

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6255

Investigation into the Establishment of)
Wholesale Service Quality Standards for)
Providers of Telecommunications Services in re:)
Phase I (standards))

Order entered: 12/12/2001

ORDER APPROVING CARRIER TO CARRIER STANDARDS

I. INTRODUCTION

Over the past seven years, the Public Service Board ("Board") has taken many significant steps toward opening the Vermont telecommunications marketplace to competition. These actions include the development of requirements for competitive entry, specification of the degree to which Verizon New England Inc., d/b/a Verizon Vermont ("Verizon"), must make elements of its network available to competitors, and the establishment of prices for the purchase of unbundled network elements and wholesale discounts for resold services. In addition, to ensure that consumers continue to receive high quality telecommunications services in a competitive environment, the Board has established service quality and consumer protection standards applicable to all retail providers.

In this docket, the Board is considering another aspect of the relationship between Verizon and its competitors — the quality of service that Verizon, as the incumbent local exchange provider, must offer to its wholesale customers. The Board's investigation is focusing on two elements of wholesale service quality: the standards of performance that Verizon will provide and the mechanism for ensuring that Verizon attains those standards.

This Proposal for Decision addresses the first of these two elements. A number of the parties to this proceeding have entered into an agreement as to the appropriate standards that will govern the carrier-to-carrier relationship. This agreement, which the parties presented in the form of a Stipulation, essentially calls for the Board to adopt the same carrier-to-carrier standards under which Verizon now operates in New York and Massachusetts. I conclude that these

wholesale service quality standards proposed by the parties are reasonable and recommend that the Board adopt them.

Adoption of these standards does not resolve this docket. In the second phase of the docket, the Board will consider the establishment of appropriate performance assurance measures. I anticipate issuing an order establishing a schedule for that second phase shortly.

II. PROCEDURAL HISTORY

The Board opened this proceeding on July 28, 1999, observing that "the absence of adequate wholesale standards could harm competitors."¹ The investigation proceeded initially through a series of workshops to educate parties. At that time, the parties requested that I provide them time to resolve the issues in this investigation through negotiation.

On June 1, 2001, the Vermont Department of Public Service (the "Department"), Verizon, and AT&T Communications of New England, Inc. ("AT&T") filed a Stipulation Regarding Wholesale Service Quality Standards and Measures Applicable to Verizon Vermont (the "Stipulation"). I convened a Status Conference on June 20, 2001, at which time the parties recommended that I accept the Stipulation without the need for hearings.

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I present the following findings of fact and conclusions of law to the Board.

III. FINDINGS

1. On May 28, 1999, in Docket 6167, the Department and Verizon filed a Stipulation in which they agreed to recommend that the Board adopt in this proceeding, as the exclusive list of wholesale service quality standards and measures applicable to Verizon, the standards and measures applicable to Verizon New York adopted by the New York State Public Service Commission ("NY PSC") in its February 16, 1999, Order in Case 97-C-0139, as well as such

1. Order of 7/28/99 at 1. See also, *Investigation into New England Telephone and Telegraph Company's tariff filing re: Open Network Architecture*, Docket 5713, Order of 2/4/99 at 38-39; *Investigation into an Alternative Regulation Plan for New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont*, Docket 6167, Order of 3/24/00.

further wholesale service quality standards and measures that the NY PSC may adopt in the future for Verizon New York. Stipulation at 1; Docket 6167, Order of 3/24/00 at 147-148.

2. On June 1, 2001, Verizon, the Department and AT&T filed a Stipulation in the current proceeding in which those parties recommended that the Board adopt, as the exclusive list of wholesale service quality standards and measures applicable to Verizon, the standards and measures set out in Attachment A to the Stipulation. That Attachment contains the standards and measures adopted by the NY PSC in New York as of the date of the Stipulation, with one exception. In Appendix K of Attachment A, the parties have negotiated a different definition of performance metric PO-6. *See* Stipulation, generally.

3. Adoption of the wholesale service quality standards set out in the Stipulation does not preclude the Board's future consideration of standards for special services or other non-local exchange services. Stipulation at 2.

4. Pursuant to the Stipulation, if the NY PSC adopts changes, deletions, or additions to the wholesale service quality standards and measures applicable to Verizon New York in the future, Verizon will file an amendment to the standards set out in Attachment A of the Stipulation within 30 days after Verizon New York files its relevant compliance filing with the NY PSC. Stipulation at 2.

5. The Stipulation provides that on or before the 28th day of the following month, Verizon will file a monthly report with the Board and the Department, in a form specified in Attachment B to the Stipulation, which shows aggregate wholesale performance. At the same time, Verizon will also provide a copy of the aggregate report to each of the Parties. Verizon has also agreed to make available to the Board and Department the raw data that supports these reports. Stipulation at 3.

6. The Stipulation provides that for any competitive local exchange company ("CLEC") that requests in advance, Verizon also will make available a CLEC-specific monthly wholesale performance report, relating to only that CLEC's wholesale activities with Verizon and if requested, the supporting raw data. Unless the Board and Department state otherwise, Verizon will simultaneously provide the Board and Department with copies of the CLEC-specific monthly

wholesale performance reports for those CLECs that have requested such reports. Stipulation at 4-5.

7. The Stipulation provides that Verizon will undertake reasonable measures to inform a CLEC, at the time the CLEC becomes a wholesale customer of Verizon, that the CLEC may request such CLEC-specific reports and raw data. Stipulation at 4.

8. The Stipulation provides that Verizon will submit all raw data to the Board and Department under seal. Stipulation at 5.

9. The Stipulation provides that Verizon will not provide raw data relating to Verizon's retail customers or retail operations. Stipulation at 4.

10. The Stipulation provides that Verizon will begin filing reports in the calendar month of a Board order adopting the standards and measures set forth in Attachment A as the exclusive list of wholesale service quality standards and measures applicable to Verizon Vermont. Stipulation at 3.

11. The Stipulation provides that at such time as Verizon makes a secure web site operational, Verizon Vermont may, at its option, discontinue providing any or all of the reports described above in written form. Stipulation at 6.

12. The Stipulation provides that the standards and measures contained in Attachment A will become applicable to Verizon upon entry of a Board order adopting the standards and measures set forth in Attachment A as the exclusive list of wholesale service quality standards and measures applicable to Verizon, and will remain in effect until further order of the Board. Stipulation at 6.

IV. DISCUSSION

The Department, AT&T, and Verizon recommend that the Board establish carrier-to-carrier service quality standards that largely mirror those now in existence in New York. Moreover, under the procedures proposed in the Stipulation, as New York modifies its wholesale service quality criteria, Verizon would file the modified standards promptly in Vermont, which standards would supercede (or augment) previous standards. The parties to the Stipulation attest that this approach is reasonable, in the public interest, and in accordance with state and federal law and regulatory policy.

I find the Stipulation to be reasonable and recommend that the Board adopt it. The wholesale service quality standards embodied therein measure a wide range of services provided through Verizon's wholesale operations, including preordering, ordering, provisioning, maintenance and repair, network performance, billing, and operator services. Within each of these categories, the standards embody numerous specific performance metrics with which Verizon must comply. These standards should provide a sound framework for measuring the quality of the services that Verizon offers its competitors.

The specific approach adopted in the Stipulation – reliance upon the effort in New York – is also reasonable and offers significant benefits. First, Vermont can rely upon the work being performed in New York (and other states with the same standards, such as Massachusetts and Connecticut). In addition, there is significantly more competition in New York than in Vermont, so that the standards developed there are based upon a broader assessment of competitors' needs. And, New York has developed an on-going collaborative process involving many stakeholders. Vermont can take advantage of future efforts of this process to set standards.

Second, reliance on the New York standards will provide consistency in the wholesale service quality standards applicable to Verizon's operations in a number of states, including New York, Massachusetts,² and Vermont. This will aid both Verizon and its competitors by avoiding the need for each to develop different systems for each state.

The Stipulation also requires Verizon to provide regular reports to the Department and Board and to requesting CLECs. This reporting information will allow competitors, the Department, and the Board to continually assess Verizon's performance. If Verizon's wholesale performance declines, it will then be possible to identify the problems rapidly and seek correction. Overall, the reporting components of the Stipulation are reasonable and the Board should accept them.

In conjunction with Verizon's on-going monitoring and reporting, the stipulating parties have requested that the Board treat certain data as confidential. This includes CLEC-specific performance data, whose disclosure could create competitive harm to the CLEC, and the raw data

2. See Letter Order dated January 14, 2000, Mass. DTE Dkt. No. 99-271, at 2.

from which Verizon generates its wholesale reports.³ I conclude that the stipulating parties' request is reasonable. The Order should specify that this information will be kept confidential.

The standards developed in the Stipulation and recommended for adoption apply only to services offered by Verizon to its competitors. They do not apply to services offered by other Vermont independent local exchange companies ("ILECs") because no competitors are now purchasing wholesale services from those companies. Under Section 251(f) of the federal Telecommunications Act of 1996 (the "Act"), rural telecommunications companies such as the ILECs are exempt from the Act's requirements that incumbents unbundle their networks and provide interconnection. No company has yet requested that the Board consider elimination of the rural exemption. In addition, the standards were developed with specific reference to Verizon's systems and have limited, if any, relevance to the manner in which the ILECs provide services. It will be necessary to reevaluate the need for wholesale standards at such time as competitors do enter the ILECs' service territories. But for now, it would be premature.

This proposal for decision does not complete the issues raised in this docket. In addition to the establishment of the carrier-to-carrier standards, the Board must develop mechanisms to ensure that Verizon meets the standards and provides services to its competitors equivalent to those Verizon provides its own retail operations. In its proposed petition to the Federal Communications Commission under Section 271 of the Act for authority to offer interstate long distance service originating in Vermont, Verizon has proposed a performance assurance plan. The Department and AT&T have suggested that Verizon's plan is inadequate. Although certain issues related to Verizon's plan will be resolved in the context of the Section 271 petition, the Department and other parties have demonstrated that continued evaluation of performance assurance measures and the possible adoption of a different plan in this docket is reasonable. In a separate order, I will establish a schedule for further proceedings to consider an appropriate plan.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 6th day of December, 2001.

3. The raw data files will also enable competitors to obtain information specific to their competitors and could lead to competitive harm.

s/George E. Young
George E. Young
Hearing Officer

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Hearing Officer's findings and recommendations are adopted.
2. The Stipulation between the Vermont Department of Public Service, Verizon New England Inc., d/b/a Verizon Vermont, and AT&T Communications of New England, Inc. filed June 1, 2001, is approved.
3. The raw data (also known as flat files) from which the provisioning and maintenance portions of the aggregate wholesale service quality report are generated, and the CLEC-specific monthly wholesale performance reports filed with the Board and Department shall be treated as confidential information and maintained under seal.

Dated at Montpelier, Vermont, this 12th day of December, 2001.

<u>s/Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: December 12, 2001

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or mail) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.