

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

In the Matter of)
)
Petition of the Verizon Telephone Companies) WC Docket No. 06-172
For Forbearance Pursuant to 47 U.S.C.) DA 07-277
§160(c) in the Boston, New York City,)
Philadelphia, Pittsburgh, Providence and)
Virginia Beach Metropolitan Statistical Areas)

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ hereby files its initial comments in response to the Federal Communications Commission’s (Commission’s or FCC’s) Public Notice² seeking comment on the six September 6, 2006 forbearance petitions (Verizon Petitions) Verizon filed in this docket covering the Boston, New York City, Philadelphia, Pittsburgh, Providence, and Virginia Beach Metropolitan Statistical Areas (MSAs). The Commission should consider the needs of rural carriers and their customers who live and serve in these MSAs and should require Verizon to contribute to the Universal Service Fund (USF) based on its broadband revenues. The Commission should use a granular, wire-center

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 575 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *Wireline Competition Bureau Grants Extension of Time to File Comments On Verizon’s Petitions For Forbearance In The Boston, New York, Philadelphia, Pittsburgh, and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 06-172, Public Notice (filed Jan. 26, 2007) (Public Notice).

approach to its analysis and should not condone the unauthorized use of E911 data in any forbearance petition. Finally, the Commission should create a transition period to protect rural carriers and their customers in the sufficiently competitive wire centers, consistent with the Commission's approach in its 2005 *Qwest Omaha Order* and the 2007 *ACS Anchorage Order* as a developing precedent for Section 251 forbearance petitions.

I. Introduction

The Verizon Petitions seek forbearance from numerous obligations³ including Section 251 unbundling obligations and dominant carrier tariffing requirements similar to the relief the Commission granted Qwest in the 2005 *Qwest Omaha Order*.⁴ Some of NTCA's rural members provide service within the Verizon Petitions' service territories using Verizon's Section 251 loop and transport obligations and special access circuits, and NTCA is concerned that its members', and their customers,' needs may be overlooked as the Commission considers the Petitions. Commenters have already raised several critical issues that the Commission should ponder as it reviews the Petitions: 1) rural carriers continue to need UNEs and special access services within the Verizon service territories; 2) Verizon uses select urban area data to demonstrate MSA-wide competition; 3) Verizon relies on E911 data it holds as the E911 Administrator to support its assertions of competition; and 4) The Commission appears to be developing precedent for

³ "Specifically, Verizon requests that the Commission forbear from applying loop and transport unbundling regulation pursuant to 47 U.S.C. § 251(c) ... Verizon also seeks forbearance from the dominant carrier tariffing requirements set forth in Part 61 of the Commission's rules ...; from price cap regulation set forth in Part 61 of the Commission's rules ...; from the Computer III requirements, including Comparably Efficient Interconnection ("CEI") and Open Network Architecture ("ONA") requirements; and from dominant carrier requirements arising under section 214 of the Act and Part 63 of the Commission's rules concerning the processes for acquiring lines, discontinuing services, assignments or transfers of control, and acquiring affiliations" Verizon Petitions, fn. 3.

⁴ *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160 (c) in the Omaha Metropolitan Statistical Area*, Memorandum and Opinion and Order, 20 FCC Rcd 19415 (2005) (Qwest Omaha Order).

granting this and future Section 251 forbearance authority petitions through the *Qwest Omaha* and *ACS Anchorage Orders*.⁵

II. Rural Carriers In Verizon's Territory Need To Be Able To Serve Their Customers.

The Commission should refrain from broadly applying its forbearance authority and should ensure that any forbearance grant will allow the current tariffing and pooling options to remain available to rural ILECs that seek to offer broadband transport services and special access services pursuant to the National Exchange Carrier Association (NECA) tariff. The Commission should also ensure that Verizon's forbearance authority will, in all rural ILEC service areas, ensure just and reasonable wholesale rates for access/transport services to the Internet backbone. This is a prime concern for some rural carriers who depend on Verizon to provide transport services to the Internet backbone. Forbearance will not promote competitive market conditions where a sole transport provider to the Internet backbone can impose a tying arrangement and price squeeze on a rural carrier which could lead to higher prices for retail broadband services for rural consumers.

The Commission should tailor forbearance very carefully so as to protect rural consumers and the ability of rural ILECs to compete in the retail broadband services marketplace. Rural carriers continue to use both unbundled network element (UNE) loops and subloops, as well as special access services from Verizon. Furthermore, the Commission should require Verizon to contribute to the universal service fund (USF) based on revenues derived from their broadband transmission services. Finally, the Commission should expand the pool of USF contributors to

⁵ *In the Matter of Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as Amended, for Forbearance from Sections 251(c)(3) and 252(d)(1) in the Anchorage Study Area*, WC Docket no. 05-281, Memorandum Opinion and Order (filed Jan. 30, 2007) (ACS Anchorage Order).

include all cable, wireline, wireless, electric, and satellite broadband Internet access providers. These actions will help ensure that rural carriers in Verizon's territory can serve their customers.

III. The Commission Should Review The Petitions With A Granular Perspective.

Several state commissions and consumer advocates have already challenged Verizon's Petitions because they rely on broad, sweeping assertions that competition exists sufficient to merit forbearance treatment. The Delaware Public Service Commission, for example, contends that Verizon's Philadelphia MSA petition includes large swatches of Delaware, yet Verizon encourages the Commission to base its decision to grant forbearance over Delaware residents on large New Jersey and Pennsylvania cities.⁶ The Virginia State Corporation Commission likewise objected to Verizon's Virginia Beach MSA petition, asserting that the Virginia Petition did not contain a wire-center analysis.⁷ NTCA shares these states' concerns and urges the FCC to review the Verizon Petitions at a granular (wire center) level before making its decisions.

IV. Verizon May Have Used Proprietary E911 Data To Support Its Petitions.

A number of filers have accused Verizon of unlawfully accessing proprietary data and using proprietary E911 data beyond its authorized users.⁸ These filers, in their motion to dismiss Verizon's Petitions, contend that Verizon violated its trust as administrator of the E911 data base in choosing to use the data to support its forbearance authority. The Commission should not condone this practice as it may lead to the disclosure of commercially sensitive information and

⁶ Delaware Public Service Commission and Delaware Division of the Public Advocate Comments, pp. 3-4 (filed Feb. 28, 2007).

⁷ Virginia State Corporation Commission Comment, p. 8 (filed Dec. 15, 2006).

⁸ Motion to Dismiss by ACN Communication Services et al., p. 1 (filed Oct. 16, 2006).

will persuade competitive carriers to withhold critical E911 data and information from the E911 administrator in the future.

V. The Commission Must View a Verizon Order In The Context Of Developing Precedent On Forbearance Petitions.

The Commission, on January 30, 2007, released its order granting *ACS Anchorage Order* granting forbearance from Section 251 unbundling obligations. In *ACS Anchorage*, the Commission examined the petitioner's request on a wire center basis and denied relief for 6 of the requested 11 wire centers because the record did not show there were sufficient market forces in those 6 wire centers to protect consumers.⁹ The Commission also created a one-year transition period during which ACS must make loops and certain subloops available in the relieved wire centers at the same rates as those negotiated between ACS and the local cable operator.¹⁰ The Commission, in reviewing the Verizon Petitions, should adopt the same wire-center analysis approach and should permit a sufficient transition period so that those rural carriers who rely on Verizon's loops and subloops can, where sufficient market forces exist to protect rural consumers, have adequate time to revise their business plans. This approach would conform with the Commission's *ACS Anchorage* and *Qwest Omaha* approach to Section 251 forbearance petitions.

VI. Conclusion

For these reasons, the Commission should consider the needs for rural carriers and their customers who live and serve in these MSAs and require Verizon to contribute to the USF based

⁹ *ACS Anchorage Order*, ¶ 2.

¹⁰ *Ibid.*

on its broadband revenues. The Commission should use a granular, wire-center approach to its analysis and should not condone the unauthorized use of E911 data in any forbearance petition. Further, the Commission should use a wire-center analysis and create a transition period for rural carriers and their rural customers, similar to the approach used in reviewing the *Qwest Omaha* and *ACS Anchorage* forbearance petitions. The Commission should refrain from broadly applying its forbearance authority and should ensure that any forbearance grant will allow the current tariffing and pooling options to remain available to rural ILECs that seek to offer broadband transport services and special access services pursuant to the NECA tariff.

Respectfully submitted,

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March 5, 2007

CERTIFICATE OF SERVICE

I, Adrienne Rolls, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in WC Docket No. 06-172, DA 07-277, was served on this 5th day of March 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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