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May 15, 2007

VIA OVERNIGHT MAIL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Verizon North Inc.'s 2007 Biennial Network Modernization Plan (NMP) Update Report, Docket No. P-00001854F1000

Dear Secretary McNulty:

Verizon North Inc. ("Verizon North") respectfully requests that the Commission withdraw its April 30, 2007 Secretarial Letter stating that Verizon North's 2007 Biennial Network Modernization Plan (NMP) Update is deficient and threatening "fines and other actions" if Verizon North does not immediately supplement the report to provide its DSL deployment on an exchange-by-exchange level.

There is no basis for the Commission Staff suddenly to demand exchange level reporting. The Commission specifically *rejected* exchange-level commitments or reporting when it approved Verizon North's NMP in 2002, and the Commission accepted Verizon North's 2005 Biennial Update without exchange-by-exchange detail. The Commission has made clear that Staff may not embellish upon the Commission's own clear Biennial Update Reporting Guidelines, which do not require exchange-level reporting, and Act 183 limits this Commission from adding NMP reporting requirements beyond those in place as of July 2004.

The Secretarial Letter cites no Commission Order requiring this reporting. It relies only on provisions of Verizon North's NMP to support its conclusion that "Verizon North must report its DSL deployment by exchange." We have again thoroughly

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reviewed Verizon North's NMP, including the specific provisions identified in the Secretarial Letter, and there is no such requirement.

Verizon North's NMP provides a "minimum deployment rate of broadband capability that Verizon North will provide, measured as a percentage of access lines that are broadband capable," requiring 35% by 2005, 65% by 2010 and 100% by 2015. These percentages are for the entire service territory – not broken down exchange-by-exchange. (VZ North NMP Section B(4)(b)). Verizon North has achieved 55.9% overall broadband availability through the end of 2006 – well ahead of its commitment.

The plan also requires Verizon North to "reasonably balance deployment of broadband capabilities in the distribution network between urban and rural areas within its service territory," but again this does not require exchange-by-exchange commitments or deployment. (VZ North NMP Section B(4)(c)). To the extent the Secretarial Letter suggests that Verizon North failed to report the overall percentage of broadband availability by rural and urban categories, it is mistaken. These proprietary figures appear at page 14 of Verizon North's report, and provide the absolute number and percentage of Verizon North's broadband available lines broken down by rural and urban.

If the Commission Staff is suggesting that the rural/urban commitment requires exchange-by-exchange reporting, the Commission has already rejected this contention. The Commission's April 11, 2002 Order approving Verizon North's NMP rejected the OCA's assertion that the NMP should include exchange-by-exchange detail as to "what exchanges will receive broadband service and when." (4/11/02 Order at 8). The Commission went on specifically to discuss the level of reporting that would provide "sufficient information through which this Commission can monitor VZN's deployment of broadband in accordance with our responsibilities under Chapter 30." (*Id.* at 17). It did not require exchange-by-exchange reporting, but rather directed Verizon North to "detail its level of broadband deployment between rural and urban areas by specifying the number of access lines for these areas" (*id.*) – which Verizon North provided, as discussed above.

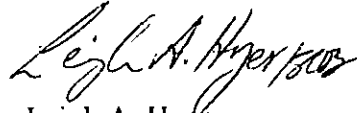
This attempt to now expand Verizon North's reporting obligations beyond what the Commission established in 2002 (and accepted with the 2005 update) is inconsistent with Act 183, which limits biennial reporting obligations to the "form and detail required by the Commission as of July 1, 2004" unless those requirements are "subsequently reduced." 66 Pa. C.S. § 3014(f)(1). The statute does not allow for the possibility that reporting could be "subsequently increased," which is consistent with Act 183's goal to reduce regulatory obligations and reporting requirements. *See* 66 Pa. C.S. § 3011(13).

Aside from whether the Commission has authority to expand reporting requirements, it is clear that the Commission *Staff* does not have such authority. As we pointed out to the Commission Staff when they informally raised with us the contention that Verizon North should report on an exchange-by-exchange basis, the Commission's

adoption of Commissioner Pizzingrilli's July 8, 2004 motion at Docket P-00930715F0002 established that the Commission's Reporting Guidelines fully describe these reporting obligations and are clear in what they require, and that the imposition of additional requirements by Staff is not appropriate.

If the Commission Staff is aware of some Commission order that Verizon North has overlooked that, consistent with the limitations of Act 183, directs Verizon North to report DSL availability on an exchange-by-exchange basis, then Verizon North respectfully requests that it be pointed out to us. Verizon North has no intention of disregarding valid Commission orders. However, at this point Verizon North is aware of no requirement to report on an exchange-by-exchange basis.

Very truly yours,



Leigh A. Hyer

Cc: Louis Samsel, FUS
Jani Tuzinski, FUS
Robert Rosenthal, Director, FUS
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