



Office of the People's Counsel District of Columbia

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November 17, 2006

Elizabeth A. Noël
People's Counsel

Dorothy Wideman
Commission Secretary
Public Service Commission
of the District of Columbia
1333 H Street, N.W.
Seventh Floor East
Washington, D.C. 20005

RE: Formal Case No. 962, OPC's Reply Comments

Dear Ms. Wideman:

Enclosed for filing is an original and fifteen (15) copies of the "Reply Comments of the Office of the People's Counsel".

If you have any questions regarding this matter, please do not hesitate contact the undersigned attorney at your earliest convenience at 202-727-3071.

Sincerely,

Brenda K. Pennington
Assistant People's Counsel

Enclosures

cc: All Parties of Record

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

In the Matter of the Implementation	§	
of the District of Columbia	§	
Telecommunications Competition Act of 1996	§	Formal Case No. 962
and Implementation of the	§	
Telecommunications Act of 1996	§	

**REPLY COMMENTS
OF THE OFFICE OF THE PEOPLE'S COUNSEL**

I. INTRODUCTION

In furtherance of its statutory mandate as the representative of District of Columbia utility consumers,¹ the Office of the People's Counsel of the District of Columbia ("OPC" or "Office") hereby respectfully submits its Reply Comments in response to comments filed by Verizon DC and DIECA Communications about examining the effect of the PSC's decision in Telephone Arbitration Case ("TAC") 19 on outstanding issues in Formal Case No. 962, the comprehensive proceeding examining rates for unbundled network elements ("UNE") in the District.

Succinctly stated, the issue regarding establishment of permanent UNE rates in the District is of great importance to D.C. consumers. Thus, the Commission's investigation of this issue is in the public interest. OPC submits that UNEs rates that are just and reasonable and based upon costs specific to D.C.'s telecommunications marketplace will encourage the development of "effective" competition in the District of Columbia.

II. SUMMARY OF OPC'S POSITION

The Office submits that the Commission should:

- Reject Verizon's and DIECA's recommendation that the PSC not establish current UNE rates for DC; and

¹ D.C. Code, 2001 Ed. § 34-804.

- Order Verizon DC to file new cost studies to determine permanent UNE rates to encourage and facilitate the development of robust and “effective” competition in the District.

III. PROCEDURAL HISTORY

The Commission issued Order No. 14086 on October 12, 2006 and requested comments from parties regarding the impact of the Commission’s decision in TAC 19 on outstanding issues in the instant proceeding. On October 27, Verizon Washington, DC, Inc. (“Verizon DC” or “Company”) filed Comments in the instant proceeding, as well DIECA Communications Inc (“DIECA”). By Order No. 14098, OPC files the instant Reply Comments in response to the comments filed by Verizon DC and DIECA.

IV. DISCUSSION

A. The Commission Should Order Verizon DC to File New Cost Studies.

The UNE rates established in Order No. 12610 are based upon six-year old data that do not reflect current market forces in the District’s telecommunications market. While Verizon DC agrees with OPC that the UNE rates are based upon stale data,² both Verizon DC and DIECA have a contrary view regarding what action the PSC should take; both companies recommend the PSC take no action to establish permanent UNE rates in D.C. OPC strongly disagrees and recommends the Commission order Verizon DC to file new cost studies which reflect the current level of competition in the District’s telecommunications marketplace.

Verizon DC maintains that since the UNE rates are frozen for the next few years, and in light of “radically changed circumstances, such as Verizon Communications, Inc.’s acquisition

² Formal Case No. 962, Verizon Washington, DC, Inc.’s Comments to the District of Columbia Public Service Commission’s Order No. 14086 at 6-7, filed October 27, 2006.

of MCI, Inc.,³ the Commission should vacate Order No. 12610 and then “maintain the status quo by using FCC-approved New York UNE rates adjusted for DC-specific costs.”⁴ Verizon’s analysis suggests competition is “alive and well” in the District. For support it cites data showing CLEC line share has increased. But, OPC submits Verizon’s data do not reflect post-merger activity and, therefore, does not accurately measure the current level of CLEC line share in the District. Moreover, OPC also submits the New York UNE rates may be based upon operational costs that are vastly different from those in the District.

DIECA also argues that the “effective rates for UNEs within the District of Columbia are the rates that were approved by the Commission through consolidated arbitration,” unless exceptions apply.⁵

OPC submits the arguments advanced by Verizon DC and DIECA are unreasonable. The basis of their argument rests upon the illusory existence of robust competition in the District’s telecommunications market. OPC maintains the District’s telecommunications marketplace is not effectively competitive. The development of a robust competitive marketplace is impaired if competitors do not have cost-based access to Verizon DC’s network. Thus, the Office submits that without permanent Commission-approved UNE rates, competition will be further stalled or delayed because each competitor would have to negotiate its UNE rates with Verizon. This company-by-company negotiation process would be an additional burden for new entrants which could be a barrier to entry into the District’s telecommunications marketplace.

For the foregoing reasons, OPC submits new cost studies are needed. The Commission

³ Id. at 7.

⁴ Id.

⁵ Formal Case No. 962, Comments of DIECA Communications Inc. at 3, filed Oct. 27, 2006.


should order Verizon DC to file new cost data upon which updated permanent UNE rates can be determined and implemented in the District.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, the Office respectfully requests the Commission develop permanent UNE rates in the District consistent with its recommendations herein.

Respectfully submitted,

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Dated: November 17, 2006

CERTIFICATE OF SERVICE

Formal Case No. 962

I, hereby certify that on this 17th day of November 2006, a copy of the "Reply Comments the People's Counsel" in the above-captioned proceeding was served on the following parties of record either by U.S. Mail or by hand-delivery(*):

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A handwritten signature in black ink, appearing to read 'B. Pennington', with a horizontal line drawn underneath it.

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