

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: Establishment of a
Performance Assurance Plan for
Verizon Virginia Inc.

CASE NO. PUC-2001-00226

STAFF'S COMMENTS ON MARCH 7, 2003,
PROPOSED REVISIONS

Pursuant to the State Corporation Commission's
("Commission") Order of Amendment, issued on March 12, 2003, the
Commission Staff ("Staff") files its comments below.

On February 13, 2003, Verizon Virginia Inc. ("Verizon
Virginia") filed proposed revisions to its Performance Assurance
Plan ("VA PAP") with the Commission.¹ Verizon Virginia filed
corrected proposed revisions to the VA PAP on March 7, 2003
("March 7, 2003, proposed revisions"). These proposed revisions
were filed in accordance with Section II K.2 of the VA PAP.
This section of the VA PAP requires Verizon Virginia to submit
changes to the New York Performance Assurance Plan ("NY PAP")
adopted by the New York Public Service Commission ("NYPSC") for
consideration in Virginia.

The development of the various provisions of the VA PAP was
a consensus product of industry participants in a collaborative

¹ The current VA PAP was approved by order of the Commission dated July 18,
2002. The VA PAP became effective on October 1, 2002.

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effort directed by the Staff.² Subsequently, on April 9, 2002, Verizon Virginia filed the VA PAP that resulted from the discussions of the Performance Standards/Remedies Plans Subcommittee of the Collaborative Committee ("Subcommittee").³ The Subcommittee agreed to base the VA PAP upon the NY PAP but scaled to the Virginia market. The Subcommittee found that it was reasonable to take advantage of the continued efforts of both the New York Carrier Working Group and the NYPSC as long as any subsequent NYPSC proposed changes to the VA PAP were subject to approval of this Commission.⁴ It was important to the Staff and other participants of the Subcommittee that parties have the right to file comments on any proposed changes to the VA PAP and that any changes only be adopted with approval of the Commission.

The March 7, 2003, proposed revisions are the first changes to be considered to the VA PAP by the Commission. For the most part, the Staff is reserving judgement on the various changes until it has reviewed the comments of Verizon Virginia and other

² This Collaborative Committee was organized by the Commission in Case No. PUC-2000-00026. The Commission required Verizon Virginia to participate in this Collaborative Committee as a condition of approval of the merger between Bell Atlantic Corporation and GTE Corporation. See Order Approving Petition, issued November 29, 1999, Case. No. PUC-1999-00100.

³ At that time, the only remaining issue was the effective date of the VA PAP. Verizon Virginia submitted an updated VA PAP on August 23, 2002.

⁴ The Commission also approved a detailed procedure submitted by the Subcommittee for any changes to Verizon Virginia's performance standards adopted by the NYPSC. See Commission order dated January 4, 2002 in Case No. PUC-2001-00206.

interested parties. However, we do have two immediate concerns with respect to the applicability of certain provisions of the NY PAP to the VA PAP. We believe these two concerns should be raised in the initial comments so interested parties may have an opportunity to respond. The first Staff concern is with the proposed revisions relating to the distribution of bill credits to the Mode of Entry ("MOE") measures in the VA PAP.

The VA PAP provides for the assignment of dollars at risk to three credit categories; MOE, Critical Measures, and Special Provisions. The MOE measures are intended to correspond to the methods used by competitive local exchange carriers ("CLEC") to enter the local exchange market.⁵ The current VA PAP uses four categories: Resale, Unbundled Network Elements ("UNE"), Interconnection Trunks, and DSL. The March 7, 2003, proposed revisions would increase the MOE categories to five from the existing four by dividing UNE into UNE-Loop and UNE-Platform. The Staff has no objection to the disaggregation of the UNE category into these two new categories as we agree that UNE-Loop and UNE-Platform represent different CLEC market entry strategies. However, we are concerned with the proposed distribution of dollars at risk between the MOE categories in the March 7, 2003, proposed revisions to the VA PAP. The table below shows the present MOE dollars at risk distribution with the proposed distribution.

⁵ See Section II. A. 2 (Method of Analysis) of the VA PAP.

Present MOE Distribution (\$)

RESALE	UNE	DSL	Trunks	Total
7,029,333	31,632,000	7,029,333	7,029,333	52,719,999

Proposed MOE Distribution (\$)

RESALE	UNE Platform	UNE Loop	DSL	Trunks	Total
3,514,667	31,632,000	7,029,333	7,029,333	3,514,667	52,720,000

NOTE: The difference in totals between present and proposed is a result of rounding.

This proposed redistribution of the MOE dollars at risk is apparently consistent with what was recently adopted by the NYPS&C for the NY PAP. The Staff believes that the NYPS&C took into account the marketplace in New York in approving its new MOE distribution. The Staff, however, is concerned that the comparable proposed distribution does not reflect the competitive local exchange marketplace in Virginia. Section II. B. 1 (Distribution of Bill Credits) of the VA PAP states that the annual MOE bill credits of \$52.72 million should be "distributed to each of the MOE categories in amounts that reflect the importance of that MOE to the local exchange competition."

The Staff is particularly concerned with the proposed distribution between the two new MOE categories of UNE-Platform and UNE-Loop. As mentioned above, there is no distinction in the current VA PAP between these two forms of UNEs. Therefore,

the Commission should look at the Virginia-specific marketplace to determine what distribution is best for these categories in the VA PAP. The Staff has determined that over time UNE-Platform has been growing as a form of entry in Virginia.⁶ However, there is still a greater number of UNE-Loops than UNE-Platform in service. The NY PAP includes a distribution between the two categories of over 80% to UNE-Platform. The Staff believes that this percentage is not representative of the Virginia market and, therefore too high. We suggest that the distribution between UNE-Platform and UNE-Loop categories be set at no more than a 60/40 split. Such a distribution would be higher than the current situation in Virginia but would also recognize the growing nature of UNE-Platform as a mode of entry in Virginia.⁷

The Staff's second concern relates to the addition of proposed new language in Appendix D of the VA PAP. Appendix D details the statistical methodologies employed in the VA PAP. This Appendix was significantly revised in the March 7, 2003, proposed revisions. The Staff is not commenting on the specific statistical revisions at this time, but does want to point out

⁶ In addition, the recent pace of growth has been significantly greater for UNE-Platform than UNE-Loop. Furthermore, resale has been declining.

⁷ The Staff notes that the Commission should also be cautious in allocating too many dollars at risk at this time to UNE-Platform in light of the Federal Communication Commission's upcoming Triennial Review order. Furthermore, the VA PAP provides for the Commission's annual review to consider modifications to distribution of dollars at risk among the five MOE categories and the critical measures.

at least one area in the Appendix that should be corrected. According to the revised Appendix D, if a CLEC has concerns with the sample size criteria or a small sample shows the metric as being "out of parity" after a permutation test is run, the Carrier Working Group will be called upon to act. However, this reference is apparently to the New York Carrier Group as there is no Carrier Working Group in Virginia. One alternative approach for consideration in the VA PAP is to have the Subcommittee undertake this Carrier Working Group function.⁸ Another option would be for the Commission Staff to undertake the evaluation with recourse to the Commission if necessary. The Staff believes that interested parties should comment on their preference, or suggest another alternative, in their Reply Comments.

Respectfully submitted,

The Staff of the
State Corporation Commission

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⁸ However, we believe that the Subcommittee is not currently set up to undertake such an activity.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing "Staff's Comments on Proposed Revision To VA Papfied March 17, 2003" was hand delivered or mailed, first-class mail, postage prepaid, this 7th day of April, 2003 to the attached Service List.

Don R. Mueller