

Decision 01-06-025 June 14, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of GTE Corporation (“GTE”) and Bell Atlantic Corporation (“Bell Atlantic”) to Transfer Control of GTE’s California Utility Subsidiaries to Bell Atlantic, Which Will Occur Indirectly as a Result of GTE’s Merger with Bell Atlantic.

Application 98-12-005
(Filed December 2, 1998)

OPINION MODIFYING DECISION 00-03-021

1. Summary

This decision grants a request for modification of Decision (D.) 00-03-021. As a result, the date of initiation of the Community Collaborative Agreement (CCA) is January 1, 2001.

2. Background

D.00-03-021 approved the merger of GTE Corporation and Bell Atlantic Corporation. The merger resulted in the creation of a new entity named Verizon Communications.

Among other things, D.00-03-021 authorized implementation of a CCA, and established reporting requirements linked to a date described as the “initiation” date of the CCA, or “completion of the first year” of the CCA. No explicit calendar date was stated.

By letter dated February 22, 2001, Verizon California Inc. (Verizon) requests an order correcting D.00-03-021 to state the explicit date of January 1, 2001 as the date of initiation of the CCA. The letter was served on all parties.

Although such a request would normally be by a petition to modify the decision, by Administrative Law Judge Ruling dated March 5, 2001, parties were advised to consider the letter as a request for modification and were given 15 days to file comments on modifying D.00-03-021 to reflect the explicit date of January 1, 2001 for initiation of the CCA. No comments were filed.

3. Discussion

A specific date was not established in D.00-03-021 for commencement of the CCA since completion of the merger, and initiation of the CCA, were dependent upon additional events. For example, applicants needed merger authorization from the Federal Communications Commission (FCC). If authorized by the FCC, applicants would be permitted to finalize the merger, and would select a merger consummation date.

Further, the Board of Directors of each applicant was required by D.00-03-021 to execute a resolution demonstrating agreement to transfer control and merge companies pursuant to the terms and conditions set forth in D.00-03-021. Whether or not each applicant would accept the terms and conditions of D.00-03-021 was unknown. Finally, the CCA contained a reasonably specific timeline that was believed to be adequate to determine dates for purposes of D.00-03-021.¹

¹ For example, the Community Collaborative Selection Committee was to endeavor to select a Fund Administrator within 90 days of the closing of the merger. (See D.00-03-021, Attachment C, page 3.)

Nonetheless, Verizon now makes a compelling case for identifying the specific date of January 1, 2001 as the date of initiation of the CCA. We adopt this date for the reasons advanced by Verizon. First, a specific date will eliminate ambiguity.

Second, key elements of the CCA could not be implemented until after a workplan was approved by the Community Collaborative Committee, the workplan was submitted to the Commission, and the opportunity for comments had expired. The CCA workplan was submitted to the Commission on October 30, 2000, comments were filed November 20, 2000, and reply comments were filed November 27, 2000. January 1, 2001 reflects a reasonable date after these events for CCA implementation.

Third, a primary purpose of the CCA is to distribute \$25 million (nominal dollars) in grants over 10 years for access by under-served communities to telecommunications and information services, education, literacy, telemedicine, economic development and telecommunications advocacy. Awarding these funds requires an organizational structure, including a fund administrator, guidelines for funding, and the fund itself. This structure was not in place until January 2001. For example, on January 11, 2001, the contract was executed between the Community Collaborative Selection Committee and the Fund Administrator. On January 16, 2001, the first of 10 annual \$2.5 million payments was made by Verizon to the Fund Administrator.

Fourth, January 1, 2001 approximately coincides with the effective date for the distribution of other merger savings to ratepayers through the price cap mechanism. That is, the majority of merger savings are distributed to ratepayers by a surcredit. The initial surcredit was authorized in Resolution T-16480, effective February 1, 2001. Finally, a calendar year basis for reporting grant

money distribution over the 10-year life of the CCA is reasonably convenient for Verizon, parties and the Commission.

No party objects to selecting January 1, 2001, and no party argues in favor of any other date. Absent objection to Verizon's proposal, or compelling reason to adopt another date, we grant Verizon's request.

4. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code, the otherwise applicable 30-day comment period for public review and comment is being waived.

Findings of Fact

1. Verizon requests Commission adoption of the specific date of January 1, 2001 for initiation of the CCA.
2. No party filed comments on Verizon's proposed specific date for initiation of the CCA, or proposed an alternative date.
3. Selection of a specific date for initiation of the CCA will eliminate ambiguity.
4. Selection of January 1, 2001 is consistent with the date the structure for awarding grants under the CCA was in place, approximately coincides with the effective date for distribution of merger savings through the price cap mechanism, and is a convenient calendar year basis for purposes of reporting distribution of grant monies over the life of the CCA.

Conclusions of Law

1. D.00-03-021 should be modified to identify the specific date of January 1, 2001 as the date of initiation of the CCA.

2. The otherwise applicable 30-day comment period for public review and comment of the draft decision should be waived pursuant to Pub. Util. Code § 311(g)(2).

3. This order should be effective today to facilitate the objectives sought by the establishment of a specific date for initiating the CCA, including clarity on due dates for various reports.

O R D E R

IT IS ORDERED that:

1. Decision 00-03-021 is modified by adding the following as Ordering Paragraph 1.c.ix:

ix. The CCA shall be initiated on January 1, 2001.

2. This proceeding is closed.

This order is effective today.

Dated June 14, 2001, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

GEOFFREY F. BROWN

Commissioners

Commissioner Carl W. Wood, being necessarily absent, did not participate.