Before the
Federal Communications Commission
Washington, D.C. 20054

In the Matter of	)	
	)	
Application of Verizon New York, Inc.	)	
Pursuant to Section 271 of the	)	CC Docket No. 01-100
Telecommunications Act of 1996	)	
To Provide In-Region, InterLATA Services	)	
In Connecticut	)	

COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint") hereby files its comments regarding the above-captioned application of Verizon New York, Inc. ("Verizon NY") for authorization to provide in-region, interLATA services in the state of Connecticut.[1] The application fails to meet the requisite standards of Section 271 and cannot be granted at this time.

Prior to applying to the FCC for Section 271 authorization, Verizon NY filed its application with the Connecticut Department of Public Utility Control ("DPUC"). Attached hereto is a letter dated April 9, 2001 to Ms. Louise E. Rickard, Acting Executive Secretary of the DPUC, from Jennifer A. Duane of Sprint which sets forth

[1] See, Application by Verizon New York for Authorization to Provide In-Region, InterLATA Services in Connecticut ("Application"), filed April 23, 2001.

Sprint's concerns about the DPUC Draft Decision.[2] As discussed therein, Sprint is concerned about the evidentiary basis of the DPUC's conclusion that Verizon NY met the requirements under Track A of Section 27 1 of the 1996 Act. Verizon NY filed its application pursuant to Track B, and it provided information to demonstrate compliance with Track B, not Track A. Despite a lack of evidence concerning competition, the DPUC found that Verizon NY had met the requirements of Track A. Clearly, a more thorough investigation was warranted.

In addition, Sprint is concerned that the DPUC did not subject Verizon NY's Statement of Generally Available Terms and Conditions ("SGAT") to a comprehensive investigation. In its September 6, 2000 decision, the DPUC permitted Verizon NY's SGAT to take effect pending further review with input from interested parties. Such review was never undertaken. Rather, the DPUC relied exclusively on the New York Public Service Cornrnission's finding of compliance. Nor did the DPUC investigate whether Verizon NY was in compliance with the Comrnission's requirements for line sharing adopted in its recent Order on Reconsideration.[3]

Despite its relatively small number of circuits in Connecticut, Verizon NY's application should be subjected to rigorous investigation by both the DPUC and the FCC.

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[2] Docket *No.* 97-01-23, *Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act* of 1996, Draft Decision (April 4, 2001).

[3] *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* Third Report and Order on Reconsideration in CC Docket No. 98-147 and Fourth Report and Order on Reconsideration in CC Docket 96098, FCC 01-26 (January 19, 2001).

Absent such investigation, Verizon NY's application for Section 271 relief in Connecticut should be denied.

Respectfully submitted

Sprint Communications Company L.P.

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April 9, 2001

VIA ELECTRONIC FILING AND OVERNIGHT MAIL

Ms. Louise E. Rickard
Acting Executive Secretary
Connecticut Department of Public Utility Control
Ten Franklin Square
New Britain, Connecticut 0605 1

Re: Docket No. 97-01-23 - Bell Atlantic - New York's Request for Track B Certification Pursuant to Section 271 of the Telecommunications Act of 1996

Dear Ms. Rickard:

Sprint Communications Company, L.P. ("Sprint") hereby submits this letter in lieu of exceptions to the draft decision issued by the Department of Public Utility Control ("Department" or "DPUC") on April 4, 2001 in the above-referenced docket.*

In that decision, the Department concluded that Verizon New York, Inc. ("Verizon NY"), formerly Bell Atlantic-New York, has demonstrated full compliance with the competitive checklist of Section 271 (c) of the Telecommunications Act of 1996 ("1996 Act"). Draft Decision at 13-14. Although Verizon NY had originally filed its 271 application under Track B of Section 271, the Department previously ruled in an interim decision that it lacked authority to provide the Track B certification that Verizon NY requested.* Notwithstanding that ruling, the Department proceeded with a review of Verizon NY's compliance with the 1996 Act's 14 point competitive checklist. Draft Decision at 9- 10.

In addition to filing a 271 application, Verizon-NY filed a Statement of Generally Available Terms and Conditions ("SGAT") with the Department on June 26, 2000. The

[1] Docket *No.* 97-01-23, *Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of* 1996, Draft Decision (April 4, 2001).
[2] Docket No. 97-01-23, Interim Decision at 3 (October 25, 2000). On July 31, 2000 Verizon NY filed a request seeking the Department's certification that it may proceed under Section 27 1 (c)(l)(B) of the Telecommunications Act of 1996 ("1996 Act") to obtain authorization to offer long distance service in Connecticut.

Department issued a final decision on September 6, 2000 wherein it recognized that Verizon-NY's SGAT filing merited further investigation and it permitted the SGAT to take effect pending further review in accordance with Section 252(f)(3) of the 1996 Act. The Department indicated it would issue a procedural schedule to undertake this SGAT investigation in the near future. However, the Department has yet to do so.[3]

Instead, the Department issued this draft decision wherein it proceeds to find that Verizon NY has met the requirements under Track A of Section 271 of the Act. Draft Decision at 1. The Department asserts that it has reviewed Verizon NY's request for 27 1 authorization in light of the evidentiary record compiled by the New York Public Service Commission ("NYPSC") and has compared Verizon NY's SGAT with the 14 point competitive checklist. Id. Thus, the Department found that Verizon NY satisfied the competitive checklist requirements. ***Id.*** The Department made a number of modifications to Verizon's SGAT, including the deletion of its Geographically Relevant Points of Interconnection ("GRIPS") proposal. ***Id.***

Sprint takes exception to a number of conclusions reached in the Department's Draft Decision.[4] Specifically, Sprint excepts to the Department's conclusion that Verizon NY meets the requirements under Track A of Section 271 of the 1996 Act. There is no evidence in the record for the Department to reach this conclusion. Verizon NY filed its 271 application with the Department pursuant to Track B of Section 271 and the evidentiary support it filed was intended to demonstrate compliance with the Track B requirements. Moreover, Verizon NY acknowledged in its 271 application that it could not satisfy the statutory requirements of Track A. Verizon Application at 6-7. In its draft decision, the Department points to an interconnection agreement between Verizon NY and Network Plus, Inc. that it approved on March 2 1, 2001, which the Department asserts required it to certify that Verizon NY meets the Track A requirements. Draft Decision at 1. The Department then finds that "Track B is now foreclosed to Verizon NY and it must now proceed under Track A to gain approval to provide in-region interLATA services in Connecticut." *Id.*

The Department provides no explanation as to how it reached its determination that Verizon NY has met the requirements of Track A based on its approval of one interconnection agreement. Verizon's 271 application notes that it has entered into interconnection agreements with 24 competitors in its Greenwich and Byram territories. Verizon NY's Application at 3. It also notes that none of the carriers it has interconnection agreements with is providing telephone exchange service to residential customers on either a facilities-based or resale basis. ***Id.*** The lack of facilities-based competition in its service territory forms the basis of Verizon's original contention that it should be permitted to proceed under Track B. Thus, there is no evidence in the record in this docket that the Department could have relied on to reach the conclusion that Verizon's satisfies Track A's requirements.

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[3] Docket No, 97-01-23, Decision at 2 (September 6, 2000).

[4] Due to the extremely limited time period the Department has allowed for parties to file exceptions to the Draft Decision, Sprint's exceptions will just touch on a few key determinations made in the Draft Decision.

In order for Verizon NY to receive approval of its application to provide in-region, interLATA services, it must first demonstrate that it satisfies the requirements of either Track A or Track B[5]. To qualify for Track A, Verizon NY must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers." 47 U.S.C. § 271(c)(l)(A). The 1996 Act provides that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier." *Id*. Verizon NY has not demonstrated that any competing carriers provide facilities-based exchange service to residential customers. Based on the record evidence before the Department in this docket, it cannot conclude that Verizon NY has demonstrated compliance with Track A's standards. Verizon NY must satisfy the requirements of either Track A or Track B before a review of its compliance with the competitive checklist is warranted.

The Department's draft decision also reviewed Verizon NY's SGAT in comparison with the 14 point competitive checklist. The Department ordered Verizon NY to make a number of revisions to its SGAT, including the deletion of its GRIPS proposal until such time as it has been approved in New York. Draft Decision at 11. The Department also ordered Verizon NY to amend language in the SGAT to include Internet traffic in its reciprocal compensation payments. *Id*. at 15. While Sprint agrees with the Department's modifications to these SGAT provisions, Sprint has some concerns with the process undertaken by the Department in its review of the SGAT. In its September 6, 2000 decision permitting the SGAT to take effect pending further review, the Department clearly indicated that it would issue a schedule to facilitate the Department's investigation of the SGAT. Thus, it was the parties expectation that the Department would undertake a comprehensive analysis of the SGAT, seeking input from interested parties, independent of its analysis of Verizon NY's compliance with the Section 27 1 competitive checklist. While the parties noted several obvious and glaring deficiencies with Verizon's SGAT filing in their initial comments, the SGAT has not been subject to the comprehensive examination the parties envisioned as a result of the Department's September 6th decision.

Additionally, in finding that Verizon NY has fully complied with the competitive checklist, the Department relied on the NYPSC record and the FCC approval of Verizon NY's long distance application in New York to determine that Verizon NY satisfies checklist items 4-9, 11-12 and 14 in Connecticut. Draft Decision at 10. The Department's draft decision however, does not adequately explain what support it relied on to conclude that Verizon NY satisfied checklist items 1, 2 10 and 13. *Id*. at 13- 14. To determine whether Verizon-NY has complied with legal obligations set forth in the

[5] *In the Matter of the 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, FCC 99-404, 15 FCC Rcd 3953, 3976 (December 22, 1999) ("FCC New York Order").

FCC's UNE Remand Order[6] and Line Sharing Order[7], the Department relies on the NYPSC's investigation of these issues. Draft Decision at 12. In compliance with these orders, Verizon NY must offer CLECs access to dark fiber, the network interface device, subloop unbundling, collocation at remote terminals and line sharing. ***Id.*** The Department finds Verizon NY's commitment to revise its Connecticut tariffs and SGAT based on NYPSC decisions and any further record in this proceeding on a going-forward basis to be sufficient. ***Id.***

The FCC, however, has recently issued its Order on Reconsideration addressing, among other things, certain line sharing issues.' The FCC clarified that the requirement to provide line sharing applies to the entire loop, even where the ILEC has deployed fiber in the loop (e.g., where the loop is served by a remote terminal).[9] The FCC also clarified that ILECs must permit competing carriers providing voice service using the UNE platform to self-provision or partner with a data carrier in order to provide voice and data service on the same line.[10] The Department has not investigated whether Verizon NY has complied with these line sharing obligations. Indeed, the Department recently issued a notice reopening the evidentiary record in Docket No. 00-05-06 to address the impact of the FCC's reconsideration order on the Southern New England Telephone Company's ("SNET") provisioning of line sharing over copper and fiber facilities." The Department should undertake a similar investigation of Verizon NY's line sharing provisioning. In any case, the Department should not find checklist compliance where questions remain as to Verizon NY's full compliance with the FCC's line sharing reconsideration order.

In short, the Department has not conducted the type of review of Verizon's 27 1 application that the FCC has envisioned. The FCC has encouraged the conduct of rigorous state 271 proceedings as a way to aid the success of a section 271 application at the FCC level.[12] The FCC has also encouraged state commissions to develop in state 271 proceedings a record concerning the extent of local competition in the state as part of its consultative function to the FCC.[13] The Department has not done this. There is no

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[6] *Implementation of the Local Competition Provisions of the Telecommunications Act of* 1996, Third Report and Order and Fourth Notice of Proposed Rulemaking, FCC 99-238, CC Docket No. 96-98 (re. Nov. 5, 1999) ("UNE Remand Order").

[7] *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of* 1996, Third Report and Order, and Fourth Report and Order, 14 FCC Rcd 20912 (1999) ("Line Sharing Order").

[8] *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of* 1996, Third Report and Order on Reconsideration in CC Docket No. 98-147 and Fourth Report and Order On Reconsideration in CC Docket 96-98, FCC 01-26 (January 19, 2001).

[9] *Id.* at ¶ 10.

[10] *Id.* at ¶ 16, 18-19.

[11] Docket *No. 00-05-06, Application of the Southern New England Telephone Company for a Tariff to Introduce Unbundled Network Elements,* Notice of Reopening of Evidentiary Record and Notice of Request for Written Comments (March 28, 2001).

[12] FCC New York Order at ¶ 8.

[13] *In the Matter of the Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan, 12* FCC Rcd 20543, 20561 at ¶ 34 (1997).

factual evidence demonstrating that facilities-based competition exists in any meaningful sense in Verizon NY's Connecticut service territory. Likewise, there is no factual support showing the presence of any competing provider offering telephone exchange service to residential customers on either a facilities-based or resale basis in Verizon NY' s Connecticut service territory. Indeed, Verizon NY' s 27 1 application demonstrates the absence of this type of local service competition in its service area. Verizon Application at 2-4, 9, 12- 14.

The FCC has clearly indicated that the issue of whether an ILEC has satisfied its 27 1 obligations must be made on a case by case basis.[14] Verizon NY must provide state specific evidence of 27 1 compliance from its operations in Connecticut." The Department's heavy reliance on the NYPSC's decisions and proceedings to determine Verizon NY's compliance with its 271 obligations in Connecticut undercuts this analysis.

Accordingly, for the reasons stated above, Sprint urges the Department to reconsider its conclusion that Verizon NY has demonstrated full compliance with Section 27 l's competitive checklist requirements. Sprint also urges the Department to undertake the comprehensive investigation of Verizon NY's SGAT contemplated in its September 6th decision in this proceeding.

Please find enclosed an original and thirteen (13) copies of this letter for filing in the above-referenced proceeding. An electronic filing of this submission has been made this day. Please return a filed-stamped copy of this letter in the enclosed self-addressed, postage-prepaid envelope.

Service has been made pursuant to § 16-1-15 of the Regulations of Connecticut State Agencies.

Thank you for your attention to this matter. Please call me if you have any questions concerning this filing.

Sincerely,

/s/ Jennifer Duane

Jennifer A. Duane

[14] FCC New York Order at ¶ 46.
[15] *Id.* at ¶ 53-56.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Comments of Sprint Communications Company L.P. in CC Docket No. 01-100 was hand delivered (noted by an *) or sent by United States First-Class Mail, postage prepaid, on this 14th day of May, 2001 to the parties listed below.

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