



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

FCC 04-101

Released: April 16, 2004

**SECTION 272 SUNSETS FOR VERIZON COMMUNICATIONS, INC. IN THE STATE
OF MASSACHUSETTS BY OPERATION OF LAW ON APRIL 16, 2004
PURSUANT TO SECTION 272(f)(1)**

WC Docket No. 02-112

The provisions of section 272 (other than section 272(e)) of the Communications Act of 1934, as amended (the Act), applicable to Bell Operating Company (BOC) provision of in-region, interLATA telecommunications services sunset for the operations of Verizon Communications, Inc. (Verizon) in the state of Massachusetts by operation of law as provided in section 272(f)(1), effective April 16, 2004.

Section 272 of the Act requires BOCs to provide in-region, interLATA telecommunications services through separate corporate affiliates, subject to certain safeguards. 47 U.S.C. § 272(a)(2). Section 272(f)(1) provides that the provisions in section 272 (other than section 272(e)) expire three years after a BOC or BOC affiliate is authorized under section 271 to provide in-region, interLATA services, unless the Commission extends such 3-year period by rule or order. 47 U.S.C. § 272(f)(1).

The Commission granted Verizon section 271 authorization for the provision of in-region, interLATA services in the state of Massachusetts in an order released on April 16, 2001.¹ Pursuant to section 272(f)(1), section 272 (other than section 272(e)) sunsets by operation of law for Verizon in the state of Massachusetts, effective April 16, 2004.²

¹ *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, Memorandum Opinion and Order, 16 FCC Rcd 8988 (2001), *aff'd sub nom. WorldCom, Inc. v. FCC*, 308 F.3d 1 (D.C. Cir. 2002).

² *See Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, WC Docket No. 02-112, Memorandum Opinion and Order, 17 FCC Rcd 26,869 (2002) (finding that section 272(f)(1) is best interpreted as providing for a state-by-state sunset).

For further information, please contact Jon Minkoff, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1580.

Action by the Commission on April 16, 2004: by Chairman Powell and Commissioner Abernathy; Commissioner Martin concurring and issuing a statement; and Commissioners Copps and Adelstein dissenting and issuing a joint statement.

– FCC –

**CONCURRING STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

Re: *Public Notice, Section 272 Sunsets For Verizon Communications Inc. in the State of Massachusetts By Operation of Law on April 16, 2004 Pursuant To Section 272(f)(1)*

Today, the Commission—in a public notice—declares that the statutory requirement that BOCs provide in-region, interLATA telecommunications services through a separate corporate affiliate will sunset for Verizon’s operations in Massachusetts by operation of law.¹

As I have said before, I would have preferred that we affirmatively set forth, in a separate Commission order, our analysis and justification for granting the relief we announce in today’s public notice rather than remain silent.²

¹ 47 USC Section 272.

² See Concurring Statement of Commissioner Kevin J. Martin, *Public Notice, Section 272 Sunsets for Verizon in New York State By Operation of Law on December 23, 2002 Pursuant to Section 272(f)(1); In the Matter of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, WC Docket 02-112, (rel. Dec. 23, 2002)*; See Concurring Statement of Commissioner Kevin J. Martin, *Public Notice, Section 272 Sunsets for SBC in the State of Texas By Operation of Law on June 30, 2003 Pursuant to Section 272(f)(1), WC Docket No. 02-112 (rel. June 30, 2003)*; See Concurring Statement of Commissioner Kevin J. Martin, *Public Notice, Section 272 Sunsets for SBC in the States of Oklahoma and Kansas By Operation of Law on January 22, 2004 Pursuant to Section 272 (f)(1), WC Docket No. 02-112 (rel. Jan. 22, 2004)*.

**JOINT STATEMENT OF
COMMISSIONER MICHAEL J. COPPS AND
COMMISSIONER JONATHAN S. ADELSTEIN,
DISSENTING**

Re: *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements;
Section 272 Sunsets for Verizon Communications, Inc. in the State of Massachusetts by
Operation of Law on April 16, 2004 Pursuant to Section 272(f)*, WC Docket No. 02-112.

Today the Commission releases a Public Notice announcing sunset of the Section 272 separate affiliate requirement for Verizon in Massachusetts. Once again, as with the sunset of separate affiliates in New York, Texas, Kansas and Oklahoma, the Commission reaches this result without providing any review or analysis of the market in the state. Because we believe the Commission has a duty to do more than offer such a bare Public Notice, we cannot support this action.

In Section 272, Congress required Bell companies to provide long distance and manufacturing services through a separate affiliate. Congress adopted these safeguards because it recognized that Bell companies might still exercise market power at the time they enter long-distance markets. Congress specifically provided that the Section 272 separate affiliate requirement would continue for three years, but could be extended by the Commission by rule or order.

The Commission, however, does nothing here to determine whether there is a continuing need for these safeguards in Massachusetts. Had there been some analysis of the market here, we could make a decision on the merits. Unfortunately, we are left wondering how the Commission can justify sunset while it leaves unresolved the development of alternative safeguards in its performance measurements docket. Similarly, we are left wondering how the Commission moves forward today while leaving incomplete its proposed rulemaking concerning carrier classification following Section 272 sunset. In light of these outstanding questions and the short shrift this Public Notice gives to our statutory responsibilities, we must dissent from today's decision.