

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

In the Matter of

Petition of MCImetro Access Transmission
Services LLC for Expedited Preemption

WC Dkt. No. 02-283

REPLY COMMENTS OF VERIZON

The New York PSC has advised the Commission that it has no objection to the Commission's resolving this dispute between MCImetro and Verizon New York concerning the meaning of their interconnection agreement. It argues, however, that the Commission should not do so under section 252(e)(5), but rather that it can hear MCImetro's claim under section 208. This is not correct.

MCImetro's only claim is breach of contract. It claims that Verizon New York has not complied with the "provisions requiring payment of reciprocal compensation for local and Internet-bound traffic and provisions allowing for amendment of the Agreement upon a change in law"¹ and that "it has materially breached the Agreement by refusing to pay MCImetro reciprocal compensation amounts that MCImetro has billed under the terms of the Agreement."² It asks that "the Commission expeditiously assume jurisdiction over, interpret and enforce the Agreement."³ MCImetro does not allege that Verizon New York has violated any provision of the Act or the Commission's rules. Section 208(a) permits persons to complain to the

¹ Petition at 1.

² Petition at 2.

³ Petition at 2.

Commission about conduct by carriers “in contravention of the provisions [of the Act].”⁴

MCImetro does not make such a claim, just a claim that Verizon New York breached its contract.

As such, it is not the proper subject of a section 208 complaint.

Respectfully submitted,


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⁴ Section 208(a) also refers to the “violation of law thus complained of.” 47 U.S.C. § 208.