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June 30, 2008

Ex Parte

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: ***In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix and Seattle Metropolitan Statistical Areas,* WC Docket No. 07-97**

Dear Ms. Dortch:

The Verizon Telephone Companies ("Verizon") submit this ex parte to respond to claims that the Commission should exclude wireless services from its analysis of Qwest's forbearance petition. The Commission rejected the very same claims when it considered wireless cut-the-cord competition in its analysis of Verizon's 2006 forbearance petitions.[1] There is no basis for the Commission to abandon that approach. However, as explained below, the Commission should expand its analysis to include all wireless voice service competition.

As an initial matter, limiting the Commission's analysis to wireless cut-the-cord competition is a conservative approach that fails to capture the full extent of mass market competition. Independent analysts' reports and the Commission's own findings demonstrate that wireless subscribers with landlines use their wireless phones to make the majority of their long distance and local calls, and that this type of competition is growing faster than wireless cut-the-cord competition. In December 2006, the Yankee Group estimated that wireless subscribers make 68 percent of their long distance calls and 51 percent of their local calls on their wireless phones.[2] While consumers are increasingly relying upon their wireless service for their voice communications, the number of wireline minutes of use has been declining rapidly. Indeed, the Commission's own data demonstrates that between 1997 and 2005, wireline toll minutes declined

[1] Memorandum Opinion and Order, *Petitions of the Verizon Tel. Cos. for Forbearance Pursuant to 47 U.S.C. § 160 (c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metro. Statistical Areas*, 22 FCC Rcd 21293, ¶ 27 n. 89 (2007) ("*6 MSA Order*"). Appeal pending. For purposes of this ex parte, the phrase "cut the cord" refers to the replacement of landline service with wireless service.
[2] Margo DeBoer, Yankee Group, *One in Seven US Households Say "No Thanks" to Wireline Phone Services in 2010* (Dec. 2006) at Exh. 1, attached as Exhibit 1.

from a peak average of 149 minutes per line in 1997 to only 51 minutes per month in 2005.[3] Given the pervasive replacement of wireline service with wireless service, it is more than appropriate for the Commission to include all wireless voice service competition in its analysis. In any event, at a minimum, the Commission should include wireless cut-the-cord competition in its analysis, as it did in the *6 MSA Order*.

As the Commission explained in the *6 MSA Order*, Commission precedent supports the inclusion of wireless competition in the Commission's analysis of petitions seeking forbearance from unbundling requirements.[4] Specifically, in the merger context and the 272 sunset proceeding, the Commission has considered wireless cut-the-cord competition to determine the extent of mass market competition—the same inquiry required in this proceeding.[5] As the Commission has explained, including wireless cut-the-cord competition as a competitive option for wireline service is appropriate whenever there is "evidence of sufficient [wireless] substitution for significant segments of the mass market."[6] In the *Verizon/MCI Merger Order*, Verizon satisfied this test by demonstrating that 6% of households in the United States had cut the cord.[7] Today, the number of households that have cut the cord is almost triple that figure, providing even greater justification for including wireless cut-the-cord competition in the Commission's analysis.

Here, Qwest has demonstrated that a large number of households nationwide and in the relevant MSAs use wireless service without a landline connection, warranting the inclusion of cut-

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[3] Industry Analysis and Technology Division, Wireline Competition Bureau, *Trends in Telephone Service* at Table 14.2 (Feb. 2007) (includes total and service-type line item figures for: IntraLATA-Intrastate; InterLATA-Intrastate; IntraLATA-Interstate; InterLATA-Interstate; International; and Others - toll-free minutes billed to residential customers, 900 minutes, and minutes for calls that could not be classified).

[4] *6 MSA Order* ¶ 27 n. 89 ("based on the record here, and consistent with recent precedent, we include cut-the-cord wireless substitution").

[5] Memorandum Opinion and Order, *Verizon Cmmc'ns. Inc. and MCI Inc. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18433 ¶ 91 (2005) ("mobile wireless services should be included within the product market to the extent that customers rely on mobile wireless service as a complete substitute for, rather than a complement to, wireline service.") ("*Verizon/MCI Merger Order*"); Memorandum Opinion and Order, *AT&T and Bell South Corp. Application for Transfer of Control*, 22 FCC Rcd 5662 ¶ 95 (2007) ("Consistent with the *SBC/AT&T Order* and the *Verizon/MCI Order*, we find that mobile wireless service should be included in the local services product market when it is used as a complete substitute for all of a consumer's voice communications needs.") ("*AT&T/Bell South Merger Order*"); Report and Order and Memorandum Opinion and Order, *Section 272 (f)(1) Sunset of BOC Separate Affiliates and Related Requirements*, 22 FCC Rcd 16440, ¶ 22 n. 73 (2007) ("To the extent that consumers view [wireline and wireless service] as reasonable substitutes, they are in the same product market for purposes of our analysis").

[6] *Verizon/MCI Merger Order* ¶ 91; *AT&T/Bell South Merger Order* ¶ 96.

[7] *Verizon/MCI Merger Order* ¶ 91 ("Evidence indicates that, overall, approximately 6 percent of households have chosen to rely upon mobile wireless services for all of their communications needs.")

the-cord wireless competition Commission's analysis.[8] Specifically, among other data, Qwest explained that an ongoing Centers for Disease Control and Prevention (CDC) survey indicates that as of December 2007, 15.8% (one out of six) households in the United States have cut the cord.[9] This figure is an increase over the 12.8% figure the Commission considered in the *6 MSA Order* for the period ending December 2006, and is almost triple the 6% figure the Commission considered in the *Verizon/MCI Merger Order*.[10]

Independent analysts confirm that many households in the United States have cut the cord and project that this number will grow. For example, Morgan Stanley projects that by the end of 2008, approximately 19% of homes nationwide will replace their landline service with wireless service, and that this figure will rise to 22% in 2009 and 32% by 2012.[11] Lehman Brothers also estimates that 6 million wireline access lines will be lost to wireless providers each year.[12] The actual and projected growth in the number of households that have cut the cord is a major factor underlying Verizon's decision to offer discounts to Verizon wireless customers that do not have a landline but purchase broadband or television service from Verizon.[13]

Those commenters who oppose the inclusion of wireless competition in the Commission's analysis do not rebut the data demonstrating that large numbers of consumers rely exclusively or primarily on wireless service.[14] Instead, those commenters argue that wireless competition should

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[8] Petition of Qwest Corp. for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix and Seattle Metropolitan Statistical Areas, WC Docket No. 07-97, at 11-12 (April 27, 2007) ("Qwest Petition").

[9] *See* Letter from Daphne E. Butler, Qwest, to Marlene H. Dortch, FCC, WC Docket No. 07-97, at 1 (May 15, 2008) (citing Centers for Disease Control and Prevention, National Health Interview Survey, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey July-December 2007*, at Table 1 (May 13, 2008)). *See also* Qwest Petition at 12.

[10] *6 MSA Order* at App. B; *Verizon/MCI Merger Order* ¶ 91.

[11] *See* Simon Flannery et al., Morgan Stanley, *Cutting the Cord: Wireless Substitution Accelerating,* at 3 (Sept. 27, 2007), attached as Exhibit 2.

[12] *See* Blake Bath, Lehman Brothers, *Telecom Services—Wireline* at Figure 11 (July 7, 2005), attached as Exhibit 3.

[13] *See* Chicago Tribune, *Verizon to Give Discounts for Landline-Less Bundles*, http://www.chicagotribune.com/business/chi-sat-brf4-verizon-bundles-june14,0,4190123 (June 14, 2008).

[14] Contrary to assertions by Cbeyond, Integra Telecom, One Communications and Time Warner Telecom, data from a March 2008 Verizon study does not refute evidence that wireless substitution is occurring and will continue to grow at a rapid pace. *See* Letter from Thomas Jones, Cbeyond et al., to Marlene H. Dortch, FCC, WC Docket No. 07-97, at 6 (May 7, 2008) ("Jones Letter") (quoting Press Release, "Verizon, New Survey Shows 83 Percent of Consumers Continue to Rely on Landline Voice Service for Its Quality, Safety Features" (Mar. 27, 2008)). As Verizon has previously explained, "th[at] survey involved only existing landline subscribers, and not subscribers who have *already* decided to cut the cord" and "17 percent of households [within that study group] indicated that they would consider cutting the cord in the future." Reply Comments of Verizon, *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, at 14 n. 15 (June 10, 2008) ("Verizon Reply Comments"). Consumers who fall in the later group

be excluded because the majority of consumers have not replaced their landline service with wireless service.[15] In support of this argument, those commenters cite to the statement in the *High-Cost Universal Service Support Order* that "the majority of households do not view wireline and wireline services to be direct substitutes."[16] This argument fails.[17] In the High-Cost Universal Service Support proceeding, the Commission examined the treatment of wireline and wireless services for purposes of receiving universal service support but *did not* examine whether wireline and wireless services are competitive alternatives for forbearance purposes. Therefore, the Commission's findings with respect to the first question do not bear on the relevant inquiry here. Further, the *High-Cost Universal Service Support Order* does not state that *no* consumers rely exclusively or primarily on wireless service. Accordingly, that order does not preclude the Commission from including wireless competition in its analysis of Qwest's petition.

Finally, the Commission should reject the claim that if any wireless competition is included in the Commission's analysis (and it should be), all cut-the-cord customers of ILEC-affiliated wireless providers should be excluded.[18] As Verizon has previously explained, the market for wireless services is "highly competitive."[19] Additionally, wireline providers have lost substantial numbers of customers to wireless providers, including their own wireless affiliates and other ILECs' wireless affiliates.[20] In order to compete effectively for wireless subscribers that lack landlines, a wireless provider must offer "highly competitive terms to keep the customer from going to a competitive alternative" in all areas where it competes.[21] The fact that a wireless provider is affiliated with an ILEC does not eliminate or lessen the need to compete for customers, even against that wireless provider's affiliated ILEC. Moreover, contrary to the claim of some commenters, the fact that some wireless providers increasingly set their prices on a national basis does not demonstrate that wireless services do not constrain prices for wireline services.[22] Indeed, this type of national pricing simply demonstrates that wireless providers need to set their prices to reflect *all* areas where they face competition, regardless of where their ILEC affiliate, if any, operates.

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will drive future growth in the number of households that have cut the cord. In this regards, the results of this study are consistent with analysts' projections.

[15] *See, e.g.,* Jones Letter at 2.

[16] *See id.* (citing Order, *High-Cost Universal Service Support,* CC Docket No. 96-45, WC Docket No. 05-337, FCC 08-122, ¶ 21 (May 1, 2008) ("*High-Cost Universal Service Support Order*")).

[17] *See* Verizon Reply Comments at 14-15.

[18] *See, e.g.,* Jones Letter at 10.

[19] Verizon Reply Comments at 15.

[20] *See 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, at 12-13, 17-18, 20 (Mar. 31, 2008).

[21] Verizon Reply Comments at 15.

[22] *See, e.g.,* Jones Letter at 7.

For the foregoing reasons, and the reasons outlined in Qwest's submissions in this proceeding, the Commission should include wireless competition in its analysis of Qwest's petition.

Sincerely,

Rashann R. Duvall