



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE APPLICATION OF VERIZON)
NEW JERSEY, INC., FOR THE APPROVAL OF THE) ORDER OF APPROVAL
SALE AND CONVEYANCE OF REAL PROPERTY)
LOCATED IN THE BOROUGH OF MADISON, MORRIS)
COUNTY, NEW JERSEY TO VISION EQUITIES)
ACQUISITIONS, L.L.C.) DOCKET NO. TM08050304

(SERVICE LIST ATTACHED)

BY THE BOARD:

On May 9, 2008, Verizon New Jersey Inc. ("Petitioner" or "VNJ") filed an application ("Petition") for approval of the sale and conveyance of real property ("Property") located in the Borough of Madison, Morris County, New Jersey to Vision Equities Acquisition, L.L.C. ("Buyer") for \$21,050,000.00. According to the application, there is no relationship between the Petitioner and the Buyer other than that of transferor and transferee.

The Property consists of a three story, 224,680 square foot building on approximately 15 acres of land and was acquired on June 10, 1976 at a purchase price of \$8,469,175.00. Improvements to the Property subsequent to the purchase thereto consist of at a total cost to date of \$38,793,249.00. The book value of the Property is \$24,594,328.00. The Property is not income producing, and its 2007 / 2008 assessed value is \$25,036,300.00.

In August, 2007, Petitioner determined that upon vacation of the Property in or about December, 2008 and subject to the post closing lease, the reservation of rights and interests, and easements and reservations as described in the sale agreement (Agreement), the property will not be required for any present or prospective use for utility purposes. The Property has been used as a site for Petitioner's Business Information Center, and will cease to be used for such purposes when the personnel from this location will be transferred to other locations.

On May 15, 2007, Petitioner obtained an appraisal of the Property from Cushman & Wakefield of New Jersey, which determined that, the market value of the Property as of May 1, 2007 was \$14,500,000.00.

The Petition states that the Property had been advertised in September, 2007. In response to the advertisement, fourteen (14) bids were received. Petitioner rejected the highest bid of \$28,000,000.00 submitted by the Hanover Company because it was subject to a contingency for final and non-appealable zoning. The second high bid of Digital Realty Trust was initially accepted on November 18, 2000 subject to negotiation of a formal contract of sale as contemplated by the bid documents. Negotiation continued until February 4, 2008, when Digital Realty Trust suddenly and unexpectedly notified Petitioner's agent that it would not be moving forward with the acquisition of the Property. Upon receipt of such notification, the Petitioner contacted the Buyer, the next highest bidder, and began negotiations for what ultimately resulted in the Agreement.

During the course of negotiations, the Buyer requested an adjustment of \$900,000.00 from its original bid of \$21,950,000.00 to reflect the decline in economic conditions and mortgage financial markets since submission of its bid in October, 2007. Petitioner accepted the adjustment since the adjusted purchase price is substantially higher than both the next highest bid of \$19,000,000.00 and the appraised value of \$14,500,000.00; and since the Petitioner did not wish to risk losing the sale at a price which exceeded the appraised value in a declining market.

On March 19, 2008, the Board approved the Petitioner's request to permit the filing of a petition for the approval of the sale of the Property beyond 150 days from the last advertisement date of the Property. I/M/O the Letter Petition for Approval of the Sale of Lands in Madison, New Jersey beyond 150 days from the Advertisement of the Property, Docket No. TO08020091 (March 19, 2008).

Pursuant to the sales agreement, the Petitioner will lease back the Property for a period of six months from the date of closing (subject to an option by Petitioner to extend the term for two additional periods of six months each) in order to have sufficient time to relocate its business operations to other locations. The details of this lease back arrangement are set forth in exhibit D, attached to the Petition. Petitioner also reserves rights and easements in the Property for the purpose of providing and continuing telecommunications services. The details of these rights and easements are described in the sale agreement and exhibit F annexed to the Petition.

On May 30, 2008, the Division of the Rate Counsel ("Rate Counsel") requested that the Board designate this matter as a contested case. Rate Counsel maintains that public policy concerns require that Rate Counsel be afforded an opportunity to review the prudence and reasonableness of the proposed sale. Furthermore, Rate Counsel requested that the Board designate this as a contested matter and convene as soon as possible a pre hearing conference with all interested parties. Rate Counsel believes that issues exist regarding whether the sale is reasonable, appropriate, represents fair market value and is in the public interest which Rate Counsel is mandated to represent under N.J.S.A. 52:27EE-57, and whether the proposed sale is otherwise consistent with applicable rules.

On June 19, 2008, VNJ filed its comments in response to Rate Counsel's request for contested case status. VNJ requested that the Board reject Rate Counsel's request because this matter does not meet the criteria for designation as a contested case, and therefore there is no good reason to delay action on the application. According to VNJ, a party lacks the power to commence a contested case and demand an evidentiary hearing unless that party has some "particularized property rights or other special interests" distinct from those of the general public. Here, VNJ argues, Rate Counsel has no specific "property rights or special interests" in the outcome of this matter. According to VNJ, the Board has repeatedly held – and the Appellate Division has recently confirmed – that sharing of proceeds of real property sales is not required under VNJ's Board approved regulatory plan. Accordingly, Verizon argues that Rate Counsel lacks the requisite interest in this matter to commence a contested case.

On June 27, 2008, Rate Counsel filed its response to Verizon's comments. Rate Counsel argues that, contrary to Verizon's claim, Rate Counsel does not need to have a "property right" in this matter. Rate Counsel believes that it is sufficient that it has the statutory right and obligation on behalf of ratepayers to review the reasonableness of any and all filings made by a utility company before the Board. Rate Counsel believes that its initial review of this matter has triggered the need for further inquiry on whether the sale is reasonable and appropriate. Treatment of this matter as a contested matter, according to Rate Counsel, will enable it to develop a full record through discovery requests which is not possible under a mere notice and comment procedure.

On the same date, in a separate filing, Rate Counsel also filed comments regarding other issues related to the sale of the Property. According to Rate Counsel, it served two discovery questions on Verizon concerning tax assessments and financial information regarding the expenditures made to the property since the date of its purchase and a detailed description of the improvements made to date to the Property. The purpose of these discovery requests, according to Rate Counsel, was two fold: 1) to assess whether the net book cost has been erroneously over-stated, and 2) to determine if any overstatement of the net book cost affords ratepayers an opportunity to share in the proceeds from the sale, should the Board decide to revisit their current policy on sharing assets in this matter. According to Rate Counsel, Verizon objected to the discovery requests on the basis of relevancy, as well stating that compiling the information is unduly burdensome. Furthermore, Rate Counsel believes that, before accepting the third highest bidder, the Buyer, and making a downward adjustment of \$900,000.00 in the sale price, Verizon was obligated to 1) request a waiver from the Board and 2) obtain a current independent appraisal of said Property. According to Rate Counsel, absent this waiver and an independent current appraisal, VNJ failed to comply with the applicable rules for the sale of public utility property. Finally, Rate Counsel questions whether the Property is no longer "used or useful" for Petitioner's utility purposes because of Petitioner's reservations of a lease back and various easements in the Property.

On July 9, 2008, Verizon filed reply comments in response to Rate Counsel's comments. Verizon argues that Rate Counsel's reasons to seek discovery requests has no relevance, as the purpose of all these discovery requests, in Rate Counsel's own words, is to determine the profit from this transaction that could be shared with Verizon's ratepayers. Verizon believes that the Board has repeatedly rejected Rate Counsel's request of sharing of sale proceeds and

hence Rate Counsel's request of information has no relevance to this matter. Verizon argues that Rate Counsel's position that this matter be designated as a contested matter has been rejected by the Board in its recent decision, I/M/O the Application of Verizon New Jersey Inc. for Approval of the Sale and Conveyance of Real Property in the Township of Scotch Plains, Union County, New Jersey to Triple Net Real Estate Limited Liability Company, Docketed No. TM08020090 (June 18, 2008).

Likewise, Verizon argues that Rate Counsel's objection as to the propriety of its acceptance of the third highest bid after the highest bidder was rejected as non-responsive and the second highest bidder backed out of the sale, and its assertion that petitioner was required, under the circumstances, either to re-advertise the Property for sale or seek a waiver of the Board's advertisement requirement, has no merits. Verizon believes there is nothing in the Board's Rules that require Petitioner to re-advertise or seek a waiver in this situation. Verizon maintains that Verizon did not seek to rebid or renegotiate the bids it received; instead it simply accepted the next highest responsive bid when the original successful bidder pulled out of the transaction. In response to Rate Counsel's objection to the statement that the Property is no longer used or useful because of the Petitioner's reservations of a leaseback and various easements in the Property, Verizon stated that the Petition clearly states that the determination that the Property was no longer useful was made subject to such reservations, and that those reservations do not invalidate the decision.

BOARD'S DISCUSSION

After reviewing the Petition and supporting exhibits, the Board HEREBY FINDS that VNJ and the Buyer have complied with all statutory requirements regarding the sale of utility property as contained in N.J.A.C. 14:1-5.6 and N.J.S.A. 48:3-7. The Board is not persuaded that, under the circumstances described, VNJ was required to obtain an independent current appraisal, readvertise the Property or seek a waiver of the advertising requirement.

After reviewing the parties' arguments, the Board FURTHER FINDS that Rate Counsel has failed to raise a significant issue beyond that previously resolved by the Board and the Appellate Division in A-4473-05T2 / A-6566-05T2 / A-6567-05T2 – I/M/O the Applications of Verizon New Jersey, Inc. for the Approval of the Sale and Conveyance of Real Property Located in the City of Jersey City, Hudson County, New Jersey to Kennedy Business Center, L.L.C.; I/M/O the Applications of Verizon New Jersey, Inc. for the Approval of the Sale and Conveyance of Real Property Located in the City of East Orange, Essex County, New Jersey to Triad International, Inc.; and I/M/O the Applications of Verizon New Jersey, Inc. for the Approval of the Sale and Conveyance of Real Property Located in the Township of Freehold, Monmouth County, New Jersey to 75 Bannard St. Realty Corp. In the absence of a requirement for the sharing of the sale proceeds, I/M/O the Board's Investigation as to Whether Ratepayers Should Share in Proceeds Arising from the Sale and Conveyance of Real Property by Verizon New Jersey, Inc., Docket No. TX04080749 (August 12, 2005), and because VNJ's rates under its Board approved alternative plan of regulation are not determined using rate base / rate of return analysis, this property sale has no impact on VNJ's ratepayers, and there is no basis for conducting a prudency review. The Board declines Rate Counsel's invitation to revisit the policy on sharing of proceeds under Verizon's Plan of Alternative Regulation within the context of a sale of property.

In view of the foregoing, the Board HEREBY FINDS that VNJ's Petition should not be designated as a contested case, and that no evidentiary hearings need be conducted. The Board FURTHER FINDS that the proposed sale of said Property will not affect Petitioner's ability to provide safe, adequate and proper service, is in the public interest and in accordance with law, and accordingly HEREBY APPROVES the sale, subject to the following conditions:

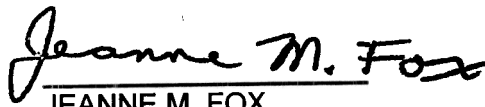
Petitioner is directed to advise the Board of the date on which the transaction is completed, within ten (10) days of completion;


This Order shall be of no effect, null and void, if the sale hereby approved is not completed within six (6) months of the date hereof unless otherwise ordered by the Board; and

The approval of the proposed journal entries recording the sale of this Property shall not affect or in any way limit the exercise of the authority of this Board, or of this State, in any future petition or in any proceeding with respect to rates, financing, accounting, capitalization, depreciation or in any other matters affecting Petitioner.

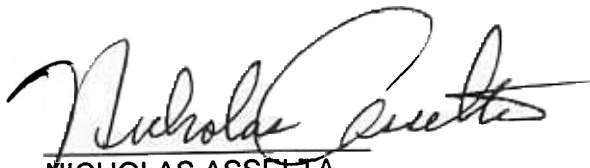
DATED: 7/31/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

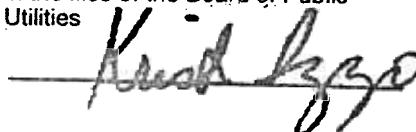

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**In the Matter of the Sale and Conveyance of Real Property Located in the Borough of
Madison, Morris County, New Jersey, to Vision Equities Acquisitions, L.L.C.**

Docket No. TM08050304

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