

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

Adopted: August 31, 2001

Released: August 31, 2001

By the Chief, Policy and Program Planning Division

I. INTRODUCTION

1. On July 10, 2001, Verizon requested the Commission's permission to allow Verizon Pennsylvania Inc. (Verizon) and Verizon Advanced Data Inc. (VADI) to cooperate to provide digital subscriber loop (xDSL) service for resale over resold voice lines in Pennsylvania prior to the scheduled sunset of the advanced services affiliate requirement contained in the Bell Atlantic-GTE Merger Order. For the reasons explained below, we grant Verizon's request to the extent described herein.

II. BACKGROUND

1 See Letter from Dee May, Executive Director, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 98-184 (filed July 10, 2001) (PA STA Request); see also 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 at 14153, para. 265 (2000) (Bell Atlantic-GTE Merger Order).

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2. As an initial matter, we note that as a result of the *ASCENT v. FCC* ruling,<sup>2</sup> Verizon may elect, at the end of a nine-month period, to reintegrate its separate advanced services affiliate into the Bell Operating Company (BOC).<sup>3</sup> Verizon has submitted a letter requesting permission to reintegrate its advanced services subsidiary prior to the end of the nine-month period.<sup>4</sup> Pending the Commission's action on this request, Verizon seeks Special Temporary Authority (STA) to offer for resale xDSL service over resold lines in Pennsylvania. We granted Verizon a STA to provide its resold xDSL offering in Connecticut.<sup>5</sup>

### III. DISCUSSION

3. In determining whether to grant Verizon a STA, we look at whether the proposed action will serve the public interest, convenience and necessity.<sup>6</sup> Like in Connecticut, Verizon argues that should it receive a STA, it would broaden its resale xDSL offering in the former Bell Atlantic service areas in Pennsylvania to include a service that will allow a competitor to resell VADI's xDSL service over lines on which the competitor currently resells Verizon's voice service.<sup>7</sup> The new service will be provided pursuant to an amendment to VADI's federal tariff.<sup>8</sup> Verizon states that this is an interim arrangement until a more

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<sup>2</sup> *Assn. of Communs. Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) (*ASCENT v. FCC*).

<sup>3</sup> In the *Bell Atlantic-GTE Merger Order*, the Commission stated that the automatic expiration date for the separate subsidiary requirement would be nine months after a final, non-appealable judicial decision determining that the separate affiliate is a successor or assign of the BOC. *Bell Atlantic-GTE Merger Order* at para. 265. As applied to Verizon, the *ASCENT v. FCC* ruling holds that VADI is a successor or assign of the BOC and, by our calculations, the advanced services affiliate requirement will sunset automatically on January 9, 2002.

<sup>4</sup> See Letter from Gordon R. Evans, Vice President, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 98-184 (filed May 1, 2001); see also Pleading Cycle Established for Comments on Verizon's May 1<sup>st</sup> Letter Concerning Relief from Bell Atlantic/GTE Merger Conditions, CC Docket No. 98-184, *Public Notice*, DA 01-1325 (rel. May 31, 2001).

<sup>5</sup> See *Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, 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*, CC Docket No. 98-184, Order, DA 01-1717 (rel. July 19, 2001) (*Connecticut STA Order*).

<sup>6</sup> See, e.g., 47 U.S.C. §§ 154(i), 214(a), 303(r). See also *Telephone Company-Cable Television Cross-Ownership Rules*, 7 FCC Rcd at 5836, para. 105 (1992).

<sup>7</sup> *PA STA Request* at 1.

<sup>8</sup> *Id.*

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permanent arrangement can be developed through collaboratives and the change management process.<sup>9</sup>

4. Verizon states that in order to provision a competitor's order to resell VADI's xDSL service over lines on which the competitor currently resells Verizon's voice service, VADI and Verizon will need to access each other's systems and data, and interact in ways that Verizon acknowledges are arguably prohibited by the *Bell Atlantic-GTE Merger Order*.<sup>10</sup> Verizon, therefore, seeks both a permanent waiver of certain Merger Conditions<sup>11</sup> and a STA so that it may immediately take any and all steps necessary to process orders for and provide this resale xDSL offering.<sup>12</sup>

5. We do not address Verizon's request for a permanent waiver of the Merger Conditions in this Order.<sup>13</sup> However, we do conclude, as we did in the *Connecticut STA Order*, that granting Verizon's STA request for this limited purpose is in the public interest for several reasons. Granting the STA will enable competitors to provide resold voice and xDSL service to their end-user customers over the same local loop. This should benefit consumers by expanding competition in the provision of advanced services. Moreover, granting the STA will allow Verizon and its competitors an opportunity to gain experience with the ordering and provisioning of resold xDSL service in conjunction with resold voice service, experience that will facilitate the transition to a permanent arrangement for this offering.

6. As is the situation in Connecticut, in granting Verizon's STA request, we emphasize that the authority granted by this action is limited, and effective only to the extent necessary to allow Verizon and VADI to coordinate so that a competitor can resell VADI's xDSL service over lines on which the competitor resells Verizon's voice services in Pennsylvania. This authority governs only until the Commission rules on Verizon's request to waive the nine-month sunset period or otherwise modifies the terms of this STA. Any "cooperative" activities not pertaining to the resale product offering described above are not covered by this STA and will subject Verizon to appropriate enforcement action.

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 1-2.

<sup>11</sup> See *Bell Atlantic-GTE Merger Order* at Appendix D, 15 FCC Rcd at 14265-89, paras. 1-12, for conditions applicable to Verizon's advanced services affiliate.

<sup>12</sup> *PA STA Request* at 2.

<sup>13</sup> The Commission recently sought comment on this Verizon request. See Pleading Cycle Established for Comments on Verizon Ex Parte Filings Concerning Merger Conditions to be Waived for Verizon's xDSL over Resold Lines Service, CC Docket No. 98-184, *Public Notice*, DA 01-1987 (rel. August 23, 2001).

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**IV. ORDERING CLAUSE**

7. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 214(a) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214(a), 303(r), Verizon IS GRANTED Special Temporary Authority as described above to the extent necessary to permit resale of xDSL service by a competitive carrier on a line on which the competitor resells Verizon's voice service in Verizon's Pennsylvania service area. This authority is given without prejudice to any Commission or Common Carrier Bureau action that may be taken in the future.

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