

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications Of Pennsylvania, LLC,	:	
	:	
Complainant	:	Docket No. C-2009-2098380
	:	
v.	:	
	:	
Armstrong Telephone Company North, <i>et al.</i> ,	:	
	:	
Respondent	:	
	:	
TGC New Jersey, Inc.,	:	
	:	
Complainant	:	Docket No. C-2009-2099805
	:	
v.	:	
	:	
Armstrong Telephone Company North, <i>et al.</i> ,	:	
	:	
Respondent	:	
	:	
TGC Pittsburgh, Inc.,	:	
	:	
Complainant	:	Docket No. C-2009-2098735
	:	
v.	:	
	:	
Armstrong Telephone Company - North, <i>et al.</i> ,	:	
	:	
Respondent	:	

ANSWER TO FORMAL COMPLAINT

NOW COMES, pursuant to 52 Pa. Code § 5.61 and the Order consolidating these matters for purposes of hearing and decision, the Pennsylvania Telephone Association on behalf of its member companies ("PTA")¹ and answers the Formal Complaint filed by AT&T

¹ The Pennsylvania Telephone Association is the representative of the following companies at the above-captioned docket: Armstrong Telephone Company - Pennsylvania, Armstrong Telephone Company - North, Bentleyville Telephone Company, Buffalo Valley Telephone Company, Citizens Telecommunications Company - New York, Citizens Telephone Company of Kecksburg, Commonwealth

Communications of Pennsylvania, LLC, TCG New Jersey, Inc., and TCG Pittsburgh, Inc. (collectively “AT&T”) as follows:

With respect to the unnumbered paragraphs in the Complaint preface, as with the Complaint itself, the content mostly consists of arguments and unsupported rhetoric. Many of the “facts” alleged in the AT&T Complaints are copied from AT&T’s testimony in the current USF investigation. The issues raised by AT&T, specifically increasing local rates to cover the shortfall and excess revenues, are currently under separate investigation by the Commission.

The averments of AT&T’s Complaint are not those of a traditional complaint, but rather are in the nature of a Motion.² –Much of AT&T’s rhetoric is directed at the Commission, whom AT&T excoriates for *not* re-launching a generic investigation into access charges. In essence, AT&T’s Complaint is an attempt to bypass the Commission’s ongoing generic investigation process of access charges by filing a Complaint against access charges.

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Telephone Company LLC d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Oswayo River, LLC, Frontier Communications of Pennsylvania, LLC, Conestoga Telephone & Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, Hickory Telephone Company, Ironton Telephone Company; Lackawaxen Telecommunications Services, Laurel Highland Telephone Company, TDS Telcom/Mahanoy & Mahantango Telephone Company, Marianna and Scenery Hill Telephone Company, The North-Eastern Pennsylvania Telephone Company, North Penn Telephone Company, Consolidated Communications of Pennsylvania Company, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, TDS Telcom/Sugar Valley Telephone Company, Venus Telephone Corporation, Windstream Pennsylvania, LLC, and Yukon-Waltz Telephone Company, and The United Telephone Company of Pennsylvania LLC d/b/a Embargo Pennsylvania. There are 30 companies participating as the PTA. The group should not include Hancock Telephone Company, TDS Telecom/Deposit Telephone Company, and West Side Telephone Company. The group properly excludes Hancock Telephone Company, TDS Telecom/Deposit Telephone Company, or West Side Telephone Company, since these companies do not have a Pennsylvania access tariff; do not have a Chapter 30 Plan and do not currently receive distributions from the existing PaUSF. Given these circumstances, the issues raised by AT&T in this proceeding have no application to these three companies.

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² AT&T’s Complaint is far from the “clear and concise statements” of acts, omissions, and relief sought by AT&T. Indeed, AT&T’s Complaint fails to include a verification executed in accordance with 52 Pa.Code § 1.36, as required by 52 Pa. Code § 5.22(b).

~~Specifically, it would appear that~~ AT&T ~~ostensibly is seeking to end run~~bypass what would be the third phase of the Commission's careful generic investigation into rural access rates by maintaining its Complaint regardless of whether the Commission determines that a generic access charge investigation is not appropriate at this time.³

— Answering the factual averments contained in the introduction, although the paragraphs are not numbered, PTA generally denies the allegations. It is specifically denied that intrastate switched access rates do not apply to wireless carriers. It is specifically denied that “internet communications,” to the extent the traffic represents voice traffic terminating on the public switched network, should “pay nothing at all.” It is denied that prices for long-distance services are artificially inflated. It is specifically denied that the Commission ever “pledged . . . to address and eliminate high implicit subsidies found in intrastate access charges” or that such is the requirement of Pennsylvania law. Assuming that AT&T’s reference to the term “subsidies” refers to a belief that access rates should be priced -based-on costs, this is not a proper statement of the law and the allegation, therefore, is denied.

Response to Numbered Paragraphs

1. Admitted.
2. Denied. The scope of the certificate authority issued by the Commission to

AT&T is not known to the PTA and, therefore, the allegations in this paragraph are denied.

By way of further answer, the nature of the services allegedly provided by the AT&T-certificated entities is not known and, therefore, are denied.

3. Admitted.

³ Pursuant to the Motion for Stay filed by the PTA, Embarq PA and the OCA at Docket No. I-00040105, this is the result sought by those parties involved in the Motion. By filing its Complaints, AT&T seeks to remove that discretion from the Commission.

4. Admitted in part; denied in part. It is admitted that the Commission has jurisdiction over all the RLECs and regulates intrastate switched access rates. The remainder of this paragraph constitutes averments of law to which no response is required.

5. Denied. All allegations of this paragraph are denied. The PTA is without information regarding AT&T's intent in bringing this Complaint. ~~I, the~~ allegations of paragraph 5 which are therefore denied. It is specifically denied that the RLECs intrastate access rates are either "substantially higher" than intrastate rates when properly compared, or that there is "no logical or reasonable basis for the difference in rates." It is specifically denied that consumers "suffer the burden of enforcement against gaming and arbitrage." It is specifically denied that there is any legal requirement or policy justification for AT&T's over-simplified mathematical exercise of rendering requirement that intrastate switched access rates ~~be at~~ the same ~~level~~ as interstate switched access rates.

6. Denied. It is denied that current intrastate access rates "can no longer cannot "be sustained." The remaining ~~der of the~~ averments of this paragraph consist of averments of law to which no response is required.

7. Denied. The Commission Order speaks for itself. Any remaining averments of this paragraph are also denied.

8. The statements in this paragraph are averments of law to which no response is required.

9. The statements in this paragraph are averments of law to which no response is required.

10. The statements in this paragraph are averments of law to which no response is required.

11. Denied. AT&T does not explain what is meant by the phrase "technical justification" and, therefore, the averment is denied. Moreover, the allegation of "no material

technical difference in functionality” between interstate and intrastate rates represents an incomplete and therefore inaccurate averment as it does not adequately or properly address pricing policy relative to intrastate switched access rates. The Commission Order speaks for itself. Any remaining averments of this paragraph are also denied.

12. Denied. It is specifically denied that the “disparity” between inter- and intrastate access rates is “dramatic.” It is specifically denied that the alleged “disparity” renders existing intrastate switched access rates unjust and unreasonable. The PTA denies that AT&T is engaged in appropriate calculations claiming to compare interstate and intrastate rates, as set forth in this paragraph and the accompanying footnotes. AT&T does not explain the “common traffic routing assumptions” made and of the calculation of rates set forth in the chart, the contents of which are, therefore, denied. Any remaining averments of this paragraph, inclusive of footnotes, are also denied.

13. Denied. The Commission Order speaks for itself.

14. Denied. The Commission Order speaks for itself.

15. Denied. AT&T does not explain what is meant by “comprehensive manner” and, therefore, the averments of this paragraph are denied. It is also denied that that the Commission is required to – or should – address intrastate switched access rates in such a “comprehensive manner” as AT&T seeks and, therefore, the implication and the averments are denied.

16. Denied. The Commission Order speaks for itself.

17. Denied. The Commission Order speaks for itself.

18. Denied. The Commission Order speaks for itself. Any remaining averments of this paragraph are also denied.

19. Denied. It is denied that the quotation to the Global Order accurately reflects the testimony presented by the PTA Companies in the Global Investigation, since AT&T

does not cite to the testimony itself. Moreover, the issue of mirroring relates to the traffic sensitive portion of access rates and not the common carrier line component, which AT&T includes in its calculation.

20. Denied. The averments of this paragraph are denied for the same reasons set forth in response to Paragraph 19, supra, as incorporated herein.

21. Denied. It is specifically denied that the PTA member companies “extract implicit subsidies almost exclusively from wireline IXCs.” It is specifically denied that the intrastate switched access rates at issue in AT&T’s complaint are contrary to law, policy, or are otherwise harmful to competition and not sustainable. AT&T’s allegations that existing intrastate access rate levels result in “IXCs” inability to “compete” and, therefore, all allegations of AT&T’s alleged inability to compete are denied. It is specifically denied that the charts presented by AT&T of “same functionality” is accurate, complete, or proper and therefore the charts and any averments arising from the charts are denied. The PTA is unable to respond to the expurgated portions of AT&T’s Complaint or AT&T’s claim to have lost “millions of minutes.” The PTA previously requested that AT&T provide the information, but AT&T has refused to do so. Therefore, the PTA is unable to respond to the allegations of this paragraph which are, therefore, denied.

22. Denied. The basis of the allegations in this paragraph is hypothetical “to the extent” and, therefore, the allegations of this paragraph are denied.

23. Denied. AT&T does not explain what level of “affordable and reasonable” local rates it proposes, nor does AT&T identify the level of access charge reductions sought or the impact upon local rates. AT&T does not identify who the “smallest RLECs” are or what is meant by “a more explicit and competitively-neutral mechanism.” The allegations of this paragraph are, therefore, denied.

24. Admitted in part; denied in part. It is admitted that universal service goals are designed to protect customers. It is specifically denied that the PTA member companies are not “rural companies.” It is specifically denied that the definition of “rural” should be based upon whether or not a company receives “federal high cost loop funding.” AT&T fails to explain the percentage of customers that obtain bundles or who pay more than \$18 per month, and rather relies upon inflated adjectives such as “large” or “most” to which the PTA is unable to respond. Further, the issues discussed in this paragraph relate to local service rates, which is the subject of current Commission investigation. Therefore, the averments of this paragraph, inclusive of footnotes, are denied.

25. Admitted. It is admitted that the Commission has a pending investigation as to whether to modify the PA USF. The positions taken by the parties in that proceeding are a matter of public record and the averments of this paragraph, therefore, are denied.

26. Admitted in part; denied in part. It is admitted that the Commission is currently considering whether there will be a generic investigation into intrastate switched access charges. The PTA believes that the generic forum is the proper mechanism for investigation, and not this Complaint by AT&T. It is denied that access charges are “unjust, unreasonable and harmful to competition.”

WHEREFORE, the PTA member companies respectfully request that this Commission dismiss the Complaints.

Respectfully submitted,

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Date: April 30, 2009

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CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of April, 2008, served a true and correct copy of the foregoing document upon the persons listed below by first class mail, postage prepaid:

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(04/23/09)

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