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July 31, 2001

BY EMAIL

Ms. Kathleen Cummings
State Corporation Commission
Division of Communications
1300 East Main Street
Richmond, VA 23219

Re: Comments of Covad Communications Company on Proposed Performance Assurance Plan of Verizon Virginia and Verizon South; Case No. PUC000026

Dear Ms. Cummings,

On behalf of Covad Communications Company ("Covad"), please accept this letter in lieu of comments upon the proposed performance plan ("the Plan") of Verizon Virginia Inc. and Verizon South Inc. (collectively "Verizon") (dated June 22, 2001) in the above-referenced proceeding.

There are a number of problems with Verizon's proposed Plan. First, Verizon relies upon a set of metrics for Verizon South that are distinct from the metrics used for Verizon Virginia. This dual-metrics scheme introduces unnecessary complexity into an already complex process. Moreover, one alleged selling point of the Bell Atlantic-GTE merger was that the two companies would start acting as one. Verizon has not advanced a reason why that has not occurred with regard to the metrics.

Second, the $36.3 million at risk annually under the proposed Plan is dismally low. In Massachusetts, Verizon's sister corporation agreed to place $155 million at risk every year under the performance plan that the FCC recently approved along with that company's 271 application.[1] Massachusetts has 4.64 million access lines. Virginia is not far behind with 4.5 million access lines. Yet, Verizon has decided that

[1] *See Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc., For Authorization To Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, CC Docket No. 01-9, FCC 01-130, at ¶ 241 (rel. April 16, 2001).

Virginia must make do with less than 25% of the incentive credits that Massachusetts already enjoys. At the very least, Virginia's Plan should place $150 million at risk each year (which would be proportional to the Massachusetts performance plan's maximum pay-out amount).

Third, Verizon does not explain how it will apply its proposed monthly cap on incentive credits of $4.2 million. Since the Plan is designed to pay credits to multiple CLECs who may suffer poor performance (to differing degrees) as measured by more than a hundred metrics, it is by no means intuitive how a cap would apply. Clearly, CLECs have an interest in ensuring that whatever cap the Commission approves operates fairly. Verizon's proposed Plan leaves that question unanswered.

Fourth, the manner in which Verizon will apply its proposed "Severity of the Miss" standards ("the Severity standards") will lead to inconsistent results. The methodology under the Severity standards for percentage-based metrics calls for subtracting the lower percentage from the higher percentage and comparing the result to a chart in which (1) a difference of less than 5% is deemed Minor; (2) a difference between 5% and 15% is Moderate; and (3) a difference greater than 15% is Major. There are cases in which Minor violations will be much more severe than Major ones. For instance, taking PR-6-01 (the percentage of troubles reported within 30 days of installation) and assuming that CLECs had an aggregate score of 5.99% compared to only 1.00% for Verizon, the Severity standards would find there to be a Minor violation. However, CLECs would have received nearly six times as worse performance from Verizon as it provided to itself. On the other hand, had Verizon had a score of 10.00% compared to 15.00% for CLECs, the Severity standards would find there to be a Moderate violation, even though Verizon's performance for itself would be only 50% better than that provided to CLECs. In such cases, the categories "Minor" and "Moderate" would not be accurate.

Fifth, Verizon does not provide any basis for the level of penalties associated with its proposed Per Unit and Per Measure incentive credits. Neither the Commission nor any other party has any idea why Verizon chose the level of penalties for the Plan that it did. This circumstance is particularly disturbing in light of the low level of penalties in the Plan, as discussed above.

Sixth, Verizon improperly proposes to be the party that administers the exemption from the Plan for force majeure events. The Plan should be suspended because of force majeure events only to the extent absolutely necessary, and the Commission should be the party to make that determination, not Verizon.[2]

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[2] In fact, in New York, the performance assurance plan of Verizon's sister corporation Verizon New York Inc. ("Verizon New York") does not permit a Verizon entity to determine when a force majeure event requires suspending the obligation to pay penalties. Only last year, Verizon New York petitioned the New York Commission for, and was granted a, suspension of certain penalties incurred during the strike of Verizon New York employees.

Seventh, Verizon's use of a so-called "K factor" substantially dilutes the effectiveness of the proposed Plan. The K factor allegedly counters the existence of Type I error (*i.e.*, the possibility that the statistical calculations will incorrectly treat random events as evidence of a lack of parity). However, Verizon does not propose any factor to counter the existence of Type II error (*i.e.*, the possibility that the statistical calculations will fail to recognize discriminatory behavior on Verizon's part). The Commission should reject Verizon's one-sided K factor.

If you have any questions about these comments, please call me.

Sincerely,

Antony Richard Petrilla

Counsel for Covad Communications Company

cc: Service List (via email)