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

In the Matter of	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	CC Docket No. 98-147
and	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	CC Docket No. 96-98

VERIZON'S OPPOSITION TO PETITION FOR RECONSIDERATION

CompTel asks the Commission to rewrite its existing rules and to reverse decisions the Commission made in its Line Sharing and Line Sharing Reconsideration Orders[1] without demonstrating that the Commission ignored or misconstrued anything that was in the record before it. As a result, CompTel's petition should be promptly denied, and the additional unbundling it requests should not be required. At the same time, the Commission should make it clear to CompTel and others that the Commission will look closely at such requests for additional unbundling to make sure that they meet the statutory "impairment" standard and that it will not grant them if that would inhibit the ILECs' deployment of advanced services.

[1] *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*") and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 01-26 (rel. Jan 19, 2001) ("*Reconsideration Order*").

First, CompTel asks that the Commission find that the "low frequency" of the local loop from the central office to the customer's premises meets the definition of a subloop UNE.[2] The Commission's rules, however, make such an interpretation impossible. The Commission defines the subloop UNE as:

> "The subloop network element is defined as any portion of the loop that is technically feasible to access at terminals in the incumbent LEC's outside plant, including inside wire."[3]

The "subloop," therefore, is a physical slice of the whole facility between the central office and the customer. It is not a virtual splitting of that facility based on the frequencies used to provide different services. CompTel's proposed "clarification," therefore, is inconsistent with the plain words of the rules and must be rejected.

Moreover, CompTel's case for a low-frequency UNE loop is built on thin air and held up only by its bootstraps. The Commission's reason for creating a high-frequency loop UNE was to permit carriers to compete with the ILEC for xDSL service when the ILEC continued to provide service over the lower frequency: "An incumbent LEC's failure to provide access impairs the ability of a competitive LEC to offer, on a competitive basis, certain forms of xDSL-based service that are capable of line sharing with voice services"[4] because "competitive LECs seeking to deploy xDSL-based service to customers subscribing to the incumbent LEC's voice telephone service cannot deploy their xDSL with the same efficiency or at the same cost."[5] There can be no similar claim of impairment here, especially in light of the Commission's line splitting findings.

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[2] CompTel at 2.

[3] 47 C.F.R. § 51.319(a)(2).

[4] *Line Sharing Order* ¶ 25.

[5] *Line Sharing Order* ¶ 33.

CompTel also says that "the Commission should confirm that it would constitute an unreasonable and discriminatory action by the ILEC in violation of Section 251(c)(3) for it to withdraw xDSL services provided over the upper frequency portion of a loop simply because the customer decides to migrate its voice service over the lower frequency portion to a CLEC."[6] Such a "confirmation" would be flatly inconsistent with the Commission's decision:

> "We deny, however, AT&T's request that the Commission clarify that incumbent LECs must continue to provide xDSL services in the event customers choose to obtain voice service from a competing carrier on the same line because we find that the *Line Sharing Order* contained no such requirement."[7]

The ILEC need not continue to provide the DSL service, and it would not be a violation of the Act if it chooses to discontinue it.

Second, CompTel asks the Commission to find that CLECs that utilize the UNE platform or UNE loop strategies are eligible for line splitting with the incumbent LEC.[8] The Commission has already rejected this approach, while providing an alternative for CLECs with existing UNE loops. In the *Reconsideration Order*, the Commission found that "incumbent LECs have an obligation to permit competing carriers to engage in line splitting using the UNE-platform," but only "where the competing carrier purchases the entire loop and provides its own splitter."[9] Thus, the Commission found that "it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared

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[6] CompTel at 4.

[7] *Reconsideration Order* ¶ 16.

[8] CompTel at 5.

[9] *Reconsideration Order* ¶ 19.

transport, to replace its existing UNE-platform arrangement with a configuration that allows provisioning of both data and voice services."[10] That is all that is required.

Third, CompTel asks that once a loop has been qualified for DSL service, an ILEC should not be allowed to assess an additional loop qualification charge if it is later asked to qualify the same loop.[11] This request ignores the fact that the ILEC will incur costs to respond to the second qualification request. Moreover, the passage of time or changes in the make-up of the loop plant may change the qualification results. Therefore, carriers cannot assume that the original qualification information will continue to be accurate indefinitely. Finally, the second request might be to qualify the loop for a service that is different from the one involved in the first request.

Conclusion

CompTel's petition for reconsideration should be denied.

Respectfully submitted,

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[10] *Id.*

[11] CompTel at 8-9.