuttal Testimony at 12. Fully and completely identify the date (as accurately as possible) when "local and long distance calling were "the only services offered over the local network," by the each RLEC. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Sprint objects to the question on the grounds that some or all of the information requested is publicly available to PTA more easily than it is available to Sprint, or in PTA's possession and more easily available to PTA than to Sprint, and thus, the request to produce such information is abusive, oppressive, unreasonable, and unduly burdensome. Sprint objects to the question insofar as it both mischaracterizes Sprint's testimony and seeks testimony based on such mischaracterization. Sprint objects to undertaking the special study that would be required to provide a response to this question. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

The testimony speaks for itself. The cited section of Sprint's testimony did not attempt to provide a point in time, as indicated in the quoted passage, and was referencing a time period (i.e. "monopoly era") rather than a specific date. Additionally, the question inaccurately presumes that there is a global, specific date when "local and long distance calling were "the only services offered over the local network." There is no such date. The market circumstances referenced in the question changed for different carriers at different times, but were prevalent as discussed in the testimony during the "monopoly era," and for some carriers these may have remained the only services even after the "monopoly era."

5. Reference Appleby Rebuttal Testimony at 13. Fully and completely identify the dates (as accurately as possible) upon which each RLEC began offering "custom calling features, long distance service, high speed internet and sometimes video entertainment..." Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Sprint objects to the question on the grounds that some or all of the information requested is publicly available to PTA more easily than it is available to Sprint, or in PTA's possession and more easily available to PTA than to Sprint, and thus, the request to produce such information is abusive, oppressive, unreasonable, and unduly burdensome. Sprint objects to the question insofar as it both mischaracterizes Sprint's testimony and seeks testimony based on such mischaracterization. Sprint objects to undertaking the special study that would be required to provide a response to this question. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

The testimony speaks for itself. The cited section of Sprint's testimony did not attempt to indicate a point in time, as indicated in the quoted passage, and was merely making a statement about the current (i.e. "now") variety of services RLECs offer. Additionally, the question inaccurately presumes that there is a global, specific date when each "RLEC began offering "custom calling features, long distance service, high speed internet and sometimes video entertainment..." There is no such date. The market circumstances referenced in the question changed for different carriers at different times, but are now prevalent. Additionally, the listed services likely were not all offered at once, but initiated at different times. Finally, each RLEC must know these answers, and if they do not, Sprint cannot clarify for them the history of their commercial offerings.

16. Reference Appleby Rebuttal Testimony at 17. Fully and completely identify the methodology by which the witness would quantify the cost of carrier of last resort obligations. Please include and any and all Pennsylvania statutes, regulations, or orders that prescribe the allocation methodologies proposed by Sprint to be used in such study. Please provide any and all documents related thereto.

**Objection:**Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question insofar as it seeks legal opinions which are inappropriate in discovery. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Since Sprint does not believe there is any material cost of carrier of last resort obligations, Sprint cannot identify such costs.

17. Provide full and complete copies of any study known to the witness that has quantified the cost of carrier of last resort obligations. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question insofar as it seeks legal opinions which are inappropriate in discovery. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint is not aware of any such studies. Also see the response to 16 above.

38. Reference Appleby Rebuttal Testimony at 31. Fully and completely state whether Sprint guarantees high quality wireless service ubiquitously throughout every RLEC service territory in Pennsylvania. If the response is anything other than an unequivocal yes, fully and completely identify every RLEC service territory within which Sprint does not guarantee high quality ubiquitous wireless voice service. Please provide any and all documents related thereto. For purposes of this question, "high quality wireless service" means service available on demand without static, distortion or loss of signal.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

The following text is reproduced verbatim from Sprint's Service Agreement maintained on Sprint's website and available at Sprint retail locations.

#### Coverage; Where Your Device Will Work

Our coverage maps are available at our stores and on our website. The specific network coverage you get will depend on the radio transmissions your Device can pick up and Services you've chosen. Our coverage maps provide high level estimates of our coverage areas when using Services outdoors under optimal conditions. Coverage isn't available everywhere. Estimating wireless coverage and signal strength is not an exact science. There are gaps in coverage within our estimated coverage areas that, along with other factors both within and beyond our control (network problems, software, signal strength, your Device, structures, buildings, weather, geography, topography, etc.), may result in dropped and blocked connections, slower data speeds, or otherwise impact the quality of Service. Services that rely on location information, such as E911 and GPS navigation, depend on your Device's ability to acquire satellite signals (typically not available indoors) and network coverage.

#### Roaming

"Roaming" typically refers to coverage on another carrier's network that we make available to you based on our agreements with other carriers. These agreements may change from time to time and roaming coverage is subject to change. Your ability to receive roaming coverage depends on the radio transmissions your Device can pick up.

You can pick up roaming coverage both within and outside our network coverage areas. Your Device will generally indicate when you're roaming. Depending on your Services, separate charges or limits on the amount of minutes used while roaming may apply. Certain Services may not be available or work the same when roaming (including data Services, voicemail, call waiting, etc.).

70. Reference Appleby Rebuttal Testimony at 67. Identify the average adult internet usage in 2003. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint does not possess the requested information.

71. Reference Appleby Rebuttal Testimony at 67. Identify the average adult annual usage of the internet for adults with dial-up access currently and in 2003. Please provide any and all documents related thereto

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint does not possess the requested information.

72. Reference Appleby Rebuttal Testimony at 67. Fully and completely identify the source of the voice usage minutes set forth in the testimony. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

The numbers included in the Rebuttal testimony were rough estimate based upon Mr. Appleby's experience. Relevant data is also available within the FCC's Statistics of Communications Common Carriers 2005/2006 Edition -Table 2.6.

73. Reference Appleby Rebuttal Testimony at 67. Identify each RLEC in Pennsylvania that provides broadband utilizing the same local loop utilized for voice purposes. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

It is my understanding that each RLEC in Pennsylvania provides broadband service via DSL technology over its existing local loops.

74. Reference Appleby Rebuttal Testimony at 67. Identify the number of minutes per month that the RLEC loop was utilized to provide internet access in 2000. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint does not possess such data.

75. Reference Appleby Rebuttal Testimony at 67. Identify the number of minutes per month that the RLEC loop was utilized to provide internet access in 2003. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint does not possess such data.

76. Reference Appleby Rebuttal Testimony at 67. Identify the number of minutes per month that the RLEC loop was utilized to provide total voice usage in 2000. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint requested total minutes per line for a recent period from each RLEC. The RLECs did not produce such data. Sprint would assume the RLECs do not possess such data for 2000 either. Sprint certainly does not possess such data.

80. Reference Appleby Rebuttal Testimony at 67. Identify the number of RLEC second lines being used for the purpose of dial-up internet access by RLEC customers in 2000, 2003 and currently. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

**Sponsored By: James A. Appleby**

Sprint does not possess such data.

81. Reference Appleby Rebuttal Testimony at 67. Identify the number of RLEC primary lines being used for the purpose of dial-up internet access by RLEC customers in 2000, 2003 and currently. Please provide any and all documents related thereto.

**Objection:** Sprint objects to the question on the grounds that the question is unduly burdensome, overbroad, and not narrowly tailored, and would cause unreasonable annoyance, oppression, burden and expense. Sprint objects to undertaking the special study that would be required to provide a response to this question. Sprint also objects to the question on the grounds that it seeks information that is subject to the work product doctrine, the attorney-client privilege, or other privilege. Subject to and without waiving the foregoing objections, Sprint will provide a response to PTA's question.

**Response:**

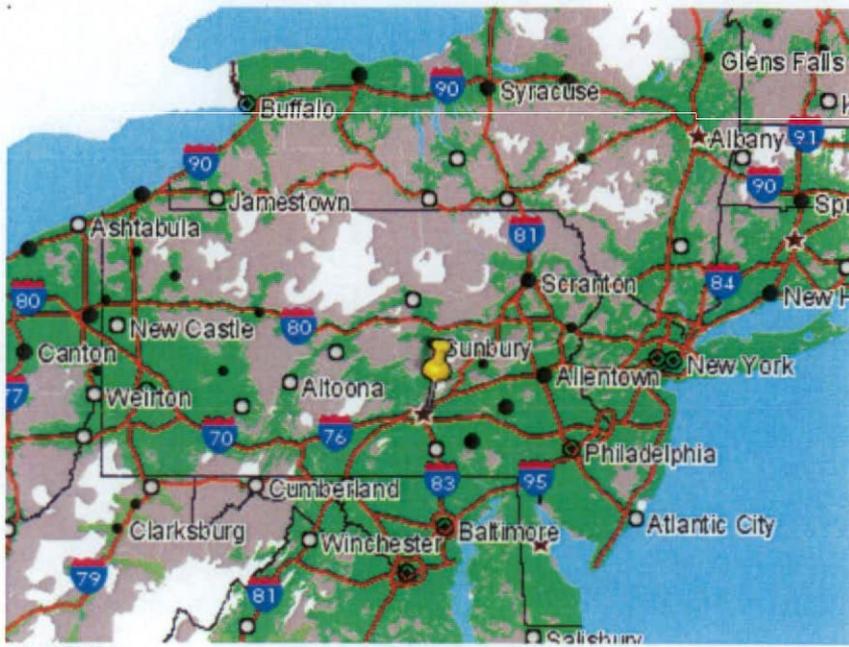
**Sponsored By: James A. Appleby**

Sprint does not possess such data.

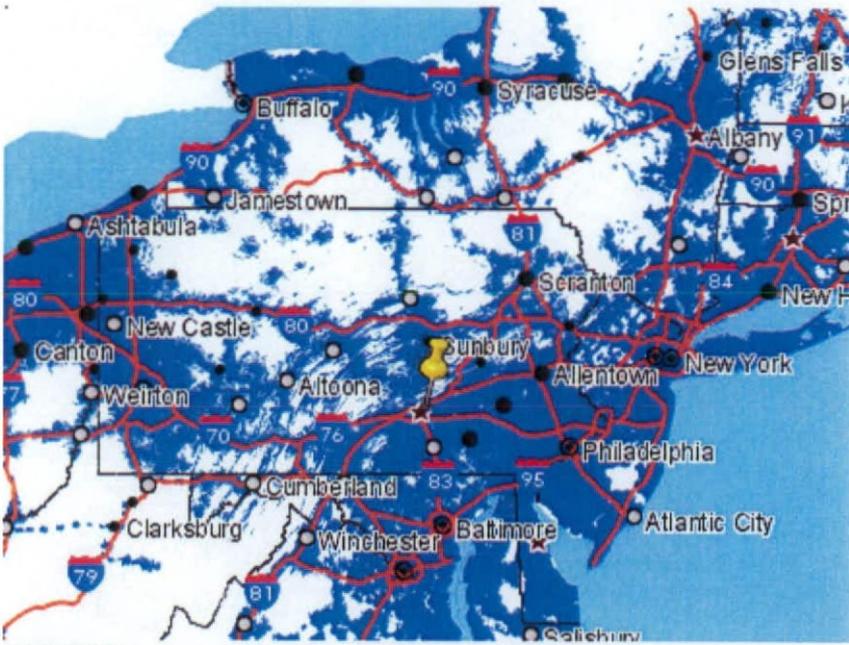
Docket# I-00040105  
Docket# C-2009-2098380

4/16/10 RDH HBG

**PTA Exhibit GMZ-18**



SPRINT



NEXTEL

<http://coverage.sprint.com/IMPACT.jsp>

Sprint web site disclaimer:

Our coverage maps provide high level estimates of our coverage areas when using your device outdoors under optimal conditions. Coverage isn't available everywhere. Estimating wireless coverage and signal strength is not an exact science.

There are gaps in coverage within our estimated coverage areas that, along with other factors both within and beyond our control (network problems, software, signal strength, your wireless device, structures, buildings, weather, geography, topography, etc.), will result in dropped and blocked connections, slower data speeds, or otherwise impact the quality of services.

Services that rely on location information, such as E911 and GPS navigation, depend on your device's ability to acquire satellite signals (typically not available indoors) and network coverage. E911 services also depend local emergency service provider systems/support. Estimated future coverage subject to change.

Need more help? Contact us at 888-211-4727.

[http://www.nextel.com/en/coverage/support/important\\_coverage\\_info\\_popup.shtml](http://www.nextel.com/en/coverage/support/important_coverage_info_popup.shtml)

Docket# I-00040105  
Docket# C-2009-2098380  
Hillel RDH HBG

**PTA Exhibit GMZ-19**



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Senior Attorney

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April 7, 2004

**BY OVERNIGHT MAIL**

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

Re: Joint Access Proposal in Response to  
Access Charge Investigation  
Docket Nos. M-00021596, P-00991648, and P-00991649

Dear Mr. McNulty:

I am writing on behalf of AT&T Communications of Pennsylvania, LLC., with respect to the Commission's Order, entered in this proceeding on July 15, 2003. In that Order, the Commission approved a Joint Proposal of the Rural Telephone Company Coalition ("RTCC") and Sprint/United Telephone Company of Pennsylvania, under which the companies that were parties to that proposal represented that they would undertake access reductions "of approximately \$25 million within the next eleven months."<sup>1</sup>

As AT&T understands it, a number of the incumbent LECs that comprise the RTCC have made individual rate rebalancing filings that purport to implement the Joint Proposal. AT&T has been directly served with only a few of those filings, however. Thus, we have not been able to ascertain whether all of the affected companies have undertaken the rate rebalancing requirements set forth in the Joint Proposal. To the extent we have been able to obtain copies of those filings that have been made (and in even more limited cases, supporting detail regarding a company's specific rate rebalancing proposal), that documentation makes it far from clear that the full amount of the access reductions that had been represented in the Joint Proposal -- and that were subsequently reflected in the Commission's Order -- have been implemented. Indeed, to the extent that the filings that we have obtained permit any calculations to be made,

<sup>1</sup> Order, Docket Nos. M-00021596 et al., July 15, 2003, at 10.

Secretary McNulty  
April 7, 2004  
Page 2 of 2

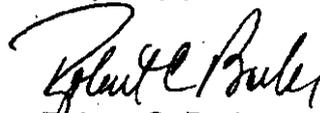
they appear to indicate that the total access reductions that have occurred are about half of the \$25 million total reduction that was at the heart of the Joint Proposal.

Accordingly, AT&T recommends that the Commission direct that the incumbent LECs who are parties to the Joint Proposal submit a report detailing the status of their compliance – on an aggregated and company-specific basis – with the terms of that Proposal.

The Commission's Order also directed the IXCs to submit a report "showing how the additional reductions in access charges will reduce the IXCs' average revenue per minute proportionately on a dollar for dollar basis to residential and business customers in Pennsylvania."<sup>2</sup> At this time AT&T cannot make any report concerning the "additional access reductions" that were supposed to have occurred under the Joint Proposal because, as noted above, AT&T is not privy to whether, and if so to what extent, the incumbent LECs who are parties to the Joint Proposal have in fact reduced their access rates in accordance with their representations to the Commission.

Please do not hesitate to contact me with any questions regarding this submission.

Very truly yours,



Robert C. Barber

Enclosures

cc: (w/ encl)  
Elizabeth Barnes, Esq.  
Ms. Janet Tuzinski  
Service List

---

<sup>2</sup> Order, Docket Nos. M-00021596 et al., July 15, 2003, at 11, 14. The legal basis for this directive is, at best, highly problematic. Fundamentally, telecommunications services provided by interexchange carriers are deemed to be competitive services, and thus the rates, terms and conditions of the IXCs' services are not subject to Commission regulation. Moreover, the IXCs cannot be viewed as having acceded to such regulation in this case because they were not parties to the Joint Proposal.

Service List

Docket Nos. M-00031694C0001 and P-0093071521596, P-00991648, P-00991649

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John Povilaitis, Esq.  
Ryan Russell Ogden & Seltzer LLP  
800 North Third Street, Suite 101  
Harrisburg, PA 17102-2025

\* By overnight mail



April 12, 2004

*Via Overnight Delivery*

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

Re: Access Charge Investigation Per Global Order of September 30,  
1999, Docket Nos. P-00991648, P-00991649 and M-00021596

Dear Mr. McNulty:

I am writing on behalf of MCI WorldCom Network Services, Inc. ("MCI") with respect to the Commission's July 15, 2003 Order in the above-referenced case. As part of that Order, the Commission directed IXCs to submit a report "showing how the additional reductions in access charges will reduce the IXCs' average revenue per minute proportionately on a dollar for dollar basis to residential and business customers in Pennsylvania."

MCI agrees with AT&T's letter of April 7, 2004 regarding this Commission directive. First, because of the fact that most of the rural ILECs bill MCI via paper bills, it would be extremely difficult to historically determine when rate changes may have occurred and the amount of those changes. Therefore, it is critical that the Commission grant AT&T's recommendation to direct the incumbent LECs who are parties to the Joint Proposal to submit a report detailing the status of their compliance with the terms of the Joint Proposal that was approved by this Commission, thereby delineating the exact amount of the access charge reductions that were implemented on an aggregate and company-wide basis.

Second, MCI agrees with AT&T's statements regarding the questionable legal basis for the Commission's directive towards IXCs to demonstrate such flow through.

Regardless, at this time, MCI is unable to accurately provide information related to the Joint Proposal reductions unless and until the ILECs provide some type of report regarding the amount of reductions that have been implemented.

Please contact me if you have any questions or concerns with this matter.

Very truly yours,

*Michelle Painter /cg*

Michelle Painter

cc: Elizabeth Barnes, PA PUC  
Janet Tuzinski, PA PUC  
Service List

**SERVICE LIST**

I hereby certify that I have this day caused a true copy of MCI's Letter to be served upon the parties of record in Docket Nos P-00991648, P-00991649 and M-00021596 in accordance with the requirements of 52 Pa. Code Sections 1.52 and 1.54 in the manner and upon the parties listed below.

Dated in Washington, DC on April 12, 2004

**VIA OVERNIGHT DELIVERY**

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APR 27 2004

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FAX (717) 236-8278

CHARLES E. THOMAS  
(1913 - 1998)

April 26, 2004

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

In re: Joint Access Proposal in Response to Access Charge Investigation  
Docket Nos. M-00021596, P-00991648 and P-00991649

Dear Secretary McNulty:

Please accept this letter as the response of the Rural Telephone Company Coalition (RTCC) to the letter of AT&T Communications of Pennsylvania, LLC (AT&T) dated April 7, 2004, and the concurring letter of MCI WorldCom Network Services, Inc. (MCI) dated April 12, 2004, each of which references the above docket numbers.

By Commission Order entered July 15, 2003, in the above proceeding, the RTCC was directed to implement a Joint Access Proposal, attached to the Order as Attachment A, to implement a second phase of access charge reductions following the initial access reform achieved in the Commission's Global Order.<sup>1</sup> As part of that Joint Access or Phase II Proposal, RTCC member companies and Sprint were required to implement certain tariff filings that would further achieve access charge reform by revising local service rates to specifically targeted levels and correspondingly reducing intrastate access rates in a revenue-neutral manner.

In its letter, concurred in by MCI, AT&T raises the implication that the Joint Access Proposal required access reductions in the amount of approximately \$25 million. AT&T asserts that to date AT&T has been able to verify independently that only about half that level of rate changes were made. Consequently, AT&T asserts that it "cannot make any report" to the Commission, as required of it and MCI by the Commission in Paragraph 8 of the Order approving the Joint Access Proposal, detailing each of those company's flow through to customers of the access reductions. AT&T thus requests the Commission to direct the RTCC and Sprint to submit a report to the Commission detailing their compliance with the terms of the Joint Access Proposal.

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<sup>1</sup>Re Nextlink Pennsylvania, Inc. et al., 196 PUR4th 172 (1999).

James J. McNulty, Secretary

April 26, 2004

Page 2

Each RTCC company has complied with the terms and conditions of the Joint Access Proposal as evidenced by filings already made and on file with the Commission. The "compliance" filings that AT&T and MCI request are unnecessary as they were already made in the form of the tariff supplements and supporting information filed by each RTCC company on or before December 31, 2003, implementing the first revenue-neutral local and access rate rebalancing required in Paragraph 2 of the Elements of the Joint Access Proposal ("Element 2"). These tariff filings were designed to raise local rates to the levels contained in that Proposal, and correspondingly reduce access charges. AT&T's implication that these filings on an aggregate level were required to total approximately \$25 million, and its allegation that it has been unable to verify that the filings have been made, are both erroneous.

First, as the RTCC repeatedly informed AT&T and other interested parties throughout the Phase II access process before the Commission, the data contained in the spreadsheets that accompanied the Joint Access Proposals, which AT&T and the RTCC both relied on at the time to ascertain an estimated level of access reductions to be attained through the Joint Access Proposal, were developed to reflect rates at a set point in time and were last updated in December 2002. Thus, the data reflected in those spreadsheets at the time they were last run in late 2002 would necessarily be subject to intervening events that preceded the first of the required Phase II filings made on or before December 31, 2003.

The Commission's Order was not entered until July 15, 2003. As an example of likely the most significant of intervening events, in early 2003 several of the larger companies submitted filings making at least one change to their R-1 rates pursuant to their Chapter 30 plans. These filings, without any consideration of any subsequent Element 2 filings, account for some of the \$25 million estimated to be achieved in access reductions through local rate increases. The net effect of these intervening filings was to diminish the actual amount of the further reform to be achieved specifically pursuant to Element 2 of the Proposal.

Further, as is verified in access line reports filed with the Commission, access lines have been declining. The extent to which access lines have declined also impacts the ultimate level of access charge reforms to be achieved under the Joint Access Proposal. Finally under Paragraph 2(e) of the Elements of the Joint Access Proposal, increases to business line rates were discretionary. Therefore, whether or not those rate increases were implemented also affects the final dollar level of access reform accomplished by filings made under the Joint Access Proposal by December 31, 2003. Thus, AT&T's implication, that the Joint Access Proposal required access reductions in the amount of approximately \$25 million, which implication forms the first basis for its request to the Commission for additional reporting, is erroneous.

Further, AT&T's implication that it has been denied access to information sufficient to enable it to verify the amounts of access charge reductions made by the RTCC and Sprint, and therefore it is unable to account to the Commission for its pass through of those reductions to its customers, is also incorrect. As a party to RTCC members' Chapter 30 proceedings, AT&T was served copies of the Companies' Chapter 30 rate rebalancing filings and thus was directly provided information to allow it to account for those access reductions. Further, in an effort to informally assist AT&T in its quest to verify the access charge reductions brought about by December 31, 2003 tariff filings made under the Joint Access Proposal and prior to AT&T's having filed the letter at issue, the individual RTCC companies and/or their respective consultants spent time and effort working with a Ms. Theresa Naylor at AT&T, and have provided her information of the same type the Companies provided to the Commission in their December 31, 2003 tariff filings as well as individual explanations of that information. Finally, as compliance tariff filings were made by the companies pursuant to Commission Order, all the information

James J. McNulty, Secretary  
April 26, 2004  
Page 3

necessary to verify that the rate proposals outlined in Element 2 of the Proposal have been accomplished has been filed with the Pennsylvania Public Utility Commission and reviewed or is being reviewed and approved for compliance. Thus, AT&T's allegation, that AT&T has not been provided information sufficient to verify the level of access reductions made by the RTCC, which allegation forms the second basis for its request to the Commission for additional reporting, is erroneous.

Finally, the RTCC submits that the best form of evidence available to AT&T to verify the level of access reductions achieved to date, through both RTCC companies' Chapter 30 filings and their December 31, 2003 tariff filings pursuant to the Joint Access Proposal, is the access bills actually rendered to AT&T. AT&T and MCI require no more actual information from the RTCC companies to detail to the Commission their flow through to customers of the access reductions than the actual access bills they receive and must pay. Even if the Companies were to somehow demonstrate that filings effectuated to date have brought about greater access charge reductions than AT&T and MCI claim to have actually experienced, it is doubtful that AT&T and MCI would pass through any more than those reductions actually received, if in fact those are passed through at all. Any exercise by the RTCC to "verify" more than what has already been filed with the Commission would be an act in futility. Thus for purposes of complying with this Commission's directive, AT&T and MCI already have in their possession the best evidence they are likely to rely on - actual access bills.

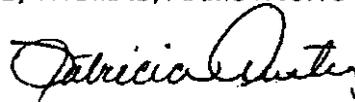
The RTCC submits that if there is a specific request regarding a particular company for which AT&T and MCI have no access reduction information, that company is willing to discuss it with AT&T and MCI, as many companies have already done. However, it is a wholly unsupportable request and places a wholly unreasonable burden on the RTCC members, to require each of them, which have already filed appropriate compliance tariffs and supporting documentation with the Commission individually, to now have to submit further reports individually as well as in some aggregate summary. The Commission has already been provided and scrutinized this information. The information remains on file at the Commission. If AT&T's and MCI's claimed lack of information regarding the extent of access rate reductions is genuine, and they are unable from actual access bills received to deduce for the Commission actual access reductions received for purposes of detailing a flow through to their customers, AT&T and MCI have the ability to review the Element 2 tariff filings on file at the Commission. Access rates are tariffed rates and thus the tariff charges are publicly available and thus known to AT&T and MCI. It is both unnecessary and unreasonable, however, for the Commission to compel the RTCC and Sprint to incur the added expense of conducting this research for AT&T and MCI.

No further action should be required of the RTCC member companies.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By

  
Patricia Armstrong

cc: Certificate of Service

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

---

Access Charge Investigation Per Global Order of September 30, 1999	:	Docket No. M-00021596
	:	
AT&T Communications of Pennsylvania, Inc.	:	
	:	
v.	:	Docket Nos. M-00031694C0001
	:	P-00930715
Verizon Pennsylvania Inc.	:	
Re: Verizon Pennsylvania Inc.'s 2003 PCO	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 26<sup>th</sup> day of April, 2004, served a true and correct copy of the foregoing letter, upon the persons and in the manner indicated below:

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240 North Third Street, Suite 201  
Harrisburg, PA 17101



Patricia Armstrong

PTA Statement No. 1RJ  
Docket No. C-2009-2098386 *et al.*  
Witness: Gary M. Zingaretti  
Date Admitted: 4/16/10  
RDA HBG

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 :  
  
AT&T Communications of Pennsylvania, *et al.* :  
v. : Docket No. C-2009-2098380, *et al.*  
Armstrong Telephone Company of :  
Pennsylvania, *et al.* :

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PREPARED REJOINDER TESTIMONY OF  
GARY M. ZINGARETTI  
ON BEHALF OF THE  
PENNSYLVANIA TELEPHONE ASSOCIATION COMPANIES

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Dated: April 8, 2010

SECRETARY'S OFFICE  
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**TABLE OF CONTENTS**

I. INTRODUCTION ..... 1

II. SUMMARY OF REJOINDER TESTIMONY ..... 1

III. REJOINDER TO VERIZON..... 1

A. “Excess” USF Funding ..... 1

B. Verizon’s Rate Design Proposals..... 9

C. Verizon’s Proposed Compliance Process ..... 11

IV. CONCLUSION .....12

1 I. INTRODUCTION

2 Q. Are you the same Gary Zingaretti who prepared direct and surrebuttal testimony in  
3 this proceeding?

4 A. Yes.

5  
6 Q. What is the purpose of your rejoinder testimony?

7 A. The purpose of this testimony is to respond to the Surrebuttal Testimony presented by  
8 Verizon. My silence with respect to other parties' Surrebuttal Testimony does not  
9 indicate agreement with that testimony. Rather it reflects the lack of time between the  
10 filing of surrebuttal and rejoinder testimony, which precluded my presentation of more  
11 thorough responsive testimony.

12

13 II. SUMMARY OF REJOINDER TESTIMONY

14 Q. Would you please summarize your rejoinder testimony?

15 A. I am responding to Verizon's novel injection into this proceeding of purported "excess"  
16 USF funding and Verizon's continued opposition in general to *any* universal service  
17 support, as well as Verizon's continued unsupported and false assertions about rate  
18 designs available to the RLECs in order to minimize residential local rate increases.  
19 Finally I respond to Verizon's new proposal regarding the process for implementation of  
20 any mandated rate changes.

21

22 III. REJOINDER TO VERIZON

23 A. "Excess" USF Funding

1 **Q. Verizon claims that the RLECs are currently receiving “excess” PAUSF support in**  
2 **the amount of approximately \$8.4 million, and recommends use of those funds,**  
3 **which are part of the existing PAUSF, to achieve revenue neutrality for the RLECs**  
4 **if further intrastate access reductions are mandated.<sup>1</sup> What is your reaction to this**  
5 **proposal?**

6 A. Verizon presents this novel proposal for PAUSF funding for the first time in this  
7 proceeding as a part of its Surrebuttal Testimony. Not only is the timing of that  
8 presentation problematic, but also the substance is very misleading. Claiming that  
9 because the RLECs have lost access lines since the existing PAUSF was established in  
10 the Global Proceeding, Verizon asserts that the amount of PAUSF support those rural  
11 carriers receive also should have declined. Because it has not, Verizon claims the RLECs  
12 are provided “excess” funding. Verizon then suggests that in the event the Commission  
13 determines that USF support should be provided for additional access rate reductions in  
14 this proceeding, then the Commission should just “shift” this \$8.4 million over to cover  
15 new access reductions.

16  
17 **Q. Is Verizon correct in its characterizations of the existing PAUSF support?**

18 A. No. In order to accept Verizon’s current descriptions of the existing PAUSF fund,  
19 Verizon and the Commission both would have to ignore the terms of the PAUSF that  
20 Verizon sponsored, including the formula for calculation of the support that was codified  
21 in regulations that Verizon helped craft and support.

22

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<sup>1</sup> See e.g. Verizon Surrebuttal at pp. 3, 15.

1 Q. What where those terms?

2 A. As I stated previously, in the Global Proceeding the Commission adopted the Small  
3 Company USF that was sponsored by the 1649 Petitioners, including Verizon and the  
4 RLECs. The terms of the Fund specifically provided a fixed level of explicit support  
5 calculated to support the access rate reductions ordered in the Global Proceeding, and to  
6 “be adjusted annually to reflect [each Fund recipient carriers’] annual access line  
7 growth.”<sup>2</sup> Thus, the PAUSF was designed to capture investment related to access line  
8 growth. It was not designed to be reduced in relation to access line losses. That fixed  
9 contribution adjusted for access line growth was memorialized by the Commission in the  
10 PAUSF regulations.<sup>3</sup> While it is the losses that Verizon complains about today, the  
11 PAUSF operates exactly as Verizon designed it.

12

13 Q. Why is it fair and appropriate to design support to capture access line growth but  
14 not losses?

15 A. Much investment, once made, is fixed, and continues to require support even if the  
16 customers later leave the system. RLECs can not allow loops that no longer support all  
17 the customers they originally supported to deteriorate because there are fewer customers  
18 being served. That would degrade the service to the remaining customers.

19

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<sup>2</sup> See PTA Ex. JYL-1, The Small Company USF Plan (Appendix II to the 1649 Petitioners’ Petition), in evidence in the USF record created before ALJ Colwell, incorporated herein by reference, at pp. 2 and 6 of Appendix A (the Terms and Conditions of the PAUSF) to Appendix II (the Bell/RLEC Small Company USF Settlement) (emphasis added).

<sup>3</sup> See 52 Pa. Code §63.165 (“W = Increase in funding requirement due to growth in access lines of recipient carriers.”)

1 Q. **Have you considered and addressed Verizon’s concerns about the effects of access**  
2 **line losses going forward?**

3 A. Yes, on a going forward basis, as a means of offering compromise on these sensitive  
4 policy issues, the PTA Companies put forth a series of principles, among which was  
5 recognition of reductions to PAUSF support for Price Cap companies as they experienced  
6 access line reductions. That is a very different proposal, however, than what Verizon  
7 posits now, which is to rob the existing PAUSF in derogation of the Commission’s  
8 existing regulations in order to feign revenue neutral support for additional access rate  
9 reductions. Verizon should not be allowed to continue to reap the financial benefits of  
10 past access rate reductions, while also proposing to enjoy further substantial reductions as  
11 a result of their proposals in this case, all by creating the specter of “excess” funding that  
12 serves to provide the RLECs the *same* (or lesser, if other parties have their way) level of  
13 support to replace the *two separate and distinct phases* of access reductions.

14 The Commission can no more sacrifice the revenue neutrality of the *Global*  
15 *Order’s* Phase I access reform in order to provide veneer of revenue neutrality for further  
16 access reductions in this Phase III investigation without violating its own *Global Order*,  
17 than it can sacrifice the revenue neutrality of any Phase III access reductions ordered in  
18 this investigation without violating Section 3017 of Act 183. While creative, Verizon’s  
19 “smoke and mirrors” double counting of the same USF dollars while enjoying an  
20 additional \$64 million of access reductions falls far short of providing the RLECs  
21 revenue neutral recovery of mandated access reductions.

22

1 Q. Are there any terms of the PAUSF adopted by the Commission that address the  
2 RLECs' rights and options if the support provided by the existing PAUSF is  
3 eliminated as Verizon suggests?

4 A. Yes. Again as Verizon agreed to in the terms of the PAUSF adopted by the Commission  
5 in the *Global Order*, “[i]f the Fund is permitted to be dissolved with no alternative  
6 funding established, residential and business Universal Service Credits will be  
7 eliminated, and toll and access rates will immediately return, at the company’s option, to  
8 their pre-funded levels pursuant to a compliance filing.”<sup>4</sup>

9

10 Q. Verizon also posits that increasing the PAUSF assessments will “bring in  
11 unnecessary administrative complexity to this case and the potential for continued  
12 litigation, appeals and delay, particularly if the Commission attempts to expand the  
13 contributing base[,]” and may “shock” other carriers not participating in this case.<sup>5</sup>  
14 What is your response?

15 A. There is no merit at all in these threats. As to administrative complexity, the Commission  
16 already has a functioning PAUSF. Expanding it to include additional intrastate access  
17 rate reductions is a simple task, as is expanding the base of providers if that is what the  
18 Commission chooses to do. Wireless providers were excluded from the current PAUSF  
19 by agreement of the parties.<sup>6</sup> They are subject to assessment by the FCC and other states,  
20 and in my opinion could be subject to assessment in Pennsylvania. But, the Commission  
21 has delayed acting on this issue in particular until another day.

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<sup>4</sup> PTA Ex. JLL-1, The Small Company USF Plan, at pp. 4-5, and 8, of Appendix II (the Settlement) and p. 4 of Appendix A (the Terms and Conditions of the PAUSF).

<sup>5</sup> Verizon Surrebuttal at p. 9.

<sup>6</sup> See PTA Ex. JLL-1 at 1 (Appendix A, Terms and Conditions), as adopted by the Commission.

1 Verizon unsuccessfully challenged the existing PAUSF in an appeal of the *Global*  
2 *Order*, and while I do not speak as a lawyer, I suspect any challenge to additional PAUSF  
3 funding will be met with the same failure.

4 I also see no merit to the claim that carriers that may see their contribution rates  
5 increase will be “shocked.” Phase III of further rural access reform, including the  
6 possibility of further access rate reductions and additional explicit support, has been on  
7 the Commission’s agenda since 2003, and specifically subject to annual review every  
8 year since 2005 until the present investigation was reactivated. No party that petitioned to  
9 intervene, no matter how late, was denied. Any party that might be “shocked” at  
10 contributing more to support an explicit PAUSF fund will be equally pleased at  
11 discovering reductions to their billed intrastate access charges. The RLECs’ local  
12 customers, however, will certainly be shocked if Verizon’s and other parties’ proposals to  
13 provide the RLECs revenue neutrality through local increases, with little or no USF  
14 support, is adopted.

15  
16 **Q. Verizon also continues to assert that increasing PAUSF support will continue to**  
17 **harm Pennsylvania consumers and competition.<sup>7</sup> What is your response?**

18 **A.** This is simply more rhetoric and hyperbole that not supported by the record or reality.  
19 Just as AT&T’s John Polumbo, President and CEO of AT&T Consumer Services, swore  
20 in a declaration before the FCC in 2004 that it was intermodal competition primarily from

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<sup>7</sup> Verizon Surrebuttal at p. 10.

1 changing technologies and customer preferences that affected carrier's business plans,<sup>8</sup>  
2 the same remains true, even more so, today.

3 As described by AT&T then: Carriers today must compete with "[n]ew, powerful  
4 competitors . . . [including] wireless carriers offering "all-you-can-eat" plans [who are]  
5 stealing away more and more minutes from traditional IXCs every year[, t]he RBOCs  
6 [winning] authority to offer interLATA services throughout the country, and [ ]  
7 competing aggressively and winning market share very quickly[,] E-mail and instant  
8 messaging [are] also reducing traditional carriers' minutes of use."<sup>9</sup> As described by  
9 AT&T today: "New competitors, most of them substantially less regulated, have  
10 deployed new technologies (some not even contemplated in 1984, and some barely in  
11 existence in 2003) to give consumers a broad range of options for long distance  
12 communications[, including] internet service providers, VoIP providers, text messaging  
13 providers, e-mail providers, wireless carriers, social networking websites[.]"<sup>10</sup>

14 It is only in state and federal regulatory proceedings that these same carriers  
15 attack and blame access rates and universal service for causing consumer harm and  
16 impeding competition. In fact, in Verizon's own access reform proceeding, Verizon itself  
17 argued that vague references to "consumer benefits" are not evidence of *actual* consumer  
18 benefits. As Verizon stated then, "Qwest vaguely refers to 'benefits,' but it does not  
19 demonstrate that consumers will actually enjoy lower prices or enhanced services as a  
20 result of the access reductions it demands."<sup>11</sup> Verizon continued, stating that "lower cost

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<sup>8</sup> See PTA Exhibit GMZ-15 to my Direct Testimony.

<sup>9</sup> *Id.* at Para. 4.

<sup>10</sup> AT&T Direct Testimony (St. 1.0) at 11-12.

<sup>11</sup> Verizon Statement 1.2 Remand Surrebuttal Testimony of James J. Kane and Ann Amalia Dean, Docket No. C-20027195, dated July 11, 2005, at pp. 6-7.

1 alternative calling plans have been and continue to be available to end users without any  
2 further reduction to access rates. AT&T has not demonstrated that any new, lower cost  
3 plans were introduced as a result of the last rebalancing.”<sup>12</sup> Verizon also confirmed that it  
4 is “rapid technological changes and industry consolidation that are occurring now [that]  
5 are much more likely to impact the prices and products available to end users than would  
6 a reduction in intrastate access charges[.]”<sup>13</sup>

7 As for allegedly spurring competition, as evidenced in these same carriers’ own  
8 developmental plans as seen in their actions and their regulatory reports to the SEC,  
9 competition is robust in areas where it is profitable, and less robust in areas where it is  
10 less profitable. Again, in its own access reform proceeding Verizon confirmed this  
11 behavior, refuting Qwest’s claims that access reductions will enhance local competition.  
12 Stating that “Qwest’s argument is undermined by its own behavior[.]” Verizon testified  
13 that “[d]espite having benefited from a significant decrease in access rates in  
14 Pennsylvania, Qwest still does not provide any local exchange service in  
15 Pennsylvania.”<sup>14</sup> Removal of USF support in areas where competition is not profitable  
16 (the RLECs’ high cost rural areas) will neither encourage more competition, nor benefit  
17 the rural customers who under Verizon’s proposal would see local rates skyrocket.  
18

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<sup>12</sup> *Id.*

<sup>13</sup> Verizon Statement 1.1 Remand Rebuttal Testimony of James J. Kane and Ann Amalia Dean, Docket No. C-20027105, dated June 29, 2005, at p. 6.

<sup>14</sup> Verizon Statement 1.2 Remand Surrebuttal Testimony of James J. Kane and Ann Amalia Dean, Docket No. C-20027195, dated July 11, 2005, at p. 9.

1 **Q. Verizon also complains about the level of its USF contributions.<sup>15</sup> What does the**  
2 **magnitude of Verizon’s contribution to the PAUSF demonstrate?**

3 A. ALL CARRIERS contribute the SAME PERCENTAGE of intrastate revenue to the  
4 PAUSF. So Verizon contributes the same percentage as Yukon Waltz Telephone  
5 Company. If Verizon had less retail revenue, it would pay less. The fact that Verizon  
6 pays more into the PAUSF than other carriers indicates simply that Verizon earns more  
7 intrastate revenues than other carriers.

8

9 **B. Verizon’s Rate Design Proposals**

10 **Q. As part of its proposal to double count existing PAUSF support to avoid the**  
11 **provision of further explicit support through PAUSF or other external means (such**  
12 **as a toll line charge) if additional access rate reductions are mandated, Verizon also**  
13 **claims there is “no evidentiary support for limiting RLEC business rate**  
14 **increases....”<sup>16</sup> Is Verizon correct?**

15 A. No. The issue of the business rate cap is pending before the Commission in ALJ  
16 Colwell’s phase of the RLEC USF investigation. As the PTA informed Verizon in that  
17 proceeding, again referring Verizon to the USF Agreement it crafted and supported in the  
18 Global Proceeding and which the Commission adopted, the Small Company USF Plan  
19 (Appendix II to the 1649 Petitioners’ Petition) provided for a proportionate business rate  
20 cap. “Small ILECs with monthly residential one-party basic, local rates above \$16.00 at  
21 the time the Fund is implemented will provide a Universal Service credit in an amount

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<sup>15</sup> Verizon Surrebuttal at p. 11.

<sup>16</sup> Verizon Surrebuttal at 7.

1 that will effectively reduce the rate to \$16.00 with their business rates receiving a  
2 proportionate credit.”<sup>17</sup>

3 The Commission, in adopting the Verizon/RLEC PAUSF in the *Global Order*,  
4 adopted the same language, stating “[s]mall ILECs with average monthly residential one-  
5 party rates above \$16.00 at the time the Fund is implemented will provide a Universal  
6 Service credit in an amount that will effectively reduce the rate to \$16.00 with business  
7 rates receiving a proportionate credit.”<sup>18</sup>

8 Therefore there are limits on how much of an increase the RLECs can impose on  
9 business customers. There are also competitive constraints, as Verizon is well aware,  
10 since it contested imposing rate increases on business customers as a means of achieving  
11 revenue neutrality for its own access reductions in its own Phase II access proceeding,  
12 which remains pending. As Verizon stated when its own access rates were at issue:  
13 “Lines that are subject to contractual agreements cannot raise their rates, and lines subject  
14 to competitive pressures are not subject to rate regulation and cannot be expected to  
15 accept an increase without being lost to a competitor. Accordingly, allocating revenue to  
16 such lines would not achieve revenue neutrality and would violate 66 Pa. C.S. §3017.”<sup>19</sup>  
17 Verizon preferred a “comprehensive solution by that agency [the FCC] that covers both  
18 interstate and intrastate rates nationally [to] remedy the concerns over the disparity in

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<sup>17</sup> See PTA Ex. JLL-1, Settlement at 4, Terms and Conditions at 4.

<sup>18</sup> *Global Order* at 51. The PAUSF credit to the customer was a separate line item on the customer’s bill, which, when combined with the single-party residential rate, created a maximum monthly residential rate of \$16.00. A proportionate PAUSF credit was also calculated and applied against the monthly single-party business rate to maintain parity between business and residential rates.

<sup>19</sup> Verizon Statement 1.1 Remand Rebuttal Testimony of James J. Kane and Ann Amalia Dean, Docket No. C-20027105, dated June 29, 2005, at p. 34.

1 intercarrier compensation rates for different types of traffic subject to different  
2 jurisdictions” and cautioned the Commission to “await FCC action or guidance.”<sup>20</sup>

3  
4 **C. Verizon’s Proposed Compliance Process**

5 **Q. Finally, Verizon proposes a compliance filing process as a means of effectuating any**  
6 **rate changes mandated by the Commission in this proceeding.<sup>21</sup> Is this proposal the**  
7 **best means of implementing any Phase III reform that may be mandated?**

8 A. No. This is not a standard or typical rate case where compliance filings are commonplace  
9 and acknowledged practice. Rather, this is an investigation involving the rates and tariffs  
10 of the 30 PTA Companies plus CenturyLink, and for which prior implemented reductions  
11 were not subject to such a process.

12 I agree that depending on when and how the Commission ultimately acts in this  
13 proceeding, in the pending Colwell investigation, and perhaps even in any rulemaking  
14 proceeding, depending specifically on what the Commission does, the relevant data such  
15 as access line counts, access minutes volumes and rates will have to be updated.  
16 However, given the expansive scope of this proceeding, reconciliation of the data through  
17 the filing of 30-day compliance filings followed by 30 days for comments and 15 days  
18 for replies will be impractical, unnecessarily constrained, and the least accurate and  
19 productive means of accomplishing any further reform, particularly when 31 companies  
20 are involved.

21  

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<sup>20</sup> Verizon Statement 1.1 Remand Rebuttal Testimony of James J. Kane and Ann Amalia Dean, Docket No. C-20027105, dated June 29, 2005, at p. 11.

<sup>21</sup> Verizon Surrebuttal at p. 19.

1 **Q. If the Commission orders further intrastate access rate changes, how should they be**  
2 **implemented?**

3 A. The Commission should initiate technical conferences precisely as it did following the  
4 Global Proceeding. At a technical conference, where Commission staff could attend, the  
5 parties can sit down, face-to-face, and in a non-adversarial atmosphere (since the  
6 litigation will have been concluded) provide data, answer questions, and resolve issues.  
7 *Then* the RLECs can file agreed upon compliance tariffs. If there are questions about the  
8 effective rates and units, it is more practical to resolve these informally. This process  
9 worked very well to implement the *Global Order*, and similar discussions were engaged  
10 in for the RLECs' Phase II Joint Access Proposal. There is no reason to pursue a different  
11 practice now.

12

13 **IV. CONCLUSION**

14 **Q. Does this conclude your testimony?**

15 A. Yes, this concludes my Rejoinder Testimony at this time. I reserve the right to file  
16 additional testimony as the schedule in this proceeding allows.



# NEWS

**Federal Communications Commission**  
445 12<sup>th</sup> Street, S.W.  
Washington, D. C. 20554

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AT+T cross Exh 4  
Docket # I-00040105  
Docket # C-2009-2098380  
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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.  
See MCI v. FCC, 515 F.2d 385 (D.C. Circ 1974).

**FOR IMMEDIATE RELEASE:**  
April 8, 2010

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## FCC ANNOUNCES BROADBAND ACTION AGENDA

Washington, D.C. -- Today, the Federal Communications Commission announced an ambitious 2010 agenda for implementing key recommendations of the National Broadband Plan that involve rulemakings and other notice-and-comment proceedings. The Plan, which the FCC delivered to Congress on March 16, 2010, lays out a comprehensive strategy for connecting all corners of the nation while transforming the economy and society with the communications network of the future -- robust, affordable, and high-speed Internet. The Plan aims to tackle serious challenges of global competitiveness by pursuing a world-leading broadband infrastructure for the United States, which will be an enduring engine for job creation and economic growth.

"We are putting the National Broadband Plan into action," said FCC Chairman Julius Genachowski. "The Commission's Bureaus and Offices have already begun executing on the strategy the National Broadband Plan lays out to connect all Americans to broadband, unleash innovation and investment, enable job creation, and ensure a bright future of economic opportunity and prosperity."

Chairman Genachowski added, "The court decision earlier this week does not change our broadband policy goals, or the ultimate authority of the FCC to act to achieve those goals. The court did not question the FCC's goals; it merely invalidated one technical, legal mechanism for broadband policy chosen by prior Commissions. Our implementation plan lays out a roadmap for reforming universal service to connect all Americans to broadband, including in rural areas; unleashing spectrum, promoting competition and supporting small businesses; protecting and empowering consumers; safeguarding on-line privacy; increasing adoption in all communities and ensuring fair access for people with disabilities; protecting broadband networks against cyber attack and other disasters; and ensuring that all users can reach 911 in an emergency. It is essential that the Commission act on this roadmap to protect America's global competitiveness and help deliver the extraordinary benefits of broadband to all Americans."

The 2010 Broadband Action Agenda announced today explains the purpose and timing of more than 60 rulemakings and other notice-and-comment proceedings the Plan recommends for FCC action. Executing these steps will accelerate deployment and adoption of robust, affordable broadband for all Americans, helping 100 million U.S. homes get affordable access to actual download speeds of at least 100 megabits over the next decade; promote innovation, investment, competition, and consumer interests throughout the broadband ecosystem; and advance the use of broadband for key national priorities, including public safety, health care, and education.

Building on the unprecedented transparency and inclusiveness of the National Broadband Plan process, the FCC will implement Plan recommendations requiring rulemakings through a series of open, participatory notice-and-comment proceedings. The FCC will simultaneously work to implement the many Plan recommendations that do not require formal agency proceedings, such as providing consumer applications to measure broadband speed, while other government bodies and stakeholders consider Plan recommendations that fall outside the agency's areas of responsibility. FCC actions taken to implement the Plan can be tracked at <http://www.broadband.gov/plan/broadband-action-agenda.html>.

The 2010 Broadband Action Agenda focuses on four key goals:

**Promote World-Leading Mobile Broadband Infrastructure and Innovation**

- Seek to make an additional 500 megahertz (MHz) of spectrum available for mobile broadband within the next ten years.
- Increase opportunities for unlicensed devices and innovative spectrum access models.
- Expand incentives and mechanisms to reallocate or repurpose spectrum to higher-valued uses.
- Improve the transparency of spectrum allocation and utilization.

**Accelerate Universal Broadband Access and Adoption, and Advance National Purposes Such as Education and Health Care**

- Carry out a once-in-a-generation transformation of the Universal Service Fund over the next ten years to support broadband service. This will be achieved by converting existing subsidy mechanisms over time from "POTS" (plain old telephone service) to broadband, without increasing the size of the fund over the current baseline projection.
- Upgrade the E-rate program, which has successfully connected public libraries and K-12 classrooms, to benefit students and others across the country by making broadband more accessible.
- Reform and upgrade the Rural Health Care Program to connect more public health facilities to high-speed Internet facilities and to foster telemedicine applications and services. Create a Health Care Infrastructure Fund to support deployment of dedicated health care networks to underserved areas.
- Create a Connect America Fund to extend broadband service to unserved areas of the nation and to ensure affordable broadband service in high-cost areas where support is necessary.
- Create a Mobility Fund to bring all states to a baseline level of "3G" (or better) wireless coverage.

**Foster Competition and Maximize Consumer Benefits Across the Broadband Ecosystem**

- Enhance broadband and marketplace choices for small businesses and mobile providers by establishing consistent policy frameworks for special access and wholesale wireline competition.
- Improve consumer disclosures and FCC data collection to better monitor and promote broadband competition.
- Fulfill mandate from Congress to ensure that video navigation devices, such as smart video devices, are available to consumers in the marketplace, spurring innovation in home video devices and driving increased broadband adoption and utilization.

**Advance Robust and Secure Public Safety Communications Networks**

- Facilitate the creation of a nationwide interoperable public safety wireless broadband network.
- Promote cybersecurity and protect critical communications infrastructure.
- Aid the transition to next-generation 911 and alerting systems.

For specific details, please see the 2010 Broadband Action Agenda at <http://www.broadband.gov/plan/broadband-action-agenda.html> and an implementation schedule at <http://www.broadband.gov/plan/chart-of-key-broadband-action-agenda-items.pdf>.

The Broadband Action Agenda does not include key ongoing and upcoming FCC initiatives that lie beyond the scope of the Plan's recommendations, or that are taken pursuant to the Plan but do not involve rulemaking or other notice-and-comment proceedings.

--FCC--

More information about the National Broadband Plan can be found at [www.broadband.gov](http://www.broadband.gov).

## Proposed 2010 Key Broadband Action Agenda Items\*

	Q2 2010 (CY)	Q3 2010 (CY)	Q4 2010 (CY)
Promote World-Leading Mobile Broadband Infrastructure and Innovation	Mobile Roaming Order and FNPRM (WTB)	AWS Bands Analysis (WTB, OET)	AWS Potential Order (WTB, OET)
	D Block Order/NPRM (WTB, PSHSB) [Also in Public Safety]		Secondary Markets Internal Review (WTB)
	Launch Strategic Spectrum Plan and Triennial Assessment (WTB, OET, OSP)	Spectrum Sharing/Wireless Backhaul NPRM/NOI (WTB, OET)	Spectrum Dashboard 2.0 (WTB, OET, PSHSB, MB, IB)
	2.3 GHz WCS/SDARS Order (OET, WTB, IB)	Oppor. Use of Spectrum NPRM (OET, WTB, IB, MB, PSHSB)	Recommendation re: Contiguous Unlicensed Spectrum Proceeding (OET, WTB)
		TV White Spaces Opinion & Order (OET, MB, WTB)	Experimental Licensing NPRM (OET)
		MSS NPRM (OET, IB, WTB)	
		Broadcast TV Spectrum Innovation NPRM (OET, MB, WTB)	
Accelerate Universal Broadband Access and Adoption	USF Reform NPRM and NOI (WCB, WTB)		Mobility Fund NPRM (WTB, WCB)
	Lifeline/Low-Income Joint Board Referral Order (WCB, WTB)	Hearing Aid Compat. Second Report & Order/FNPRM (WTB, OET, CGB)	Spectrum on Tribal Lands NPRM (WTB, CGB)
	E-Rate FY2011 NPRM (WCB)		E-Rate FY2011 Order (WCB)
	USF Merger Commitments Order (WCB, WTB)	Rural Health Care Reform NPRM (WCB)	USF Transformation NPRM (WCB, WTB)
	Lifeline Pilot Roundtable (WCB, WTB)	Lifeline Flexibility NPRM (WCB, WTB)	Intercarrier Compensation NPRM (WCB, WTB)
	FCC/FDA Workshop and PN on Converged Devices (OET)	Establish Accessibility and Innovation Forum (CGB, WCB, WTB)	USF Contributions NPRM (WCB, WTB)
	Launch FCC Office of Native American Affairs (CGB)	Real-Time Text NOI (CGB, WCB, WTB, OET)	Real-Time Text NPRM (CGB, WCB, WTB, OET)
	FCC-Native Nations Broadband Task Force (CGB)		Internet Video and Device Accessibility NOI (CGB, WCB, WTB, MB)
Foster Competition and Maximize Consumer Benefits Across the Broadband Ecosystem	Mobile Wireless Competition Report (WTB, OSP)	Interconnection Clarification Order (WCB)	
	Pole Attachments Order and FNPRM (WCB)		Small Business Broadband & Wholesale Comp. NOI (WCB)
	Small Business Broadband & Wholesale Comp. PN (WCB)	Rights-of-Way Task Force (CGB, WCB)	
	Special Access Workshop (WCB, WTB, OSP)	Special Access NPRM (WCB, WTB, OSP)	
	CableCARD NPRM (MB, OET)		
	Smart Video Devices NOI (MB, OET)		Smart Video Devices NPRM (MB, OET)
	Launch Tech. Adv. Grp. on Speed & Perf. (CGB, OET, WCB)		Transparency & Disclosure NPRM (CGB, WCB, WTB, OET)
	Launch Speed and Performance Measurement Program (CGB, WTB, WCB, OET)		Broadband Data NPRM (WCB, WTB, OSP)
Advance Robust and Secure Public Safety Communications Networks	Public Safety Roaming & Priority Access NPRM (WTB, PSHSB)		NG 911 NOI (PSHSB, OET, WCB, WTB)
	D Block Order/NPRM (WTB, PSHSB) [Also in Mobile]		Back-Up Power NOI (PSHSB, OET, WTB)
	700 MHz Waiver Petitions (PSHSB, WTB, OET)		Serv. Outage & Homeland Security NPRM (PSHSB, OET, WCB, WTB, IB)
	ERIC Public Safety Interoperability Order (PSHSB)	700 MHz Public Safety Order/FNPRM (PSHSB, WTB, OET)	
	Cybersecurity Certification NOI (PSHSB, WTB, OET, WCB)	Location Accuracy FNPRM (PSHSB, OET, WTB)	
	Survivability NOI (PSHSB, OET, WTB, WCB)		
	Serv. Outage & Homeland Security Workshop (PSHSB, OET, WCB, WTB, IB)		

Wireless Telecommunications Bureau (WTB)  
  Wireline Competition Bureau (WCB)  
  Office of Engineering and Technology (OET)  
  Media Bureau (MB)  
  Consumer & Governmental Affairs Bureau (CGB)  
  Public Safety & Homeland Security Bureau (PSHSB)

\* This document reflects only proposed FCC actions, not those of other government agencies, and is not exhaustive of all 2010 FCC actions. The location and timing of actions in this document represents a series of targets that may be adjusted to respond to changing conditions as appropriate. Items that span quarters are expected to occur late in the earlier quarter, or early in the later quarter. Does not include initiatives discussed in Agenda from Q1 2010 and earlier (E-rate Community Use Order, Rural Health Care Pilot Program Extension Order, Spectrum Dashboard Beta, and Tower Siting Declaratory Ruling).

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

HBG

2010 APR 26 PM 1:14

AT&T Communications of Pennsylvania, LLC, *et al.*  
v. Armstrong Telephone Company - Pennsylvania, *et al.*  
Docket No. C-2009-2098380, *et al.*

SECRET

Interrogatories of ATT - Set V  
Answers of the Pennsylvania Telephone Association

Person Answering: Gary Zingaretti

**AT&T-PTA-5-7:** Referencing page 20, lines 7-9 of PTA's January 20, 2010 testimony, which asserts that rate increases above current rates will accelerate customer migration and lines losses and result in less revenue, not more:

- (a) Please identify each PTA company to which this statement applies.
- (b) Please provide any evidence that demonstrates that the reason for any PTA member's customer migration or line losses is due to price increases.
- (c) Please provide any studies or analyses performed or reviewed by any PTA companies within the last five years regarding the impact of rate increases, including elasticity studies and customer surveys.

**Response:** This statement represents the collective experience of the Pennsylvania RLECs represented by the Pennsylvania Telephone Association in this proceeding. It is a general statement reflective of the RLECs' observation of customer behavior that as rates increase, customer migration and line losses accelerate, resulting in lost revenues. Please also see the responses to AT&T-PTA-1-3 and 1-4 in the proceeding before ALJ Colwell.

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

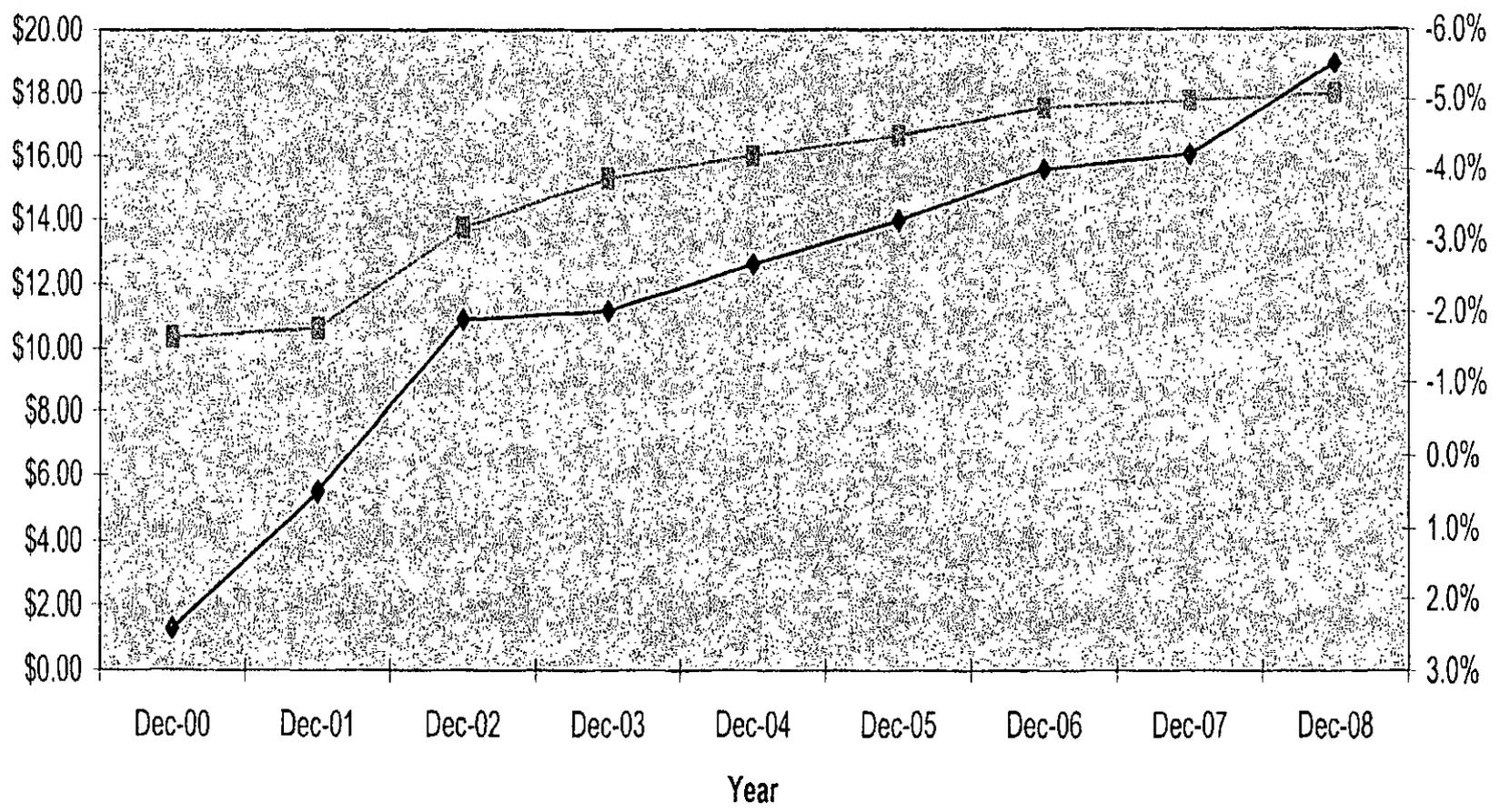
ATT Interrogatories and Request for Production of Documents - Set I  
Answers of The Pennsylvania Telephone Association

Person Answering: Joseph Laffey

ATT-4: Provide all telecommunications elasticity studies conducted by or conducted on behalf of any PTA company, or that are known to or in the possession of any PTA company. The term telecommunications here includes: wireline, wireless, local, long-distance, toll, broadband or video services *in Pennsylvania*.

Response: No company represented by the PTA has conducted an elasticity study of local telephone service in Pennsylvania. However, Denver & Ephrata Telephone has undertaken an analysis of its increase in dial tone rates during the period December 2000 through December 2008 and the dramatic line losses occurring during this same timeframe. The chart is attached.

### DET Res Rate Change Compared to Res Line Change



—■— Dial Tone Rate —◆— Gain/Loss