

**VIA ECFS**

***EX PARTE***

March 31, 2010

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW, Suite TW-A325  
Washington, DC 20554

**Re: WC Docket No. 09-223**

Dear Ms. Dortch:

Yesterday, Julia Strow and the undersigned, on behalf of Cbeyond, Inc. (“Cbeyond”), met with Christine Kurth, Policy Director and Wireline Counsel to Commissioner Robert McDowell. During the meeting, we reiterated the points made by Cbeyond in its filings in the above-referenced docket. In addition, we shared or cited to the documents attached hereto. Finally, we emphasized that the FCC should consider the Cbeyond petition in light of the FCC’s decisions to address market failures in other market sectors. For example, the Commission should consider whether the logic it has relied upon to extend the program access rules to terrestrially-delivered video programming also supports unbundling requirements for fiber and hybrid loops needed to serve small business customers.

Respectfully submitted,

/s/ Thomas Jones  
Thomas Jones

cc: Christine Kurth

## **Verizon winds down expensive FiOS expansion**

By PETER SVENSSON, AP Technology Writer Peter Svensson, Ap Technology Writer

NEW YORK - If Verizon Communications Inc. hasn't already started wiring your city or town with its FiOS fiber-optic TV and broadband service, chances are you won't get it.

Where it's available, FiOS usually provides the only competition for cable TV apart from satellite service. Studies have shown that its entry into an area leads to lower cable prices, though FiOS itself has not been undercutting cable TV prices substantially.

But Verizon is nearing the end of its program to replace copper phone lines with optical fibers that provide much higher Internet speeds and TV service. Its focus is now on completing the network in the communities where it's already secured "franchises," the rights to sell TV service that rivals cable, said spokeswoman Heather Wilner.

That means Verizon will continue to pull fiber to homes in Washington, D.C., New York City and Philadelphia - projects that will take years to complete - but leaves such major cities as Baltimore and downtown Boston without FiOS.

Verizon is still negotiating for franchises in some smaller communities, mainly in New York, Massachusetts and Pennsylvania, but it is not working on securing franchises for any major urban areas, Wilner said. For instance, it's halted negotiations for the Washington suburb of Alexandria, Va.

Verizon never committed to bringing FiOS to its entire local-phone service area. It has introduced FiOS in 16 states, but the deployment is concentrated on the East Coast, and Verizon is selling off most of its service areas in the Midwest and on the West Coast. Its stated goal was to make FiOS available to 18 million households by the end of 2010, and it's on track to reach or exceed that.

That will still leave nearly half of its service area without fiber. And as Verizon has signaled this month that it's focusing on communities where it already has franchises, it's now becoming clear which ones are in and which are out.

The New York-based company hinted in 2008 that it might continue expansion of FiOS beyond this year, but the recession seems to have crimped that possibility. The company has pulled back on promotions for new subscribers, like the 19-inch TVs it gave away under one campaign. That in turn has led to lower recruitment figures.

CEO Ivan Seidenberg told investors in January that FiOS itself has been doing well, but Verizon's sales of services to large businesses have suffered in the downturn, and it needed to offset that by not being too "aggressive" in marketing FiOS.

Verizon doesn't appear to have ruled out further FiOS expansion, but doesn't have any plans, either. The economics apparently are not attractive enough: TV service carries

fairly low margins compared to Verizon's phone business, according to analyst Craig Moffett at Sanford Bernstein.

Moffett believes the end of FiOS expansion means that cable companies will lose fewer subscribers, starting next year.

The recruitment of new FiOS TV subscribers slowed last year. In the fourth quarter, it added 153,000 subscribers, little more than half of the number it added in the same period the year before.

At the end of last year, Verizon had 2.86 million FiOS TV subscribers and 3.43 million FiOS Internet subscribers (most households take both).

It costs Verizon thousands of dollars to connect a home to FiOS, and it has faced skepticism from investors over the project. The cost from its 2004 introduction to 2010 was put at \$23 billion in 2007. But it's allowed Verizon to mount an effective resistance to cable companies, which are siphoning off landline phone customers and can offer higher broadband speeds than phone companies without fiber straight to homes can.

Verizon is the only major U.S. phone company to draw fiber all the way to homes and the only one to offer broadband speeds approaching those available in Japan and South Korea. The halt to further expansion comes as the Federal Communications Commission has sent Congress the country's first "national broadband plan," aimed at making Internet access faster, more affordable and more widely available.

AT&T Inc. and Qwest Communications International Inc. are laying fiber into neighborhoods, but still use copper phone lines to take the signal the last stretch of the way, into homes. That's a less costly strategy that has drawn less scrutiny from Wall Street, but it also limits top broadband speeds. Meanwhile, cable companies are upgrading modems this year to offer higher speeds, a relatively inexpensive move.

# The Atlanta Journal-Constitution

Sunday, December 20, 2009

## **OPINION: A Cashless Stimulus for Small Business**

By Jim Geiger

With the unemployment rate hovering around 10 percent and our economy still mired in recession, we need our small business innovators and job creators now more than ever. Yet another round of fiscal stimulus shouldn't be the only option, particularly when recent polls indicate many Americans are growing increasingly wary of adding more to the deficit and our national debt.

So what else can the Obama administration do to help small businesses? Simple: the government can quickly adopt a few sensible rule changes that will unlock the job-creating potential of broadband businesses and drive market-based investment in innovative technology. Call it a "cashless stimulus."

The problem is that small businesses lack access to the most effective telecommunications applications — those used routinely used by larger firms. Why? The existing regulatory structure allows the big phone companies to preserve market share by denying competitors access to fairly priced bandwidth. The result is that the companies best able to build the innovative applications small businesses need to grow and compete are unable to access the bandwidth necessary to deliver those applications.

I should know: my company, Cbeyond, provides broadband applications exclusively to small businesses. Back in 1996, Congress enacted far-sighted legislation that promoted competition in the telecom markets, and that action drove years of investment, innovation and growth across our industry. New competitors introduced small businesses to innovative technologies that the Bell providers had deliberately delayed deploying for fear of undermining the monopoly profits they made from slower, older technologies.

But the age of innovation and investment in broadband technology ended several years ago. The Bush administration adopted rules that had the perverse effect of locking small businesses into the broadband status quo of six years ago, undercutting the normal business cycle of innovation and denying small businesses benefits they should have received as broadband technology improved. These rules leave the rollout of the best broadband technologies almost exclusively to the large enterprise customers; telecom competitors — the companies that were once the catalysts of innovation — are left trying to serve small businesses, the jobs engine of our economy, with antiquated technology.

For example, because the Bells hoard the bandwidth they control, small businesses cannot hope to match large enterprises in the emerging field of cloud computing. Nor do current FCC rules allow small businesses the efficiencies and cost-savings of high-resolution video conferencing, highly secure data protection and sophisticated video security systems.

Broadband applications like these don't get delivered to small businesses because the most innovative competitors are denied access to the bandwidth necessary to support them. Small businesses have no choice but to try to use 20th century business tools to create new jobs in a 21st century global marketplace.

This is not a minor issue. Small businesses inject almost a trillion dollars into the economy each year. They have created more than 93 percent of all new jobs over the last twenty years and employ more than half of the U.S. workforce. They also employ 41 percent of the nation's high-tech workers who generate about thirteen times more patents per employee than do workers at large firms.

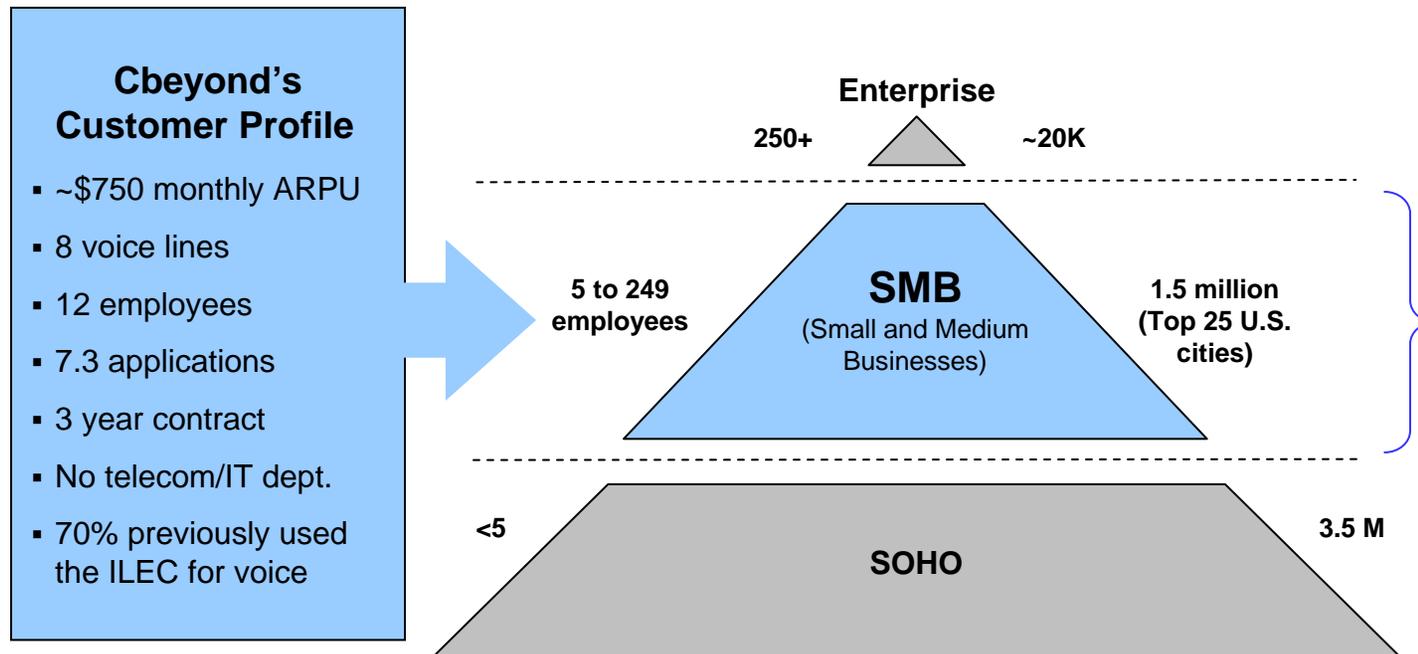
Hence the opportunity for the administration to adopt a "cashless stimulus": the FCC can fix this problem simply and almost without cost. The FCC should require the Bell monopolies to sell — at retail prices — the bandwidth necessary for competitors like Cbeyond to provide next generation broadband applications to small businesses.

With new broadband rules in place, services like cloud computing could replace high-end desktop computers. Small businesses could look to carriers for affordable, offsite data security instead of paying more for on-site services. Reliance on expensive and inefficient travel for in-person meetings would give way to high-resolution video conferencing. Start-up costs for small businesses would fall as the hardware necessary for running their operations moved off the business premise and into the cloud. The list goes on and on.

It's time we took advantage of the one approach to economic recovery that doesn't come with a long-term economic cost.

*Jim Geiger is founder, chairman, president & CEO of Cbeyond, Inc. in Atlanta.*

# Our Target Market – The Small Business Entrepreneur



**Cbeyond serves entrepreneurs who value customer service and productivity enhancing applications over price.**