BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
5-12-15
04:59 PM

Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules.	Rulemaking 11-12-001 (Filed December 1, 2011)

VERIZON CALIFORNIA INC.'S (U 1002 C) REPLY COMMENTS ON PROPOSED DECISION DEFERRING NETWORK STUDY REQUIREMENT ADOPTED IN DECISION 13-02-023

Jesús G. Román
Verizon California Inc.
2535 West Hillcrest Dr.
Newbury Park, CA 91320
Tel: (805) 499-6832
Fax: (805) 498-5617
jesus.g.roman@verizon.com

Attorney for Verizon

May 12, 2015

TABLE OF CONTENTS

TABLE OF AUTHORITIES

California Public Utilities Commission Decisions

Other Authorities

Verizon California Inc. (U-1002-C) ("Verizon") files these Reply Comments on the Proposed Decision Deferring Network Study Requirement (the "PD" or "Proposed Decision"). For the reasons stated in Verizon's Opening Comments and those below, the Commission should adopt the PD and reject the arguments made by TURN, Greenlining, Center for Accessible Technology, Consumer Federation of California and the Communication Workers of America (CWA) (collectively, Joint Parties).

DISCUSSION

I. THE PD IS CONSISTENT WITH D.13-02-023

Joint Parties and ORA take the position that the PD commits legal and factual errors and cannot be adopted because it "finds that an infrastructure study is unnecessary,"[1] and would "reverse" D.13-02-023 without substantial evidence.[2] The PD does neither of these things.

While the network study is, in fact, not necessary, the PD does not reach this conclusion. Instead, Finding of Fact 4 concludes that depending on what, if any service quality rule changes are adopted in this proceeding, "the study ordered in 2013 may no longer be necessary." And in Conclusion of Law 2, the PD concludes that if it is determined "that the network examination is necessary, it "should be directed under a separate Commission order." Thus, the many arguments that the PD commits legal and factual errors are wrong because they rely on a fundamental misreading of the PD.

Moreover, the PD is entirely consistent with and does not reverse D.13-02-023. That decision grants the Assigned Commissioner or Administrative Law Judge wide latitude to "modify the study's scope or objectives."[3] Under the broad grant of discretion provided under Ordering Paragraph 4, the Assigned Commissioner or ALJ could defer the study indefinitely

---

[1] Joint Parties' Opening Comments at 7 (stating that "The Proposed Decision improperly concludes that the study is unnecessary."). ORA Opening Comments at 5-8 (ORA argues that the study is necessary thereby suggesting the PD concludes the study is unnecessary.).

[2] Joint Parties' Opening Comments at 1 ("the PD commits legal error by . . . reversing . . . D.13-02-023 without citing substantial evidence to support that reversal."); ORA Opening Comments at 8 ("The Proposed Decision commits legal error by reversing D.13-02-023 without substantial evidence to support its findings.").

[3] D.13-02-023 at 3-4 ("The assigned Commissioner and ALJ may set specific procedures . . . and may modify the study's scope and objectives as necessary to ensure a complete record on which to base a decision in this proceeding."); *see also id.* Ordering Paragraph 4 (same).

without putting the matter to a vote of the Commission.[4] In its essence, the PD charts a logical path forward: adopt new rules, monitor the performance of carriers under the new rules, and assess the need for a study based on the performance of carriers under the news rules. If service quality is not then at a level "that meets the Commission's General Order 133-C minimum service quality measure standards and provide safe and reliable service at reasonable rates,"[5] then resume the study.[6]

The opposition to the PD is also misplaced because it is based on claims that AT&T and Verizon's networks are not maintained and deteriorating. If these claims were accurate, the level of trouble reports would be high. They are not – rather, they are far below the Commission's standards. As Verizon stated in opening comments:

> [I]n 2014 Verizon reported monthly trouble rates far below the 6 in 100 line standard in GO-133C: Verizon trouble report rates ranged from .78 to 1.65 per 100 lines.[7] Indeed, Staff recognized the strength of carrier networks in the September 2014 Staff Report on Wireline Service Quality (at 9), concluding that "[b]oth URF Carriers and GRC ILECs *consistently* met the minimum standards established in the Customer Trouble Report measure."[8]

II. VOIP IS NOT AN ISSUE IN THIS PROCEEDING

The Joint Parties claim the PD commits legal error because it does not acknowledge the Commission's jurisdiction over facilities used to provide VoIP service.[9] But the PD raises nothing in regards to VoIP service and there is no need to do so. The scope of the Commission's jurisdiction over VoIP service is not the issue of this proceeding. Joint Parties' opposition based on the PD not mentioning VoIP is a red herring.

---

[4] Hence, CALTEL's repeated claim that due process prohibits deferral of the study "without reconsideration by all of the Commissioners" is wrong. *See* CALTEL Opening Comments at 2 and Comments to Assigned Commissioner's Amended Scoping Memo and Ruling (October 24, 2014) at 2.

[5] PD at 1.

[6] PD at 4 ("If it is determined that such a study is necessary, we will direct through a separate order that it be resumed.").

[7] For 2014, AT&T reported similar network strength with trouble rates of .98 to 2.76 per 100 lines. *See* http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/Telecommunications+Service+Quality+Reports.htm.

[8] See Verizon Opening Comments at 2-3. CALTEL opposes the PD because it would like a network study to provide what it calls "ground-truthing" activity. But the Commission need not have a costly and time-consuming examination of Verizon network to have ground-truthing. It already has ground truthing from the fact that Verizon and AT&T consistently have far below the 6 in 100 line trouble report standard in GO-133C.

[9] *Id*. at 4-5.

III. CWA'S ALLEGATIONS ARE WRONG

The Joint Parties and ORA claim that a few photos provided by CWA of AT&T facilities are record evidence that "show the alarming condition of the network and its continued degradation"[10] and that "AT&T and Verizon have continued to let their networks deteriorate since the OIR . . . and D.13-020-023 [sic]" were issued.[11] Here, again, no evidence supports this contention. Indeed, the low level of trouble reports disprove Joint Parties' and ORA's arguments.[12]

IV. THE PD IS NOT INCONSISTENT WITH THE COMMISSION'S COMMITMENT TO PUBLIC SAFETY

Joint Parties and ORA argue that the PD is not consistent with the Commission commitment to public safety. The fact here is that there is no public safety crisis. If there were a crisis, complaints and trouble reports would be significantly increasing; they are not. The low level of trouble reports show that Verizon and AT&T's networks are performing in such a way that there is no systemic public safety risk. In light of these facts, the Commission does not need to perform a network study to discharge its commitment to public safety.

V. THE NETWORK STUDY IS BEYOND THE SCOPE OF THE INQUIRY IN THE VERIZON AND FRONTIER TRANSACTION

The Joint Parties claim that before the Commission can authorize the transfer of Verizon to Frontier, it must know the physical condition of Verizon's facilities to determine whether Verizon bears responsibility for any "neglect of the network before the transfer is approved."[13] Joint Parties are wrong. First, the Verizon-Frontier application, A.15-03-005, is not a part of this rulemaking. Second, as explained in A.15-03-005, the allegations regarding Verizon's network are beyond the scope of that proceeding.[14] In such proceedings, the Commission has established the issue is "not the applicants' past or present conduct," but rather "the incremental effect on

---

[10] ORA Opening Comments at 12.

[11] Joint Parties at 7.

[12] In this regard, ORA's discussion of consent decrees ***Verizon Wireless*** entered into in 2007 (eight years ago) and 2012 is also misleading because they are irrelevant to the anything regarding Verizon California's actions or omissions. And the consent decree Verizon California entered in 2015 is also irrelevant to Verizon's network health.

[13] Joint Parties Opening Comments at 10.

[14] For a full discussion of the standard in transfer cases, see Application No. 15-03-005 (March 18, 2015) at 12-14 and Joint Applicants' Reply to Protests, A.15-03-005 (May 7, 2015) at 3-9.

California operations as a result of the proposed merger . . . ."[15] Joint Parties' claim that the PD could prejudice other proceedings is thus incorrect.

VI. COX IS WRONG REGARDING STAFF'S POWERS

Cox proposes to amend a Conclusion of Law to state that under GO 133-C, Rule 7, "a network examination could be conducted pursuant to a corrective action report submitted by a given carrier."[16] Cox also states that Staff "today can" require as part of a corrective action report, a "carrier to meet additional staffing levels."[17] Cox is wrong.

Nothing within GO 133-C provides staff such expansive powers. Indeed, no rule in GO 133-C allows staff to order carriers to meet additional staffing levels. And Rule 7 is not as expansive as Cox suggests. Rule 7 states that "Commission staff may investigate any reporting unit that does not meet a minimum standard reporting level and any major service interruption." But this authority is nothing more than Staff's general power to issue data requests. The network study contemplated by the September 2014 Scoping Memo is beyond Staff's powers.

CONCLUSION

The Joint Parties' and ORA's claims of factual and legal errors are simply wrong because the PD does not reverse D.13-02-023 or conclude that the network study is unnecessary (despite the fact that the study is unnecessary). All the PD does is defer the study because the Commission is considering adopting new service quality rules that might make the study unnecessary. Decision 13-02-023 delegates authority upon the Assigned Commissioner and ALJ

---

15 Scoping Memo, *In Re GTE-Bell Atlantic Merger*, A.98-12-005 (Feb. 16, 1999).

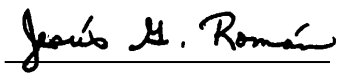
16 Cox Opening Comments, Attachment 1 at i.

17 Cox Opening Comments at 4.

to modify the scope or objective of the study. The Assigned Commissioner and ALJ are thus well within this delegated discretion and there is no legal error in deferring the study. The commission should therefore reject the arguments against adoption of the PD.

May 12, 2015

Respectfully submitted,



Jesús G. Román
Verizon California Inc.
2535 West Hillcrest Dr.
Newbury Park, CA 91320
Tel: (805) 499-6832
Fax: (805) 498-5617
jesus.g.roman@verizon.com

Attorney for Verizon