

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 8th day of June, 2004.

CASE NO. 04-1098-TRC

VERIZON WEST VIRGINIA, INC.

Petition for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in West Virginia pursuant to Section 252 of the Communications Act of 1934, as Amended, and the Triennial Review Order.

COMMISSION ORDER

On March 10, 2004, Verizon West Virginia, Inc. (Verizon-WV) filed a Petition for Arbitration (Petition or Petition for Arbitration) seeking consolidated arbitration for the purpose of implementing, in a streamlined fashion, certain changes in the unbundled network element provisions of Verizon-WV's interconnection agreements with Competitive Local Exchange Carriers (CLECs) and Commercial Mobile Radio Service Providers (CMRSs) in West Virginia. Verizon-WV stated that the changes are necessary in light of the Federal Communications Commission's (FCC's) recent Triennial Review Order (TRO). Verizon-WV stated that it circulated the proposed changes to CLECs and CMRSs in October 2003 based on the provisions of the FCC's TRO. Since that time, the United States Court of Appeals for the District of Columbia Circuit issued an order vacating certain provisions of the TRO and upholding others. *United States Telecom Association v. FCC*, 359 F.3d 554 (D.C. Cir. 2004), issued March 2, 2004, (USTA II).

Verizon-WV asserts that the Court's ruling in USTA II did not change the timetable established by Section 252 of the Communications Act of 1934 (the Act) and the TRO. Verizon-WV stated that it made its filing on March 10, 2004, "at the close of the Section 252 arbitration window" to preserve both its and the other parties' right to obtain the relief granted in the TRO, to the extent such relief is not self-effectuating.

Verizon-WV opined that USTA II may not affect the language of Verizon-WV's amendment, but that minor revisions may be desirable in the wake of USTA II and Verizon-WV would propose any such revisions by March 19, 2004. Verizon-WV asserted that pursuant to Section 252(b) of the Act and the TRO, the Commission is required to rule on the Petition by July 2, 2004.

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Included with Verizon-WV's petition was a motion for *Pro Hac Vice* Admission of Aaron M. Pauer.

On March 16, 2004, Commission Staff filed an Initial Joint Staff Memorandum summarizing Verizon-WV's filing and stating that additional investigations would occur prior to Staff's filing of a final recommendation.

On March 19, 2004, Verizon-WV filed an Update to the Petition for Arbitration. The filing included minor revisions to the proposed amendment to the interconnection agreement to reflect LSTA II's vacating of some portions of the FCC's TRO and upholding others. Verizon-WV proposed that CLECs be allowed 25 days from the date of this filing, rather than from the March 10, 2004, filing, to respond.

By Order issued March 23, 2004, the Commission allowed responses to Verizon- WV's petition to be filed on or before April 13, 2004.

On April 2, 2004, the Commission's Consumer Advocate Division (CAD) filed a petition to intervene noting that Verizon-WV's petition constitutes a proceeding with potential for adverse effects on ratepayers in West Virginia.

On April 5, 2004, MCI Metro Access, Transmission Services LLC and Intermedia Communications Inc. (collectively MCI) filed a response to Verizon-WV's petition. MCI reserved its rights with respect to whether the arbitration process should be conducted on a consolidated basis. MCI agreed that there may be aspects of this case that are suitable for consolidated resolution. Secondly, MCI reserved the right to argue that the FCC did not intend the TRO to mandate that the timing of requirements of § 252(b) of the Act apply to the negotiation of amendments to contracts that contain a change-of-law provision. Therefore, MCI reserved the right to argue that the change-of-law provisions in its interconnection agreements, and not the timing requirements of § 252(b), are what govern the process of negotiating and arbitrating amendments to implement the TRO.

On April 7, 2004, FiberNet, LLC, petitioned the Commission to extend the response deadline to May 28, 2004. FiberNet noted that on March 31, 2004, FCC Chairman Powell asked that telecommunications carriers engage in a period of good faith negotiations to arrive at commercially acceptable arrangements for the continued availability of unbundled network elements. The FCC stated its intention to petition the DC Circuit Court for a 45-day extension of the current stay of the LSTA II decision and to request that the Solicitor General seek a comparable extension of the deadline for filing a petition for certiorari. FiberNet asked the Commission to issue an order allowing the responses to Verizon-WV's petition to be filed on or before May 28, 2004. Furthermore, FiberNet urged the Commission to prohibit Verizon-WV from either taking any unilateral action to cease providing currently available unbundled network elements or any other action inconsistent with the parties' current interconnection agreement. This prohibition should remain in effect until the negotiators result in an appropriate amendment of the interconnection agreement, or until the Commission issues a decision on the merits of Verizon-WV's arbitration request.

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On April 7, 2004, counsel for Level 3 Communications, LLC, ICG Telecom Group, Inc., DSLnet Communications, LLC, Adelphia Business Solutions Operations, Inc., NTELOS of West Virginia, Inc., filed a letter stating an intent to file a motion to dismiss Verizon-WV's petition.

On April 9, 2004, Verizon-WV filed a letter urging the Commission to deny FiberNet's request that the deadline for the filing of responses to Verizon-WV's petition be extended until May 28, 2004. Verizon-WV stated that the FCC's 45-day commercial negotiation period is not a new period of negotiation over an amendment to reflect the TRO rulings and does not affect arbitration of the TRO amendments. Verizon-WV would not oppose extension of the deadline for response until May 31, 2004, and extending the date for decision in this case to August 31, 2004.

On April 13, 2004, the Commission received filings from AT&T Communications of West Virginia, Inc. (AT&T), Cynnet West Virginia, LLC (Cynnet), the Competitive Carrier Coalition (Coalition), the Competitive Carrier Group, Level 3 Communications, Inc., the Consumer Advocate, Sprint Communications Company, L.P., American PCS Communications, LLC, and Wireless, L.P. and the Staff. The substance of these filings was as follows:

AT&T filed a Response to Verizon-WV's petition and a Motion to Dismiss. Verizon-WV's Update to petition filed on March 19, 2004. AT&T argued that the petition should move forward on some issues, but that two issues are non-arbitrable because USA II has not yet taken effect.

AT&T argues that non-arbitrable issues include: (1) Verizon-WV's continuing obligation to provide LNEs under the Bell Atlantic/GTE Merger Order conditions until the TRO is final and non-appealable; and (2) the issue of routine network modifications because the TRO only clarifies the existing legal obligations that Verizon-WV continues to ignore, but does not constitute a change of law permitting amendment of the interconnection agreement between AT&T and Verizon-WV. AT&T goes on to discuss its disagreement with numerous of Verizon-WV's proposed amendments. Furthermore, AT&T identifies an additional area, regarding seamless hand-off process, where amendment to the interconnection agreement is warranted.

Cynnet filed a Motion to Dismiss, Stay or Continue Arbitration, and, alternatively, its Answer to Verizon-WV's Petition and Update. Cynnet basis its motion on Verizon's failure to detail unresolved issues and describe the positions of the parties on those issues. Cynnet asserts that it did timely and reasonably respond to Verizon-WV's proposed amendments to the interconnection agreement. Cynnet considers itself to be negotiating with Verizon-WV. Cynnet goes on to identify its disagreement with certain of Verizon-WV's proposed amendments.

The Competitive Carrier Coalition filed a Motion for *Pro Hac Vice* Admission of Russell M. Glat and Jonathan S. Frankel to appear on its behalf. The Coalition also filed a Petition to Intervene, Motion to Dismiss and Response to Verizon-WV's Petition. The Coalition consists of Adelphia Business Solutions Operations, Inc., the TelCov, DSLnet Communications, LLC, ICG Telecom Group, Inc., and NTELOS of West Virginia Inc.

In its Motion, the Coalition noted that the petition is premature because Verizon-WV must offer LNEs under the Bell Atlantic/GTE merger conditions under its existing agreement until the TRO is final and non-appealable, which it is not. Second, the petition fails to comply with procedural requirements mandated by law. These requirements pertain to identifying and stating the

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positions of the parties with respect to issues presented in the petition. The requirements also pertain to properly requesting arbitration as required by the Commission's Rules of Practice and Procedure. Third, consideration of the petition would be a waste of Commission resources because the law upon which the petition is based is still undetermined. Finally, the rates Verizon seeks to impose for routine network upgrades are not a product of a change of law and Verizon-WV is already recovering the costs for such upgrades in its recurring UNE rates.

In summary, the Coalition requested that the Commission 1) maintain this docket to assert its Section 252 jurisdiction over all issues tangentially related to the parties' interconnection agreements; 2) issue a standstill order that maintains the *status quo* under existing interconnection agreements until such time as the Commission ultimately approves an interconnection agreement amendment that reflects all applicable law; 3) to evaluate the USTA II decision and determine whether its holding will be subject to Supreme Court review. The Commission should hold those issues that are affected by the USTA II decision in abeyance until such issues are resolved. Thereafter, the Commission should direct the parties to attempt a negotiated agreement to address those issues over a subsequent 135-day period which would trigger a new phase of the arbitration proceeding.

The Competitive Carrier Group, consisting of Broadview Networks Inc., Business Telecom Inc., Essex Acquisition Corp., FiberNet, LLC, IDT America Corp., KMC Telecom III Inc., KMC Telecom V Inc., and XLI Long Distance Services Inc., also filed an Answer. The Group stated that Verizon-WV has never responded to counteroffer amendments put forth by members of the Group, nor made an effort to establish a negotiation schedule. The Group disagreed with Verizon-WV's one-sided interpretation of the USTA II decision, and characterized its March 19, 2004, update as another attempt to strip away more from Verizon-WV's Section 251 obligations. The Group stated that in contrast to its petition in this state, in other states Verizon has petitioned to stay TRO implementation proceedings on grounds that USTA II invalidates both the FCC's delegations of authority to determine whether CLECs are impaired without access to unbundled elements, and the substantive tests that the FCC promulgated for making such determinations. Therefore, continuing TRO proceedings is inefficient for both the parties and the Commission. Instead of dismissing this proceeding, the Group urged the Commission to establish procedures for arbitration that address the TRO, the USTA II, state law, and other federal law requirements (such as 271 obligations) in order to minimize duplication of effort and promote the most efficient use of the Commission's resources.

The Group also requested that the Commission issue a stand-still order maintaining the status quo until the Commission approves a global interconnection agreement amendment; hold all issues impacted by USTA II in abeyance until resolved and then direct the parties to reach a negotiated agreement over a subsequent 135-day period; to the extent the parties cannot reach a negotiated agreement, the parties should submit a jointly-developed issue list at the end of the 135 days which would trigger another phase of the arbitration proceeding; immediately implement the FCC's clarification that Verizon must perform routine network modifications to provision UNE orders and address Verizon's section 271 and merger condition access and pricing obligations, which were not affected by USTA II.

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Level 3 Communications, Inc. filed an objection to being named as a party to this arbitration. Level 3 and Verizon-WV are actively negotiating an interconnection agreement including terms that will govern Verizon-WV's provision of unhandled network elements to replace the parties' existing agreement. Level 3 also objected to Verizon-WV's filing as untimely because it did not adhere to the change-of-law and dispute resolution procedures in the parties' agreement before filing this petition for arbitration. Level 3 supported the Competitive Carrier Coalition's motion to dismiss.

The CAD filed a Motion to Dismiss. CAD cited USTA II's vacating and remanding portions of the TRO. CAD opined that the state of affairs governing ILEC's unbundling obligations is very unsettled. State commissions that had been conducting impairment and related proceedings for various UNEs have been thrown into disarray. Many have suspended those proceedings in whole or part. The FCC has likewise been knocked off-kilter. CAD stated: On April 9, 2004, the FCC and the United States filed a motion to extend the D.C. Circuit's stay, to allow negotiations to arrive at commercially acceptable arrangements for the availability of UNEs, for an additional 45 days. CAD went on to argue that Verizon-WV's petition is not appropriate under Sections 251 and 252 of the Act. Verizon-WV's petition does not comport with the requirements of Section 252(b) of the Act. Verizon-WV has recourse with the FCC. If the Commission dismisses this petition, and in any event, the Commission should extend the parties' substantive response deadline to May 31, 2004.

Sprint Communications Company, L.P., American PCS Communications, LLC, and Wirelessco, L.P. (Sprint *et al*) collectively filed a Motion to Dismiss and Response to Verizon-WV's petition. Sprint *et al* stated that Verizon-WV has failed to negotiate with Sprint regarding the changes it wishes to incorporate into the existing Sprint-Verizon-WV interconnection agreement as required by the Act. Sprint cited a recent North Carolina Utilities Commission holding that a similar petition filed by Verizon-WV in North Carolina should be continued indefinitely because of the TRO, and because Verizon-WV had failed to comply with procedural rules for filing arbitrations. The Maryland Commission similarly rejected a petition by Verizon-WV, stating it was premature because of the uncertain status of the TRO.

Sprint characterized this Verizon-WV petition as an attempt to deprive other carriers of the opportunity to negotiate in good faith under the Act for an appropriate interconnection agreement amendment pursuant to the provisions of the TRO. The Commission should dismiss the petition on grounds that: 1) it is an improper attempt to circumvent good faith negotiations; and 2) the petition fails to meet even the most minimal pleading requirements contained in the Act and the Commission's rules governing negotiations and arbitrations. If the Commission declines to dismiss with prejudice, Sprint requests that the Commission dismiss without prejudice and direct Verizon-WV to submit a pleading that 1) demonstrates with specificity that Verizon-WV has attempted to negotiate in good faith relative to Sprint and each entity with which Verizon-WV seeks to arbitrate; and 2) demonstrates how Verizon-WV has complied with the Act and this Commission's rules for negotiations and arbitrations.

Commission Staff filed a Motion to Dismiss. Staff opined that the FCC, in its TRO, erroneously concluded that negotiations of interconnection agreements were deemed to commence upon the

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effective date of the TRO. Staff opined that this holding was inconsistent with the statutory requirements of §§ 251 and 252 of the Act and that the trigger mechanism for negotiation is the ILEC's receipt of a request for interconnection or negotiation. Staff cited in its Motion to Dismiss a similar Virginia proceeding, filed by the Virginia Commission's Staff, which argued that Verizon-WV is attempting to ignore that the Act requires Verizon-WV to undertake negotiations or arbitration only after it has received a request from another carrier. Staff believes that Verizon-WV's filing adversely affects other parties by substituting their ability to request negotiation or arbitration, and to freely negotiate terms and conditions changes in the agreements.

Staff further believes the filing is insufficient pursuant to Section 252 of the Act in that it fails to provide information concerning: 1) unresolved issues; 2) position of each of the parties on those issues; and 3) other issues discussed and resolved by the parties. Verizon-WV says it could not provide this information because the CLEC's have failed to respond.

On April 14, 2004, Commission Staff filed a Further Initial Joint Staff Memorandum. In this memorandum, Staff recommended that the Commission grant FiberNet's request for an extension of the response deadline until May 31, 2004, to allow other parties the ability to respond.

On April 15, 2004, FiberNet's local counsel filed two Motions for *Pro Hac Vice* Admission of Michael B. Hazzard and Giovanni Morelli.

On April 19, 2004, MCT's local counsel filed Motions for *Pro Hac Vice* Admission of Kimberly A. Wild.

Also on April 19, 2004, Verizon-WV filed a letter stating its intent to file a consolidated response to the various motions to dismiss/delay this proceeding.

On April 23, 2004, AT&T filed a Response to the Competitive Carriers Coalition's April 13, 2004, petition. AT&T stated its position that this arbitration should move forward on those issues that are relevant and arbitrable. There are issues, however, that are not ready for arbitration and should be stricken. The non-arbitrable issues result from the fact that USF's II has not yet taken effect. So, for those issues, there has not been a change of law to arbitrate. The two non-arbitrable issues are 1) Verizon-WV's continuing obligation to provide INEs under the Bell Atlantic/GTE Merger Order conditions until the TRO becomes final and non-appealable; and 2) the issue of routine network modifications is not subject to arbitration because the TRO only clarifies the existing legal obligations that Verizon-WV continues to ignore, but does not constitute a change of law permitting amendment of the interconnection agreement between AT&T and Verizon-WV.

On April 28, 2004, Verizon-WV filed an Opposition to Motions to Dismiss. Verizon-WV states that Staff is encouraging the Commission to ignore the FCC's procedures for revising interconnection agreements by stating that the FCC improperly "chose to ignore the language of the Act" when it determined that the time line for arbitrations would be deemed to commence upon the effective date of the TRO, rather than upon the actual receipt by an ILEC of a CLEC's

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request to negotiate. The CAD voices the same complaint. Verizon-WV argues that Staff and CAD both overlook the fact that the FCC's procedural rulings, in addition to being correct, is binding federal law in any event, and may not be challenged in a collateral proceeding such as this arbitration.

As to Staff's argument that Verizon-WV failed to comply with formal requirements embodied in Section 252(b) of the Act (which requires that arbitration petitions set forth positions of other parties on unresolved issues), Verizon-WV states that this argument overlooks the untimeliness with which the CLEC's responded, if at all, to Verizon-WV's draft interconnection agreement and the impossibility for Verizon-WV to summarize unknown positions. Furthermore, CLECs are able in their own words to file their positions with the Commission in this proceeding.

In response to CLEC's arguments that Verizon-WV's petition is premature because the Bell Atlantic/GTE merger conditions require Verizon-WV to continue to provide UNEs until the TRO is final, Verizon-WV stated that the merger conditions were effective for only three years, and expired July 2003.

In response to arguments that the law is too unsettled for the Commission to consider Verizon-WV's petition, Verizon-WV argued that these claims are baseless. The TRO was upheld in numerous respects, particularly as to reducing federal unbundling requirements. Verizon-WV's draft amendments are designed to accommodate the possibility of future legal developments, including the possible stay or reversal of the USTA II.

As to the CLEC's challenge that part of Verizon-WV's amendment pertaining to routine network modifications are based on the TRO's clarification and not on a change in law that must be incorporated into an amendment, Verizon-WV argues that the FCC never asserted that its prior rules required incumbents to perform routine network modifications. This undercuts the CLEC's hypotheses that the costs of those modifications are somehow reflected in Verizon-WV's existing rates. The FCC has never required that network modifications be made at no charge.

Verizon-WV went on to note that the process established by the FCC governing arbitration of new interconnection agreements is mandatory. The FCC's decision to use Section 252(b) as a default timetable was sensible. Verizon-WV's petition for consolidated arbitration was designed to make the amendment process as efficient and manageable as possible. Verizon-WV also argues that its petition substantially complies with the applicable requirements of Section 252(b). Verizon-WV argues that the Bell Atlantic-GTE Merger does not prevent implementation of the TRO. Verizon-WV states that the merger conditions have expired because of the D.C. Circuit's decision in *United States Telecomm Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002), *cert. denied*, 538 U.S. 940 (2003). The merger conditions also expired due to their own sunset clause making virtually all conditions expire 36 months from the closing date of July 2000. Verizon-WV urges the Commission to find that the law is not uncertain and that prompt implementation of the TRO is critical.

On May 5, 2004, the Competitive Carrier Coalition filed a Reply to Verizon-WV's Oppositions to the Motion to Dismiss. In this reply the Coalition argues: (1) that Verizon-WV's obligation to offer UNEs as required by the Bell Atlantic/GTE Merger Order still continues; (2) Verizon-WV's

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petition blatantly defies the procedural requirements mandated by federal law and this Commission; (3) the arbitration is doomed to yield half-baked results due to the tremendous uncertainty of the law that needs to be applied; and (4) an amendment is not needed for Verizon-WV to comply with its pre-existing legal duty to offer routine network modifications when provisioning UNEs, and Verizon-WV is already recovering the cost of doing so.

Also on May 6, 2004, Verizon-WV filed a Motion to Hold Proceeding In Abeyance until June 15, 2004. Verizon-WV stated that this motion was filed in order to avoid interfering with ongoing TRO commercial negotiations. June 15, 2004, is the date on which the D.C. Circuit Court's mandate in USTA II is currently scheduled to issue. Verizon-WV states that its motion is made in recognition that the parties have limited resources and that parties will be able to devote their attention to commercial negotiations without the distraction of simultaneous litigation as to whether this proceeding is the appropriate forum for resolving TRO issues. To ensure that no party is prejudiced by the abeyance, Verizon-WV asked that the Commission halt the time for completion of this arbitration that would otherwise apply under 47 U.S.C. 252(b)(4)(C).

Thereafter, each of AT&T, the Competitive Carrier Group, and MCI, filed separate Responses to Verizon-WV's Motion to Hold Proceeding in Abeyance. These parties opposed Verizon-WV's motion with regard to issues not affected by USTA II. The Group agreed that issues affected by USTA II should be held in abeyance until June 15, 2004, with the express condition that Verizon maintain the status quo pending resolution of USTA II issues.

On May 18, 2004, the CAD filed a copy of an order dismissing a similar proceeding issued by the Public Utilities Commission of New Hampshire.

On May 21, 2004, Citynet West Virginia LLC filed a renewal of its April 12, 2004, Motion to Dismiss.

On May 27, 2004, Verizon WV filed a letter stating its intent to file on June 3, 2004, a response to issues raised in the CLEC's oppositions to Verizon's motion to hold proceeding in abeyance.

On May 28, 2004, FiberNet filed a Further Response to Verizon-WV's motion to hold proceeding in abeyance. FiberNet urged the Commission to act now to prevent the chaos that will ensue if on June 15th Verizon-WV carries out its stated intention to cease subsidizing dedicated interoffice transport and high-capacity loops, on the mistaken assumption that the unbundling requirements for these elements were vacated in USTA II. The Commission should direct Verizon-WV to continue offering UNEs—particularly dedicated interoffice transport (including dark fiber interoffice transport) and high-capacity loops—at the rates, terms and conditions presently contained in its interconnection agreements with FiberNet and other similarly situated CLECs in West Virginia until the FCC establishes new rules or the existing FCC rules are reinstated.

On June 2, 2004, the Competitive Carrier Group filed a motion for *pro hac vice* admission of Andrea Pruitt Edmonds.

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State Commissions on a best efforts basis and that we should attempt to meet the Section 252 timetable. In its May 6, 2004 Motion to Hold Proceeding in Abeyance, Verizon-WV indicated a willingness to toll any such due date. In AT&T's Response to Verizon's Motion, AT&T agreed that tolling is appropriate if this case is held in abeyance. See AT&T Response, p. 3, in 5. Accordingly, the Commission hereby finds that if the Commission is in fact required to complete arbitration proceedings by a date certain (e.g. 9 months from the date a local exchange carrier received a request for negotiations), then we shall deem the start date for calculating any such time period to be June 15, 2004. Nevertheless, the Commission will attempt to compress the time required for final arbitration to the extent possible.

In the period prior to June 15, 2004, in addition to preparing the required outlines, the parties are expected to begin or continue, as the case may be, negotiations in good faith toward reaching mutually acceptable, comprehensive, inter-connection agreements.

Also in this Order, the Commission will require Verizon-WV to continue to provide UNEs, including but not limited to dedicated interoffice transport (including dark fiber interoffice transport), high-capacity loops, and mass market switching - at the rates, terms and conditions presently contained in its existing interconnection agreements in West Virginia, unless or until the Commission authorizes Verizon-WV to cease providing specific UNEs. Provision of UNEs is required because this Commission has not determined that local competition can continue to exist or to grow in their absence.

Finally, pursuant to Rules 12.6 and 12.7 of the Commission's Rules of Practice and Procedure (Procedural Rules), the Commission will grant all pending petitions to intervene and motions for *pro hac vice* admission to practice law filed to date in this proceeding.

As to the petitions to intervene, we find that each intervening party has a legal interest sufficient to justify intervenor status pursuant to Procedural Rule 12.6.

FINDINGS OF FACT

1. Currently pending before the Commission are various petitions to intervene and motions for *pro hac vice* admission to practice law and a motion to hold proceeding in abeyance filed by Verizon-WV.
2. Prior to Verizon-WV's motion, several CLECs and the CAD had requested dismissal of this proceeding.
3. Prior to and following Verizon-WV's motion, several CLECs opposed dismissal of, or abeyance of, this proceeding, with respect to issues that were not the subject of remand in USTA II.
4. Verizon-WV has suggested that this Commission toll the time for completion of this arbitration that would otherwise apply under 47 U.S.C. 252(b)(4)(C).

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CONCLUSIONS OF LAW

1. Upon review of all of the foregoing, and with awareness of proceedings in some sister states, the Commission will hold this case in abeyance until after June 15, 2004, except that each of the parties will be required, on or before June 15, 2004, to file an outline in the format of Attachment A.
2. If the outline in Attachment A fails to identify every relevant interconnection agreement issue, the parties may add any missing issues to their respective outline filings.
3. If the Commission is in fact required by Section 252 of the Act, to complete arbitration proceedings by a date certain (e.g. 9 months from the date a local exchange carrier received a request for negotiations), then the start date for calculating any such time period is hereby deemed to be June 15, 2004.
4. The Commission will not dismiss this case on grounds that Verizon has failed to negotiate in good faith prior to filing this global arbitration petition. Good faith negotiations may occur during the pendency of this proceeding and one-on-one negotiations between Verizon and the separate LECs may not be preferable to global negotiations.
5. The Commission finds that Verizon's petition, together with the filings required by this Order, will bring the parties and this proceeding into substantial compliance with Section 252 of the Act and Rule 15.5, p. 3, of the Commission's Technical Rules.
6. The Commission will not discuss this arbitration on grounds that the FCC's start date of negotiation/arbitration impermissibly conflicts with the negotiation time line contemplated by the Act. In the interest of proceeding with global amendment of interconnection agreements, we will proceed with this case.
7. Due to the conflict regarding trigger or start dates of negotiation/arbitration contemplated by the Act and by FCC, it is reasonable and appropriate to deem that negotiations will have begun as of June 15, 2004.
8. In the period prior to June 15, 2004, in addition to preparing the required outlines, the parties are expected to begin or continue, as the case may be, negotiations in good faith toward reaching mutually acceptable, comprehensive, interconnection agreements.

ORDER

IT IS THEREFORE ORDERED that the motions for *pro hoc vice* admission of Aaron M. Pinner, Russell M. Glas, Jonathan S. Frankel, Michael B. Hazard and Genevieve Morelli, Kimberly A. Wild, and Andrea Poirier Edmunds, are hereby granted.

IT IS FURTHER ORDERED that all pending petitions to intervene are hereby granted.

IT IS FURTHER ORDERED that formal proceedings in this case are hereby held in abeyance until after June 15, 2004.

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(NAME OF PARTY)
INTERCONNECTION AGREEMENT
OUTLINE OF ISSUES FOR ARBITRATION
PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CASE NO. 04-0359-T-PC

Amendment to the Interconnection Agreement, item 6 – Stay or Reversal of the TRO:

1. Is there agreement on the proposed language?
2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
4. Why do the parties disagree?
5. Is this issue arbitrable?

TRO Attachment to the Amendment, General Condition 1.1:

1. Is there agreement on the proposed language?
2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
4. Why do the parties disagree?
5. Is this issue arbitrable?

TRO Attachment to the Amendment, General Condition 1.2:

1. Is there agreement on the proposed language?
2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?

4. Why do the parties disagree?
5. Is this issue arbitrable?

TRO Attachment to the Amendment, General Condition 1.3:

1. Is there agreement on the proposed language?
2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
4. Why do the parties disagree?
5. Is this issue arbitrable?

TRO Attachment to the Amendment, TRO Glossary:

1. What glossary term(s) does the filing party disagree with?
 2. For each item of disagreement, what is the filing party's position?
 3. Why do the parties disagree?
 4. Is this issue arbitrable?
- PRO Attachment to the Amendment, Section 3.1.1, High Capacity Loans.
1. Is there agreement on the proposed language?
 2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
 4. Why do the parties disagree?
 5. Is this issue arbitrable?
- PRO Attachment to the Amendment, Section 3.1.2, Fibre to the Home Loans.
1. Is there agreement on the proposed language?
 2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
 4. Why do the parties disagree?
 5. Is this issue arbitrable?
- PRO Attachment to the Amendment, Section 3.1.3, Hybrid Loans in General.
1. Is there agreement on the proposed language?
 2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
 4. Why do the parties disagree?
 5. Is this issue arbitrable?
- PRO Attachment to the Amendment, Section 3.1.4, D/C Hybrid Loans.
1. Is there agreement on the proposed language?
 2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
 4. Why do the parties disagree?
 5. Is this issue arbitrable?
- PRO Attachment to the Amendment, Section 3.2, Line Sharing.
1. Is there agreement on the proposed language?
 2. If there is no agreement, what is the question for the Commission to decide?
3. What is the filing party's position?
 4. Why do the parties disagree?
 5. Is this issue arbitrable?
- PRO Attachment to the Amendment, Section 3.3, Sublanguage.
1. Is there agreement on the proposed language?
 2. If there is no agreement, what is the question for the Commission to decide?

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 2. If there is no agreement, what is the question for the Commission to decide?
 3. What is the filing party's position?
 4. Why do the parties disagree?
 5. Is this issue arbitrable?
- Plaintiff's Attachment to the Amendment
1. Is there agreement on the proposed language?
 2. If there is no agreement, what is the question for the Commission to decide?
 3. What is the filing party's position?
 4. Why do the parties disagree?
 5. Is this issue arbitrable?

ANNEXURE 1