

“CLECs” in the traditional sense.<sup>22</sup> While these forms of competition are all steadily growing, the number of lines served by traditional wireline telephone providers, including Cavalier’s customer base in Virginia Beach is **[Begin Highly Confidential]** **[End Highly Confidential]**. Compare Cavalier at 3 (**[Begin Highly Confidential]** **[End Highly Confidential]**) with Declaration of Justina Sun at Table, *attached to* Opposition of Cavalier Telephone Subsidiaries to Verizon’s Petitions for Forbearance, WC Docket No. 06-172 (FCC filed Mar. 5, 2007) (31,500 residential customers in the Virginia Beach MSA in March 2007).<sup>23</sup> Thus, Cavalier’s attempt to portray its UNE-based model as an important source of competition is overblown.

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<sup>22</sup> This also puts the lie to the claim of four cities located in Cox’s service territory in the Virginia Beach MSA that CLECs “are the only Verizon competitors who offer traditional wireline service to customers in the Virginia Beach MSA.” Reply Comments of VA Cities at 3, 7. The cities also claim (at 6) that “business and local government customers have specific telecommunications needs that are only found in traditional wireline service.” But they provide no evidence to support this claim. Cox in fact offers service to such customers. See Cox Business, *About Us*, <http://www.coxbusiness.com/aboutus/index.html> (“Cox offers a full suite of voice, data and video services for small, medium and large businesses as well as for government and education.”); Cox Business, *Specific Industries*, <http://www.coxbusiness.com/industries/government/index.html> (“We have proven experience providing complete voice, data and cable solutions that are cost-effective and secure to all levels of government.”).

<sup>23</sup> Verizon’s wholesale billing records tell a similar story. In Cox’s service territory in the Virginia Beach MSA, Cavalier was leasing approximately **[Begin Highly Confidential]** **[End Highly Confidential]** DS0 UNE loops as of the end of 2007, **[Begin Highly Confidential]** **[End Highly Confidential]** DS0 UNE loops Cavalier was leasing as of the end of 2006. See Garzillo Reply Decl., Exh. 4.

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Second, Cavalier's claim to offer lower rates than either Verizon or Cox also misses the mark. As an initial matter, it is simply not true that Cavalier is the only competitor to offer stand-alone voice service – Cox does, too. See Cox Hampton Roads, *Calling Packages*, <http://www.cox.com/hr/telephone/packages.asp> (basic telephone line is \$15.39 per month for “[c]ustomers subscribing to Cox phone service only,” and “[c]ustomers also subscribing to Cox video or internet receive a reduced rate of \$14.00 – a monthly saving of \$1.39.”). Nor do Cavalier's packages live up to its claim of beating the competition by \$10 per month. For example, Cox's “Nationwide Value” plan with unlimited local, long-distance, and voicemail is \$34.94 per month, which is comparable to the \$34.95 per month that Cavalier charges for unlimited local, long-distance, voicemail and several additional calling features. Compare Cox Hampton Roads, *Long Distance Plans and Pricing*, <http://www.cox.com/hr/telephone/ld-plans.asp>, with Cavalier Telephone, *Unlimited Long Distance Service Plans*, <http://cms.cavtel.com/long-distance>. Although Cavalier's least expensive offering is \$24.95 per month, both Cox and Verizon offer even less costly options for low-volume users. See Verizon, *Local & Regional Calling Plans*, <http://www22.verizon.com/Residential/Phone/Local+And+Regional+Calling+Plans/Local+And+Regional+Calling+Plans.htm> (zip code 23456) (\$6.00 per month for Economy Message Service, with each local call billed at 10.2 cents per call); Cox Hampton Roads, *Calling Packages*, <http://www.cox.com/hr/telephone/packages.asp> (basic local service for \$15.39 per month without other Cox services, or \$14.00 per month if the customer subscribe to other Cox services).

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Finally, the Commission has correctly recognized that competing carriers are capable of, and are, competing successfully in the retail market using special access, and this form of competition is therefore relevant in the competitive analysis. *See Omaha Forbearance Order* ¶ 68; *Verizon/MCI Order* ¶¶ 52, 56, 81. The D.C. Circuit has reached a similar determination. *See Qwest Corp.*, 482 F.3d at 480. The Commission should accordingly reject arguments to ignore special access here. *See Cbeyond et al.* at 21-22; *Comptel et al.* at 20-21; *Cox* at 9-10; *Sprint* at 12. As Verizon has demonstrated, competing carriers are using special access extensively in Cox's service territory in the Virginia Beach MSA, much more extensively in fact than they are using UNEs. For example, as of the end of December 2007, competitors *other than wireless carriers* were serving more than [Begin Confidential] [End Confidential] DS3 lines and approximately [Begin Confidential] [End Confidential] DS1 lines with special access service obtained from Verizon, compared to less than [Begin Confidential] [End Confidential] DS3 lines and less than [Begin Confidential] [End Confidential] DS1 lines using UNEs. *See Garzillo Reply Decl.*, Exh. 2.

Cavalier is also incorrect in claiming (at 2) that Verizon has sought retail rate deregulation from the Virginia SCC "on the ground that it will continue to make the network elements at issue here available at TELRIC rates to competitors." *See also* Virginia Attorney General, Division of Consumer Counsel at 7. As Cavalier concedes (at 2), Verizon's December 2007 petition merely stated that "with the recent FCC decision in the Verizon forbearance case that Verizon must continue to provide UNE-loops in the

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Virginia Beach area, the likelihood that Verizon will be relieved from providing UNE-loops at TELRIC rates in any part of the state appears slim.” That near-term prediction does not constitute a commitment to maintain TELRIC rates, and the Virginia SCC is obviously aware that Verizon could (and did) seek unbundling relief after that point.

**C. The Commission Correctly Addressed Cable’s Ability To Serve Business Customers**

In Omaha, the Commission correctly recognized that with respect to business customers, the relevant inquiry is whether the incumbent cable operator is *capable of* serving business customers extensively, not how many customers it already has won. The Commission adopted several factors to guide this inquiry: whether Cox had “strong success in the mass market, . . . possession of the necessary facilities to provide enterprise services, . . . technical expertise, . . . economies of scale and scope, . . . sunk investments in network infrastructure, . . . established presence and brand in the Omaha MSA, and . . . current marketing efforts and emerging success in the enterprise market.” *Omaha Forbearance Order* ¶ 66; *see* Virginia Beach Pet’n at 21-25. The Commission also looked at whether Cox was “actively marketing itself” to enterprise customers, whether it had attracted a number of significant Omaha businesses as customers, and whether its enterprise sales were growing. *Omaha Forbearance Order* ¶¶ 66, 67 n.177. In Omaha, the Commission answered each of these questions in the affirmative – and did not examine (or even have) data regarding enterprise market share. *See id.* ¶¶ 66-70. Verizon’s petition demonstrates that the same is true in Cox’s service territory in the

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Virginia Beach MSA, *see* Virginia Beach Pet'n at 21-26, which should be the end of the matter.

In its comments here, Cox does not dispute that it satisfies each of the factors the Commission previously identified, or that its success in competing for enterprise customers in the Virginia Beach MSA differs in any respect from its success in Omaha. In recent public statements Cox has stated, “[a]s far as telephony, we’re *fully built out* . . . Wherever residential is, commercial is.” Jennifer Rinaldi, *Business Telephony Takes Off: Soaring from Home to Office*, Communications Technology (Apr. 15, 2008) (quoting Charles Scarborough, Director, Product Development, Cox Business Services; emphasis added), *available at* [http://www.cable360.net/business\\_services/news/28854.html](http://www.cable360.net/business_services/news/28854.html).

Cox also confirms that it is currently serving a large number of business customers. Cox states (at 9) that it alone serves **[Begin Confidential]** **[End Confidential]** of the approximately 79,000 businesses in its Virginia Beach service area.<sup>24</sup> This appears to be greater than the business competition that Cox claimed to be providing in Omaha. *See Omaha Forbearance Order* ¶¶ 66 & n.174, 69. Thus, even the limited data that Cox has provided is a complete answer to various claims that Verizon

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<sup>24</sup> NuVox/XO claim (at 39), without support, that cable companies “can only serve businesses within close proximity” to their networks. This flies in the face of what independent experts have found. Buckingham Research Group, for example, has estimated that cable companies can use their existing plant to target more than 85 percent of commercial revenues. *See* Quasir Hasan & May Tang, Buckingham Research Group, *Cable Goes Commercial: Examining Cable’s Next Growth Phase* at 20, Exh. 14 (Jan. 11, 2007).

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has failed to provide sufficient data substantiating that Cox is a significant competitor for enterprise customers. *See Cavalier* at 22-24; *Cbeyond et al.* at 37-38; *Comptel et al.* at 17-19; *NuVox/XO* at 38-39; *Sprint* at 9.<sup>25</sup>

Some commenters rehash the claim that, even assuming cable companies could reach business customers with their networks, they would not necessarily be able to provide the types of services that business customers purchase. *See Cavalier* at 23; *Comptel et al.* at 19; *NuVox/XO* at 40-41. Tellingly, however, Cox itself does not indicate that its service offerings for enterprise customers are limited. To the contrary, as Verizon has demonstrated, Cox indicates that it provides voice and data services that meet the needs of enterprise customers. *See Lew/Wimsatt/Garzillo Decl.* ¶¶ 43-46. For example, Cox offers business customers in its Virginia Beach service territory digital telephone with a platform that integrates PCs and wireless devices (VoiceManager), Centrex, digital trunks, dedicated long distance, private lines, web hosting, transparent LANs, and VPNs. *See Cox Business, Hampton Roads*, [http://www.coxbusiness.com/systems/va\\_hamptonroads/index.html](http://www.coxbusiness.com/systems/va_hamptonroads/index.html); *Lew/Wimsatt/Garzillo Decl.* ¶ 43 & Exh. 13. Moreover, it is incredulous to suggest that Cox has invested heavily to serve business customers (as it admits), yet does not plan to offer the services that business customers require.

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<sup>25</sup> The key cable data on which the Commission relied in the past was produced by the cable operators themselves. Thus, there is no basis to find that Verizon failed to establish a *prima facie* case by failing to include data not in its control.

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*Several commenters argue that the competition Cox provides is insufficient, and that Verizon has failed to provide sufficient evidence of the extent to which other competitors are serving enterprise customers in Virginia Beach, both as a general matter and with respect to specific categories of enterprise customers. See Cavalier at 23-24; Cbeyond et al. at 40-43; Comptel et al. at 19-21; NuVox/XO at 45-49.<sup>26</sup>*

In Omaha, however, the Commission explained that its decision was based primarily on its “determination that Cox was a substantial competitive threat to Qwest for higher revenue enterprise services” and that evidence regarding additional “competitive deployment in the *Qwest Omaha Forbearance Order* was incidental and supplemental to” its findings regarding cable “and was limited to the deployment of transport rather than last-mile facilities.” *Six MSA Order* ¶ 40 n.131. The evidence that Verizon provided that there are other extensive competitive facilities-based networks in Cox’s service territory in the Virginia Beach MSA, as well as many CLECs that provide retail competition in this area, is mainly corroborative; based solely on the demonstrated competition from cable, forbearance is appropriate under the Commission’s established standards.

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<sup>26</sup> To further support this claim, Cbeyond et al. assert (at 33-34) that Verizon has increased its business rates numerous times since September 2006. See also Cavalier at 2 n.4. These commenters neglect to mention that such increases apply only to standard month-to-month prices, and were accompanied by rate *decreases* for customers who sign up for Term (e.g., 24 month) and Package (e.g., Freedom for Business) plans. Verizon introduced these lower priced offerings in response to competitive pressures. Given that these offerings are available to all customers (e.g., there is no volume commitment), Cbeyond et al. are wrong to suggest that Verizon prices have not been constrained by competition.

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In any event, even if the Commission were to depart from past practice and attempt to quantify these other sources of enterprise competition, the only relevant inquiry is how this “incidental and supplemental” competition compares to levels that existed in Omaha and Anchorage. Verizon demonstrated that competition exceeds levels that existed in those prior orders, and no commenter asserts, much less proves, the contrary. That should be the end of the matter.

**IV. COX’S SERVICE TERRITORY IN THE VIRGINIA BEACH MSA IS AN APPROPRIATE GEOGRAPHIC AREA FOR PURPOSES OF THE FORBEARANCE ANALYSIS**

Verizon’s petition demonstrates that it is consistent with both the Telecommunications Act of 1996 and Commission precedent to analyze forbearance for Cox’s service territory in the Virginia Beach MSA. The statute provides that forbearance from applying any regulation to a telecommunications carrier should be determined with respect to “*any or some of its or their geographic markets.*” 47 U.S.C. § 160(a) (emphasis added). Verizon explained that Cox’s service territory in the Virginia Beach MSA was a reasonable geographic market for purposes of analysis for several reasons.

First, the requested relief is limited to the area in the Virginia Beach MSA where Cox is the incumbent cable operator. In prior decisions, the Commission has determined that forbearance is appropriate only in those areas where cable voice services are widely available. *See Omaha Forbearance Order* ¶¶ 28, 69. This petition accordingly is tailored to those areas in the Virginia Beach MSA where this is the case.

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Second, the area for which Verizon seeks relief is *smaller* than the Virginia Beach MSA.<sup>27</sup> This obviates any potential concerns that Verizon might obtain relief for a broader geographic area than the area subject to competition from cable. Although CLECs have long argued for exceedingly narrow geographic markets and that MSAs are too broad,<sup>28</sup> they reverse course here and argue that the Commission should consider forbearance for larger geographic markets than Verizon requests. Comptel *et al.* argue (at 5-6) that the Commission should not consider forbearance for areas smaller than an

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<sup>27</sup> Cavalier argues (at 7) that “although a grant of Verizon’s petition would not end the availability of section 251 unbundled loops and transport in the few counties that Verizon’s petition has excised from the Virginia Beach MSA, it is not economically viable to serve these communities in isolation.” But the facts show that competing carriers in those areas are already using Verizon’s Wholesale Advantage service to a significantly greater extent than they are using UNEs. Verizon’s wholesale billing records for the entire Virginia Beach MSA show that, as of December 2007, competitors in the areas not covered by Verizon’s petition were purchasing approximately **[Begin Confidential]** **[End Confidential]** DS0 UNE loops and approximately **[Begin Confidential]** **[End Confidential]** residential Wholesale Advantage lines. See Garzillo Reply Decl. Exh. 3. Thus, there is no basis to Cavalier’s claim that UNEs are needed to compete in those areas.

<sup>28</sup> See, e.g., Comments of Alpheus Communications, L.P. at 28, *Unbundled Access to Network Elements*, WC Docket No. 04-313 (FCC filed Oct. 4, 2004) (“[A]n MSA wide or other broad geographic market test is inappropriate.”); Initial Comments of the Loop and Transport CLEC Coalition at 37, *Unbundled Access to Network Elements*, WC Docket No. 04-313 (FCC filed Oct. 4, 2004) (“[A]n MSA-wide determination. . . is overbroad.”); Reply Comments of the Association for Local Telecommunications Services, *et al.* at 22, *Unbundled Access to Network Elements*, WC Docket No. 04-313 (FCC filed Oct. 19, 2004) (“An MSA covers a larger, more heterogenous area than a wire center and would therefore only amplify the false negatives of a wire-center based test.”). See also Comments of the Competitive Telecommunications Association at 29, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 (FCC filed May 26, 1999) (“[I]n the context of universal service, the Commission required eligible carriers to provide service throughout a relevant study area, which generally speaking is no larger than a particular state. . . . [this] geographic area[] would be well suited for the impairment analysis also.”).

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MSA “[b]ecause an MSA has a high degree of internal economic and social coherence, [and therefore] it is more likely that any estimation of competition, or application of a single competitive test to the entire area, if otherwise accurate, will be correct anywhere in the MSA.” See also *Cbeyond et al.* at 10-14; *Telecom Investors* at 14-15; *Cavalier* at 11. But that argument works in only one direction: if an MSA is an area of economic cohesion, it follows that any subset of that MSA shares those same properties.

Some commenters argue that the Commission adopted an MSA approach in the 1999 special access *Pricing Flexibility Order*<sup>29</sup> and the 1996 Telephone Number Portability Order, and quote a 1990 order on broadcast auxiliary services. See *Cbeyond et al.* at 11; *Comptel et al.* at 5-6; *Telecom Investors* at 14. These commenters fail to recognize that the MSAs on which the Commission relied in these orders are not the same as – and in this case are *smaller* than – the Metropolitan Statistical Areas on which Verizon based its petitions in the Six MSA proceeding. See *Pricing Flexibility Order* ¶ 71 n.193 (defining MSAs as the cellular markets described in 47 C.F.R. § 22.909(a)); *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, App. D (1996) (listing the top 100 metropolitan statistical areas, some of which are also known as “Primary MSAs” that are aggregated to form the “Consolidated MSAs” that are the predecessors to the MSA definition used today). For example, counties covered by Verizon’s petition are in the Norfolk-Virginia

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<sup>29</sup> *Access Charge Reform*, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 14221 (1999) (“*Pricing Flexibility Order*”).

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Beach-Portsmouth, VA/NC and Newport News-Hampton, VA cellular market areas in the *Pricing Flexibility Order*, and three out of the five counties Verizon has excluded from its petition are not part of any MSA according to the *Pricing Flexibility Order* definition. See generally FCC, *Cellular Market Areas (CMA) 1990*, available at <http://www.fcc.gov/oet/info/maps/areas/>; U.S. Census Bureau, *Current Lists of Metropolitan and Micropolitan Statistical Areas and Definitions*, <http://www.census.gov/population/www/estimates/metrodef.html>.

Third, with respect to unbundling regulation, the Commission has granted forbearance at a much more granular level than either an MSA or a state, which moots any concern about the larger area in which the unbundling analysis is performed. In Omaha, the Commission's unbundling analysis considered the wire centers within the Omaha MSA, while in Anchorage it considered the wire centers within the Anchorage study area. See *Anchorage Forbearance Order* ¶¶ 14, 16; *Omaha Forbearance Order* ¶ 61. As discussed further below, the Commission should analyze rate centers in place of wire centers here, but can otherwise follow the same general approach it has taken in Omaha and Anchorage.

**V. THE COMMISSION CANNOT MAINTAIN UNBUNDLING RULES WHERE, AS HERE, THERE IS NO IMPAIRMENT**

Finally, the commenters' attempts to modify the tests that the Commission has previously applied fail for the independent reason that such an approach would violate the impairment standard in Section 251(d)(2).

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Verizon's petition demonstrates that where, as here, the record shows that competition without UNEs is possible – and the impairment standard therefore is not met – the Commission must eliminate unbundling obligations. In the *Triennial Review Remand Order*, the Commission recognized that cable companies might develop into facilities-based local exchange competitors in the future and invited parties to file forbearance petitions in any areas where that occurred. *See TRRO* ¶ 39; *see also Omaha Forbearance Order* ¶ 63 & n.164. Having identified individual forbearance petitions as the vehicle through which the Commission would address the impairment issue going forward, the Commission cannot require continued unbundling in such proceedings where the statutory impairment standard is not met. Moreover, independent of the Commission's invitation to ILECs in the *TRRO* to make "no impairment" showings through forbearance petitions, the Commission cannot lawfully retain unbundling obligations in the face of evidence of non-impairment. In the context of a forbearance petition, the Commission is not bound by the unbundling standards in the sense that it can remove unbundling requirements even where impairment is shown if the standards of Section 10 are met. But the opposite is not true – the Commission cannot in this or any other context retain an unbundling requirement where the evidence shows that the impairment standard is not met. *See USTA I; USTA II*.<sup>30</sup>

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<sup>30</sup> *United States Telecom Ass'n v. FCC*, 290 F.3d 415, 427 (D.C. Cir. 2002) ("*USTA I*"); *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*").

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*Commenters claim Verizon wants the Commission, in this proceeding, to “alter the impairment standard.”* *Cbeyond et al.* at 23-24. On the contrary, Verizon is asking the Commission to *apply* the impairment standard, as interpreted in Supreme Court and D.C. Circuit decisions, to record evidence demonstrating extensive competition in Virginia Beach from cable companies, and also from wireless carriers, CLECs, and others that are serving all types of customers *without* using UNEs. A finding that this evidence demonstrates that competition is possible without UNEs also would be consistent with the forbearance criteria.

*Comptel et al.* (at 28-29) claim that competition from cable alone should not be used to justify a finding of non-impairment. But as the Commission recognized in the *Triennial Review Remand Order*, it must “consider . . . evidence of competition from cable providers as part of [its] impairment analysis.” *TRRO* ¶ 39. The D.C. Circuit issued a similar mandate in *USTA II*. *See* 359 F.3d at 582 (holding that “robust intermodal competition from cable providers” would compel a no impairment finding, even if the absence of UNEs means that “all CLECs were driven from the . . . market”). And it is even more imperative to take account of cable competition today, given that such competition is even more mature and has in fact reshaped the industry.

Commenters also claim that Verizon must file a petition to “modif[y] [the] impairment rules” to bring to the Commission’s attention this evidence that competitors in Virginia Beach are not impaired. *Comptel et al.* at 29. But the Commission, in the *Triennial Review Remand Order*, pointed to forbearance requests as the appropriate

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vehicle to alter incumbents' unbundling obligations in "specific geographic markets."

*TRRO* ¶ 39. And the Commission later expressly explained that it elected *not* to "initiat[e] a number of separate proceedings to address, case-by-case, situations where the Commission's [nationwide] impairment findings did not . . . match local market realities" – such as the rulemaking proceedings these commenters envision – and "*instead* invited incumbent LECs to seek forbearance from the application of the Commission's unbundling rules in specific geographic markets." *Anchorage Forbearance Order* ¶ 5 (emphasis added). There is no justification for abandoning that approach.

Nor are these commenters correct in claiming that the Commission must close its eyes to evidence that competitors are not impaired. *See* *Cbeyond et al.* at 23-25. Even aside from the fact that evidence that competition is possible without UNEs confirms that each of the forbearance criteria is satisfied here, *Virginia Beach Pet'n* at 36-38,<sup>31</sup> these commenters offer no explanation for how the Commission could lawfully retain

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<sup>31</sup> This does not mean, as *Cbeyond et al.* (at 23-25 & n.30) complain, that Verizon is arguing that Section 251(d)(2) and Section 10(a) are identical. On the contrary, as the Commission has made clear, Section 10(a) can be satisfied – and forbearance required – even where impairment exists. Therefore, to "remov[e] . . . section 251(c)(3) unbundling obligation[s] d[oes] not *require* any affirmative finding" of no impairment. *Fones4All Corp. Petition for Expedited Forbearance Under 47 U.S.C. § 160(c) and Section 1.53 from Application of Rule 51.319(d) to Competitive Local Exchange Carriers Using Unbundled Local Switching to Provide Single Line Residential Service to End Users Eligible for State or Federal Lifeline Service*, Memorandum Opinion and Order, 21 FCC Rcd 11125, ¶ 9 n.23 (2006) (emphasis added). But where, as here, the record supports an affirmative finding of no impairment, the Commission cannot ignore record evidence that also shows that each of the Section 10(a) criteria is satisfied.

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unbundling obligations where, as here, it is clear that competitors are *not* impaired because competition is possible – indeed, rampant – without UNEs.

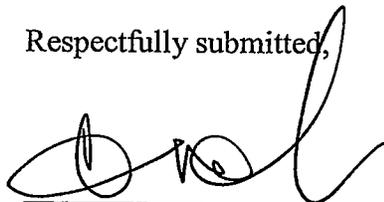
Some commenters assert that the Commission, in the *Omaha* and *Anchorage Forbearance Orders*, “held that it is *not permitted* to make impairment findings” in a proceeding such as this one. *Cbeyond et al.* at 24. But the Commission in those orders merely stated that, with respect to the “promulgat[ion] [of] any new rules or otherwise mak[ing] any *general* determinations,” it “d[id] not – and cannot – issue *comprehensive* proclamations” in the context of a forbearance proceeding. *Anchorage Forbearance Order* ¶ 11 (emphasis added); *accord Omaha Forbearance Order* ¶ 14. That statement cannot be read, as these commenters would have it, as acknowledging a legal prohibition on making a finding of no-impairment in a forbearance proceeding addressing a specific geographic market. Nothing in Section 10 supports such a legal prohibition, nor did the Commission cite any possible source of such a prohibition, which would be incompatible with the Commission’s express invitation to incumbents to file forbearance petitions “[r]ather than” rulemaking petitions seeking to amend the Commission’s rules in particular geographic areas. *Anchorage Forbearance Order* ¶ 5.

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**VI. CONCLUSION**

For the foregoing reasons, Verizon requests that the Commission forbear from loop and transport unbundling regulation pursuant to 47 U.S.C. § 251(c) and dominant carrier regulation for switched access services in Cox's service territory in the Virginia Beach MSA.

Respectfully submitted,



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June 10, 2008



Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Petition of the Verizon Telephone	)	
Companies for Forbearance Pursuant to	)	WC Docket No. 08-49
47 U.S.C. § 160(c) in Cox's Service	)	
Territory in the Virginia Beach	)	
Metropolitan Statistical Service Area	)	

**REPLY DECLARATION OF PATRICK GARZILLO**

1. My name is Patrick Garzillo. I submitted a Declaration in this proceeding on March 31, 2008. My qualifications are set forth in that Declaration.
  
2. The purpose of this Reply Declaration is to provide further detail, in response to claims that some commenters raised in their opening comments, regarding the data provided in Exhibits 5 and 9 to my opening Declaration, and the geographic area for which Verizon seeks relief. First, with respect to the directory listings data for Cox's service territory within the Virginia Beach MSA, which were previously provided on a rate-center basis in Exhibit 5, I provide those same data on a wire-center basis. Second, with respect to the volumes of UNEs, EELs, special access lines, and Wholesale Advantage services that competing carriers in Cox's service territory in the Virginia Beach MSA are purchasing from Verizon, which were previously provided in Exhibit 9, I provide carrier-specific detail. Third, with respect to the area within the Virginia Beach MSA for which Verizon is not seeking relief, I provide the total number of wholesale switched access lines that competing carriers are purchasing from Verizon. Finally, in response to Cavalier's attempt to portray its UNE-based model as an important source of

competition, I provide the total number of UNEs provided to Cavalier Telephone within Cox's service territory in the Virginia Beach MSA.

3. Consistent with my opening Declaration, this Reply Declaration and the accompanying exhibits contain information collected from the Local Exchange Routing Guide (LERG) and internal Verizon databases. I supervised the collection of data from these sources. My Reply Declaration and the accompanying exhibits accurately reflect the data contained in those databases. For purposes of this Reply Declaration, all competitive data that were previously attributed to MCI (such as line counts) have been attributed to Verizon.

4. Exhibit 1 to this Reply Declaration provides the estimated number of competitive residential switched access lines, as well as Verizon's retail residential switched access lines (including former MCI), by wire center. These data were derived from the same underlying directory listings data provided in Exhibit 5 to my opening Declaration.

5. Directory listings can be precisely assigned to rate centers because each listing is associated with an NPA-NXX that, in turn, is assigned to a specific rate center. By contrast, it is not always possible to map a competitor's NPA-NXX precisely to a Verizon wire center. This is because competitors may use a given NPA-NXX to serve customers in multiple Verizon wire centers. For example, a competitor may use a single NPA-NXX to serve an entire rate center that consists of two or more Verizon wire centers. As a result, the competitor's NPA-NXX cannot be mapped with precision to a single Verizon wire center. Thus, for purposes of analyzing competition, it is more

accurate to rely on directory listings data presented on a rate-center as opposed to on a wire-center basis.

6. Nevertheless, to respond to arguments raised in some of the opening comments in this proceeding, I have attempted to allocate the directory listings data for Cox's service territory within the Virginia Beach MSA to wire centers. *See Exhibit 1.* To perform this allocation, I used the methodology set forth below.

7. Many of the rate centers in Cox's service territory in the Virginia Beach MSA are served by a single wire center. For those rate centers, a one-to-one relationship exists between the rate center and the wire center. Accordingly, the directory listings data for each such rate center were completely allocated to the wire center serving that rate center.

8. However, some of the rate centers in Cox's service territory in the Virginia Beach MSA are served by multiple wire centers. For those rate centers, it was necessary to calculate "factors" to allocate the directory listings data proportionally across the wire centers serving that rate center.

9. The factors used for this allocation process were calculated as follows: First, a series of queries was run against the LERG for Verizon end-offices in Cox's service territory within the Virginia Beach MSA. These queries identified (a) the number of ports assigned to Verizon for each rate center, (b) the number of ports assigned to Verizon for each wire center, and (c) the number of ports assigned to Verizon for each rate center/wire center intersection.

10. Next, the number of ports assigned to Verizon for each rate center/wire center intersection was divided by the number of ports assigned to Verizon for the rate

center in that rate center/wire center intersection. This resulted in a rate center to wire center factor for each rate center/wire center intersection.

11. Finally, the factors for each rate center/wire center intersection were multiplied by the number of directory listings for that rate center. This final step resulted in an estimate of the number of directory listings per wire center.

12. As explained above, the process of assigning directory listings to specific wire centers is necessarily imperfect. Accordingly, the Commission instead should rely on the rate center data Verizon provided in Exhibit 5 to my opening Declaration.

13. Exhibit 2 provides the volumes of DS0, DS1, and DS3 special access lines, UNEs, EELs and Wholesale Advantage services that competing carriers purchase from Verizon in Cox's service territory within the Virginia Beach MSA, with carrier-specific detail. These data are reported on a systems basis (not in voice-grade equivalents) and were compiled from Verizon's wholesale billing systems.

14. Exhibit 3 provides the total number of wholesale switched access lines provided to competitors in the portion of the Virginia Beach MSA for which Verizon is not seeking relief, as of December 2007. Data are reported in voice-grade equivalents and do not include wholesale switched access lines provided to the former MCI, other Verizon affiliates, or to unknown entities.

15. Exhibit 4 provides the number of wholesale switched access lines provided to Cavalier Telephone in Cox's service territory in the Virginia Beach MSA as of December 2006 and December 2007. Data are reported in voice-grade equivalents.

16. This concludes my Reply Declaration.

I declare under penalty of perjury under the laws of the United States of America  
that the foregoing is true and correct.

Executed on June 10, 2008

A handwritten signature in cursive script, reading "Patrick Garzillo". The signature is written in black ink and is positioned above a horizontal line.

Patrick Garzillo



REPLY DECLARATION OF PATRICK GARZILLO

EXHIBIT 1

REDACTED – FOR PUBLIC INSPECTION

**REDACTED – FOR PUBLIC INSPECTION**