

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of the Verizon Telephone Companies	)	WC Docket No. 06-172
for Forbearance Pursuant to 47 U.S.C. §160 in	)	
the New York Metropolitan Statistical Area	)	
	)	
	)	
	)	

**COMMENTS OF THE CITY OF NEW YORK**

The City of New York (“City”) submits these comments in response to the Commission’s public notice seeking comment on the Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. §160 in the New York Metropolitan Statistical Area, WC Docket No. 06-172.<sup>1</sup> In its Petition, Verizon seeks forbearance in the New York MSA from certain unbundling requirements pursuant to section 251(c)(3) of the Communications Act and FCC dominant carrier regulations. According to Verizon, regulatory relief is warranted because of the high degree of competition it faces in the New York MSA in the both the mass and enterprise services markets. Verizon points to cable, VoIP, and wireless providers as examples of competitive alternatives in the mass market. For enterprise services, Verizon notes that there are a number of fiber providers who operate networks reaching the areas where most enterprise customers in the New York MSA are concentrated.

The City strongly supports any initiatives that will further competition in the New York MSA. However, the City questions whether the relief Verizon seeks would be pro-competitive and is concerned that such relief may have a dampening effect on competition.

While there are a number of providers serving mass market customers in the City, the ability of these providers to provide a true substitute to POTS is limited. Although Verizon points to VoIP providers as an alternative, VoIP requires an underlying broadband platform, which means the current economics of the service often do not effectively meet the needs of large segments of the market. Substantial quality of service issues also remain to be resolved before VoIP can serve as an effective competitor for important segments of the mass market. Similarly, wireless telephony continues to have pricing, quality of service and other issues that make it impractical for many market segments as a full substitute (rather than an addition to) wireline POTS service (for example, wireless service for multiple persons within a household often requires multiple numbers and significant additional on-going costs not generally applicable to wireline POTS service to multi-person households).

Both VOIP and wireless service also suffer from local electric grid dependency greater than traditional copper-based POTS service that may make VoIP and wireless inappropriate as a complete substitute in many market segments for Verizon POTS service. The decline in total POTS lines served by Verizon is not necessarily evidence that Verizon is fully subject to competition in market segments that continue to subscribe to Verizon POTS service in large numbers.

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<sup>1</sup> See Wireline Competition Bureau Grants Extension of Time to File Comments on Verizon's Petitions for Forbearance in the Boston, New York, Philadelphia, Pittsburgh, Providence, and Virginia Beach

With regard to competition in the enterprise market, the continued dependency of all competitors to some degree on Verizon's wholesale inputs should be factored into any analysis. To the extent the Commission is considering granting relief from unbundling requirements, it should note that much current retail competition is dependent on such requirements. In many cases, it is the leasing of these *very* facilities that have enabled competitors to provide service in the NY MSA. Competitive local fiber facilities are available but hardly ubiquitous. The universal build-out of cable television facilities to residential locations, required and completed pursuant to local franchise requirements, has not to date been generally applicable to commercial facilities, in light of the origins of cable TV service as a primarily home entertainment service. Commercial local fiber build-outs have not been comprehensive and leave market segments (particularly small and medium sized businesses and, with respect to some services and locations, government customers such as the City itself) within the overall commercial market critically dependent on Verizon's local loop.

Finally, while there are a number of providers in the New York MSA, we would urge the Commission to take into account recent consolidation in the industry in deciding how to proceed in response to Verizon's petition. As a purchaser of telecommunications services, the City has had experience in this area. Prior to the Verizon/MCI merger, the City had negotiated with MCI a contract for voice and data services. When the merger occurred prior to the negotiated contract becoming final, Verizon repudiated the contract and instead was only willing to offer the City the same services for higher prices and on

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Metropolitan Statistical Areas, WC Docket No. 06-172, DA 07-277 (rel. Jan. 26, 2007).

less favorable terms. With no comparable alternative available, the City had to accept the revised contract.

Thus, in reviewing the impact of competitors in both the mass and enterprise markets, Verizon's continuing unique position as the incumbent LEC should not be overlooked. As there is still no duplicate local exchange network, ultimately most traffic must traverse the Verizon network at some point for completion. While Verizon's status as the incumbent LEC should not saddle it with regulatory requirements that impair its growth, Verizon's singular position in the marketplace, combined with the limited substitutability of other offerings, should be recognized before making any determinations regarding regulatory relief.

Respectfully submitted,

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**THE CITY OF NEW YORK**

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