

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

In the Matter of )  
 )  
Biennial Regulatory Review )  
Regulations Administered by the ) WC Docket No. 06-157  
Wireline Competition Bureau )

**REPLY COMMENTS OF COMPTTEL**

COMPTTEL respectfully submits these comments, pursuant to the Federal Communications Commission's ("Commission") *Public Notice* released on August 10, 2006 (DA 06-115), and in response to the comments submitted by Verizon and BellSouth, on September 1, 2006, in the above-referenced docket. In its *Public Notice* the Commission sought suggestions from the public, pursuant to Section 1.430 of the Commission's rules, 47 C.F.R. § 1.430, as to what rules should be modified or repealed as part of the 2006 Biennial Review. For the following reasons, the Commission should reject the Verizon and BellSouth submissions.

***Verizon's Comments***

Verizon's submission 1) does not identify "with as much specificity as possible" the rules that should be modified or repealed; 2) makes suggestions for changes that are not appropriate for consideration in the Biennial Review; and 3) suggests changes that are not in the public interest. For these reasons, the Commission should not take Verizon's submission into consideration in its 2006 Biennial Review.

The Commission's Public Notice states that "[s]ubmissions should identify with as much specificity as possible the rule or rules that should be modified or repealed, and explain why and

how the rule or rules should be modified or repealed.” Verizon does not provide the requisite identification of any particular rules for the Commission to consider. For example, Verizon suggests that the Commission “eliminate mandatory tariff requirements that apply to only one among many competing providers,” but does not identify the particular rules to which it is referring.<sup>1</sup>

Moreover, Section 11(a)(2) of the Act requires that the Commission determine whether its regulations are “no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.”<sup>2</sup> Specifically, the Commission has observed that:

“[C]ompetition is the touchstone of the Section 11 inquiry . . . . Section 11 contemplates a thorough review and assessment of the state of competition among providers of telecommunications service and a determination of how the regulatory framework should be adjusted to account for those changes. We note, however, that the mere presence of meaningful economic competition will not always lead us to conclude that repeal or modification of a rule is in the public interest. Rather, our task is to determine whether the competitive environment has changed such that the rule is no longer meaningful, *i.e.*, is not needed to further the public interest.”<sup>3</sup>

While Verizon makes general claims that there is “intense competition” in the “communications marketplace” and refers to the “robust competition facing all providers,” it does not discuss the competitive market for the specific communications service impacted by any particular regulations that Verizon seeks to eliminate. Therefore, Verizon comments do not address how the competitive environment has changed such that any particular rule, which Verizon may want eliminated, is no longer meaningful. For example, Verizon suggests that the Commission should “eliminate

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<sup>1</sup> Verizon Comments at 34.

<sup>2</sup> 47 U.S.C. 161(a)(2).

<sup>3</sup> 2002 *Biennial Regulatory Review*, FCC 02-342, 18 FCC Rcd. 4726, ¶ 24 (2003).

regulations that prevent companies from negotiating commercial agreements to provide switch access services.”<sup>4</sup> The Commission has repeatedly found, however, a lack of competition in the switch access market.<sup>5</sup> Indeed, the “Commission generally has determined that carriers should not be permitted unilaterally to impose termination charges that are not subject to regulation.”<sup>6</sup> That being said, COMPTTEL is not aware of any Commission rules that prevent willing carriers from entering into voluntary commercial agreements for any telecommunications services.

Verizon also suggests that, as part of the Biennial Review process, TELRIC be reformed.<sup>7</sup> The purpose of the Biennial Review process is to determine whether or not a regulation is no longer necessary, not the reformation of a cost methodology. And the Commission already has an open proceeding to consider the TELRIC issue.<sup>8</sup> There is no reason to consider it in multiple proceedings.<sup>9</sup>

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<sup>4</sup> Verizon Comments at 34.

<sup>5</sup> The Commission has characterized terminating access services as a bottleneck. *See Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report and Order and Notice of Proposed Rulemaking, 16 FCC Rcd. 9923 at ¶ 30 (2001) (“Sprint and AT&T persuasively characterize both the terminating and originating access markets as consisting of a series of bottleneck monopolies over access to each individual end user.”); *see also Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd. 9610 at ¶ 53 (2001) (seeking comment on potential impact of bill-and-keep arrangements on “terminating access monopolies,” and, in particular, on whether such arrangements would “eliminate any market power arising from the local carrier’s bottleneck control...”)

<sup>6</sup> *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd. 9610 at ¶ 24 (2001).

<sup>7</sup> Verizon Comments at 37.

<sup>8</sup> *Review of the Commission Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Services by Incumbent Local Exchange Carriers*, Notice of Proposed Rulemaking, 18 FCC Rcd 18945 (2003)

<sup>9</sup> *2002 Biennial Regulatory Review* at ¶10. [Even though the Commission still needs to make the statutorily required *determination* about the continued need for the particular rule, it does not need to commence multiple proceedings.]

Verizon further suggests that the Commission eliminate the carry-over equal access requirements, “dominate” carrier regulations for long distance and all distance services, and the separation requirements that apply to the provision of long distance and all-distance service by independent LECs. The elimination of these regulations is not in the public interest, as discussed in COMPTTEL’s comments in the *AT&T Forbearance From Dominant Carrier Regulations for In-Region, Interexchange Services* proceeding (WC Docket No. 06-120). COMPTTEL has attached those comments for inclusion in the record in this proceeding.

***BellSouth’s Comments***

BellSouth requests that the Commission eliminate certain Part 51 network disclosure rules. Specifically, BellSouth suggests that the Commission “retain its current carrier notification requirements but eliminate subsequent carrier filings as well as Bureau-initiated Public Notices when a carrier opts to provide public notice [of proposed network changes] through the carrier’s publicly available Internet site.”<sup>10</sup> The Commission should not consider this proposed rule change as part of its 2006 Biennial Review. The retention of Part 51.333(a) and (b), the specific rules at issue, is in the public interest. Part 51.333(a) includes a carrier certification process that ensures that the appropriate notification was served on all affected parties. The notice provided to the industry as a result of the Part 51. 333(b) disclosure requirement provides the affected parties with a timetable and mechanism, as well as notice of their right to file an objection to such network changes.<sup>11</sup>

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<sup>10</sup> BellSouth’s Comments at 1.

<sup>11</sup> See FCC Public Notice, Report No. NCD-1264, dated May 26, 2006. [“An objection to an incumbent LEC’s short term notice may be filed by an information service provider or telecommunication service

BellSouth offers no *competitive* rationale as to why these regulations should be eliminated, as contemplated under Section 11. Rather BellSouth admits that the “single greatest problem [ ] is the lack of carrier control over the Bureau’s issuance of the Public Notice that in turn triggers the timing for a carriers’ actual implementation of the proposed network change.”<sup>12</sup> While the timeframe for issuing a Public Notice may be an issue which BellSouth should raise with the Commission, it does not justify the repeal of regulations which serve an important role in the network change process, in particular the protection of impacted parties.

In conclusion, for the aforementioned reasons, the Commission should reject Verizon’s and BellSouth’s requests for elimination of rules in the 2006 Biennial Regulatory Review process.

Respectfully submitted,

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provider that directly interconnects with the incumbent LEC network. Such objections must be filed with the Commission, and served on the incumbent LEC, no later than the ninth business day following the release of this public notice.”]

<sup>12</sup> BellSouth’s Comments at 7.