

140 West Street  
27<sup>th</sup> Floor  
New York, NY 10007  
Tel (212) 321-8115  
Fax (212) 962-1687  
richard.fipphen@verizon.com

**Richard C. Fipphen**  
Assistant General Counsel



February 25, 2008

Honorable Jaclyn A. Brillig  
Secretary  
New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

**Re: Case 08-C-0179**

Dear Secretary Brillig:

Enclosed please find an original and five (5) copies of Verizon New York Inc.'s Response to the Petition for Declaratory Ruling filed by TVC Albany, Inc. d/b/a Tech Valley Communications.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Fipphen".

Richard C. Fipphen

cc: Keith J. Roland, Counsel for Tech Valley Communications (By E-Mail)

2008 FEB 25 PM 1:47

RECEIVED  
FEB 25 2008  
NEW YORK PUBLIC SERVICE COMMISSION

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

**Petition of TVC Albany, Inc. d/b/a Tech Valley Communications for a Declaration that Verizon New York has Failed to Bargain in Good Faith for an Interconnection Agreement, and for Further Relief**

**Case 08-C-0179**

**VERIZON NEW YORK INC.'S RESPONSE  
TO THE PETITION FOR DECLARATORY RULING FILED BY  
TVC ALBANY, INC. D/B/A TECH VALLEY COMMUNICATIONS**

Verizon New York Inc. (“Verizon”), through its attorney, hereby responds to the Petition for Declaratory Ruling filed with the Commission on February 19, 2008 by TVC Albany, Inc. d/b/a Tech Valley Communications (“TVC”). In its Petition, TVC alleges that Verizon has failed to negotiate in good faith with TVC the terms and conditions of an interconnection agreement, in violation of Section 251(c)(1) of the Telecommunications Act of 1996 (“1996 Act”). In support of that allegation, TVC contends that Verizon has refused to review TVC’s proposed contract and insists on using the Verizon “template” interconnection agreement as the starting point for negotiations.<sup>1</sup> As discussed below, TVC’s petition is without merit and should be summarily dismissed by the Commission. Verizon has negotiated in good faith with TVC and will continue to do so. TVC’s allegations to the contrary are simply baseless.

**TVC’s Presentation of the Facts is Incomplete and Misleading**

As TVC describes in its Petition, on July 27, 2007, Verizon elected to terminate its interconnection agreement with TVC because the agreement had been in effect since 1999 and was many years beyond its initial term. Verizon’s termination letter indicated that Verizon

---

<sup>1</sup> Petition, ¶ 4.

would send to TVC by e-mail Verizon's standard interconnection terms for review so that Verizon and TVC could promptly conclude a replacement agreement.<sup>2</sup> By letter dated August 14, 2007, TVC acknowledged Verizon's termination of the 1999 interconnection agreement and formally requested that the parties negotiate a replacement agreement.<sup>3</sup> Significantly, TVC specifically requested that Verizon "forward via e-mail Verizon's standard interconnection agreement for Tech Valley's review." In accordance with its previously communicated intention and TVC's request, Verizon transmitted its standard agreement to TVC by e-mail dated August 21, 2007, which was acknowledged by TVC on the same day.<sup>4</sup>

On October 2, 2007, TVC sought, in lieu of negotiating a replacement agreement, to adopt the Cablevision Lightpath, Inc. interconnection agreement. The following day, Verizon advised TVC that the Cablevision agreement is not available for adoption – as provided in the Commission's *Opt-In Order*.<sup>5</sup> On that same day, October 3, 2007, TVC advised Verizon that TVC "will be submitting a redline markup of the template agreement for your review and comment" and that Verizon should "expect this submission next calander [sic] week."<sup>6</sup> On

---

<sup>2</sup> Letter from Geraldine Molloy (Verizon) to Kevin O'Connor (TVC), dated July 27, 2007. A copy of this letter is attached as Exhibit 1.

<sup>3</sup> Letter of Brian Kurkowski (TVC) to Geraldine Molloy (Verizon), dated August 14, 2007. A copy of this letter is attached as Exhibit 2.

<sup>4</sup> E-mail from Michelle D. Leuthardt (Verizon) to Brian Kurkowski (TVC), dated August 21, 2007. A copy of this e-mail message is attached as Exhibit 3; E-mail from Brian Kurkowski (TVC) to Michelle D. Leuthardt (Verizon), dated August 21, 2007. A copy of this e-mail message is attached as Exhibit 4.

<sup>5</sup> Case 04-C-0647, *et al.*, *Petition of DSCI Corporation for Approval of an Interconnection Agreement with Verizon New York Inc.*, Declaratory Ruling Allowing In Part Opt-In to AT&T's Interconnection Agreement with Verizon New York Inc. (issued and effective September 28, 2004) ("*Opt-In Order*").

<sup>6</sup> E-mail from Brian Kurkowski (TVC) to Michelle D. Leuthardt (Verizon), dated October 3, 2007. A copy of this e-mail message is attached as Exhibit 5.

November 29, 2007, Verizon contacted TVC, requesting the status of TVC's review and markup of the Verizon template agreement.<sup>7</sup> TVC never provided Verizon with such a markup.

On January 7, 2008 – over three months after TVC told Verizon to expect a redline of Verizon's template agreement – TVC presented to Verizon its own proposed interconnection agreement for Verizon's consideration<sup>8</sup> and subsequently advised Verizon that it did not consider it "productive" to redline the Verizon template agreement.<sup>9</sup> On February 15, 2008, after extensive review of TVC's proposal, Verizon advised TVC that Verizon had reviewed TVC's proposed agreement and indicated that proceeding with its proposed template was impractical, as, among other things, the TVC agreement was based on older interconnection agreements that are now outdated and unavailable for adoption. To provide TVC options to meet its immediate business needs, Verizon indicated to TVC that the parties should negotiate from the Verizon template and that TVC could continue to purchase tariffed wholesale arrangements until the parties are able to conclude a replacement interconnection agreement.

**Disagreement over the "Starting Point" Contract Is Not a Failure to Negotiate in Good Faith**

Noticeably absent from the facts presented in TVC's Petition is any acknowledgment that TVC has done *exactly the same thing* it has accused Verizon of wrongfully doing, namely preferring to use its own proposed agreement as the "starting point" for negotiations and preferring not to use the other party's template. With TVC's assent, Verizon presented its template agreement to TVC back on August 21, 2007. TVC also agreed at that time to use the

---

<sup>7</sup> E-mail message from Kathy Robertson (Verizon) to Brian Kurkowski (TVC), dated November 29, 2007. A copy of this e-mail message is attached as Exhibit 6.

<sup>8</sup> E-mail message from Brian Kurkowski (TVC) to Michelle D. Leuthardt (Verizon), dated January 7, 2008. A copy of this e-mail message is attached as Exhibit 7.

<sup>9</sup> E-mail message from Brian Kurkowski (TVC) to Kathleen Robertson (Verizon), dated January 11, 2008. A copy of this e-mail message is attached as Exhibit 8.

Verizon template. Over four months later, TVC apparently changed its mind, purportedly because redlining Verizon's agreement would be an "unproductive" exercise and offered its own proposed agreement for Verizon to review. Verizon has responded with its own concerns about the productivity of using a proposed agreement that is based on outdated interconnection agreements, which means that the TVC agreement would require substantial redlining to bring it into conformity with Verizon's currently available wholesale product descriptions, rates, terms and conditions. The facts alleged by TVC establish nothing more than a disagreement between the parties as to how contract negotiations should proceed. More importantly, the obligation to negotiate in good faith imposed by Section 251(c)(1) of the 1996 Act is imposed on *both* Verizon, as the incumbent local exchange carrier, *and* TVC, as the carrier requesting an interconnection agreement.<sup>10</sup> Surely, TVC cannot seriously contend that it should be held to a lesser standard than Verizon in assessing whether a particular negotiating position constitutes a failure to negotiate in good faith.

TVC apparently defends this "double standard" by disparaging Verizon's standard agreement as one that "no carrier with any serious understanding of the telecommunications industry" would find "acceptable."<sup>11</sup> TVC goes on to claim that Verizon's standard terms are "biased and unfair" and "require a CLEC to waive many of its rights under applicable law."<sup>12</sup> TVC's claims are simply baseless. Virtually all of the 44 interconnection agreements that have been negotiated between Verizon and various CLECs since early 2004 were negotiated from the Verizon standard template. More importantly, TVC takes a bizarre approach to the notion of a

---

<sup>10</sup> 47 U.S.C. § 251(c)(1) provides that "[t]he requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements."

<sup>11</sup> Petition, ¶ 4.

<sup>12</sup> *Id.*, ¶ 5.

contract negotiation: in any contract negotiation, no party seeking to protect its interests would put its “best and final” offer on the table as its “going in” position. Verizon’s standard terms represent the interconnection agreement that Verizon would prefer to enter into to best serve its interests. Contrary to TVC’s suggestion, Verizon does negotiate changes to those contract terms during the negotiation process. Verizon has clearly not offered its template agreement to TVC on a “take-it-or-leave-it” basis.

**Verizon’s Proposed Use of Its Model Interconnection Agreement Template to Negotiate a Successor Agreement Is Reasonable**

TVC appears to take the position that Verizon’s use of a model interconnection agreement template is somehow unreasonable or unlawful. Verizon’s initial proposal – agreed to by TVC – that its template be used as the starting point for negotiations, however, is reasonable and most CLECs, including a substantial number doing business in New York, have agreed to use the Verizon standard terms as a basis for negotiating new interconnection agreements. In fact, in conjunction with the Bell Atlantic/GTE merger, the FCC required Verizon to make such terms available so that they could be utilized in multiple states.<sup>13</sup> In doing so, the FCC noted that making such a “template” agreement available to CLECs reduces unnecessary negotiation costs on Verizon’s competitors that conduct business in multiple states where Verizon is doing business.<sup>14</sup> Moreover, given the substantial number of interconnection agreements Verizon must administer, it is perfectly reasonable for it to pursue uniformity to the extent practicable and

---

<sup>13</sup> See *In re Application of GTE Corporation and Bell Atlantic for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of Submarine Cable Landing License*, Memorandum Opinion and Order, CC Docket No. 98-184, FCC 00-221 (rel. June 16, 2000), ¶ 306.

<sup>14</sup> *Id.*

consistent with the requirements of the 1996 Act.<sup>15</sup> Indeed, while TVC has indicated that it would be “unproductive” for it to review the terms of Verizon’s template, such an effort pales in comparison to the burden that would be imposed on Verizon if it had to begin its negotiations with its many competitors from completely different starting points.

### **TVC’s Petition Is Procedurally Improper**

Finally, we note that TVC’s Petition is procedurally improper. While TVC has filed this petition under Sections 251 and 252 of the 1996 Act and Part 8 of the Commission’s Rules of Procedure, the sole relief it seeks is a “declaratory” ruling.<sup>16</sup> Section 8.1 of the Commission’s rules provides that a declaratory ruling may be issued with respect to “the applicability to any person, property, or state of facts of any rule or statute enforceable by the Commission or the validity of any such rule....”<sup>17</sup> The Commission’s rule tracks the language of the enabling statute: the State Administrative Procedure Act (“SAPA”) limits the availability of declaratory actions to “(i) the applicability to any person, property, or state of facts of any rule or statute enforceable by it, or (ii) whether any action by it should be taken pursuant to a rule.”<sup>18</sup> TVC’s Petition fails to articulate a single rule or statutory provision it seeks to have construed by the Commission in this proceeding, as it is required to do by SAPA and the Commission’s rules. Instead, TVC seeks a Commission declaration that dictates the terms of negotiations between the parties. What TVC is seeking is contrary to the Commission’s rules and outside the scope of this

---

<sup>15</sup> To be clear, that Verizon proposed that its template agreement be used as the basis for the new interconnection agreement does not mean that those terms could not change in the course of negotiations. Both parties are required to negotiate terms and conditions in good faith.

<sup>16</sup> Petition at 5.

<sup>17</sup> 16 NYCRR § 8.1.

<sup>18</sup> STATE ADMINISTRATIVE PROCEDURE ACT § 204(1).

Commission's authority. Therefore, the Commission should dismiss TVC's Petition without further proceedings.

Even if TVC's Petition were procedurally proper under state law – and it is not – TVC's Petition is also inconsistent with the 1996 Act, which governs the negotiation of interconnection agreements as well as the procedural alternatives that are available to the parties where they fail to reach a voluntary agreement. To the extent the parties are ultimately unable to resolve disputes over the terms and conditions of interconnection agreements in the context of voluntary negotiations, including the appropriate template for negotiations, the 1996 Act provides two alternatives. First, a party may request that the Commission participate in the negotiation process and mediate differences between the parties.<sup>19</sup> Alternatively, during a statutorily determined time period (between the 135<sup>th</sup> and 160<sup>th</sup> days after the date on which an ILEC receives a request for negotiation) either party to the negotiation may petition the state Commission to arbitrate any open issues.<sup>20</sup>

TVC has not pursued either of these options;<sup>21</sup> instead it has initiated an action for a declaratory judgment under state law that is plainly not provided for by the 1996 Act. Thus, if TVC seeks the Commission's intervention to address the appropriate template or even its

---

<sup>19</sup> 47 U.S.C. § 252(a)(2).

<sup>20</sup> *Id.*, § 252(b)(1). As a result of a mutually agreed upon extension, the 160-day arbitration window is currently set to expire on March 29, 2008.

<sup>21</sup> The mediation option is available to TVC today, as the 1996 Act provides that “[a]ny party negotiating an agreement under this section may, *at any point in the negotiation*, ask a State commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.” 47 U.S.C. § 252(a)(2) (emphasis added). The arbitration option will become available to TVC on March 29, 2008.

baseless allegations of bad faith negotiations, it must either request that the Commission mediate<sup>22</sup> a specific dispute or seek arbitration when the arbitration window opens.

For the forgoing reasons, the TVC Petition should be dismissed.

Respectfully submitted,



RICHARD C. FIPPHEN  
140 West Street —27<sup>th</sup> floor  
New York, New York 10007  
(212) 321-8115

Counsel for Verizon New York Inc.

Dated: February 25, 2008

---

<sup>22</sup> The declaratory ruling that TVC seeks in its Petition would clearly be an improper result in the context of a mediation under the 1996 Act.

# **EXHIBIT 1**

Geraldine Molloy, Manager  
Contract Performance and Administration  
Partner Solutions



**VIA TELECOPY and FIRST CLASS MAIL**

**Partner Solutions  
Marketing & Sales**  
1625 Forest Ave  
Staten Island, New York 10302

Phone 718 876-0632  
Geraldine.Molloy@verizon.com

July 27, 2007

Kevin O'Connor  
TVC Albany Inc.  
87 State Street  
Albany, NY 12207  
Phone: 518-598-0900  
Fax: 518-598-0940

Subject: Notice of Termination of Interconnection Agreement

Verizon hereby terminates the Comprehensive Agreement dated January 8, 1999, between Verizon New York Inc. ("Verizon") and TVC Albany Inc. d/b/a Tech Valley Communications ("Tech Valley") for the state of New York (the "Agreement"). In accordance with the terms of the Agreement, this termination will be effective at 12:01 am local time in Albany, New York, on October 25, 2007.

In order that the parties may promptly negotiate and conclude a replacement agreement, we will be sending you via e-mail attachment Verizon's standard interconnection terms for your review and comment. Should you desire to adopt another interconnection agreement instead of negotiating a replacement agreement, please send your adoption request to Verizon at [contract.management@verizon.com](mailto:contract.management@verizon.com) or fax your request to 972-719-1519.

In any event, Verizon considers the date of this notice to be the negotiations request date for the purpose of determining the opening of the arbitration window under Section 252(b)(1) of the Telecommunications Act. Upon termination of the agreement, Verizon will continue to provide services to Tech Valley in accordance with Tariff terms and conditions generally available to CLECs, however we reserve any and all rights and remedies available under the Agreement or law in connection with this termination.

The Verizon Support Website will provide you with additional information regarding the negotiations process. The URL address is <http://www.verizon.com/wholesale>.

Sincerely yours,

Geraldine Molloy, Manager  
Contract Performance and Administration  
Wholesale Markets

11233

## **EXHIBIT 2**



August 14, 2007

Geraldine Molloy  
Manager  
Contract Performance and Administration  
Partner Solutions  
Verizon  
1625 Forest Avenue  
Staten Island, New York 10302

Re: Notice of Termination of Interconnection Agreement – Request for  
Negotiations

Dear Ms. Molloy:

This is in response to your letter of July 27, 2007, to Kevin O'Connor of TVC Albany, Inc., in which Verizon states it is terminating the Interconnection Agreement between Verizon New York and TVC Albany Inc. d/b/a Tech Valley Communications, dated January 8, 1999.

In response thereto, while preserving all of its rights, Tech Valley requests that Verizon negotiate a replacement interconnection agreement with Tech Valley. In connection therewith, please forward via e-mail Verizon's standard interconnection agreement for Tech Valley's review.

---

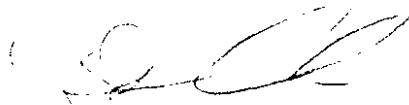
*Your Local Link To The World*

87 State Street • Albany, NY 12207 • Toll Free: 877.598.0940 • Telephone: 518.598.0900 • Fax: 518.598.0935

Tech Valley also reserves its right to adopt another interconnection agreement instead of negotiating a replacement agreement. In that regard, I would be grateful if you could identify for me the existing interconnection agreements between Verizon and other carriers operating in New York which Verizon believes are available for such adoption.

Finally, Tech Valley reserves all rights with respect to Verizon's assertion that it may begin imposing tariff rates, terms, and conditions on services obtained by Tech Valley under the existing Interconnection Agreement, as opposed to continuing the rates, terms, and conditions of those services under the existing Interconnection Agreement, while the parties are pursuing their negotiation in good faith and, if necessary, arbitration.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Kurkowski", written in a cursive style.

Brian Kurkowski  
Chief Technical Officer

## **EXHIBIT 3**



contract  
management/MIDB/Verizon

To bkurkowski@techvalley.com

cc

Sent by: Michelle D.  
Leuthardt

bcc

Subject Request for Negotiations - Verizon/TVC Albany Inc.  
d/b/a Tech Valley Communications

08/21/2007 03:59 PM

Brian,

Please confirm receipt of the attached draft agreement via return email.

Verizon has received TVC Albany Inc. d/b/a Tech Valley Communications's request for negotiations for a CLEC comprehensive agreement for the state of New York. The start date for this negotiation is August 17, 2007, the date we received your request.

Pursuant to your request, I have attached for your review a draft for the purpose of initiating negotiations between Tech Valley and Verizon. In addition, I have attached the Verizon State Specific Guide. This guide should be used in conjunction with the draft documents. The draft documents and guide are subject to change throughout the negotiation process.

On April 18, 2001, the Federal Communications Commission ("FCC") adopted an order addressing the charges that carriers may bill to and collect from each other in connection with their exchange of dial-up Internet traffic. See, *Order on Remand and Report and Order*, CC Docket Nos. 96-98, 99-68 (adopted April 18, 2001) (the "Order"). Pursuant to the terms of the Order, Verizon offers to all CLECs and CMRS providers an optional reciprocal compensation rate plan for termination of non-Internet traffic subject to Section 251(b)(5). Under this optional plan, such traffic exchanged between Verizon and a CLEC or CMRS provider in a given state will be subject to compensation at the same rate applicable to Internet traffic in that state under the terms of the Order. The pricing, terms and conditions applicable to this optional rate plan are available from your designated Verizon Negotiator.

Please complete and return via e-mail the attached Information Request Form in order to provide Verizon with the necessary information to proceed with this request.

At your convenience, please contact me with any questions you may have regarding this agreement.

The Verizon Support Website will provide you with additional information. The URL address is <http://www.verizon.com/partnersolutions>.

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com



Verizon Comprehensive Agreement-v3.0d-062207.doc



comprehensive state specific guide-v3.0-032207.doc



IRF.doc



appa-comp-ny.doc

## **EXHIBIT 4**

"Brian Kurkowski"  
<bkurkowski@techvalleycom  
.com>

08/21/2007 06:14 PM

To contract management/MIDB/Verizon@VZNotes  
cc  
bcc  
Subject RE: Request for Negotiations - Verizon/TVC Albany Inc.  
d/b/a Tech Valley Communications

Michelle,

I have received the standard form ICAYou have sent and will be in touch soon.

Brian Kurkowski

CTO,TVC

518-598-0900 Office

518-281-1953 Mobile

**From:** michelle.d.leuthardt@verizon.com [mailto:michelle.d.leuthardt@verizon.com] **On Behalf Of**  
contract.management@verizon.com  
**Sent:** Tuesday, August 21, 2007 5:00 PM  
**To:** Brian Kurkowski  
**Subject:** Request for Negotiations - Verizon/TVC Albany Inc. d/b/a TechValleyCommunications

Brian,

Please confirm receipt of the attached draft agreement via return email.

Verizon has received TVC Albany Inc. d/b/a Tech Valley Communications's request for negotiations for a CLEC comprehensive agreement for the state of New York. The start date for this negotiation is August 17, 2007, the date we received your request.

Pursuant to your request, I have attached for your review a draft for the purpose of initiating negotiations between TechValleyand Verizon. In addition, I have attached the Verizon State

Specific Guide. This guide should be used in conjunction with the draft documents. The draft documents and guide are subject to change throughout the negotiation process.

On April 18, 2001, the Federal Communications Commission ("FCC") adopted an order addressing the charges that carriers may bill to and collect from each other in connection with their exchange of dial-up Internet traffic. See, *Order on Remand and Report and Order*, CC Docket Nos. 96-98, 99-68 (adopted April 18, 2001) (the "Order"). Pursuant to the terms of the Order, Verizon offers to all CLECs and CMRS providers an optional reciprocal compensation rate plan for termination of non-Internet traffic subject to Section 251(b)(5). Under this optional plan, such traffic exchanged between Verizon and a CLEC or CMRS provider in a given state will be subject to compensation at the same rate applicable to Internet traffic in that state under the terms of the Order. The pricing, terms and conditions applicable to this optional rate plan are available from your designated Verizon Negotiator.

Please complete and return via e-mail the attached Information Request Form in order to provide Verizon with the necessary information to proceed with this request.

At your convenience, please contact me with any questions you may have regarding this agreement.

The Verizon Support Website will provide you with additional information. The URL address is <http://www.verizon.com/partnersolutions>.

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com

*(See attached file: Verizon Comprehensive Agreement-v3.0d-062207.doc)(See attached file: comprehensive state specific guide-v3.0-032207.doc)(See attached file: IRF.doc)(See attached file: appa-comp-ny.doc)*

## **EXHIBIT 5**

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com>

10/03/2007 01:49 PM

To contract management/MIDB/Verizon@VZNotes  
"Andrew Ragogna" <aragogna@techvalleycom.com>, "Greg  
cc Sichak" <gsichak@techvalleycom.com>, "Kevin O'Connor"  
<koconnor@techvalleycom.com>, "Keith J. Roland"  
bcc  
Subject RE: Request for Negotiations - Verizon/TVC Albany Inc.  
d/b/a Tech Valley Communications

Dear Michelle,

Thank you for your reply.

Techvalley Communications will be submitting a redline markup of the template agreement for your review and comment. Please expect this submission next calander week.

Please give me a call when you get a chance so I may get to know the voice of the person I am negotiating with.

Brian Kurkowski

CTO.TVC

518-598-0900 Office

518-281-1953 Mobile

**From:** michelle.d.leuthardt@verizon.com [mailto:michelle.d.leuthardt@verizon.com] **On Behalf Of**  
contract.management@verizon.com  
**Sent:** Wednesday, October 03, 2007 2:04 PM  
**To:** Brian Kurkowski  
**Cc:** Andrew Ragogna; Greg Sichak; Kevin O'Connor  
**Subject:** RE: Request for Negotiations - Verizon/TVC Albany Inc. d/b/a TechValleyCommunications

Brian,

The Cablevision NY agreement is not available to adopt. If there is another agreement you are interested in I would be happy to check its availability for you.

If you have further questions, please let me know!

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com  
"Brian Kurkowski" <bkurkowski@techvalleycom.com>

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com>

10/02/2007 06:25 PM

contract management/MIDB/Verizon@VZNotes  
To

"Greg Sichak" <gsichak@techvalleycom.com>, "Andrew  
cc Ragogna" <aragogna@techvalleycom.com>, "Kevin  
O'Connor" <koconnor@techvalleycom.com>

RE: Request for Negotiations - Verizon/TVC Albany Inc.  
Subject: d/b/a TechValleyCommunications  
ct

Michelle,

I had left you a message today but did not hear back from you.

Techvalley Communications has reviewed our options as we understand them and have elected to opt into the current Cable Vision Lightpath interconnection agreement for the State of New York including in all of its current amendments. Please confirm this option is available.

Attached is the Completed Information Request Form.

TVC will be meeting internally on Wednesday morning October 3 at 9:30am to 11:30am review this matter. I realize that this is short notice and may not work but if you would be available to join this conversation for a few minutes I would appreciate it.

Brian Kurkowski

CTO, TVC

518-281-1953 Mobile

518-598-0900 Office

518-598-0935 Fax

**From:** michelle.d.leuthardt@verizon.com [mailto:michelle.d.leuthardt@verizon.com] **On**  
**Behalf Of** contract.management@verizon.com  
**Sent:** Friday, September 28, 2007 10:31 AM  
**To:** Brian Kurkowski  
**Subject:** RE: Request for Negotiations - Verizon/TVC Albany Inc. d/b/a  
TechValleyCommunications

Brian,

Please advise as to the status of your review of the documents and return of the  
Information Request Form.

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com  
"Brian Kurkowski" <bkurkowski@techvalleycom.com>

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com . . . contract management/MIDB/Verizon@VZNotes  
>

08/21/2007 06:14 PM

To

cc

RE: Request for Negotiations - Verizon/TVC  
Albany Inc. d/b/a TechValleyCommunications

Subj  
ect

Michelle,

I have received the standard form ICA you have sent and will be in touch soon.

Brian Kurkowski

CTO, TVC

518-598-0900 Office

518-281-1953 Mobile

**From:** michelle.d.leuthardt@verizon.com [<mailto:michelle.d.leuthardt@verizon.com>] On Behalf Of contract.management@verizon.com  
**Sent:** Tuesday, August 21, 2007 5:00 PM  
**To:** Brian Kurkowski  
**Subject:** Request for Negotiations - Verizon/TVC Albany Inc. d/b/a TechValleyCommunications

Brian,

**Please confirm receipt of the attached draft agreement via return email.**

Verizon has received TVC Albany Inc. d/b/a Tech Valley Communications's request for negotiations for a CLEC comprehensive agreement for the state of New York. The start date for this negotiation is August 17, 2007, the date we received your request.

Pursuant to your request, I have attached for your review a draft for the purpose of initiating negotiations between TechValley and Verizon. In addition, I have attached the Verizon State Specific Guide. This guide should be used in conjunction with the draft documents. The draft documents and guide are subject to change throughout the negotiation process.

On April 18, 2001, the Federal Communications Commission ("FCC") adopted an order addressing the charges that carriers

may bill to and collect from each other in connection with their exchange of dial-up Internet traffic. See, *Order on Remand and Report and Order*, CC Docket Nos. 96-98, 99-68 (adopted April 18, 2001) (the "Order"). Pursuant to the terms of the Order, Verizon offers to all CLECs and CMRS providers an optional reciprocal compensation rate plan for termination of non-Internet traffic subject to Section 251(b)(5). Under this optional plan, such traffic exchanged between Verizon and a CLEC or CMRS provider in a given state will be subject to compensation at the same rate applicable to Internet traffic in that state under the terms of the Order. The pricing, terms and conditions applicable to this optional rate plan are available from your designated Verizon Negotiator.

Please complete and return via e-mail the attached Information Request Form in order to provide Verizon with the necessary information to proceed with this request.

At your convenience, please contact me with any questions you may have regarding this agreement.

The Verizon Support Website will provide you with additional information. The URL address is <http://www.verizon.com/partnersolutions>.

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
[michelle.d.leuthardt@verizon.com](mailto:michelle.d.leuthardt@verizon.com)

*(See attached file: Verizon Comprehensive Agreement-v3.0d-062207.doc)(See attached file: comprehensive state specific guide-v3.0-032207.doc)(See attached file: IRF.doc)(See attached file: appa-comp-ny.doc)(See attached file: IRF-TechValleyCommunications.doc)*

## **EXHIBIT 6**



contract  
management/MIDB/Verizon  
Sent by: Kathy A. Robertson

11/29/2007 11:21 AM

To "Brian Kurkowski" <bkurkowski@techvalleycom.com>  
cc  
bcc

Subject RE: Request for Negotiations - Verizon/TVC Albany Inc.  
d/b/a Tech Valley Communications

Brian,

My records indicate we have not yet received feedback on the draft documents we forwarded to TVC on August 21, 2007. Please advise the status of your review and whether you are ready for discussions with a Negotiator.

Thank you!

Kathy

Kathy Robertson  
Manager-Contract Management  
Verizon Partner Solutions

contract management/MIDB/Verizon



contract  
management/MIDB/Verizon  
Sent by: Michelle D.  
Leuthardt

10/09/2007 04:28 PM

To "Brian Kurkowski" <bkurkowski@techvalleycom.com>  
"Andrew Ragogna" <aragogna@techvalleycom.com>, "Greg  
Sichak" <gsichak@techvalleycom.com>, "Kevin O' Connor"  
cc <kocannon@techvalleycom.com>, "Keith J. Roland"  
<kroland@herzoglaw.com>

Subject RE: Request for Negotiations - Verizon/TVC Albany Inc.  
d/b/a Tech Valley Communications

Brian,

Thanks for the update. Once I receive your redline, I will have a negotiator assigned to work with you. Please let me know if you need anything else.

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com  
"Brian Kurkowski" <bkurkowski@techvalleycom.com>

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com>

10/03/2007 01:49 PM

To contract management/MIDB/Verizon@VZNotes  
"Andrew Ragogna" <aragogna@techvalleycom.com>, "Greg  
Sichak" <gsichak@techvalleycom.com>, "Kevin O'Connor"  
cc <koconnor@techvalleycom.com>, "Keith J. Roland"  
<kroland@herzoglaw.com>  
Subject RE: Request for Negotiations - Verizon/TVC Albany Inc.  
d/b/a Tech Valley Communications

Dear Michelle,

Thank you for your reply.

Techvalley Communications will be submitting a redline markup of the template agreement for your review and comment. Please expect this submission next calander week.

Please give me a call when you get a chance so I may get to know the voice of the person I am negotiating with.

Brian Kurkowski

CTO.TVC

518-598-0900 Office

518-281-1953 Mobile

**From:** michelle.d.leuthardt@verizon.com [mailto:michelle.d.leuthardt@verizon.com] **On Behalf Of**  
contract.management@verizon.com

**Sent:** Wednesday, October 03, 2007 2:04 PM

**To:** Brian Kurkowski  
**Cc:** Andrew Ragogna; Greg Sichak; Kevin O'Connor  
**Subject:** RE: Request for Negotiations - Verizon/TVC Albany Inc. d/b/a TechValleyCommunications

Brian,

The Cablevision NY agreement is not available to adopt. If there is another agreement you are interested in I would be happy to check its availability for you.

If you have further questions, please let me know!

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com  
"Brian Kurkowski" <bkurkowski@techvalleycom.com>

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com>

10/02/2007 06:25 PM

contract management/MIDB/Verizon@VZNotes  
To

"Greg Sichak" <gsichak@techvalleycom.com>, "Andrew  
cc Ragogna" <aragogna@techvalleycom.com>, "Kevin  
O'Connor" <koconnor@techvalleycom.com>

RE: Request for Negotiations - Verizon/TVC Albany Inc.  
Subject: d/b/a TechValleyCommunications  
ct

Michelle,

I had left you a message today but did not hear back from you.

Techvalley Communications has reviewed our options as we understand them and have elected to opt into the current Cable Vision Lightpath interconnection agreement for the State of New York including in all of its current amendments. Please confirm this option is available.

Attached is the Completed Information Request Form.

TVC will be meeting internally on Wednesday morning October 3 at 9:30am to 11:30am review this matter. I realize that this is short notice and may not work but if you would be available to join this conversation for a few minutes I would appreciate it.

Brian Kurkowski

CTO, TVC

518-281-1953 Mobile

518-598-0900 Office

518-598-0935 Fax

**From:** michelle.d.leuthardt@verizon.com [mailto:michelle.d.leuthardt@verizon.com] **On**  
**Behalf Of** contract.management@verizon.com  
**Sent:** Friday, September 28, 2007 10:31 AM  
**To:** Brian Kurkowski  
**Subject:** RE: Request for Negotiations - Verizon/TVC Albany Inc. d/b/a  
TechValleyCommunications

Brian,

Please advise as to the status of your review of the documents and return of the Information Request Form.

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927  
(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com  
"Brian Kurkowski" <bkurkowski@techvalleycom.com>

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com>  
> contract management/MIDB/Verizon@VZNotes

08/21/2007 06:14 PM

To

cc

RE: Request for Negotiations - Verizon/TVC  
Albany Inc. d/b/a TechValleyCommunications

Subj  
ect

Michelle,

I have received the standard form ICA you have sent and will be in touch soon.

Brian Kurkowski

CTO, TVC

518-598-0900 Office

518-598-0900 Office

518-281-1953 Mobile

**From:** michelle.d.leuthardt@verizon.com [<mailto:michelle.d.leuthardt@verizon.com>] On Behalf Of contract.management@verizon.com  
**Sent:** Tuesday, August 21, 2007 5:00 PM  
**To:** Brian Kurkowski  
**Subject:** Request for Negotiations - Verizon/TVC Albany Inc. d/b/a TechValleyCommunications

Brian,

**Please confirm receipt of the attached draft agreement via return email.**

Verizon has received TVC Albany Inc. d/b/a Tech Valley Communications's request for negotiations for a CLEC comprehensive agreement for the state of New York. The start date for this negotiation is August 17, 2007, the date we received your request.

Pursuant to your request, I have attached for your review a draft for the purpose of initiating negotiations between TechValley and Verizon. In addition, I have attached the Verizon State Specific Guide. This guide should be used in conjunction with the draft documents. The draft documents and guide are subject to change throughout the negotiation process.

On April 18, 2001, the Federal Communications Commission (“FCC”) adopted an order addressing the charges that carriers may bill to and collect from each other in connection with their exchange of dial-up Internet traffic. See, *Order on Remand and Report and Order*, CC Docket Nos. 96-98, 99-68 (adopted April 18, 2001) (the “Order”). Pursuant to the terms of the Order, Verizon offers to all CLECs and CMRS providers an optional reciprocal compensation rate plan for termination of non-Internet traffic subject to Section 251(b)(5). Under this optional plan, such traffic exchanged between Verizon and a CLEC or CMRS provider in a given state will be subject to compensation at the same rate applicable to Internet traffic in that state under the terms of the Order. The pricing, terms and conditions applicable to this optional rate plan are available from your designated Verizon Negotiator.

Please complete and return via e-mail the attached Information Request Form in order to provide Verizon with the necessary information to proceed with this request.

At your convenience, please contact me with any questions you may have regarding this agreement.

The Verizon Support Website will provide you with additional information. The URL address is <http://www.verizon.com/partnersolutions>.

Michelle Leuthardt  
Specialist - Contract Management  
Verizon Partner Solutions  
(972)718-4927

(972)719-1519 Fax  
michelle.d.leuthardt@verizon.com

*(See attached file: Verizon Comprehensive Agreement-v3.0d-062207.doc)(See attached file: comprehensive state specific guide-v3.0-032207.doc)(See attached file: IRF.doc)(See attached file: appa-comp-ny.doc)(See attached file: IRF-TechValleyCommunications.doc)*

## **EXHIBIT 7**

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com>

01/07/2008 02:48 PM

To Michelle D. Leuthardt/EMPL/TX/Verizon@VZNotes,  
Kathy A. Robertson/EMPL/TX/Verizon@VZNotes  
"Keith J. Roland" <kroland@herzoglaw.com>, "Greg Sichak"  
cc <gsichak@techvalleycom.com>, "Kevin O'Connor"  
<koconnor@techvalleycom.com>

bcc

Subject Techvalley Communications ICA with Verizon New York

Dear Michelle,

Attached please find our proposed agreement for interconnection between Techvalley Communications and Verizon in New York State.

Techvalley Communications also suggest, and is amenable to, changing the date of request for negotiation to October 15, 2007 to allow sufficient time for Verizon to review this agreement.

If you have any questions, please give me a call.

Brian Kurkowski  
CTO  
Techvalley Communications  
[www.techvalleycom.com](http://www.techvalleycom.com)  
518-598-0900 Office  
518-281-1953 Mobile



TVC\_VZ\_ICA\_FINAL.doc

**EXHIBIT 8**

"Brian Kurkowski"  
<bkurkowski@techvalleycom.com>

01/11/2008 03:44 PM

To contract management/MIDB/Verizon@VZNotes

cc "Keith J. Roland" <kroland@herzoglaw.com>, "Greg Sichak" <gsichak@techvalleycom.com>

bcc

Subject RE: FW: Techvalley Communications ICA with Verizon  
New York

Kathy,

On further reflection, TVC decided that redlining the current model document would not be productive. Instead we think the more productive approach is for Verizon to review Techvalley's proposed agreement and return with any Verizon redline and comments.

Please assign a negotiator to work out the final terms.

Additionally are we in agreement in revising the request to negotiate date?

Brian Kurkowski

CTO

Techvalley Communications

[www.techvalleycom.com](http://www.techvalleycom.com)

518-598-0900 Office

518-281-1953 Mobile

**From:**kathleen.robertson@verizon.com[mailto:kathleen.robertson@verizon.com] **On Behalf Of**

contract.management@verizon.com

**Sent:** Friday, January 11, 2008 4:35 PM

**To:** Greg Sichak

**Cc:** Brian Kurkowski

**Subject:** Re: FW: Techvalley Communications ICAwith Verizon New York

Greg,

My records indicated Verizon forwarded our current model template agreement to TechValley on 8/21/07 for review and if necessary, redline. In addition, Verizon received an email from Brian on 10/3/07 indicating TechValley Communications would be submitting a redline markup of that template agreement for Verizon's review and comment. Will you please provide the redline markup Brian mentioned in his 10/3/07 email? Upon receipt of that redline, I will assign a Negotiator to work with TechValley.

Thank you!

Kathy

Kathy Robertson

Manager-Contract Management

"Greg Sichak" <gsichak@techvalleycom.com>

**"Greg Sichak"**

<gsichak@techvalleycom.com>

01/08/2008 10:17 AM

contract management/MIDB/Verizon@VZNotes

To

"Brian Kurkowski" <bkurkowski@techvalleycom.com>

cc

FW: Techvalley Communications ICAwith Verizon New

Subje York

ct

We have received an email message that Michelle Leuthardt is no longer with the company and that we should forward our correspondences to this address.

Regards,

Greg Sichak

Regulatory Manager

TechValleyCommunications

-----Original Message-----

**From:** Brian Kurkowski

**Sent:** Monday, January 07, 2008 3:48 PM

**To:** 'michelle.d.leuthardt@verizon.com'; 'kathleen.robertson@verizon.com'

**Cc:** 'Keith J. Roland'; Greg Sichak; Kevin O'Connor

**Subject:** Techvalley Communications ICAwith Verizon New York

Dear Michelle,

Attached please find our proposed agreement for interconnection between Techvalley Communications and Verizon in New York State.

Techvalley Communications also suggest, and is amenable to, changing the date of request for negotiation to October 15, 2007 to allow sufficient time for Verizon to review this agreement.

If you have any questions, please give me a call.

Brian Kurkowski

CTO

Techvalley Communications

[www.techvalleycom.com](http://www.techvalleycom.com)

518-598-0900 Office

518-281-1953 Mobile

*(See attached file: TVC\_VZ\_ICA\_FINAL.doc)*