

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet**

<p>1. <b>REPORT DATE:</b> January 12, 2001</p>	<p>2. <b>BUREAU AGENDA NO.:</b> JAN-2001-FUS-0400*</p>
<p>3. <b>BUREAU:</b> Fixed Utility Services</p>	
<p>4. <b>SECTION(S):</b> Telecommunications</p>	<p>5. <b>PUBLIC MEETING DATE:</b></p>
<p>6. <b>APPROVED BY:</b>                  Director: Rosenthal 3-5242                  Supervisor: Wagner 3-6175                  Legal Review by: Arnold 7-8032 AA</p>	<p>January 24, 2001</p>
<p>7. <b>PERSONS IN CHARGE:</b> Barrett/Spandra/Kuhn</p>	
<p>8. <b>DOCKET NO.:</b> A-310829 &amp; <b>A-B10829F0002</b></p>	

**DOCKETED**  
JAN 31 2001

9. (a) **CAPTION** (abbreviate if more than 4 lines)  
 (b) **Short summary of history & facts, documents & briefs**  
 (c) **Recommendation**

- (a) Applications of Vitts Networks, Inc. for approval to offer, render, furnish or supply telecommunication services as a Facilities-Based Competitive Local Exchange Carrier Limited to Data Services and as a Competitive Access Provider to the public in the Commonwealth of Pennsylvania.
- (b) On March 31, 2000, the subject Applications were filed. No protests were filed, no hearings were held.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed draft Order approving the Applications, consistent with the Order.

10. **MOTION BY:** Commissioner Chm. Quain

**SECONDED:** Commissioner Bloom

**Commissioner Brownell - Yes**  
**Commissioner Wilson - Yes**  
**Commissioner Fitzpatrick - Yes**

**CONTENT OF MOTION:** Staff recommendation adopted.

**DOCUMENT  
FOLDER**



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

IN REPLY PLEASE  
REFER TO OUR FILE

JANUARY 25, 2001

(A-310829)  
A-310829F0002

FREDERICK J COOLBROTH  
DEVINE MILLIMET & BRANCH  
111 AMHERST ST  
PO BOX 719  
MANCHESTER NH 03105

DOCUMENT  
FOLDER

Application of Vitts Network, Inc., for approval to offer, render, furnish or supply telecommunication services as a Facilities-Based Competitive Local Exchange Carrier Limited to Data Services to the public in the Commonwealth of Pennsylvania.

A-310829

Application of Vitts Network, Inc., for approval to offer, render, furnish or supply Telecommunication services as a Competitive Access Provider to the public in the Commonwealth of Pennsylvania.

A-310829F0002

DOCKETED

FEB 01 2001

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on January 24, 2001 has adopted an Order in the above-entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty  
Secretary

Enclosure  
Certified Mail  
FG

JULIA CONOVER ESQUIRE  
VERIZON-PENNSYLVANIA, INC.  
1717 ARCH STREET - 32 NW  
PHILADELPHIA PA 19103

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

Public Meeting held January 24, 2001

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
Nora Mead Brownell  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick

Application of Vitts Network, Inc. for approval to offer, render, furnish or supply telecommunication services as a *Facilities-Based Competitive Local Exchange Carrier Limited to Data Services* to the public in the Commonwealth of Pennsylvania.

Docket Number  
A-310829

Application of Vitts Network, Inc. for approval to offer, render, furnish or supply telecommunication services as a *Competitive Access Provider* to the public in the Commonwealth of Pennsylvania.

A-310829F0002

**DOCUMENT  
FOLDER**

**ORDER**

**DOCKETED**  
FEB 01 2001

**BY THE COMMISSION:**

On March 31, 2000, Vitts Network, Inc. ("Applicant"), filed Application(s) seeking Certificates of Public Convenience pursuant to the Telecommunication Act of 1996, 47 U.S.C. §§201, *et seq.*, (TA-96)<sup>1</sup> and to

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<sup>1</sup> Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Implementation Order: June 3, 1996; and Implementation reconsideration Order: September 9, 1996).

Chapter 11 and 30 of the Public Utility Code (Code) (66 Pa. C.S. §1101, *et seq.*, and §§3001, *et seq.*) evidencing authority to provide telecommunication services as a Competitive Local Exchange Carrier (“CLEC”) on a facilities-based or resold basis and a Competitive Access Provider (“CAP”) in the Commonwealth of Pennsylvania.

This Applicant complied with section 5.14 of our regulations, 52 Pa. Code §5.14. relating to applications requiring notice. No protests were filed and no hearings were held.

On December 19, 2000, the Applicant revised its Application for Authority to provide CLEC Limited to Data Services.

The Applicant provides advanced services, including data transport services, high-speed wide-area data networks, Internet services, and in-building network outsourcing services. The Applicant also stated that it would not provide voice-grade services since the Applicant will not utilize the circuit-switching facilities of the public switched telephone network.

The Applicant requests authority to provide services as a CLEC Limited to Data Services in the service territory of Bell Atlantic-Pennsylvania, Inc. (the name of Bell Atlantic-Pennsylvania, Inc. has been changed to Verizon Pennsylvania, Inc. as of August 1, 2000). The Applicant asserts that it will not be a rural telephone company.

On August 17, 2000, at Docket No. A-31082, the Commission adopted an Order pertaining to voice-grade services of BlueStar Networks, Inc. (“BlueStar”) which is a certificated CLEC in Pennsylvania. Pursuant to that

Order, the Commission ordered BlueStar to file tariffs consistent with data services. The Commission decided to grant a CLEC certificate limited to data services only. The Commission in that Order also stressed that a CLEC certificate offering data services only will be granted on a case-by-case basis.

Therefore, we will allow Vitts Networks, Inc. to operate as a CLEC Limited to Data Services in Pennsylvania. However, the Applicant is reminded that as and when it decides to provide voice-related services, it shall apply to the Commission for approval to offer that service and to comply with all the requirements that are required of a full fledged CLEC providing data as well as voice services.

The Applicant provided proof of service of the Application on Verizon Pennsylvania, Inc. The Applicant also requests authority to provide services as a Competitive Access Provider throughout the Commonwealth.

The Applicant is a Delaware Corporation with its principal place of business at 77 Sundial Avenue, Manchester, NH 03108, phone (603) 656-8000, fax (603) 656-8100. Correspondence to resolve complaints may be directed to Mr. Thomas Lyle, Regulatory Affairs Manager, at the principal place of business. The Applicant complied with 15 Pa. C.S. §4124, related to foreign corporations. The Applicant's registered office provider is CT Corporation System, 1635 Market Street, Philadelphia, PA. The Applicant is not currently doing business in Pennsylvania and has no affiliates or predecessors doing business in Pennsylvania.

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.<sup>2</sup> A CLEC applicant is expected to adhere to the requirements relative to universal service, as initially set forth or as subsequently enlarged or modified.<sup>3</sup> Further, Section 253(b) of the TA-96 permits a state commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services, and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.<sup>4</sup>

The Applicant has provided financial information to support its Application. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC Limited to Data Services and as a CAP to the public in the Commonwealth of Pennsylvania.

We conclude that the Applicant has met the requirements for certification as a CLEC limited to data services and as a Competitive Access Provider (CAP)<sup>5</sup>, consistent with this Order. Premised upon our review of the Application and the proposed tariffs, and consistent with our Orders, the Code, our Regulations and the TA-96, we conclude that the Applicant's proposed services do

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<sup>2</sup> See, e.g., *MFS*, Docket Nos. A-310203, F0002, *et al.*, (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-0093666, Global Order, Docket No. P-00991648 *et al.*, as well as other CLEC proceedings.

<sup>3</sup> *Universal Service Invest.*, Docket No. I-00940035 (January 28, 1997).

<sup>4</sup> *Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

<sup>5</sup> CAP authority may not be used to access the Public Switched Network or toll calling. If a utility with CAP authority wishes to provide access to the Public Switched Network, or to provide local or IXC (intra LATA or inter LATA) calling services to its customers, the utility must also have been granted CLEC and/or IXC authority by this Commission.

not raise concerns at this time regarding safety, adequacy, reliability, or privacy as contemplated by Section 3009(b)(4) of the Code. We note, however deficiencies in the proposed tariffs. See Appendix A for a list of deficiencies found in the proposed tariffs.

We shall direct the Applicant to revise the proposed tariffs in accordance with the changes noted in Appendix-A of this Order.<sup>6</sup> The Applicant shall thereafter file its initial tariffs reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. Copies of the initial tariffs shall also be served upon the same entities receiving service of the original Application, including the ILECs. If the time required for filing of the tariffs exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Initial Tariffs are not filed within 60 days (120 days including the extension) of the entry of this Order, the Applications will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the proposed tariffs contained rates, the initial tariffs may become effective on one (1) day's notice from the date upon which it is filed and served.

### **Conclusion**

Accordingly, we shall grant the Applications. The Applicant has had provisional authority pursuant to our Implementation Order (*p. 7, para. B.1.c.4*) and our Implementation Reconsideration Order (*p. 5*) to provide the proposed services pursuant to its proposed tariffs during the pendency of the application

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<sup>6</sup> EARL Kuhn, 717-783-0697, is the FUS contact. Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our Regulations or Orders will be deemed inoperative and supersede. (52 Pa. Code §64.213).

process. Upon the establishment of filed rates and the approval of Initial Tariffs, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide telecommunication services as a CLEC Limited to Data Services on a facilities-based or resold basis in the service territory of Verizon Pennsylvania, Inc. and as a Competitive Access Provider throughout the Commonwealth, consistent with this Order and our decisions in the *MFS* and such other proceedings; **THEREFORE,**

**IT IS ORDERED:**

1. That the Application of Vitts Networks, Inc. at Docket No. A-310829 for authority to operate as a Competitive Local Exchange Carrier Limited to Data Services on a facilities based or resold basis within the service territories of Verizon Pennsylvania, Inc. is granted, consistent with this Order.

2. That the Application of Vitts Networks, Inc. at Docket No. A-310829F0002, for authority to operate as a Competitive Access Provider throughout the Commonwealth of Pennsylvania is granted, consistent with this Order.

3. That the Applicant is directed to revise its proposed tariffs to reflect the changes noted in Appendix A of this Order.

4. That the Applicant shall file its Initial Tariffs, consistent with the requisite changes noted in Appendix A of this Order, within sixty (60) days after the date of entry of this Order. The Applicant shall serve a copy of its Initial Tariffs on each entity receiving a copy of the original Application. To the extent the Initial Tariffs contained rates, the Initial Tariffs may become effective on or after one (1) day's notice from the date upon which they are filed and served. If the proposed tariffs did not contain rates, then the Initial Tariff may not become effective prior to sixty (60) days notice from the date it was filed and served. The Initial Competitive Local Exchange Carrier limited to data services tariff shall be labeled "Competitive Local Exchange Carrier Limited to Data Services Tariff" and the Competitive Access Provider Tariff shall be labeled "Competitive Access Provider Tariff".

5. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulation, and Orders of the Pennsylvania Public Utility Commission, now in effect or as may be prescribed by the Pennsylvania Public Utility Commission, including but not limited to: the *MFS Intelenet, et al.*, Docket Nos. A-310203F0002, *et al.*; and the *Universal Service Investigation*, Docket No. I-00940035.

6. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

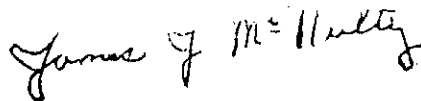
7. That the Applicant maintains separate accounting systems for its competitive local exchange carrier, that is limited to data services, operations and its competitive access provider operations.

8. That the Applicant, file such affiliated interest agreements as may be necessary relative to any transactions with affiliates.

9. That, in the event that the Applicant has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, or if the Applicant fails to extend the time for compliance, the Applications at Docket Nos. A-310829 and A-310829F0002 may be dismissed and the authority granted herein revoked without further Commission Order.

10. That, upon the establishment of filed rates and the approval of Initial Tariffs, a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Competitive Local Exchange Carrier, limited to data services, within the service territory of Verizon Pennsylvania, Inc. and as a Competitive Access Provider throughout the Commonwealth of Pennsylvania, consistent with this Order.

**BY THE COMMISSION,**



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: January 24, 2001

ORDER ENTERED: **JAN 25 2001**

**VITTS NETWORKS, INC.**  
**Docket Nos. A-310829; A-310829F0002**

Vitts Networks, Inc. ("Vitts") is seeking a Certificate of Public Convenience to provide telecommunications services as a Facilities-Based Competitive Local Exchange Carrier ("CLEC") and Competitive Access Provider. Vitts has filed the proposed initial tariffs with its applications for the above mentioned telephone services. The proposed tariffs contain certain deficiencies that are discussed here. Vitts should address these deficiencies before the tariffs can be approved.

**Competitive Local Exchange Carrier Services (Pa. PUC Tariff No. 1)**  
**A-310829**

- 1) Each Page should read Competitive Local Exchange Service.
- 2) Title Page should read as follows:

VITTS NETWORKS, INC.

REGULATIONS AND SCHEDULE OF CHARGES

Applicable to  
Facilities-Based and Resold  
COMPETITIVE LOCAL EXCHANGE CARRIER SERVICES  
Limited to Data Services

Provided by  
Vitts Networks, Inc.  
77 Sundial Avenue  
Manchester, NH 03108  
in  
The Commonwealth of Pennsylvania  
in  
The territory serviced by  
Verizon Pennsylvania, Inc.

- 3) Add a Change Sheet (one page) as Page 2 of the tariff. It should be headed "List of Changes Made by this Supplement" and will indicate the Supplement

number and the changes made each time a tariff supplement is filed. Change the numbering sequence.

4) On your page 2 change the wording sheet to pages and the sequence is page 1 through page 25.

5) Page 5: The symbols to be used in the tariff to indicate a change in the regulations or rates are as follows:

I	-	to signify an increase in rates
D	-	to signify a decrease in rates
C	-	to signify any other changes

6) Page 6: Tariff Format: Change the word sheet to page unless the word refers to check sheet.

7) Page 7: Application of Tariff Section 1.1: Replace your statement with the following: This tariff contains the descriptions, regulation, and rates applicable to the provision of Resold and Facilities-Based Local Telecommunication Services Limited to Data in the service territory of Verizon Pennsylvania, Inc.

8) Page 8 and 9: The definition for Commission was given twice.

9) Page 11 Section 3.1.1: In the second line after the word data insert the word services and delete the remaining language in that sentence. In the second sentence delete the words until a specific service offering is filed as a supplement to this tariff.

10) Page 12 Section 3.2.1 and Page 20 Section 3.12.1: Insert the following: Prior to termination of service, the Company will mail or deliver written notice to the customer at least 10 days prior to the date of the proposed termination. Termination of service by a carrier to a residential customer should follow a two step process, whereby the carrier shall mail or deliver written notice to the customer at least 7 days before the date of proposed suspension regardless upon which suspension is sought. When at least 10 days have passed since suspension of service, the Company may terminate service for failure to pay a reconnection fee and to remedy the original grounds for suspension due to the following reasons: 1) failure to make satisfactory arrangements to pay arrearages, 2) failure to post a deposit, 3) failure to make the requirements of a payment agreement, 4) failure to give adequate assurance that an unauthorized use or practice will cease.

11) Page 12 Section 3.2.2: Remove the language that states The Company does not undertake to transmit messages, but offers the use of its facilities when available, and will not be liable for errors in transmission or for failure to establish connections. Please refer to the minimum standards for quality of service set forth in 52 Pa. Code §63.63.

12) Page 16 Section 3.4.7 insert: Disputes can be brought to the attention of the Company orally or in writing by the Customer before actual suspension or termination of service. Suspension or termination is prohibited until the resolution of the dispute. Within 10 days of the notification or mailing of the Company's written summary on the findings/resolution of the dispute, an informal complaint can be filed with the Bureau of Consumer Services of the Commission. Within 10 days of notification or mailing of the informal complaint resolution, an appeal from the report of the Consumer Services Representative may be filed by means of a written intention to appeal. The initial contact made by the Customer informing the Company of a dispute should be deemed as the "date of dispute". If the Customer and Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file an informal complaint with the Bureau of Consumer Services, at the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Phone 1-800-782-1110, Fax 717-787-6641, in accordance with the Commission's rule of procedure. The Bureau of Consumer Services shall have primary jurisdiction over customer complaints.

13) Page 18 Section 3.8.3: The due date for payment of a monthly bill shall be at least 20 days from the date of mailing. Amounts not paid five days after due date is considered past due. The late payment charge is 1.25% per month on the unpaid balance of the bill and may not include previously accrued late payment charges. §64.16

14) Page 18 Section 3.8.4: The actual charge for a returned check should be shown.

15) Page 19: Add Section 3.8.6: The Company complies with the requirements of Chapter 64 in Title 52 regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations in Chapter 64 will prevail.

16) Page 19 Section 3.9.1: A customer who wishes to have service discontinued shall give at least 5 days oral or written notice to the Company for discontinuance of the service. 52 PA Code §64.53

**Competitive Access Provider (Pa. PUC Tariff No. 2) A-310829F0002**

- 1) Each Page should read Competitive Access Provider Service.
- 2) Page 1: Drop the lines on the top left which states Interexchange Point-to-Point Telecommunications Services and Vitts Networks, Inc.
- 3) Title Page should read as follows:

VITTS NETWORKS, INC.  
REGULATIONS AND SCHEDULE OF CHARGES  
GOVERNING THE PROVISION OF  
COMPETITIVE ACCESS PROVIDER SERVICES  
APPLYING TO POINT-TO POINT SERVICE  
Within  
The Commonwealth of Pennsylvania

Provided by  
Vitts Networks, Inc.  
77 Sundial Avenue  
Manchester, NH 03108

- 4) Add a Change Sheet (one page) as Page 2 of the tariff. It should be headed "List of Changes Made by this Supplement" and will indicate the Supplement number and the changes made each time a tariff supplement is filed. Change the numbering sequence.
- 5) On your page 2 change the wording sheet to pages and the sequence is page 1 through page 25.
- 6) Page 5: The symbols to be used in the tariff to indicate a change in the regulations or rates are as follows:

I	-	to signify an increase in rates
D	-	to signify a decrease in rates
C	-	to signify any other changes

7) Page 6: Tariff Format: Change the word sheet to page unless the word refers to check sheet.

8) Page 7: Application of Tariff Section 1.1: Replace your statement with the following: This tariff sets forth the service offerings, rates, terms and conditions applicable to the furnishing of Point-to-Point Service within the State of Pennsylvania by Votts Network, Inc., hereinafter referred to as (“the Company”).

9) Page 7: Tariff No. 1 and Tariff No. 2: Tariff Format Section D in the last sentence the correct word is most rather than must.

10) Page 9 and 10: The definition for Commission was given twice.

11) Page 11 Section 3.1.1: In the second line after the word data insert the word services and delete the remaining language in that sentence. In the second sentence delete the words until a specific service offering is filed as a supplement to this tariff.

12) Page 12 Section 3.2.1 and Page 20 Section 3.11.1: Insert the following: Prior to termination of service, the Company will mail or deliver written notice to the customer at least 10 days prior to the date of the proposed termination. Termination of service by a carrier to a residential customer should follow a two step process, whereby the carrier shall mail or deliver written notice to the customer at least 7 days before the date of proposed suspension regardless upon which suspension is sought. When at least 10 days have passed since suspension of service, the Company may terminate service for failure to pay a reconnection fee and to remedy the original grounds for suspension due to the following reasons: 1) failure to make satisfactory arrangements to pay arrearages, 2) failure to post a deposit, 3) failure to make the requirements of a payment agreement, 4) failure to give adequate assurance that an unauthorized use or practice will cease.

13) Page 12 Section 3.2.2: Remove the language that states The Company does not undertake to transmit messages, but offers the use of its facilities when available, and will not be liable for errors in transmission or for failure to establish connections. Please refer to the minimum standards for quality of service set forth in 52 Pa. Code §63.63.

14) Page 16 Section 3.4.7 insert: Disputes can be brought to the attention of the Company orally or in writing by the Customer before actual suspension or termination of service. Suspension or termination is prohibited until the resolution of the dispute. Within 10 days of the notification or mailing of the Company’s written summary on the findings/resolution of the dispute, an informal complaint

can be filed with the Bureau of Consumer Services of the Commission. Within 10 days of notification or mailing of the informal complaint resolution, an appeal from the report of the Consumer Services Representative may be filed by means of a written intention to appeal. The initial contact made by the Customer informing the Company of a dispute should be deemed as the "date of dispute". If the Customer and Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file an informal complaint with the Bureau of Consumer Services, at the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Phone 1-800-782-1110, Fax 717-787-6641, in accordance with the Commission's rule of procedure. The Bureau of Consumer Services shall have primary jurisdiction over customer complaints.

15) Page 18 Section 3.8.3: The due date for payment of a monthly bill shall be at least 20 days from the date of mailing. Amounts not paid five days after due date is considered past due. The late payment charge for business customers on an overdue bill should not exceed 1.50% per month, and for residential customers, 1.25% per month on the unpaid balance of the bill and may not include previously accrued late payment charges. §64.16

16) Page 18 Section 3.8.4: The actual charge for a returned check should be shown.

17) Page 19: Add Section 3.8.6: The Company complies with the requirements of Chapter 64 in Title 52 regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations in Chapter 64 will prevail.

18) Page 19 Section 3.9.1: A customer who wishes to have service discontinued shall give at least 5 days oral or written notice to the Company for discontinuance of the service. 52 PA Code §64.53