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Federal Communications Commission
Washington, D.C. 20554

JAN '9 2002

January 8, 2001

FCC MAIL ROOM

Mr. Jeff Ward
Senior Vice President – Regulatory Compliance
Verizon Communications
1310 North Courthouse Rd. – 4th Floor
Arlington, VA 22201

RE: *Bell Atlantic/GTE Merger Order*, CC Docket No. 98-184

With this letter, we grant Verizon Communications, Inc.'s (Verizon) request to remove Illinois and Ohio from the *Bell Atlantic/GTE Merger Condition's* Carrier-to-Carrier Performance Plan.¹ Specifically, we find that the Illinois and Ohio state performance plans are comprehensive, and therefore qualify for removal from the merger plan.

I. Background

The *Bell Atlantic/GTE Merger Order* requires Verizon to publicly file performance data demonstrating its progress in opening its local markets to competitors as part of the Carrier-to-Carrier Performance Plan.² In particular, Verizon each month reports 17 performance measurements in the areas of operations support systems, provisioning, maintenance and repair, billing, and collocation.³ If Verizon's performance falls below certain standards, the company must make payments to the United States Treasury.⁴

Pursuant to the *Merger Conditions*, the Carrier-to-Carrier Performance Plan is effective in each Verizon state until the earlier of (i) 36 months after the date that Verizon is first potentially obligated to make payments for that state; (ii) for the former Bell Atlantic service areas on a state-by-state basis, the first date on which Verizon is authorized to provide in-region, interLATA services in that state pursuant to 47 U.S.C. § 271(d)(3); or (iii) on a state-by-state basis, the effective date of a comprehensive performance plan adopted by a state commission applicable to Verizon.⁵ Under the *Merger Conditions*, the Chief of the Common Carrier Bureau shall determine whether a state-approved performance reporting requirement

¹ Applications of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, 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, CC Docket No. 98-184, *Memorandum Opinion and Order*, 15 FCC Rcd 14032, Appendix D, Attachment A (2000) (*Bell Atlantic/GTE Merger Order* or *Merger Order*). We refer to the conditions contained in Appendix D of the *Bell Atlantic/GTE Merger Order* as the "*Bell Atlantic/GTE Merger Conditions*" or the "*Merger Conditions*" throughout this Order.

² See *Bell Atlantic/GTE Merger Order* at Appendix D, Attachment A.

³ See *Bell Atlantic/GTE Merger Order* at Appendix D, Attachment A, ¶¶ 8-16.

⁴ See *Bell Atlantic/GTE Merger Order* at Appendix D, Attachment A, ¶ 14.

⁵ See *Bell Atlantic/GTE Merger Order* at Appendix D, ¶ 17; but see *Bell Atlantic/GTE Merger Order* at Appendix D, ¶ 59 (allowing the Bureau Chief to extend effect of individual conditions with which Verizon does not comply).

is "comprehensive" for purposes of the *Bell Atlantic/GTE Merger Order*.⁶

On July 17, 2001 Verizon asked the Common Carrier Bureau (Bureau) to remove Illinois and Ohio from the federal Carrier-to-Carrier Performance Plan.⁷ On July 19, 2001, Verizon made the same request for Pennsylvania.⁸ Specifically, Verizon states that the Illinois, Ohio, and Pennsylvania commissions have adopted performance plans that are comprehensive.⁹ Under its proposal, Verizon would neither report performance data to the Commission nor make voluntary payments to the United States Treasury for performance in those states.

On August 1, 2001, the Bureau sought comment on Verizon's proposal.¹⁰ The Association of Communications Enterprises (ASCENT), AT&T, the Illinois Commerce Commission Office of General Counsel, the Pennsylvania Office of Consumer Advocate, and WorldCom filed comments. The only objections to Verizon's request related to Pennsylvania; no commenter objected to Verizon's request for Illinois or Ohio. Verizon filed reply comments.

II. Discussion

As an initial matter, we note that Verizon's request to remove Pennsylvania from the Performance Plan is now moot. The Commission granted Verizon's section 271 application to provide long distance services originating in Pennsylvania on September 19, 2001, effective September 28, 2001.¹¹ As a result, the only issues before us are whether the Illinois and Ohio plans are comprehensive for purposes of the *Bell Atlantic/GTE Merger Order*.

As noted above, the *Bell Atlantic/GTE Merger Order* delegates to the Bureau Chief the authority to determine whether a state's performance plan is comprehensive.¹² The Bureau Chief may, for example, find a state plan lacking if it omits a performance measurement or category of performance measurements deemed important by the Bureau.¹³ To assist our determination, we also look to the amount of potential

⁶ See *Bell Atlantic/GTE Merger Order* at Appendix D, n.60.

⁷ See Letters from Dee May, Executive Director, Federal Regulatory, Verizon, to Dorothy Attwood, Chief, Common Carrier Bureau, Federal Communications Commission, CC Docket No. 98-184 (filed July 17, 2001). Verizon filed one letter for Illinois (*Verizon Illinois Letter*) and one for Ohio (*Verizon Ohio Letter*).

⁸ See Letter from Dee May, Executive Director, Federal Regulatory, Verizon, to Dorothy Attwood, Chief, Common Carrier Bureau, Federal Communications Commission, CC Docket No. 98-184 (filed July 19, 2001).

⁹ See *Verizon Illinois Letter* at 1-2; *Verizon Ohio Letter* at 1-2.

¹⁰ See Common Carrier Bureau Seeks Comment on Proposed Change to Verizon's Performance Plan, *Public Notice*, DA 01-1790 (rel. Aug. 1, 2001).

¹¹ See Application of 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, CC Docket No. 01-238, *Memorandum Opinion and Order*, FCC 01-269, at ¶ 141 (rel. Sept. 19, 2001).

¹² See *Bell Atlantic/GTE Merger Order*, 15 FCC Rcd at 14162, ¶ 282; *Bell Atlantic/GTE Merger Order*, Appendix D, ¶ 17.

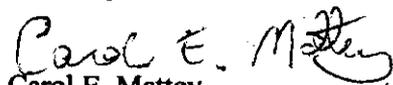
¹³ See *Bell Atlantic/GTE Merger Order*, 15 FCC Rcd at 14162, n.637; *Bell Atlantic/GTE Merger Order*, Appendix D, n.60.

liability under the plan, the plan's duration, and the frequency of updates. The Bureau may retain part of the federal plan's reporting and payment obligations where the state plan is not comprehensive.¹⁴

We conclude that the Illinois and Ohio performance plans are comprehensive for purposes of the *Bell Atlantic/GTE Merger Order*. First, both the Illinois and Ohio plans contain all 17 of the *Merger Order*'s performance measurements.¹⁵ Second, the state plans effectively will be in place for the same time period as the *Merger Order* performance plan.¹⁶ Third, the amount of liability to which Verizon is exposed in the Illinois and Ohio plans is identical to that in the *Merger Order* plan.¹⁷ Finally, both state plans will be updated over time to reflect new products and the evolving competitive landscape.¹⁸ Taken together, these features ensure that the Illinois and Ohio plans are functionally equivalent to the plan adopted in the *Merger Order* and thereby should serve the same purpose as the federal plan in mitigating harms of the merger. We direct Verizon to keep the Bureau informed of changes to the state plans as part of the Commission's ongoing semi-annual reviews of the *Merger Order* performance plan.¹⁹

Please do not hesitate to contact me if I can be of further assistance. You may also contact Mark Stone in the Common Carrier Bureau directly at (202) 418-0816 for further information on this matter.

Sincerely,



Carol E. Matthey
Deputy Chief, Common Carrier Bureau

CC: Dee May, Verizon

¹⁴ *Bell Atlantic/GTE Merger Order*, Appendix D, n.60.

¹⁵ See *Verizon Illinois Letter* at 1 (the "measurements, standards, and remedies, including both dollar amounts and methods of calculation . . . are identical to the Merger Condition Plan in all material ways"); *Verizon Ohio Letter* at 1 (same); Letter from Dee May, Executive Director, Federal Regulatory, Verizon to Magalie Roman Salas, Secretary, Federal Communications Commission at 3, CC Docket No. 98-184 (filed Dec. 26, 2001) (*Verizon December 26th Ex Parte*) (both the Illinois and Ohio plans are "identical" to the *Merger Order* performance plan).

¹⁶ See *id.* at 3 (the Illinois plan was initiated in April 2001 and will sunset 36 months later; the Ohio plan was initiated in May 2001 and will sunset 36 months later); *Bell Atlantic/GTE Merger Order* at Appendix D, ¶ 17 (*Merger Order* performance plan will sunset 36 months after Verizon's obligation to make payments starts, i.e., May 2004).

¹⁷ See *Verizon Illinois Letter* at 1; *Verizon Ohio Letter* at 1; *Verizon December 26th Ex Parte* at 3.

¹⁸ In particular, the Illinois plan will be updated each time the *Merger Order* performance plan is updated, and may also be modified pursuant to state collaboratives. See *Verizon Illinois Letter* at Attachment 2 at 2; *Verizon December 26th Ex Parte* at 2. The Ohio plan will be reviewed every three months, and Verizon must file any *Merger Order* performance plan changes with the Ohio Commission. See *Verizon Ohio Letter* at Attachment 1, Finding 2; *Verizon December 26th Ex Parte* at 3.

¹⁹ See *Merger Order* at Appendix D, Attachment A, ¶ 4.