

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

In the Matter of:

Petition of AT&T Inc.
for Waiver of the Commission's Rules to
Treat Certain Local Number Portability Costs as
Exogenous Costs Under Section 61.45(d)

CC Docket No. 95-116

**VERIZON'S¹ COMMENTS IN SUPPORT OF
AT&T'S EXOGENOUS COST PETITION**

The Commission should grant AT&T's Cost Petition.² As the Commission has recognized³ and as Congress has required,⁴ all telecommunications carriers must have an equal opportunity to recover costs arising from the implementation of local number portability ("LNP"). Granting the pending Forbearance or Waiver Petitions⁵ previously filed by SBC, which seek an extension of the five-year recovery schedule currently imposed on incumbent local exchange carriers ("ILECs"), would provide the simplest, most efficient, and most consumer-friendly means of allowing the carriers to recover their LNP implementation costs. In

¹ The Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² Petition of AT&T Inc. for Waiver of the Commission's Rules to Treat Certain Local Number Portability Costs as Exogenous Costs Under Section 61.45(d) ("Cost Petition").

³ See *Third Report and Order*, Telephone Number Portability, 13 FCC Rcd 11701 (1998).

⁴ See 47 U.S.C. § 251(e)(2).

⁵ 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. § 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").

the event the Commission chooses not to grant the pending Forbearance or Waiver Petitions and to extend such relief to Verizon, as Verizon has requested,⁶ Verizon supports treating the unrecovered portion of the carriers' LNP cost estimates as exogenous as an alternative and legitimate means of recovering LNP costs.

As established in AT&T's Cost Petition in this proceeding,⁷ the Forbearance and Waiver Petitions, and Verizon's Comments on the Forbearance and Waiver Petitions, unexpected and substantial changes in the communications marketplace have made it impossible for some ILECs to recover their LNP implementation costs during the original five-year recovery period established by the Commission.⁸ In particular, Verizon did not predict the dramatic and historically unprecedented drop in the number of access lines over which it would be able to spread the total amount of its estimated LNP costs.⁹ While these ILECs have been unable to recover all of their government-mandated LNP implementation costs, all carriers *other* than ILECs – including wireless carriers and competitive local exchange carriers – were given the right to recover LNP costs through “any lawful manner.”¹⁰ Consequently, the “incumbent carriers – including Verizon - . . . are placed at a competitive disadvantage given the flexibility other carriers have in recovering their number portability costs.”¹¹ In order to satisfy the statutory command that *all* carriers bear LNP implementation costs on a *non-discriminatory*

⁶ See Comments of Verizon in Support of SBC's Petitions for Forbearance and Waiver, CC Docket No. 95-116, at 1 (filed March 24, 2005) (“Verizon Comments”)(stating that Verizon “supports SBC's petitions and seeks permission to collect its unrecovered costs as well”); *id.* at 2 (asking the Commission to “extend its ruling to all other incumbent carriers that have experienced an unforeseen shrinkage in the number of access lines”).

⁷ Cost Petition at 6-8.

⁸ See *Third Report and Order*, 13 FCC Rcd at 11773-75 ¶¶ 135-139.

⁹ See Verizon Comments at 2-5.

¹⁰ *Third Report and Order*, 13 FCC Rcd at 11707 ¶ 9.

¹¹ Verizon Comments at 2.

basis,¹² wireline carriers must have an opportunity to recover the full amount of their estimated costs.

Both statutory and constitutional considerations require that carriers be provided a means of recovering the full amount of their Commission-approved LNP estimates. Verizon has already shown that forbearing from enforcing the current five-year deadline would allow ILECs to recover their LNP implementation costs in the most efficient and transparent manner.¹³ Allowing carriers to use a separate end-user charge by extending the original five-year deadline would serve two positive public-policy ends, while ensuring compliance with the express mandate of Section 251(e)(2), thus rendering it the optimal approach here. *First*, a discrete and temporary end-user charge would best inform customers of the reason for the temporary increase in their bill.¹⁴ *Second*, a separate end-user charge would provide the most administratively convenient means of recovering LNP costs. A separate fee would not require an increase in other charges, such as the end-user common line (“EUCL”) charges, and would not require a waiver of the various rules that govern permissible charges under price caps. Thus, the Commission should grant AT&T’s Petitions seeking an extension of the five-year period for the LNP line item charge and extend the same relief to all similarly situated carriers such as Verizon.

However, if the FCC decides not to extend the deadline for LNP cost recovery and denies the Forbearance and Waiver Petitions as to all ILECs that have experienced unforeseen

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¹² See 47 U.S.C. § 251(e)(2).

¹³ See Verizon Comments at 6 (“The Commission should follow the approach in its recent *Intermodal LNP Order* and invite incumbents that have been unable to recover their full costs to present individualized tariff plans to collect the remaining funds.”).

¹⁴ See *Third Report and Order*, 13 FCC Rcd at 11773 ¶ 135 (“[W]e conclude that allowing carriers to recover number portability costs in this manner will best serve the goals of the statute.”).

shrinkage in their number of access lines, the Commission still bears an obligation under its own decisions, the LNP statute, and the Constitution to provide some alternative mechanism for carriers to recover their costs on a non-discriminatory basis.¹⁵ Granting the instant Cost Petition would provide a way for carriers to recover their full estimated LNP implementation costs in a non-discriminatory fashion, so long as meaningful cost recovery is made available to all wireline carriers pursuant to the exogenous cost structure approach.

As AT&T has shown,¹⁶ the Commission's price cap regime allows carriers to recover exogenous costs of the type that have arisen in the LNP context. These costs can be imposed directly on end-users through the EUCL charges. While Verizon supports AT&T's request, the identical relief might not, without additional action, provide a full remedy for Verizon. In certain jurisdictions, Verizon has already reached the permissible limit of the EUCL charges and, as a consequence, may only recover additional exogenous costs by obtaining a waiver of these limits. For example, Verizon would *only* be able to recover its exogenous costs through increases in the EUCL charges if the Commission either: (a) grants Verizon the same relief requested by AT&T and waives the exogenous cost rule, which would permit Verizon to recover LNP costs from customers in jurisdictions where Verizon has not reached the common line rate calculations caps; or (b) grants a waiver of the exogenous cost rule and a waiver of the common line rate calculations caps (including the EUCL caps, as applicable) to permit Verizon to recover its LNP shortfall on a uniform basis across its customers. In order to fulfill the non-discriminatory mandate of the statute, in the event the Commission allows incumbent carriers to recover LNP costs as part of their exogenous cost charges, the Commission must accommodate all carriers,

¹⁵ *Id.* at 11775 ¶ 139 (stating that the five-year period would provide ILECs with “a reasonable opportunity to recover their costs”); Verizon Comments at 3, 6.

¹⁶ *See* Cost Petition at 10-13.

including those who may need additional rule waivers or modifications in order to achieve full recovery.

In short, all carriers, including incumbent carriers such as Verizon, must have the opportunity to recover LNP costs. While it would be preferable simply to extend the five-year period for the separate LNP charge for carriers, such as AT&T and Verizon, that faced unpredicted drops in access lines, if the Commission does not decide to do so, it must provide some alternative means for recovery. Treating unrecovered LNP implementation costs as exogenous costs under Section 61.45(d) would provide such an opportunity, as long as the Commission grants the waivers necessary to allow *all* relevant carriers a meaningful opportunity to recover these costs.

Respectfully submitted,

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