

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Local Competition and Broadband) CC Docket No. 99-301
Reporting)

COMMENTS OF VERIZON¹

I. Introduction and Summary

Requiring detailed reporting of broadband data by zip code will result in a massive increase in the burden on reporting companies with no comparable gain in the knowledge base that it would provide the Commission. Rather than increase this burden for providers that already provide the Commission information on broadband services, the Commission should broaden the scope of the market being surveyed. To do this, the Commission should require all providers – regardless of the number of lines or customers in a state – to file simple reports listing the zip codes in which they offer broadband service to the public.

There is no justification for the Commission to change its policy of maintaining strict confidentiality of all of the raw data and releasing only aggregated information that does not identify any individual service provider. The market for broadband services is highly competitive, and the Commission should not force providers to give their competitors sensitive marketing information that would not be generally available in the competitive marketplace.

¹ The Verizon telephone companies (“Verizon”) are the local exchange carriers affiliated with Verizon Communications Inc. identified in Attachment 1.

II. The Proposed Additional Data Will Vastly Increase The Reporting Burden With Little Increase In Its Value.

Less than one year ago, the Commission implemented a series of reporting requirements designed to track the extent of local competition and broadband services offered within the United States. *See Order*, 15 FCC Rcd 7717 (2000). Now, after receiving only two reports, and *without making any findings as to why these reports are inadequate to meet the Commission's needs*, it proposes a vast expansion of the broadband reports. In particular, the Commission proposes to require each provider to report, for the first time, actual subscribership for broadband services within each of the zip codes in which it provides such services, broken down by residence, small business, and large business subscribers; one-way or two-way; and by type of communications technology employed. *Second Notice of Proposed Rulemaking*, FCC 01-19, && 17-19 (rel. Jan. 19, 2001) ("NPRM"). These proposals would provide the Commission with little useful information that it is not already receiving, while imposing an immense burden on those filing the reports. For Verizon alone, the cost to implement the proposals will be more than \$9.5 million in the first year. *See Attachment 2*.

The additional data are not needed, because the Commission already receives data showing the number of each service provider's broadband lines within each state and the zip codes in which it operates.² This gives the Commission information on the geographical areas in which customers may receive broadband services and the number of lines in service within a state. The Commission can ascertain, in any zip code, how many competitive choices a customer has for broadband service. The state-wide volumes of broadband lines in service allow the

² Only providers with at least 250 broadband lines in a state need to file reports.

Commission to determine whether the carrier is a major provider in that state and to track the growth of broadband subscribership over time. By also requiring short-form reports from service providers that do not meet the current reporting threshold in a state, as discussed below, the Commission can determine the amount of potential broadband competition that exists in an area, not just the lines in service at a given time. Therefore, the information already reported, with the addition that Verizon recommends below, suffice to allow the Commission to track both the level of actual broadband competition and the potential for additional competition in any geographical area, without adding to the existing reporting burden. The existing data are also more than sufficient to meet the requirements of section 706 of the 1996 Act and enable the Commission to encourage deployment of advanced telecommunications services.

By contrast, the expanded reports proposed here would be extremely burdensome. Verizon does not maintain operating data broken down by zip code. Therefore, it must redesign all of the systems that would feed these reports to include customers' zip codes and manually input the zip codes in the relevant records. The cost to Verizon to set up these systems – a cost that would not occur except for these reports – would be more than \$8 million. *See* Attachment 2. Because of its complexity, this redesign would take up to 18 months to accomplish after the Commission issues its requirements. Imposing such an unnecessary regulatory burden just to file reports of limited value is inconsistent with the requirement in section 11 of the 1996 Act, 47 U.S.C. § 161, that it eliminate regulatory burdens that are not needed, as well as with the requirements of the Paperwork Reduction Act.³

³ It should be noted that the Commission does not even attempt to estimate the burden of the new requirements, as required. Therefore, Verizon cannot comment on the accuracy of those estimates, as requested. *See* NPRM at & 31.

Even if Verizon undertook to redesign its billing systems to incorporate zip codes of the billing address, the resulting reports would not give the Commission an accurate picture of the geographical deployment of broadband services. This is because most of Verizon's customers for broadband services such as digital subscriber line ("DSL") are Internet Service Providers ("ISPs"), who sell packages of DSL and their own information service to the end user. Verizon bills the ISP for its DSL service, so it would be the zip code of the ISP, not that of the end user, that would appear in the billing record. This would skew the reports if, for example, Verizon were to report all of the DSL lines sold to AOL with AOL's zip code, even though the service addresses for those lines are scattered nationwide.

The proposed break-down of the information by residence, small business, and large business would also require a system re-design, because Verizon does not maintain the requisite records by the size of the business customer. The Commission does not even propose to define what constitutes a "small business" customer, but, no matter what definition it ultimately adopts, Verizon would need to manually insert an identifier in each of its business records to allow it to develop the reports.⁴

On a continuing basis, the proposed reports are far more detailed than the existing requirements. Instead of reporting 45 items of data for each of the 32 states in which it operates, as at present, the proposed reports would require Verizon to develop 122 separate items of data for each of the 6,622 zip codes in which it currently operates, *i.e.*, 807,884 items of data rather

⁴ Whatever the number of lines is selected as the dividing line between "large" and "small" business, individual customers will jump between categories as they add or subtract lines over time. In addition, the Commission would need to define whether a multi-premises business should be counted as one or many businesses for this purpose. For example, a chain of small stores may have a small number of lines in any one location but many locations. If multiple locations should be aggregated, should that aggregation be within an individual zip code or all locations within a state?

than the 1,440 that are currently reported. As Verizon expands into more of the 43,000+ zip codes in the United States, the burden would increase proportionately. As shown in Attachment 3, which is a sample format of the report that would be required for each zip code, Verizon would need to file two pages for each zip code to provide all of the requested data. This would mean that each report would run to over 13,000 pages, or more as Verizon expands its broadband operations. The ongoing additional annual cost of producing these massive documents every six months would be more than \$1.5 million higher than the current reporting cost, once the systems are set up. *See* Attachment 2. Of course, if the Commission modifies the reports yet again, Verizon will incur additional costs to redesign its system to meet those new obligations and may incur additional recurring costs in preparing the reports.

The Commission is also proposing to require data on the number of homes passed and the zip codes where services are available to a majority of subscribers. NPRM at & 20. For Verizon, this information cannot be routinely generated.

Verizon cannot determine from its records whether any given premises can receive broadband service. If the central office serving that premises has the requisite broadband equipment in operation, Verizon must still determine on a premises-by-premises basis whether it can provide DSL broadband services to that premises. This is because not every home or business served by that office can receive DSL service, as a result of the distance of that premises from the central office and other technical factors. Accordingly, it would not be possible to derive figures for “homes passed” by broadband facilities without conducting a survey of every premises served by DSL-capable central offices.

III. All Broadband Providers Should List the Zip Codes Where They Offer Broadband Service.

The Commission asks whether reporting thresholds should be reduced for filing the broadband reports, NPRM at & 13. Providers with at least 250 broadband lines in service in a state are currently required to submit reports covering that state. Although carriers with fewer than 250 lines in a state should not be required to file detailed reports, the Commission should require minimal reports from all providers of broadband services in order to track the extent to which a customer has broadband service available. To minimize the burden of such reports, the Commission should simply require every provider that offers broadband service to the public in any state, but fails to meet the 250 line threshold, to submit a list of the zip codes in which it offers service.⁵ Such a skeletal list of zip codes would not be burdensome to prepare and file, even for the smallest company, but it would allow the Commission to determine how many competing providers are operating in any geographical area.⁶

⁵ A satellite-based broadband service provider, who potentially can provide service anywhere within the satellite's footprint, should either (1) if it markets broadband services generally within that footprint, describe the geographical area illuminated by that footprint, or (2) if it markets within only certain regions, states or geographical areas within certain states, describe with specificity where it markets broadband services.

⁶ Reports should not be required from providers of private networks. *See* NPRM at & 22. Such reports would not give the Commission information relevant to ascertaining the extent of competition for broadband services.

IV. The Raw Data Should Be Kept Confidential and Only Aggregate Data Released.

The marketplace for high-speed data services used for Internet access is highly competitive. By last June, no less than 106 providers were competing nationwide, with as many as 22 broadband providers serving an individual state. *High-Speed Services For Internet Access: Subscriberhip as of June 30, 2000*, Industry Analysis Div., Common Carrier Bureau, Table 4 (Oct. 2000). And in several jurisdictions, at least one-fifth of the zip codes had seven or more competing broadband service providers. *Id.* at 4.

In this robust competitive environment, strategic information on subscribership penetration, geographic reach, type of customers served, and technologies deployed are “trade secrets and commercial or financial information” which is routinely withheld from public inspection under the Freedom of Information Act and the Commission’s rules. *See* 5 U.S.C. § 552(b)(4), 47 C.F.R. § 0.457(d). This is not information that the Commission may lawfully routinely release to the public and place the burden on the filing party to file for it to be withheld, as it proposes in paragraph 26. Instead, it should routinely *withhold* the data from public inspection, placing the burden on the party seeking disclosure to show that it does not meet the statutory criteria for non-disclosure.

Likewise, the Commission should not invite outside parties to analyze the raw data, as it proposes in paragraph 29, because that would entail public release. There may be some value in releasing a preliminary version of the Commission’s analytical methodology and findings for outside review, as it also proposes in paragraph 29, provided that this release is a one-time generic request for review of the manner in which the Commission intends to analyze the data submitted. There is no value in asking for comment before releasing each report, as the

Commission appears to propose. The latter would simply delay final release of the aggregated information.⁷

IV. Reports Should Not Be Required More Frequently Than Semi-Annually.

The Commission asks whether it should increase or decrease the frequency of the reports. *Id.* at 28. It should not increase their frequency. Sufficiently up-to-date statistics to meet the Commission's and the public's need would be obtained even if the Commission were to reduce the frequency to annual. If it requires any additional reports, they should be limited to a list of the additional zip codes served since the last complete report. This will give the Commission an idea of how quickly service and competition are expanding into additional geographical areas.

V. Conclusion

Accordingly, the Commission should not expand the broadband reports to include detailed data by zip code. It should require brief reports from all providers, even if they do not meet the reporting threshold in a state. Finally, all data that identify any service provider should

⁷ In a January 26, 2001, letter to the Commission, the Department of Justice asked that the identities of the companies that file the reports be disclosed. The list of which companies provide broadband services, as opposed to the specific locales where they provide service and their subscribership, would not be considered competitively-sensitive and may be made publicly available, as the Justice Department requests.

be presumed to be confidential, and only aggregated figures should be routinely disclosed to the public.

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THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.