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Federal Communications Commission

DA 01-1717

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

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In re Application of)
)
GTE CORPORATION,)
Transferor,)
)
And)
)
BELL ATLANTIC CORPORATION,)
Transferee)
)
For Consent to Transfer Control of Domestic)
And International Section 214 and 310)
Authorizations and Applications to Transfer)
Control of a Submarine Cable Landing License)

CC Docket No. 98-184 /

Order

Adopted: July 19, 2001

Released: July 19, 2001

By the Chief, Policy and Program Planning Division:

I. Introduction

1. On July 6, 2001, Verizon requested the Commission's consent to allow Verizon New York, Inc. (Verizon) and Verizon Advanced Data, Inc. (VADI) to cooperate to provide resale of DSL service over resold voice lines in Connecticut before the scheduled sunset of the advanced services affiliate requirement in the Bell Atlantic-GTE Merger Order. For the reasons explained below, we grant Verizon's request to the extent described herein.

II. Background

2. As an initial matter, we note that as a result of the ASCENT v. FCC ruling, Verizon may elect, at the end of a nine-month period, to reintegrate its separate advanced services affiliate into

1 See Letter from Dee May, Executive Director, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 98-184 (filed July 6, 2001) (STA Request); See also In re Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, 15 FCC Rcd 14032, App. D (2000) (Bell Atlantic-GTE Merger Order).

2 In the Bell Atlantic-GTE Merger Order, the Commission determined that the automatic expiration date for the separate subsidiary requirement would be nine months after a final non-appealable judicial decision determining that the separate affiliate is a successor or assign of the incumbent LEC. Bell Atlantic- GTE Merger Order 15 FCC Rcd at 14288, para. 11c. By our calculations, the advanced services affiliate requirement will automatically sunset on January 9, 2002.

the BOC.³ Verizon has submitted a letter requesting permission to reintegrate its advanced services subsidiary prior to the end of the nine-month period. The Commission is currently considering this request.⁴ The instant Special Temporary Authority (STA) only governs until the Commission rules on Verizon's request to waive the nine-month period or otherwise modifies the terms of this STA.

III. Discussion

3. The standard for granting an STA is whether the proposed action "will serve the public interest, convenience and necessity."⁵ In the instant case, Verizon plans to broaden its resale DSL offering in its Connecticut service area, offering a service that will allow a competitive local exchange carrier (competitive LEC) to resell VADI's DSL service over lines on which the competitive LEC currently resells Verizon's voice service.⁶ The new service will be provided pursuant to an amendment to VADI's federal tariff.⁷ Verizon states that this is an interim arrangement until a more permanent arrangement can be developed through collaboratives and the change management processes.⁸

4. Verizon states that in order to provision a competitive LEC's order to resell VADI's DSL over lines on which the competitive LEC currently resells Verizon's voice service, VADI and Verizon will need access to each other's systems and data. In order to coordinate the provision of voice service and DSL for resale over the same line, Verizon and VADI will also need to interact in ways that Verizon acknowledges are arguably prohibited by the *Bell Atlantic-GTE Merger Order*.⁹ Verizon, therefore seeks both a permanent waiver of the Merger Conditions and an STA in order to provide this service. The STA would allow Verizon to immediately take any and all steps that may be necessary in order to successfully process orders for and provide the proposed resale DSL service.

5. We do not address Verizon's request for permanent waiver of the merger conditions in

³ See *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (2001) (*ASCENT v. FCC*). As applied to Verizon, this ruling holds that its separate advanced services affiliate is a successor or assign of the BOC.

⁴ See Pleading Cycle Established for Comments on Verizon's May 1st Letter Concerning Relief from Bell Atlantic/GTE Merger Conditions, Public Notice, DA 01-1325 (May 31, 2001). See also Letter from Gordon R. Evans, Vice President, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 98-184 (filed April 27, 2001).

⁵ 47 C.F.R. §§ 63.01, 63.04. See also *Telephone Company-Cable Television Cross-Ownership Rules*, 7 FCC Rcd 5781, 5836 para. 105 (1992).

⁶ *STA Request* at 1.

⁷ *Id.*

⁸ *Id.*

⁹ See Letter from Dee May, Executive Director, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 01-100 (filed July 6, 2001) (including an illustrative tariff).

this order. We do, however, conclude that granting Verizon's request for an STA is in the public interest for two reasons. First, granting the STA will enable competitive LECs to provide resold voice and DSL service to their end-user customers over the same local loop. This should benefit consumers by expanding competition in the provision of advanced services. Second, granting the STA will allow Verizon and competitive LECs an opportunity to gain experience with the ordering and provisioning of resold DSL service in conjunction with resold voice service as part of an interim arrangement.

6. In granting Verizon's STA request, we emphasize again that the authority granted by this action is limited, and effective only to the extent necessary to allow Verizon and VADI to coordinate so that a competitive LEC can resell VADI's DSL over lines on which the competitive LEC resells Verizon's voice services in Connecticut. Any "cooperative" activities not pertaining to the resale product offering described above are not covered by this STA and will subject Verizon to appropriate enforcement action.

IV. Ordering Clause

7. Accordingly, IT IS ORDERED that, pursuant to 47 C.F.R. §§ 63.01, 63.04, Verizon IS GRANTED Special Temporary Authority as described above to the extent necessary to permit resale of DSL service by a competitive LEC on a line on which the competitive LEC resells Verizon's voice service in Verizon's Connecticut service area. This authority is given without prejudice to any Commission or Common Carrier Bureau action that may be taken in the future.

FEDERAL COMMUNICATIONS COMMISSION



Michelle M. Carey
Chief, Policy and Program Planning Division
Common Carrier Bureau