

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Verizon Petitions for	)	WC Docket No. 02-336
Limited Modification of LATA	)	
Boundaries to Provide Expanded Local	)	
Calling Service (ELCS)	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted:** April 24, 2003

**Released:** April 24, 2003

By the Chief, Competition Policy Division:

**I. INTRODUCTION**

1. On October 30, 2002, Verizon, pursuant to section 3(25) of the Communications Act of 1934, as amended (the Act),<sup>1</sup> filed four petitions to provide two-way, non-optional, expanded local calling service (ELCS) between various exchanges in Virginia.<sup>2</sup> Verizon’s petitions request limited modifications of local access and transport area (LATA) boundaries to provide ELCS between certain Virginia exchanges, as approved by the Virginia State Corporation Commission (Virginia Commission).<sup>3</sup> Because all of Verizon’s petitions request the same type of service based upon similar circumstances, we will consolidate these petitions and treat them a single request. For the reasons stated below, we grant Verizon’s petitions.

**II. BACKGROUND**

2. Requests for new ELCS routes are generally initiated by local subscribers. Under section 3(25)(B) of the Act, requests for interLATA ELCS routes fall within the Federal Communications Commission’s (Commission’s) exclusive jurisdiction over the modification of LATA boundaries.<sup>4</sup> Applying a two-part test, the Commission will grant a request for an ELCS

<sup>1</sup> See 47 U.S.C. § 153(25). Section 3(25) of the Act defines LATAs as those areas established prior to enactment of the Telecommunications Act of 1996 by a Bell Operating Company (BOC), as permitted under the AT&T Consent Decree, or “established or modified by a BOC after such date of enactment, and approved by the Commission.” 47 U.S.C. § 153(25).

<sup>2</sup> See *Comment Sought on Verizon Request for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service Between Certain Exchanges in Virginia*, WC Docket No. 02-336, Public Notice, DA 02-2931 (rel. Nov. 1, 2002). Verizon seeks ELCS between Verizon Virginia’s Haysi and Verizon South’s Richland exchanges and between Verizon South’s Jewell Ridge and Verizon Virginia’s Davenport, Honaker, and Lebanon exchanges.

<sup>3</sup> See Verizon Petitions at Attach.

<sup>4</sup> *Application for Review and Petition for Reconsideration or Clarification of Declaratory Ruling Regarding US WEST Petitions to Consolidate LATAs in Minnesota and Arizona*, Memorandum Opinion and Order, 14 FCC

LATA modification (1) where a petitioning BOC shows that the proposed modification would provide the significant public benefit of expanded local service (by showing that there is a significant community of interest among the affected exchanges), and (2) that the public benefit is balanced against any negative effect that granting the request would have on a BOC's incentive to fulfill its section 271 obligations.<sup>5</sup>

3. The Verizon petitions propose to establish two-way, non-optional ELCS, and are accompanied by orders issued by the Virginia Commission approving the ELCS requests on the basis that sufficient communities of interest exist to warrant such service, a statement that only traditional local service is proposed, poll results demonstrating that communities of interest exist between the respective exchanges,<sup>6</sup> and a statement of the number of access lines involved.<sup>7</sup>

### III. DISCUSSION

4. We conclude that Verizon satisfies our two-part test. Applying the first prong of that test, we find that Verizon has shown that a public benefit would result from the ELCS because a significant community of interest exists among the affected exchanges. The Virginia Commission conducted a proceeding in which it approved the ELCS.<sup>8</sup> Further, Verizon proposes to offer traditional, two-way, non-optional local service in the ELCS.<sup>9</sup> Third, the Virginia Commission's

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Rcd. 14392, 14399 (1999). IntraLATA ELCS routes, on the other hand, can be ordered by a state commission. *See also United States v. Western Electric Company, Inc.*, 569 F. Supp. 990, 995 (D.D.C. 1983). "The distance at which a local call becomes a long distance toll call has been, and will continue to be, determined exclusively by the various state regulatory bodies." *Id.*

<sup>5</sup> *See Application for Review of Petition for Modification of LATA Boundary*, FCC 02-233, Order on Review, 17 FCC Rcd 16952, 16958 (2002); *see also Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, Memorandum Opinion and Order, 12 FCC Rcd 10646, 10649-50 (1997). In this order, the Commission also delegated authority to the Common Carrier Bureau (now the Wireline Competition Bureau) to act on petitions to modify LATA boundaries. *Id.* at 10657-58. A BOC is deemed to have made a *prima facie* case that it meets the first prong of the two-part test if the ELCS petition: (1) has been approved by the state commission; (2) proposes only traditional local service (*i.e.*, flat-rated, non-optional ELCS); (3) indicates that the state commission found a sufficient community of interest to warrant such service; and (4) documents this community of interest through such evidence as poll results, usage data, and descriptions of the communities involved. A BOC is deemed to have made a *prima facie* case that the ELCS petition meets the second prong of the test if it shows that the request involves a limited number of customers or access lines. *Id.* at 10659.

<sup>6</sup> The poll results showed that 58 percent of the customers who responded favored ELCS from Haysi to Richlands, while 65 percent of the customers who responded favored ELCS from Jewell Ridge to Davenport, Honaker, and Lebanon.

<sup>7</sup> The Haysi exchange has 1,603 access lines, while the Richlands exchange has 11,410 access lines. Similarly, the Jewell Ridge exchange has 617 access lines, while the Lebanon exchange has 6,529 access lines, the Honaker Exchange has 2,470 access lines, and the Davenport exchange has 1,307 access lines, respectively. Verizon Petitions at 2.

<sup>8</sup> *See Verizon Petitions.*

<sup>9</sup> Although Verizon proposes to offer measured rate service in addition to flat-rated service, that does not alter our conclusion that a sufficient community of interest exists among the affected exchanges to justify the ELCS. The services that Verizon proposes to offer in the expanded local calling area are identical to the service options (measured or flat-rate) that were available prior to the implementation of ELCS. *See Verizon Petitions* at 2, 3. Although the Commission has traditionally favored flat-rated service as the best indicator that a community of

approval of the ELCS was based on poll results and a finding, *inter alia*, that many of the schools, medical and recreational facilities, physicians, major repair and supply services, and places of employment used by the residents of one exchange are located in an adjacent exchange.<sup>10</sup> We find, therefore, that Verizon has satisfied our requirement that an ELCS be based on a significant community of interest and thus provides a significant public interest.

5. Applying the second prong of the two-part test, we conclude that the public benefit of granting the ELCS request outweighs any negative effect it would have on Verizon's incentives to fulfill its section 271 obligations. Granting Verizon's petitions would have a minimal effect upon competition because modification of any of the individual LATA boundaries would affect only a small number of access lines.<sup>11</sup> Most significantly, however, Verizon has opened its market to competition in Virginia and, accordingly, has been granted authority to offer long distance service in that state.<sup>12</sup> The proposed LATA boundary modification thus will have no impact on Verizon's incentive to satisfy its section 271 obligations in Virginia.

6. We therefore conclude that granting Verizon's petitions serves the public interest by permitting minor LATA modifications where such modifications are necessary to meet the needs of local subscribers. Accordingly, we approve Verizon's petitions for limited LATA modifications. We grant this relief solely for the limited purpose of allowing Verizon to provide ELCS between the specific exchanges or geographic areas identified in these requests. The LATA is not modified to permit the BOC to offer any other type of service, including calls that originate or terminate outside the specified areas. Thus, two-way, non-optional ELCS between the specified exchanges will be treated as intraLATA service.<sup>13</sup>

## VI. ORDERING CLAUSE

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interest exists among the affected exchanges, the Commission has granted LATA boundary modifications for measured rate ELCS where the service offered in the proposed ELCS is identical to that offered prior to the petition. *See Bell-Atlantic-Virginia, Inc., Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, Memorandum and Order, 13 FCC Rcd 11042 (1998).

<sup>10</sup> See Verizon Petitions at 3.

<sup>11</sup> For the purposes of ELCS petitions, the Commission generally considers the access lines from customers in the exchange who seek to reach businesses, services, and facilities in the other exchange as this exchange usually generates the majority of calls between the two exchanges. *See Southwestern Bell Petitions for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service (ELCS)*, Memorandum Opinion and Order, 17 FCC Rcd 25540 (2002). Therefore, for the purposes of reviewing these modifications, we will consider the 1,603 access lines in Haysi and the 617 access lines in Jewell Ridge. *See supra* n.8. Thus, the largest number of access lines affected by any single LATA modification is 1,603 access lines from the Haysi exchange, a number within Commission precedent. *See April 1998 LATA Order, supra* n. 10 (granting an ELCS petition affecting over 30,000 access lines).

<sup>12</sup> *Application by Verizon Virginia Inc., Verizon Long Distance Virginia, Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization to Provide In-Region, InterLATA Services in Virginia*, Memorandum Opinion and Order, 17 FCC Rcd 21880 (2002).

<sup>13</sup> Other types of service between the specified exchanges will remain interLATA, and the provisions of the Act governing interLATA service will apply. *See, e.g.*, 47 U.S.C. § 272(f)(1) (stating that a BOC is required to provide interLATA services through a separate affiliate for three years after the date on which it is authorized to provide in-region, interLATA telecommunications services).

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7. Accordingly, IT IS ORDERED, pursuant to sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), and authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the petitions filed by Verizon proposing LATA modifications for the limited purpose of providing two-way, traditional, non-optional ELCS at specific locations, identified in WC Docket No. 02-336, ARE APPROVED.

FEDERAL COMMUNICATIONS COMMISSION

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Chief, Competition Policy Division  
Wireline Competition Division