

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE TARIFF FILING BY)
VERIZON DELAWARE INC., FOR APPROVAL TO)
BILL THE STATE OF DELAWARE FOR E911) PSC DOCKET NO. 01-021T
SERVICE AND TO REDUCE CERTAIN BUSINESS)
AND RESIDENTIAL RATES)
(FILED NOVEMBER 2, 2001))

ORDER NO. 5852

This 11th day of December, 2001, the Commission finds, determines, and Orders the following:

I. BACKGROUND

1. "Enhanced 911" ("E-911" or "911-E") is a system capability which routes a caller's emergency "911" call to the appropriate public safety answering point ("PSAP") and provides the PSAP (at a minimum) with the telephone number and address or geographic location of the telephone being used by the caller. In 1988, the General Assembly and the Governor directed the implementation of such a 911-E system throughout this State. See 16 Del. C. §§ 10001-10004 (1995). The legislation directed this Commission to require every telephone company providing public utility telephone service within this State to provide a 911-E Emergency Reporting System capability to every 9-1-1 Emergency Reporting Center ("PSAP") by 1989. See 16 Del. C. § 10004(a) (1995). ^[1] It further directed this Commission to authorize any such telephone utility to recover the expense of providing such 911-E capability through such fees or tariffs as may be necessary. However, it allowed the telephone utility to decide whether the expense should be recovered by means of a specifically identifiable charge. See 16 Del. C. § 10004(b) (1995).

2. In 1988 and 1989, Diamond State Telephone Company ("Diamond State") was the only telephone utility subject to the command of section 10004. ^[2] By PSC Order No. 3123 (Dec. 19, 1989), the Commission approved tariff revisions by which Diamond State implemented a state-wide 911-E system capability. In that docket, and as part of other then ongoing rate proceedings, the Commission initially allowed Diamond State to

recover its costs (both initial installation and subsequent recurring) by adjusting the level of the interim "negative surcharge" then applied to all subscriber billings. See PSC Order No. 2972 (Aug. 28, 1988). Eventually, Diamond State was allowed to roll its recurring 911-E costs into its overall revenue requirement, so that its 911-E costs were recovered via its permanent rates.

3. When BA-Del elected to be regulated under the price cap regime of 26 Del. C. §§ 703-711, these permanent rates (which recovered the embedded costs for VZ-DE's 911-E costs) were carried forward as the initial benchmarks to be adjusted under the new price cap formula. However, in its Annual Price Cap Index filing adjustment filings made in the year 1999, VZ-DE reduced the amount of an otherwise indicated price decrease by an "exogenous" E-911 cost offset of \$409,000. Similarly, in the price cap filing made in the year 2000, VZ-DE took a similar "exogenous" E-911 cost offset of \$164,351. According to VZ-DE, both these "exogenous cost" offsets represented the additional costs to VZ-DE to provide 911-E capability and equipment beyond the amounts recovered under the E-911 charges "embedded" in its permanent rates. The Commission approved the use of such offsets in reviewing both years' price adjustments. See PSC Orders Nos. 5150 (June 23, 1999) and 5468 (June 6, 2000). Then, in its price index filing made in the year 2000, VZ-DE sought another - but differing - "exogenous" E-911 cost adjustment of \$200,761. This new offset represented a credit to be applied against the amount of the prior E-911 offset amounts in order to reflect a reduction in the difference between VZ-DE's actual E-911 costs and the amounts recovered via the "embedded" E-911 charges. Last summer, this Commission approved the use of this partial "reverse" modification in calculating the latest price cap adjustments. See PSC Order No. 5729 (June 5, 2001).

4. Thus, over the last 13 years, VZ-DE (or its corporate predecessors) has been the sole provider of E-911 system capability within this State. As such, the costs for such capability (and related equipment) have been borne exclusively by VZ-DE and its subscribers. And, VZ-DE's expenses (and the resulting charges to its subscribers) for such 911-E capability and equipment have never been separately identified on the billings sent by VZ-DE to its subscribers. [3]

5. In 2001, the General Assembly and the Governor enacted legislation creating

a new paradigm for the State to move to an integrated comprehensive E-911 capability, accessible from both wireline and wireless telephone sets. Responsibility for implementing this new system is vested in a new "Enhanced 911 Emergency Reporting System Service Board." 16 Del. C. § 10005(f)(1), as added by 73 Del. Laws ch. 115 § 5 (July 9, 2001). In addition, in order to fund the new system, the new enactment creates a State special fund called the Emergency Reporting System Fund to be funded by monthly monetary surcharges assessed against all wireline residential and business access lines and all wireless telephone numbers. 16 Del. C. § 10103(a), (i)-(j), as added by 73 Del. Laws ch. 115 § 9 (July 9, 2001). The surcharge - ranging in amount from \$.60 to \$3.00 - is to be collected by each telecommunications carrier as a separately identified fee on subscriber invoices rendered after January 1, 2002. 16 Del. C. § 10103(b)-(j), as added by 73 Del. Laws ch. 115 § 9 July 9, 2001).^[4] The surcharge amounts deposited in the new Emergency Reporting System fund are then disbursed by the new Service Board to pay both recurring and non-recurring costs for the new system (including telecommunications related charges), as well as to provide monies to counties for certain of their E-911 costs. 16 Del. C. § 10104(a)-(d), as added by 73 Del. Laws ch. 115 § 5 (July 9, 2001).

6. As part of this revision of the E-911 funding mechanism, the 2001 enactment also directs this Commission to review the rates charged by any telecommunications utility which might now include "embedded" costs for providing E-911 capability and to adjust such rates to remove that embedded cost component. See 16 Del. C. § 10004(c), as inserted by 73 Del. Laws ch. 115 § 4.

II. THE E-911 FILING BY VERIZON DELAWARE INC.

7. On November 2, 2001, VZ-DE made a filing with this Commission to implement these new E-911 statutory provisions. In one part of the filing, VZ-DE proposes modifications to various sheets within the "Universal Emergency Service Number - 911 Enhanced Service" portion of its P.S.C.-Del.-No. 1 tariff. In particular, these revised sheets would explicitly tariff the rate VZ-DE will charge the new system E-911 Service Board (and the System Fund) for VZ-DE providing specified (non-CPE) services which will be used within the new E-911 system.^[5] In the second portion of its

filing, VZ-DE seeks to implement the directive in the new section 10004(c) that VZ-DE remove all "embedded" E-911 costs from its rates. Calculating those "embedded" costs as totaling \$1,311,110, VZ-DE proposes tariff and competitive price guide revisions to implement \$1,314,841 in rate and price reductions spread over several tariffed and competitive services provided to residential and business subscribers. VZ-DE has structured its rate and price revisions to have them, for the most part, mirror the impact of the new State E-911 surcharge. Thus, the proposed \$.60 decrease in rates for business access lines equals the \$.60 surcharge to be imposed on such lines. Similarly, the proposed \$3.00 rate decrease for business ISDN PRI arrangements reflects the new higher \$3.00 E-911 surcharge applicable to such pipes. On the residential side, VZ-DE proposes reducing the monthly touch-tone rate by \$.13 which, according to VZ-DE, will result in a net lower charge to the subscriber.^[6]

8. VZ-DE published notice of its filing, indicating that the filing contained one part related to the rate it would charge the new E-911 system for its services and a second part setting forth the rate and competitive price reductions it would institute in order to comply with the command of the new section 10004(c). No person requested a hearing, nor filed any objection, concerning either aspect of VZ-DE's filing. In addition, the Public Advocate did not file a notice to intervene. After review, the Staff has recommended that the Commission approve the filing in its entirety.

9. The Commission considered the filing, and the proposed reductions in specific rates and prices, at its meeting on December 11, 2001. The Commission now approves the proposed tariff and price guide revisions, finding them to be consistent with the new E-911 regime instituted by 73 Del. Laws ch. 115 (July 9, 2001).

II. FINDINGS AND DISCUSSION

10. Initially, the Commission allows the proposed revisions to various sheets within the Alerting and Reporting Systems section of VZ-DE's Del. No. 1 tariff to go into effect on January 1, 2002. No person has filed any objections to those revisions. In particular, no person, including no entity responsible for the new comprehensive E-911 system, has voiced any objection to the new rate VZ-DE proposes to charge for its E-911 related services. At the same time, the Commission realizes that

the provisions of the new 16 Del. C. § 10005(f)(1) vest overall responsibility for developing the new comprehensive State E-911 plan with the Emergency Reporting System Service Board. At this time, no such plan has been developed nor adopted by that Board. Given that, this Commission explicitly reserves the right to revisit at some later time the revised E-911 tariff provisions now allowed to go into effect in order to ensure that such tariff provisions are, at all times, consistent with any plan subsequently adopted by that Board.

11. Second, based on Staff's analysis, the Commission accepts the proposed rate and price reductions proposed by VZ-DE in its filing as reasonable applications of the directive in the new section 10004(c) of Title 16 that VZ-DE remove all "embedded" E-911 costs previously included in its rates. The passage of time (coupled with VZ-DE's move to regulation under a price cap regime) has somewhat obscured which particular rates might have been initially assigned (and have carried forward) the burden of providing the needed revenues to VZ-DE to meet its "embedded" E-911 capability costs. Given this fog, the Commission believes that VZ-DE's choice of services for rate and price reductions under section 10004(c) - being spread across both business and residential subscribers - reflects a reasonable way to ensure that all subscribers benefit from the removal of the amounts previously embedded in VZ-DE's rates. Moreover, as noted above, VZ-DE's scheme represents a reasonable effort to mitigate the impact of the new explicit E-911 surcharge by having the particular rate or price decrease, in most instances, offset the amount of the new E-911 surcharge to be paid by the subscriber. Pursuant to the statutory directive, the rate and price reductions now approved will become effective on January 1, 2002. [7]

12. Finally, as indicated above, in its Annual Price Index adjustment filings made in the years 1999 and 2000, VZ-DE took exogenous cost "offsets" to otherwise mandated rate decreases to reflect additional costs incurred by VZ-DE in providing E-911 capability which exceeded the revenues available from the original "embedded" E-911 revenue stream. Then, in its filing in the year 2001, VZ-DE took a partial, reverse, "offset" adjustment to these earlier two offsets to reflect a smaller differential between VZ-DE's E-911 costs and the total E-911 revenue stream. Now, in this filing, VZ-DE suggests it will remove the remaining vestiges of these earlier 1999 and 2000

"exogenous E-911 cost" offsets in its upcoming Annual Price Index adjustment due to be filed in March, 2002. The Commission accepts this proposal by VZ-DE as a reasonable way to fully implement the directive in the new section 10004(c). One could argue that the remaining portions of those earlier offset amounts also reflect "embedded" E-911 costs and, hence, should be removed by January 1, 2002. However, the Commission sees no harm from deferring any such change based on the offset amounts until the year 2002 price index filing. First, the time difference for implementing any resulting, presumably slight, rate change would be a mere six months. Second, there does exist a certain symmetry in utilizing a price cap filing to remove amounts "embedded" by earlier price cap filings.

Now, therefore, **IT IS ORDERED:**

1. That, in light of the provisions of 16 Del. C. §§ 10004-10005 and 10101-10104 (as enacted by 73 Del. Laws ch. 115 (2001)), the revisions to Section 2 of Verizon Delaware Inc.'s P.S.C.-Del.-No. 1 tariff, as proposed by Verizon Delaware Inc., in its filing made on November 2, 2001, are hereby allowed to go into effect on January 1, 2002. The Commission reserves the right to review such tariff revisions at a later time to ensure that they comply with the comprehensive State E-911 plan adopted by the 911 Emergency Reporting System Service Board.

2. That, in light of the directive in 16 Del. C. § 10004(c) (as inserted by 73 Del. Laws ch. 115 § 4 (2001)), the proposed rate and price adjustments included within the other various revised tariff and price guide pages submitted by Verizon Delaware Inc., in its filing on November 2, 2001, are hereby approved. Such rate and competitive price reductions represent a reasonable allocation of the amount of E-911 costs currently embedded in Verizon Delaware Inc.'s rates. Those proposed revised tariff and price guide pages are hereby approved. Such rate and price decreases shall go into effect on January 1, 2002.

3. That, in its Annual Price Index Adjustment filing to be made in the year 2002, Verizon Delaware Inc., shall make the appropriate calculations and adjustments to ensure that the price adjustments made under such filing reflect the removal of any additional costs for providing E-911 capability and customer equipment which Verizon

Delaware Inc., may have been permitted to recover under any of this Commission's prior orders related to Verizon Delaware Inc.'s annual price cap adjustments.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Jaymes B. Lester
Commissioner

/s/ Joann T.

Conaway
Commissioner

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Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

[1] The command was understood to apply only to wireline telephone companies. At the time, the wireless ("CMRS") industry was just emerging. Moreover, then, as now, the Commission lacked regulatory jurisdiction over wireless telecommunications providers.

[2] Diamond State Telephone Company would later become Bell Atlantic-Delaware, Inc. ("BA-Del"), which in turn would later change its name to Verizon Delaware Inc. ("VZ-DE").

[3] Since 1995, VZ-DE (as well as other local exchange carriers) have been obligated to collect a separate monthly \$.50 surcharge from each residential telephone service subscriber. See 16 Del. C. § 10103 (1995). That surcharge - which is separately identified on the residential subscriber's bill - flows through to a county Emergency Reporting System Fund. The county then uses such monies to pay for the administration and staffing of PSAP centers and for street addressing. None of the surcharge amounts go to VZ-DE to meet its costs of providing E-911 capability.

[4] In creating this new State fund surcharge, the 2001 enactment repealed the \$.50 per month surcharge which was collected and paid to an individual county's Emergency System Reporting Fund. See n. 3 above.

[5] VZ-DE's current tariff describes the rates for VZ-

DE's E-911 capability services as "proprietary," reflecting the fact that VZ-DE (and its subscribers) have historically borne almost all the costs of providing E-911 capability.

[6] In dollar terms, the rate decrease for residential subscribers is less than those proposed for business subscribers in light of the fact that now residential - but not business - subscribers pay the \$.50 surcharge for county Reporting System funds. Thus, the \$.13 touch-tone decrease will provide a real \$.03 net decrease in monthly billings for touch-tone subscribers based on removing the old \$.50 surcharge and imposing the new \$.60 surcharge.

[7] Of course, VZ-DE does not need Commission approval to reduce the prices for its competitive services. Thus, in the context of competitive services, the approval granted here by this Order relates solely to VZ-DE's compliance with the new section 10004(c).