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January 16, 2015

Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg PA 17105-3265

Re: Joint Petition of Verizon Pennsylvania LLC and
Verizon North LLC for Competitive Classification
of all Retail Services in Certain Geographic Areas,
and for a Waiver of Regulations for Competitive
Services
Docket No. P-2014-2446303 and
Docket No. P-2014-2446304

Dear Secretary Chiavetta:

Enclosed for filing please find the Reply Brief of Communications Workers of America and International Brotherhood of Electrical Workers in the above-referenced proceeding. The document is being served on all parties of record as shown on the attached Certificate of Service.

The document was filed electronically with the Commission on this date.

Sincerely,



Enclosure

cc: All parties of record
Joel H. Cheskis, Administrative Law Judge
Office of Special Assistants

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Verizon Pennsylvania LLC and)	
Verizon North LLC for Competitive)	Docket No. P-2014-2446303
Classification of all Retail Services in Certain)	Docket No. P-2014-2446304
Geographic Areas and for a Waiver of Regulations)	
For Competitive Services)	

**REPLY BRIEF
OF
COMMUNICATIONS WORKERS OF AMERICA
AND
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS**

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Dated: January 16, 2015

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I. INTRODUCTION

The Communications Workers of America and International Brotherhood of Electrical Workers ("CWA-IBEW"), Verizon Pennsylvania LLC and Verizon North LLC (collectively "Verizon"), Office of Consumer Advocate, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), Full Service Network, Pennsylvania Telephone Association, and AT&T Corp. filed their Main Briefs in this proceeding on January 8, 2015.

Verizon's Main Brief highlights the numerous errors and deficiencies in its case, not the least of which is its failure to rely on any actual data to show the presence or absence of competition for basic dial-tone service in each of the 194 wire centers included in Verizon's Joint Petition. CWA-IBEW have carefully reviewed Verizon's Main Brief and conclude that nearly all of the errors and deficiencies in that brief were discussed in CWA-IBEW's Main Brief. Moreover, nothing in Verizon's Main Brief alters CWA-IBEW's conclusions and recommendations, or the comprehensive analyses and data on which they are based.

There are a few statements in Verizon's Main Brief, however, that CWA-IBEW believe are blatantly incorrect or that highlight the critical errors in Verizon's case. Those few statements are discussed below. The failure to discuss a statement or argument made by Verizon, however, should not be deemed to be an acknowledgement of the accuracy of that statement or argument. Indeed, quite the contrary is true, as those arguments were all addressed and discredited in CWA-IBEW's Main Brief.

II. REPLY TO VERIZON'S ARGUMENT

A. Verizon's Petition for Determination of Whether Protected Services in Certain Wire Centers are Competitive Under 66 Pa. C.S. § 3016(a)

1. Legal Standard

Verizon's Statement of the Case (beginning on page 5 of its Main Brief) contains a different -- and inaccurate -- discussion of the relevant legal standards than is contained in the Legal Standard section of the Main Brief (beginning on page 10).

Specifically, in the Statement of the Case, Verizon improperly states: "Services for which there are 'like or substitute services or other business activities' available *are to be classified as 'competitive.'*" 66 Pa. C.S. § 3016(a)" (emphasis added). In fact, the statute contains no such mandatory directive to the Commission. The statute permits Verizon to seek the competitive classification of protected services where "like or substitute services or other business activities" are available. The statute, however, does not require the Commission to grant such a request or to limit its inquiry only to the availability of "like or substitute services."

In fact, as Verizon later acknowledges on page 10 of its Main Brief, the statute requires the Commission to "consider *all relevant information submitted to it*, including the availability of like or substitute services or other business activities." 66 Pa. C.S. § 3016(a)(3) (emphasis added).

Moreover, Verizon's Statement of the Case improperly states that Verizon has asked the Commission "to declare competitive" certain services. The Commission is not authorized to make a competitive declaration for protected services. Rather, the Commission must enter an order supported by findings of fact limited to "the particular geographic area, exchange or group of exchanges or density cell" subject to the request. 66 Pa. C.S. §§ 3016(a)(1) (requiring the

Commission to issue an order after notice and hearings), 703(e) (requiring the Commission to include in an order "findings ... in sufficient detail to enable the court on appeal, to determine the controverted question presented by the proceeding, and whether proper weight was given to the evidence"), and 3016(a)(3) (requiring the Commission to "limit its determination to the ... particular geographic area, exchange or group of exchanges or density cell" included in the petition).

Finally, Verizon's discussion of Legal Standards properly states that the question of whether a service is "like or substitute" includes a determination that the service "from other providers ... would fulfill the same functions for them [consumers] as the incumbent's service(s)." Verizon Main Brief at 12. While Verizon correctly states this is part of the standard to be applied, Verizon never mentions this standard elsewhere in its Main Brief (or its evidence). That is, there is absolutely no attempt by Verizon to delineate the specific functions that must be provided by a substitute for basic dial-tone service and evaluate whether those functions are provided by competitors.

In contrast, CWA-IBEW explained (and documented through evidence) that the critical functions of basic dial-tone service are related to public safety and include the following: (1) accurate access to E911 service (wireless telephony fails to provide this function); (2) the ability to access medical alert services (wireless and cable telephony both fail to provide this function); and (3) the ability to make and receive telephone calls during sustained electric power outages, severe storms, and other emergencies (wireless and cable telephony both fail to provide this function). See CWA-IBEW Main Brief at 7-9.

2. Facts Relating to the Competitive Standard of Section 3016(a)

Throughout its Main Brief, Verizon erroneously fails to limit its presentation to each of the specific wire centers included in its Joint Petition, as required by law. Instead, Verizon discusses statewide data, national data, and information aggregated for all 194 wire centers.

The aggregation of data for all wire centers is a particularly egregious flaw in Verizon's case because wire centers are far from uniform in size. Indeed, Verizon's data show that the wire centers included in its Joint Petition range in size from 587 households (Mount Gretna) to 56,195 households (Dewey) -- a difference of almost 100 times in size. CWA-IBEW St. 1, Sch. SMB-15. Indeed, CWA-IBEW calculate from that schedule that the Dewey wire center itself contains more households than the 25 smallest wire centers included in the Joint Petition combined (each of which serves fewer than 3,600 households).

When wire centers are so diverse in size, aggregating data masks important differences among wire centers. As CWA-IBEW explained in its Main Brief, Verizon's petition includes a dozen wire centers in rural areas, dozens of wire centers where Verizon continues to control the market, numerous markets without universal access to cable telephony, and wire centers where alleged competitors fail to provide any competitive pressure on Verizon to provide reasonably reliable service. CWA-IBEW Main Brief at 10-23. In other words, Verizon's aggregation of data for all 194 wire centers fails to disclose, analyze, and discuss critically important facts about each wire center.

B. Verizon's Petition for Waiver of Certain Regulations

1. Legal Standard

Verizon's discussion of the legal standard regarding its request for a waiver of certain regulations ignores three essential provisions of the law. First, while Verizon quotes from a

portion of Section 3019, it fails to address the portion of Section 3019(b)(2) that specifically recognizes the Commission's authority to "review and revise quality of service standards contained in 52 Pa. Code ... that address the safety, adequacy, reliability and privacy of telecommunications services and the ordering, installation, suspension, termination and restoration of any telecommunications service." 66 Pa. C.S. § 3019(b)(2). Through this provision, the statute specifically recognizes the importance of continued regulation of safety, reliability, and customer service, even in the face of increased competition. These are the very regulations in Chapters 63 and 64 that Verizon asks the Commission to waive for the next 11 years.

Second, while Verizon recognizes the Commission's continuing "authority over Verizon's service quality under 66 Pa. C.S. § 1501" (Verizon Main Brief at 28), Verizon fails to acknowledge that the way in which the Commission exercises this authority is through the issuance and enforcement of regulations. Again, these are the same regulations from which Verizon seeks an 11-year waiver. See CWA-IBEW Main Brief at 38-39 and CAUSE-PA Main Brief at 29-32.

Third, Verizon fails to even acknowledge, let alone discuss, the "unreasonable hardship" standard for obtaining a waiver of regulations in Chapter 63 Subchapter E or Chapter 64. See CWA-IBEW Main Brief at 35-37.

As CWA-IBEW discussed in their Main Brief, Verizon has failed to make any showing of unreasonable hardship, or any other demonstrable harm, from the continued application of these regulations. Verizon's waiver request, therefore, must be denied.

III. CONCLUSION

For the reasons set forth above and in their Main Brief, the Communications Workers of America and International Brotherhood of Electrical Workers respectfully request the Commission to deny Verizon's Joint Petition. Verizon has not met its burden of proving that "like or substitute" services exist for basic dial-tone service in Pennsylvania, or that it is entitled to a waiver of any Commission regulations.

Respectfully submitted,



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Dated: January 16, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served this day a true copy of the foregoing document upon the parties listed below by electronic mail and U.S. mail, first-class, postage prepaid, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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