

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Application of Verizon New Jersey Inc. and)	WC Docket No. 13-150
Verizon New York Inc. to Discontinue)	Comp. Pol. File No. 1115
Domestic Telecommunications Services)	

COMMENTS OF TIME WARNER CABLE INC.

Time Warner Cable Inc. (“TWC”) submits these comments on the application of Verizon New Jersey Inc. and Verizon New York Inc. (together, “Verizon”) for authority to discontinue domestic telecommunications services in parts of New Jersey and New York.¹ The requested discontinuance relates to Verizon’s proposal to transition customers previously served by copper facilities that were destroyed or damaged by Hurricane Sandy (and potentially to additional customers) to an alternative voice service, branded as Voice Link, that utilizes fixed wireless technology. As discussed below, TWC does not object to Verizon’s reliance on new technologies, nor does it oppose the requested discontinuance, provided the Commission takes appropriate steps to preserve Verizon’s statutory duty to provide interconnection and related intercarrier services.

DISCUSSION

TWC is the second-largest cable operator in the United States and a leading provider of facilities-based interconnected Voice over Internet Protocol (“VoIP”) services to customers in New York, New Jersey, and the remainder of its 29-state footprint. In order to offer competitive

¹ Public Notice, *Comments Invited on Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services*, DA 13-1475, WC Docket No. 13-150, Comp. Pol. File No. 1115 (rel. June 28, 2013) (“Public Notice”); *see also Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc.*, WC Docket No. 13-150, Comp. Pol. File No. 1115 (filed June 7, 2013) (“Application”).

voice services, TWC’s telecommunications carrier subsidiaries interconnect and exchange local traffic with incumbent local exchange carriers (“ILECs”) such as Verizon, pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended (“the Act”), 47 U.S.C. §§ 251, 252.

While TWC appreciates Verizon’s desire to restore service to its customers in the wake of Hurricane Sandy using technologies it determines to be cost-efficient and reliable, TWC seeks to ensure that Verizon’s proposal does not disrupt intercarrier arrangements on which TWC and other competitors depend. As a legal matter, Verizon’s position regarding the potential impact (if any) of its use of wireless technology on its existing legal duties under Section 251 is unclear. Although Verizon notes that service will continue to be provided by “Verizon’s wireline operating companies”—that is, ILECs subject to Section 251—it states that it seeks to discontinue its provision of “interstate wireline telecommunications, including interstate interexchange and exchange access service.”² Identical language is included in Verizon’s notice to competitive local exchange carriers (“CLECs”), which further states that Verizon “will discontinue interstate interexchange and exchange access service where outside plant facilities were rendered inoperable by Hurricane Sandy and/or where surviving copper facilities become inoperable in the future.”³

Verizon’s discontinuance application does not explicitly address whether or how its transition from wireline to wireless technology might impact third-party carriers. But given Verizon’s apparent view that its use of wireless technology in this context will change the regulatory classification of the services it provides, there is a risk that, absent proper safeguards, Verizon will seek to evade its corresponding legal obligations. For instance, if the Commission

² Application at 1, 4.

³ *Id.*, Attach. 3 at 1.

endorses Verizon’s assertion that it is no longer providing “exchange access,” Verizon might then assert that calls from the affected customers no longer are subject to compensation requirements under Section 251(b)(5) or applicable access tariffs.⁴ Verizon likewise might claim that transit services that CLECs are required to purchase to facilitate interconnection in the affected areas are not covered by the Section 251 framework, and then seek to increase the rates it charges accordingly.

Rather than invite or perpetuate any uncertainty about Verizon’s legal obligation to provide interconnection and related intercarrier services, the Commission should exercise its discretion to condition its approval of the requested discontinuance on Verizon’s commitment to continue adhering to its duties under Sections 251 and 252 notwithstanding its use of wireless technology. As noted, Verizon acknowledges that its regulated ILEC entities will continue to provide service in the affected area. The fact that those entities now would use wireless technology to connect customers to Verizon’s wireline network should not relieve them of those statutory obligations, either as a legal or policy matter. Indeed, the public policy concerns underlying ILECs’ interconnection obligations under Section 251—their control of ubiquitous telecommunications networks and ability to exercise market power—are not affected by the technology used to exchange voice traffic. Rather, as the Commission itself has recognized, such building blocks remain necessary even where competition is robust. For example, despite granting forbearance from unbundling obligations and dominant carrier regulation based on extensive facilities-based competition in Omaha, Nebraska, the Commission held that forbearing from continued enforcement of interconnection requirements would be inappropriate because it would likely give the ILEC (the only carrier with a ubiquitous network) “the ability to exercise

⁴ 47 U.S.C. § 251(b)(5).

market power over interconnection.”⁵ Verizon’s use of wireless technology in a portion of its network does nothing to mitigate that policy concern.

Conditioning approval of the requested discontinuance on Verizon’s continued compliance with its intercarrier obligations also would preserve Verizon’s stated justification for its proposal. In assessing such a request, the Commission considers a range of factors, including “the existence, availability, and adequacy of alternatives” for the affected customers.⁶ Here, Verizon notes that consumers in the affected areas will not be limited to its new wireless solution but will “have the option of alternative services from cable and/or from wireless providers.”⁷ Of course, such alternatives will remain available from cable operators only to the extent that Verizon, as the ILEC, continues to provide them with essential interconnection and related intercarrier services. Conditioning approval as TWC proposes thus would ensure that consumers continue to have access to competitive alternatives, which in turn would buttress the rationale for granting authority to discontinue service in the first place.

Finally, placing such a condition on Verizon’s requested discontinuance would be consistent with the Commission’s deliberative approach to the wireline-to-wireless transition more generally. Indeed, the Commission is considering this scenario—with specific reference to Verizon’s plans in the areas affected by Hurricane Sandy—in its inquiry regarding possible

⁵ *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160 in the Omaha Metropolitan Statistical Area*, Memorandum Opinion and Order, 20 FCC Rcd 19415 ¶ 86 (2005); *see also Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, Memorandum Opinion and Order, 23 FCC Rcd 12260 ¶ 64 (2008) (declining to grant Qwest’s request to forbear from “regulations that apply generally to nondominant telecommunications carriers and to LECs,” including Section 251 interconnection obligations).

⁶ Public Notice at 4 (citation omitted).

⁷ Application at 5.

technology transition trials.⁸ Rather than set a potentially damaging precedent by allowing Verizon to replace wireline technology with fixed wireless without preserving the status quo with respect to its statutory obligations—and thereby prejudge issues pending in the broader review of such transitions—the Commission should put safeguards in place to ensure that this type of technological change does not disrupt existing intercarrier rights and obligations.

CONCLUSION

For the foregoing reasons, TWC urges the Commission to condition its approval of the requested discontinuance on Verizon’s agreement to continue to fulfill its statutory interconnection and related duties.

Respectfully submitted,

TIME WARNER CABLE INC.

/s/ Matthew A. Brill

Steven N. Teplitz
Terri B. Natoli
TIME WARNER CABLE INC.
901 F Street, NW
Suite 800
Washington, DC 20004

Matthew A. Brill
Brian W. Murray
LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004

Julie P. Laine
TIME WARNER CABLE INC.
60 Columbus Circle
New York, NY 10023

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⁸ Public Notice, *Technology Transitions Policy Task Force Seeks Comment on Potential Trials*, GN Docket No. 13-5, DA 13-1016, at 8-10 (rel. May 10, 2013) (seeking comment on trials to assess the impact of transition from wireline to wireless voice alternatives); *see also, e.g.*, Letter from Peter McGowan, General Counsel, New York Public Service Commission, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 (filed July 8, 2013) (describing the New York Commission’s ongoing examination of Verizon’s proposal and its request that Verizon provide a comprehensive report by November 1, 2013).

CERTIFICATE OF SERVICE

I, Alexandra S. Liopiros, hereby certify that on this 29th day of July, 2013, I caused a true and correct copy of the foregoing “Comments of Time Warner Cable Inc.” to be served, via first-class mail, upon the following:

William H. Johnson
Katharine R. Saunders
Verizon
1320 N. Courthouse Rd.
91h Floor
Arlington, VA 22201

/s/ Alexandra S. Liopiros
Alexandra S. Liopiros