

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------|---|-------------------|
| VERIZON SELECT SERVICES, INC.'S |) | |
| INTENT TO WITHDRAW FROM |) | CASE NO. 2001-030 |
| PROVISION OF LOCAL DIAL TONE |) | |
| SERVICE IN KENTUCKY |) | |

O R D E R

Verizon Select Services, Inc. (“VSSI”) notified the Commission on November 13, 2000 of its intent to withdraw from a local dial tone service offering in Kentucky and to discontinue its bundled telecommunications service known as OneSource, which includes local service. By petition filed on the same date, VSSI and Verizon South Incorporated (“Verizon”) requested a limited waiver of the requirement that changes to a customer’s local service provider be verified to avoid any disruption in local dial tone service for customers who did not respond to multiple notices explaining the withdrawal of services and asking customers to choose a new local phone service company. VSSI’s petition further requested that the Commission issue an Order authorizing the transfer of customers who have made no other choice to the underlying or incumbent local exchange carriers (“ILECs”), Verizon and BellSouth Telecommunications, Inc. (“BellSouth”)(collectively “Petitioners”).

BellSouth filed a similar petition requesting an Order from the Commission authorizing BellSouth to be the default carrier for those VSSI customers in BellSouth’s service area who have made no other choice following VSSI’s notices regarding

discontinuation of local dial tone service. Both Petitioners are concerned that, absent an Order authorizing the transfer of customers to the default ILECs, they could incur unwarranted allegations of “slamming” as prohibited by Federal Communications Commission rules and KRS 278.535.

The Commission has reviewed VSSI’s proposed actions, as described in its petition and accompanying letter, and does not find the plan for withdrawal of local dial tone service and the resulting transfer of customers, on its face, to be objectionable. Commission Staff issued an opinion letter on January 19, 2001, stating that the withdrawal of VSSI from local dial tone service and the resulting transfer of customers that have made no other choice to the appropriate ILEC, if accomplished at no charge and in the manner set out in VSSI’s petition, will not result in liability for potential allegations of unauthorized carrier changes directed at receiving ILECs. The aforementioned opinion letter, attached hereto, is adopted by the Commission and incorporated by reference.

Accordingly, and pursuant to the conditions set out herein, Petitioners, as the applicable underlying ILECs, are authorized to accept the transfer of VSSI’s local dial tone service customers who have made no other choice of carriers following the notices described in VSSI’s petition. The requests of Petitioners are thus granted to the extent set out herein.

BE IT SO ORDERED.

Done at Frankfort, Kentucky, this 8th day of February, 2001.

By the Commission

ATTEST:


Executive Director

APPENDIX TO AN ORDER OF THE
KENTUCKY PUBLIC SERVICE COMMISSION
IN CASE NO. 2001-030
DATED February 8, 2001



Paul E. Patton, Governor
Ronald B. McCloud, Secretary
Public Protection and
Regulation Cabinet
Thomas M. Dorman
Executive Director
Public Service Commission

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
211 SCWER BOULEVARD
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602-0615
WWW.PSC.STATE.KY.US
(502) 564-3940
Fax (502) 564-3460

Martin J. Huelsmann
Chairman
Edward J. Holmes
Vice Chairman
Gary W. Gildis
Commissioner

January 19, 2001

Ms. Robin C.M. Blackwood
General Counsel
Verizon Select Services
6665 North MacArthur Boulevard
Irving, Texas 75039

Dear Ms. Blackwood:

The Commission Staff has reviewed your request for a legal opinion on the liabilities of carriers involved in the pending withdrawal of Verizon Select Services Inc. ("VSSI") from a local dial tone service offering and the resulting transfer of customers that have made no other choice to the underlying or incumbent local exchange carriers ("ILECs"), Verizon and BellSouth.

By letter and accompanying petition filed on November 13, 2000, Verizon and VSSI notified the Commission of VSSI's pending withdrawal from the provision of local dial tone services in Kentucky. VSSI requested that the Commission authorize the transfer of customers' local service by granting a limited waiver of the requirement that changes to a customer's local service provider be verified. The petition specifically requested that the Commission issue an order that VSSI transfer the customers back with no service interruption.

VSSI's petition included, as attachments, copies of notification letters to be sent to customers explaining the withdrawal of the bundled phone package known as Verizon OneSource, and informing the customers of their options in choosing a new local phone service company and a new long-distance calling plan. Assurances were also given in the petition that a second notice urging selection of a new carrier would be sent if no response was received from the first letter, and that VSSI would ensure that customers were fully informed about the changes in service and their options. The waiver of verification requirements and the customers' default to the applicable ILEC were described as being necessary to avoid any disruption in local dial tone service for customers who did not respond to the two notices.

The Commission Staff agrees with the petition's assertion that Federal Communications Commission ("FCC") Rule § 64.120, which requires verification for a carrier's submission of a change in a customer's selection of a telecommunication service provider, does not address a carrier change that is necessitated by the carrier's discontinuation of service. Moreover, in Administrative Case Nos. 359 and 370, the Commission determined, in relevant part, that applications for transfer of



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

Ms. Robin C.M. Blackwood
January 19, 2001
Page Two

ownership or control by competing local exchange carriers ("CLECs") and long-distance resellers should no longer be submitted to the Commission for approval, and that advance notice by letter to the Commission would suffice.

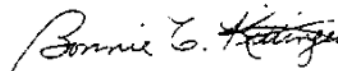
Based on the assurances contained in VSSI's letter and petition, the circumstances necessitating the change in telecommunications carriers, and the "carrier of last resort" obligations of ILECs as opposed to CLECs, the Commission Staff did not find VSSI's proposed actions objectionable and acknowledged the letter and petition in the same manner as it would have treated a transfer of ownership or control. As a CLEC's entry into, or withdrawal from, the Kentucky market is treated as a tariff filing, the Commission takes no formal action in such cases. Nevertheless, Verizon and VSSI have expressed concern that Staff's acknowledgement does not provide sufficient protection from potential allegations of unauthorized carrier changes or "slamming" as prohibited by FCC Rules and KRS 278.535. This concern prompted your request for a legal opinion.

As indicated above, Commission Staff has reviewed VSSI's proposed actions, as described in its petition and accompanying letter, and does not find the plan, on its face, to be objectionable. Of course, VSSI and Verizon will be expected, if necessary, to work with the Commission to resolve any confusion or complaints by customers caused by the discontinuation of service and change in carriers. As previously advised, VSSI should also alter its tariff to delete the services it no longer provides.

To respond more specifically to your inquiry, it is the opinion of the legal staff of the Commission that the withdrawal of VSSI from local dial tone service and the resulting transfer of customers that have made no other choice to the appropriate ILEC, if accomplished at no charge and in the manner set out in the petition and accompanying letter, will not result in liability for potential allegations of unauthorized carrier changes directed at receiving incumbent carriers.

We believe that the above opinion is responsive to your recent inquiry. This letter represents the legal opinion of the Commission Staff. The opinion is advisory in nature and is not binding on the Commission should this issue come before it in a formal proceeding. If you have further questions, please contact me at 502-564-3940, Extension 236.

Sincerely,



Bonnie C. Kittinger
Staff Attorney

cc: Deborah Eversole, General Counsel, PSC
Thomas M. Dorman, Executive Director, PSC



AN EQUAL OPPORTUNITY EMPLOYER MFRD