

The Competitive
Telephone Company®

US LEC of North Carolina Inc.
Morrocroft III
6801 Morrison Boulevard
Charlotte, NC 28211

704.319.1000
Fax 704.319.3020
Website www.uslec.com

ORIGINAL

August 1, 2000



DOCUMENT RECEIVED
FOLDER

Mr. James McNulty
Pennsylvania Public Utilities Commission
North Office #200 Building
North and Commonwealth
Harrisburg, PA 17120

AUG 02 2000

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Mr. McNulty,

A-310814 F0002

Enclosed for filing is a copy of a Bona Fide request for interconnection negotiations with Bell Atlantic and US LEC of Pennsylvania. Please file this as notification that a request has been made of Bell Atlantic.

Thank you very much.

Sincerely,

A handwritten signature in black ink that reads "Todd Murphy". The signature is written in a cursive, flowing style.

Todd Murphy
Interconnection Manager/Regulatory
US LEC

US LEC of North Carolina Inc.
Morrocroft III
6801 Morrison Boulevard
Charlotte, NC 28211

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DOCKETED

AUG 24 2000

DOCUMENT
FOLDER



July 27, 2000

Mr. Jeffrey Masoner
Vice President – Interconnection Policy & Planning
Bell Atlantic / Verizon
1320 North Court House Road, 2nd Floor
Arlington, VA 22201

***RE: Bona Fide Request for Interconnection Negotiations Pursuant to
Section 251 of the Telecommunications Act of 1996 with Bell
Atlantic / Verizon in the State of Pennsylvania***

Dear Mr. Masoner :

The purpose of this letter is to formalize US LEC's Bona Fide Request for an interconnection agreement with Bell Atlantic / Verizon in the state of Pennsylvania. US LEC looks forward to concluding an agreement with Bell Atlantic / Verizon addressing the areas of interconnection, access to unbundled elements, resale of telecommunications services, and transport and termination of traffic as identified in Sections 251(a) through (c) of the Act. In order to facilitate the discussions between US LEC and Bell Atlantic / Verizon, I request that the topics of negotiation include:

1. Interconnection Arrangements

US LEC and Bell Atlantic / Verizon should reach efficient and mutually agreeable interconnection arrangements that include non-discriminatory, real-time access to databases, at cost-based rates pursuant to Section 252(d)(1) of the Act, and associated signaling necessary for call routing and completion.

Bell Atlantic / Verizon should also make available to US LEC collocation for equipment necessary for interconnection or access to unbundled network elements as contemplated by Section 251(c)(6) of the Act.

2. Meet-Point Billing Arrangements

US LEC would like to establish meet-point billing arrangements with Bell Atlantic / Verizon so that it may offer a common transport option to parties purchasing originating and terminating switched access services from US LEC.

3. Reciprocal Compensation

Compensation for traffic exchanged between the networks of US LEC and Bell Atlantic / Verizon should allow for the mutual and reciprocal recovery of costs associated with transport and termination as contemplated by Sections 251(b)(5) and 252(d)(2) of the Act.

4. Access to Ancillary Platforms

US LEC seeks access to all ancillary platform arrangements such as 911/E911, Directory Assistance, Directory Listings and Directory Distribution, Transfer of Service Announcement, Coordinated Repair Calls, and Busy Line Verification and Interrupt.

5. Unbundled Elements

US LEC requests nondiscriminatory access to Bell Atlantic / Verizon's network elements on an unbundled basis as contemplated by Section 251(c)(3).

6. Number Portability

Until permanent number portability arrangements are available under Section 251(b)(2), US LEC and Bell Atlantic / Verizon should provide interim number portability ("INP") options to each other on a competitively neutral basis, in accordance with the FCC's July, 1996 Number Portability Order.

7. Access to Rights-of-Way

US LEC would like access to Bell Atlantic / Verizon's poles, ducts, conduits, and rights-of-way as needed by US LEC to provide local exchange services.

8. Resale of Local Services

Bell Atlantic / Verizon should make available to US LEC for resale, at wholesale rates as defined in Section 252(d)(3), any telecommunications services currently provided at retail to subscribers who are not telecommunications carriers.

The suggested topics of negotiations listed above are intended only to assist in establishing an initial framework for interconnection negotiations. US LEC reserves the right to suggest additional or modified arrangements as negotiations proceed.

Basically, US LEC would like to provide local exchange services to customers currently located within Bell Atlantic / Verizon's traditional serving area. Furthermore, we would like to do this in concert with Bell Atlantic / Verizon through a fully functional interconnection of our respective networks at a mutually agreeable point (or points) inside Bell Atlantic / Verizon's service boundary in accordance with the terms of the Act.

This is a "Bona-Fide Request" for interconnection pursuant to 47 U.S.C. 251(f)(1)(A). We are therefore providing a copy of the request to the Pennsylvania Public Utilities Commission pursuant to Section 251(f)(1)(A).

All notices or other communication following approval of the agreement should be sent to:

Vice President – Regulatory and Industry Affairs
US LEC Corp.
Morrocroft III
6801 Morrison Boulevard
Charlotte, NC 28211

General Counsel
US LEC Corp.
Morrocroft III
6801 Morrison Boulevard
Charlotte, NC 28211

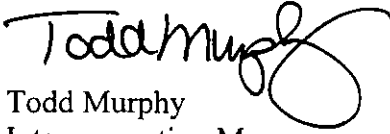
Mr. Masoner
July 27, 2000
Page 4 of 4

During the negotiation process I will be the primary contact and may be reached at the following:

(Telephone) 704.319.1259
(Facsimile) 704.602.1259
(E-mail) tmurphy@uslec.com

Upon the receipt of your response we can begin negotiations necessary to complete an interconnection agreement in accordance with the terms of the Telecommunications Act of 1996.

Sincerely,


Todd Murphy
Interconnection Manager

CC: Wanda G. Montano, Vice President Regulatory Affairs
Sumner N. Smith, Esq., General Counsel

Pennsylvania Public Utilities Commission

Richard Ringler, Esq., Swidler Berlin Shereff Friedman

DILWORTH PAXSON LLP

LAW OFFICES

ORIGINAL

DIRECT DIAL NUMBER:
717-236-4812

smithlc@dilworthlaw.com

April 25, 2001

Secretary James P. McNulty
Pennsylvania Public Utility Commission
P.O. Box 3265
Commonwealth Keystone Building
Harrisburg, PA 17101-3265

A-310814F0002

RE: US LEC Corporation v. Verizon Pennsylvania, Inc.

Dear Secretary McNulty:

Enclosed please find the original and four copies, one for timestamp and return, of the Petition of US LEC for Abbreviation Dispute Resolution.

If you have any questions, please feel free to contact me. Thank you.

Very truly yours,



Linda C. Smith

LCS/sw

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FOLDER

RECEIVED

APR 25 2001

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

64

Verizon territory, including the territories served by GTE prior to the merger with Bell Atlantic. No answers were forthcoming. On January 31, 2001, a Bona Fide request was made to Dorothy Dennis for opt-in to the GNAPS New Hampshire interconnection agreement pursuant to the conditions agreed to by Verizon for merger approval of the FCC. US LEC did not have knowledge of any Verizon process for such request due to Verizon's failure to respond to inquiries. On February 2, 2001, an interconnection agreement information request form was sent to Verizon for Pennsylvania. On February 14, 2001 Stephen Hughes of Verizon responded that the merger condition opt-in request did not apply and could not carry across state lines. On March 26, 2001, US LEC was directed back to Renee Ragsdale for same state opt in request. On March 28, 2001, US LEC sent a letter requesting opt-in to the Focal Communications agreement with Verizon in Pennsylvania. On April 11, 2001 Michelle Miller of Verizon requested the Interconnection information form which was previously submitted on February 2, 2001. On April 12, 2001 US LEC asked Stephen Hughes to forward the forms previously sent to the proper person. On April 16, 2001 US LEC asked Michelle Miller of Verizon if they were in receipt of the information forms from Stephen Hughes to which there was no response. On April 19, 2001, US LEC received from Robin Miller of Verizon a contract intent letter and another information profile form for review. A list of questions about those forms was sent to Renee Ragsdale and to date there has been no response to those questions.. On April 25, 2001, US LEC spoke with Greg Romano, an attorney for Verizon, who for the first time answered some questions, but needed to research others. He also advised US LEC that the opt in request for Focal would not be considered since Focal had signed a new agreement and was canceling their old one. Hence, after five

months of work on the issue, Verizon has kept US LEC from progressing toward an interconnection agreement that is provided for in the Telecommunications Act of 1996.

4. US LEC was sent from one Verizon resource to another in regard to this issue and was not assigned to a responsible Verizon representative for the purpose of interconnection. This has proved to be a very effective tactic for Verizon.

5. On March 28, 2001, US LEC sent a letter to Verizon requesting to opt into the agreement between Verizon Pennsylvania, Inc. and Focal Communications Corporation of February 6, 2001. That agreement was docketed at A-310630 F0002.

6. Verizon's lack of responsiveness to US LEC's requests for interconnection dating back to December 2000 has compromised the ability of US LEC to meet the expectations of its Board of Directors and Stockholders that it will continue to be able to provide uninterrupted service to its customers.

7. US LEC has acted in good faith for more than 30 calendar days in its attempts to gain Verizon's cooperation to opt into an interconnection agreement.

8. US LEC believes an impasse has been reached because Verizon has advised US LEC that it will not allow any parties to opt into the interconnection agreement it entered with Focal Communication dated February 6, 2001.

9. US LEC believes it could be irreparably harmed if it continues to be stonewalled by Verizon on the issue of interconnection, particularly since the FCC is expected to issue new rules on the issue of reciprocal compensation. Reciprocal compensation rates are a part of the Focal interconnection agreement with Verizon.

10. US LEC seeks to have this Commission, on an accelerated basis, to require Verizon to address US LEC's concerns to have an interconnection agreement. In

particular, US LEC seeks to have the Commission require Verizon to enter into an agreement with US LEC for the terms and conditions of the Focal agreement either through opt in, or some other method, and to have that agreement filed jointly before this Commission for review in accordance with the Commission's procedures.

11. In the event this Commission does not find that a accelerated dispute resolution is the proper forum for this matter, US LEC requests that this filing be viewed as a complaint or emergency petition, as necessary, to get this matter before the Commission as efficiently as possible.

12. Attached hereto are letters that were sent to the Commissioners outlining US LEC's concern.

WHEREFORE, US LEC respectfully requests that the Commission allow this matter to be addressed in accordance with its Abbreviated Dispute Resolution Process, or in the alternative, that this pleading be considered as an emergency petition or complaint as necessary to be addressed in an efficient manner.

Respectfully submitted,



Linda C. Smith
Dilworth Paxson LLP
305 N. Front Street
Suite 403
Harrisburg, PA 17101
(717) 236-4812

DATED: April 25, 2001

VERIFICATION

I, Wanda G. Montano, hereby affirm that the averments in the foregoing are true and correct to the best of my knowledge, information and belief and further state that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.


Wanda G. Montano
Vice President Regulatory & Industry Affairs

Date: April 25, 2001



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April 25, 2001

The Honorable Aaron Wilson
Commissioner
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: US LEC of Pennsylvania Request to Adopt Focal Agreement with Verizon Pennsylvania

Dear Commissioner Wilson:

This will follow up on a recent letter which you received from US LEC Corp. in which we advised you of our efforts to adopt an Interconnection Agreement with Verizon-Pennsylvania for the Commonwealth of Pennsylvania pursuant to section 252(i) of the Telecommunications Act of 1996. Concurrent with this letter, we are filing a Request to Adopt this Agreement with the Secretary's office, and request that the Commission approve our request to adopt, in full, the Interconnection Agreement between Verizon and Focal.

Throughout US LEC's corporate history, we have worked diligently with Incumbent Local Exchange Carriers ("ILECs") to utilize their internal processes and procedures to adopt previously approved Interconnection Agreements. However, US LEC does not believe that the Telecommunications Act of 1996 requires such processes to be used, especially if the ILEC's internal processes and procedures have the effect of delaying —unreasonably, in some cases— US LEC's efforts to exercise its statutory rights to adopt previously approved agreements..

In the case of Verizon Pennsylvania, US LEC has experienced a pattern of delays that, intentional or not, have thwarted our ability to obtain an interconnection agreement and, possibly, violate the Telecommunications Act of 1996. Our requests to adopt the Focal Agreement have been pending at Verizon for a month. This cannot be the result contemplated by Congress when it enacted section 252(i) of the Telecommunications Act as a way of speeding a carrier's entry to market.

US LEC will continue to work with Verizon to resolve certain procedural issues. We are not asking the Commission to resolve any issues, but simply to approve our request to adopt this Agreement. Therefore, we respectfully request your assistance in obtaining expedited approval of our request to adopt the Focal Agreement without further delay. If you need any additional information or wish to discuss the particulars of US LEC's adoption requests to Verizon, please do not hesitate to call me directly at 704.319.1074.

Sincerely,

A handwritten signature in black ink, appearing to read "Wanda G. Montano". The signature is fluid and cursive, with a long, sweeping underline that extends across the width of the signature.

Wanda G. Montano
Vice President, Regulatory and Industry Affairs

Cc: Secretary's office
Mr. Jeffrey Masoner, Verizon



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April 25, 2001

The Honorable John M. Quain
Chairman & Commissioner
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: US LEC of Pennsylvania Request to Adopt Focal Agreement with Verizon Pennsylvania

Dear Commissioner Quain:

This will follow up on a recent letter which you received from US LEC Corp. in which we advised you of our efforts to adopt an Interconnection Agreement with Verizon-Pennsylvania for the Commonwealth of Pennsylvania pursuant to section 252(i) of the Telecommunications Act of 1996. Concurrent with this letter, we are filing a Request to Adopt this Agreement with the Secretary's office, and request that the Commission approve our request to adopt, in full, the Interconnection Agreement between Verizon and Focal.

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Sincerely,

A handwritten signature in black ink, appearing to read "Wanda G. Montano". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Wanda G. Montano
Vice President, Regulatory and Industry Affairs

Cc: Secretary's office
Mr. Jeffrey Masoner, Verizon



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April 25, 2001

The Honorable Terrence Fitzpatrick
Commissioner
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: US LEC of Pennsylvania Request to Adopt Focal Agreement with Verizon Pennsylvania

Dear Commissioner Fitzpatrick:

This will follow up on a recent letter which you received from US LEC Corp. in which we advised you of our efforts to adopt an Interconnection Agreement with Verizon-Pennsylvania for the Commonwealth of Pennsylvania pursuant to section 252(i) of the Telecommunications Act of 1996. Concurrent with this letter, we are filing a Request to Adopt this Agreement with the Secretary's office, and request that the Commission approve our request to adopt, in full, the Interconnection Agreement between Verizon and Focal.

Throughout US LEC's corporate history, we have worked diligently with Incumbent Local Exchange Carriers ("ILECs") to utilize their internal processes and procedures to adopt previously approved Interconnection Agreements. However, US LEC does not believe that the Telecommunications Act of 1996 requires such processes to be used, especially if the ILEC's internal processes and procedures have the effect of delaying —unreasonably, in some cases — US LEC's efforts to exercise its statutory rights to adopt previously approved agreements..

In the case of Verizon Pennsylvania, US LEC has experienced a pattern of delays that, intentional or not, have thwarted our ability to obtain an interconnection agreement and, possibly, violate the Telecommunications Act of 1996. Our requests to adopt the Focal Agreement have been pending at Verizon for a month. This cannot be the result contemplated by Congress when it enacted section 252(i) of the Telecommunications Act as a way of speeding a carrier's entry to market.

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Sincerely,

A handwritten signature in black ink, appearing to read "Wanda G. Montano". The signature is fluid and cursive, with a large, sweeping initial "W".

Wanda G. Montano
Vice President, Regulatory and Industry Affairs

Cc: Secretary's office
Mr. Jeffrey Masoner, Verizon



US LEC Corp.
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Charlotte, North Carolina 28211

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Website www.uslec.com

April 25, 2001

The Honorable Nora Mead Brownell
Commissioner
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: US LEC of Pennsylvania Request to Adopt Focal Agreement with Verizon Pennsylvania

Dear Commissioner Brownell:

This will follow up on a recent letter which you received from US LEC Corp. in which we advised you of our efforts to adopt an Interconnection Agreement with Verizon-Pennsylvania for the Commonwealth of Pennsylvania pursuant to section 252(i) of the Telecommunications Act of 1996. Concurrent with this letter, we are filing a Request to Adopt this Agreement with the Secretary's office, and request that the Commission approve our request to adopt, in full, the Interconnection Agreement between Verizon and Focal.

Throughout US LEC's corporate history, we have worked diligently with Incumbent Local Exchange Carriers ("ILECs") to utilize their internal processes and procedures to adopt previously approved Interconnection Agreements. However, US LEC does not believe that the Telecommunications Act of 1996 requires such processes to be used, especially if the ILEC's internal processes and procedures have the effect of delaying —unreasonably, in some cases— US LEC's efforts to exercise its statutory rights to adopt previously approved agreements..

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Sincerely,

A handwritten signature in black ink, appearing to read "Wanda G. Montano". The signature is fluid and cursive, with a large initial "W" and "M".

Wanda G. Montano
Vice President, Regulatory and Industry Affairs

Cc: Secretary's office
Mr. Jeffrey Masoner, Verizon



US LEC Corp.
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6801 Morrison Boulevard
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Website www.uslec.com

April 25, 2001

The Honorable Robert Bloom
Commissioner
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: US LEC of Pennsylvania Request to Adopt Focal Agreement with Verizon Pennsylvania

Dear Commissioner Bloom:

This will follow up on a recent letter which you received from US LEC Corp. in which we advised you of our efforts to adopt an Interconnection Agreement with Verizon-Pennsylvania for the Commonwealth of Pennsylvania pursuant to section 252(i) of the Telecommunications Act of 1996. Concurrent with this letter, we are filing a Request to Adopt this Agreement with the Secretary's office, and request that the Commission approve our request to adopt, in full, the Interconnection Agreement between Verizon and Focal.

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Sincerely,

A handwritten signature in cursive script, reading "Wanda G. Montano". The signature is written in black ink and is positioned above the typed name and title.

Wanda G. Montano
Vice President, Regulatory and Industry Affairs

Cc: Secretary's office
Mr. Jeffrey Masoner, Verizon

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by first class mail, postage prepaid:

Verizon Pennsylvania, Inc.

Julia A. Conover, Esquire
Verizon Pennsylvania, Inc.
1717 Arch Street 32 NW
Philadelphia, PA 19103
Phone: (215) 963-6001
Fax: (215) 563-2658
Julia.A.Conover@verizon.com


PUC Office of Trial Staff

Kandace Melillo, Esquire
Office of Trial Staff
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 783-6155
Fax: (717) 772-2677
Melillo@puc.state.pa.us

Office of Consumer Advocate

Philip McClelland, Esquire
Barrett Sheridan
Office of Consumer Advocate
555 Walnut Street - 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
pmcclelland@paoca.org
bsheridan@paoca.org

Office of Small Business Advocate
Angela Jones, Esquire
Office of Small Business Advocate
300 North Second Street - Suite 1102
Commerce Building
Harrisburg, PA 17101
Phone: (717) 783-2525
Fax: (717) 783-2831
anjones@state.pa.us


Linda C. Smith

Dated: April 25, 2001

DATE: April 26, 2001

SUBJECT: A-310814F0002

TO: Office of Administrative Law Judge

FROM: James J. McNulty, Secretary

LAF

US LEC OF PENNSYLVANIA, INC.

Attached is a copy of a Petition for Abbreviated Dispute Resolution of Interconnection Agreement Conflict with Verizon Pennsylvania, Inc., filed in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

cc: OTS - w/copy of petition
FUS - w/copy of petition
LAW - w/copy of petition

laf

DOCUMENT
FOLDER

DOCKETED
APR 26 2001

DILWORTH PAXSON LLP

LAW OFFICES

DIRECT DIAL NUMBER:

717-236-4812

smithlc@dilworthlaw.com

Secretary James P. McNulty
Pennsylvania Public Utility Commission
P.O. Box 3265
Commonwealth Keystone Building
Harrisburg, PA 17101-3265

April 26, 2001
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A-310814F0002

RECEIVED
01 APR 26 PM 12:31
PA.P.U.C.
SECRETARY'S BUREAU

RE: US LEC Corp v. Verizon Pennsylvania, Inc.

Dear Secretary McNulty:

Enclosed please find an Amended Certificate of Service in the above reference matter. This certificate shows that service was made by Federal Express on Verizon Pennsylvania on April 25, 2001 and by hand delivery to the statutory parties on April 26, 2001 rather than first class mail. The amended certificate also shows that service was made on Chief Administrative Law Judge Christianson.

Also enclosed is an original verification signed by Wanda Montano. A facsimile version was included in the filing.

Very truly yours,



Linda C. Smith

LCS/sw

cc: All Parties

305 N. FRONT STREET • SUITE 403 • HARRISBURG PA 17101-1236
(717) 236-4812 • FAX (717) 236-7811 • www.dilworthlaw.com

17835-1

PHILADELPHIA PA

MEDIA PA

CHERRY HILL NJ

TURNERSVILLE NJ

WILMINGTON DE

AMENDED CERTIFICATE OF SERVICE

Service was made by Federal Express on April 25, 2001 on Verizon Pennsylvania and was made by hand delivery on all other parties on April 26, 2001.

Verizon Pennsylvania, Inc.
Julia A. Conover, Esquire
1717 Arch Street 32 NW
Philadelphia, PA 19103
Phone: (215) 963-6001
Fax: (215) 563-2658
Julia.A.Conover@verizon.com

Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
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Phone: (717) 783-6155
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Office of Consumer Advocate
Irwin Popowsky
Office of Consumer Advocate
555 Walnut Street - 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152


DOCKETED
APR 27 2001

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PA.P.U.C.
SECRETARY'S BUREAU

Office of Small Business Advocate
Bernie Ryan
Office of Small Business Advocate
300 North Second Street - Suite 1102
Commerce Building
Harrisburg, PA 17101
Phone: (717) 783-2525
Fax: (717) 783-2831

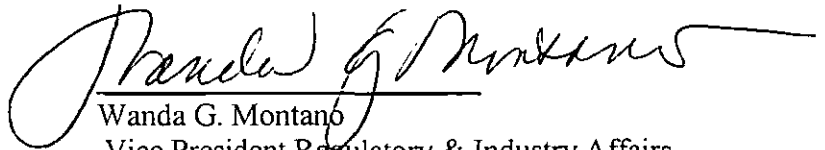
Chief Administrative Law Judge
Robert Christianson
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265


Linda C. Smith

Dated: April 26, 2001

VERIFICATION

I, Wanda G. Montano, hereby affirm that the averments in the foregoing are true and correct to the best of my knowledge, information and belief and further state that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.


Wanda G. Montano
Vice President Regulatory & Industry Affairs

Date: April 25, 2001

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APR 27 2001
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FOLDER**



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

DOCUMENT
FOLDER

April 30, 2001

In Re: A-310814F0002

(See attached list)

US LEC of Pennsylvania, Inc.

Petition for Abbreviated Dispute Resolution of Interconnection
Agreement Conflict with Verizon Pennsylvania, Inc.

NOTICE

This is to inform you that Administrative Law Judge Herbert Smolen has been assigned as presiding officer in the above captioned case. ALJ Smolen can be contacted at 1302 Philadelphia State Office Building, 1400 West Spring Garden Street, Philadelphia, PA 19130, Telephone: (215) 560-2105, Fax: (215) 560-3133.

Please mark your records accordingly.

pc: Judge Smolen
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

DOCKETED

MAY 01 2001

LINDA C SMITH ESQUIRE
DILWORTH PAXSON LLP
305 NORTH FRONT STREET
SUITE 403
HARRISBURG PA 17101-1236

GARY D GREFRATH EXECUTIVE VP ADM
US LEC CORP
TRANSAMERICA SQUARE
401 NORTH TYRONE STREET
SUITE 1000
CHARLOTTE NC 28202

KEMAL M HAWA ESQUIRE
SWIDLER BERLIN SHEREFF FRIEDMANN
LLP
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MANAER/REGUL
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KANDACE MELILLO ESQUIRE
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SUITE 1102
COMMERCE BUILDING
HARRISBURG PA 17101

Anthony E. Gay
Regulatory Counsel
Law Department

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Verizon Pennsylvania Inc.
1717 Arch Street, 32NW
Philadelphia, PA 19103

May 3, 2001

Tel: (215) 963-6023
Fax: (215) 563-2658
Anthony.E.Gay@Verizon.com

Via Overnight Express Mail
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

ORIGINAL

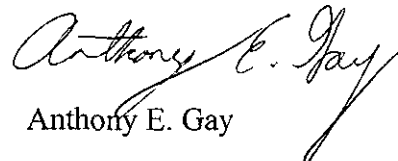
Re: US LEC Corp. v. Verizon Pennsylvania Inc.,
Docket No. A-310814F0002 .

Dear Secretary McNulty:

Enclosed, for filing with the Commission, is an original and three copies of Verizon Pennsylvania Inc.'s Answer and New Matter to US LEC's Petition.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,


Anthony E. Gay

AEG/dkf
Enc.

Via Overnight Express Mail
cc: The Honorable Herbert Smolen
Attached Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MAY 03 2001

**PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

| | | |
|-----------------------------------|---|-------------------------|
| US LEC, Corp., | : | |
| | : | |
| Complainant, | : | |
| | : | |
| v. | : | Docket No. A-310814F002 |
| | : | |
| Verizon Pennsylvania Inc., | : | |
| | : | |
| Respondent. | : | |

**VERIZON PENNSYLVANIA INC.'S
ANSWER AND NEW MATTER TO US LEC'S PETITION**

Respondent Verizon Pennsylvania Inc. ("Verizon") hereby answers the Petition of Complainant US LEC, Corp. ("US LEC") for Abbreviated Dispute Resolution of Interconnection Agreement Conflict with Verizon and avers as follows:

INTRODUCTION

US LEC's Petition is an attempt to opt-in to a February 2, 2001 Interconnection Agreement between Verizon and Focal Communications Corporation ("Focal") that Verizon and Focal have terminated and replaced with a supplemental agreement. Apparently, US LEC is under the impression that the terms of the old Focal agreement, specifically its reciprocal compensation rates, would be more favorable to it than the terms of the new agreement. Hence, US LEC has "cried wolf" to the Commission by filing its Petition and claiming that Verizon "stonewalled" its attempts to opt-in to the February 2 Focal agreement. US LEC's claim that Verizon has delayed taking action on its request to opt-in to the Focal agreement could not be further from the truth.

US LEC's first and only request to opt-in to the Focal agreement was made on March 28, 2001 and was received by Verizon on April 3, 2001. Contrary to US LEC's claims of delay, Verizon promptly responded to US LEC's request to opt-in to the Focal agreement by telephone and e-mail. During these communications, Verizon candidly informed US LEC that the Focal agreement had terminated, but that a new agreement with Focal would be filed with the Commission shortly and available for US LEC's review at that time. Instead of waiting to review the new agreement, US LEC filed this Petition on April 25, 2001, less than 30 days after its request to opt-in to the Focal agreement was mailed to Verizon.

US LEC's attempt to opt-in to the February 2 Focal agreement should fail and its Petition should be dismissed. First, as stated above, Focal and Verizon have terminated their February 2 agreement. Therefore, US LEC can no longer opt-in to its provisions. Second, even if US LEC could opt-in to the agreement, which it cannot, the reciprocal compensation rates in the agreement would be null and void because of an overriding change in law affecting this issue. The FCC has recently determined that Internet traffic is not subject to reciprocal compensation under § 251(b)(5) of the Telecommunications Act of 1996, 47 U.S.C. § 251 (b)(5).¹ Under the change in law provisions of the old Focal agreement, this FCC order must be reflected in any agreement between US LEC and Verizon that is based on that Focal agreement:

27.3 In the event of a change in Applicable Law that material affects any material term of this Agreement, the rights or obligations of either Party hereunder, or the ability of either Party to perform any material provision hereof, the Parties shall renegotiate in good faith such affected provisions

¹See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, [Order on Remand and Report and Order], CC Docket Nos. 96-98 and 99-68, FCC 01-131 (rel. Apr. 27, 2001).

with a view toward agreeing to acceptable new terms as may be required or permitted as a result of such legislative, regulatory, judicial or other legal action.

27.4 Notwithstanding anything herein to the contrary, if, as a result of any decision, order or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, it is determined that Verizon is not required to furnish any service, facility or arrangement, or to provide any benefit required to be furnished or provided to FOCAL hereunder, then Verizon may discontinue the provision of any such service, facility, arrangement or benefit to the extent permitted by any such decision, order or determination by providing thirty (30) days prior written notice to FOCAL, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff or Applicable Law) for termination of such service, in which event such specified period and/or conditions shall apply.

For all of these reasons, US LEC's Petition should be dismissed with prejudice.

ANSWER

1. Admitted.

2. Denied as stated. It is denied that US LEC has attempted to opt-in to the terminated interconnection agreement between Focal and Verizon since December of 2000 as US LEC's Petition implies. To the contrary, Verizon received US LEC's written request to opt-in to the Focal agreement on or about April 3, 2001.

3. Denied. It is denied that US LEC has experienced long delays and a lack of responsiveness on the part of Verizon. US LEC's original request to opt-in to the Focal agreement, which is what is at issue in this proceeding, was dated March 28, 2001 and was received by Verizon on or about April 3, 2001. Verizon responded to US LEC's opt-in request by telephone and by e-mail, advising US LEC that the Focal agreement had been replaced and therefore would not be available for opt-in. Thus, US LEC has not

spent “five months of work on the issue.” To the contrary, US LEC commenced this proceeding less than 30 days after mailing its opt-in request to Verizon.

4. Denied. US LEC communicated with Verizon contract negotiation attorney Greg Romano by telephone and e-mail concerning its request to opt-in to the Focal agreement. Moreover, Mr. Romano specifically advised US LEC in an e-mail communication to contact him directly with further questions, and Mr. Romano gave US LEC his direct-dial telephone number. It is US LEC who has resorted to “tactics” by choosing to institute litigation instead of working with Mr. Romano.

5. Denied as stated. The Focal agreement is dated February 2, 2001. The remaining allegations of paragraph 5 of the Petition are admitted.

6. Denied. It is denied that Verizon has been non-responsive to US LEC’s requests for interconnection. It is further denied that US LEC’s request to opt-in to the agreement at issue in this proceeding, the February 2 Focal agreement, date back to December 2000. By way of further answer, Verizon is without sufficient information to admit or deny whether US LEC is meeting the expectations of its Board of Directors and Stockholders. In any event, those expectations are not relevant to this proceeding.

7. Denied. US LEC has neither acted in good faith nor has it acted for more than 30 calendar days in its attempts to opt-in to the Focal agreement. To the contrary, US LEC filed its Petition requesting to opt-in to the Focal agreement less than 30 days after mailing its request to Verizon.

8. Denied. Verizon is without sufficient information to admit or deny what US LEC believes. It is denied, however, that Verizon “advised US LEC that it will not allow any parties to opt into the interconnection agreement it entered with Focal

Communication dated February 6, 2001.” To the contrary, Verizon advised US LEC that the Focal agreement had terminated and was not available for adoption. Verizon further advised US LEC that a new agreement with Focal would be filed with the Commission shortly and would be available for US LEC’s review at that time.

9. Denied in part, admitted in part. Verizon is without sufficient information to admit or deny what US LEC believes. It is denied that US LEC has been “stonewalled” by Verizon, to the contrary, Verizon responded to US LEC’s request to opt-in to the Focal agreement in less than 30 days after receiving the request. By way of further answer, US LEC’s claim of irreparable harm is denied as a conclusion of law to which no response is required. It is admitted only that reciprocal compensation rates are part of the Focal interconnection agreement with Verizon.

10. Admitted in part, denied in part. It is admitted that US LEC seeks to have the Commission, on an accelerated basis, require that Verizon allow US LEC to opt-in to the terminated Focal agreement. It is denied that US LEC is entitled to accelerated dispute resolution or any other relief from the Commission.

11. Admitted in part, denied in part. It is admitted that US LEC seeks alternatively to have its Petition viewed as a complaint or emergency petition. It is denied that US LEC is entitled this relief or any other relief from the Commission.

12. The letters attached to US LEC’s Petition speak for themselves, accordingly, no response is required.

WHEREFORE, Verizon respectfully requests that the Petition of US LEC for Abbreviated Dispute Resolution of Interconnection Agreement be dismissed with prejudice, and that the Commission grant Verizon such other relief it deems just and proper.

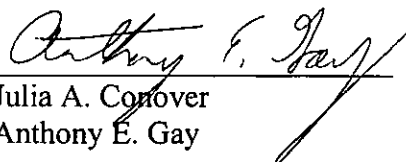
NEW MATTER

1. The February 2, 2001 Focal agreement that US LEC seeks to opt-in to terminated and is not available for adoption.
2. Even if US LEC were entitled to opt-in to the terminated Focal agreement, which it is not, the reciprocal compensation rates in the agreement would be null and void pursuant to the change in law provisions of the Focal agreement.

WHEREFORE, Verizon respectfully requests that the Petition of US LEC for Abbreviated Dispute Resolution of Interconnection Agreement be dismissed with prejudice, and that the Commission grant Verizon such other relief it deems just and proper.

Dated: May 3, 2001

Respectfully submitted,

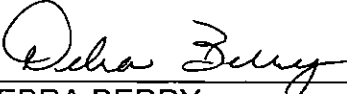


Julia A. Conover
Anthony E. Gay

Counsel for
Verizon Pennsylvania Inc
1717 Arch Street, 32nd Floor
Philadelphia, PA 19102
(215) 963-6023

VERIFICATION

I, **DEBRA BERRY**, Director, Regulatory Planning of Verizon Pennsylvania Inc., hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).



DEBRA BERRY
Director, Regulatory Planning

CERTIFICATE OF SERVICE

I, Anthony E. Gay, Esq., hereby certify that I have this day served a true copy of the Answer of Verizon Pennsylvania Inc.'s Answer and New Matter to US LEC's Petition, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 3rd day of May, 2001.

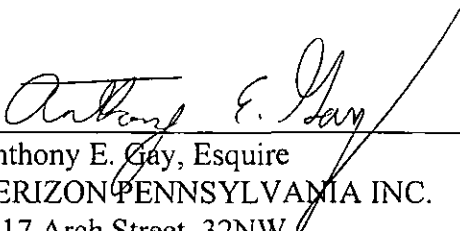
VIA OVERNIGHT EXPRESS MAIL

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Anthony E. Gay, Esquire
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Philadelphia, PA 19103
(215) 963-6023

DILWORTH PAXSON LLP

LAW OFFICES

DIRECT DIAL NUMBER:
717-236-4812

Linda C. Smith
smithlc@dilworthlaw.com

May 4, 2001

Secretary James P. McNulty
Pennsylvania Public Utility Commission
P.O. Box 3265
Keystone Building, 3rd Floor
Harrisburg, PA 17101-3265

ORIGINAL

RE: US LEC Corp v. Verizon Pennsylvania, Inc.

A-310814F0002

Dear Secretary McNulty:

Enclosed please find the original and four copies (one for time-stamp) of the Prehearing Memorandum of US LEC of Pennsylvania, Inc. in the above referenced case. If you have any questions, please do not hesitate to call.

Very truly yours,

Linda C. Smith

Linda C. Smith

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MAY 07 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

cc: ALJ Smolen
Todd Murphy

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MEDIA PA

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TURNERSVILLE NJ

WILMINGTON DE

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MAY 07 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

US LEC of Pennsylvania, Inc. :
Petition for Abbreviated Dispute :
Resolution of Interconnection :
Agreement Conflict with Verizon :
Pennsylvania Inc. :

Docket No. A-310814E0002

ORIGINAL

PREHEARING MEMORANDUM OF US LEC OF PENNSYLVANIA, INC.

Pursuant to 66 Pa. C.S. § 333 and 52 Pa. Code § 5.224, and in accordance with the instructions of ALJ Herbert Smolen given during the telephonic conference call among the parties, US LEC of Pennsylvania, Inc. submits this Prehearing Memorandum.

I. INTRODUCTION

This proceeding was initiated by the filing of a Petition for Abbreviated Dispute Resolution by US LEC of Pennsylvania, Inc. dated April 25, 2001. In that Petition, US LEC raised its concern over Verizon's lack of responsiveness to, and cooperation with, US LEC on the issue of adopting a new interconnection agreement.

US LEC is a competitive local exchange carrier with a certificate of public convenience in Pennsylvania. On July 15, 1999, US LEC exercised its right under section 252(i) of the Telecommunications Act of 1996 to opt-in to the interconnection agreement between MCImetro and Verizon, f/k/a Bell Atlantic- Pennsylvania, Inc. That agreement expired in August of 2000, but continues to govern the parties' operations pursuant to an "Evergreen" clause. On the expiration of its agreement, US LEC sought to negotiate a new agreement, or to adopt an existing agreement, and contacted Verizon as early as June 26, 2000, for that purpose. Over the intervening months, Verizon's responses to US LEC's requests were delayed, not forthcoming at all, were constantly

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passed from one person to another within Verizon, or rested on seriously flawed foundations.¹

US LEC's goal is to provide uninterrupted service to its customers through a valid and enforceable interconnection agreement with Verizon—expectations that are not met simply through continued operations under the “Evergreen” clause of an expired agreement. Indeed, the inability to enter into a new interconnection agreement in a timely, cost-effective, manner is a serious concern to US LEC and, ultimately, has repercussions that go beyond service issues. It is for these reasons that US LEC has sought Commission intervention.

US LEC's purpose in bringing this petition to the Commission on an accelerated basis is not to address the major policy questions that arise from the facts that will be presented in this case. Those policy questions will be addressed in the proper forums. Rather, the purpose of this proceeding is to seek Commission approval of US LEC's decision to adopt the arbitrated agreement between Verizon and Focal Communications. In this way, the injury to US LEC resulting from Verizon's unreasonable and inordinate delay that prevented US LEC from entering into a new interconnection agreement to date will be cured.

¹ For example, US LEC sought to utilize the expanded Most Favored Nations provisions of the conditions imposed when the Federal Communications Commission approved the merger of Bell Atlantic and GTE (the “MFN Condition”) to adopt an agreement from elsewhere in Verizon territory. In a seriously flawed and unduly narrow reading of that MFN Condition, Verizon refused, causing even more delay. Verizon's distorted interpretation of the MFN Condition is the subject of a pending FCC proceeding.

II. ISSUES

This case presents the following issues:

The first issue presented by the Petition is whether the Commission should approve US LEC's adoption of the arbitrated interconnection agreement between Focal and Verizon (the "Arbitrated Focal Agreement"). That agreement was signed on February 2, 2001, and filed on February 6, 2001. Since it is an arbitrated agreement, then pursuant to section 252(e)(4) of the Telecommunications Act, the Arbitrated Focal Agreement was deemed approved as a matter of law on March 8, 2001. US LEC advised Verizon on March 28, 2001, that it was exercising its 252(i) rights and adopting the Arbitrated Focal Agreement. Verizon first acceded to that request but then advised US LEC that due to a settlement with Focal, the Arbitrated Focal Agreement no longer was available for adoption. As of this writing, however, no subsequent agreement has been filed either by Verizon or Focal and no effort has been made to "terminate" the current agreement.² Thus, the issue presented by this Petition is whether the Commission should approve US LEC's decision to adopt the Arbitrated Focal Agreement.³

The second issue presented is whether Verizon acted reasonably and in compliance with its legal obligations under the Telecommunications Act of 1996 when it failed to respond to US LEC's requests in a timely manner. Specifically, Verizon failed to provide a single point of contact that was responsive to US LEC's inquiries and

² Another facet of this issue is whether Verizon can "terminate" the Arbitrated Focal Agreement, so as to remove it from the universe of available agreements, under any set of circumstances. To be sure, Verizon and Focal can enter an agreement which supercedes the arbitrated agreement, but it is doubtful that Verizon can "terminate" that agreement.

concerns over interconnection. As a result, although US LEC certainly made its interest in a new interconnection agreement for Pennsylvania known as early as June 2000, Verizon's delay, "buck-passing" and intransigence has stymied all progress in US LEC's efforts to adopt an existing interconnection agreement.

III. WITNESSES

US LEC expects to produce Mr. Todd Murphy as its witness in this matter.

IV. SERVICE ON US LEC

US LEC is represented in this proceeding by Linda C. Smith, Esq. and, pursuant to a granting of a motion pro hac vice, Michael L. Shor, Esq. Copies of all documents should be served as follows

Linda C. Smith, Esquire
Dilworth Paxson LLP
305 N. Front Street, Suite 403
Harrisburg, PA 17101
Telephone : 717-236-4812
Fax: 717-236-7811
e-mail: lsmith@dilworthlaw.com

and

Michael L. Shor, Esquire
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Telephone: (202) 424-7775
Fax: (202) 424-7645
e-mail: mlshor@swidlaw.com

V. PROCEUDRAL SCHEDULE

According to the telephonic conference of May 2, 2001, the following schedule has been established.

³ Whether the Arbitrated Focal Agreement is subject to any modifications in light of any recent FCC decisions is not within the scope of this proceeding.

Telephonic Prehearing Conference May 8, 2001 10:00 a.m.
Hearing May 15, 2001
Briefs May 22, 2001
ALJ Decision June 8, 2001

Respectfully submitted,

Linda C. Smith

Linda C. Smith
Dilworth Paxson LLP
305 N. Front Street, Suite 403
Harrisburg, PA 17101
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Fax: 717-236-7811
e-mail: lsmith@dilworthlaw.com

Dated: May 7, 2001

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PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by first class mail, postage prepaid:

Verizon Pennsylvania, Inc.

Julia A. Conover, Esquire
1717 Arch Street 32 NW
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Phone: (215) 963-6001
Fax: (215) 563-2658
Julia.A.Conover@verizon.com

Linda C. Smith
Linda C. Smith

Dated: May 7, 2001

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PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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MANAER/REGUL
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ANGELA JONES ESQUIRE
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COMMERCE BUILDING
HARRISBURG PA 17101

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DILWORTH PAXSON LLP

LAW OFFICES

DIRECT DIAL NUMBER:
(717) 236-4812

Linda C. Smith
smithlc@dilworthlaw.com

May 7, 2001

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VIA FACSIMILE (215) 560-3133

ALJ Herbert Smolen
Pennsylvania Public Utility Commission
Room 1302
Philadelphia State Office Building
Broad and Spring Garden Streets
Philadelphia, PA 19130

MAY 07 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

A-310814F0002

RE: US LEC v. Verizon Pennsylvania, Inc.

Dear ALJ Smolen:

Enclosed please find the original and four copies (one for time stamp and return) of US LEC's Motion of Pro Hac Vice and Proposed Order for Michael L. Shor.

If you have any further questions. Please feel free to contact me. Thank you.

Very truly yours,

Linda C. Smith

Linda C. Smith

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LCS/sw
Enclosure

cc: Secretary James P. McNulty
Todd Murphy

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PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

US LEC of Pennsylvania, Inc. :
Petition for Abbreviated Dispute : Docket No. A-310814F0002
Resolution of Interconnection :
Agreement Conflict with Verizon :
Pennsylvania Inc. :

MOTION FOR ADMISSION PRO HAC VICE

NOW COMES, Linda C. Smith, Esq., a member of the bar of this Commonwealth and respectfully moves for the admission of the following individual to appear as an attorney on behalf of US LEC of Pennsylvania, Inc. in the above-captioned proceeding:

Michael L. Shor
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington, DC 20007
(202) 424-7775 (phone)
(202) 424-7645 (fax)
mlshor@swidlaw.com

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In support thereof, movant states:

1. I am an active member of the Pennsylvania Bar (Attorney No. 35868) and practicing at Dilworth Paxson LLP, 305 North Front Street, Suite 403, Harrisburg, PA 17101.
2. Michael L. Shor is a member in good standing of the bar of the state of Virginia, having been admitted to practice in 1988. His attorney id number for Virginia is 28478.


3. Michael L. Shore is also a member of the bar of Washington D.C. having been admitted in March 1989. His attorney id number for Washington D.C. is 417628

4. Mr. Shor was first admitted to practice in New York in January 1987, but is not longer a member of the bar of that state. He was a member in good standing at the time his bar membership expired.

5. Mr. Shor has represented US LEC in a number of jurisdictions on issues pertaining to reciprocal compensation and interconnection agreements. As such, he has knowledge that will greatly assist US LEC in this accelerated proceeding. His particular expertise cannot be duplicated in the short time period provided by the accelerated procedure.

WHEREFORE, I move that Michael L. Shor, Esquire be admitted to practice pro hac vice on behalf of US LEC, Inc. in the above-captioned proceeding.

Respectfully submitted,


Linda C. Smith, Esquire
ID No. 35868
Dilworth Paxson LLP
305 North Front Street, Suite 403
Harrisburg, PA 17101
(717) 236-4812

Dated: May 7, 2001

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---------------------------------|
| US LEC of Pennsylvania, Inc. | : | |
| Petition for Abbreviated Dispute | : | Docket No. A-310814F0002 |
| Resolution of Interconnection | : | |
| Agreement Conflict with Verizon | : | |
| Pennsylvania Inc. | : | |

ORDER

NOW, this _____ day of May, 2001, upon consideration of the Motion of Linda C. Smith, Esquire to grant admission pro hac vice of Michael Shor, Esquire for the limited purpose of representing US LEC, Inc. in the above captioned proceeding, the motion is granted.

Herbert Smolen
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by first class mail, postage prepaid:

Verizon Pennsylvania, Inc.

Julia A. Conover, Esquire
1717 Arch Street-32 NW
Philadelphia, PA 19103
Phone: (215) 963-6001
Fax: (215) 563-2658
Julia.A.Conover@verizon.com


Linda C. Smith

Dated: May 7, 2001

Anthony E. Gay
Regulatory Counsel
Law Department

ORIGINAL



Verizon Pennsylvania Inc.
1717 Arch Street, 32NW
Philadelphia, PA 19103

Tel: (215) 963-6023
Fax: (215) 563-2658
Anthony.E.Gay@Verizon.com

May 7, 2001

Via Overnight Express Mail
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

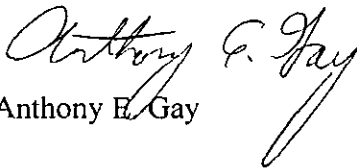
Re: US LEC Corp. v. Verizon Pennsylvania Inc.,
Docket No. A-310814F0002

Dear Secretary McNulty:

Enclosed, for filing with the Commission, is an original and three copies of Verizon Pennsylvania Inc.'s Prehearing Memorandum.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,


Anthony E. Gay

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AEG/dkf
Enc.

Via Facsimile and Overnight Express Mail
cc: The Honorable Herbert Smolen
Attached Certificate of Service

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MAY 07 2001
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

140

CERTIFICATE OF SERVICE

ORIGINAL

I, Anthony E. Gay, Esq., hereby certify that I have this day served a true copy of Verizon Pennsylvania Inc.'s Prehearing Memorandum, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 7th day of May, 2001.

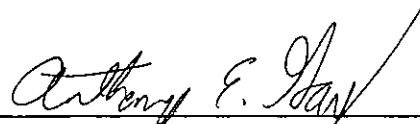
VIA FACSIMILE AND OVERNIGHT EXPRESS MAIL

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Smithlc@dilworthlaw.com



Anthony E. Gay, Esquire
VERIZON PENNSYLVANIA INC.
1717 Arch Street, 32NW
Philadelphia, PA 19103
(215) 963-6023

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MAY 07 2001

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

US LEC, Corp.,

Complainant,

v.

Verizon Pennsylvania Inc.,

Respondent.

Docket No. A-310814F002

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MAY 07 2001

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VERIZON PENNSYLVANIA INC.'S
PREHEARING MEMORANDUM

Verizon Pennsylvania Inc. ("Verizon") submits this Prehearing Memorandum in accordance with the Scheduling Notice and recommendations of Administrative Law Judge Herbert Smolen.

INTRODUCTION

The issue before the Commission is simple. US LEC Corp. ("US LEC"), is improperly attempting to opt-in to a February 2, 2001 Interconnection Agreement between Verizon and Focal Communications Corp. ("Focal") by petitioning the Commission for Abbreviated Dispute Resolution. US LEC's Petition should be dismissed with prejudice.

As a threshold matter, US LEC has not engaged in good faith negotiations for at least 30 days nor has it reached an impasse in negotiations with Verizon. Second, Verizon and Focal terminated the February 2 agreement, therefore, it is not available for opt-in. Third, even if the Focal agreement were available for opt-in, the reciprocal compensation rates in the agreement would be null and void because of the change of law provisions in the agreement and the FCC's recent determination that Internet traffic is not subject to reciprocal compensation rates.

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For all of these reasons, which are discussed in more detail below, US LEC's Petition should be dismissed with prejudice.

I. DISCUSSION OF ISSUES

A. US LEC Has Not Engaged In Good Faith Negotiations For At Least 30 Days Nor Has It Reached An Impasse In Negotiations With Verizon.

The Abbreviated Dispute Resolution Process ("ADRP") guidelines require that

Before a petition is referred to ADRP, the petitioning party must engage in good faith negotiations with the answering party with respect to the dispute in question for at least 30 calendar days. However, if good faith negotiations nevertheless reach an impasse in less than 30 days, the party may demonstrate that such an impasse has occurred to qualify for ADRP.

Abbreviated Dispute Resolution Process, Interim Guidelines, 30 Pa. Bulletin 3808, 3811 at ¶ 2 (emphasis added). US LEC's Petition, on its face, shows that it has not complied with either of the foregoing prerequisites necessary to qualify for ADRP.

First, US LEC did not engage in good faith negotiations for 30 days with respect its request to opt-in to the Focal agreement. Paragraph 3 of US LEC's Petition states, in relevant part, that: "On March 28, 2001, US LEC sent a letter requesting opt-in to the Focal Communications agreement with Verizon in Pennsylvania." Verizon received US LEC's request on April 3, 2001 and began to process the request. See US LEC's Petition at ¶ 3. Notwithstanding, US LEC filed its Petition for ADRP on April 25, 2001, less than 30 days after it was mailed to and received by Verizon.

US LEC erroneously attempts come within the required 30 day negotiation period by claiming that "[s]ince December of 2000, [it] has attempted to opt into an existing interconnection agreement with Verizon." See US LEC's Petition at ¶ 2. The Petition, however, shows that these "attempts" were focused on other agreements in other states. See, e.g., US LEC's Petition at ¶ 3 (stating: "On January 31, 2001, a Bona Fide request was made to Dorothy Dennis for opt-in to the GNAPS New Hampshire interconnection

agreement . . .”). The ADRP guidelines clearly require that “petitioning party must engage in good faith negotiations with the answering party with respect to the dispute in question for at least 30 calendar days.” ADRP guidelines at ¶ 2 (emphasis added).

Second, US LEC did not negotiate to impasse the issue of opting in to the Focal agreement. Paragraph 3 of US LEC’s Petition states that

On April 25, 2001, US LEC spoke with Greg Romano, an attorney for Verizon who for the first time answered some questions, but needed to research others. He also advised US LEC that the opt in request for Focal would not be considered since Focal had signed a new agreement and was canceling their old one.

(emphasis added). US LEC omits from its Petition that Romano informed US LEC that the new Focal agreement would be filed with the Commission shortly and would be available for US LEC’s review at that time.

B. Verizon And Focal Terminated Their February 2, 2001 Interconnection Agreement, Therefore, It Is Not Available For Opt-In.

During his April 25 communications with US LEC, Verizon contract attorney Greg Romano informed US LEC that the February 2, 2001 Focal agreement had been terminated by the parties. Romano further informed US LEC that a new agreement with Focal would be filed with the Commission shortly and available for US LEC’s review at that time.

Apparently, US LEC has decided that it does not want to wait until Focal and Verizon file their new agreement. Instead, US LEC seeks to take advantage of an agreement, and more specifically the reciprocal compensation rates of an agreement, which the parties to that agreement have already decided to amend. US LEC should not be allowed to take advantage of an agreement under which Focal itself can no longer operate.

C. Even If The Old Focal Agreement Was Available For Opt-In, The Reciprocal Compensation Rates In The Agreement Would Be Null And Void Because Of The Change Of Law Provisions In The Agreement.

Even if US LEC could opt-in to the terminated Focal agreement, which it cannot, the reciprocal compensation rates that it seeks to take advantage of would be null and void pursuant to the change of law provisions in the agreement. Sections 27.3 and 27.4 of the February 2, 2001 Focal agreement state that

27.3 In the event of a change in Applicable Law that materially affects any material term of this Agreement, the rights or obligations of either Party hereunder, or the ability of either Party to perform any material provision hereof, the Parties shall renegotiate in good faith such affected provisions with a view toward agreeing to acceptable new terms as may be required or permitted as a result of such legislative, regulatory, judicial or other legal action.

27.4 Notwithstanding anything herein to the contrary, if, as a result of any decision, order or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, it is determined that Verizon is not required to furnish any service, facility or arrangement, or to provide any benefit required to be furnished or provided to FOCAL hereunder, then Verizon may discontinue the provision of any such service, facility, arrangement or benefit to the extent permitted by any such decision, order or determination by providing thirty (30) days prior written notice to FOCAL, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff or Applicable Law) for termination of such service, in which event such specified period and/or conditions shall apply.

The FCC has recently determined that Internet traffic is not subject to reciprocal compensation under § 251(b)(5) of the Telecommunications Act of 1996, 47 U.S.C. § 251 (b)(5).¹ This overriding change in the applicable law would have nullified the reciprocal compensation rates between Verizon and Focal under the old Focal agreement had it not terminated. Thus, the FCC order would have the same effect on the reciprocal compensation rates between Verizon and US LEC under the old Focal agreement.

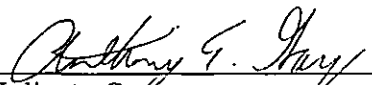
¹See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, [Order on Remand and Report and Order], CC Docket Nos. 96-98 and 99-68, FCC 01-131 (rel. Apr. 27, 2001).

II. WITNESSES

Verizon will present one witness to testify regarding the interconnection agreement process and its opt-in procedures.

Dated: May 7, 2001

Respectfully submitted,



Julia A. Conover
Anthony E. Gay

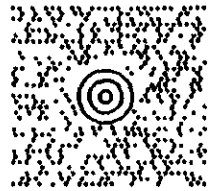
Counsel for
Verizon Pennsylvania Inc
1717 Arch Street, 32nd Floor
Philadelphia, PA 19102
(215) 963-6023

VERIZON PA
(215) 963-6196
WILLIAM PETERSEN, ESQ.
1717 ARCH STREET 32ND FLOOR LEGAL
PHILADELPHIA PA 19103

LTR 1 OF 1

SHIP TO:

PENNSYLVANIA PUBLIC UTILITY COMMISS
MCNULTY, JAMES J.
2ND FLOOR
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG PA 17105-3265



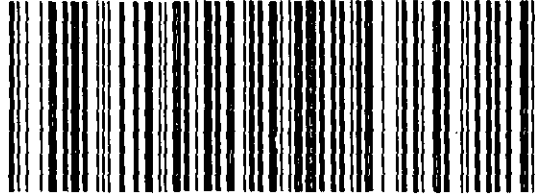
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OALJ Hearing Report

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|-----------------|------------------------------|--------------------------------------|--|-------------------------------------|
| Docket No.: | A-310814F0002 | | YES | NO |
| | | Prehearing Held: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Case Name: | US LEC of Pennsylvania, Inc. | Hearing Held: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Testimony Taken | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | ARGUMENT & POSITIONS PRESENTED | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | Transcript Due: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | Hearing Concluded: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Location: | Philadelphia, PA | Further Hearing Needed: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Date: | May 8, 2001 | Estimated Add'l Days: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | | ONE DAY ALREADY SCHEDULED | |
| | | RECORD CLOSED: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ALJ: | Herbert Smolen | DATE: | | |
| | | Briefs to be Filed: | <input type="checkbox"/> | <input type="checkbox"/> |
| Reporting Firm: | Commonwealth Reporting | DATE: | | |
| | | Bench Decision: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | REMARKS: | <input checked="" type="checkbox"/> 5/15/01 (HEARING DATE) | |

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MAY 21 2001

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MAY 23 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PLEASE PRINT CLEARLY - Incomplete information may result in delay of processing.

| Name and Telephone Number | Address | Who are you representing? |
|--|---|---------------------------------------|
| ANTHONY E. GAY, ESQ (APPEARING TELEPHONICALLY) | 1717 ARCH ST, 32NW <small>City State Zip</small> PHILA PA 19103 | VERIZON PA, INC |
| Telephone: (215) 963-6023 | E-mail Address: ANTHONY.E.GAY@VERIZON.COM | Fax Number: (215) 563-2658 |
| LINDA C. SMITH, ESQ (APPEARING TELEPHONICALLY) | DILWORTH PAXSON LLP 305 NORTH FRONT ST. <small>City State Zip</small> HBG PA 17101 | U.S. LEC |
| Telephone: (717) 236-4812 | E-mail Address: SMITHLC@dilworthlaw.com | Fax Number: (717) 236-7811 |
| MICHAEL L. SHOR, ESQ (APPEARING TELEPHONICALLY) | SWIDLER, BERLIN SHERIFF FRIEDMAN LLP 3000 K ST, N.W. Suite 300 <small>City State Zip</small> WASHINGTON DC 20007 | U.S. LEC |
| Telephone: (202) 424-7775 | E-mail Address: MSHOR@SWIDLAW.COM | Fax Number: (202) 424-7645 |

Check this box if additional parties or attendees appear on back of form.

Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

DILWORTH PAXSON LLP

LAW OFFICES

DIRECT DIAL NUMBER:

(717) 236-4812

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May 9, 2001

Linda C. Smith
smithlc@dilworthlaw.com

VIA FACSIMILE (215) 560-3133

ALJ Herbert Smolen
Pennsylvania Public Utility Commission
Room 1302
Philadelphia State Office Building
Broad and Spring Garden Streets
Philadelphia, PA 19130

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MAY 09 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**RE: US LEC v. Verizon Pennsylvania, Inc.
Docket No. A-310814F0002**

Dear ALJ Smolen:

Enclosed please find the Application of US LEC of Pennsylvania, Inc. For Witness Subpoena and Subpoena *Duces Tecum* and Motion For Expedited Review and Limited Objection Period.

If you have any further questions. Please feel free to contact me. Thank you.

Very truly yours,



Linda C. Smith

LCS/sw
Enclosure

cc: Secretary James P. McNulty
Todd Murphy

17897-1

305 N. FRONT STREET • SUITE 403 • HARRISBURG PA 17101-1236
(717) 236-4812 • FAX (717) 236-7811 • www.dilworthlaw.com

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MAY 09 2001

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

US LEC of Pennsylvania, Inc.)
Petition for Abbreviated Dispute) Docket No. A-310814F0002
Resolution of Interconnection)
Agreement Conflict with Verizon)
Pennsylvania Inc.)

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MAY 10 2001

APPLICATION OF US LEC OF PENNSYLVANIA, INC. FOR
WITNESS SUBPOENA AND SUBPOENA *DUCES TECUM*
AND MOTION FOR EXPEDITED REVIEW AND
LIMITED OBJECTION PERIOD

US LEC of Pennsylvania Inc. ("US LEC" or "Applicant"), by undersigned counsel, and pursuant to 52 Pa. Code §§ 5.373 and 5.421 applies to Your Honor for the issuance of a Witness Subpoena and Subpoena *Duces Tecum* ("subpoena") to compel the attendance of witnesses and production of documents by Verizon Pennsylvania, Inc. ("Verizon") at the hearing in the above captioned matter. Given the expedited nature of this proceeding and the imminence of the hearing, currently scheduled for May 15, 2001, Applicant respectfully requests that Your Honor expedite review of this subpoena application and waive the ten-day answer period and require Verizon to submit its answer or objections within two days of the filing of this application. In support thereof, Applicant states as follows:

1. Applicant holds a Certificate of Public Convenience from the Pennsylvania Public Utility Commission as a Competitive Local Exchange Carrier.
2. Respondent Verizon is a certificated Incumbent Local Exchange Carrier providing local and intraLATA toll service throughout Pennsylvania. Verizon is the dominant Local Exchange Carrier in its service territory.
3. Applicant instituted this proceeding by means of a Petition for Abbreviated Dispute

Resolution of Interconnection Agreement Conflict with Verizon Pennsylvania Inc., dated April 25, 2001, whereby, due to Verizon's delay and intransigence, Applicant sought Commission approval of US LEC's decision to adopt the Arbitrated interconnection agreement between Focal Communications and Verizon ("Focal Agreement").

4. The information Applicant seeks from Verizon is relevant and material to the issue being addressed by the Commission in this proceeding, namely (1) Verizon's refusal to make available for adoption the arbitrated agreement between Verizon and Focal Communications which was signed on February 2, 2001, filed on February 6, 2001, and, pursuant to section 252(e)(4) of the Telecommunications Act, was deemed approved as a matter of law on March 8, 2001, and (2) the reasons and justifications for Verizon's persistent failure to respond in a timely manner to US LEC's interconnection inquiries. The requested witnesses and documents, which are also described in the attached subpoena, are as follows:

a. any corporate officer, director, managing agent or other person competent to testify who participated personally in discussions with US LEC relating, pertaining to or concerning US LEC's January 31, 2001, request to adopt the New Hampshire interconnection agreement between Global NAPS and Verizon ("GNAPS Agreement") pursuant to the Merger Conditions approved by the FCC when it approved the merger between Bell Atlantic and GTE;

b. any corporate officer, director, managing agent or other person competent to testify who participated personally in discussions with US LEC relating, pertaining to or concerning US LEC's March 28, 2001, request to adopt the Focal Agreement pursuant to section 252(i) of the Telecommunications Act of

1996;

c. all documents in Verizon's possession, custody or control referring, relating or pertaining to US LEC's request to adopt the Focal Agreement;

d. all documents in Verizon's possession, custody or control referring, relating or pertaining to US LEC's request to adopt the GNAPS Agreement.

e. all documents in Verizon's possession, custody or control referring relating or pertaining to the execution and filing of a new interconnection agreement to govern Focal's operations in Pennsylvania.

f. for the purposes of this subpoena, "document" means any written, printed, typed or visually reproduced material of any kind, whether or not privileged, and includes but is not limited to the original and all copies of any and all letters, reports, memoranda, files, communications, correspondence, agreements, bills, receipts, studies, analyses, telegrams, telexes, e-mails, minutes, bulletins, instructions, literature, memoranda of conversations, notes, notebooks, diaries, data sheets, financial statements, work sheets, recordings, tapes, drawings, graphs, indexes, charts, telephone records, photographs, phonographic records, computer files, other data compilation, or any other written, recorded, transcribed, punched, taped, filed or other graphic matter including any draft of the foregoing items and any copy or reproduction of any of the foregoing items upon which any notation, work, figure, or form is recorded or has been made which does not appear on the original or as to whose existence, either past or present, the responding party has any knowledge or information.

5. Applicant has narrowly tailored the information described above and requested in the attached subpoena to that directly relevant to the issues outlined above. Verizon identified its proposed witness as Mr. Librizzi. US LEC represents that at no time during its negotiations with Verizon to adopt either the Global NAPs or Focal agreements did anyone have any conversations with Mr. Librizzi; consequently, without the ability to examine—or cross-examine—those individuals who actually participated in those negotiations, US LEC would be prejudiced. Similarly, Verizon claims that its “new” agreement with Focal terminated the arbitrated agreement that US LEC sought to adopt on the day that new agreement was signed. Based on past experience with Verizon, US LEC has reason to believe that may not be the case and, therefore, the adoption documents that relate to that new agreement are essential to US LEC’s case.

6. To the extent information requested by the subpoena is proprietary to Verizon, US LEC is prepared to consent to the entry of a Protective Order by the Presiding Administrative Law Judge pursuant to 52 Pa. Code § 5.423.

7. As indicated by the attached Certificate of Service, this Application was served via facsimile and electronically upon counsel for Verizon.

8. A proposed Subpoena *Duces Tecum* is attached to this Application and incorporated herein by reference.

9. Through this filing, US LEC requests waiver of the Commission's regulations at 52 Pa. Code § 5.421(b) which provide for a ten-day period of time for an answer or objection to the subpoena to run from the date of application for the subpoena. US LEC contends that there is good cause for such waivers given that the abbreviated dispute resolution process is being used in this proceeding.

10. The Commission's regulation providing for a ten-day time frame for answer or objection to the application for subpoena clearly were not written with consideration to the newly developed abbreviated dispute resolution procedure in mind. Given that the entire abbreviated dispute resolution process is designed to be completed in a thirty-day time period, including the issuance of the Administrative Law Judge's decision, it is not possible to enforce the regulation allowing for a ten day response time. To do so would take the response time for the subpoena application past the hearing date in this case at which the subpoenaed witness(es) is sought to appear.

11. In this proceeding, the prehearing conference was held on May 8, 2001. It was at that prehearing conference that Verizon identified verbally the name of the person it intended to present as a witness. It was only then that US LEC was able to determine its need to subpoena other individuals. This request is being made one day after the prehearing conference. A ten-day answer or objection time from the date of filing this application is May 19, 2001. The hearing in this case is scheduled for May 15. Hence, if the regulations were to be enforced in this instance, the objection or answer period would run past the hearing date making this application moot.

12. US LEC, therefore, requests that the ALJ waive the answer and objection time provided for in the regulations and instead require Verizon or the individual(s) subpoenaed to state any answer or objection on or before May 11, 2001.

13. US LEC further requests waiver of 52 Pa. Code § 5.421(b) to the extent that such regulation would not permit service of the subpoena via telecopier or facsimile where such service method is otherwise in accordance with the agreement reached between US LEC and Verizon at the prehearing conference. Such a waiver would be consistent with the Commissions regulations

governing service generally. *See* 52 Pa. Code § 1.54. In addition, US LEC requests that the answer or objection may be in-hand in writing on that date, or verbal via telephone conference with all the parties.

Motion for Expedited Ruling

14. In further consideration of the abbreviated schedule in this case, US LEC requests that Your Honor act expeditiously in ruling on this application for subpoena. US LEC requests that Your Honor act in sufficient time to allow US LEC to serve the subpoenas upon the named individuals by telecopier or facsimile, US mail, express overnight delivery, return receipt required. Given the schedule in this case, Your Honor must issue the requested subpoena(s) by 2:30 p.m. on May 11, 2001 to allow time for service by the 14th of May.

Notice Of Respondent's Duty To File Answer Or Objection

15. Pursuant to 52 Pa. Code § 5.421(b), as modified by order of the Administrative Law Judge in the matter of Petition for Abbreviated Dispute Resolution by US LEC of Pennsylvania, Inc., Verizon Pennsylvania, Inc. is hereby notified that, within two (2) days of service it must file any answer or objection to this application if may have, or (1) designate one or more officers, directors, managing agents or other persons who consent to testify on its behalf and (2) set forth the matters on which each person will testify.

16. Such answer or objection shall be sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Honorable Herbert Smolen
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

with copies to:

Linda C. Smith, Esquire
Dilworth Paxson, LLP
305 North Front Street, Suite 403
Harrisburg, PA 17101

Michael L. Shor, Esquire
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Suite 300
Washington, DC 20007

WHEREFORE, US LEC of Pennsylvania, Inc. respectfully requests the attached subpoena,
including Appendix A, for Verizon Pennsylvania, Inc.

Respectfully submitted,

US LEC of Pennsylvania, Inc.

BY: *Linda C. Smith*

Linda C. Smith, Esq.
ID No. 35868
DILWORTH PAXSON, LLP
305 North Front Street
Suite 403
Suite 300
Harrisburg, PA 17101
(717) 236-4812

Michael L Shor, Esq.
SWIDLER BERLIN SHEREFF
FRIEDMAN, LLP

3000 K Street, N.W.
Suite 300
Washington, D.C. 20007
(202) 424-7775

Dated: May 9, 2001

Counsel for US LEC

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In the Matter of:

| | | |
|---|---|---------------------------------|
| US LEC of Pennsylvania, Inc. |) | |
| Petition for Abbreviated Dispute |) | Docket No. A-310814F0002 |
| Resolution of Interconnection |) | |
| Agreement Conflict with Verizon |) | |
| Pennsylvania Inc. |) | |

SUBPOENA

To: _____

Pursuant to the authority of this Commission under § 309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to designate witnesses as set forth in item 2(a) and 2(b) below to come to _____
(Place)
_____, at _____ o'clock, in the above

case, to testify on behalf of the _____ And to remain until excused;

2. Designate the following witnesses who shall be available for examination and cross-examination and who shall remain until excused:
- a. any corporate officer, director, managing agent or other person who participated personally in discussions with US LEC relating, pertaining to or concerning US LEC's January 31, 2001, request to adopt the New Hampshire interconnection agreement between Global NAPS and Verizon ("GNAPS Agreement") pursuant to the Merger Conditions approved by the FCC when it approved the merger between Bell Atlantic and GTE
 - b. any corporate officer, director, managing agent or other person who participated personally in discussions with US LEC relating, pertaining to or concerning US LEC's March 28, 2001, request to adopt the Focal Agreement pursuant to section 252(i) of the Telecommunications Act of 1996;

3. Verizon is directed to bring with you and produce the following at the hearing:
- a. all documents in Verizon's possession, custody or control referring, relating or pertaining to US LEC's request to adopt the Focal Agreement;
 - b. all documents in Verizon's possession, custody or control referring, relating or pertaining to US LEC's request to adopt the GNAPS Agreement.
 - c. all documents in Verizon's possession, custody or control referring relating or pertaining to the execution and filing of a new interconnection agreement to govern Focal's operations in Pennsylvania.

For the purposes of this subpoena, "document" means any written, printed, typed or visually reproduced material of any kind, whether or not privileged, and includes but is not limited to the original and all copies of any and all letters, reports, memoranda, files, communications, correspondence, agreements, bills, receipts, studies, analyses, telegrams, telexes, emails, minutes, bulletins, instructions, literature, memoranda of conversations, notes, notebooks, diaries, data sheets, financial statements, work sheets, recordings, tapes, drawings, graphs, indexes, charts, telephone records, photographs, phonographic records, computer files, other data compilation, or any other written, recorded, transcribed, punched, taped, filed or other graphic matter including any draft of the foregoing items and any copy or reproduction of any of the foregoing items upon which any notation, work, figure, or form is recorded or has been made which does not appear on the original or as to whose existence, either past or present, the responding party has any knowledge or information.

This subpoena is issued subject to the provisions of 52 Pa. Code § 5.421 (with regard to issuance, notice and service) and 52 Pa. Code § 5.412 (with regard to witness fees).

BY THE COMMISSION

Date _____

Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by telecopier and electronic mail, postage prepaid:

Verizon Pennsylvania, Inc.

Julia A. Conover, Esquire

Tony Gay, Esquire

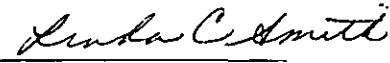
1717 Arch Street 32 NW

Philadelphia, PA 19103

Phone: (215) 963-6001

Fax: (215) 563-2658

Julia.A.Conover@verizon.com



Linda C. Smith

Dated: May 9, 2001

DILWORTH PAXSON LLP

LAW OFFICES

DIRECT DIAL NUMBER:
717-236-4812

Linda C. Smith
smithlc@dilworthlaw.com

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FOLDER

May 14, 2001

ORIGINAL

Secretary James P. McNulty
Pennsylvania Public Utility Commission
P.O. Box 3265
Keystone Building, 3rd Floor
Harrisburg, PA 17101-3265

RE: US LEC Corp v. Verizon Pennsylvania, Inc.

Dear Secretary McNulty:

A-310814F0002

Enclosed please find the original and four copies (one for time-stamp) of the Withdrawal of Petition for Abbreviated Dispute Resolution in the above referenced case. If you have any questions, please do not hesitate to call.

Very truly yours,



Linda C. Smith

cc: ALJ Smolen
Todd Murphy

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

305 N. FRONT STREET • SUITE 403 • HARRISBURG PA 17101-1236
(717) 236-4812 • FAX (717) 236-7811 • www.dilworthlaw.com

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

US LEC of Pennsylvania, Inc. :
Petition for Abbreviated Dispute : Docket No. A-310814F0002
Resolution of Interconnection :
Agreement Conflict with Verizon :
Pennsylvania Inc. :

WITHDRAWAL OF PETITION FOR
ABBREVIATED DISPUTE RESOLUTION

US LEC of Pennsylvania, Inc. hereby withdraws, with prejudice, its Petition for Abbreviated Dispute Resolution of Interconnection Agreement Conflict with Verizon Pennsylvania, Inc. Accordingly, the parties do not expect that an initial decision or recommended decision will be forthcoming from the Administrative Law Judge in this proceeding.

Respectfully submitted,

DOCKETED
MAY 16 2001

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MAY 14 2001

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCUMENT
FOLDER

Linda C. Smith
Linda C. Smith
Dilworth Paxson LLP
305 N. Front Street, Suite 403
Harrisburg, PA 17101
Telephone : 717-236-4812
Fax: 717-236-7811
e-mail: lsmith@dilworthlaw.com


Michael L. Shor, Esquire
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Telephone: (202) 424-7775
Fax: (202) 424-7645
e-mail: mlshor@swidlaw.com

May 14, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by telecopier and first class mail, postage prepaid:

Verizon Pennsylvania, Inc.
Julia A. Conover, Esquire
Tony Gay, Esquire
1717 Arch Street 32 NW
Philadelphia, PA 19103
Phone: (215) 963-6001
Fax: (215) 563-2658
Julia.A.Conover@verizon.com


Linda C. Smith

Dated: May 14, 2001

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

DATE: May 15, 2001
SUBJECT: A-310814F0002 US LEC of Pennsylvania, Inc.
TO: Barb Barbush
Docket Management
FROM: Steve Springer, Scheduling Officer
Office of Administrative Law Judge

DOCKETED

MAY 17 2001

SR

On May 14, 2001, a Petition for Leave to Withdraw was filed in the above-captioned proceeding by Linda C. Smith, Esquire. If no objection is filed to this petition within 10 days of service, this proceeding will be closed.

All parties should be notified that the case is closed and a copy of that notification placed in the document folder.

Attachment

pc: ALJ Herbert Smolen
Norma Lewis
Beth Plantz
Case File

DOCUMENT
FOLDER



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

May 15, 2001

In Re: **A-310814F0002**

(See letter dated 05/02/2001)

US LEC of Pennsylvania, Inc.

Petition for Abbreviated Dispute Resolution of Interconnection
Agreement Conflict with Verizon Pennsylvania, Inc.

NOTICE

This is to inform you that an Initial Hearing on the above-captioned case now scheduled to be held on Tuesday, May 15, 2001 at 11:00 a.m. in Philadelphia, Pennsylvania has been canceled due to the Petition being withdrawn.

Presiding: **Administrative Law Judge Herbert Smolen**
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
Telephone: (215) 560-2105
Fax: (215) 560-3133

Please mark your records accordingly.

pc: Judge Smolen
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

DOCKETED
MAY 17 2001

**DOCUMENT
FOLDER**

OALJ Hearing Report

Please check Those Blocks Which Apply

| | | | | |
|-----------------|------------------------------|-------------------------|---|-------------------------------------|
| Docket No.: | A-310814F0002 | | YES | NO |
| | | Prehearing Held: | <input type="checkbox"/> | <input type="checkbox"/> |
| Case Name: | US LEC of Pennsylvania, Inc. | Hearing Held: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | | Testimony Taken: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | | Transcript Due: | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | | Hearing Concluded: | <input type="checkbox"/> | <input type="checkbox"/> |
| Location: | Philadelphia, PA | Further Hearing Needed: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | Estimated Add'l Days: | | |
| Date: | May 15, 2001 | | | |
| | | RECORD CLOSED: | <input type="checkbox"/> | <input type="checkbox"/> |
| ALJ: | Herbert Smolen | DATE: | | |
| | | Briefs to be Filed: | <input type="checkbox"/> | <input type="checkbox"/> |
| Reporting Firm: | Commonwealth Reporting | DATE: | | |
| | | Bench Decision: | <input type="checkbox"/> | <input type="checkbox"/> |
| | | REMARKS: | <input checked="" type="checkbox"/> HEARING CANCELLED PETITION WITHDRAWN | |

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PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

| Name and Telephone Number | Address | Who are you representing? |
|---------------------------|--------------------------|---------------------------|
| | City State Zip | |
| Telephone: | E-mail Address: | Fax Number: |
| | City State Zip | |
| Telephone: | E-mail Address: | Fax Number: |
| | City State Zip | |
| Telephone: | E-mail Address: | Fax Number: |

Check this box if additional parties or attendees appear on back of form.

Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.