

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
VERIZON DELAWARE INC., FOR A CABLE)
TELEVISION FRANCHISE TO SERVE THE) PSC DOCKET NO. 06-40
UNINCORPORATED AREAS OF THE STATE)
OF DELAWARE (FILED JANUARY 23, 2006))

ORDER NO. 7006

This 22nd day of August, 2006, the Commission determines and Orders the following:

1. Verizon Delaware Inc. ("VZ-DE") has asked the Commission to grant it a franchise so that it can provide cable or video services in the unincorporated areas of this State. See PSC Orders Nos. 6763 (Nov. 8, 2005) & 6858 (Mar. 14, 2006) (recounting prior procedural steps).¹

2. The Commission held a duly-noticed public hearing on VZ-DE's application at its meeting on April 11, 2006. After hearing presentations, the Commission decided to continue its hearing on the application until it could receive further input from the public on both the application and a proposed franchise document.² Seeking to mirror how it usually has proceeded in the context of considering renewing cable franchise agreements earlier granted to incumbent cable

¹VZ-DE has asked for a franchise to serve throughout the State. However, the proposed franchise document it has offered outlines how it will offer video services within an "initial service area" encompassing areas within nine miles of its present telephone "wire centers." Those wire centers are located in various areas of the State.

²At the time of the April hearing, VZ-DE had not formally offered a proposed franchise agreement document.

systems, the Commission directed that a public comment session on VZ-DE's application and proposed franchise document be held in each county (given that the franchise sought was for the entire State).

3. After discussions with Staff, VZ-DE has now tendered a proposed franchise document. See VZ-DE proposed franchise agreement submitted August 18, 2006. Staff reports that, with two reservations outlined below, it accepts the terms of VZ-DE's proposed franchise agreement document. Staff's reservations are in two areas: (a) the provisions (Section 3.2) related to initial service areas and the conditions for subsequent expansions; and (b) the commitments related to Public, Educational, and Governmental ("PEG") access (Section 4). As to the former, Staff desires to wait to hear what the public and interested persons might offer related to VZ-DE's "initial service areas" and "expansion" commitments. As to the second area, Staff says its hesitation is not necessarily with the scope of VZ-DE PEG commitments, but rather that the Commission might want to consider revisiting the issue of PEG access by all cable television providers. In the past, Staff suggests, PEG access has not been a "hot-button" issue for cable franchising in the unincorporated areas - either from the perspective of the consumer audience or the potential public, educational entity, and governmental speakers. The Commission's present franchise agreements with the incumbent cable system operators (Comcast, Atlantic Broadband, and Mediacom) all include PEG access commitments. Yet, Staff concedes that it has little knowledge how such existing commitments have been utilized (if at all) and especially for PEG programming directed at cable customers in

unincorporated areas. At the same time, Staff's concern is that as broadband networks bring more and more information to consumers, both consumers and PEG speakers in the unincorporated areas may want a more active PEG role than has been the historical experience. Staff suggests that, rather than "freeze" PEG access commitments in the present mode, the Commission should seek agreements from all cable providers that would allow the Commission to re-open negotiations about PEG access and commitments six or seven years from now. Such a provision would allow the Commission, if demand for PEG access does indeed emerge, to respond to such public need, and not find itself fenced in for the entire 15 year franchise periods by PEG commitments premised on the demand - or lack thereof - prevailing in 2005 or 2006. Because effectuating such a policy would require amendments to other cable operators' current (and recently renewed) franchises, Staff has reserved endorsement of VZ-DE's PEG terms. Staff proposes that it try to obtain a uniform re-negotiation provision for PEG access from all cable or video providers.³

4. Consistent with the decision made at the April 11, 2006 hearing, this matter is now given to a Hearing Examiner to conduct a duly-noticed public comment session in each of the three counties. At such comment sessions, members of the public and other interested persons or entities can present their views on VZ-DE's application and the proposed franchise agreement document. See 26 Del. C. § 603(b). In addition, during the same period, members of the public and

³Staff proposes to begin discussions with other cable providers to have them agree to modify their franchises to provide for such re-negotiation of the access commitments.

interested persons and entities may also submit written responses and materials related to VZ-DE's application and the proposed franchise agreement. VZ-DE shall also have the opportunity to respond. After such hearings and response, the Hearing Examiner shall submit a Report, summarizing the comments offered at such hearings and in the written submissions, as well as VZ-DE's responses. The Hearing Examiner shall identify any particular significant issues that might be raised by the comments. In addition, after the end of the comment period, Staff shall submit its recommendations related to the application and proposed franchise agreement. See 26 Del. C. § 603(b). After receiving such Report and Staff's Recommendations, the Commission will hold a final public hearing before it in order to act upon the application and proposed franchise agreement. See 26 Del. C. § 603(c).

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

1. That, consistent with the vote taken at the public hearing held on April 11, 2006, the hearing previously scheduled before the Commission is continued, and this matter is referred to Hearing Examiner Ruth A. Price. Hearing Examiner Price shall conduct, after appropriate public notice, a public comment session in each county of this State. At such public comment session, members of the public and other interested persons or entities may offer comments, objections, or endorsements related to: (a) the application for a cable franchise filed by Verizon Delaware Inc. on January 23, 2006; and (b) the proposed cable franchise agreement submitted August 18, 2006. In addition, members of the public and other interested persons or

entities may file written comments, objections, or endorsements concerning such matters. Such written materials must be filed before the last of the above public comment sessions. Verizon Delaware Inc. shall also be permitted to submit responses to the comments or objections.

2. That, after the close of the period for the public comment sessions and the time for Verizon Delaware Inc. to respond, Hearing Examiner Price shall file a Report summarizing the comments received, both at the sessions and in writing, as well as the responses of Verizon Delaware Inc. Hearing Examiner Price shall highlight in her Report the central issues raised by the submissions. Hearing Examiner Price shall endeavor to file her Report by October 23, 2006. By the same time, the Staff shall file its recommendations for how the Commission should act on the cable application filed by Verizon Delaware Inc. and the proposed franchise agreement.

3. That, after the filing of the Hearing Examiner's Report and Staff's Recommendations, the Commission will hold a final public hearing before it to act on the cable application filed by Verizon Delaware Inc. and the proposed franchise agreement.

4. That, pursuant to 26 Del. C. § 102A, Hearing Examiner Price is granted the authority to determine the form and manner of public notice for the comment sessions and the solicitation of written comments under Ordering paragraph 1.

5. 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

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary