

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX
ATTORNEY GENERAL

FILED

MAY 25 2006 P. 1008 BOX 30212
LANSING, MICHIGAN 48909

MICHIGAN PUBLIC
SERVICE COMMISSION

May 25, 2006

Ms. Sandra Schultz Mengel, Chief Clerk
Michigan Court of Appeals
925 W. Ottawa Street
Michigan Hall of Justice - Second Floor
P. O. Box 30022
Lansing, MI 48909-7522

Dear Ms. Schultz Mengel:

Re: Attorney General v MPSC and Verizon North
Court of Appeals No. _____
MPSC Case No. U-14767

Enclosed for filing please find a jurisdictional checklist, the Attorney General's claim of appeal, a copy of the order being appealed from, an attorney's statement regarding transcripts, and the Public Service Commission's electronic list of docket entries, together with a proof of service.

Sincerely,

/s/ Michael E. Moody

Michael E. Moody (P51985)
John R. Liskey (P31580)
Assistant Attorneys General
Tobacco and Special Litigation Division
(517) 373-1123

JRL:jas

Enc.

c: All Parties to U-14767

Trial Court/Tribunal Name:
MPSC

Court of Appeals, State of Michigan
Jurisdictional Checklist

CASE NO.
Trial Court/Tribunal:
MPSC# U-14767
Court of Appeals:

Case Name: Attorney General v MPSC and Verizon North.

INSTRUCTIONS: Please complete this checklist and file with your claim of appeal. **ALL** of the numbered items are required. Check each box as you confirm that each item is being filed.

- ☒ 1. A **signed** claim of appeal form showing the correct lower court number(s). [MCR 7.204(B)(1) & (D).]
- ☒ 2. A filing fee of \$375.00 or appropriate fee substitute. [MCR 7.202(3) & 7.204(B)(2).] (Where multiple lower court or tribunal numbers are involved, an additional filing fee may be required. Appellants will be advised of any additional amount required.)
- ☒ 3. A copy of the order you are appealing. [MCR 7.204(C)(1).] (This is the order deciding the merits and not an order denying reconsideration, new trial, or other post-judgment relief.)
- ☒ 4. Evidence that the necessary transcript has been ordered. [MCR 7.204(C)(2).] (Only one item from a through e is required).
- ☒ a. No transcript will be filed. [MCR 7.204(C)(2) & AO 2004-5 ¶ 8(A)(1).]
- ☐ b. The transcript has already been filed. [MCR 7.210(B)(1)(a).]
- ☐ c. The complete transcript has been ordered. [MCR 7.210(B)(1)(a).]
- ☐ d. This appeal is from a probate court proceeding which does not require a complete transcript. [MCR 7.210(B)(1)(b).]
- ☐ e. A motion has been filed in the lower court or tribunal for submission of the appeal on less than the complete transcript. [MCR 7.210(B)(1)(c).]
- ☐ f. The parties have stipulated to submission of the appeal on less than the complete transcript. [MCR 7.210(B)(1)(d).]
- ☐ g. The parties have stipulated to a statement of facts. [MCR 7.210(B)(1)(e).]
- ☒ 5. Proof of service demonstrating that all other parties have been served. [MCR 7.204(C)(3).] (Even if a party is not an appellee, they must be served.)
- ☒ 6. A **current** register of actions from the lower court or tribunal. [MCR 7.204(C)(5).]

Finality of Order Being Appealed (Check the box that demonstrates your claim of appeal is by right. If neither applies, you do not have an appeal by right.)

- ☐ The claim of appeal is from an order defined as a final order by MCR 7.202(6) or MCR 5.801(B)(1). [MCR 7.203(A)(1).] Please specify which category of final order applies: _____
- ☒ The claim of appeal is from an order which is designated by statute, court rule, or case law as an order appealable by right to the Court of Appeals. Please specify the authority under which you have an appeal by right: MCL 484.2203 (12)

Track Designation [Administrative Order 2004-5]

- ☐ This appeal involves only summary disposition. The nature of the action is: _____

05/25/2006

Date

Michael E. Moody

Michael E. Moody
2006.05.25 09:54:28 -04'00'

Preparer's Signature

9/05

STATE OF MICHIGAN
IN THE COURT OF APPEALS

ATTORNEY GENERAL MICHAEL A. COX,

Appellant,

Court of Appeals No. _____

v

MICHIGAN PUBLIC SERVICE COMMISSION and
VERIZON NORTH, INC. AND CONTEL OF THE
SOUTH, INC. d/b/a VERIZON NORTH

Michigan Public Service Commission
Case No. U-14767

Appellees.

CLAIM OF APPEAL

Attorney General Michael A. Cox claims an appeal from the Opinion and Order entered on April 25, 2006, in the Michigan Public Service Commission, by Chair J. Peter Lark and Commissioners Laura Chappelle and Monica Martinez.

Respectfully submitted,

Attorney General
Michael A. Cox

/s/ Michael E. Moody

Michael E. Moody (P51985)
John R. Liskey (P31580)
Assistant Attorneys General
Tobacco and Special Litigation Division
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(517) 373-1123

May 25, 2006

STATE OF MICHIGAN
IN THE COURT OF APPEALS

ATTORNEY GENERAL MICHAEL A. COX,

Appellant,

Court of Appeals No. _____

v

MICHIGAN PUBLIC SERVICE COMMISSION and
VERIZON NORTH, INC. AND CONTEL OF THE
SOUTH, INC. d/b/a VERIZON NORTH

Michigan Public Service Commission
Case No. U-14767

Appellees.

ATTORNEY'S STATEMENT REGARDING TRANSCRIPT

There were no hearings held, therefore, there are no transcripts on file with the Executive
Secretary of the Michigan Public Service Commission.

Respectfully submitted,

Attorney General
Michael A. Cox

/s/ Michael E. Moody

Michael E. Moody (P51985)
John R. Liskey (P31580)
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May 25, 2006
Transcript Statement



Michigan Public Service Commission

Michigan Public Service Commission
2000 State Street, Lansing, MI 48906
Phone: (517) 373-3000 Fax: (517) 373-3001

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☒ Case 14767

Case U-14767: In the matter of the notice of Verizon North Inc. and Contel of the South, Inc. d/b/a Verizon North Systems to increase primary basic local exchange service rates. (Implementation of Section 310a of MTA).

Industry: Telecommunications
Company(s): Verizon North Systems
Open Date: 1/30/2006
Order Dates: 4/25/2006

**How to View
PDF Files**

Click on the Document # to view the PDF file. A document # ending with an N, is not available in electronic form. Contact the MPSC for a paper copy.

Document No.	File Date	Filed by	On Behalf of	Type	Description
0006	4/25/2006			Order	Approves application and notice
0005	3/29/2006	Vogelzang	Verizon	Response	AG's Intervention, Appearance and Request for a Contested Case Hearing
0004	3/13/2006	Moody	Attorney General of Michigan	Request	Contested Case Hearing Under Sections 203 and 304(2)(d)(ii) of the Michigan Telecommunications Act and AG's Notice of Intervention and Appearance
0003	3/6/2006	Hughey	MPSC Staff	Comments	
0002	2/22/2006	Hughey	MPSC Staff	Appearance	Entry of Appearance, with Proof of Service
0001	1/27/2006	Vogelzang	Verizon North Systems	Notice	Notice to Implement Section 310a of the MTA and Increase Rates

Michigan Public Service Commission
Contact: mpsc.webmaster@michigan.gov

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the notice of)
VERIZON NORTH INC. and CONTEL OF THE)
SOUTH, INC., d/b/a VERIZON NORTH SYSTEMS,)
to increase primary basic local exchange service rates.)
_____)

Case No. U-14767

At the April 25, 2006 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

OPINION AND ORDER

On November 21, 2005, Governor Jennifer M. Granholm signed into law 2005 PA 235
(Act 235), amending the Michigan Telecommunications Act (MTA), MCL 484.2101 *et seq.*
Among other things, Act 235 enacted Section 310a(2) of the MTA, which provides:

If a provider is charging, assessing, or imposing an intrastate subscriber line
charge or end-user line charge on July 1, 2005, the provider may no later than
June 1, 2007 file with the commission under section 304(2)(d) notice of an
increase in the primary basic local exchange rate in an amount not to exceed the
provider's intrastate subscriber line charge or end-user line charge in effect on
July 1, 2005.

MCL 484.2310a(2).

On January 27, 2006, Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North
Systems (Verizon), filed an application and a notice pursuant to Sections 304 and 310a of the

MTA to increase its primary basic local exchange service¹ (PBLES) rate in an amount not to exceed its intrastate subscriber line charge (SLC)² that was in effect on July 1, 2005.

Section 304(1) of the MTA requires that a provider's PBLES rate must be just and reasonable and obligates each provider to set its initial PBLES rate by April 1, 2006. Except as provided under Section 310a or a Commission-approved rate under Section 304(2)(d), a provider's initial rate for PBLES may not exceed the pre-existing rate for the provider's lowest cost calling plan that limits the number of outgoing calls.

Verizon's January 27 filing seeks to increase its initial PBLES rate by \$3.25 per line per month. However, Verizon points out that the \$3.25 increase in the PBLES rate coincides with the elimination of the intrastate SLC as a separate surcharge, and thus is both revenue neutral to the company and cost neutral to its customers.

Verizon submitted several exhibits in support of its filing. Exhibit 1 contains the supporting documentation for Verizon's proposed PBLES One-Party Value Pak-100 rates. Verizon's Exhibit 2 contains the current tariffed rates for its One-Party Value Pak-60 plan, its current lowest cost calling plan that includes a limited number of outgoing calls, which was previously approved by the Commission's July 25, 2001 order in Case No. U-12807. Exhibit 3 shows the tariff revisions outlined above for Verizon's PBLES One-Party Value Pak-100 service. Exhibit 4 shows the calculation of the total service long run incremental costs (TSLRIC) for PBLES One-Party Value Pak-100 service, starting with the rate for the service with the SLC rolled into the rate. According to Verizon, Exhibit 4 purports to show that additional revenues from vertical services,

¹Section 102(y) of the MTA defines PBLES as the provision of 1 primary access line to a residential customer for voice communication. PBLES shall include (a) not fewer than 100 outgoing calls per month, (b) not less than 12,000 outgoing minutes per month, and (c) unlimited incoming calls.

²The SLC is also referred to as end user common line (EUCL) charge.

interstate common carrier line charges, interstate universal service funding, interstate usage, and interstate EUCL charge are also required to reach the TSLRIC of the service. Exhibit 5 shows that the PBLES One-Party Value Pak-100 rates are above TSLRIC.

Verizon asserts that the Commission has reviewed its costs in Case Nos. U-12005 and U-12807 and determined that the revenue from the intrastate SLC is required for Verizon's basic local exchange service to cover its TSLRIC costs. According to Verizon, without the intrastate SLC, Verizon's PBLES One-Party Value-Pak-100 rate will not cover the TSLRIC for the service. For this reason, Verizon maintains that rolling an amount equal to the \$3.25 intrastate SLC into its PBLES is necessary to ensure that its PBLES One-Party Value Pak-100 service meets the TSLRIC requirement of the MTA.

Finally, Verizon states that it intends to comply with Section 304(3) of the MTA by notifying affected customers on their bills beginning in early February 2006, which Verizon contends, should satisfy the MTA requirement that notice be provided to end users at least one billing cycle before the effective date of the rate change. According to Verizon, such notice conforms with Section 304(4) of the MTA, including the requirement that customers will be notified that they may comment on the rate change or receive complete details of the change by calling or writing the Commission. Verizon also states that it will work with the Commission Staff (Staff) to satisfy any other notice requirements that may be required by the MTA.

On March 6, 2006, the Commission Staff (Staff) filed comments. According to the Staff, Verizon's proposal simply rolls the SLC into the PBLES rate on a revenue neutral basis. The Staff recommends that the Commission approve this change. However, the Staff states that Verizon's proposal to eliminate the SLC may not be appropriate for all providers and that future requests for such treatment should be resolved on a case-by-case basis.

On March 13, 2006, Attorney General Michael A. Cox (Attorney General) filed a notice of intervention and appearance, in which he requests that the Commission find that additional information and a proceeding under Section 203 of the MTA, MCL 484.2203, are necessary before the Commission may approve the requested rate increase. In his view, the Commission must examine whether the proposed rates are just and reasonable after the addition of the SCL and the additional \$1.20 per month for the increase in call allowance from 60 to 100. He states that Verizon's proposal will increase its PBLES by 46% over its "rate for lowest cost calling plan that includes a limited number of outgoing calls" as provided by Act 235.

Moreover, the Attorney General argues, Verizon's planned rate would exceed the national average rate for unlimited calling by almost \$7 per month. He argues that this difference is significant in both amount and effect on Verizon's customers, as many of those customers have few if any competitive alternatives for wireline services. He asserts that keeping the current \$16.78 and \$16.76 rates in effect for PBLES service would keep Verizon rates "more in line with the national average PBLES rate for unlimited calling." Attorney General intervention notice, p. 4.

Further, the Attorney General argues, Verizon has done nothing to demonstrate the reasonableness of adding \$1.20 to the PBLES rate for the increase in the number of permitted calls from 60 to 100. Before the Commission may approve this increase, the Attorney General argues, the statute requires that Verizon's application be accompanied by sufficient documentary support upon which the Commission may find the rate alteration to be just and reasonable. In fact, the Attorney General observes, Verizon's application and accompanying affidavits fail to affirmatively assert that the proposed rates are just and reasonable. This, the Attorney General states, is contrary to the Commission's direction in its December 20, 2005 order in Case No. U-14731,

which stated that “[e]ach provider must indicate which of the statutory provisions it used to set its [PBLES] rate and provide an evidentiary basis for finding that the rate is just and reasonable.”

Because Verizon has failed to meet the burden of proof imposed by the statute, the Attorney General argues, the Commission must deny the application and set a hearing pursuant to Section 203.

The Commission finds that the Attorney General’s argument that the Commission should require Verizon to file an application pursuant to Section 203 should be rejected. Contrary to the Attorney General’s argument, Verizon has not requested an increase in its PBLES rate in this application except for the amount required to roll the SLC into that rate. In a separate case, Case No. U-14731, Verizon filed its initial rate for its PBLES that is \$1.20 above the rate it currently charges for its 60-call per month plan. However, that increase is not at issue in this case, but is an issue in Case No. U-14731.

The Commission finds that Verizon’s request to increase its PBLES rate in an amount not to exceed its intrastate SLC should be granted. The request is reasonable, has previously been supported by cost reviews in Case Nos. U-12005 and U-12807, is supported by the Staff, and is revenue neutral for its customers because Verizon will eliminate its SLC as a separate charge. Finally, the increase is specifically permitted by MCL 484.2310a and MCL 484.2304(1).

The Commission conditions its approval on Verizon’s submission of documentation demonstrating that the notice requirements contained in the MTA have been met. Such documentation shall be submitted in this docket prior to the effective date of the change.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*

b. Verizon's request to increase its PBLES rate in an amount not to exceed its intrastate SLC should be approved.

c. Verizon should be required to submit documentation demonstrating that the notice requirements contained in the MTA have been met.

THEREFORE, IT IS ORDERED that:

A. The application and notice filed by Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems, pursuant to Sections 304 and 310a of the MTA to increase its primary basic local exchange service rate in an amount not to exceed its intrastate subscriber line charge is approved, conditioned upon the discontinuance of the separate intrastate subscriber line charge.

B. Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems, shall submit documentation in this docket demonstrating that the notice requirements contained in the MTA have been met prior to the effective date of the rate change.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, pursuant to MCL 484.2203(12).

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark

Chairman

(S E A L)

/s/ Laura Chappelle

Commissioner

/s/ Monica Martinez

Commissioner

By its action of April 25, 2006.

/s/ Mary Jo Kunkle

Its Executive Secretary