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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held February 6, 2020 |
| Commissioners Present: |  |

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| Gladys Brown Dutrieuille, Chairman | |
| David W. Sweet, Vice Chairman |  |
| Andrew G. Place |  |
| John F. Coleman, Jr  Ralph V. Yanora |  |
| 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  Rulemaking to Comply with the Competitive  Classification of Telecommunication Retail Services Under 66 Pa. C.S. § 3016(a); General Review of Regulations 52 Pa. Code, Chapter 63 and Chapter 64 | P-2014-2446303  P-2014-2446304  L-2018-3001391 |

**TENTATIVE ORDER**

**BEFORE THE COMMISSION:**

We issue this Tentative Order to seek comments with regard to issues related to our March 4, 2015 Opinion and Order at the above captioned consolidated proceeding (*Reclassification Order*).

In the *Reclassification Order*, the Commission granted, in part, the Petition of Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) (collectively Verizon) and reclassified as competitive certain retail services in 153 specific wire centers in Pennsylvania pursuant to Section 3016(a) of the Public Utility Code, 66 Pa. C.S. § 3016(a). In the *Reclassification Order,* the Commission also granted Verizon a five-year waiver of specific sections of Chapter 63 and Chapter 64 of our Regulations in those 153 competitive wire centers, pending the collection of data assessing market conditions and the undertaking of a rulemaking to address the status of these Chapters for noncompetitive and competitive services on a permanent basis for Verizon and on an industry-wide basis.[[1]](#footnote-1) *See Reclassification Order* at 103.

The Commission subsequently issued an Advance Notice of Proposed Rulemaking (ANOPR) regarding our Chapter 63 and 64 regulations at Docket L-2018-3001391.  In the ANOPR, the Commission requested comment on whether to expand the waivers granted in the *Reclassification Order* to any wire center classified as competitive, whether to rescind or amend any Chapter 63 and 64 regulations for non-competitive wire centers, and whether to create a separate chapter in our regulations to address service provided in competitive wire centers.  The Commission also asked for comment on whether we should make permanent any waivers of regulations granted outside of the reclassification decision and invited any reasonable alternative proposals to our existing telephone regulations.  The ANOPR remains pending.

The matters to be addressed in this Tentative Order are: 1) the impending expiration of the five-year waiver of select Chapter 63 and Chapter 64 Regulations; and, 2) the availability and the opportunity for participating parties to review data marked proprietary or confidential by Verizon and file supplemental comments in the related ANOPR proceeding.

As previously noted, the Chapter 63 and 64 regulatory waivers were granted temporarily for a period of five years or until March 4, 2020, whichever came first, in Verizon’s 153 competitive wire centers only, pending the collection of data and the undertaking of a rulemaking to address the status of the waivers on a permanent and industry-wide basis. Regarding the data collection, in the *Reclassification Order*,the Commission stated the following:

15. That Verizon Pennsylvania LLC and Verizon North LLC shall collect and report annually, for a period of two years, data under two categories: (1) Affordability of Basic Service; and (2) Quality of Service as further directed by the Commission.

*Reclassification Order* at 126, Ordering Paragraph 15. In the *Reclassification Order* the Commission also directed that “after receiving input from interested parties, the Commission’s Bureau of Technical Utility Services shall advise the Companies of the specific data to be provided, form requirements, and schedule for the reporting of this data.” *Id*.at 127, Ordering Paragraph 16. The purpose of this two-year data collection requirement was to help the Commission to assess the market conditions present in the 153 wire centers determined to be competitive. *See* *Reclassification Order* at 104.

On September 11, 2015, the Commission issued a further Order in the reclassification proceeding (*Reporting Order*) that established the specific data form and the reporting schedules required by Ordering Paragraph Nos. 15 and 16 of the *Reclassification Order*. As we explained in the *Reporting Order*, “we expressly conditioned the grant of regulatory relief, particularly the requested regulatory waivers, on the short-term reporting of data directly related to the relief granted.” *Reporting Order* at 8, *citing* *Reclassification Order* at 76, 103, 104.

Subsequently, Verizon filed the requested data covering calendar years 2015 and 2016. This specific data has been reviewed by the Commission to help assess how the market developed in those competitive wire centers and may provide relevant information for the rulemaking to address the permanent status of Chapters 63 and 64 of our regulations. *See* *Reporting Order* at 1, 17. However, the existing regulatory waivers are set to expire on March 4, 2020, and the required rulemaking process in this matter will not be completed before that date. Consequently, the Commission must decide whether to allow the waivers to expire or temporarily extend the regulatory waivers granted in the 153 wire centers determined to be competitive pursuant to the *Reclassification Order.*

Based on the Section 3016(a) relief that was granted to Verizon, and the intent of the *Reclassification Order* to grant waivers in Verizon’s competitive wire centers, the Commission tentatively concludes that it will extend the temporary waivers granted to Verizon of sections of Chapters 63 and 64[[2]](#footnote-2) from March 4, 2020 to December 31, 2022, or until the issuance of final-form regulations in a related rulemaking proceeding, whichever is earlier. 66 Pa. C.S. § 3016(a); *Reclassification Order* at 124. We note that by extending the temporary waivers, we are simply maintaining the status quo and providing regulatory certainty, pending the completion of the rulemaking. Thus, we conclude that granting an extension of the temporary waivers is in the public interest and authorized under the Code and Commission Orders in the *Reclassification Order* proceeding. *Reporting Order* at 8-9; *see also* 66 Pa. C.S. § 703(g) and §§ 3015(f) and 3016(a).

The Commission issues this Tentative Order for comments and shall accept comments from participating parties on the proposed extension of the temporary waivers granted in the *Reclassification Order* until February 18, 2020. If no adverse comments are received to the proposed extension, this Tentative Order shall become final by operation of law and without further action by the Commission. If comments are received in opposition to the extension of temporary waivers, the Commission will consider such comments before issuing a Final Order on this issue.

Upon entry of this Order and through February 18, 2020, we further tentatively conclude and direct that the Verizon historic proprietary data that was submitted in response to the Commission’s *Reclassification Order* will be made available to the participating parties in the ANOPR at Docket No. L-2018-3001391. Verizon was granted a Protective Order for all relevant materials and information filed with Commission in this proceeding in October 2014. The Commission confirms that the *October 2014 Protective Order* remains in effect for the data collection review for any party that executed the confidentiality agreement in the reclassification proceeding. Any party in this proceeding that has *not* executed the confidentiality agreement and that is seeking to review this information must submit to Verizon an executed acknowledgment in the form attached as Appendix A to the *October 2014 Protective Order*, a copy of which is attached as Appendix A to this Order for expedience.

The Commission shall also provide participants in the ANOPR proceeding the opportunity to file supplemental comments and replies based on the access and review of the Verizon historic proprietary data following resolution of the waiver extension and access to confidential data. If the Commission does not receive any adverse comments to the tentative temporary extension of the Verizon waivers, the Secretary shall issue a Final Order recognizing that this Tentative Order has become final by operation of law.

Thereafter, the participating parties in the ANOPR will have twenty (20) days after the February 18, 2020 deadline, or until March 9, 2020, to file supplemental comments after reviewing the Verizon historic proprietary data, and will have fifteen (15) days or until March 24, 2020 to file replies to comments. However, in the event that adverse comments are filed to the Commission’s tentative temporary extension of the Verizon waivers, the Commission will address both the waiver and data access issues at the Commission’s February 27, 2020 Public Meeting and will take further and appropriate action as it deems necessary.

**CONCLUSION**

Consistent with the foregoing, we shall issue this Tentative Order regarding a temporary extension of Verizon’s waivers, access to Verizon’s confidential data, execution of an appropriate confidentiality agreement, and the filing of supplemental comments and replies. Specifically, comments to this Tentative Order addressing extension of the waivers and access to confidential information shall be due no later than February 18, 2020. On these issues no replies to comments shall be permitted. If no adverse comments are received on these issues, this Tentative Order shall become final without further action by the Commission. Thereafter, the parties participating in the ANOPR shall have the opportunity to file supplemental comments and replies in the ANOPR. Those comments and replies shall be due on or before March 9 and 24, 2020, respectively. Otherwise, we shall issue a Final Order that addresses the comments filed to this Tentative Order;

**THEREFORE,**

**IT IS ORDERED:**

1. That this Tentative Order grants Verizon Pennsylvania LLC and Verizon North LLC an extension of the temporary waivers of those sections of Chapters 63 and 64 specified in the Commission’s *Reclassification Order* and reproduced in Appendices B and C hereto for services in the 153 wire centers determined to be competitive, from March 4, 2020 to December 31, 2022, or until the issuance of final-form regulations in a pending rulemaking, whichever is earlier;

2. That comments to the proposed extension of such waivers and execution of the *October 2014 Proprietary Order* to gain access to data marked confidential or proprietary shall be due no later than February 18, 2020. No replies to comments on these issues shall be permitted.

3.  That this Tentative Order further concludes and directs that the Verizon Pennsylvania LLC and Verizon North LLC historic proprietary or confidential data that was submitted in response to the Commission’s *Reclassification* *Order* will be made available to the participating parties in the Advance Notice of Proposed Rulemaking proceeding at Docket No. L-2018-3001391, subject to the Protective Order entered in the *Reclassification Order* proceeding. Any party in the Advance Notice of Proposed Rulemaking proceeding seeking to review this information must submit an executed acknowledgment in the form attached to the *October 2014 Protective Order* and designated as “Appendix A no later than February 18, 2020.” A copy of the acknowledgement designated “Appendix A” is attached to this Tentative Order.

4. That if no adverse comments are filed, this Tentative Order shall become final without further action by the Commission and the Secretary shall issue a Final Order recognizing that this Tentative Order has become final by operation of law.

5. Thereafter, the participants in the Advance Notice of Proposed Rulemaking proceeding are provided the opportunity to file supplemental comments based on the access and review of the Verizon historic proprietary data and will have twenty (20) days after the February 18, 2020 deadline, or until March 9, 2020, to file the supplemental comments, and will have fifteen (15) days thereafter, or until March 24, 2020, to file replies to comments.

6. That if any adverse comments are timely filed in response to this Tentative Order granting Verizon Pennsylvania LLC and Verizon North LLC an extension of the temporary waivers, the Law Bureau shall prepare a Final Opinion and Order addressing such comments for the Commission’s consideration at the February 27, 2020 Public Meeting and the Commission shall take such further action as it deems necessary.

7. That a copy of this Tentative Order shall be served on all parties to these proceedings.

**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: February 6, 2020

ORDER ENTERED: February 6, 2020

**APPENDIX A**

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 :

Geographic Areas, and for a Waiver of : Docket No. P-2014-2446304

Regulations for Competitive Services :

**TO WHOM IT MAY CONCERN:**

The undersigned is the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(the retaining party) and hereby acknowledges that he/she does not hold any of the following positions with any competitor or affiliate of a competitor of the producing party (an officer, board member, significant stockholder, partner, owner or an employee) who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party.

The undersigned has read and understands the Protective Order that deals with the treatment of Proprietary Information and Highly Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order.

In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of numbered Paragraph 4 (a)(ii) of the Order prior to submitting this Acknowledgement.

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| DATE |  | SIGNATURE  PRINT NAME  ADDRESS  EMPLOYER |

**APPENDIX B**

| **Subsections of 52 Pa. Code Chapter 63 That Are Waived in Wire Centers in Verizon’s Petition Area That Are Granted Competitive Reclassification** | |
| --- | --- |
| Subchapter | Sections |
| B | Section 63.12 (Minimizing interference and inductive effects)  Section 63.16 (Traffic measurements)  Section 63.17[Reserved]  Section 63.18(Multi party line subscribers)  Section 63.19(Interoffice lines)  Section 63.21(Directories)  Section 63.23(Construction and maintenance safety standards for facilities)\*  Section 63.24(Service interruptions)  \*Waiver is conditioned upon the requirement that Verizon shall construct and maintain its public utility equipment, facilities, and wire or cable crossings in accordance with the safety standards set forth in the current National Electrical Safety Code. |
| C | Section 63.31 (Classification of public utilities)  Section 63.32(System of accounts)  Section 63.33(Integrity of reserve accounts to be preserved)  Section 63.34(Reclassification of telephone plant to original cost)  Section 63.35(Preservation of records) |
| E | Section 63.51 (Purpose)  Section 63.52 (Exceptions)  Section 63.53 (General provisions)  Section 63.54 (Record retention)  Section 63.56(a)-(e)(Measurements)  Section 63.58(Installation of service)\*  Section 63.59(Operator-handled calls)\*\*  Section 63.60(Automatic Dialing Announcing Devices (ADAD))  Section 63.61(Local dial service)  Section 63.62(Direct distance dial service)  Section 63.63(Transmission requirements and standards)  Section 63.64(Metering inspections and tests)  Section 63.65(Safety)  \*Waiver granted conditionally upon the requirement that Verizon include in its Product Guide applicable to competitive services, its rules regarding the timing of service installations and any commitments that Verizon is willing to make to customers on the subject.  \*\*Pursuant to a prior ruling, a waiver is already in place for Section 63.59(b) until a rulemaking is undertaken. *See Pa. PUC, Law Bureau Prosecutory Staff v. Verizon PA*, Docket No. M-2008-2077881 (Order entered October 12, 2012). |
| F | Section 63.71(Definitions)  Section 63.72(Traffic usage studies)  Section 63.72a(InterLATA traffic studies)  Section 63.73(Optional calling plans)  Section 63.74(EAS polls)  Section 63.75(Subscriber polls)  Section 63.76(EAS complaints)  Section 63.77(Evaluation criteria) |
| G | Section 63.91(Purpose)  Section 63.92(Definitions)  Section 63.93(Conditions of service)  Section 63.94(Coin telephone requirements)  Section 63.95(Sufficiency of public telephone service)  Section 63.96(Service requirements for coin telephones)  Section 63.97[Reserved]  Section 63.98(Compliance) |

**APPENDIX C**

| **Subsections of 52 Pa. Code Chapter 64 That Are Waived in Wire Centers in Verizon’s Petition Area That Are Granted Competitive Reclassification** | |
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| Subchapter | Sections |
| A | 64.1 – first sentence only |
| B | Section 64.11 (Method of payment)  Section 64.12 (Due date for payment)  Section 64.13 (Billing frequency)  Section 64.14 (Billing information)  Section 64.15 (Advance payments)  Section 64.16 (Accrual of late payment charges)  Section 64.17 (Partial payments for current bills)  Section 64.18 (Application of partial payments between past and current bills)  Section 64.19 (Rebilling)  Section 64.20 (Transfer of accounts)  Section 64.21 ([Reserved])  Section 64.22 (Billing service for interexchange carriers) |
| C\* | Section 64.31 (LEC credit and deposit policies)  Section 64.32 (Credit standards)  Section 64.33 (Payment of outstanding balance)  Section 64.34 (Written procedures)  Section 64.35 (Deposit requirements for existing customers)  Section 64.36 (Method of making deposit)  Section 64.37 (Refund of deposits)  Section 64.38 (Application of deposit to bills)  Section 64.39 (Periodic review)  Section 64.40 (Refund statement)  Section 64.41 (Interest)  \*Waiver is conditioned upon the requirement that Verizon provide information in its Product Guide about the consequences if an applicant for service is not deemed to be creditworthy. |
| D | Section 64.52 (Refunds for service interruptions)  Section 64.53 (Discontinuance of service) |
| E | Section 64.61 (Authorized suspension of service)  Section 64.63 (Unauthorized suspension of service), §§ (1) through (9) only  Section 64.72 (Suspension notice information)  Section 64.73 (Notice when dispute pending)  Section 64.74 (Procedures upon customer contact before suspension)  Section 64.81 (Limited notice upon noncompliance with report or order) |
| F | Section 64.121 (Authorized termination of service)  Section 64.122 (Unauthorized termination of service when dispute pending)  Section 64.123 (Termination notice) |
| H | Section 64.181(Restoration of service after suspension)  Section 64.182 (Restoration of service after termination) |
| I | Section 64.191 (Public information), §§ (f) and (g)\*  Section 64.192 (Record maintenance)  \* Subsection 64.191(e) remains waived per the Order entered at Docket Nos. I-00940034 and P-00072348 |
| J | Section 64.201 (Reporting requirements), §§ (b)(1); (b)(2)(ii), (iii), and (iv); (b)(3); (b)(4)(ii), (iii), and (iv); (b)(8)(ii), (iii), and (iv); (b)(9)(ii), (iii), and (iv); (b)(10)(ii), (iii), and (iv); and (b)(11) |
| K | Section 64.211 (Availability of normal Commission procedures) |

1. The temporary waivers were granted to Verizon as well as to Competitive Local Exchange Carriers operating in the 153 wire centers determined to be competitive. *Reclassification Order* at 124 (Ordering Paragraph 4). [↑](#footnote-ref-1)
2. Those specific regulations for which waiver was granted and is hereby extended are identified in Appendices B and C attached to this Order. [↑](#footnote-ref-2)