

DTC 13-6
Competitive Carriers' Responses
to Verizon MA's First Set of Information Requests

Respondent: See response below.

Title:

Objection by: Gregory M. Kennan

Title: Counsel

Response Dated: March 21, 2014

REQUEST NO: VZ-I 1-1

REQUEST : Please identify, by title, effective date and the names of all parties, each agreement that each Intervenor has entered into with a service provider other than an affiliate concerning, providing for or governing the exchange in IP format of voice traffic going from you to the other party as well as voice traffic coming from the other party to you.

OBJECTION:

The Competitive Carriers specifically object to this request on the ground that it is immaterial, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The request is not germane to the legal question whether the Verizon/Comcast agreements submitted to the Department must be filed for review under § 252. In particular, and without limiting the generality of the foregoing, evidence of agreements between the Competitive Carriers and non-ILECs (including non-ILEC affiliates of ILECs) is not pertinent to the legal issue before the Department.

The Competitive Carriers further object to the request to the extent it calls for a response by non-party affiliates of any of the Competitive Carriers.

The Competitive Carriers further object to providing any information that is confidential, proprietary, or a trade secret.

RESPONSE: Subject to and without waiving these objections, each of the Competitive Carriers states that it has not entered any agreement “concerning, providing for, or governing the exchange in IP format of voice traffic” with an incumbent local exchange carrier (ILEC).

PERSON RESPONSIBLE FOR RESPONSE: For CTC Communications Corp. d/b/a EarthLink Business; Lightship Telecom LLC d/b/a EarthLink Business; Choice One Communications of Massachusetts, Inc. d/b/a EarthLink Business; Conversent Communications of Massachusetts, Inc. d/b/a EarthLink Business; EarthLink Business, LLC (formerly New Edge Network, Inc. d/b/a EarthLink Business): Jerry Watts

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For Cbeyond Communications, LLC: Greg Darnell

For tw data services llc: Rochelle D. Jones

For Level 3 Communications, LLC: Andrea L. Pierantozzi

For PAETEC Communications, Inc.: S. Lynn Hughes

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Respondent: See VZ-I 1-1

Title:

Objection by: Gregory M. Kennan

Title: Counsel

Response Dated: March 21, 2014

REQUEST NO: VZ-I 1-2

REQUEST : Please produce all agreements identified in response to VZ-I 1-1, including all attachments, exhibits and schedules.

OBJECTION: The Competitive Carriers incorporate by reference their objections to VZ-I 1-2 above.

RESPONSE: The Competitive Carriers incorporate by reference their response to VZ-I 1-2 above.

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Respondent: David J. Malfara, Sr.
Title: Consultant
Objection by: Gregory M. Kennan
Title: Counsel for Respondent
Response Dated: March 21, 2014

REQUEST NO: VZ-I 1-3

REQUEST : On page 9 of his Rebuttal Testimony, Mr. Malfara states that "Carriers negotiating IP interconnection agreements should have little difficulty resolving the technical details comprising such interconnection. I have been involved in several such negotiations between competitive carriers and these issues have proven rudimentary and negotiations are concise." For each such negotiation in which Mr. Malfara has been involved, please provide the names of the parties to the negotiation, the year(s) in which the negotiation took place and the date of the resulting agreement, if any. For each such agreement, please describe the types of traffic permitted to be exchanged in IP format under the agreement, including whether such traffic included voice traffic going only in one direction from one party to the other or voice traffic going in both directions between the parties.

OBJECTION: The Competitive Carriers and Mr. Malfara object on the ground that certain information responsive to this request is confidential, proprietary, and competitively sensitive. Certain of the negotiations to which Mr. Malfara refers are currently being or have been conducted under the protection of non-disclosure agreements between one or more of the parties to the agreement and Mr. Malfara's consulting firm, ETC Group, LLC, which are still in force.

RESPONSE: Subject to and without waiving these objections, Mr. Malfara provides the following information in response:

Mr. Malfara negotiated at least two such agreements on behalf of his then-employer, Remi Wholesale Services, LLC (which has since ceased carrier operations). One of these was with Qwest Communications Corporation, negotiated in 2005 and effective late that year, under which originating interexchange and international traffic could be exchanged in IP format.

He recalls negotiating another agreement between Remi Wholesale Services, LLC and another provider of interexchange and international services in approximately 2005. To Mr. Malfara's recollection, that agreement contained confidentiality provisions between Remi and the other carrier prohibiting disclosure of the terms of the agreement.

In another example, Mr. Malfara negotiated and oversaw the technical implementation plan for the exchange of traffic in IP format under an agreement between [BEGIN HIGHLY SENSITIVE CONFIDENTIAL] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED].

[REDACTED] [REDACTED] [REDACTED] [END HIGHLY SENSITIVE CONFIDENTIAL] could be exchanged in IP format. Both the negotiation and successful implementation of the technical implementation plan occurred during a period of less than one month in [BEGIN HIGHLY SENSITIVE CONFIDENTIAL] [REDACTED] [REDACTED]. [END HIGHLY SENSITIVE CONFIDENTIAL]

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Respondent: David M. Malfara, Sr.

Title: Consultant

Objection by: Gregory M. Kennan

Title: Counsel for Respondent

Response Dated: March 21, 2014

REQUEST NO: VZ-I 1-4

REQUEST : Please state the basis for Mr. Malfara's assertion, on page 9 of his Rebuttal Testimony, that "competitive carriers have been exchanging voice traffic in IP on a large scale for, at least, the better part of a decade." Please include in your answer the names of all competitive carriers that Mr. Malfara is aware of that have been exchanging voice traffic in IP. To the extent Mr. Malfara or you know, describe the types of voice traffic that each such pair of carriers have been exchanging in IP and state when they began exchanging such traffic in IP. If you and Mr. Malfara do not know this information about any of the competitive carriers included in Mr. Malfara's statement, identify the carriers as to which you do not know this information.

OBJECTION: The Competitive Carriers object to this question to the extent that it is directed to them, on the ground that the statement is that of their expert witness, Mr. Malfara, and the basis for the statement is not necessarily known by the Competitive Carriers.

The Competitive Carriers and Mr. Malfara also object on the ground that the request is overly broad in its request for information concerning "all" competitive carriers.

Mr. Malfara further incorporates by reference his objection to VZ-I 1-3.

RESPONSE: Subject to and without waiving this objection, Mr. Malfara incorporates by reference his response to VZ-I 1-3.

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Respondent: See below.

Title:

Objection by: Gregory M. Kennan

Title: Counsel

Response Dated: March 21, 2014

REQUEST NO: VZ-I 1-5

REQUEST : The Competitive Carriers' Petition To Require Filing and Review of FiOS Digital Voice Interconnection Agreement dated January 31, 2013, states in paragraph 9, in part, that "Each of the Competitive Carriers also offers to provide and does provide local voice service using IP protocol, or which can be and are converted to IP protocol for purpose of transport, to its end-user customers, in Massachusetts and elsewhere." For each Intervenor, what percentage of that carrier's retail customers subscribes to "a local voice service using IP protocol" from that carrier? Please answer separately for each affiliate of each Intervenor that has retail customers. Do not include in you answer customers who do not subscribe to "a local voice service using IP protocol" but who instead subscribe to a voice service that "can be and [is] converted to IP protocol for purpose of transport."

OBJECTION: The Competitive Carriers specifically object to this request on the ground that it is immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The request is not germane to the legal question whether the Verizon/Comcast agreements submitted to the Department must be filed for review under § 252.

The Competitive Carriers further object to the request to the extent it calls for a response by non-party affiliates of any of the Competitive Carriers.

The Competitive Carriers further object to providing any information that is confidential, proprietary, or a trade secret.

RESPONSE: Subject to and without waiving these objections, the following Competitive Carriers are providing separate, individual responses to this request:

Cbeyond Communications, LLC

tw data services, llc

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Level 3 Communications, LLC

PAETEC Communications, Inc.

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**Separate Response of
Cbeyond Communications, LLC
To VZ-I 1-5**

Subject to and without waiving the above objections, Cbeyond responds: one hundred percent.

Person responsible for response: Greg Darnell, Director, LEC Relations

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Separate Response of
tw data services, llc
To VZ-I 1-5

Subject to and without waiving the above objections, tw data services, llc responds:
[BEGIN HIGHLY SENSITIVE CONFIDENTIAL] [REDACTED] [REDACTED] [END HIGHLY
SENSITIVE CONFIDENTIAL]

Person responsible for response: Rochelle D. Jones

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**Separate Response of
Level 3 Communications, LLC
To VZ-I 1-5**

Subject to and without waiving the above objections, Level 3 Communications, LLC responds with respect to its customers that currently subscribe to a retail local voice service in Massachusetts. **[BEGIN HIGHLY SENSITIVE CONFIDENTIAL]** [REDACTED] **[END HIGHLY SENSITIVE CONFIDENTIAL]** [REDACTED] subscribe to a local voice service using IP protocol. There may be additional customers that are not registered carriers in Massachusetts but that, due to their size, Level 3 characterizes as wholesale customers for internal purposes. There is no readily available way to determine what percentage of such customers (if any exist) use IP services.

Person responsible for response: Andrea L. Pierantozzi

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Separate Response of
PAETEC Communications, Inc.
To VZ-I 1-5

Subject to and without waiving the above objections, PAETEC Communications, Inc. responds with respect to its retail customers with a physical location in Massachusetts: **[BEGIN HIGHLY SENSITIVE CONFIDENTIAL]** [REDACTED] **[END HIGHLY SENSITIVE CONFIDENTIAL]**

Person responsible for response: Lyndall W. Nipps, Regional Vice President, State Government Affairs