Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
PAGING COALITION	)	CC Docket No. 01-346
	)	
Request for Declaratory Ruling that Termination by Verizon of Type 3A Interconnection Service Would Be Unjust and Unreasonable, in Violation of Section 201 of the Communications Act, 47 U.S.C. §201, and Otherwise Unlawful	)	

To: The Commission

COMMENTS OF BOBIER ELECTRONICS, INC., BUSINESS SERVICE CENTER, INC., CONESTOGA MOBILE SYSTEMS, INC., COM-NAV, INC., REDI-CALL COMMUNICATIONS COMPANY AND SALISBURY MOBILE TELEPHONE, INC.

Bobier Electronics, Inc., Business Service Center, Inc., Conestoga Mobile Systems, Inc., Com-Nav, Inc., Redi-Call Communications Company and Salisbury Mobile Telephone, Inc. ("Paging Companies"), by their attorney and pursuant to the Commission's Public Notice (DA 01-2942), issued December 19, 2001, hereby submit their comments on the above-captioned Petition for Declaratory Ruling ("Petition"), filed November 29, 2001, by the Paging Coalition, a group of four paging service providers in the New England states, since increased by six paging carriers in various other states served by Verizon.[1]

The Paging Companies' Interests

The Paging Companies are all telecommunications carriers, licensed in the Paging

[1] *See,* Supplement to Petition for Declaratory Ruling in CC Docket No. 01-346, filed January 14, 2002.

and Radiotelephone Service under Part 22 of the Commission's Rules that provide one-way paging service in small-to-medium-sized markets to some 21,000 paging units in one or more of the following: Delaware, the District of Columbia, Maine, Maryland, New Jersey, Pennsylvania, Virginia, West Virginia and Wisconsin. Each of the Paging Companies interconnects with Verizon at one or more locations and utilizes, as an essential component of its service offering to the public, Verizon's so-called LATAWide Paging service.[2] From the perspective of the Paging Companies, LATAWide Paging is an interconnection feature that allows them to assign a single telephone number to the paging receiver of each subscriber.[3] The subscribers can then be paged throughout the local access transport area ("LATA") using a single telephone number, without the calling party incurring toll charges. Put another way, LATAWide Paging makes intra-LATA rate centers irrelevant when paging these subscribers from anywhere inside of their relevant local service areas. Thus, the Paging Companies are similarly situated with the Paging Coalition, insofar as Verizon's interconnection provisions affect them.

Background

On October 8, 2001, Verizon sent a termination notice to each of the Paging Companies (and presumably to all paging carriers who interconnect with Verizon) advising them that Verizon will be terminating LATAWide Paging service, effective

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[2] The service has been marketed by various other names, including Wide Area Calling, Type 3A service and Type 2/Calling Plan 2. Verizon's preferred name for the service appears to be Reverse Billing/Standard Billing Alternative product. It is the same service referred to in the Paging Coalition's Petition as "Type 3A interconnection service."

[3] In a prior filing, on October 22, 2001, in WT Docket No. 01-184, the Paging Companies (minus Bobier Electronics, Inc.) inadvertently characterized LATAWide Paging as "primarily a billing service." Upon closer reflection, it is now clear that LATAWide Paging is a type of interconnection and that its billing aspects are merely incidental.

October 1, 2002. The Paging Companies were not consulted in advance and no substitute or alternative was offered.

Verizon's termination notice states that the effective date of the discontinuance will be October 1, 2001 (approximately seven weeks before the Commission's wireless number portability requirement will become effective). It asserts the following justification for terminating the service:

> Verizon is [eliminating the service] due to a number of factors, in particular the difficulty in the billing and administration of the product once wireless number portability goes into effect. This notification is being provided to you at this time to allow a significant period of time (i.e., 12 months) to plan for elimination of this billing product. Where the product is offered via tariff, appropriate tariff filings will be made for product removal.

A copy of the discontinuance notice is attached as Exhibit A.

Verizon's justification for terminating LATAWide Paging is stated to be the billing and administrative costs in connection with its implementation of wireless Local Number Portability (LNP). However, Verizon's stated justification is clearly flawed. As the Commission is aware, paging service is not included in the Commission's definition of "covered" CMRS in Section 52.21(c) of the Commission's Rules, and therefore will not be included in the upcoming deployment of wireless LNP.[4] It is therefore unclear what Verizon's LNP-based "billing and administration issues" would be for paging carriers receiving LATAWide Paging service, or whether this service will in fact bear such costs at all.

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[4] Non-covered CMRS providers, such as paging carriers, are not subject to LNP requirements of any kind. *See, Telephone Number Portability, Second Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd 21204 (1998), at paras. 51-55 (clarifying definition of "covered" services subject to wireless LNP requirements and exclusions from this category).

Termination of LATAWide Paging Service is Contrary to the Public Interest

Discontinuance of Verizon's LATAWide Service would be extremely disruptive to paging carriers such as the Paging Companies and their subscribers. The carriers would have to undertake substantial reconfiguration of their service offerings and networks, thereby involving additional costs that they would need either to pass along to their customers or absorb. In either case, the result could prove to be disastrous, especially since the basic utility of paging service would be simultaneously diminished. The Paging Companies could be expected to lose a great deal of customer goodwill from possible rate increases and service inconveniences, such as having their paging units reprogrammed for multiple paging numbers. Many paging customers would likely discontinue service, or would seek alternatives. This comes at the least opportune time as the paging industry is already reeling from the Commission's five-year freeze on applications for new and improved facilities and stiff competition from other CMRS services [5] that has only recently been relieved to some extent by Auction No. 40.

Discontinuance of LATAWide Service would also be disruptive to end users – particularly those who currently rely heavily on their pagers, and who have widely distributed their paging number to family, customers, clients, patients, and employers. If callers that make local, intra-LATA paging calls to local customers begin to incur unpredictable toll charges, it is clear that the ease, value and utility of paging services

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[5] *See, In the Matter of Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems,* WT Docket No. 96-18 and *Implementation of Section 309 (j) of the Communications Act—Competitive Bidding*, PP Docket No. 93-253, Notice of Proposed Rule Making, 11 FCC Rcd 3108 (1996) (suspending acceptance of new paging applications because of the proposed transition to geographic area licensing); see also First Report and Order, 11 FCC Rcd 16570 (1996) (Commission declined to lift the freeze).

will be substantially diminished. Subscribership to paging services may be expected to decline.

The Paging Companies have no alternative LATAWide Paging service provider to Verizon in their service areas. The only alternative to incurring intra-LATA toll charges would be to assign multiple telephone numbers to each pager (the quantity of which would depend on the number of rate centers within the LATA). While assigning multiple telephone numbers to each pager might permit the continuance of toll-free calling, it would be extraordinarily wasteful of scarce number resources, as well as costly to paging carriers and both confusing and inconvenient to their subscribers.

This alternative would likewise be disruptive to paging subscribers and would render paging service less attractive. The Paging Companies believe that few professionals or tradespeople that rely on pagers will want to distribute multiple pager numbers, however, or print such numbers on their business cards, promotional materials and, if applicable, their service vehicles. As such, this is truly not a viable business option for most paging customers.

Regardless of how paging carriers such as the Paging Companies react to the problem, it is clear that Verizon's plans to discontinue LATAWide Paging service will inevitably make paging both more expensive and less useful to consumers. Given the competitive telecommunications business environment and narrow profit margins, carriers such as the Paging Companies may even be driven out of business. These public interest considerations have seemingly been overlooked by Verizon as it proceeds toward terminating a valuable and efficient service to its co-carriers – the Paging Companies – without having sought their input as to the effect this service termination will have.

Termination of LATAWide Paging is Otherwise Unlawful

Aside from the above-described public interest considerations that strongly militate against Verizon's termination of its LATAWide Paging Service, there are other legal impediments as well. In its Petition, the Paging Coalition has carefully analyzed these other legal implications. Thus, the Paging Coalition argues that Verizon's termination of LATAWide Paging service would deprive its co-carriers of the type of interconnection service they desire, in violation of both the letter and the underlying spirit of the Commission's long-established interconnection policy, as exemplified by Section 20.11 of the Commission's Rules. In addition, the Paging Coalition takes the position that one result of Verizon's service termination would be the separation of currently bundled network elements without a request from the interconnecting carrier, in violation of Section 51.315(b) of the Commission's Rules.

The Paging Companies generally agree with the Paging Coalition's legal analysis and its conclusion that Verizon's termination of LATAWide Paging service is unjust and unreasonable and therefore unlawful under Sections 332(c) and 201 of the Communications Act, 47 U.S.C. §§332(c), 201.

Termination Requires Prior Section 214 Certification

In addition, the Paging Companies regard it as curious that Verizon has not filed an application for certification under Section 214(a) of the Communications Act, 47 U.S.C. §214(a), requesting the Commission's authority prior to terminating LATA Wide Paging service. In pertinent part, Section 214(a) provides that

> No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that

> neither the present nor future public convenience and necessity will be adversely affected thereby.

Section 214 is intended to prevent carriers from discontinuing needed services where, as here, adequate substitutes are not available.[6] And it is clear that carrier-to-carrier interconnection services are subject to the requirements of Section 214(a) where, as here, discontinuance of service to the interconnecting carrier would ultimately result in the discontinuance of service to end users, i.e., the Paging Companies' subscribers who would no longer have the benefits of LATAWide Paging Service once it is discontinued.[7] In this case, a Section 214 evaluation by the Commission is necessary to determine if the impairment of service to these end users will adversely affect the present or future public interest convenience or necessity;[8] and the burden of proof in that regard is upon Verizon.[9] That Title II of the Communications Act is implicated is borne out by the fact that each of the Paging Companies is engaged in interstate paging service and in some instances, the LATA involved encompasses more than one state.[10] Verizon may not lawfully terminate LATAWide Paging service without the Commission's certification under Section 214 of the Communications Act.

Conclusion

It accordingly has been shown that Verizon's termination of LATAWide Paging service, at the expense of the Paging Companies and other similarly situated paging carriers, is contrary to the public interest, with respect to both the carriers and their

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[6] *See, Regulatory Treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd, 74 RR 2d 835 (1994).

[7] *BellSouth Telephone Companies*, 7 FCC Rcd 6322, 71 RR 2d 840 (1992); *accord, Southwestern Bell Telephone Company*, 8 FCC Rcd 2589, 72 RR 2d 414 (1993)

[8] *BellSouth, id.*, 72 RR 2d at 841.

[9] *Southwestern Bell, id.*, 72 RR 2d at 425.

[10] *E.g.*, the Delaware LATA includes a portion of eastern Pennsylvania.

subscribers, especially in view of Verizon's flawed justification for this action. There are other legal impediments. Verizon's action is contrary to the Commission's interconnection policies in general and Rule Section 20.11, in particular, and it is inconsistent with Rule Section 51.315(b). Moreover, it would be unlawful for Verizon to terminate LATAWide Paging service without the required certificate under Section 214(a) of the Communications Act.

For all of the foregoing reasons, the Commission should declare Verizon's intended termination of LATAWide Paging service to be unlawful and direct Verizon to withdraw its service termination notice.

Respectfully submitted,

BOBIER ELECTRONICS, INC.
BUSINESS SERVICE CENTER, INC.
CONESTOGA MOBILE SYSTEMS, INC.
COM-NAV, INC.
REDI-CALL COMMUNICATIONS COMPANY AND
SALISBURY MOBILE TELEPHONE, INC.

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Exhibit A

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October 8, 2001

Subject: Verizon "Reverse Billing" Products

This is to inform you that Verizon will eliminate the Reverse Billing/Standard Billing Alternative product (also known as LATAWide Paging, Wide Area Calling, Type 3A service or Type2/Calling Plan 2, depending upon the service area) effective October 1, 2002. Verizon is doing so due to a number of factors, in particular the difficulty in the billing and administration of the product once wireless Local Number Portability goes into effect. This notification is being provided to you at this time to allow a significant period of time (i.e., 12 months) to plan for elimination of this billing product. Where the product is offered via tariff, appropriate tariff filings will be made for product removal.

The product termination process will follow normal ordering procedures. Product termination will proceed in one of two ways: 1) you, the customer, may place orders for Reverse Billing/Standard Billing Alternative termination prior to October 1, 2002, and the orders will be worked via business-as-usual processes; or, 2) you may elect not to place your own orders in which case Verizon will generate internal orders for product termination with a due date of October 1, 2002. In the case of selection "2", work on the internal orders will begin on October 1, 2002 and proceed to completion. There will be no ordering charges applied for removal of Reverse Billing/Standard Billing Alternative.

Please note that only the Reverse Billing/Standard Billing Alternative billing option is affected. Other products and services will not be affected.

It is Verizon's desire to accomplish a smooth termination of this product, and Verizon will work with customers to do so. If you have questions about the ordering process or the product termination, please contact your Account Manager.

Sincerely,

John P. Sullivan

CERTIFICATE OF SERVICE

I, Louise Noyes, hereby certify that I am an employee of the law offices of Blooston, Mordkofsky, Dickens, Duffy and Prendergast and that, on the 18th day of January, 2002, I mailed by first class U.S. Mail, postage prepaid, a copy of the foregoing Comments of Bobier Electronics, Inc., Business Service Center, Inc., Conestoga Mobile Systems, Inc., Com-Nav, Inc., Redi-Call Communications Company and Salisbury Mobile Telephone Inc. in CC Docket No. 01-346 to the following:

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