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PUCO

Ms. Barcy F. McNeal
 Secretary
 Public Utility Commission of Ohio
 180 East Broad Street
 Columbus, Ohio 43266-0573

Re: *Armstrong Telecommunications Inc.*
VoIP-PSTN Tariff Filed March 12, 2012
 Case No. 12-0948-TP-ATA

Dear Ms. McNeal:

On November 18, 2011, the Federal Communications Commission ("FCC") issued a Report and Order reforming the universal service and intercarrier compensation systems on a nationwide basis (the "FCC Order").¹ A number of local exchange carriers in Ohio have filed revisions to their intrastate switched access tariffs to reflect implementation of the FCC's new "VoIP-PSTN" intercarrier compensation regime. Armstrong Telecommunications Inc. ("Armstrong") also filed revisions to its intrastate switched access tariff. However, these tariff revisions do not properly implement the FCC Order in some respects, discussed below. Verizon asks the Commission to order Armstrong to re-file the tariff to do so.

1. Failure to Include Provisions for a Company-Provided PVU

While Armstrong's tariff properly accounts for traffic that its access customers either originate or terminate in IP format,² it does not take into account traffic that is originated or terminated *on Armstrong's own network* in IP format. The plain language of the FCC's VoIP-PSTN compensation rule applies to traffic "exchanged between a local exchange carrier and another telecommunications carrier in [TDM] format that *originates and/or terminates* in IP format."³ As such, any traffic originated and/or terminated by Armstrong in IP format is subject to the FCC's new VoIP-PSTN regime, and yet, is excluded from the tariff.

¹ *Connect America Fund*, WC Docket No. 01-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking (November 18, 2011), ¶¶ 933-975; 47 C.F.R. § 51.913(a).

² See Armstrong Tariff at §§ 2.9.8(C)(1).

³ 47 C.F.R. § 51.913(a) (emphasis supplied); see also FCC Order ¶ 940.

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Armstrong's tariff asserts that it "does not originate or terminate traffic in IP format."⁴ The Commission should not accept Armstrong's questionable allegation at face value. In a Pennsylvania proceeding, Armstrong originally admitted that *all* traffic originated and terminated on its network in IP format, but later changed its mind, claiming that *no* traffic originated or terminated on its network in IP format (even though nothing about its network had changed).⁵ Armstrong took this tack, which rests on its unique (and incorrect) interpretation of the FCC's definition of VoIP-PSTN traffic, to attempt to remove its traffic from the FCC's VoIP-PSTN compensation regime and keep charging intrastate access on that traffic. Verizon expects that Armstrong is taking a similar position here. The Commission should not permit Armstrong to evade the requirements of the FCC Order through an incorrect and self-serving interpretation thereof.

2. *Unfair Factor Setting Terms*

Because the FCC Order requires VoIP-PSTN traffic that would otherwise be billed at intrastate switched access rates to be billed at the generally lower interstate rates, carriers have incentives to delay implementation of the new regime in order to preserve existing revenue streams. Armstrong's tariff seeks to preserve existing intrastate access revenue streams by setting an unreasonably short PVU factor submission period ("at least 15 days prior to the next bill date"); by applying PVU factors *prospectively only*; and by giving Armstrong the discretion not to apply a customer's PVU factor at all unless and until Armstrong can modify its billing systems to accommodate the factor.⁶ This unfairly gives access customers insufficient time to implement the new VoIP-PSTN traffic identification process that is required by the FCC's VoIP-PSTN regime, and undermines the FCC's clear intention to put the new regime into effect as of January 1, 2012.⁷ In contrast, the tariffs filed by many other carriers allow the customer until April 15, 2012 to submit initial customer PVU factor(s), and then apply those factors *retroactively*. The Commission should require Armstrong to give customers a reasonable time to submit initial PVU factors, and to make those factors applicable retroactively to January 1, 2012 once any disputes are resolved.

* * *

The Commission should order Armstrong to refile a corrected tariff to ensure that it implements the VoIP-PSTN intercarrier compensation regime as the federal rules require.

⁴ See Armstrong Tariff at §§ 2.9.8(A)(1).

⁵ See discussion of record evidence at page 3 of Verizon's January 6, 2012 Reply Brief in Pennsylvania Public Utility Commission Docket Nos. C-2010-2216205, C-2010-2216311, C-2010-2216325 and C-2010-2216293 (*Armstrong Telecommunications, Inc. v. Verizon Pennsylvania Inc. et al.*).

⁶ See Armstrong Tariff at §§ 2.9.8(D)(1) & (D)(2).

⁷ See FCC Order, ¶ 939, n. 1890.

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Sincerely,

A handwritten signature in black ink, appearing to read 'B. E. Royer', with a long horizontal flourish extending to the right.

Barth E. Royer
Counsel for Verizon

cc: James D. Mitchell, Armstrong Telecommunications Inc
(jmitchell@agoc.com)