

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCUMENT  
FOLDER

AT&T Communications  
of Pennsylvania, Inc.

v.

Verizon North, Inc.  
Verizon Pennsylvania Inc.

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C-20027195

PREHEARING ORDER #6 ON REMAND

History

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.<sup>1</sup> 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. With respect 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.

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<sup>1</sup> The history of the proceeding prior to July 2004 is set forth in the Commission's Opinion and Order.

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 might 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 was able to do so. However, the Commission denied the Joint Petitioners' request for (1) retroactive rates to February 1, 2005, if Verizon failed to comply by that date, and (2) termination of the Remand proceeding. Since there were significant developments in the federal arena that could impact the remand proceeding, the Commission directed the presiding Administrative Law Judge assigned to this case to expand the scope of this proceeding to include 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.*

A prehearing conference on remand was held on February 17, 2005. A further prehearing conference on remand was held on April 4, 2005. The following parties participated in both prehearing conferences: Verizon; AT&T; MCI, Qwest; OTS; OCA; OSBA; and the Rural Telephone Company Coalition.

During the April 4, 2005 prehearing conference, a procedural schedule was established. Furthermore, we agreed that the parties could designate the portions of the testimony in the original record that were still relevant, update the prior testimony to address new developments since the original record and add testimony to address the FCC proceeding (Tr. 58-60, 81-83).

A telephonic hearing was held to admit the testimony and exhibits into the record. The Recommended Decision on Remand was issued on December 7, 2005.

By Order entered January 8, 2007, the Commission stayed Verizon Pennsylvania Inc.'s and Verizon North Inc.'s access charge investigation pending the outcome of the FCC's *Unified Intercarrier Compensation*<sup>2</sup> proceeding, or for one year from the date of entry of that Order, whichever is earlier.

The Commission stayed the proceeding again by Order September 12, 2008.

On August 12, 2009, Michael A. Gruin, Esquire, filed an entry of appearance and substitution of counsel on behalf of Sprint. Orlando Vidal, Esquire, was removed as counsel.

In its Order entered on May 11, 2010, the Commission denied the Motion to Extend the Stay and gave the participating parties the opportunity to supplement the evidentiary record in this proceeding.

On June 10, 2010, Michelle Painter, Esquire, filed a notice of appearance on behalf of AT&T.

On August 26, 2010, the United Telephone Company of Pennsylvania, LLC d/b/a Century Link, through its counsel, Sue Benedek, Esquire, filed a Notice of Intervention.

On November 30, 2010, Verizon, through its counsel, filed a Motion Pro Hac Vice, for Gregory M. Romano, Esquire.

Prehearing Order #5 was sent to the parties on December 3, 2010.

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<sup>2</sup> See *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-33, Further Notice of Proposed Rulemaking (released March 3, 2005) (Unified Intercarrier Compensation Proceeding).

Prehearing memoranda were filed by Verizon, AT&T, OCA, OSBA, Sprint, Qwest and the Pennsylvania Telephone Association.

A further telephonic prehearing conference was held on December 8, 2010. The presiding officer, Suzan D. Paiva, Esquire, representing Verizon, and Robert C. Barber, Esquire, representing AT&T, were in Philadelphia. Joel H. Cheskis, Esquire, representing OCA; Steven C. Gray, Esquire, representing OSBA; John F. Povilaitis, Esquire, representing Qwest; Michael A. Gruin, Esquire, and Benjamin J. Aron, Esquire, representing Sprint Nextel; Norman J. Kennard, Esquire, representing the Pennsylvania Telephone Association; Zsuzsanna E. Benedek, Esquire, representing CenturyLink; and Gregory M. Romano, Esquire, representing Verizon, were in Harrisburg.

After the prehearing conference, Ms. Paiva, Verizon's counsel, sent the presiding officer and the parties a copy of the 2003 protective order by electronic mail.

On February 1, 2011, Verizon submitted the proprietary version of Statement 1.0, the direct testimony of Don Price and Thomas Maziziotti, with exhibits. The public version was supplied electronically on February 2, 2011.

On February 2, 2011, Ms. Paiva provided instruction to access the VZ Cost System.

On December 7, 2011, Sprint, through its counsel, filed a Motion Pro Hac Vice, for Benjamin J. Aron, Esquire.

#### Discussion

We discussed the following: a proposed plan and schedule of discovery; modifications to the discovery rules; a potential work stoppage by Verizon employees in August 2011; the possibility of settlement; the issues; the amount of hearing time needed; proposed witnesses; the schedule for submission of testimony, hearings and briefs; Verizon's protective

order, dated June 9, 2003; and training regarding the use of on line access to Verizon's cost studies.

The following procedural schedule was established:

|                                                          |                                                                                    |
|----------------------------------------------------------|------------------------------------------------------------------------------------|
| Prehearing Conference                                    | December 8, 2010                                                                   |
| Company Direct Testimony                                 | Tues. February 1, 2011                                                             |
| Non-Company Direct Testimony                             | Tues. March 29, 2011                                                               |
| All parties' Rebuttal Testimony                          | Tues. May 10, 2011                                                                 |
| All parties' Surrebuttal Testimony                       | Fri. June 3, 2011                                                                  |
| Hearings for cross-examination<br>Of all witnesses, oral | Tues. June 14, 2011 at 10:00 a.m.<br>Wed, Thurs. June 15, 16, 2011 at<br>9:00 a.m. |
| Close of Record                                          | June 17, 2011                                                                      |
| Main Briefs Due                                          | July 22, 2011                                                                      |
| Reply Briefs Due                                         | August 12, 2011                                                                    |

During the prehearing conference, the procedural rules were modified. However, the modified rules were not effective until February 1, 2011, the day that Verizon filed its direct testimony and cost study (Tr. 76). Therefore, discovery shall be conducted according to the Commission's rules and regulations pursuant to 52 Pa. Code § 5.342(d), subject to the following modifications:

1. Answers to written interrogatories will be served in-hand within ten (10) days of service of the interrogatories.
2. Objections to interrogatories shall be served on the ALJ in writing within five (5) days of service of interrogatories.

3. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) days.
4. Requests for admission will be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.
5. Discovery responses will be provided in their original electronic format (i.e. Excel spreadsheets be provided in Excel format).
6. Any discovery served after 12 noon on Friday or on a holiday will be deemed to have been served on the following business day.
7. That the due dates are "in-hand". Electronic mail on the due date satisfies the "in-hand requirement, where the service is immediately followed by a hard copy sent by first-class mail.

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

No party has objected to the Motion Pro Hac Vice that Sprint's counsel filed on behalf of Benjamin J. Aron, Esquire. Therefore, the Motion is granted.

Since documents can be submitted to the presiding officer and the participants by e-mail, e-mail addresses will be included on the counsel 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:

1. That the Motion Pro Hac Vice for Benjamin J. Aron, Esquire, is granted.
2. That the parties shall comply with the procedural schedule set forth in this Order.
3. That effective February 1, 2011, discovery shall be conducted according to the Commission's rules and regulations pursuant to 52 Pa. Code § 5.342(d), subject to the following modifications:
  - a. Answers to written interrogatories will be served in-hand within ten (10) days of service of the interrogatories.
  - b. Objections to interrogatories shall be served on the ALJ in writing within five (5) days of service of interrogatories.
  - c. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) days.
  - d. Requests for admission will be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

e. Discovery responses will be provided in their original electronic format (i.e. Excel spreadsheets be provided in Excel format).

f. Any discovery served after 12 noon on Friday or on a holiday will be deemed to have been served on the following business day.

g. That the due dates are "in-hand". Electronic mail on the due date satisfies the "in-hand requirement, where the service is immediately followed by a hard copy sent by first-class mail.

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

Date: February 24, 2011

  
Cynthia Williams Fordham  
Administrative Law Judge

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NORTH INC. and VERIZON PENNSYLVANIA INC.

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