

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of AT&T Inc. for Forbearance	)	
Under 47 U.S.C. § 160(c) With Regard	)	WC Docket No. 06-120
To Certain Dominant Carrier	)	
Regulations for In-Region,	)	
Interexchange Services	)	

**COMMENTS OF VERIZON**

As Verizon,<sup>1</sup> BellSouth, Qwest, and now AT&T have all demonstrated, there is extensive and vigorous competition for both local and long distance services nationwide.<sup>2</sup> In light of this competition, applying outmoded regulations is unnecessary and contrary to the public interest. The Commission has long recognized that competition is the best form of “regulation.” Consumers in all parts of the country will benefit from removing outmoded and artificial regulatory handicaps from the BOCs and incumbent independent LECs. Conversely, as AT&T’s petition makes clear, imposing tariffing, price cap, *Computer III*, and accounting regulations on BOCs’ long distance services but not on other competitors, will harm the public interest. Similarly, imposing structural separation requirements on incumbent independent LECs that are not imposed on other competitors also harms the public interest.

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<sup>1</sup> The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

<sup>2</sup> See Memorandum of Points and Authorities in Support of Verizon’s Petitions for Interim Waiver or Forbearance, WC Docket No. 06-56 at 5-23 (filed Feb. 28, 2006); BellSouth Corporation’s Petition for Waiver, WC Docket No. 05-277 at 12-16 (filed Sept. 19, 2005); Petition of Qwest Communications International Inc. for Forbearance, WC Docket No. 05-333 at 7-12 and Declaration of David L. Teitzel (filed Nov. 22, 2005); Petition of AT&T Inc. for Forbearance, WC Docket No. 06-120 at 8-24. (filed June 2, 2006) (“AT&T Petition”)

AT&T also seeks forbearance “from the MFJ-era in-bound call scripting obligations preserved by § 251(g) of the 1996 Act,”<sup>3</sup> which “force . . . BOCs to market their services inefficiently, by reading to new local customers, who overwhelmingly demand all-distance services from a single provider, a list of long distance providers that could provide them with long distance services separate from the local services they have chosen to buy from the BOC.”<sup>4</sup> As AT&T notes, these requirements “make absolutely no sense in the current robustly competitive environment in which customers are fully aware that multiple carriers can provide them long distance or all-distance services.”<sup>5</sup> Accordingly, the Commission should eliminate these requirements for all BOCs and former GTE operating companies. In fact, the Commission should eliminate all of the carry-over “equal access” obligations that were preserved by section 251(g) of the Act. The purpose of these rules was fulfilled long ago. There is no justification for continuing to subject the BOCs and former GTE operating companies to obligations that do not apply to other local exchange carriers. The Commission opened an inquiry into the continued need for these restrictions more than four years ago.<sup>6</sup> This docket presents an opportunity for action to eliminate these anachronistic rules.

**I. There is extensive and vigorous competition for both local and long distance services offered by BOCs and incumbent independent LECs.**

In the decade since enactment of the 1996 Act, the telecommunications market has undergone a fundamental revolution. Where end users once bought local service from their local phone company and long distance service from one of a number of interexchange carriers, they

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<sup>3</sup> AT&T Petition at 4.

<sup>4</sup> *Id.* at 37.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> Notice of Inquiry Concerning a Review of the Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers, CC Docket No. 02-39 (rel. Feb. 28, 2002).

now can choose among a variety of all-distance services offered by a wide range of intermodal providers. Because consumers increasingly view wireless, cable telephony, and VoIP as viable alternatives to wireline service, wireline access lines are now falling at approximately 5 percent annually.<sup>7</sup> Average residential wireline toll minutes have also declined for the industry as a whole – from an average of 149 minutes per month in 1997, down to only 71 minutes per month in 2003 (and undoubtedly much less today, given the increase in wireless and decrease in wirelines).<sup>8</sup>

Indeed, the Commission’s own data shows that wireless lines outnumbered wireline voice lines by the end of 2004.<sup>9</sup> And the Yankee Group has estimated that “wireless personal calling . . . exceeded that of wireline” in 2005.<sup>10</sup> Consumer surveys reveal that wireless service has displaced 64 percent of long distance and 42 percent of local calling from landlines in households with wireless phones.<sup>11</sup> Moreover, the wireless carriers’ all-distance plans, beginning in 1999 and 2000, led to massive displacement away from landline long distance calls and reversed what had been a steady increase in wireline long distance minutes. “Thanks to

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<sup>7</sup> See Todd Rosenbluth, TECH KNOWLEDGE *Cutting the Cord on Local Service*, Business Week Online (Oct. 17, 2005) (Standard & Poor’s Equity Research Report showing that between June 2004 and June 2005, the BOCs lost 4.5 percent to 5.5 percent of their access lines to cable, wireless and, to a lesser extent, wholesale local service providers).

<sup>8</sup> See Indus. Anal. & Tech. Div., FCC, *Trends in Telephone Service*, Table 14.2, page 14-3 (Apr. 2005) available at [http://www.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/trend605.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend605.pdf) (includes: IntraLATA-Intrastate, InterLATA-Intrastate, IntraLATA-Interstate, InterLATA-Interstate, International, Others (toll-free minutes billed to residential customers, 900 minutes, and minutes for calls that could not be classified)).

<sup>9</sup> See Indus. Anal. & Tech. Div., FCC, *Local Telephone Competition: Status as of December 31, 2004* (rel. July 8, 2005), available at [http://www.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/lcom0705.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0705.pdf).

<sup>10</sup> Keith Mallison, Yankee Group Report, *Personal Wireless Calling Surpasses Wireline Calling: A Wireless Substitution Update* at 9 (Aug. 2005).

<sup>11</sup> Kate Griffin, Yankee Group Report, *Pervasive Substitution Precedes Displacement and Fixed-Mobile Convergence in Latest Wireless Trends* at 5 & Exhibit 3 (Dec. 2005).

unlimited night and weekend minutes . . . cellphone plans are the method of choice when it comes to long distance calling from home.”<sup>12</sup>

The fact that many consumers now use their wireless phones for the majority of their long distance calling shows not only that there is competition for long distance services, but also that customers are readily able to bypass wireline local exchange carriers for their long distance calls. As a result, there is no plausible basis for treating BOC long distance services – and only BOC long distance services – as somehow dominant.

As Verizon has previously shown, cable companies are expected to offer telephony services (VoIP or switched) to 95 percent of U.S. households by the end of 2007, up from 51 percent at the end of 2005.<sup>13</sup> There has been rapid growth in the number of cable telephony subscribers, and that growth is accelerating. Since Verizon filed its petitions for waiver and forbearance at the end of February, for example, Comcast reported that, in the first quarter of 2006, it added 211,000 new Comcast Digital Voice customers -- more than the company added in all of 2005. Comcast expects to add more than one million new Digital Voice subscribers this year, with the goal of more than eight million voice subscribers by 2009.<sup>14</sup> Comcast now markets its phone service to 20 million homes, and expects to be marketing to 30 million homes

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<sup>12</sup> W. Mossberg, The Mossberg Solution: Turning Your Home Phone into A Cellphone – Call-Forwarding Devices Let You Use Cellular Service on a Traditional Phone, WALL ST. J., Dec. 3, 2003 at D6.

<sup>13</sup> Jeffrey Halpern, *et al.*, Bernstein Research Call, *Quarterly VoIP Monitor: VoIP Growth Still Accelerating* at Exhibit 12 (Apr. 18, 2006).

<sup>14</sup> John Alchin, EVP and Co-CFO, Comcast, presentation before Merrill Lynch U.S. Media Day at 13 (June 8, 2006), available at <http://library.corporate-ir.net/library/11/118/118591/items/201453/MerrillJune2006.pdf>.

by year end.<sup>15</sup> Cox recently announced that it would offer VoIP in all the markets it serves by the end of 2006, and that its telephone penetration is nearly one quarter of all homes passed by its network.<sup>16</sup> Cablevision recently announced that it has surpassed one million Optimum Voice customers, and noted that the service has already reached penetration of one-third of the company's cable customers and more than half of its high-speed Internet customers.<sup>17</sup> Collectively, cable companies are expected to serve more than 8.5 million lines by the end of 2006 and more than 13 million by year-end 2007.<sup>18</sup>

In addition, any customer with broadband access – which is now available to more than 90 percent of U.S. households from a provider other than the incumbent LEC<sup>19</sup> – can obtain voice service from multiple independent VoIP providers. Vonage, for example, provides service to 1.6 million customers in the U.S.<sup>20</sup> And customers do view VoIP service as a replacement for

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<sup>15</sup> See John Alchin, EVP and Co-CFO, Comcast, presentation before Merrill Lynch U.S. Media Day at 13 (June 8, 2006), available at <http://library.corporate-ir.net/library/11/118/118591/items/201453/MerrillJune2006.pdf>

<sup>16</sup> Cox Digital Telephone to be Available in All Cox Markets by End of Year, <http://phx.corporate-ir.net/phoenix.zhtml?c=76341&p=irol-newsArticle&t=Regular&id=881924&> (July 13, 2006).

<sup>17</sup> *Cablevision's Optimum Voice Surpasses One Million Customers*, [http://www.cablevision.com/index.jhtml?id=2006\\_07\\_18](http://www.cablevision.com/index.jhtml?id=2006_07_18) (July 18, 2006).

<sup>18</sup> Jeffrey Halpern, et al., Bernstein Research Call, Quarterly VoIP Monitor: Six Million and Counting at Exhibit 18 (June 12, 2006).

<sup>19</sup> See, e.g., NCTA, *Industry Overview: Statistics & Resources*, <http://www.ncta.com/Docs/PageContent.cfm?pageID=86> (estimating 117.8 million homes passed by cable modem service in 2006, citing Morgan Stanley); Leichtman Research Group, Inc., Research Notes 1Q06 at 7 (Mar. 15, 2006) (estimating 107.5 million homes passed by cable modem service provided by the top 10 MSOs).

<sup>20</sup> Vonage, Form S-1A (SEC filed Apr. 28, 2006); Vonage, Fast Facts, [http://www.vonage.com/corporate/about\\_fastfact.php](http://www.vonage.com/corporate/about_fastfact.php).

their telephone line. Approximately 60 to 70 percent of Vonage customers bring their old phone number with them when they sign up.<sup>21</sup>

As Verizon, BellSouth, Qwest, and AT&T have all made clear, all providers of telephony services, including local, long distance, and bundles of services, face vigorous and increasing competition. Moreover, even if a BOC decides to reintegrate its long distance affiliate after the section 272 requirements sunset, section 272(e) requires that a BOC provide telephone exchange service and exchange access to competitors and other unaffiliated entities in the same time it provides such services to itself, and further requires that a BOC impute to itself an amount “no less than the amount charged to any unaffiliated interexchange carriers” for such services. 47 U.S.C. § 272(e)(1), (3). In these circumstances, continuing to apply regulations designed for an industry that was entirely different makes no sense and is affirmatively harmful to consumers.

## **II. The Commission Should Eliminate Any Requirement That LECs Read Lists of Interexchange Carriers to Their Customers.**

As noted above, AT&T requests that the Commission forbear from enforcing the inbound scripting obligations that continue to apply to the BOCs and GTE but not to other LECs. It is clear that these anachronistic requirements no longer serve any valid purpose and make no sense in today’s robustly competitive world. As a result, they should be eliminated.

As AT&T explains, “[t]hose requirements force AT&T and other BOCs to market their services inefficiently, by reading to new local customers, who overwhelmingly demand all-distance services from a single provider, a list of long distance providers that could provide them with long distance services separate from the local services they have chosen to buy from the

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<sup>21</sup> See Doug Shapiro, *et al.*, Banc of America Securities, *Battle for the Bundle* at 30 (June 14, 2005).

BOC.”<sup>22</sup> These requirements are a holdover from an entirely different era. The practice of BOC service representatives affirmatively informing customers of their presubscription options and having lists of carriers to read goes back to the introduction of equal access in 1984. The practice made sense at the time – equal access and presubscription were brand new, and it was important to let customers know that they could choose a long distance company other than AT&T. The Commission adopted these requirements a year later when it extended equal access to other LECs.

More than 20 years later, the telecommunications world is vastly different from what it was then. Indeed the marketplace has undergone at least two fundamental transformations. Following divestiture, numerous interexchange carriers offered stand-alone long distance to consumers, often bombarding them with dinnertime telemarketing calls and incentives to change carriers. Consumers clearly understood that they had a choice of carriers and exercised their choice. More recently, the marketplace has been transformed again. As described above, customers can and are choosing among a variety of all-distance services offered by a wide range of intermodal providers. As the Commission has noted, “long distance service purchased on a stand-alone basis is becoming a fringe market”.<sup>23</sup> There is, therefore, no justification for continuing to impose these anachronistic requirements only on the BOCs and GTE operating companies.

Consumers will not be harmed by the elimination of the in-bound scripting requirements. Indeed, the requirements are affirmatively detrimental to consumers. First, customer calls to order service take longer to complete because customers must be informed that they have a

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<sup>22</sup> AT&T Petition at 37.

<sup>23</sup> *Verizon and MCI, Inc. Applications for Approval of Transfer of Control*, Memorandum and Opinion, 20 FCC Rcd 18433, ¶ 92 (2005).

choice of long distance providers. Second, as a result, more sales representatives may need to be hired to serve an area, because each representative can handle fewer calls. This increases the BOCs' costs, which in turn means that customers will pay higher prices and have fewer choices. And even if a customer does not ask that the list be read, the requirement to maintain the list of long distance carriers harms consumers. The task of maintaining the list is complex and costly. Lists need to be compiled and populated on the various systems the service representatives use during customer calls. The lists need to be continually updated, which requires monitoring of additions, deletions, name (and other) changes for a very large number of long distance carriers. These listings are maintained and updated for every state in which Verizon operates. Additionally, these listings require resequencing to insure that the lists are read in random order. These costs of the list maintenance are clearly significant and totally unnecessary.

### **III. The Commission Should Eliminate Other “Equal Access” Requirements Preserved By Section 251(g).**

The Commission also should eliminate all of the other carry-over “equal access” obligations that were preserved by section 251(g) of the Act. As noted above, the Commission opened an inquiry into the continued need for these restrictions more than four years ago.<sup>24</sup> The record in that proceeding demonstrated then that the requirements should be eliminated, and as described above, the case for elimination is even stronger now.

The Consent Decree obligations “relating to equal access and nondiscrimination for interexchange carriers” that were preserved by section 251(g) originated in the AT&T Consent Decree, or MFJ, that broke up the Bell System in 1984. That decree split the Bell System’s local exchange business from its interexchange business, and contained restrictions on the BOCs to

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<sup>24</sup> Notice of Inquiry Concerning a Review of the Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers, CC Docket No. 02-39 (rel. Feb. 28, 2002).

make sure that they did not, in effect, continue to treat AT&T as if they were still related. As Judge Greene explained,

“Although after divestiture the Operating Companies will no longer have the same incentive to favor AT&T, a substantial AT&T bias has been designed into the integrated telecommunications network, and the network, of course, remains in that condition.”<sup>25</sup>

The decree restrictions, therefore, were not broad “nondiscrimination” prohibitions. Instead, they were narrowly focused provisions designed to complement the divestiture requirement of the AT&T decree, and they were designed to make sure the divested BOCs would not continue to favor AT&T. Judge Greene explained that equal access included:

“(1) dialing parity; (2) rotary dial access; (3) network control signalling; (4) answer supervision; (5) automatic calling number identification; (6) carrier access codes; (7) directory services; (8) testing and maintenance of facilities; (9) provision of information necessary to bill customers; and (10) presubscription”.

The Commission adopted this definition of equal access in 1985.<sup>26</sup>

When Congress carried the requirements of the AT&T and GTE consent decrees over to the 1996 Act, it took pains to make clear that it did not expect these consent-decree-based rules to be permanent. Section 251(g) expressly notes that the restrictions should continue only until superseded by the Commission. Moreover, Congress twice referred to “[t]hese interim restrictions and obligations”<sup>27</sup> and took care to point out that “The use of the provisions of the respective consent decrees to provide, on an interim basis, the substance of the new statutory duty in no way revives the consent decrees.”<sup>28</sup> In the robustly competitive environment for local,

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<sup>25</sup> *United States v. American Tel. & Tel. Co.*, 552 F.Supp. 131, 195 (D.D.C. 1982), *aff’d sub nom.*, *Maryland v. United States*, 460 U.S. 1001 (1983).

<sup>26</sup> *MTS and WATS Market Structure Phase III*, 100 F.C.C.2d 860 ¶¶ 56-59 (1985).

<sup>27</sup> H.R.Rep No. 104-458 at 123 (1996).

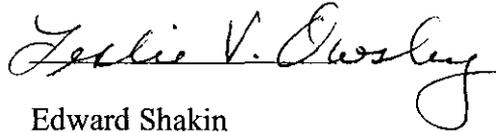
<sup>28</sup> *Id.*

long distance, and all-distance services that exists today, there is no justification for continuing to impose outdated carry-over obligations only on the BOCs.

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For the foregoing reasons, the Commission should grant AT&T's petition. The Commission also should eliminate the carry-over in-bound scripting obligations and "equal access" requirements preserved by section 251(g) for all BOCs.

Respectfully submitted,



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July 24, 2006

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 24th day of July, 2006, copies of the foregoing were served on the following:

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