



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

April 14, 2008

**DOCUMENT
FOLDER**

P-00001854F1000
P-00001854
R-00051227
R-00051227C0001
R-00051227C0002

SUZAN DEBUSK PAIVA ESQUIRE
VERIZON NORTH INC
1717 ARCH STREET
32ND FLOOR
PHILADELPHIA PA 19103

Petition of Verizon North Inc. for Alternative Form of
Regulation under Chapter 30 and Act 183.

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on April 9, 2008 adopted
an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

Encls
Cert. Mail
MH

See attached list for additional parties of record.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265**

Public Meeting held April 9, 2008

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Tyrone J. Christy
Kim Pizzingrilli

Petition of Verizon North Inc.
For Alternative Form of Regulation
Under Chapter 30 and Act 183.

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ORDER

BY THE COMMISSION:

Matter Before the Commission

Before the Commission for consideration is Verizon North Inc.'s (Verizon North) compliance filing regarding its Alternative Regulation and Network Modernization Plan (Chapter 30 Plan) filed on August 16, 2007, and revised on January 11, 2008, in response to the Commission's Orders entered March 22, 2007 and April 25, 2007, at Docket No. R-00051227, *et al.* On August 27, 2007, Exceptions were filed by the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA). Replies to Exceptions were filed by Verizon North on September 25, 2007. On January 22, 2008, additional Exceptions were filed by the OSBA. Replies to these Exceptions were filed by Verizon North on February 6, 2008.

History of the Proceeding

The Commission's *March 22, 2007 Order* (modified on reconsideration by the *April 25, 2007 Order*) required Verizon PA and Verizon North Inc. (Verizon North) (collectively Verizon) to file updated and revised versions of their respective Chapter 30 Plans, reflecting only currently effective language resulting from the 2004 enactment of Act 183, codified at 66 Pa. C.S. §§ 3011 – 3019, as well as previous Commission orders and approved plan supplements. Specifically, Ordering Paragraph No. 9 of the *March 22, 2007 Order*, as modified by the *April 25, 2007 Order*, stated:

9. That Verizon Pennsylvania Inc. and Verizon North Inc. shall review, integrate, and edit each of their Amended Chapter 30 Plans so that those documents incorporate the pertinent information from the existing supplements into them so as to ensure that the Plans contain only the language currently in effect. Within ninety (90) days after the date of entry of a final Opinion and Order in this proceeding, Verizon Pennsylvania Inc. and Verizon North Inc. shall file revised Chapter 30 Plans, along with redlined copies, with the Commission for approval.

On July 24, 2007, Verizon filed clean and redlined versions of its Chapter 30 Plans in compliance with the *March 22* and *April 25, 2007 Orders*. Verizon's original filing contained both the compliance changes (the currently effective language) and certain additional changes to improve and clarify the plans, which Verizon wished to discuss informally with the Commission Staff and parties before formally proposing. By Secretarial Letter dated August 6, 2007, the Commission Staff required Verizon to separate the currently effective language (the compliance changes) from the proposed changes. On August 16, 2007, Verizon filed both a clean and redlined version of each plan indicating only the compliance changes.

As noted, the OCA and OSBA filed Exceptions on August 27, 2007. Replies to the Exceptions were filed by Verizon on September 25, 2007. The OSBA filed additional Exceptions to the Verizon North Chapter 30 Plan on January 22, 2008. Replies to these Exceptions were filed by Verizon North on February 6, 2008.

Discussion

By Secretarial Letter dated November 28, 2007, Verizon was informed that the only changes that should be made to the Chapter 30 Plans are those that were found in previously Commission-approved supplements. Verizon was also informed that some of the compliance changes go beyond “the language currently in effect” as directed in Ordering Paragraph 9 mentioned above. Verizon was notified that updates, rewording, and deletion of language that is no longer in effect are to be included in the upcoming proposed filing that Verizon intends to make and that changes are not to be made based on the entire Act 183. Verizon was directed to remove any changes that concern Act 183 that were not in the approved supplements.¹

On January 11, 2008, Verizon filed both a clean and redlined version of each plan implementing most of the Commission Staff’s suggested changes to the compliance filings. However, a small number of the suggested changes were deemed by Verizon as not appropriate. In those instances, Verizon believes the original changes are necessary in order for the plans to reflect those changes found in previous Commission-approved supplements. Verizon provided reasons why those revisions should remain in the compliance filings.

¹ A list of suggested changes to the August 16, 2007 Chapter 30 Plan compliance filings was included with the Secretarial Letter dated November 28, 2007.

Verizon also agreed to make certain changes requested by the OSBA. In addition, certain of the Commission Staff changes to which Verizon agreed to implement, also resolve issues raised in the OCA² and OSBA Exceptions.

Exceptions

Preliminarily, with regard to Exceptions, we note that any issue or Exception which we do not specifically address has been duly considered and denied and will not be further discussed. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. P.U.C.*, 625 A.2d 741 (Pa. Cmwlth. 1993): also see generally, *University of Pennsylvania v. Pa. P.U.C.*, 485 A.2d 1217 (Pa. Cmwlth 1984).

1. Statutory Citations.

(OSBA August 2007 Exception No. 1)

In its Exceptions, the OSBA states that the goal of this compliance procedure is to ensure that Verizon North's Chapter 30 Plan contains only that language that is "currently in effect," whether as a result of a statutory requirement or a Commission Order. The OSBA contends that Verizon North made numerous changes to its Chapter 30 Plan in the August 16, 2007 compliance filing but did not specifically identify the source of authority for any of the changes. The OSBA believes that Verizon North should be required to link a specific Commission Order or specific statutory language to each individual change. (OSBA Aug. 2007 Exc. at 3).

² All of the exceptions raised by OCA were resolved through Verizon North's implementation of the changes suggested by Staff.

In response to this Exception, Verizon North notes that the Commission did not require Verizon to provide such a list of citations, either in its *March 22, 2007* or its *April 25, 2007 Orders*. Verizon North avers there was ample time before the compliance filing was due for OSBA to file a petition for reconsideration or clarification of either of these orders to request such a list, but this was not done. Verizon North states that where the OSBA in its Exceptions raised a specific question about the statute or order supporting any particular change contained in the compliance filing, Verizon North has provided the supporting authority. (VN Sept. 2007 R.Exc. at 2-3).

Disposition

Based on Verizon North's Reply Exceptions, we agree with Verizon North that a statutory citation sought by the OSBA for each individual change is unnecessary. We note that the November 28, 2007 Secretarial Letter directed Verizon North to remove any changes that go beyond the "language currently in effect" as stated in Ordering Paragraph 9 of the *March 22, 2007 Order*. Verizon North has removed most of these changes in the January 11, 2008 revised compliance filing. In those instances where the Secretarial Letter's suggested changes were deemed by Verizon North as not appropriate, Verizon North provided the supporting authority for the change. As such, the OSBA Exception on this matter is denied.

2. Chapter 30 Language.

(OSBA August 2007 Exception No. 2 & January 2008 Exception No. 1)

The OSBA submits that Verizon North's compliance filing should either refer to specific statutory language in Chapter 30, or simply cite the relevant sections of Chapter 30. The OSBA argues that the insertion of truncated and selective language from Chapter 30 is inappropriate and misleading which could

lead to future litigation. Specifically, the OSBA takes issue with the “Executive Summary” on page 1 of the August 16, 2007 compliance filing where Verizon North states: “This Plan is intended to be consistent with the Legislative policies set forth in Act 183...” The OSBA submits that Verizon North follows that broad statement with an *abbreviated* laundry list of the Chapter 30 policies. The OSBA contends that Verizon North should either quote the language of Section 3011 directly or cite to Section 3011 without any accompanying laundry list. (OSBA Aug 2007 Exc. at 4).

This specific language in the Executive Summary was again emphasized in OSBA’s January 2008 Exceptions filed against Verizon North’s January 11, 2008 compliance filing. The OSBA states that the Commission ordered Verizon PA to change the same language in the November 28, 2007 Secretarial letter. The OSBA believes the Commission should do the same for Verizon North. (OSBA Jan 2008 Exc at 4)

In response to the OSBA’s August 2007 Exception, Verizon North states that the Commission approved inclusion of an Executive Summary in the original plan, which summarized very briefly the purposes of the original Chapter 30. Verizon North further states that nothing has changed to make it now unacceptable to revise the Executive Summary to briefly summarize the purposes of Act 183. Verizon North contends that nothing in the summary or elsewhere in the plan suggests that it somehow exempts Verizon North from other requirements of Act 183 if those requirements are not directly quoted or cited. (VN Sept. 2007 R.Exc. at 3).

In response to OSBA’s January 2008 Exceptions, Verizon North reiterates its response to the earlier Exception and argues that the Commission did not require them to make this change in the November 28, 2007 letter. Verizon

North also believes that it would be unnecessary and burdensome to require another compliance filing.

Disposition

We shall grant the OSBA Exceptions on this matter to the extent that the Executive Summary in the August 16, 2007 compliance filing should be modified and that per the November 28, 2007 Secretarial Letter, Verizon PA was directed to make changes to the Executive Summary to restore the original text. Therefore, we shall direct Verizon North to amend its Chapter 30 plan to restore the original language in the Executive Summary in the same manner as was done by Verizon PA. Therefore, we are granting in part the OSBA exception concerning the Executive Summary of Verizon North.

3. Specific Exceptions.

(OSBA August 2007 Exceptions No. 11, 13, 14, & 16)

The following OSBA Exceptions address specific edits included by Verizon North in its August 16, 2007 compliance filing which are in the nature of typo corrections or non-substantive clarifications:

OSBA #11 – p.12 B.2 – The sentence should read: “...therefore, this Plan is in compliance with the requirements of 66 Pa. C.S. §§ 3016(d) and 3016(f)(1).”

OSBA #13 – p.14 3rd full paragraph – the third sentence should read: “...are those services that are not [found] determined or declared....competitive.” this change is made to more closely follow the language of Section 3016.

OSBA #14 – p.15 A.2 – the acronym “PSI” should be defined.

OSBA # 16 – p.22 E.1 – the sentence should read; “...calculated under the PSI filed each year may be banked...”

(OSBA Aug 2007 Exc. at 6-7)

In response to these Exceptions, Verizon North agrees to make the changes.³ (VN R.Exc. at 7-8)

Disposition

Based on the agreement of the parties, we shall grant the Exceptions of the OSBA. Verizon North has made the changes in the January 11, 2008 revised compliance filing.

4. Specific Exceptions

(OSBA August 2007 Exceptions Nos. 3, 4, 5, 6, 12, & 20)

The following OSBA Exceptions have been addressed by the Commission Staff's suggested changes in the November 28, 2007 Secretarial Letter:

OSBA #3 – page 1, paragraph 1 – deleted language dealing with replacing “rate base/rate of return regulation and procedures.”

OSBA #4 – pages 1-2, paragraph 2 – deleted language dealing with “MOU” between Bell Atlantic and GTE North and adopted by PA PUC.

OSBA #5 – pages 4-5 A.3 – deleted language stating that this plan does not supercede the “MOU” regarding the merger.

OSBA #6 – page 5, B.1 – no Commission order authorized them to add the “the letter” of chapter 30 to the statement.

OSBA #12 – page 12, B.3 – remove or cite the word “direct.

³ Verizon North also agreed to OSBA Exception #7 (Re: change “B” to “b”) but that language has been deleted per the Commission Staff's suggested changes in the November 28, 2007 Secretarial Letter.

OSBA #20 – page 27, C.2 – the words “the provisions of this Plan and” in the first sentence should be deleted.
(OSBA Aug 2007 Exc. at 4-7)

Verizon North has agreed with certain of the Commission Staff’s suggested changes that will resolve these Exceptions. (VN 2008 R. Exc.)

Disposition

Based on the agreement of Verizon North and the November 28, 2007 Secretarial Letter, we shall grant the Exceptions of the OSBA. Verizon North has made the changes in the January 11, 2008 revised compliance filing.

Conclusion

Based on our review of Verizon North’s Chapter 30 Plan compliance filing and the Exceptions and Reply Exceptions filed thereto, we shall grant the Parties’ Exceptions, in part, and deny them, in part, and deem the January 11, 2008 revised Chapter 30 Plan to be in compliance with our Orders entered March 22, 2007 and April 25, 2007 at Docket No. R-00051227, *et al.* to the extent it is modified consistent with the discussion in the body of this Order;

THEREFORE,

IT IS ORDERED:

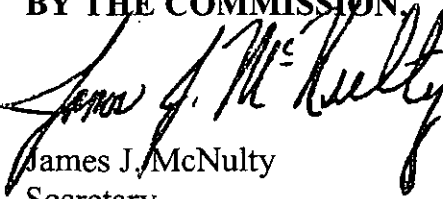
1. That the Exceptions of the Office of Consumer Advocate and the Office of Small Business Advocate to the Alternative Form of Regulation and Network Modernization Plan, filed by Verizon North Inc. on August 16, 2007 as revised on January 11 2008, at Docket No. P-00001854F1000, *et al.*, are granted in part and denied in part, consistent with this Order.

2. That Verizon North Inc. is directed to amend its Alternative Form of Regulation and Network Modernization Plan consistent with this Order and file the amended Plan within thirty (30) days of the entry of this Order or, alternatively, notify the Office of the Secretary of this Commission of its determination not to accept the directed modifications within thirty (30) days of the entry of this Order.

3. That unless otherwise modified by this Order, the revised Alternative Form of Regulation and Network Modernization Plan, filed by Verizon North Inc. on January 11, 2008, is deemed to be in compliance with our Orders entered March 22, 2007 and April 25, 2007, at Docket No. R-00051227, *et al.*

4. That a copy of this Order be served on the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: April 9, 2008

ORDER ENTERED:
APR 14 2008