

ATTACHMENT 2

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)

New Verizon Petition Requesting)
Forbearance From Application of)
Section 271)
_____)

CC Docket No. 01-338

SPRINT CORPORATION'S REPLY

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CONTENTS

I. INTRODUCTION AND SUMMARY1

II. THE COMMISSION HAS ALREADY DETERMINED THAT SECTION 271 IMPOSES A SEPARATE AND ONGOING UNBUNDLING OBLIGATION ON THE BOCS.....2

III. VERIZON’S PETITION IS PRECLUDED BY THE ACT.....7

A. The Commission lacks authority to grant Verizon’s request7

B. Section 706 is irrelevant to section 271 unbundling requirements.....9

IV. CONGRESS PROVIDED THAT BOCS MUST BE SUBJECT TO UNBUNDLING OBLIGATIONS UNDER SECTION 271 AS A CONDITION FOR LONG DISTANCE MARKET ENTRY10

V. THE PETITION FAILS TO MEET SECTION 10’S REQUIREMENTS FOR FORBEARANCE13

A. Verizon has not established that section 271 unbundling for broadband competition is not necessary to ensure just and reasonable charges and practices and to guard against discrimination.....13

B. Verizon has not established that section 271 unbundling for broadband competition is not necessary to protect consumers14

C. Forbearance would be contrary to the public interest and would harm competition.....16

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SPRINT CORPORATION'S REPLY

Sprint Corporation ("Sprint"), on behalf of its Incumbent Local Exchange carrier ("ILEC"), competitive LEC ("CLEC")/long distance, and wireless divisions, replies to the oppositions and comments filed by other parties in response to the New Verizon Petition Requesting Forbearance from Application of Section 271.¹

I. INTRODUCTION AND SUMMARY

The petition prompted ten sets of comments. Seven filings – representing 32 competitive carriers – opposed the petition. Three filings – two Bell Operating Companies ("BOCs") and a union claiming to represent BOC employees – supported it. All of the non-BOC parties agree that Verizon's "new" petition must be denied. They

¹ Verizon's new petition, as deemed by the Commission in Public Notice 03-263, was filed October 24, 2003 and attached to the Commission's October 27, 2003 Public Notice FCC 03-263. Oppositions and comments were filed on November 17, 2003.

explain that the Commission has already recognized that section 271 imposes separate and ongoing obligations on BOCs to unbundle listed network elements, whether they support narrow- or broadband services. They also show that forbearance is precluded by the text, objectives, and structure of the Act, and that section 706 is inapplicable and cannot justify Verizon's request in any event. Verizon's few supporters object to BOCs being treated differently from other ILECs, but Congress imposed section 271 as the price for long distance market entry, and did so for good reasons. On the whole, the comments show that Verizon has failed to prove it meets the demanding requirements of section 10. Section 271 unbundling of broadband elements remains necessary to protect the marketplace, consumers, and the public interest.

II. THE COMMISSION HAS ALREADY DETERMINED THAT SECTION 271 IMPOSES A SEPARATE AND ONGOING UNBUNDLING OBLIGATION ON THE BOCS.

Verizon's petition is based on a "false premise" because "[t]he Commission's decision not to require ILECs to unbundle certain broadband network elements under section 251 does not affect Verizon's obligation to make those same network elements under section 271 of the Act." PACE at 7-8. The Commission recognized that "the plain language and structure of section 271(c)(2)(B) establishes that BOCs have an *independent and ongoing access obligation* under section 271." Triennial Review Order at ¶ 654 (emphasis added). "The Commission has spoken unmistakably" on this issue.

Covad at 2. See Triennial Review Order² at ¶¶ 253, 653-655; Public Notice at 2; UNE Remand Order³ at ¶ 468.

Qwest claims that “establishing an independent and ongoing unbundling obligation under section 271 with respect to broadband elements is fundamentally inconsistent with the Act” and “contrary to the Act’s objective of stimulating facilities-based competition.” Qwest at 2. This is a misstatement of the Act and of Congress’s goals. First, it is not the Commission that is “establishing” the obligation to unbundle broadband elements. As the Commission recognized, it is “established” by the Act itself. Triennial Review Order at ¶¶ 653, 654. Second, “the fundamental objective of the 1996 Act” is not investment in BOC facilities but to “bring consumers ... in all markets the full benefits of competition.”⁴ The Supreme Court observed that the Act, in pursuing that goal, envisions access to unbundled network elements as one means for competition and requires no threshold investment in facilities.⁵ Qwest cites USTA and Iowa Utilities

² Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 01-338, 96-98, 98-147, *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking* (rel. Aug. 21, 2003) (“Triennial Review Order”).

³ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd. 3696 (1999) (subsequent history omitted) (“UNE Remand Order”).

⁴ Petition of US West Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, *Memorandum Opinion and Order*, 14 FCC Rcd 16252 ¶ 46 (1999). See MCI at 9.

⁵ Verizon Comms. Inc. v. FCC, 122 S. Ct. 1646, 1662, 1664 (2002).

Board as opposing “open-ended” unbundling.⁶ These decisions, however, focused on the Commission’s prior section 251 analysis. They did not deal with, and are not relevant to, section 271 obligations.

Indeed, although Qwest claims it is “illogical” to read section 271 as an ongoing obligation for BOCs (Qwest at 11), Congress understood that, in a competitive market, BOCs should be content to provide such wholesale access indefinitely. Congress was looking to the model of the long distance market, in which carriers were ordered make their services and facilities available for resale and today compete vigorously for wholesale business. Sprint at 18. Like Verizon, Qwest simply wants to avoid its section 271 obligations for broadband in order to exploit its dominance in its local exchange markets with bundled services. Even most cable TV broadband providers cannot offer all of the voice, data, and broadband services that a BOC can bundle. Sprint at 16.

SBC claims that “the Commission has consistently held that the scope of the unbundling obligations under the Competitive Checklist is no more extensive than the scope of those same obligations under section 251.” SBC Att. at 1-2, citing section 271 application orders. Actually, the orders instead reflect only that the Commission cannot impose additional unbundling requirements as a condition of section 271 authority. That is dictated in part by section 271(d)(4)’s prohibition of any changes – additions or subtractions – to the competitive checklist, including in particular items (iv)-(vi) and (x). Similarly, Qwest is wrong to assert that the Act “contemplates removal of the section 271 unbundling obligation once the corresponding section 251 unbundling obligation has

⁶ USTA v. FCC, 290 F.3d 415 (D.C. Cir. 2002) and AT&T Corp. v. Iowa Utilities Bd., 525 U.S. 366 (1999), cited by Qwest at 7-8.

been removed,” ostensibly because sections 251 and 271 serve a “common purpose.” Qwest at 9, 10. The Act imposed ongoing unbundling under section 271 as the price for any BOC that wanted to enter the in-region interLATA long distance market. If unbundling obligations were the same under sections 251 and 271, Congress would have simply stopped the checklist at item (ii). Covad at 4.

SBC and Qwest also join Verizon in some revisionist history. They claim section 271 “was intended to provide market-opening requirements in the event an application for section 271 relief *preceded* Commission unbundling rules” promulgated under section 251. SBC Att. at 2 (emphasis in original); Qwest at 11. The Act does not limit section 271 in this way, and SBC and Qwest offer no evidence to back their claim. Congress surely expected section 251 unbundling rules would precede any grants of section 271. No BOC would be ready to meet all section 271 requirements immediately, and the Commission acted promptly to issue section 251 unbundling rules. Indeed, the first section 271 application was not even filed until nearly six months after the Commission issued its section 251 unbundling rules.⁷ The first grant of authority under section 271 issued more than two years after the Commission issued rules implementing section 251.⁸

The competitive carriers effectively rebutted Verizon’s claim that section 271 was not meant to apply to “broadband” facilities. MCI at 25-26. See also AT&T at 26-30; Z-

⁷ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *First Report and Order*, 11 FCC Rcd. 15499 (1996) (subsequent history omitted).

⁸ Ameritech’s application for Michigan was filed January 27, 1997, but withdrawn February 11, 1997. The first BOC application was approved – Verizon’s for New York – only on December 22, 1999.

Tel at 7-12; PACE at 11, Allegiance at 4. CWA (at 5) claims section 271 “was never designed to interfere with a Bell company’s deployment of an advanced ... network,” but was intended only “to open up the Bell companies’ legacy circuit switched network.”

See also SBC Att. at 13. But there is no basis in the Act for this claim. The D.C. Circuit has recognized that no exception can be read into the Act for “broadband.”⁹

Thus, section 271 is not limited to “core legacy systems that make up the traditional local telecommunications network.” SBC Att. at 13. It is not limited to facilities or even technologies that existed in 1996. Indeed, it could not reasonably be so limited, because there are no separate voice and broadband networks – no “old wires” and “new wires.” These networks are one and the same. MCI at 20-21; Sprint at 11. Furthermore, the wording of the checklist is broad, and given the market-opening purposes of the Act, intentionally so. By its plain language, competitive “access” certainly encompasses broadband and narrowband facilities, including all features, functions, and capabilities. SBC, Qwest, and CWA -- like Verizon -- can point to nothing in the Act that would justify any narrower reading.

⁹ ASCENT v. FCC, 235 F.3d 662, 668 (D.C. Cir. 2001) (noting the Commission “concedes” that “Congress did not treat advanced services differently from other telecommunications services.”).

III. VERIZON'S PETITION IS PRECLUDED BY THE ACT.

A. The Commission lacks authority to grant Verizon's request.

The competitive carriers emphasized that the Commission lacks authority to grant the forbearance sought by Verizon. AT&T at 7-9; MCI at 11-12; PACE at 23; Sprint at 6. In section 271(d)(4), Congress specifically forbade "the Commission to alter the section 271 checklist – whether "through forbearance or any other means." Covad at 3.

The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B).

47 U.S.C. § 271(c)(2)(B). The language is clear. SBC, Qwest and CWA – like Verizon – simply ignore this statutory requirement.

Even apart from the absolute bar in section 271(d)(4), the competitive carriers show that section 10(d) precludes forbearance because section 271 has not yet been fully implemented. Allegiance at 7-9, AT&T at 9-16; MCI at 16-19; Z-Tel at 12-15; Sprint at 7-9, citing 47 U.S.C. § 160(d). Covad explains (at 5), "Verizon's construction of the statute pays lip service to this requirement, but fails to render it meaningful in any sense." Section 271 sets out the requirements that must be met if a BOC wishes to enter the in-region interLATA long distance market. In Verizon's view, to enter the interLATA markets, "a BOC would simply have to demonstrate its compliance with the checklist provisions of section 271 for one brief, shining moment." *Id.* SBC and Qwest take the same unsupportable position.

Given the market opening goals of the Act,¹⁰ and the obvious Congressional concern about BOC market dominance, such a construction of section 271 would make no sense. Section 10(d) requires not just that the checklist be “fully implemented” when a BOC submits an application under section 271, as section 271(d)(3)(A)(i) does. It requires that all of section 251(c) and section 271 be “fully implemented” before the Commission may exercise forbearance on any aspect of either section’s requirements. Those sections are not yet “fully implemented” simply because a BOC has received long distance authority, whether or not a given network element has been removed from unbundling under section 251(d)(2). Cf. Qwest at 15-16, SBC Att. at 7-8. These sections are “fully implemented” when competitive market conditions are such that they are no longer needed.¹¹ AT&T at 15-16. That trade-off was the price BOCs were to pay for entry into the interLATA long distance market.

¹⁰ Sections 251(c) and 271 are “cornerstones of the framework Congress established in the 1996 Act to *open local markets to competition.*” Deployment of Wireline Services Offering Advanced Telecommunications Capability, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 24012 at ¶ 73 (12998) (subsequent history omitted) (emphasis added).

¹¹ Consistent with its purpose, section 271 contains no time limit whatever. In denying another Verizon petition, addressing section 272’s separate affiliate requirements, the Commission found that section 271 “incorporat[es]” section 272’s requirement that a BOC “maintain the affiliate structure for *at least three years*” after receiving section 271 authority in each state. Sprint believes the Commission was mistaken to find these safeguards can be lifted at all, but if “section 272 cannot be deemed to have been ‘fully implemented’ until this three-year period has passed,” then certainly SBC and Qwest cannot fairly argue that section 271 is “fully implemented” immediately upon receiving long distance authority. Petition of Verizon for Forbearance From the Prohibition of Sharing Operating, Installation, and Maintenance Functions Under § 53.203(a)(2) of the Commission’s Rules, Memorandum Opinion and Order, FCC 03-271 (rel. Nov. 4, 2003) at ¶¶ 6, 7 (emphasis added).

B. Section 706 is irrelevant to section 271 unbundling requirements.

SBC, Qwest, and CWA echo Verizon's assertion that section 706 is a "statutory mandate" to encourage investment in broadband and next-generation facilities. SBC argues that it compels the exercise of ... forbearance authority to ensure that any section 271 unbundling obligations do not undo the Commission's Triennial Review efforts to free broadband from unbundling." SBC Att. at 12.

Sprint and the competitive carriers dispute the contention that forbearance would accelerate BOC investment. By removing competitive pressures, it would just as likely retard investment by CLECs and BOCs alike. Z-Tel at 21. Regardless, however, the Triennial Review Order concluded that section 706 was relevant to section 251 unbundling analysis only because the "at a minimum" clause of section 251(d)(2) gave the Commission authority "to take Congress's goals into account" in deciding which elements must be unbundled. Triennial Review Order at ¶ 176. Section 271 has no "at a minimum" clause. Instead, section 271(d)(4) expressly prohibits the Commission from altering or limiting the list of BOC network elements that requesting carriers may access. Thus, "section 706 does not grant the Commission authority to review 271 unbundling obligations." Allegiance at 9. See also MCI at 11-12; Sprint at 10.

SBC, Qwest, and CWA also read section 706 too expansively. Codified in a footnote to the Act, section 706 does not authorize any action that might bolster BOC investment in broadband facilities. It merely asks the Commission to "encourage the deployment *on a reasonable and timely basis* of advanced telecommunications capability." 47 U.S.C. § 157 nt. (emphasis added). Forbearance is not "necessary" for

“reasonably and timely” deployment, because such investment is already progressing healthily even with section 271 unbundling requirements in place. Like Verizon, SBC and Qwest are already investing vigorously in expanded xDSL facilities, and were doing so long before the Triennial Review concluded.

SBC attempts to justify Verizon’s petition (and its own) by pointing to the Commission’s determination that BOCs do not have a “first mover advantage in greenfield settings.” SBC Att. at 13-14, citing Triennial Review Order at ¶ 275. Rather than bolster the BOCs’ position, this simply underscores how Verizon has not limited its own petition to greenfield settings, or to FTTH, or even to the mass market. These BOCs have not even limited their argument to “advanced telecommunications capability.” Section 706 could never justify such overreaching.

IV. CONGRESS PROVIDED THAT BOCS MUST BE SUBJECT TO UNBUNDLING OBLIGATIONS UNDER SECTION 271 AS A CONDITION FOR LONG DISTANCE MARKET ENTRY.

SBC and Qwest also repeat the BOCs’ lament – previously heard and rejected by the Commission – that having to unbundle any network elements under section 271 unfairly singles out Bell Operating Companies. SBC and Qwest – like Verizon – object to being treated differently than other ILECs. Qwest (at 11-12) argues it would be “irrational ... to remove unbundling obligations for ILECs under section 251, yet keep unbundling obligations in effect for the identical network elements under section 271 for the BOCs, which cover some 80% of all local access lines.” But Congress specifically directed that the BOCs must unbundle network elements under section 271 if they chose to enter the in-region interLATA long distance market, as all have done. It would be

irrational, and unlawful, for the Commission to attempt to remove these statutory conditions.

Congress explicitly differentiated between BOCs and other ILECs and had obvious and legitimate reasons for doing so. MCI at 8-9. The Act was a response to and a replacement for the AT&T Modification of Final Judgment,¹² and the Supreme Court emphasized that the Act's requirements "were intended to eliminate the monopolies enjoyed by the inheritors of AT&T's local franchises...." Verizon, 122 S. Ct. at 1654. The BOCs nevertheless challenged the Act, and section 271 in particular, on Constitutional grounds. Ultimately, they lost those appeals.¹³

Congress imposed these "separate and ongoing" section 271 unbundling requirements on the BOCs, because it recognized they were and would likely long remain overwhelmingly dominant in the local exchange and exchange access markets in which they are the ILEC.¹⁴ They would have the incentive and the ability to adversely affect long distance competition and to frustrate the development of local competition, a prediction that the last seven years has indeed borne out.¹⁵ Other ILECs, in contrast, do

¹² United States v. American Telephone & Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983).

¹³ See SBC Comms. v. FCC, 154 F.3d 226, 246 (5th Cir. 1998), cert. denied, 525 U.S. 1113 (1999); BellSouth v. FCC, 162 F.3d 678, 691-92 (D.C. Cir. 1998).

¹⁴ See BellSouth Corp. v. FCC, 162 F.3d 678, 691 (D.C. Cir. 1998) ("Congress clearly had a rational basis for singling out the BOCs, *i.e.*, the unique nature of their control over their local exchange areas.").

¹⁵ See Sprint at 13-14.

not have this market power. Because of their much smaller scale and geographically dispersed (and largely rural) local operations, they are not in the same position as the BOCs to adversely affect interexchange competition.¹⁶ For the same reasons, Congress also imposed on the BOC affiliates (including broadband and long distance affiliates) additional express requirements to help protect the development of competition, among them section 272's requirement that BOCs "operate independently" and submit to, publish, and pass biennial audits.

So while SBC claims Congress "cannot be thought to have intended that the limits on unbundling in section 251(d)(2) applied *only* to the incumbent LECs that happen not to be Bell operating companies," in fact Congress applied 251(d)(2) to all ILECs but, for compelling reasons, imposed these additional, ongoing section 271 unbundling obligations on any BOC entering the interLATA long distance market. These include not only "nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252 (d)(1)" -- 47 U.S.C. section 271(c)(2)(B)(ii) -- but also unbundled loop, transport, and switching, as well as nondiscriminatory access to signaling and databases for call completion. 47 U.S.C. section 271(c)(2)(B)(iv)-(vi), (x). Indeed, if the BOCs' view were correct, Congress would not have needed to enact those additional, detailed subsections; BOC obligations would have stopped at checklist item (ii). Covad at 4. Nor would Congress have found it necessary to add section 271(d)(4), which imposes an express "limitation on [the] Commission," which provides that "[t]he Commission may not, *by rule or otherwise*, limit or extend" the obligations set out in

¹⁶ See MCI at 8.

subsection (c)(2)(B) for any BOC seeking "entry into interLATA services." 47 U.S.C. section 271.

V. THE PETITION FAILS TO MEET SECTION 10'S REQUIREMENTS FOR FORBEARANCE.

The competitive carriers agree that "Verizon has failed to satisfy the explicit statutory criteria" for forbearance under section 10." PACE at 11. Indeed, Verizon's petition actually "nowhere mentions the effect of the requested forbearance on competition, as the Commission is required to consider under section 10(b)." MCI at 9. SBC and Qwest, moreover, are unable to make up for the petition's deficiencies.

A. Verizon has not established that section 271 unbundling for broadband competition is not necessary to ensure just and reasonable charges and practices and to guard against discrimination.

SBC briefly argues that where the Commission has not required unbundling under section 251(d)(2), "it follows that unbundling is not necessary to ensure that the telecommunications service the ILEC provides with that element is available on just and reasonable as well as not justly or unreasonably discriminatory terms." SBC Att. at 5. See also Qwest at 14. SBC contends that a non-impairment finding necessarily means there is "competitive supply ... which ensures that the element in question is not a bottleneck" and thus "ensures[s] that the resulting service is itself subject to competition." Id., citing Triennial Review Order at ¶ 84. Blocking competitors access to broadband capabilities of BOC networks, however, would require CLECs to build networks before serving a single customer, which would frustrate market entry and allow the BOCs to impose unjust and unreasonable rates. And by definition, denying

competitors access to broadband capabilities would necessarily mean BOC discrimination against competitors and in favor of their own broadband affiliates. AT&T at 2-1; Covad at 8. And the record is replete with evidence of the BOCs' abuse of competitors, made possible by the continued market dominance that section 271 was designed to dilute. Sprint at 13-14.

SBC and Qwest point vaguely to availability of cable TV-based broadband services. SBC Att. at 14; Qwest at 14. To begin with, cable systems do not reach all consumers; they commonly do not reach business districts where demand for broadband services is highest. Even where cable-TV systems operate, however, the BOCs would merely create a duopoly – something “patently insufficient to establish that the BOCs would be *forced* to offer access to their broadband facilities at just and reasonable terms and conditions – i.e., that the BOCs lack market power in the provision of broadband services.” AT&T at 21-22. It is worth noting that the Commission rejected the EchoStar-DirecTV merger on public interest grounds, because “a merger to duopoly ... faces a strong presumption of illegality,” not least because such a merger would “inevitably result in less innovation and fewer benefits to consumers.”¹⁷

B. Verizon has not established that section 271 unbundling for broadband competition is not necessary to protect consumers.

SBC and Qwest, like Verizon, naturally say nothing about the need for competition to protect consumers. SBC again simply asserts that a non-impairment

¹⁷ EchoStar-DirecTV Merger Order, 17 FCC Rcd 20559 at ¶ 103 (2002) and Separate Statement of Chairman Powell at 1.

finding under section 251(d)(2) automatically means consumer interests can subsequently be ignored. AT&T, however, explains that “[w]ithout the provisions of section 271 that Verizon seeks to avoid, competition in the provision of broadband and next-generation services will be severely impeded.” AT&T at 22. SBC claims that unbundling under section 271 is “plainly unnecessary” to protect consumers, because a non-impairment finding under section 251(d)(2) necessarily means the element is “capable of ‘competitive supply.’” SBC Att. at 5. Without access on a wholesale basis to broadband and next-generation capabilities of the BOC networks, however, forbearance would certainly lead to fewer choices and higher rates for consumers. Competitors cannot replicate the BOCs’ ubiquitous plant, and SBC’s reasoning would require that they build an entire network before they can win even their first customer. For the bundled voice and broadband services that customers increasingly demand, BOCs would be monopoly providers of service. Even in those limited areas where cable TV companies offer combined telephony and broadband services, consumers would be subject, at best, to duopoly. AT&T at 23.

SBC and Qwest repeat Verizon’s bold assertion that consumers will benefit from removing section 271 unbundling obligations by the supposed increased BOC incentive to invest in broadband and next-generation facilities. SBC Att. at 9; Qwest at 14. In effect, they argue that section 271 unbundling should be lifted for the same reasons that section 251(c) unbundling was. Their argument makes no sense. The Commission declined to subject checklist items to TELRIC, and instead required only that such section 271 elements be provided in compliance with the “just and reasonable” and

“nondiscrimination” requirements of sections 201 and 202. Triennial Review Order at ¶ 663. SBC and Qwest, like Verizon, fail to explain why providing wholesale access under section 271 to broadband elements on these terms would diminish BOC incentives to invest. The BOCs had already promised the Commission that they intend to offer competitors access to broadband network capabilities at market terms. Triennial Review Order at ¶ 253 & n.755. The BOCs also ignore the fact that the petition seeks forbearance from imposing statutory requirements on hybrid loop investment that the BOCs *have already made*, which can hardly affect any future investment incentives. AT&T at 25.¹⁸

C. Forbearance would be contrary to the public interest and would harm competition.

Covad noted that “it is particularly instructive that the third prong of Congress’ forbearance standard explicitly *requires* the Commission pursuant to section 10(b) to determine whether or not forbearance *promotes competition* in its analysis of whether forbearance would be in the public interest.” Covad at 8 (emphasis in original). In contrast, Verizon’s petition would thwart competition for broadband services.

Like Verizon, SBC and Qwest focus not on the pro-competitive, public interest requirements of the Act, but on supposed burdens of compliance with section 271, now that they have received the interLATA long distance authority for which section 271’s independent and ongoing obligations were the price. Qwest at 12; SBC Att. at 10. They

¹⁸ See also AT&T Reply Comments, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, at 79-80 (July 17, 2002).

provide no detail, however, about these supposed “substantial and unjustifiable operating and financial burdens.” Qwest at 12.

In fact, the BOCs pretend there is “massive uncertainty” (SBC Att. at 3), but they have long understood that unbundling of these broadband capabilities would be required. Verizon acknowledged its obligation to make next-generation facilities and capabilities available to competitors through its PARTS wholesale tariff offerings. See MCI at 13-14, Att. 1. This obligation did not discourage investment. Even when section 251 unbundling obligations applied to broadband facilities, the BOCs publicly touted their investment in network upgrades and the cost savings they would achieve by deploying next-generation technologies in their networks. See MCI at 15. And since narrowband and broadband services are provided over the same networks, most of the same design requirements and support systems applicable to broadband unbundling under section 271 have already been incurred. Any costs associated with providing access to broadband capabilities under section 271 would be purely marginal, recoverable in wholesale rates, and insufficient to outweigh the obvious “detriment[] to competition.” Allegiance at 9.

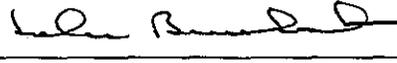
Like the BOCs, CWA’s public interest argument rests solely on the dubious assumption that excusing BOCs from their section 271 unbundling obligations for broadband would “accelerate[] deployment of advanced networks.” CWA at 1. CWA and the BOCs do not explain why Verizon would not want the additional revenues, increased utilization, and lowered unit costs that other carriers would bring to its network – or why such wholesale competition would not enable Verizon to expand its network upgrades, and its broadband market, faster and at lower cost. See Sprint at 18. Verizon’s

petition would not increase investment. It would "hinder broadband deployment and stifle the growth of facilities-based competition." Z-Tel at 21.

Respectfully submitted,

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