

COMMONWEALTH OF PENNSYLVANIA



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January 9, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Joint Petition of Verizon Pennsylvania LLC and Verizon
North LLC for Competitive Classification of all Retail
Services in Certain Geographic Areas, and for a Waiver of
Regulations for Competitive Services
Docket No. P-2014-2446303; P-2014-2446304

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Appendix A that was inadvertently omitted from the e-filed copy of the Main Brief filed yesterday with the Commission, in the above-referenced proceeding.

If you have any questions, please feel free to contact me.

Respectfully submitted,

A handwritten signature in black ink that reads "Hobart J. Webster".

Hobart J. Webster
Assistant Consumer Advocate
PA Attorney I.D. # 314639

Enclosures

cc: Honorable Joel H. Cheskis
200621

APPENDIX A

Proposed Findings of Fact

1. Verizon Pennsylvania LLC and Verizon North LLC (collectively “Verizon”) are incumbent local telecommunications companies in Pennsylvania. Joint Petition ¶ 4.
2. On October 6, 2014, Verizon filed a Joint Petition seeking the competitive classification of basic dial-tone service and other protected services under 66 Pa. C.S. § 3016(a) in 194 wire centers. Joint Petition Exhibit A.
3. The Joint Petition also seeks a waiver until December 31, 2025, of the Commission’s regulations at 52 Pa. Code Chapter 63 Subchapters B, C, E, F, and G and all of Chapter 64. Joint Petition ¶ 15.
4. Like services relative to Verizon’s protected, basic local calling service should meet or exceed the objective qualities of adequate, reliable, and safe voice service. OCA St. 1 at 10.
5. Neither cable telephony nor wireless service are like or superior to Verizon’s basic service on these criteria. Nor are such cable telephony or wireless services adequate substitutes, that would impose the necessary competitive discipline and constrain Verizon from pricing basic local service above competitive levels. OCA St. 1 at 9.
6. Adequate voice service is characterized by the ability to transmit voice communications within a specific frequency range and without transmission delay or latency. OCA St. 1 at 11.
7. Six elements characterize safe voice service: 1) the ability of the public to reach 911, first responders and other emergency response authorities, 2) the ability to participate in public alert systems and to provide emergency information to the public in adverse conditions, 3) the protection of essential public safety and national security communications services, 4) the provision of assistance to law enforcement, 5) ensuring network security, and 6) ensure that there is adequate backup power at the central office. OCA St. 1 at 11-12.
8. To qualify as reliable voice service equivalent to basic local exchange service, reliable voice service must be able to work during emergencies, whether due to commercial power outages or periods of very high demand. OCA St. 1 at 12.
9. Wireless networks and service do not currently provide safe voice service at the same high level as Verizon’s basic local service, particularly when E911 dispatchers need to identify the wireless caller’s location. OCA St. 1 at 12; CWA-IBEW St. 1 at 30-31.
10. Cable networks and wireless networks “do not have the ability to remain viable when there are commercial electrical outages and therefore, services provided over these networks are not like services.” OCA St. 1 at 12.

11. The websites for Comcast and other cable providers expressly caution consumers that their VoIP services, including 911 calling, may not function after extended outages. CWA-IBEW St. 1 at 35.
12. Unlike Verizon's wireline network, wireless networks are not designed to handle high spikes in demand. OCA St. 1 at 12-13.
13. Cable telephony and wireless service have unique characteristics that make them significantly different from basic local exchange service. OCA St. 1 at 10.
14. Consumers have chosen to subscribe to cable telephony services or wireless services. However, these consumer choices are driven by those features or functions which are unique to wireless or cable services and cannot be duplicated or met through the purchase of Verizon's basic local exchange service.. OCA St. 1 at 15.
15. In order to demonstrate that like services from other providers are available, 100% of the households in the wire center can choose from among at least two alternative providers unaffiliated with Verizon and at least 100% of the households can choose a facilities-based alternative provider that owns its own wireline network facilities. OCA St. 1 at 13-14.
16. An examination of census block data reveals that in 181 of 194 wire centers covered by the application there is at least one populated census block that is unserved by a cable provider. OCA St. 1-S at 8-9.
17. The existence of a cable provider in every Verizon wire center does not imply that cable service is ubiquitous. OCA St. 1-S at 8.
18. Cable franchises are not required to match the geographic boundaries of Verizon wire centers and cable providers are not required to offer service throughout their franchise areas. OCA St. 1-S at 9.
19. Where a cable provider serves a wire center, there is no guarantee that all customers in that wire center will have cable access. Tr. at 136-137.
20. The market for basic service is not competitive and Verizon will have the ability to sustain prices above competitive levels should the Commission grant Verizon's request. See, OCA St. 1 at 17-33; see also, CWA-IBEW St. 1.0 at 16-27, 39-47.
21. The communications markets could be defined as three separate markets. These markets are the basic local exchange market, the bundle market and the wireless market. The basic local exchange market is dominated by Verizon with a small number of fringe companies providing the same service. The bundle market is dominated by Verizon and the cable company with a small number of fringe providers. It is characterized by a company that can provide very high speed data service, video service along with voice service. The FCC has found that 100 GBs of service per month is part of bundle service. Even though wireless providers provide video service, their price of 100 GBs of service per month is very high, and the FCC did not consider

wireless providers to be carriers that compete with wireline telephone carriers when it determined its CAF II universal service rules. The third market is the wireless market. This market's dominant characteristics are the mobility of the cell phone and the applications available on the cell phone. OCA St. 1 at 21.

22. Verizon can impose a small but significant price increase in basic local exchange service market without competitive pressure from the bundle service market and the wireless market. OCA St. 1 at 25.

23. In states where competitive classification of basic service has occurred, Verizon has increased prices for this service. See, OCA St. 1 at 33-42.

24. The federal Lifeline discount provides a \$9.25 credit to make their bill for basic service more affordable. Should Verizon increase rates for basic service, the Verizon Lifeline consumer's bill for basic service would increase dollar for dollar. OCA St. 1 at 52-53.

25. If the Commission grants the reclassification, the Commission should cap all Lifeline rates at their current levels to protect those consumers from the burden of paying rates that are not just, are not reasonable and are not affordable. OCA St. 1 at 53.

26. It has taken years to educate consumers about their rights under Chapters 63 and 64 and, as evidenced by the thousands of complaints handled by BCS each year [...] customers have come to expect and rely on those rights.. CAUSE-PA St. No. 1 at 16.

27. It is inappropriate to examine these regulations in this proceeding because this proceeding must be completed within 150 days and that timeframe will not allow for a complete analysis of the implications of waiving these particular regulations at this time. OCA St. No. 1 at 51.

28. The regulations contained in Chapters 63 and 64 remain relevant - and critical - to the delivery of reliable and affordable telecommunication services in Pennsylvania, and for the continued protection of consumers who rely on the Commission to ensure the continued availability of this most essential and basic utility service. CAUSE-PA St. No. 1 at 16.

29. The removal of the regulations will undermine the ability of the Division of Consumer Services to investigate consumer complaints and thus reduce the Division's ability to protect consumers. These regulations establish the standards for determining whether Verizon's service is safe, adequate and reliable. Without these regulations, the Division will not have any guidelines or standards that it can use to determine if Verizon's services are no longer safe, adequate and reliable. OCA St. 1 at 51.

30. The Commission should consider the future impact of a grant of competitive classification on Verizon's still protected basic service rates, as set pursuant to the Verizon PCO formulas. See, OCA St. 1 at 49-50.

31. AT&T has not provided any cost study to support its claim that Verizon's originating access charges are or will be unjust and unreasonable if Verizon is granted competitive classification of basic service. OCA St. 1 at 5; OCA St. 1-R at 6; OCA St. 1-S at 15; TR. at 113-14.

Proposed Conclusions of Law

1. Verizon has the burden of proof in this proceeding. 66 Pa. C.S. §§332(a) and 3016(f).
2. Verizon must prove that "like or substitute" services to basic dial-tone service are available in each of the 194 wire centers it included in the Joint Petition. 66 Pa. C.S. § 3016(a).
3. The Commission must make its determination based on an evaluation of the competitiveness of the market in each of the 194 wire centers included in the Joint Petition. 66 Pa. C.S. § 3016(a)(3).
4. Verizon has failed to meet its burden of proof that "like or substitute" services to basic dial-tone service are available in any of the 194 wire centers.
5. This Commonwealth's telecommunications policy includes the following: "[I]t is the policy of this Commonwealth to: ... (2) Maintain universal telecommunications service at affordable rates ... ; (3) Ensure that customers pay only reasonable charges for protected services which shall be available on a nondiscriminatory basis; ... (6) Ensure the efficient delivery of technological advances and new services throughout the Commonwealth in order to improve the quality of life of all Commonwealth residents ... ; [and] (8) Promote and encourage the provision of competitive services by a variety of service providers on equal terms ... without jeopardizing the provision of universal telecommunications service at affordable prices." 66 Pa. C.S. § 3011.
6. Any waiver of any provision in Chapter 63 Subchapter E must be based on a showing of "unreasonable hardship" to the party requesting the waiver. 52 Pa. Code § 63.53(e).
7. Any waiver of any provision in Chapter 64 must be based on a showing on "unreasonable hardship" to the party requesting the waiver. 52 Pa. Code § 64.212.
8. Verizon has failed to meet its burden of proving that it would suffer an unreasonable hardship if it were required to continue complying with the requirements of Chapters 63 and 64.
9. Verizon has failed to meet its burden of proving that it cannot reasonably comply with the requirements of Chapters 63 and 64.

Proposed Ordering Paragraphs

IT IS ORDERED:

1. That the Joint Petition filed by Verizon Pennsylvania LLC and Verizon North LLC on October 6, 2014, seeking the competitive classification of all retail services in 194 wire centers is hereby denied.
2. That the Joint Petition filed by Verizon Pennsylvania LLC and Verizon North LLC on October 6, 2014, seeking a waiver of Commission regulations at 52 Pa. Code Chapter 63 Subchapters B, C, E, F, and G and all of Chapter 64 is hereby denied.
3. That a copy of this Final Order shall be served on the Bureau of Investigation and Enforcement and all parties of record in this proceeding. The Order shall also be posted on the Commission's website.

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