

PLEASE DOCKET

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications  
of Pennsylvania, Inc.

v.

Verizon North, Inc.  
Verizon Pennsylvania Inc.

C-20027195

DOCUMENT  
FOLDER

PREHEARING ORDER ON REMAND

**DOCKETED**  
APR 07 2005

History

On December 30, 2002, Verizon Pennsylvania Inc. (Verizon-Pa.) and Verizon North, Inc. (Verizon-North) filed a separate Joint Petition (Verizon Joint Petition) regarding the further reduction of their access charges pursuant to the Bell Atlantic-Pa.-GTE Merger Order,<sup>1</sup> the Global Order of 1999,<sup>2</sup> and the generic access charge investigation at M-00021596. This joint proposal was published January 18, 2003 at 33 Pa. B. 502. Comments were filed by the Office of Consumer Advocate ("OCA"), AT&T Communications of Pennsylvania, Inc. ("AT&T"), Sprint Communications Co & United Telephone Co of Pa ("Sprint/United"), the Rural Telephone Company Coalition ("RTCC"), the Office of Small Business Advocate ("OSBA") and Qwest Communications Corporation ("Qwest").

On March 21, 2002, AT&T filed a formal complaint against Verizon-North seeking to have Verizon-North's access charges reduced to Verizon-PA's levels pursuant to the

<sup>1</sup> Re Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger, Docket Nos. A-310200F0002, A-311350F0002, and A-310222F0002, (November 4, 1999) (Merger Order).

<sup>2</sup> Re Nextlink Pennsylvania, Inc., Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999) (Global Order); 196 P.U.R. 4<sup>th</sup> 172, *aff'd sub nom.* Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission, 763 A.2d 440 (Pa.Cmwlt. 2000), alloc. granted.

requirements in the Commission's Merger Order at A-310200F0002.<sup>3</sup> The complaint was docketed at C-20027195. The complaint, which was initially dismissed by Chief Administrative Law Judge Robert Christianson, was reinstated by Commission Order entered December 24, 2002. That order also bifurcated the access charge investigation so that all Verizon matters, including the complaint, would be litigated at the C-20027195 docket.

On November 26, 2002, Verizon-Pa. submitted its annual Price Change Opportunity (PCO) filing requesting authority to use its \$17.7 million negative PCO money for 2003 to fund its contributions to the PaUSF. That filing was docketed at M-00031694 and P-00930715 (Verizon's Chapter 30 Plan docket). On January 31, 2003, AT&T filed a complaint at M-00031694C0001 challenging Verizon-Pa.'s proposal to use its negative PCO money to support Verizon's 2003 contribution to the PaUSF. On February 27, 2003, Verizon-Pa. filed an answer and motion to dismiss the complaint.

Although Verizon-Pa. and Verizon-North agreed to one proposed access charge reduction plan, Qwest, OCA, OTS, OSBA, AT&T and MCI WorldCom objected to the Joint Petition. AT&T and MCI WorldCom emphasized the need to move switched access rates to cost. Qwest mentioned the need to mirror interstate access charges. AT&T, MCI WorldCom, OCA, and OSBA objected to the revenue-neutral reductions. OTS requested that the Commission deny Verizon's Joint Proposal for the following reasons: Verizon is subject to a rate freeze through December 31, 2003; no cost studies were filed to support the proposal; and other rates besides residential could be increased, including business rates and optional services, or Verizon could adjust the Price Stability Mechanism to get to revenue neutral. OTS requested that the Commission reject Verizon's proposed elimination of the carrier charge.

Given that there were contested, material factual issues, (i.e., what the cost of traffic sensitive rates are and how low the intrastate access charges should be), by Order entered May 5, 2003, the Commission referred the Verizon Joint Petition to the Office of Administrative

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<sup>3</sup> Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger, Docket No. A-310200F0002, etc. (Opinion and Order entered November 4, 1999) (Merger Order).

Law Judge for evidentiary hearings and a recommended decision. Inasmuch as the generic access charge investigation at M-00021596 was bifurcated to separate the Verizon and the RTCC/Sprint access charge investigations, the Commission stated that the two joint petitions would be kept on separate tracks but with the same six month deadline from the date of entry of the order. The Verizon Joint Petition for Access Charge Reductions was consolidated with the AT&T Communications of Pennsylvania, Inc. v. Verizon North, Inc. complaint at C-20027195 regarding Verizon-North's access charges pursuant to the Commission Order of December 24, 2002. Verizon's compliance with the Merger Order directive that Verizon-North and Verizon-Pa. have access charges which are at parity with each other would also be addressed at that docket number. In re the Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger at Docket Nos. A-310200F0002, A-311350F0002, and A-310222F0002.

In accordance with the Commission's order, the matter was assigned to Administrative Law Judge Cynthia Williams Fordham.

Hearings were held in this matter in Harrisburg on August 25 and 26, 2003. Witnesses for Verizon, AT&T, MCI, Qwest, OTS, OCA and OSBA were cross-examined. Written testimony and exhibits were entered into the record.

The Recommended Decision was issued on November 18, 2003. Exceptions were filed by AT&T, MCI, OSBA, and Qwest. Reply Exceptions were filed by OCA, OSBA, OTS and Verizon.

Verizon PA, Verizon North, OSBA and OCA filed a Joint Petition for Resolution of Litigation on February 26, 2004.

On July 28, 2004, the Commission entered an Opinion and Order (July 28<sup>th</sup> Order) that granted the Joint Petition for Resolution of Litigation. The July 28<sup>th</sup> Order, inter alia, permitted Verizon to reduce and restructure its access charges by allowing them to file a revenue-neutral, rate rebalancing filing in which the net revenue reductions from access charge

increases and decreases will be offset with revenue increases from increases in monthly dial tone line rates for residential and business local exchange customers. In accepting the terms of the Joint Petition for Resolution of Litigation, the Commission did not specify a date certain on which Verizon must complete the rate rebalancing. The Commission did, however, require Verizon to provide notice to all customers “at least 30 days prior to the date of any rate change” and to “file revised tariffs or tariff supplements, to become effective on one day’s notice.” With regard to the remaining unresolved matters in this proceeding, the Commission remanded those matters to the Office of Administrative Law Judge. The Commission reversed the ALJ’s recommendation to close the case. The Commission stated that those policy issues and other access charge concerns that were raised by the IXCs in their Exceptions, but which were not specifically resolved by a recommendation from the ALJ in this instant proceeding, are remanded to the ALJ for the further development of the record and the issuance of a recommended decision.

Verizon filed a Petition for Reconsideration. By Order entered November 23, 2004, the Commission denied the Petition to reconsider remanding the case to the ALJ.

On November 22, 2004, AT&T Communications of Pennsylvania, LLC, MCI WorldCom Communications, Inc., and Qwest Communications Corporation, filed a Joint Petition.

By Order entered January 18, 2005, the Commission granted the Joint Petition, in part and denied it in part. The Commission granted the Joint Petitioners’ request that established February 1, 2005 as the compliance filing deadline date, notwithstanding any regulatory delays that may occur in the compliance review process. The Commission also granted the Joint Petitioners’ request that the Remand proceeding be conducted in an expedited manner only to the extent that the Office of Administrative Law Judge is able to do so. However, the Commission denied the Joint Petitioners’ request for (1) retroactive rates to February 1, 2005, if Verizon fails to comply by that date, and (2) termination of the Remand proceeding. The OCA noted that there have been significant developments in the federal arena that may impact the remand proceeding. The Commission is concerned about any impact that the proposed ICF proposal, if it is ultimately

approved by the FCC, may have jurisdictionally on access charge regulation in Pennsylvania, the ability to further reduce or restructure intrastate access charges, and whether any FCC action may lead to a double recovery by the LECs in Pennsylvania in light of the remanded proceeding, and if the FCC permits intrastate access charges to be offset by increases to the federal SLC. Consequently, the Commission directed the presiding Administrative Law Judge assigned to this case to expand the scope of this proceeding with regard to any FCC activity concerning the proposal submitted by the Intercarrier Compensation Forum on October 5, 2004, and to address the impact that any FCC action may have on the Commission's jurisdictional responsibilities, as well as its relationship to the final recommended decision on access rates arising from this remand proceeding, to the extent that the FCC issues a decision prior to the issuance of the Recommended Decision on Remand in this proceeding;

#### Discussion

A prehearing conference in this matter will be held on Thursday, February 17, 2005 at 2:00 p.m. The parties in Philadelphia will meet in an available room on the 13<sup>th</sup> floor of the Philadelphia State Office Building. The parties in Harrisburg will meet in Hearing Room Number 3, Plaza Level, Commonwealth Keystone Building. The Harrisburg parties will participate by telephone.

The Commission's regulation concerning prehearing conferences in rate proceedings is located at 52 Pa. Code §5.224. We will discuss the following:

- 1) A proposed plan and schedule of discovery;
- 2) Possibility of settlement;
- 3) Issues;
- 4) Amount of hearing time needed;
- 5) Witnesses;
- 6) Schedule for submission of testimony, hearings and briefs; and
- 7) any other appropriate matter.

Counsel should submit a prehearing memorandum addressing the agenda items on or before 4:30 p.m. on Wednesday, February 16, 2005. Counsel can fax or e-mail the memoranda to me and the other counsel.

Any documents filed in this proceeding should be served on me at the Philadelphia office and the active participants. 52 Pa. Code §154(a) and (d).

Since documents can be submitted to the presiding officer and the participants by fax and e-mail, fax and e-mail addresses will be included on the service list. Please check the list for omissions and errors and contact my office to make corrections. My fax number is (215) 560-3133 and my e-mail address is [cfordham@state.pa.us](mailto:cfordham@state.pa.us).

ORDER

THEREFORE,

IT IS ORDERED:

That the parties shall comply with the procedural rules and regulations discussed herein.

Date: February 14, 2005

  
Cynthia Williams Fordham  
Administrative Law Judge

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