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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY



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March 21, 2002

02-61

VIA HAND DELIVERY

Mr. William F. Caton  
Acting Secretary  
Office of the Secretary  
Federal Communications Commission  
Room TW-B-204  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**REDACTED -  
For Public Inspection**

Re: Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Maine

Dear Mr. Caton:

This is the cover letter for the Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Maine ("the Application").

This Application contains confidential information. We are filing confidential and redacted versions of the Application.

1. The Application consists of (a) a stand-alone document entitled Application by Verizon New England for Authorization To Provide In-Region, InterLATA Services in Maine ("the Brief"), and (b) supporting documentation. The supporting documentation is organized as follows:

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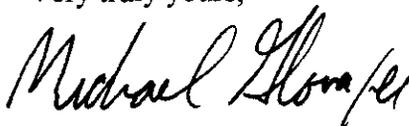
- a. Appendix A includes declarations and attachments thereto in support of the Brief;
  - b. Appendices B through I consist of various materials including selected portions of the Maine Public Utilities Commission proceedings, third-party OSS evaluations, Carrier-to-Carrier Guidelines, interconnection agreements, and additional supporting documents;
  - c. Appendix J consists of Carrier-to-Carrier Reports, Trend Reports, and Summary Measurements Reports.
2. Specifically, we are herewith submitting for filing:
- a. One original of only the portions of the Application that contain confidential information (in paper form, except for Appendix J, portions of which are being filed only on CD-ROM);
  - b. One original of the redacted Application (in paper form);
  - c. One copy of the redacted Application (in paper form);
  - d. Two CD-ROM sets containing the Brief and the supporting documentation portion of the redacted Application; and
  - e. Four additional copies of the redacted Application (partly in paper form and partly on CD-ROM, in accordance with the Commission's filing requirements), so that each Commissioner may receive a copy.

3. We are also tendering to you certain copies of this letter and of portions of the Application for date-stamping purposes. Please date-stamp and return these materials.

4. Under separate cover, we are submitting copies (redacted as appropriate) of the Application to Ms. Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20554. We are also submitting copies (redacted as appropriate) to the Department of Justice, to the Maine Public Utilities Commission, and to Qualex (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 703-351-3860 or Steven McPherson at 703-351-3083.

Very truly yours,



Michael E. Glover

Encs.

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

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MAR 21 2002  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Application by Verizon New England )  
Inc., Bell Atlantic Communications, )  
Inc. (d/b/a Verizon Long Distance), )  
NYNEX Long Distance Company )  
(d/b/a Verizon Enterprise Solutions), )  
Verizon Global Networks Inc., and )  
Verizon Select Services Inc., for )  
Authorization To Provide In-Region, )  
InterLATA Services in Maine )

CC Docket No. 02-61

APPLICATION BY VERIZON NEW ENGLAND FOR AUTHORIZATION  
TO PROVIDE IN-REGION, INTERLATA SERVICES IN MAINE

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Appendix A: Declarations

- Volume 1. Tab A – Declaration of Paul A. Lacouture and Virginia P. Ruesterholz (Competitive Checklist)
- Volume 2. Tab B – Joint Declaration of Kathleen McLean, Raymond Wierzbicki, and Catherine T. Webster (Operations Support Systems)
- Volume 3. Tab C – Joint Declaration of Elaine M. Guerard, Julie A. Canny, and Beth A. Abesamis (Performance Measurements)
- Tab D – Joint Declaration of Edward B. Dinan, Patrick A. Garzillo, and Michael J. Anglin (Pricing)
- Tab E – Declaration of Susan C. Browning (Section 272 Compliance)
- Tab F – Declaration of John A. Torre (Local Competition)

- Appendix B: Selected Portions of the Record of Maine Public Utilities Commission Docket No. 2000-849 (Inquiry Regarding the Entry of Verizon-Maine Into the InterLATA (Long Distance) Telephone Market Pursuant to Section 271 of the Telecommunications Act of 1996)
- Appendix C: Third Party Testing Material
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- Appendix I: Additional Selected Documents
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## INTRODUCTION AND SUMMARY

The local markets in Maine are open, the checklist is satisfied, and consumers are now entitled to the significant benefits that experience has shown will follow from Verizon's entry into the long distance business. Verizon's Application to provide interLATA services originating in Maine should be granted.

The Maine Public Utilities Commission ("PUC") reached the very same conclusion based on a comprehensive investigation of Verizon's compliance with the requirements of section 271. The PUC found that Verizon "meets the statutory requirements of Section 271" and that local markets in Maine are "open to . . . competition." Based on all of this, the PUC unanimously decided to "recommend that the Federal Communications Commission approve Verizon's Section 271 application."

These findings are obviously correct. Indeed, Verizon has taken the same extensive steps to open its local markets in Maine as it has taken in other Verizon states where the Commission has found that Verizon satisfies all the requirements of the 1996 Act. Verizon also uses substantially the same systems, processes, and procedures to provide the various checklist items in Maine as it uses in Massachusetts (and Rhode Island). Moreover, even though Maine is among the most rural states in the country, it has attracted entry from competing carriers who are using the various checklist items in commercial volumes to compete through all three entry paths available under the Act.

At the same time, Verizon's performance in providing the various checklist items has been excellent across the board, both in Maine itself and in Massachusetts, where volumes are much larger. In both states, Verizon met the installation intervals nearly 99 percent or more of the time for providing everything from interconnection trunks to physical collocation, stand-

alone loops, platform orders, hot cuts, DSL loops, line-sharing orders, and non-dispatch resale orders.

Verizon's real-world experience also is confirmed by an independent third-party test. Verizon's systems were tested by KPMG at the time of its Massachusetts application, where the Commission found that such testing provided "persuasive evidence of [Verizon's] OSS readiness." In addition, PricewaterhouseCoopers ("PwC") has concluded that Verizon's systems in Maine are the same as those used in Massachusetts (and throughout the New England states), and the Commission has found that PwC's analysis "demonstrates that the OSS in Massachusetts are the same as the OSS in" the other New England states.

Moreover, the Maine PUC conducted exhaustive pricing proceedings in which it found that Verizon's rates comply fully with this Commission's TELRIC methodology. Those same rates also satisfy the Commission's benchmark standard compared to the newly established TELRIC rates in New York that AT&T and WorldCom have championed in the past.

Verizon also is subject to a Performance Assurance Plan in Maine that parallels the plans in Massachusetts, New York, Connecticut, and Rhode Island, which the Commission found provide "strong assurance that the local market will remain open after [Verizon] receives section 271 authorization." And the remedy payments at risk annually in Maine are proportionately the same as the remedy amounts at risk under the New York, Massachusetts, and Rhode Island plans.

Moreover, as the Commission has recognized, Verizon's long distance entry will produce enormous benefits. Indeed, actual experience proves that Verizon's entry will both promote local competition and create significant benefits for customers of long distance service.

Local competition has increased dramatically in those in-region states where Verizon and other Bell companies have been authorized to provide long distance service. In New York, for example, local competition exploded after Verizon's entry: competitors in New York served just over one million lines at the time of Verizon's application; today they serve more than three million lines. One independent consumer group has estimated that the increase in *local* competition as a result of Verizon's entry is saving consumers in New York up to *\$400 million per year*.

In addition to prompting the long distance incumbents to enter the local mass market for the first time, Verizon's entry also has allowed it to introduce simpler and less expensive long distance services tailored to benefit the mass-market customers that the long distance incumbents historically have preferred to abandon or ignore. As a result of these innovative new plans, more than 2.1 million customers in New York have switched their long distance service to Verizon. According to the same consumer group mentioned above, the increase in *long distance* competition as a result of Verizon's entry is saving consumers in New York up to nearly *\$300 million per year*.

By any measure, therefore, Verizon's entry into the long distance market in other states has greatly enhanced both local and long distance competition. Consumers in Maine — where Verizon's local markets are open to the same degree as in these other states — are now entitled to receive these same benefits.

The Commission should grant this Application.

**I. VERIZON'S APPLICATION SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A).**

Verizon meets the requirements to file this Application under so-called "Track A." See 47 U.S.C. § 271(c)(1)(A).

Of course, given that Maine is a small state — with only about 700,000 switched access lines served by Verizon — the absolute number of lines served by competing carriers in Maine is necessarily smaller than in other larger states. As the Commission has emphasized, however, the "size of the presence" of these competitors must be viewed in relation to the size of Maine. See, e.g., Oklahoma Order ¶ 14 ("Issues concerning the nature and size of the presence of the competing provider require very fact-specific determinations."); see also Connecticut Order ¶ 2 ("this application differs from others considered by the Commission because Verizon serves only two small communities in Connecticut with a total of approximately 60,000 lines").<sup>1</sup> It is equally important to recognize that Maine is the third most rural state in the entire country, with more than 55 percent of the state's population living in rural areas.<sup>2</sup>

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<sup>1</sup> Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Oklahoma, Memorandum Opinion and Order, 12 FCC Rcd 8685 (1997) ("Oklahoma Order"); Application of Verizon New York Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Connecticut, Memorandum Opinion and Order, 16 FCC Rcd 14147 (2001) ("Connecticut Order").

<sup>2</sup> U.S. Census Bureau, Urban and Rural Population: 1900 to 1990 (rel. Oct. 1995), at <http://www.census.gov/population/censusdata/urpop0090.txt>; see Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613, ¶ 6 (2001) ("there may not be significant competition in many high-cost, rural areas") ("MAG Plan Order"); see also FCC, Biennial Regulatory Review 2000 – Staff Report, 15 FCC Rcd 21089, 21266, App. IV, Pt. 54 (2000) ("Competition for business customers in metropolitan areas has, in general, developed more rapidly than competition for residential customers or customers in rural areas."); Indus. Analysis Div., FCC, Local Competition at 2 (Dec. 1998) ("Facilities-based CLECs appear to have concentrated in more urbanized areas.").

Judged against this background, the requirements of Track A are plainly met. There are at least nine competing carriers — AT&T, Choice One, Conversent, Lightship, Mid-Maine, OneStar, Oxford, Pine Tree, and WorldCom — that are providing service on a facilities basis, including through unbundled network element platforms. See Torre Decl. Att. 1, Ex. B. As of December 2001, these nine carriers collectively served (by conservative estimates) approximately 9,100 lines — including approximately 260 residential lines — using facilities they have deployed themselves (including in all cases their own local switches). See id. Att. 1 ¶ 6, Table 1 & Ex. B. In addition, as of that same date, these carriers were serving approximately 2,700 business lines using unbundled network element platforms. See id.<sup>3</sup> In contrast, as of December, these carriers served approximately 7,500 lines through resale. See Torre Decl. Att. 1, Ex. B. Overall, therefore, these competing carriers are providing service on a predominantly facilities basis.

Moreover, just as this is true overall, it also is true of individual carriers. For example, looking at just two of the competing carriers in Maine, they too are providing service predominantly over their own facilities to business and residential subscribers, both individually and collectively.

**1. Oxford Networks.** — Oxford Networks is a 100-year old incumbent LEC in central, western, and southern Maine. It offers competitive local service in Verizon's service area in

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<sup>3</sup> As the Commission previously has held, lines served through unbundled network elements (including pre-assembled platforms of such elements) qualify as a competitor's own facilities for the purposes of the Track A requirements. See Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, Memorandum Opinion and Order, 12 FCC Rcd 20543, ¶ 101 (1997) ("Michigan Order"); Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, Memorandum Opinion and Order, 16 FCC Rcd 6237, ¶¶ 41-42 (2001) ("Kansas/Oklahoma Order").

Portland, Auburn, and Norway. See id. Att. 1 ¶ 22.<sup>4</sup> Verizon's facilities-based directory listings database indicates that Oxford has obtained approximately \*\*\* \*\*\* business and approximately \*\*\* \*\*\* residential directory listings. See id. Att. 1 ¶ 23.<sup>5</sup> In addition, Verizon has ported approximately \*\*\* \*\*\* numbers to Oxford as of the end of December 2001, providing further evidence that Oxford provides service either wholly or partially over its own facilities, including its own local switches. See Torre Decl. Att. 1 ¶ 23. Oxford does not appear to serve any customers in Maine through resale. See id.

**2. OneStar.** — OneStar provides local, long distance, high-speed data, and broadband services to commercial and residential customers. See id. Att. 1 ¶ 24.<sup>6</sup> In Maine, as of the end of December 2001, OneStar provided service to approximately \*\*\* \*\*\* business lines through UNE platforms and approximately \*\*\* \*\*\* lines — including approximately \*\*\* \*\*\* residential lines — through resale. See Torre Decl. Att. 1 ¶ 25.<sup>7</sup> Accordingly, it is clear that OneStar provides service predominantly over its own facilities, and that it is providing service to both business and residential subscribers.

Moreover, as both the Commission and the Department of Justice have recognized, it does not matter for purposes of Track A that OneStar appears to serve residential customers solely through resale. As the Commission has recognized, in order to qualify under Track A, a competing carrier need not provide “facilities-based telephone exchange services independently

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<sup>4</sup> Oxford's interconnection agreement with Verizon was approved in 2001. See App. H, Tab 4.

<sup>5</sup> Verizon has not relied on Oxford's E911 listings, because Oxford's incumbent E911 listings are indistinguishable from its CLEC E911 listings in Maine. See Torre Decl. Att. 1 ¶ 23.

<sup>6</sup> OneStar Press Release, OneStar Selects PurePacket Platform to Deliver Converged Local Access Services (Aug. 8, 2001).

<sup>7</sup> OneStar's interconnection agreement with Verizon was approved in 2002. See App. H, Tab 3.

to both business and residential subscribers.” Second Louisiana Order ¶¶ 46, 48.<sup>8</sup> On the contrary, it would not be “consistent with congressional intent to exclude a BOC from the in-region, interLATA market solely because the competitors’ service to residential customers is wholly through resale.” Id. ¶ 48. Indeed, if competitors could preclude a BOC from receiving section 271 approval simply by electing to provide residential service through resale it would make approval of an application contingent on “[f]actors beyond a BOC’s control” rather than on whether the BOC has complied with the checklist requirements, and would thereby frustrate the purposes of section 271. Massachusetts Order ¶ 235;<sup>9</sup> see Pennsylvania Order ¶ 126;<sup>10</sup> Kansas/Oklahoma Order ¶ 43 n.101.

Despite all this, some of the long distance carriers or others who have consciously chosen not to enter the residential market may try to argue that the number of facilities-based lines in Maine is not enough for Track A purposes. But the Commission has expressly refused to impose a market-share requirement (as did Congress before it) and has held that the Track A requirements are satisfied so long as the number of competing lines is not “*de minimis*.” See Sprint Communications Co. v. FCC, 274 F.3d 549, 562 (D.C. Cir. 2001) (upholding the

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<sup>8</sup> See Addendum to the Evaluation of the United States Department of Justice at 3, Application of SBC Communications Inc., Pursuant to Section 271 of the Telecommunications Act, as Amended, To Provide In-Region, InterLATA Services in Oklahoma, CC Docket No. 97-121 (FCC filed May 21, 1997) (“it does not matter whether the competitor reaches one class of customers — e.g., residential — only through resale, provided that the competitor’s local exchange services as a whole are provided ‘predominantly’ over its own facilities”); see also SBC Communications Inc. v. FCC, 138 F.3d 410, 416 (D.C. Cir. 1998) (Commission’s interpretation of “ambiguous” Track A receives Chevron deference).

<sup>9</sup> Application by Verizon New England Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order, 16 FCC Rcd 8988 (2001) (“Massachusetts Order”).

<sup>10</sup> Application of Verizon Pennsylvania Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania, Memorandum Opinion and Order, 16 FCC Rcd 17419 (2001) (“Pennsylvania Order”).

Commission's interpretation of Track A). And, based upon the Commission's own prior orders, that requirement is clearly satisfied.

*First*, the total number of facilities-based and residential lines in Maine is comparable to what the Commission has found acceptable in prior applications. Specifically, the total number of facilities-based lines in Maine is proportionally equivalent to approximately 72,000 facilities-based lines in Michigan, and the approximately 260 facilities-based residential lines in Maine are proportionally equivalent to approximately 480 facilities-based residential lines in Kansas, both of which are more than the number of competitive lines that the Commission found satisfied Track A in Michigan and Kansas.<sup>11</sup> See Michigan Order ¶¶ 65, 74 n.161, 78 (finding that approximately 22,000 total facilities-based lines and 6,000 residential lines satisfied Track A in Michigan where Ameritech served 5.5 million lines); see also Kansas/Oklahoma Order ¶ 41 (finding that Sprint was a qualifying carrier under Track A); Brief of the Federal Communications Commission at 41, Sprint Communications Co. v. FCC, Nos. 01-1076, et al. (D.C. Cir. filed June 14, 2001) (explaining that the "FCC's conclusion that Sprint qualifies as a competing provider of residential service under Track A" was based on the fact that, by the time SBC filed its application, "Sprint was 'actively marketing' its facilities-based residential service in Kansas, and it had already billed 56 of its 184 residential customers there"). Moreover, the number of facilities-based residential lines served by one of the individual Track A carriers described above also is proportionately equivalent to or greater than the number served by Sprint in Kansas.

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<sup>11</sup> In addition, the total number of residential lines in Maine is proportionally equivalent to more than 22,000 residential lines in Michigan, which is greater than the number of competitive lines that the Commission found satisfied Track A in that state. See Michigan Order ¶¶ 65, 74 n.161, 78 (finding that approximately 6,000 residential lines satisfied Track A in Michigan).

*Second*, for the purposes of qualifying under Track A, the only relevant question under the statute is whether a carrier is a “competing provider,” which the Commission has interpreted as a carrier that provides “an actual commercial alternative to the BOC.” See, e.g., Michigan Order ¶ 77; Oklahoma Order ¶ 14. There is no question that the carriers providing facilities-based and resale residential service in Maine meet that standard. For example, each appears to be actively offering service to substantial numbers of residential customers in Maine today. See Torre Decl. Att. 1 ¶¶ 22-25; Oklahoma Order ¶ 17 (for purposes of Track A, a CLEC becomes a “competing provider” if it moves “beyond the testing phase” and has “actually [entered] the market”). The two qualifying carriers here serve a total of approximately \*\*\* \*\* and \*\*\* \*\* lines, respectively, see Torre Decl. Att. 1 ¶¶ 22-25, which demonstrates that they have “actually entered the market,” to use the Commission’s words.

*Finally*, the claim that competitors serve only a *de minimis* number of facilities-based lines in Maine boils down to the shopworn argument that section 271 should be interpreted to include some kind of market-share test. As the Commission has held, however, there is no requirement under Track A “that a new entrant serve a specific market share . . . to be considered a ‘competing provider.’” Michigan Order ¶ 77. Indeed, both “the Senate and House each rejected language that would have imposed such a requirement.” Id.; see also Massachusetts Order ¶ 235. The relevant question under Track A is instead whether there is a carrier that is “in the market and operational (*i.e.*, accepting requests for service and providing such service for a fee).” Michigan Order ¶ 75; see also Massachusetts Order ¶ 225; Sprint, 274 F.3d at 562. And, as described above, the competitive carriers operating in Maine fit that description.

## II. VERIZON SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN MAINE.

Verizon unquestionably satisfies the requirements of the competitive checklist in Maine.

Verizon is making all 14 checklist items available under the legally binding obligations in its interconnection agreements and, in some cases, its tariffs. See Lacouture/Ruesterholz Decl. ¶ 5.<sup>12</sup> Moreover, Verizon is providing the checklist items in commercial quantities. For example, as of December 2001, in Maine, Verizon had provided approximately 10,400 interconnection trunks; 14,300 unbundled loops (including DSL loops and platforms); 38,800 resold lines; 21,900 directory listings; 34,000 ported numbers; and 90 in-service collocation arrangements. See Lacouture/Ruesterholz Decl. ¶¶ 12, 41, 79, 335, 376, 390; Brief Att. A, Ex. 1.

Verizon provides service to CLECs in Maine using the same operations support systems (“OSS”) that this Commission found to be checklist compliant in both Massachusetts and Rhode Island. See Massachusetts Order ¶¶ 50, 70, 90, 95, 97, 102; Rhode Island Order ¶¶ 58-71;<sup>13</sup> McLean/Wierzbicki/Webster Decl. ¶¶ 7, 13. Likewise, with only minor exceptions, Verizon provides each of the checklist items in Maine in the same manner and using the same processes and procedures that Verizon uses in Massachusetts and Rhode Island, where the Commission found that Verizon satisfies the requirements of the Act in all respects. See Lacouture/Ruesterholz Decl. ¶ 7; Massachusetts Order ¶ 1; Rhode Island Order ¶ 1. Since before divestiture, Verizon New England has served all of the New England states (Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) through a common set of operations support systems. See McLean/Wierzbicki/Webster Decl. ¶¶ 7, 13. With the

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<sup>12</sup> There currently is no ongoing litigation under 47 U.S.C. § 252(e)(6) that relates to these approved agreements.

<sup>13</sup> Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Rhode Island, Memorandum Opinion and Order, CC Docket No. 01-324, FCC 02-63 (rel. Feb. 22, 2002) (“Rhode Island Order”).

enactment of the 1996 Act, Verizon was required to develop new wholesale systems for use by competing carriers to obtain access to those OSS. See id. ¶ 13. Verizon developed a common set of interfaces and gateway systems across the entire footprint of the former Bell Atlantic (including the Verizon New England territory), and likewise implemented a common set of processes and procedures. See id. Indeed, this is not merely a case where the systems used in these states are the same (in the sense that they are copies of one another). In this case, as the Commission has already expressly found, the systems in Maine *are* the New England systems, which are the only systems used in Massachusetts, Rhode Island, New Hampshire, and Vermont. See Rhode Island Order ¶ 60 (“We conclude that Verizon . . . demonstrates that the OSS in Massachusetts are the same as the OSS in Rhode Island.”).

The significance of this is straightforward: It establishes a presumption that the manner in which Verizon provides the checklist items in Maine likewise meets the Act’s requirements. As the Commission has previously held, where an aspect of an applicant’s checklist showing is “materially indistinguishable” from a showing in another state, the Commission will use its prior determination “as a starting point for [its] review” and “review any new data or information” from the parties only “to determine whether a different result is justified.” First Louisiana Order ¶¶ 1, 3.<sup>14</sup>

Moreover, this presumption is buttressed by the findings of the Maine PUC. The PUC conducted a comprehensive investigation of Verizon’s checklist compliance that is entitled to maximum deference under the Commission’s well-settled precedent. See Maine PUC 271

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<sup>14</sup> See Application by BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 6245, ¶¶ 1, 3 (1998) (“First Louisiana Order”); see also Second Louisiana Order ¶ 56 (where BOC “provides access to a particular checklist item through a region-wide process, such as its OSS, [the Commission] will consider both region-wide and state specific evidence in [its] evaluation of that checklist item”).

Letter.<sup>15</sup> The formal docket in the PUC's section 271 proceeding has in fact seen submissions totaling thousands of pages from at least seven main parties other than Verizon; it involved three days of hearings, filling more than 600 pages of transcript. During the course of that proceeding, Lightship Telecom, a facilities-based competitor in Maine, agreed with Verizon "that Maine is a competitive, open market and that Verizon has met its obligation to establish the criteria set forth in the fourteen point Competitive Checklist."<sup>16</sup> Moreover, the PUC also relied on the extensive work that it performed in other dockets, including a proceeding to establish wholesale rates. Based on its extensive investigation, the PUC determined that Verizon "meets the statutory requirements of Section 271 relating to opening the local exchange and exchange access markets in Maine to competition." See Maine PUC 271 Letter at 1.<sup>17</sup>

As summarized below, the conclusions of the Maine PUC are supported by overwhelming evidence.

*First*, Verizon's actual performance in providing access to each of the 14 checklist items is excellent across the board. During the most recent three-month period for which data are

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<sup>15</sup> Letter from Dennis L. Keshl, Administrative Director, Maine PUC, to Edward Dinan, Verizon (Mar. 1, 2002) ("Maine PUC 271 Letter") (App. B, Tab 25); see, e.g., Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953, ¶ 51 (1999) ("New York Order") ("Given the 90-day statutory deadline to reach a decision on a section 271 application . . . where the state has conducted an exhaustive and rigorous investigation into the BOC's compliance with the checklist, we may give evidence submitted by the state substantial weight."); Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354, ¶ 4 (2000) ("Texas Order") (according state commission decision "substantial weight based on the totality of its efforts and the extent of expertise it has developed on section 271 issues").

<sup>16</sup> Declaration of Lightship Telecom, LLC ¶ 6, Docket No. 2000-849 (Maine PUC filed Dec. 13, 2001) (App. B, Tab 9).

<sup>17</sup> As discussed below, the PUC also required Verizon to take in the future certain steps that go beyond what the checklist requires. See Maine PUC 271 Letter at 1-3.

available, Verizon's performance in both Maine and Massachusetts (where volumes are substantially larger) has been excellent. From November 2001 through January 2002, Verizon completed on time at least 98 percent, and in many instances 99 percent or more of CLECs' interconnection trunks, physical collocation arrangements, unbundled loops (including stand-alone loops, hot cuts, platforms, and DSL-capable loops), and non-dispatch resale orders in both Maine and Massachusetts. See Lacouture/Ruesterholz Decl. ¶¶ 22-23, 43-44, 83-84, 103-104, 131-132, 212-213, 397-398.

*Second*, Verizon's systems have undergone independent third-party testing that Verizon passed with flying colors. Verizon's systems were tested by KPMG in Massachusetts, where the Commission found that such tests provided "persuasive evidence of Verizon's OSS readiness." Massachusetts Order ¶ 46; see McLean/Wierzbicki/Webster Decl. ¶ 17. KPMG also performed supplemental testing in Rhode Island, confirming that Verizon's Rhode Island and Massachusetts OSS are the same and that the performance of those systems continues to be excellent. See Rhode Island Order ¶¶ 59-60; McLean/Wierzbicki/Webster Decl. ¶ 18. In addition, Verizon's systems have been subject to an attestation audit by PwC, which verified that Verizon uses the same systems, processes, and procedures throughout Verizon's New England region. See McLean/Wierzbicki/Webster Decl. ¶ 11. Consistent with the Commission's prior holdings, the results of the KPMG tests in Massachusetts and Rhode Island therefore apply with equal force in Maine. See Kansas/Oklahoma Order ¶¶ 3, 107 (concluding that an attestation by Ernst & Young that the systems in Kansas and Oklahoma were the same as those used in Texas "provides reliable evidence that the OSS systems in Texas are relevant and should be considered in our evaluation of SWBT's OSS in Kansas and Oklahoma").

*Third*, Verizon reports its performance under measurements that “track Verizon’s performance on functions essential to an open, competitive local market.” Massachusetts Order ¶ 237; see Guerard/Canny/Abesamis Decl. ¶ 25. Indeed, Verizon uses measurements in Maine that, with minor exceptions, are identical to those used in Massachusetts, Rhode Island, and New York. See Guerard/Canny/Abesamis Decl. ¶¶ 13-14. Moreover, in Massachusetts and Rhode Island, KPMG had previously validated Verizon’s performance measurements, concluding that “Verizon appropriately and accurately captures and reports its performance metrics to CLECs each month.” Id. ¶ 70 (quoting Transcript of Technical Session at 3390, DTE 99-271 (Mass. DTE Aug. 29, 2000) (App. C, Tab 1)); see also id. ¶ 71; Massachusetts Order ¶¶ 44-46; Rhode Island Order ¶ 59 n.164. And PwC has verified that Verizon captures and reports its performance measurements the same way throughout the New England states. See Guerard/Canny/Abesamis Decl. ¶ 69.

*Finally*, Verizon is subject to a comprehensive Performance Assurance Plan in Maine that mirrors the plans in Massachusetts, Rhode Island, and New York. The Maine Plan places approximately \$29 million in remedy payments at risk annually, an amount that is proportionately the same as the amounts at risk in Massachusetts and New York, see id. ¶¶ 73, 78, and that the Commission has found provides “assurance that the local market will remain open after Verizon receives section 271 authorization,” Massachusetts Order ¶ 236. Consequently, this Plan provides added assurance that Verizon will continue to provide high-quality service to competing carriers.

Despite all this, competitors still will claim that this Application should be denied. Significantly, however, CLECs raised very few issues during the course of the state proceedings regarding Verizon’s compliance with the checklist. And the few issues they did raise already

have been addressed by the Maine PUC. In addition, CLECs raised a few complaints that were either individual carrier disputes that are not relevant to this proceeding or requests that Verizon be required to modify its checklist offerings in ways that go beyond the requirements of the Act.

In any event, the Commission repeatedly has made clear that it will evaluate a BOC's performance "based on the totality of the circumstances," and "an apparent disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with the checklist," Texas Order ¶ 58, if "the performance demonstrated by all the measurements as a whole" shows parity, Kansas/Oklahoma Order ¶ 32. Similarly, the fact that a measure may appear to reflect such a disparity does not necessarily mean that the applicant has not complied with the checklist if the disparity has "little or no competitive significance," or may be traced to CLEC behavior or other "factors outside of [the applicant's] control." New York Order ¶¶ 59, 202; see also Massachusetts Order ¶ 13 ("We may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, we may conclude that the differences are not meaningful in terms of statutory compliance."); Kansas/Oklahoma Order ¶ 32 ("We may also find that the reported performance data is impacted by factors beyond a BOC's control, a finding that would make us less likely to hold the BOC wholly accountable for the disparity.").

Applying these standards here, it is abundantly clear that the checklist requirements are satisfied.

**A. Interconnection (Checklist Item 1).**

Verizon provides the same forms of interconnection in Maine that it provides in Massachusetts and Rhode Island, and provides them using the same processes and procedures that it uses in those states. The Commission found that Verizon's provision of interconnection in Massachusetts and in Rhode Island satisfies the Act and the Commission's rules, and the same is

true here. See Massachusetts Order ¶¶ 182-193; Rhode Island Order ¶¶ 73-75. As in those two states, real-world experience in Maine proves that Verizon is able to meet the large and increasing demand for interconnection. And Verizon's performance in providing interconnection to CLECs in Massachusetts, where volumes are even higher than in Maine, also continues to be excellent.

**1. Interconnection Trunks.**

Verizon provides competing carriers in Maine with the same kinds of interconnection trunks that Verizon provides in Massachusetts and Rhode Island, and provides them using the same processes and procedures that it uses in those states. See Lacouture/Ruesterholz Decl. ¶ 11. In Massachusetts, the Commission found that Verizon's provision of interconnection to competing carriers was "equal in quality to the interconnection Verizon provides to its own retail operations, and on terms and conditions that are just, reasonable, and nondiscriminatory." Massachusetts Order ¶ 183. The Commission also found that Verizon "makes interconnection available at any technically feasible point," and that it therefore demonstrates checklist compliance. Id.<sup>18</sup> In Rhode Island, the Commission confirmed those findings. See Rhode Island Order ¶ 73. The same is true in Maine.

Through December 2001, Verizon has provided nine competing carriers with approximately 10,400 interconnection trunks in Maine. See Lacouture/Ruesterholz Decl. ¶ 12. This is about half the number of trunks Verizon has connecting its switches in the entirety of its

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<sup>18</sup> Verizon provides interconnection trunks under interconnection agreements. See Lacouture/Ruesterholz Decl. ¶ 11. Verizon provides interconnection to the trunk sides of end office and tandem switches, and to Verizon's signaling network, and provides both one-way and two-way trunks, 64 Kbps Clear Channel trunks, and traditional 56 Kbps trunks. See id. ¶ 17. Verizon also will accept requests from CLECs for interconnection at other technically feasible points. See id. ¶ 11.

own interoffice network in Maine. See id. Through these trunks, CLECs are exchanging an average of approximately 30 million minutes of traffic per month with Verizon. See id. ¶ 14.

Verizon provides interconnection trunks on time, even in the face of strong commercial demand. From November 2001 through January 2002, Verizon met the installation appointments for providing interconnection trunks to CLECs 100 percent of the time in Maine. See id. ¶ 22. In Massachusetts, Verizon also completed 100 percent of CLEC orders for interconnection trunks on time during those months. See id. ¶ 23.<sup>19</sup>

Verizon also has undertaken extraordinary efforts to accommodate the demand for interconnection trunks. For example, in 2000, Verizon added more than 5,100 trunk terminations in Maine, which increased by more than 70 percent the number of trunks between Verizon's network and CLEC networks in the state. See Lacouture/Ruesterholz Decl. ¶ 13. Verizon also continued to add new interconnection trunks in 2001. See id. ¶¶ 13, 22 Moreover, Verizon has adopted the same trunk forecasting process that it uses in Massachusetts and Rhode Island. See Lacouture/Ruesterholz Decl. ¶¶ 27-31. Finally, Verizon provides trunks to competing carriers that are of equal or better quality than those it provides to itself. See id. ¶¶ 32-33.

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<sup>19</sup> As the Commission has recognized, "the Carrier Working Group in New York has decided to eliminate the 'average interval completed' series of metrics" beginning with the November 2001 report month. Rhode Island Order ¶ 70; see Lacouture/Ruesterholz Decl. ¶ 24. As Verizon has explained previously, Verizon and CLECs agreed that these measurements were flawed and should be eliminated; based on their consensus proposal, the New York PSC issued an order eliminating these measurements from the Carrier-to-Carrier Performance Reports. See Lacouture/Ruesterholz Decl. ¶ 24. Accordingly, the Commission should focus on the missed appointment measurements instead, which the "Commission has given substantial weight . . . in previous section 271 applications." Rhode Island Order ¶ 70 ("we note that the 'average completed interval' metric, because of the way it is designed, may not be an accurate indicator of Verizon's provisioning performance"); Massachusetts Order ¶ 92 (finding that the average completed interval "data are not an accurate indicator of Verizon's performance").

## 2. Collocation.

Verizon provides competitors in Maine with the same forms of collocation as it provides in Massachusetts and Rhode Island, using the same processes and procedures. See id. ¶ 35. In Massachusetts, the Commission found that Verizon's collocation offerings "satisfy the requirements of sections 251 and 271 of the Act," and that Verizon has taken "steps necessary to implement the collocation requirements contained in the [Collocation Order] and the Collocation Reconsideration Order."<sup>20</sup> Massachusetts Order ¶ 194. Verizon also has modified its collocation offerings and processes since the Massachusetts Order to comply with the Collocation Remand Order,<sup>21</sup> and, in Rhode Island, the Commission determined that "Verizon's collocation offerings . . . satisfy the new requirements set forth in the Collocation Remand Order." Rhode Island Order ¶ 74; see Lacouture/Ruesterholz Decl. ¶ 35. The same is therefore true in Maine.

Through December 2001, Verizon has placed in service about 90 collocation arrangements in central offices located throughout Maine. See Lacouture/Ruesterholz Decl. ¶ 41. As in Massachusetts and Rhode Island, Verizon provides every form of collocation that is required by the Commission's rules.<sup>22</sup> *First*, in addition to standard physical arrangements,

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<sup>20</sup> Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 4761 (1999) ("Collocation Order"), vacated in part, GTE Serv. Corp. v. FCC, 205 F.3d 416 (D.C. Cir. 2000); Deployment of Wireline Services Offering Advanced Telecommunications Capability, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, 15 FCC Rcd 17806 (2000) ("Collocation Reconsideration Order").

<sup>21</sup> Deployment of Wireline Services Offering Advanced Telecommunications Capability, Fourth Report and Order, 16 FCC Rcd 15435 (2001) ("Collocation Remand Order"). On September 28, 2001, Verizon filed amendments to both its federal and state collocation tariffs to incorporate the requirements of that order. See Lacouture/Ruesterholz Decl. ¶¶ 53-54.

<sup>22</sup> As in Massachusetts and Rhode Island, Verizon charges CLECs in Maine for power based on the quantity of load amps they request rather than the quantity of fused amps. See Lacouture/Ruesterholz Decl. ¶ 73. CLECs in all three states may determine for themselves the quantity of load amps they desire for each feed. See id. The practices in Maine are the same as