

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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:
Pennsylvania Public Utility Commission v. : Docket No.
Verizon North, Inc. : R-00061914
2007 Price Change Opportunity. : P-00001854
: F1000
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Office of Small Business Advocate v. : Docket No.
Verizon North, Inc. : R-00061914C0001
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Pennsylvania Public Utility Commission v. : Docket No.
Verizon Pennsylvania, Inc. : R-00061915
2007 Price Change Opportunity. : P-00930715
: F1000
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Office of Small Business Advocate v. : Docket No.
Verizon Pennsylvania, Inc. : R-00061915C0001
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Telephonic Pre-Hearing Conference :
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Pages 28 through 45

Hearing Room 2
Commonwealth Keystone Building
Harrisburg, Pennsylvania

DOCUMENT FOLDER

Friday, March 9, 2007

Met, pursuant to adjournment, at 10:03 a.m.

BEFORE:

KANDACE F. MELILLO, Administrative Law Judge

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WITNESS INDEX

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FORM 1

P R O C E E D I N G S

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2 ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO: This is
3 the time and place set aside for an initial pre-hearing
4 conference in the matter of Verizon North's 2007 Price
5 Change Opportunity or PCO filing, and the Office of Small
6 Business Advocate versus Verizon North, Inc. The docket
7 numbers R-00061914, P-00001854F1000 and R-00061914C0001.

8 I note also that this is the second pre-hearing
9 conference in the Verizon Pennsylvania, Inc. 2007 PCO filing
10 and in the Office of Small Business Advocate versus Verizon
11 Pennsylvania, Inc. Docket numbers there are R-00061915,
12 P-00930715F1000 and R-00061915C0001. These dockets are all
13 consolidated for the purpose of hearing and decision by an
14 order dated March 5, 2007.

15 I am Administrative Law Judge Kandace F. Melillo,
16 assigned by the Commission to preside in these matters. I
17 note the appearances this morning of Suzan Paiva, Esquire on
18 behalf of Verizon Pennsylvania, Inc. and Verizon North,
19 Inc.; Steven Gray, Esquire on behalf of the Office of Small
20 Business Advocate; Robert Eckenrod, Esquire on behalf of the
21 Office of Trial Staff and Joel Cheskis, Esquire on behalf of
22 the Office of Consumer Advocate. Good morning.

23 MR. GRAY: Good morning, Your Honor.

24 JUDGE MELILLO: I have received timely pre-hearing
25 memoranda from the following: the Office of Small Business

1 Advocate, the Office of Consumer Advocate, the Office of
2 Trial Staff and Verizon North, Inc. I note that we already
3 had a pre-hearing in the matter of Verizon Pennsylvania,
4 Inc. back in January of 2007 and pre-hearing memoranda were
5 also supplied in regard to that pre-hearing conference.

6 We'll talk about preliminary matters at this point.
7 Does anybody have anything of a preliminary nature before we
8 get into the procedural schedule?

9 (No response.)

10 JUDGE MELILLO: All right. Hearing nothing, this
11 pre-hearing conference was originally scheduled today
12 because it was thought that the Commission would address the
13 2006 Verizon Pennsylvania, Verizon North PCOs at their March
14 1, 2007 Public Meeting. However, these matters were not
15 addressed at that Public Meeting.

16 The Administrative Law Judge and the parties in this
17 2007 PCO proceeding are currently facing a July 28, 2007
18 deadline for the recommended decision in the Verizon
19 Pennsylvania, Inc. PCO and a September 8, 2007 deadline for
20 the recommended decision in Verizon North, Inc. The parties
21 have agreed to be bound by the earlier deadline for Verizon
22 Pennsylvania with respect to the Verizon North, Inc. PCO and
23 had agreed that these matters should be consolidated and the
24 proceedings were consolidated.

25 Because the 2006 PCOs were not addressed on March 1,

1 2007, I checked my schedule and was able to find an
2 additional two weeks for litigation, so that reply briefs in
3 these consolidated proceedings would be due by June 19,
4 2007. I understand the parties have been discussing a new
5 procedural schedule for the consolidated proceedings and
6 that there is a proposal to extend the schedule and
7 hopefully allow for incorporation of the Commission's 2006
8 PCO rulings into this litigation if the Commission acts by a
9 certain date.

10 Is it my understanding that the parties could
11 incorporate the 2006 PCO findings if the Commission acts at
12 its next Public Meeting scheduled for March 22, 2007?

13 MS. PAIVA: Yes. This is Suzan Paiva. You're
14 correct as long as the order, the written order is issued
15 fairly promptly thereafter, within a week or so.

16 JUDGE MELILLO: All right. I have put together a
17 draft of a certified question to the Commission which I
18 intend to file on March 13, 2007. I did circulate those two
19 questions. I had a date of March 26, 2007 which is a Monday
20 as the date after which the material questions would become
21 operative. Does anyone have a disagreement with that date?

22 MS. PAIVA: The material questions would be
23 operative, you mean if the Commission doesn't act on them
24 first, they would automatically --

25 JUDGE MELILLO: What would happen is that the way I

1 structured the questions is that if the Commission enters
2 its final order in the Verizon PA/Verizon North 2006 PCOs by
3 Monday, March 26, 2007, then the questions would essentially
4 be moot. But if they did not act by that point, then the
5 way I'm going to be structuring the certified question is
6 that because we're all under a deadline at this point for at
7 least the Verizon PA, Inc. PCO of July 28, 2007, we simply
8 can't wait any longer. Therefore, I'm ruling that we're
9 going to be only addressing the new issues and provide that
10 to the Commission by the deadline of July 28, 2007 and we
11 would address the other issues when we have guidance from
12 the Commission on their rulings in the 2006 PCOs because of
13 the commonality of issues.

14 Now, if the Commission decides that it doesn't want
15 to bifurcate them, the other question, the alternative would
16 be to grant more time. And I had structured the question so
17 that actually the parties and the Administrative Law Judge
18 would get five months from the entry date of the final order
19 in the Verizon PA/Verizon North 2006 PCOs. Does anyone have
20 any problem with that, with allowance of the five months,
21 which is essentially what time we would have gotten if the
22 2006 PCO orders had been entered on March 1, 2007?

23 MR. GRAY: That's fine, Your Honor.

24 JUDGE MELILLO: All right. Does everyone agree with
25 that?

1 MS. PAIVA: Yes, that's fine. My only comment on the
2 questions is, you might be able to give them a couple more
3 days to get the order out because under our new schedule, if
4 it's agreeable to you, then we would have April 18th as our
5 first testimony day. That would give them until the 28th to
6 get their entered order, being that that's the Monday after
7 the Public Meeting.

8 JUDGE MELILLO: All right, very well. So the parties
9 are all right with giving an extra couple days? I can
10 change that then to March 28th? Is that all right?

11 MR. GRAY: That's fine.

12 JUDGE MELILLO: All right, very well. I'm not
13 hearing anything from the Office of Consumer Advocate and
14 the Office of Trial Staff. Are those dates all right with
15 you as well?

16 MR. CHESKIS: Your Honor, this is Joel Cheskis.
17 Those dates are fine with us.

18 JUDGE MELILLO: All right, very well. Mr. Eckenrod?

19 MR. ECKENROD: Yes, Your Honor, those dates are fine
20 with us as well.

21 JUDGE MELILLO: All right. I want to note that at
22 this point, the parties should proceed apace with preparing
23 testimony as to the new issues and then if the Commission
24 does enter a final order by March 28th, the new rulings
25 would be incorporated in the testimony and we would litigate

1 those. Otherwise, the material questions are going to be
2 operative.

3 The way our procedural rules work is that if the
4 Commission does not act within 30 days of when the material
5 question is filed, then my order is deemed affirmed.

6 All right. The parties have provided in their pre-
7 hearing memoranda a witness list. I understand there's no
8 need for public input hearings in the Verizon North, Inc.
9 PCO filing; is that correct?

10 MS. PAIVA: That's correct from our perspective.

11 JUDGE MELILLO: All right. Does anyone disagree?

12 (No response.)

13 JUDGE MELILLO: All right. As a reminder, Ms. Paiva,
14 you've agreed to coordinate an agreement as to the order of
15 witnesses and you'll provide that to me at least one week
16 prior to the hearings.

17 Now, I understand the parties have proposed a new
18 procedural schedule. Do you want to provide that to me, Ms.
19 Paiva?

20 MS. PAIVA: Yes, I will.

21 JUDGE MELILLO: All right.

22 MS. PAIVA: The parties have proposed a new
23 procedural schedule to extend the dates by approximately two
24 weeks. Under the new schedule, direct testimony would be
25 due April 18th. Rebuttal testimony would be due May 8th.

1 Surrebuttal testimony would be due May 15th. The hearing,
2 one day of hearings would be May 17th. Main briefs would be
3 due June 5th, and reply briefs, June 19th.

4 JUDGE MELILLO: All right. Are those dates all in-
5 hand dates, Ms. Paiva?

6 MS. PAIVA: I would assume we would handle them the
7 same way we agreed to with the Verizon PA which by e-mail
8 with an overnight hard copy.

9 JUDGE MELILLO: Is that acceptable to everyone?

10 MR. GRAY: Yes, Your Honor, that's fine. Steve from
11 the OSBA.

12 JUDGE MELILLO: All right. Does anyone have any
13 problems with that?

14 (No response.)

15 JUDGE MELILLO: All right. So I think essentially
16 what we can do is have the procedural order apply to the
17 consolidated proceedings except that the procedural schedule
18 would change, but there is one requested difference, though,
19 and that is with regard to the discovery response time. The
20 Office of Small Business Advocate has proposed a seven day
21 turnaround rather than the ten day turnaround which is in
22 the procedural order at this point. Do you want to address
23 that, Mr. Gray?

24 MR. GRAY: Your Honor, thank you. It's just a
25 consideration that especially if the Commission comes out

1 with their order in a relatively timely fashion, we seem to
2 be a little under the gun in general in this proceeding, and
3 I'm just concerned that we get a rapid turnaround time given
4 the fluid schedules we're dealing with here.

5 The OSBA has no complaints about how Verizon has
6 responded to interrogatories. I'm just trying to make sure
7 we keep this proceeding moving forward as expeditiously as
8 possible.

9 MS. PAIVA: Is it seven business days or seven
10 calendar days?

11 MR. GRAY: Seven calendar days.

12 MS. PAIVA: Judge Melillo, we don't have any
13 outstanding discovery right now for us to answer, so
14 anything that's going to be asked is going to be new.
15 Considering the short schedule we're under, I think I would
16 agree to that. If we end up extending the schedule later
17 because the deadline gets extended, I would reserve the
18 right to revisit it and maybe make it a little longer, but
19 if we're going to go under this tight schedule, it's
20 probably appropriate to do the seven calendar days.

21 JUDGE MELILLO: I agree that we should revisit these
22 matters if we do find that the schedule is being expanded.
23 All right. And I note that there have been no problems then
24 with discovery.

25 We're going to be using the same service list, then,

1 for the consolidated cases?

2 MS. PAIVA: Yes. As far as I know, there's no
3 changes.

4 JUDGE MELILLO: All right. I'll issue a revised
5 procedural order then. Is there anything further for
6 discussion today?

7 MS. PAIVA: Your Honor, this is Joel Cheskis with the
8 OCA.

9 JUDGE MELILLO: Yes, Mr. Cheskis?

10 MR. CHESKIS: One minor point that I wanted to raise.
11 We previously had an April 9th deadline to respond whether
12 or not we would be providing a witness in this proceeding.

13 JUDGE MELILLO: All right.

14 MR. CHESKIS: That was in light of the April 2nd
15 direct testimony due date, and now that the direct testimony
16 due date has been moved to April 18th, I would request that
17 our deadline be moved to April 25th.

18 JUDGE MELILLO: All right. That seems to be
19 appropriate. Does anyone have an objection to that?

20 MS. PAIVA: No objection from us.

21 JUDGE MELILLO: All right, very well --

22 MR. ECKENROD: None here, Your Honor.

23 JUDGE MELILLO: I'm sorry, who was speaking?

24 MR. ECKENROD: That was Robert Eckenrod.

25 JUDGE MELILLO: All right. You don't have a problem

1 with that?

2 MR. ECKENROD: No, no problem, Your Honor.

3 JUDGE MELILLO: All right. So it's my understanding
4 the Office of Consumer Advocate then would have until April
5 25th to notify me and the parties whether they're going to
6 be presenting a witness in this case; is that correct?

7 MR. CHESKIS: Thank you very much.

8 JUDGE MELILLO: All right, very well.

9 Now, am I correct that the other three parties are
10 going to be presenting witnesses? Is that the intention?

11 MR. GRAY: Yes, Your Honor. The OSBA will be
12 providing a witness.

13 JUDGE MELILLO: All right. How about the Office of
14 Trial Staff?

15 MR. ECKENROD: At this time, Your Honor, that is our
16 intention, yes.

17 JUDGE MELILLO: All right. And I take it definitely
18 Verizon PA and Verizon North would be providing witnesses?

19 MS. PAIVA: Yes. I don't think we can get out of
20 that.

21 JUDGE MELILLO: I think you're right.

22 All right. Will there be anything further for today?

23 MR. GRAY: Your Honor, this is Steve from the OSBA.

24 JUDGE MELILLO: Yes, Mr. Gray?

25 MR. GRAY: Mr. Cheskis reminds me of something.

1 JUDGE MELILLO: All right.

2 MR. GRAY: When we had our previous pre-hearing
3 conference, you wanted a report from me at the end of the
4 week of April 9th about possible settlement conversations.

5 JUDGE MELILLO: That is correct. So is that going to
6 be moved as well?

7 MR. GRAY: Yes, but I'm thinking when that should be.
8 Maybe the week of April 23rd, the end of the week, probably?
9 What do the parties think of that? Because that would be
10 the week, that would give us a little over a week after the
11 direct testimony is filed.

12 MS. PAIVA: That's just to give a report?

13 MR. GRAY: Right, get together and talk sometime the
14 week of April 23rd and I can call the Judge or e-mail the
15 Judge the end of the week with a status report. Does that
16 sound reasonable?

17 MS. PAIVA: I think that's reasonable, and then we
18 can always talk again if we aren't far enough along at that
19 point. So why don't we plan to do that that week.

20 MR. GRAY: Your Honor, how does that suit?

21 JUDGE MELILLO: That sounds fine. Since we seem to
22 be looking at the procedural order and noting that there are
23 some dates there that should be changed, I'm just looking
24 over that to see if there was anything else.

25 (Pause.)

1 JUDGE MELILLO: Verizon, you have supplied your
2 witness. I think at the time of the last pre-hearing
3 conference, you hadn't yet supplied the witness.

4 MS. PAIVA: We sent the letter after that, and then
5 in the Verizon North pre-hearing memo, I identified the same
6 witness.

7 JUDGE MELILLO: All right, very well. I don't see
8 anything else in there. I don't know if anyone else sees
9 something that they think should be addressed that would be
10 of a procedural nature relating to the fact that we're
11 changing the schedule. All right.

12 MS. PAIVA: I did have one more minor thing.

13 JUDGE MELILLO: Yes.

14 MS. PAIVA: Since we have the two separate Protective
15 Orders?

16 JUDGE MELILLO: Yes.

17 MS. PAIVA: Everybody has to have their witness sign
18 the Appendix A for the Verizon North order. I think I did
19 already get one from Mr. Buckalew, but the other witnesses
20 should sign it if they haven't.

21 JUDGE MELILLO: All right, that's correct. I decided
22 that it would be appropriate to have a signed Protective
23 Order in both dockets because I know with respect to the
24 Commission's Secretary's Bureau, that there still are two
25 different I think red folders maintained, and this will make

1 it easier, I think.

2 MS. PAIVA: That makes sense, although the first one
3 came out with only the one caption.

4 JUDGE MELILLO: Right, exactly.

5 MS. PAIVA: Nothing with Verizon North.

6 JUDGE MELILLO: That's right. This way there will be
7 two separate orders, each with the appropriate caption and
8 also the Appendix A will have the appropriate captions.

9 All right, very well. Anything further?

10 (No response.)

11 JUDGE MELILLO: All right. Hearing nothing, then
12 thank you very much. This pre-hearing conference is ended.

13 (Whereupon, at 10:20 a.m., the proceedings were
14 concluded.)

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me or under my direction, and that this transcript is a true and accurate record to the best of my ability.

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John A. Kelly,
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