



Public Service Commission
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DATE: JANUARY 8, 2004

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK
ADMINISTRATIVE SERVICES (BAYO)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (MUSKOVAC)
OFFICE OF THE GENERAL COUNSEL (FORDHAM) (J.F. PIC)

RE: DOCKET NO. 031007-TP - 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.

AGENDA: 01/20/04 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\031007.RCM

CASE BACKGROUND

On September 7, 1999, the Commission issued Order No. PSC-99-1744-PAA-TP. Thereafter, on December 7, 1999, the Commission 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, it 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 collocation. In early 2003, Verizon, Sprint, Covad, and AT&T negotiated a multi-jurisdictional settlement agreement whose

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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.

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

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Verizon's petition for variance from existing collocation requirements?

RECOMMENDATION: Yes. The Commission should grant Verizon's petition for variance from existing collocation requirements.
(MUSKOVAC/FORDHAM)

STAFF ANALYSIS: Verizon requests that the Commission 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 ("Attachment A"), including the proposed terms and conditions (Exhibit 3) addressing collocation provisioning issues. Verizon also included as Attachment B the tariff revisions that it will file if the Commission approves this petition. Verizon believes this Settlement Agreement is in the public interest; as such, it requests that the 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
- 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.

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.

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."

- 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 represents the revisions that Verizon will submit in the form of a tariff filing with this Commission if this 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

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."

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.

Staff agrees with the signatories to the agreement that the Settlement achieves a just and fair compromise by Verizon, Covad, AT&T and Sprint. Staff notes that the Commission has encouraged parties to work together to resolve issues among themselves, and this Settlement Agreement is evidence that negotiations have been fruitful. Staff also agrees 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.

Further, staff agrees with Verizon that granting a permanent variance 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.

CONCLUSION

The Commission should grant Verizon's petition for variance from existing collocation requirements.

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").

DOCKET NO. 031007-TP
DATE: January 8, 2004

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (FORDHAM)

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.