

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

In re Application of)	
)	
GTE CORPORATION,)	
Transferor,)	CC Docket No. 98-184
)	
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)	
)	

ORDER

Adopted: September 26, 2001

Released: September 26, 2001

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On May 1, 2001, Verizon filed a letter with the Chief of the Common Carrier Bureau seeking permission to accelerate Verizon's right to provide advanced services without using its separate advanced services affiliate, Verizon Advanced Data, Inc. (VADI).¹ Verizon states that expediting this sunset period is in the public interest because it will address a unique

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 May 1, 2001) (*Verizon May 1st Letter*). In its letter, Verizon states that its separate advanced services affiliate requirement will terminate automatically no later than nine months after the *ASCENT v. FCC* decision. *Id.* at 1, citing *Assoc. of Communications Enter. v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) (*ASCENT v. FCC*).

issue in one state, facilitate deployment of advanced services, and allow Verizon to compete fairly against its competitors.² For the reasons explained below, we grant Verizon's request.

II. BACKGROUND

2. To obtain Commission approval of their proposed merger, Bell Atlantic and GTE proposed several conditions designed to promote advanced services deployment, among other things. These conditions were adopted by the Commission on June 16, 2000 in the *Bell Atlantic-GTE Merger Order*.³ Included among these conditions was Bell Atlantic/GTE's agreement to offer advanced services through a separate affiliate until such time as provided for in the sunset provisions contained in the *Bell Atlantic-GTE Merger Order*.⁴ One of the three means by which Verizon's advanced services affiliate requirements would terminate automatically occurs nine months after the date upon which a final and non-appealable judicial decision determines that the separate advanced services affiliate is deemed a successor or assign of the incumbent, unless that decision is based substantially on conduct by or between Verizon and its affiliate that was not expressly permitted by these conditions.⁵

3. Verizon makes several arguments why accelerating the sunset of its advanced services affiliate is appropriate. According to Verizon's May 1st letter, absent Commission action, it will soon be forced to turn away prospective digital subscriber loop (xDSL) customers in New Jersey. Unlike other state commissions in the Verizon region, the New Jersey Board of Public Utilities (NJ BPU) has not approved Verizon's application to transfer advanced services assets to its affiliate, VADI. Verizon argues that because of the NJ BPU's inaction, it is unable to purchase additional equipment to provide xDSL service to new customers served out of certain central

² The Commission requested and received comments on the *Verizon May 1st Letter*. See Pleading Cycle Established for Comments on Verizon's May 1st Letter Concerning Relief from Bell Atlantic/GTE Merger Conditions, CC Docket No. 98-184, *Public Notice*, DA 01-1325 (rel. May 31, 2001). The following parties submitted both comments and reply comments: AT&T Corp. (AT&T) and Competitive Telecommunications Association (CompTel). The Associations for Local Telecommunications Services (ALTS); Catena Networks, Inc. (Catena); and WorldCom, Inc. (WorldCom) filed comments. Alcatel USA, Inc. (Alcatel); ASCENT; Sprint Corporation (Sprint); and Verizon filed reply comments.

³ See *Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Applications to Transfer Control of a Submarine Cable Landing License*, 15 FCC Rcd at 14039, para. 5 (2000) (*Bell Atlantic-GTE Merger Order*).

⁴ See *id.* at 14153, para. 265.

⁵ *Id.* As applied to Verizon, the *ASCENT v. FCC* ruling holds that VADI is a successor or assign of Verizon. No commenter contests the applicability of the *ASCENT v. FCC* decision to Verizon and by our calculations, this merger condition will sunset automatically on January 9, 2002. See Sup. Ct. R. 13.

offices. Verizon states that it is already out of capacity in two central offices and will be unable to fill customer orders in 70 others in the coming months.⁶

4. Verizon also argues that the separate advanced services affiliate requirement is hindering its deployment of new technology that would enable it to offer wholesale xDSL packet transport service to other carriers.⁷ According to Verizon, under the *Bell Atlantic-GTE Merger Conditions*,⁸ Verizon's incumbent local exchange carriers (LECs) are unable to procure, install, and test advanced services equipment (such as optical concentration devices and integrated xDSL-capable cards for remote terminals). It contends that the sooner its affiliate requirements terminate, the earlier its LECs will be able to install and test this equipment, and offer these services to carriers and retail customers.⁹ Finally, Verizon states that the structural separation requirement increases its costs of doing business and places Verizon at a competitive disadvantage relative to carriers such as AT&T and WorldCom.¹⁰

5. Only one commenter expressly opposes Verizon's request to terminate the nine-month sunset period;¹¹ however, most commenters would like the Commission first to confirm Verizon's compliance with existing rules and conditions, impose new obligations on Verizon, or clarify Verizon's responsibilities in light of *ASCENT v. FCC*.¹² Verizon disagrees with opening a proceeding to examine Verizon's obligations post-VADI reintegration, arguing that the *Bell Atlantic-GTE Merger Conditions* already establish such obligations.¹³ Moreover, Verizon

⁶ *Verizon May 1st Letter* at 1-2. In a letter filed on August 10, 2001, Verizon states that nine New Jersey central offices are now closed to new xDSL orders and that ten more are expected to be closed over the next several weeks. Letter from Dee May, Executive Director, Federal Regulatory, Verizon to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 98-184, at 1 (filed August 10, 2001) (*Verizon Ex Parte*). Also in this letter, Verizon mentions that granting its request will alleviate the current anxiety experienced by its employees because of the uncertainty about what and where their jobs will be post-reintegration. *Id.* at 1-2. Moreover, it argues that promptly granting its request will permit it to begin immediately the reintegration process, a process it estimates will require up to six months. *Id.* at 2.

⁷ *Verizon May 1st Letter* at 2.

⁸ See *Bell Atlantic-GTE Merger Order* at Appendix D, 15 FCC Rcd at 14265-89, paras. 1-12. We refer to the commitments contained in Appendix D of the *Bell Atlantic-GTE Merger Order* as "*Bell Atlantic-GTE Merger Conditions*" throughout this Order.

⁹ *Verizon May 1st Letter* at 2.

¹⁰ *Id.* at 2-3. In its *ex parte*, Verizon again notes its difficulties in marketing its advanced services, especially for large customers. Specifically, it states that granting its reintegration request will allow for closer coordination in the provisioning and maintenance of complex service arrangements for these customers. *Verizon Ex Parte* at 2.

¹¹ See ALTS Comments at 1-2, 10-11 (arguing, among other things, that the results of a recent independent audit of Genuity, filed with the Commission on June 1, 2001, demonstrate Verizon's non-compliance with the *Bell Atlantic-GTE Merger Conditions*).

¹² See, e.g., AT&T Comments at 5-7; CompTel Comments at 8-9; WorldCom Comments at 5.

¹³ Verizon Reply at 2, citing *Bell Atlantic-GTE Merger Conditions* at para. 12.c.

opposes imposing new separation requirements on Verizon and also opposes investigating whether Verizon complies with its current affiliate responsibilities. According to Verizon, the Commission does not have the authority to re-impose separate affiliate requirements, and the results of a recent audit concerning Genuity have no bearing on how Verizon has interacted with VADI or how it will interact with its advanced services division after the sunset of the affiliate requirement.¹⁴ Finally, Verizon contends that many of the issues raised by commenters have either been considered and rejected or are pending before the Commission in other proceedings, and, thus, are inappropriate subjects for consideration in this proceeding.¹⁵

III. DISCUSSION

6. We conclude that permitting Verizon to reintegrate VADI prior to the completion of the automatic sunset period is in the public interest and furthers the goal of promoting deployment of advanced services. Given the fact that Verizon has already expressed its intent to eliminate its separate affiliate at the end of the sunset period and commenters generally do not oppose its request to accelerate this reintegration, we see no reason to require Verizon to maintain a separate affiliate for the remaining several months, only to backtrack and begin the reintegration process, which Verizon estimates will take up to six months, immediately afterward. This seems unnecessarily costly and time-consuming for Verizon and its customers under the circumstances presented here. We therefore are persuaded that acceleration of the nine-month sunset provision is in the public interest.

7. The standard for considering a change of merger conditions was stated most recently in the *Pronto Modification Order*.¹⁶ In considering Verizon's request, we will decide whether waiving the *Bell Atlantic-GTE Merger Conditions* in this limited manner is in the public interest, and whether this waiver is tailored in a way that affirmatively and identifiably promotes the underlying purpose of the condition.¹⁷ In the *Bell Atlantic-GTE Merger Order*, the Commission noted that the goal of establishing a separate advanced services affiliate was to promote equitable and efficient advanced services deployment.¹⁸ Specifically, the Commission found that the affiliate requirement will provide a "structural mechanism to ensure that competing providers of advanced services receive effective, nondiscriminatory access to the facilities and

¹⁴ Verizon Reply at 3-4, 5.

¹⁵ *Id.* at 6-7 (e.g., AT&T's requests that Verizon provide xDSL services to Internet service providers at a wholesale discount, and that the Commission establish applicable rules where there is fiber in the local loop).

¹⁶ *Applications of Ameritech Corp., Transferor, and SBC Communication Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, CC Docket No. 98-141, *Second Memorandum Opinion and Order*, 15 Rcd at 17532, para. 21 (2000) (*Pronto Modification Order*).

¹⁷ *Id.*

¹⁸ *Bell Atlantic-GTE Merger Order*, 15 FCC Rcd at 14145, para. 251.

services of the merged firm's incumbent LECs that are necessary to provide advanced services,"¹⁹ and will "greatly accelerate competition in the advanced services market by lowering the costs and risks of entry and reducing uncertainty, while prodding all carriers, including the Applicants, to hasten deployment."²⁰

8. In the *Verizon May 1st Letter* and reply comments, Verizon indicates that, due to unique circumstances, it is unable to offer xDSL services to certain prospective customers in New Jersey.²¹ No commenter disputes Verizon's characterization of the situation specific to New Jersey (*i.e.*, that Verizon cannot purchase new advanced services equipment to address capacity problems). Denying prospective customers the opportunity to purchase the xDSL service of one carrier clearly does not promote the goal of equitable and efficient deployment of advanced services.²² However, our determination that the reintegration of VADI prior to January 2002 is in the public interest stretches beyond the confines of one state and, thus, we choose not to grant Verizon a waiver solely for New Jersey.

9. Additionally, no commenter challenges Verizon's assertion that truncating the sunset period will enable its LECs to purchase, install, and test new technologies and next generation networks, and to make available to competitors advanced services enabled by this equipment.²³ Thus, we also find that earlier deployment of next generation equipment, the resulting services of which will benefit competitors and consumers, is in the public interest and furthers the equitable and efficient deployment of advanced services goal that underlies the separate affiliate requirement.²⁴ The two commenting equipment manufacturers, Alcatel and Catena, support this view, arguing that terminating the sunset period will result in faster deployment of integrated xDSL-capable cards, permitting a "significant portion of the residential population [to] obtain competitive options for high speed services."²⁵ Moreover, as discussed

¹⁹ *Id.*, 15 FCC Rcd at 14149, para. 261.

²⁰ *Id.*, 15 FCC Rcd at 14149-50, para. 262.

²¹ *See Verizon May 1st Letter* at 1-2, Dowell Decl. at paras. 3-7; Verizon Reply at 1-2.

²² *See Bell Atlantic-GTE Merger Order*, 15 FCC Rcd at 14145, para. 251.

²³ *Verizon May 1st Letter* at 2. Verizon mentions several times in its filings that the separate affiliate requirement places it at a competitive disadvantage by, among other things, increasing its costs of doing business. *Id.* at 2-3; Verizon Reply at 2. Although we recognize the added complexity and costs of maintaining a separate affiliate to offer a particular type of service, we also note that Verizon has benefited from efficiencies resulting from the merger of Bell Atlantic and GTE - benefits it neglects to mention or quantify. For example, for the period up to the *ASCENT v. FCC* decision, Verizon's incumbent LECs were free of advanced services resale obligations. Accordingly, we cannot rely on Verizon's assertions of being competitively disadvantaged as a result of the separate affiliate requirement as support for its request to terminate the sunset period. Since we do not afford any weight to this Verizon assertion, we also choose not to rely on ALTS's arguments contesting Verizon's claims of economic hardship. *See* ALTS Comments at 7.

²⁴ *Bell Atlantic-GTE Merger Order*, 15 FCC Rcd at 14145, para. 251.

²⁵ *See* Alcatel Reply at 2-3; Catena Comments at 1.

below,²⁶ to ensure the continued equitable deployment of advanced services by competitors, the *Bell Atlantic-GTE Merger Conditions* apply operational safeguards to Verizon post-reintegration of VADI.²⁷

10. We also note that giving Verizon permission to reintegrate VADI immediately will enable competitors to negotiate and arbitrate with one carrier, not two. We understand the challenges to competitors, as were expressed by Sprint, of having to negotiate with and, if necessary, conduct two arbitrations against, two entities to obtain complete access to the network in Verizon territories.²⁸ Once this Order becomes effective, we expect Verizon to negotiate and arbitrate immediately on behalf of itself and VADI to the extent it is permitted to do so under state law. We understand that Verizon must take interim steps before VADI is completely reintegrated.²⁹ However, these procedural formalities should not slow a competitor's ability to deploy advanced services in states where Verizon is the incumbent or delay Verizon's provisioning of unbundled network elements and services to its wholesale customers.³⁰

11. As mentioned above, only ALTS opposes terminating the automatic nine-month sunset period.³¹ However, ALTS's opposition to Verizon's request is premised not on concerns about any public interest harm that may result from accelerating the sunset of VADI but, rather, on its belief that denying the request will "send a clear message to the industry that the Commission will enforce all [C]ommission orders without exception."³² Other parties suggest that

²⁶ See para. 13, *infra*.

²⁷ See *Bell Atlantic-GTE Merger Conditions*, 15 FCC Rcd at 14289, para. 12 (*e.g.*, requiring Verizon to establish a separate office or division for the provision of advanced services, maintaining line sharing and advanced services OSS discounts). The post-affiliate requirements are supposed to achieve the key reasons for the affiliate, *i.e.*, ensure nondiscriminatory access to essential inputs.

²⁸ Sprint Reply at 4.

²⁹ See *Verizon Ex Parte* at 2 (stating, among other things, that it must obtain state approvals to transfer intrastate assets back to Verizon).

³⁰ As indicated in its *ex parte*, Verizon anticipates that the state regulatory approval process for reintegrating VADI will require up to six months to complete and that this state process cannot begin until Verizon receives the Commission's approval to reintegrate VADI on an expedited basis. *Verizon Ex Parte* at 2. Thus, the practical effect of granting Verizon's request to accelerate the nine-month sunset period is to permit Verizon to obtain the necessary state approvals by the approximate date this automatic nine-month period is scheduled to expire, or January 2002.

³¹ ALTS Comments at 1-2, 11.

³² *Id.* at 3. According to ALTS, "any move to side-step the conditions, would, by the Commission's own words, not be in the public interest . . ." *Id.* at 5, citing *Bell Atlantic Merger Order* at paras. 3, 4. We disagree with ALTS's strict interpretation of our *Bell Atlantic-GTE Merger Order*, *i.e.*, that any modification to the *Bell Atlantic-GTE Merger Conditions* results in harm to consumers. Such a view is clearly at odds with the express language of the *Bell Atlantic-GTE Merger Order*, which provides that the Commission may, at its discretion and subject to its normal procedures, modify these conditions. See *Bell Atlantic-GTE Merger Order*, 15 FCC Rcd at 14194, para. 345, citing 47 U.S.C. §§ 316, 416(b).

the Commission first confirm Verizon's compliance with existing rules and conditions, impose new conditions, or clarify previous Commission rulings before granting Verizon's request.³³ For reasons discussed below, we decline to adopt these suggestions.

12. The Commission's authority to oversee and enforce Verizon's obligations under the *Bell Atlantic-GTE Merger Order*, and under all other applicable Commission orders and rules, continues. It does not cease simply because Verizon may offer advanced services through a separate corporate division rather than through a separate affiliate. The *Bell Atlantic-GTE Merger Conditions* provide that "nothing in these Conditions shall relieve Bell Atlantic/GTE from the requirements of [the Telecommunications Act of 1996 (1996 Act)] or those [Commission or state decisions implementing the 1996 Act]," a principle noted by AT&T in its comments.³⁴ Thus, we find that there is no need to open a proceeding to review Verizon's compliance with its legal and regulatory obligations, as advocated by some commenters, because such an action simply would be duplicative.³⁵ The Commission's review of such compliance is ongoing.³⁶

13. We also find it unnecessary to clarify Verizon's obligations or impose additional safeguards on Verizon post-reintegration of its advanced services affiliate in the manner requested by the commenters. Indeed, the *Bell Atlantic-GTE Merger Order* expressly contemplated this

³³ See, e.g., AT&T's request that Verizon provide a complete description of its next generation plans and allow competitors access to the functionality of Verizon's entire loop at cost-based rates; CompTel's suggestion that the Commission clarify its line splitting rules; WorldCom's request that competitors be allowed to participate in Verizon's planning and testing processes for advanced services. See AT&T Comments at 5-7; CompTel Comments at 8-9; WorldCom Comments at 5. We find that Verizon's reintegration request is not the appropriate vehicle to clarify rulings that are the subject of proceedings pending before the Commission. See, e.g., AT&T's request to "make clear the legal principles that apply when ILECs build-out next generation loop architecture." AT&T Comments at 5, 6-7. Commenters also argue that Verizon first must demonstrate its compliance with its separate affiliate requirements. See, e.g., *id.* at 6; CompTel Comments at 4; WorldCom Comments at 4.

³⁴ See *Bell Atlantic-GTE Merger Conditions*, 15 FCC Rcd at 14262, n.2; see also, AT&T Comments at 3 (stating that "no waiver of the merger conditions can alter Verizon's statutory obligations."); *Bell Atlantic-GTE Merger Conditions*, 15 FCC Rcd at 14329, para. 58 (providing that the enforcement mechanisms established therein do not abrogate, supersede, limit or otherwise replace the Commission's powers under the Communications Act of 1934, as amended).

³⁵ See, e.g., ALTS Comments at 6; CompTel Comments at 4; WorldCom Comments at 4; AT&T Reply at 7. We therefore disagree with ALTS's suggestion that the results of an audit of Genuity are relevant to Verizon's request to reintegrate VADI prior to the nine-month sunset period. See ALTS Comments at 9-11. Any non-compliance of the *Bell Atlantic-GTE Merger Conditions* will be addressed in the appropriate forum.

³⁶ ALTS's inference that granting Verizon's limited request means that the Commission is failing to enforce its orders is simply incorrect. See ALTS Comments at 3. As ALTS understands, a court of competent jurisdiction determined that VADI is a successor or assign of Verizon. Pursuant to the *Bell Atlantic-GTE Merger Order*, Verizon may elect to reintegrate VADI nine months after the *ASCENT v. FCC* ruling becomes final and non-appealable. The question presented by Verizon to us in the instant proceeding is whether implementation of the court's ruling should be accelerated.

eventuality and created another regulatory framework to last until 48 months after the merger closing date.³⁷ Namely, Verizon is required to provide:

all advanced services through a separate office or division that will continue using the same OSS interfaces, processes and procedures that are made available to unaffiliated entities....In addition, [Verizon] will continue the surrogate line-sharing and advanced services OSS discounts, and its incumbent LECs will continue to provide unaffiliated carriers with the same [operation, installation, and maintenance (OI&M)] services that its retail operations use, as well as those OI&M services that previously were made available under the conditions.³⁸

These provisions are clear and, with just two clarifications mentioned below,³⁹ require no elaboration in this Order. Also, the requirements provide adequate assurance that Verizon will continue to provide nondiscriminatory access to the facilities and services required by competitors for their advanced services offerings. This language is responsive to WorldCom's concern about Verizon no longer offering a feature or service, process or procedure once VADI is reintegrated.⁴⁰ Indeed, WorldCom states in its comments that "even if the separate affiliate requirement is terminated, the Merger Conditions provide safeguards to ensure a level playing field for competitors."⁴¹ We agree. Moreover, Verizon has not sought relief from these provisions and they remain unaffected by the *ASCENT v. FCC* ruling. Finally, we expect that the continuing oversight and audit mechanisms will ensure that Verizon complies with the post-affiliate safeguards.⁴²

14. We recognize that VADI's reintegration will have an impact on the Carrier-to-Carrier Performance Plan established in the *Bell Atlantic-GTE Merger Conditions*.⁴³ Specifically, Verizon's provision of advanced services, such as line sharing, to unaffiliated carriers is currently measured against Verizon's performance providing the same services to VADI.⁴⁴ With VADI's

³⁷ *Bell Atlantic-GTE Merger Order*, 15 FCC Rcd at 14153, para. 266.

³⁸ *Id.*; see also, *Bell Atlantic-GTE Merger Conditions*, 15 FCC Rcd at 14289, para. 12. We find that this language addresses CompTel's concern about the status of discount rates post-reintegration of VADI into Verizon. See CompTel Comments at 5.

³⁹ See paras. 14, 15, *infra*.

⁴⁰ See WorldCom Comments at 5. Similarly, WorldCom's request to make explicit Verizon's duty to negotiate in good faith also is unnecessary. *Id.* Verizon is obliged to do so pursuant to 47 U.S.C. § 251(c)(1).

⁴¹ *Id.*

⁴² See, e.g., *Bell Atlantic-GTE Merger Conditions*, 15 FCC Rcd at 14326-29, paras. 55-7 (establishing audit requirements).

⁴³ See *Bell Atlantic-GTE Merger Conditions*, 15 FCC Rcd at 14333-14431, Attachment A.

⁴⁴ See, e.g., Letter from Dee May, Executive Director, Federal Regulatory, Verizon to Magalie Roman Salas, Secretary, Federal Communications Commission, ASD File No. 00-30 (filed August 14, 2000). See also, Letter (continued....)

reintegration, these measurements must be re-tooled. Therefore, Verizon should propose to the Chief of the Common Carrier Bureau new performance standards for the affected measurements within 30 days of this Order's release.

15. Several carriers urge the Commission to clarify Verizon's obligations to provide xDSL service for resale over resold lines pursuant to section 251(c)(4).⁴⁵ The Commission did this in its July 20, 2001 order approving Verizon's application to offer interLATA telecommunications services in Connecticut pursuant to section 271 of the 1996 Act.⁴⁶ Specifically, we concluded that Verizon must make available to resellers, at a wholesale discount, the same package of voice and xDSL services that it provides to its own retail end-user customers, and that this "package" includes xDSL service over lines on which the competitive LEC resells Verizon's voice service.⁴⁷ Any concerns regarding Verizon's compliance with section 251(c)(4) may be addressed in a section 208 formal complaint proceeding.⁴⁸ Additionally, on July 6, 2001, Verizon requested Special Temporary Authority (STA) allowing it to cooperate with VADI to offer this service to competitors in Connecticut prior to the automatic termination of its affiliate requirements.⁴⁹ The Commission sought and received comments on Verizon's request and granted the STA on July 19, 2001.⁵⁰ Verizon sought and received similar authority to provide this same service in Pennsylvania.⁵¹ In approving Verizon's request to reintegrate VADI prior to the

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from Carol E. Matthey, Deputy Chief, Common Carrier Bureau to Jeff Ward, Senior Vice President - Regulatory Compliance, Verizon, DA 00-1872 (rel. Sept. 19, 2000).

⁴⁵ See 47 U.S.C. § 251(c)(4); see also, AT&T Comments at 4, 8; CompTel Comments at 5; ASCENT Reply at 7.

⁴⁶ See *Application of Verizon New York, Inc. Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut*, CC Docket No. 01-100, *Memorandum Opinion and Order*, FCC 01-208, at paras. 27-33 (rel. July 20, 2001) (*Verizon Connecticut Order*); see also, 47 U.S.C. § 271.

⁴⁷ *Verizon Connecticut Order* at paras. 28, 30.

⁴⁸ See 47 U.S.C. § 208.

⁴⁹ See Letter from Dee May, Executive Director, Federal Regulatory, Verizon to Dorothy Attwood, Chief, Common Carrier Bureau, CC Docket No. 98-184 (filed July 6, 2001).

⁵⁰ See Comments Requested in Connection with Verizon's 271 Application for Connecticut, CC Docket No. 01-100, *Public Notice*, DA 01-1609 (rel. July 6, 2001); 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 Applications to Transfer Control of a Submarine Cable Landing License*, CC Docket No. 98-184, DA 01-1717 (rel. July 19, 2001).

⁵¹ 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); 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 Applications to Transfer Control of a Submarine Cable Landing License*, CC Docket No. 98-184, DA 01-2039 (rel. August 31, 2001). We believe that the Commission's inquiry on Verizon's proposed offering in Connecticut and Pennsylvania and our findings in the *Verizon Connecticut Order* demonstrate that this Verizon offering satisfies its section 251(c)(4) obligations and are responsive to CompTel's and AT&T's request to (continued....)

termination of the sunset period and consistent with our findings in the *Verizon Connecticut Order*, we determine that Verizon should immediately make available this service to competitors throughout its territory.

16. Finally, CompTel argues that the nine-month sunset period was designed to benefit the Commission by providing it with additional time during which to adopt clarifications or transitional requirements to protect competition and the public interest.⁵² CompTel cites no Commission authority for this argument, nor can it.⁵³ The *Bell Atlantic-GTE Merger Order* is silent on this point. While CompTel's assertion has a superficial appeal, a more persuasive interpretation is that the sunset period was designed to allow Verizon adequate time to prepare, among other things, its systems, procedures and processes, address personnel matters and prevent customer disruption during this reintegration.⁵⁴ The Commission has determined in this instance that it does not require additional time to "adopt any further clarifications or transitional requirements,"⁵⁵ and that Verizon will make all necessary preparations to prevent customer disruptions.⁵⁶ We do not establish a deadline in this Order by which Verizon must reintegrate VADI but, rather, we will leave it to Verizon's discretion to determine when it has completed the required steps to comply with its remaining advanced services obligations contained in the *Bell Atlantic-GTE Merger Conditions*. We expect that Verizon will promptly and expeditiously take the action outlined in its *ex parte* and will ensure that there is no customer disruption. Finally, Verizon shall immediately inform the Commission, in writing, when it completes its reintegration work for each state.

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seek comment on Verizon's compliance with its xDSL resale obligations post-*ASCENT v. FCC*. See CompTel Comments at 5; AT&T Reply at 3. In addition, because we believe it is outside the scope of this proceeding, we will not act on CompTel's request to direct Verizon to make its xDSL resale performance part of an OSS test. See CompTel Comments at 9 (stating that SBC/Ameritech has argued that xDSL resale should not be a part of any third-party OSS test); AT&T Reply at 4.

⁵² CompTel Comments at 4.

⁵³ In fact, the cite CompTel does provide further supports our earlier statements regarding our ever-present enforcement authority: "We intend to utilize every available enforcement mechanism. . . to ensure compliance with these [merger] conditions." *Id.*, quoting *Bell Atlantic-GTE Merger Order*, 15 FCC Rcd at 14146-47, para. 256.

⁵⁴ In the *Bell Atlantic-GTE Merger Order*, the Commission allowed Verizon to "ease the transition to providing all advanced services through a separate affiliate" by permitting it to perform certain activities on behalf of its affiliate during the transition period. See *Bell Atlantic-GTE Merger Order*, 15 FCC Rcd at 14152-53, para. 264. The Commission also expressed concern that if the transition period was not managed properly, existing advanced services customers could experience uncalled-for disruption of service. *Id.* It is clear from this language that the purpose of the initial transition period was to benefit not the Commission but, rather, Verizon and its customers. Similarly, the nine-month sunset period should assist Verizon, VADI and their customers.

⁵⁵ See CompTel Comments at 4.

⁵⁶ See *Verizon Ex Parte* at 3 (indicating that it does not anticipate any significant customer disruption because its separate advanced services office or division will continue to use the systems developed by VADI to provide xDSL service).

IV. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED pursuant to sections 1-4, 201-205, 214, 251, 303(r), and 309 of the Communications Act of 1934, as amended, and sections 0.91 and 0.291 of the Commission's rules, 47 U.S.C. §§ 151-154, 201-205, 214, 251, 303(r), and 309, and 47 C.F.R §§ 0.91 and 0.291, that Verizon's May 1, 2001, request to accelerate the sunset of its advanced services affiliate IS GRANTED.

18. IT IS FURTHER ORDERED, pursuant to section 408 of the Communications Act of 1934, as amended, 47 U.S.C. § 408, that this Order is effective immediately upon release.

FEDERAL COMMUNICATIONS COMMISSION

Dorothy T. Attwood
Chief
Common Carrier Bureau