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APR 23 2001

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OFFICE OF THE SECRETARY



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April 23, 2001

01-100

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Office of the Secretary
Federal Communications Commission
Room TW-B-204
445 Twelfth Street, S.W.
Washington, D.C. 20544

**REDACTED -
For Public Inspection**

Re: Application by Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Connecticut

Dear Ms. Salas:

This is the cover letter for the Application by Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Connecticut ("the Application").

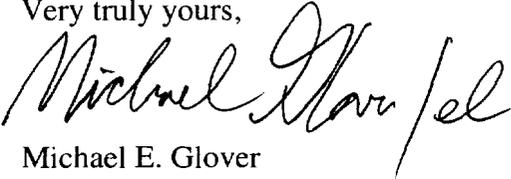
This Application contains confidential information. We are filing confidential and redacted versions of the Application.

1. The Application consists of (a) a stand-alone document entitled Application by Verizon New York for Authorization To Provide In-Region, InterLATA Services in Connecticut ("the Brief"), and (b) supporting documentation. The supporting documentation is organized as follows:

- a. Appendix A includes declarations and attachments thereto in support of the Brief;
 - b. Appendix B consists of selected material from Connecticut Department of Public Utility Control and New York Public Service Commission proceedings, third-party OSS evaluations, and selected tariffs;
 - c. Appendix C consists of methods and procedures for line sharing, pole attachments, conduit occupancy, and right of way compliance;
 - d. Appendix D consists of material demonstrating Verizon's compliance with Section 272 and Separate Data Affiliate requirements;
 - e. Appendix E consists of selected interconnection agreements;
 - f. Appendix F consists of Verizon's Inter-Carrier Quality Service Guidelines, Revised Inter-Carrier Quality Service Guidelines, and Performance Assurance Plan.
 - g. Appendix G consists of Carrier-to-Carrier reports, which consists entirely of confidential and proprietary data, including CLEC proprietary data.
2. Specifically, we are herewith submitting for filing:
- a. One original of only the portions of the Application that contain confidential information (in paper form, except for Appendix G, which is being filed only on CD-ROM);
 - b. One original of a redacted Application (in paper form);
 - c. One copy of the redacted Application (in paper form);
 - d. One CD-ROM set containing the Brief and the supporting-documentation portion of the redacted Application; and
 - e. Five additional copies of the redacted Application (partly in paper form and partly on CD-ROM, in accordance with the Commission's filing requirements), so that each Commissioner may receive a copy.
3. We are also tendering to you certain copies of this letter and of portions of the Application for date-stamping purposes. Please date-stamp and return these materials.
4. Under separate cover, we are submitting copies (redacted as appropriate) of the Application to Ms. Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20544. We are also submitting copies (redacted as appropriate) to the Department of Justice, to the Connecticut Department of Public Utility Control, and to ITS (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 703-974-2944 or Steven McPherson at 703-974-2808.

Very truly yours,

A handwritten signature in black ink that reads "Michael Glover" in a cursive style. The signature is written over the typed name "Michael E. Glover".

Michael E. Glover

Encs.

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Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

APR 23 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Application by Verizon New York Inc.,)
Verizon Long Distance, Verizon)
Enterprise Solutions, Verizon Global)
Networks Inc., and Verizon Select)
Services Inc., for Authorization To)
Provide In-Region, InterLATA Services)
in Connecticut)

CC Docket No. 01-100

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FOR AUTHORIZATION TO PROVIDE IN-REGION,
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April 23, 2001

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- Exhibit 2. Proportionate CLEC DSL Lines at Time of Application
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- Volume 1. Tab 1 – Joint Declaration of Paul A. Lacouture and Virginia P. Ruesterholz (Competitive Checklist)
- Volume 2. Tab 2 – Joint Declaration of Kathleen McLean and Raymond Wierzbicki (Operations Support Systems)
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Tab 8 – Declaration of William E. Taylor (Local Competition and InterLATA Competition)

Appendix B: Selected Material

- Volume 1. Tab 1 – Record of Connecticut DPUC Docket No. 97-01-23
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- Appendix C: Methods and Procedures for Line Sharing, Pole Attachments, Conduit Occupancy, and Right of Way Compliance
- Appendix D: Compliance with Section 272 and Separate Data Affiliate Requirements
- Appendix E: Selected Interconnection Agreements
- Appendix F: Inter-Carrier Quality Service Guidelines and Performance Assurance Plan
- Appendix G: Carrier-to-Carrier Reports
(Appendix G consists entirely of confidential and proprietary data, including CLEC proprietary data; this appendix is being filed only on CD-ROM.)

INTRODUCTION AND SUMMARY

Local markets in New York are open, the checklist is satisfied, and consumers are enjoying the enormous benefits that have resulted from Verizon's entry into the long distance market there. Verizon has opened its local markets in Connecticut to the exact same degree as in New York. This is clear because Verizon conducts its Connecticut operations out of New York, uses the New York systems and processes in Connecticut, and provides wholesale products and services in Connecticut at the New York rates. Verizon's Application to provide interLATA services originating in Connecticut should be granted.

This Application presents the easiest case for approval to date. In Connecticut, Verizon provides local exchange service in two small communities with a total of only 60,000 lines. One of these communities (Byram) is served out of the Port Chester, New York central office, and the other (Greenwich) is served out of Verizon's sole central office in Connecticut. The systems and processes that Verizon uses to serve Greenwich and Byram are the New York systems and processes, which Verizon has used to provision *more than 3 million competitive lines* and which the Commission has already found satisfy the requirements of the Act. In addition, in most cases these systems and processes are the same as, or carbon copies of those used in Massachusetts, which the Commission found to satisfy the Act as well.

Moreover, the total number of access lines that Verizon serves in Greenwich and Byram is *about half the number of lines that Verizon provisions to competitors in an average month in New York*. There is, accordingly, no question that Verizon can handle any increase in demand in Connecticut. Indeed, to the extent competitors have purchased checklist items in Connecticut, Verizon's performance in provisioning those items has met or exceeded the benchmark for virtually every relevant performance measurement. In addition, Verizon's ability to sustain strong performance in New York provides further confirmation that it satisfies the checklist in

Greenwich and Byram, and that it can continue to do so — without even the slightest strain — should volumes there increase. And, to the extent the Commission has added new requirements since the time of the New York Application, Verizon complies fully with those as well.

Verizon also is subject to performance assurance plans in Connecticut that mirror those in New York and Massachusetts, and which the Commission found provide “strong assurance that the local market will remain open after [Verizon] receives section 271 authorization.” These plans place proportionately the same penalty amounts at risk in Connecticut as in New York.

Despite all this, the long distance incumbents will no doubt attempt to use this proceeding to re-litigate issues they lost in New York (and Massachusetts) on the first go around. As they have in other proceedings, they will focus narrowly on isolated aspects of Verizon’s performance to argue that this Application should be denied because Verizon has not yet reached an unattainable level of absolute, metaphysical perfection in every conceivable respect. But, as the Commission and the D.C. Circuit have made clear, perfection, metaphysical or otherwise, is not the standard, and they will “not allow ‘the infeasible perfect to oust the feasible good.’” AT&T Corp. v. FCC, 220 F.3d 607, 633 (D.C. Cir. 2000) (citation omitted). And here, the simple fact is that local markets in Connecticut are open, Verizon’s performance is excellent, and its Application to provide long distance should be granted.

Moreover, actual experience in New York proves that Verizon’s entry will provide enormous benefits and will further promote local, as well as long distance, competition. Verizon’s entry in New York forced AT&T, WorldCom, and Sprint to make New York the first state in which they finally began providing competitive local telephone service to mass-market residential customers on a widespread basis. In fact, AT&T and WorldCom now serve the lion’s share of the approximately one and three quarters million residential customers served by

competing carriers in New York. AT&T has boasted that it is signing up new local customers even faster than it is losing long distance customers. And, altogether, competitors in New York now have approximately 3 million local customers — a number that has more than doubled since Verizon entered the long distance business — and continue to add approximately 100,000 new local customers each month.

In addition to prompting the long distance incumbents to enter the local mass market for the first time, Verizon's entry also has allowed it to introduce simpler and less expensive long distance services tailored to benefit the mass-market customers that the incumbents prefer to abandon or ignore. One consumer group has estimated that consumers in New York who have switched to Verizon's competitive long distance offerings saved \$120 million in the first year alone. And based on the latest facts, the total savings to New York consumers now amounts to nearly \$200 million. Indeed, two other major consumer groups have recently called New York "the most stunning example" "of how effective competition can deliver benefits to consumers in communications markets."

By any measure, Verizon's entry into the long distance market in New York has greatly enhanced both local and long distance competition. Verizon now seeks to generate the same benefits in Connecticut — where Verizon's local markets are open to competition just as they are in New York. The Commission should grant this Application expeditiously.

I. VERIZON'S APPLICATION SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A).

Verizon meets the requirements to file this Application under so-called "Track A." See 47 U.S.C. § 271(c)(1)(A). Whether they are viewed collectively or individually, competitors in Greenwich and Byram are providing service predominantly over their own facilities to both business and residential subscribers.

Of course, given Verizon's extremely limited presence in Connecticut, the absolute number of lines served by competing carriers necessarily is much smaller than in other states. As the Commission has emphasized, however, the "size of the presence" of these competitors must be viewed in light of the fact that Verizon's own service territory in Connecticut is extremely small. See, e.g., First Oklahoma Order ¶ 14 ("Issues concerning the nature and size of the presence of the competing provider require very fact-specific determinations.").¹ Indeed, Verizon provides local exchange service within only two small communities in Connecticut — Greenwich and Byram — that contain approximately 31,000 residential lines and 26,000 business lines (about 2 percent of the access lines in the state).²

Judged against this background, there is no question that the requirements of Track A are satisfied in Connecticut. There are two competitors in Greenwich and Byram with approved interconnection agreements that actively provide telephone exchange service over their own

¹ Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Oklahoma, Memorandum Opinion and Order, 12 FCC Rcd 8685 (1997) ("First Oklahoma Order").

² See FCC, Automated Reporting Management Information System (2000), at <http://www.fcc.gov/ccb/armis> ("FCC ARMIS Database"). In addition, Verizon serves approximately 2,700 special access lines in Greenwich and Byram. See *id.*

facilities: Network Plus and Cablevision. See Taylor Decl. Att. A ¶ 1.³ Based on the most conservative of estimates, these two carriers collectively serve approximately 870 lines, *nearly two-thirds of which are provided using their own facilities*. See Taylor Decl. Att. A ¶¶ 6, 7.⁴

Network Plus provides service to both residential and business customers in Greenwich and Byram. It serves at least *** *** business lines, including approximately *** *** lines over its own facilities. See Taylor Decl. Att. A ¶ 6. Network Plus serves at least *** *** residential lines, including *** *** over its own facilities and *** *** resold lines. See id.⁵ In addition, Cablevision serves at least *** *** business lines in Greenwich and Byram, all over its own facilities. See id. Att. A ¶ 7.⁶ Cablevision has stated that it intends “to provide facilities-based services to residential consumers in [Verizon’s] Connecticut service area,” although it does not appear to do so today.⁷

Overall, therefore, Network Plus and Cablevision are providing service to business and residential subscribers predominantly over their own facilities, and the requirements of Track A

³ Network Plus’s interconnection agreement with Verizon was approved on March 21, 2001. See App. E, Tab 7. Cablevision’s original interconnection agreement with Verizon was approved on October 1, 1998 and expired on April 11, 2001. See App. E, Tab 2. On this same date, the DPUC issued its final arbitration decision regarding Cablevision’s new interconnection agreement with Verizon. See App. B, Tab 14G.

⁴ The number of facilities-based lines is based on the number of ported numbers these carriers have obtained. This estimate is highly conservative because these carriers may be serving customers using their own NXX codes rather than numbers ported from Verizon.

⁵ Network Plus has obtained *** *** physical collocation arrangement(s) in the *** *** central office. It has obtained unbundled loops in this central office from Verizon for customers that it serves using its own switch that is located in Manhattan.

⁶ Cablevision has obtained *** *** physical collocation arrangement(s) in the *** *** central office. Although Cablevision has not obtained any unbundled loops from Verizon, it has ported telephone numbers from customers served by this office to its own switch that is located in Norwalk, Connecticut.

⁷ See Comments of Cablevision Lightpath-CT, Inc., at 2, Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996, No. 97-01-23 (DPUC filed Aug. 22, 2000) (“Cablevision Comments”) (App. B, Tab 1D).

are met. See Second Louisiana Order ¶ 46 n.126 (“The requirements of [Track A] are met if multiple carriers collectively serve residential and business customers.”) (citing Michigan Order ¶ 82).⁸ In addition, Network Plus clearly would satisfy Track A on its own because it provides service to both business and residential customers in Greenwich and Byram predominantly over its own facilities.

Moreover, the Commission has stated that, in reviewing whether a Bell company satisfies Track A, it would also “likely” consider “the existence of competitors’ service to residential customers through resale.” Kansas/Oklahoma Order ¶ 43 n.101;⁹ see also Second Louisiana Order ¶ 48 (“[I]t does not appear to be consistent with congressional intent to exclude a BOC from the in-region, interLATA market solely because the competitors’ service to residential customers is wholly through resale.”). It is not necessary to do so here, of course, because at least one competitor (Network Plus) is providing service to residential customers over its own facilities. But Network Plus also serves at least *** residential lines through resale, and consistent with the Commission’s prior holdings, these lines further buttress the conclusion that Track A’s residential service requirement is met here.

Despite all this, some of Verizon’s opponents are likely to claim that Verizon does not satisfy Track A in Connecticut because the number of competitive lines in Greenwich and Byram is “de minimis.” But these claims cannot be supported by the facts or the law, and ignore the

⁸ Application of BellSouth Corp., et al. for Provision of In-Region, InterLATA Services in Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 20599 (1998) (“Second Louisiana Order”); Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, Memorandum Opinion and Order, 12 FCC Rcd 20543 (1997) (“Michigan Order”).

⁹ Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, Memorandum Opinion and Order, CC Docket No. 00-217, FCC 01-29 (rel. Jan. 22, 2001).

fact that, by any standard, Verizon itself serves a very small number of lines in Connecticut. For example, Verizon serves more than *250 times* more lines in New York than in Connecticut.¹⁰ And in Kansas — the smallest state granted section 271 approval to date — SBC serves nearly *30 times* more lines than Verizon does in Connecticut.¹¹

In proportion to the total number of access lines in each state, the total number of facilities-based lines that competitors serve in Connecticut — which is equivalent to more than 140,000 such lines in New York — is substantial and plainly satisfies Track A. In addition, the number of competitive residential lines in Greenwich and Byram is proportionally equivalent to more than *** such lines in New York. Moreover, both the total number of facilities-based lines in Greenwich and Byram, and the total number of residential lines, are comparable to what the Commission has found acceptable in prior applications. Specifically, the total number of facilities-based and residential lines in Connecticut is proportionally equivalent to more than 50,000 facilities-based lines and nearly *** residential lines in Michigan, which is comparable to the number of competitive lines that the Commission found satisfied Track A in that state. See Michigan Order ¶¶ 65, 74 n.161, 78 (finding that approximately 22,000 total facilities based lines and 6,000 residential lines satisfied Track A in Michigan where Ameritech served 5.5 million lines).

There is, of course, no requirement under Track A “that a new entrant serve a specific market share . . . to be considered a ‘competing provider.’” Id. ¶ 77. As the Commission has acknowledged, “the Senate and House each rejected language that would have imposed such a

¹⁰ See FCC ARMIS Database. In performing this and other similar comparisons, we have used the number of switched and special access lines in each state.

¹¹ See id.

requirement.” Id.; see also Massachusetts Order ¶ 235.¹² The relevant question under Track A is instead whether there is a carrier that is “in the market and operational (i.e., accepting requests for service and providing such service for a fee).” Michigan Order ¶ 75; see also Massachusetts Order ¶ 225. Both Network Plus and Cablevision — which serve the proportional New York equivalent of *** and *** lines, respectively, in Greenwich and Byram — clearly meet this definition.

Finally, there are at least four CLECs in Greenwich and Byram that are providing DSL services using unbundled loops.¹³ Of course, DSL is used primarily to obtain high-speed access to the Internet — a use that the Commission has quite correctly classified as “exchange access.”¹⁴ As a technical matter, therefore, these lines do not appear to count for Track A purposes. Nonetheless, the Track A requirement is designed to ensure that competing carriers who want to obtain interconnection and compete on a facilities basis are able to do so. In fact, the principal purpose of the Track A requirement is to “assist . . . in the explicit factual determination by the Commission . . . that the requesting BOC has fully implemented the interconnection agreement elements set out in the ‘checklist.’” S. Rep. No. 104-230, at 148 (1996). The fact that competing carriers are providing DSL service on a facilities basis under

¹² Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order, CC Docket No. 01-9 (rel. Apr. 16, 2001) (“Massachusetts Order”).

¹³ The Commission previously has held that unbundled network elements qualify as a competitor’s own facilities for purposes of the Track A requirements. See Michigan Order ¶ 101. The CLECs who are competing on this basis are Covad, DSL.Net, Network Access Solutions, and Rhythms. See Taylor Decl. Att. A ¶ 11. Each of these carriers has obtained one or more physical collocation arrangements from Verizon in Greenwich and/or Byram. See id. Each has an approved interconnection agreement with Verizon. See id. Att. A at Ex. 2.

¹⁴ See Deployment of Wireline Services Offering Advanced Telecommunications Capability, Order on Remand, 15 FCC Rcd 385, ¶¶ 16, 35 (1999), vacated and remanded, WorldCom v. FCC, No. 00-1002 (D.C. Cir. Apr. 20, 2001).

their agreements with Verizon therefore provides further confirmation that the purposes behind the Track A requirement are satisfied. Indeed, Verizon already provides over 350 DSL lines to competitors in Connecticut. See Lacouture/Ruesterholz Decl. ¶ 126. Based on the total number of access lines in each state, the number of competitive DSL lines in Greenwich and Byram is proportionally equivalent to 90,000 lines in New York, 75,000 in Texas, 12,000 in Oklahoma, and 10,000 in Kansas — more than existed in any of these states at the time section 271 applications for those states were filed. See Brief Att. A, Ex. 2.

II. VERIZON SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN GREENWICH AND BYRAM.

Just as Verizon satisfies the “Track A” requirements, it also unquestionably satisfies the requirements of the competitive checklist in Greenwich and Byram. Verizon is making all 14 checklist items available under the legally binding obligations in its tariffs, 22 interconnection agreements, and a Statement of Generally Available Terms (“SGAT”), all of which the Connecticut DPUC has approved. See App. E, Tab 9; App. B, Tab 1G; Taylor Decl. Att. A at Ex. 2. Moreover, because the limited number of lines that Verizon serves in Connecticut are actually part of Verizon’s New York company, it provides each and every checklist item using the New York systems and processes. Indeed, this is not merely a case where the systems used in the two states are the same, in this case the systems *are* the New York systems. The Commission has already found that these systems and processes meet all the requirements of section 271. See New York Order ¶ 82.¹⁵

In Connecticut, Verizon provides local exchange service only in Greenwich and Byram. These communities adjoin Verizon’s local service area in New York, are part of the New York

¹⁵ Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999) (“New York Order”).

metropolitan area, and are wholly located within LATA 132 — the LATA that includes New York City, Long Island, and Westchester County. See Lacouture/Ruesterholz Decl. ¶ 8. Verizon has served the Greenwich and Byram telephone exchanges through its New York Telephone operations since the turn of the last century. See id. Verizon serves Byram through the central office in Port Chester, New York, and serves Greenwich through a single central office in Connecticut.¹⁶ Because Verizon serves Greenwich and Byram entirely through its New York operations (now Verizon New York Inc.), all of the systems and processes that Verizon uses to serve Greenwich and Byram are the New York systems and processes. See Lacouture/Ruesterholz Decl. ¶ 9; McLean/Wierzbicki Decl. ¶¶ 5, 8.

In addition, Verizon serves Greenwich and Byram almost exclusively with its New York work force. See Lacouture/Ruesterholz Decl. ¶ 11. Verizon has 13 employees in the Greenwich central office — 12 central office technicians and one manager to whom these technicians report — all of whom are employed by Verizon New York. See id. These employees all report to higher-level managers who are based in New York. See id. These 13 employees have received the same training and are subject to the same standard procedures for central office technicians as Verizon employees based in New York. See id. Verizon operates two garages in Port Chester that are used to perform operations, installation, and maintenance for customers in Greenwich and Byram, as well as customers throughout Westchester County, New York. See id. All retail

¹⁶ At the time of divestiture, Verizon served both Greenwich and Byram through New York Telephone using central offices in New York. See Application of AT&T Co. and the Bell System Operating Cos. for Approval of Exchange Areas or LATAs Established Pursuant to the MFJ, App. at B-37, United States v. Western Elec., No. 82-0192 (D.D.C. Oct. 4, 1982). Greenwich and Byram have remained a part of Verizon's New York operations ever since, though in 1993 Verizon migrated its Greenwich customers to a central office in Connecticut. See DPUC 1999 Annual Report to the General Assembly on the Status of Telecommunications in Connecticut, Decision, No. 99-01-18 (DPUC Dec. 30, 1999) (App. B, Tab 14A).

customer functions, including the handling of new orders, billing inquiries, and repair requests, are handled from customer service centers in New York, which are the same centers used to serve New York retail customers. See id. ¶ 8; McLean/Wierzbicki Decl. ¶ 9.

The wholesale operations and systems that Verizon uses to serve CLEC customers in Greenwich and Byram are likewise identical to those used in New York. For example, Verizon serves wholesale customers in both states through four Telecommunications Industry Services Operations Centers (“TISOCs”) located in New York City and Boston, which take and process CLEC orders; the same Regional CLEC Coordination Center (“RCCC”) located in Boston, which facilitates and coordinates the provisioning of CLEC orders; and the same two Regional CLEC Maintenance Centers (“RCMCs”) located in Bridgewater, New Jersey and Richmond, Virginia, which support wholesale trouble reporting and repair issues. See Lacouture/Ruesterholz Decl. ¶ 10; see also New York Order ¶¶ 92-94.

These operations centers use the New York Operations Support Systems (“OSS”) and processes to serve Greenwich and Byram. See Lacouture/Ruesterholz Decl. ¶ 9; McLean/Wierzbicki Decl. ¶ 9. Verizon also provides the New York change management process in Connecticut, and provides to competitors in both states identical documentation and training, and access to the same help desk CLECs use in New York, which is available 24 hours a day, seven days a week. See McLean/Wierzbicki Decl. ¶ 6. As the Commission has already found, Verizon’s OSS handle large commercial volumes successfully, and have been subjected to and passed a comprehensive third-party test by KPMG. See New York Order ¶ 100.

Verizon also provides competitors in Greenwich and Byram with access to the same unbundled network elements at the same rates that Verizon offers in New York, and which the Commission found satisfy the checklist. See Lacouture/Ruesterholz Decl. ¶ 14; New York Order

¶¶ 82, 238, 273, 338, 346, 354, 366. Moreover, the Connecticut UNE tariff will continue to mirror the New York tariff since the Connecticut DPUC requires Verizon “to make any approved changes to its New York UNE tariff in its Connecticut tariff within ten business days,” and also requires Verizon to provide all UNE combinations that it currently provides in New York.¹⁷

Verizon also offers the same Total Element Long Run Incremental Cost (“TELRIC”) rates in Connecticut that it does in New York. See Connecticut Tariffs Nos. 10 and 12 (App. B, Tabs 14C & 14D).¹⁸ Indeed, the rates currently in effect were simply adopted from New York.¹⁹ The Commission has already found these rates to fall within the range that a reasonable application of TELRIC would produce. See New York Order ¶ 238; see also Massachusetts Order ¶ 21. In addition, as noted above, the Connecticut DPUC requires Verizon to implement in Connecticut any rate changes that Verizon makes in New York.²⁰ These rates become effective automatically in Connecticut on 21 days notice.²¹ The DPUC also has approved Verizon’s resale tariff, which mirrors Verizon’s New York resale tariff, and offers discounts that are identical to those approved in New York. See Lacouture/Ruesterholz Decl. ¶ 16. The

¹⁷ DPUC Investigation into the Unbundling of the New York Telephone Company’s Local Telecommunications Network, Decision, No. 94-11-03, at 10-11 (DPUC May 17, 2000) (“DPUC UNE Tariff Order”) (App. B, Tab 7D); see also id. at 10 (“The 916 Tariff has been in effect for two and half years and has undergone extensive regulatory scrutiny by the NYPSC and the CLECs in New York.”).

¹⁸ See also DPUC UNE Tariff Order at 10 (Verizon’s “UNE rates were developed on a forward-looking, incremental cost basis, consistent with the Department’s forward looking cost methodology.”).

¹⁹ See id. at 10 (“BA-NY’s proposed Connecticut tariff essentially mirrors its UNE Tariff in New York (916 Tariff).”).

²⁰ See DPUC UNE Tariff Order at 10 (“the Department will require BA-NY to make any approved changes to its New York UNE Tariff in its Connecticut tariff within ten business days.”).

²¹ See DPUC UNE Tariff Order at 13.

Commission has found that these terms, conditions, and discounts satisfy the checklist. See New York Order ¶ 381.

Moreover, Verizon reports the results of its wholesale performance to CLECs in Connecticut using the same set of performance measurements that it uses in New York and Massachusetts — measures that the Commission found “have done much to foster the development of consistent and meaningful data concerning [Verizon’s] performance.” Id. ¶ 11; see Canny/Abesamis Decl. ¶ 12; Massachusetts Order ¶ 6. These measurements ensure that Verizon provides service to CLECs in “substantially the same time and manner” as the service it provides to its own retail operations. New York Order ¶ 44; Massachusetts Order ¶¶ 11, 237. Indeed, as the New York PSC has stated, these measurements “go well beyond the Checklist requirements.”²²

Verizon also is subject to performance assurance plans in Connecticut that mirror those in New York and Massachusetts. These plans put at risk an amount that is directly proportionate to the amount at risk in New York. See Canny/Abesamis Decl. ¶ 15. Consequently, the plans provide added assurance that Verizon will continue to provide high-quality service to competing carriers. See New York Order ¶ 433; Massachusetts Order ¶ 240. Moreover, Verizon is required to import into Connecticut any changes to its performance reporting that are made in New York. See Canny/Abesamis Decl. ¶ 15.²³ And as the New York PSC has found, the performance

²² Evaluation of the New York Public Service Commission at 4, Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, CC Docket No. 99-295 (filed Oct. 19, 1999) (“NYPSC Evaluation”); see also New York Order ¶ 55 (“We recognize. . . that individual states may set standards at a particular level . . . that may constitute more or less than the checklist requires.”).

²³ See also Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996, Decision, No. 97-01-23, at 11 (DPUC Apr. 11, 2001) (“Final DPUC Decision”) (App. B, Tab 1G) (“Verizon will be required to submit all relevant

measurements in the Plan “collectively require [Verizon] to achieve service quality that exceeds the Checklist requirements in specificity and degree.”²⁴

In sum, Verizon provides all of the checklist items in Connecticut in the same manner, at the same rates, and using the New York processes and procedures that the Commission already found met the Act’s requirements. Likewise, it provides those checklist items in Connecticut using its common interfaces to provide access to its underlying New York OSS. See McLean/Wierzbicki Decl. ¶¶ 5, 8. And the process, procedures, and systems in Connecticut and New York are in most respects the same as those used in Massachusetts, which the Commission also has found satisfy the Act in all respects. See Massachusetts Order ¶¶ 50, 70, 90, 95, 97, 102, 114.

The significance of this is straightforward: It establishes a presumption that the manner in which Verizon provides the checklist items in Connecticut likewise meets the Act’s requirements. As the Commission has previously held, where an aspect of an applicant’s checklist showing is “materially indistinguishable” from a showing in another state, the Commission will use its prior determination “as a starting point for [its] review” and only “review any new data or information” from the parties “to determine whether a different result is justified.” First Louisiana Order ¶¶ 1, 3;²⁵ Second Louisiana Order ¶ 8.

comparative performance data to the Department in the same format as ordered by the FCC and NYPS&C, to ensure parity of performance is being provided to Connecticut CLECs.”).

²⁴ NYPSC Evaluation at 3; see also id. at 2 (“Because the performance reports are quantitative and, on their face, arithmetic, they lend themselves to facile misuse in support of allegations of success or failure.”).

²⁵ Application by BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 6245 (1998) (“First Louisiana Order”).

Moreover, the presumption of compliance is particularly strong here. Verizon's operations in Greenwich and Byram are nothing more than a tiny portion of its overall New York operations — representing less than 0.4 percent of the lines served by Verizon New York. As a result, the volume of competitive activity in Greenwich and Byram necessarily will be limited in absolute terms, and never more than a minuscule fraction of the volume handled by Verizon's New York systems. In fact, last year Verizon provided an average of 109,000 unbundled loops to competitors in New York *each month* — nearly twice the number of switched access lines in all of Greenwich and Byram. See Lacouture/Ruesterholz Decl. ¶ 13. There is accordingly no doubt that Verizon's systems in New York can handle current demand in Greenwich and Byram, and will be able to handle reasonably foreseeable future volumes.

Of course, the fact that competitive volumes in Greenwich and Byram are necessarily small also means that they may not always provide an accurate picture of Verizon's performance. As the Commission has recognized, “performance data based on low volumes of orders or other transactions is not as reliable an indicator of checklist compliance as performance based on larger numbers of observations.” Kansas/Oklahoma Order ¶ 36. This is because, “where performance data is based on a low number of observations, small variations in performance may produce wide swings in the reported performance data.” Id.; see also, e.g., Massachusetts Order ¶ 93 n.296 (“Due to the low volume of competitors' orders, a handful of trouble reports can cause seemingly large variations in the monthly trouble reports.”).

Despite all this, Verizon's opponents will no doubt attempt to re-litigate issues they raised in New York and which the Commission rejected. These claims must be rejected again, however, because “an application for a related state should not be a forum for re-litigating and reconsidering” the Commission's prior holdings. Kansas/Oklahoma Order ¶ 35.

Of course, as noted above, competitors still will claim that this Application should be denied because Verizon has not yet attained an unattainable level of absolute perfection, or that its performance does not meet some benchmarks on isolated performance measurements. But the Commission has repeatedly made clear that perfection is not the standard. See, e.g., Massachusetts Order ¶ 13; New York Order ¶ 5; Michigan Order ¶ 278. Instead, where retail analogues exist, the standard is “parity,” which means simply that, where differences do exist, they are not so large as to be competitively significant. And, where retail analogues do not exist, access must be sufficient to “allow an efficient competitor a meaningful opportunity to compete.” New York Order ¶ 5; see also Massachusetts Order ¶ 11.

Under either of these standards, the Commission evaluates a BOC’s performance “based on the totality of the circumstances,” and “an apparent disparity for one measure, by itself, does not provide a basis for finding noncompliance with the checklist” if “the performance demonstrated by all the measurements as a whole” shows parity. Texas Order ¶ 58.²⁶ Similarly, the fact that a measure may appear to reflect such a disparity does not necessarily mean that the applicant has not complied with the checklist if the disparity has “little or no competitive significance,” or may be traced to CLEC behavior or other “factors outside of [the applicant’s] control.” New York Order ¶¶ 59, 202; Massachusetts Order ¶ 13; see also Kansas/Oklahoma Order ¶ 32 (“We may also find that the reported performance data is impacted by factors beyond

²⁶ Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000) (“Texas Order”); see also Massachusetts Order ¶ 13 (“We may find statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, we may conclude that the differences are not meaningful in terms of statutory compliance.”); Kansas/Oklahoma Order ¶ 32 (same).