

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

In the Matters of)	
)	
Accounting Safeguards Under the)	CC Docket No. 96-150
Telecommunications Act of 1996)	
)	
Implementation of the Non-Accounting Safeguards)	
of Sections 271 and 272 of the Communications)	CC Docket No. 96-149
Act of 1934, as amended.)	
)	
In re Application of)	
)	
GTE CORPORATION,)	
Transferor,)	
)	
And)	CC Docket No. 98-184
)	
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: October 9, 2001

Released: October 10, 2001

By the Deputy Chief, Common Carrier Bureau

I. INTRODUCTION AND BACKGROUND

1. On September 28, 2001, Verizon Communications, Inc. (Verizon) requested an emergency waiver of the Commission’s section 272 separate affiliate safeguards, as well as the separate affiliate requirements adopted in the *Bell Atlantic/GTE Merger Order*,¹ in order to respond to the attacks of

¹ See Accounting Safeguards Under the Telecommunications Act of 1996, *Report and Order*, 11 FCC Rcd 17359 (1996) (*Accounting Safeguards Order*), *Second Order on Reconsideration*, 15 FCC Rcd 1161 (2000); Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), *First Order on Reconsideration*, 12 FCC Rcd 2297 (1997), *Second Order on Reconsideration*, 12 FCC Rcd 8653 (1997), *aff’d sub nom. Bell Atlantic Telephone Companies v. FCC*, 131 F.3d (continued....)

September 11, 2001. For the reasons explained below, we grant Verizon Special Temporary Authority (STA) to the extent described herein.

2. The attacks of September 11, 2001 – and the damage those attacks caused to New York City – are well known at this time. In its petition, Verizon explains that the attacks caused significant damage to its network in the vicinity of the World Trade Center.² Verizon further explains that continuing its round-the-clock restoration operations and repairing the damage requires the use of corporate-wide resources, including those of its section 272 affiliates and its advanced services affiliates.³

II. 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.⁴ As Verizon points out, New York City experienced horrific, unprecedented attacks that caused substantial damage to the telecommunications network. Telecommunications service plays a critical role in the health, safety, and economic welfare of the New York City and the surrounding area. Indeed, the telecommunications network in New York City is an important component in the overall operation of the nation's financial markets. Thus, the public interest is served by efforts to quickly restore the telecommunications network in the vicinity of the attacks.

4. To accomplish its restoration goals, Verizon requests authority to use all qualified technicians available within the corporate family free of regulatory requirements that affect their assignment.⁵ This request implicates the Commission's section 272 implementing rules, as well as requirements adopted in the *Bell Atlantic/GTE Merger Order*. In particular, the Commission's rules prohibit a Bell Operating Company (BOC) and its section 272 affiliate from providing operations, installation, and maintenance service (OI&M) to one another.⁶ Moreover, the Commission's rules establish specific requirements to implement the statutory "arm's length" requirement, i.e., negotiating transactions at arm's length, reducing such transactions to writing on an Internet site, and valuing such transactions in

(Continued from previous page) _____

1044 (D.C. Cir. 1997), *Third Order on Reconsideration*, 14 FCC Rcd 16299 (1999); 47 C.F.R. §§ 32.27, 53.1-53.213, 64.901-64.904; *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, *Memorandum Opinion and Order*, 15 FCC Rcd at 14153, para. 265 (2000) (*Bell Atlantic-GTE Merger Order*).

² VZ Petition at 2.

³ *Id.* at 2-3.

⁴ *See* 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, *Order*, DA 01-2039, para. 3 (rel. Aug. 31, 2001) (addressing standard for granting STAs); *see also*, 47 U.S.C. §§ 154(i), 214(a), 303(r).

⁵ VZ Petition at 2-3.

⁶ *See* 47 C.F.R. §§ 53.303(a)(1)-(2).

accordance with the affiliate transactions rules.⁷ Other section 272 safeguards are not implicated by Verizon's request.

5. Although the separate affiliate requirements in the *Bell Atlantic/GTE Merger Order* do not prohibit the provision of OI&M services, they do place the section 272 arm's length requirements noted above on transactions between the Verizon incumbent LEC and its advanced services affiliate. As Verizon notes, it was only subject to these requirements up to September 26, 2001 because the Bureau granted permission for Verizon to dissolve its advanced service affiliate sooner than called for under the *Merger Conditions*.⁸ In addition, Verizon is subject to the post-termination obligations after receiving permission to dissolve its advanced services affiliate sooner than called for under the *Merger Conditions*.⁹ The post-termination obligations require Verizon to provide advanced services through a separate division that uses the same interfaces available to unaffiliated carriers for providing a substantial majority of orders.

6. Granting the STA for the rules and requirements noted above will enable Verizon to shift qualified technicians and other resources needed to respond to the damage caused by the September 11 attacks. In addition, granting the STA will speed the deployment of these resources by eliminating any delay caused by otherwise mandatory negotiations between Verizon affiliates. Thus, Verizon may perform OI&M services free of the restrictions in the Commission's rules. Likewise, for services related to the restoration efforts, Verizon (and its affiliates) may provide such services free of the requirements contained in the Commission's rules, e.g., reducing such transactions to writing and posting on the Internet. Furthermore, Verizon may continue its restoration efforts free of the operational restrictions created by the separate affiliate post-termination obligations under the *Merger Conditions*. Should Verizon need additional relief beyond the expiration of this STA, we would expect Verizon to file a status report addressing its progress and indicating when it expects to resume compliance with these requirements.

III. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 214(a), 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214(a), 272, and 303(r), Verizon IS GRANTED Special Temporary Authority as described above for activities related to the repair and restoration of facilities affected by the September 11, 2001 attacks. This authority expires 90 days from the release date of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey
Deputy Chief
Common Carrier Bureau

⁷ See 47 C.F.R. §§ 32.27, 53.203(e); see also *Accounting Safeguards Order* at para. 122.

⁸ VZ Petition at n.3.

⁹ See *Bell Atlantic/GTE Merger Order* at Appendix D, para. 12.