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April 2, 2007

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Re: Proposed Rulemaking Regarding Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers
Docket No. L-00060179

Dear Mr. McNulty,

Pursuant to the Commission's Proposed Rulemaking Order in the above named matter, and the subsequent Notice in the March 3, 2007 Pennsylvania Bulletin, enclosed please find an original and fifteen (15) copies of the Comments of Verizon Pennsylvania Inc. and Verizon North Inc. concerning the Proposed Rulemaking Order adopted on June 22, 2006 in Pennsylvania Public Utility Commission Docket No. L-00060179. As indicated in the courtesy copy listing below, the Verizon companies are sending electronic copies of the Comments to Ms. Januzzi and to Ms. Frymoyer via electronic mail.

Very truly yours,

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2007 APR -9 AM 11:04
INDEPENDENT REGULATORY REVIEW COMMISSION

Via E-Mail and UPS Delivery

cc: Elizabeth Lion Januzzi, Law Bureau
Holly Frymoyer, Bureau of Consumer Services

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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APR - 2 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Proposed Rulemaking Regarding Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers	:	Docket No. L-00060179

COMMENTS OF
VERIZON PENNSYLVANIA INC. AND VERIZON NORTH INC.

INTRODUCTION

Through this rulemaking, the Commission proposes to amend Chapter 64 of Commission regulations to permit all local exchange carriers ("LECs") to offer bundled service package plans at a single monthly rate, subject to certain billing requirements. In so doing, the Commission proposes to codify waivers that were granted by the Commission prior to the passage of Act 183 and are inappropriate in today's fiercely competitive marketplace. Specifically, the proposed regulations would prohibit a LEC from suspending or terminating service to a customer for failure to pay for the bundled service package, and instead would require the LEC automatically to convert the customer to a basic service plan before being able to take any action for nonpayment. Verizon Pennsylvania Inc. and Verizon North Inc. (collectively, "Verizon") oppose the proposed rulemaking as applied to Verizon[1] on two separate and independent grounds.

First, the proposed new regulations provide that a LEC may offer bundled packages of services at a single monthly rate *only* if it does so under the conditions specified in the regulations. This language is inappropriate as applied to Verizon because

[1] Verizon does not oppose the Rulemaking to the extent that it would permit CLECs to offer bundled service packages without conditions.

it is inconsistent with Act 183 (Chapter 30 of the Public Utility Code), which permits ILECs such as Verizon to offer bundled service packages at a single monthly rate *without* any such conditions.

Second, the requirements imposed by the conditions, most notably, the replacement of package basic service with standalone basic service, without service interruption, when the package is suspended for non-payment, are onerous and expensive. They are also inconsistent with the competitive market for bundled service packages, which market includes competing cable, Voice over Internet Protocol ("VoIP") and wireless providers, not just LECs. Those competing providers are not regulated by this Commission and therefore are unburdened with such obligations. Rather than imposing these burdensome requirements uniquely on LECs, the Commission should allow LECs to suspend and then terminate all package services, including basic service, if a customer fails to pay the package price, as long as the customer is given prior notice that this will be the consequence of failing to pay the package price, and advised that they may choose standalone basic service rather than a package to avoid this result. Such disclosures are adequate to protect any legitimate consumer interest, and it is perfectly appropriate that customers bear the risk of suspension and/or termination of all their package services in exchange for the volume price discount they receive by purchasing a package.

ARGUMENT

A. The Proposed Regulations are Inconsistent with Chapter 30 of the Public Utility Code

The proposed regulations are inconsistent with Chapter 30 of the Public Utility Code because they expressly condition the right to offer bundled packages of services on compliance with the proposed basic service continuance, disclosure and payment agreement obligations. As the proposed language states, "[a] LEC may offer bundled packages of services including nontariffed, competitive, noncompetitive, basic service, or services of an affiliate, combined in a singled package plan at a single monthly rate, ***under the following conditions:*** " *See* Section 64.24 in Annex A to Proposed Rulemaking Order (emphasis added). In contrast, Chapter 30 provides that ILECs have the right to offer bundled service package plans at a single monthly rate without any such conditions:

> (2) A local exchange telephone company may offer and bill to customers on one bill bundled packages of services which include nontariffed, competitive, noncompetitive or protected services, including services of an affiliate, in combinations and at a single price selected by the company. A local exchange telecommunications company may file an informational tariff for a bundled package effective on a one-day notice.

66 Pa. C.S. §3016(d)(2). The Commission is not empowered to override Pennsylvania statutes by refusing a carrier an entitlement clearly granted by the General Assembly. Had the legislature intended to condition a carrier's ability to offer service packages on these termination restrictions, it would have done so. For this reason alone, it is inappropriate for the Commission to condition the offering of bundled service packages on compliance with its proposed rule requirements.

B. The Proposed Rule Requirements Impose Undue Burdens on Carriers

Apart from the fact that the proposed regulations are improper under Chapter 30, the Commission should reject them because they impose undue burdens on LECs that are inappropriate in a competitive market. Specifically, the proposed requirement that LECs automatically convert non-paying customers to standalone basic service rather than suspending and terminating the entire package, including basic service, when the customer fails to pay for service is onerous and expensive. First, the development and monitoring of the package-to-basic service conversion process itself adds unnecessary administrative expense and complexity. Second, this scheme results in significant lost revenue because the conversion allows the customer to have "new" basic service from day 1 of the package suspension, notwithstanding the customer's payment arrearage for his or her prior basic service and other services in the package, thereby increasing the number of months that the customer can fail to pay for basic service without incurring suspension or termination.

These increased costs are unnecessary and inappropriate in a competitive market. They will serve merely to make packages more costly for LECs to offer and therefore for LEC customers to purchase. The result will be to make LEC packages less attractive than the packages offered by unregulated competitors – and to drive even more customers away from the LECs and out of reach of the Commission's rules.

These additional costs are also unnecessary in a competitive market. The prior waivers that the Commission seeks to codify through the proposed regulations were initiated a decade ago in a non-competitive market in which customers had little choice for either package service or basic service. It would be a mistake to set these rules in stone when the market is changing rapidly – particularly when LECs are facing exploding intermodal competition from a host of unregulated providers that are free to terminate non-paying customers at will, as is the norm in other competitive industries. When a Cadillac buyer fails to make his monthly payments, the dealer is not compelled to automatically switch the customer to a Chevrolet with lower payments in order to ensure that the customer continues to have access to transportation. Rather, the dealer repossesses the Cadillac. The onus is properly on the buyer to select an affordable car and payment plan, and the same should be true for purchasers of telecommunications services. If a customer cannot afford a "Cadillac" package, the customer should select a "Chevy" standalone basic service plan instead. As long as the customer is advised up front that all package services may be terminated for failure to pay the package price, carriers should not be forced to bear the cost and burden of automatically switching delinquent package customers to standalone basic service when the package is taken down for non-payment. Instead, they should be entitled to suspend and terminate the service under existing Commission rules.

1. The Market for Bundles is Competitive

There is no question that the market for bundled service packages in Pennsylvania is competitive, and that competition increasingly comes from unregulated cable, VoIP and wireless providers. Comcast, the mid-Atlantic's largest and Pennsylvania's largest cable provider, is aggressively marketing its digital voice service and voice, toll, verticals, broadband and video bundles throughout the Commonwealth. According to Comcast's third quarter 2006 results, it added 483,000 Comcast Digital Voice customers during this last quarter alone and is now marketing the service to 31 million homes, or

65% of its footprint nationwide. Its phone revenue increased 51% to $252 million, and it ended the third quarter of 2006 with a total of 2.1 million phone customers.[2] In Pennsylvania, Comcast markets a stand-alone digital voice package including unlimited local and long distance calling, 12 popular calling features and voice mail for $39.95[3]. This price is further discounted when customers buy the popular "triple play" bundle of voice, internet and video services. According to press reports, Comcast "gobbles up phone customers" with these attractive bundles,[4] and in little more than a year is now the second biggest provider (after Verizon) of voice service in Pennsylvania.

Similarly, non-facilities-based (or so-called "over-the-top") VoIP providers market telephone service bundles to anyone with a broadband connection. Because there are now more than 2.6 million broadband connections in Pennsylvania, and DSL and cable modem service are available to the vast majority of residential customers,[5] over-the-top VoIP service is generally available to Pennsylvania consumers at very attractive prices. For example, AT&T offers its CallVantage VoIP plan including unlimited local and long distance calling, 13 calling features plus voice mail for $24.99.[6] Other VoIP providers including Earthlink[7] and Vonage[8] also offer comparable voice bundles for

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[2] http://www.cmcsa.com/phoenix.zhtml?c=118591&p=irol-newsArticle&ID=921791&highlight=

[3] http://www.comcast.com/shop/buyflow/default.ashx

[4] Jeffrey Bartash, "Cable Gobbles Up Phone Customers", *Market Watch,* February 1, 2007 ("Comcast grew its phone business steadily throughout 2006. . . A sizable chunk likely came out of the hide of Verizon")

[5] *See* FCC Industry Analysis and Technology Division, Wireline Competition Bureau, "High Speed Internet Access: Status as of June, 2006" (January 2007) at Table 10 and Table 14.

[6] https://www.callvantage.att.com/signup/OfferDetails?offerid=CPCVN&soac=64525

[7] http://www.earthlink.net/voice/truevoice/

[8] http://www.vonage.com/services_premium.php

$24.99. Industry analysts estimate that over-the-top VoIP providers are adding 400,000 subscribers per quarter and will reach 8-10 million users by 2009.[9]

Wireless providers also offer competing bundles. For example, Sprint/Nextel offers a bundle including 450 anytime minutes, free night and weekend minutes, four calling features plus voicemail for $39.99.[10] Cingular Wireless (now AT&T Wireless) offers a bundle including 450 anytime minutes, 5000 night and weekend minutes, unlimited mobile to mobile calling, and four calling features plus voicemail for $39.99. A similar 900 minute plan is available for $59.99.[11] T-Mobile offers a bundle including 600 anytime minutes, unlimited night and weekend minutes, 3 calling features plus voicemail for $39.99.[12]

Wireless service is virtually ubiquitous in Pennsylvania, and there are more than 8.2 million wireless subscribers in the Commonwealth according to the most recent FCC statistics -- more than the number of ILEC and CLEC access lines combined.[13] The number of wireless subscribers has more than doubled since June of 2000, while the number of ILEC access lines has declined by more than 20% in the same time span.[14] Industry analysis shows that customers consider wireless bundles to be a partial or complete substitute for wireline service. For example, a 2006 Yankee Group study found

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[9] Viktor Shvets & Andrew Kieley, Deutsche Bank, *VoIP: State of Play* at 4, 6 (June 22, 2005).

[10] http://nextelonline.nextel.com/NASApp/onlinestore/en/Action/DisplayPlans?

[11] http://www.cingular.com/cell-phone-service/cell-phone-plans/individual-cell-phone-plans.jsp?_requestid=19429

[12] http://www.cingular.com/cell-phone-service/cell-phone-plans/individual-cell-phone-plans.jsp?_requestid=19429

[13] *See* FCC Industry Analysis and Technology Division, Wireline Competition Bureau, "Local Telephone Competition: Status as of June, 2006" (January 2007) at Table 14 and Table 7.

[14] *Id.* at Table 14 and Table 10.

that 50 percent of all local calls and 68 percent of long distance calls are now made on wireless phones, and that those figures are considerably higher for younger users. The same study predicts that one in seven U.S. households will be wireless-only by 2010.[15] Statistics posted by CTIA (a wireless industry organization) show that 10.5% of U.S. households are ***already*** wireless only.[16]

Given this vigorous intermodal competition from myriad other voice service providers, it is inappropriate and counterproductive to burden wireline carriers like Verizon with expensive regulatory obligations not borne by their competitors. The other unfettered providers that market telephone service packages are free to suspend or terminate service at will on the entire package. It is appropriate that LECs have that same flexibility so that they can compete effectively. As long as consumers are informed up front of the consequences of delinquency, the proposed rule requirements are unnecessary and counterproductive.

2. It is Commonwealth Policy to Provide a Level Playing Field for Telephone Competition

The General Assembly has recognized that telecommunications services are now available from a variety of providers and embraced the goal of promoting the provision of competitive services "by a variety of service providers on equal terms" throughout the Commonwealth. 66 Pa. C.S. §3011(8). The General Assembly also made it Commonwealth policy to "reduce regulatory obligations on incumbent local exchange telecommunications companies to levels more consistent with those imposed upon competing alternative service providers." 66 Pa. C.S. §3011(13). Many competing

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[15] *See* Yankee Group Report "One in Seven Households will Say No Thanks to Wireline Phone Services in 2010" by Margo DeBoer (December 2006).

[16] *See* CTIA "Wireless Quick Facts" at http://www.ctia.org/advocacy/index.cfm/AID/10323

alternative service providers face little or no regulation. Accordingly, while Act 183 takes a number of specific steps to deregulate the industry, it also precludes the Commission from imposing new burdensome regulatory requirements such as those sought here, which further broaden the regulatory gap between Commission-regulated LECs and non-regulated alternative service providers. The General Assembly clearly recognized that a level playing field is necessary so that *all* telecommunications providers will have the proper market-based incentives to invest in infrastructure to provide customers the widest possible range of innovative services, not just intermodal providers.

A level playing field in this case requires that LECs have the flexibility to suspend or terminate service on the entire bundled service package if a package customer fails to pay for the services for which he contracts.

CONCLUSION

For the reasons discussed above, the proposed regulations should be rejected.

Respectfully submitted,

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Dated: April 2, 2007