



PUBLIC NOTICE

Federal Communications Commission
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DA 02-2153

September 4, 2002

COMMENTS REQUESTED IN CONNECTION WITH VERIZON'S SECTION 271 JOINT APPLICATION FOR NEW HAMPSHIRE AND DELAWARE

WC Docket No. 02-157

Comments Due: September 10, 2002

On August 30, 2002, the Commission received the attached written *ex parte* presentation from Verizon in the above-referenced docket proposing a significant reduction in Verizon's Delaware switching rates. In the course of this proceeding, the parties have raised concerns regarding Verizon's Delaware switching rates and whether they fall within a reasonable TELRIC range. Verizon relied in its application on the Delaware Public Service Commission's proceeding adopting Verizon's switching rates, and on a federal district court decision finding that the rates satisfied the TELRIC standard.¹ During the course of this proceeding, Verizon volunteered to reduce its switching rates, "to eliminate any possible argument that these rates exceed the TELRIC range."² According to Verizon, these reduced rates are effective immediately. Verizon now relies on these reduced switching rates as evidence to demonstrate that its aggregate non-loop rates, which include switching rates, pass a benchmark comparison to New York non-loop rates, and, therefore, fall within a reasonable TELRIC range. We now seek comment on whether these reduced rates fall within the range that reasonable application of TELRIC principles would produce. We have established a short comment period due to the imminent deadline for ruling on Verizon's application.

Without deciding what reliance, if any, the Commission will place on Verizon's supplemental evidence, the Commission encourages interested parties to respond to this evidence. We emphasize that this Public Notice does not represent a decision about whether we

¹ Verizon Application at 64-68 & Appen. A, Vol. 5, Joint Declaration of Joshua W. Martin, II, Patrick A. Garzillo, and Gary Sanford at 4-10, paras. 15-29.

² Attached *ex parte* presentation at 1.

will accord any weight to the supplemental evidence. The Commission expects that a section 271 application, as originally filed, will include all of the factual evidence on which the applicant

would have the Commission rely in making its determination.³ If parties in a section 271 proceeding choose to submit new evidence, however, the Commission retains the discretion to waive its procedural rules and consider the evidence,⁴ to start the 90-day review process anew, or to accord such evidence no weight.⁵

Comments By Interested Third Parties. Pursuant to our procedures governing section 271 applications⁶ and sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on such information. Comments must be filed by **September 10, 2002**. All such filings shall refer to the Commission docket number, **WC Docket No. 02-157**. Comments and replies may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See [Electronic Filing of Documents in Rulemaking Proceedings](#), 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. To get further instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

If a party chooses to file comments or replies by paper, an original and four copies must be sent to Marlene H. Dortch, Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, CY-B402, Washington, D.C., 20554. Fifteen additional paper

³ See *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6247- 50, paras. 21- 27 (2001), *aff'd in part, remanded in part sub nom. Sprint Communications Co. v. FCC*, 274 F. 3d 549 (D.C. Cir. 2001) (*SWBT Kansas/ Oklahoma Order*); *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In Region, InterLATA Services in Michigan*, Memorandum Opinion and Order, 12 FCC Rcd 20543, 20570, para. 49 (1997)(*Ameritech Michigan Order*); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01- 734 (CCB rel. Mar. 23, 2001).

⁴ See 47 C.F.R. § 1.3.

⁵ See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6247-50, paras. 21-27; *Ameritech Michigan Order*, 12 FCC Rcd at 20571-76, paras. 49-59; *Application of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3968-69, paras. 34-37 (1999).

⁶ See 271 Procedural Public Notices.

copies of each comment and reply must be delivered to Janice Myles, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C327, Washington, D.C., 20554. One copy of each paper comment and reply must be sent to the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com.

If you are sending this type of document or using this delivery method...	It should be addressed for delivery to...
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 a.m. to 7:00 p.m.)
Commercial overnight mail (other than United States Postal Service Express Mail and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12 th Street, SW Washington, DC 20554

Parties are strongly encouraged to file comments and replies electronically using the Commission's Electronic Comment Filing System (ECFS). Parties are also requested to send a courtesy copy of their comments and replies via email to: gremondi@fcc.gov; twilson@fcc.gov, hthagger@fcc.gov, vschlesi@fcc.gov, laura.starling@usdoj.gov, Benjamin.brown2@usdoj.gov, david.arulanantham@usdoj.gov, connie.mcdowell@state.de.us, bjackson@puc.state.nh.us, tgetz@puc.state.nh.us, and qualexint@aol.com.

Wireline Competition Bureau Contacts: Henry Thaggert (202) 418-7941

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