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April 5, 2005

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW – Portals
Washington, DC 20554

Re: Verizon's Petition for a Declaratory Ruling or, Alternatively, Interim Waiver and Verizon's Conditional Petition for Forbearance under 47 U.S.C. § 160(e) with Regard to Broadband Services Provided via Fiber to the Premises, WC Docket No. 04-242

Dear Ms. Dortch:

On April 5, 2005, Julie Chen Clocker, Will Johnson, Scott Randolph, and I, representing Verizon, met with Tom Navin, Julie Veach, William Kehoe, Terri Natoli, Christi Shewman, Carol Simpson, Tim Stelzig, and Takeo Iijima (intern) of the Competition Policy Division. The purpose of the meeting was to describe the legal and policy bases for granting Verizon's fiber-to-the-premises (FTTP) petition. Attached is the presentation that was discussed during the meeting.

Please place this notice in the record of the above proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Shimizu".

Attachment

c: Tom Navin
Julie Veach
William Kehoe
Terri Natoli
Christi Shewman
Carol Simpson
Tim Stelzig
Takeo Iijima

Fiber to the People

Verizon's FTTP Petition • WC 04-242



April 5, 2005

Overview of Petition



- ◆ Filed June 28, 2004 – Prior to public availability of broadband internet access service over FTTP (Verizon FiOS) in Keller, Texas.
- ◆ Seeks Declaratory Ruling to confirm that Verizon may offer broadband services offered over FTTP in the same manner as cable companies offer broadband services via cable modem.
 - Interim ruling while the FCC completes its ongoing review of what regulations, if any, should apply to broadband services
- ◆ FCC's *Cable Modem Order* addresses provider of high speed internet access over same network that also is capable of providing video and voice.
 - Verizon has deployed under parallel circumstances and is subject to same regulatory treatment

FTTP Petition is narrowly tailored



- ◆ Petition is limited to:
 - Broadband high speed Internet access service
 - Only over FTTP
 - Only for an interim period

- ◆ Petition does *not* cover:
 - Voice or Video
 - Broadband services provided over DSL or other platforms

Cable Modem Order took three actions



- ◆ Classified cable modem as Information Service subject to Title I.
- ◆ Waived, on the FCC's own motion, any common carrier rules that would have required cable companies to unbundle the transmission component of their information service and offer it on stand-alone basis under tariff at cost-based rates.
 - Tentatively concluded to forbear from all Title II regulations, to extent they were held to apply
- ◆ Determined that if cable companies offered broadband transmission to ISPs, they may do so on a private carrier basis, rather than as a common carrier.

Brand X does not preclude FCC action



- ◆ Ninth Circuit only addressed the first determination – the classification of cable modem service as an information service.
- ◆ Ninth Circuit left untouched the FCC’s waiver of *Computer Inquiry* rules, tentative forbearance of Title II regulations, or determination that cable modem service may be offered on a private carriage basis.
- ◆ *City of Portland* case expressly noted the FCC’s “broad authority” to forbear.

- ◆ Interim waiver and forbearance is needed only if the FCC determines that comparable relief cannot be granted without them.
- ◆ Waivers must not be applied in a discriminatory fashion.
- ◆ Special circumstances that led to granting of a waiver in Cable Modem Order apply equally to broadband over FTTP.
 - Rules could stifle emerging facilities-based competition
 - Rules could undermine goals of encouraging deployment of advanced services
 - Rules could burden new technologies with outdated regulatory categories

Forbearance standards are met



- ◆ FCC concluded in its *Cable Modem Order* that requirements were satisfied because “cable modem service is still in its early stages; supply and demand are still evolving; and several rival networks . . . are still developing.”
 - Cable companies are the primary providers of broadband to the mass market, supplying *two-thirds* of all high-speed lines and *three-quarters* of the advanced services segment
 - FTTP is in early stages and still developing
- ◆ Verizon’s Petition for Forbearance for its broadband Internet access service over FTTP meets the forbearance standards.

- 1) Charges, practices are just and reasonable
 - FCC has already determined that competition is robust and is the most effective means of ensuring that this first requirement is met
- 2) Not necessary for protection of consumers
 - Ubiquitous, intense competition
 - Regulation inhibits a truly competitive, consumer responsive market
 - Adds competition to cable's core video market
- 3) In the public interest
 - Consumers are provided more choices for broadband
 - FTTP enables creation of new, feature-rich services
 - Regulation adds costs to the provision of broadband