

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its own motion into the appropriate regulatory plan to succeed price cap regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts' retail intrastate telecommunications services in the Commonwealth of Massachusetts

DTE 01-31

SURREBUTTAL TESTIMONY OF

JOHN W. MAYO

ON BEHALF OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

November 1, 2001

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is John W. Mayo. My business address is Georgetown University,
McDonough School of Business, 37th and O Streets, N.W., Washington, D.C.
20057.

**Q. ARE YOU THE SAME JOHN MAYO THAT PROVIDED TESTIMONY
EARLIER IN THIS PROCEEDING?**

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR PRESENT TESTIMONY?

A. My reading of Verizon’s rebuttal testimonies has uncovered a number of points
that, if not addressed, create a profound risk that the Department will be lead to
erroneous conclusions regarding my initial testimony. Accordingly, the purpose
of my testimony is to explain as clearly as possible the points that have been
misunderstood by Verizon’s witnesses.

**Q. WHAT IS YOUR UNDERSTANDING OF THE PRESENT PROCEEDING
AND HAS VERIZON’S REBUTTAL TESTIMONY PROVIDED CLARITY
TO THAT PURPOSE?**

A. The purpose of this proceeding is to consider the appropriate regulatory regime
for Verizon on a forward-going basis. In my direct testimony, I pointed out that
the consideration of such an appropriate public policy approach toward Verizon
must be viewed within the context of the development of the policy agenda in
both Massachusetts and the nation. In particular, I noted that the passage of the

1 Telecommunications Act of 1996 has ushered in a new set of goals for regulators
2 and a new era for policymaking in the telecommunications industry. Specifically,
3 rather than strictly focusing policy efforts on *disabling monopoly*, regulators
4 today must seek policies that *enable competition*. This shift in policy goals
5 should lead regulators in general and the Department in particular to establish a
6 broad range of competition-enabling policies. These competition-enabling
7 policies are critical to the development of competition in Massachusetts. Specific
8 policies that are necessary to promote the development of effective competition
9 include: eliminating legal and regulatory barriers to entry, establishing efficient
10 prices for the inputs needed by retail-stage competitors to provide service,
11 unbundling, the removal of resale restrictions, and ensuring the absence of non-
12 price discrimination in the provision of inputs sold to competitors.

13 These competition-enabling policies, when fully and effectively
14 implemented, constitute the basis upon which competition has *an opportunity* to
15 become effective, that is, capable of disciplining the market power of the
16 incumbent local exchange carrier. This opportunity is, however, not a guarantee
17 that competition in Massachusetts is effective as a mere consequence of the
18 passage of the Telecommunications Act or of the partial establishment or
19 fulfillment of the competition-enabling policies. Thus, in addition to the diligent
20 pursuit of competition-enabling policies, the Department must engage in a market
21 power inquiry to determine whether Verizon continues to possess significant
22 market power prior to deregulating the pricing of its services.

1 That is, both its direct and rebuttal testimonies, Verizon fails to address, or
2 even seriously acknowledge the need to address, the basic necessity of fully
3 implementing these competition-enabling policies. In its single-minded pursuit of
4 deregulation of its business services in Massachusetts, Verizon fails to
5 acknowledge the forward-going need for the new regulatory regime to embrace
6 and pursue completely the full panoply of competition-enabling policies. Indeed,
7 when Verizon addresses, in a cursory fashion, the competition-enabling policies it
8 does so in the form of resisting them. A specific case is Verizon's desire to
9 maintain access charges at rates that are acknowledged to be above economically
10 efficient levels.

11 It is critical that the Department remains committed to the development of
12 a broad – competition-enabling – agenda and not simply accept the considerably
13 more narrow agenda – deregulation – in isolation.

14

15 **Q. ARE YOU SAYING THAT THE FORWARD GOING REGULATORY**
16 **REGIME, INCLUDING THE MECHANISM FOR DEREGULATION OF**
17 **LOCAL EXCHANGE SERVICES, SHOULD BE BROADER THAN THAT**
18 **INDICATED BY VERIZON?**

19

20 A. Yes. While I certainly understand the Department's desire to proceed logically
21 through the variety of issues before it with respect to local exchange
22 telecommunications, the Department must exercise considerable judgment at this
23 point not simply to let the proper agenda ? the establishment of a new regulatory
24 (and deregulatory) regime for Verizon after the expiration of the present price cap
25 system – be hijacked by Verizon's narrow pursuit of deregulation.

26

1 **Q. DID VERIZON ADDRESS YOUR RECOMMENDATION THAT THE**
2 **DEPARTMENT ENGAGE IN A PROPER MARKET POWER INQUIRY?**
3

4 A. Yes. Dr. Taylor, however, suggests that there is “no practical value” in my
5 recommendation “to require Verizon MA to provide information to evaluate
6 market power.”¹
7

8 **Q. DO YOU AGREE WITH DR. TAYLOR THAT THERE IS NO**
9 **PRACTICAL VALUE IN A PROPER MARKET POWER INQUIRY IN**
10 **THE CONSIDERATION OF THE VERIZON PROPOSAL?**
11

12 A. No. As I described in my direct testimony, a proper market power inquiry is
13 critical to making sound judgments regarding the presence or absence of effective
14 competition.
15

16 **Q. WHAT ARE VERIZON’S OBJECTIONS TO SUCH AN INQUIRY?**

17 A. Verizon claims that: (1) while conceptually relevant, the inquiry and methodology
18 I propose is acknowledged by the antitrust authorities to be impractical; (2)
19 Verizon-MA’s satisfaction of the Section 271 criteria for reintegration into the in-
20 region interLATA market is a sufficient demonstration that deregulation is in the
21 public interest; and (3) it has provided the Department with sufficient information
22 to ensure that effective competition is present in Massachusetts.
23

24 **Q. ARE YOU PERSUADED BY VERIZON’S POINTS?**

25 A. No.

¹ Rebuttal Testimony of William E. Taylor, D.T.E. 01-31, September 21, 2001, p.1.

1

2 **Q. TAKING VERIZON’S CLAIMS IN TURN, CAN YOU ADDRESS**
3 **VERIZON’S NOTION THAT THE MARKET POWER INQUIRY YOU**
4 **PROPOSE IS IMPRACTICAL?**

5

6 A. Yes. Dr. Taylor describes my proposal as “draconian”.² This characterization is,
7 quite simply, wrong. While Verizon wishes to characterize the proposal as
8 draconian, the basic approach I outlined in my direct testimony is the standard
9 approach to understanding market power and is widely utilized in both the
10 regulatory and antitrust economics literature and regulatory practice.

11

12 **Q. HOW DO YOU RESPOND TO THE CLAIMS OF DR. TAYLOR (page 3)**
13 **AND MICHAEL J. DOANE (page 4) THAT YOU RECOMMEND MORE**
14 **THAN 18,000 SEPARATE MARKET POWER STUDIES THAT WILL**
15 **TAKE THE DEPARTMENT APPROXIMATELY 356 YEARS TO**
16 **COMPLETE?**

17

18 A. This understanding by Verizon’s witnesses is mistaken, but it does underscore a
19 shortcoming of Verizon’s original testimony. Specifically, I pointed out in my
20 direct testimony that Verizon’s failure to identify properly the relevant product
21 and geographic markets within which its services compete is likely to provide
22 misleading signals of competition and that, accordingly, a proper analysis of the
23 extent of market power held by Verizon should begin with this determination of
24 the properly defined relevant markets. Verizon’s initial testimony failed to
25 acknowledge the need for a proper consideration of the relevant markets.
26 Moreover, it is not clear that Verizon appreciates the significance of this point
27 even at this stage in the proceeding. As a case in point, it seems plausible that

² Rebuttal Testimony of William E. Taylor, D.T.E. 01-31, September 21, 2001, p.3.

1 business and residential services compete in different relevant product markets
2 (though Verizon failed to provide such an analysis). Nonetheless, in support of its
3 quest to deregulate *business* services in Massachusetts, Verizon provides evidence
4 of “*residential* lines lost to competition”.³

5 In short, Verizon’s rather silly proposition that I recommended that the
6 Department undertake a 350 year exercise is a huge, but transparent, distraction to
7 a serious point; specifically, that Verizon has failed to identify the relevant
8 markets within which its services that it seeks to be deregulated compete. In the
9 absence of a competently performed identification of these relevant economic
10 markets, the data brought before the Department by Verizon as “evidence” of
11 competition is likely to be confounding if not overtly misleading.

12

13 **Q. BUT DR. TAYLOR ARGUES THAT THERE IS NO “BRIGHT LINE TEST**
14 **THAT CAN BE USED IN AN ADVERSARIAL PROCEEDING TO**
15 **DETERMINE WHEN COMPETITORS DISCIPLINE THE MARKET**
16 **PRICE SUFFICIENTLY THAT THE SERVICE CAN BE RECLASSIFIED**
17 **AS COMPETITIVE.” (page 4) DO YOU AGREE?**

18

19 A. Yes, I do. However, while Dr. Taylor makes this point presumably in support of
20 the proposition that the Department should not require a proper market power
21 analysis, I draw exactly the opposite inference from this observation.
22 Specifically, the fact that even under the best of circumstances the market power
23 inquiry is not as precise as rocket science imparts all the more importance to the
24 act of very carefully adhering to the known principles of market power analysis
25 and not taking any shortcuts, especially when those shortcuts are offered by the

³ Rebuttal Testimony of William E. Taylor, September 21, 2001, p.6. (emphasis added).

1 party who has the most to gain. In such circumstances, the constraints of sound
2 economic principles provide much needed discipline to the regulatory/de-
3 regulatory process.
4

5 **Q. DR. TAYLOR ADDITIONALLY ARGUES THAT ECONOMIC THEORY**
6 **ITSELF POINTS TO THE IMPRACTICALITY OF THE APPROACH**
7 **YOU RECOMMEND. IN PARTICULAR, DR. TAYLOR QUOTES A**
8 **PASSAGE (page 5) INDICATING THE DIFFICULTY OF ESTIMATING**
9 **THE FIRM'S ELASTICITY OF DEMAND. CAN YOU COMMENT?**
10

11 A. Yes. The passage is exactly on point, but Dr. Taylor's inference from it is not.
12 The article by William M. Landes and Richard A. Posner, quoted by Dr. Taylor,
13 correctly identifies the conceptual linkage between the degree of market power
14 held by a firm and the inverse of the firm's price elasticity of demand. The article
15 further notes in the passage Dr. Taylor cites that direct estimation of such
16 elasticities of demand by enforcement agencies is quite difficult. This, however,
17 is exactly why the authors of the cited material propose exactly the same
18 methodological approach that I recommend in my direct testimony. Specifically,
19 while direct estimation of the firm's price elasticity of demand is not generally
20 feasible, this measure can be shown to be exactly equivalent to an examination of
21 the firm's market share, the elasticity of supply of fringe firms and the market
22 demand elasticity, all of which are more readily determinable than the firm's price
23 elasticity of demand.⁴ This methodology, far from being impractical, is as even

⁴ See William M. Landes and Richard A. Posner, "Market Power in Antitrust" *Harvard Law Review*, March 1981, pp. 937-996. Thus, Dr. Taylor is mistaken when he states that in order to use the approach I recommend "we would need to estimate the price elasticity of the demand curve facing the firm at the competitive price." Rebuttal Testimony of William E. Taylor, D.T.E. 01-31, September 21, 2001, pp. 4-5.

1 another Verizon witness observes, “a well-known method for evaluating the
2 ability of a firm to exercise market power.”⁵

3

4 **Q. MR. DOANE IS CRITICAL OF YOUR RECOMMENDED APPROACH**
5 **TO ANALYZING MARKET POWER. CAN YOU COMMENT?**

6

7 A. Yes. Mr. Doane states that he disagrees with the application of the market power
8 methodology I recommend because it is “generally used to evaluate the
9 competitive effects of horizontal mergers.”⁶ But Mr. Doane’s notion that the
10 approach I advocate is generally used in merger analysis for determining the
11 competitive effects of horizontal mergers is simply wrong. The model underlying
12 the approach I advocate is predicated on a “dominant firm-competitive fringe”
13 industry and is constructed specifically to analyze the market power of the
14 dominant firm. Thus, the claim is mistaken and is an unnecessary distraction to
15 the Department in its deliberation in this case.

16

17 **Q. TURNING TO VERIZON’S SECOND OBJECTION TO A PROPER**
18 **MARKET POWER INQUIRY, IS VERIZON’S SATISFACTION OF THE**
19 **SECTION 271 REQUIREMENTS FOR RE-ENTRY INTO IN-REGION**
20 **LONG DISTANCE SERVICES SUFFICIENT TO DEMONSTRATE THAT**
21 **THE FIRM FACES EFFECTIVE COMPETITION IN THE PROVISION**
22 **OF ITS LOCAL EXCHANGE SERVICES?**

23

24 A. No. The standard for re-integration that has been widely embraced is that a state’s
25 local exchange markets be “irreversibly open” to competition in order for
26 reintegration to proceed. As noted by the U.S. Department of Justice economic

⁵ Rebuttal Testimony of Michael J. Doane, D.T.E. 01-31, September 21, 2001, p. 3.

⁶ Rebuttal Testimony of Michael J. Doane, D.T.E. 01-31, September 21, 2001, p. 6.

1 expert, Professor Marius Schwartz, a market may be irreversibly open to
2 competition and yet not enjoy effective competition.⁷ Thus, the fact that Verizon
3 has been permitted to reintegrate under the irreversibly open to competition
4 standard does not necessarily keynote the presence of effective competition.

5 Moreover, as noted in my direct testimony and observed elsewhere,
6 having now reintegrated into the long distance market, Verizon's incentive for
7 acting cooperatively with CLECs is reduced.⁸ Thus, the notion that the market
8 has been deemed sufficiently open to competition absent Verizon's reintegration
9 cannot be seen as dispositive that following reintegration the firm faces effective
10 competition, especially in light of the altered incentives for Verizon in the post-
11 reintegration era.

12

13 **Q. TURNING TO VERIZON'S THIRD OBJECTION TO A PROPER**
14 **MARKET POWER INQUIRY, HAS VERIZON PROVIDED SUFFICIENT**
15 **INFORMATION TO DEMONSTRATE THAT IT DOES NOT CONTINUE**
16 **TO HAVE THE ABILITY TO CONTROL PRICE CONSISTENT WITH**
17 **THE PRESENCE OF SIGNIFICANT MARKET POWER?**

18
19 A. No. In this regard, Mr. Doane is critical of my analysis for failing to "appreciate
20 the role unbundled network elements ("UNEs") play in the current
21 investigation."⁹ Specifically, he suggests that the existence of TELRIC-based
22 UNEs causes low barriers to entry into local exchange markets and that this

⁷ "The [irreversibly open to competition] standard does not require, as a prerequisite, the presence of ubiquitous facilities-based local competition that is fully effective in eliminating the BOC's market power." See Marius Schwartz, "The Economic Logic for Conditioning Bell Entry into Long Distance on the Prior Opening of Local Markets," *Journal of Regulatory Economics*, Volume 18, November 2000, p. 272.

⁸ As Schwartz, *supra*, notes, "once entry is granted, the BOC's incentives to continue cooperating in facilitating local competition...will diminish." (p. 266).

⁹ Rebuttal Testimony of Michael J. Doane, D.T.E. 01-31, September 21, 2001, p. 3.

1 information is sufficient to ensure the presence of effective competition. But in
2 this regard, I have noted that dedicated access, a critical component for the
3 efficient provision of local exchange services to many businesses, is not only
4 largely provided by Verizon, but is also unavailable at the TELRIC rates that Mr.
5 Doane alleges will create low barriers to entry.¹⁰ Thus, new entrants that seek to
6 provide business services face a classic barrier to entry in the form of higher costs
7 that are imposed on them (through the unavailability of dedicated access at
8 TELRIC rates) relative to the costs incurred by the incumbent. Moreover, the fact
9 that access rates have been held above their economic cost for a prolonged period
10 provides *prima facie* evidence that Verizon continues to enjoy significant
11 monopoly power over the provision of such access.

12 Additionally, the data provided by Verizon in its rebuttal testimony
13 continues to raise questions about the extent of local exchange competition rather
14 than providing definitive answers.

15
16 **Q. CAN YOU PROVIDE AN EXAMPLE OF HOW THE INFORMATION**
17 **PROVIDED BY VERIZON FAILS TO PROVIDE A CLEAR PICTURE OF**
18 **THE EXTENT OF COMPETITIVE PRESENCE IN MASSACHUSETTS?**

19
20 A. Yes. Recall that in my initial testimony, I pointed out that the FCC reports that
21 CLECs serve 509,731 end user lines in Massachusetts. At the same time, Verizon
22 claimed that CLECs in Massachusetts serve 851,000 lines. The Verizon number
23 is *48 percent larger* than the number reported by the FCC. In his rebuttal
24 testimony, Mr. Mudge suggests that the disparity is due to the smaller number of

¹⁰ See Testimony of Deborah S. Waldaum, D.T.E. 01-31, August 24, 2001.

1 CLECs included in the FCC analysis and an acknowledged understated line count
2 by the FCC. This explanation by Mr. Mudge, however, is unsatisfactory.
3 Specifically, the only CLECs that should not be included in the FCC report are
4 those with less than 10,000 lines (the minimum number of lines necessary to
5 trigger the reporting requirement). The FCC points out that the absence of the
6 smallest firms in its report may lead the reported CLEC activity to “be slightly
7 understated.”¹¹ Thus, while the FCC number may be “slightly” too low, it is hard
8 to fathom that fully 342 thousand CLEC lines were omitted from the FCC report
9 as a consequence of this slight understatement.

10
11 **Q. IN YOUR INITIAL TESTIMONY, YOU NOTED THAT VERIZON**
12 **MIGHT HAVE INCORRECTLY PROJECTED THE AMOUNT OF**
13 **FACILITIES-BASED COMPETITIVE OPERATIONS IN**
14 **MASSACHUSETTS BY ITS TREATMENT OF SPECIAL ACCESS LINES.**
15 **IN HIS REBUTTAL TESTIMONY, MR. MUDGE INDICATES THAT**
16 **YOUR CONCERN IS UNFOUNDED. ARE YOU PERSUADED BY HIS**
17 **EXPLANATION?**
18

19 A. No. Indeed, his response only heightens my concerns. Specifically, recall that
20 Verizon argues that there is a large amount of facilities-based competition in
21 Massachusetts (some 470,000 lines), where “full-facilities based” means that
22 “CLECs use their network alone to serve customers’ local service needs.”¹² The
23 significance of this claim is that *if* Verizon’s competition is completely
24 independent of the facilities owned by Verizon then it will not be possible for the
25 ILEC to engage in strategies that use its ownership of the network to deny or

¹¹ See “Local Telephone Competition: Status as of December 31, 2000,” Industry Analysis Division, Common Carrier Bureau, Federal Communication Commission, May, 23001.

¹² Testimony of Robert Mudge, D.T.E. 01-31, April 12, 2001, p. 11.

1 delay the advent of effective competition. If, however, competition relies upon
2 the facilities of Verizon, then it becomes absolutely *imperative* that Verizon's
3 competitors have access to the network facilities of Verizon (1) though the
4 purchase of network elements at TELRIC prices and (2) with complete
5 purchasing parity relative to Verizon's own retail operations.

6

7 **Q. SPECIFICALLY, THEN, HOW DOES VERIZON DETERMINE THE**
8 **EXTENT OF FACILITIES-BASED COMPETITION IN**
9 **MASSACHUSETTS?**

10
11 A. Verizon's methodology for determining the amount of such facilities-based
12 competition is to rely upon the number of E-911 listings of competitors (net of the
13 number of UNE-L lines of competitors). In my earlier testimony, I raised the
14 issue of how dedicated access circuits (a common means of provisioning access
15 for business customers) is accounted for in the Verizon methodology. In
16 response, Mr. Mudge indicates that if a CLEC provides service to a customer via
17 special access and the number is entered in the E-911 database, then Verizon's
18 treatment properly accounts for the listing.¹³ But, it seems that in this instance the
19 Verizon methodology counts the competitor's activity as facilities-based when in
20 fact the competitors continues to rely upon the facilities ? specifically, the
21 dedicated circuit – of Verizon. If so, clearly Verizon has misstated the presence
22 of facilities-based competitive activity.

¹³ See Rebuttal Testimony of Robert Mudge, D.T.E. 01-31, September 21, 2001, p. 5.

1 **Q. WHAT ARE THE IMPLICATIONS OF THIS MISSTATEMENT?**

2 A. The consequence for the Department is that ? as a prerequisite to effective
3 competition ? the Department *must* be assured that competitors have access to the
4 network facilities of Verizon at TELRIC prices and face no non-price
5 discrimination. In this regard, the fact that dedicated access circuits are
6 unavailable at TELRIC rates (as described in the Direct Testimony of Ms.
7 Waldbaum) is especially troublesome. Moreover, in light of the recently altered
8 incentives to cooperate with CLECs that I discussed earlier, the presence of
9 effective competition is critically dependent on *non-discriminatory provision* of
10 the network facilities that CLECs rely upon to compete.¹⁴

11 But, in situations where a regulated firm is either a monopolist or a
12 dominant provider of a service at a wholesale (upstream) stage and is vertically
13 integrated into the provision of retail (downstream) activities, the vertically
14 integrated firm may have incentives to delay, deny, or denigrate the emergence of
15 competition of the retail-stage offering. Both price and non-price means may be
16 available for the vertically integrated firm to protect its monopoly power base.
17 Among the non-price vehicles, a common strategy is for the vertically integrated
18 firm to raise its downstream rivals' costs through the vertically integrated firm's
19 provision of the upstream-stage service. By delaying the provision of services or

¹⁴ The reintegration by Verizon into the interLATA market eliminates an important "carrot" that policymakers have held out to Verizon for its cooperation with CLECs in opening local exchange markets. Having now "consumed" the carrot, Verizon may more readily act on its incentives to sabotage the emergence of effective competition. It may do so in at least two arenas. First, Verizon may take actions that delay or deny the emergence of competition in local exchange markets. Second, to the extent that competition between firms is likely to be most effective with fully independent vertically integrated telecommunications firms competing side-by-side, Verizon's reintegration into the interLATA market gives it a significantly larger "payoff" (the multimillion dollar interLATA market) from delaying competition.

1 reducing the quality of these services that are sold to downstream rivals, the ILEC
2 can anticompetitively advantage its own downstream operations and in so doing
3 undermine the competitive process. This sort of cost-elevating strategy has been
4 characterized as “sabotage.”¹⁵

5 Consequently, the Department must engage in an inquiry to assure itself
6 that, in the post-reintegration world, Verizon is continuing to act in a non-
7 discriminatory fashion toward its retail-stage competitors. Without such a
8 demonstration, Verizon’s claims of “effective competition” must be seen as
9 tenuous.

10

11 **Q. ARE THERE OTHER QUESTIONS REGARDING THE INFORMATION**
12 **PROVIDED BY VERIZON?**
13

14 A. Yes. In its rebuttal testimony, Verizon provides a wire center-based spreadsheet
15 that purports to provide an accurate and detailed examination of the presence of
16 competitors at a disaggregated level. Yet it is not clear that the reported
17 information provides an accurate basis upon which the Department can assess the
18 extent of competitive discipline exerted on the services that Verizon seeks to have
19 deregulated. For instance, a simple telephone check with the business sales
20 offices of some of the listed competitors reveals that the firms are either not

¹⁵ See e.g., Steve Salop and David Scheffman, “Raising Rivals’ Costs,” *American Economic Review* 73, May 1983, pp. 267-281; J.A. Ordover, A.O. Sykes, and R.D. Willig, “Nonprice Anticompetitive Behavior by Dominant Firms Toward Producers of Complementary Products,” in F.M. Fisher *Antitrust and Regulation: Essays in Honor of John J. McGowan*, MIT Press, Cambridge, MA, 1985; Nicholas Economides, “The Incentive for Non-Price Discrimination by an Input Monopolist,” *International Journal of Industrial Organization*, 1998, pp. 271-284; and T.R. Beard, D.L. Kaserman and J.W. Mayo, “Regulation, Vertical Integration and Sabotage,” *Journal of Industrial Economics*, forthcoming. See also Testimony of John W. Mayo, D.T.E. 01-31, August 24, 2001, pp. 24-25.

1 present at all or do not provide local business services as claimed by Verizon.¹⁶

2 Such inaccuracies continue to cloud the vision of the extent of competitive

3 discipline on Verizon.

4

5 **Q. DOES VERIZON’S IDENTIFICATION OF A NUMBER OF**
6 **COMPETITORS PROVIDE A SUFFICIENT BASIS UPON WHICH TO**
7 **CONCLUDE THAT VERIZON FACES EFFECTIVE COMPETITION?**

8

9 **A.** No. The presence of competitors is a positive indicator for the advent of effective

10 competition in the provision of local exchange services. In this instance,

11 however, there are several reasons not to overplay the importance of these

12 competitors in their ability to discipline the control over pricing (*i.e.*, monopoly

13 power) of Verizon. For instance, many of these firms must rely to a large, if not

14 exclusive, degree upon the underlying network facilities of Verizon to provide

15 local exchange services in Massachusetts. While the Telecommunications Act

16 seeks to promote open and nondiscriminatory access to these facilities, the

17 implementation of such competition-enabling policies, is at this point, a “work in

18 progress” and consequently the degree to which the presence of these competitors

19 disciplines the pricing behavior of Verizon is an open question.

20 Additionally, much like the advent of wireless carriers fulfilled a

21 theretofore unsatisfied consumer demand (rather than providing direct

22 competition for subscription to land-line dialtone service), there is some

23 indication that some of the success of new entrants into the local exchange arena

¹⁶ For example, Sprint, Focal and Business LD – all listed by Verizon as providing local exchange service in the Newton exchange – all report that they do not provide local exchange business service in Newton, Massachusetts.

1 is driven by a desire by business customers to create redundancies (not previously
2 provided) in their telecommunications systems. Thus, while such customers may
3 view CLEC's as viable providers of redundancies for their existing
4 telecommunications demands, these customers are less willing to view CLECs as
5 viable replacements for Verizon's services. In this case, the presence of
6 competitors fails to provide as much competitive discipline as would be the case
7 if they were to see CLEC services as fully able to replace Verizon's extant
8 services. Moreover, to the extent that entry occurs through pure resale or UNE-P,
9 the new entrants provide no additional capability to create the desired redundancy.
10 This, in turn, leaves Verizon with greater control over the pricing of its services,
11 which are exclusively facilities-based.

12

13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A. Yes.