STATE OF MAINE
PUBLIC UTILITIES COMMISSION

September 26, 2001

PUBLIC UTILITIES COMMISSION
Investigation into the Provision of Hub PRI Service By Verizon in the Service Areas of Verizon and Independent Telephone Companies

Docket No. 2001-650

NOTICE OF INVESTIGATION

PUBLIC UTILITIES COMMISSION
Investigation into Use of Central Office Codes (NXXs) by New England Fiber Communications, LLC d/b/a Brooks Fiber

Docket No. 98-758

ORDER LIMITING SCOPE OF INVESTIGATION

GREAT WORKS INTERNET
Request For Commission Investigation of Verizon-Maine's Implementation of the Enhanced Hub-PRI Service

Docket No. 2001-421

ORDER DENYING REQUEST

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

By the Notice in Docket No. 2001-650, we commence an investigation into the provisioning of Hub-PRI service by Verizon New England Inc. d/b/a Verizon Maine, both in its own service area and in the service areas of the independent incumbent local exchange carriers (ILECs) a/k/a independent telephone companies (ITCs). We transfer consideration of these issues from the Brooks Investigation, Docket No. 98-758.

We limit the investigation in the Brooks docket, 98-758, to any issues that remain from its original purpose of determining the nature and lawfulness of a service offered by Brooks that used 46 NXX codes for the purpose of providing an interexchange “FX-like” service (including the reacquisition by the North American Numbering Plan Administrator (NANPA) of the NXX codes) and any issues that may arise concerning the temporary continuing offering of Brooks’s grandfathered Regional Exchange service for original customers

Finally, we deny the request of Great Works Internet (GWI) for an investigation of the implementation of the Hub-PRI service by Verizon because we will consider two of the issues described in GWI's request in our new investigation.[1]

II. DISCUSSION

As part of the Brooks Investigation, we ordered Verizon to develop a statewide interexchange service that it would provide to and be paid for by internet service providers (ISPs). The ISPs would pay for the service and it would be toll-free to end-user ISP subscribers. Verizon responded by proposing and implementing a service it has labeled Hub-PRI.[2] A number of issues have arisen in connection with implementation of the service. Until now, we have addressed these matters in the Brooks Investigation docket, even though there are parties in that docket that do not have a direct interest in these issues. We now decide that we should consider these issues in a separate proceeding.

One of the most important issues is the implementation of Hub-PRI service in areas served by ITCs.[3] Thus far, Verizon has implemented the service only in its own service area, notwithstanding the Commission's requirement that it be implemented statewide. A difficulty in implementing the service in ITC service areas is technical, i.e., whether the ITCs and Verizon have sufficient (or any) inter-company capacity to handle expected traffic volumes and how the traffic would be routed. Another major issue is the amount of compensation that Verizon should pay to the ITCs for Hub-PRI traffic that originates in ITC service areas. (A lesser issue is compensation for traffic in the opposite direction.)

Verizon and the ITCs have informed the Commission Staff that they are actively working to implement the service and intend to proceed with implementation even if compensation issues have not been resolved. Verizon has stated that it will provide a proposed schedule for implementation in ITC service areas by October 5, 2001. To the extent necessary, we will conduct formal proceedings to address this issue if Verizon and the ITCs cannot resolve it expeditiously.

A major portion of this investigation will address the question of compensation between Verizon and the ITCs. Verizon and the ITCs have attempted to settle this issue but have failed. Formal proceedings are necessary. The Examiner and the parties have already established a schedule in Docket No. 98-758 (the Brooks Investigation) for the filing of parties' cases that will address the compensation issue. Those filings will be filed in the new investigation rather than in the Brooks case.

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[1]GWI's request also includes claims that Verizon is billing it the wrong amount. That issue has been assigned to our Consumer Assistance Division.

[2]The service has been known by various names including single number service (SNS) and 500 service, indicating that callers throughout the state may access the service by dialing a single number for each ISP, e.g., 500-NXX-YYYY.

[3]This issue is also contained in GWI's request.

To the extent necessary, the new investigation will also consider any currently unresolved technical and operational issues and any such issues that may arise in the future. At least initially, we will address these issues on an informal basis. The issues include one raised by GWI in its request for a Commission investigation and another raised pursuant to informal communications by ISP customers. The issues we will consider include, but are not necessarily limited to:

1. Claims that end user customers of ISPs have not been able to access those ISPs consistently (without blocking), and that there have been inadequate data transfer speeds; and

2. Verizon's alleged failure to implement "hub hopping," a feature of the service originally listed in descriptions of the service provided to the Commission and to ISPs.[4]

III. CLEC ISSUES

We will not at this time attempt to address the question of whether customers of competitive local exchange carriers (CLECs) should be able to call ISPs that subscribe to the Verizon Hub-PRI service on a toll-free basis or the compensation issues between Verizon and CLECs. We believe that we should address the Verizon-ITC issues first in part because of resolution of the Verizon-ITC issues might serve as a model for the CLEC issues. In addition, including the CLECs automatically as parties may make the proceeding too cumbersome. It may become necessary, however, to open a separate proceeding at a later time.

Because any compensation scheme that we order between Verizon and the ITCs might serve as a model for compensation between Verizon and CLECs, we are sending this notice to all facilities-based CLECs in Maine, who may seek to intervene if they wish to participate in the compensation issue.[5] We note that in our prior orders in the Brooks case, we found that the unauthorized Brooks "FX-like" service was interexchange. We ordered Verizon to implement the Hub-PRI service as a substitute for the Brooks service and to ensure that end users (ISP customers) do not pay toll charges. By analogy both to the Brooks service and 800 service (an analogy we drew in the Brooks investigation orders), the Hub-PRI service is an interexchange service. We strongly encourage CLECs to allow this traffic (which is prefaced with a 500 number) to be routed like any other interexchange call, including 800 calls, and to honor the

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[4]According to GWI, the lack of this feature requires it to incur greater expense and to engage in a greater degree of network planning than would otherwise be necessary.

[5]In the case of CLECs that only resell Verizon local service, Hub-PRI (500) calls will automatically be routed to Verizon as a function of the local exchange service they purchase from Verizon. We see no compensation issue between Verizon and CLECs that are resellers.

expectation that such calls should be toll-free to end users.[6] That expectation is reasonably grounded in the fact that ISPs, rather than end users, are paying for the service at the retail level and that Verizon has sold the service to ISPs as one under which ISP customers do not have to pay for 500 calls.

We recognize, however, that at the wholesale level, important issues remain between Verizon and the CLECs. Normally, LECs expect to pay and receive access payments for the exchange of interexchange traffic. However, as we discussed in the Brooks orders, the retail Hub-PRI service is heavily discounted and flat-rated, and the traffic can hardly be considered "normal." We encourage the CLECs and Verizon to negotiate compensation arrangements, or if that is not possible, to agree to maintain records of the amount of Hub-PRI traffic and then attempt to use compensation principles established by the Commission in the new investigation as a basis for a compensation arrangement that would apply to prior as well as future traffic.

III. PROCEDURE

It has become clear that a formal adjudicatory proceeding is necessary to address the Verizon-ITC compensation issue. Following a review of the direct cases filed on September 21, 2001 and the reply cases that are due on October 5, 2001, the advisors, Verizon and the ITCs will confer and will determine the extent to which discovery and evidentiary hearings are necessary or whether the case may be decided on the basis of the parties filings.[7] Based on their assessment of the filings, the advisors may convene a meeting to determine if a facilitated settlement may be possible.

As noted above, we will address all other issues in this case informally. For those issues the proceeding shall be considered a summary (non-adjudicatory) investigation within the meaning of 35-A M.R.S.A. § 1303(2). The rules governing *ex parte* communications do not apply, but we request the parties to limit any oral *ex parte* communications to the advisors rather than to the Commission, to avoid such communications whenever it is possible to include parties who have a direct interest in the matter discussed,[8] and to convey the substance of such communications to other interested parties when it is not possible to include them in the conversation.

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[6]At least one CLEC initially considered the calls "local" and billed customers who had not subscribed to a "premium" calling area charges for "economy" local calls. That carrier has agreed to consider the calls as reverse billed interexchange calls.

[7]The filings will be similar to briefs and will state the parties' positions in detail, including legal and policy arguments. To the extent necessary, the filings will include factual assertions that support the parties' arguments. If factual assertions are in dispute, or if the advisors or the Commission want to ask oral questions about any matter, it may be necessary to hold hearings.

[8]For any given issue, there may be parties in the case who do not have a direct interest.

If the advisors determine that a technical or operational issue cannot be resolved by informal means and may require formal adjudicatory proceedings, they shall inform the parties and the Commission and propose appropriate procedures.
A party may also suggest to the advisors or request the Commission to address a technical or operational issue by formal adjudicatory procedures if it believes that informal procedures have been ineffective. Any such request shall include a description of the processes that have been used to that point and reasons why the party does not believe that informal means will be successful.

IV. PARTIES

The following shall be parties to the Investigation we have opened in Docket No. 2001-650:

Verizon
All other ILECs (ITCs)
Telephone Association of Maine (TAM)
Great Works Internet (GWI)
Prexar

The ILECs are all directly interested in the question of implementing the Hub-PRI service in ITC service areas and in the compensation issue. We include GWI as a party because it filed a request for investigation (docketed as Docket No. 2001-421), and we will consider some of the issues raised in that request in this proceeding. GWI has also made many allegations about implementation and operational problems to Staff during the past year. We include Prexar because it has communicated some implementation and operational problems to Staff. Either GWI or Prexar may request that they not be parties.

Other persons who claim an interest in the investigation in Docket No. 2001-650 may file a petition to intervene. The notice of this proceeding will be sent to all parties in the Brooks investigation.

Accordingly, we

1. COMMENCE an Investigation in Docket No. 2001-650 into the provision of Hub PRI service by Verizon in the service areas of Verizon and independent telephone companies that will include consideration of the issue of compensation among those companies. Any person (other than those listed above) wishing to intervene as a full or limited party in this proceeding shall file a petition to intervene that complies with the requirements of Chapter 110, §§ 720-22 on or before **October 5, 2001.**

2. LIMIT the scope of the proceeding in the Brooks Investigation case (Docket No. 98-758) to those matters described in this Order; and

3. DENY the request of Great Works Internet in Docket No. 2001-421 to commence an investigation into certain implementation and operational matters because of the investigation we have commenced in Docket No. 2001-650, and CLOSE that docket.

Dated at Augusta, Maine, this 26th day of September, 2001.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

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 30 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.