

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE INQUIRY INTO            )  
VERIZON DELAWARE INC.'S COMPLIANCE        )  
WITH THE CONDITIONS SET FORTH IN            )       PSC DOCKET NO. 02-001  
47 U.S.C. § 271                                )  
(FILED FEBRUARY 1, 2002)                    )

**ORDER NO. 6739**

This 11<sup>th</sup> day of October, 2005, the Commission determines and Orders the following:

1. On May 19, 2005, Verizon Delaware Inc. ("VZ-DE") submitted for implementation in Delaware various revisions to its "Performance Assurance Plan Verizon Delaware Inc." ("DE PAP"). The proposed revisions sought to capture revisions made by the New York Public Service Commission ("NY PSC") to Verizon New York Inc.'s similar Performance Assurance Plan.<sup>1</sup> In both New York and here, the Performance Assurance Plan ("PAP") works in tandem with the Verizon operating company's Carrier-to-Carrier Guidelines ("C2C Guidelines"). Those Guidelines attempt to measure the particular incumbent's performance in providing wholesale services to its competitors. For the most part, the underlying NY PSC PAP revisions now offered here by VZ-DE seek to carry forward into the PAP framework several earlier (December 2004) changes made to the New York C2C Guidelines. Under

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<sup>1</sup>See New York PSC Cases C97-0271; 99-C-0949; & 02-C-1425, "Order Establishing Modifications to the Performance Assurance Plan and Change Control Assurance Plan for Hot Cut Measurements and Standards" (NY PSC March 17, 2005). Under the procedural framework adopted in PSC Order No. 6344 (Jan. 13, 2004), VZ-DE is obligated to import the NY PSC's changes to that jurisdiction's C2C Guidelines and PAP into Delaware for possible adoption in this State. Id. at ¶¶ 4-5.

the process set forth in PSC Order No. 6344, those earlier New York C2C Guideline changes became effective as part of VZ-DE's C2C Guidelines in May 2005. See PSC Docket No. 02-001, VZ-DE's Notice of Submission (filed Feb. 4, 2005). Concurrent with its May 19<sup>th</sup> submission, VZ-DE provided notice of its proposed DE PAP changes pursuant to the procedural template adopted in PSC Order No. 6344, Exh. B.<sup>2</sup>

2. On June 27, 2005, Cavalier Telephone Mid-Atlantic, LLC ("Cavalier") filed comments objecting to the proposed DE PAP revisions submitted by VZ-DE on May 19<sup>th</sup>. In those comments, Cavalier initially called for a soup-to-nuts review of the DE PAP in light of the changes in the competitive environment for telecommunications services wrought not only by the dynamics of that market but shifts in the FCC's ground rules related to an incumbent's duties to competing local exchange carriers. In addition, Cavalier asked the Commission to carefully scrutinize, and possibly reject, the various "weights" assigned within the proposed PAP revisions to VZ-DE's trio of "hot cut" processes.

3. VZ-DE opposed both of Cavalier's requests. However, in a letter dated August 9, 2005, VZ-DE also suggested that the Commission might consider delaying further consideration of the May 19<sup>th</sup> DE PAP revisions until the NY PSC completes its presently-pending Annual Review of the New York PAP.<sup>3</sup> As VZ-DE sees it, such delay would not

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<sup>2</sup>On June 20, 2005, VZ-DE filed comments urging (but with some cautionary notes) adoption of the March 17<sup>th</sup> New York PSC revisions into its DE PAP. Those were the revisions set forth in its May 19<sup>th</sup> submission here.

<sup>3</sup>See NY PSC Case 99-C-0949, "Notice Inviting Comments (NY PSC May 4, 2005) (initiating Annual Review and soliciting comments). In the Annual

only be appropriate - given that the DE PAP has historically mirrored the New York document - but also efficient. It would avoid having this Commission and the parties expend resources on considering the May 19<sup>th</sup> revisions that (if approved) might, by the time of their implementation, be superceded or undercut by the results of the New York Annual Review.

4. In a response dated August 19, 2005, Cavalier expressed its continued concern about the Commission rotely adopting New York PAP revisions, given that Cavalier does not operate in that jurisdiction and thus has no input into the NY PSC's rulings concerning the PAP utilized in that jurisdiction. Cavalier also suggested that in particular instances the provisions of the New York PAP - constructed in the context of that State's competitive telecommunications market - might not always be appropriate for use in the smaller, and possibly different, market existing in Delaware. However, Cavalier agreed, that it might be appropriate, in the interest of efficiency, for the Commission to defer further consideration of VZ-DE's May 19<sup>th</sup> revisions until such time as the NY PSC issues a final substantive order in its Annual Review of its PAP mechanism.

5. The Commission believes the delay proposed by VZ-DE, and concurred in by Cavalier, is appropriate. While the Commission cannot anticipate what, in either content or scope, may finally emerge from the NY PSC's Annual Review proceeding, it is probably more efficient to await those results than to now proceed with further, possibly protracted, proceedings related to the May 19<sup>th</sup> proposed DE PAP

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Review proceeding, all PAP metrics and at-risk dollar allocations will be subject to review.

revisions. Given that the proposed date for implementation of the May 19<sup>th</sup> revisions (even if adopted) would not be until some time in the first half of 2006, there is a significant possibility that any such approved changes might immediately collide with another set of revisions emerging from the NY PSC's comprehensive review.<sup>4</sup>

Now, therefore, **IT IS ORDERED:**

1. That further consideration of revisions to the Verizon Delaware Inc.'s "Performance Assurance Plan Verizon Delaware Inc.," as proposed in Verizon Delaware Inc.'s submission of May 19, 2005, is hereby held in abeyance until further Order of the Commission. Those provisions, and any included implementation dates, shall not go into effect until further Order of this Commission.

2. That the request of Cavalier Telephone Mid-Atlantic, LLC, for the Commission to open a proceeding to review the entire current Performance Assurance Plan mechanism in light of changes in the telecommunications market in Delaware, is denied at this time. Such denial is without prejudice to any carrier later filing such a request at any time after the filing of the report under Ordering paragraph 3 or sooner if good cause exists.

3. That Verizon Delaware Inc. shall, within twenty days after the New York Public Service Commission enters its final Order in its now pending Annual Review of Verizon New York Inc.'s Performance Assurance Plan (as initiated under Case No. 99-C-0949, Notice Inviting

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<sup>4</sup>The Pennsylvania and Virginia utility commissions have already deferred their consideration of these same PAP changes until the NY PSC completes its Annual Review proceeding. Cavalier was a party to the proceedings in both those jurisdictions.

Comments (May 4, 2005)), lodge a copy of that Order with the Commission and serve a copy on all parties to the then-current service list. Verizon Delaware Inc. shall accompany such submission with its views on how the determinations made by the New York Public Service Commission in such Order affect the revisions submitted on May 19, 2005. The above document shall be in addition to the obligations imposed under PSC Order No. 6344 (Jan. 13, 2004) for Verizon Delaware Inc., to submit for consideration in Delaware any Performance Assurance Plan revisions that the New York Public Service Commission might adopt in its Annual Review proceeding.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

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Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

ATTEST:

/s/ Norma J. Sherwood  
Acting Secretary

