

DT 97-171

BELL ATLANTIC

Petition for Approval of Statement of
Generally Available Terms Pursuant to the
Telecommunications Act of 1996

Order Addressing Motion for Reconsideration
of Order No. 23,847

O R D E R N O. 23,915

February 4, 2002

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) issued Order No. 23,738 on July 6, 2001 (*July 6th Order*), ruling on the pricing methodology and the terms and conditions of a Statement of Generally Available Terms (SGAT) filed by Bell Atlantic, the predecessor in interest of Verizon New England, Inc. d/b/a Verizon New Hampshire (Verizon). Within the statutorily prescribed time limitation several parties to the docket moved for reconsideration of the *July 6th Order*.

On November 21, 2001, the Commission issued Order No. 23,847 ruling on all issues for which it received a Motion for Reconsideration (Reconsideration Order). On December 21, 2001, Verizon filed a Motion for Rehearing and/or Reconsideration of certain portions of the Reconsideration Order (Motion for Reconsideration). On January 4, 2002, the

Office of Consumer Advocate (OCA) filed a letter arguing that Verizon's motion for reconsideration is untimely, and that the Commission lacks jurisdiction to entertain the motion. On January 8, 2002, Freedom Ring Communications, L.L.C. d/b/a Bay Ring Communications (Bay Ring) and DIECA Communications, Inc., d/b/a Covad Communications Company (Covad) (collectively the Joint CLECs) filed an Opposition to Verizon's Motion for Reconsideration and Clarification. On January 24, 2002, Verizon replied to the OCA's January 4 letter, arguing that it was untimely filed, and further arguing that the Commission may entertain the Motion for Reconsideration.

In its Motion for Reconsideration, Verizon argues that in addressing its request for reconsideration of power charges, which the Commission initially denied, the Commission, for the first time, set about to determine DC power rates. In so doing, Verizon argues, the Commission erred in several respects which resulted in unreasonably low power costs. Specifically, Verizon asked 1) that the Commission reconsider its decision to require an installation factor different than that originally proposed by Verizon in its DC power cost study; 2) that the Commission clarify that Verizon could charge a statewide averaged rate for DC power, rather than the rates calculated by density zone; 3) that the

Commission adjust the amps over which the remaining level of investment is spread once the total power investment is reduced by the amount of power costs recovered in switching; and 4) that the Commission correct the method of applying the joint and common cost factor.

II. POSITIONS OF THE PARTIES

A. Installation Factor

In the Reconsideration Order, the Commission rejected Verizon's installation factor of 2.8912 and opted to use the approved switch installation factor of 1.36 for power. Verizon argues this is contrary to the evidence and completely unsupported by the record. In its Motion Verizon refers to the record on this point to show that with respect to power plant, installation activities included not only installation of the equipment but also the placement and materials for power cables and racking. Exh 43 at 21.

The Joint CLECs point out that neither the direct testimonies that Verizon cites in its Motion, nor any other place in the record, provides support for its installation factor of 2.8912. Rather than provide support for the installation factor, according to the Joint CLECs, the Verizon citations merely describe the methodology by which the installation factor is calculated. In fact, the Joint CLECs

argue, the testimony of Stanley Baker does not even describe the methodology for calculating installation factors for collocation; it is instead devoted to supporting UNE rates - specifically unbundled tandem switching.

B. Statewide Averaged Power Rate

Verizon requests that the Commission clarify its ruling on DC power rates by stating that Verizon should be using statewide, not deaveraged rates, for DC power. While Verizon presented DC power costs for each zone, Verizon did not propose using deaveraged rates and points out that no other collocation rate differs among zones. Further, the rates charged to date have been statewide averaged rates for DC power.

The joint CLECs oppose Verizon's request to only offer statewide averaged rates for DC power. The Joint CLECs argue that inasmuch as Verizon provided the data necessary to determine geographically deaveraged rates and the Commission calculated new deaveraged rates, the competitive marketplace is best served by retaining the deaveraged rates. The Joint CLECs point to the FCC's Local Competition Order which says at paragraph 764 that "[D]eaveraged rates more closely reflect the actual costs of providing interconnection and unbundled network elements" and at paragraph 622 that "incumbent LECs'

rates for interconnection and unbundled network elements must recover costs in a manner that reflects the way they are incurred." Thus, according to the Joint CLECs, the interests of competition are best served by deaveraging rates to the extent that it is not administratively burdensome to do so and that because the rates have been calculated on a deaveraged basis, they should not be averaged.

C. Reduction in Power Investment

Verizon contends that because the Commission reduced the total power investment by about 38% in its Reconsideration Order, based on its finding that this amount of investment was already recovered from switching charges, the Commission should remove the amps of power used by the switches from the power cost analysis. Without such an adjustment, Verizon argues, the per-amp cost will be understated because more amperage is assumed than the lower level of investment is intended to support. Verizon suggests, since there are no specific data concerning switch power usage, that a reasonable solution for matching investment with power capacity is to reduce the total amps by the same 38% reduction in investment assumed in the Reconsideration Order.

The Joint CLECs did not specifically address the

reduction in power investment.

D. Application of the Joint and Common Cost Factor

Verizon asserts that the Joint and Common cost factor (J&C factor) is already an annualized figure and that it should be applied to the in place investment in order to properly determine the annual joint and common costs. Verizon argues that its witness, Mr. Baker testified that he calculated "annual" carrying charge factors, which include the J&C factor (Exh 63 at 6) and that the work papers Exh 43, Attachment E, page 23 clearly demonstrate the factor was developed to produce an annual figure.

The Joint CLECs did not specifically address the Joint and Common Cost Factor.

III. COMMISSION ANALYSIS

We first address the procedural question raised by the OCA. It is not necessary to address Verizon's claim that OCA's January 4, 2002 letter was untimely filed, because we reject its conclusion for other reasons. OCA essentially argues that in our Reconsideration Order, Order No. 23,847, we addressed the issues raised by Verizon in its Motion for Reconsideration of that Order. OCA argues that Verizon's only recourse from that Order was an appeal to the New Hampshire Supreme Court. In another case OCA's argument may control but, putting aside the question of differences between the

topics covered in the Order and those raised in the Motion for Reconsideration, case law makes it clear that the Commission has the authority to correct its own errors. *Appeal of White Mts. Educ. Ass'n*, 125 N.H. 771, 774 (1984), cited in *Petition of Ellis*, 138 N.H. 159, 160 (1993). While we reject Verizon's arguments on three of its four points, Verizon does in one case point the Commission to a calculation error in Order No. 23,847 which we will correct in this Order. We turn next to the specific claims raised by Verizon in its Motion for Reconsideration.

We agree with the Joint CLECs that there is no record basis to support Verizon's 2.8912 installation factor for collocation power costs. In our July 6 Order, we found there was no evidence on this record of Verizon's incremental cost for power and did not approve Verizon's power costs. Upon reconsideration, we determined that the evidence does show an incremental need for power facilities, and we attempted to properly calculate the TELRIC costs for such power needs based on the evidence. As stated in our Reconsideration Order, Verizon's proposed power installation factor is over twice as high as the installation factor approved for switching costs, and represents the assumption

that installation costs for power plant facilities are almost three times the cost of the facilities themselves.

While Verizon argues that our use of the switch installation factor is inappropriate, we do not find anything in the record to justify Verizon's proposed installation factor, and continue to believe that proposed factor is improbable and unreasonable. Verizon refers us to testimony that says that installation factors use the latest installation costs (Exh 43 at 3) and that with respect to power plant, installation activities include not only installation of the equipment but also the placement and materials for power cables and racking (Exh 43 at 21). Verizon does not refer us to a place in the record that supports the latest installation costs and we do not find that placement of materials for power cables and racking supports a finding that installation of power equipment is more expensive than installation of switch equipment. We deny Verizon's request for reconsideration of the installation factor.

With respect to power cost geographic deaveraging, Verizon's witness testified that power costs "were determined by density zone because they vary significantly by zone." Exh. 43 at 22. Verizon initially calculated the rates on a deaveraged basis, by density zone. A deaveraged rate structure is more reflective of cost and requires no additional work to implement. We therefore clarify our

Reconsideration Order to require Verizon to offer DC power on a deaveraged basis. We do not expect the deaveraging of this one factor to have a major impact on the attractiveness of rural areas to Verizon's local exchange competitors. The larger questions raised by geographic deaveraging of costs should be addressed in a more comprehensive manner in a different proceeding.

With regard to Verizon's suggestion to develop per-amp rates by reducing the amps in the denominator by 38%, we find that it would negate the removal of the double recovery. Applying a 38% reduction in the denominator with the 38% reduction in the numerator mathematically equates to an adjustment of the rate by multiplying it by one, and produces a per amp investment identical to that originally proposed by Verizon. As we found in our Reconsideration Order, the per amp investment initially proposed by Verizon produces a double-counting of the power costs recovered in switching. Verizon's Motion for Reconsideration regarding the reduction in power investment is denied.

Finally, with regard to Joint and Common costs, we have determined that Verizon has brought to our attention a computational error in our Order on Reconsideration. Verizon points to Mr. Baker's statement that "Joint and common costs

have been allocated to TELRIC investments through annual carrying charge factors" (Exh 63 at 6), and argues that this demonstrates that the joint and common cost factor is an annual carrying charge factor. We do not find this statement dispositive. However, Verizon also cites Exhibit 43, Attachment E, Page 23 as the workpaper that develops a ratio of one year's joint and common expenses to booked investment for 1996. This ratio is multiplied by a Gross Revenue Loading factor on Exhibit 43 Attachment C, Workpaper I, Part F to produce a factor that, when multiplied by investment, results in an annual cost attributed to joint and common expenses. Because the joint and common cost factor thus derived is an annualized factor, it is correct to apply this ratio to the in-place power investment in order to produce an annual joint and common cost associated with power investment, as Verizon proposed, rather than double-counting the annualization, as we did in our Order No. 23,847 calculation.

During our careful review of the record on this point, we also determined that during the hearings on the underlying docket, Verizon had put into evidence an updated workpaper, Exhibit 63, Attachment E, Page 51, which calculates the ratio of joint and common expenses to booked investment for 1997. Using the 1997 data, the J&C factor is reduced to

0.0600 after applying the Gross Revenue Loading factor. We find it reasonable to use the updated factor based on the 1997 data. We will grant Verizon's Motion for Reconsideration on how the factor is applied, using the factor developed from the most recent data on the record. This produces monthly recurring power rates as follows:

	Urban	Suburban	Rural
Cost/Amp > 60 Amps	\$3.53	\$3.99	\$6.13
Cost/Amp <= 60 Amps	\$3.71	\$4.18	\$6.32

Based upon the foregoing, it is hereby

ORDERED, that our Order No. 23,847 is clarified to require Verizon to offer DC power as deaveraged rates; and it is

FURTHER ORDERED, that the Motion for Reconsideration and/or Rehearing filed by Verizon on the installation factor and reduction in power investment is hereby DENIED; and it is

FURTHER ORDERED, that Verizon's Motion for Reconsideration of the application of the joint and common cost factor is GRANTED and the resulting rates are as specified above; and it is

FURTHER ORDERED, that Verizon file compliance pages containing the rates approved herein, effective July 6th, the

date of our initial order, and consistent with our
Reconsideration Order.

By Order of the Public Utilities Commission of New
Hampshire this fourth day of February, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary