

State of California

**Public Utilities Commission
San Francisco**

MEMORANDUM

Date : March 7, 2008

**To : The Commission
(Meeting of March 13, 2008)**

**From : Helen M. Mickiewicz
Assistant General Counsel**

**Subject: Filing of Reply Comments in Response to FCC Request for
Comments on Verizon Petition Seeking Forbearance From
Enforcement of Certain Recordkeeping and Reporting
Requirements; WC Docket No. 07-273**

RECOMMENDATION

The CPUC should file Reply Comments in response to the Federal Communications Commission's (FCC) December 18, 2007 Public Notice seeking comments on the Verizon forbearance petition noted above. Specifically the CPUC should file comments opposing Verizon's request for forbearance from federal Affiliate Transactions rules.

BACKGROUND

On November 26, 2007, the regulated, wholly-owned subsidiaries of Verizon Communications Inc. (Verizon) filed a petition with the FCC requesting forbearance from all Automated Reporting Management Information System (ARMIS) reporting requirements, as well as from numerous other recordkeeping and reporting requirements, including federal Affiliate Transaction rules found in 47 C.F. R. 32.23; 47 C.F.R. 64.903; 47 C.F.R. 64.903; and 47 C.F.R. Sections 1.415 and 1.419.¹ These rules govern transactions between Verizon's incumbent local exchange carriers (ILECs) and any of Verizon's non-regulated affiliates. Verizon owns two ILECs providing service in California: Verizon California, Inc. and Verizon West Coast, Inc.

¹ See Petition of Verizon for Forbearance from Enforcement Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements, WC Docket No. 07-273 (filed November 26, 2007).

On February 1, 2008, the CPUC filed Opening Comments in this proceeding urging the FCC to deny the relief requested in the petition regarding the elimination of the ARMIS reports, in line with earlier CPUC filings opposing similar relief requested by AT&T and other ILECs. Staff now recommends that the CPUC file Reply Comments in opposition to Verizon's request for relief from federal Affiliate Transactions rules as well, an issue not addressed either in the CPUC's opening comments in this docket or in any other previous docket.

DISCUSSION

The CPUC should file comments urging the FCC to deny the relief requested in the petition because elimination of the FCC's Affiliate Transaction, related rules and Reports ("affiliate transaction rules") would not be in the public interest. Without these rules and access to the information they produce, California, and other states would have difficulty meeting their oversight obligations.

In the CPUC's URF Decision (D.06-08-030), this agency curtailed regulation of the retail telecommunications service offerings of the four major California ILECs, including Verizon. At the same time, the CPUC's stated an intent to rely on federal reports as part of its monitoring program to ensure that the competitive market is functioning well and customers will receive good quality at just and reasonably-priced services. Verizon itself, as a party to the URF proceeding, asked the CPUC to end California-specific affiliate transaction rules, and instead to base California rules on those adopted by the FCC. (*See* Opening Comments of Verizon on Proposed Decision at 12 (Aug. 15, 2006). The CPUC adopted Verizon's recommendation, and eliminated California's affiliated transaction reporting rules and reporting requirements, choosing instead to rely on the FCC's rules and reports. If the FCC grants Verizon's request, the CPUC's plan to rely on FCC rules and utility reports filed with the FCC will be thwarted.

Further, DIVCA requires that the Commission monitor telephone rates to ensure that the telecommunications companies which obtain video franchises do not subsidize their video services with some portion of the rates for regulated telecommunications services. In the DIVCA proceeding before the CPUC, Verizon argued that the FCC's affiliate transaction rules and routine audits would ensure that no additional rules are needed. In the DIVCA proceeding, the CPUC concurred with Verizon. The CPUC concluded that it would rely on both the state and FCC affiliate transaction rules, and that no additional rules would be needed to ensure such responsibility.

Finally, as the CPUC has argued before the FCC in other dockets addressing ARMIS reporting requirements, any revision to the FCC's reporting and recordkeeping requirements should be made through a formal rulemaking proceeding which would be applicable to all carriers subject to the requirements. The CPUC has argued that the FCC should not address these important issues on a piecemeal basis, such as through action on forbearance petitions.

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