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May 15, 2006

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Subject: IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO SOLICIT
COMMENTS ON SECTION 303 OF 2005 PA 235
MPSC CASE NO. U-14819

Dear Ms. Kunkle:

Enclosed for filing please find an electronic copy of Verizon North Inc., Contel of the South, Inc. d/b/a Verizon North Systems, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. d/b/a Verizon Business Services (collectively "Verizon") Comments Regarding the Establishment of Procedures for Transferring the License of a Bankrupt Provider to Another Qualified Provider.

If you have any questions, please contact me.

Sincerely,

A. Randall Vogelzang

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A. Randall Vogelzang

Enclosures

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,	)	
to solicit comments on Section 303 of 2005	)	Case No. U-14819
PA 235.	)	
_____	)	

**VERIZON COMMENTS REGARDING THE ESTABLISHMENT OF PROCEDURES
FOR THE TRANSFER OF THE LICENSE OF A BANKRUPT PROVIDER TO
ANOTHER QUALIFIED PROVIDER**

Pursuant to the Michigan Public Service Commission's ("Commission") April 13, 2006 Order, Verizon North Inc., Contel of the South, Inc. d/b/a Verizon North Systems, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. d/b/a Verizon Business Services (collectively "Verizon") provide the following comments regarding the establishment of procedures for transferring the license of a bankrupt provider to another qualified provider.

I. INTRODUCTION

There are several sections of the Michigan Telecommunications Act ("MTA") dealing with a license for the provision and resale of basic local exchange service. Section 302 authorizes the Commission to approve an application for a license to provide or resell basic local exchange service upon several statutory findings.¹ Under § 301(2), the Commission may issue a temporary license without notice and hearing for up to one year pending the approval of the

¹ Under Section 302(1) of the MTA, the provider seeking a license must apply to the Commission for a license under Section 302, and after notice and hearing, the Commission will grant the license if the provider possesses "sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service within the geographical area of the license and that the applicant intends to provide service within 1 year from the date the license is granted" and it is in the public interest. See MCL 484.2302.

license application.² Further, under § 203(3) a provider may transfer its license to another provider if that provider already possesses a license, but this section specifically prohibits a transfer to an unlicensed provider.³ Finally, § 303(4) of the MTA requires the Commission to establish procedures for the transfer of a license to another qualified provider when the transferring provider is in bankruptcy.⁴

The Commission should ensure that the process of transferring a license during bankruptcy is simple and quick. The provider that already holds a license for local service and is receiving assets through the bankruptcy process, including the license from the bankrupt provider, should file a notice with the Commission of the license transfer so the Commission can update its records. In the case of an unlicensed provider receiving assets from a bankrupt provider, the Commission should establish a process permitting the provider receiving the assets to obtain a temporary license within ten days after filing an application for a license.

II. THE PROCESS TO TRANSFER A LICENSE FROM A BANKRUPT PROVIDER TO A QUALIFIED PROVIDER SHOULD BE EXPEDITIOUS AND UNCOMPLICATED

The MTA does not require Commission approval of a license transfer. Under Section 303(3), the only restriction to a license transfer is that a provider may not transfer its license to a provider that does not already hold an approved license. This makes sense because if the license transferee has been granted a license it means the Commission has already found that the provider meets the necessary prerequisites of the MTA for a license. There is no need for the Commission and the provider go through the notice and hearing process again when the

² MCL 484.2301(2).

³ MCL 484.2303(3).

⁴ MCL 484.2303(4).

Commission has already made the necessary findings.⁵ Thus, a provider in bankruptcy should be allowed to transfer its license to an existing license holder in Michigan upon notice to the Commission and such transfer should be effective upon filing such notice with the Commission.

However, if the provider receiving a bankrupt provider's assets does not hold a license, the MTA would prohibit the license transfer until the party receiving the assets holds a license. However, Section 301(2) authorizes the Commission to issue a temporary license while the application for a permanent license is pending. When a transfer in bankruptcy is involved, the Commission should issue a temporary license as soon as possible after a license application is filed. The bankruptcy of a provider creates a sense of urgency that does not exist in the case of other new applications for a license. Normally, a bankrupt provider will have existing customers that may be in jeopardy of losing service because of significant financial and operational pressures that are forcing the transferring provider to terminate its business, which are not present in other license applications. Thus, when a bankruptcy is involved, there is a public interest to quickly issue a license transfer to a provider that will be better able to serve these customers than the bankrupt provider.

Section 303 (4) states that the Commission must establish "procedures for transfer of the license to another *qualified* provider." By using the word "qualified" instead of "licensed" as it did in Section 303(3), the Legislature intended that the Commission develop an expedited process to transfer a license during a bankruptcy even if the new provider does not have a license. As stated above, for a qualified provider already holding a license, the only process

⁵ In some cases the territory served by the transferring provider may match the territory served by the provider receiving the bankrupt provider's assets. In that case, there is no need to transfer a license since the provider receiving the assets already holds a license for the territory of the bankrupt provider. The license transfer would be required if the provider receiving the assets of the bankrupt provider did not serve the same territory as the bankrupt provider.

required would be for the new provider to notify the Commission of the change in license holder. However, for a qualified provider that has not actually applied for a license and received it, the existing application process for a permanent license could delay the transfer for some time. Thus, the Commission should issue a temporary license no later than ten days after a provider taking over for a bankrupt provider files its license application. In its application, the Provider must make a request for the temporary license and provide support showing that it meets the statutory requirements for a license.

III. CONCLUSION

Verizon's comments are limited to the process of transferring a license during a bankruptcy. There are a number of other issues in addition to the license transfer process that arise when the assets of one company are transferred to another, such as authority to transfer a provider's customers, notice to customers, bonding, etc. However, these issues are beyond the scope of the narrow issue of the license transfer process and have not been addressed here.

The Commission should keep the process of transferring a license during a bankruptcy simple and expeditious. Transfer of a license to providers already holding a license should be made upon notice to the Commission. In the case of a transfer to providers who require a license, the Commission should issue a temporary license no later than ten days after an application for a permanent license is filed.

Respectfully submitted,

VERIZON NORTH INC., CONTEL OF THE SOUTH,
INC. d/b/a VERIZON NORTH SYSTEMS, MCIMETRO
ACCESS TRANSMISSION SERVICES LLC d/b/a
VERIZON ACCESS TRANSMISSION SERVICES AND
MCI COMMUNICATIONS SERVICES, INC. d/b/a
VERIZON BUSINESS SERVICES

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