

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

In the Matter of Telephone Number	)	
Portability:	)	
	)	
Petition of SBC Communications Inc. for	)	
Forbearance Under 47 U.S.C. § 160(c)	)	
from the Application of the Five-Year	)	
Recovery Period for Local Number	)	
Portability Costs Under 47 C.F.R. §	)	CC Docket No. 95-116
52.33(a)(1)	)	
	)	
and	)	
	)	
Petition of SBC Communications Inc. for	)	
Waiver of the Five-Year Recovery Period	)	
for Local Number Portability Costs Under	)	
47 C.F.R. § 52.33(a)(1).	)	

**COMMENTS OF VERIZON<sup>1</sup> IN SUPPORT OF SBC'S PETITIONS FOR  
FORBEARANCE AND WAIVER**

SBC's petitions for relief<sup>2</sup> should be granted in order to fulfill the congressional mandate that the cost of implementing local number portability "shall be borne by all telecommunications carriers on a competitively neutral basis." 47 U.S.C. § 251(e)(2). Like SBC, Verizon also has been unable to recover its total authorized number portability costs. Verizon therefore supports SBC's petitions and seeks permission to collect its unrecovered costs as well.

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<sup>1</sup> The Verizon telephone companies are the local exchange and interexchange carriers affiliated with Verizon Communications Inc., listed in Attachment A.

<sup>2</sup> See generally Petition of SBC Corporation for Forbearance Under 47 U.S.C. § 160(c) from the Application of the Five-Year Recovery Period for Local Number Portability Costs Under 47 C.F.R. § 52.33(a)(1), CC Docket No. 95-116 (filed Feb. 8, 2005) ("*Forbearance Petition*"); Petition of SBC Communications Inc. for Waiver of the Five-Year Recovery Period for Local Number Portability Costs Under 47 C.F.R. § 52.33(a)(1), CC Docket No. 95-116 (filed Feb. 8, 2005) ("*Waiver Petition*").

As SBC explains in its petitions, due to unforeseen market changes, its end-user charges were unreasonably low and it was unable to recover the full amount of its number portability costs authorized by the Commission. *See Forbearance Petition at 7-9; Waiver Petition at 7-9.* SBC, however, was not the only incumbent carrier to suffer this fate. Indeed, the tariffed recovery period saw dramatic decreases in Verizon's and many other incumbent carriers' access lines as well. This reduction in access lines substantially reduced the number of charges Verizon and other incumbents could collect during the five year period, rendering the tariffed charges unreasonably low. As a result, these incumbent carriers – including Verizon – have been denied the opportunity to recover their total allowable portability costs. In addition, these incumbents are placed at a competitive disadvantage given the flexibility other carriers have in recovering their number portability costs. The Commission should forbear from or waive its five-year limitation on incumbent carriers' recovery of portability costs and extend its ruling to all other incumbent carriers that have experienced an unforeseen shrinkage in the number of access lines.

**I. An Unforeseen Reduction In Access Lines Prevented Verizon, SBC, And Other Incumbents From Fully Recovering Authorized Number Portability Costs**

In the 1996 Telecommunications Act, Congress required carriers to establish local number portability and directed the Commission to craft a competitively neutral means for carriers to recover their associated costs. *See* 47 U.S.C. § 251(b)(2) & (e)(2). In its 1998 *Cost Recovery Order*, the Commission established its “competitively neutral” system for carriers to share in the costs of number portability, as required by the Act.<sup>3</sup> This system included two different mechanisms for carriers to recover the costs associated with implementing number portability. Most carriers were permitted to recover their number portability costs “in any lawful

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<sup>3</sup> *Telephone Number Portability*, Third Report & Order, 13 FCC Rcd 11701 (1998) (“*Cost Recovery Order*”).

manner.” *Cost Recovery Order* at ¶¶ 9, 136. By contrast, incumbent carriers like Verizon, which bore the majority of these costs, could recover their costs only through federally tariffed monthly charges levied on end users in those geographic areas where number portability was available. *Id.* at ¶¶ 9, 142-143. An incumbent carrier could levy these charges only for a five-year period and could not change the amount of its monthly charge after it was implemented unless the carrier first demonstrated “that the end-user charge was not reasonable based on the information available at the time it was initially set.” *Id.* at ¶ 144. The Commission assured that its differential treatment of incumbents and other carriers “[would] not place any carrier at a competitive disadvantage” because under the federal tariffs, incumbents would have “a reasonable opportunity to recover their costs.” *Id.* at ¶ 139.

Pursuant to this dual system, incumbent carriers such as Verizon submitted tariff plans in early 1999 that (1) identified their total recoverable costs associated with implementing number portability and (2) set forth a proposed monthly end-user charge calculated to permit recovery of their total authorized costs within five years. The Commission authorized Verizon to recover a total of approximately \$1.125 billion.<sup>4</sup>

In calculating the appropriate end-user charges to recover its authorized number portability costs, Verizon estimated the number of monthly charges it would be able to levy during the five year period. In doing so, Verizon relied on the historical growth in incumbent

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<sup>4</sup> This figure has been adjusted to account for the Bell Atlantic/GTE merger and the sale of access lines. In early 1999, when incumbent carriers were in the process of submitting tariffs for number portability charges, Bell Atlantic and GTE were separate companies, which later merged to form Verizon in 2000. For purposes of these comments, Verizon has aggregated cost and recovery information, including the former Bell Atlantic and former GTE companies. Verizon also, however, sold approximately 2.5 million access during the recovery period. Accordingly, Verizon has adjusted its aggregated authorized costs and its access line estimates downward to eliminate those initially anticipated costs and recoveries associated with access lines no longer owned by Verizon.

carriers' access lines. As SBC correctly observes in its petition, prior to 1999, incumbents' access lines had been growing steadily for decades. *See Forbearance Petition* at 7-9; *Waiver Petition* at 7-10. In addition, Verizon relied on the anticipated expansion of number portability beyond the 100 largest Metropolitan Statistical Areas originally required by the Commission. The *Cost Recovery Order* permitted incumbents to assess end-user charges only in those geographic areas where number portability was available. *See Cost Recover Order* at ¶ 142. Thus, as Verizon equipped more and more of its switches to provide number portability, it expected that its number of monthly charges would grow, independent of the general growth in incumbent access lines. Based on the historical growth in access lines and expected expansion of number portability, Verizon predicted that its total number of "chargeable" access lines – lines in those areas served by number portability – would grow approximately 10% during the recovery period. Based on Verizon's then-reasonable predictions of net growth, the Commission approved end-user charges of \$0.23 in those areas served by Bell Atlantic and \$0.36 in those areas served by GTE.

However, as SBC explains in its petitions, at the time that their initial tariff plans were submitted and approved, neither incumbents nor the Commission foresaw the upcoming market changes that led to a significant reduction in incumbents' access lines (including those access lines bearing the tariffed charges) during the recovery period. *See Forbearance Petition* at 9-11; *Waiver Petition* at 9-11. As Verizon has discussed in numerous recent filings with the Commission, over the past five years, high speed broadband services became more widely available and affordable, leading increasing numbers of consumers to abandon slower dial-up technology for Internet use. Widespread use of broadband technologies also paved the way for other alternatives to traditional phone service, such as voice-over-IP and increased reliance on

instant messaging and e-mail. At the same time, the wireless phone market and cable telephony have experienced explosive growth. These and other developments led growing numbers of consumers to abandon both second lines and primary lines in favor of these broadband, cable, and wireless technologies.<sup>5</sup> As a result, incumbents' access lines nationwide decreased substantially during the recovery period.<sup>6</sup>

Verizon's own experience mirrored these industry trends, resulting in line losses and underrecovery of costs on par with those reported in SBC's petitions. The intermodal alternatives to traditional phone service that fueled much of the access line reduction were generally most readily-available in larger metropolitan areas, where number portability was available – thus concentrating line losses in the very geographic areas where incumbents were permitted to assess end-user charges. Thus, in contrast to the 10% growth in “chargeable” lines that Verizon expected, *see supra*, between 1999 and 2003 Verizon's “chargeable” lines *decreased by more than 5%*. Verizon was ultimately unable to recover roughly \$175 million – more than 15% of its anticipated and authorized number portability costs.<sup>7</sup> Like SBC, Verizon seeks to recover these funds now.

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<sup>5</sup> See, e.g., Verizon's Redacted Public Interest Statement, included in Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control, WC Docket No. 05-75, at 37-46 (filed March 11, 2005); UNE Fact Report 2004 prepared by BellSouth, SBC, Qwest, and Verizon, WC Docket No. 04-313, CC Docket No. 01-338, at I-1 – I-18 (filed Oct. 4, 2004).

<sup>6</sup> See, e.g., FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Local Telephone Competition: Status as of June 30, 2004*, at Table 1.

<sup>7</sup> Compare *Forbearance Petition* at 7, 9-10 (SBC reporting that it had predicted a 24% increase in lines but experienced an 8% loss in lines; resulting number portability cost underrecovery was \$211 million, or 17% of SBC's total authorized costs); compare also *Waiver Petition* at 7, 9-10 (citing same statistics).

## **II. Incumbents Should Be Permitted To Present Individual Tariff Proposals To Collect Unrecovered Number Portability Costs**

Incumbent carriers must be given the opportunity to recover their complete number portability expenses in order to ensure compliance with the congressional mandate that number portability costs be borne on a “competitively neutral” basis. *See* § 251(e)(2). The Commission should follow the approach in its recent *Intermodal LNP Order*<sup>8</sup> and invite incumbents that have been unable to recover their full costs to present individualized tariff plans to collect the remaining funds.

To ensure competitive neutrality, rate-regulated incumbents should have equal opportunities to recover number portability costs as their unregulated counterparts. The Commission recognized and applied this principle in its recent *Intermodal LNP Order* addressing BellSouth’s request for additional time to recover intermodal number portability costs. As the Commission explained, in 1999, when incumbents presented their original number portability tariffs, wireless number portability had not yet been implemented. *See Intermodal LNP Order* at ¶ 13. As a result, the Commission rejected carriers’ attempts to include the anticipated costs of intermodal number portability in their monthly end-user charges on the grounds that such costs were speculative. *See id.* Later, when intermodal number portability had been established and incumbents were able to quantify their costs, the Commission permitted incumbents to extend their recovery period to ensure that they could collect the costs associated with intermodal number portability. *See id.* at ¶ 1, 10-16. As the Commission recognized, “precluding carriers subject to rate regulation from recovering their intermodal LNP costs, while allowing other carriers to recover such costs, would not be competitively neutral and thus would violate the

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<sup>8</sup> *Telephone Number Portability, BellSouth Corporation Petition for Declaratory Ruling and/or Waiver*, Order, 19 FCC Rcd 6800 (2004) (“*Intermodal LNP Order*”).

statutory mandate.” *See id.* at ¶ 15. At the same time, the Commission “allow[ed] each carrier the flexibility to propose its own recovery period . . . that best suits its own needs and those of its customers.” *See id.* at ¶ 18. The Commission therefore permitted BellSouth and all similarly situated incumbents to present individual proposals for extended monthly end user charges to recover their uncollected costs.

The Commission should follow the same approach here as in the *Intermodal LNP Order*. In order to ensure competitive neutrality, the Commission should grant SBC’s request for relief and extend that relief to all other incumbents such as Verizon that, like SBC, have been unable to recover their full authorized number portability costs because of declining access lines. Moreover, as was the case with intermodal number portability costs, the amount of each incumbent’s underrecovery will vary, as will the current number of access lines over which the incumbent can distribute those costs. Each carrier should be permitted to propose a recovery rate and time frame that will ensure that the carrier can recover its costs in a timely fashion without overly burdening its customers.

**CONCLUSION**

For the foregoing reasons, the Commission should grant SBC's requested relief and extend the recovery period to allow incumbent carriers such as SBC and Verizon to recover the full amount of their authorized number portability costs.

Respectfully submitted,



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**THE VERIZON TELEPHONE COMPANIES**

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.