

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF BRANDENBURG TELECOM LLC)	
FOR ARBITRATION OF CERTAIN TERMS AND)	
CONDITIONS OF PROPOSED AGREEMENT WITH)	CASE NO.
VERIZON SOUTH INC. PURSUANT TO THE)	2001-224
COMMUNICATIONS ACT OF 1934, AS AMENDED)	
BY THE TELECOMMUNICATIONS ACT OF 1996)	

O R D E R

On November 19, 2001, Brandenburg Telecom LLC ("Brandenburg") filed a motion requesting clarification of the Commission's Order of November 15, 2001 (the "Order") with respect to seven issues. The motion was filed pursuant to KRS 278.400. That section allows any party to a proceeding affected by an Order of the Commission to apply for a hearing within 20 days after service of the Order with respect to any matter determined. Therefore, although filed as a motion for clarification, the pleading is in the nature of an application for rehearing and will be addressed as such. On December 5, 2001, Verizon South, Inc. ("Verizon") filed a response to the motion and, in the same pleading, filed a motion for rehearing on another issue ruled upon by the Order. Brandenburg has today responded to Verizon's motion for rehearing, but only the issues raised by Brandenburg are addressed here. Verizon's motion will be addressed in a future Order.

1. Pricing Attachments (Issues 23 & 49)

Brandenburg submitted a pricing attachment that establishes fixed prices for certain specified services that it will receive from Verizon. Brandenburg requests that

the pricing attachment be a part of the final interconnection agreement and be the sole charges that Verizon may assess for the listed services.

The pricing attachment is divided into nine pricing categories. Three of the categories are (1) CLEC Account establishment; (2) Review of customer records; and (3) Exchange of Local Traffic. The prices proposed by Brandenburg in each of these categories are the same prices set forth in Verizon's Best and Final Offer and, therefore, will be a part of the final agreement.

Three other categories relate to directory listings. The Order provides that Verizon may charge its tariffed rates for these services and, therefore, the rates for these services should not be included in the final agreement.

In a related category, the attachment provides that there will be no charge for number porting order by either party. In its response to the motion, Verizon agrees with Brandenburg's position. Accordingly, the provision should be made a part of the final agreement unless it is a part of Verizon's tariff.

The remaining categories listed in the attachment are Pole Attachments and Interconnection Trunk prices. Pole Attachments are fully discussed later in this Order and need not be addressed here. Interconnection Trunks refer to Verizon's prices for providing DS1 and DS3 trunking services. Verizon's initial position was that the rates for these services were provided in its intrastate access tariff and, therefore, need not be included in the final agreement. However, because those rates are not cost-based, the Order rejected this position and directed Verizon to provide cost-based pricing for these elements. In its response to the motion, Verizon states that such rates are set forth in a pricing attachment to the interconnection agreement. Verizon should provide

cost support for the rates it proposes when it files the interconnection agreement with the Commission.

2. Directory Listing (Issue 17)

Brandenburg has requested that the Commission clarify that the Order requires Verizon to provide initial and new directory listings at no charge. Brandenburg misconstrues the Order. As noted in the previous discussion concerning directory listings, Verizon may charge Brandenburg for such services at its tariffed rates. However, when Verizon provides a newly ported number, the cost of a directory listing is included in that service and no additional charges may be assessed.

3. Reciprocal Compensation (Issue 35)

Brandenburg requests that the Commission clarify that if either party terminates provisions related to reciprocal compensation, the parties shall be obligated to negotiate in good faith substitute provisions. Reciprocal compensation refers here to the rates that a carrier is permitted to charge for terminating traffic on its network that originated on another carrier's network. At issue is the language provided in Section 50.2, which gives Verizon the right to terminate, on 30 days' notice, any provisions in the agreement relating to its obligations to pay such compensation to Brandenburg, but does not give the corresponding right to Brandenburg. Brandenburg argues that the proposed language puts it in a "lose-lose" situation from which it should be afforded relief.

This issue was not addressed during the hearing. The only issues involving reciprocal compensation addressed at the hearing concerned the points of interconnection between the carriers, which are a factor in calculating the compensation. Nevertheless, even though Verizon may unilaterally terminate the

contract provisions relating to reciprocal compensation, Section 50.2 of the contract recognizes that Verizon remains obligated under "Applicable Law" to pay such compensation. Therefore, the situation in which Brandenburg finds itself is not so one-sided that Brandenburg should be allowed a remedy at this time.

4. Tandem Transit (Issue 39)

The Order provides that Verizon may pass on to Brandenburg charges it incurs from a terminating carrier for Brandenburg traffic that transits Verizon's tandem. Brandenburg does not object to paying those charges, but states that Verizon should not be permitted to impose additional charges, such as those for administrative costs, unless they are specified in the reciprocal compensation agreements that the terminating carriers file with the Commission.

The Order seems clear on this point. The Order permits Verizon to charge Brandenburg the costs it incurs in carrying Brandenburg traffic across its tandem, all of which are based on published rates available for inspection.

5. Account Manager (Issues 18 etc.)

The Order directs Verizon to establish a point of interconnection with Brandenburg that will enable Verizon to address Brandenburg's interconnection problems in a "timely and reasonable fashion." Brandenburg requests that the Commission state what exactly constitutes a timely and reasonable fashion, and suggests that for non-customer service issues, 15 days are appropriate, and for customer affecting issues, 12 hours are appropriate. Brandenburg cites 807 KAR 5:061, Section 25 as the basis for its suggested time periods.

The regulation cited by Brandenburg provides no guidance on this issue. It is concerned with service interruptions reported by a retail customer to its local exchange carrier. It does not address problems between two interconnecting local exchange carriers. Furthermore, the time limits imposed by the regulation are not the same as those suggested by Brandenburg.

As stated in the Order, the issue here is one of parity. Verizon must provide the same level of service to Brandenburg that it provides to other competing local exchange carriers and to itself. That is the standard by which timely and reasonable service must be measured.

6. Collocation (Issue 30)

This issue was not directly addressed in the Order. Collocation generally refers to an area within an incumbent local exchange carrier's facilities that is provided to a competing local exchange carrier to house the equipment necessary for the competing local exchange carrier to provide local service. It may or may not include a point of interconnection. Incumbent local exchange carriers are required to provide collocations to competing local exchange carriers when they request them. 47 USC § 251(b)(2). No such duty is imposed upon competing local exchange carriers and the Order does not require Brandenburg to provide one.

7. Pole Attachments (Issue 27)

The Order in this case states that Verizon's standard pole attachment and conduit occupancy agreement would govern Verizon's relationship with Brandenburg, as well as with other competing local exchange carriers, relative to pole

attachments and conduit occupancy issues with three modifications. Those modifications were (1) inclusion of a three-user pole attachment fee; (2) elimination of the pole attachment/conduit occupancy application fee; and (3) an increase in the agreement termination notice period from 90 days to 180 days.

Therefore, the Commission having ordered Verizon's standard pole attachment and conduit occupancy agreement, as modified above, to be the controlling document in these matters, there is no reason to further discuss and clarify the specific issues raised by Brandenburg. The rules and regulations governing these issues are a part of the standard agreement and are discussed in that agreement.

The Commission, having considered the motion for clarification of Brandenburg, Verizon's response thereto, and the evidence of the record in this proceeding, and having been otherwise sufficiently advised, HEREBY ORDERS that the Commission's Order of November 15, 2001 is hereby amended to reflect the modifications and clarifications discussed hereinabove.

Done at Frankfort, Kentucky, this 10th day of December, 2001.

By the Commission

ATTEST:


Executive Director