



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

RECEIVED & INSPECTED
SEP - 6 2002
FCC - MAILROOM

Public Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 02-2153
September 4, 2002

COMMENTS REQUESTED IN CONNECTION WITH VERIZON'S SECTION 271 JOINT APPLICATION FOR NEW HAMPSHIRE AND DELAWARE

WC Docket No. 02-157

Comments Due: September 10, 2002

On August 30, 2002, the Commission received the attached written *ex parte* presentation from Verizon in the above-referenced docket proposing a significant reduction in Verizon's Delaware switching rates. In the course of this proceeding, the parties have raised concerns regarding Verizon's Delaware switching rates and whether they fall within a reasonable TELRIC range. Verizon relied in its application on the Delaware Public Service Commission's proceeding adopting Verizon's switching rates, and on a federal district court decision finding that the rates satisfied the TELRIC standard.¹ During the course of this proceeding, Verizon volunteered to reduce its switching rates, "to eliminate any possible argument that these rates exceed the TELRIC range."² According to Verizon, these reduced rates are effective immediately. Verizon now relies on these reduced switching rates as evidence to demonstrate that its aggregate non-loop rates, which include switching rates, pass a benchmark comparison to New York non-loop rates, and, therefore, fall within a reasonable TELRIC range. We now seek comment on whether these reduced rates fall within the range that reasonable application of TELRIC principles would produce. We have established a short comment period due to the imminent deadline for ruling on Verizon's application.

Without deciding what reliance, if any, the Commission will place on Verizon's supplemental evidence, the Commission encourages interested parties to respond to this evidence. We emphasize that this Public Notice does not represent a decision about whether we will accord any weight to the supplemental evidence. The Commission expects that a section 271 application, as originally filed, will include all of the factual evidence on which the applicant

¹ Verizon Application at 64-68 & Appen. A, Vol. 5, Joint Declaration of Joshua W. Martin, II, Patrick A. Garzillo, and Gary Sanford at 4-10, paras. 15-29.

² Attached *ex parte* presentation at 1.

would have the Commission rely in making its determination.³ If parties in a section 271 proceeding choose to submit new evidence, however, the Commission retains the discretion to waive its procedural rules and consider the evidence,⁴ to start the 90-day review process anew, or to accord such evidence no weight.⁵

Comments By Interested Third Parties. Pursuant to our procedures governing section 271 applications⁶ and sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on such information. Comments must be filed by **September 10, 2002**. All such filings shall refer to the Commission docket number, **WC Docket No. 02-157**. Comments and replies may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. To get further instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

If a party chooses to file comments or replies by paper, an original and four copies must be sent to Marlene H. Dortch, Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, CY-B402, Washington, D.C., 20554. Fifteen additional paper copies of each comment and reply must be delivered to Janice Myles, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C327, Washington, D.C., 20554. One copy of each paper comment and reply must be sent to the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554.

³ See *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/ b/ a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6247-50, paras. 21-27 (2001), *aff'd in part, remanded in part sub nom. Sprint Communications Co. v. FCC*, 274 F. 3d 549 (D.C. Cir. 2001) (*SWBT Kansas/ Oklahoma Order*); *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, 20570, para. 49 (1997) (*Ameritech Michigan Order*); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001).

⁴ See 47 C.F.R. § 1.3.

⁵ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6247-50, paras. 21-27; *Ameritech Michigan Order*, 12 FCC Rcd at 20571-76, paras. 49-59; *Application of 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, 3968-69, paras. 34-37 (1999).

⁶ See 271 Procedural Public Notices.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com.

If you are sending this type of document or using this delivery method...	It should be addressed for delivery to...
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 a.m. to 7:00 p.m.)
Commercial overnight mail (other than United States Postal Service Express Mail and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12 th Street, SW Washington, DC 20554

Parties are strongly encouraged to file comments and replies electronically using the Commission's Electronic Comment Filing System (ECFS). Parties are also requested to send a courtesy copy of their comments and replies via email to: gremondi@fcc.gov; twilson@fcc.gov, hthagger@fcc.gov, vschlesi@fcc.gov, laura.starling@usdoj.gov, Benjamin.brown2@usdoj.gov, david.arulanantham@usdoj.gov, connie.mcdowell@state.de.us, bjackson@puc.state.nh.us, tgetz@puc.state.nh.us, and qualexint@aol.com.

Wireline Competition Bureau Contacts: Henry Thaggert (202) 418-7941

- FCC -



Richard T. Ellis
Director – Federal Affairs

1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 515-2534
(202) 336-7866 (fax)

August 30, 2002

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th H Street, SW, Portals
Washington, DC 20554

Re: Joint Application by Verizon for Authorization To Provide In-Region, InterLATA Services in States of Delaware and New Hampshire, Docket No. 02-157

Dear Ms. Dortch:

Verizon has previously demonstrated in its application in this proceeding that Verizon has satisfied the requirements of Section 271 of the Act, and the Delaware commission has agreed based on the results of its own extensive investigations. Likewise, the United States Department of Justice recommends approval. As Verizon also previously demonstrated, the Delaware commission has adopted a full suite of rates for unbundled elements that it has concluded are TELRIC-compliant. Consequently, the voluntary measure that Verizon is implementing, as described below, is not in any way necessary to demonstrate compliance with Section 271, other sections of the Act, or the Federal Communications Commission's rules.

Nonetheless, because an issue has been raised regarding the level of Verizon's non-loop rates, Verizon is voluntarily modifying its unbundled switching rates in Delaware to eliminate any possible argument that these rates exceed the TELRIC range. Specifically, Verizon is reducing its originating unbundled switching rate from \$.003634 to \$.002507, and its terminating unbundled switching rate from \$.001927 to \$.001330.

As indicated in the attached letter to the Delaware commission, the new switching rates are applicable to all CLECs operating in Delaware, and will remain in effect until the Delaware commission otherwise modifies the rate. See Attachment 1. These rate reductions are effective immediately. Additionally, Verizon notified CLECs of the new switching rates today by email via the normal change management process.

As the chart in Attachment 2 demonstrates, with these rate reductions, the Delaware non-loop rates benchmark to the New York non-loop rates using the FCC's USF Model. Specifically, the relative level of non-loop costs in Delaware, as determined by the FCC's USF model, are 11 percent more than the cost level in New York, while the statewide average non-loop rate for Delaware is also 11 percent higher than the statewide non-loop rates in New York. This analysis uses state-specific assumptions, including DEM minutes of use, as outlined in Attachment 3 to the *Martin/Garzillo/Sanford Decl.*

Because the reduced Delaware switching rates result in the Delaware non-loop rates benchmarking to the New York non-loop rates, which the long distance carriers have repeatedly championed, there should be no question that the Delaware non-loop rates are within the range that a reasonable application of TELRIC would produce.

Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 02-1497.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Telli". The signature is written in a cursive, slightly slanted style.

cc: H. Thaggert
V. Schlesinger
G. Remondino
T. Wilson

ATTACHMENT 1

ATTACHMENT 2

State	Statewide Model Non-Loop Cost	Statewide Average Non-Loop Rate	Cost Ratio to New York	Rate Ratio to New York	Compliant?
NY	\$3.50	\$5.63	100%	100%	-
DE	\$3.87	\$6.23	111%	111%	Yes



Richard T. Ellis
Director – Federal Affairs

1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 515-2534
(202) 336-7866 (fax)

August 30, 2002

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th H Street, SW, Portals
Washington, DC 20554

Re: Joint Application by Verizon for Authorization To Provide In-Region, InterLATA Services in States of Delaware and New Hampshire, Docket No. 02-157

Dear Ms. Dortch:

On August 29, 2002 Don Evans, Michael Glover, Dee May and Karen Zacharia met with Scott Bergman, Jeff Carlisle, Andrea Kearney, Rich Lerner, William Maher, Thomas Navin, Deena Shetler, Victoria Schlesinger, and Debra Weiner of the Commission to discuss pricing-related issues currently on the record of the above cited proceeding.

Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 02-1497.

Sincerely,

A handwritten signature in cursive script that reads "Richard T. Ellis".

cc: H. Thaggert
V. Schlesinger
G. Remondino
T. Wilson

Julia A. Conover
Vice President and General Counsel-Delaware
901 Tatnall Street
2nd Floor
Wilmington, DE 19801
Tel. 215-963-6001
Fax 215-563-2658



August 30, 2002

Via Hand Delivery
Ms. Karen Nickerson
Commission Secretary
Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19904

**Re: In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance
With the Conditions Set Forth in 47 U.S.C. § 271(c), Docket No. 02-001**

Dear Ms. Nickerson:

In Phase I of its proceeding setting rates for Verizon Delaware Inc.'s (Verizon DE's) Unbundled Network Elements, the Commission adopted rates for unbundled switching using the TELRIC methodology.¹ Certain parties have raised concerns about Verizon DE's switching rates in the proceeding before the Federal Communications Commission to consider Verizon's application for long distance authority in Delaware.

While Verizon DE continues to believe that its UNE switching rates are TELRIC-compliant, in order to resolve those concerns, Verizon DE is reducing its unbundled switching rates 31%. Specifically, Verizon is reducing its originating unbundled switching rate from \$.003634 to \$.002507 and its terminating unbundled switching rate from \$.001927 to \$.001330. These rate reductions will be effective immediately.

These new switching rates will be applicable to all CLECs operating in Delaware and shall remain in effect until the Commission otherwise modifies the rates.

All CLECs will be notified of this change by a change management notice that will be distributed via E-MAIL.

¹*In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of Its Statement of Terms and Conditions under Section 252(f) Of The Telecommunications Act of 1996*, PSC Docket No. 96-324, Findings, Opinion and Order No. 4542, dated July 8, 1997 ("Phase I Order"). This portion of the Commission's Phase I was affirmed on appeal by the United States District Court for the District of Delaware. *Bell Atlantic-Delaware, Inc. v. McMahon*, 80 F. Supp. 2d 218 (D. Del. 2000).

Please do not hesitate to contact the undersigned should the Commission require further information about this matter.

Very truly yours,

Julia A. Conover

JAC/meb
Enc.

cc: Via E-Mail and UPS Overnight Delivery
Attached Certificate of Service

CERTIFICATE OF SERVICE
PSC Docket No. 02-001

I, Julia A. Conover, Esquire, hereby certify that I have on this day served Verizon Delaware Inc.'s letter to Karen Nickerson, Commission Secretary, upon the participants below.

Dated at Philadelphia, Pennsylvania, this 30th day of August, 2002.

Via Electronic Mail and UPS Overnight Delivery

Hearing Examiner

*William F. O'Brien
Delaware Public Service Commission
861 Silver Lake Blvd.
Suite 100
Dover, DE 19904
Telephone: 302-739-3232
Facsimile: 302-739-5258

Consultant To The Hearing Examiner

John Antonuk
The Liberty Consulting Group
P. O. Box 237
65 Main Street
Quentin, PA 17083
Telephone: 717-270-4500
Facsimile: 717-270-0555

Staff Case Manager

*Patricia A. Stowell
Delaware Public Service Commission
861 Silver Lake Blvd.
Cannon Bldg., Suite 100
Dover, DE 19904
Telephone: 302-739-3227 Ext. 10
Facsimile: 302-739-4849

Division Of The Public Advocate

*G. Arthur Padmore
Division of the Public Advocate
820 N. French Street, 4th Floor
Wilmington, DE 19801
Telephone: 302-577-5077
Facsimile: 302-577-3297

Staff Counsel

*Gary A. Myers, Esq.
Delaware Public Service Commission
861 Silver Lake Blvd.
Suite 100
Dover, DE 19904
Telephone: 302-739-4247
Facsimile: 302-739-4849

Court Reporter

Corbett & Associates
1400 French Street
Wilmington, DE 19801
Telephone: 302-571-0510
Facsimile: 302-571-1321

Public Advocate's Consultant

Ralph Smith
Larkin & Associates
15728 Fannington Road
Livonia, MI 48154
Telephone: 734-522-3420
Facsimile: 734-522-1410

AT&T Comm. Of Delaware, Inc.

Wendie C. Stabler, Esquire
Saul, Ewing, Remick & Saul
Post Office Box 1266
Wilmington, DE 19899-1266
Telephone: 302-421-6865
Facsimile: 302-421-6813

Cable Telecomm. Assoc.
Of Md. De & Dc
John Conwell
Cable Telecommunications
Assoc. of MD, DE & DC
2530 Riva Road, Suite 316
Annapolis, MD 21401
Telephone: 410-266-9111
Facsimile: 410-266-6133

Wayne O'Dell, President
Cable Telecommunications
Assoc. of MD, DE & DC
2350 Riva Road, Suite 316
Annapolis, MD 21401
Telephone: 410-266-9111
Facsimile: 410-266-6133

AT&T
Michael A. McRae, Esq.
AT&T Communications of Delaware, Inc.
3033 Chain Bridge Road, 3rd Floor
Oakton, VA 22185
Telephone: 703-691-6047
Facsimile: 703-263-2698

Sprint Comm. Company, L.P.
Jennifer A. Duane, Esquire
Sprint Communications Company, L.P.
401 9th Street, NW, Suite 400
Washington, DC 20036
Telephone: 202-585-1937
Facsimile: 202-585-1894

Andrew O. Isar
Dena Alo-Colbeck, Esq.
Association of Communications Enterprises
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335
Telephone: 253-851-6700
Facsimile: 253-851-6474

Cavalier Telephone, L.L.C.
Stephen Perkins
Cavalier Telephone, L.L.C.
2134 W. Laburnum Ave.
Richmond, VA 23227
Telephone: 804-422-4517
Facsimile: 804-422-4392

Martin Arias, Esq.
965 Thomas Drive
Warminster, PA 18974
Telephone: 267-803-4002
Facsimile: 267-803-4147

MCI Worldcom, Inc.
William A. Denman, Esq.
Parkowski & Guerke, P.A.
116 W. Water Street
Dover, DE 19903
Telephone: 302-678-3262
Facsimile: 302-678-9415

Wood & Wood
Don J. Wood
4625 Alexander Drive
Suite 125
Alpharetta, GA 30022
Telephone: 770-475-9971

Staff Counsel in DE PSC 96-324, Phase II

Francis J. Murphy, Esquire
Murphy, Spadaro & Landon
824 Market Street
P.O. Box 8989
Wilmington, DE 19899
Telephone: 302-654-4600
Facsimile: 302-654-4775

Consultant To The Hearing Examiner
in DE PSC 96-324, Phase II

Robert Stright
The Liberty Consulting Group
P. O. Box 237
65 Main Street
Quentin, PA 17083
Telephone: 717-270-4500
Facsimile: 717-270-0555

* Hand service and e-mail

Julia A. Conover