

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



June 26, 2006

Agenda ID #5785

TO: PARTIES OF RECORD IN APPLICATION 06-02-001

This is the draft decision of Administrative Law Judge (ALJ) Grau. It will appear on the Commission's July 20, 2006 agenda. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Public Utilities Code § 311(g)(1) requires this item be served on all parties and subject to at least 30 days' public review and comment before the Commission may vote on them. Section 311(g)(2) provides that the 30-day period may be reduced by stipulation of the parties. The comment period on this item is being shortened under this authority. Comments are due on July 10, 2006, and reply comments are due on July 17, 2006.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at www.cpuc.ca.gov. In addition to service by mail, parties should send comments in electronic form to those appearances and the state service list that provided an electronic mail address to the Commission, including ALJ Grau at jlg@cpuc.ca.gov. Finally, comments must be served separately on the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious methods of service.

/s/ ANGELA K. MINKIN by JJJ
Angela K. Minkin, Chief
Administrative Law Judge

ANG:tcg

Attachment

Decision **DRAFT DECISION OF ALJ GRAU** (Mailed 6/26/2006)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Verizon Avenue Corp. (U 6584 C)
to Withdraw Its Provision of Resold Local
Exchange Service and Relinquish Its Certificate of
Public Convenience and Necessity.

Application 06-02-001
(Filed February 2, 2006)

**OPINION GRANTING THE REQUEST OF VERIZON AVENUE CORP.
TO WITHDRAW ITS PROVISION OF RESOLD LOCAL EXCHANGE
SERVICE AND RELINQUISH ITS CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

Summary

This decision grants the application of Verizon Avenue Corp. (Verizon Ave.)¹ for authority to withdraw its provision of resold local exchange service and related bundled service offerings and to relinquish its certificate of public convenience and necessity (CPCN). Verizon Ave. has complied with the draft Mass Migration Guidelines (guidelines) issued in Rulemaking (R.) 03-06-020, and Verizon Ave.'s remaining customers have been transferred to Pacific Bell Telephone Co. d/b/a/ AT&T California (AT&T). Thus, it can be determined that granting Verizon Ave.'s request is in the public interest. As a result of this decision, Verizon Ave. will no longer provide resold local exchange service.

¹ Verizon Ave. formerly was known as One-Point Communications-Colorado, L.L.C.

Background

In Decision (D.) 01-10-019, we granted Verizon Ave. a CPCN to provide limited facilities-based and resold local exchange services in the service territories of Pacific Bell Telephone Company, Verizon California Inc., Roseville Telephone Company, and Citizens Telephone Company of California, Inc.² Under this operating authority, Verizon Ave. is providing local exchange service, long distance and other add-on features to residential customers statewide. Verizon Ave. also provides broadband services, and it will continue to provide those services. Verizon Ave. requests authorization to withdraw its resold local exchange service and related bundled offerings and to relinquish its CPCN to provide such services, because the competitive landscape makes it more attractive to focus on broadband services.

In this application, Verizon Ave. proposed to use the guidelines issued in R.03-06-020. Verizon Ave. included with its application the required exit plan. The Assigned Commissioner authorized use of the guidelines in a February 22, 2006 ruling. AT&T, the underlying carrier for Verizon Ave.'s customers, filed a response to the application on March 8, 2006. Although AT&T did not oppose the application, AT&T opposed being designated a default carrier for Verizon Ave. customers who did not choose an alternate local exchange provider. Volunteers were solicited to serve as a default carrier in the February 22, 2006 ruling. No carrier volunteered.

Verizon Ave. has provided the required customer notice. The 60-day notice letter was sent on March 24, 2006. In that letter, customers were notified

² Verizon Ave.'s corporate identification number is U 6584 C.

that the Commission might appoint a default carrier to serve them should they fail to select an alternate provider.

On April 21, 2006, the assigned administrative law judge (ALJ) ordered Verizon Ave. and AT&T to meet and confer to discuss compensation to be provided to AT&T for assuming Verizon Ave.'s remaining customer base. Commission staff had reported that several hundred Verizon Ave. customers had not selected another carrier. The ALJ also ordered Verizon Ave. to file a customer migration progress report. On May 2, 2006 Verizon Ave. reported that approximately 152 customers had not yet migrated. Verizon Ave. had provided bill inserts and automated calls reminding customers of the proposed exit in addition to the 60-day and 30-day customer notice letters.

Verizon Ave. and AT&T continued to negotiate the terms of AT&T assuming Verizon Ave.'s remaining customers. On May 9, 2006, Verizon Ave. sent a letter to the ALJ to report that Verizon Ave. and AT&T had agreed to compensation and the terms of AT&T assuming Verizon Ave.'s customers. The agreement included the following terms: (1) compensation of \$4.75 per migrated customer consistent with AT&T's bill record change order charge;³ (2) a third customer notice letter from Verizon Ave.; (3) a welcoming letter from AT&T; and (4) transfer of local service and vertical features only.

On May 12, 2006, the ALJ ordered Verizon Ave. and AT&T to implement the terms of their agreement governing default carrier and related migration issues and to provide draft final customer notice and welcoming letters to Commission staff for review. On May 23, 2006, Verizon Ave. notified the ALJ by

³ AT&T's filed tariff A3, sheet 41.

e-mail that Commission staff had approved the final customer notice, which Verizon Ave. planned on mailing that day. The parties were coordinating the timing of the default migration, which they intended to complete on or around June 12, 2006. On June 12, 2006, the parties called the ALJ to report that all customers had either selected another carrier or had transferred to AT&T under the terms of the agreement.

Discussion

We authorize Verizon Ave. to relinquish its CPCN authorizing the provision of resold local exchange services and related bundled offerings and to discontinue providing these services to customers in California. We approve the Assigned Commissioner's ruling authorizing the use of the guidelines in this proceeding.

Under General Order (GO) 96-A Section XIV, a carrier must obtain approval from the Commission before withdrawing services. Under the draft guidelines, there are several criteria for approval of a carrier's termination of service. (Section IX.) Overall, the Commission is to be guided by what is in the public interest. The factors to consider in weighing a carrier's request to withdraw local exchange services are progress of customer migrations, availability of alternatives, and nature of the customer base. When customers have not timely selected a new carrier, the Commission may require that a default carrier provide service. If the Commission orders a default carrier to assume the customer base of an exiting carrier, the default carrier is eligible for compensation.

The mass migration guidelines impose notice requirements on exiting carriers. (Section V.) Customers must receive one notice letter 60 days in advance of the final service termination date and a second notice if the customer

has not selected a new carrier. The second notice could include any or all of the following: a follow-up letter, a telephone call to the customer, a bill insert, or any other effective means of direct contact with the customer.⁴ Verizon Ave. has satisfied these requirements through its March 26, 2006 written notice to its customers, its two additional customer notice letters, and bill inserts and automated calls. All of Verizon Ave.'s customers selected another carrier or were transferred to AT&T by June 12, 2006.

We confirm the ALJ's May 12, 2006 ruling, attached hereto as Appendix A, which orders AT&T to assume Verizon Ave.'s remaining customer base as a default carrier and Verizon Ave. to compensate AT&T for acting as the default

⁴ The customer notice letter must satisfy the following requirements:

- Identify the arranged carrier (a carrier with whom the exiting competitive local exchange carrier (CLEC) has negotiated an arrangement to serve customers who do not choose a replacement carrier in the timeframe provided) or default provider
- State the customer's right to choose an alternative carrier
- State the customer's need to take prompt action when there is no arranged carrier
- Provide clear instructions to the customer regarding choice of an alternative provider, including a list of the services impacted by the change in service provider
- Provide a toll-free number for the exiting carrier and the arranged carrier, if any
- Clearly state time deadlines for customer action in accordance with the Commission's mass migration guidelines
- Applicable information about long distance service
- Customer's responsibility for payment of telephone bills during the migration period.

carrier, as set forth in their agreement. Providing for a default carrier and compensation for assuming that role is necessary because some of Verizon Ave.'s customers did not select a new carrier. We find the terms for compensation and assuming the customer base, negotiated by Verizon Ave. and AT&T, are reasonable.

Based on Verizon Ave.'s business plan, to continue to provide broadband services and to discontinue providing narrowband voice services because they are no longer as competitive, we find it reasonable to grant its request to withdraw its provision of resold local exchange services and related bundled offerings and to relinquish its CPCN.⁵

Categorization and Need for Hearings

Notice of the filing of the application appeared in the Commission's Daily Calendar on February 17, 2006. In Resolution ALJ 176-3167 dated February 16, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. A response was received, but it did not oppose granting the requested relief. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

⁵ Verizon Ave. is a carrier competing with the incumbent local exchange carrier (ILEC) and any other CLECs offering service in California. In order to ensure that a minimum level of affordable telecommunications services are available to all persons in California, each ILEC has been designated as a "carrier of last resort" in its service area and must serve all persons who request service in the area. Since Verizon Ave. is not a carrier of last resort, Verizon Ave. is not obligated to continue to indefinitely serve customers when it wishes to exit the market.

Comments on the Draft Decision

The 30-day public review and comment period otherwise required by Pub. Util. Code § 311(g)(1) may be shortened by stipulation of all parties, pursuant to Section 311(g)(2) and Rule 77.7(g). The parties to this matter having stipulated to a shortened public review and comment period, the period is reduced from 30 days to 14 days.

Assignment of Proceeding

President Michael R. Peevey is the Assigned Commissioner and Janice Grau is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. This Commission authorized Verizon Ave. to provide limited facilities-based and resold local exchange services in 2001.
2. Verizon Ave. seeks Commission approval of its request to relinquish its CPCN authorizing the provision of local exchange services and related bundled offerings and to discontinue providing those services to customers, because the competitive landscape favors focusing on broadband services.
3. Verizon Ave. has been serving residential customers statewide.
4. Verizon Ave. requested that the Commission use the draft guidelines issued in R.03-06-010 in this application proceeding. The Assigned Commissioner authorized use of the draft guidelines in a February 22, 2006 ruling.
5. Verizon Ave satisfied the advance notice letter and second notice requirements through its March 26, 2006 written notice to its customers, its two additional customer notice letters, and bill inserts and automated calls.

6. On April 21, 2006 the ALJ ordered Verizon Ave. and AT&T to meet and confer to discuss compensation to be provided to AT&T for assuming Verizon Ave.'s remaining customer base.

7. On May 9, 2006, Verizon Ave. sent a letter to the ALJ to report that Verizon Ave. and AT&T had agreed to compensation and the terms of AT&T assuming Verizon Ave.'s customers. The agreement included the following terms:

(1) compensation of \$4.75 per migrated customer consistent with AT&T's bill record change order charge; (2) a third customer notice letter from Verizon Ave.; (3) a welcoming letter from AT&T; and (4) transfer of local service and vertical features only.

8. On May 12, 2006, the ALJ ordered Verizon Ave. and AT&T to implement the terms of their agreement governing default carrier and related migration issues and to provide draft final customer notice and welcoming letters to Commission staff for review. Verizon Ave.'s customers either selected another carrier or were transferred to AT&T by June 12, 2006.

9. No protest of the application has been filed. AT&T filed a response opposing being designated a default carrier.

Conclusions of Law

1. Under GO 96-A, Commission approval is required before a carrier may withdraw from the provision of public utility service.

2. Since Verizon Ave. is not a carrier of last resort, it is not legally obligated to continue to serve customers when it wishes to exit the market.

3. It is reasonable to approve the use of the draft guidelines in this proceeding.

4. The terms of the agreement governing compensation and the transfer of Verizon Ave.'s customers to AT&T are reasonable.

5. It is reasonable to confirm the ALJ's May 12, 2006 ruling ordering Verizon Ave. and AT&T to implement their agreement governing default carrier and related migration issues.

6. It is reasonable to conclude it is in the public interest to grant Verizon Ave.'s request to withdraw provision of its resold local exchange services and related bundled offerings.

7. Since this order resolves AT&T's principal concerns about being designated a default carrier by approving the compensation and transfer agreement, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. The application of Verizon Avenue Corp. (Verizon Ave.) for authority to terminate its competitive local exchange carrier (CLEC) service and to relinquish its certificate of public convenience and necessity for CLEC service is granted.

2. The Administrative Law Judge's May 12, 2006 ruling ordering Verizon Ave. and Pacific Bell Telephone Co. d/b/a/ AT&T California to implement their default carrier agreement, attached hereto as Appendix A, is confirmed.

3. Verizon Ave. shall file a final advice letter, effective on one-day notice, cancelling its tariffs on file with the Commission.

4. Verizon Ave.'s utility identification number (U-6584-C) is cancelled and shall not be reissued.

5. Application 06-02-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

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JLG/jt2 5/12/2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Verizon Avenue Corp. (U 6584 C)
to Withdraw Its Provision of Resold Local
Exchange Service and Relinquish Its Certificate of
Public Convenience and Necessity.

Application 06-02-001
(Filed February 2, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING ORDERING
PARTIES TO IMPLEMENT DEFAULT CARRIER AGREEMENT**

This ruling orders Verizon Avenue Corp. (Verizon Ave.) and Pacific Bell Telephone Company d/b/a AT&T California (AT&T) to implement the terms of their agreement governing default carrier and related migration issues. This ruling further orders Verizon Ave. and AT&T to present draft final customer notice and welcoming letters to Commission staff for review.

Background

Verizon Ave. filed this application to exit the local voice market. Verizon Ave. proposed to use the Draft Mass Migration Guidelines issued in R.03-06-020, and the assigned Commissioner authorized use of the guidelines in a February 22, 2006 ruling. AT&T, the underlying carrier for Verizon Ave.'s customers, filed a response to the application on March 8, 2006. Although AT&T did not oppose the application, AT&T opposed being designated a default carrier for Verizon Ave. customers who did not choose an alternate local exchange provider.

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Verizon Ave. provided the required customer notice. The 30-day notice letter was sent on March 24, 2006. In that letter, customers were notified that the Commission might appoint a default carrier to serve them should they fail to select an alternate provider. However, a substantial number of customers did not choose a new carrier. On April 21, 2006, I ordered the parties to meet and confer to discuss the transfer of Verizon Ave.'s remaining customers to AT&T and compensation for that transfer.

Verizon Ave. and AT&T reached agreement on compensation and related migration issues. In a May 9, 2006 letter, Verizon Ave. and AT&T noted the terms of that agreement, which include:

- Compensation of \$4.75 per migrated customer consistent with AT&T's California billing record change order charge
- Third customer notice letter from Verizon Ave
- Welcoming letter from AT&T
- Transfer of local service and vertical features only

Verizon Ave. and AT&T note that the migration of remaining customers will require sharing certain customer-specific information, which might constitute protected customer proprietary network information. They request guidance on how to proceed.

Discussion

The parties' agreement on compensation and other migration issues is reasonable and should be implemented. However, the agreement presents some issues that require further guidance. First, the sharing of customer-specific

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information is necessary in order to transfer local service and associated vertical features. This sharing of information does not appear to raise privacy issues. Customers were notified that the Commission might appoint a default carrier to serve them should they not choose another carrier. I ordered Verizon Ave. and AT&T to discuss transferring Verizon Ave.'s customers to AT&T. Verizon Ave.'s remaining customers will receive a letter from Verizon Ave. notifying them of the required transfer to AT&T.

Second, Verizon Ave. and AT&T will be sending additional letters to Verizon Ave.'s remaining customers. Prior letters were sent to and approved by Commission staff. Drafts of these additional letters also should be presented to Commission staff for review. Because AT&T only will provide local service and vertical features to Verizon Ave.'s customers, these letters should include information on what will be transferred and on what steps Verizon Ave.'s customers, who currently use Verizon Ave. as their toll and long distance provider, must take to continue toll and long distance service.

IT IS RULED that Verizon Ave. and AT&T shall implement their agreement governing default carrier compensation and related migration issues as set forth herein.

Dated May 12, 2006, at San Francisco, California.

/s/ JANICE GRAU
Janice Grau
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Ordering Parties to Implement Default Carrier Agreement on all parties of record in this proceeding or their attorneys of record.

Dated May 12, 2006, at San Francisco, California.

/S/ JOYCE TOM

Joyce Tom

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

(END OF APPENDIX A)

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated June 26, 2006, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

SERVICE LIST IN A.06-02-001

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