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

In the Matter of	)	
	)	
2002 Biennial Review of	)	WC Docket No. 02-313
Telecommunications Regulations	)	

REPLY COMMENTS OF COVAD COMMUNICATIONS COMPANY

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Introduction

Covad Communications Company (Covad), by its attorney, hereby respectfully submits its reply comments in the Commission's 2002 biennial review of telecommunications regulations. Specifically, Covad opposes the anti-competitive proposals of Verizon and USTA in this proceeding. Both Verizon and USTA urge the Commission to take up in the biennial review issues the Commission is separately reviewing in other dockets. As Verizon and USTA both know, it would be a mistake for the Commission to address such issues separately – redundantly – in the biennial review. Moreover, neither party presents proposals consistent with the requirements of section 161 of the Act. Specifically, that provision of the Act directs the Commission to determine whether any regulation is no longer necessary as a result of "meaningful economic competition between" service providers. Here, neither Verizon nor USTA presents meaningful evidence that economic competition calls for the elimination of the laundry list of rules set forth by both parties.

Discussion

Covad is the leading nationwide provider of broadband connectivity using digital subscriber line (DSL) technology. Covad's nationwide facilities-based broadband network reaches nearly 45% of the nation's homes and businesses. As a facilities-based provider, Covad relies on ILECs to provide unbundled transmission facilities (loops and interoffice transport) and the operations support systems (OSS) necessary to facilitate ordering and provisioning of such facilities. In addition, in order to connect customers to its network, Covad is collocated in hundreds of central offices throughout the nation.

Verizon argues that the Commission should repeal substantial portions of its

unbundling rules under the guise of the Commission's 2002 biennial regulatory review. To reach this predetermined result, Verizon simply makes up a new impairment standard to substitute for the Commission's actual impairment standard.[1] Then Verizon proceeds to assert, without further argument or support, that Verizon's new impairment standard cannot be met with respect to a wide swath of UNEs currently required to be unbundled. Verizon adds in the Commission's TELRIC pricing standards for good measure (neglecting to mention what relation TELRIC pricing standards bear to section 251(d)(2) impairment).[2]

The arguments set forth by Verizon and USTA calling for the elimination of regulation over advanced telecommunications services fare no better. They amount to little more than simple reassertions of both parties' positions in a range of currently pending proceedings, stated in the alternative.[3] At no point, however, does either party even attempt to make the showing required of the statute before the Commission can eliminate a rule under section 161: that the rule is no longer necessary in the public interest as a result of meaningful economic competition. In fact, Verizon knows that its own attempts at blocking competitive access to unbundled network elements have prevented "meaningful economic competition" from becoming ubiquitous in the telecommunications marketplace. Without a showing that meaningful economic competition prevails in the telecommunications marketplace, Verizon cannot obtain the blanket elimination of the vast array of rules opening its network to competition.

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[1] *See* Verizon Comments at 9-10.

[2] *See id.*

Conclusion

Neither USTA nor Verizon have provided the showing required for the elimination of a rule under section 161 of the Act: that the rule is no longer necessary in the public interest as a result of meaningful economic competition. Without such a showing, their requests to eliminate substantial portions of the Commission's rules implementing the market-opening provisions of the 1996 Act must fail.

Respectfully submitted,

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[3] *See id.* at 11-12; USTA Comments at 10-11.