

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 21st day of December, 2001.

CASE NO. 01-0904-T-GI

Institution of General Investigation
into the Certification of Competitive
Telecommunications Services pursuant
to West Virginia Code §11-13B-2(b)(5).

COMMISSION ORDER

Effective July 1, 1987, an annual privilege tax was imposed on telecommunications business engaged in or carried on within the State of West Virginia. The amount of taxes due is determined by applying the tax rate against gross income. West Virginia Code §11- 13B-3.

As defined in the West Virginia Code §11-13B-2(b)(5), after July 1, 1988, gross income from the provision of commodities or services subject to competition is excluded from taxation. Further, this same provision requires the Public Service Commission of West Virginia to submit on or before the thirty-first day of December of each calendar year to the tax Commissioner a listing of those commodities or services which it had determined to be subject to competition.

On January 26, 2000, the Commission entered a final order in Case No. 00-1016- T-GI, which certified certain telecommunications services as competitive telecommunications services for the 2000 tax year pursuant to West Virginia Code §11- 13B-2(b).

By Order issued July 6, 2001, the Commission instituted a general investigation into the competitive nature of telecommunications services for the 2001 tax year and served notice on the following: (1) local exchange carriers and interexchange carriers subject to the telecommunications tax pursuant to §11-13B-2(b)(5) of the West Virginia Code; (2) the Consumer Advocate Division; and (3) the Department of Tax and Revenue.

The Commission established an initial comment period which expired on August 30, 2001, and a reply comment period which expired on September 13, 2001. The Commission requested that interested parties provide the following:

1. A list of commodities or services provided by telephone utilities which should be determined by the Public Service Commission to be subject to competition.
2. A statement explaining why the filing party believes each listed service or commodity is subject to competition.

3. A statement indicating whether such commodities or services were certified by the Commission for the year 2000.

Comments were filed by Cellco Partnership, dba Verizon Wireless; Sprint Spectrum L.P., dba Sprint PCS; Verizon West Virginia Inc. (Verizon-WV); AT&T Wireless Services, Inc.; U.S. Cellular Communications; Nextel Partners, Inc.; and AT&T Communications of West Virginia, Inc.

On December 18, 2001, Commission Staff filed a Further Joint Staff Memorandum noting that all parties suggested that the same services certified as competitive in last year's order, Case No. 00-1016-T-GI, be again certified as competitive for the 2001 tax year. Verizon-WV additionally requested that a number of additional services be considered subject to competition, including:

(1) Basic business local exchange telephone service, including associated vertical services (Local Business Service).

(2) Big Deal - a discounted billing package of features, such as Call Forwarding-Busy Line Don't Answer, Call Waiting, and other vertical features.

(3) Bonus Discount Plan - a promotional toll or local discount plan available to business customers who pre-subscribe all eligible lines on their account to Verizon as their intra LATA toll provider and use measured rate service to carry all local calls over the pre-subscribed lines.

(4) Business Link Rewards - a promotional plan available to Verizon-WV's business customers in which customers receive points based on qualifying toll usage on the Verizon portion of their monthly bill, that are redeemable for various company-sponsored promotional offerings.

(5) Call Gate - an optional, outgoing call management service providing residential and business customers the ability to block or allow calls initiated from their line.

(6) Conference Service (Local) - a connection among three or more exchanges service lines, including PBX trunks and Centrex lines or any combination thereof, all within the same exchange area.

(7) Direct Inward Dialing (DID) - provides inward dialing from the telecommunications network directly to lines associated with switching equipment located on the customers' premises.

(8) Easy Voice Dialing (Speech Recognition) - enables customers to activate, via voice commands up to fifty names/destinations in a personal directory.

(9) Home Intercom - provides intercommunication capability on individual lines.

(10) Intercom Extra - provides intercommunication capability on individual lines that utilizes distinctive ringing to distinguish intercom calls from incoming exchange calls.

(11) ISDN BRI - optional service arrangement for use with individual line business service, that uses the Basic Rate Interface (i.e. BRI) arrangement of the ISDN. The service consists of 2 "B" channels and 1 "D" channel that allow customers to use voice and data at the same time over one line.

(12) List Service - provides customers who furnish names and addresses with the associated telephone numbers.

(13) Residential ISDN - allows a residential customer the capability of simultaneous access, transmission and switching of voice and data via a channel transport.

(14) Rewarding Connection - promotional discount plan available to business customers who pre-subscribe all eligible lines on their account to Verizon- WV as their intraLATA toll provider. Customers receive variable discounts based on qualifying services billed on the Verizon-WV portion of their monthly bill.

(15) Special Billing Number Service - provided to schools, colleges and universities which in turn, use such numbers to bill charges to students, faculty and employees who reside in dormitories or other living quarters owned, leased or under the control of the institution.

(16) Switched Multi-Megabit Data Service (SMDS) - a connectionless, packet- switched data service, that allows the interconnection of Local Area Network and computers across a side metropolitan

area.

- (17) Switched Redirect Service - when activated by the customers redirects all or part of the customer's incoming, switched voice and data calls to another location of the customer's choice.
- (18) Uniform Call Distribution Services - provide for the uniform distribution of incoming calls, in order of their arrival, to specific telephone lines.
- (19) Usage Charges Associated with PTNL Lines.
- (20) Virtual Private Network (VPN) Service - a private, data network that makes

use of the shared public infrastructure, rather than a private one, maintaining privacy through the use of a tunneling protocol and security procedures. Companies use VPN for both extra nets and wide-area intranets.

(21) Wired Music - a Series 6000 Channel for one-way music program transmission for loudspeakers and sound recording.

(22) WorkSmart - a package of three or more of the following services in a discounted bundle: Three-Way Calling, Call Waiting, Caller ID with name, Call Waiting ID with name, Call Forwarding and Ultra Forward.

Staff reiterated, for each of the foregoing services, the reasons stated by Verizon- WV that each of the foregoing should be regarded as subject to competition.

Staff recommended that the Commission again certify all of the forty (40) services that it certified as competitive last year. Staff additionally agreed with Verizon-WV, based on Staff's general knowledge and experience with the telecommunications market in West Virginia, that the following services should be added to the list of services that are subject to competition :

- (41) Big Deal
- (42) Bonus Discount Plan
- (43) Business Link Rewards
- (44) Call Gate
- (45) Conference Service (Local)
- (46) Direct Inward Dialing (DID)
- (47) Easy Voice Dialing (Speech Recognition)
- (48) Home Intercom
- (49) Intercom Extra
- (50) ISDN BRI
- (51) Residential ISDN
- (52) Rewarding Connections
- (53) Special Billing Number Service
- (54) Switched Multi-megabit Data Service (SMDS)
- (55) Switched Redirect Service
- (56) Uniform Call Distribution Services
- (57) Usage Charges associated with PTNL Lines
- (58) Virtual Private Network Service (VPN)
- (59) Wired Music
- (60) WorkSmart

Staff recommended that the Commission determine that the following services are not subject to competition for the year 2001:

Local Business Service; and List Service.

Staff advanced extensive argument in support of its position. However, the Commission need not address the merits of Staff's and Verizon's positions because on December 20, 2001, Verizon-WV filed a letter, disagreeing with Staff's assessment of Local Business Service and List Service, but stating that it wishes to negotiate these items with Staff and would like for the Commission to have more time to properly consider these items. In light of the fact that little time remains before the Commission's statutory obligation to issue its decision in this proceeding, Verizon-WV decided to withdraw its requests that the Commission certify Local Business Service and List Service as being subject to competition.

On the same date, December 20, 2001, Staff filed a Further Final Joint Staff Memorandum in response to Verizon-WV's letter. Staff stated that it did not object to Verizon-WV's withdrawal of Local Business Service and List Service from consideration for 2001, nor did Staff object to meeting with Verizon-WV on these issues in the future.

DISCUSSION

Upon review of the foregoing, the Commission finds that the following list of 40 services:

- (1) single or multi-line speed calling;
- (2) multi-line conference calling;
- (3) multi-line call waiting;
- (4) multi-line call forwarding;
- (5) time and temperature;
- (6) directory advertising;
- (7) inside wiring services;
- (8) customer premises equipment;
- (9) alarm couplers;
- (10) apartment door answering service;
- (11) paging services;
- (12) telephone booths;
- (13) 911 equipment;
- (14) jacks and network interface devices other than demarcation point devices;
- (15) mobile and portable telephone service, including all services provided by cellular and personal communications service (PCS) carriers (also known

as commercial mobile radio service (CMRS) carriers) as such carriers are defined by the Federal Communications Commission (FCC);

- (16) power station protection equipment;
- (17) billing and collecting;
- (18) select-a-station service;
- (19) telemetry alarm bridge service;
- (20) interLATA toll services;
- (21) intraLATA toll services including message toll, operator assistance, private line, LD conference, toll-free INWATS, special reverse charge, OUTWATS and channel conditioning;
- (22) residence service variety package;
- (23) interstate, intraLATA toll services;
- (24) CENTREX services (excluding access)
- (25) coin telephone services (excluding access-related revenues);
- (26) repeat call;
- (27) multi-line three-way calling;
- (28) frame relay service;

- (29) prepaid calling service;
- (30) "Call54" Service ("reverse directory assistance");
- (31) Connect Request Service;
- (32) IntelliLinQ PRI;
- (33) directory assistance (intrastate only);
- (34) national directory assistance ("NDA" or National "411");
- (35) PBX Trunks (including associated local usage and features);
 - (36) digital data services and high capacity services (DS1, DS2, DS3 and T-1);
- (37) CENTREX service (including access);
- (38) Private Line Local Service;
- (39) Asynchronous Transfer Mode (ATM) Service; and
- (40) Internet Protocol Routing Service (IPRS).

previously certified as being subject to competition in the Commission's January 26, 2001, order in Case No. 00-1016-T-GI, should again be certified as being "subject to competition."

All of the services were listed by one or more of the commenters as being subject to competition and have previously been certified by this Commission as being subject to competition. The Commission has determined that the conditions in the telecommunications industry have not changed sufficiently to merit a redesignation of said services. Therefore, the Commission shall submit the above-referenced services to the State Tax Commissioner as being subject to competition for purposes of W. Va. Code § 11-13B-2 (b)(5).

In addition, the Commission finds that the following services provided by Verizon- WV should be added to the above list of telecommunications services certified as being subject to competition:

- (41) Big Deal
- (42) Bonus Discount Plan
- (43) Business Link Rewards
- (44) Call Gate
- (45) Conference Service (Local)
- (46) Direct Inward Dialing (DID)
- (47) Easy Voice Dialing (Speech Recognition)
- (48) Home Intercom
- (49) Intercom Extra
- (50) ISDN BRI
- (51) Residential ISDN
- (52) Rewarding Connections
- (53) Special Billing Number Service
- (54) Switched Multi-megabit Data Service (SMDS)
- (55) Switched Redirect Service
- (56) Uniform Call Distribution Services
- (57) Usage Charges associated with PTNL Lines
- (58) Virtual Private Network Service (VPN)
- (59) Wired Music
- (60) WorkSmart

The Commission will accept Verizon-WV's withdrawal of Business Service and List Service from consideration in this proceeding.

FINDINGS OF FACT

1. In Case No. 00-1016-T-GI, the following services were certified as being subject to competition:

- (1) single or multi-line speed calling;
 - (2) multi-line conference calling;
 - (3) multi-line call waiting;
 - (4) multi-line call forwarding;
 - (5) time and temperature;
 - (6) directory advertising;
 - (7) inside wiring services;
 - (8) customer premises equipment;
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- (9) alarm couplers;
 - (10) apartment door answering service;
 - (11) paging services;
 - (12) telephone booths;
 - (13) 911 equipment;
 - (14) jacks and network interface devices other than demarcation point devices;
 - (15) mobile and portable telephone service, including all services provided by cellular and personal communications service (PCS) carriers (also known as commercial mobile radio service (CMRS) carriers) as such carriers are defined by the Federal Communications Commission (FCC);
 - (16) power station protection equipment;
 - (17) billing and collecting;
 - (18) select-a-station service;
 - (19) telemetry alarm bridge service;
 - (20) interLATA toll services;
 - (21) intraLATA toll services including message toll, operator assistance, private line, LD conference, toll-free INWATS, special reverse charge, OUTWATS and channel conditioning;
 - (22) residence service variety package;
 - (23) interstate, intraLATA toll services;
 - (24) CENTREX services (excluding Access)
 - (25) coin telephone services (excluding access-related revenues);
 - (26) repeat call;
 - (27) multi-line three-way calling;
 - (28) frame relay service;
 - (29) prepaid calling service;
 - (30) "Call54" Service ("reverse directory assistance");
 - (31) connect request service;
 - (32) IntelliLinQ PRI;
 - (33) directory assistance (intrastate only);
 - (34) national directory assistance ("NDA" or National "411");
 - (35) PBX Trunks (including associated local usage and features);
 - (36) digital data services and high capacity services (DS1, DS2, DS3 and T-1);
 - (37) CENTREX service (including access);
 - (38) Private Line Local Service;
 - (39) Asynchronous Transfer Mode (ATM) Service; and
 - (40) Internet Protocol Routing Service (IPRS).

2. By Order entered July 5, 2001, the Commission instituted a general investigation into the certification of competitive telecommunications services pursuant to W. Va. Code § 11-13B-2(b).

3. A number of interested persons filed comments on or before September 13, 2001.

4. In its comments, Verizon-WV requested that twenty-two (22) additional services it provides should be considered "subject to competition" and therefore certified under W. Va. Code § 11-13B-2(b).

5. On December 19, 2001, Staff filed a Final Joint Staff Memorandum recommending that the Commission certify as competitive those services certified in Case No. 00-1016-T-GI. Staff recommends that twenty additional telecommunications services be certified as competitive, but that two of the requested services: Local Business Service and List Service, be denied competitive status.

6. Thereafter, Verizon-WV requested to withdraw Local Business Service and List Service from its certification request. Staff did not oppose the withdrawal.

7. The Commission adopts and incorporates all recitals of fact otherwise set forth herein.

CONCLUSIONS OF LAW

1. The following telecommunication services should be certified as competitive services and a list of said services submitted to the West Virginia Tax Commissioner pursuant to W. Va. Code § 11-13B-2(b) (5):

- (1) single or multi-line speed calling;
- (2) multi-line conference calling;
- (3) multi-line call waiting;
- (4) multi-line call forwarding;
- (5) time and temperature;
- (6) directory advertising;
- (7) inside wiring services;
- (8) customer premises equipment;
- (9) alarm couplers;
- (10) apartment door answering service;
- (11) paging services;
- (12) telephone booths;
- (13) 911 equipment;
- (14) jacks and network interface devices other than demarcation point devices;
- (15) mobile and portable telephone service, including all services provided by cellular and personal communications service (PCS) carriers (also known

as commercial mobile radio service (CMRS) carriers) as such carriers are defined by the Federal Communications Commission (FCC);

- (16) power station protection equipment;
- (17) billing and collecting;
- (18) select-a-station service;
- (19) telemetry alarm bridge service;
- (20) interLATA toll services;

- (21) intraLATA toll services including message toll, operator assistance, private line, LD conference, toll-free INWATS, special reverse charge, OUTWATS and channel conditioning;
- (22) residence service variety package;
- (23) interstate, intraLATA toll services;
- (24) CENTREX services (excluding Access)
- (25) coin telephone services (excluding access-related revenues);
- (26) repeat call;
- (27) multi-line three-way calling;
- (28) frame relay service;
- (29) prepaid calling service;
- (30) "Call54" service ("reverse directory assistance");
- (31) connect request service;
- (32) IntelliLinQ PRI;
- (33) directory assistance (intrastate only);
- (34) national directory assistance ("NDA" or National "411");
- (35) PBX Trunks (including associated local usage and features);
 - (36) digital data services and high capacity services (DS1, DS2, DS3 and T-1);
- (37) CENTREX service (including access);
- (39) Private Line Local Service;
- (39) Asynchronous Transfer Mode (ATM) Service; and
- (40) Internet Protocol Routing Service (IPRS).

2. Conditions in the telecommunications industry have not changed sufficiently to merit a redesignation of the services set forth in Conclusion of Law No. 1.

3. The following services provided by Verizon-WV should be added to the above list of telecommunications services certified as being subject to competition:

- (41) Big Deal
 - (42) Bonus Discount Plan
 - (43) Business Link Rewards
 - (44) Call Gate
 - (45) Conference Service (Local)
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- (46) Direct Inward Dialing (DID)
 - (47) Easy Voice Dialing (Speech Recognition)
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 - (49) Intercom Extra
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 - (52) Rewarding Connections
 - (53) Special Billing Number Service
 - (54) Switched Multi-megabit Data Service (SMDS)
 - (55) Switched Redirect Service
 - (56) Uniform Call Distribution Services
 - (57) Usage Charges associated with PTNL Lines
 - (58) Virtual Private Network Service (VPN)
 - (59) Wired Music
 - (60) WorkSmart

4. Verizon-WV's request to withdraw Local Business Service and List Service from consideration in

this proceeding should be granted.

5. The Commission adopts and incorporates all legal conclusions otherwise set forth herein.

ORDER

IT IS, THEREFORE, ORDERED that the following telecommunication services be certified as competitive telecommunication services and that a list of such services be submitted to the West Virginia Tax Commissioner pursuant to W. Va. Code § 11-13B- 2(b)(5):

- (1) single or multi-line speed calling;
- (2) multi-line conference calling;
- (3) multi-line call waiting;
- (4) multi-line call forwarding;
- (5) time and temperature;
- (6) directory advertising;
- (7) inside wiring services;
- (8) customer premises equipment;
- (9) alarm couplers;
- (10) apartment door answering service;
- (11) paging services;
- (12) telephone booths;

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- (13) 911 equipment;
 - (14) jacks and network interface devices other than demarcation point devices;
 - (15) mobile and portable telephone service, including all services provided by cellular and personal communications service (PCS) carriers (also known as commercial mobile radio service (CMRS) carriers) as such carriers are defined by the Federal Communications Commission (FCC);
 - (16) power station protection equipment;
 - (17) billing and collecting;
 - (18) select-a-station service;
 - (19) telemetry alarm bridge service;
 - (20) interLATA toll services;
 - (21) intraLATA toll services including message toll, operator assistance, private line, LD conference, toll-free INWATS, special reverse charge, OUTWATS and channel conditioning;
 - (22) residence service variety package;
 - (23) interstate, intraLATA toll services;
 - (24) CENTREX services (excluding Access)
 - (25) coin telephone services (excluding access-related revenues);
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 - (27) multi-line three-way calling;
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 - (30) "Call54" service ("reverse directory assistance");
 - (31) connect request service;
 - (32) IntelliLinQ PRI;
 - (33) directory assistance (intrastate only);
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 - (35) PBX Trunks (including associated local usage and features);
 - (36) digital data services and high capacity services (DS1, DS2, DS3 and T-1);
 - (37) CENTREX service (including access);

- (38) Private Line Local Service;
 - (39) Asynchronous Transfer Mode (ATM) Service; and
 - (40) Internet Protocol Routing Service (IPRS).
 - (41) Big Deal
 - (42) Bonus Discount Plan
 - (43) Business Link Rewards
 - (44) Call Gate
 - (45) Conference Service (Local)
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- (49) Intercom Extra
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- (55) Switched Redirect Service
- (56) Uniform Call Distribution Services
- (57) Usage Charges associated with PTNL Lines
- (58) Virtual Private Network Service (VPN)
- (59) Wired Music
- (60) WorkSmart

IT IS FURTHER ORDERED that, upon entry hereof, this proceeding shall be removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order on all parties of record by First Class United States Mail, and upon Commission Staff by hand delivery.

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