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June 4, 2009

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Petition to Establish Procedural Requirements to Govern Proceedings for
Forbearance Under Section 10 of the Communications Act of 1934, As Amended;
WC Docket No. 07-267**

Dear Ms. Dortch:

On June 3, 2009, Nneka Ezenwa and Ed Shakin of Verizon met with William Dever, William Kehoe, Ian Dillner, Tim Stelzig and Jonathan Reel of the Wireline Competition Bureau to discuss improvements to the FCC's processes for addressing forbearance petitions. Our suggestions were consistent with our comments filed in this proceeding and the attached document.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Nneka Ezenwa".

Attachment

cc: Julie Veach

Improvements to the Forbearance Process

- Forbearance is an important vehicle for eliminating legacy regulations that are no longer in the public interest. Given the speed of change in telecommunications markets, the forbearance process gives the FCC the opportunity to review and eliminate regulations that no longer serve the public in light of changed circumstances.
- The vast majority of the Commission's orders have been uncontroversial. The Commission has explained to the D.C. Circuit that "Congress expected" that Section 10 would "spur the Commission 'to eliminate outdated regulations and to do so in a timely manner'" by "requir[ing] speedy action on ...petitions for forbearance."
- Nonetheless, reform of the FCC's traditional processes for addressing forbearance is needed to improve the effectiveness and efficiency of the process. One goal should be to ensure that petitions are addressed in a more timely manner and on a solid evidentiary record. Many of the controversies surrounding forbearance are the result of taking the full fifteen-month time period for action – thus resulting in data concerning this fast-moving marketplace becoming stale -- or the refusal of other parties to provide the Commission with data that would present a more accurate picture of the competitive marketplace.
- In order to improve the forbearance process, the Commission should:
 - Reset parties' expectations about the forbearance process by announcing that it will rule on future petitions well before the statutory deadline, and that it will extend the deadline only in extraordinary cases. For simpler requests, the target should be 90 days to resolve a petition, but for more complex petitions 180 days would be appropriate;
 - Acknowledge that a petitioner must state a *prima facie* case in its petition, based on the best information reasonably available to it, showing the basis for forbearance. Verizon has always endeavored to meet this standard in forbearance petitions, but sometimes other parties have not;
 - Recognize that a petitioner may not have access to all relevant information and that the Commission may need information in the possession of other parties as it considers petitions. The Commission should be more proactive and should require third parties with relevant data to submit that information during the comment cycle. Also, the Commission must be able to enforce this requirement and compel production of data from unwilling third parties;
 - Recognize that a petitioner may always introduce additional evidence necessary to respond to the arguments of other parties or to the data submitted by third parties;
 - Include an early substantive review of forbearance petitions to be sure that the petitioners are in fact seeking forbearance from existing regulations, and not using the process to request new regulations;
 - To the extent decisions are not resolved on a 90 or 180 day shot clock, create a process to ensure that the record on a forbearance petition is continuously updated while the petition is under consideration. In today's competitive and fast-paced communications marketplace, market facts change very quickly. If the Commission may not decide a petition for 12 or 15 months, it should have a process for ensuring that its decision is based on then-current facts.