

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier	)	CC Docket No. 94-129
Selection Changes Provisions of the	)	
Telecommunications Act of 1996	)	
	)	
Policies and Rules Concerning Unauthorized	)	CC Docket No. 00-257
Changes of Consumers Long Distance Carriers	)	

**VERIZON’S PETITION FOR WAIVER OF THE ADVANCE  
NOTIFICATION REQUIREMENTS OF 47 C.F.R. § 64.1120(E)**

To avoid disruption of telephone service to New York and Rhode Island customers of 1COM, Inc., a competitive local exchange carrier that has ceased providing service in New England, the Commission should grant Verizon a waiver of the 30-day advance notice requirement in 47 C.F.R. § 64.1120(e). Verizon is the default carrier in New York and Rhode Island and is therefore required to take back the former 1COM customers in these two states. A waiver of the 30-day advance notification requirement will allow a “seamless transition of service from the original carrier to the acquiring carrier”<sup>1</sup> and is therefore in the public interest.

Until very recently, 1COM, Inc., provided resold telephone service in five New England states – Massachusetts, Maine, New Hampshire, New York, Rhode Island, and Vermont.<sup>2</sup> Earlier this summer, Verizon informed 1COM that, unless it paid its long overdue and substantial

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<sup>1</sup> *In the Matter of 2000 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket Nos. 00-257, 94-129, First Report and Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129, 16 FCC Rcd 11218, 11222, para. 10 (rel. May 15, 2001).

<sup>2</sup> Of these states, Verizon is the default carrier in New York and Rhode Island only.

wholesale bills, Verizon would be forced to terminate 1COM's service. 1COM did not pay its bills and instead notified its customers that it would cease operations. On June 10, 1COM notified its New York customers that they must select a new local service provider by July 10.<sup>3</sup> And on June 18, 1COM notified its Rhode Island customers that they must select a new local service provider by July 26.<sup>4</sup> Some 1COM customers in New York and Rhode Island did not act by these service cessation dates and will soon be transferred to Verizon as the default carrier in those states. In New York, approximately 200 consumers and 150 business customers would be transferred to Verizon, and in Rhode Island approximately 40 consumers and 50 business customers would be transferred.

The Commission's streamlined procedures for acquiring part or all of another telecommunications carrier's subscriber base would require Verizon to notify both the Commission and the affected subscribers of the carrier change. *See* 47 C.F.R. § 64.1120(e). In relevant part, the regulations require at least 30 days' notice to both the Commission and the affected subscribers. *See id.* § 64.1120(e)(1), (e)(3). The notice must contain, among other things, information about the type of telecommunications services to be provided, the date of the transfer, and rate information. *See id.* § 64.1120(e)(1), (e)(3)(i)-(vii).

To comply with these regulations, Verizon would have had to provide notice to defaulted 1COM New York customers by June 10 and to defaulted 1COM Rhode Island customers by June 26. This was not possible. Verizon will not know which former 1COM customers in New York and Rhode Island will be transferred to Verizon until some time after the termination dates specified in the 1COM letters. Indeed, even as of the date of this filing, Verizon does not have a

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<sup>3</sup> *See* Attach. A.

<sup>4</sup> *See* Attach. B.

final default list, and, as a result, the affected 1COM subscribers have not been transferred to Verizon. The New York and Rhode Island commissions expect Verizon to begin switching these customers shortly, but, in any event, Verizon cannot switch the former 1COM customers until it receives an FCC waiver for the 30-day advance notice requirements.

Recently, on nearly identical facts, the Consumer and Governmental Affairs Bureau (the Bureau) granted Qwest's request for a waiver of the 30-day advance notification requirements.<sup>5</sup> The Bureau found that, because "compliance with the 30-day advance notice requirement could potentially result in the loss of local service for [the CLEC's] customers," a waiver served the public interest.<sup>6</sup> The Bureau also found it "unlikely that the affected subscribers will suffer harm from receiving less than 30 days notice of the transfer" and concluded that, in any event, "any such harms would be outweighed by the benefits of a seamless transfer of service."<sup>7</sup>

Similarly, for 1COM's former New York and Rhode Island customers who have not selected a new service provider, Verizon's compliance with the Commission's 30-day advance notification requirement would result in the loss of local telephone service for more than a month. Verizon expects to learn shortly which customers have not selected a new carrier and will then promptly send the notification letters required by the Commission's rules. Without a waiver, however, the earliest date by which Verizon could likely start service would be mid- to late-September. Loss of local service for such a period of time is not in the public interest.

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<sup>5</sup> *In the Matter of 2000 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Qwest Corporation and Qwest Long Distance Corporation Petition for Waiver*, CC Docket Nos. 00-257, 94-129, Order, 19 FCC Rcd 8148 (rel. May 4, 2004) (*Qwest Order*).

<sup>6</sup> *Id.* at 8150, para. 7.

<sup>7</sup> *Id.*

In addition, because 1COM has already notified all its New York and Rhode Island subscribers that they must select a new provider or they will be automatically transferred to Verizon as the default provider,<sup>8</sup> former 1COM subscribers who did not select a new provider by the deadline and who would receive less than 30 days' notice from Verizon will not suffer any harm. As the Bureau found in the *Qwest Order*,<sup>9</sup> the benefits of Verizon's providing fewer than 30 days' notice to these subscribers -- *i.e.*, seamless provision of local telephone service -- greatly outweighs any burden of the shorter notice -- *i.e.*, loss of local telephone service for over 30 days.

### Conclusion

For the foregoing reasons, the Commission should grant Verizon a waiver of its carrier change authorization and verification rules so that former 1COM customers in New York and Rhode Island transferred to Verizon as the default carrier do not suffer disruption of local telephone service.

Respectfully submitted,

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Date: August 6, 2004

Attorney for Verizon

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<sup>8</sup> See Attachs. A and B.

<sup>9</sup> *Qwest Order*, 19 FCC Rcd at 8150, para. 7.

June 10, 2004  
Customer Name  
Address  
City, NY zip

**YOU MUST CHOOSE A NEW LOCAL TELEPHONE SERVICE PROVIDER BY  
JULY 10, 2004**

Dear Customer:

We regret to inform you that as of July 10, 2004 1COM, Inc. will no longer be providing your local telephone service in New York.

**Your action is required! You must select a new local telephone provider as quickly as possible as but no later than July 10, 2004. If you do not select a new telephone provider, Verizon will become your new local service provider.**

Please be aware that you are responsible for paying all bills rendered to you by 1COM, Inc. during this transition. You may be subject to suspension or termination of your phone service in accordance with Public Service Commission rules if you fail to pay your telephone bill.

After selecting a new local telephone provider, you should also contact your current long distance provider to ensure that your current long distance calling plan is not changed as a result of your change in local service. If you do not contact your long distance provider, you may be charged basic rates (non-calling plan rates) for long distance.

Generally, you can find a list of most local telephone service providers in your local telephone directory. If you require assistance, please contact 1COM, Inc. at 1-888-505-3311.

1COM, Inc. regrets any inconvenience this change may cause you.

Sincerely,

Harry Dunne  
President



310 South St. ♦ Plainville, MA 02762

June 18, 2004

<NAME>  
<STREET1>  
<STREET2>  
<CITY><RI><ZIP>

**YOU MUST CHOOSE A NEW LOCAL TELEPHONE SERVICE PROVIDER**

Dear Customer:

We regret to inform you that as of July 26, 2004 1COM, Inc. will no longer be providing your local telephone service in Rhode Island.

**Your immediate action is required! You MUST select a new local telephone provider as quickly as possible – but no later than July 26, 2004. If you do not select a new telephone provider, Verizon will become your new local service provider.**

Please be aware that you are responsible for paying all bills rendered to you by 1COM, Inc. during this transition. You may be subject to suspension or termination of your phone service in accordance with Public Utilities Commission rules if you fail to pay your telephone bill.

Generally, you can find a list of most local telephone service providers in your local telephone directory. If you require assistance, please contact 1COM, Inc. at 1-888-605-3311.

After selecting a new local telephone provider, you should also contact your current regional toll and/or your long-distance provider (if those services are not provided by 1COM) to ensure that neither your current intra-LATA toll calling plan nor your long-distance calling plan is changed as the result of the change in local service. If you do not contact these providers to ensure that your current calling plans remain in place after your transfer of local service, you may be charged basic rates (non-calling plan rates) for intra-LATA and long-distance calls.

1COM regrets any inconvenience this change may cause you.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Harry Dunne'.

Harry Dunne  
President