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BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: WC Docket No. 02-157, *Application by Verizon New England Inc., Verizon Delaware 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 New Hampshire and Delaware*

Dear Ms. Dortch:

AT&T Corp. ("AT&T") respectfully submits this notice of an *ex parte* telephone conference call yesterday among five representatives of AT&T (Amy L. Alvarez, David M. Levy, Michael Lieberman, Brian F. Pitkin and James J. Talbot) and four members of the Commission's Office of General Counsel (Andrea Kearney, Linda Kinney, John Rogovin and Debra Weiner). The subject of the call was the relevance of the failure of Verizon's switching UNE prices in New Hampshire to satisfy a cost-adjusted benchmark comparison with Verizon's switching UNE prices in New York. During the call, AT&T made the following points:

- In the circumstances of this case, the Commission's failure to examine whether Verizon's switching UNE prices in New Hampshire were set in compliance with TELRIC would be reversible error. 47 U.S.C. §§ 252(d)(1), 271(c)(2)(B)(ii) and 271(c)(2)(B)(vi) collectively require that prices for each UNE supplied by Verizon, including unbundled switching, individually satisfy the TELRIC standard. The Commission's evidentiary shortcuts of accepting (1) rate benchmark analyses as a substitute for a direct inquiry into the TELRIC-compliance of UNE prices and (2) rate benchmarking of loop and nonloop prices in the aggregate rather than individually may be reasonable in many circumstances. Where, however, a party has introduced credible evidence that these procedural shortcuts may be obscuring a significant TELRIC violation for one or more individual elements—as AT&T has done here—the Commission has an obligation to scrutinize the TELRIC compliance of those elements individually.

- Verizon's claim that a switching-specific benchmarking analysis violates the Commission's light-handed standard of review of state UNE pricing decisions confuses the appropriate standard of *deference* toward state commission decisions with the appropriate level of *disaggregation* at which the Commission's review, whether deferential or not, must be applied.

- There is no basis for dismissing the issue of switching-only benchmarking as moot (or on grounds of standing) merely because few if any CLECs now purchase switching separately from transport. The flaw in the Synthesis Model identified by AT&T—a tendency to overstate transport costs, and to overstate them more in states with lower population density—exaggerates relative costs in lower density states, and understates their cost-adjusted rates, for *the non-loop elements in the aggregate*, not just switching alone. A benchmark analysis of aggregate nonloop costs that relies on Synthesis Model data on the cost differences vis-à-vis New York allows Verizon to inflate the cost of competitive entry in states with lower population densities *even for CLECs that never buy switching separately from the other nonloop elements*.

- The extent to which CLECs currently buy switching separately from other non-loop UNEs is irrelevant for a second and independent reason: foreseeable changes in technology or industry economics could very well make the purchase of switching-only UNEs a viable strategy for competitive entry. This development is likely to be thwarted, however, if the Commission fails to ensure that switching is priced at TELRIC-compliant levels. Hence, a determination that the separate price of switching is unimportant because CLECs are likely to continue buying switching only in combination with other nonloop elements would be a self-fulfilling prophecy. The Commission should refrain from trying to guess or handicap the future evolution of the optimal pathway for competitive entry, and should instead simply ensure compliance with the statute.

- The notion that switching-only benchmarking is meaningless because state commissions often differ in determining how to allocate costs that are common to switching and other nonloop elements rests is also unfounded. AT&T's benchmark analysis of Verizon's switching prices including the rates and costs of *all* the other nonloop elements that arguably have costs in common with switching.

- Verizon's claim that AT&T's position would open up a Pandora's box by requiring the Commission to evaluate benchmark analyses for a myriad of combinations of UNEs is an attack on a straw man. AT&T is proposing to add *one* additional benchmark analysis to the two already recognized by the Commission. That one addition is hardly unreasonable: switching is the costliest component of the UNE platform after loops. If and when any other party proposes some other subset of elements for separate benchmarking—a possibility that is purely hypothetical—the Commission can decide then whether the element is significant enough to justify the litigation costs of the benchmarking.

- Verizon's claim that the Synthesis Model tends to understate switching costs in rural areas is a gross distortion of the record. Small rural carriers tend to have higher switching costs not because they are rural, but because they are small, and therefore lack the bargaining leverage to negotiate the discounted equipment prices that a giant RBOC like Verizon can obtain by purchasing on a companywide scale. Verizon has offered no evidence that it pays more for a given configuration of switching equipment it deploys in rural areas than for the same configuration when deployed in urban areas. Moreover, while the dispersion of wire centers and the usage of remote switches may be greater in rural areas, those relationships are fully reflected in the Synthesis Model runs submitted by AT&T here, which assumed that an efficient new entrant would replicate Verizon's embedded network in these respects.

- Equally unfounded is Verizon's claim that AT&T's criticism of the transport cost module of the Synthesis Model is at odds with AT&T's past support for the model. AT&T has made clear in UNE rate litigation that it regards the transport module overstates true forward-looking costs. Indeed, in the Virginia UNE rate arbitration pending before the Commission, AT&T's runs of the Synthesis Model produced transport cost estimates that were several times higher than those obtained by Verizon with its own cost model.

- Finally, Verizon's assertion that its cost-adjusted rates for switching usage are only slightly higher in New Hampshire than in New York is flagrantly selective. AT&T's benchmark analysis included the switch port and signaling as well as switching usage. For *that* combination of UNEs, the price of Verizon switching in New Hampshire rate exceeds the price in New York, on a cost-adjusted basis, by $1.00 per month.

Please let me know if you have any questions. The 20-page limit does not apply.

Sincerely,

/s/ David M. Levy
David M. Levy

cc: Matthew Brill, Jordan Goldstein, Daniel Gonzalez, Andrea Kearney, Linda Kinney, Christopher Libertelli, Gary Remondino, John Rogovin, Victoria Schlesinger, Henry Thaggert, Debra Weiner, Tracey Wilson