

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

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DIECA COMMUNICATIONS,  
INC/ COVAD COMMUNICATION  
COMPANY,  
v.  
VERIZON PA, INC.  
MEDIATION  
-----

Docket No. :  
A-310696F7000  
A-310696F7001

*ORIGINAL*

Pages: 1 - 14

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State Office Building  
13th Floor  
1400 Spring Garden Street  
Philadelphia, PA

Wednesday, May 10, 2006  
Commencing at 10:00 a.m.

BEFORE:

MARLANE R. CHESTNUT, Administrative Law Judge

APPEARANCES:

ANTHONY HANSEL, Esquire  
600 14th NW  
Suite 750  
Washington, DC 20005

JOHN POVILAITIS, ESQUIRE  
Ryan, Russell, Ogden &  
Seitzer, LLP  
800 North 3rd Street  
Suite 101  
Harrisburg, PA 17102

For the Complainant

SUSAN DEBUSK PAIVA, Esquire  
1717 Arch Street  
32 North West  
Philadelphia, PA 19103

SRINIVASAN SOUNDARARAJAN,  
ESQUIRE  
1515 N. Courthouse Road  
Suite 500  
Arlington, VA 22201

For the Respondent

REPORTER: Joshua Hess

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PUBLIC UTILITY COMMISSION  
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<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
	NONE PRESENT			



## P R O C E E D I N G S

1  
2 -----  
3 JUDGE MARLANE R. CHESTNUT:

4 I guess we'll get started, then. This is  
5 the status conference of Docket A-310696F7000 and  
6 A-310696F7001. For the record, let me state, that I  
7 am Administrative Law Judge Marlane R. Chestnut. I  
8 would like each of you to identify yourself for the  
9 record by stating your name, your address, your  
10 telephone number and for whom your appearing. I'll  
11 start with you, Mr. Hansel, please.

12 ATTORNEY HANSEL:

13 My name is Anthony Hansel. And I  
14 represent COVAD Communications Company. My address is  
15 600 14th Street, Washington, D.C., 20005. My phone  
16 number is 202-220-0410.

17 JUDGE:

18 Thank you very much. Mr. Povilaitis?

19 ATTORNEY POVILAITIS:

20 Thank you, Your Honor. This is John  
21 Povilaitis. I'm representing COVAD Communications  
22 Company. Our firm address is Ryan, Russell, Odgen and  
23 Seltzer, 800 North 3rd Street, Suite 101, Harrisburg,  
24 PA 17102. And our phone number is 717-236-7714.

25 JUDGE:

1 Ms. Paiva?

2 ATTORNEY PAIVA:

3 Susan Pavia. I'm appearing for Verizon  
4 Pennsylvania, Inc. and Verizon North, Inc. My address  
5 is 1717 Arch Street, Philadelphia, 19103. Telephone  
6 number 215-466-4755.

7 JUDGE:

8 Thank you. Mr. Soundararajan?

9 ATTORNEY SOUNDARARAJAN:

10 My name is Srinivasan Soundararajan and  
11 I'm also appearing for Verizon. My address is 1515  
12 North Courthouse Road, Suite 500, Arlington, Virginia,  
13 22201-2909. And my phone number is 703-351-3187.

14 JUDGE:

15 Thank you. Obviously, you know why we're  
16 having this status conference. Ms. Paiva, thank you  
17 very much for your e-mail yesterday, talking about  
18 where you are and your proposal. I hope people have  
19 had a chance to consider my counter proposal. Mr.  
20 Hansel or Mr. Provilaitis, who's going to be the  
21 primary speaker here?

22 ATTORNEY HANSEL:

23 This is Anthony Hansel. I can be the  
24 primary speaker.

25 JUDGE:

1           Okay. And don't forget to identify  
2 yourself for the benefit of the court reporter,  
3 please.

4           Did you like my idea?

5           ATTORNEY HANSEL:

6           Well, I have one concern with the idea.  
7 And that is that it's come to my attention that  
8 Verizon's template interconnection agreement has been  
9 changed from what since the time we started this  
10 arbitration. And I don't know to what extent the  
11 changes are, but if we close the case and then reopen  
12 it again, it's my fear that we will add issues to the  
13 proceeding rather take issues off the table. So I  
14 don't want to close --- well, my position at this  
15 point, is not no to the proposal, but rather Verizon  
16 and COVAD, after this call, kind of talked though some  
17 of the changes to Verizon template interconnection  
18 agreement. And if the changes would not, ultimately,  
19 raise additional issues going forward then, you know,  
20 I think the proposal may be workable. But, at this  
21 point, I would like to limit the issues, at this  
22 point, rather than increase the issues.

23           JUDGE:

24           Okay. Now, who's going to be speaking  
25 for Verizon?

1                    ATTORNEY PAIVA:

2                    This is Ms. Paiva. I'll be speaking for  
3 Verizon.

4                    JUDGE:

5                    Okay. How do you feel about that?

6                    ATTORNEY PAIVA:

7                    Well, the petition is actually COVAD's so  
8 I guess the final decision on whether to withdraw it  
9 or not would have to be theirs. But as far as Verizon  
10 is concerned, we were willing to, if they were willing  
11 to withdraw it, we would be willing to negotiate,  
12 again, from our new template. I sent a message to Mr.  
13 Hansel, I'm not sure he had a chance to get it before  
14 the call, but the template is actually in the works  
15 and not quite ready yet, but it will it be ready soon.  
16                    And the point of it is to update our template based  
17 on changes of law and developments that have happened,  
18 you know, since the last --- the other one was several  
19 years old, at this point.

20                    So another possibility that may make  
21 sense is that we go with our original proposal to do  
22 the 60 days after the amendment becomes final in the  
23 PRO case, but during that time, we could sit down and  
24 let COVAD go over the template. And once they look at  
25 it maybe they would be more comfortable withdrawing

1 the case and working with a new template.

2 JUDGE:

3 I think that sounds like a good idea for  
4 everybody because I appreciate the fact that you've  
5 been talking to each other throughout these years.  
6 But I want you to understand how much pressure there  
7 is on me to get rid of this case. I been fending this  
8 pressure off because I think that you people are  
9 working to a resolution that's in the best interest of  
10 both of you. And that you're much better off doing it  
11 by yourself, but, at this point, it's starting to be  
12 an embarrassment and if I have to go ahead and write  
13 something I'm not going to make any of you look good  
14 because you should have been resolving a lot of these  
15 issues much more than you have up to now. So I want  
16 you to strongly think about getting rid of this case.  
17 Whether you do it by withdrawing the petition.  
18 Whether you do it by some other kind of agreement. I  
19 think that's something you both seriously need to  
20 consider. And, of course, you're right, Ms. Paiva,  
21 that it is COVAD's petition. And I've made the  
22 assumption that the reason it hasn't been withdrawn,  
23 given the passage of time, is that there is some kind  
24 of grandfathering involved here. And if that's the  
25 case, I would expect you to work that out.



1           Does anybody, then, have a disagreement  
2 with the proposal that I'll issue an order staying  
3 this for --- well, I guess, further staying it that  
4 you will discuss the template with a view toward  
5 resolving all of the issues which would resolve the  
6 petition. And if you can't resolve all of them then  
7 think of some way to resolve --- well, do something,  
8 okay?

9           And I guess what I would do is adopt Ms. Paiva's  
10 proposal, but I would urge your to discuss the  
11 template, in the meantime. How does that sound to  
12 everybody? Mr. Hansel?

13                   ATTORNEY HANSEL:

14           That sounds good. Again, this is Anthony  
15 Hansel speaking. If I could ask one question, Judge?

16                   JUDGE:

17           Sure.

18                   ATTORNEY HANSEL:

19           And that is, you know, ultimately, I  
20 think, if the petition is withdrawn and we enter into  
21 negotiations onto the new template that at some point,  
22 there will be a new petition filed. So I did want to  
23 kind of get your thoughts on that. I understand your  
24 concerns with closing the proceedings, but I wanted to  
25 get a feel for what your view was about, ultimately, a

1 new proceeding being opened, at some point.

2 JUDGE:

3 Well, hopefully, that new proceeding  
4 would be assigned to somebody else.

5 ATTORNEY HANSEL:

6 Okay.

7 JUDGE:

8 Not that I haven't enjoyed working with  
9 all of you. But that's just in the future. I really  
10 can't express to you enough how much I want this thing  
11 resolved. Okay? I don't mind giving you another 60  
12 days after entry of the Commission's order in the  
13 Consolidated Arbitration thing, but anything further  
14 is really going to be a problem. And I'm not going to  
15 make it easy for you. If you don't resolve all these  
16 issues yourself then we're going to start over. We're  
17 going to have hearings, you're going to have to file  
18 testimony. We're going to have briefs, replied brief,  
19 supplemental briefs, whatever I can do to make it hard  
20 for you, I will. Okay? I think you're just much  
21 better off resolving this yourselves and being in  
22 control of it yourself, but again, I can't go much  
23 further than those 60 days after that trigger. Okay?

24 Ms. Paiva, do you have anything you want  
25 to jump in with here or not?

1                   ATTORNEY PAIVA:

2                   Your Honor, I mean, what you discussed  
3 sounds like an acceptable resolution and we will take  
4 your words and go back and talk about the case.

5                   JUDGE:

6                   And can I trust that Verizon will and  
7 COVAD, both, will attempt to negotiate in good faith  
8 here?

9                   ATTORNEY PAVIA:

10                  Yes, Verizon will.

11                  JUDGE:

12                  Okay.

13                  ATTORNEY HANSEL:

14                  Yes, Your Honor, for COVAD.

15                  JUDGE:

16                  Okay. You know, I didn't hesitate to  
17 attest to my feelings that, obviously, some party  
18 wasn't negotiating in good faith when the fact that  
19 there were so many issues involved in the original  
20 petition. The fact that you've managed to widdle them  
21 down is good, but that should have been done before  
22 the petition was filed not after it. But then, again,  
23 if I can do anything to help you resolve this, I'll be  
24 glad to. But, please, don't let this linger on. The  
25 sooner you can wrap it up the better.

1           Is there anything else, then, or I think  
2 we're all in agreement? I'll issue an order just  
3 stating what we stated today which is setting up a  
4 further status conference 60 days after entry of the  
5 Commission's TRO Arbitration Order. And, but,  
6 hopefully, you'll get back to me before then and tell  
7 me it's been resolved or withdrawn or something.  
8 Okay?

9           Mr. Hansel, anything further from you?

10          ATTORNEY HANSEL:

11          No. I appreciate your time, Your Honor.

12          JUDGE:

13          Thank you. Mr. Povilaitis, anything from  
14 you?

15          ATTORNEY POVILAITIS:

16          Nothing, Your Honor. Thank you.

17          JUDGE:

18          Ms. Paiva?

19          ATTORNEY PAVIA:

20          Nothing else. Thank you, Your Honor.

21          JUDGE:

22          Mr. Soundararajan?

23          ATTORNEY SOUNDARARAJAN:

24          Nothing, Your Honor, Thank you very  
25 much.

1           JUDGE:

2           Okay. Thank you all, then. The court  
3 reporter want to know if anybody wants copies of the  
4 transcript?

5           ATTORNEY HANSEL:

6           No thank you. This is Anthony Hansel  
7 from COVAD.

8           ATTORNEY PAVIA:

9           Your Honor, you're going to issue a  
10 written order; right?

11          JUDGE:

12          Yes.

13          ATTORNEY PAVIA:

14          So we don't need a transcript, then.

15          JUDGE:

16          Okay. Thank you very much, then. This  
17 pre-hearing is adjourned. Not the pre-hearing, the  
18 status conference is adjourned.

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21                   \* \* \* \* \*

22                   HEARING CONCLUDED AT 10:10 A.M.

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C E R T I F I C A T E

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Court Reporter

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