

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

In the Matter of

Petition of Verizon For Forbearance From
The Prohibition Of Sharing Operating,
Installation and Maintenance Functions
Under Section 53.203(a)(2) Of the
Commission's Rules

CC Docket No. 96-149

COMMENTS

BellSouth Corporation, on behalf of itself and its wholly owned subsidiaries (collectively "BellSouth"), hereby submits these comments in support of the Petition for Forbearance ("Petition") filed by Verizon in the above-captioned proceeding. For the reasons set forth herein, BellSouth urges the Commission to grant Verizon's Petition and forbear from applying the Operation, Installation and Maintenance ("OI&M") restrictions to Verizon and all similarly situated Bell Operating Companies ("BOCs"), including BellSouth.

On August 5, 2002, Verizon¹ filed a Petition requesting that the Commission exercise its authority under Section 10(c) of the Communications Act of 1934, 47 U.S.C. § 160(c), to forbear from applying Section 53.203(a)(2) of its rules to Verizon with regard to the sharing of OI&M services. The Commission released a public notice seeking comment on Verizon's Petition.²

¹ The Verizon companies ("Verizon") are the affiliated local and long distance telephone companies of Verizon Communications Inc.

² See *Wireline Competition Bureau Seeks Comment on Verizon's Petition for Forbearance From the Prohibition of Sharing Operating, Installation and Maintenance Functions*, CC Docket No. 96-149, *Public Notice*, DA 02-1989 (rel. Aug. 9, 2002).

As Verizon convincingly demonstrates, the statutory test for forbearance is met: (1) enforcement of the OI&M prohibition is not necessary to ensure that charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of the OI&M restriction is not necessary to protect consumers; and (3) forbearance will serve the public interest.³ Accordingly, forbearance is warranted.

Moreover, forbearance is supported by the statutory language of Section 272. The plain language of Section 272 does not include a prohibition against the sharing of OI&M services. Although Section 272(b) explicitly requires a BOC and its affiliate to have separate officers, directors, and employees,⁴ the Act is silent on the sharing of services. Therefore, the sharing of services or contracting for services is fully permissible under the Act, provided that no employee of one entity is an employee of the other. Had Congress intended to prohibit the sharing of these services, it would have expressly stated so as it did in Section 274. In Section 274, which also prohibits common employees between the BOC and its electronic publishing affiliate, Congress included an express prohibition on the BOC “perform[ing] the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate.”⁵ No such restriction is included in Section 272. In the absence of an express prohibition against the sharing of OI&M services, there is a statutory presumption that such activities are permissible. This statutory presumption supports a grant of forbearance.

³ Verizon Petition at 8-10.

⁴ 47 U.S.C. § 272(b)(3).

⁵ 47 U.S.C. § 274(b)(7)(B).

In addition, as Verizon correctly points out, the OI&M restrictions impose unnecessary and duplicative costs on BOCs and their Section 272 affiliates. The OI&M sharing prohibition not only requires BOCs and their 272 affiliates to hire separate personnel to do essentially the same provisioning and maintenance work, but also requires the Section 272 affiliates to develop, maintain, and operate their own operations support systems (“OSS”) and to develop redundant network operating control systems and back office provisioning functions.⁶ Verizon estimates that compliance costs for these regulations alone will be as high as \$495 million through 2006.⁷

As Verizon makes so evidently clear, the costs of OI&M compliance far outweigh any benefits the rules may confer on the public interest. In fact, the current OI&M restrictions are unnecessary to guard against the cross-subsidization of long distance services. The Commission has adequate cost allocation and cross subsidization safeguards in place that govern the sharing of finance, human resources, legal and accounting services among the BOCs and their affiliated companies. BellSouth agrees with Verizon that there is no fundamental difference between the cost allocations necessary to monitor the sharing of OI&M services and the cost allocation requirements applied to administrative and other services for which sharing is permitted between a BOC and its Section 272 affiliate.⁸ In addition, the nondiscrimination safeguards of Sections 202, 251 and 272 of the Telecommunications Act would continue to apply.

⁶ Verizon Petition at 3.

⁷ Verizon Petition at 3-4; *see also* Declaration of Fred Howard (Attachment to Petition) at 3. Unlike BellSouth, which just recently began providing interLATA telecommunications services through its Section 272 affiliate, BellSouth Long Distance (“BSLD”), Verizon has had nearly three years of experience in establishing and running its section 272 affiliate. Thus, Verizon is better able to estimate the full costs of complying with the OI&M regulations. Nevertheless, BellSouth is beginning to feel the accumulated costs of the OI&M requirements.

⁸ *See* Verizon Petition at 4

Moreover, by their very nature, the OI&M restrictions impose substantial marketing and provisioning handicaps on the BOCs. BellSouth and the other BOCs cannot offer an integrated service platform of local, long distance, and broadband services to their large business customers in the same way as their large competitors such as MCI and AT&T. Due to the current OI&M restrictions, BellSouth cannot provide seamless end-to-end service to its customers, thereby placing it at a competitive disadvantage. Additionally, due to the duplication in maintenance personnel and OSS provisioning, the BOCs incur additional costs to which other large integrated providers are not subject.

For the reasons stated above, the Commission should forbear from applying Section 53.203(a)(2) of its rules to Verizon and the other BOCs with regard to the sharing of OI&M services.

Respectfully submitted,

BELLSOUTH CORPORATION

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Date: September 9, 2002

CERTIFICATE OF SERVICE

I do hereby certify that I have this 9th day of September 2002 served the following parties to this action with a copy of the foregoing **COMMENTS** by electronic filing and/or by placing a copy of the same in the United States Mail, addressed to the parties listed below.

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