

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

In the Matter of )  
)  
Section 272(f)(1) Sunset of the BOC Separate ) WC Docket No. 02-112  
Affiliate and Related Requirements )  
)  
Extension of Section 272 Obligations of )  
Verizon in the State of Massachusetts )

**COMMENTS OF VERIZON**  
**ON**  
**PETITION OF AT&T**

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March 12, 2004

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**ON**  
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AT&T's petition to extend the Section 272 sunset for Verizon in Massachusetts repeats the same arguments that the Commission has repeatedly rejected in permitting the Section 272 separate affiliate requirements to sunset by operation of law. AT&T again argues that the Section 272 separate affiliate requirements should not sunset for any of the Bell Operating Companies ("BOCs") until the BOCs are found to be non-dominant in the local exchange market in each state. But the Act contains no such requirement, and it is contrary to the statutory presumption that the separate affiliate requirements will sunset in three years, as they already have in New York, Texas, Kansas and Oklahoma.

AT&T's filing for Massachusetts demonstrates that AT&T is blindly trying to handicap its BOC competitors with the costs and operational inefficiencies of operating through separate

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<sup>1</sup> The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Inc. These companies are listed in Attachment A.

affiliates, despite the existence of significant competition. Massachusetts is already a hotbed of competition. For example, Comcast provides cable telephony service in Massachusetts and has boasted of achieving penetration rates of as high as 25 percent.<sup>2</sup> In addition, AT&T itself has acknowledged that wireless “has contributed to an overall decline in traffic volume on traditional wireline networks.”<sup>3</sup> Moreover, the Commission has already found that there is no price squeeze in Massachusetts because of AT&T’s own successful entry in the local telecommunications business in Massachusetts. The Commission should once again reject AT&T’s arguments and permit the Act to function as Congress intended.

**I. This is Not a Petition to Address Unique Circumstances; It is a Request to Establish a Completely Unjustified Rule That AT&T Has Already Proposed in the Section 272 Sunset Rulemaking Proceeding.**

The Commission should summarily dismiss AT&T’s petition, which is not based on unique circumstances in Massachusetts or on any need for specific action there. AT&T argues that the Section 272 separate affiliate requirements, which will sunset in Massachusetts in April 2004 (three years after Verizon obtained Section 271 authority), should be extended for at least an additional three years, because Verizon allegedly retains market power in the local exchange market. *See* AT&T Petition at 1, 11-12, 16. These are the same arguments that AT&T presented in its comments in the Section 272 sunset rulemaking proceeding in this docket, where it advocated a general rule that would extend Section 272 for three years or more for *all* BOCs in

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<sup>2</sup> AT&T News Release, *AT&T Broadband-Comcast Merger Will Create More Competitive Marketplace* (Apr. 23, 2002) (Then AT&T Chairman C. Michael Armstrong said “AT&T Broadband has already gained 25 percent or higher cable telephony penetration in 55 communities”) *available at* [www.att.com/news/item/0,1847,10302,00.html](http://www.att.com/news/item/0,1847,10302,00.html).

<sup>3</sup> AT&T Corp. SEC Form 10-K, at 17 (Mar. 31, 2003).

all states. See Comments of AT&T (filed Aug. 5, 2002); Reply Comments of AT&T (filed Aug. 26, 2002). Because AT&T is advocating a general rule that would apply everywhere, the Commission should not consider such a rule in the context of a petition against a single carrier in a single state.

## **II. It Would be Contrary to the Act to Extend the Section 272 Requirements Until a BOC Loses a Specific Share of the Local Market.**

The premise of AT&T's petition is its erroneous claim that Congress and the Commission have found that the Section 272 separate affiliate requirements should remain in place so long as a BOC retains substantial market power in a state. AT&T Petition at 2-4. AT&T can point to nothing in either the Act or the legislative record to support this claim. Instead, AT&T cites an introductory sentence in paragraph 13 of the *Non-Accounting Safeguards Order*,<sup>4</sup> where the Commission stated that “[t]he rules and policies adopted in this order seek to preserve the carefully crafted statutory balance to the extent possible until facilities-based alternatives to the local exchange and exchange access services of the BOCs make those safeguards no longer necessary.” AT&T Petition at 4, citing *Non-Accounting Safeguards Order*, ¶ 13. However, as the Commission explained to the Court in AT&T's appeal of the Section 272 sunset for New York, this sentence was merely “aspirational,” and it did not reflect an intent to establish any policy standard for sunset.<sup>5</sup> The sentence did not “arise in the course of discussing the agency's

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<sup>4</sup> *Implantation of Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905 (1996) (“*Non-Accounting Safeguards Order*”).

<sup>5</sup> See Brief of the Federal Communications Commission, *AT&T v. FCC*, 34 (D.C. Cir. filed Oct. 20, 2003) (No. 03-1035).

discretion,”<sup>6</sup> and the Commission never attempted to establish a basis for extending the three-year sunset of Section 272. If the Commission had intended to establish a market power test for sunset, it would have done so explicitly. It did not. Therefore, there is nothing in the Commission’s orders that alters the statutory presumption of sunset in three years.<sup>7</sup>

Similarly, if Congress had wanted to adopt a measure of market power as a prerequisite to sunset of the Section 272 requirements, it easily could have done so. It did not. Instead, it adopted a statutory presumption that the Section 272 requirements would sunset in three years after a BOC obtained Section 271 authority. Congress was aware that structural separation imposes inefficiencies and restrains competition, so it chose to employ this mechanism on only a temporary basis, relying on other safeguards that would continue after three years, including the non-discrimination requirements of Sections 202 and 272(e)(1), the requirement for reasonable rates under Section 201, and the requirement in Section 272(e)(3) that the BOCs impute to their own long distance services the same access charges that they apply to non-affiliated interexchange carriers. Requiring the BOCs to demonstrate that they have no market power or that they have lost a specific amount of market share in the local exchange market before the separate affiliate requirement sunsets would be inconsistent with the statutory scheme.

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<sup>6</sup> *Heckler v. Chaney*, 470 U.S. 821, 836 (1985).

<sup>7</sup> AT&T also cites the Commission’s *272 Sunset Notice*, but manipulates the Commission’s language to distort its meaning. According to the AT&T, “(the Commission could ‘support the sunset of [Section 272] statutory requirements’ only if and only when competitive ‘circumstances [have] *changed* in three years’)(emphasis supplied).” AT&T Petition at 4 n. 8, *citing Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, 17 FCC Rcd 9916 ¶ 12 (2002) (“*272 Sunset Notice*”). What the Commission actually said in the *272 Sunset Notice* was that it wanted comments on the following *question*: “Have circumstances changed in three years to support the sunset of statutory requirements?” *272 Sunset Notice* ¶ 12.

For these reasons, AT&T's arguments that Verizon has not lost enough market share in Massachusetts to allow the Section 272 separate affiliate conditions to sunset are irrelevant. Neither Congress nor the Commission has established a market share test for sunset. To the contrary, sunset is automatic in three years unless the Commission extends the sunset by rule or order. *See* 47 U.S.C. § 272(f)(1).

In any event, Verizon has opened its markets in Massachusetts to competition and that competition is firmly entrenched. When the Commission granted Verizon's long distance application for Massachusetts, its decision was "based on [its] conclusion that Verizon has taken the statutorily required steps to open its local exchange markets to competition in Massachusetts."<sup>8</sup> In fact, the Commission "commend[ed] Verizon for all of the work that it has undertaken to open its local exchange market to competition in Massachusetts."<sup>9</sup> The Massachusetts Department of Telecommunications and Energy likewise found "that the local exchange market in Massachusetts is irreversibly open to competition."<sup>10</sup>

Local competition has developed in Massachusetts in ways that were not anticipated several years ago. Verizon now faces significant, facilities-based competition from cable television companies and wireless carriers. One industry analyst just stated that cable-based IP

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<sup>8</sup> *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, 16 FCC Rcd 8988 ¶ 1 (2001).

<sup>9</sup> *Id.* at ¶ 3.

<sup>10</sup> Evaluation of Massachusetts Department of Telecommunications and Energy, filed in *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, at 1 (filed Feb. 6, 2001).

telephony would be available to 82% of U.S. households by the end of 2005 and that, as a result of the MSOs' IP deployment plans, "the cable telephony threat to the RBOCs is nearly 70% greater than we had previously expected."<sup>11</sup> In addition, one recent study concludes that average long distance minutes of use per subscriber have declined from 180 to 100 (44%) because of substitution by wireless and e-mail.<sup>12</sup> Indeed, AT&T itself has acknowledged that wireless "has contributed to an overall decline in traffic volume on traditional wireline networks."<sup>13</sup>

Moreover, Verizon is facing more local competition in Massachusetts from even traditional competitive wireline carriers. During the time since Verizon was granted authority to provide long distance service in Massachusetts, CLECs have increased the number of lines they serve. At the end of June 2001, reporting CLECs served 576,442 end-user switched access lines in Massachusetts.<sup>14</sup> Two years later, reporting CLECs were serving 846,276 lines in Massachusetts – an increase of nearly [50] percent.<sup>15</sup> During this same time period, reporting CLECs in Massachusetts increased the percentage of lines they served from 12 percent to 19 percent.<sup>16</sup>

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<sup>11</sup> Bernstein Research Call, *U.S. Telecom and Cable: Faster Roll-out of Cable Telephony Means More Risk to RBOCs; Faster Growth for Cable*, p. 1 (Dec. 17, 2003).

<sup>12</sup> CIBC, *Opportunities for Flat Rate Pricing and Bundling*, at 20 (June 26, 2003).

<sup>13</sup> AT&T Corp. SEC Form 10-K, at 17 (Mar. 31, 2003).

<sup>14</sup> Industry Analysis and Technology Division, Wireline Competition Bureau, *Local Telephone Competition Status as of June 30, 2003*, Table 8 (rel. Dec. 22, 2003) available at [www.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/lcom1203.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom1203.pdf).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at Table 7.

AT&T argues that there is no facilities-based competition in Massachusetts and that Verizon is engaging in a “price squeeze” by raising the costs for inputs that rivals need to compete. AT&T Petition at 5, 10-11. AT&T is wrong. The Commission has already considered this argument and found AT&T’s “analysis to be materially insufficient.”<sup>17</sup> As the Commission explained, “[b]oth WorldCom’s and AT&T’s assertions that they cannot achieve a sufficient profit margin in Massachusetts are undercut by the fact that both have entered the Massachusetts residential market since the Commission issued the *Massachusetts 271 Order* – WorldCom through its offering of ‘The Neighborhood’ and AT&T through its offering of ‘One Rate U.S.A.’”<sup>18</sup> In fact, price competition in Massachusetts is driven by numerous carriers who offer bundles of local and long distance services, including intra-modal and inter-modal competitors. The chart below provides a sample of the choices that customers enjoy for local exchange service:

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<sup>17</sup> *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, Order on Remand, CC Docket No. 01-9, DA 04-422, ¶ 14 (rel. Feb. 20, 2004).*

<sup>18</sup> *Id.* AT&T offers local exchange service with unlimited local calling in Massachusetts for \$23.95 per month. Its One-Rate USA bundle includes unlimited local and long distance calls for \$49.95 per month. *See* AT&T News Release, *AT&T Enters Massachusetts Residential Local Phone Market; Consumers to Benefit from Greater Choice* (June 17, 2003) available at [www.att.com/news/item/0,1847,11808,00.html](http://www.att.com/news/item/0,1847,11808,00.html).

	Verizon Freedom	RCN MegaPhone	Comcast Digital Phone Complete 300	Vonage Premium Unlimited	Cingular Preferred Nation 500 with Rollover	AT&T mLife National Next Generation	T-Mobile Get More (National)
Price per month	\$54.95	\$55.00	\$46.00	\$34.99	\$49.99 for 500 anytime and 5,000 night/week-end minutes	\$49.99 for 700 anytime minutes	\$39.99 for 600 anytime, and unlimited night/week-end minutes
Local	Yes – Unlimited	Yes – Unlimited	Yes- Unlimited	Yes – Unlimited	Yes	Yes	Yes
Local Toll	Yes – Unlimited	Yes- Unlimited	Yes – up to 6 hours, shared with LD	Yes – Unlimited	Yes	Yes	Yes
Long Distance	Yes – Unlimited	Yes – Unlimited	Yes – up to 6 hours, shared with local toll	Yes – Unlimited	Yes	Yes	Yes
Vertical Services	Yes (4 plus voicemail)	Yes (User chooses 4 out of 9)	Yes (12 plus voicemail)	Yes (6 plus voicemail)	Yes (4 plus voicemail)	Yes (6 plus voicemail)	Yes (4 plus voicemail and 50 incoming text messages)

It should be noted that these are primarily facilities-based alternatives to Verizon’s local exchange service and that they are priced *lower* than Verizon’s package. This refutes AT&T’s claim that there is no facilities-based competition in Massachusetts and that Verizon is attempting to drive out competition through a price squeeze.

### **III. Continuation of the Section 272 Separate Affiliate Requirements is Not Necessary to Protect Against Discrimination or Cost Misallocation**

AT&T argues that the separate affiliate requirements are needed to deter discrimination and cross-subsidization of the BOCs' long distance services by their local exchange services. AT&T is wrong. The Act provides for substantial safeguards that will continue to be effective after sunset. The continuing safeguards include the non-discrimination requirements of Sections 202, 251(c), and 272(e)(1), the requirements for reasonable rates under Sections 201 and 251(c), and the requirement in Section 272(e)(3) that the BOCs impute to their own long distance services the same access charges that they apply to non-affiliated interexchange carriers. The provisions of Sections 201, 202, 251, and 272 and the Commission's rules implementing them impose special obligations on the BOCs that are designed to ensure that they provide their competitors in both the local and interexchange markets with the services and facilities they need to provide competitive telecommunications services. In crafting the Telecommunications Act of 1996, Congress clearly viewed these provisions as sufficient to protect competition after the separate affiliate requirement sunsets in three years.

For example, Section 272(e)(1) requires a BOC to fulfill requests for telephone exchange service and exchange access within a period no longer than it provides such service to itself or an affiliate. Any discrimination in favor of the BOC's retail services would have to be apparent to customers to give a BOC an unfair advantage in the marketplace, and any discrimination that was apparent to customers would also be easily detected by the BOCs' competitors as well as by the Commission.<sup>19</sup>

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<sup>19</sup> AT&T argues that a BOC could discriminate in favor of its own long distance operations by giving itself superior service, but such discrimination, which would violate Section 272(e)(1),

Similarly, Section 272(e)(3) deals with potential cross-subsidization by requiring a BOC to impute to itself, or to its separate affiliate, the same amount for exchange access that it charges unaffiliated carriers. The BOCs would assign the same costs to their long distance operations regardless of whether or not they use separate affiliates. The Commission has a great deal of experience with cost accounting between regulated and non-regulated BOC activities. For example, in its order allowing the bundling of enhanced services, the Commission found that its cost allocation rules are effective in preventing cross-subsidization of competitive services by non-competitive services. *See 1998 Biennial Regulatory Review – Review of Customer Premises Equipment and Enhanced Services Unbundling Rules*, 16 FCC Rcd 7418, ¶¶ 38, 46 (2001). There is no reason to conclude that such cost accounting would be less effective for long distance services than it has been for those other, no less competitive services.

AT&T argues that the Second Biennial Audit Report shows that Verizon's affiliates received better performance. AT&T Petition at 9. In fact, the audit provides overwhelming evidence that Verizon complies with the Section 272 safeguards. The audit shows that Verizon took its obligations seriously and put in place mechanisms to achieve overall compliance. AT&T focuses on a handful of minor observations and inconclusive data in the audit. AT&T does not, and, indeed, could not, show that any of the facts in the Second Biennial Audit Report demonstrate material noncompliance with the Commission's rules.

The auditor collected information regarding the BOCs' practices and processes to fulfill requests for telephone exchange service and exchange access service for their Section 272

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could not give the BOC an advantage unless it were apparent to customers, which ensures that it would be detected by competitors and by the Commission as well. AT&T Petition at 8.

affiliates, other affiliates, and non-affiliates in each state where the BOC has been authorized to provide in region interLATA services. Verizon demonstrated that “at each step in the fulfillment of requests the same treatment is given to non-affiliated customers and affiliate customers.”<sup>20</sup>

Verizon applies the same installation and repair interfaces with the Verizon ILEC operations as are made available to non-affiliates. Verizon’s systems that process installation orders apply the same standard minimum provisioning intervals (where facilities exist) and the same first-come-first-served priority to special access orders regardless of the identity of the customer.

Moreover, AT&T’s argument is based solely on the results of certain performance measures. The Commission, however, has consistently treated such results in its Section 271 proceedings as simply “a reasonable basis for us to begin our analysis.”<sup>21</sup> Accordingly, where there is a statistically significant difference, “we will examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met.”<sup>22</sup>

As a preliminary matter, no valid comparisons can be drawn from the data AT&T cites comparing the performance for the BOCs’ affiliates and non-affiliates because of the extremely small number of orders for the BOCs’ affiliates. In Massachusetts, the BOCs’ affiliates had twelve or fewer orders for each service in nearly all of the reported months, while non-affiliate orders were often in the hundreds or even thousands.<sup>23</sup> No statistically significant conclusion can

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<sup>20</sup> See Second Biennial Section 272 Audit Report, EB 03-200, Appendix A at 63 (filed Dec. 15, 2003) (“*Second Biennial Audit Report*”).

<sup>21</sup> *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd 3953 ¶ 57 (1999).

<sup>22</sup> *Id.* ¶ 59.

<sup>23</sup> See Second Biennial Audit Report, Attachment A at A-15 to A-19.

be drawn from data for such small population sizes. The Commission has stated numerous times that a difference in performance between affiliates and non-affiliates must be statistically significant to be relevant to the issue of discrimination.<sup>24</sup> Even Robert M. Bell's declaration on behalf of AT&T concedes that "it can be difficult to extrapolate from single month comparisons due to small sample sizes of affiliate orders . . . ."<sup>25</sup>

Even if the quantities of Section 272 affiliates' orders were large enough to allow tests for statistical significance, which they are not, the performance data cannot support AT&T's claims of discrimination. In many months, the FOC intervals and average installation intervals show better performance for non-affiliates. For example, AT&T ignores the reported FOC intervals in Massachusetts for DS-0 services, DS-3 services, and OCn services, which often show better performance for unaffiliated carriers during the audit.<sup>26</sup>

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<sup>24</sup> See, e.g., *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. For Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419, Appendix C, ¶ 11 (2001).

<sup>25</sup> See AT&T's Second Verizon Biennial Audit Comments, EB 03-200, Bell Decl. ¶ 6 (filed Feb. 10, 2004).

<sup>26</sup> In Massachusetts, unaffiliated carriers had shorter FOC intervals for DS-0 services in 6 out of the 9 months where the BOC's Section 272 affiliates ordered service; for DS-3 services in 4 out of 6 months; and for OCn services in 1 out of 2 months. See Second Biennial Audit Report, Attachment A at A-15 to A-16. In addition, the results of the performance data cannot be attributed to the BOC alone. For installation, the differences in intervals were likely affected by the facts that (1) non-affiliates tended to request installation dates that were longer than the standard interval; (2) non-affiliate orders required building of facilities more often than affiliate orders; and (3) non-affiliate orders involve copper facilities rather than fiber more often than affiliate orders. The time necessary to install a special access order can also be affected by (1) whether the BOC has transport facilities and equipment in place to provision the specific route and service configuration requests by the customer; and (2) the specific location and complexity of the circuits requested.

AT&T also criticizes performance results for FG-D repair service in Massachusetts. AT&T Petition at 9. Again, no valid comparison can be made between the performance for the BOCs' affiliates and non-affiliates because of the extremely small number of trouble tickets. In Massachusetts, the BOCs' affiliates had six or fewer FG-D trouble tickets per month.<sup>27</sup> In any event, the overall results for FG-D repair intervals are consistent with expectations for random variation. For the FG-D repair interval results, the non-affiliate category had longer intervals in only 49 percent of the instances, which certainly reflects parity.<sup>28</sup>

AT&T also argues that on a sample of 100 inbound calls, the BOCs' sales representatives failed to inform new customers of their long distance options on 9 calls. AT&T Petition at 9. But Verizon explained that on three of these calls, after Verizon's sales representative advised the customers that they had a choice of carriers, the customers interrupted with their choice of carrier.<sup>29</sup> Since the customer had made a selection, there was no obligation to read the list of carriers. Moreover, Verizon uses a Voice Response Unit that includes a neutral script so that most customers, who are calling to order new local service, prior to reaching a call center representative, hear the following: "You have a choice of local (or regional toll) and long distance providers. A list of providers is available."<sup>30</sup> Although the audit procedure did not

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<sup>27</sup> See Second Biennial Audit Report, Attachment A at A-22.

<sup>28</sup> See Second Biennial Audit Report, Appendix A at 75.

<sup>29</sup> See Second Biennial Audit Report, Attachment E at 12.

<sup>30</sup> *Id.*

require the auditor to listen to the call prior to the time that the live operator picked up the call, it is highly likely that all of these customers had heard the recorded announcement.<sup>31</sup>

AT&T also cross-references claims it has made in other proceedings before the Commission and certain state commissions. AT&T Petition at 10-11. Verizon has already responded to AT&T's claims in those proceedings and there is no need to repeat those matters here. Verizon's responses showed that AT&T's claims are entirely without merit.<sup>32</sup>

#### **IV. The Costs of Extending the Section 272 Separate Affiliate Requirements Clearly Outweigh Any Alleged Benefits.**

Because the separate affiliate rules are not necessary to safeguard competition, there are no benefits that outweigh the substantial cost burden and marketing handicaps that these rules place on the BOCs. As Verizon demonstrated in its comments in the rulemaking proceeding, it has incurred and will incur approximately \$557 million in capital costs and expenses (other than operating, installation, and maintenance ("OI&M") expenses) to comply with these requirements over nine years. *See* Verizon Comments at 9-11 & Howard Declaration (filed Aug. 5, 2002). This level of economic waste cannot be justified, and it merely serves to inhibit the competitive challenge to incumbent long distance carriers such as AT&T. In addition, the operational

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<sup>31</sup> On just one call, the customer service representative erred when mentioning the \$5.00 PIC Change Fee since it is not applicable to customers who are selecting an interLATA carrier when establishing new local telephone service with Verizon. This mistake by Verizon's representative was not an attempt to steer the customer to Verizon's Section 272 affiliate. *See* Second Biennial Audit Report, Attachment E at 12.

<sup>32</sup> *See* Verizon Response to Comments on Biennial Section 272 Audit Report, CC Docket No. 96-150 (filed June 10, 2002); Reply Comments of Verizon in WC Docket No. 02-112 (filed Aug. 26, 2002); *Investigation by the Department of Telecommunications and Energy on its Own Motion Pursuant to G.L. c. 159, §§ 12 and 16, into Verizon New England Inc., d/b/a Verizon Massachusetts' Provision of Special Access Services*, D.T.E. 01-34, Reply Brief of Verizon New England (filed July 8, 2002).

restrictions imposed by the separate affiliate requirements inhibit the BOCs' marketing efforts in the large business market, which AT&T continues to dominate. *See Verizon Comments at 19-20 & McCully Declaration (filed Aug. 5, 2002).*

AT&T asserts that Verizon has not explained how these costs were determined or provided any backup material. AT&T Petition at 13-14. However, in Verizon's reply to comments on its petition for forbearance from the restriction on sharing OI&M services, Verizon provided a step-by-step explanation of its costing methodology and the specific percentages of expenses in each category that could be saved if Verizon could provide long distance services on a non-separated basis. *See Reply Comments of Verizon, CC Docket No. 96-149, Attachment A (filed Sept. 24, 2002).* In addition, Verizon has filed, subject to confidential treatment, the data that it used to provide its estimates of the historic cost burden of maintaining separate affiliates. *See Verizon Ex Parte, CC Docket 96-149, WC Docket No. 02-112 (filed May 12, 2003).* These data fully substantiate the cost burden associated with the section 272 separate affiliate requirements. There is no basis for extending this burden beyond the congressionally mandated three-year period.

## Conclusion

AT&T's petition presents the same arguments that the Commission has repeatedly rejected by allowing the Section 272 provisions to sunset as a matter of law. The Commission should address AT&T's flawed reading of the statute, and ultimately reject it, in the pending rulemaking proceeding.

Respectfully submitted,



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March 12, 2004

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## THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Midwest Incorporated d/b/a Verizon Midwest  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.