

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

AN INVESTIGATION INTO THE)	
INTRASTATE SWITCHED ACCESS)	ADMINISTRATIVE CASE
RATES OF ALL KENTUCKY)	NO. 2010-00398
INCUMBENT AND COMPETITIVE)	
LOCAL EXCHANGE CARRIERS)	
_____)	

PREFILED REBUTTAL TESTIMONY OF
DON PRICE
ON BEHALF OF VERIZON

(PUBLIC VERSION WITH CONFIDENTIAL INFORMATION
DENOTED BY ** **)

September 30, 2011

1 **I. INTRODUCTION.**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Don Price. My business address is 701 Brazos, Suite 600, Austin,
4 Texas, 78701.

5

6 **Q. ARE YOU THE SAME DON PRICE WHO PREVIOUSLY SUBMITTED**
7 **DIRECT TESTIMONY IN THIS PROCEEDING ON JULY 8, 2011?**

8 A. Yes, I am.¹

9

10 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 A. The purpose of my Rebuttal Testimony is to aid the Commission in its
12 investigation of Kentucky intrastate switched access rates by addressing certain
13 relevant issues raised in the direct testimony filed by the other parties to this
14 docket.² That testimony reveals a remarkable consensus in favor of meaningful

¹ See Prefiled Direct Testimony of Don Price on Behalf of Verizon (July 8, 2011) (“Price DT”).

² For their testimony in this docket, Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (collectively, “Windstream”) attached the testimony their witness previously submitted in Case No. 2007-00503, the record of which has been incorporated into this proceeding. See Further Testimony of Cesar Caballero on Behalf of Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (“Caballero FT”) at 2 (attaching prior testimony); *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, Order (Nov. 5, 2010) at 3 (incorporating record from prior proceeding into this docket). In response, I hereby refer the Commission to my testimony from Case No. 2007-00503 (available at http://www.psc.state.ky.us/PSCSCF/2007%20cases/2007-00503/20100714_Verizon_Testimony.PDF (direct) and

1 intrastate switched access reform. Virtually all parties support reform of the
2 Kentucky access regime in some form, with several of those witnesses joining
3 Verizon in advocating for the reduction of intrastate switched access rates by
4 capping those rates at reasonable benchmark levels and allowing affected carriers
5 the flexibility to make up any resulting revenue losses through retail rate
6 rebalancing. I will identify and discuss those important areas of agreement for the
7 Commission below.

8
9 I also will respond to the counterarguments advanced by those few parties that
10 still seek to avoid meaningful access charge reform and/or simply shift the
11 problems associated with the current, broken access charge regime into a new
12 state “universal service” fund program. As I discuss below, merely shifting the
13 revenue burden from one carrier-funded source (access charges) to another (a
14 state fund) would do nothing to solve the fundamental economic and policy
15 problems associated with the current access charge system in Kentucky and
16 would not represent meaningful reform here.

17

18 **Q. IN LIGHT OF THE TESTIMONY SUBMITTED, PLEASE SUMMARIZE**
19 **WHAT THE COMMISSION SHOULD DO IN THIS CASE.**

20 A. The additional testimony in the record now confirms that the Commission should
21 reform what has become an outdated intrastate access charge regime and reduce

1 Kentucky intrastate switched access rates by: (1) following through on its policy
2 decision to eliminate the so-called Non-Traffic Sensitive Revenue Requirement
3 (“NTSRR”) that is still contained in the Carrier Common Line Charge (“CCLC”)
4 element of certain carriers’ intrastate switched access rates, thereby contributing
5 to those rates being excessively high; (2) otherwise ensuring that all Kentucky
6 carriers maintain their intrastate switched access rates at fair, just and reasonable
7 levels by capping those rates at or below the benchmark rates of the regional Bell
8 operating company (“RBOC”) in the state (AT&T³); and (3) allowing affected
9 carriers to recoup revenue losses associated with access rate reductions through
10 retail rate rebalancing, rather than establish a costly new state fund that would
11 accomplish nothing more than moving the problem from one spot (access
12 charges) to another (the fund).

13 **II. THERE IS REMARKABLE CONSENSUS IN FAVOR OF PURSUING**
14 **MEANINGFUL ACCESS REFORM THROUGH A REDUCTION IN**
15 **INTRASTATE SWITCHED ACCESS RATES.**

16 **Q. PLEASE EXPLAIN WHAT YOU DESCRIBED AS THE CONSENSUS IN**
17 **FAVOR OF ACCESS CHARGE REFORM.**

18 A. In my direct testimony, I provided evidence that, while negotiated intercarrier
19 compensation agreements are the best long-term solution in a changing
20 telecommunications market to establishing intercarrier compensation rates
21 (including intrastate switched access rates), regulatory intervention is needed here

³ BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky, AT&T Communications of the South Central States, LLC, BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service, and TCG Ohio are referred to herein collectively as “AT&T.”

1 because Kentucky intrastate switched access rates currently are not subject to
2 market discipline and, in many cases, are so excessive as to violate the Kentucky
3 statutory requirement that rates be “fair, just and reasonable.”⁴ Accordingly, I
4 testified that the Commission should take measures to reduce intrastate switched
5 access rates, including immediate elimination of NTSRR charges and establishing
6 a benchmark rate cap.

7

8 The direct testimony of the other parties largely echoes this call for intrastate
9 switched access reform. For example:

- 10 • AT&T agrees that access reform is “past due”⁵ and that the Commission
11 should “reform[] the access charge regime by reducing intrastate access
12 rates in Kentucky ...”⁶ by instituting a benchmark approach;⁷
- 13 • Sprint⁸ likewise recognizes that “it is essential to the development of a
14 fully competitive Kentucky telecommunications market that the prices for
15 intrastate switched access be reduced”⁹ and recommends adopting a

⁴ K.R.S. § 278.030(1).

⁵ Direct Testimony of Dr. Debra J. Aron on Behalf of BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky, AT&T Communications of the South Central States, LLC, BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service, and TCG Ohio (July 8, 2011) (“Aron DT”) at 11.

⁶ *Id.* at 74.

⁷ *Id.* at 10-11 (advocating that the Commission use Kentucky local exchange carriers’ interstate switched access rates as the benchmark for their intrastate switched access rates).

⁸ Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel West Corp. and NPCR, Inc. are referred to herein collectively as “Sprint.”

⁹ Direct Testimony of James A. Appleby on Behalf of Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel West Corp. and NPCR, Inc. (July 8, 2011) (“Appleby DT”) at 2.

- 1 benchmark approach to ensure access rates remain at reasonable levels;¹⁰
- 2 • the “TDS Companies¹¹ remain supportive of intrastate switched access
- 3 reductions” and “are generally supportive of intercarrier compensation
- 4 changes that are rational, fair, comprehensive and meaningful”;¹²
- 5 • the Kentucky Cable Association (“KCTA”) and competitive local
- 6 exchange carriers (“CLECs”) tw telecom, Level 3 and PAETEC also
- 7 acknowledge the potential need for reform of at least terminating intrastate
- 8 switched access charges, which give rise to potentially harmful arbitrage
- 9 schemes;¹³ and
- 10 • even the rural CLECs and rural incumbent local exchange carriers
- 11 (“RLECs”¹⁴) that would be directly affected by the intrastate switched
- 12 access charge reductions are, respectively, “not opposed to some form of

¹⁰ *Id.* at 4.

¹¹ The TDS Companies (also referred to herein collectively as “TDS Telecom”) are the incumbent local exchange carriers Leslie County Telephone Company, Lewisport Telephone Company, and Salem Telephone Company.

¹² Prepared Direct Testimony of Bruce H. Mottern on Behalf of TDS Telecom (Leslie County Telephone Company, Lewisport Telephone Company, and Salem Telephone Company) (July 8, 2011) (“Mottern DT”) at 3.

¹³ *See* Direct Testimony of Joseph Gillan on Behalf of the Kentucky Cable Association, tw telecom, Level 3 and PAETEC (July 8, 2011) (“Gillan DT”) at 10-11.

¹⁴ The RLECs are: Ballard Rural Telephone Cooperative Corporation, Inc.; Brandenburg Telephone Company; Duo County Telephone Cooperative Corporation, Inc.; Foothills Rural Telephone Cooperative, Inc.; Gearhart Communications Company, Inc.; Highland Telephone Cooperative, Inc.; Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative, Inc.; North Central Telephone Cooperative Corporation; Peoples Rural Telephone Cooperative, Inc.; South Central Rural Telephone Cooperative Corporation, Inc.; Thacker-Grigsby Telephone Company, Inc.; and West Kentucky Rural Telephone Cooperative Corporation, Inc.

1 rational rate rebalancing”¹⁵ and “not opposed to a plan to reform intrastate
2 switched access rates that continues to allow for continued delivery and
3 maintenance of affordable basic and advanced telecommunications
4 services to end-user customers”¹⁶

5 This groundswell of support for intrastate switched access reform is consistent
6 with reform efforts at the federal level and in other states over the last decade.¹⁷

7 As similar efforts in Kentucky have stalled in the interim, this Commission has
8 recognized that “[t]he need for a comprehensive review of intra-state access
9 charges has been a looming specter over this Commission for a significant period
10 of time.”¹⁸ Now is the time to bring much needed reform to the Kentucky access
11 charge regime.

12

13 **Q. DOES THE PARTIES’ DIRECT TESTIMONY REFLECT SIMILAR**
14 **CONSENSUS REGARDING CHANGES THAT HAVE TAKEN PLACE IN**
15 **THE TELECOMMUNICATIONS MARKET?**

¹⁵ See Direct Testimony of Carey Roesel on Behalf of SE Acquisitions LLC d/b/a SouthEast Telephone (July 8, 2011) (“Roesel DT”) at 3-4. SE Acquisitions LLC d/b/a SouthEast Telephone is referred to herein as “SouthEast.”

¹⁶ Prefiled Direct Testimony of Emmanuel Staurulakis Filed on Behalf of the Rural Local Exchange Carriers (July 8, 2011) (“Staurulakis DT”) at 3. As discussed below, however, the RLECs do oppose certain aspects of the specific reform proposal AT&T put forth in this docket – including the use of rate mirroring or benchmarking.

¹⁷ See Price DT at 18-23 (identifying access reform efforts in other jurisdictions). See also Appleby DT at 12-14.

¹⁸ *In the Matter of: MCI Communications Services, Inc., et al. v. Windstream Kentucky West, Inc., et al.*, Case No. 2007-00503, Order (Mar. 11, 2009) at 5.

1 A. Yes. Virtually all parties recognize (and/or certainly would not dispute) that the
2 telecommunications marketplace has changed dramatically over the last ten to
3 fifteen years.¹⁹ As explained below, those changes have rendered many aspects of
4 the current switched access regime obsolete²⁰ and have contributed to the current
5 need for switched access rate reform.²¹ As this Commission noted at the outset of
6 this docket, “[t]he existing [access] cost-recovery mechanism was developed for a
7 communications world where single narrowband wireline connections were the
8 dominant form of telecommunications and competition was very limited.”²² But,
9 as the Commission acknowledged, “[t]hat is no longer the case.”²³

10

11 **Q. PLEASE DESCRIBE THE CURRENT INTRASTATE SWITCHED**
12 **ACCESS RATE LEVELS IN KENTUCKY.**

13 A. As I indicated in my direct testimony, Kentucky intrastate switched access rates
14 generally are unreasonably high, with numerous Kentucky local exchange carriers
15 charging excessive rates that access payors like Verizon have no choice but to

¹⁹ See, e.g., Appleby DT at 4 (“The retail telecommunications market in Kentucky like other parts of the United States has experienced significant change in recent years.”); Gillan DT at 8-9 (referring to market changes).

²⁰ See, e.g., Aron DT at 8-9 (referring to current switched access regime as an “arcane, backward-looking regulatory mechanism” that “is no longer viable”); Appleby DT at 5 (indicating that “the Commission’s regulation of intrastate access rates still reflects the bygone era of local monopolies”).

²¹ See, e.g., Aron DT at 27-34; Price DT 10-14.

²² See Order (Nov. 5, 2010) (“Nov. 5 Order”) at 3.

²³ *Id.*

1 pay.²⁴ The other parties’ testimony only confirms that Kentucky intrastate
2 switched access rates currently exceed any fair, just and reasonable measure.²⁵

3
4 For example, as AT&T details, *every* Kentucky local exchange carrier currently
5 charges more – and, in some cases, many multiples more – than the rate AT&T
6 charges for the very same service.²⁶ While, on average, AT&T charges only a
7 fraction of a cent per minute for intrastate switched access charges, other large
8 ILECs – such as Cincinnati Bell and Windstream charge on average anywhere
9 from **[REDACTED]** cents a minute to over **[REDACTED]** cents a minute for the same function.
10 Similarly, the intrastate switched access rates charged on average by the RLECs
11 typically range between about **[REDACTED]** cents a minute to about **[REDACTED]** cents a
12 minute – all rates not only much higher than AT&T’s intrastate rate, but well
13 above their own interstate switched access rates,²⁷ and some of the highest rates in
14 the country.

15
16 Indeed, in reviewing the other witnesses’ testimony and the discovery in the
17 record, it appears that the intrastate switched access rates charged by many
18 Kentucky local exchange carriers are even higher than I initially indicated in my
19 direct testimony. In particular, I previously identified the average intrastate

²⁴ See, e.g., Price DT at 28-29.

²⁵ See, e.g., Appleby DT at 6 (referring to current “high access rates of the Kentucky LECs”) and 8 (referring to intrastate switched access “overcharges”).

²⁶ See, e.g., Aron DT at 36-40.

²⁷ *Id.* at 38.

1 switched access rate for Highland Telephone to be **[REDACTED]** cents per minute,²⁸
2 when it in fact is **[REDACTED]** cents per minute – almost **[REDACTED]** cents a minute higher.
3 Similarly, I identified the average intrastate switched access rate for Ballard Rural
4 Telephone to be **[REDACTED]** cents per minute,²⁹ when it actually is **[REDACTED]** cents per
5 minute. And while I only listed certain rate elements for Brandenburg Telephone
6 Company in my direct testimony,³⁰ its composite average intrastate switched
7 access rate is **[REDACTED]** cents per minute.³¹

8

9 **Q. ARE CURRENT KENTUCKY INTRASTATE SWITCHED ACCESS**
10 **RATES BASED ON COST?**

11 A. No – current Kentucky intrastate switched access rates are not based on cost. As I
12 explained in my direct testimony, access services tariffs were introduced in
13 Kentucky in 1984, and the rate structure changed in 1990.³² Some Kentucky
14 carriers continue to charge the same access rates that were established in the early
15 1990s, while others have made changes over the years.³³ But those original

²⁸ Price DT at 29.

²⁹ *Id.*

³⁰ *See, e.g., id.* at 34 (addressing Brandenburg’s NTSRR charges).

³¹ In addition, I identified the average intrastate switched access rates for Duo County and South Central as **[REDACTED]** cents per minute (*id.* at 29), when they actually are **[REDACTED]** cents per minute.

³² *Id.* at 24.

³³ *Id.* at 24-26.

1 Kentucky intrastate access rates were not established on the basis of the cost of
2 providing switched access service, and they certainly are not cost-based now.³⁴

3
4 In several cases, carriers' intrastate switched access rates are so much higher than
5 their interstate rates because the intrastate rates continue to include NTSRR
6 charges as part of the CCLC element long ago eliminated from interstate rates.³⁵

7 As I explained in my direct testimony, NTSRR charges are not cost-based, but
8 rather pure subsidies that are not linked to any function performed by local
9 exchange carriers in providing access service.³⁶ These charges were eliminated
10 for AT&T a decade ago, and there is no basis to perpetuate an asymmetrical
11 regime under which other local carriers continue to assess them on AT&T,
12 Verizon, Sprint, and other long distance competitors.³⁷

13
14 Indeed, more than a decade ago, this Commission made the policy decision to
15 eliminate the NTSRR from intrastate switched access rates,³⁸ and has emphasized

³⁴ *Id.* at 26; *see also* Appleby DT at 3.

³⁵ *See* Price DT at 32-35, 38-41.

³⁶ *Id.* at 4-5.

³⁷ This asymmetry is also reflected in the fact that AT&T not only stands alone as the only ILEC to have eliminated NTSRR, but that Kentucky CLECs do not now assess (and never have assessed) NTSRR charges. Deterring competitive entry by giving certain ILECs an artificial competitive advantage over alternative providers through the NTSRR harms competition by reducing investment in competitive alternatives, including next-generation technologies.

³⁸ *Certification of the Carriers Receiving Federal Universal Service High-Cost Support*, Adm. Case No. 381 (Mar. 24, 2000) (“*2000 Certification Order*”) at 2 (“The Commission has, through other proceedings, used excess revenues . . . to reduce NTSRR and ***has an established policy of working to eliminate the NTSRR.***”) (emphasis added).

1 that “[e]limination of NTS is a priority and will be considered along with the
2 elimination of other implicit subsidies.”³⁹ Consistent with that policy priority, the
3 Commission should finish the job and eliminate the NTSRR from all Kentucky
4 intrastate switched access rates. That one, easily implemented step alone would
5 go a significant way toward rationalizing Kentucky intrastate switched access
6 rates and bringing them much closer to cost.⁴⁰

7

8 **Q. DO OTHER PARTIES SUPPORT REDUCTION OR ELIMINATION OF**
9 **THE NTSRR ELEMENT?**

10 A. Yes. For example, Sprint also recommends “the elimination of the Non-Traffic
11 Sensitive Revenue Requirement (‘NTSRR’) charges.”⁴¹ As Sprint’s witness
12 testifies, the Commission already has ordered AT&T to eliminate the NTSRR.⁴²
13 The Commission should do the same for *all* Kentucky LECs, as each carrier’s
14 operating costs “should be collected ... from its own retail customers,” rather than
15 from other carriers through access charges.⁴³

16

³⁹ *Inquiry into Universal Service and Funding Issues*, Adm. Case No. 360, Order, at 35 (May 22, 1998).

⁴⁰ See Price DT at 32-35, 38-41.

⁴¹ Appleby DT at 4.

⁴² *Id.* at 21.

⁴³ *Id.* at 20.

1 Q. IN ADDITION TO ELIMINATING NON-COST-BASED ELEMENTS
2 LIKE THE NTSRR, SHOULD THE COMMISSION SET INTRASTATE
3 SWITCHED ACCESS RATES THROUGH COST CASES?

4 A. No. To borrow AT&T's phrasing, the Commission "should transition to a *more*
5 cost-based system" by adopting a benchmark approach for intrastate switched
6 access rates.⁴⁴ But moving entirely to a traditional cost-based approach is an
7 anachronistic and largely unworkable method that is neither necessary nor
8 prudent.

9
10 By contrast, a benchmarking approach is a straightforward and administratively
11 easy step that can be taken immediately to bring access rates closer to cost⁴⁵ –
12 without incurring all of the burdens, costs and delays associated with having to
13 conduct a full-blown rate case or other sort of cost proceeding. As the FCC has
14 recognized:

15 [A] benchmark provides a bright line rule that permits a
16 simple determination of whether a [carrier's] access rates
17 are just and reasonable. Such a bright line approach is
18 particularly desirable given the current legal and practical
19 difficulties involved with comparing ... rates to any
20 objective standard of "reasonableness."⁴⁶

⁴⁴ Aron DT at 5 (emphasis in original).

⁴⁵ *Id.* at 61 (noting that adopting interstate switched access rates as benchmark for intrastate switched access rates "would bring them closer to the ... incremental cost of providing access service ...").

⁴⁶ *In the Matter of Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report and Order and Further Notice of Proposed Rulemaking, FCC 01-146, CC Docket No. 96-262, 16 FCC Rcd 9923 (April 27, 2001) ("2001 CLEC Access Charge Reform Order") at ¶ 41.

1 Accordingly, both the FCC and numerous other state commissions to consider the
2 issue have adopted benchmarks to set switched access rates.⁴⁷

3
4 As I recognized in my direct testimony, all of the proposed benchmarks in this
5 proceeding likely still exceed carriers' costs of providing access services. But
6 moving to a benchmark rate will bring current Kentucky intrastate switched
7 access rates closer to cost and, as AT&T suggests, "will increase consumer
8 welfare and promote competition, which are material benefits to the public that
9 should not be sacrificed in the pursuit of a perfect solution that would take much
10 more time to implement."⁴⁸

11
12 In addition, moving to a single, uniform benchmark rate for all carriers will create
13 a more level playing field which will enhance competition and reduce harmful
14 arbitrage opportunities. For example, "traffic pumping" arbitrage schemes (in
15 which carriers stimulate toll traffic volumes so that they can collect substantial
16 access revenues) typically proliferate where there are differences among different
17 carriers' access rates – which cause pricing distortions in the market for long
18 distance service. If a customer's price for a long distance call is substantially
19 below the access rate that her long distance provider is required to pay to

⁴⁷ See Price DT at 20, 22-23 (listing examples).

⁴⁸ Aron DT at 68.

1 terminate the call, then there is an opportunity for the terminating carrier (with the
2 high access rate) to engage in call pumping.

3

4 **Q. DO OTHER PARTIES SUPPORT ESTABLISHING A BENCHMARK**
5 **RATE FOR ALL KENTUCKY INTRASTATE SWITCHED ACCESS**
6 **RATES?**

7 A. Yes – several other parties recognize the benefits of using benchmarking to
8 establish intrastate switched access rates, although some parties advocate using a
9 different benchmark than what Verizon recommends.

10

11 Verizon supports using the intrastate switched access rates charged by the
12 regional Bell operating company (“RBOC”) and largest incumbent local exchange
13 carrier (“ILEC”) in the Commonwealth (*i.e.*, AT&T) as the benchmark for the
14 intrastate switched access rates to be charged by all other Kentucky local
15 exchange carriers. For its part, AT&T suggests that the Commission use two
16 different benchmarks: (1) cap Kentucky ILEC intrastate rates at interstate levels;
17 and (2) cap Kentucky CLEC intrastate rates at the level of the intrastate rates of
18 the ILECs with which they compete.⁴⁹ SouthEast argues that at least rural CLECs

⁴⁹ Comments of AT&T (Dec. 17, 2010) (“AT&T Comments”) at 8.

1 should benchmark to their own interstate rates.⁵⁰ And Sprint suggests that each
2 LEC benchmark its intrastate switched access rates to its interstate rates.⁵¹

3
4 However, as I detailed in my direct testimony, I believe it more appropriate at this
5 point to benchmark the intrastate switched access rates of all Kentucky LECs to
6 the AT&T rate for several reasons, including that:

- 7 • AT&T already has eliminated the NTSRR and the corresponding CCLC
8 rate element from its intrastate switched access rates,⁵² thereby rendering
9 those rates compliant with the Commission's determination that the
10 NTSRR should be phased out for all carriers;⁵³
- 11 • as the RBOC, AT&T has received the most regulatory scrutiny, both in
12 general and with respect to its intrastate switched access rates, and the
13 AT&T intrastate switched access rate already has been approved by the
14 Commission as just and reasonable;
- 15 • as the RBOC and dominant provider in the state, AT&T's rates for
16 intrastate switched access service better approximate the rates that would
17 prevail if the market for that service were competitive; and
- 18 • the AT&T intrastate rate represents a reasonable rate for other Kentucky
19 LECs because, in some cases, those LECs already charge interstate
20 switched access rates that are comparable to the AT&T intrastate switched
21 access rate.

⁵⁰ Roesel DT at 5 (“Any moves to mirror interstate rates should not tie a rural CLEC to RBOC rates, but rather allow it to mirror its NECA, rural exempt interstate rates.”).

⁵¹ See, e.g., Appleby DT at 4. Mr. Appleby later indicates that CLEC intrastate switched access rates should be capped at the rate of the ILEC with which the CLEC competes. *Id.* at 22-23.

⁵² See BellSouth PSC Tariff E2, § E3.9, Sixth Revised page 10, effective 2/16/1997 (eliminating CCLC). AT&T eliminated its own NTSRR through tariff revisions made on September 5, 2000.

⁵³ See, e.g., *Inquiry into Universal Service and Funding Issues*, Adm. Case No. 360, Order, at 35 (May 22, 1998) (“Elimination of NTS is a priority and will be considered along with the elimination of other implicit subsidies.”)

1 However, if the Commission is reluctant to accept Verizon’s benchmarking
2 proposal, AT&T’s benchmarking proposal is still preferable to trying to set rates
3 based on carriers’ costs (or to no reform at all). Regardless of which benchmark
4 is used, capping rates at benchmark levels is a simple, easily-implemented and
5 effective means of rationalizing intrastate switched access rates in Kentucky, at
6 least until market-based mechanisms (like negotiated agreements) are able to
7 produce more efficient pricing.

8

9 **Q. SHOULD ILECs AND CLECs BE TREATED DIFFERENTLY FOR**
10 **BENCHMARK PURPOSES?**

11 A. No – there is no legitimate reason to treat ILECs and CLECs differently, and
12 having different rates for different carriers creates the potential for arbitrage and
13 inefficiency.

14

15 SouthEast’s witness argues that, because SouthEast operates as a competitive
16 local exchange carrier in rural areas, it should be treated more like a rural ILEC
17 and not like other CLECs.⁵⁴ In particular, SouthEast claims it should not face any
18 intrastate switched access reductions at all, because those intrastate switched
19 access revenues are necessary for it to operate in higher cost rural areas and that,
20 without those access revenues, “the competitive benefits SouthEast has spread

⁵⁴ See Roesel DT at 3-4.

1 across the most rural areas of Eastern Kentucky simply would not exist.”⁵⁵
2 However, there is no reason to exempt SouthEast or rural ILECs from access
3 charge reform; neither SouthEast nor any rural ILEC has produced any cost data
4 or other evidence justifying excessive access rates. And there certainly is no need
5 to provide any CLEC, “rural” or otherwise, with excessive intrastate switched
6 access rate subsidies to promote service in areas already served by an ILEC,
7 particularly when CLECs have been free to choose where to serve and were never
8 subject to the pricing and other regulatory requirements that accompanied the
9 Commission’s (now-outdated) NTS recovery plan for ILECs.

10

11 Even if SouthEast had demonstrated that it faces higher costs, that would not
12 justify higher rates here. As AT&T’s Dr. Aron explained in her direct testimony,
13 competitive markets do not allow newer entrants to charge higher prices simply
14 because they happen to have higher costs. Indeed, “[s]uch prices would not be
15 viable in a competitive market.”⁵⁶ To compete effectively against an incumbent,
16 CLECs must offer at least as good a product at the same or lower costs. There is
17 no reason to subsidize a newer competitor with higher costs when the customers
18 in that area already can receive service from the incumbent (which may already
19 be subsidized itself).

20

⁵⁵ *Id.* at 4.

⁵⁶ Aron DT at 65.

1 Accordingly, the FCC does not permit CLECs the right to charge higher interstate
2 access rates than the incumbent even if it could demonstrate that its costs were
3 higher.⁵⁷ This Commission should not either.

4

5 **Q. WOULD ESTABLISHING A BENCHMARK FOR INTRASTATE**
6 **SWITCHED ACCESS RATES BENEFIT CONSUMERS?**

7 A. Yes – I noted as much in my direct testimony,⁵⁸ and the witnesses for other parties
8 agree. Access rate decreases necessarily will benefit customers in the competitive
9 market for retail long-distance services.

10

11 For example, Sprint recognizes that the current “high intrastate switched access
12 rates” in Kentucky “are harmful to competition and consumers.”⁵⁹ As Dr. Aron
13 testified on behalf of AT&T, establishing a benchmark to reduce those rates “will
14 benefit consumers, improve economic efficiency, ... promote competition on the

⁵⁷ *Id.* at 66 (citing *2001 CLEC Access Charge Reform Order* at ¶¶ 37-39, 45; *In the Matter of Access Charge Reform and Reform of Access Charges Imposed by Competitive Local Exchange Carriers, et al.*, Eighth Report and Order and Fifth Order on Reconsideration, FCC 04-110 (May 18, 2004) (“*2004 CLEC Access Charge Reform Order*”) at ¶¶ 57-58). *See also In the Matter of PrairieWave Telecommunications, Inc. Petition for Waiver of Sections 61.26(b) and (c) or in the Alternative Section 61.26(a)(6) of the Commission’s Rules*, CC Docket No. 96-262, FCC Order 08-49 (rel. Feb. 14, 2008) at ¶ 13; *In the Matter of Petition of Northern Telephone & Data Corp. for Waiver of Section 61.26(b)(1) of the Commission’s Rules*, WC Docket No. 09-216, DA 10-72 (rel. Jan. 13, 2010) at ¶¶ 4, 7-8.

⁵⁸ *See, e.g.*, Price DT at 43.

⁵⁹ Appleby DT at 2.

1 merits ... [and] eliminate certain destructive arbitrage practices”⁶⁰ Among
2 other things, Dr. Aron noted that, under access charge reform that incorporates a
3 benchmarking approach, “[c]onsumers would benefit directly by paying less for
4 long distance service and by using wireline long distance service more frequently
5 in situations where they were otherwise discouraged from doing so by higher
6 prices.”⁶¹

7
8 While KCTA’s witness, Mr. Gillan, expressed doubts about whether access
9 charge reductions would lead to lower long distance prices,⁶² because access
10 charges are one of the most significant costs associated with providing long
11 distance service, “[a]s access rates come down, retail long distance prices come
12 down.”⁶³ Or, at a minimum, access charge reductions will help ensure that long
13 distance rates stay the same (and do not increase) because the savings have offset
14 other cost increases, or result in a smaller rate increase than otherwise would have
15 been implemented. Alternatively, competitors in the long distance market may
16 invest the savings in improved technology or service quality, bringing tangible
17 benefits to consumers in other ways.

18

⁶⁰ Aron DT at 5. As noted above, Dr. Aron advocates for a different benchmark than Verizon does for ILECs. However, her discussion of the economic benefits would apply to either benchmark.

⁶¹ *Id.* at 11.

⁶² Gillan DT at 9.

⁶³ Aron DT at 47. *See also* Appleby DT at 8 (noting that access charges are an “essential input” for retail long distance rates).

1 In that respect, “[r]educed prices are only one way consumers can benefit from
2 reduced access rates.”⁶⁴ Eliminating excessive access charges would help bring
3 competitive balance for retail offerings in Kentucky, where excessive access
4 subsidies collected by some ILECs may deter entry of new providers or cause
5 existing providers to exit the market.⁶⁵

6
7 By contrast, “[i]nnovation, customer service, and vigorous competition would be
8 promoted by requiring local service providers to recover more of their costs of
9 providing local exchanges service from their own local service end-users rather
10 than obtaining forced subsidies from other companies.”⁶⁶ Freed from excessive
11 access charges, access payors “will have more resources to expand service
12 coverage, enhance service quality, develop new and innovative service offerings,
13 and provide better pricing in the market.”⁶⁷

14
15 But not just access payors and their customers would benefit from access rate
16 reductions in Kentucky; local exchange carriers and their customers would
17 benefit, as well. When local exchange carriers receive rate subsidies as excessive
18 as those here in Kentucky, they lack incentive to provide services better, faster,
19 cheaper or more efficiently. They can rely on excessive access rates to make up

⁶⁴ Appleby DT at 11.

⁶⁵ *Id.* at 8.

⁶⁶ Aron DT at 11.

⁶⁷ Appleby DT at 11.

1 any other operational shortfalls. Reducing those subsidies through a
2 benchmarking approach therefore would better incentivize local exchange carriers
3 here to provide better services and send more accurate signals to consumers in the
4 market.

5

6 **Q. HAS ANY CARRIER CLAIMED IT IS LOSING MONEY ON ITS RATE-**
7 **REGULATED SERVICES, OR THAT IT WOULD DO SO IF ACCESS**
8 **RATES ARE REDUCED?**

9 A. No. No carrier has demonstrated that it is experiencing financial distress now or
10 that it would once access rates are reduced, such that the Commission would have
11 to consider those kinds of facts before reducing a particular carrier's access rates.

12

13 **Q. DOES THE COMMISSION HAVE THE AUTHORITY TO USE A**
14 **BENCHMARKING APPROACH TO SET INTRASTATE SWITCHED**
15 **ACCESS RATES FOR ALL KENTUCKY LOCAL EXCHANGE**
16 **CARRIERS?**

17 A. Yes.

18

19 Cincinnati Bell Telephone Company LLC ("Cincinnati Bell" or "CBT") suggests
20 that the Commission can never adopt a benchmarking approach. Cincinnati Bell
21 "believes" that rate decisions must be made on an individual company basis, with
22 another party challenging the reasonableness of those rates bearing the burden of

1 proof and the Commission then required to make a finding that those particular
2 rates are unreasonable before it could change them.⁶⁸ But, while I am not attorney
3 and cannot offer a legal interpretation, my understanding is that the Commission
4 is not and never has been so limited in its ratemaking authority.

5
6 The Commission previously has adopted a benchmarking approach on multiple
7 occasions. In fact, the original Kentucky access tariffs were permitted to mirror
8 the then-current traffic sensitive elements of interstate access tariffs.⁶⁹ The
9 Commission also relied on benchmarking to federal rates in another context when,
10 in March 2006, it decided to allow Kentucky ILECs to revise their intrastate
11 primary interexchange carrier (“PIC”) change charges to mirror federally tariffed
12 rates that fall within the “safe harbor” rates adopted by the FCC in CC Docket No.
13 02-53. The Commission said that “in light of the FCC actions and adoption of
14 new safe harbor rates, it is appropriate for the Commission to adjust its cap to
15 mirror the FCC’s interstate rates.”⁷⁰ This case should not be any different, as
16 Verizon’s lawyers will explain.⁷¹

⁶⁸ Direct Testimony of Patricia Rupich on Behalf of Cincinnati Bell Telephone Company LLC (“Rupich DT”) at 3.

⁶⁹ *Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements*, Order, Case No. 8838, at 40-41 (Nov. 20, 1984).

⁷⁰ *Petition of Duo County Telephone Coop. Corp.*, Order, Case No. 2006-00076 (Mar. 20, 2006).

⁷¹ The traditional standard for rate-setting is that rates must be just and reasonable (or, fair and reasonable). But regulators have historically (and often) set rates using a variety of public policy bases, with the provider’s cost of providing the service only one such basis. In fact, it can be argued that using cost as the basis of setting a service rate was the exception rather than the rule. More frequently, such concepts as “value of service” and “residual pricing” allowed regulators to set rates at pretty much whatever level they chose, in the interest of serving the public interest.

1

2 Indeed, under Cincinnati Bell’s argument, the Commission would never have the
3 authority to conduct an industry-wide investigation or address any rates on a
4 comprehensive, across-the-board basis. I am not aware of any statute, regulation
5 or decision that would so limit the Commission’s reach, and Cincinnati Bell has
6 cited none.

7

8 **Q. HAVE ANY PARTIES RAISED ANY OTHER CHALLENGES TO THE**
9 **COMMISSION’S ABILITY TO ADOPT A BENCHMARKING**
10 **APPROACH?**

11 A. Yes – Windstream previously argued that certain 2006 Kentucky statutory
12 amendments stripped the Commission of its jurisdiction over the intrastate
13 switched access rates of certain alternatively regulated carriers⁷² (although it
14 suggested, at the same time, that a generic proceeding, such as this one, would be
15 an acceptable alternative).⁷³ Hoping to escape scrutiny of its own rates, as well,
16 Cincinnati Bell parrots that jurisdictional argument.⁷⁴ However, while I am not

Having traditionally used such a wide variety of mechanisms for establishing “just and reasonable” rates, the Commission should be extremely skeptical of any claim that it is prohibited from using a benchmarking approach to determining just and reasonable rates.

⁷² See Caballero FT at 1-2.

⁷³ See, e.g., *Windstream Kentucky West, LLC, et al. v. Kentucky Public Serv. Comm’n*, Civ. Action No. 2009-CI-00552, Plaintiffs’ Brief (Franklin Cir. Ct., July 8, 2009) at 12 (Windstream arguing that the Commission should have initiated an “investigation of ... intrastate access reform in the context of a comprehensive proceeding aimed at the investigation of all ILECs,” such as the instant proceeding, “and not one targeted only at Windstream”).

⁷⁴ Rupich DT at 3.

1 attorney and cannot offer a legal interpretation, my understanding is that the
2 Commission and every court to examine the issue already have concluded that the
3 Commission continues to have the authority to review and reform intrastate
4 switched access rates of *all* Kentucky local exchange carriers.

5
6 Verizon previously addressed this issue in its April 15, 2011 Comments in this
7 docket, and I would refer the Commission to that discussion.⁷⁵ As I understand it,
8 this issue is still pending before the Kentucky Court of Appeals, but that Court
9 already has expressed its view that Windstream is not likely to prevail on the
10 merits of its jurisdictional claim and the courts have advised the Commission to
11 continue its scrutiny of intrastate switched access rates in the interim.⁷⁶

12

13 **Q. SHOULD THE COMMISSION LIMIT ITS ATTENTION TO**
14 **TERMINATING INTRASTATE SWITCHED ACCESS RATES?**

15 A. No. In order to achieve comprehensive reform, the Commission should address
16 both terminating and originating intrastate switched access rates.

17

18 Testifying on behalf of KCTA, tw telecom, Level 3 and PAETEC, Mr. Gillan
19 argues that the Commission should focus on potential reform of terminating
20 intrastate switched access rates and altogether bypass any review of originating

⁷⁵ See Comments of Verizon (Apr. 15, 2011) at 30-32.

⁷⁶ *Id.*

1 access rates – suggesting that “[o]riginating access is a vestige of a market
2 structure that has virtually disappeared.”⁷⁷ In particular, Mr. Gillan contends that
3 – because a majority of wireline customers today obtain long distance service
4 from the same company that provides their local service (or its affiliate) – there no
5 longer should be any concern that any originating local exchange carriers are
6 charging excessive originating switched access rates to any long distance
7 carriers.⁷⁸ In other words, Mr. Gillan is suggesting that no LECs would charge
8 excessive originating switched access rates any more because, in enough cases,
9 they would only be gouging themselves (or an affiliated company).

10

11 However, while I agree with Mr. Gillan that excessive terminating switched
12 access rates have been a greater concern (and a greater source of abusive arbitrage
13 schemes⁷⁹), I cannot agree that the Commission should simply ignore potentially
14 excessive originating intrastate switched access rates. Even using the data Mr.
15 Gillan cites, roughly 30% of residential subscribers and more than 50% of
16 business customers nationwide still use a long distance provider that is different
17 from and not affiliated with their local exchange carrier.⁸⁰ Accordingly, there is
18 still a significant opportunity for LECs to recover excessive originating switched
19 access charges from unaffiliated third party long distance carriers. And, in fact,

⁷⁷ Gillan DT at 8.

⁷⁸ *Id.* at 8-9.

⁷⁹ *Id.* at 10-11.

⁸⁰ *Id.* at 8-9.

1 the originating intrastate switched access rates for some Kentucky local exchange
2 carriers remain very high – again, many multiples of AT&T’s.

3
4 For example, Windstream West’s End Office/Local Switching rate plus the
5 Residual Interconnection rate for an originating minute is nearly **[REDACTED]** cents
6 (with its total composite per minute rate for originating switched access being
7 even higher).⁸¹ Similarly, Cincinnati Bell’s average end office rate per
8 originating minute is roughly **[REDACTED]** cents (which, again, is less than its composite
9 originating rate).⁸² And the TDS companies (Leslie County, Lewisport and
10 Salem) all charge between **[REDACTED]** and **[REDACTED]** cents per minute for originating
11 access services.⁸³

12
13 Accordingly, originating intrastate switched access rates in Kentucky remain a
14 concern, and the Commission must address them as part of any comprehensive
15 access reform.

16
17 **Q. AT LEAST SOME WITNESSES HAVE SUGGESTED THAT THEIR**
18 **ACCESS RATE REDUCTIONS SHOULD BE PHASED IN OVER TIME.**
19 **SHOULD THE COMMISSION CONSIDER A TRANSITION PERIOD**

⁸¹ Windstream’s Response to AT&T’s first Data Request, No. 11.

⁸² CBT’s Response to AT&T’s first Data Request, No. 11.

⁸³ Leslie County Telephone Company, et al, Corrected Response to AT&T’s first Data Request, No. 11 (filed September 8, 2011).

1 **FOR ANY RATE REDUCTIONS?**

2 A. No.

3

4 AT&T originally proposed a six-month delay to implement ILEC access charge
5 reductions.⁸⁴ Cincinnati Bell’s witness suggests any access rate reductions
6 “should ... be phased in over a period of time”⁸⁵ and TDS Telecom suggests
7 “[a]ny changes in access charges ... be ... gradually implemented over a glide
8 path ...,”⁸⁶ but leaves unclear just how long that should be. Other local exchange
9 carriers that would see their own intrastate switched access rates reduced self-
10 servingly suggest that those reductions should not be fully implemented for an
11 entire decade⁸⁷ or more.⁸⁸

12

13 But, if current intrastate switched access rates are unjust and unreasonable (and
14 they are), then they should be reduced immediately. Kentucky local exchange
15 carriers should not be permitted to continue reaping amounts to which they are
16 not entitled for a moment longer – especially in the case of any NTSRR charges
17 that the Commission long ago decided should be eliminated. Once the

⁸⁴ AT&T also proposed a 30-day period for CLEC access rate reductions, which would be acceptable as being more or less immediate.

⁸⁵ Rupich DT at 4.

⁸⁶ Mottern DT at 13.

⁸⁷ See Roesel DT at 5 (suggesting a transition period of up to ten years).

⁸⁸ Staurulakis DT at 6 (stating that “[a]t a minimum, the RLECs believe a transition period of at least ten years is appropriate”).

1 Commission has decided the rates should be reduced, there is no reason to delay
2 those reductions.

3
4 Indeed, AT&T's proffered reason for delaying implementation of ILEC access
5 rate reductions is solely to allow for implementation of a Kentucky state universal
6 service fund. But, as discussed below, there is no reason to create such a fund at
7 all, and certainly no reason to delay necessary access rate reductions in the
8 interim. As it stands now, the sooner the Commission implements access charge
9 reform, the sooner the Commonwealth will reap the associated benefits to
10 competition and consumers.

11
12 However, if the Commission determines that it is necessary to avoid consumer
13 rate shock or – as Cincinnati Bell suggests – to eliminate any claimed need to
14 establish a state universal service fund to replace lost access revenues,⁸⁹ then
15 Verizon would consider supporting the phase-in of the necessary switched access
16 rate reductions and any corresponding retail rate increases over a brief transition
17 period (of no more than three years).

18 **III. THE DIRECT TESTIMONY CONFIRMS THERE IS NO**
19 **JUSTIFICATION FOR ESTABLISHING A STATE UNIVERSAL**
20 **SERVICE FUND.**

21 **Q. HAVE OTHER PARTIES PROPOSED THAT THE COMMISSION TAKE**
22 **CERTAIN ADDITIONAL STEPS IN CONJUNCTION WITH ACCESS**

⁸⁹ Rupich DT at 5-6.

1 **RATE REFORM?**

2 A. Yes. AT&T originally proposed the possibility of establishing some sort of state
3 “universal service fund” to act as a replacement mechanism for at least some
4 portion of the revenues that Kentucky local exchange carriers would lose as a
5 result of the proposed intrastate switched access rate reductions.⁹⁰ In their direct
6 testimony, the witnesses for a few other parties (the RLECs, SouthEast and TDS
7 Telecom) go a step further, suggesting that any reductions to intrastate switched
8 access rates *must* be accompanied by the establishment of a new state fund that
9 would guarantee fixed revenue levels to their clients and other Kentucky LECs⁹¹ –
10 which effectively would undo any access reform at all.

11

12 **Q. SHOULD THE COMMISSION ESTABLISH A STATE UNIVERSAL**
13 **SERVICE FUND TO REPLACE REVENUE LOSSES ASSOCIATED**
14 **WITH THE PROPOSED ACCESS RATE REDUCTIONS?**

15 A. No. If access rates should be reformed (and, as discussed above, they should),
16 then there simply is no point to replacing those rate reductions with payments
17 from a state universal fund. As Sprint’s witness succinctly summarized:

18 Shifting the ... external funding source from bloated access
19 rates to universal service payments *fixes nothing*. The
20 competing carriers are still burdened and customers are still
21 burdened by their obligations to fund another carrier’s

⁹⁰ See AT&T Comments at 8-9.

⁹¹ See, e.g., Staurulakis DT at 3 (“The RLECs believe that the creation of a state universal service fund is essential to any intrastate switched access reform measures ...”); Roesel DT at 5; Mottern DT at 3 (asserting that “[a]ny reform adopted by this Commission ... should provide predictable sources of revenue to local voice providers ...”) and 6.

1 operations. ... If access overcharges are simply shifted to
2 universal services fund payments, competition is still
3 hindered and ... consumers are still harmed.⁹²

4 In other words, whether the excess subsidies come in the form of higher access
5 charges or universal service fund payments, the harm is the same. Swapping one
6 out for the other does not help. As the FCC repeatedly has observed,
7 economically efficient competition and the consumer benefits it yields cannot be
8 fully achieved as long as local exchange carriers seek to recover a
9 disproportionate share of their costs from other carriers, rather than from their
10 own end users.⁹³

11
12 Moreover, as I explained in my direct testimony, there is no need or public policy
13 justification in today's marketplace for guaranteeing any Kentucky LEC a level of
14 revenue that reflects historic, excessive subsidies.⁹⁴ The purpose of any
15 appropriate universal service fund is to ensure that consumers in every area have
16 access to basic telecommunications services at affordable rates. That is why, in
17 part, TDS Telecom suggests that current intrastate switched access rates must

⁹² Appleby DT at 10 (emphasis in original).

⁹³ See generally 2001 CLEC Access Charge Reform Order, *supra*; Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (May 31, 2000) (“CALLS Order”); Multi-Association (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report & Order and Further Notice of Proposed Rulemaking, CC Docket No. 00-256, Fifteenth Report & Order in CC Docket No. 96-45, and Report & Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (Rel. Nov. 8, 2001) (“MAG Order”).

⁹⁴ See Price DT at 49-51.

1 continue here or be replaced by a new state USF.⁹⁵ But a fund can only be
2 justified in those locations or instances where the alternative is that, without such
3 a fund, basic affordable service (and not just wireline service) will not be
4 available. The fund should not be used to avoid “driv[ing] customers away from
5 TDS ... [and toward] wireless, cable and other service providers.”⁹⁶ To the
6 contrary, a fund should be used only as a last resort to ensure end users can avail
7 themselves of service in some form – not to guarantee TDS Telecom (or any other
8 LEC) guaranteed revenues.

9
10 In that sense, the presence of those other providers in TDS Telecom’s service
11 territory only underscores why the Commission does not need to subsidize
12 wireline LECs through either excessive access charges or replacement “USF”
13 mechanisms. Because “the way people communicate has changed dramatically
14 over the last decade ...,”⁹⁷ there no longer is the same need to subsidize the
15 provision of local service by traditional wireline local exchange carriers. The
16 testimony in the record establishes that “consumers increasingly enjoy a rich and
17 almost dizzying array of communications modalities,”⁹⁸ with broadband service
18 “widely available in Kentucky” and “geographically widespread throughout the

⁹⁵ See Mottern DT at 9-10.

⁹⁶ *Id.* at 10.

⁹⁷ Aron DT at 29.

⁹⁸ *Id.* at 31.

1 state”⁹⁹ and Kentucky consumers increasingly preferring wireless and other forms
2 of communication to traditional wireline LECs. “Wireless service is ... widely
3 available in Kentucky,”¹⁰⁰ “most of the state has wireless coverage, with a
4 significant portion of it being served by three or more wireless providers,”¹⁰¹ with
5 wireless “lines” now “far exceeding the number of ILEC access lines in the
6 state.”¹⁰²

7
8 In this regard, the most recent data show that, as of mid-June of last year, nearly a
9 third (31.5%) of Kentucky households had entirely abandoned landline service for
10 wireless service – one of the highest percentages of wireless-only households in
11 the country. Another 13.8% of households used “mostly” wireless telephone
12 service to meet their calling needs.¹⁰³ So, nearly half of Kentucky consumers
13 relied completely or mostly on wireless telephone service. These figures are
14 surely higher now, over a year later, as the shift toward wireless service and away
15 from landline continues – just as the percentage of landline-only households
16 (including non-ILEC landline households), which stood at just 12.8% last June,
17 has likely gotten even lower. With respect to landline competitors, the non-ILEC
18 percentage of switched access lines and VoIP subscriptions had reached 28% at

⁹⁹ *Id.* at 30-31.

¹⁰⁰ *Id.* at 29.

¹⁰¹ *Id.* at 29-30.

¹⁰² *Id.* at 32.

¹⁰³ See Centers for Disease Control, *Wireless Substitution: State-Level Estimates from the National Health Interview Survey, January 2007-June 2010* (April 20, 2011), at 3-4 & Table 3.

1 mid-year 2010.¹⁰⁴ The fact that large and ever-increasing numbers of Kentucky
2 consumers are choosing alternatives to ILEC wireline service is irrefutable proof
3 that consumers are no longer forced to rely solely on ILEC wireline service to
4 meet their needs for affordable basic telecommunications services.

5
6 Indeed, historically, the purpose of universal service policy has been to ensure
7 “affordability,” but the decision as to what is affordable has been driven by
8 political – rather than economic – factors. Now, with new technologies and
9 competitive alternatives, the evidence as to what is truly affordable can be seen in
10 consumers’ choices. For example, nationwide, adults living in poverty (42.8%) or
11 near poverty (35.2%) are *more* likely than higher-income individuals (24.1%) to
12 be living in households with only wireless telephones.¹⁰⁵ This only confirms that
13 consumers can and increasingly do obtain affordable service from providers other
14 than wireline ILECs.

15
16 In this climate, a system of legacy cross-subsidies “is entirely obsolete.”¹⁰⁶
17 Consumers already can and increasingly do obtain affordable voice services from

¹⁰⁴ See FCC, Industry Analysis and Technology Division, Wireline Competition Bureau, *Local Telephone Competition: Status as of June 30, 2010* (March 2011) (“2010 Local Competition Report”), Table 8.

¹⁰⁵ See Centers for Disease Control, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2010* (June 8, 2011), at 3.

¹⁰⁶ Aron DT at 29.

1 other providers. As such, there is no need to create a government fund to meet
2 universal service objectives in Kentucky when the market already has met them.

3
4 If anything, continuing to subsidize local exchange carriers through either
5 excessive access charges or a state replacement fund actually harms those carriers
6 in the long run, as it only increases their reliance on a traditional wireline model
7 that consumers are less likely to support going forward as they increasingly
8 choose wireless, VoIP and other alternative providers for their communication
9 needs. Continuing to subsidize traditional wireline local exchange carriers in
10 these circumstances is counterproductive, as it reduces the LECs' incentive to
11 transition to a more viable business model that reflects the changing
12 communications market. As Dr. Aron summarizes on behalf of AT&T:

13 ... [T]elecommunications carriers must adjust their
14 business models away from reliance on revenues from
15 other carriers and towards cost-recovery from their own
16 customers. The [LECs'] desire to hold on to legacy
17 revenue streams, while understandable, is not only futile [as
18 access minutes decline] but is counterproductive because
19 carriers must migrate to new revenue streams such as
20 broadband services and VoIP in order to be viable in the
21 long run.¹⁰⁷

22
23 **Q. HAVE OTHER PARTIES RECOGNIZED A BETTER ALTERNATIVE TO**
24 **ESTABLISHING A REVENUE REPLACEMENT FUND?**

¹⁰⁷ *Id.* at 34.

1 A. Yes. Other parties have joined Verizon in recognizing that Kentucky local
2 exchange carriers should seek to recover any lost revenues associated with access
3 rate reductions through retail rate rebalancing, rather than establish a new state
4 fund.

5
6 For example, Sprint’s witness, Mr. Appleby, devotes several pages to explaining
7 why and how he believes Kentucky LECs can recoup access revenue reductions
8 from their own retail customers.¹⁰⁸

9
10 Likewise, Cincinnati Bell, which is one of the few parties to voice any opposition
11 to access charge reductions in general, concedes that – should access rates be
12 reduced – “the first line of recourse should be rate rebalancing by the affected
13 company” and the carrier should not “automatically be eligible to draw from a
14 universal service fund.”¹⁰⁹

15
16 Even AT&T – which originally proposed the possibility of a state fund –
17 unequivocally recognizes that retail rate rebalancing is the most appropriate tool
18 to replace lost access revenues: “CLECs should be allowed to use their pricing
19 flexibility to recover the revenue lost [to access rate reductions] by increasing

¹⁰⁸ Appleby DT at 23-29.

¹⁰⁹ Rupich DT at 4.

1 local rates”¹¹⁰ and “ILECs should be allowed the opportunity to recover the
2 revenue lost [to access rate reductions] by being granted the flexibility to increase
3 local rates.”¹¹¹

4
5 AT&T emphasizes that the fund should only be a last resort if retail rate
6 rebalancing somehow proves insufficient. AT&T’s witness made clear that resort
7 to a fund should occur only “[i]f the necessary increase in [retail] local rates
8 exceeds a level that is palatable to the Commission in the short run ...” and – even
9 then – recovery from any state fund should be temporary and “decreased over
10 time as the permitted local rate increases.”¹¹²

11
12 Accordingly, while AT&T may be willing as a matter of “policy” to accept a
13 reduction in access rates over a brief transition period while allowing temporary
14 recovery from a state universal service fund,¹¹³ that is neither optimal nor
15 economically desirable. To the contrary, AT&T candidly recognizes that
16 “reducing access rates and permitting at least partial recovery of foregone
17 revenues through higher [retail] local exchange rates both benefit competition”
18 and consumers.¹¹⁴

¹¹⁰ *Id.* at 5.

¹¹¹ *Id.*

¹¹² *Id.* See also *id.* at 72 (recognizing that, “[f]rom a purely economic perspective, it is generally superior to permit retail prices to adjust” to allow LECs to “recover costs”).

¹¹³ *Id.* at 6, 72-73.

¹¹⁴ *Id.*

1

2 The Commission therefore should permit Kentucky local exchange carriers to
3 rebalance their retail rates to recoup any revenue losses associated with access
4 rate reductions (and there has been no showing that they could not do so), rather
5 than establish a new state revenue replacement fund.

6

7 **Q. IS YOUR PROPOSAL CONSISTENT WITH THE COMMISSION’S PAST**
8 **ACTIONS?**

9 A. Yes. When the Commission has spoken of the need to “eliminate the NTSRR”¹¹⁵
10 and “other implicit subsidies,”¹¹⁶ it has referred only to eliminating those charges
11 and *not* to replacing them with explicit funding mechanisms. Indeed, the
12 Commission has never established the same kinds of explicit funding
13 mechanisms, such as a universal service fund, when it previously ordered access
14 charge reductions. And it should not start now. In Kentucky, local exchange
15 carriers can and should look to recoup any unrecovered costs from their end user
16 customers.¹¹⁷

17

18 **Q. IF, DESPITE YOUR RECOMMENDATION, THE COMMISSION**
19 **NEVERTHELESS WERE TO IMPLEMENT A FUND TO REPLACE**

¹¹⁵ 2000 Certification Order at 2.

¹¹⁶ *Inquiry into Universal Service and Funding Issues*, Adm. Case No. 360, Order, at 35.

¹¹⁷ Verizon would also support further relaxing or eliminating any legacy regulatory requirements that might slow the LECs’ ability to rebalance retail rates quickly, reduce their costs, or otherwise make up for reduced access revenues.

1 **REVENUE LOSSES ASSOCIATED WITH ACCESS RATE**
2 **REDUCTIONS, WHAT PRINCIPLES SHOULD GUIDE THE**
3 **COMMISSION IN ESTABLISHING THAT FUND?**

4 A. For the reasons stated above and in my prior testimony, the Commission should
5 reject any proposed replacement fund. Establishing a state fund to replace the
6 excessive subsidies embedded in the current intrastate switched access charge
7 regime would not represent meaningful reform; it simply would shift the
8 problems associated with the current carrier-funded regime into a new carrier-
9 funded regime.

10
11 Nevertheless, if the Commission were to establish a fund (and it should not), the
12 Commission should adhere to certain guiding principles to minimize the
13 consumer and competitive harms caused by that fund. Among other things:

- 14 • Local exchange carriers should not be permitted to receive subsidization
15 from the fund unless and until they first increase their retail local exchange
16 rates to meet or exceed a benchmark level, so as to avoid further anti-
17 competitive suppression of local rates.¹¹⁸
- 18 • Any fund must be limited to the replacement of revenue losses associated
19 solely with the ordered intrastate switched access rate reductions – and not
20 allow local exchange carriers to make up revenue losses associated with
21 market-driven access line losses.
- 22 • Any fund must be of fixed and limited duration, with an express sunset
23 provision.
- 24 • Any fund should not saddle newer alternative providers – like wireless and
25 VoIP providers – with contribution burdens that stifle innovation and
26 inhibit competition.

¹¹⁸ See, e.g., Rupich DT at 4-5.

1

2 **Q. WOULD IMPOSING NEW CONTRIBUTION BURDENS ON WIRELESS**
3 **AND VoIP PROVIDERS HARM CONSUMERS?**

4 A. Yes.

5

6 AT&T has suggested that, because providers of relatively newer technologies
7 (such as wireless providers) currently do not pay access charges in the same way
8 that traditional wireline long distance carriers do, establishing a fund to be paid
9 for by all providers alike actually would be beneficial from a competitive
10 standpoint.¹¹⁹ Similarly, although Cincinnati Bell generally opposes the
11 establishment of a fund, it argues that – if a fund is established – all providers,
12 including wireless and VoIP providers, should have to contribute equally to the
13 fund.¹²⁰

14

15 Sprint indicates that the contrary would be true: because wireless providers
16 currently do not receive any access charges on toll calls received from local
17 exchange carriers to wireless customers, it is not competitively fair to require
18 those wireless providers to make access payments on calls going the other way.¹²¹

19 Mr. Appleby explains that there currently is an “asymmetrical intercarrier
20 compensation arrangement [that] shifts dollars from wireless customers to

¹¹⁹ See, e.g., Aron DT at 11, 53-55.

¹²⁰ Rupich DT at 6.

¹²¹ See Appleby DT at 3.

1 wireline customers, creating a competitive imbalance between wireline and
2 wireless service.”¹²²

3
4 This is consistent with my own direct testimony, where I explained that the
5 Commission should avoid burdening newer technologies – like wireless – that are
6 increasingly preferred by consumers, that drive innovation and investment in
7 Kentucky,¹²³ and that are meeting universal service needs *without* the need for
8 government subsidies. It would be improper and unfair to impose a state “USF”
9 contribution requirement on wireless carriers or VoIP providers when they do not
10 participate in the access charge system the way LECs do. This is particularly true
11 because, while the Commission expressly sought intervention in this case from
12 IXCs and CLECs, it did *not* seek participation from wireless carriers, whose rates
13 it does not regulate. And in light of Kentucky statutes exempting wireless and
14 VoIP services from Commission regulation, my understanding is that any
15 proposal to tax wireless carriers or VoIP providers to “make whole” the LECs
16 potentially would face immediate legal problems.

17
18 But, even if there were no jurisdictional or other legal barriers to the Commission
19 exercising authority to assess wireless and VoIP providers in this manner, the
20 Commission would have to reject such action as a matter of public policy. Public

¹²² *Id.* at 9.

¹²³ *See* Price DT at 57-59.

1 policy dictates that the Commission should not require providers of new,
2 innovative services — including wireless and VoIP services — to finance the
3 legacy business models of wireline telephone companies, especially where the
4 record indicates that those newer providers already are willing and able to provide
5 affordable voice services in the LECs’ service areas without subsidization. The
6 Commission should not burden new services and technologies (and the customers
7 that use them) based on legacy regulatory concepts and obligations that have
8 outlived their usefulness. Doing so will only lead to higher rates, less innovation,
9 reduced investment, and fewer competitive options and benefits for Kentucky
10 consumers.

11 **IV. THE DIRECT TESTIMONY CONFIRMS THAT THE COMMISSION**
12 **NEED NOT AWAIT FURTHER ACTION BY THE FCC.**

13 **Q. SOME WITNESSES HAVE SUGGESTED THAT THE COMMISSION**
14 **SHOULD DELAY ANY ACTION HERE PENDING POTENTIAL FCC**
15 **ACTION ON INTERCARRIER COMPENSATION AND ACCESS**
16 **REFORM.¹²⁴ DO YOU AGREE?**

17 A. No. Given the particular record and circumstances here – including, among other
18 things, the persistence of the NTSRR charges the Commission long ago decided
19 to eliminate and the fact that the Commission already has rejected requests to
20 delay pending FCC action – there is no need for the Commission to await the
21 FCC’s ruling to take the steps Verizon has recommended to reform rates here. In

¹²⁴ See, e.g., Gillan DT 3; Staurulakis DT at 3, 5-6; Roesel DT at 6.

1 particular, eliminating the NTSRR and adopting a benchmark approach to setting
2 intrastate switched access rates would not only would be entirely consistent with
3 the reform proposals currently before the FCC¹²⁵ but, as other parties have
4 recognized, in many ways would “merely catch[] up to decisions the FCC made
5 over a decade ago.”¹²⁶

6

7 **Q. HAS VERIZON MADE ANY ACCESS REFORM PROPOSALS AT THE**
8 **FCC?**

9 A. Yes. Verizon and five other companies, including AT&T and Windstream, filed a
10 plan with the FCC that would reform the intercarrier compensation and universal
11 service systems with respect to federal price-cap carriers. At the same time, those
12 companies and a coalition of associations representing rural incumbent local
13 exchange companies filed a joint letter agreement with the FCC on the key points
14 of universal service and intercarrier compensation reform, including a schedule
15 for phase-down of intercarrier compensation for all carriers and a budget and
16 other details of universal service funding repurposed for broadband. These
17 complementary proposals, if implemented, would resolve at the federal level
18 many open intercarrier compensation and universal service funding issues – some
19 of which are under consideration in this docket. Among other things, the plan
20 would transition all companies’ terminating intercarrier compensation rates, for

¹²⁵ See Comments of Verizon (Apr. 15, 2011) at 32-33.

¹²⁶ Aron DT at 69.

1 both intrastate and interstate traffic, down to \$0.0007 a minute over a multi-year
2 period. This approach is consistent with the concept and direction of Verizon's
3 proposal here to move all carriers to uniform access rates by benchmarking all
4 carriers to AT&T's intrastate switched access rate.

5
6 The FCC comment cycle on the industry plan has now closed, and industry
7 observers anticipate an FCC ruling this fall. Therefore, I expect that the
8 Commission will be able to factor any such FCC action on intercarrier
9 compensation and universal service reform into its deliberations in this case.

10

11 **V. CONCLUSION.**

12 **Q. IN LIGHT OF YOUR REBUTTAL TESTIMONY, WHAT SHOULD THE**
13 **COMMISSION DO IN THIS CASE?**

14 A. The Commission should act immediately to reform the Kentucky intrastate
15 switched access charge system by: (1) eliminating all NTSRR charges from
16 intrastate switched access rates; and (2) requiring all Kentucky local exchange
17 carriers to benchmark their intrastate switched access rates to AT&T's intrastate
18 rates. To the extent any carrier wishes to recover revenue losses associated with
19 these access rate reductions, the Commission should permit that carrier to recoup
20 those losses through retail rate rebalancing. However, the Commission should
21 reject any proposal to establish a new state fund to replace lost access charges.

22 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

23 A. Yes.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE INTRASTATE)	
SWITCHED ACCESS RATES OF ALL KENTUCKY)	ADMINISTRATIVE
INCUMBENT AND COMPETITIVE LOCAL)	CASE NO. 2010-00398
EXCHANGE CARRIERS)	

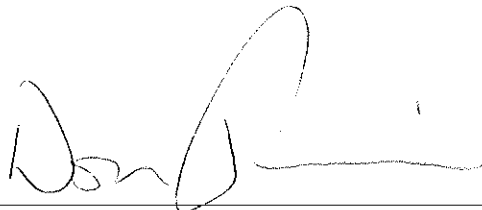
AFFIDAVIT OF DON PRICE

STATE OF TEXAS)
) ss
COUNTY OF TRAVIS)

I, Don Price, after being duly sworn, depose on oath and state as follows:


I am Director – State Public Policy for Verizon. I am appearing as a witness for Verizon before the Kentucky Public Service Commission in Case No. 2010-00398, and if present before the Commission and duly sworn my statements would be set forth in the rebuttal testimony I filed September 30, 2011 consisting of 42 pages.

FURTHER AFFIANT SAYETH NOT.



Don Price

Subscribed and sworn to before me
This 29th day of September, 2011.



Notary Public

