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April 13, 2009

**Via UPS Overnight Delivery**

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

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

Dear Secretary McNulty:

Enclosed please find the original and three copies of Verizon Pennsylvania Inc. and Verizon North Inc.'s Petition for Reconsideration and/or Clarification of the Public Utility Commission's March 27, 2009 Rulemaking Order in the above captioned matter.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Suzan D. Paiva

SDP/slb  
Enc.

**Via UPS Delivery**  
cc: Chairman James H. Cawley  
Vice Chairman Tyrone Christy  
Commissioner Wayne E. Gardner  
Commissioner Kim Pizzingrilli  
Commissioner Robert F. Powleson  
Bohdan R. Pankiw, Esquire, Law Bureau  
Elizabeth Lion Januzzi, Esquire, Law Bureau  
Holly Frymoyer, Telecommunications Policy & Evaluation Supervisor  
Cheryl Walker Davis, Esquire, Office of Special Assistants

**CERTIFICATE OF SERVICE**

I, Suzan D. Paiva, hereby certify that I have this day served a copy of the Verizon Companies' Petition for Reconsideration and/or Clarification of the Public Utility Commission's March 27, 2009 Rulemaking Order, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 13<sup>th</sup> day of April, 2008.

**VIA UPS DELIVERY**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking Regarding Provision :  
of Basic Service in Bundled Service : Docket No. L-00060179  
Package Plans by Local Exchange Carriers :

**PETITION FOR RECONSIDERATION  
AND/OR CLARIFICATION**

Verizon Pennsylvania Inc. and Verizon North Inc. (“Verizon”), pursuant to 52 Pa. Code §5.572, respectfully request reconsideration and/or clarification of certain portions of the Commission’s March 27, 2009 Rulemaking Order adopting final regulations relating to the treatment of “basic” service when offered as part of a bundled service package.

**INTRODUCTION**

This rulemaking alters existing Chapter 64 regulations to eliminate regulatory prohibitions on local exchange carriers (“LECs”) offering bundled service packages at a single rate. The regulations attempt to codify a condition that had routinely been imposed on previous package “waivers,” requiring that any non-paying package must be converted to a “basic” local service account rather than terminated altogether.

As the order recognizes, the Commission and Verizon fundamentally disagree over the Commission’s authority, in light of intervening changes in law and competitive conditions, to impose the traditional waiver conditions on packages through these regulations, but Verizon is *not* filing this petition to address those arguments.<sup>1</sup> Rather, Verizon raises certain practical concerns with the substance of these new regulations that will inadvertently impose new burdens and expenses on certain LECs for no

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<sup>1</sup> Verizon does not waive those arguments and will continue to make them in the appropriate forum and the appropriate time.

corresponding customer benefit, a result Verizon does not believe the Commission intended and that could be avoided with some changes and clarifications.

The Commission's order makes very clear that it wanted to allow LECs to "continue to implement their current billing practices," that it intended to "codif[y]" existing practices under "the previous grants of waivers," and that it "recognized the need to minimize the burden of LEC billing procedures." (3/27/09 Order at 6, 14). The regulations add various billing display and other mandates directed at isolating the "basic" local service portion of the package, the sole purpose of which seems to be to allow LECs the option to terminate non-paying packages earlier by treating some of the unpaid package balance as unpaid "basic" local service instead of converting the package to a "zero-balance" basic local service account. However, in practice, the new regulations will impose burdensome, unnecessary, confusing and costly billing requirements on those LECs that may wish to "continue to implement their current billing practices" of converting to a zero-balance basic account.

Verizon respectfully submits that the regulations should be amended to provide a clear and simple alternative option – evident on the face of the regulations themselves – for any LEC that continues to convert non-paying packages to a "zero-balance" basic service account. Such LECs should be exempt from the requirement to separately display on the bill "the amount due for basic services," and exempt from associated payment allocation and disclosure requirements relating to "basic" local service offered as part of a package. In short, this option would allow LECs to continue under the terms of existing waivers *without* incurring unnecessary new costs and burdens that serve no purpose for the customers of such a carrier.

## ARGUMENT

1. In February of 2006, the Commission directed its staff to consider whether Chapter 64 should be amended permanently to permit singly-priced packages, given the growing customer demand for packages and the enactment of 66 Pa. C.S. § 3016(e)(2) at the end of 2004, which provided the right to “offer and bill to customers on one bill bundled packages of services. . . at a single price selected by the company” based on an “informational” tariff filing.

2. As a result, the Commission on July 3, 2006 entered a rulemaking order proposing a new section to be codified at 52 Pa. Code § 64.24 providing that a “LEC may offer bundled packages of services . . . under the following conditions,” and listing the five specific conditions that had routinely applied to the waivers, all of which related to mandatory disclosures and conversion of a non-paying package to a basic service plan in lieu of outright termination.<sup>2</sup>

3. Following two rounds of industry comments, as well as comments from the Independent Regulatory Review Commission (“IRRC”) under the Regulatory Review Act (71 P.S. § 745.5b) raising issues with the proposed regulations, the Commission issued its March 27, 2009 order adopting final regulations.

4. The Commission itself recognized that its revised rules adopted on March 27 “represent[] substantial changes to the originally proposed amendment.” (3/27/09 Order at 3). In fact, this redraft completely changed the originally proposed regulations,

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<sup>2</sup> The waivers essentially permit LECs, when a customer fails to pay the single price bundled package charge and a written suspension notice is sent to the customer, to discontinue the entire package, provided that the customer is provided with standalone basic service going forward. The waivers also require that the LEC must provide certain disclosure statements notifying bundled and potential bundled customers of the consequences of any failure to pay the bundle charge in full.

including not only a completely different Section 64.24, but also new revisions to various other portions of Chapter 64. In particular, the new regulations went far beyond the original waiver conditions for suspending and terminating non-paying package customers. Among other things, the new regulations contain requirements to separately display an amount attributable to “basic” local service on the bill (contrary to the terms of the waivers, which had specifically waived any separate bill display mandates) and to apply partial payments to the “basic” service portion of the package first rather than to the earliest past-due services.<sup>3</sup>

5. It appears that the sole reason that the Commission added this significant layer of complexity is to provide a process for carriers to suspend and terminate a non-paying customer *sooner* than can be done under the present “waiver” practice of converting a non-paying package into a “zero-balance” basic service account upon termination of the package. The Commission’s new process allows a portion of the past-due amount for the package to be treated as past-due basic local service at the time the package is taken down and converted to “basic” service. As a result, the customer (presuming he or she continues not to pay) would be farther along the path to ultimate termination of basic service than he or she would be if the package were converted to a zero-balance basic local service account at the point of package termination.

6. The “condition” for this accelerated termination option is the separate display of the “basic” local service component on the package bill, the application of

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<sup>3</sup> Because these new portions of the Commission’s regulations were not previously released for public comment, this petition satisfies the standard set forth in *Duick v. Pennsylvania Gas & Water Co.*, 56 Pa. PUC 553 (1982) (Petitions for reconsideration must generally raise new and novel arguments, not previously heard, or considerations that appear to have been overlooked or not addressed by the Commission.)

partial package payments first to the “basic” service component, and various mandatory disclosures.<sup>4</sup>

7. The problem with the regulations as drafted is that they impose these burdens, complexities and confusing and unnecessary mandates on *all* LECs – even those that may wish to continue to convert non-paying package customers to a zero-balance basic account upon package termination in order to avoid the costs, burdens and confusion that come with having to separately track and identify “basic” local service as part of a package.

8. The Commission has clearly recognized that it intended to allow carriers to continue the zero-balance conversion if they wished to do so, and otherwise to operate in the same manner that they had been operating through their previous waivers. The Commission’s stated purpose was to permit “flexible billing practices” and to allow LECs to “continue to implement their current billing practices,” and so the Commission made clear that “LECs are free to continue their existing billing practices.” (3/27/09 Order at 22-23).

9. As the Commission noted, “[t]he requirement to specifically state the amount attributed to ‘basic’ service is for the sole purpose of informing a customer of the amount for which failure to pay will result in possible suspension or termination” – in other words the minimum amount that package customer must pay to keep basic local calling capability upon package termination. (3/27/09 Order at 17). Where the customer is able to start fresh with a zero-balance basic account, there is no such “minimum amount”– as the Commission recognizes. The customer will start from square one, and if

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<sup>4</sup> While Verizon does not necessarily agree that these conditions are warranted in any situation, this petition is limited solely to the case of a carrier that wishes to maintain the zero-balance option under these regulations and does not address the merits of the conditions in other situations.

he or she fails to pay under the new basic service account it will be treated for suspension and termination just like any other new basic service account.<sup>5</sup> In this instance there is no reason or purpose to requiring a separate display of “basic” service on the package bill, no reason to require the application of partial payments to “basic” service and no purpose to the associated disclosures.

10. The Commission’s order suggests a work-around – although this work-around is not obvious from the face of the rules. According to the Commission, a LEC could “attribute[] zero dollars (\$0) to the ‘basic’ category of a bundled bill,” but then if the customer fails to pay and is suspended the package must be converted to a “zero balance” basic service account. (3/27/09 Order at 23). Only if the LEC chooses to display an actual value above \$0 for “basic” local service on the package bill, then the LEC may in essence terminate the customer earlier by considering some of the unpaid balance for the package (corresponding to the value shown as “basic”) as part of the customer’s past-due basic amount. (*Id.* at 24).

11. Verizon respectfully submits that the Commission’s “zero dollar” display suggestion does not resolve the fundamental problem, and indeed if followed may well create numerous unintended other problems that could be avoided. This option also does not avoid many of the costs, burdens and the associated potential customer confusion resulting from the new requirements. Further, any exception designed to allow a LEC to operate under the terms of the current waivers should be apparent from the face of the regulations – which the “zero dollar” option is not.

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<sup>5</sup> The Commission should consider streamlining, shortening and considerably simplifying the suspension and termination process for all basic service accounts in light of industry developments and the advent of competition, but that is a separate issue.



12. First, the Commission’s new requirement to display a value for “basic” service on the bill will impose costs on carriers even if they ultimately display \$0 for basic service. In particular, the regulations require *all* LECs to make the systems changes to display on the bill “the amount due for basic service and nonbasic service,” and state no exceptions. (§64.14(a)(4)). Verizon’s waiver from 1997 waived “all Chapter 64 requirements that mandate or are premised upon the billing and collecting of basic, toll and nonbasic service in separate pots,” including 64.14(a)(4) and (5), 64.17, 64.18 and 64.21(a). (6/12/97 Order at C-00881727). By virtue of this waiver, Verizon does not separately itemize and price out the “basic” local service component when a customer purchases a package. In 1997, the Commission recognized this waiver was necessary to allow Verizon “to compete with existing service packages currently being offered by other competitors” and to provide Verizon’s customers with “additional choices.” (*Id.*)

13. The system changes necessary to display “the amount due” for basic local service separately on the bill – when Verizon has been operating under its waivers from the beginning without any separate display – would come with a cost, even if the monetary figure ultimately displayed on the bill is \$0. This cost would be imposed for no corresponding consumer value because there is no benefit to consumers from seeing a \$0 dollar basic local service amount displayed versus simply seeing the flat package rate displayed, as they do now. Similarly, any disclosure requirements related to this new basic display requirement that are different from the disclosures Verizon currently makes will come with a cost for no corresponding customer benefit. Not only are there no benefits, but there could be consumer detriments, as discussed below.

14. Second, the display of a separate “basic” local service figure is likely to confuse customers. If an actual dollar amount is displayed, customers may be confused because they could think this is an additional charge beyond the single flat rate they expected, or they may simply wonder why it is being shown when the package rate is the package rate. If \$0 is displayed for basic service, the customers may be even more confused. For example, they may believe incorrectly that they are not receiving basic calling capability with the package, or they may believe there was some sort of billing error, because there would seem to be no purpose to displaying \$0. Similarly, disclosures which really have no relevance in the “zero dollar” scenario may be a source of customer confusion. Again, this risk of confusion comes with no corresponding benefit to the customer.

15. The potential harm from imposing unnecessary costs and confusing billing and disclosure requirements is only exacerbated by the fact that many of the fiercest competitors for bundled and packaged services are not subject to the same requirements and are free to provide the kind of simple and easy-to-understand billing that consumers want.<sup>6</sup>

16. Further, there may be unintended consequences to displaying \$0 as the amount due for “basic service,” when it is clearly untrue that the value or cost of providing the functionalities categorized as “basic” service is \$0. Not only will the LEC have to incur unnecessary systems costs to display a “basic” local service amount even if that amount is \$0, but then choosing to display \$0 will come with risks. For example, arguments about the “cost” of providing basic local service and/or the “cost” of the local

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<sup>6</sup> As the Commission recognized, “[n]othing in our regulation extends jurisdiction to providers that are otherwise outside the scope of Commission regulation.” (3/27/09 Order at 16, n. 18).

loop are central to many of the current regulatory debates, including access pricing, unbundled network element pricing, universal service and the like, where a display of a \$0 value for basic local service may be taken out of context and used unfairly against the LEC. The Commission expects a LEC to take this risk for no purpose or corresponding customer benefit. These risks, along with the costs of displaying any entry for “basic” local service, provide an incentive for a LEC to choose to display its tariffed rate for basic local service on the bill and to take advantage of the accelerated termination option – even if it did not otherwise intend to do so, thus encouraging LECs to adopt the shorter termination time frame, an incentive that also would not appear to be in consumers’ interests.

17. Verizon respectfully suggests that the Commission can avoid these problems by making clear *in the regulation itself* that a LEC that continues to convert non-paying packages to a zero-balance basic service account is not required to display any “basic” local service entry separately on the bill or to make any disclosures relating to payment allocations that are different from what they have been doing under their current waivers. Such a clarification would be consistent with the Commission’s intent as expressed in its order, because the Commission stated that “the existing practices of carriers operating under previously granted waivers should be in compliance with or exceed the newly established consumer protection practices.” (3/27/09 Order at 24). Since the Commission accepts that Verizon may continue to operate under the terms of its current waiver, the Commission’s regulations should not impose unnecessary costs and burdens on Verizon with no corresponding consumer benefits if it chooses to do so.<sup>7</sup>

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<sup>7</sup> The Commission refers to FCC regulations that require a bill to “distinguish between charges for which non-payment will result in disconnection of basic local service” versus those that will not result in such

WHEREFORE, for the foregoing reasons Verizon respectfully requests that the Commission amend its proposed regulations to make clear that any carrier that continues to convert a non-paying package to a zero-balance basic service account upon failure to make payment on the package shall be exempt from the requirement of § 64.14(a)(4) to separately display “the amount due for basic service,” shall be exempt from § 64.18 regarding application of partial payments between past and current bills, and shall be exempt from the disclosures set forth in § 64.24(b)(2) and (4).

Respectfully submitted,

April 13, 2008



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Attorneys for Verizon Pennsylvania Inc. and  
Verizon North Inc.

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disconnection. 47 C.F.R. § 64.2401(c); 3/27/09 Order at 17. In issuing these regulations the FCC made clear that it did not intend to prohibit carriers from billing bundles “as a single package offered by a single company.” *In the Matter of Truth-in-Billing and Billing Format*, CC Docket No. 98-170, Order on Reconsideration (Rel. March 29, 2000) ¶ 9. This Petition for Reconsideration simply seeks modifications to the proposed regulations (without waiver of the legal authority argument) to permit Verizon to continue with its current bill display format, which already complies with federal truth-in-billing requirements.

**AFFIDAVIT**

I, **JODIE L. STUCK**, Senior Consultant, Verizon Pennsylvania am authorized to make this affidavit on its behalf, and I verify that the information provided in the foregoing document(s) is true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities

  
\_\_\_\_\_  
**JODIE L. STUCK**  
Senior Consultant