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**IN THE MATTER OF**

**VERIZON VIRGINIA, INC.**

**CASE NO. PUC-2002-00046**

**To verify compliance with the  
conditions set forth in 47 U.S.C. § 271(c)**

**HEARING EXAMINER'S RULING**

**April 25, 2002**

On April 24, 2002, AT&T Communications of Virginia, LLC ("AT&T") filed a Motion to Compel ("Motion") responses by Verizon Virginia, Inc. ("Verizon") to data requests AT&T propounded on April 17, 18 and 19, 2002. Verizon filed its objections to AT&T's first four sets of data requests on April 22, 2002.

In its objections, Verizon accused AT&T of abuse of process by waiting three weeks only to submit over 430 interrogatories over a three-day period, which coincided with similar § 271 proceedings in Delaware. In its Motion AT&T blames Verizon for scheduling the start of the Virginia case during the period it had to prepare for the Delaware case. I find both arguments to be of little or no relevance. Both parties should have sufficient resources to meet established deadlines for responding to interrogatories and filing testimony.

Furthermore, Verizon makes several general objections and some specific objections to questions for which it nonetheless agrees to provide responses. Such objections and questions will not be addressed in this Ruling other than to find that Verizon should respond to such questions as required by the procedures established for this case.

The Commission's Rules of Practice and Procedure establish an extremely broad standard for discovery.

Interrogatories or requests for production of documents may relate to any matter not privileged, which is relevant to the subject matter involved. . . .It is not grounds for objection that the information sought will be inadmissible at the hearing if the information appears reasonably calculated to lead to the discovery of admissible evidence.<sup>1</sup>

As to the specific data requests Verizon has not agreed to provide responses, I find as follows:

**AT&T Set I, Requests 10-15** – AT&T's Motion is granted as to these requests.

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<sup>1</sup> 5 VAC 5-20-260.

**AT&T Set I, Request 75** – AT&T’s Motion is denied. Even with the proposed narrowing of scope, I find the request for “complaints” is too vague to be meaningful.

**AT&T Set I, Request 97** – AT&T’s Motion is granted as to the first sentence and third question. AT&T’s Motion is denied as to the second sentence. The first sentence asks Verizon to identify instances of benchmark performance standards being higher than necessary to meet the statutory nondiscrimination requirement. This question appears probative of the statement in ¶ 20 of the Measurements Declaration that “[e]ven if Verizon VA misses a performance standard, the Commission should consider whether the standard is higher than what is necessary to meet the statutory nondiscriminatory standard . . . .” The second sentence asks for Pennsylvania examples of failures due to random variation. I find the request for Pennsylvania examples to be irrelevant to this proceeding. The third question asks if Verizon is able to prove the converse of a statement in ¶ 20 of its Measurement Declaration and thus, appears relevant.

**AT&T Set I, Requests 108-09** – AT&T’s Motion is granted to these questions.

**AT&T Set I, Request 111** – AT&T’s Motion is granted.

**AT&T Set I, Request 113** – AT&T’s Motion is denied as to the question originally submitted. I make no finding as to the proposed amended question in the Motion.

**AT&T Set I, Request 114** – AT&T’s Motion is granted. For those portions of the request requiring a special or burdensome study, Verizon may provide AT&T reasonable access to its books and records to permit AT&T to complete the requested study.

**AT&T Set I, Request 115** – AT&T’s Motion is granted as to part (d). AT&T’s Motion is denied as to parts (f) through (i) based on the lack of relevancy.

**AT&T Set I, Request 117** – AT&T’s Motion is denied.

**AT&T Set I, Request 141** – AT&T’s Motion is denied.

**AT&T Set I, Request 142** – AT&T’s Motion is denied.

**AT&T Set I, Requests 145-146** – AT&T’s Motion is granted subject to the limitation that Verizon is not required to provide information that is attorney work product or attorney-client privileged. For those portions of the request requiring a special or burdensome compilation, Verizon may provide AT&T reasonable access to permit AT&T to complete the requested compilation.

**AT&T Set II** – AT&T’s Motion is denied. The sole focus of this proceeding is on whether Verizon Virginia meets the requirements of § 271. Moreover, this is a proceeding in which the FCC, rather than the Commission will make the final decision. Therefore, this is not the appropriate proceeding for addressing issues associated with Verizon South.

**AT&T Set III, Request 57** – AT&T’s Motion is granted based on the correction of the typographical error, which changes “Verizon PA” to “Verizon VA.”

**AT&T Set III, Requests 61-66** – AT&T’s Motion is granted. For those portions of the request requiring a special or burdensome study, Verizon may provide AT&T reasonable access to its books and records to permit AT&T to complete the requested study.

**AT&T Set III, Requests 68-69** – AT&T’s Motion is granted subject to the limitation that Verizon is not required to provide information that is attorney work product or attorney-client privileged. For those portions of the request requiring a special or burdensome compilation, Verizon may provide AT&T reasonable access to permit AT&T to complete the requested compilation.

**AT&T Set IV, Requests 1-2** – AT&T’s Motion is denied. How Verizon plans to provide long-distance service should be transparent to the public. Therefore, these questions do not appear relevant even to a public interest inquiry.

**AT&T Set IV, Request 3** – AT&T’s Motion is denied. Verizon’s expected cost to provide long-distance service should be transparent to the public. Therefore, this question does not appear relevant even to a public interest inquiry.

**AT&T Set IV, Request 5** – AT&T’s Motion is granted. Changes in rates to customers are visible to the public. Therefore, this question may be relevant to a public interest inquiry.

**AT&T Set IV, Request 6** – AT&T’s Motion is denied. Verizon’s cost to provide long-distance service should be transparent to the public. Therefore, this question does not appear relevant even to a public interest inquiry.

**AT&T Set IV, Requests 7-8** – AT&T’s Motion is granted. Rates and fees charged to customers are visible to the public. Therefore, this question may be relevant to a public interest inquiry.

**AT&T Set IV, Request 9** – AT&T’s Motion is denied.

**AT&T Set IV, Requests 10-11** – AT&T’s Motion is granted. Changes in the number of customers may be relevant to a public interest inquiry.

**AT&T Set IV, Request 12** – AT&T’s Motion is denied. Though information concerning Verizon’s calling plans may be relevant to a public interest inquiry, I find it inappropriate to compel disclosure of Verizon’s future marketing plans.

**AT&T Set IV, Request 13** – AT&T’s Motion is granted. Rates and fees charged to customers are visible to the public. Therefore, this question may be relevant to a public interest inquiry.

**AT&T Set IV, Request 14** – AT&T’s Motion is denied. Because Verizon does not have interLATA corridor traffic in Virginia, the question lacks relevance.

**AT&T Set IV, Requests 15-16** – AT&T’s Motion is granted. Changes in the number of customers may be relevant to a public interest inquiry.

**AT&T Set IV, Request 30** – AT&T’s Motion is denied.

**Accordingly**, Verizon is directed to provide responses as indicated above in a timely manner. Responses to the original requests were due within seven calendar days. For purposes of calculating the due date for the responses directed by this Ruling, Verizon may subtract the days beginning with the filing of its objection and ending with the filing of this Ruling. Any requests for additional time in either Verizon’s objections or AT&T’s Motion are hereby denied.

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Alexander F. Skirpan, Jr.  
Hearing Examiner