

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

**Verizon Pennsylvania Inc., Petition
And Plan for Alternative Form of
Regulation under Chapter 30;
2000 Biennial Update to
Network Modernization Plan
(Amendment to NMP)**

**PUBLIC MEETING:
JULY 17, 2003
Jul-2003-OSA-0120*
Docket No. P-00930715F0002**

**Verizon Pennsylvania Inc. Petition
and Plan for Alternative Form Regulation
under Chapter 30; 2000 Biennial
Update to Network Modernization Plan
(Petition for Reconsideration of
May 15, 2002 Order)**

P-00930715

MOTION OF COMMISSIONER GLEN R. THOMAS

Before the Commission for consideration are the Exceptions and Reply Exceptions of Verizon Pennsylvania Inc. (Verizon PA), Covad Communications Company, the Pennsylvania Cable & Telecommunications Association, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA) and the Office of Trial Staff to the Recommended Decision of Administrative Law Judge Larry Gesoff (ALJ) regarding Verizon PA's Petition to Amend Network Modernization Plan (Petition to Amend).

On May 15, 2002 the Commission rejected Verizon PA's 2000 Network Modernization Plan (NMP) Biennial Update on the grounds that Verizon PA's Update fell short of its commitment of providing broadband capability of at least 45 megabits per second (Mbps). The Commission approved Verizon PA's NMP in 1995 based on that commitment. The May 15 Order, *inter alia*, directed Verizon PA to file a revised update setting forth its Plan and objectives to comply with its legal obligation to provide broadband capability of at least 45 Mbps consistent with its approved NMP.

On May 30, 2002, Verizon PA filed a Petition for Reconsideration (Petition). At the August 29, 2002 Public Meeting, the Commission adopted a Joint Motion of Vice Chairman Robert K. Bloom and Commissioner Kim Pizzingrilli in which Verizon PA was presented with the alternative to file a petition to amend its NMP on or before September 16, 2002 in lieu of the Commission taking action to deny the pending Petition for Reconsideration. Verizon PA filed its Petition to Amend the Network Modernization Plan portion of its Chapter 30 Plan on September 16, 2002 with an attachment titled

“Third Supplement to Network Modernization Plan.” Various parties filed answers to the Petition.

By Secretarial Letter dated October 31, 2002, the Commission determined that the Answers raised factual issues concerning speed, deployment and competitors’ access to Verizon PA’s network and referred the matter to the Office of Administrative Law Judge. A Recommended Decision was issued on March 24, 2003. Subsequently, parties filed their Exceptions and Reply Exceptions.

The Office of Special Assistants (OSA), *inter alia*, recommends that the Exceptions and Reply Exceptions be granted in part and denied in part. While I support portions of Staff’s recommendation, I move that the recommendation should be modified consistent with the following discussion.

Changes to Deployment Targets

Verizon PA proposes in its Third Supplement to commit to providing the benefits of “fiber to the neighborhood” by 2015. This includes 1) building fiber to each and every one of the existing Remote Terminals and 2) shortening loop lengths to 12,000 feet by building new Remote Terminals primarily in rural areas in order to have the shorter loop lengths that are needed to provide broadband services. The OCA and OSBA argued that deployment should be accelerated.

The ALJ recommended that Verizon PA adhere to an accelerated 100% deployment target date of December 31, 2010 with certain conditions.

Staff recommends accepting the 1.544 Mbps deployment targets proposed by Verizon PA with the exception that the deployment target for 2010 shall be 75% in lieu of 70% as proposed by Verizon PA and establishes a broadband acceleration incentive for 100% deployment by December 31, 2010. I disagree.

While the accelerated final target date for broadband availability is a laudable concept, the General Assembly had decided that December 31, 2015 is the appropriate date by which network modernization commitments should conclude.¹ Any changes that alter that timeline should also come from the General Assembly. However, that being said, I believe that a more aggressive deployment schedule than the one proposed by Verizon PA or by Staff is appropriate, supported by the record and within the scope of the Commission's discretion.

¹ Prior to the enactment of Chapter 30 the Commission contracted with Deloitte & Touche and DRI McGraw-Hill to perform a telecommunications infrastructure study. The study identified the costs of network modernization under four different deployment scenarios. Those scenarios included: 1) a typical deployment cycle with network modernization by 2030; 2) a conservative accelerated scenario with full deployment by 2020; 3) a moderate accelerated scenario with full deployment by 2015 and 4) an aggressive scenario with full deployment by 2010. Deloitte & Touche, Vol. I, pp. I-111-114 and Vol. IV, pp. XIII 70-87.

Accordingly, Verizon PA is directed, at a minimum, to deploy broadband at a speed of at least 1.544 Mbps in a linear manner in accordance with the following schedule:

2004	50%
2006	60%
2008	70%
2010	80%
2012	90%
2015	100%

Verizon PA's progress in meeting these deployment targets shall be measured on an access line basis for both residence and business customers in each of the urban, suburban and rural exchange classifications in its service territory. In its Biennial Updates commencing with the 2004 Update, Verizon PA shall set forth its efforts and its accomplishments in order to demonstrate its success of achieving these targets.

Verizon PA is also to upgrade existing Remote Terminals and to deploy additional Remote Terminals. In order to deploy services that are Chapter 30 compliant there is a need for these upgrades and additional deployment. Consequently, Verizon PA shall adjust the schedule for the upgrades and deployment in accordance with the above schedule.

Finally, while the deployment targets in this Motion are somewhat greater than that proposed by Verizon PA in its Petition, given the substantial decrease from its currently effective 45 Mbps plan, these accelerated deployment targets reflect a balancing of the substantial cost savings likely to have been realized in not constructing a 45 Mbps to the curb network and, based on the record, are within Verizon PA's ability to achieve. Indeed, I would challenge Verizon PA to meet and to exceed these deployment targets for the benefit of its customers in the Commonwealth.

Additional Items

Given these additional requirements and the need for the public to have the assurance that network modernization plans are being followed, I will move that the following two matters be included in the Order. The Commission needs to have confidence in the facts related to network modernization filings and to have the appropriate enforcement tools at its disposal should non-compliance become an issue.

1. Audits

The Bureau of Audits, in conjunction with the Law Bureau and the Bureau of Fixed Utility Services, is directed to prepare a recommendation within 60 days of the entry date of this Order detailing how the Commission should perform audits regarding the network modernization plans of Verizon PA and other Chapter 30 companies. The

Bureau shall include in their recommendation the appropriate reporting process and information that a company would need to file with the Commission in order to enable the Commission to track the progress of the company's network modernization plan.

2. Compliance

The Law Bureau, in conjunction with the Bureau of Fixed Utility Services and the Office of Special Assistants, shall submit a recommendation, within 60 days from the entry date of this Order, which outlines the enforcement methods available to the Commission to ensure compliance by Verizon PA and other Chapter 30 companies with their respective plans

Other Matters

OCA submitted that the Commission should establish a Broadband Fund to support broadband deployment to underserved areas in Pennsylvania and fund it with excess profits from Verizon PA's current alternative ratemaking plan. In addition, OCA submitted that affordable access to broadband services is vital to Pennsylvania and the development potential of the Internet. These issues, along with the issue of shortening the timeline for deployment before 2015 as addressed earlier, are matters that are more appropriately considered by the General Assembly.

THEREFORE, I MOVE THAT:

1. Verizon PA's Petition to Amend is approved with the following conditions:

- Verizon PA shall make available broadband service at 45 Mbps and higher speeds in commercially reasonable timeframe (currently defined as 45-60 days) consistent with Staff's recommendation.
- Verizon PA shall make available broadband service at 1.544 Mbps, using Verizon PA's choice of technology, within 5 days of request according to the modified schedule. The Biennial Updates for each of the following years shall reflect the deployment targets set forth below.

2004	50%
2006	60%
2008	70%
2010	80%
2012	90%
2015	100%

The deployments targets are the minimum Verizon PA shall deploy. Verizon PA's progress in meeting these deployment targets shall be measured on an access line basis for both residence and business customers in each of the urban, suburban and rural exchange classifications in its service territory.

In addition,

- Verizon PA shall set forth, in its Biennial Updates commencing with the 2004 Update, its efforts and its accomplishments in order to demonstrate its success of achieving these targets.
- Verizon PA, for existing Remote Terminals, shall adjust the schedule for upgrading these terminals in accordance with the above schedule.
- Verizon PA shall deploy and equip Remote Terminals throughout its territory where none are in place and where customers are more than 12,000 feet from a central office consistent with Staff's recommendation.
- Verizon PA shall make available DSL at speeds less than and greater than 1.544 Mbps to 45% of lines in all zones by 2006 and closing the residential and business availability gap to 10% by 2007 consistent with its proposal.
- Verizon PA shall deploy fiber to existing and new Remote Terminals consistent with its proposal.
- Verizon PA shall construct and equip Remote Terminals throughout its territory consistent with Staff's recommendation.
- Verizon PA shall reclassify its exchanges by density cell groups consistent with Staff's recommendation.
- Verizon PA shall create and update semi-annual lists designating where DSL service is available in Pennsylvania consistent with Staff's recommendation.

2. The Bureau of Audits in conjunction with the Law Bureau and the Bureau of Fixed Utility Services is directed to prepare a recommendation within 60 days of the entry date of this Order detailing how the Commission should perform audits regarding the network modernization plans of Verizon PA and other Chapter 30 companies. The

Bureaus shall include in their recommendation the appropriate reporting process and information that a company would need to file with the Commission in order to enable the Commission to track the progress of the company's network modernization plan.

3. The Law Bureau, in conjunction with the Bureau of Fixed Utility Services and the Office of Special Assistants, shall submit a recommendation within 60 days from the entry date of this Order of the appropriate enforcement method(s) that the Commission can utilize to ensure Verizon PA and other Chapter 30 companies are compliant with their respective plans.

4. The Office of Special Assistants, in conjunction with Law Bureau, shall prepare an Opinion and Order consistent with this Motion.

Date

GLEN R. THOMAS
Commissioner