

DT 01-212

VERIZON NEW HAMPSHIRE

**Petition for Approval of the Transfer of Advanced Services
Operations Back to Verizon New Hampshire and the Discontinuance
of Advanced Services Operations by Verizon Advanced Data, Inc.**

Order Addressing Outstanding Issues

O R D E R N O. 24,099

December 20, 2002

APPEARANCES: Donald W. Boeke, Esq. for Verizon New Hampshire; F. Anne Ross, Esq. for the Office of the Consumer Advocate; and E. Barclay Jackson, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY AND BACKGROUND

In October, 2001, Verizon New Hampshire (Verizon) petitioned the New Hampshire Public Utilities Commission (Commission) for permission to reacquire advanced services assets that had been transferred to Verizon Advanced Data, Inc. (VADI). Actions of the Federal Communications Commission (FCC) and decisions by federal courts prompted the petition. The Commission's Prehearing Conference Order, Order No. 23,913 (February 4, 2002), recounts the history leading to the reacquisition petition.

Verizon, the Office of the Consumer Advocate (OCA), and the Staff of the Commission (Staff) participated in a considerable discovery process. Discovery focused primarily on asset valuation, leading to a disagreement as to the proper

regulatory accounting rules to apply to this asset transfer between corporate affiliates.

On July 26, 2002, the Commission issued Order No. 24,018 (Scoping Order), determining that assets transferred from VADI to Verizon would be transferred at net book value but that the accounting treatment used would not affect the Commission's subsequent treatment of the transferred assets for ratemaking purposes. Pursuant to the Scoping Order, Staff and the Parties proposed a procedural schedule for resolving the remaining issues. The five remaining issues include Post Return Arrangements, Assignments of Customer Contracts, Issuance of Tariffs, Resale and Unbundling obligations, and resolution of any impact on Carrier-to-Carrier Performance standards. The procedural schedule provided for additional discovery and settlement discussions.

On October 16, 2002, Verizon and Staff submitted a Stipulation dated October 15, 2002, regarding the remaining issues, to which the OCA did not agree. Also on that date, the OCA filed a letter detailing its objections to the Stipulation.

At a hearing before the Commission on October 24, 2002, a panel comprised of Verizon, VADI, and Staff presented evidence as to the provisions in the Stipulation and responded to the specific objections raised by the OCA's October 15, 2002

filing. The OCA cross-examined the panel and presented oral argument.

II. POSITIONS OF THE PARTIES AND STAFF

A. Verizon, VADI, and Staff

Based on the discussions and discovery, Verizon, VADI, and the Staff agreed to resolve the five remaining issues in this docket in the following manner.

1. Post Return Arrangements.

After the VADI assets are returned to Verizon, Verizon will provide all Verizon advanced services in New Hampshire. Verizon will honor existing VADI contracts for advanced services. The principal tariff terms and conditions offered by VADI will become the Verizon tariffed terms and conditions. Verizon may receive support and services from VADI pursuant to a Master Services Agreement that complies with applicable FCC affiliate transaction and cost allocation rules.

2. Individual Customer Contracts.

All but one of VADI's active Individual Customer Contracts (ICCs) were initially made by Verizon and later assigned to VADI. Therefore, those ICCs were already approved by the Commission. VADI is assigning to Verizon, as a result of this transfer, the one ICC

that VADI entered into on its own. Verizon will seek Commission approval of this ICC once the Commission approves the transfer.

3. Verizon NH Tariffs.

After approval and before the effective date of the transfer of assets from VADI to Verizon, Verizon will file tariffs for advanced services. The tariffs will track the terms and conditions contained in the "illustrative" tariffs submitted heretofore in this proceeding. The tariffs substantially conform to the terms and conditions currently offered by VADI in New Hampshire.

4. Resale and Unbundling.

Verizon acknowledges its obligation to make intrastate advanced services available for resale by CLECs, as required by applicable law, at the avoided cost discount mandated by the TAct. Verizon will make available to CLECs for purchase as an unbundled network element any network element used to provide advanced services that is required to be unbundled by applicable law.

5. Carrier-to-Carrier Performance Standards.

Verizon will report on its own performance for providing retail advanced services pursuant to the standards established in DT 01-006. Verizon will no longer report with respect to UNE provisioning to VADI.

The panel responded to the OCA's four concerns:

Regarding the concern that ratepayers not shoulder unnecessary costs, the panel asserted that collocation costs incurred by VADI were minor because VADI opted for virtual collocation and that most assets were already in place at the time they were transferred from Verizon to VADI. Verizon testified that costs of \$78,000 and \$43,000, were incurred for "new growth" assets and are similar to those that Verizon would have incurred had the assets never been transferred to VADI.

In response to the concern that the reported net book value is inadequately verified, the panel indicated that net book value is not a static concept but changes as equipment is added, retired, and depreciated. Additionally, Verizon testified that a true-up of assets under construction would occur over time.

As to the concern that the Affiliate Services Agreement must be reviewed and approved by the Commission, the panel

averred that the services that VADI will provide to Verizon will be provided under a standard Affiliate Services Agreement, which expressly provides, among other things, that all charges for work performed shall be determined in accordance with the FCC's cost allocation rules (47 CFR §32.27), as revised and effective August 1, 2001.

Finally, with regard to tariffs, the panel stated that subsequent to approval of the transfer, Verizon will submit for Commission approval tariffs that comply with the illustrative tariffs provided in the filing.

B. Office of the Consumer Advocate

The OCA filed a letter with the Commission on October 15, detailing its reasons for not joining the Stipulation. According to the letter, the OCA objects to the transfer to ratepayers of any costs incurred by VADI other than costs which would have been incurred by Verizon had Verizon never transferred the advanced services assets. The OCA also objects to transferring the assets at net book value because the OCA believes that the accounting for the assets has not been investigated in sufficient detail. In order to avoid a mistaken amount, the OCA requests that any Commission order approving the proposed transfer avoid reference to a specific dollar amount for the transfer of assets. The OCA argues that the Affiliate

Services Agreement between Verizon and VADI must be reviewed and approved by the Commission prior to any transfer. Likewise, the OCA argues that post-transfer tariffs for advanced services must be reviewed and approved by the Commission prior to any transfer.

III. COMMISSION ANALYSIS

We have reviewed the evidence presented in this docket and we find that the reacquisition is reasonable and in the public good. Accordingly, we approve Verizon's reacquisition of advanced services assets that had been previously transferred to VADI, pursuant to the terms described by the panel and outlined in paragraphs 1 - 6, pp. 2-5 of the Stipulation.

The concerns raised by the OCA have been addressed to our satisfaction, for purposes of this order. The costs incurred by VADI are reasonable and mimic those which Verizon would have incurred had the advanced services been retained by Verizon.

The net book valuation of the assets being transferred is the method of valuation we approved in our Order No. 24,018. The OCA's concerns as to the suitability of that method have been addressed. Three Record Requests were made during the hearing for additional information regarding net book value. On

October 28, 2002, Verizon provided the information requested for Record Requests 3 and 4. According to Verizon, the information requested in Record Request 2 would require a lengthy investigation and therefore we directed the parties to determine if an alternative approach would satisfy the inquiry. Record Request 2 is a reconciliation of the original cost of advanced services assets between November, 2000 and July, 2002. While the parties have not established an alternative approach, the specific valuation amount is subject to true-up within a reasonable time period and we do not adopt any specific valuation in this order. Further, the information would be pertinent in any future rate case but not in this reacquisition docket. Therefore, we find that the additional information, while useful in the long term, is not germane to this order.

The OCA's concern regarding the Affiliate Services Agreement pertains to its consistency with FCC and Commission requirements and to strict review of pricing between the two companies. RSA 366:3 requires Verizon to file affiliate contracts with the Commission. RSA 366:6 grants us full investigative powers and authority to make any reasonable changes to such contracts. We believe that the OCA's concerns are addressed by the terms in the Stipulation Agreement. FCC 01-305 report and order adopted a major rewrite of the FCC USOA

effective January 1, 2003, including certain modifications to 47 CFR §32.27. The Commission has not adopted these modifications and thus find the provision for determining pricing between VADI and Verizon NH, in accordance with the FCC's cost allocation rules (47 CFR §32.27) as revised and effective August 1, 2001, to be reasonable and prudent. Finally, the OCA's demand that Verizon file tariffs for our review prior to approving the proposed transfer is unwarranted in the circumstances. The statutory timeframe for review of filed tariffs would require action far in advance of the completion of a full docket review of the proposed transfer, constraining us to deny approval of such tariffs as being beyond Verizon's authority. Such a use of resources would be inefficient. Verizon will be required to file tariffs in compliance with this order and we will, of course, review those tariffs in a timely fashion.

Based upon the foregoing, it is hereby

ORDERED, that paragraphs numbers 2 through 5 of the Stipulation submitted are hereby APPROVED; and it is

FURTHER ORDERED, that Verizon's Petition for Transfer of Advanced Services Operations Back to Verizon New Hampshire and the Discontinuance of Advanced Services Operations by Verizon Advanced Data, Inc. is hereby GRANTED.

By order of the Public Utilities Commission of New
Hampshire this twentieth day of December, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary