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July 11, 2001

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Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S. W.
Washington, DC 20554

Application by Verizon Pennsylvania, Inc.
for Authorization under Section 271 of the
Communications Act to Provide In-Region,
InterLATA Service in the State of Pennsylvania
CC Docket No. 01-138

Dear Ms. Salas:

Enclosed please find an original and one (1) copy of Comments of the Pennsylvania Office of Consumer Advocate to the Second Further Notice of Proposed Rulemaking. Please also note that these Comments have been filed with the Commission **electronically**.

Please indicate your receipt of this filing on the additional copy provided and return it to the undersigned in the enclosed self-addressed, postage prepaid, envelope. Thank you.

Sincerely yours,

Barrett Sheridan for Philip F. McClelland
Philip F. McClelland
Senior Assistant Consumer Advocate

Enclosure

cc: All Parties of Record (w/out Appendices)
Janice Myles/Common Carrier Bureau

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Pennsylvania Office of Consumer Advocate
Verizon Pennsylvania, Inc. - Pennsylvania

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

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Application by Verizon Pennsylvania, Inc. :
for Authorization under Section 271 :
of the Communications Act to Provide : CC Docket No. 01-138
In-Region, InterLATA Service in the :
State of Pennsylvania :

**COMMENTS OF THE
PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE
TO THE SECOND FURTHER NOTICE OF PROPOSED RULEMAKING
IN CC DOCKET NO. 99-200**

Philip F. McClelland
Senior Assistant Consumer Advocate
Barrett C. Sheridan
Lori Pantelich
Christy Appleby
Assistant Consumer Advocates

For: Pennsylvania Office of Consumer Advocate

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Date: July 11, 2001

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- Appendix B Pa. OCA Final Comments in Consultative Report on Application of Verizon Pennsylvania, Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, Pa. PUC Docket No. M-00001435 (Apr. 18, 2001)

Excerpts re deployment of DSL services to rural Pennsylvania and Access to adequate loop qualification information.

- Appendix C Joint Petition of Nextlink Pennsylvania, Inc., et al. Docket Nos. P-00991648 & P-00991649, Orders entered September 30 & November 5, 1999, slip opinion (“Global Order”), aff'd, Bell Atlantic Pennsylvania, Inc. v. Pa. P.U.C., No. 2790 C.D. 1999, et al, 763 A.2d 440 (Pa. Cmwlth. Oct. 25, 2000) (“Global Appeal”).

Excerpt of Pa. PUC Order re DSL competition in rural Pennsylvania.

- Appendix D Re: Structural Separation of Bell Atlantic-Pennsylvania Inc. Retail and Wholesale Operations, Pa. PUC Docket No. M-00001353, Opinion and Order (Apr. 11, 2001) (“Structural Separation Order”)

Excerpt of Pa. PUC Order re DSL competition in rural Pennsylvania and colloboratives established by Pa. PUC for Digital Subscriber Line Access Multiplexers (“DSLAMs”) and deployment of DSL over fiber lines.

- Appendix E Further Pricing of Verizon Pennsylvania Inc.'s Unbundled Network Elements, Petition of Covad Communications Company For an Arbitration Award Against Bell Atlantic-Pennsylvania, Inc. Implementing the Linesharing of Unbundled Network Elements, Pa. PUC Docket Nos. R-00005261, A-31-696, Recommended Decision (Mar. 22, 2001) (“UNE Pricing R.D.”)

Excerpts of Pa. PUC Recommended Decision re Verizon's unreasonable delay in allowing CLECs access to LFACS and similar databases.

- Appendix F Consultative Report on Application of Verizon Pennsylvania, Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, Pa. PUC Docket No. M-00001435, Feb. 28, 2001 Technical Conference.
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- Appendix G Verizon Pennsylvania, Inc., Tariff PA PUC No. 216, Section 2, First Revised Sheet 2
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- Excerpts relating to the development of a Performance Assurance Plan, including directory listings metrics in Pennsylvania; PUC authority to impose remedies for substandard performance and scheme of remedies approved.*
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Appendix M Pennsylvania Carrier-to-Carrier Guidelines Performance Standards Reports (Jan. 15, 2001) (“Jan. 2001 C2C Report”)

Excerpts of Pennsylvania Carrier-to-Carrier Performance Standards Reports relating to metrics involving the white pages.

Appendix N Verizon Pennsylvania, Inc. Comments in Consultative Report on Application of Verizon Pennsylvania, Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, Pa. PUC Docket No. M-00001435 (Apr. 18, 2001)

Excerpt of Verizon Comments to Pa. PUC on public interest standard and PAP remedies.

Appendix O Docketing Statement of Verizon Pennsylvania, Inc., Verizon Pennsylvania, Inc. v. Pa. PUC, Pa. Cmwlth Ct. Docket No. 1902 C.D. 2000 (Aug. 31, 2000).

Summary of Verizon's appeal of Pa. PUC's Performance Metrics Order.

Appendix P Consultative Report on Application of Verizon Pennsylvania, Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, Pa. PUC Docket No. M-00001435, Mar. 15, 2001 Technical Conference.

Excerpt of transcript regarding Verizon's current and prospective appeal of the Pa. PUC's authority to impose PAP remedies.

I. INTRODUCTION

On June 21, 2001, Verizon Pennsylvania, Inc. (“Verizon”) filed its Section 271 application in this proceeding. On June 25, 2001, the Pennsylvania Public Utility Commission (“Pa. PUC”) issued its consultative report in Application of Verizon Pennsylvania, Inc., et al., for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the Commonwealth of Pennsylvania, FCC Docket No. 01-138 (dated June 25, 2001) (“Pa. PUC Consultative Report” or “Consultative Report”). This Consultative Report marked a lengthy process at the Pa. PUC period of examining and reforming Verizon Pennsylvania, Inc.’s (“Verizon’s”) operations that which have offered CLECs competitive access. These activities involved many proceedings over a number of years. The Pennsylvania Office of Consumer Advocate¹ (“Pa. OCA”) participated extensively in those activities so that consumers in Pennsylvania might gain benefits through competition in the local exchange market in Verizon’s territory.

The FCC issued its Public Notice on June 25, 2001 setting forth the procedural schedule under which these Comments are filed. The FCC also referenced its Section 271 filing requirements in that Public Notice as further set forth in its Public Notice of March 23,

¹ Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Pa. OCA to represent the interests of consumers before the Pa. PUC, federal agencies and the courts.

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2001. The Pa. OCA recognizes those requirements and will conform with them in these Comments.

The material set forth in these Comments will be heavily based upon the record in the proceedings before the Pa. PUC and the arguments previously made by the Pa. OCA to the Pa. PUC, and now to the FCC. The Pa. OCA agrees that the access offered by Verizon to its CLEC competitors has improved over this period of time. However, there remain a number of problems that Verizon must correct before it is granted the authority to offer long distance service under Section 271.

While the Pa. OCA agrees with Verizon that Pennsylvania consumers would benefit from the additional competition that Verizon could bring to the long distance market, the Pa. OCA submits that it is necessary to resolve certain remaining issues before Section 271 approval can be granted.

II. SUMMARY

As explained above, the Pa. OCA agrees with Verizon that Pennsylvania consumers would benefit from the additional competition that Verizon could bring to the long distance market. However, the Pa. OCA submits that it is necessary to resolve certain remaining issues before Section 271 approval can be granted. The Pa. OCA submits that Verizon must complete certain actions before it should be granted interLATA authority through this proceeding. Briefly, Verizon must do the following:

- Verizon must offer to CLECs all of the loop qualification information to which Verizon Pennsylvania has access and develop a metric as to the accuracy of this information.
- Verizon must produce white page listings for CLECs with the same level of accuracy that it offers to its retail customers and develop a metric to measure such accuracy.
- Verizon must commit to not seeking to overturn the Pa. PUC's fundamental regulatory authority to implement and maintain self-effectuating metric remedies.

CLECs must have access to all loop qualification information before Verizon can be said to have met Checklist Item 2. At the present time Verizon has information available to itself concerning loop qualification for DSL services that it does not offer to CLECs. This is particularly important as the Pa. OCA is concerned that CLECs should be able to compete with Verizon in all regions of Pennsylvania to offer DSL service.

In order to make certain that this loop information is offered so that CLECs can effectively compete, a metric should be developed to measure the accuracy of this information.

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The Pa. OCA has found that some of that loop information offered in the past was not accurate and caused CLECs additional difficulty and expense.

Verizon must include CLEC customers in the white page directory with at least the same level of accuracy that it achieves for its own customers. The Pa. OCA has found that Verizon's process for placing CLEC customers in its directory is prone to errors and often results in inaccurate listings.

It is also necessary that Verizon should develop a metric to make certain that parity is maintained between the level of accuracy that it offers to its own customers and the level of accuracy offered to CLECs.

Verizon must not take any steps that would seek to eliminate the Pa. PUC's authority to enforce a performance metrics mechanism. The FCC has been clear that companies like Verizon must continue to have in place a self-effectuating remedy to inferior performance concerning CLEC access and use of the Verizon network. The Pa. OCA is concerned that Verizon has taken a legal appeal in the past, and may take such an appeal in the future, that would question the Pa. PUC's fundamental authority to create and enforce such a mechanism. The FCC should require from Verizon a commitment not to take such action.

III. COMMENTS

A. CLECs Do Not Have Equal Access To Loop Qualification Information and Such Lack of Equal Access Results in Verizon Not Achieving Compliance With Checklist Item 2.

1. Introduction.

In its Initial and Final Comments to the Pa. PUC,² the Pa. OCA raised several concerns regarding the lack of widespread deployment of DSL services³ throughout Pennsylvania. The OCA is particularly concerned that CLECs should have access to all loop qualification information that is available to Verizon as 47 U.S.C. § 271(c)(2)(B)(ii) (“Checklist Item 2”) requires that Verizon must maintain “[n]on-discriminatory access to network elements in accordance with 251(c)(3) and 252(d)(1)”⁴ This Commission has directly addressed the

² Comments and Final Comments of Pa. OCA, Consultative Report on Application of Verizon Pennsylvania, Inc., for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, Pa. PUC Docket No. M-00001435 (dated Feb. 12, 2001 and Apr. 18, 2001) (“Pa. OCA Initial Comments” and “Pa. OCA Final Comments”) (Pa. OCA Initial Comments attached as Appendix A and Pa. OCA Final Comments attached as Appendix B).

³ Digital services are data services that customers use for internet connectivity, including Asymmetric Digital Subscriber Lines (ADSL), High-Speed Digital Subscriber Lines (HDSL) and other DSL services. The reference to digital services in this section generally relates to the same category of DSL services described in this footnote.

⁴ Verizon discusses loop qualification information under 42 U.S.C. § 271(c)(2)(B)(iv), Checklist Item 4, which requires Verizon to provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching, or other service.” See Application by Verizon Pennsylvania, 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 Pennsylvania, FCC Docket

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extent to which Verizon must provide loop qualification information to CLECs. In the UNE Remand Order, this Commission required Verizon to provide CLECs with “the same underlying information that [Verizon] has in any of its own databases or other internal records.”⁵ The OCA submits that pursuant to the Telecommunications Act and this Commission’s UNE Remand Order, Verizon must provide CLECs with equal access to the information available to Verizon

The OCA recognizes that Verizon has taken steps to improve CLEC access to Verizon’s loop qualification information. However, CLECs do not *currently* have access to all the loop qualification information available to Verizon. By not allowing CLECs equal access to loop qualification information, Verizon has not fully met the requirement of Checklist Item 2. The Pa. OCA is concerned that the potential for development of competition for DSL services

No. 01-138 at 132-35 (June 21, 2001) (“Verizon FCC 271 Application”). The Pa. PUC has addressed this issue under Checklist Item 4, but also the Pa. PUC noted that the FCC has addressed loop qualification issues under Checklist Item 2. Consultative Report of the Pa. PUC Public Utility Commission at 132, n. 291. Accordingly, the Pa. OCA in these Comments will address this issue under Checklist Item 2.

⁵ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd at 3696 ¶ 427 (1999) (“UNE Remand Order”). The UNE Remand Order further states that “[t]he relevant inquiry is not whether the retail arm of the incumbent has access to the underlying loop qualification information, but rather whether such information exists anywhere within the incumbent’s back office and can be accessed by any of the incumbent LEC’s personnel.” Id. at ¶ 430.

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in Pennsylvania, particularly in rural areas,⁶ will be forestalled. The Pa. OCA concludes that until Verizon provides CLECs with equal access to loop qualification information, its 271 application should not be granted.

2. The Pa. OCA Remains Concerned That CLECs Do Not Have Equal Access to Loop Qualification Information and That Such Information Should Be Accessible To CLECs Before Verizon's 271 Application Can be Granted.

a. The Loop Qualification Information Provided to CLECs by Verizon Is Insufficient In That It Does Not Provide Equal Access To CLECs

As stated above, the Pa. OCA is specifically concerned that CLECs must have equal access to accurate loop qualification information in order to deploy DSL services to

⁶ In several of its orders, the Pa. PUC expressed a clear concern about the lack of competition regarding DSL services in rural areas of Pennsylvania as a result of Verizon's actions or inactions. As the Pa. PUC stated in its Global Order, "[Verizon's] delay in introducing DSL services suggests [a] . . . *lack of competition* in the relevant telecommunication services market [which] has forestalled the benefits of technological innovation and the availability of broadband services to Pennsylvania consumers." Joint Petition of Nextlink Pennsylvania, Inc., et al. Pa. PUC Docket Nos. P-00991648 & P-00991649, Orders entered September 30 & November 5, 1999, slip opinion, at 111 (emphasis added) ("Global Order") (attached as Appendix C), aff'd, Bell Atlantic Pennsylvania, Inc. v. Pa. P.U.C., No. 2790 C.D. 1999, et al, 763 A.2d 440 (Pa. Cmwlth. Oct. 25, 2000) ("Global Appeal"). In a more recent Order, the Pa. PUC expressed its concern about competition in rural areas of Pennsylvania. The Pa. PUC stated in its Structural Separation Order entered April 11, 2001 that "[i]n the rural areas of Pennsylvania, competition is *severely lacking*." Re: Structural Separation of Bell Atlantic-Pennsylvania Inc. Retail and Wholesale Operations, Pa. PUC Docket No. M-00001353, Opinion and Order (Apr. 11, 2001) at 38 (emphasis added) ("Structural Separation Order") (attached as Appendix D).

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all areas of Pennsylvania where Verizon has accessible DSL loops. In the Pa. PUC's Consultative Report to the FCC in this matter, the Pa. PUC also recognizes that progress needs to be made regarding Verizon's loop qualification database. The Pa. PUC stated, "[t]he loop qualification database available to CLECs via electronic access in 1999 was structured with information of primary value to the provision of Verizon's own retail ADSL services."⁷ The Pa. PUC further stated in its Consultative Report to the FCC in this proceeding that "[s]ince then, the means of access has not improved."⁸

Specifically, in its Final Comments to the Pa. PUC, the Pa. OCA was concerned that Verizon's loop qualification database did not contain accurate information and

⁷ Pa. PUC Consultative Report at 132 (citing Global Order at 114-115).

⁸ Id. (citing Further Pricing of Verizon Pennsylvania Inc.'s Unbundled Network Elements, Petition of Covad Communications Company For an Arbitration Award Against Bell Atlantic-Pennsylvania, Inc. Implementing the Linesharing of Unbundled Network Elements, Docket Nos. R-00005261, A-31-696, Recommended Decision at 33 (Mar. 22, 2001) ("UNE Pricing R.D.")). The Pa. OCA explained to the Pa. PUC in its Final Comments that there has been an unreasonable delay by Verizon to provide loop qualification information required in the Global Order. Pa. OCA Final Comments at 18-19 (stating "Administrative Law Judge Louis G. Cocheres stated in that Recommended Decision that the mechanized loop qualification information database currently being offered by Verizon has been 'criticized and rejected in the Global Order['.]' [UNE Pricing R.D.] at 33. Judge Cocheres recognized that it has been '[a]pproximately, a year and a half' since the Global Order and that Verizon still does not offer CLECs access to LFACS. Id. He went on to recommend that the Commission require Verizon to make available to CLECs 'the LFACS and similar databases through the OSS interface within 90 days of the entry of the Commission's order" in that proceeding.")UNE Remand R.D. attached as Appendix E).

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did not contain information for central offices without collocation arrangements.⁹ The Pa. OCA submits that to the extent that Verizon has access to any of this information, it should be made available to CLECs. Verizon must provide equal access to loop qualification information to CLECs *before* its 271 application can be granted.¹⁰

In his dissenting opinion, Pa. PUC Commissioner Terrance J. Fitzpatrick sets forth the standard by which Verizon must comply as stated by the FCC in Verizon New York's and Southwestern Bell Communications' 271 application:

“[A] BOCs' promises of *future* performance to address particular concerns raised by commenters have no probative value in demonstrating its *present* compliance with the requirements of Section 271. In order to gain in-region, interLATA entry, a BOC must support its application with actual evidence demonstrating its present compliance with the statutory conditions for entry instead of prospective evidence

⁹ See Pa. OCA Final Comments at 19-24.

¹⁰ Since the Global Order and the Structural Separation Order, the Pa. PUC has taken several steps concerning DSL services to rectify the lack of competition in rural areas of Pennsylvania, and the Pa. OCA commends and supports the Pa. PUC's efforts to establish widespread competition throughout Pennsylvania for DSL services, particularly in rural areas of Pennsylvania. For example, the Pa. PUC, through the Structural Separation Order, has established a collaborative to develop industry standards to ensure that CLECs have access to Digital Subscriber Line Access Multiplexers (“DSLAMs”) equipment at Verizon's remote terminals. Structural Separation Order at 42, ordering ¶ 9. Additionally, the Pa. PUC has also ordered that a collaborative be held to address the design and deployment of fiber and Next Generation Digital Line Carrier, as well as to address equal access to DSL over fiber lines. Id., ordering ¶ 11.

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that is contingent on future behavior.”¹¹

Pa. PUC Commissioner Fitzpatrick further stated in his dissenting statement, “the Telecommunications Act plainly requires Verizon to satisfy the fourteen-point checklist before it enters the long-distance market.”¹² Similarly, in the Pa. PUC’s letter to Verizon, wherein the Pa. PUC stated that it would provide a favorable recommendation to the FCC on Verizon 271 application, the Pa. PUC stated, “Verizon has demonstrated its compliance *in most respects*” and that “Verizon has made *substantial progress*. . .to develop a competitive market in Pennsylvania.”¹³

¹¹ Pa. PUC Consultative Report, Appendix A, dissenting statement of Pa. PUC Commissioner Terrance Fitzpatrick, citing In the Matter of 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, 15 FCC Rcd. 3953, Memorandum Opinion and Order, FCC 99-404 at ¶ 37 (rel. Dec. 22, 1999) (“New York 271 Order”); In the Matter of 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, 15 FCC Rcd. 18354, Memorandum Opinion and Order, FCC 00-238 (rel. June 30, 2000) (“Texas 271 Order”) at ¶ 38).

¹² Pa. PUC Consultative Report, Appendix A, dissenting statement of Pa. PUC Commissioner Terrance Fitzpatrick (emphasis in original).

¹³ Id., Appendix I, Secretarial Letter dated June 6, 2001, attached to Pa. PUC Consultative Report (emphasis added); see also Pa. PUC Consultative Report at 16 (stating “. . .the Pa. PUC found that Verizon has demonstrated its compliance in most respects in regard to the statutory requirements of section 271, but further action would need to be taken to demonstrate that local exchange and access markets in Pennsylvania are fully and irreversibly open to competition.”).

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The Pa. OCA submits that full compliance with these requirements is necessary before the FCC may grant Verizon's application to provide long-distance service in Pennsylvania. The Pa. OCA encourages Verizon to provide CLECs with equal access to information available to Verizon and fully supports the Pa. PUC's initiative to ensure that Verizon's loop qualification database provides CLECs with all necessary loop qualification information. However, Verizon is not *presently* providing CLECs with access to all information available to it. Verizon admits in its Application that it only has loop qualification information for those central offices with collocation arrangements.¹⁴ The OCA submits that Verizon should have loop qualification information available to CLECs for all central offices and remote terminals, even if there is no collocation at these central offices and remote terminals.¹⁵

At Pa. PUC Technical Conferences in this proceeding, Pa. PUC Administrative Law Judge Michael C. Schnierle expressed his understanding that information for central offices without collocation are not in the loop qualification database.¹⁶ Judge Schnierle further stated that if CLECs wish to determine if any loops are useable for DSL services in central offices without collocation, they would first have to pay to have the central office collocated.¹⁷ Verizon

¹⁴ See Verizon FCC 271 Application at 27.

¹⁵ See Pa.OCA Final Comments at 23.

¹⁶ See Pa PUC Feb. 28, 2001 Tech. Conf., Tr. 158 (attached as Appendix F); Pa. OCA Final Comments at 23 (citing Pa. PUC Feb. 28, 2001 Tech. Conf., Tr. 158).

¹⁷ Id.

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responded that while it has such information on its systems, it does not provide information for central offices without collocation because there is no CLEC demand for such information.¹⁸

The Pa. OCA submits that Verizon should provide CLEC access to loop qualification information for all central offices and remote terminals with and without collocation arrangements. The OCA is particularly concerned about central offices and remote terminals located in rural areas where there is no collocation. The Pa. OCA submits that CLECs should have loop qualification information available for central offices without collocation in order to facilitate CLECs' ability to provide DSL services to all areas of Pennsylvania.

Verizon claims that the information it currently provides in its loop qualification database is sufficient.¹⁹ Verizon relies solely on the argument that, because it is offering the same loop qualification information in Pennsylvania as it is in Massachusetts, the Commission should give its approval.²⁰ In the Massachusetts 271 proceeding, the FCC found that Verizon had initiated "concrete and irreversible steps to implement enhancements to the process."²¹

¹⁸ Id. at 159; Pa. OCA Final Comments at 24 (citing Pa. PUC Feb. 28, 2001 Tech. Conf., Tr. 159). While Verizon stated that it attempted to provide this information to CLECs, Verizon had not notified CLECs as to the availability of this information. Pa. PUC Feb. 28, 2001 Tech. Conf., Tr. at 159; Pa. OCA Final Comments at 24.

¹⁹ See Verizon FCC 271 Application at 27.

²⁰ Id. at 26.

²¹ Pa. PUC Consultative Report at 133 (citing SWBT Texas 271 Order at ¶¶ at 427-431; In the Matter of Application of Verizon New England, Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and

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The Pa. OCA has no direct knowledge as to how Verizon Massachusetts offers loop qualification information to CLECs in Massachusetts. Verizon may also be in the process of implementing a permanent access to additional loop qualification information; however, there is no indication that it is, for example, offering to CLECs loop qualification information for all its central offices and remote terminals. The OCA submits that Verizon must be further along in the process of providing CLECs with equal access to loop qualification information before its 271 application can be granted.

b. A Metric Should Be Put In Place To Measure The Accuracy Of Loop Qualification Information Provided By Verizon

As indicated above, the Pa. OCA is particularly concerned about the accuracy of the loop qualification information Verizon offers to CLECs through an electronic loop qualification information database. The Pa. OCA submits that in order to ensure that Verizon offers accurate information to CLECs in the future, a loop qualification accuracy metric should be put in place to measure how often CLECs receive inaccurate information. Pa. PUC Commissioner Nora Mead Brownell, stated in her dissenting opinion in this proceeding that in order for Verizon to receive 271 approval, it must “satisfactorily explain and, if necessary, correct apparent poor commercial performance with respect to its obligation to provide non-

Order, FCC Docket No. 01-130 (“Massachusetts 271 Order”) at ¶¶ 54-69.

discriminatory access to local loops at measured by the appropriate metrics.”²²

A loop qualification information accuracy metric would, for example, measure discriminatory access to loop qualification information. The results of a loop qualification accuracy metric would be contrasted with how often Verizon Advanced Data receives inaccurate information.²³ Additionally, the metric would measure the percentage of inaccurate information on Verizon’s loop qualification database. As the Pa. OCA explained in its Final Comments to the Pa. PUC, Verizon’s loop qualification database occasionally returned a zero foot distance with no additional information when the loop distance was something other than zero.²⁴ Requiring Verizon to have a metric in place to measure the accuracy of its loop qualification database will encourage Verizon to monitor the information it puts into its system and ensure that the information it provides to CLECs is accurate.

3. Conclusion.

The Pa. OCA submits that Verizon does not offer to CLECs equal access to its loop information, and, accordingly, has not yet met the Checklist Item 2 standard. Further, metrics must be developed as to the accuracy of such information offered so that access to

²² Pa. PUC Consultative Report, Appendix A, dissenting statement of Nora Mead Brownell.

²³ Pa. OCA Final Comments at 43-44.

²⁴ Pa. OCA Final Comments at 21 (citing Pa. PUC Feb. 28, 2001 Tech. Conf., Tr. 43).

accurate information can be assured in the future.

B. CLECs Do Not Have Equal Access to the White Page Directory and Such Lack of Equal Access Results in Verizon Not Yet Achieving Compliance With Checklist Item 8.

1. Introduction

The Pa. OCA filed Comments and Final Comments on the issue of Checklist Item Number 8 in the Section 271 proceeding before the Pa. PUC. 47 U.S.C. § 271(c)(2)(B)(viii). Checklist Item Number 8 addresses white pages directory listings. Id. Checklist Number 8 under Section 271 requires CLEC access to “(w)hite pages directory listings for customers of the other carrier’s telephone exchange service.” Id. CLECs must be able to have their customers’ directory listings published in the white pages. Verizon’s tariff, the Pa. PUC, and FCC all require incumbents to include CLECs in their directories.²⁵

The Pa. OCA has raised the white pages issue before the Pa. PUC because of significant problems that have occurred with the white pages listings. The Pa. OCA submits that Verizon must fix its white pages problems before being allowed to provide interLATA

²⁵ Verizon PA Tariff, PA PUC No. 216, Section 2, First Revised Sheet 2 (Attached as Appendix G); Joint Petition of NEXTLINK Pennsylvania, Inc., RCN Telecommunications Services of Pennsylvania, Inc., et al, Docket No. P-00991643, Opinion and Order at 125-127 (Dec. 31, 1999)(“Pa. PUC Performance Metrics Order”)(Attached as Appendix H); Global Order at 251; In the Matter of Joint Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No.00-217, Memorandum Opinion and Order at ¶¶ 246-247 (January 22, 2001) (“Kansas and Oklahoma 271 Order”); Texas 271 Order, ¶¶ 352-358.

services. In order for viable local competition to exist, Verizon must include CLECs in the Verizon white pages based upon the same level of access that it offers to its own retail operations.

Notwithstanding this important requirement, the Pa. OCA submits that CLEC customers were omitted from the Verizon white pages on numerous occasions or the listings for these CLEC customers often contained errors. This has harmed CLECs and their customers as the customers have attempted to engage in competition by switching their local exchange carrier. These problems have impeded the progress and success of local competition.

The testimony provided at the Pa. PUC 271 technical hearings, the en banc hearings before the Pa. PUC, and the Comments provided by XO Pennsylvania, Inc. (“XO”) and CTSI, Inc. (“CTSI”) before the Pa. PUC demonstrate that problems exist with the white page directory listings and that in order for successful competition to exist the problems must be remedied. The importance of access to white page directory listings has been affirmed by the FCC in the petitions for interLATA long distance service in Kansas, Oklahoma, and Texas.²⁶ In the Texas 271 Order, the FCC stated that “irregularities involving the white pages are a very serious matter because customers may tend to blame the new competitor, rather than the familiar incumbent, for mistakes....if there was a systemic problem involving a number of listings,

²⁶ Kansas and Oklahoma 271 Order, ¶¶ 246-247; Texas 271 Order, ¶¶ 352-358.

it would warrant a finding of noncompliance."²⁷ Where a problem is systemic, the FCC concluded that a finding of noncompliance could be considered a violation of Checklist Item Number 8. The Pa. OCA submits that the record developed in this case before the Pa. PUC demonstrates that the problems are systemic.

The Pa. PUC has addressed the importance of the white page directory listings on several occasions. The Pa. PUC, and subsequently the Commonwealth Court, affirmed the requirement to provide directory listings to CLECs in the Global Order.²⁸ Further, the Pa. PUC addressed this issue in examining the performance metrics of Verizon in the Performance Metrics Order.²⁹

The Pa. OCA submits that CLECs must be able to ensure the accuracy of their directory listings. With an error or omission in a published directory, the consumer, whether residential or business, will have to contend with that omission or error for at least a year if not more. Corrections may be made more rapidly to a directory assistance listing, but in the published white pages the harm cannot be remedied for a significant period of time.

2. Identified Problems With CLEC White Page Listings.

Parties to the Pa. PUC 271 Technical Workshops extensively discussed the issue

²⁷ Texas 271 Order, ¶ 358.

²⁸ Global Order at 251 (*affirmed Bell Atlantic-Pennsylvania, Inc. v. Pa. PUC*, 763 A.2d 440, 465 (Pa. Cmwlth. 2000)).

²⁹ Pa. PUC Performance Metrics Order at 125-127.