



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR
FILES
I-00030099;
M-00031754

March 25, 2004

DOCUMENT

Re: Investigation into the Obligations of Incumbent Local Exchange
Carriers to Unbundle Network Elements
Docket No. I-00030099

Development of an Efficient Loop Migration Process
Docket No. M-00031754

DOCKETED
JUN 08 2004

TO ALL PARTIES:

On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit issued a decision in U.S.T.A. v. F.C.C., Nos. 00-1012 and consolidated cases, that vacated and remanded portions of the Federal Communications Commission's Triennial Review Order.¹ The court held, among other things, that the FCC had unlawfully delegated to state commissions the authority to determine whether CLECs are impaired without access to certain network elements, including mass market switching. The court opined, however, that it was legitimate for a state commission to provide the FCC with factual information and advice.

The two above-referenced Commission proceedings were commenced to implement the requirements of the Triennial Review Order in Pennsylvania. In Docket I-00030099 ("9-Month Proceeding"), the record has closed and a recommended decision on whether certain mass market switches, transport, and high capacity loops must be unbundled in Pennsylvania had been due on April 1, 2004. In Docket M-00031754 ("Efficient Loop Migration Proceeding"), our Bureau of Fixed Utility Services has received informal comments from the parties and the matter was recently transferred to our Office of Administrative Law Judge for formal proceedings. The scope of this proceeding includes consideration of the development of a batch hot cut process as well as the feasibility of a

¹ Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338 et al., FCC 03-36, 18 FCC Rcd 16978 (Aug. 21, 2003); Errata, FCC 03-227, 18 FCC Rcd 19020 (Sep. 17, 2003) ("TRO").

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Commission specific-electronic loop provisioning requirement.² A recommendation was expected by May 13, 2004.

In light of the D.C. Circuit's decision, we hereby advise the parties of our decision to generally suspend further activity at I-00030099. The Commission will revisit this on or about May 3, 2004. If, at that time, it is deemed necessary and appropriate, the proceedings will resume and the Office of Administrative Law Judge will be directed to issue its recommended decision no later than June of 2004. We take this action to ensure efficient use of Commission resources.

There will be no suspension of proceedings at M-00031754. We have a particular interest in solutions to facilitate local competition that could be developed in this proceeding and their relationship to the fulfillment of commitments made by Verizon Pennsylvania Inc. in 2001. Further, we note that we have pre-existing independent state law basis and authority to continue this proceeding. We modify only the May 13 deadline for a recommendation. The parties are free to propose, and the Office of Administrative Law Judge to accept, a reasonable schedule for issuance of a recommended decision.

Very truly yours,



James J. McNulty
Secretary

cc: Chief ALJ Christianson

² Id.; Procedural Order-TRO, (October 3, 2003), Docket Nos. I-00030100, I-00030099, M-00031754; Re: Structural Separation of Bell Atlantic-Pennsylvania Inc. Retail and Wholesale Operations, Order (April 11, 2001) Docket No. M-00001353.