Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Verizon Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS)	)	WC Docket No. 02-327

MEMORANDUM OPINION AND ORDER

Adopted: March 14, 2003 **Released:** March 14, 2003

By the Chief, Competition Policy Division:

I. INTRODUCTION

1. On August 28, 2002, Verizon, pursuant to section 3(25) of the Communications Act of 1934, as amended (the Act),[1] filed forty-nine petitions to provide two-way, non-optional, expanded local calling service (ELCS) between various exchanges in Virginia.[2] Verizon's petitions request limited modifications of numerous local access and transport area (LATA) boundaries to provide expanded local calling service between certain Virginia exchanges, as required by the Virginia State Corporation Commission's (Virginia Commission) approval of the Bell Atlantic-GTE merger.[3] Because all of Verizon's petitions request the same type of service based upon similar circumstances, we will consolidate Verizon's petitions so that we may treat them a single request. For the reasons stated below, we grant Verizon's petition.

II. BACKGROUND

2. Requests for new ELCS routes are generally initiated by local subscribers. IntraLATA ELCS routes can be ordered by a state commission.[4] Under section 3(25)(B) of the Act,

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[1] *See* 47 U.S.C. § 153(25). Section 3(25) of the Act defines LATAs as those areas established prior to enactment of the Telecommunications Act of 1996 by a Bell Operating Company (BOC), as permitted under the AT&T Consent Decree, or "established or modified by a BOC after such date of enactment, and approved by the Commission." 47 U.S.C. § 153(25).

[2] *See Comment Sought on Verizon Bell Request for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service Between Certain Exchanges in Virginia*, WC Docket. No. 02-327, Public Notice, DA No. 02-2753 (rel. Oct. 21, 2002). We note that all of the exchanges are in Virginia. *See* Appendix A for a description of the petitions and list of exchanges involved.

[3] *See Request for Limited Modification of LATA Boundaries to Provide ELCS Between 49 Exchanges*, WC Docket 02-327, (filed Aug. 28, 2002) (*Verizon Application*) .

[4] *United States v. Western Electric Company, Inc.*, 569 F. Supp. 990, 995 (D.D.C. 1983). "The distance at

requests for interLATA ELCS routes fall within the Federal Communications Commission's (Commission) exclusive jurisdiction over the modification of LATA boundaries.[5] Applying a two-part test, the Commission will grant a request for an ELCS LATA modification (1) where a petitioning BOC shows that the proposed modification would provide the significant public benefit of expanded local service (by showing that there is a significant community of interest among the affected exchanges), and (2) that the grant of the requested modification will not have a negative effect on a BOC's incentive to fulfill its section 271 obligations.[6] A BOC is deemed to have made a *prima facie* case supporting grant of the ELCS petition if it: (1) has been approved by the state commission; (2) proposes only traditional local service; (3) indicates that the state commission found a sufficient community of interest to warrant such service; (4) documents this community of interest through such evidence as poll results, usage data, and descriptions of the communities involved; and (5) involves a limited number of customers or access lines.[7]

3. The Verizon petition proposes to establish two-way, non-optional ELCS, and is accompanied by an order issued by the Virginia Commission approving the ELCS requests on the basis that sufficient communities of interest exist to warrant such service, a statement that only traditional local service is proposed, poll results demonstrating that communities of interest exist between the respective exchanges,[8] and a statement of the number of access lines involved.[9]

III. DISCUSSION

4. We conclude that Verizon satisfies our two-part test and has established its *prima facie* case. Applying the first part of the two-part test, we find that Verizon has shown that a public benefit would result from the ELCS because a sufficient community of interest exists among the affected exchanges. The Virginia Commission conducted a proceeding in which it approved the

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which a local call becomes a long distance toll call has been, and will continue to be, determined exclusively by the various state regulatory bodies." *Id.* Commonwealth of Virginia State Corporation Commission, *Joint Petition of Bell Atlantic and GTE Corporation for Approval of Agreement and Plan of Merger*, Order Approving Petition, Case No. PUC990100 (Nov. 29, 1999) (*Virginia Commission Merger Order*).

[5] *Application for Review and Petition for Reconsideration or Clarification of Declaratory Ruling Regarding US WEST Petitions to Consolidate LATAs in Minnesota and Arizona*, Memorandum Opinion and Order, 14 FCC Rcd. 14,392, 14,399 (1999).

[6] *See Application for Review of Petition for Modification of LATA Boundary*, FCC 02-233, Order on Review, 17 FCC Rcd 16952, 16958 (2002); *see also Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, Memorandum Opinion and Order, 12 FCC Rcd 10646, 10649-50 (1997). In this order, the Commission also delegated authority to the Common Carrier Bureau (now the Wireline Competition Bureau) to act on petitions to modify LATA boundaries. *Id.* at 10657-58.

[7] *Id.* at 10659.

[8] The majority of the petitions did not propose a rate increase for customers, so no polling data was required by the Virginia Commission nor collected by Verizon. However, public comments were solicited for exchanges where customers would experience rate increases as a result of ELCS implementation. *See* Appendix B.

[9] *See* Appendix A for information on the number of access lines per exchange.

ELCS.[10] Further, Verizon proposes to offer traditional, two-way, non-optional local service in the ELCS.[11] Third, the Virginia Commission's approval of the ELCS was based on polls where necessary and a finding, *inter alia*, that many of the schools, medical and recreational facilities, physicians, major repair and supply services, and places of employment used by the residents of one exchange are located in an adjacent exchange.[12] We find, therefore, that Verizon has satisfied our requirement that an ELCS be based on a significant community of interest. The Virginia Commission also required Verizon to file a plan for ELCS in contiguous exchanges both within and between Bell Atlantic and GTE service territories as a condition of approving their merger with GTE.[13] We believe that this determination by the Virginia Commission is a further indicator that the ELCS is in the public interest.

5. Applying the second part of the two-part test, we find that granting the Verizon petition would have a minimal effect upon competition because modification of any of the individual LATA boundaries would affect only a small number of access lines.[14] Most significantly, however, Verizon has opened its market to competition in Virginia and, accordingly, has been granted authority to offer long distance service in that state.[15] As a result, we believe

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[10] *See Verizon Application.*

[11] Although Verizon proposes to offer measured rate service in addition to flat-rated service, that does not alter our conclusion that a sufficient community of interest exists among the affected exchanges to justify the ELCS. The services that Verizon proposes to offer in the expanded local calling area are identical to the service options (measured or flat-rate) that were available prior to the implementation of ELCS. *See Verizon Application(s)* at 2, 3. Although the Commission has traditionally favored flat-rated service as the best indicator that a community of interest exists among the affected exchanges, the Commission has granted LATA boundary modifications for measured rate ELCS where the service offered in the proposed ELCS is identical to that offered prior to the application. *See Bell-Atlantic-Virginia, Inc. Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling service (ELCS) at Various Locations*, Memorandum and Order, File No. NSD-L-97-45 (rel. April 21, 1998) (*April 1998 LATA Order*) (granting ELCS petition where proposed service was the same as that existing prior to the application); *Bell Atlantic-Virginia Petition for Limited Modification of LATA Boundary to Provide Expanded Local Calling Service (ELCS)*, Memorandum and Order, File No. NSD-98-143 (granting ELCS petition where proposed service was the same as that existing prior to the application).

[12] *See Verizon Applications* at 3; *see also Virginia Commission Merger Order* at 6.

[13] *See Virginia Commission Merger Order* at 6.

[14] For the purposes of ELCS petitions, we generally consider the access lines from customers in the exchange who seek to reach businesses, services, etc. in the other exchange (this exchange usually generates the majority of calls between the two exchanges). *See Southwestern Bell Petitions for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service (ELCS)*, Memorandum Opinion and Order, DA 02-3552, WC Docket No. 02-133. For example, callers from the Allwood exchange (687 access lines) seek to reach the businesses and services, etc. located in the Raphine exchange (2,484 access lines). Similarly, callers from the Stafford exchange (26,818 access lines) seek to reach the medical services, retail, and places of employment located in Chancellor (27,200 access lines). Therefore, for the purposes of reviewing these modifications, we will consider the 687 access lines in Allwood and the 26,818 access lines in Stafford. The largest number of access lines affected by any single LATA modification in this application is 26,818 from the Stafford exchange, a number within Commission precedent. *See April 1998 LATA Order*, *supra* n. 10 (granting an ELCS petition affecting over 30,000 access lines). *See* Appendix A for the exchanges originating the majority of interLATA traffic.

[15] *Application by Verizon Virginia Inc., Verizon Long Distance Virginia, Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization to*

that granting Verizon's petition serves the public interest by permitting minor LATA modifications where such modifications are necessary to meet the needs of local subscribers. Accordingly, we approve Verizon's petition for limited LATA modifications.

6. We grant this relief solely for the limited purpose of allowing Verizon to provide ELCS between the specific exchanges or geographic areas identified in these requests. The LATA is not modified to permit the BOC to offer any other type of service, including calls that originate or terminate outside the specified areas. Thus, two-way, non-optional ELCS between the specified exchanges will be treated as intraLATA service.[16]

VI. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), and authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the requests of Verizon for LATA modifications for the limited purpose of providing two-way, traditional, non-optional ELCS at specific locations, identified in WC Docket No. 02-327, ARE APPROVED.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief, Competition Policy Division
Wireline Competition Division

Provide In-Region, InterLATA Services in Virginia, CC Docket No. 02-214, Memorandum Opinion and Order, FCC 02-297 (rel. Oct. 30, 2002) (*Verizon Virginia Order*).

[16] Other types of service between the specified exchanges will remain interLATA, and the provisions of the Act governing interLATA service will apply. *See e.g.*, 47 U.S.C. § 272(f)(1) (stating that a BOC is required to provide interLATA services through a separate affiliate for three years after the date on which it is authorized to provide in-region interLATA telecommunications services).

Appendix A

Description of Petitions and Exchanges

1. Verizon South's Allwood (687 access lines) and Raphine (2,484 access lines) Exchanges, with the majority of calls originating from Allwood
2. Verizon South's Arcola (7,435 access lines) and Verizon Virginia's Middleburg (3,747 access lines) Exchanges, with the majority of calls originating from Middleburg
3. Verizon South's Barnesville (882 access lines) and Verizon Virginia's Clover (2,358 access lines) Exchanges, with the majority of calls originating from Clover
4. Verizon Virginia's Big Island (1,255 access lines) and Buchanan (2,233 access lines) Exchanges, with a primary community of interest originating from Big Island
5. Verizon South's Big Prather (1,589 access lines) and Verizon Virginia's Haysi (1,599 access lines) Exchanges, with the majority of calls originating from Haysi
6. Verizon South's Bowling Green (5,085 access lines) and Chancellor (27,703 access lines) Exchanges, with the majority of calls originating from Bowling Green
7. Verizon South's Bowling Green (5,085 access lines) and Verizon Virginia's Fredericksburg (64,096 access lines) Exchanges, with the majority of calls originating from Bowling Green
8. Verizon South's Bowling Green (5,085 access lines) and Verizon Virginia's Spotsylvania Exchanges (6,097 access lines), with the majority of calls originating from Spotsylvania
9. Verizon South's Boykins (1,282 access lines) and Emporia (9,801 access lines) Exchanges, with the majority of calls originating from Boykins
10. Verizon South's Bridgewater (4,448 access lines) and Verizon Virginia's Staunton (30, 738 access lines) Exchanges, with the majority of calls originating from Bridgewater
11. Verizon South's Capron (918 access lines) and Boykins (1,282 access lines) Exchanges, with a primary community of interest originating from Capron
12. Verizon South's Capron (918 access lines) and Franklin (9,731 access lines) Exchanges, with the majority of calls originating from Capron
13. Verizon South's Chancellor (27,703 access lines) and Port Royal (432 access lines)Exchanges, with the majority of calls originating from Port Royal
14. Verizon South's Chancellor (27,703 access lines) and Stafford (26,818 access lines) Exchanges, with a majority of calls originating from Stafford
15. Verizon South's Charlotte Court House (1,671 access lines) and Verizon Virginia's Clover (2,358 access lines) Exchanges, with the majority of calls originating from Clover
16. Verizon South's Charlotte Court House (2,358 access lines) and Pamplin (1,518 access lines) Exchanges, with the majority of calls originating from Charlotte Court House
17. Verizon South's Claremont (781 access lines) and Verizon Virginia's Charles City (3,199 access lines) Exchanges, with a majority of calls from Claremont
18. Verizon South's Colonial Beach (4,726 access lines) and Chancellor (27,703 access lines) Exchanges, with a majority of calls originating from Colonial Beach

19. Verizon South's Colonial Beach (4,726 access lines) and Verizon Virginia's Fredericksburg (64,096 access lines) Exchanges, with a majority of call originating from Colonial Beach
20. Verizon South's Courtland (1,935 access lines) and Stony Creek (1,919 access lines) Exchanges, with a primary community of interest originating from Stony Creek
21. Verizon South's Courtland (1,935 access lines) and Verizon Virginia's Waverly (2,382 access lines)Exchanges, with the majority of calls originating from Courtland
22. Verizon South's Drakes Branch (629 access lines) and Verizon Virginia's Clover (2,358 access lines) Exchanges, with the majority of calls originating from Clover
23. Verizon Virginia's Fife (2,124 access lines) and Louisa (4,451 access lines) Exchanges, with the majority of calls originating from Fife
24. Verizon South's Fife (2,124 access lines) and Mineral (6,738 access lines) Exchanges, with the majority of calls originating from Fife
25. Verizon South's Gloucester (12,012 access lines) and Verizon Virginia's Toano (4,747 access lines) Exchanges, with the majority of calls originating from Toano
26. Verizon South's Gloucester (12,012 access lines) and Verizon Virginia's Williamsburg (40,405 access lines)Exchanges, with the majority of calls originating from Gloucester
27. Verizon Virginia's Goochland (4,399 access lines) and Mineral Exchanges (6,738 access lines), with the majority of calls originating from Goochland
28. Verizon South's Haymarket (15,212 access lines) and Verizon Virginia's Calverton (2,902 access lines) Exchanges, with the majority of calls originating from Calverton
29. Verizon South's Haymarket (15,212 access lines) and Verizon Virginia's Middleburg (3,747 access lines) Exchanges, with the majority of calls originating from Middleburg)
30. Verizon South's Haymarket (15,212 access lines) and Verizon Virginia's The Plains (1,173 access lines)Exchanges, with the majority of calls originating from The Plains
31. Verizon South's Haymarket (15,212 lines) and Verizon Virginia's Warrenton (22,205 access lines) Exchanges, with the majority of calls originating from Haymarket
32. Verizon South's King and Queen (1,927 access lines) and Verizon Virginia's Toano (4,747 access lines) Exchanges, with the majority of calls originating from King and Queen
33. Verizon South's King and Queen (1,927 access lines) and Verizon Virginia's Williamsburg (40,405) Exchanges, with the majority of calls originating from King and Queen
34. Verizon South's King George (6,871 access lines) and Colonial Beach (4,726 access lines) Exchanges, with the majority of calls originating from Colonial Beach
35. Verizon South's King George (6,871 access lines) and Port Royal (432 access lines) Exchanges, with the majority of calls originating from Port Royal
36. Verizon South's King George (6,871 access lines) and Stafford (26,818) Exchanges, with the majority of calls originating from King George
37. King George (6,871 access lines) and Tappahannock (7,236) Exchanges, with a primary community of interest originating from Tappahannock

38. Verizon South's Ladysmith (5,319 access lines) and Verizon Virginia's Brokenburg (2,214 access lines) Exchanges, with the majority of calls originating from King George
39. Verizon South's Ladysmith (5,319 access lines) and Verizon Virginia's Mineral (6,738 access lines) Exchanges, with a primary community of interest originating from Ladysmith
40. Verizon South's Maxie (786 access lines) and Verizon Virginia's Haysi (1,599 access lines) Exchanges, with the majority of calls originating from Haysi
41. Verizon South's Nokesville (1,516 access lines) and Verizon Virginia's Calverton (2,902 access lines) Exchanges, with the majority of calls originating from Nokesville
42. Verizon South's Raphine (2,484 access lines) and Verizon Virginia's Lovington (7,381 access lines) Exchanges, with the majority of calls originating from Lovingston
43. Verizon South's Raphine (2,484 access lines) and Verizon Virginia's Piney River (1,618 access lines) Exchanges, with the majority of calls originating from Piney River
44. Verizon South's Rocky Gap (1,108 access lines) and Verizon Virginia's Narrows (2,965 access lines) Exchanges, with the majority of calls originating from Rocky Gap
45. Verizon South's Surry (1,403 access lines) and Verizon Virginia's Charles City (3,199 access lines) Exchanges, with a majority of calls originating from Surry
46. Verizon South's Surry (1,403 access lines) and Verizon Virginia's Waverly (2,382 access lines) Exchanges, with a majority of calls originating from Waverly
47. Verizon South's Triangle (12,373 access lines) and Verizon Virginia's Calverton (2,902 access lines) Exchanges, with the majority of calls originating from Calverton
48. Verizon South's Triangle (12,373 access lines) and Verizon Virginia's Hartwood (9,225 access lines) Exchanges, with the majority of calls originating from Hartwood
49. Verizon South's Weyers Cave (2,171 access lines) and Verizon Virginia's Staunton (30,738 access lines) Exchanges, with the majority of calls originating from Weyers Cave

Appendix B

Comments filed with the Virginia Commission

1. Charlotte Court House: Public notice was provided by direct mail to Verizon customers in the Charlotte Court House exchange. The Virginia Commission received four comments in favor of ELCS. No comments were received requesting a hearing. In addition, a petition with 771 signatures was received in favor of ELCS as well as a resolution from the Charlotte County Board of Supervisors in favor of ELCS.
2. Clover: Public notice was provided by direct mail to Verizon customers in the Clover exchange. The Virginia Commission received one comment in favor of ELCS and four in opposition. No comments were received requesting a hearing.
3. Bowling Green: Public notice was provided by direct mail to Verizon customers in the Bowling Green exchange. The Virginia Commission received two comments in favor of ELCS and one in opposition. No comments were received requesting a hearing.
4. Boykins: Public notice was provided by direct mail to Verizon customers in the Boykins exchange. The Virginia Commission received one comment in opposition of ELCS. No comments were received requesting a hearing.
5. Emporia: Public notice was provided by direct mail to Verizon customers in the Emporia exchange. The Virginia Commission received one comment in opposition of ELCS. No comments were received requesting a hearing.
6. Chancellor: Public notice was provided by direct mail to Verizon customers in the Chancellor exchange. The Virginia Commission received six comments in opposition of ELCS. No comments were received requesting a hearing.
7. Port Royal: Public notice was provided by direct mail to Verizon customers in the Port Royal exchange. The Virginia Commission received one comment in support of ELCS. No comments were received requesting a hearing.
8. Colonial Beach: Public notice was provided by direct mail to Verizon customers in the Colonial Beach exchange. The Virginia Commission received eleven comments in opposition to ELCS. No comments were received requesting a hearing.
9. Courtland: Public notice was provided by direct mail to Verizon customers in the Colonial Beach exchange. The Virginia Commission received three comments in opposition to ELCS. No comments were received requesting a hearing.
10. Drakes Branch: Public notice was provided by direct mail to Verizon customers in the Drakes Branch exchange. The Virginia Commission received one comment in opposition of ELCS. No comments were received requesting a hearing.
11. Mineral: Public notice was provided by direct mail to Verizon customers in the Mineral exchange. The Virginia Commission received seventeen comments in opposition to ELCS. No comments were received requesting a hearing.
12. Calverton: Public notice was provided by direct mail to Verizon customers in the Calverton exchange. The Virginia Commission received one comment in support of ELCS and three comments in opposition to ELCS. No comments were received requesting a hearing.
13. Ladysmith: Public notice was provided by direct mail to Verizon customers in the Calverton exchange. The Virginia Commission received one comment in support of ELCS and one comment in opposition to ELCS. No comments were received requesting a hearing.