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JUL 22 2004
Federal Communications Commission
Office of Secretary

July 21, 2004

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

Re: WC Docket No. 04-242

Dear Ms. Dortch:

Enclosed for filing in the above docket are the original and four copies of "Comments of Ad Hoc Telecom Manufacturer Coalition."

Sincerely,

Rodney L. Joyce

Rodney L. Joyce

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JUL 2 2 2004

Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Petitions of the Verizon Telephone Companies for Declaratory Ruling, or Alternatively Either Interim Waiver for Forbearance with Regard to Broadband Services Provided via Fiber to the Premises	)	WC Docket No. 04-242

COMMENTS OF
AD HOC TELECOM MANUFACTURER COALITON

We file these comments in support of the ruling that Verizon seeks in order to discuss the increased infrastructure investment that the ruling should help foster.

BACKGROUND

Within the last few months, Verizon has begun transforming its network in a revolutionary way by deploying fiber-to-the-premises ("FTTP") infrastructure. By the end of this year, the company will have completed deployment of FTTP infrastructure to about one million households. This will permit it to offer a host of services, including multi-channel video service as well as regular telephone service and ultra-high speed Internet access service, over the same network. During 2005, Verizon has stated that it hopes to expand its FTTP infrastructure to as many as two million additional households assuming favorable economic and regulatory conditions.[1]

In its petitions, Verizon asks the Commission to exempt it from the obligation to make available the company's new FTTP infrastructure to Internet service providers

[1] *See* text of speech by Verizon Chairman and CEO Ivan Seidenberg, prepared for delivery to Consumer Electronics Industry Show, Jan. 8, 2004. The speech can be viewed at http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=83236.

under price controls and the panoply of other tariff regulations. Removing tariff regulations will give Verizon and each ISP the flexibility to negotiate the terms under which that ISP uses Verizon's FTTP infrastructure to provide Internet access service to consumers. The Commission provided this same regulatory exemption to Verizon's cable TV competitors more than two years ago by holding that cable operators need not provide their cable infrastructure to ISPs under tariff regulation, thereby giving each cable operator and ISP flexibility to negotiate terms under which that ISP uses the cable operator's infrastructure to provide Internet access service to consumers.

DISCUSSION

Verizon explains in its petitions that the regulatory relief it requests is justified since (i) the agency already has provided identical relief to Verizon's cable TV competitors who provide high speed Internet service to a far larger percentage of households than Verizon, (ii) imposing the subject regulation would serve no valid purpose given that the high-speed Internet service market is still evolving and Verizon's FTTP network is but one of several transmission platforms available to Internet service providers, (iii) there is no risk of harm given that the relief Verizon proposes would apply only until the Commission develops a permanent regulatory structure for all companies that provide broadband service and only when broadband transmission is provided over FTTP infrastructure, and (iv) granting the relief could stimulate investment in FTTP technology.

Our comments concern this latter point -- that granting the requested relief could stimulate FTTP investment. As manufacturers of telecom equipment, we have a special interest in promoting the adoption of regulatory policies that encourage infrastructure investment since we know first hand that telecom companies often speed the pace of infrastructure purchases when regulations are eliminated.

Exempting Verizon from the obligation to make available the company's new FTTP infrastructure to Internet service providers under tariff regulations should give Verizon a greater incentive to expedite the deployment of this new infrastructure. In support, we note that the FCC itself decided two years ago not to apply these specific regulations to cable operators based in large part on its conclusion that taking this action would increase infrastructure deployment by the cable industry.[2] We also note that Verizon's Chairman and CEO told the U.S. Senate Commerce Committee just two months ago that Verizon may be forced to reduce capital spending unless price controls and other tariff regulations that do not apply to Verizon's cable TV and CLEC competitors are eliminated:

> "U.S. telecommunications policy is broken and must be fixed . . . . [The new policy must] leave pricing to the marketplace rather than regulators, encourage [ ] investment in both wireline and wireless infrastructure . . . and put[ ] power in the hands of consumers, not government." [3]

Similarly, SBC stated in its 2003 Annual Report to shareholders that tariff regulations are partially to blame for that company's decision in October 2001 to slow its broadband deployment plans:

> "In October 1999, we announced plans to upgrade our network to make broadband services available to approximately 80% of our U.S. wireline customers over the four years through 2003 (Project Pronto). Due to the weakening U.S. economy and an adverse regulatory environment, in

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2 Cable Modem Decl. Ruling, 17 FCC Rcd. 4798 at ¶ 47 (2002).

3 See Verizon Press Release, "Verizon CEO Calls for Sweeping Revision of U.S. Telecom Policy", May 12, 2004. The press release can be viewed at http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=85053&PROACTIVE_ID=cecdcbcbcec9c9cfc9c5cecfcfcfc5cececbc8c9cbcac9c6ccc5cf.

> October 2001 we announced a scale-back in our broadband deployment plans. [B]urdensome FCC and state commission regulations . . . have added significantly to our costs and delayed our ability to earn a profit on DSL service. Our cable modem competitors are not subject to these regulations. This adverse regulatory environment was the primary reason we decided to slow the build-out of our broadband network. We expect to spend significantly less on capital expenditures due to this scale-back."[4]

BellSouth likewise stated in its 2003 Annual Report that its business "continue[s] to be adversely affected by . . . regulatory burdens."[5]

Increased investment in FTTP infrastructure is plainly in the public interest since it would benefit consumers by making available new and advanced telecom services and by helping increase competition in the multi-channel video programming and high speed Internet access markets, both of which are now dominated by the cable TV industry.

Increased investment in FTTP infrastructure also is in the public interest because it would benefit the U.S. economy as a whole by helping stimulate an industry -- telecom manufacturing – in which employment has declined dramatically since early 2000; the sector that makes hardware for ILECs *alone* may have lost 500,000 jobs.[6] FCC Chairman Powell has called telecom manufacturing companies "the R&D arms that have kept . . . [U.S. telecom network[s] at the cutting edge" and has stated that "they must survive for our future."[7] And one study has projected that 974,000 new jobs would be

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[4] SBC Annual Report (Form 10K) at 2, filed March 14, 2003. More recently, SBC's chairman and CEO has stated SBC's intent to spend $4 billion to $6 billion over five years upgrading its network with FTTP and fiber-to-the node technology assuming that telecom regulators bring "final clarity on applicable regulatory requirements." See SBC Press Release dated June 22, 2004, available for viewing at http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21207.

[5] BellSouth Annual Report (Form 10K) at 8, filed Feb. 28, 2003.

[6] The Telecom. Industry Ass'n, "The Economic and Social Benefits of Broadband Deployment" at 4 (Oct. 2003).

[7] Chairman Michael Powell speech at the Goldman Sachs Communicopia XI Conference, New York, NY, Oct. 2, 2002.

created if spending on telecom products increased to a level similar to what existed just four or five years ago.[8]

CONCLUSION

The Commission should grant the regulatory relief that Verizon requests in its petitions.

Respectfully submitted,

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8 Stephen B. Pociask, "Building a Nationwide Broadband Network: Speeding Job Growth", Feb. 25, 2002.

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July 22, 2004