

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120

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

Public Meeting August 20, 2015  
2446303-OSA  
Docket Nos. P-2014-2446303 and  
P-2014-2446304

**JOINT STATEMENT OF VICE CHAIRMAN JOHN F. COLEMAN, JR. AND  
COMMISSIONER ROBERT F. POWELSON**

The Commission previously issued a Tentative Implementation Opinion and Order (*Tentative Implementation Order*) seeking comments on our proposed clarification of certain matters related to our March 4, 2015 Opinion and Order at the above-captioned docket (*Reclassification Order*). The *Reclassification Order* granted, in part, the petition of Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) (collectively Verizon) to reclassify as competitive all retail services in 194 wire centers serving geographic areas in or adjacent to Verizon's Philadelphia, Erie, Scranton/Wilkes-Barre, Harrisburg, Pittsburgh, Allentown, and York service areas. The retail services that were reclassified in 153 Verizon wire centers included stand-alone basic telephone service.

The Commission's proposed clarifications were intended to facilitate the implementation of the *Reclassification Order* and pertained to the following matters: the application of Verizon's Product Guide, Verizon's Carrier of Last Resort (COLR) obligations, the application of the reporting requirements in Section 64.201 of our regulations, 52 Pa. Code § 64.201, and the waiver of Chapter 64's Subchapters E, F and H concerning suspension, termination and restoration of service rules in competitive wire centers, 52 Pa. Code §§ 64.61 – 111, 64.121 – 123, and 64.181 – 182. Comments to the *Tentative Implementation Order* were filed by Verizon, the Office of Consumer Advocate (OCA), and Full Service Network, LP (FSN).

Upon review, we agree with clarifying the legal status of the Product Guide in Commission proceedings (i.e., that it is not akin to a tariff), eliminating the advanced notice filing requirement for Product Guide changes, affirming Verizon's COLR obligation, as stated in the *Reclassification Order* and clarified by the *Tentative Implementation Order*, and affirming the suspension of service, etc. rules in competitive wire centers that were proposed in the *Tentative Implementation Order*.

The Motion before us, however, limits the scope of the partial waiver of Section 64.201 to competitive wire centers *only*. The rationale is that the Commission cannot waive reporting requirements for noncompetitive wire centers as part of this proceeding. Rather, in accordance with the Motion, Verizon must now file a separate petition to have any reporting requirements waived for noncompetitive wire centers. Such an outcome is different than in the *Tentative Implementation Order*, which proposed to extend the Section 64.201 partial waiver to both competitive and noncompetitive wire centers for Verizon *now in this docket*.

Upon review of the comments and relevant law, we would adopt the tentative proposal and waive Section 64.201, in part, for both competitive and noncompetitive wire centers. There is no legal or other reason of which we are aware that would preclude such relief now.

The *Reclassification Order* set up an unintended scenario where the Commission would receive two Section 64.201 reports from each of the two Verizon companies – a noncompetitive wire center report with all of the traditional Section 64.201 information included and a streamlined competitive wire center report with only the unwaived information included.<sup>1</sup> We viewed this outcome as clearly inefficient. Consequently, the *Tentative Implementation Order* proposed a partial waiver of Section 64.201 in both competitive and noncompetitive wire centers so that each Verizon company could file one streamlined Section 64.201 report for Pennsylvania containing information (with a focus on basic service) that is relevant to our existing regulatory responsibilities.

The Section 64.201 reporting items that we proposed to waive are historic remnants and have no contemporary value to the Commission because the underlying services are no longer of concern in the current marketplace. This statement is true whether we are speaking about a competitive or noncompetitive wire center. For example, standalone per minute toll charges were prevalent in 1984 when the relevant regulations were first implemented. Today, they are not important. Simply stated, our staff does not need the data that we proposed to waive. Nor does anyone else. No one in this proceeding stated that they even look at the waived data, yet alone need it.

Consistent with our *Tentative Implementation Order*, we believe it represents an unreasonable hardship to require Verizon to report information that is obsolete in today's market and no longer of any value to the Commission in performing its regulatory duties.<sup>2</sup> Consequently, we believe streamlining Section 64.201 should be applied equally to both competitive and non-competitive wire centers.<sup>3</sup>

The Commission clearly has the legal power to act now and waive Section 64.201, in part, in both competitive and noncompetitive wire centers. The Commission can, under its general powers in the Public Utility Code, extend the scope of the partial waiver to noncompetitive wire centers. These general powers include the power to, *sua sponte*, rescind or modify existing Commission regulations or prior orders.<sup>4</sup>

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<sup>1</sup> This assumes that Verizon PA and Verizon North would have accepted the waiver.

<sup>2</sup> Chapter 64 of the Commission's regulations expressly permits the Commission to temporarily waive a Chapter 64 regulation when compliance with the regulation constitutes unreasonable hardship to a local exchange carrier. *See*, 52 Pa. Code § 64.212(a).

<sup>3</sup> We note that under the partial waiver of Section 64.201 as proposed by the Motion, Verizon has several options, pending the rulemaking referenced in the *Reclassification Order*: (1) it may forego the partial waiver and continue to file two Section 64.201 statewide reports (one for each company) that includes all of the traditional Section 64.201 information; (2) it may separately petition the Commission to extend the partial waiver to noncompetitive wire centers, which would lead to a streamlined statewide Section 64.201 report for each company for both competitive and noncompetitive wire centers; or (3) it may avail itself of the partial waiver for competitive wire centers only, which would lead to four separate Section 64.201 reports (one for competitive wire centers and one for noncompetitive wire centers for each company).

<sup>4</sup> *See*, 66 Pa. C.S. § 501.

Moreover, the Commission provided all interested parties with full notice and opportunity to be heard regarding our proposal to waive certain Section 64.201 provisions in both competitive and noncompetitive wire centers. Therefore, we do not believe there is any due process issue here.

Extending the scope of the Section 64.201 partial waiver to noncompetitive wire centers also does not violate applicable law governing the promulgation of regulations.<sup>5</sup> This conclusion is based on the limited scope of the partial waiver, as applying only to Verizon. And, the Section 64.201 partial waiver is not permanent. Rather, the waiver is granted temporarily for five years or until the completion of a rulemaking addressing the status of the Commission's Chapter 63 and 64 regulations on a permanent and industry-wide basis (whichever is sooner).

In short, we see no reasonable basis for the Commission to retreat from the proposal in the *Tentative Implementation Order* to waive certain Section 64.201 provisions in both competitive and noncompetitive wire centers. Setting up a new docket or suggesting that Verizon file a petition for relief that already has been the subject of due process seems to be a waste of time and resources.

For these reasons, we dissent, in part.

  
JOHN F. COLEMAN, JR.  
VICE CHAIRMAN

  
ROBERT F. POWELSON  
COMMISSIONER

Date: August 20, 2015

<sup>5</sup> See, Regulatory Review Act, 71 P.S. §§ 745.1 *et seq.*; the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P. S. §§ 1102, 1201-1208, and 1602, and 45 Pa. C.S. Chapters 5, 7 and 9; and the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, as amended, 71 P.S. §§ 732-101 - 732-506.