

REBUTTAL TESTIMONY

OF

KATHY STEWART

ENGINEERING DEPARTMENT  
TELECOMMUNICATIONS DIVISION  
ILLINOIS COMMERCE COMMISSION

DOCKET NO. 01-0539

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**OFFICIAL FILE**

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ICC Staff Ex. 9.0 Exhibit No. 9.0

Witness \_\_\_\_\_

Date 7/24/02 Reporter \_\_\_\_\_

1 **Q. Are you the same Kathy Stewart that previously provided direct testimony in**  
2 **this proceeding?**

3 A. Yes.  
4

5 **Q. What is the purpose of your rebuttal testimony?**

6 A. My rebuttal testimony responds to statements made by Louis Agro and Faye  
7 Raynor, both appearing on behalf of Verizon North Inc. and Verizon South Inc., as  
8 their testimony relates to the requirement for tariffing of the wholesale service quality  
9 plans.  
10

11 **Q. In Mr. Agro's testimony (Verizon Ex. 2.0, lines 76-77) he states that "Tariffs**  
12 **are used for filing documents relating to the rates carriers charge**  
13 **customers for services provided." Do you agree with this statement?**  
14

15 A. Not entirely. While tariffs do govern the rates and charges a carrier may assess  
16 to their customers for services provided, that is not the sole function of a tariff.  
17 Pursuant to Section 9-102 of the Public Utilities Act ("PUA"), tariffs also contain  
18 rules, regulations, storage or other charges, privileges and contracts for the  
19 provision of services. Section 13-501(a) of the PUA requires tariffs to describe  
20 the nature of the service, applicable rates and other charges, terms and  
21 conditions of service and the exchange, exchanges or other geographical area or  
22 areas in which the service shall be offered or provided. Section 9-104 of the  
23 PUA requires a tariffing of any service, product or commodity to include the

24 relevant rates and other charges and classifications, rules and regulations. In  
25 addition, Section 3-116 of the Public Utilities Act defines "rate" to include "every  
26 individual or joint rate, fare, toll, charge, rental or other compensation of any  
27 public utility or any two or more such individual or joint rates, fares, tolls, charges,  
28 rental or other compensation of any public utility or any schedule or tariff thereof,  
29 and any rule, regulation, charge, practice or contract relating thereto.  
30

31 **Q. Would the tariffing of wholesale service quality plans fall under the scope  
32 of terms and conditions of service under Section 9-102?**

33  
34 **A. Yes, it would.**  
35

36 **Q. In Mr. Agro's testimony (Verizon Ex. 2.0, lines 146 – 188), he offers an  
37 alternative to the submission of tariffs. Please summarize his proposed  
38 language.**

39  
40 **A. Mr. Agro has offered alternative language to replace Staff's proposed Section  
41 731.200. His alternative language would allow Level 1 carriers to submit their  
42 wholesale service quality plan to the Manager of the Telecommunications  
43 Division rather than filing a tariff.**  
44

45 **Q. Would this alternative be satisfactory to the Commission?**

46

47 A. No, it would not. Information provided at staff level, such as a submission to the  
48 Manager of the Telecommunications Division, is not an official filing with the  
49 Commission. As such, the documents would not be public information. In  
50 addition, I am uncertain whether or not such submissions would represent  
51 binding obligations of the carrier if they remain untariffed. Receipt of tariffs or  
52 docketed items are listed on the Commission's Daily Filings reports posted on  
53 the website thereby automatically informing all interested parties of any  
54 submissions. There is no procedure in place for notifying interested parties when  
55 a document is submitted at staff level. ~~In addition, as explained in my direct~~  
56 ~~testimony, tariffing of wholesale service quality plans is required pursuant to~~  
57 ~~various provisions of the Public Utilities Act.~~

58

59 **Q. If the wholesale service quality plan were to be provided to the Manager of**  
60 **the Telecommunications Division, is there a means for interested parties to**  
61 **comment on proposed changes?**

62

63 A. In order to provide notification to all interested parties and gather comments, the  
64 Staff would be required to recommend to the Commission that a formal  
65 investigation be opened. This would result in a greater burden to both staff and  
66 the companies involved.

67

68 **Q. In Ms. Raynor's testimony (Verizon Ex. 1.0, lines 103 & 104), she states that**

69           **tariffing “increases the administrative burden and renders any plan less**  
70           **flexible...” Do you agree with this statement?**

71

72    A.    While the initial inclusion of the wholesale service quality plans into a tariff may  
73           pose some administrative burden, maintaining the tariff document after the initial  
74           filing is no more burdensome than submitting the document to the staff in any  
75           other format. As to the statement that tariffing the plan renders it less flexible, I  
76           fail to understand the reasoning behind this comment. Tariffs are documents that  
77           are changed at will by the company subject to the Commission's authority to  
78           suspend and investigate a tariff. There is no limitation to the amount or scope of  
79           changes that can be made to any tariff. Any changes in the marketplace can be  
80           addressed easily in the tariffs.

81

82    **Q.    In both Mr. Agro (Verizon Ex. 2.0, lines 249 – 254) and Ms. Raynor's**  
83           **(Verizon Ex. 1.0, lines 195 – 201) testimony, they state that Verizon's**  
84           **currently effective incentive plan could be incorporated by reference into**  
85           **their future interconnection agreements. Is this a satisfactory alternative to**  
86           **tariffing of the wholesale service quality plans?**

87

88    A.    I do not find this alternative proposal to be a satisfactory alternative.

89

90    **Q.    Please explain why you do not believe this is a good alternative.**

91

92 A. There are several reasons why this is not a good alternative. First, existing  
93 Interconnection agreements may not specifically incorporate the incentive plan;  
94 secondly, other carriers may want to buy services out of the tariffs rather than  
95 through an interconnection agreement; and lastly, the incentive plan would be  
96 subject to revision with each negotiation. Having the plan individually negotiated  
97 with each separate interconnection agreement is time consuming and could lead  
98 to discriminatory treatment. In addition, Section 13-712(g) is a state law  
99 requirement for a wholesale service quality rule. ~~Similarly, the requirement to~~  
100 ~~tariff a wholesale service quality plan is a state law requirement. Although it may~~  
101 ~~be appropriate to incorporate wholesale service quality plans into interconnection~~  
102 ~~agreements, such action would not satisfy the state law requirement to tariff such~~  
103 ~~a plan.~~

104

105 **Q. Is there any other testimony filed by the other parties to which you have a**  
106 **response or comment?**

107

108 A. Yes. In general, a good portion of the testimony filed in response to Staff's  
109 proposed rule is legal in nature. In addition, certain parties rejected Staff's  
110 proposed rule based on legal arguments, and propose alternative language or an  
111 alternative rule allegedly consistent with their legal position. I am not a lawyer  
112 and do not offer a legal opinion in this proceeding. Although I have commented  
113 on certain testimony that was legal in nature, I do not believe it is productive or

114 necessary to respond to all testimony on legal issues offered by non-lawyers.  
115 Staff will fully respond to all legal arguments in its briefs. As to alternative  
116 proposals flowing from legal arguments, Staff opposes such proposals and will  
117 respond in its briefs as appropriate, but will not respond in detail to those  
118 proposals in testimony.

119

120 **Q. Does that conclude your testimony?**

121 **A. Yes.**

122