

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

In re Application of
GTE CORPORATION,
Transferor,
And
BELL ATLANTIC CORPORATION,
Transferee
For Consent to Transfer Control of Domestic
And International Section 214 and 310
Authorizations and Applications to Transfer
Control of a Submarine Cable Landing License
CC Docket No. 98-184

Order

By the Chief, Common Carrier Bureau:

Adopted: May 31, 2001

Released: May 31, 2001

I. Introduction

1. On April 9, 2001, Verizon requested the Commission's consent to allow the Verizon incumbent operating companies to own advanced services equipment in two instances before the sunset of the advanced services affiliate requirement found in the Bell Atlantic-GTE Merger Order. For the reasons explained below, we grant Verizon's request to the extent described herein.

II. Background

2. As an initial matter, we note that as a result of the ASCENT v. FCC ruling, Verizon may elect, at the end of a nine month period, to reintegrate its separate advanced services affiliate into the BOC. Verizon has submitted a letter requesting permission to reintegrate its advanced services subsidiary prior to the end of the nine month period. The Commission is currently

1 See Letter from Gordon R. Evans, Vice President, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 98-184 (filed April 10, 2001) (hereafter STA Request); See also In re Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, 15 FCC Rcd 14032, App. D (2000) ("Merger Conditions").

2 See Association of Communications Enterprises v. FCC, Case No. 99-1441, slip op. (D.C. Cir. Jan 9, 2001) (hereafter ASCENT v FCC). As applied to Verizon, this ruling holds that its separate advanced services affiliate is a successor or assign of the BOC.

considering this request.³ The instant Special Temporary Authority (STA) only governs until the Commission rules on Verizon's request to waive the nine month period. Verizon contends that it has a "unique opportunity to deploy fiber-to-the-home technology in a new community" to enable innovative combinations of services that are unavailable with copper and most hybrid fiber-copper systems. Verizon proposes to deploy an Ethernet switch and specialized routers which, acting together, function much like an optical concentration device (OCD) to perform routing and aggregation of packetized data. This configuration will allow multiple carriers to send their data signals over individual customer fiber loops and would permit multiple carriers to serve their customers over Verizon's fiber facilities through interconnecting at the serving central office or facilities terminal.⁴ Verizon states that the Ethernet switch and specialized routers that are part of the fiber-to-the-home network perform "a quintessential network function and needs to be owned and operated by the operating telephone company."⁵

3. Verizon acknowledges that under the precedent established in the *Project Pronto Order*, for purposes of the Merger Conditions, the routing and switching equipment described by Verizon is considered advanced services equipment under the Bell Atlantic-GTE Merger Condition that must be owned by the Verizon's separate data affiliate, Verizon Advanced Data Inc. ("VADI").⁶ Thus, absent action by the Commission, Verizon may not own or operate this equipment.

III. Discussion

4. The standard for granting an STA is whether the proposed action "will serve the public interest, convenience and necessity."⁷ The Commission has previously granted incumbent carriers authority to engage in limited advanced services trials to gain experience in operating next-generation networks.⁸ In so doing, the Commission's goal was to foster innovation, speed

³ See Pleading Cycle Established for Comments on Verizon's May 1st Letter Concerning Relief from Bell Atlantic/GTE Merger Conditions, Public Notice, DA 01-1325 (May 31, 2001), which is being released with this order. See also Letter from Gordon R. Evans, Vice President, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 98-184 (filed April 27, 2001).

⁴ See *STA Request* at 2.

⁵ *Id.*

⁶ *STA Request* at 2. In the *Project Pronto Order*, the Commission emphasized that its decision did not "prejudice the regulatory classification of plug-in ADLU Cards or similar multi-functional equipment in any other context." *Project Pronto Order*, 15 FCC Rcd 17520, para. 16 n.46. The Commission found that an OCD "should be classified as Advanced Services Equipment" under the Merger Conditions. *Project Pronto Order*, 15 FCC Rcd 17521, para. 18 (2000). For purposes of the Merger Conditions the term "Advanced Services" means intrastate or interstate wireline telecommunications services, such as ADSL, IDSL, xDSL, Frame Relay and asynchronous transfer mode ('ATM') that rely on packetized technology and have the capability of supporting transmission speeds of at least 56 kilobits per second in both directions." Merger Conditions at §1.2.

⁷ 47 C.F.R. §§ 63.01, 63.04. See also *Telephone Company-Cable Television Cross-Ownership Rules*, 7 FCC Rcd 5781, 5836 para. 105 (1992).

⁸ For example, the Commission granted a Verizon telephone company special temporary authority to extend a technical trial of an innovative video service until the commercial service became available. See Letter from James Schlichting, Chief, Policy and Program Planning Division, Common Carrier Bureau, to Marie Breslin, Bell Atlantic Network Services, Inc. (rel. Sept. 27, 1994) (1994 FCC LEXIS 4938).

the delivery of advanced services and allow incumbents the opportunity to predict operational difficulties that may arise when a new network technology is deployed on a larger scale. Verizon states that the builder of the new housing development has asked Verizon to provide fiber to all the homes in the development and notes that “the developer is on a tight schedule.”⁹ According to Verizon, this deployment will enable the provision of “high speed Internet access and video capabilities.” Providing Verizon with the authority to own and operate the equipment described in the *STA Request* will permit Verizon and other carriers to provide innovative advanced services such as very high-speed Internet access and videoconferencing capabilities to their customers over a fiber-to-the-home architecture.¹⁰ Furthermore, providing Verizon with the authority requested herein will enable it to gain experience operating a deep-fiber network in a multi-carrier environment. Accordingly, we find that granting Verizon an STA is in the public interest.

5. In granting Verizon’s request, we emphasize that the authority granted by this action is limited to the “few hundred homes” described in Verizon’s request and is limited to the geographic area of this new housing development.¹¹ Moreover, we note that Verizon will not actually be providing advanced services to these homes until the nine month period has expired. We therefore conclude that allowing Verizon to own and operate advanced services equipment, to the extent necessary to build and deploy a fiber to-the-home network as described in Verizon’s *STA Request*, is consistent with the public interest.

6. Finally, in contrast to the very limited request Verizon makes with respect to the new housing development in Virginia, Verizon also makes a more general request in its STA request. Specifically, Verizon seeks authority to buy, install and test the central office equipment necessary to deploy DSL capabilities in remote terminals; to offer a wholesale packet transport service to other carriers; and to provide retail DSL service in a fiber-fed network environment. We decline to grant this request at this time. We find that this request presents broader issues that are properly considered in the context of Verizon’s request to accelerate the sunseting of its advanced services affiliate. Accordingly, we defer action on Verizon’s request to deploy DSL capabilities to that proceeding.

IV. Ordering Clause

7. Accordingly, IT IS ORDERED that, pursuant to 47 C.F.R. §§ 63.01, 63.04, Verizon IS GRANTED, to the extent set forth herein, Special Temporary Authority to conduct a limited trial of fiber-to-the-home technology as described in its April 9, 2001 *STA Request* and Verizon’s more general request IS DENIED. This authority is given without prejudice to any Commission action that may be taken in the future.

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⁹ *STA Request* at 1.

¹⁰ Verizon notes that the project “is on a tight schedule.” *STA Request* at 1. Verizon is required to complete an initial installation to the developers visitor center in July and to have model homes equipped by October, with the first residents moving in before the end of the year. *Id.*

¹¹ *STA Request* at 2.

Dorothy T. Attwood
Chief, Common Carrier Bureau