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March 16, 2005

Ex Parte

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

Re: BellSouth Telecommunications, Inc. Request for Declaratory Ruling that State Commissions May Not Regulate Broadband Internet Access Services by Requiring BellSouth to Provide Wholesale or Retail Broadband Services to CLEC UNE Voice Customers, WC Docket No. 03-251

Dear Ms. Dortch:

To avoid customer confusion and frustration at the sudden and unexpected loss of Internet and email access services, Verizon requires customers to cancel their DSL service before porting voice service to a new local service provider. In a Section 271 application, Verizon explained this policy in detail, and the Commission reviewed and approved it. Comcast now asks the Commission to declare that this Verizon policy “is in direct contravention of the statute and the Commission’s rules.”¹ Comcast is mistaken. Verizon’s porting policy and practices comply with the Commission’s requirements.

1. The FCC has already approved the Verizon porting policy at issue here. Many customers are not aware that porting voice service will automatically terminate DSL service and email accounts. To avoid customer confusion, Verizon asks the new service provider to contact the end user to cancel the data services. The attached pages from the Joint Reply Declaration of Kathleen McLean and Catherine T. Webster, which was submitted in its entirety

¹ See Comcast *Ex Parte* Letter, WC Docket No. 03-251 at 4 (filed March 2, 2004).

with one of Verizon's Section 271 applications, explains Verizon's process in detail at paragraphs 14-16. *See* Attach. 1.

To the extent that Comcast challenges Verizon's porting policy for lines with both voice and DSL, the Commission has already reviewed and approved this Verizon policy. In a Verizon Section 271 application, another cable provider, Starpower, raised the same concerns as Comcast does here.² After reviewing the allegations and Verizon's porting policy, the Commission found that **"nothing in our rules regarding number portability prohibits Verizon's policy of requiring the customer to cancel its DSL and ISP."** *Id.* at ¶ 142 (emphasis added). The Commission also found that Verizon's policy was nondiscriminatory. *Id.* Thus, as a matter of law and Commission precedent, Verizon's policy regarding ports with DSL complies with number portability requirements, and Comcast's challenge must be rejected.

2. Customers will lose their DSL service and email accounts without notice.

If Verizon were required to change this policy and process port requests involving DSL immediately upon receipt, the customer's DSL service and email account would be terminated without advance warning or notice. By way of background, DSL can be provisioned by Verizon Online or by another provider using a line-sharing or similar commercial arrangement. *See generally id.* at ¶¶ 140-43. In either scenario, when a Verizon customer's underlying voice service is disconnected, as happens when an end user chooses Comcast, for example, as his or her new local service provider and asks that the existing telephone number be ported to the new service provider, any DSL service using the same line must also be disconnected. The customer, however, may incorrectly expect that the DSL service will continue, which it cannot in its current configuration because the line is disconnected. As a result, Verizon requires new local service voice providers to request that the end user take the necessary steps to terminate DSL service before the port occurs.

3. This is the wrong docket to consider a complaint against Verizon. In any event, this docket concerns a BellSouth preemption petition and is not the appropriate vehicle to investigate Comcast's porting complaint against Verizon. Indeed, the record here contains only a few short letters on the issue, which is not adequate. No customer groups have addressed this issue, and customers stand to lose the most – they would be subject to the automatic termination of their existing data services, including all email accounts. Further, because any Commission action in this area will have profound implications for customers and carriers alike, the Commission should consider this issue, if at all, in a separate proceeding through standard notice and comment procedures. In fact, this issue could be addressed in the Commission's *Second Further Notice of Proposed Rulemaking* concerning the intermodal porting interval.³

² *Verizon Maryland/West Virginia/Washington, D.C. 271 Order*, 18 FCC Rcd 5212, ¶ 141 (2003).

³ *Telephone Number Portability*, Second Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 04-217, 19 FCC Rcd 18515 (2004).

4. These are complex ports and require extra time. In addition, contrary to Comcast's suggestion, there are technical issues surrounding the porting of lines with DSL. Indeed, according to the NANC, port requests involving lines with DSL are considered "complex ports," not "simple ports."⁴ As such, they are not subject to the 96-hour porting interval for simple ports. *Id.* at 4, 6. This is because complex ports "generally require more time for coordination due to factors such as number of lines, multiple geographic locations, multiple time zones, involvement of multiple service providers, or similar factors." *Id.* at 13. Comcast's efforts to circumvent the NANC's well-established rules concerning simple and complex ports should be rejected.

5. The industry is currently working on solutions. Comcast's specific porting concern affects the entire industry, not simply Comcast. An industry-wide solution is therefore more appropriate than a new regulatory mandate. There are at least three such industry groups that should be involved in this issue:

a. The Verizon CLEC User Forum, which includes broad participation from a variety of Verizon wholesale customers, is the forum for CLECs to raise issues with Verizon. Forum members have recently agreed to open a CLEC-originated request in Change Management for porting numbers that have DSL on the line. Change Management is the industry forum that manages Verizon's OSS systems changes and will ensure that porting and migrating scenarios are properly designed and implemented.

b. The Local Number Portability Administration ("LNPA") Working Group of the North American Numbering Council is an industry forum responsible for developing and maintaining the process that is followed by all service providers participating in local number portability and for the resolution of all number portability issues. It is also responsible for defining the requirements of the National Number Portability Administration Center service management system and how it interfaces with each service providers local number portability systems. In September 2000, the LNPA Working Group defined a simple port to exclude, among other things, lines with DSL on them. To the extent that Comcast seeks expedited processing of port requests for lines with DSL or changes to the definition of simple ports, the LNPA Working Group is the most appropriate forum to consider Comcast's request.

c. The Ordering and Billing Forum of the Alliance of Telecommunications Industry Solutions provides a forum for approximately 80 CLECs and LECs to identify, discuss, and resolve national issues that affect ordering, billing, provisioning, and exchange of information about access services, other connectivity, and related matters. The Ordering and Billing Forum has previously agreed by consensus that, when a voice service port request involves DSL, the voice provider should inform the customer that a port will result in loss of DSL service.

⁴ North American Numbering Council, *NANC Report on Intermodal Porting Intervals*, at 33-34 (May 3, 2004) at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-252314A1.pdf.

The Commission should defer to these industry groups. The Massachusetts Department of Telecommunications and Energy ("DTE") recently did just that in connection with an identical Comcast complaint against Verizon New England. In a December 6, 2004 ruling (attached), the Massachusetts DTE found that a "mandated number porting solution could impair contractual rights between Verizon and other data carriers and internet service providers that currently provide Verizon-based DSL services." Attach 2. The Massachusetts DTE therefore rejected Comcast's accelerated docket request, finding that "several potential solutions under discussion through Verizon's CLEC Users Forum offered promise." *Id.*

6. Verizon is working to roll out stand-alone DSL. Recently, Verizon's technology organization has been developing a stand-alone DSL product that would address the concerns of Comcast and other carriers that seek a streamlined porting process, and also address porting customers' desires to maintain their existing DSL service and email addresses. The development of this product has been technically challenging because of the different scenarios in which DSL is provisioned, e.g., by third-party providers via line-sharing or other commercial arrangements or by Verizon Online. Verizon is currently working to launch a stand-alone DSL product that will function effectively in these different provisioning environments.

In sum, the Commission should reject Comcast's claim that Verizon's porting policy for lines with DSL violates any provision of the Act or the Commission's number portability requirements. Indeed, the Commission itself previously approved the specific Verizon policy that Comcast challenges here. In any event, the Commission should defer to the appropriate industry groups to address this issue so that customers are not needlessly inconvenienced by the sudden loss of their DSL service and email accounts.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dee May".

Attachments

ATTACHMENT 1

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Application by Verizon Maryland Inc.,)	
Verizon Washington, D.C. Inc., Verizon)	
West Virginia Inc., Bell Atlantic)	
Communications, Inc. (d/b/a Verizon)	
Long Distance), NYNEX Long)	WC Docket No. 02-384
Distance Company (d/b/a Verizon)	
Enterprise Solutions), Verizon Global)	
Networks Inc., and Verizon Select)	
Services Inc., for Authorization To)	
Provide In-Region, InterLATA Services)	
in Maryland, Washington D.C., and)	
West Virginia)	

**JOINT REPLY DECLARATION OF
KATHLEEN McLEAN and CATHERINE T. WEBSTER**

1. My name is Kathleen McLean. I submitted a Declaration jointly with Catherine T. Webster as part of Verizon’s above-captioned Application to provide in-region, interLATA services in Maryland, Washington, D.C., and West Virginia. My qualifications are set forth in that Declaration. I am accountable for the entire Reply Declaration.

2. My name is Catherine T. Webster. I submitted a Declaration jointly with Kathleen McLean as part of Verizon’s above-captioned Application to provide in-region interLATA services in Maryland, Washington, D.C., and West Virginia. My qualifications are set forth in that Declaration. I am accountable for Section II.C of our Reply Declaration.

fields for the M-loop portion of the project; Verizon also included a sample spreadsheet for ordering M-loops.

14. One other commenter raised an issue with ordering. Starpower complains that when it wins a customer with Verizon voice service that also has DSL, and submits an order to Verizon for number portability, Verizon rejects the order and Starpower is required to request that its customer contact Verizon to terminate its DSL service so the customer can be transferred to Starpower. Starpower at 26-27. Starpower also claims that the information available to it on the CSR does not reveal whether Verizon is providing DSL to the end user, or whether it is providing line sharing to a CLEC. *Id.* Starpower then argues that CLEC requests for number portability of customers who currently have DSL and voice “should be handled in the ordinary course, similar to the treatment of a request from a customer who has several Verizon voice lines and who wishes to transfer one of the lines to a CLEC’s voice service.” Starpower at 27. Although Starpower participated in the Maryland state 271 proceeding, it did not raise these claims there, but instead raised them for the first time in its comments before this Commission.

15. Starpower is confused. As we have explained before, when voice and data are established on a single line, the voice provider controls the line, and the data provider is a sub-tenant. *See* McLean/Webster Decl., Att. 2 at 17, 19; *Application by Verizon New England Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Rhode Island*, Memorandum Opinion and Order, 17 FCC Rcd 3300, ¶ 96 & n. 297 (2002) (“*Rhode Island 271 Order*”). As a result, when the underlying voice service is disconnected, as happens when an end user chooses Starpower as his or her new local

service provider and asks that the existing telephone number be ported to the new service, the data service using the same line must also be disconnected. This is unlike the situation where an end user has several lines and wants to move one to a new local service provider. In that case, there are multiple lines, and the lines not being moved are not disconnected. Where voice and data are on the same line, there is only one line, and a request for number portability necessarily means that it will be disconnected. Normally, an end user who has DSL service on his or her line has subscribed through an Internet Service Provider (“ISP”) that in turn contracted with a DLEC for the data service that, in a line-sharing scenario, uses the high frequency portion of an in-service voice line. In this case, the DSL service relationship is established and managed between the customer and the ISP. When a customer decides to change its voice provider, the ISP and the customer may want to continue their relationship and therefore the ISP would need to determine if and how it could provide DSL service to the end customer once the customer has moved its voice service to a new provider. Absent this conversation, in the number portability/line sharing scenario described by Starpower, the customer may incorrectly expect that the data service will continue (which it cannot in its current configuration because the line is disconnected) and the ISP may continue to bill the customer for a service it is no longer providing because the underlying line has been disconnected. As a result, Verizon requires Starpower (and any other new local service voice provider) to request that the end user take the necessary steps to contact his/her DSL provider and terminate the data service.

16. Contrary to Starpower’s assertion, the CSR that is available to CLECs through the pre-ordering interfaces does inform the new local service provider (in this

case Starpower) that the end user's line also has data (Line Sharing), and specifies the identity of the data provider. *See* Attachment 1. Because it is the DLEC that line-shares with Verizon, that is the carrier identified on the CSR. With the information provided on the CSR, Starpower has the ability to explain to the end user that the data service must be disconnected as it negotiates new service with the end user. This can all take place before Starpower submits the LNP order to Verizon.

C. Billing

17. In our Declaration, we demonstrated that Verizon provides timely, accurate, and auditable wholesale bills. McLean/Webster Decl. ¶¶ 149-156, 161. This includes wholesale bills offered in the industry standard Billing Output Specification Bill Data Tape ("BOS BDT") electronic bill format. *Id.* ¶¶ 145-147.

18. FiberNet, AT&T, the National ALEC Association/Prepaid Communications Association ("NALA"), and the D.C. OPC raise concerns with Verizon's billing. Again, the West Virginia PSC rejected the identical claims raised by FiberNet in the state proceedings, and Verizon anticipated and addressed these claims in our application. Moreover, many of FiberNet's, AT&T's and NALA's claims have already been rejected by the Commission in other Verizon long distance applications. Finally, D.C. OPC's concerns are simply misplaced.

19. D.C. OPC argues that Verizon's application "presents a new ordering and billing system, known as 'ExpressTRAK,' that has never before been examined, let alone approved, by the FCC in connection with review of any Verizon section 271 application." D.C. OPC at 13. Of course, this is not true. In the *Virginia 271 Order*, the Commission noted that Verizon uses "an integrated service order processor and billing system known

ATTACHMENT 2



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY**

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JAMES CONNELLY, ESQ.
COMMISSIONER

W. ROBERT KEATING
COMMISSIONER

EUGENE J. SULLIVAN, JR.
COMMISSIONER

DEIRDRE K. MANNING
COMMISSIONER

December 6, 2004

Via E-mail and Regular Mail

Christopher W. Savage, Esq.
Cole, Raywid & Braverman, L.L.P.
1919 Pennsylvania Avenue, N.W., Suite 200
Washington, D.C. 20006-3458

Re: Request for Inclusion of Complaint on Accelerated Docket by Comcast Phone of Massachusetts, Inc. against Verizon-New England, Inc.

Dear Mr. Savage:

On October 15, 2004, Comcast Phone of Massachusetts, Inc. ("Comcast Phone") submitted to the Telecommunications Division of the Massachusetts Department of Telecommunications and Energy ("Department") a request to include its Complaint against Verizon New England, Inc. d/b/a Verizon Massachusetts ("Verizon") on the Department's accelerated docket, pursuant to 220 C.M.R. § 15.00 et seq. Comcast Phone claims that Verizon is refusing to port telephone numbers of Verizon's "plain old telephone service" ("POTS") customers who also use Verizon-based digital subscriber line ("DSL") service.

Comcast Phone seeks (1) a finding that Verizon's practice of refusing to port telephone numbers of POTS customers who remain active Verizon-based DSL/Internet access customers violates the parties' interconnection agreement; (2) a finding that Verizon's practice of refusing to terminate the voice service and port the telephone numbers of POTS customers who remain active Verizon-based DSL/Internet access customers violates G.L. c. 159, § 14; and (3) an order directing Verizon to permit timely porting of telephone numbers where the customer chooses to receive telephone services from Comcast regardless of whether the customer continues to purchase Verizon-based DSL/Internet access service.

Pursuant to 220 C.M.R. § 15.03(5), the Department mediation staff conferred with the parties jointly on several telephone conferences to attempt to resolve and narrow the issues in dispute. During these conference calls, it became apparent that several potential solutions under discussion through Verizon's CLEC User Forum offered promise. A Department-mandated number porting solution, however, could impair contractual rights between Verizon and other data carriers and internet service providers that currently provide Verizon-based DSL services. Because it is likely that these third parties would be "substantially and specifically affected by the proceeding," the accelerated docket is inappropriate. 220 C.M.R. § 15.04(2)(c).

Therefore, the Telecommunications Division determines that Comcast Phone's Complaint may not be accepted for the accelerated docket.

By the Telecommunications Division,

/s/

Michael Isenberg,
Director, Telecommunications Division

cc: Mary Cottrell, Secretary
Alexander W. Moore, Esq.
Stacey L. Parker, Esq.