

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**WASHINGTON HARBOUR, SUITE 400**

**3050 K STREET, NW**

**WASHINGTON, D.C. 20007-5108**

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

JOHN J. HEITMANN

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

NEW YORK, NY  
TYSONS CORNER, VA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ  
BRUSSELS, BELGIUM

AFFILIATE OFFICES  
MUMBAI, INDIA

November 2, 2007

**VIA ECFS**

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street S.W.  
Washington, D.C. 20554

***Re: In the Matter of the 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 MSAs; WC Docket No. 06-172***

Dear Ms. Dortch:

XO Communications, LLC (“XO”), through its undersigned counsel, hereby submits in the record of the above-referenced proceeding the attached Summary of Data Submitted by the Competitive Industry. XO and other competitors have filed -- *from the very beginning*, in initial comments, and then throughout the course of this proceeding, in reply comments and *ex parte* submissions that have followed -- substantial data on the levels of facilities-based competition that presently exist in each of the six Metropolitan Statistical Areas affected by the Verizon Petitions. XO prepared the attached Summary of Data to facilitate location and review by the Commissioners and their legal advisors, and by the Wireline Competition Bureau, of the competitive industry data already on the record in this proceeding.

As the Summary shows, competitors have provided data in the form of residential and business line counts, market share percentages, percentages of commercial lit buildings, percentages of addressable buildings, percentages of wire centers with no competitive fiber, percentages of homes passed, and more. Notably, much of this data refutes erroneous data filed by Verizon.

This Summary shows again that Verizon’s “no data” claim is nothing more than a slogan devoid of any substance. The conclusion that the Commission should draw from the

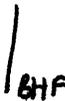
KELLEY DRYE & WARREN LLP

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
November 2, 2007  
Page Two

record is that there is sufficient data on file for it to conclude that there is "no evidence" to support grant of Verizon's Petitions.

Please do not hesitate to contact the undersigned counsel, if you have any questions about this submission.

Respectfully submitted,

 | 

John J. Heitmann  
Brett Heather Freedson

*Counsel to XO Communications, LLC*

cc: Chairman Kevin Martin  
Commissioner Michael Copps  
Commissioner Jonathan Adelstein  
Commissioner Deborah Tate  
Commissioner Robert McDowell  
Dan Gonzalez  
Ian Dillner  
Scott Deutchman  
Scott Bergmann  
Chris Moore  
John Hunter  
Dana Shaffer  
Jeremy Miller  
Tim Stelzig  
Christi Shewman

**SUMMARY OF DATA SUBMITTED BY THE COMPETITIVE INDUSTRY IN WC DOCKET NO. 06-172**

<b>DATE</b>	<b>PARTY</b>	<b>DESCRIPTION</b>	<b>DESCRIPTION OF DATA</b>
03/05/2007	ACN Communications Services, Inc. et al.	Opposition	These comments provide aggregated ILEC and CLEC business and residential line counts for each of the six MSAs addressed by the Verizon Petitions, and corresponding market share data (at Exhibit A).
03/05/2007	Comcast Corporation	Initial Comments	These comments provide penetration rates for Comcast's residential services, for the Boston, Philadelphia and Pittsburgh MSAs (at 5).
03/05/2007	Covad Communications Group NuVox Communications XO Communications, LLC	Initial Comments	These comments provide data regarding the numbers of CLEC lit commercial buildings within each of the six MSAs addressed by the Verizon Petitions, including, for each MSA, the number and percentage of CLEC lit commercial buildings within the wire center having the highest percentage of CLEC lit commercial buildings within the MSA, and the number and percentage of wire centers within each MSA having no CLEC lit fiber (at 47-49). The appended Declaration of Lisa R. Youngers, on behalf of XO, provides XO's business line counts for each of the Boston, New York, Philadelphia and Pittsburgh MSAs, as compared to those figures submitted by Verizon, on the basis of its erroneous E911 data (at Exhibit 2).
03/05/2007	Cox Communications, Inc.	Initial Comments	These comments provide the total number of residential lines and business customers served by Cox within the 35 markets in which Cox offers telephone service (at 1-2); the numbers of business customers and business lines served by Cox, as compared to those figures submitted by Verizon (at 27, 32); and the percentage of total homes passed by Cox (at 25, 31), within each of the Providence and Virginia Beach MSAs.
03/05/2007	Time Warner Cable	Initial Comments	These comments provide the total number of Digital Phone subscribers served by Time Warner Cable, and corresponding penetration rate, for the New York MSA (at 12).

<b>DATE</b>	<b>PARTY</b>	<b>DESCRIPTION</b>	<b>DESCRIPTION OF DATA</b>
03/05/2007	Time Warner Telecom Cbeyond Inc. One Communications Corp.	Initial Comments	These comments include data for Time Warner Telecom and other service providers, including AT&T, Bayring, Broadview, Broadwing, Cavalier, Covad, Level 3, NEON, PAETEC, Sprint, XO and Xspedius, regarding high capacity (DS1 and DS3) loop and dedicated transmission deployments to commercial buildings (at 23-26, 31). With specific regard to the New York and Pittsburgh MSAs, these comments also include penetration rates for overall competitive deployments, based on the GAO's findings relative to special access services (at 15-16).
04/18/2007	Charter Communications, Inc.	Opposition	These comments provide the total numbers of subscribers and residential voice lines served by Charter, and corresponding penetration rate, for the three rate centers within the Boston MSA to which Charter offers voice services (at 4-5).
04/18/2007	Covad Communications Group NuVox Communications XO Communications, LLC	Reply Comments	These comments provide summary and analysis of data submitted in the initial comments of participating cable providers, including Comcast, Cox and Time Warner Cable (at 13-14).
07/10/2007	Alpheus Communication, L.P. et al.	<i>Ex Parte</i> Letter	This <i>ex parte</i> letter demonstrates the competitive harms that would result from forbearance from regulation of copper loop UNEs, and provides the numbers of mass market customers served by Cavalier over such facilities within the Philadelphia and Virginia Beach MSAs (at 3).
09/04/2007	Comptel et al.	<i>Ex Parte</i> Letter	This <i>ex parte</i> letter, and the Supplemental Declaration of Joseph Gillan, provides data and analysis highlighting the discrepancies between business and residential line counts submitted by Verizon to the Virginia State Corporation Commission, and actual business and residential line counts submitted to the Virginia State Corporation Commission by CLECs, including AT&T, Cavalier, Cox, MCI, NTELOS, One Communications and XO (at 16, 20; Gillan ¶¶ 9-11, 15-16). Furthermore, Attachment JPG-2 to the Supplemental Declaration of Joseph Gillan provides the number of wire centers within each of the six MSAs addressed by the Verizon Petitions at which Verizon claims that competition exists, but for which data submitted by CLECs, including Broadview, Cavalier, One Communications and XO, shows no competitive entry ("phantom wire centers") (at 20; Gillan ¶¶ 15-16).
09/21/2007	Comptel et al.	<i>Ex Parte</i> Presentation	This <i>ex parte</i> presentation provides data demonstrating that Verizon overstated

DATE	PARTY	DESCRIPTION	DESCRIPTION OF DATA
			to the Virginia State Corporation Commission business and residential line counts of Cavalier, and that Verizon relies on large numbers of so-called "phantom wire centers" to demonstrate that competition exists (at 8).
10/05/2007	Covad Communications Group NuVox Communications XO Communications, LLC	<i>Ex Parte</i> Letter	This <i>ex parte</i> letter includes data and analysis submitted by CLECs in the Verizon/MCI Merger Proceeding (WC Docket No. 05-75) demonstrating that the merger of Verizon and MCI effectively eliminated from the market for wholesale loop and dedicated transport services the largest source of actual and potential competition.
10/09/2007	Time Warner Cable	<i>Ex Parte</i> Letter	This <i>ex parte</i> letter responds to requests from FCC Staff, providing data on the numbers of buildings and business subscribers served by Time Warner Cable within specific locations within the New York MSA.
10/09/2007	RCN Telecom Services, Inc.	<i>Ex Parte</i> Letter	This <i>ex parte</i> letter responds to requests from FCC Staff, providing data on the numbers of Active Phone Lines served by RCN within specific municipalities within each of the Boston, Philadelphia and New York MSAs, and the number of homes reached by RCN's network within those MSAs.
10/30/2007	XO Communications, LLC	<i>Ex Parte</i> Letter	This <i>ex parte</i> letter provides data and analysis regarding the numbers of CLEC lit commercial buildings within each of the six MSAs addressed by the Verizon Petitions, including corresponding penetration rates based on GeoResults data. XO also provides, for each MSA: (1) the number and percentage of CLEC lit commercial buildings within the wire center having the highest percentage of CLEC lit commercial buildings within the MSA; (2) the number and percentage of wire centers within each MSA having no CLEC lit fiber; (3) the numbers of lit commercial buildings on XO's network, and corresponding penetration rates; and (4) the maximum potentially addressable market in terms of percentages of commercial buildings within 500 feet and 1,000 of XO's network. This <i>ex parte</i> letter exposes a number of material flaws in data submitted by Verizon, including: (1) Verizon's data sets forth the number of times any entity other than Verizon has deployed fiber-based equipment to a building (counting non-carriers and counting the same building an unlimited number of times, rather than once), rather than the number of actual buildings to which CLEC fiber is deployed; (2) Verizon uses clearly erroneous data for another competitor", presumably Qwest.

DATE	PARTY	DESCRIPTION	DESCRIPTION OF DATA