

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to review the total element long run incremental)	
costs and the total service long run incremental)	Case No. U-15210
costs for VERIZON NORTH INC., AND CONTEL)	
OF THE SOUTH, INC., d/b/a VERIZON NORTH)	
SYSTEMS , to provide telecommunications services.)	
_____)	

At the August 11, 2009 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

ORDER

On February 27, 2007, the Commission commenced this proceeding to examine the total service long run incremental costs (TSLRIC) and total element long run incremental costs (TELRIC) for Verizon North Inc., and Contel of the South, Inc., d/b/a Verizon North Systems (Verizon). On August 31, 2007, Verizon filed its updated cost study along with an application for review of the cost study and the testimony and exhibits of eight witnesses.

A prehearing conference before Administrative Law Judge Barbara A. Stump (ALJ) was held on October 11, 2007. TelNet Worldwide, Inc., ACD Telecom, Inc., TC3 Telecom, Inc., Michigan Access, Inc., JAS Networks, Inc., DayStarr, LLC, Clear Rate Communications, Inc., Arialink Telecom, Inc., and American Broadband and Telecommunications Company (collectively, the

competitive local exchange carriers (CLECs)),¹ the Commission Staff (Staff), Attorney General Michael A. Cox (Attorney General), and AARP Michigan participated in the proceeding.

On March 18, 2009, the Commission issued an order approving a revised cost study and directing Verizon to file a compliant cost study no later than April 17, 2009, and directing that revised costs and rates would be effective as of March 18, 2009. The order authorized parties to file objections to the cost study filing within 45 days of the date of that filing, and directed the Staff to review the objections and report to the Commission within 30 days thereafter.

On April 16, 2009, Verizon filed a petition for rehearing and motion to stay the March 18 order.

On May 7, 2009, the Staff, the Attorney General, and the CLECs filed responses to the petition for rehearing and motion to stay.

On May 22, 2009, Verizon filed a compliance study, and a motion for an extension of time to file the compliance study from April 17, 2009, to May 22, 2009.

On June 2, 2009, the Commission issued an order denying the motion to stay and the petition for rehearing, finding the motion for extension of time moot, and allowing Verizon to file a rebuttal to the CLECs' objections.

On July 7, 2009, the CLECs filed objections to the compliance filing. On July 14, 2009, Verizon filed a response to the CLECs' objections. On July 23, 2009, the Staff filed a report on the objections and response.

The CLECs' objections are provided in the form of testimony. The CLECs' witness, Dr. Robert Loube, begins by stating that the CLECs have "isolated objections," and that "In most

¹American Broadband and Telecommunications Company withdrew from the proceeding on March 5, 2008.

instances, Verizon appears to have properly implemented the Commission's Order." CLECs' objections, p. 1.

The CLECs have three objections. They argue that Verizon has (1) miscalculated its access to operations support systems (OSS) cost, (2) failed to remove all routine network modification costs, and (3) miscalculated digital subscriber line (DSL) investment levels.

With respect to the access to OSS cost, the CLECs argue that this cost should not have increased when all of the adjustments made by the Commission in the March 18 order were decreases. The CLECs contend that this is a direct expense that should have been reduced by 15%. The CLECs further argue that this is a non-recurring cost (NRC) that Verizon is proposing to recover through a monthly recurring charge (MRC). The CLECs maintain that this will allow Verizon to collect all costs associated with access to OSS by the end of the first year of service. The CLECs propose an amortization period of six years. Finally, the CLECs alternatively propose that this charge should be reduced by 50% because it was developed in the same way that Verizon's new NRCs were developed.

Verizon responds that it properly flowed all adjustments made necessary by the March 18 order to its OSS costs. Verizon notes that the Commission ordered no adjustments to the OSS cost method because no party had commented on the OSS costs in the proceeding. Verizon argues that the CLECs are actually objecting to the calculation of the costs in the initial filing, and this objection is untimely. Verizon points out that the adjustments to various costs required by the March 18 order would not necessarily result in reductions to all costs. Verizon also notes that these are recurring costs, not NRCs, which include items such as maintenance, support, computer processing, and development expenses incurred annually to provide access to the operating system.

In its report, the Staff notes that objections to a compliance study must be focused on whether the compliance study adheres to the Commission's order. The Staff finds that Verizon properly reduced its expenses by 15%, and that the company's method for calculating its OSS costs complies with the March 18 order. The Staff agrees with Verizon that some required adjustments can result in cost increases for certain categories, rather than decreases. Finally, the Staff notes that this is a new issue, and is untimely.

Compliance study objections are not an opportunity to raise new issues, nor are they an opportunity to reargue a position that has been rejected. The Commission agrees with the Staff and accepts Verizon's OSS costs as filed in the May 22 compliance study.

Secondly, the CLECs maintain that Verizon failed to remove the costs of all routine network modifications from its compliance filing as directed by the March 18 order. The CLECs argue that Verizon failed to remove costs associated with multiplexer reconfigurations in the modeled network. The CLECs further argue that line and station transfer activities are not necessary in the forward looking, modeled network. The CLECs aver that Verizon continues to cherry-pick the highest costs (between the mutually exclusive modeled and existing networks) for inclusion in the compliance filing. The CLECs maintain that Verizon admitted in discovery that there are no routine network modifications in its modeled network, so there should be no costs associated with routine modifications in the compliance filing.

Verizon argues that it removed all of the routine network modifications required by the March 18 order "associated with loop conditioning, and repeater, multiplexer and range extender installation." March 18 order, p. 14. Verizon contends, however, that the company may need to reconfigure multiplexers.

The Staff contends that the Commission found that all costs associated with routine network modifications are already reflected in recurring costs.

The Staff is correct. The March 18 order states “The Commission finds that all costs associated with routine network modifications are already reflected in the recurring costs associated with provision of the more expensive forward looking network that has been modeled by Verizon, and directs Verizon to remove NRCs associated with loop conditioning, and repeater, multiplexer and range extender installation.” *Id.* Verizon’s position that costs associated with multiplexer reconfiguration should remain, when the order expressly directs that all costs associated with multiplexer installation be removed, including “all costs associated with provision of the more expensive forward looking network that has been modeled,” is unpersuasive. Verizon is directed to revise the May 22 compliance filing to remove the multiplexer reconfiguration costs, and line and station transfer activity costs.

Finally, the CLECs argue that Verizon’s DSL investment levels are incomplete and do not reflect total company costs. The CLECs contend that Verizon failed to include dedicated DSL investment that provides the path from the DSL transmission equipment to the DSL switching equipment. The CLECs argue that Verizon should identify and directly assign the dedicated DSL fiber strands to DSL investment. The CLECs argue that this reassignment would result in a decrease in the costs needed to provide UNE loops.

Verizon responds that is a rehash of an argument that the CLECs previously lost. Verizon asserts that the CLECs want Verizon to dedicate four fibers to DSL, but this is not how Verizon provisions fiber. Verizon contends that the Commission has accepted Verizon’s assignment of a portion of six fibers to DSL. Verizon argues that this type of assignment better assures that the cost causer bears the cost.

The Staff notes that this issue was raised previously in this proceeding and the CLECs' position was rejected by the Commission in the March 18 order, p.7, where the Commission found that total company costs should be used, and the Commission made no modifications to how fiber is allocated to DSL services.

The Commission agrees with the Staff that this issue was addressed in prior comments, and approves Verizon's provision of fiber for DSL as filed in the May 22 compliance study.

THEREFORE, IT IS ORDERED that:

A. The May 22, 2009 compliance filing, as modified by this order to remove the multiplexer reconfiguration costs and line and station transfer activity costs, is approved. Within seven days of the date of this order, Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems, shall file a revised compliance filing consistent with this order.

B. The effective date for application of new costs and rates is March 18, 2009.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 484.2203(12).

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of August 11, 2009.

Mary Jo Kunkle, Executive Secretary