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

In the Matter of	
Provision of Directory Listing Information Under the Communications Act of 1934, As Amended	CC Docket No. 99-273
The Use of N11 Codes and Other Abbreviated Dialing Arrangements	CC Docket No. 92-105
Administration of the North American Numbering Plan	CC Docket No. 92-237

COMMENTS OF VERIZON

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Summary

Verizon[1] urges the Commission to reject the Telegate proposal for presubscribing 411 dialing for directory assistance ("DA") services. The test the Commission should use to decide whether to require 411 presubscription is whether the incremental benefits of that requirement outweigh the incremental costs.[2] Given the already vigorous state of competition for DA services, the minimal benefits simply do not outweigh the huge costs of implementing 411 presubscription and the negative effect on state regulatory policies.

Competition in the Directory Assistance Market Is Vigorous. The Commission's Notice appears to be premised on the notion that LECs (and particularly ILECs) are the dominant providers of DA information, with the corollary assumption that 411 dialing is the reason for this

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[1] The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc., listed in Attachment A.

[2] Declaration of William E. Taylor and Harold Ware at 4, dated April 1, 2002 ("Taylor-Ware Dec.").

dominance. Both notions are incorrect. Even if one were to ignore the Internet and other competitive sources of listing information, the ILECs combined have less than 40 percent of the DA business, and the volume of calls to these services has been decreasing sharply in recent years. If one were to include other competitive sources of listing information in the analysis (as is the correct analysis), the ILEC share would be reduced to less than a quarter. And these other services have exploded into the marketplace in the last few years in spite of the existence of 411 dialing. No regulatory intervention is needed to inject competition into this market.

Competition is alive and well in the directory assistance market. Consumers can get DA information from a number of different sources. They can get it from their local exchange carrier — ILEC or CLEC — typically by dialing 411, though other dialing options may also be available. Consumers can pre-program their home phones and have "speed-dial" access to their DA provider of choice with the press of a *single* button. Business customers with PBXs or comparable equipment can easily bypass their local exchange carrier and route calls directly to their chosen DA provider by translating the 411 digits in their PBX to the number of their provider. Customers can dial 00 to reach their presubscribed interexchange carrier operator, who often provides DA services. And, of course, consumers and business customers can dial toll-free numbers to reach the DA services offered by various interexchange carriers and other providers.

These dial-up services are not the only options. Consumers can get telephone numbers and other information from a variety of other sources, including the Internet. Businesses often use CD-ROM directories in addition to various on-line options. And, of course, telephone numbers can also be found in printed directories. Thus, any incremental consumer benefits of 411 presubscription are almost non-existent.

There Are Huge Costs Associated with Telegate's Proposal. By contrast, the costs associated with 411 presubscription are quite substantial, both in terms of the need for new and upgraded facilities and the costs associated with operational changes. Verizon estimates that network upgrades, including addition of AIN and other necessary switch capabilities, and additions to its SS7 network would cost more than $190 million. On top of that would be the cost of modifying numerous operation support systems, an amount Verizon is still working to calculate. In the face of these real and substantial costs, presubscription should not be ordered in the absence of overwhelming consumer benefits, which plainly do not exist here.

Presubscription of 411 Services Threatens State Regulatory Policies. Today, 411 DA services are provided by certificated local exchange carriers. State regulation subjects these LEC services to various operational and pricing requirements in furtherance of each State's view of the public interest. For example, most states provide a "free call" allowance before consumers can be charged at all. If non-carriers displace LEC 411 services, it is unclear whether the State could impose these requirements on companies that have never been subject to such regulation. In any event, it is likely that these DA providers would only target selected geographic areas and market segments, such as business users where charging typically can begin immediately. To the extent this "cherry-picking" occurred, it would further saddle LECs — both ILECs and CLECs — with the costs of providing DA service to the consumers who use the service infrequently.

Requiring 411 Presubscription Is Beyond the Commission's Authority. DA is an intrastate service over which the Commission lacks jurisdiction. 411 presubscription does not fit with the Act's definition of "dialing parity." The Commission's jurisdiction over number administration would allow it to assign an N11 for access to DA (as the Commission has done), but that jurisdiction alone does not give it authority to require presubscription arrangements.

Finally, the general provisions of sections 201(b) and 202(a) do not apply to LEC access to DA services.

I. The Commission Lacks Authority To Require 411 Presubscription.

411 DA services have always been considered intrastate and are regulated by the States. This is because DA services were traditionally provided over intrastate facilities and, even where interstate facilities were involved, because they have been viewed as related to telephone exchange service and subject to State regulation.[3] It has been the States that have set the prices for 411 DA services and established the terms and conditions under which these services have been offered. The Commission, therefore, has no jurisdiction over the way the service is provided and may not require 411 presubscription any more than it could have required intrastate intraLATA presubscription before the 1996 Act.

The Notice suggests several sources of Commission jurisdiction to order 411 presubscription. None of them gives the Commission such authority.

The Notice first refers to the "dialing parity" obligation of section 251(b)(3).[4] That duty extends only to "competing providers of telephone exchange service and telephone toll service," a category that does not include firms like Telegate, which provides only DA service.[5] Moreover, the statute defines dialing parity in terms of allowing customers to use different "telecommunications services" without having to dial access codes,[6] and DA is not a

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[3] 47 U.S.C. § 221(b).

[4] Notice ¶ 7.

[5] See *InfoNXX, Inc. v. NYNEX*, 13 FCC Rcd 10288 ¶ 11 (1998).

[6] 47 U.S.C. § 153(15).

"telecommunications service" as that term is defined in the Act.[7] The dialing parity provision, therefore, gives the Commission no authority concerning access to DA services. Moreover, since the Act required the Commission to adopt regulations to implement this provision almost six years ago, the fact that the Commission did not include 411 presubscription in those rules indicates that it did not believe that the statute required it. Finally, the Commission concluded that the purpose of the dialing parity requirements was "to facilitate the *introduction* of competition in the local and toll markets."[8] Since the Commission has found that competition already exists in the DA marketplace, there is no need to "introduce" it, and 411 "dialing parity" would not further the goals of the 1996 Act.[9]

Nor does the requirement of section 251(b)(3) that LECs provide competing providers of telephone exchange service and telephone toll service "with nondiscriminatory access to

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[7] 47 U.S.C. § 153(46). The Commission has confirmed that the dialing parity obligation extends only to telecommunications services. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392 ¶ 29 (1996).

[8] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392 ¶ 25 (1996) (emphasis added).

[9] If 411 presubscription is a section 251(b)(3) obligation, then it is one that all LECs, not just ILECs, share. InfoNXX's suggestion that the obligation be placed on ILECs alone (see Notice ¶ 39) does not square with the statutory requirement. Its argument that a consumer choosing a CLEC for local service "purchases DA as a bundle of services that the CLEC offers" and that "the customer purchases DA in a competitive environment" (Notice ¶ 39) would apply equally to ILEC customers.

InfoNXX also suggests "that 411 presubscription should only apply to wireline carriers because only wireline carriers can be said to control the 411 dialing code." Notice ¶ 40. This is simply wrong, as wireless carriers control how 411 calls from their customers are routed in the same way that wireline carriers control 411 calls from their customers. It also argues for a wireless exemption on the grounds that "the wireless industry is already fully competitive." But even on the wireline side, 411 presubscription cannot be justified on the theory that it promotes telecommunications service competition. Verizon does, however, agree completely with InfoNXX's conclusion that "no principle of communications regulation or safeguarding competition supports extending 411 presubscription to wireless carriers" because 411 presubscription is simply a bad idea. Notice ¶ 40.

directory assistance"[10] provide this authority. 411 presubscription cannot be said to give "competing providers" access to the LEC's DA service, as it would be used to give customers of these "competing providers" access to *those providers'* services. Moreover, the 411 dialing arrangement is not itself "directory assistance" in any normal use of that term, any more than 911 dialing is itself the emergency response service. It is just one way — one way of many different ways — to reach the DA service. Nor is 411 access an "element of DA service," as the Notice suggests.[11] DA service — even LEC DA service — can be accessed in a number of ways, such as through network dialing (*e.g.*, 411, 555-1212, 0-, 00-, toll free numbers). The Act cannot require all LECs to provide competitors with these arrangements because they are somehow "elements of DA service."

Sections 201(b) and 202(a) do not provide a basis for the imposition of this requirement.[12] Section 201(b) makes unlawful any unjust or unreasonable practice in connection with interstate and foreign communication. Similarly, the nondiscrimination provisions of section 202(a) apply to "communication service," which 202(b) makes clear includes common carrier services, which section 3(10) limits to "interstate or foreign communication." DA service, or access to it, as offered by LECs through 411 and historically regulated solely by the States, is not an interstate or foreign communication subject to Commission jurisdiction.

Finally, the Notice asks whether the Commission may order 411 presubscription pursuant to its "plenary authority over numbering administration under section 251(e)(1) of the Act."[13]

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[10] Notice ¶ 8.

[11] Notice ¶ 9.

[12] Notice ¶ 10.

[13] Notice ¶ 11.

The answer is that it may not. Section 251(e)(2) does give the Commission authority to designate 411 for use to reach DA services. It does not, however, authorize the Commission to require carriers to provide 411 access or to regulate how they provide DA if they do. If the Commission's number administration authority gave it this sort of power to require intrastate dialing arrangements, it could have ordered intraLATA presubscription even before Congress added section 251(b)(3) to the law, something the Commission recognized that it could not do.[14]

II. 411 Presubscription Cannot Be Justified in the Name of Competition.

The DA marketplace is fully competitive today. Nothing more is needed from the Commission. Nor should (or may) the Commission adopt the Telegate proposal in an effort to increase competition in the local exchange business.

As a preliminary matter, the Commission asks whether there is any evidence that Congress intended the Commission to take steps to make the DA business, standing alone, more competitive.[15] There is not. The thrust of the Telecommunications Act was for the Commission to take the steps necessary to allow all carriers to provide a full range of telecommunications services. There is nothing to suggest that Congress was interested in stimulating non-carrier participation in this particular piece of the industry. This academic inquiry into undocumented Congressional intent is, in any event, largely beside the point, because the DA business is already competitive with active participation by both carriers and non-carriers.

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[14] See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 14171 ¶ 208 (1996).

[15] Notice ¶ 12.

A. The DA Business Is Fully Competitive Already.

The Notice seeks comment on the "current extent of competition in this market" and "whether LEC monopoly over the 411 dialing code for DA is an unreasonable barrier to other competitors that wish to enter the market" and about the "barriers to entry" into the retail DA market.[16] It further asks "whether the current level of competition in the DA market indicates that LEC control over the 411 dialing code is not, in fact, a barrier to competition."[17] The answers to these questions are simple — there is extensive competition in this marketplace, which proves conclusively that barriers to entry do not exist.[18] The answer to the Commission's inquiry whether it should have an additional role in this market[19] is that no additional role is necessary.

More than two years ago, the Commission noted,

> "Competition in the provision of operator services and directory assistance has existed since divestiture"[20] and
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> "Even requesting carriers advocating the unbundling of operator and directory assistance services acknowledge that there exists a substantial number of alternative providers of operator and directory assistance services."[21]

It then went on to:

> "find that the existence of multiple alternative providers of OS/DA service in the marketplace, coupled with evidence of competitors' decreasing reliance on incumbent OS/DA services, demonstrates that requesting carriers' ability to

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[16] Notice ¶¶ 13-14.

[17] Notice ¶ 14.

[18] See Taylor-Ware Dec. at 35-40 for a full discussion of the lack of entry barriers in this market.

[19] Notice ¶ 14.

[20] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696 ¶ 447 (1999) ("*UNE Remand Order*").

[21] *UNE Remand Order* ¶ 448.

> provide the services it seeks to offer is not materially diminished without access to the incumbent's OS/DA service on an unbundled basis."[22]

And to conclude:

> "The record demonstrates that a variety of alternative providers of OS/DA offer services at comparable cost and quality to those of the incumbents."[23]

These observations are even more true today.

The market for retail directory information is best viewed as being made up of traditional DA services offered by local exchange and interexchange carriers and non-carrier providers, as well as other services, including those available through the Internet. Even if only the traditional services are considered, the market is not dominated by the ILECs, and it is fully competitive. State commissions in numerous states have recognized this fact and declared ILEC DA services "competitive" under their regulatory regimes.[24]

The marketplace and the participants in it are described in detail in the accompanying Taylor-Ware declaration. This report concludes that DA services are already extremely competitive in the United States. In particular, it shows that numerous competitors already provide a number of directory services that compete with the LECs, without using 411 dialing — including telephone-based DA providers, directory publishers and providers of on-line and CD-ROM services. Further, there are no substantive barriers to entry. Moreover, the characteristics of the available substitutes make them, in many ways, superior to conventional LEC DA services. As a result, competitors have been growing rapidly, as LEC DA volumes have declined. The level and the nature of this competition demonstrates that 411 dialing is not

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22 *UNE Remand Order* ¶ 449.

23 *UNE Remand Order* ¶ 446.

24 Taylor-Ware Dec. at 39.

essential to successfully compete in the DA services marketplace and that the incremental benefits of presubscription to 411 services do not justify substantial incremental costs.

LEC 411 DA services have no monopoly. First, numerous long distance carriers and others compete to provide retail DA services in every state in competition with Verizon and other LECs. In fact, there are a minimum of three major firms that compete with Verizon in every one of its service areas to provide retail DA services to Verizon's local customers — AT&T, WorldCom and Sprint. These carriers provide both local and non-local DA listings for anywhere in the country through 00 dialing, [25] and the vast majority of LEC customers already have at their fingertips a competitive alternative to LEC DA services which can be dialed even more easily than 411. These carriers also provide access through other dialing arrangements; for example, AT&T DA services can also be obtained through 1-800-CALLATT, and WorldCom's DA service through 1010-9000 which WorldCom promotes as "the easy way to find a phone number." The fact that consumers use these services demonstrates that, as with the growth of dial-around calling, consumers who prefer a particular service provider have no difficulty using that provider's number to obtain desired services.[26]

Second, other service providers also offer directory assistance services,[27] and Verizon has experienced a number of competitive losses to such service providers. For example, InfoNXX provides a retail DA service for businesses called "InfoSave^sm for Corporations" that it advertises "will save your corporation money on Directory Assistance Calls." InfoNXX states on its web

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[25] Customers who are not presubscribed to these carriers may also dial "00" preceded by the carrier's access code to access that carrier's DA service.

[26] Taylor-Ware Dec. at 13-14.

[27] Taylor-Ware Dec. at 13-16.

site that "switching to InfoNXX is fast and simple" with 800 number access provided.[28] In addition, InfoNXX has announced a DA service to be reached by dialing 555-1818. InfoNXX is a relatively new entrant into the DA market, and its introduction of new services confirms that competition thrives. Similarly, other new service providers offer directory assistance services.

Third, many CLECs compete with ILEC DA services through their competitive service offerings that contain DA service. While some of these providers access ILEC DA services to serve respective customers, many others provide services themselves or use other firms.[29] In the former Bell Atlantic states alone, Verizon has more than 90 interconnection agreements with active facilities-based CLECs which provide DA services using their own DA platforms and call centers or using wholesale services not provided by Verizon.[30] Like the firms that provide such DA services, Telegate can, in addition to offering retail services, sell its DA capabilities to these CLECs for them to resell to their customers, providing another route for such providers to reach consumers.

Fourth, there are more than 130 million mobile wireless customers in the United States, and all of them have an additional choice for directory services, namely their wireless carrier, which they can typically reach by dialing 411. One study shows that wireless DA revenues already approach those of all the LECs — ILECs and CLECs — combined. Wireless DA volumes are growing at more than ten percent per year,[31] while the volume of LEC DA calls is declining at almost as rapid a rate.[32] Wireless DA services offer many useful features. For

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[28] http://www.infonxx.com/corpplus.html.

[29] Taylor-Ware Dec. at 16.

[30] Taylor-Ware Dec. at 15.

[31] Taylor-Ware Dec. at 17-18.

[32] Taylor-Ware Dec. at 28-29.

example, a service InfoNXX offers for wireless carriers provides Spanish language directory assistance, movie listings and show times, category searches, special event information, sports scores, reverse searches and weather conditions.[33] Similarly, MetroOne Telecommunications, another DA provider, provides enhanced DA services for several major wireless carriers, and it has been included in Fortune magazine's annual listing of America's fastest growing companies.[34] Thus, even if other substitutes were less desirable because they do not use 411 dialing (which is not the case), CLECs and wireless providers offer readily available and rapidly expanding ways to use 411 dialing to access DA services.

Finally, there are other sources of directory information that compete with traditional DA services, for example, printed directories, CD-ROMs and Internet services, which provide substantial additional data and search capabilities. These capabilities make them, in many ways, superior to conventional telephone DA services. For example, printed directories list businesses by category and provide information on those entries. Not surprisingly, one study shows that more people use printed telephone directories than used 411 to obtain directory listings and that more listings are obtained from printed directories than from any other source.[35] Another study reveals that respondents used printed directories almost five times more frequently than they used local DA service.[36] Electronic media offer even more search flexibility and business information. Wholesale DA providers are also providing specialized services to businesses and other large users of DA services.[37] Finally, many of these options, such as print directories and

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33 See Taylor-Ware Dec. at 18.

34 *Fortune's 100 Fastest-Growing Companies*, FORTUNE, Sept. 3, 2001.

35 Taylor-Ware Dec. at 19-20.

36 Taylor-Ware Dec. at 20-21.

37 See Taylor-Ware Dec. at 26-28.

various internet DA sources, are free. Thus, these substitutes may be perceived by customers as even more appealing than a 411-dialed service, even if they are not precisely the same. Their existence also constrains the ability of conventional DA service providers to raise their prices, indicating that they should be included in any DA market analysis.[38] Internet providers have also begun offering services through 800 numbers, such as AOL by Phone and Yahoo by Phone, that enable callers to obtain a variety of information and these competitors can readily include DA services creating further competition for 411 LEC services.

The effect of all this competition on the volume of traditional LEC DA business has been just what one would expect — it has plummeted. The Taylor-Ware declaration shows that Bell company DA volumes began declining — at an annual rate of more than 4 percent — in the first year after the Telecommunications Act, and that decline has increased to more than 10 percent per year after that. As a result of these market forces, the Taylor-Ware declaration concludes that the Bell companies together have less than 25 percent of the total DA business, a percentage that is significantly smaller than that of the other categories of wireline DA providers.[39] And that share will continue to decrease even without any additional action by the Commission.

Given the competition in this market — in which the Bell companies have a declining minority share — there can be little incremental competitive benefit from adopting 411 presubscription.

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[38] Taylor-Ware Dec. at 36.

[39] Taylor-Ware Dec. at 33.

B. There Is No Consumer Demand for This Arrangement.

In the more than two years since Telegate offered this proposal, there has been no groundswell of consumer demand for its implementation. In fact, Verizon has not seen any consumer support at all for the Telegate proposal.

This should not be surprising for several reasons. First, while telephone company 411 DA services are ubiquitously available, many customers never use them, and most use them only rarely. In one study, 24 percent of consumers reported they never used these DA services at all.[40] A study in Massachusetts revealed that 8.5 percent of the customers accounted for 60 percent of the Verizon DA calls.[41] At the same time, almost 62 percent of the customers made one or fewer DA call per month. Consumers are not going to press for more options — especially costly options — for services they use so rarely.

Second, State regulatory policies have generally ensured that ILECs provide DA services that are low priced and of high quality. While long distance companies and other providers typically charge a dollar or more for DA information, residence customer DA is free in one Verizon state,[42] costs thirty cents or less in seven states,[43] and between 31 and 50 cents in 15 others.[44] Many States allow consumers to make multiple free 411 DA calls before these low

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40 Taylor-Ware Dec. at 4.

41 To the extent these heavy users are businesses with PBX's, they can reroute their calls to the DA provider of their choice by putting a translation in their switch that routes 411 calls to their selected provider.

42 Ohio.

43 New Jersey, Maryland, North Carolina, Virginia, Idaho, Hawaii and Kentucky.

44 Massachusetts, California, Oregon, D.C., Connecticut, Illinois, Indiana, Maine, New Hampshire, South Carolina, New York, Florida, Michigan, Nevada, and Rhode Island.

rates kick in.[45] It is hard to see how consumers are suffering under this regime and easy to see why they are not clamoring for a change.

411 DA service is not only low priced, it is also high quality. Local telephone companies are typically required by state regulators to provide DA service all day, every day, and they are often subject to strict service quality standards (*e.g.*, speed of answer).

In many areas, then, it is hard to see how Telegate could, as a practical matter, be able to provide service to consumers generally — how could it compete with a service that is both free and high quality, even with 411 presubscription. Given this fact, it would appear that Telegate's real business interest in this country is in the relatively few large, business users of DA services — customers who are already able to take advantage of alternative sources. These customers can use Telegate's service today, as many enterprises, hospitals, universities and government agencies demonstrate, simply by re-programming their PBX's or by dialing an alternative to 411. If this is the marketplace that's really involved here, then the public benefit that is achieved by making it a little easier for these customers to use another DA service provider is far outweighed by the substantial costs involved.

Finally, many consumers really want packages of services, and they are unlikely to be interested in paying to have an additional method of choosing a separate DA provider.[46] And Telegate and other DA providers are aware of this, and they provide DA capabilities to carriers, which package them with their other services for sale to consumers.

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[45] For example, in Verizon territory, residence customers in Massachusetts and Hawaii get 10 free DA calls per month; Maryland 6; California, D.C., Rhode Island and New Hampshire, 5; New Jersey, 4; Virginia, Maine, Vermont, Texas, North Carolina, Missouri, Nevada, Michigan, Kentucky and Florida, 3, and Pennsylvania, West Virginia, Connecticut, Washington, South Carolina and Idaho, 2.

[46] Taylor-Ware Dec. at 42-45.

C. The Telegate Proposal May Not Be Justified as Promoting Competition in the Local Exchange Market.

The Notice asks "whether Commission efforts to promote competition in the DA market translate into competition in the local exchange market as well."[47] They do not. There is nothing to suggest that carriers use DA features or price to differentiate their local exchange service packages, nor is there anything to suggest that consumers choose their local exchange provider based at all on consideration of DA services.

But even if this were a competitive factor, 411 presubscription would not advance this competition since competitive carriers are already free to choose their own DA provider. This is because a local exchange carrier can already use 411 to give its customers access to its own DA service or to any other DA service the LEC selects. All local exchange service providers are free to choose a DA supplier in a competitive market. And, under the Commission's rules, local exchange competitors (as well as their directory assistance providers) already get all they need from the incumbents to allow them to provide DA service to their customers. 411 presubscription is, therefore, completely irrelevant to local service competition.

Finally, there is nothing at all the Commission need do to further promote local competition, because that competition is already flourishing. The Commission recently found:

> "Competitive local exchange carriers (CLECs) reported 17.3 million (or 9.0%) of the approximately 192 million nationwide switched access lines in service at the end of June 2001, compared to 14.9 million (or 7.7% of nationwide lines) at the end of the preceding year. This represents a 16% growth in CLEC market size during the first six months of 2001."[48]

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[47] Notice ¶ 12.

[48] Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, Local Telephone Competition: Status as of June 30, 2001 at 1, dated February 2002.

This trend has continued. In New York, competitors already serve 35 percent of all business lines in Verizon territory and 22 percent of all residence lines. Verizon estimates that competitors also have more than 20 percent of the business market in our territories in Pennsylvania, Massachusetts, Rhode Island, Virginia and Florida and more than 10 percent of the residence business in Pennsylvania, Rhode Island and Maine. Even if 411 presubscription could further advance local competition — which it plainly cannot — there is no lack of competition in that marketplace and no need for the Commission to take any additional steps.

C. The European Experience Is Irrelevant.

The Notice asks about the relevance of the documents submitted by Telegate about the experience in Europe.[49] These materials show a very different marketplace than the one that already exists in this country. As a result, the effects of European regulatory actions are irrelevant to the Commission's inquiry.

As the Taylor-Ware declaration explains, policy and market differences between the U.S. and the European countries mentioned in the Notice suggest that policies that may have been warranted to promote competition for DA services in European countries do not appear to be justified here. For example, the premise for Oftel's actions was the finding, "Consumers in the UK currently have no real choice over who provides directory enquiry (DQ) service." This is plainly not true in this country. In addition, Oftel's concerns about the lack of advanced services such as automatic call completion as well as lack of presubscription to toll carriers implies that Oftel's policy decision is based on conditions that do not pertain to the U.S.

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[49] Notice ¶ 16.

The Oftel documents show a market characterized by a low quality product, slow operator response time, very few value-added services (*e.g.*, call completion, category search and foreign languages) and low accuracy rates which led to misbillings of at least $300 million per year. New products and services were either not being introduced in a timely manner or not at all. Few DA alternatives existed for retail users. Some communities were not being served effectively by DA providers (*e.g.*, the Spanish-speaking community).

The market in this country is very different. DA services are generally of high quality, with higher accuracy rates and prompt operator response time. Call completion, category search and foreign languages services already exist. The existing providers are innovating — test marketing new features such as automated DA, locator services and concierge services.

Finally, it is important to note that even though the case for stimulating competition for DA services was much stronger in the European countries, none of those countries opted for presubscription to DA services. Thus, the relevant lesson from these countries, if there is one, is that the presubscription is too costly to justify the potential benefits, even where DA markets are much less competitive and innovative than in the US.

III. The Telegate Proposal Is Extremely Costly and Not in the Public Interest.

As shown above, 411 presubscription or other DA dialing changes are not necessary in order to create a competitive DA marketplace — that marketplace already exits. Any minimal benefit is far outweighed by the costs to implement that proposal, which are orders of magnitude greater than Telegate claims. Since 411 presubscription would have no collateral benefits in the local exchange or any other market and would impose substantial costs — both direct and indirect —the Commission should reject it.

A. The Telegate Proposal Involves Significant Costs.

Telegate claims that its proposal would be relatively inexpensive because the AIN infrastructure is already in place. Even if this were true — which it is not — 411 presubscription would still be a very costly undertaking. At least as to the former Bell Atlantic telephone companies, the basic AIN infrastructure was already largely in place in 1996 when the Commission ordered number portability, but that fact did not prevent number portability from costing those companies hundreds of millions of dollars. In fact, the cost to Verizon alone to implement 411 presubscription would be many times Telegate's estimate of the total investment to implement its proposed plan nationwide of less than \$23 million.[50] All in all, it would cost Verizon more than \$190 million to make the network modifications required to implement Telegate's proposal, plus the cost to modify numerous operations support systems, which Verizon is still working to quantify.[51]

Significant and costly changes would be required to implement the presubscription system Telegate proposes.

First, Telegate assumes that AIN capabilities to support its proposal are deployed ubiquitously throughout LEC networks.[52] This is not the case.

Verizon has 271 switches (205 DMS10's and 66 DCO's) that are not AIN capable (where we do not have the right to use AIN software). It would cost \$4.7 million to make the DMS10's AIN capable. The cost to upgrade an individual DCO would vary, depending on such factors as floor space and power requirements and facility availability. A recent Pennsylvania conversion

[50] See Notice ¶ 30.

[51] The Notice correctly rejects ballots as "complicated and extremely costly." Notice ¶ 38.

[52] See Notice ¶ 24.

of a DCO switch to provide AIN cost $275 per line. If this per-line rate is typical, it would cost more than $132,000,000 for all Verizon's 482,600 DCO lines. If a more conservative $200 per line is used, the cost comes to $96,500,000. Thus, it would cost roughly $101 million for Verizon to make these 271 switches AIN capable. After this is done, these switches would have to be AIN certified — the AIN infrastructure would have to be established for the office, including STP translations, triggers, features, announcements, testing etc — which costs $5,000 per switch, or another $1,355,000.

Verizon has 368 switches that are AIN capable (*i.e.*, where we own the right to use the manufacturer's AIN software), but which have not been AIN certified. At $5,000 per switch, this would total $1.84 million.

Other switch work would also be required depending on the final specifications for presubscription. One modification that seems likely is in the Nortel DMS100. If 411 calls are routed using a CIC with Feature Group D signaling, or if a number translation is performed on the 411 code by the AIN database, the DMS100's would require a feature for toll-denied lines when the number to which the DA call is to be delivered is a toll call for the caller. Without the feature, toll-denied customers would not be able to complete 411 calls. The cost from Nortel for the feature (and other prerequisite capabilities) is estimated at $84 million.

Therefore, Verizon's best estimate of the cost just to prepare its switches to provide 411 presubscription — installation and certification of AIN capabilities and certain other switch development work that has been identified — is roughly $190 million. Additional labor would be required to activate and verify the AIN trigger in every switch to implement the feature.

Second, Telegate's cost estimate ignores all the other work Verizon and other LECs would have to do to implement its proposal. Adding an additional presubscription option would require modifications in numerous Verizon operations support systems. These costs cannot be dismissed as "speculative," as Telegate urges.[53] The Commission has recognized the substantial costs of OSS modifications in other contexts and has correctly linked those costs directly to the projects that made them necessary. For example, the Commission accepted almost $108 million in OSS modification costs as part of Verizon's number portability costs that could be recovered through the Commission's number portability cost recovery mechanism. Verizon has not yet completed its analysis of the effect of 411 presubscription on these systems, but expects to have that work done in time for inclusion in its reply comments.

In addition, having to perform SS7 queries on all 411 calls would increase the load on Verizon's SS7 network — the SS7 databases (service control points), SS7 switches (signal transfer points) and transport facilities that connect them. Based on traffic data from Telegate's filings, Verizon calculates that it would need an additional SCP pair and new AIN software for 411 presubscription, at a cost of $2.2 million. New high speed SS7 links would be required to connect the new SCP pair to the STPs, costing approximately $1 million more.[54]

Moreover, Telegate's suggestion that this work can be done in six to nine months[55] has no basis in reality. Verizon would require at least 18 months from the time firm requirements were defined for implementation of switching and SCP infrastructure required for 411

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53 Notice ¶ 32.

54 If Telegate's estimate that 411 presubscription would cause a 2 percent incremental traffic load to the existing SS7 network at the local level is correct, then no major upgrade of SS7 link or switch capacity would be required. As discussed below, this load would double if LIDB were used to store the presubscription data.

55 See Notice ¶ 27.

presubscription in areas where existing switches have the necessary AIN features. Additional time could well be required for the OSSs.

The Notice asks whether the Commission should exempt non-AIN-capable switches from any 411 presubscription plan it might adopt.[56] Such an exemption would certainly reduce Verizon's estimated $190 million cost, but the project would still have a price tag of close to $90 million. That cost is still disproportionate to any consumer benefits.

As an alternative, Telegate proposes that switch manufacturers could develop new software for their central office switching systems to allow for distinct routing to preselected DA providers.[57] Verizon agrees with Telegate that this "would be costly and difficult to implement."[58] For all the reasons noted in the Notice,[59] distinct routing would not be a viable option for 411 presubscription.

The Notice asks for comment on the Illuminet proposal that the existing LIDB platform, with minor modifications, could be relied upon to implement 411 presubscription.[60] The LIDB platform could be used as the repository for the end user's DA provider of choice, but the LIDB is not an AIN database, and it cannot receive AIN queries from a switch or send back AIN instructions to it. If the LIDB stored the 411 presubscription information, the end office would have to query an AIN SCP, which in turn would have to get the necessary information from the LIDB, with a two-hop route back to the end office. These two extra messages would double the load that 411 presubscription would put on Verizon's SS7 network, potentially requiring

[56] Notice ¶ 26.

[57] See Notice ¶ 28.

[58] See Notice ¶ 28.

[59] Notice ¶ 28.

[60] Notice ¶ 29.

additional augmentations. For this reason, LIDB systems should not be a required part of any presubscription plan.[61]

1. An administrator would add more unnecessary costs.

The Notice asks "whether a third party administrator is actually necessary."[62] It is not, and it would make 411 presubscription, already a bad idea, even less attractive.

There is no need for an administrator to keep track of who is presubscribed to what DA provider. Telegate's proposal is like long distance presubscription, which requires no central administrator. It is very different from toll-free service administration, number portability and number pooling, which do. This is because it would be necessary to change only one carrier's network and systems in order to effect a customer's 411 DA presubscription choice — the network and systems of the customer's local exchange carrier. Customers or their selected DA providers would simply inform the LEC of the new provider, and the LEC would update its database. In contrast, toll-free service, number portability and number pooling require central administration because numerous carriers all need to get the same information at the same time in order for the service to work (information about how to route a toll-free call, that calls to an individual customer need to be delivered to a different switch and about the location of block of telephone numbers in the network).

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61 The Notice goes on to ask "who should maintain control over and administration of the LIDB platform in the event we decide to implement 411 presubscription." Notice ¶ 29. The carrier that owns the LIDB system and administers that system for all other purposes would also administer it for 411 presubscription information, just as LECs administer other presubscription today.

62 Notice ¶ 42.

There is also no need for an administrator "to ensure that the telephone numbers in the database are kept up to date,"[63] although it is easy to see why Telegate would want one (if it did not have to pay for it). Today, every exchange carrier keeps its customers' telephone numbers up to date. This works just fine. What Telegate seems to want is some central "administrator" to keep all the numbers from all the different LECs up to date in *Telegate's* database, freeing it from the bother of doing so. Verizon has no problem, of course, if Telegate wants to hire someone to do this work for it. Verizon would certainly have a problem if it were asked to pay for it.

B. Other Factors Weigh Heavily Against the Telegate Proposal.

If this straight-forward cost-benefit analysis were not enough to kill Telegate's proposal, there are other factors that weigh against this plan.

First, it interferes with State regulation. DA services have traditionally been regulated by the States, and the States have adopted a variety of policies relating to how they are provided. Included in these policies in many states is the requirement that consumers be able to make a certain number of DA calls at no charge. 411 presubscription to providers not currently regulated by the States would necessarily disrupt many of those policies. It is far from clear that the States would have the jurisdiction over such companies that provided DA through 411 access arrangements to enable them to continue these policies. And it is reasonable to expect that companies such as Telegate would vigorously fight any State's attempt to regulate their pricing and service standards.

It would be anticompetitive — and unfair to the LECs — if they continued to be subject to the State-imposed requirements (regulated prices, free-call allowances, service standards)

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[63] Notice ¶ 42.

while their competitors are not. This situation is bad enough today, but would be exacerbated under this proposal.

Second, 411 presubscription would create a new field of operation for slammers, with the inevitable complaints that would follow. Verizon's experience has been that the slammers move from one market to the next as new opportunities present themselves. While initially limited to interLATA toll services, slamming moved quickly into intraLATA toll and more recently into the local service arena. In fact, last year, Verizon handled 16 percent more slamming complaints relating to local service than for interLATA toll. Most of the slamming complaints would be directed to state commissions for resolution and would significantly add to the burdens on them. While hard to quantify, there is a very real indirect cost to consumers of increased slamming which adds to the balance against the Telegate proposal.

It is not at all clear that the existing statutory provisions would cover these slams. Section 258(a) of the Act makes it unlawful for a "telecommunications carrier" to make unauthorized changes in a subscriber's "provider of telephone exchange service or telephone toll service." Telegate and others like it are not "telecommunications carriers," and their DA-only services might not be "telephone exchange service or telephone toll service."

Third, 411 presubscription would produce other costs that consumers would ultimately bear. The Commission has correctly rejected a ballot/allocation scheme here. However, there would be massive costs to inform consumers of the new arrangement and to market DA services. Even if the only cost were a letter to each customer to announce the new option, the cost nationwide would be hundreds of millions of dollars. In addition, any significant change in dialing arrangements will generate large volumes of calls to telephone company business offices, and the costs those calls involve.

Fourth, there is the matter of cost recovery. If the Commission is going to impose a costly presubscription requirement, then presumably all the costs of implementing it are interstate costs (like the costs of number portability and thousands-block number pooling). Consumers generally benefited from number portability, and the Commission found that carriers benefited from pooling, and so it designed cost recovery systems that would shift the costs to those groups. In this case, there would be no logical basis to require carriers as a group to bear these costs (other than the theory that carriers benefit if callers can obtain telephone number information). Since millions of consumers never use DA at all — and therefore derive no benefit at all from DA presubscription — it would seem inequitable to make them pay for the privilege of presubscribing to a service they never use. The logical people to pay, of course, are Telegate and the other providers who want this new form of access, but one thing that has been missing in all Telegate's filings with the Commission is its undertaking to pay even a portion of the costs it identified, which are actually only the tip of the cost iceberg.

Finally, the Notice points out questions concerning billing and the pay-per-call rules that further complicate 411 presubscription.[64] As to billing, the Commission asks, "How should competing DA providers bill customers?"[65] The answer is through whatever arrangements they can make with firms that provide billing services.

The Commission should not — and may not — require LECs to bill for other DA providers. Local exchange carrier billing is not necessary "to keep the costs of implementation reasonable,"[66] any more than that billing is necessary for the viability of long distance, Internet

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64 Notice ¶¶ 36-37.

65 Notice ¶ 36.

66 Notice ¶ 36.

access, 900 or other telecommunications services. Over the past 16 years, the Commission has repeatedly found that LEC billing services are not "essential," that there are other providers which offer billing services and that this marketplace is competitive.[67] These findings were correct then and remain correct today.[68] Moreover, because the Commission has ruled that billing and collection are not common carrier services, it would lack the authority to require that they be provided or to regulate the prices or other terms of their provision.

Congress established the pay-per-call regime of section 228 of the Act to protect consumers. The statutory definition of pay-per-call services would have included calls to telephone company DA services. Congress did not want the new requirements of the law to apply to those services, so it explicitly exempted them — "directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate."[69] This exemption is not limited, as the Notice suggests,[70] just to traditional carrier DA services, but extends to all

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[67] In 1986, the Commission found that "there is sufficient competition" that there was no need to regulate LEC billing. This competition was from "credit card companies, collection agencies, service bureaus" and the billing customers themselves. *Detariffing of Billing and Collection Services*, 102 F.C.C.2d 1150 ¶ 37 (1986), *recon. denied*, 1 FCC Rcd 445 (1986). The record in that proceeding also showed that "there are no barriers to entry" and that "capital costs are relatively low." *Id*. In 1993, the Commission reiterated its conclusion that LEC billing services are competitive and found that competition for billing services for 900 information services "are open to even greater potential competition than the LEC billing and collection services, which the Commission found to be subject to competition in its *Detariffing Order*." *Audio Communications, Inc. Petition for a Declaratory Ruling that the 900 Service Guidelines of US Sprint Communications Co. Violate Sections 201(a) and 202(a) of the Communications Act*, 8 FCC Rcd 8697 ¶ 18 (1993).

[68] Billing a charge for a long distance call or a 900 information service is no different than billing a charge for a call to a DA provider. In each case, the service provider establishes a business relationship with the caller and can bill the caller itself or contract with third party billing agents.

[69] 47 U.S.C. § 228(i)(2).

[70] Notice ¶ 37.

carrier "directory services," including those offering enhanced features. However, because it is not a carrier, Telegate's DA service would not be exempted, and it would have to comply with section 228, including the requirement that its service be provided only through 900 dialing.[71]

IV. The Commission Should Not Adopt Any of the Other Arrangements Described in the Notice.

None of the other measures mentioned in the Notice should be required either, again because there is no problem that requires any regulatory intervention.

A. 411 Dialing Should Not Be Eliminated.

The Notice asks whether the Commission should eliminate 411 dialing.[72] The answer is a resounding "No." Not too long ago, the Commission found,

> "411 has long been assigned for access to local directory assistance services. Because directory assistance queries are often made while travelling away from one's regular residence or place of business, a short, easy-to-recall, uniform nationwide code would be very useful for obtaining telephone numbers. For these reasons, we find continued use of 411 to call local directory assistance services justified by public convenience and necessity."[73]

Nothing has happened to change the validity of this conclusion.[74]

Most users of directory assistance services, approximately 80 percent of them, use those services infrequently. The elimination of the well-known 411 access method would surely confuse those consumers.

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71 47 U.S.C. § 228(b)(5).

72 Notice ¶ 45.

73 *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, 12 FCC Rcd 5572 ¶ 47 (1997).

74 The Commission has rejected claims that a LEC's "use of the 411 or 1-411 code for the provision of nonlocal telephone numbers constitutes unjust or unreasonable discrimination." *Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, 14 FCC Rcd 16252 ¶ 43 (1999).

Elimination of 411 would also involve real costs. Ten of thousands — perhaps even millions — of calls would still be dialed to 411 and would have to be routed to special announcements. This costs money, both for the equipment to provide those announcements and the additional uncompensated network usage. Depending upon exactly what new DA access method the Commission adopted, the announcements might or might not be able to give the caller useful dialing instructions — it probably would not be practical to give callers a list of carrier codes, and it would not be particularly helpful to tell the callers that she needs to go a find a code to use. It is hard to believe that consumers, in whose name the Commission would presumably take this step, would be pleased with the elimination of 411.

B. National 555 Numbers Should Not Be Required.

The Notice seeks comment on MetroOne's recommendation that the Commission act to ensure that "national 555 numbers" are made available and activated promptly and that the rates for the services are nondiscriminatory and cost based.[75] Industry numbering guidelines define national 555 numbers as numbers that are "used in at least 30% of all NPAs or states or provinces in the NANP Area."[76] If a number is assigned nationally, it must be placed into service within 18 months.[77]

The Commission may, of course, designate some 555 numbers for use for DA services under its number administration authority. Verizon would have no objection to the Commission's doing so.[78] However, LEC arrangements for 555 dialing have been and continue

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[75] Notice ¶ 48.

[76] 555 NXX Assignment Guidelines § 3.1.1, INC 94-0429-002 (August 2001) *available at* http://www.atis.org/pub/clc/inc/94042902.doc.

[77] *Id.* § 4.8.

[78] See Notice ¶ 49.

to be intrastate and within the jurisdiction of the State commissions. These are the agencies that would oversee carrier rates and terms for these arrangements.

Industry bodies including the INC and NIIF have been working on 555 issues for several years. The issues are complicated, and no industry consensus has been reached that would allow these dialing arrangements to be ubiquitously deployed. Requirements would need to be developed to ensure consistent implementation, translation, routing, signaling, blocking, billing and ordering. Although there are guidelines for the assignment of 555 numbers, there are no guidelines for implementation of these numbers. While the NIIF "identifies potential technical service interconnection arrangements and dialing plans that could be used by providers of services using 555 line numbers,"[79] there has been no agreement about how to meet the requirements necessary to ubiquitously implement the service.

National 555 calling would presumably be provided through AIN, and its ubiquitous deployment would, therefore, involve many of the same costs as 411 presubscription.

It is not at all clear that these arrangements would enhance competition.[80] The marketplace effect would depend on whether any providers chose to use them and whether they actively promoted them to consumers. If they did, consumers might use them. But consumers are clearly already comfortable in using arrangements other than 411 to reach DA providers and already do so. Therefore, this costly additional dialing option would do little to stimulate competition.

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[79] 555 Technical Service Interconnection Arrangements at 2, ATIS/NIIF-012 *available at* www.atis.org/pub/clc/niif/docs/555tech.doc.

[80] Notice ¶ 48.

C. Access Could Be Provided Through Directory Assistance CACs.

If the Commission concludes, contrary to all the evidence, that the DA market is not competitive and that regulatory intervention is required, then it could authorize the assignment of carrier identification codes to, and the use of corresponding carrier access codes by, DA service providers. The infrastructure for delivering calls based on the dialed carrier access code ("CAC") is already in place, and LECs deliver calls on that basis today.[81]

This would require carrier identification codes to be assigned to every DA provider. As the Commission has recognized elsewhere, however, the unchecked assignment of CICs can present problems.[82] For example, there are limitations in the number of CICs that certain LEC switches can handle. DMS10 switches typically accommodate only 255 CICs[83] and a GTD5 switch only 500 CICs, and Verizon has hundreds of these switches in its network today. Additional switch development would be required in each one of these switches to handle the additional CICs that would likely be required to accommodate the new DA providers that would request them. The CIC capacity of the DCO has recently been increased from 255 to 2048, but it costs $30,000 per switch to make that upgrade.

D. 411XX Numbers Should Not Be Required.

The Notice seeks comment on the proposal of one company that the Commission establish a system in which a two- or three-digit suffix would be added to the 411 access code

81 See Notice ¶¶ 50-52.

82 *Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers,* 15 FCC Rcd 15996 ¶¶ 27-28 (2000).

83 A new generic software release can increase this to 512, at a cost of more than $100,000 per switch.

and every DA provider, including the ILECs, would be assigned its own 411XX code,[84] thus eliminating the existing use of 411. This is a bad idea for reasons that go beyond those stated above.

First, Verizon cannot provide this sort of dialing arrangement today, and we believe that it would require significant feature development for every type of switch used in Verizon's network. This proposed dialing scheme does not follow the NANP guidelines, as there are no other dialable five-digit numbers in use today. As a result, the switch digit analysis tables would likely require expansion (or new tables would have to be created and maintained) to accommodate these arrangements.[85] We have asked our suppliers for cost estimates and estimated delivery intervals for the necessary changes. Initial cost estimates are almost $20 million for the switches that are still being supported.[86] The suppliers also indicated that the delivery interval would depend on precisely when the Commission ordered this requirement, but Verizon's experience has been that this sort of development typically takes at least two-and-a-half years from order to deployment.

Second, adding XX to 411 dialing would allow for the participation of 100 DA providers. Given the number of local exchange carriers and interexchange carriers in the country, plus the number of non-carriers that might want to provide DA service, it would appear that a 411XX arrangement would be exhausted as soon as it was introduced. 411XXX or 411XXXX would

[84] Notice ¶ 53.

[85] These tables are currently configured for N11, seven-digit, and ten-digit entries.

[86] Lucent has stopped doing software development for the 1AESS switches that are still being used by Verizon.

almost certainly be required, which would effectively eliminate the convenience of "abbreviated dialing" for DA services.

For all the reasons given above, costs of this magnitude cannot be justified in light of the already competitive nature of this market.

Conclusion

The Telegate proposal is a solution to a problem that does not exist in this country. DA competition is already thriving. Consumers should not be saddled with hundreds of millions of dollars of unnecessary costs. The Commission should promptly close this inquiry.

Respectfully submitted,

________/S/_____________
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ATTACHMENT A

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.