

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition of Verizon Florida Inc. for variance from existing collocation requirements of Order Nos. PSC-99-1744-PAA-TP and PSC-00-0941-FOF-TP, and for adoption of terms of settlement agreement with Covad Communications Company and affiliates, AT&T Corporation and affiliates, and Sprint Communications Company L.P. and its CLEC affiliates.

DOCKET NO. 031007-TP
ORDER NO. PSC-04-0105-PAA-TP
ISSUED: January 29, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING VARIANCE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On September 7, 1999, we issued Order No. PSC-99-1744-PAA-TP, and on December 7, 1999, we issued Order No. PSC-99-2395-FOF-TP, approving some modifications to the provisions in Order No. PSC-99-1744-PAA-TP, amending portions of the Order, and consummating those portions not protested. On May 11, 2000, we issued Order No. PSC-00-0941-FOF-TP. These orders address a multitude of collocation issues, including provisioning of collocation space within incumbent local exchange carrier's (ILEC's) central offices, schedules for implementation of collocation requests, and the apportionment of the costs associated with

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collocation. In early 2003, Verizon, Sprint, Covad, and AT&T negotiated a multi-jurisdictional settlement agreement whose subject matter pertains to the issues addressed in Orders Nos. PSC-99-1744-PAA-TP and PSC-00-0941-FOF-TP. The Settlement Agreement was executed on August 27, 2003. The terms and conditions contained in the Settlement Agreement and Exhibit 3 to the Settlement Agreement are intended to apply in 28 states (including Florida) and the District of Columbia. On October 27, 2003, Verizon Florida Inc. submitted a Petition for Variance from certain portions of Order Nos. PSC-99-1744-PAA-TP and PSC-00-0941-FOF-TP, governing the terms of implementation intervals for requests for collocation.

We have jurisdiction pursuant to Section 251 (c)(6) of the Telecommunications Act of 1996, and Section 364.16, Florida Statutes.

Analysis

Verizon requests that we grant a permanent variance from portions of Orders Nos. PSC-99-1744-PAA-TP and PSC-00-0941-FOF-TP and adopt the terms of the Settlement Agreement between Verizon, Covad, AT&T, and Sprint, including the proposed terms and conditions addressing collocation provisioning issues. Verizon also included as Attachment B the tariff revisions that it will file if we approve the petition. Verizon believes this Settlement Agreement is in the public interest; as such, it requests that this Commission issue a variance from its existing regulations on collocation provisioning intervals to the extent that they conflict with the terms and conditions set forth in the Settlement Agreement entered into by the aforementioned parties.

The signatories to the settlement agreement have agreed on tariff provisions regarding a variety of collocation-related provisioning intervals that are to apply in a wide range of jurisdictions, including Florida. Some of these provisions vary from intervals adopted in previous Commission Orders, and a list of differences is provided below.

- Augment intervals: The Settlement establishes a 45 business day interval for augmenting existing collocation arrangements that meet certain specified criteria, as opposed to the 45 calendar day interval under Order No. PSC-00-0941-FOF-TP.¹ The Settlement Agreement, however, expands the situations where CLECs are eligible to receive the augment interval.²

¹See Order No. PSC-00-0941-FOF-TP, p. 35 - "The evidence in this case does, however, demonstrate that provisioning changes to existing collocation arrangements usually should require less time than provisioning a new collocation arrangement. Therefore, we shall require a provisioning interval of 45 calendar days."

²See Attachment A, Exhibit 3, VII. Joint Planning and Implementation Intervals for Physical Collocation, of Parties' Agreement Governing Collocation Provisioning Intervals.

- Space availability: The Settlement Agreement sets an eight business day interval to allow Verizon to determine whether space is available to accommodate a CLEC's collocation request, as opposed to a 15 calendar day interval under Order No. PSC-00-0941-FOF-TP.³
- Space preparation: The Settlement Agreement states that CLECs will provide semi-annual forecasts, as opposed to annual forecasts required under Order No. PSC-00-0941-FOF-TP, addressing issues such as the timing of CLECs' collocation requests, their preferences for virtual or physical collocation, and required square footage.⁴ Requiring semi-annual forecasts will help Verizon better manage its central office space.
- Virtual collocation: The Settlement Agreement sets a 76 business day implementation interval for all standard arrangement requests which were properly forecast six months prior to the application date, as opposed to the 60 calendar day interval prescribed in Order No. PSC-99-1744-PAA-TP.⁵ The Settlement Agreement also provides that the CLEC shall deliver the virtual collocation equipment to Verizon's premises by the fourteenth business day following its request.

Additionally, where space is available, Verizon will go forward with the collocation arrangement and provide CLECs with a schedule to meet collocation requests within eight business days. If no space is readily available, Verizon will determine if space can be made available and notify the CLEC concerning its findings within 20 business days. Where no space is available, Verizon will follow tariff provisions to verify space limitations. The Settlement Agreement also provides that when a CLEC's collocation application is deficient, Verizon will notify the CLEC of the deficiency within eight business days. The CLEC then has 10 calendar days, after receiving notice, to cure the deficiency in order to ensure that its position within the collocation application queue will not be affected.

Under Section A.1 of the Settlement Agreement, Verizon is required to file its tariff revisions in each state covered by the Agreement on or before October 27, 2003. Attachment B

³See Order No. PSC-00-0941-FOF-TP, p. 15 - "In conclusion, we hereby require ILECs to respond to a complete and correct application for collocation within 15 calendar days."

⁴See Order No. PSC-00-0941-FOF-TP, p. 102 - "Therefore, we find that the ALECs shall provide the ILECs with two-year forecasts, on an annual basis, to assist the ILECs in CO planning."

⁵See Order No. PSC-99-1744-PAA-TP, p. 15 (Guideline H) - "Upon firm order by an applicant carrier, the ILEC shall provision physical collocation with 90 days or virtual collocation within 60 days."

in Verizon's Petition represents the revisions that Verizon will submit in the form of a tariff filing with this Commission if its Petition is approved.

In summary, Verizon believes the Settlement is in the public interest because it represents a fair and mutually beneficial agreement concerning collocation and allows CLECs to achieve greater certainty and predictability in ordering the terms of collocation arrangements in a number of jurisdictions. The Pennsylvania Public Utility Commission has already approved the Settlement Agreement as consistent with the public interest.⁶ It provides CLECs the opportunity to receive greater numbers of collocation services from Verizon in shorter time intervals. It also grants Verizon additional tools that will allow Verizon to forecast CLEC demand for collocation services and manage its provisioning of those services more effectively. Finally, approval of the Petition and the terms and conditions of the Settlement Agreement will avoid the substantial time, expense, and uncertainty involved in future litigation of the issues identified in the Settlement Agreement.

Decision

We agree with the signatories to the agreement that the Settlement achieves a just and fair compromise by Verizon, Covad, AT&T and Sprint. We note that this Commission has encouraged parties to work together to resolve issues among themselves, and this Settlement Agreement is evidence that negotiations have been fruitful. We also agree that the terms and conditions in the Settlement Agreement fairly and reasonably balance the interests of different segments of the telecommunications industry and the public.

We further agree with Verizon that granting a permanent variance from the referenced Collocation Orders will allow Verizon to tariff the provisions set forth in the settlement agreement in a number of Verizon jurisdictions, thus standardizing the company's collocation procedures and providing CLECs with somewhat greater predictability when formulating business plans for Verizon territories. As such, granting the variance to allow Verizon to implement the terms in the Settlement Agreement should ultimately prove beneficial to other CLECs. It is also noteworthy that the proposed deviations from the current guidelines are not drastic - - some being slightly more stringent on Verizon and others slightly more stringent on the CLEC collocators. Accordingly, we hereby grant Verizon's petition for variance from certain existing collocation requirements.

Based on the foregoing, it is

⁶See Order, *Pa. P.U.C. and Covad Communications Company v. Verizon Pennsylvania Inc.*, Docket No. R-00038348 (Pa. P.U.C. Oct. 7, 2003) ("Attachment C").

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ORDERED by the Florida Public Service Commission that Verizon Florida Inc.'s Petition for Variance from Existing Collocation Requirements is granted, as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 29th day of January, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

LF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 19, 2004.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.