

A-310322

PARTS OF CASE PREVIOUSLY MICROFILMED @

- REEL 8939, BLIP 29

Verizon Pennsylvania Inc.
Verizon Delaware Inc.
1717 Arch Street, 10W
Philadelphia, PA 19103
Tel: 215 466-6070
Fax: 215 563-2658
william.b.petersen@verizon.com

William B. Petersen
Vice President and General Counsel

January 25, 2006

XTel Communications Inc.
Donald P. Flynn, President
9 East Stow Road, Suite F
Marlton, NJ 08053

DOCKETED
FEB 13 2006

RECEIVED

JAN 25 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**DOCUMENT
FOLDER**

A-310322

**Re: RESALE EQUIVALENT RATE OFFER;
TERMINATION NOTICE PURSUANT TO 52 PA. CODE § 63.304**

I am writing regarding transitional UNE-P arrangements that your company still has in Pennsylvania. The purpose of this letter is three-fold. First, Verizon wishes to offer to your company one final opportunity to continue receiving services with respect to the subject lines – but on the terms set forth herein (including, without limitation, by your agreement to pay the rates described herein for these lines pending their conversion to resale). Second, if your company does not accept such offer (in accordance with all of the terms set forth herein), this letter serves as notice that Verizon intends to cease providing service for these lines on or at any time after March 11, 2006. **Third, if your company does not accept the foregoing offer (in accordance with all of the terms set forth herein), this letter constitutes your formal termination notice pursuant to 52 Pa Code § 63.304.**

As I am sure you are aware, on February 4, 2005, the Federal Communications Commission ("FCC") eliminated the availability of DS0 Mass Market Local Circuit Switching^{*} as a UNE available pursuant to 47 U.S.C. § 251(c)(3) and established a 12-month transition period during which CLECs could not add new UNE-P arrangements that have DS0 Mass Market Local Circuit Switching as a component ("Discontinued Mass Market UNE-P"), as well as set a surcharge on the embedded base of UNE-P arrangements during the transition period. *See generally* Order on Remand, *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313; CC Docket No. 01-338 (Rel. February 4, 2005) ("TRRO Remand Order"). The FCC expected CLECs to use this transition period to "migrate" their "embedded base of unbundled local circuit switching used to serve mass market customers to an alternative service

^{*} As used herein, the term "DS0 Mass Market Local Circuit Switching" shall have the meaning ascribed in the *TRO Remand Order* and, in accordance with the Pennsylvania PUC's order dated June 10, 2005 (the "PUC Order") shall include DS0 switching that is subject to the FCC's Four Line Carve-Out ("Four Line Carve-Out Switching") to the extent that your company still has any UNE-P arrangements that include Four Line Carve-Out Switching that have not been discontinued and/or converted to alternative arrangements (the foregoing being subject to, and without waiver of, any rights Verizon may have with respect to Four Line Carve-Out Switching pursuant to previous notices of discontinuance or otherwise).

arrangement," and "require[d]" CLECs "to submit the necessary orders to convert their mass market customers to an alternative service arrangement within twelve months of the effective date" of the *TRRO Remand Order* ¶¶ 226-27. The last day of this transition period is March 10, 2006.

Throughout the course of the transition period, Verizon has continued to provide CLECs with training and assistance to ensure a smooth transition to alternative arrangements. In addition, Verizon has repeatedly reminded your company of its obligations, reiterated Verizon's willingness to work cooperatively during this transition, and asked your company to provide Verizon with direction regarding its conversion plans. In addition to contacts by account managers, Verizon has previously sent you two formal notices regarding the transition period. In the second of these formal notices, which Verizon sent on April 22, 2005, Verizon requested that you contact your account manager by May 15, 2005 and communicate your plans for converting these Discontinued Mass Market UNE-P lines. To date, you still have not provided an adequate response to these requests or migrated your Discontinued Mass Market UNE-P arrangements to alternative services.

Most CLECs have taken the steps required of them by the FCC, and accordingly, as of this late date, the vast majority of Discontinued Mass Market UNE-P arrangements have already been transitioned to other arrangements. Some carriers have converted their Discontinued Mass Market UNE-P lines to resale, others have converted these lines to UNE-L, and a great many CLECs have entered into commercial agreements with Verizon to obtain a UNE-P replacement product.

However, because you have failed to follow an FCC requirement to make alternative arrangements for your company's existing Discontinued Mass Market UNE-P lines, by this letter Verizon provides **termination notice** to your company pursuant to the requirements of 52 Pa. Code § 63.304 that Verizon will cease to provide service and will **disconnect any remaining Discontinued Mass Market UNE-P service to your company on or at any time after March 11, 2006**. In light of this termination notice, 52 Pa. Code § 63.306 requires you, among other obligations, to **file with the PUC in the next ten calendar days an abandonment plan**. Pursuant to 52 Pa. Code § 63.304, a copy of this termination notice is being provided to the **Secretary of the PUC, the PUC's Bureau of Consumer Services, and the PUC's Law Bureau**.

As Verizon has indicated throughout the transition period, it does not wish to disrupt end user service unnecessarily and Verizon has repeatedly attempted to reach an appropriate resolution with your company before the end of the termination period. Unfortunately, your company has been unwilling to cooperate.

In order to **avoid the possibility of the discontinuation of service** to those end-users, your company must **acknowledge in writing, by countersigning this letter below and returning it to Verizon as described below, that it agrees to all of the terms set forth in this letter, including, without limitation, as set forth in paragraphs 1 through 5 below (which collectively may hereinafter be referred to as the "Surcharge/Conversion Option")**:

(1) Your company agrees to continue the Discontinued Mass Market UNE-P arrangements on and after March 11, 2006 at rates consistent with the equivalent resale rate established by the PUC. These rates will be effectuated by application of the surcharges set forth in the chart below, which increase the existing port rate element as necessary to achieve a rate substantially equivalent to the PUC-approved resale rate.

(2) Verizon, with 30 days advance notice, may elect to formally convert your remaining Discontinued Mass Market UNE-P arrangements to the equivalent resale arrangements under Section 251(c)(4) at any time on or after March 11, 2006, and your company shall promptly pay Verizon's standard charges associated with such conversions.

(3) If your company provides this countersigned letter to Verizon on or before February 3, 2006, Verizon will notify the PUC that your company and Verizon have reached a resolution that allows Verizon to withdraw its notice of termination. If you are interested in this resolution, please have a duly authorized representative of your company countersign this letter below and return this formal written acceptance to Verizon (for receipt by Verizon no later than February 3, 2006) at the following address: Manager – Contract Management, Verizon Wholesale Markets, 600 Hidden Ridge, HQEWMNOTICES-CM, Irving, TX 75038, fax: 972-719-1519, email: contract.management@verizon.com. Also provide a copy to me via e-mail at William.b.petersen@verizon.com or fax: 215-563-2658.

(4) In the event your company responds as required above to indicate its agreement to the Surcharge/Conversion Option, (a) the surcharges may be billed retroactively as necessary to apply them effective as of March 11, 2006, and (b) Verizon reserves the right to disconnect the subject arrangements if your company fails to pay the agreed rates or to cooperate with any formal conversion to resale arrangements. (For the avoidance of any doubt, from and after March 11, 2006 – and even prior to any formal conversion to resale -- Discontinued Mass Market UNE-P arrangements shall not constitute nor be regarded as UNEs for any purpose.)

(5) The applicable surcharges for Pennsylvania are as follows:

<u>ILEC</u>	<u>UNE Density Zone</u>	<u>Surcharge</u>
VZ PA	1	\$15.14
VZ PA	2	\$11.81
VZ PA	3	\$ 9.79
VZ PA	4	\$.32
PA North	3	\$ 0.47
PA North	4	\$ 0.00

If you do not wish to accept this arrangement, which Verizon is offering at its sole discretion, your company may of course terminate any Discontinued Mass Market UNE-P arrangements through existing disconnect processes.

You are strongly encouraged to complete activities associated with formally converting your Discontinued Mass Market UNE-P arrangements to resale or securing other alternative service arrangements as quickly as possible, in order to meet the FCC's mandatory transitional deadline.

**FAILURE TO RESPOND AS SET FORTH IN THIS LETTER MAY RESULT IN
DISCONNECTION OF SERVICE.**

Very truly yours,



William B. Petersen

cc: Secretary, Pennsylvania Public Utility Commission
Bureau of Consumer Services, Pennsylvania Public Utility Commission
Law Bureau, Pennsylvania Public Utility Commission

Reviewed and countersigned to indicate agreement with the terms of this letter, including, without limitation, the terms of the Surcharge/Conversion Option set forth above:

(PRINT CLEC NAME)

(SIGNATURE)

(PRINT NAME OF SIGNATOR)

(PRINT TITLE OF SIGNATOR)

PENNSYLVANIA PUBLIC UTILITIES COMMISSION

RECEIVED
ADMINISTRATIVE SERVICES

P.O. BOX 3265

HARRISBURG PENNSYLVANIA 17105-3265

ASSESSMENT REPORT

2008 APR -4 AM 9:45

STATEMENT OF OPERATING REVENUES FOR GENERAL ASSESSMENT PUC
FOR THE CALENDAR YEAR 2007

TRADE OR CORPORATE NAME OF UTILITY:	<i>Xtel Communications, Inc</i>
CONTACT NAME:	<i>Don Flynn</i>
ADDRESS 1:	<i>10 Lake Center Executive Park</i>
ADDRESS 2 (Floor, Suite, etc.):	<i>401 Route 73 North, Suite 106</i>
CITY, STATE, ZIP:	<i>Marlton, NJ 08053</i>

UTILITY CODE	APPLICATION #
<i>310322</i>	<i>A310322</i>
TYPE OF UTILITY SERVICE	
<i>TP</i>	
2007 OPERATION PERIOD	
FROM JAN 2007 TO DEC 2007	

DOCUMENT
FOLDER

THIS REPORT MUST BE FILED NOT LATER THAN MARCH 31, 2008.

IF NOT FILED, THE COMMISSION WILL ESTIMATE YOUR INTRASTATE OPERATING REVENUES AND WILL BASE YOUR ASSESSMENT ON THE ESTIMATED TOTAL. FAILURE TO FILE BY THE MARCH 31 DEADLINE MAY RESULT IN FINES OF UP TO \$1,000 FOR EACH DAY OF A VIOLATION (66 Pa. C.S. §3301).

OPERATING REVENUES FOR CALENDAR YEAR 2007

	AMOUNT (Round to the nearest dollar.)
1. TOTAL GROSS OPERATING REVENUES as shown by books of account and tariffs filed with the Commission.	\$ <i>10,512,702</i>
2. LESS GROSS OPERATING REVENUES from providing utility service outside of Pennsylvania (Itemize and show computations on side 2)	\$ <i>9,928,770</i>
3. BALANCE: GROSS INTRASTATE REVENUES on which your assessment will be based (line 1 minus line 2)	\$ <i>583,932</i>

AFFIDAVIT The information reported is complete, true and correct. <i>Donald P. Flynn</i> <i>4-1-08</i> (Signature of Individual or Officer) (Date)		NOTARIZATION (Required) Subscribed and sworn to before me this <i>1</i> day of <i>April</i> 2008 <i>Debra E. Cusato</i> SIGNATURE OFFICIAL <i>Auditor</i> SEAL (Official Title)	
READABLE PRINTED OR TYPED NAME OF SIGNER: <i>Donald P. Flynn</i>		TRADE OR CORPORATE NAME OF UTILITY: <i>Xtel Communications, Inc</i>	
FEDERAL I.D. <i>22-3356497</i>	TELEPHONE NO.: <i>856.596.4000 x304</i>	DEBRA E. CUSATO NOTARY PUBLIC OF NEW JERSEY Commission Expires 5/17/2010	
NEW ADDRESS (If different from above) <i>Above address is new. Please change your records. DJF.</i>			

Line 2: OPERATING REVENUES

Itemize and show all revenues obtained during 2007 from providing utility service outside the boundaries of the Commonwealth of Pennsylvania.

SERVICE / ACTIVITY	AMOUNT (Round to the nearest dollar amount.)
Total Income (2007)	\$ 10,512,702
Less PA Revenue	\$ 583,932
	\$
	\$
	\$
	\$
TOTAL (Enter on Line 2 of Side 1)	\$ 9,928,770

2007 PA Annual Revenue

Interstate (Incl. Int'l) - 137,896.00
Intrastate - 88,186.89
Local Usage - 52,262.39
Local Access - 298,587.14
Total 583,932.42

**REQUIRED
AUTHORIZATION FOR RELEASE OF STATE TAX RECORDS**

In accordance with Sections 505 and 506 of the Public Utility Code, as a means to verify the accuracy of financial information supplied to the Public Utility Commission, I hereby authorize the Pennsylvania Department of Revenue to release to the Public Utility Commission, any tax records filed or compiled with regard to the below-listed utility and/or individual.

Xtel Communications Inc.
Utility Name

Donald P. Flynn President
Name (Printed) Title

Date: 4-1-08

X Donald P. Flynn
Signature

END