STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-796

November 7, 2003

PUBLIC UTILITIES COMMISSION
Request for Commission Investigation
and Directing Verizon to Cease and Desist
from Disconnection of Service

ORDER – PART II

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order, we deny OneStar Long Distance, Inc.'s (OneStar) Request for Commission Investigation into Directing Verizon to Cease and Desist from Disconnection of Service.

II. BACKGROUND

The Commission first learned of the dispute between Verizon and OneStar when Verizon contacted Commission Staff on October 9th and informed Staff that Verizon intended to terminate OneStar's long distance access services that day.[1] On Tuesday, October 14, 2003, we learned that Verizon had, indeed, terminated OneStar's access services and that OneStar long distance customers could no longer make direct-dial long distance calls. During that week, the Commission received numerous complaints from OneStar customers regarding the disconnection of their service without notice.

Verizon informed the Commission that it also intended to terminate OneStar's local and UNE-P access on October 28th, thus OneStar's local service customers would lose their dial tone and ability to dial 911. We also learned that many of OneStar's local customers in Maine were schools, fire and police departments, and municipalities. Because of the public safety issues involved, Commission Staff began working closely with both Verizon and OneStar to ensure that any termination of local dial tone was done only after customers received the 14 days notice required under Chapter 291 of our Rules.

On October 22, 2003, Verizon filed a letter with the Commission stating its intention to terminate OneStar's local services on November 7, 2003. Commission Staff immediately began working with OneStar to ensure that OneStar sent written notice to all its Maine local service customers informing them of the likely disconnection of service and encouraging them to select a new local carrier. OneStar cooperated with Staff and ultimately sent written notice on October 25, 2003.

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[1]The details of the dispute between Verizon and OneStar are described in OneStar's October 24th Petition as well as in Verizon's October 31st Reply.

On October 24, 2003, OneStar filed a "Request for Commission Investigation into Directing Verizon to Cease and Desist from Disconnection of Service" (petition) with the Commission seeking emergency relief to delay the disconnection of its resale and UNE-P services on November 7, 2003, pending resolution of settlement talks between the carriers and Verizon's compliance with applicable laws and rules governing the discontinuance of service by one carrier to another. OneStar also requested that the Commission order Verizon to terminate its embargo against OneStar's use of its Graphic User Interface system that provides access to Verizon's Operations Support System. OneStar argued that Verizon's actions violated Commission Rules, state and federal law, and were anti-competitive.

On October 31, 2003, Verizon filed its Reply to OneStar's Petition. Verizon argued that its actions were consistent with the terms of its interconnection agreement with OneStar as well as the specific Debt Agreement that had been reached between the two parties in July 2003.

III. DECISION

We have reviewed OneStar's petition and decline to take any further action. As a general matter, we believe the relationship between Verizon and OneStar should be governed by the terms of their interconnection agreement as well as any applicable tariffs or additional written contracts. OneStar acknowledged it breached the interconnection agreement when it "was unable to pay Verizon all charges due pursuant to the Agreement." (Petition at 3) OneStar further acknowledged that it owes Verizon close to $1 million for services rendered in Maine. (Petition at 3) OneStar does not allege any violation of its interconnection agreement by Verizon and does not dispute the fact that it defaulted on payments required under the Debt Restructure Agreement reached between Verizon and OneStar in July 2003. (Petition at 4)

OneStar alleges Verizon violated Chapter 860 of the Commission's Rules because it failed to give seven days' written notice of the disconnection. First, any concern regarding lack of written notice was cured by Verizon's October 22, 2003 letter to OneStar and the Commission which set a disconnection date of November 7, 2003, 16 days after the letter. Second, Chapter 860 no longer applies to telephone utilities - it was repealed for telephone utilities when the Commission adopted Chapters 290, 291, 292.[2] Further, Chapter 860, as well as Chapter 290, 291, and 292, apply to utilities' retail operations, not wholesale operations. Even assuming *arguendo* that Chapter 291 (which governs CLECs) applied in a wholesale situation, Verizon complied by giving OneStar more than 14 days' notice. Thus, we do not believe OneStar has established any violation of state law.

[2]Order Adopting Rules, Docket No. 2001-852 (June 20, 2002.)

OneStar makes a string of accusations and arguments which relate to the Federal Communication Commission's (FCC) recent *Triennial Review Order*[3] and its policies relating to UNE-P. We find these arguments inappropriate for consideration at this time; the FCC's *Triennial Review Order* speaks for itself and arguments concerning its policy underpinnings are best addressed to the FCC. Indeed, OneStar's arguments concerning violation of Section 214 of the Telecommunications Act of 1996 are also best addressed by the FCC.

Finally, regarding the general anti-competitive and "pro-consumer" arguments made by OneStar, we find that the actions taken by our Staff, OneStar, and Verizon have lessened the impact on consumers. This Commission has already made the public policy decision that 14-days' notice of disconnection is sufficient for customers served by CLECs. (*See* Chapter 291, § 12.) Thus, once Staff convinced Verizon to extend the disconnection date far enough in the future for OneStar to be able to send 14-days' notice, our initial concerns regarding lack of notice were mitigated. In addition, our Staff has made substantial outreach efforts to schools, hospitals, municipalities, police/fire departments, and professional associations to ensure that they have received notice and are taking the necessary steps to ensure continued telephone service.

Dated at Augusta, Maine, this 7th day of November, 2003.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond
Reishus

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[3] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket 01-338 (rel. August 21, 2003).

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.