PUBLIC NOTICE

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DA 06-2056
October 18, 2006

PLEADING CYCLE ESTABLISHED FOR COMMENTS ON MOTION TO COMPEL DISCLOSURE OF CONFIDENTIAL INFORMATION PURSUANT TO PROTECTIVE ORDER AND MOTION TO DISMISS

WC Docket No. 06-172

Comments Due: October 30, 2006
Reply Comments Due: November 6, 2006

On October 11, 2006, Broadview Networks, Inc., Covad Communications Group, NuVox Communications, Inc. and XO Communications, Inc. (CLEC Parties) submitted a "Motion to Compel Disclosure of Confidential Information Pursuant to Protective Order."[1] The CLEC Parties claim that the Verizon Telephone Companies (Verizon) have limited access to certain information Verizon designated as confidential and submitted in support of the six petitions Verizon filed pursuant to section 10 of the Communications Act of 1934, as amended,[2] that are the focus of this proceeding.[3] Specifically, the

[1] *See* Letter from Brett Heather Freedson, Counsel for CLEC Parties, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-172 Attach. (filed Oct. 11, 2006), *amended by* Letter from Brett Heather Freedson, Counsel for CLEC Parties, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-172 Attach. (filed Oct. 13, 2006) (jointly, Motion to Compel).

[2] *See* 47 U.S.C. § 160.

[3] Verizon requested that the Commission forbear from applying to Verizon certain obligations in the Boston, New York, Philadelphia, Pittsburgh, Providence, and Virginia Beach Metropolitan Statistical Areas (MSAs). Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Boston Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the New York Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon New York Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Philadelphia Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Philadelphia Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Pittsburgh Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Pittsburgh Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Providence Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Providence Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Virginia Beach Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Virginia Beach Petition) (collectively, Verizon Petitions).

CLEC Parties claim that Verizon has been redacting certain "CLEC and customer proprietary" information when providing copies of its Petitions and supporting documentation to individuals who have signed the Protective Order in this proceeding.[4] In particular, the Motion to Compel contends that Verizon did not disclose to the CLEC Parties certain carrier-specific information pertaining to entities other than the CLEC Parties and Verizon. The CLEC Parties claim that the terms and conditions of the Protective Order in this proceeding do not authorize Verizon unilaterally to limit the scope of its disclosure,[5] and that lack of access to all of the information on which Verizon intends the Commission to rely in this proceeding "substantially threatens the integrity of this proceeding."[6]

In addition, on October 16, 2006, ACN Communications Services, Inc. *et al.* filed a "Motion to Dismiss" in this docket, seeking the dismissal of Verizon's Petitions on the basis that the Petitions rely on information allegedly used by Verizon in violation of its legal duties.[7] Specifically, these movants contend that Verizon's use of E911 data for regulatory advocacy is barred by the express terms of its interconnection agreements with competitive LECs. As a result of this allegation, and other related allegations, these movants argue that Verizon's Petitions should be stricken and dismissed "to prevent further misuse" of this data.[8]

By this Public Notice, we seek comment on the substantive and procedural issues raised by the Motion to Compel and Motion to Dismiss. Pursuant to Section 1.1 of the Commission's rules, 47 C.F.R. § 1.1, interested parties may file comments on the Motion to Compel and Motion to Dismiss on or before **October 30, 2006** and reply comments on or before **November 6, 2006**. All such pleadings should refer to **WC Docket No. 06-172 and DA Number 06-2056**. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554.

Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://www.fcc.gov/cgb/ecfs/ or the Federal eRulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the website for submitting comments.

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[4] *See* Motion to Compel at 2, 4-5; *see also* Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas, WC Docket No. 06-172, Protective Order, DA No. 06-1870 (WCB rel. Sept. 14, 2006).

[5] *See id.* at 2, 4-6.

[6] *See id.* at 5.

[7] Letter from Andrew D. Lipman *et al.*, Counsel for ACN Communications Services, Inc. *et al.*, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-172 (filed Oct. 16, 2006) (Motion to Dismiss).

[8] *See id.* at 6.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

  Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

  - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

  - U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

In addition, one copy of each filing must be sent to each of the following:

1. The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, Suite CY-B402, Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail FCC@BCPIWEB.COM.

2. Janice M. Myles, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 5-C327, Washington, DC 20554, or via e-mail janice.myles@fcc.gov.

3. Renee Crittendon, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 5-C122, Washington, DC 20554, or via e-mail Renee.Crittendon@fcc.gov.

4. Jeremy Miller, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 5-B145, Washington, DC 20554, or via e-mail Jeremy.Miller@fcc.gov.

5. Tim Stelzig, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 5-C115, Washington, DC 20554, or via e-mail Tim.Stelzig@fcc.gov.

6. Diane Griffin, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 8-A638, Washington, DC 20554, or via e-mail Diane.Griffin@fcc.gov.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail FCC@BCPIWEB.COM.

For further information regarding this proceeding, contact Tim Stelzig, Competition Policy Division, Wireline Competition Bureau, (202) 418-0942.

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