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**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 17th day of August, 2004.

CASE NO. 02-1005-T-PC

VERIZON WEST VIRGINIA INC.

Petition for consent and approval for streamlined authorization for certain affiliate transaction agreements with Bell Atlantic Communications, Inc., doing business as Verizon Long Distance; Verizon Global Networks, Inc.; NYNEX Long Distance Company, doing business as Verizon Enterprise Solutions; and Verizon Select Services, Inc.; and other certain Verizon affiliates.

COMMISSION ORDER

On March 30, 2004, Verizon West Virginia, Inc., (Verizon or Petitioner) filed a Petition to reopen this proceeding for the purpose of modification of the exemption previously granted to the Petitioner from the requirements of West Virginia Code § 24-2-12. The Petitioner requested the Commission expand the exemption to include separate stand-alone technical agreements as negotiated at arms length, publicly available, and posted on the World Wide Web. The Petitioner stated that copies of such stand-alone agreements will be provided to both the Commission's Staff and the Consumer Advocate Division. Further, the Petitioner noted that the Commission can hold that no entity will be prohibited from raising issues on any future agreements in any later Commission proceeding. The Petitioner requested that the Commission modify the exemption, subject to the conditions discussed *supra*. Specifically, Verizon stated:

5. Since the Commission's Order of April 2, 2003 in this proceeding, it has become apparent that Verizon WV may need to enter into separate technical or routine agreements from time to time. For example, the technical services agreements previously approved by the Commission, although broad and amendable, initially dealt only with relatively narrow sets of technical tests. As additional work becomes necessary, the new agreement to do so may be set up as a stand-alone agreement, even though it logically could have been set up as amendment to an existing agreement. In addition, Verizon WV may enter other routine agreements with its Section 272 separate affiliates in the ordinary course of business. [Footnote omitted.]

6. This is so because these amendments/agreements are drawn up between the Verizon companies on a national basis, and typically cover all of the Verizon incumbent local exchange carriers. The amendments/agreements therefore will be drafted in whatever manner (whether as an amendment or as a stand-alone agreement) that seems to make sense in handling the matter across the country.

Staff filed its "Final Joint Staff Memorandum" on July 9, 2004. Staff noted that no other parties had moved to intervene in this case. Staff stated that granting this request will prevent a number of unnecessary formal filings. Specifically, Staff recommended:

[T]hat the Commission modify the exemption previously granted in the original proceeding to include also routine agreements entered into in the ordinary course of business pursuant to Section 272(b)(5) of the Telecommunications Act of 1996, subject to the following conditions:

a. Such agreements must comply with any and all requirements of Section 272(b)(5) of the Telecommunications Act of 1996 [47 U.S.C. 272(b)(5)], including the applicable requirements that they be at arm's length, publicly available, and posted on the Internet;

b. Verizon WV must timely provide electronic copies, via email, of such agreements to the Commission's Staff and the Consumer Advocate Division; and

c. The Commission, the Commission's Staff and the Consumer Advocate Division shall not be prohibited from raising issues regarding any of the agreements in later Commission proceedings.

DISCUSSION

West Virginia Code § 24-2-12 reads, in part, as follows:

Unless the consent and approval of the public service commission of West Virginia is first obtained: . . . (f) no public utility subject to the provisions of this chapter, except railroads other than street railroads, may, by

any means, direct or indirect, enter into any contract or arrangement for management, construction, engineering, supply or financial services or for the furnishing of any other service, property or thing, with any affiliated corporation, person or interest; . . .

The commission may grant its consent in advance or exempt from the requirements of this section all assignments, transfers, leases, sales or other disposition of the whole or any part of the franchises, licenses, permits, plants, equipment, business or other property of any public utility, or any merger or consolidation thereof and every contract, purchase of stocks, arrangement, transfer or acquisition of control, or other transaction referred to in this section, upon proper showing that the terms and conditions thereof are reasonable and that neither party thereto is given an undue advantage over the other, and do not adversely affect the public in this state.

The Commission concurs with the analysis provided by Staff in its "Final Joint Staff Memorandum" of July 9, 2004, regarding Verizon's request for treatment of the separate stand-alone technical agreements. The Commission shall exempt from the requirements of West Virginia Code § 24-2-12 the need for Verizon to obtain Commission approval of such agreements. The Commission notes that pursuant to Section 272(b)(5) of the Telecommunications Act of 1996 such agreements must be at arms' length, publicly available, and posted on the World Wide Web. In addition, the Commission shall require Verizon to provide copies of any such agreements to Commission Staff and the Commission's Consumer Advocate Division. Furthermore, the Commission holds that no entity will be prohibited from raising issues in any of the agreements in later Commission proceedings.

FINDINGS OF FACT

1. On March 30, 2004, Verizon filed a Petition to reopen this proceeding for the purpose of modifying the prior exemption granted to the Petitioner from the requirements of West Virginia Code § 24-2-12.

2. Staff filed its "Final Joint Staff Memorandum" on July 9, 2004.

CONCLUSION OF LAW

The Commission has reviewed Verizon's request for modification and concludes it is reasonable to grant such request subject to the Staff recommendations.

ORDER

IT IS THEREFORE ORDERED that the exemption previously granted in the Commission's April 2, 2003, Order is hereby modified to also include routine, separate, stand-alone agreements entered into in the ordinary course of business pursuant to Section 272(b)(5) of the Telecommunications Act of 1996, subject to the following conditions:

- a. Such agreements must comply with any and all requirements of Section 272(b)(5) of the Telecommunications Act of 1996 [47 U.S.C. 272(b)(5)], including the applicable requirements that they be at arm's length, publicly available and posted on the Internet;
- b. Verizon WV must timely provide electronic copies, via email, of such agreements to the Commission's Staff and the Consumer Advocate Division; and
- c. The Commission, the Commission's Staff and the Consumer Advocate Division shall not be prohibited from raising issues regarding any of the agreements in later Commission proceedings.

IT IS FURTHER ORDERED that upon entry of this order, this case shall be removed from the Commission's docket of open cases.

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

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