

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Deployment of Wireline Services Offering
Advanced Telecommunications Capability

CC Docket No. 98-147

**OPPOSITION OF VERIZON¹ TO
PETITION FOR PARTIAL CLARIFICATION
OR RECONSIDERATION**

The Commission should deny the Joint Petitioners² request for clarification or reconsideration of the *Collocation Remand Order*.³ While their argument that the Commission should require the incumbent local exchange carriers to offer cross-connects between collocation arrangements pursuant to their federal tariffs is moot with regard to Verizon – which filed such tariffs on September 28, 2001 – they make several inaccurate statements about Verizon’s collocation offerings that cannot go unchallenged. In addition, their request that the Commission prohibit the use of individual case basis (“ICB”) tariffs is contrary to well-established

¹ The Verizon telephone companies (“Verizon”) are the affiliated local telephone companies of Verizon Communications Corp. These companies are listed in Attachment A.

² On September 19, 2001, a Joint Petition for Partial Clarification or Reconsideration was filed by the Association for Local Telecommunications Services, e.spire Communications, Inc., KMC Telecom, Inc., McLeodUSA Telecommunications Services, Inc., and NuVox, Inc., (collectively, the “Joint Petitioners”).

³ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Fourth Report and Order, FCC 01-204 (rel. Aug. 8, 2001) (“*Collocation Remand Order*”).

Commission policy that such tariffs are appropriate where a carrier does not have enough experience with a new service to develop generally available terms and conditions.

In the *Collocation Remand Order*, the Commission required the incumbent local exchange carriers to permit collocators to order cross-connects between two separate collocation arrangements pursuant both to section 201 of the Act and to section 251 of the Act.⁴ Since section 201 services are offered under federal tariffs and section 251 collocation is offered under state tariffs and interconnection agreements, Verizon filed compliance tariffs on September 28, 2001 in both the federal and state jurisdictions.

The Joint Petitioners argue (at 3-7) that the Commission should require the incumbent local exchange carriers to file cross-connect service offerings in their federal tariffs, because the states cannot be trusted with the interpretation and enforcement of the Commission's order. In particular, they are disturbed by the Commission's statement in ¶ 84 of the order that "[a]s has been the practice in the past, we anticipate that cross-connect disputes, like other interconnection related disputes, can be addressed in the first instance at the state level."

The Commission's statement in paragraph 84 of the order does nothing more than describe the complementary federal and state roles in administering the Telecommunications Act of 1996. Under section 251(d)(1) of the Act, the Commission establishes rules and regulations implementing the requirements of section 251. *See AT&T, et al. v. FCC*, 525 US 366 (1999). Under section 252, the state commissions arbitrate interconnection disputes, with intervention by the Commission only if a state commission refuses to act. Accordingly, if a collocator orders a

⁴ *See Collocation Remand Order*, ¶¶ 62-84, App. B; 47 C.F.R. § 51.323(h)(2). These rules are subject to appeals of the *Collocation Remand Order* filed by Verizon and other carriers in which they object to several aspects of the order. *See Verizon Telephone Companies, et al., v. FCC*, Case Nos. 01-1371, 01-1379 (D.C. Cir., 2001).

cross-connect under the state tariffs or interconnection agreements, the state commission has the authority under the act to resolve any disputes, within the guidelines established by the Commission. The Joint Petitioners' argument that it is unwise to entrust enforcement of the rates, terms and conditions for cross-connects under section 251 to the state commissions flies in the face of the regulatory regime that Congress adopted.

The Joint Petitioners' attempt to use Verizon as an example of why federal tariffing should be required is bizarre. They point to a Verizon *federal* tariff filing to show why the *states* should not be allowed to enforce the cross-connect rules. If a federal tariff filing requirement is the answer, why do they criticize a federal filing that the Commission reviewed and allowed to go into effect without suspension or investigation? Furthermore, their criticisms of Verizon's tariff, which introduced a nonrecurring rate structure for cross-connects between a collocation arrangement and Verizon's switched access and special access, make no sense at all. The tariff filing made by Verizon on July 6th, 2001 does not address cross-connects between carriers at all. It simply restructured the way Verizon recovers its costs for the cabling that is installed between the collocation arrangement and Verizon's distribution frames when a collocation arrangement is established.

The Joint Petitioners argue (at 5) that Verizon chose the rates for this service "apparently at random," but in footnote 7 they admit that these rates were the product of an industry settlement with major carriers that has already been approved in three states. Their argument that these rates have no cost basis is irrelevant – the Common Carrier Bureau granted Verizon a waiver of the cost support rules so that Verizon could file rates that were consistent with the industry settlement. *See* Special Tariff Permission No. 01-128; Verizon Telephone Companies

Tariff FCC No. 1, Transmittal No. 59 (filed June 21, 2001), Description and Justification at 9-10. Also, they are wrong that the tariff only allows DS3 cross-connects – it provides DS1 cross-connects in increments of 28 – and they are wrong that the tariff does not provide “dark fiber” cross-connects – it provides fiber cross-connects in OC3, OC12, and OC48 levels. *See* Verizon Telephone Companies FCC Tariff No. 1, Section 19.7.2(B). Most strange of all is their argument that “this is indicative of what is likely to happen if the ILECs are essentially left on their own to fashion rates, terms and conditions.” Joint Petitioners at 6. Verizon was never “left on its own” in filing this rate restructure. The tariffs were subject to the full force of the Commission’s statutory review, and neither the Joint Petitioners nor any other party objected to the tariff filing. To criticize it now, and on such irrational grounds, does nothing for the Joint Petitioners’ arguments that the cross-connect tariffs need more regulatory review.

Finally, the Joint Petitioners argue (at n.13) that the Commission should mandate that ICB tariffs may not be used in pricing cross-connects. There is no basis for the Commission to depart from its standard rule that ICB tariffs may be used as a transitional mechanism for new services where a carrier does not have enough experience to develop generally available offerings at averaged rates. *See* Public Notice, Common Carrier Bureau Restates Commission Policy on Individual Case Basis Tariff Offerings, 11 FCC Rcd 4001 (1995). Contrary to the Joint Petitioners’ claims, some types of cross-connect facilities may in fact be unusual and require offering initially on an ICB basis. For example, in its September 28, 2001 compliance tariffs, Verizon specified that it would offer “lit fiber” and other types of technically feasible cross-connects on an ICB basis. *See, e.g.*, Verizon Telephone Companies, Tariff FCC No. 1, Transmittal No. 99, Section 18.1.1(A) (Sept. 28, 2001). Verizon currently does not offer lit fiber cross-connect facilities – its fiber cross-connects are offered on a “dark fiber” basis without

electronic equipment.⁵ Since Verizon has no experience in offering fiber between collocation arrangements with electronic equipment, it does not have a basis at this time for developing the methods, procedures, and costs for accommodating a request for such services. In addition, Verizon's experience with collocation indicates that it is unlikely to receive actual requests for lit fiber cross-connects. Accordingly, if Verizon received a request, it would respond initially with an ICB tariff depending upon the type of service arrangement requested. If Verizon received additional demand for such services, it would develop a general tariff offering. This approach is completely consistent with the Commission's rules, and there is nothing unusual about collocation that would justify a unique rule prohibiting ICB arrangements.

⁵ Verizon's state tariffs already offer cross-connect service between collocation arrangements. In addition, Verizon's federal tariffs provide cross-connect services between a collocation arrangement and Verizon facilities at a distributing frame or digital distribution equipment. Verizon used these services as the basis for developing the cross-connect tariffs that it filed on September 28. However, neither of the existing tariffs included "lit fiber" services.

Conclusion

For the foregoing reasons, the Commission should reject the Joint Petitioners' request for clarification or reconsideration of the *Collocation Remand Order*.

Respectfully submitted,

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