

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications Act of 1996	)	

VERIZON<sup>1</sup> REPLY TO COMMENTS  
UPDATING PREVIOUSLY FILED  
PETITIONS FOR RECONSIDERATION

I. Introduction and Summary

Only three parties – AT&T, WorldCom and NECA – ask the Commission to consider their previously filed petitions for reconsideration of the First Report and Order in this docket. In some cases, they are asking the Commission to address issues that have already been addressed, are already under consideration in other proceedings or were not raised in their previously filed petitions. There is no reason for the Commission to address those issues here.

In other cases, the parties raise issues that the Commission should reconsider, but not in the manner suggested by those parties. The Commission should reconsider its network element pricing rules because they are having an adverse impact on competition, particularly facilities-based competition. In addition, the Commission should establish a core set of wholesale performance measures, and eliminate the hundreds of other performance measures that are reported each month on a state-by-state basis.

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<sup>1</sup> The Verizon telephone companies (“Verizon”) are the local exchange carriers affiliated with Verizon Communications Inc. listed in Attachment A.

## II. Pricing Standards.

AT&T and WorldCom ask the Commission to provide further guidance to the states concerning the implementation of the Commission's TELRIC standard. *See* WorldCom at 4-5; AT&T at 2-3. The Commission should revisit its pricing rules, but not in the manner suggested by AT&T and WorldCom. The Commission's TELRIC pricing rules have resulted in network elements rates at such low levels that they inhibit competition and discourage facilities-based entry.

Forward-looking economic cost-based rates should create efficient incentives for both new entrants and incumbents. The prices for network elements should be set at levels that encourage competitors to make correct decisions about when to use incumbent networks versus when to look elsewhere for inputs or to build their own facilities. If prices for network elements are too low, they will deter efficient construction of new facilities and induce inefficiently high usage of incumbent networks. Prices that are too low will also negatively distort the network investment decisions of the incumbent firms constrained to charge such prices.

The Commission's TELRIC pricing rules have resulted in network element rates that are discouraging competition, particularly facilities-based competition. Among other things, these rates have been set based on unrealistic assumptions about the instantaneous and successive replacement of incumbent carriers' networks, but without making corresponding adjustments to depreciation rates and cost of capital. As a result, "states with lower UNE prices have less facilities-based entry." *Regulatory Behavior and Competitive Entry*, presentation by James Eisner, FCC, and Dale E. Lehman, Fort Lewis College at the 14<sup>th</sup> Annual Western Conference at the Center for Research in Regulated Industries, p. 4 (June 28, 2001).

In order to encourage competition, especially facilities-based competition, the Commission should revisit its pricing rules. Among other things, the Commission should make

clear that forward-looking economic costs cannot be based on the assumption that an incumbent carrier discards its entire existing network and instantaneously builds a hypothetical, new network from scratch. Rather, forward-looking economic costs must be based on the deployment of an efficient mix of technologies over an economically reasonable planning period.

### III. Combinations of Network Elements.

WorldCom asks the Commission to eliminate the “interim” use restrictions on loop-transport combinations adopted in the Commission’s Supplemental Order and Supplemental Order Clarification. WorldCom at 3. As an initial matter, WorldCom’s request is beyond the scope of the Commission’s July 11, 2001 Public Notice. The Commission requested “parties that filed petitions for reconsideration in 1996 now file a supplemental notice indicating which of such issues they still wish to be reconsidered”.<sup>2</sup> The issue raised here by WorldCom does not relate to the Commission’s 1996 order. Instead, it is a request by WorldCom to reconsider orders issued by the Commission in 1999 and 2000. As such, it is beyond the scope of the Commission’s Public Notice.

In any event, the issue raised by WorldCom is already under consideration by the Commission. On January 24, 2001, the Commission issued a Public Notice requesting comments on whether competing carriers are impaired in their ability to provide exchange access services without loop-transport combinations.<sup>3</sup> The Commission received comments on this petition on April 5, 2001, and reply comments on April 30, 2001. In conjunction with the Commission’s notice, Verizon, SBC and BellSouth filed a joint petition asking the Commission

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<sup>2</sup> *Parties asked to Refresh Record Regarding Reconsideration of Rules Adopted in 1996 Local Competition Docket*, CC Docket No. 96-98, DA 01-1648 at 2 (rel. July 11, 2001) (“Public Notice”).

<sup>3</sup> *See Comments Sought on the Use of Unbundled Network Elements to Provide Exchange Access Services*, 16 FCC Rcd 2261 (2001).

to eliminate mandatory unbundling for high capacity loops and dedicated transport.<sup>4</sup> In that petition, the parties demonstrated that there are competitive alternatives available in the marketplace and that competing carriers are not impaired without access to these facilities on an unbundled basis. The Commission received comments on the parties' petition on June 11, 2001, and reply comments on June 25, 2001. There is no need for the Commission to address WorldCom's request in isolation here without regard to the statutory impairment test for unbundling.

#### IV. Performance Measures.

WorldCom asks the Commission to establish a set of measurements and standards by which all incumbent local exchange carriers would report their wholesale performance. WorldCom at 6. There is no need for the Commission to establish performance measurements or standards because, as WorldCom itself acknowledges, "most of the ILECs have developed performance metrics." *Id.* at 5. In fact, Verizon currently produces monthly reports of its wholesale performance, which contain over 700 separate measurements. These reports track Verizon's wholesale performance for individual CLECs in individual states.

Rather than create another set of performance measures, the Commission should limit the number of performance measures that incumbent carriers report for federal and state purposes. The sheer number and variability of state performance measures has increased the burden of compliance and has produced the presumably unintended consequence that simply tracking and reporting the performance measures (regardless of service quality results) is creating unique burdens that have no corresponding regulatory benefit. The Commission should undertake a

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<sup>4</sup> See *Joint Petition of BellSouth, SBC and VZ for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport*, CC Docket No. 96-98 (filed April 5, 2001); see also Public Notice, DA 01-911 (rel. April 10, 2001).

review of such metrics in order to establish a core set of 10 to 15 wholesale performance measures and eliminate the rest. Regardless, the scope of such review falls outside the WorldCom petition, which only addressed the imposition of OSS reporting requirements on incumbent local exchange carriers. That petition should be dismissed.

V. Short Term Promotions.

AT&T asks the Commission to reconsider its decision not to require avoided cost resale discounts for short-term promotions offered by incumbent carriers. AT&T at 3 n.7. The Commission has already examined the short term promotional offerings of incumbent local exchange carriers in numerous long distance applications under Section 271 and has not found any problem with the exemption of such offerings from the avoided cost wholesale discount. *See, e.g., Massachusetts 271 Order*, CC Docket No. 01-9, DA 01-1521 at ¶ 217 (rel. June 26, 2001). In fact, the Eighth Circuit specifically upheld the sections of the Commission's rules concerning resale of promotions and discounts. *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 at 818-19, *aff'd in part and remanded on other grounds, AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). Moreover, AT&T offers no evidence that there is any problem caused by the incumbent carrier's promotional offerings. The Commission should therefore dismiss AT&T's request for reconsideration.

VI. Accounting and Separations Rules.

The National Exchange Carrier Association, Inc. ("NECA") asks to the Commission to clarify the manner in which incumbent local exchange carriers should book revenues from unbundled network elements. NECA Comments at 2. There is no need for such clarification because incumbent carriers have been booking network element revenues to Account 5240 – Rent Revenues for more than five years. This is the very account that NECA itself suggested for

network element revenues in its 1996 petition for reconsideration. *See* NECA Comments, Appendix 1 at 3.

Moreover, in CC Docket No. 00-199, the Commission has already sought comments whether there is a need for new network element revenue and expense accounts.<sup>5</sup> Verizon and other incumbent carriers demonstrated in their comments in that proceeding why there is no need for the Commission to establish new network element revenue or expense accounts. *See, e.g.*, Verizon Reply Comments in CC Docket No. 00-199 (filed July 26, 2001). The Commission is expected to issue an order in CC Docket No. 00-199 later this month. There is no reason for the Commission to consider the same issue in this docket.

NECA also asks the Commission to clarify whether the costs of providing interconnection facilities should continue to flow through Part 36 jurisdictional separations rules or be removed prior to separations. NECA Comments at 2. Again, there is no need for such clarification because incumbent local exchange carriers have been applying jurisdictional separations rules to these interconnection costs for more than five years. Moreover, the Joint Board has recommended and the Commission staff has adopted an interim separations freeze.<sup>6</sup> This means that the costs of interconnection facilities and related revenues will continue to be separated as they had been prior to the freeze.

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<sup>5</sup> *See 2000 Biennial Regulatory Review—Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3*, 15 FCC Rcd 20568 (2000).

<sup>6</sup> *See Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, FCC 01-162 (rel. May 22, 2001).

**Conclusion**

The Commission should reject the petitions for reconsideration and clarification filed by competing carriers.

Respectfully submitted,

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THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Midwest Incorporated d/b/a Verizon Midwest  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.