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March 7, 2003

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

Re: WC Docket No. 02-384, *Application by Verizon Maryland Inc., Verizon Washington D.C. Inc., Verizon West Virginia 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 Maryland, Washington, D.C., and West Virginia*

Dear Ms. Dortch:

AT&T Corp. submits this ex parte letter to update the record on the status of Verizon's prices for unbundled network elements and interconnection in the District of Columbia. As the Commission recalls, the District of Columbia PSC issued an decision on December 6, 2002, finding that Verizon's currently effective rates exceeded TELRIC levels, and ordering Verizon to file significant rate reductions.¹ Rather than comply with the order, Verizon has applied for administrative reconsideration, an action that stays the order, and leaves the existing supra-TRILIC rates in place, until the DC PSC acts on the request for reconsideration.

Because the continued effectiveness of Verizon's existing supra-TRILIC rates would require rejection of Verizon's 271 application, Verizon announced that it was unilaterally filing "interim" rates that would benchmark with Verizon's New York rates. In response to this gambit, the PSC ruled on January 6 that "[i]n no event is Verizon D.C. authorized to use rates

¹ *In the Matter of the Implementation of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996*, DC PSC Formal Case No. 962, Order No. 12610 (Dec. 6, 2002) ("DC PSC Order No. 12610") ¶ 98.

Marlene H. Dortch
March 7, 2003
Page 2

established in New York, benchmarked or otherwise.”² Hence, the PSC reiterated, “there are no TELRIC-based rates in the District of Columbia.” D.C. Consultative Report at 27.

Verizon tried a variant of the same ploy two weeks later. The company issued a “notice” stating that a CLEC’s payment of any Verizon invoice reflecting Verizon’s unilateral “New York Benchmark” rates would thereby be deemed to “agree” to modify the CLEC’s interconnection agreements to incorporate those rates. When a handful of small CLECs subsequently “accepted” this “offer,” Verizon asserted that its “New York Benchmark” rates were now legal and effective. *See* Verizon *ex parte* letter filed January 23, 2003. The majority of CLECs in the District of Columbia, however, refused to consent to Verizon’s “New York Benchmark” rates. *See, e.g.*, Attachment 1, *infra* (AT&T letters to the DC PSC and Verizon (Jan. 13, 2003) (rejecting Verizon rates)); Attachment 2, *infra* (AT&T letter to the DC PSC (Jan. 9, 2003)).

On January 31, 2003, the DC PSC issued a decision allowing Verizon’s modified interconnection agreement with Allegiance Telecom to become effective.³ The PSC emphasized, however, that its acquiescence in the Verizon/Allegiance agreement did not represent any finding that the modified rates were “TELRIC-compliant, cost-based, or just and reasonable.”⁴ Verizon and Allegiance had offered no such showing, the PSC added, and review of the agreed-to rates for TELRIC compliance or cost justification would have exceeded the PSC’s powers.⁵

Finally, it now appears highly likely that the DC PSC will not act on Verizon’s request for reconsideration until *after* the deadline for the Commission’s final decision in this proceeding. On January 24, 2003, the DC PSC issued a notice tolling the 30-day statutory period for a decision on Verizon’s request until March 4, 2003.⁶ On February 28, 2003, the PSC further

² *Formal Case No. 962, In the Matter of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996*, Order No. 12626 at ¶ 1 (January 6, 2003).

³ *In the Matter of the Implementation of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996*, DC PSC Formal Case No. 962, Order No. 12646 (Jan. 31, 2003) (Attachment 3, *infra*).

⁴ *Id.*, ¶ 9.

⁵ *Id.* ¶ 10.

⁶ *In the Matter of the Implementation of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996*, DC PSC Formal Case No. 962, Order No. 12642 (Jan. 24, 2003).

Marlene H. Dortch
March 7, 2003
Page 3

extended the deadline for a decision until April 3, 2003.⁷ Hence, Verizon's 271 application must be judged in the same context that prevailed several weeks ago: Verizon is charging every CLEC in the District of Columbia prices that the DC PSC has found to exceed TELRIC levels. Moreover, the "New York" prices through which Verizon would salvage its 271 application will continue, for the majority of CLECs, to be illegal and ineffective.

Please feel free to let us know if Staff has any further questions on this matter.

Very truly yours,

David M. Levy

An Attorney for AT&T Corp.

⁷ *Id.*, Order No. 12666 (Feb. 28, 2003) (Attachment 4, *infra*).