

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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December 21, 2000

Mr. Jeffrey Ward
Senior Vice President – Regulatory Compliance
Verizon Communications, Inc.
1310 North Courthouse Road – 4th Floor
Arlington, VA 22201

RECEIVED

RE: *Bell Atlantic/GTE Merger Order*, CC Docket No. 98-184, ASD File No. 00-30

Dear Mr. Ward:

This letter addresses the manner in which Verizon Communications, Inc. (“Verizon”) applies the promotional discounts for unbundled local loops required by the *Bell Atlantic/GTE Merger Order*.¹ Specifically, an issue has arisen regarding Verizon’s application of the promotional discounts in Pennsylvania.

In accordance with the *Bell Atlantic/GTE Merger Order*, Verizon must apply a promotional discount to monthly recurring charges for unbundled local loops to serve residential consumers.² Verizon must make these promotional discounts available during a specified “Offering Window” that started on July 31, 2000.³

As provided in the *Merger Conditions*, the Pennsylvania Public Utility Commission (“Pennsylvania Commission”) reviewed Verizon’s promotional discounts in Pennsylvania.⁴ After its review, the Pennsylvania Commission notified the staff of the Common Carrier Bureau (“Bureau”) that Verizon had applied its promotional discounts for certain unbundled local loops to rates that have not been in effect

¹ GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, *Memorandum Opinion and Order*, FCC 00-221 (rel. Jun. 16, 2000) (“*Bell Atlantic/GTE Merger Order*”). The *Merger Conditions* are contained in Appendix D.

² *Id.* at Appendix D, para. 35; *see id.* at paras. 307-09 (describing promotional discounts for unbundled loops).

³ *Id.* at Appendix D, para. 35(a). The Offering Window starts 30 days after the Merger Closing Date and ends in 24 months or after the completion of certain specified events (e.g., completing 50% of the out-of-region competition commitment or reaching the specified maximum number of discounted loops). *See Implementation Timeline Available for Bell Atlantic/GTE Merger Conditions, Public Notice*, DA 00-1601 at 5 (Jul. 19, 2000) (noting that Verizon must “[b]egin offering window for carrier-to-carrier unbundled loop promotion discount” on July 31, 2000).

⁴ *Id.* at Appendix D, para. 34 (requiring Verizon to file its promotional offerings “for review and approval by the relevant state commission”).

during the Offering Window.⁵ In response to questions from the Bureau staff, Verizon argues that the *Merger Conditions* allow Verizon to apply the promotional discount to prior rates⁶ because the current rates reflect state-approved promotional discounts.⁷ The Pennsylvania Commission informs us that, although the current rates reflect reductions ordered in September 1999, these rate reductions did not reflect promotional or market-opening discounts.⁸ Instead, the Pennsylvania Commission explains that it revised its rate structure for local loops and other unbundled network elements (“UNEs”) by modifying several inputs used to calculate such rates.⁹

Particularly in light of the information provided by the Pennsylvania Commission, the current rates for unbundled local loops in Pennsylvania do not constitute an additional “state discount” for the purposes of applying the promotional discounts under the *Merger Conditions*. Although the *Merger Conditions* distinguish between the promotional discounts and additional discounts that may be provided under a state commission plan, the September 1999 Pennsylvania Commission action cannot reasonably be viewed as establishing “market-opening discounts” at the state level for the purposes of the *Merger Conditions*.¹⁰ As the Pennsylvania Commission makes clear in its *November 21, 2000 Letter*, the rates established in September 1999 are permanent rates.¹¹ To comply with the promotional discount provisions under the

⁵ See Letter from Bohdan R. Pankiw, Chief Counsel, Pennsylvania Public Utilities Commission, to Carol E. Matthey, Deputy Chief, Common Carrier Bureau, FCC (Nov. 21, 2000) (“*Pennsylvania November 21, 2000 Letter*”); Letter from Maryanne Martin, Assistant Counsel, Pennsylvania Public Utility Commission, to Anthony Dale, Attorney, Common Carrier Bureau, FCC (Oct. 16, 2000) (“*Pennsylvania October 16, 2000 Letter*”) (providing information detailing changes in the Pennsylvania rate structure).

⁶ “Prior rates” refer to the Pennsylvania rates for unbundled local loops in effect prior to September 30, 1999.

⁷ Letter from Patricia E. Koch, Assistant Vice President, Verizon Communications, Inc., to Carol E. Matthey, Deputy Bureau Chief, Common Carrier Bureau, FCC (Oct. 16, 2000) (“*Verizon October 16th Letter*”).

⁸ *Pennsylvania November 21, 2000 Letter* at 1.

⁹ *Id.*; *Pennsylvania October 16, 2000 Letter*; see Joint Petition of Nextlink Pennsylvania, Inc. et al. for Adoption of Partial Settlement Resolving Pending Telecommunications Issues, Dockets No. P-00991648 and P-00991649 at 73-78 (PA PUC Sept. 30, 1999, as clarified by Order entered on Nov. 5, 1999) (“*PA Global Order*”), *aff’d Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Pub. Util. Comm’n*, Docket No. 2790, 2793, 2812, 2896, 2916 at 68-69 (Oct. 25, 2000) (noting that the Pennsylvania Commission modified two inputs used to calculate rates, i.e., the cost of capital and the fill factor). The *PA Global Order* is available at on the Internet at the following address: <http://puc.paonline.com/Telephone/Global/Global_Telephone_Order.asp>.

¹⁰ See *Verizon October 16th Letter* at 1; see also *Bell Atlantic/GTE Merger Order* at Appendix D, para. 35(d) (noting that the “promotional discount shall supplement, but no be cumulative of, any market-opening discounts approved by state commissions”).

¹¹ *Pennsylvania November 21, 2000 Letter* at 1-2; see *PA Global Order* at 73-78; see also *Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Pub. Util. Comm’n*, supra note 9, at 68-69 (noting that the Pennsylvania Commission modified two inputs used to calculate rates, i.e., the cost of capital and the fill factor).

Merger Conditions, Verizon should immediately revise its application of discounts so that it bases its promotional offerings on rates that are currently in effect, those established by the Pennsylvania Commission in September 1999.

In addition, we are referring this matter to the Enforcement Bureau for possible enforcement action based on Verizon's failure to properly apply the promotional discount for unbundled local loops in Pennsylvania since July 31, 2000.

If you have any questions, you may contact Anthony Dale in the Common Carrier Bureau at (202) 418-2260 for further information on this matter.

Sincerely,

Carol E. Matthey
Deputy Chief, Common Carrier Bureau

CC: David Solomon, Chief, Enforcement Bureau, FCC
Patricia Koch, Assistant Vice President, Verizon Communications, Inc.