

Dee May
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September 2, 2004

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Ex Parte

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

Re: Section 251 Unbundling Obligations for Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of Local Competition Provision of the Telecommunications Act of 1996, CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147

Dear Ms. Dortch:

The attached letter was provided to Chairman Powell today. Please place it on the record in the above proceeding.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Dee May".

Attachment

cc: Scott Bergmann
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September 2, 2004

Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Powell:

This letter briefly addresses three points relating to Verizon's pending petition for forbearance from any separate unbundling obligations imposed by section 271 on broadband facilities.

First, while some parties have claimed that Verizon's petition is an effort to obtain broader unbundling relief than the Commission adopted under section 251 in the *Triennial Review Order*, those claims are misplaced. Verizon's petition is limited to just the broadband issues addressed in that order, and does not ask for any more relief than the Commission already adopted under section 251.

Specifically, the forbearance petition merely asks the Commission to make clear that the unbundling rules for broadband are the same in states such as California, Florida, and Texas – where Verizon's local telephone companies are not former Bell companies and are not subject to any separate section 271 unbundling requirements – and in states such as Virginia or Pennsylvania – where section 271 applies. Indeed, even within the latter two states, parts of Verizon's operations are in areas where section 271 applies and parts are not. As a policy matter, having made the decision that imposing unbundling requirements on broadband is both unnecessary and affirmatively harmful, it makes no sense to apply different rules in some states than in others, let alone in different parts of individual states.

Second, this issue is of particular importance to Verizon because we have embarked on a fundamental and thoroughgoing re-making of our wireline network in order to deliver the benefits of the broadband future to our customers. In our case, this is not a plan for future deployment. It already has begun, and is happening today. And in our case, this re-making of the network will bring the benefits of fiber directly to customers' doors through deployment of fiber all the way to customers' premises.

To be sure, this re-making of the network does not occur in a vacuum. We already have undertaken a great deal to deliver the first generation of broadband services to our customers. In the wake of the Commission's announcement last February that it was removing unbundling obligations from broadband, Verizon moved aggressively ahead to extend the reach of our first generation services. By the beginning of this year alone, relying on the relief promised there (including for the packet switching capabilities used to provide DSL service), we already had invested an additional \$600

million to increase the availability of our DSL services, and added more than 10 million DSL-qualified lines. The investment to expand the availability and increase the capabilities of our DSL services continues today. In addition, we also have reduced the prices of our DSL services, increased the speed of our basic DSL offerings, and introduced new service offerings. These steps not only benefited our own customers, but they also increased competitive pressures on the dominant cable companies and prompted them to respond in kind, by increasing the speed of their own broadband offerings, reducing prices, or both.

These first generation broadband services obviously are important to our entry into the broadband market. They allow us to establish a presence in the broadband market, to attract a customer base, and to compete with the dominant cable modem providers. But they *are* the *first* generation. And we already have begun deployment of the *next* generation technologies that will fundamentally remake our network. This re-making of the network will proceed in different stages in different locations. In some locations, the first step will be the introduction of advanced packet switching into the local network. In others, we will move directly to the deployment of fiber to customers' premises. But both aspects are part of the fundamental and thoroughgoing transformation of the network that will allow us to deliver the packet-switched, broadband future to our customers.

This year alone, Verizon will invest \$1 billion to deploy fiber-to-the-premises in select markets, passing one million homes. In 2005, we plan to pass an additional 2 million homes. Already, we have announced the deployment of fiber-to-the-premises in Keller, Texas; Tampa, Florida; and Huntington Beach, California. And we'll soon be in a position to announce six additional locations, and are on track to meet our target of 1 million homes passed this year.

These fiber-to-the-premises networks will enable an enormous advancement compared to the services typically available today. The new broadband Internet access service we will provide over these fiber networks will offer consumers speeds ranging from 5 to 30 megabits downstream, and as much as 5 megabits upstream. These download speeds are much faster than the 1.5 to 3 megabits typically provided by today's broadband offerings, and the faster upload speeds will enable a more interactive environment that will enhance a broad range of current and future applications. In addition, these new networks also provide the capability to provide video services, including the ability to provide high definition video. The result will be increased competition and innovation not just for broadband Internet access services, but ultimately increased competition and innovation in cable's core video business as well.

The 271 unbundling issue for broadband is of particular importance to us precisely because of the fact that we have undertaken a leadership role in the industry in terms of the deployment of next generation broadband infrastructure. As we undertake this remaking of our network, however, we face the prospect of different regulatory regimes in different states. While it is clear that our broadband networks are not subject to unbundling requirements in Texas, Florida, California or other areas where our local telephone companies are not former Bell companies, in other states, where our local telephone operations have a different historical lineage, we today face the prospect of continuing unbundling obligations of unknown and potentially shifting scope and content. And because we are in the field building the network of the future today, this issue has a direct effect on what we do today.

Third, while there are a number of important issues pending before the Commission relating to the regulatory obligations that apply, respectively, to broadband facilities and the services provided over

them, none are more critical to the near term deployment of the broadband infrastructure – and our new fiber-to-the-premises networks in particular – than this one.

We think that deploying fiber all the way to our customers' premises is the right business decision. We think that this transformation will deliver greater capabilities that will benefit our customers and fundamentally change the way they think about communications. It also will have ripple effects throughout the economy by enhancing efficiency and promoting strong economic growth. Nonetheless, some people in the industry and the investment community have suggested that a more conservative approach is warranted, involving less fiber and less speed. We disagree with that assessment, and have made the decision to take the lead in our industry by fundamentally transforming our network. We think others ultimately will follow, just as our industry leading deployment of EV-DO in wireless has led others to now follow suit. But there is no question that investments of this magnitude to provide innovative new network capabilities and services involve a significant degree of risk.

We have accepted the business risk of making the investments necessary to transform our network. We should not have to accept added regulatory risks on top of that, however. First among those risks is the prospect that our broadband investments will be subject to unbundling obligations that undercut the economic case for this investment. That is all the more true given that experience has shown that, regardless of how those obligations are interpreted today, they inevitably will evolve and mutate over time in response to the currents and moods of the day, and in ways that continue to add costs to and undermine the economics of our investment.

In this case, of course, the Commission already has made the policy decision that broadband should not be subject to unbundling, and that decision has been squarely affirmed on all counts. All we are asking for here is confirmation that the rules we operate under, and the risks we incur, are the same when we deploy broadband in the mid-Atlantic states as they are in California, Texas and Florida. And now is the time to make that clear so that our customers in those states can begin to see the results of that decision this year.

Sincerely,



Thomas J. Tauke

cc: Commissioner Kathleen Q. Abernathy
Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Michael Gallagher - NTIA
Richard Russell - OSTP