

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

William R. Lloyd, Jr.  
Small Business Advocate

January 30, 2008

(717) 783-2525  
(717) 783-2831 (FAX)

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**E-mail and First Class Mail**

Hon. Marlane R. Chestnut  
Administrative Law Judge  
Pa. Public Utility Commission  
Rm. 1302, Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, PA 19130

Hon. Guy M. Koster  
Administrative Law Judge  
Pa. Public Utility Commission  
Rm. 1302, Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, PA 19130

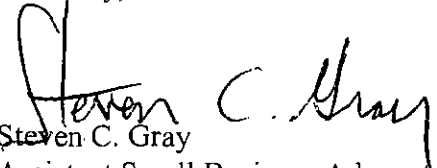
**Re: Pennsylvania Public Utility Commission v. Verizon North, Inc.  
Docket Nos. P-00001854F1000 and C-20078514**

Dear Judge Chestnut and Judge Koster:

I am enclosing two copies of the Prehearing Memorandum on behalf of the Office of Small Business Advocate.

As evidenced by the enclosed certificate of service, all parties have been served as indicated.

Sincerely,

  
Steven C. Gray  
Assistant Small Business Advocate  
Attorney ID No. 77538

Enclosures

cc: ✓ James J. McNulty, Secretary  
Pa. Public Utility Commission

Parties of Record

Allen Buckalew

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION

v.

VERIZON NORTH INC.

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DOCKET NOS. P-00001854F1000  
C-20078514

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OFFICE OF SMALL BUSINESS ADVOCATE  
PREHEARING MEMORANDUM

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I. INTRODUCTION

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business consumers of utility services before the Pennsylvania Public Utility Commission pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding. Representing the OSBA in this matter is Assistant Small Business Advocate Steven C. Gray. Please address all correspondence as follows:

Steven C. Gray, Esquire  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101  
(717) 783-2525  
(717) 783-2831 (fax)  
[sgray@state.pa.us](mailto:sgray@state.pa.us)

## II. FILING BACKGROUND

On November 1, 2007, Verizon North Inc. ("Verizon North" or the "Company") submitted its 2008 Price Change Opportunity ("PCO") filing to the Pennsylvania Public Utility Commission ("Commission"). According to the 2008 PCO filing, Verizon North's price stability mechanism calculates that Verizon North's 2008 PCO is \$2,793,000. This \$2,793,000 amount is then offset by the refunds ordered by the Commission in the 2006 and 2007 PCO proceedings. Verizon North claims that it has included the refunds for the 2006 and 2007 PCO filings, at Docket Nos. R-00051227 and R-00061914, respectively, in this 2008 PCO Filing.

The OSBA filed a Complaint on November 13, 2007.

On December 17, 2007, Verizon North filed preliminary objections to the OSBA's complaint.

On December 27, 2007, the OSBA filed an answer to Verizon North's preliminary objections.

On January 8, 2008, Administrative Law Judges ("ALJs") Marlene R Chestnut and Guy M. Koster denied Verizon North's preliminary objections.

As of this writing, the Commission has not yet entered an order regarding the disposition of Verizon North's 2008 PCO filing.

### III. IDENTIFICATION OF WITNESSES AND TENTATIVE ISSUES

Assisting in the development and presentation of the OSBA's case in this proceeding will be:

Mr. Allen Buckalew  
J.W. Wilson & Associates, Inc.  
Rosslyn Plaza C - Suite 1104  
1601 North Kent Street  
Arlington, VA 22209  
(703) 243-1049  
(703) 243-3389 (fax)  
[abuca@aol.com](mailto:abuca@aol.com)

After an initial review of the materials submitted by Verizon North, the OSBA has identified the following issues:

1) Whether Verizon North's price stability mechanism was supplied with accurate data and correctly calculated that Verizon North's 2008 PCO is \$2,793,000.

The new Chapter 30 law, Act 183 of 2004 (66 Pa. C.S. §§ 3011-3019), allows a rural or non-rural incumbent local exchange carrier ("ILEC") to submit an annual price stability mechanism ("PSM") filing to the Commission in order to request a revenue increase that will be used to fund the ILEC's accelerated broadband deployment. The details of each ILEC's PSM are set forth in that ILEC's network modernization plan ("NMP"). Each ILEC submitted its NMP, with amendments ("Amended NMP"), to the Commission pursuant to Section 3014(b) of the Public Utility Code, 66 Pa. C.S. § 3014(b), in order to take advantage of the benefits provided to all ILECs under the new Chapter 30.

A PSM is defined by new Chapter 30 as:

A formula which may be included in a commission-approved alternative form of regulation plan that permits rates for noncompetitive services to be adjusted upward or downward.

66 Pa. C.S. § 3012. The PSM employed by an ILEC “is a complete substitution of the rate base/rate of return regulation.” *Commonwealth Telephone Company PSI/SPI Filing for Year 2005*, Docket No. R-00050551 (Order entered August 31, 2005), at 2.

The PSM utilized by Verizon North first calculates a Price Stability Index (“PSI”) based on the Gross Domestic Product – Price Index (“GDP-PI”), as well as the PSI calculated for the previous year. See Verizon North Amended NMP, at 10-11, and 21. For Verizon North, the calculation of the allowed increase in noncompetitive revenues is somewhat more complicated than the formula used by Verizon Pennsylvania Inc. Verizon North does, in fact, use the percentage change in the GDP-PI, as well as the new Chapter 30 inflation offset of 0.5%.

The Verizon North formula for calculating its PSI is:

$$PSI_t = PSI_{t-1} \times [1 + \% \text{ Change in GDP-PI} - 0.5\% \pm Z]$$

where  $PSI_t$  is the new maximum change in price for the noncompetitive service category for the current twelve month period;

$PSI_{t-1}$  is the current maximum change in price for the noncompetitive service category for the previous twelve month period; and

Z is the effect of any exogenous changes.

The Verizon North PSM then uses the calculated value for  $PSI_t$  to determine its PCO:

$$PCO = (\text{Revenue} \times (PSI_t/100)) - \text{Revenue}$$

where Revenue is defined as the total intrastate revenue from noncompetitive services.

According to Verizon North’s 2008 PCO filing, this calculation results in a PCO amount of \$2,793,000. Note that this amount does not include the refunds from the 2006 and 2007 PCO proceedings.

2) Whether Verizon North improperly included Inter-Company Settlement competitive service revenue in its noncompetitive revenue total.

As Verizon North has explained in a recent PCO proceeding, inter-company (“ITC”) settlements are payments that are made to account for access services provided between companies. For inter-company settlement revenue to be properly included in the PSM noncompetitive service revenue total, that ITC settlement revenue must, itself, be derived from noncompetitive services. The OSBA’s review of the Verizon North 2008 PCO Filing has uncovered the possibility that the revenue which Verizon North included from ITC settlements includes revenue from toll service (which is a competitive service), thereby improperly increasing Verizon North’s PCO.

3) Whether Verizon North has properly calculated its payments into the Pennsylvania E-Fund and Broadband Outreach and Aggregation Fund (“BOAF”), and whether Verizon North’s plan to withhold payments from the BOAF until 2009 is just and reasonable. The details of the BOAF are set forth in Section 3014(i) of the Public Utility Code, 66 Pa. C.S. § 3014(i).

The Commission explained its concerns as follows:

The adjustments for the 2006 and 2007 PCOs presented in the Company’s 2008 PCO filing also impact its 2006 and 2007 payments to the BOAF. Pursuant to §3015(c)(2) of Act 183, Verizon PA’s assessment for the BOAF is linked to its PCO revenue increases. Because Verizon PA’s 2006 and 2007 PCO increases are being adjusted downward, Verizon PA claims to have overpaid to the BOAF for the fiscal years 2006-2007 and 2007-2008. Verizon PA proposes to be made whole for the overpayments by making no prospective contributions to the BOAF based on its 2008 PCO filing and part of its 2009 PCO filing.

*Verizon Pennsylvania Inc. 2008 Price Change Opportunity Filing*, Docket Nos. P-00930715F1000 and C-20078513 (Order entered December 28, 2007), at 9. This issue also applies to the Verizon North 2008 PCO filing.

The OSBA will participate in the case to assure that the interests of small business customers of Verizon North are adequately represented and protected.

As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of the Company and other parties through discovery, through the cross-examination of witnesses appearing for those parties, and through briefing. The OSBA will particularly focus on any issue where the impact on the interests of Verizon North's small business consumers would be unjustifiably different than, or disproportionate to, the impact on another class of customers, or otherwise lacking in reasonableness or basic fairness. The OSBA reserves the right to pursue additional issues as they arise throughout the proceeding.

#### **IV. SERVICE OF DOCUMENTS**

The OSBA requests that all parties serve a hard copy of any document filed in this case upon the OSBA and the OSBA witness identified above. In addition to hard copies of pleadings, briefs, and exceptions, the OSBA requests hard copies of responses to discovery propounded by the OSBA or any other party. Service by electronic mail only is not acceptable.

#### **V. SETTLEMENT**

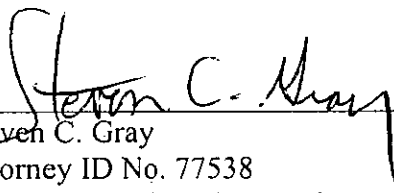
The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

VI. HEARING AND BRIEFING SCHEDULE

The OSBA has been in discussions with the Company and other parties to create an appropriate procedural schedule. Verizon North will be setting forth in its prehearing memo a procedural schedule that has been agreed to by the active parties in this proceeding.

Given the Governor's desire to limit the travel of State Offices under his jurisdiction, the OSBA respectfully requests that the evidentiary hearings take place in Harrisburg.

Respectfully submitted,



Steven C. Gray  
Attorney ID No. 77538  
Assistant Small Business Advocate

For:

William R. Lloyd, Jr.  
Attorney ID No. 16452  
Small Business Advocate

Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Dated: January 30, 2008

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
v. : Docket No. C-20078514  
Verizon North, Inc. :

**CERTIFICATE OF SERVICE**

I certify that I am serving two copies of the Prehearing Memorandum, on behalf of the Office of Small Business Advocate, by e-mail and first class mail (unless otherwise noted) upon the persons addressed below:

Hon. Marlane R. Chestnut  
Administrative Law Judge  
Pa. Public Utility Commission  
Rm. 1302, Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, PA 19130  
(215) 560-2105  
(215) 560-3133 - Fax  
[machestnut@state.pa.us](mailto:machestnut@state.pa.us)

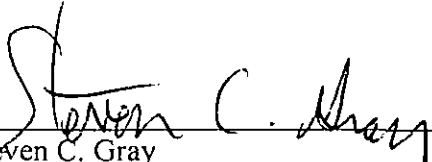
Robert V. Eckenrod, Esquire  
Office of Trial Staff  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-1976  
(717) 772-2677 (fax)  
[Roeckenrod@state.pa.us](mailto:Roeckenrod@state.pa.us)  
**(E-mail and Hand Delivery)**

Hon. Guy M. Koster  
Administrative Law Judge  
Pa. Public Utility Commission  
Rm. 1302, Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, PA 19130  
(215) 560-2105  
(215) 560-3133 - Fax  
[gkoster@state.pa.us](mailto:gkoster@state.pa.us)

William B. Petersen, Esquire  
Suzan DeBusk Paiva, Esquire  
Verizon Communications Inc.  
1717 Arch Street, 32 Floor  
Philadelphia, PA 19103  
(215) 963-6506  
(215) 563-2658 (fax)  
[william.b.petersen@verizon.com](mailto:william.b.petersen@verizon.com)  
[suzan.d.paiva@verizon.com](mailto:suzan.d.paiva@verizon.com)

Joel H. Cheskis, Esquire  
Office of Consumer Advocate  
555 Walnut Street - Fifth Floor  
Harrisburg, PA 17101-1921  
(717) 783-5048  
(717) 783-7152 (fax)  
[Jcheskis@paoca.org](mailto:Jcheskis@paoca.org)  
**(E-mail and Hand Delivery)**

Kathleen Niesborella  
Office of Administrative Law Judge  
[kniesborel@state.pa.us](mailto:kniesborel@state.pa.us)  
**(E-mail only)**

  
Steven C. Gray  
Assistant Small Business Advocate  
Attorney ID No. 77538

Date: January 30, 2008