PUBLIC NOTICE

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DA 08-1056
May 2, 2008

PLEADING CYCLE ESTABLISHED FOR COMMENTS ON MOTION TO DISMISS OR DENY VERIZON VIRGINIA BEACH PETITION FOR FORBEARANCE

WC Docket No. 08-49

Comments Due: May 19, 2008
Reply Comments Due: May 27, 2008

On April 29, 2008, Covad Communications Group *et al.* (CLEC Group) filed a "Motion to Dismiss or, in the Alternative, Deny Petition for Forbearance."[1] In this Motion, the CLEC Group contends that Verizon has failed to make a *prima facie* case to justify a different outcome in the present proceeding than the Commission reached in the *Verizon 6 MSA Forbearance Order*.[2] Specifically, the CLEC Group claims that the facts presented in Verizon's petition for forbearance in that portion of the Virginia Beach Metropolitan Statistical Area (MSA) where Cox is the incumbent cable operator[3] are a subset of the same facts upon which Verizon relied in support of its prior forbearance petition for the Virginia Beach MSA.[4] On December 4, 2007, the Commission unanimously denied Verizon's petition for forbearance for the Virginia Beach MSA.[5] The CLEC Group contends that the Verizon Virginia Beach Petition therefore should be dismissed as facially insufficient, or summarily denied for failure to

[1] Letter from Genevieve Morelli *et al.*, Counsel for Covad Communications Group *et al.*, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 08-49 (filed Apr. 29, 2008) (CLEC Motion to Dismiss).

[2] CLEC Motion to Dismiss at 2.

[3] Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in Cox's Service Territory in the Virginia Beach Metropolitan Statistical Area, WC Docket No. 08-49 (filed Mar. 31, 2008) (Verizon Virginia Beach Petition).

[4] CLEC Motion to Dismiss at 1.

[5] *Petitions of Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160 in the Boston, New York, Philadelphia, Pittsburgh, Providence, and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 06-172, Memorandum Opinion and Order, 22 FCC Rcd 21293 (2007) (*Verizon 6 MSA Forbearance Order*), *pet. for review pending*, File No. 08-1012 (D.C. Cir. filed Jan. 14, 2008).

meet the mandates of the Administrative Procedure Act, the Commission's rules and the forbearance standard of section 10 of the Communications Act of 1934, as amended.[6]

By this Public Notice, we seek comment on the substantive and procedural issues raised in the CLEC Motion to Dismiss. Interested parties may file comments on the CLEC Motion to Dismiss on or before **May 19, 2008** and reply comments on or before **May 27, 2008**. All pleadings should reference **WC Docket No. 08-49**.

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. Parties should also send a copy of their filings to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, or by e-mail to CPDcopies@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com. Pursuant to the *First Protective Order* and *Second Protective Order*, all parties should submit an electronic copy of filings containing Confidential or Highly Confidential Information to Tim Stelzig (Tim.Stelzig@fcc.gov) and Denise Coca (Denise.Coca@fcc.gov).[7]

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

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

    - 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 <your email address>. 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

[6] CLEC Motion to Dismiss at 2.

[7] *Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160 in Cox's Service Territory in the Virginia Beach Metropolitan Statistical Area*, WC Docket No. 08-49, First Protective Order, DA 08-879 (WCB, rel. Apr. 15, 2008) (*First Protective Order*); *Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160 in Cox's Service Territory in the Virginia Beach Metropolitan Statistical Area*, WC Docket No. 08-49, Second Protective Order, DA 08-880 (WCB, rel. Apr. 15, 2008) (*Second Protective Order*).

rulemaking number. **Parties are strongly encouraged to file comments electronically using the Commission's ECFS.**

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, Marlene H. Dortch, 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 a.m. to 7 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.

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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 at fcc@bcpiweb.com.

For further information regarding this proceeding, contact Tim Stelzig, Competition Policy Division, Wireline Competition Bureau, 202-418-0942 or Denise Coca, Competition Policy Division, Wireline Competition Bureau, 202-418-0574.

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