

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 17, 2014

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

RE: 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  
Docket No. P-2014-2446303; P-2014-2446304

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Protest and Public Statement in  
the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Barrett C. Sheridan".

Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. # 61138

Enclosures

cc: Office of Administrative Law Judge  
Office of Special Assistants  
Certificate of Service

193756

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Verizon Pennsylvania LLC and	:	
Verizon North LLC for Competitive Classification	:	Docket Nos. P-2014-2446303,
of all Retail Services in Certain Geographic Areas,	:	P-2014-2446304
and for Waiver of Regulations for Competitive	:	
Services	:	

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PROTEST OF THE  
OFFICE OF CONSUMER ADVOCATE

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The Office of Consumer Advocate (OCA) files this Protest in the above-captioned Joint Petition proceeding pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (Commission), 52 Pa. Code Sections 5.51-5.53, and Chapter 30 of the Public Utility Code. On October 6, 2014, Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North; collectively Verizon) filed the instant Joint Petition pursuant to Section 3016(a) of the Public Utility Code, seeking Commission approval of the reclassification of protected and non-competitive retail services provided to residential customers and those business customers with \$10,000 or less in annual total billings in certain specified geographic areas as competitive. 66 Pa.C.S. § 3016(a). The Joint Petition also requests the waiver, through December 31, 2025, of the Commission’s Chapter 63 and 64 regulations for all consumers in those areas.

The OCA files this Protest in order to ensure that Pennsylvania consumers in the geographic areas addressed by the Joint Petition will continue to have access to quality stand-

alone basic telephone service, at just and reasonable rates. Additionally, the Joint Petition raises concerns regarding public safety and universal service. The OCA submits that Verizon's Joint Petition presents novel issues that should be resolved after a well-developed record. Verizon bears the burden of proof as to each aspect of its Joint Petition.

In support of this Protest, the OCA avers as follows:

1. The Protestant is Tanya J. McCloskey, Acting Consumer Advocate, 555 Walnut Street, 5<sup>th</sup> Floor, Forum Place, Harrisburg, PA 17101-1923. Protestant's attorneys for receiving service of all documents in this proceeding are Aron J. Beatty, Senior Assistant Consumer Advocate, and Barrett C. Sheridan and Hobart J. Webster, Assistant Consumer Advocates.
2. The OCA is authorized by law to represent the interests of utility consumers in all proceedings before the Commission. 71 P.S. §§ 309-1, *et seq.* The OCA files this Protest to ensure that the specific interests of Pennsylvania consumers within Verizon PA's and Verizon North's service territories are protected as well as the broader public interest in promotion and preservation of universal telecommunications service.
3. The Joint Petition's request for competitive classification of retail local calling services must be examined pursuant to Chapters 15 and 30 of the Public Utility Code as well as Verizon PA's and Verizon North's individual Chapter 30 Plans,<sup>1</sup> and relevant Commission orders.
4. Pursuant to Section 3016(d)(1) and (e)(1), if a Verizon retail service is classified as competitive, then Verizon may set the price for such competitive services at its discretion, so

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<sup>1</sup> See Verizon Pennsylvania Inc.'s Petition and Plan for Alternative Form of Regulation Under Chapter 30 and Act 183, Docket Nos. P-00930715, P-00930715F1000, R-00051228, Final Alternative Regulation Plan of Verizon Pennsylvania Inc. as of December 2011 (dated Dec. 14, 2011)(Verizon PA's Amended Chapter 30 Plan); Petition of Verizon North LLC for Alternative Regulation and Plan for Network Modernization Under Chapter 30 and Act 183, Docket Nos. P-00981449, P-00001854F1000, R-00051227, Final Alternative Regulation Plan of Verizon North LLC as of December 2011 (dated Dec. 14, 2011)(Verizon North's Amended Chapter 30 Plan).

long as priced at or above the cost to provide the service. 66 Pa.C.S. § 3016(d)(1), (e)(1). In other words, grant of the Joint Petition as to retail services offered in one or more of the designated wire centers would provide Verizon with pricing flexibility, including the ability to increase prices.

5. Pursuant to Section 3016(d)(4), the Commission may require Verizon to maintain price lists for competitive services with the Commission. 66 Pa.C.S. § 3016(d)(4).

6. The Joint Petition requests competitive classification of those residential and small business retail services that are within the category of protected, noncompetitive services under Sections 3012 and 3016(a). Joint Petition ¶ 6; 66 Pa.C.S. §§ 3012, 3016(a). Pursuant to Section 3012, “Protected service” includes such Verizon telecommunications service as “provided to residential consumers or business consumers that is necessary to complete a local exchange call,” touch tone service, and “[o]rdering, installation, restoration and disconnection of these services” “unless the commission has determined the service to be competitive.” 66 Pa.C.S. § 3012.

7. The Joint Petition states that it is not requesting reclassification of those Verizon wholesale services -- switched access service and special access service -- which are currently classified as protected services. Joint Petition ¶ 6; see 66 Pa.C.S. § 3012.

8. The Joint Petition is directed at changing the classification for retail local calling service offered in 194 wire centers out the two companies’ combined 504 wire centers. Joint Petition, Exh. A, Exh. B at 3-4. Verizon describes the 194 Verizon PA and Verizon North wire centers as including the “urban and suburban areas of Philadelphia, Pittsburgh, Erie, Harrisburg/York and Scranton/Wilkes-Barre....” Id. at 4.

9. Pursuant to Chapter 30, Verizon cannot on its own declare those protected retail residential and small business basic local calling services as competitive. Instead, Verizon must obtain a determination by the Commission:

of whether a protected or retail noncompetitive service or other business activity in its service territory or a particular geographic area, exchange or group of exchanges or density cell within its service territory is competitive based on demonstrated availability of like or substitute services or other business activities provided or offered by alternative service providers.

66 Pa.C.S. § 3016(a)(1).<sup>2</sup> In making its determination, “the commission shall consider all relevant information submitted to it, including the availability of like or substitute services or other business activities, and shall limit its determination to the service territory or the particular geographic area, exchange or group of exchanges or density cell in which the service or other business activity has proved to be competitive.” 66 Pa.C.S. § 3016(a)(3).

10. Section 3016(a)(4) places the burden of proof on Verizon. 66 Pa.C.S. § 3016(a)(4).

11. The Joint Petition also requests that the Commission grant a waiver of certain Commission Chapter 63 regulations and a waiver of all Chapter 64 regulations as applied to competitive services within the geographic areas covered by the Joint Petition. Joint Petition ¶¶ 14, 15. The Joint Petition requests grant of a waiver of all identified regulations through December 31, 2025.

12. Verizon’s waiver request extends to Chapter 63, Subchapter B, Services and Facilities; Subchapter C, Accounts and Records; Subchapter E, Quality of Service; Subchapter F, Extended Area Service; and Subchapter G, Public Coin Service. These Chapter 63 regulations

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<sup>2</sup> “Alternative service provider” is defined as “[a]n entity that provides telecommunications services in competition with a local exchange telecommunications company.” 66 Pa.C.S. § 3012. “Telecommunications service” is defined as “[t]he offering of the transmission of messages or communications for a fee to the public.” *Id.*

relate to public safety and emergency preparedness, the continuity and quality of Verizon's telephone services, Verizon's obligation to make reasonable line extensions within its service territory upon consumer request, installation of service, restoration after service interruptions, the filing of annual reports and information necessary to Pennsylvania's Telephone Relay Service program, and other standards and requirements.

13. Verizon requests waiver of the entirety of Chapter 64, Standards and Billing Practices For Residential Telephone Service, as applied to competitive services within the geographic areas covered by the Joint Petition. Joint Petition ¶¶ 14, 15. Chapter 64 sets forth the Commission's "uniform, fair and equitable residential telephone service standards governing account payment and billing, credit and deposit practices, suspension, termination and customer complaint procedures." 52 Pa. Code § 64.1.

14. Verizon bears the burden of proof as to its request for waiver of portions of Chapter 63 and all of Chapter 64. 66 Pa.C.S. § 332(a).

15. The OCA has conducted a preliminary review of the Joint Petition and its supporting exhibits, including the pre-filed testimony of Verizon witness Paul Vasington. Based on its preliminary review of the Joint Petition and Mr. Vasington's testimony, the OCA has identified the following issues that must be thoroughly investigated and resolved by the Commission in the consideration of Verizon's request:

a) Competitive Test: The Commission must determine the appropriate competitive test to apply to determine whether the requirement of Section 3016(a) has been met, including the determination of the availability of like or substitute services or other business activities by alternative providers and the impact on universal telecommunications service.

b) Level of Competition: Based on the competitive test, the Commission must determine the level of competition and the availability of like or substitute services or other business activities by alternative providers within each exchange that Verizon seeks to have classified as competitive. The Commission must also examine issues related to market share, market power, the proper definition of the market, and competitive price level when determining whether the exchanges can be classified as competitive.

c) Lifeline: The impact of Verizon's request on universal service and on Verizon PA's and Verizon North's obligations as eligible telecommunications carriers must be thoroughly examined. Any price increase for basic local calling service that could result from being classified as competitive would flow through to Verizon Lifeline customers. The impact on the affordability of service for Lifeline customers and other low income customers requires further investigation.

d) Chapter 63 Waiver Request: The request for waiver of Chapter 63 regulations may be more properly subject of a Commission rulemaking if any of those regulations are outdated since the regulations apply to all Pennsylvania LECs. The OCA would note that some of Chapter 63 provisions subject to the requested waiver relate to public safety and emergency preparedness, the continuity and quality of Verizon's telephone services, Verizon's obligation to make reasonable line extensions within its service territory upon consumer request, installation of service, restoration after service interruptions, the filing of annual reports and information necessary to Pennsylvania's Telephone Relay Service program, and other standards and requirements. Verizon should be required to fully demonstrate how reclassification of services as competitive for pricing flexibility would justify waiver of the standards for quality of service and other Chapter 63 provisions for certain Verizon wire centers.

e) Chapter 64 Waiver: The Commission must thoroughly examine Verizon's request to waive Chapter 64. Chapter 64 provides specific guidance as to the obligations of both Verizon and residential consumers with regard to payment and billing, consistent with Sections 1501 and 1509 of the Public Utility Code. 66 Pa.C.S. §§ 1501, 1509. Chapter 64 protections help consumers maintain continuous access to the telephone network, such as in the case of consumers with a certified medical need or a consumer who has purchased local calling as part of a single-priced bundle of services and is at risk of termination of the bundle of services. 52 Pa. Code §§ 64.101-63.103, 64.24. The pricing flexibility allowed for competitive services under Section 3016 does not override the Commission's Section 3019(b) authority over "the ordering, installation, suspension, termination and restoration of any telecommunications service" or to ensure the protection of consumers. See Provision of Basic Local Service in Bundled Service Package Plans by Local Exchange Carriers, Docket No. L-00060179, Final Rulemaking Order upon Reconsideration, 40 Pa. B. 3499 (2010)(Bundled Service Rulemaking), citing 66 Pa.C.S. §§ 3016(e), 3019(b)(2), (3). Verizon should be required to demonstrate how reclassification of services as competitive for pricing flexibility would justify waiver of Chapter 64 provisions for certain Verizon wire centers. Verizon should also be required to show how quality of service will be maintained, and quality of service complaints handled if a waiver of Chapter 64 is granted.

f) Compliance with Verizon PA's and Verizon North's Chapter 30 Plans: The Commission must examine whether any changes are necessary to the Chapter 30 Plans or the presentation of Price Change Opportunity filings if the Commission should grant some or all of the Joint Petition.

g) Tariff Changes: The Commission must examine whether tariff changes are necessary if the Commission should grant some or all of the Joint Petition.

h) Consumer notice and education: The Commission must determine whether additional consumer education and notice are necessary given this significant change in the regulation of the telecommunications service if some or all of the Joint Petition is granted. If granted, a full consumer education plan will need to be developed and deployed.

16. The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from Verizon PA and Verizon North.

17. The OCA avers that based on its preliminary review and the issues identified above, the Joint Petition does not provide a sound basis to grant reclassification of these important, protected services from noncompetitive to competitive in the exchanges listed for the purposes of pricing flexibility.

**WHEREFORE**, the Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission investigate and hold full hearings regarding Verizon Pennsylvania's and Verizon North's Joint Petition request for reclassification of protected basic local calling services as competitive for pricing flexibility. The OCA requests that the Commission base its determination upon consideration of the availability of like or substitute services for this specific market and other relevant indicia of competition or the lack thereof, for each wire center covered by the Joint Petition. The OCA requests that the Commission fully consider Verizon's request for waiver of portions of Chapter 63 and all of Chapter 64 after development of a full record regarding these requests. Additionally, the OCA requests that the Commission impose such terms and conditions as are necessary to protect the public interest.

Respectfully Submitted,



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DATED: October 17, 2014  
193891

PUBLIC STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE  
PURSUANT TO 71 P.S. Section 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate (OCA) to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Protest and participate in proceedings before the Commission involving the Joint Petition filed on October 6, 2014 by Verizon Pennsylvania LLC and Verizon North LLC (collectively Verizon).

The Verizon Joint Petition requests two Commission rulings. First, the Joint Petition requests that the Commission determine that Verizon's retail basic local calling services, as offered to residential and small business customers, should be classified as competitive in certain wire centers in the urban and suburban areas of Philadelphia, Pittsburgh, Erie, Harrisburg/York and Scranton/Wilkes-Barre. Competitive classification would provide Verizon with pricing flexibility and the opportunity to detariff the services as to both price and rules and terms of service. Second, Verizon requests that the Commission grant waiver of Commission regulations that relate to public safety and emergency preparedness, the continuity and quality of Verizon's telephone services, installation of service, restoration after service interruptions, as well as Commission regulations governing Verizon's billing, credit and deposit practices, suspension, termination and customer complaint procedures. Verizon requests that the waiver of regulations apply to those wire centers where the Commission grants reclassification of basic local calling service as competitive.

The Consumer Advocate has filed this Protest with the Commission to ensure the interests of Verizon consumers are protected and consumers in the covered wire centers continue to have access to quality, stand-alone basic local calling service at just and reasonable rates.

Verizon's Joint Petition presents a number of novel issues, including the first request for a Commission determination that residential and small business stand-alone basic local calling service should be classified as competitive, based upon consideration of the availability of like and substitute services and other relevant considerations. The OCA will participate fully in the Commission's on-the-record proceeding.

CERTIFICATE OF SERVICE

Joint Petition of Verizon Pennsylvania LLC :  
And Verizon North LLC for Competitive : Docket Nos. P-2014-2446303  
Classification of all Retail Services in Certain : P-2014-2446304  
Geographic Areas, and for a Waiver of :  
Regulations for Competitive Services :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Protest and Public Statement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 17th day of October 2014.

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