

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Petition of USTelecom for Declaratory Ruling ) WC Docket No. 13-3  
That Incumbent Local Exchange Carriers Are )  
Non-Dominant in the Provision of )  
Switched Access Services )

**COMMENTS OF VERIZON<sup>1</sup>**

In today’s communications marketplace, no firm is dominant when providing switched access voice services.<sup>2</sup> Cable companies, other Voice over Internet Protocol providers, wireless providers, traditional CLECs, and others all provide voice services or a substitute. As marketplace developments in the three years since USTelecom filed its Petition<sup>3</sup> only confirm, the Commission should grant the Petition and find ILECs nondominant in the provision of switched access services.

The Commission recently reaffirmed in the *USTelecom Forbearance Order* its commitment to eliminating outmoded rules, and treating ILECs as dominant providers of switched access voice services is a prime example of “outdated legacy regulations that were

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<sup>1</sup> The Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

<sup>2</sup> Switched access is the use of switched local exchange facilities to originate and terminate toll calls. *See Access Charge Reform*, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, 11 FCC Rcd 21354, ¶ 24 (1996).

<sup>3</sup> *Petition of USTelecom for Declaratory Ruling That Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services*, WC Docket No. 13-3 (filed Dec. 19, 2012) (“Petition”).

based on technological and market conditions that differ from today.”<sup>4</sup> Today’s market conditions bear no resemblance to 1980, when the Commission established the legacy rule subjecting AT&T’s switched access service to dominant carrier regulation.<sup>5</sup>

The premise underlying dominant-carrier treatment of ILEC switched access—that AT&T’s switched access facilities in 1980 were bottleneck facilities—no longer exists. Then, AT&T “control[led] access to over 80% of the nation’s telephones.”<sup>6</sup> Today’s communications landscape looks nothing like that.

- More than 45% of American homes have only wireless telephones, and more than half of adults aged 18-44 and children under 18 live in wireless-only households, through the end of 2014.<sup>7</sup>
- At the end of 2014, there were more than 355 million wireless subscriber connections in the United States.<sup>8</sup>
- Of the 444 million retail local telephone service connections in the United States, only 85 million, less than 20%, were end-user switched access lines through the end of 2013.<sup>9</sup>
- ILEC switched access lines represent just 15% of those 444 million retail local telephone service connections.<sup>10</sup>

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<sup>4</sup> *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations that Inhibit Deployment of Next-Generation Networks*, Memorandum Opinion and Order, FCC 15-166, ¶ 2 (Dec. 28, 2015).

<sup>5</sup> *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, First Report and Order, 85 FCC 2d 1, (1980) (“*Competitive Carrier First Report and Order*”).

<sup>6</sup> *Id.* at ¶ 62.

<sup>7</sup> Centers for Disease Control, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2014*, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201506.pdf> at 1.

<sup>8</sup> CTIA, *Annual Wireless Industry Survey*, <http://www.ctia.org/your-wireless-life/how-wireless-works/annual-wireless-industry-survey>.

<sup>9</sup> See Ind. Anal. & Tech. Div., Wireline Competition Bureau, FCC, *Local Telephone Competition: Status as of December 31, 2013* (Oct. 2014), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-329975A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-329975A1.pdf) (“*December 2013 Local Competition Report*”) at 1, Figure 1.

<sup>10</sup> See *December 2013 Local Competition Report* at Table 9.

- ILEC end-user switched access lines in service have continually declined since they reached their peak in the 1990's. Today's 66 million ILEC end-user lines in service is barely a third of the 181 million ILECs reported at the end of 1999.<sup>11</sup>

Verizon's experience mirrors the industry-wide data and demonstrates that consumers continue to transition away from the legacy PSTN towards IP-enabled broadband networks and services. In the fourth quarter of 2015, Verizon reported a 14.5% year-over-year decline in primary residence switched access connections, continuing a trend that has been ongoing for many years.<sup>12</sup> Verizon's consumer switched access lines in service have declined over the past five years at an average annual rate of 16.5%, resulting in a total reduction of 59.3% over those five years.<sup>13</sup>

Consumers today can choose to receive voice service from many different sources and types of providers. Most choose to receive service from wireless providers, many exclusively. Others choose cable providers, who offer voice service to virtually all of the households to which they serve with their increasingly dominant broadband networks. And still others choose other competitors like CLECs and over-the-top Voice over Internet Protocol providers. Not to mention the non-voice services like texting that have displaced voice calls. ILEC voice services are just one communications option for today's customers.

In this voice marketplace it does not make sense to treat legacy ILEC switched access voice services as a separate, distinct market in which the ILECs are dominant. While it's true that

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<sup>11</sup> See Ind. Anal. Div., Wireline Competition Bureau, FCC, *Local Telephone Competition at the New Millennium*, (Aug. 2000), [https://transition.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/lcom0800.pdf](https://transition.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0800.pdf) ("*August 2000 Local Competition Report*") at Table 2.

<sup>12</sup> Verizon 4Q 2015 Investor Quarterly, <http://www.verizon.com/about/file/11135/download?token=8RiNw0FU>, January 21, 2016, at 15.

<sup>13</sup> See *id.*, see also Verizon Communications Financial and Operating Information as of Dec. 31, 2011, <http://www.verizon.com/about/file/893/download?token=VTxPZwtm>, at 16.

within that segment of the voice marketplace, ILECs still have more legacy switched access lines than any other provider of legacy switched access lines, that is no longer relevant to how the voice marketplace functions. Only by looking at the 2016 marketplace through a 1980 lens and ignoring the millions of telephone connections that wireless, cable, and other companies provide could one reach the conclusion that ILECs, and only ILECs, somehow remain dominant providers.

The Commission has held that “disparate treatment of carriers providing the same or similar services is not in the public interest as it creates distortions in the marketplace that may harm consumers.”<sup>14</sup> Perpetuating the fiction that ILECs are dominant providers of switched access service and imposing regulatory burdens on them that none of their competitors face is not in the public interest. There is no reason, for example, to require ILECs to provide greater notice of new tariffs or file cost-support information with those tariffs. And those requirements detract from the ILECs’ ability to respond flexibly to marketplace changes, which their competitors can do unburdened by these regulations. Nor is there a continuing basis to subject ILECs to longer waiting periods to discontinue services or to exclude ILECs from the presumptive streamlined treatment for transfers of control.

The Petition seeks only regulatory parity amongst LECs providing switched access. It does not seek to deregulate switched access, but rather to align regulations with today’s marketplace and treat all LECs providing switched access as nondominant. And the Petition is expressly limited to switched access services and does not seek relief with respect to dedicated services

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<sup>14</sup> *Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as Amended (47 U.S.C. § 160(c)), for Forbearance from Certain Dominant Carrier Regulation of Its Interstate Access Services, and for Forbearance from Title II Regulation of Its Broadband Services, in the Anchorage, Alaska, Incumbent Local Exchange Carrier Study Area, Memorandum Opinion and Order, 22 FCC Rcd 16304, ¶ 129 (2007).*

like special access or unbundled network elements. The data support the relief USTelecom seeks, and the Commission should grant the Petition.

Respectfully submitted,

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