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Federal Communications Commission
Office of Secretary

Ex Parte

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

Re: Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service By Incumbent Local Exchange Carriers, WC Docket No. 03-173

Dear Ms. Dortch:

In the last several weeks, Verizon has submitted extensive evidence describing the widespread deployment of competing voice telephone services by cable companies and Voice over Internet Protocol ("VoIP") providers, as well as increasing competition from wireless and other intermodal providers and competitors that have deployed their own circuit switches.¹ These developments conclusively show that the unbundling standards in the Act are not satisfied with respect to switching. In addition, they also reinforce the fact that competition is rapidly increasing throughout the telecommunications marketplace and that, for any elements that are subject to an unbundling requirement going forward, TELRIC reform is long overdue in order to ensure that UNE rates provide correct economic signals to the market, restore efficient investment incentives, and fairly compensate the incumbents. This evidence, which is enclosed, includes detailed maps graphically depicting the scope of competition as well as white papers, declarations, and other supporting materials and is relevant to this proceeding for the following reasons.

First, as a general matter, recent developments further demonstrate that competition is not impaired without access to unbundled switching nationwide.

¹ See Letter from Dee May, Verizon, to Marlene H. Dortch, FCC, CC Docket Nos. 01-338, 98-147 and 96-98 at 10, 15 (filed June 24, 2004); Letter from Michael E. Glover, Verizon, to Marlene H. Dortch, FCC, CC Docket Nos. 01-338, 98-147 and 96-98 at 19, 29 (filed July 2, 2004).

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- As of the end of 2003, cable companies already offered circuit-switched voice telephony to 15 percent of homes nationwide, and were rolling out VoIP to many more.
- By the end of 2004, cable companies plan to offer VoIP to more than 24 million homes over their networks, and plan to offer it to at least 20 million more the following year; and of course the number of lines is even larger.
- Regardless of whether cable companies themselves offer VoIP, the 85-90 percent of U.S. homes that have access to cable modem service also have access to VoIP from multiple providers ranging from the major long distance carriers to national VoIP providers like Vonage.
- Wireless carriers are aggressively competing both for lines and for traffic: during the last two years, the number of wireless lines has grown from 137 million to 155 million while the number of wireline lines has declined; the percentage of users giving up their landline phones has grown from 3-5 percent to 7-8 percent; and wireless traffic has grown from 16 to 29 percent of all voice traffic and to 43 percent of long distance traffic.
- Competing carriers now have some 10,000 circuit switches and packet switches nationwide, and have used their switches to provide voice telephone service in wire centers that contain 86 percent of Bell company access lines nationwide.

Second, these competitive developments are particularly pronounced in the top 25 MSAs (based on number of access lines) where Verizon provides local services as the incumbent.

- Cable companies already offer voice telephone service, either circuit-switched or VoIP, to more than 12 million homes in Verizon's service areas.
- Regardless of whether the cable companies themselves offer VoIP, approximately 92 percent of the population in Verizon's top 25 MSAs now have access to cable modem service, and therefore also have access to VoIP from numerous alternative VoIP providers at competitive prices.
- Wireless service is available from multiple competing providers in Verizon's top 25 MSAs at prices that are directly competitive with wireline voice telephone service.
- Competing carriers are using their own switches to serve at least 2.1 million mass market lines in Verizon's top 25 MSAs, and are capable of and are serving mass market customers throughout these MSAs.

As this evidence and the maps attached at tabs A, B, C and D show, competing providers are offering voice telephone services throughout the areas served by Verizon.²

² So that this evidence can be made publicly available, Verizon has not included Attachment 2 to the Declaration of Ronald H. Lataille, which contains confidential, CLEC-specific information.

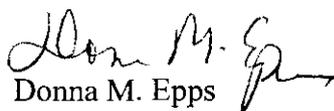
Third, competing providers are offering voice telephone services to mass market customers at rates that compete directly with traditional telephone service. For each of Verizon's 25 top MSAs, Verizon has prepared charts that compare the prices and features of the voice telephone service offerings of several leading competitors, including VoIP and wireless offerings. These charts show that competitors' voice telephone offerings are very competitive in terms of the services and features included. For example, AT&T offers VoIP service in 100 major metropolitan markets for \$34.99 per month. Time Warner offers a bundled package of local and long distance service for \$39.95. Cablevision offers a similar package for \$34.95. Cablevision also recently introduced a bundled package of local and long distance, high speed Internet access, and digital cable for \$89.85 – about the same price it previously charged for high speed Internet access and digital cable alone. The result, according to Cablevision, is that customers “are essentially receiving their voice service for free.” Vonage offers an unlimited local and long distance package for only \$29.99. And BroadVoice and Packet8 offer similar packages for \$19.95. *Id.*

In short, there is extensive competition to provide voice telephone service to mass market customers. Under these circumstances, there simply is no justification for finding that competition is impaired without access to UNE switching. Accordingly, the provision of unbundled switching or UNE-P cannot be “required” under section 251(c).

Moreover, the attached materials underscore the urgent need for the Commission to reform its UNE pricing rules for any elements that incumbents must continue to provide. The explosive growth of intermodal competition that has occurred while incumbent LECs have been required to provide unbundled switching has exacerbated the economic distortions caused by TELRIC. As Verizon has previously explained, incumbents must compete with all of these providers, while being handicapped by the requirement that they subsidize CLEC entry through below-cost UNE rates. At the same time, these intermodal providers are forced to compete with CLECs that have the artificial advantage of below-cost UNEs, further skewing economic signals and investment incentives. To correct the current market distortions, the Commission's new pricing rules for any elements that incumbents must continue to provide should base UNE rates on the forward-looking cost of providing UNEs using the incumbents' real-world networks. That will send the proper economic signals to CLECs which, in turn, will force incumbents to find new ways to improve their own efficiency, triggering the type of virtuous cycle of investment and innovation that real, rather than purely “synthetic,” competition produces.

Please do not hesitate to contact me with any questions.

Sincerely,


Donna M. Epps

August 9, 2004
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Enclosures

cc: T. Preiss (w/o enclosures)
S. Morris
J. Marcus
A. Gonzalez
D. Kwiatkowski

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